



Office for Democratic Institutions and Human Rights

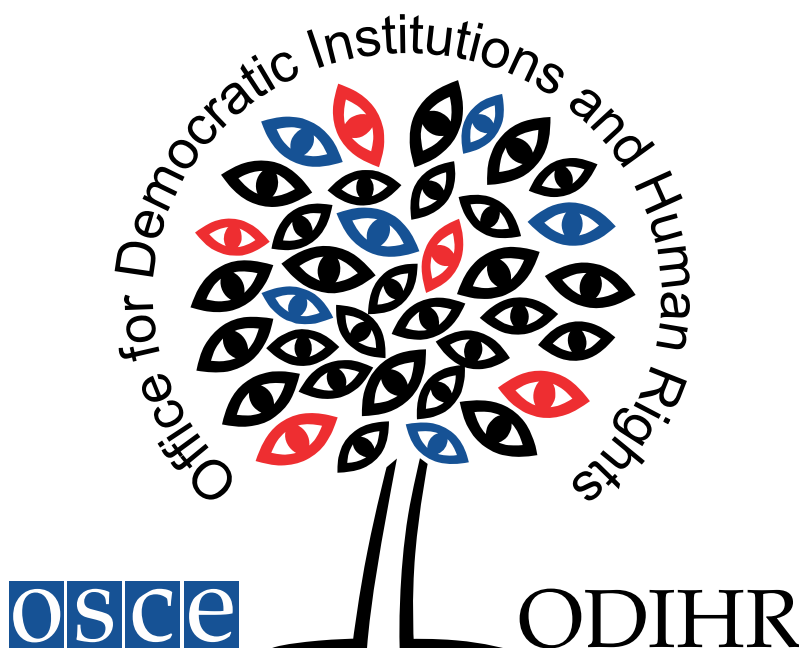
SPAIN

EARLY PARLIAMENTARY ELECTIONS

23 July 2023

ODIHR NEEDS ASSESSMENT MISSION REPORT

13-16 June 2023



**Warsaw
26 June 2023**

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I. INTRODUCTION

Following an official invitation to observe the 23 July 2023 early parliamentary elections in Spain and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 13 to 16 June. The ODIHR NAM included Alexey Gromov, ODIHR Senior Election Adviser, and Martina Barker-Ciganikova, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the elections. Based on this assessment, the NAM recommends whether to deploy an 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 as well as with representatives of political parties, media, civil society and the international community. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs, European Union and Co-operation for its assistance and co-operation in organizing the visit. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and share their views.

II. EXECUTIVE SUMMARY

On 29 May 2023, prompted by the results of the recent local and regional elections, the Prime Minister announced the dissolution of the parliament and called for early parliamentary elections to take place on 23 July. Many ODIHR NAM interlocutors expressed concerns that the elections amidst the summer recess might affect the liveliness of the campaign, election administration and voter turnout. The voters will elect 350 members of the Congress of Deputies under a closed-list regional proportional system and 206 members of the Senate from open lists.

The legal framework governing the conduct of the elections has remained largely unchanged after the previous elections, except for the new rules providing for a substantial increase in postal votes. As a result, many previous ODIHR recommendations remain unaddressed, including those related to the equality of the vote, transparency of the meetings of election administration and campaign finance, candidate eligibility restrictions, and media coverage of the campaign. In addition, there are no provisions for citizen or international election observation in the law. All ODIHR NAM interlocutors consider the legal framework as conducive to holding democratic elections.

The elections are administered by a network of government, administrative and judicial institutions, including the Central Election Commission (CEC) and the Ministry of Interior. While the electoral preparations are proceeding in a timely manner, authorities noted logistical challenges primarily caused by the call for early elections and resulting deadlines, increased demand for postal voting, as well as difficulties in identifying a sufficient number of polling staff given the holiday season. All ODIHR NAM interlocutors expressed a high level of trust in the integrity, impartiality and efficiency of the election administration.

All voters, both in the country and abroad, can vote by mail. October 2022 amendments to the election law abolished the in-person pre-registration requirement for postal voting from abroad enfranchising more than two million voters. Combined with the holiday season and absence of voters from their place of regular residence, all ODIHR NAM interlocutors expect a significant increase in postal votes both in the country and abroad, putting an additional organizational strain on the bodies administering the elections.

