



Office for Democratic Institutions and Human Rights

**SPAIN**

**PARLIAMENTARY ELECTIONS**  
**20 December 2015**

**OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT**

**2-5 November 2015**



Warsaw  
23 November 2015

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**I. INTRODUCTION**

On 3 November 2015, the Permanent Mission of Spain to the OSCE invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the 20 December parliamentary elections. The OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Spain from 2 to 5 November 2015. The OSCE/ODIHR NAM included Lusine Badalyan, OSCE/ODIHR Senior Election Adviser, and Oleksii Lychkovakh, OSCE/ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the parliamentary elections. Based on this assessment, the NAM was to recommend whether to deploy an OSCE/ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions, the election administration, and the judiciary, as well as with representatives of political parties, media, think tanks and civil society. A list of meetings is annexed to this report.

The OSCE/ODIHR would like to thank the Ministry of Foreign Affairs for its assistance and co-operation in organizing the visit. The OSCE/ODIHR would also like to thank all of its interlocutors for having taken the time to meet with the mission and sharing their views.

**II. EXECUTIVE SUMMARY**

The parliament (*Cortes Generales*) consists of a 350-member Chamber of Deputies elected under a closed provincial list proportional system, and a Senate with 208 senators elected directly under a majoritarian system and 58 appointed by autonomous regions.

The 20 December parliamentary elections were called on 26 October. The elections are taking place against the backdrop of economic crisis, corruption scandals and developments in Catalonia, where pro-independence political parties got majority in the regional parliament. The electoral discourse is characterized by the appearance of new political parties with background in the citizens' protest movement.

The legal framework for parliamentary elections remains largely unchanged since the 2011 elections. In 2015, the legal framework regulating political party and campaign finance was amended to criminalize illegal donations to parties, to oblige parties to return loans to the banks and to establish a scale of sanctions for overspending of legally set campaign expenditure ceilings. The law does not provide access to the election process for citizen or international election observation, which remains a long-standing OSCE/ODIHR recommendation.

The responsibility organizing the elections is shared by a four-level election administration and the Ministry of Interior (MoI). The Central Election Commission (CEC), Provincial and District election commissions are composed of judges and university professors. Electoral boards are established solely to organize voting and counting and are selected by lottery from among voters of the respective precinct. Service on an electoral board is compulsory. Election commissions of all

levels meet in closed sessions. The OSCE/ODIHR interlocutors expressed general confidence in the professionalism of the election administration and its ability to organize and administer elections in an impartial manner.

The Electoral Census Office, under the supervision of the CEC, bears overall responsibility for the compilation of the voter register. The total number of voters is 36,510,952. All eligible voters in Spain can opt to cast their ballots by post; this mechanism is the only method of voting for those residing temporarily or permanently abroad. Most OSCE/ODIHR NAM interlocutors, including the CEC, expressed their dissatisfaction with the procedures of postal voting for voters residing abroad.

Candidate lists can be put forward by political parties, coalitions, and groups of citizens. The election law provides that each bloc of five candidates in every candidate list for the lower house contains at least 2 candidates of each gender. The nomination of candidate lists by groups of citizens and non-parliamentary parties and coalitions must be supported by the signatures of voters registered in a respective constituency. Voters can only sign in support of one list.

Official campaign lasts for 15 days and is regulated in detail by the election law. Political parties that the OSCE/ODIHR NAM met with noted that they are able to campaign freely. The state subsidizes contestants' campaign expenditures in the amounts defined per each seat obtained in the parliament and each vote received in the elections to the lower and upper chambers of parliament. The Court of Audit is an oversight body for party and campaign finance. Some OSCE/ODIHR NAM interlocutors voiced concerns regarding delayed and overly general information made available by the Court of Audit and that foundations and associations linked to parties are not required to report expenditures.

The media environment is pluralistic with a wide variety of commercial and public broadcasters as well as print media. Paid advertisement is not allowed on public and private TV during 15 days of official campaign. The CEC is responsible for ensuring that the airtime is allocated in accordance with the legal provisions of equality and proportionality. It also allocates the airtime on the public broadcasters according to formula that is based on the results of previous parliamentary elections. In order to address the changed political landscape and enable two new parties to participation in the debates on public television, the CEC has issued an instruction, defining new political parties as "significant political groups". Some political parties met with the OSCE/ODIHR NAM expressed concerns regarding equal coverage of the campaign by the media.