Voter registration is passive and all citizens above 18 years of age are eligible to vote, including those with mental and psychosocial disabilities. Some 37.5 million voters are registered for these elections, including some 2.3 million abroad. Voter lists were available for public scrutiny with the possibility to rectify omissions. In general, no ODIHR NAM interlocutors expressed concerns regarding the inclusiveness and accuracy of the voter lists.

Political parties, their coalitions and groups of voters may nominate lists of candidates for the Congress of Deputies and the Senate. Most ODIHR NAM interlocutors confirmed an inclusive and reasonable candidate registration process. Each list has to comply with gender quotas to ensure balance among their candidates. Women are well represented in political life, and political parties informed the ODIHR NAM about different internal mechanisms to promote women candidates.

The official campaign period will last between 7 and 22 July. No ODIHR NAM interlocutors expressed any concerns with respect to their ability to campaign freely. Outreach methods will be adjusted to the holiday season with particular emphasis on promotion in the media and online. Parties plan to focus their campaigns on economic and social issues, the stability of the government, climate change and immigration. Many ODIHR NAM interlocutors raised concerns about the spread of disinformation, in particular by certain political parties, and some raised concerns about frequent online verbal attacks on women candidates and persistent gender stereotypes in media.

Campaigns may be financed from public and private funds. The law sets limits for campaign donations and expenditures and provides disclosure requirements. Only political groups gaining parliamentary seats benefit from partial reimbursement of campaign expenses by the state. During elections, the CEC and provincial election commissions monitor compliance of the campaigns with the financial rules, and the Court of Auditors is in charge of auditing campaign finance reports. Overall, ODIHR NAM interlocutors did not raise any specific concerns with the transparency of the campaign finance, referring to effective control mechanisms and the reliance of most contestants on public funding of their campaigns.

The media environment is pluralistic. ODIHR NAM interlocutors noted an overall free nature of the media despite the significant concentration of media ownership and criminal sanctions envisaged for defamation and insult. The law obliges public and private broadcasters to respect the principles of pluralism, equity, proportionality and neutrality in their coverage of the elections. Public broadcasters provide contestants with free airtime for campaigning and organize debates. Despite prior ODIHR recommendations, there is no independent national media oversight authority. Most ODIHR NAM political party interlocutors expressed overall satisfaction with their access to media.

The legal framework provides short deadlines for initiating and handling electoral disputes and specifies different avenues for seeking legal redress, including with regards to candidate and voter registration, media and campaign-related issues as well as election results. Only contestants can challenge the election results. Many ODIHR NAM interlocutors noted general confidence in the effectiveness of remedies provided by the election administration and courts in election disputes.

All ODIHR NAM interlocutors expressed a high level of confidence in the impartiality of the various bodies administering elections and their ability to organize elections transparently. All interlocutors recognized the well-established democratic tradition in Spain; nevertheless, they welcomed an external assessment and a potential ODIHR observation activity as a way to further enhance the electoral process. No specific concerns were expressed regarding the respect for fundamental freedoms, voter and candidate registration, the financing of the campaign and election dispute resolution. Some ODIHR NAM interlocutors identified specific areas that would benefit from an external review, such as the practical implementation of the amended legal framework, the conduct of electoral operations, including the expected increase in postal voting, as well as the conduct of the campaign, including on social networks.

On this basis, the ODIHR NAM recommends the deployment of an Election Expert Team (EET) for the 2023 early parliamentary elections. Given the number of concurrent election-related activities taking place across the OSCE region, the deployment of an EET will be contingent upon the availability of resources. ODIHR also encourages the authorities to consider recommendations and issues of concern from its previous reports that remain unaddressed.

III. FINDINGS

A. BACKGROUND

Spain is a constitutional parliamentary monarchy, with the ruling monarch serving as the official head of state, and the prime minister as the head of government exercising the executive powers. Legislative powers are vested in the *Cortes Generales*, a bicameral parliament composed of the Congress of Deputies and the Senate, both elected for four-year terms.

On 29 May 2023, prompted by the results of the local and regional elections held on the previous day, Prime Minister Pedro Sánchez from the Socialist Workers' Party (PSOE) announced the dissolution of the parliament and called for early parliamentary elections to take place on 23 July.¹ As a result of the local elections, the left-wing parties, including the PSOE, suffered a heavy loss, and the conservative Popular Party (PP) took control of key cities and municipalities in the country.² In line with the legislation, no consultations with other political parties or stakeholders took place prior to the call for early elections. A number of ODIHR NAM interlocutors expressed their surprise with elections taking place during the holiday season, highlighting potential implications for voter mobilization, campaign strategies and polling staff recruitment.

Following the 2019 early elections, 10 parliamentary groups were formed, with the PSOE and *United We Can* political parties obtaining the highest number of seats and forming the government.³ The government's work was impacted by the outbreak of the COVID-19 pandemic and its political and economic consequences. The opposition PP underwent a leadership change in February 2022 and since then led the opinion polls emerging as the winner of the 28 May 2023 local elections.

¹ The regular parliamentary elections were due to be held latest by the end of the year.

² In a televised address to the nation on 29 May, Mr. Sánchez announced: "these results suggest Spaniards should clarify which political forces they want to take the lead," adding that it was time to let the people "take the floor and define the country's political direction."

³ Twenty-five political parties were comprised in 10 parliamentary groups: Socialist Parliamentary Group (120 seats), People's Parliamentary Group (88), *Vox* (52), *United We Can-In Common We Can-Galicia in Commons* (33), Republican Parliamentary Group (13), Plural Parliamentary Group (12), Citizens Parliamentary Group (9), Basque Parliamentary Group (6), *EH Bildu* Parliamentary Group (5) and Mixed (11). For the Senate, 20 parties formed 8 parliamentary groups.

Women are well represented in public and political life, with 166 women among the deputies in the outgoing Congress of Deputies (47 per cent), 103 Senators (39 per cent) and 12 out of 21 ministers (57 per cent). In March 2023, the Prime Minister announced that a new Equal Representation Law would envisage gender parity measures to electoral lists, as well as boards of directors of big companies and professional associations.

ODIHR has deployed four Election Assessment Missions (EAMs) and one Election Expert Team (EET) for parliamentary elections in Spain since 2004.⁴ Most recently, ODIHR deployed an Election Expert Team to assess the 28 April 2019 early parliamentary elections, which focused on the conduct of the election campaign and the role of the media in its coverage. Among various issues, the ODIHR recommended ensuring data protection and transparency of collection and use of personal data by political parties for electoral purposes, upholding the principle of equality of the vote, addressing the shortcomings of postal voting, ensuring equitable media coverage and a level playing field for all contestants, including online, enhance the transparency of media ownership, protect the public broadcasters from political interference, establish an independent media oversight authority and increase digital literacy among voters and other electoral stakeholders. The final report, issued in July 2019, contains 10 recommendations for the authorities to improve the electoral process and bring it closer in line with OSCE commitments.⁵

B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The legal framework for parliamentary elections consists primarily of the 1978 Constitution, the 1985 Organic Law on General Election Regime (last amended in 2022, election law), and the 2007 Organic Law on Financing of Political Parties (last amended in 2015). These laws are supplemented by decisions and instructions of the Central Election Commission (CEC), state decrees, and administrative and penal laws. Spain is a party to the key international human rights instruments pertaining to the holding of democratic elections.⁶

Overall, the legal framework governing the conduct of the elections has remained largely unchanged since 2019, except for the change of rules for postal voting made in line with previous ODIHR recommendations. Many other previous ODIHR recommendations are yet to be implemented, including those related to the principle of equality of the vote, the transparency of meetings of the election administration, review of candidate eligibility restrictions, transparency of campaign finance, regulation of media-ownership and media coverage of the campaigns, and the establishment of an independent media oversight authority. Nonetheless, all ODIHR NAM interlocutors expressed confidence in the legal framework and regarded it as conducive to holding democratic elections.

The Congress of Deputies comprises 350 members elected under a closed-list regional proportional system. Each of the 50 provinces is a multi-seat constituency and has an initial allocation of two seats.⁷ The remaining 248 seats are allocated proportionally to each province based on the size of the

⁴ See [previous ODIHR election reports on Spain](#).

⁵ In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”. See ODIHR Electoral Recommendations Database at [Paragraph25.odihr.pl](#).