The OSCE/ODIHR NAM noted the confidence of its interlocutors in the integrity of the electoral process and the professionalism and impartiality of the election administration. No significant concerns were expressed related to the respect for fundamental freedoms, transparency of the electoral process, voter and candidate registration, and election day proceedings. However, OSCE/ODIHR NAM interlocutors stated that the legal framework regulating political party and campaign finance, as well as the implementation of regulation of media coverage of the campaign could benefit from review. They expressed an interest in OSCE/ODIHR's expertise in these areas and mentioned that a potential election-related activity and the subsequent recommendations would be of help for the potential reform process.

In these circumstances, the OSCE/ODIHR NAM recommends the deployment of an Election Assessment Mission to specifically look into issues outlined in this report, such as the legal framework, political party and campaign finance, postal voting regulations, as well as media coverage of campaign. The OSCE/ODIHR continues to stand ready to engage with the authorities in a follow-up process after the upcoming elections to assist them in addressing outstanding recommendations from OSCE/ODIHR's previous assessments.

### III. FINDINGS

#### A. BACKGROUND

The 20 December parliamentary elections were called on 26 October. The elections are taking place against the backdrop of economic crisis, corruption scandals and developments in Catalonia, where pro-independence political parties got majority in the regional parliament after the 27 September elections.

Thirteen political parties were elected to the Chamber of Deputies (lower house of parliament) in the 2011 parliamentary elections with People's Party (*PP*) getting the majority of mandates and forming the government. According to many OSCE/ODIHR NAM interlocutors, public trust in the government and political parties was undermined by a number of corruption scandals and a continuing economic crisis.

The electoral discourse is characterized by the appearance of new political parties, *Podemos* and *Ciudadanos – C's* (Citizens) with background in the citizens' protest movement. These parties showed good results during the recent local and European Parliament elections.<sup>1</sup> Many OSCE/ODIHR NAM interlocutors opined that the 2015 parliamentary elections could end the dominance of two largest political parties, the *PP* and the Spanish Socialist Workers' Party (*PSOE*).

The OSCE/ODIHR deployed three Election Assessment Missions (EAMs) for parliamentary elections in Spain since 2004. The EAM for the 2011 early parliamentary elections concluded that the conduct of those elections "reflected Spain's established democratic traditions. The elections were held in a professional and transparent manner. The electoral stakeholders appeared to have confidence at all stages of the process and voters had the opportunity to make an informed choice in a pluralistic electoral environment."<sup>2</sup>

#### B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

Parliamentary elections in Spain are primarily governed by the Constitution, the Organic Law on General Election Regime (hereinafter, election law), the law on political parties, the law on financing of political parties, and decisions of the Central Election Commission (CEC). Since the last parliamentary elections in 2011, there have been no changes to the election law. Certain amendments were introduced into the framework regulating political party and campaign financing (see Campaign and Campaign Finance section).

The parliament (*Cortes Generales*) consists of the Chamber of Deputies and the Senate. The Chamber of Deputies is composed of 350 members elected under a closed provincial list proportional system. Each of 50 provinces is a separate constituency and is entitled to an initial minimum of two seats; the cities of Ceuta and Melilla elect one member each. The remaining 248 seats are allocated among the 50 provinces in proportion to their population size. Political parties that receive at least 3 per cent of valid votes cast in the respective consistency participate in the distribution of mandates there. The Senate is composed of 266 members. This includes 208 senators directly elected in province under a majoritarian system, and voters can choose up to three

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<sup>1</sup> *Podemos* was established as a political party following the 2011 civic protests against austerity, banking crisis and corruption. *C's* was founded in Catalonia in 2005 as an "anti-independence" force.

<sup>2</sup> See all previous OSCE/ODIHR [election assessment mission reports](#).

candidates from the lists of any parties on the ballot. Fifty-eight senators are elected by the legislative assemblies of the autonomous regions.<sup>3</sup>

As previously noted by the OSCE/ODIHR, this electoral system results in over-representation of less populated constituencies in both chambers, which calls into question the principle of equality of the vote on a nation-wide scale. A number of the OSCE/ODIHR NAM interlocutors raised the current electoral system as an issue and declared the intention of reforming it.