⁶ Including [the 1966 International Covenant on Civil and Political Rights](#) (ICCPR), [the 1965 International Convention on the Elimination of All Forms of Racial Discrimination](#), [the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women](#), [the 2003 UN Convention against Corruption](#), [the 2006 UN Convention on the Rights of Persons with Disabilities](#), and [the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms](#). Spain is a member of the Council of Europe’s Venice Commission and GRECO.

⁷ The autonomous cities of Ceuta and Melilla elect one member of the Congress of Deputies each.

population. A candidate list must obtain a minimum of 3 per cent votes in the constituency to qualify for seat allocation defined according to the D'Hondt method.

The Senate is the chamber of territorial representation, and candidates are nominated via open lists in 59 constituencies: 47 continental provinces, 10 constituencies from the 3 insular provinces (islands or groups of islands) and the 2 autonomous cities.⁸ The Senators are elected by a simple majority vote.⁹ The total number of Senators directly elected during these elections is 208 out of 265; the remaining are appointed by the legislative assemblies of the Autonomous Communities.

Authorities and other ODIHR NAM interlocutors noted that significant disparity in the voting power exists across different constituencies, and the equality of vote remains challenged in several constituencies in the Congress of Deputies.¹⁰ Despite a previous ODIHR recommendation, many ODIHR NAM interlocutors noted a lack of political will to review the relevant constitutional provisions needed for improving the equality of the vote.

C. ELECTION ADMINISTRATION

The elections are administered by a complex network of government, administrative and judicial institutions at various levels. The CEC is responsible for the implementation of election-related legislation, issues binding decisions to supplement or clarify the legislation, and supervises the lower-level commissions and Electoral Census Office (ECO); the latter is in charge of maintaining the voter register and administering postal voting. Fifty Provincial Election Commissions (PECs), 303 District Election Commissions (DECs) and some 57,000 Electoral Boards administer the process at the local levels. The Ministry of Interior (MoI) together with the subordinate municipalities are in charge of the key aspects of the electoral process related to security and safety, operations and logistics, as well as voter education and training of polling staff. All ODIHR NAM interlocutors expressed a high level of trust in the integrity and impartiality of the election administration, including in the conduct of election day procedures.

The CEC is a permanent body composed of 13 members: 8 Supreme Court judges are drawn by lottery held by the General Council of the Judiciary and 5 professors of law or relevant social sciences are appointed by the Congress of Deputies upon nomination by parliamentary groups. Currently, the CEC has five women among its members. The CEC sessions take place on an *ad hoc* basis during the election period and, despite a previous ODIHR recommendation, are closed to the public and stakeholders. The ODIHR NAM was informed that all CEC decisions are published on the same or the following day.

PECs and DECs are temporary bodies within the existing judicial structures, formed by the respective higher commissions for each election anew and are composed of three judges and two representatives from the academia.¹¹ Political parties can nominate PEC and DEC members from among judiciary

⁸ Four Senators are elected in each continental province; three Senators – in insular constituencies of Gran Canaria, Mallorca and Tenerife; two Senators - in cities of Ceuta and Melilla; and one Senator – in insular constituencies of Fuerteventura, Gomera, Hierro, Ibiza-Formentera, Lanzarote, La Palma and Menorca.

⁹ Each voter may cast three votes in the provincial constituencies, two votes on the larger islands and in Ceuta and Melilla, and one vote on the remaining islands.

¹⁰ According to the Electoral Census Office data as of 1 May 2023, the nationwide average number of voters per a Congress seat is 100,046 voters. The deviation from this number exceeds 15 per cent in 30 constituencies, including deviation of more than 50 per cent in 5 constituencies. Paragraph I.2.2.iv of the Venice Commission's 2002 Code of Good Practice in Electoral Matters recommends that the "permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances".

¹¹ In line with the law, the PECs and DECs established for the 28 May local elections will continue fulfilling their functions for the early parliamentary elections.

and academia representatives. Electoral Boards are composed of three members, including a chairperson, selected by lottery from among voters registered in the respective precinct. Service in the Electoral Boards is compulsory.

Although the preparations for the elections take place according to legal deadlines, authorities informed the ODIHR NAM about logistical challenges in administering the early elections primarily caused by the resulting deadlines, as well as difficulties in identifying a sufficient number of polling staff due to the holiday season. An increased workload is expected also due to recent legal amendments regarding postal voting (see *Postal Voting*). Nevertheless, all ODIHR NAM interlocutors expressed confidence in the ability of the responsible agencies to manage these challenges efficiently.

Information for voters is available online on the website of the MoI, but there is no information in easy-to-read or other accessible formats for persons with different types of disabilities. A special kit, including ballots for all races in Braille, is available at polling stations only for those visually impaired voters who requested it from the MoI between 30 May and 26 June. By law, all polling stations should be accessible to all voters with physical disabilities.

The ODIHR NAM was informed about the efforts undertaken by the national interagency network comprised of relevant agencies and private companies, led by the MoI to counter potential cyber/ICT security threats, including against computer infrastructure of the election administration, election results data transmission system and voter registration data.

D. POSTAL VOTING

All voters, both in the country and abroad, can vote by mail. The requests for in-country postal voting must be submitted between 30 May and 13 July in person at local post offices without a need for any justification. In-country postal ballots are delivered to voters between 3 and 16 July, who should send ballots until 20 July directly to their Electoral Boards. Voters who requested mail voting are marked off the voter lists and not eligible to vote at polling stations. On election day, postal votes are mixed with regular votes before counting. Given the high holiday season, all ODIHR NAM interlocutors expect a significant increase in requests for in-country postal voting.¹²

To increase the security of postal voting and to respond to alleged manipulations during the just concluded local elections, in early June, the CEC issued an instruction obliging all voters to prove their identity also when submitting the vote at the post office by registered mail.¹³

Voters who are temporarily abroad on election day can only vote by mail, while voters residing permanently abroad can either vote by mail or deliver their ballot personally to a Spanish diplomatic mission on the days authorized for voting.¹⁴ The October 2022 legal amendments abolished the in-person pre-registration requirement for postal voting from abroad (so-called *voto rogato*) automatically enfranchising more than 2 million voters.¹⁵ The amendments also enabled voters abroad to download ballots online via a dedicated link, expanded the number of polling stations

¹² Whereas in 2019, a total of 997,530 in the country voters requested to vote by mail, for these elections, more than 1 million requests were registered only during the first two weeks of the application period.

¹³ Previously, the voters had to confirm their identity at two occasions, once requesting the postal vote, and once receiving the voting materials.

¹⁴ Ballots from voters temporarily residing abroad are sent directly to the Electoral Board in which the voters registered, whereas ballots from voters permanently residing abroad are sorted by consulates according to provinces and submitted to relevant PECs.

¹⁵ While during the 2019 parliamentary elections some 10,000 voters abroad requested to vote by post, all voters residing abroad are eligible to vote now.

abroad in addition to the consulates and embassies, and increased the number of days for voting abroad from three to five (15 to 20 July for these elections).¹⁶

Different election administration bodies informed the ODIHR NAM about the increased workload resulting from the legal amendments and the extra workforce needed to manage postal voting efficiently and in line with the legal deadlines, which some interlocutors considered too tight. The National Postal Service (*Correos*) informed the ODIHR NAM that to accommodate the increased number of voters, post offices, in particular in rural and tourist areas, would extend working hours; some 10,000 workers are expected to be involved.¹⁷ Civil society organizations raised concerns that postal voting is not always easily accessible, as voters need to submit their vote in person at the post office and the information provided by authorities in accessible formats is insufficient.

E. VOTER REGISTRATION

Voter registration is passive, and all citizens above 18 years of age are eligible to vote, including those with mental and psychosocial disabilities. The voter register is based on permanent residency and updated every month by the ECO based on the data retrieved from the population registry maintained by municipalities (for in-country voters) and by consulates (for voters abroad).

By law, for each election, the register is closed two months before the call of the elections (1 March for these elections).¹⁸ Voter lists were available for public scrutiny from 5 to 12 June online, in municipalities and provincial ECO, where voters could request changes or report omissions.¹⁹ According to the ECO, 37,466,432 voters are registered for these elections in total, including 35,141,122 in the country and 2,325,310 abroad. In general, no ODIHR NAM interlocutors expressed concerns regarding the inclusiveness and accuracy of the voter lists.