### C. ELECTION ADMINISTRATION

The responsibility of organizing the elections is shared by a four-level election administration and the Ministry of Interior (MoI). The election administration includes the Central Election Commission (CEC), 50 Provincial Election Commissions (PECs), 303 District Election Commissions (DECs) and some 57,000 Electoral Boards (EBs).

The CEC is a permanent body composed of 13 members – 8 judges drawn from the Supreme Court by a lottery and 5 university professors appointed by the parliament. The CEC oversees the implementation of the election legislation and provides clarifications through decisions.

PECs and DECs are formed before parliamentary elections and are composed of five members each – three judges and two professors of either law, political sciences or sociology. Election commissions of all levels meet in closed sessions, despite previous OSCE/ODIHR recommendations.

Each EB is composed of a chairperson and two members, all three selected by lottery from among the registered voters of the relevant precinct. Service in the electoral board is compulsory, unless a legally-permissible justification for absence is provided.

The MoI is responsible for operational aspects of organizing the elections. Certain stages of the electoral process, such as tabulation of results, transmission of the results protocols and publication of preliminary results, are outsourced to private companies selected through public tenders. The MoI informed the OSCE/ODIHR NAM that particular attention is paid to facilitating participation of disabled voters, including those visually impaired.

The OSCE/ODIHR interlocutors expressed general confidence in the professionalism of the election administration and its ability to organize and administer elections in an impartial manner.

### D. VOTER REGISTRATION AND POSTAL VOTING

The Electoral Census Office (ECO), under the supervision of the CEC, bears overall responsibility for the compilation of the voter register. Voter lists are comprised of voters resident in Spain and those living abroad and are updated on the monthly basis. A voter may request corrections to his or her data at the ECO provincial offices. If a request for correction is denied, a voter can appeal to a local court. According to the ECO, the total number of voters included in voter lists is 36,510,952.<sup>4</sup> OSCE/ODIHR NAM interlocutors did not express any particular concerns regarding the accuracy of voter lists.

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<sup>3</sup> Four senators are elected by a direct vote in each province. The cities of special status, Ceuta and Melilla, elect two senators each, while the island constituencies elect up to three senators. The legislative assemblies of autonomous regions elect at least one senator each, as well as one additional senator per each million of inhabitants living on the territory of the respective region.

<sup>4</sup> Including 1,875,272 voters abroad.

All eligible voters in Spain can opt to cast their ballots by post; this mechanism is the only method of voting for those residing temporarily or permanently abroad. As a result of amendments introduced before the 2011 parliamentary elections, voters residing abroad are required to submit requests to be able to vote by post. Consequently, the number of voters residing abroad who took part in the elections reduced significantly. Most OSCE/ODIHR NAM interlocutors, including the CEC, expressed their dissatisfaction with these procedures for postal voting.

#### **E. REGISTRATION OF CANDIDATES**

Candidate lists can be put forward by political parties, coalitions, and groups of citizens, and are registered by the relevant PECs.<sup>5</sup> By law, the total number of candidates in each list should be not less than the number of mandates in the respective constituency and can additionally include up to ten substitute candidates. No candidate may run in more than one constituency nor be included in more than one list. The election law provides that each bloc of five candidates in every candidate list for the lower house contains at least 2 candidates of each gender.

The nomination of candidate lists by groups of citizens must be supported by the signatures of at least one per cent of voters registered in a respective constituency. Non-parliamentary parties and coalitions have to submit at least 0.1 per cent of signatures of voters from the respective constituency. Voters can only sign in support of one list, which, according to some of the political parties that the OSCE/ODIHR NAM met with, could limit political pluralism.<sup>6</sup> The ECO verifies the accuracy of voters' personal data on the signature lists. If a necessary number of entries is not reached, prospective contestants are allowed to add missing signatures.

#### **F. THE CAMPAIGN AND CAMPAIGN FINANCE**

Official campaign lasts for 15 days and is regulated in detail by the election law. The span of time between the calling of elections and the start of official campaign is referred to as pre-election period. During this time, any campaign or activities which could be perceived as campaigning are prohibited.

Most OSCE/ODIHR NAM interlocutors considered broadcast and social media as the main sources of information during the election campaign. Public meetings and door-to-door campaigns were also mentioned as means for reaching out to voters. According to the election law, municipal councils shall provide locations for posting billboards free of charge.

Political parties that the OSCE/ODIHR NAM met with noted that they are able to campaign freely. Few concerns were voiced regarding limitations put in place on public meetings by the recently adopted Citizens' Security Law.

The state subsidizes contestants' campaign expenditures in the amounts defined per each seat obtained in the parliament (21.167 EUR) and each vote received in the elections to the lower and upper chambers of parliament (0.81 EUR and 0.32 EUR respectively). Contestants can request advances of up to 30 per cent, calculated on the basis of their previous election results.

In addition to these subsidies, contestants rely on membership fees, bank loans and donations from citizens and legal entities to fund their campaigns. Donations are limited to 10,000 EUR, and foreign donations are prohibited. The overall campaign spending ceiling is calculated on the basis

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<sup>5</sup> The nomination of candidate lists lasted from 11 to 16 November.

<sup>6</sup> There are over 4,000 political parties registered in Spain.

of allotment of 0.37 EUR per voter in each constituency where a party, a coalition or a group of voters stands for elections. Some OSCE/ODIHR NAM interlocutors expressed their dissatisfaction about current system of campaign finance, and specifically noted that spending limits vary widely among the constituencies.

In 2015, the legal framework regulating party and campaign finance was amended to criminalize illegal donations to parties, to oblige parties to return loans and bank interests to the banks, and to establish a scale of sanctions for overspending.

The Court of Audit, as an oversight body for party and campaign finance, reviews parties annual and campaign finance reports. Some OSCE/ODIHR NAM interlocutors expressed lack of confidence in the Court of Audit and opined that its oversight role is not fully effective due to delayed and overly general reporting. They also noted that foundations and associations linked to political parties are not required to report on their expenses, and are, therefore, not fully covered by oversight mechanisms.<sup>7</sup>

## G. MEDIA

The media environment is pluralistic with a wide variety of commercial and public broadcasters as well as print media. Following the increasing use of the Internet for obtaining the news, most of national and regional print media have web platforms.

The election law regulates campaign coverage in the public and private media during the 15-day campaign period. It prescribes to the public media to respect pluralism as well as equality, proportionality and neutrality of information. Similarly, by law, all private media are to respect these principles during the campaign period and are to ensure balanced coverage. There are no specific regulations for the Internet.

Electoral contestants may use up to 20 per cent of their total campaign expenses to advertise in private press and radio. Paid advertisement is not allowed on public and private television stations during the 15 days of official campaign.

The CEC is responsible for ensuring that the airtime is allocated in accordance with the legal provisions of equality and proportionality. The CEC allocates the airtime on the public broadcasters according to formula that is based on the results of previous parliamentary elections. In order to address the changed political landscape and enable two new parties to participation in the debates on public television, the CEC has issued an instruction, defining new political parties as “significant political groups”.

Several international institutions, including the OSCE Representative on Freedom of the Media (RFoM), have criticized the developments in the field of media freedom and access to information in the recent years. This mostly concerned the 2012 amendments to the law on the rules for electing the chairperson of public broadcaster (*Radiotelevisión Española* – RTVE), amendments to the information law, and attacks against journalists who covered demonstrations.<sup>8</sup> At the same time, the OSCE RFoM welcomed the 2013 Transparency Law, adopted as the government’s response to corruption allegations, but has pointed out that further improvements were needed.<sup>9</sup> Some political

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<sup>7</sup> According to the Law on Political Party Financing donations received by the foundations and associations linked to the political parties in parliament are subject to oversight.

<sup>8</sup> See OSCE RFoM statement [on the information law](#) and [the attacks against journalists](#).

<sup>9</sup> See OSCE RFoM statement [on the Transparency law](#).



parties that the OSCE/ODIHR NAM met with expressed concerns regarding equal coverage of the campaign by the media, in particular, the format of the debates.

#### **H. ELECTION OBSERVATION**

The election law provides for the presence of political party representatives in election commissions of all levels. It, however, does not provide for election observation by citizen or international observers, despite a long-standing OSCE/ODIHR recommendation. The CEC assured the OSCE/ODIHR NAM that the arrangements to facilitate access to all levels of election commissions for any possible election-related activity would be provided.

#### **IV. CONCLUSION AND RECOMMENDATION**

The OSCE/ODIHR NAM noted the confidence of its interlocutors in the integrity of the electoral process and the professionalism and impartiality of the election administration. No significant concerns were expressed with regard to the respect for fundamental freedoms, transparency of the electoral process, voter and candidate registration, and election day proceedings. OSCE/ODIHR NAM interlocutors stated, however, that the legal framework, political party and campaign finance regulations and oversight, as well as the implementation of regulation of media coverage of the campaign, could benefit from review. They expressed an interest in OSCE/ODIHR's expertise in these areas and mentioned that a potential election-related activity and the subsequent recommendations would be of help for the potential reform process.

In these circumstances, the OSCE/ODIHR NAM recommends the deployment of an Election Assessment Mission to specifically look into issues outlined in this report, such as the legal framework, political party and campaign finance, postal voting regulations, as well as media coverage of campaign. The OSCE/ODIHR continues to stand ready to engage with the authorities in a follow-up process after the upcoming elections to assist them in addressing outstanding recommendations from OSCE/ODIHR's previous assessments.

## **ANNEX: LIST OF MEETINGS**

### **State and Electoral Authorities**

#### **Ministry of Foreign Affairs**

Francisco Javier Sanabria, Director-General on the United Nations and Human Rights  
José María Muriel Palomino, Acting Ambassador at Large for Human Rights, Democracy and Rule of Law  
Isabel Menchón, Electoral Observation Section of the Human Rights Office

#### **Ministry of Interior**

Mr. Juan José Molinos Cobo, Director General of Internal Policy  
Mrs. Mireya Corredor Lanas, Deputy Director General of Internal Policy and Electoral Processes  
Ana Cristina Lopez Lopez, Head of Electoral Co-operation Unit, Deputy Directorate General of Internal Policy and Electoral processes  
Mrs. Gea Gómez-Pablos, Chief of Staff of the Director General of Internal Policy  
Mrs. Elena García-Guereta, Advisor to the Director General of Internal Policy

#### **Central Election Commission**

Carlos Granados Pérez, President  
Pablo María Lucas Murillo de la Cueva, Member  
Manuel Delgado-Iribarren García-Campero, Head of the Secretariat  
Ignacio Gutiérrez Cassillas, Head of the Advisory Department of the Secretariat

#### **Electoral Census Office**

Jose Luis Viedma, Deputy General Director

#### **Supreme Court**

Dimitry Teodoro Berberoff Ayuda, Head of the Technical Cabinet  
Raúl Cancio, Adviser of the Technical Office

#### **Court of Audit**

Maria Jose de la Fuente y de la Calle, Member  
María Dolores Genaro Moya, Member  
Jose Luis Cea Claver, Technical Director  
Carlos García Rodriguez, Deputy Director  
Karen Ortiz Finnemore, Director of International Relations

### **Political Parties**

#### **Basque Nationalist Party (EAJ-PNV)**

Aitor Esteban, Member of Parliament

#### **Citizens (C`s)**

Sofia Miranda, member of Madrid City Council

#### **Grupo Mixto**

Jon Iñarritu, Member of Parliament  
Ramon Soldan, Adviser to the Member of Parliament

### **People's Party (PP)**

Gabriel Diego Badiola, Adviser to the International Office

### **Podemos**

David Perejil, International Relations

Txema Guijarro, Campaign officer

Sergio Arroyo, Campaign officer

### **Progress and Democracy Party (UPyD)**

Carlos Moreno, Secretariat

Roman San Emeterio Pedraja, Campaign Manager

### **Spanish Socialist Workers' Party (PSOE)**

Ignacio Sánchez Amor, Member of Parliament

Laura Ballarín, International Secretary

### **Media**

#### **Public Corporation of Radio and Television (RTVE)**

Juan Carrillo, International Relations

Pedro Celis, General Support Secretariat

#### **ABC**

Juan Fernández Miranda, Editor-in-Chief

#### **EIDiario.es**

Gonzalo Cortizo, Chief of National Politics Department

#### **El País**

Fernando Garea, Parliamentary Reporter

### **Civil Society and Think Tanks**

#### **Centre for Political and Constitutional Studies (CEPC)**

Ángel Sánchez Navarro, Deputy Director for Publications and Documentation

#### **Coordinadora 25S**

Vicky Taibo, Activist

#### **Marea Granate**

Cristina Ramírez, Activist

#### **No Somos Delito**

Alba Villanueva, Activist

#### **Xnet**

Simona Levi, Activist