F. CANDIDATE REGISTRATION

All eligible voters can stand for elections except those sentenced by a final court decision which explicitly prohibits them from holding a public office as well as those in military service. People convicted at the first instance of rebellion, terrorism and offences against the state (even with a pending final decision) are not eligible to run. ODIHR previously recommended to reconsider the withdrawal of individual franchise in case of a criminal conviction without a final court decision.

Political parties, coalitions and groups of voters were entitled to nominate candidate lists until 19 June. The lists are submitted by constituencies to PECs who verify the eligibility criteria of each candidate and the correctness of the supporting documents. Each list shall contain the number of candidates equal to the number of seats in a given constituency and up to 10 substitutes. A candidate may only be included on one list and run in one constituency. Contestants are allowed to rectify mistakes and omissions and resubmit the lists. Decisions on both approved and rejected lists can be appealed to the Constitutional Court. Finalized lists are published in the official gazette. The ODIHR

¹⁶ Postal election materials for voters abroad are delivered in two tranches; the first delivery (from 17 to 23 June) includes the link to download the ballots, voter registration certificate, voting instructions, and envelopes for placing the ballots; the second tranche after the candidate registration process is over (from 28 June to 2 July) includes ballots.

¹⁷ The National Postal Service, as a public institution, in addition to delivering the two packages for postal voting to eligible voters and marked ballots from them, has also obligations to send the campaign materials to all voters as requested by political parties and notifications to selected voters to serve as polling staff.

¹⁸ Those who turned 18 years old after 1 March are automatically included in the voter lists. The voters who change permanent residence into a different constituency after 1 March are not included in new voter lists.

¹⁹ The ODIHR NAM was informed that some 3,000 voters in the country and some 5,000 voters abroad requested minor data corrections.

NAM was informed that should a decision of the court be protracted, this might delay the printing of the ballots and affect postal voting.

Parliamentary parties and coalitions are not required to collect any signatures in support of the nomination of their candidates. At the same time, lists proposed by non-parliamentary parties and coalitions must collect signatures of at least 0.1 per cent of voters from the constituency and lists proposed by groups of voters require the support of 1 per cent of voters registered in the constituency.²⁰ Voters are allowed to sign only in support of one list. Most commonly, candidates are nominated by parliamentary parties' regional executive committees, and no ODIHR NAM interlocutors raised specific concerns with the registration procedures despite the tight deadlines.

All candidate lists for the Congress of Deputies should have a minimum of 40 per cent of candidates of either sex, with at least two candidates of the other gender among each block of five candidates. For the Senate, lists shall have as close as possible to an equal number of women and men. Political parties informed the ODIHR NAM about internal mechanisms, including higher quotas and the zipper system in their candidate lists, to endorse women candidates. Representatives of civil society noted that notwithstanding the balanced number of women in elected and appointed positions, the media still reinforce gender stereotypes of traditional caretaker roles while covering women candidates and their campaigns. The ODIHR NAM was also informed about frequent cases of verbal attacks and insults against women candidates online, in particular on social networks.

G. ELECTION CAMPAIGN

The official campaign period lasts between 7 and 22 July; nevertheless, contestants may conduct outreach activities from the day elections are called, as long as they do not explicitly solicit votes nor use campaign funds for this purpose. No ODIHR NAM interlocutors expressed any concerns with respect to their ability to campaign freely.

Some political parties informed the ODIHR NAM that they were still developing their campaign programme and strategies as the call of the early elections took them by surprise, while many build their campaign upon messages used in recent local elections. While traditional in-person canvassing remains important, outreach methods will be adjusted to the holiday season with particular prominence given to online promotion and media appearances. The focus will be, among other topics, on economic and social issues, including the consequences of the COVID-19 pandemic and the war caused by the Russian Federation's invasion of Ukraine, the stability of the government, climate change and immigration. A high number of ODIHR NAM interlocutors raised concerns about the spread of disinformation, including by certain political parties, as one of the most acute threats of this campaign.

The legislation allows electoral contestants to use voter data collected from open sources for campaign purposes. Following concerns raised about the protection of personal data, voters can officially request the ECO to remove their data from the list shared with the political parties.

H. CAMPAIGN FINANCE

Campaign finance is largely regulated by the election law and the Law on the Financing of Political Parties. Electoral contestants may receive donations for their campaigns, both monetary and in-kind, from citizens or legal entities, as well as take loans. The election law sets a limit for private contributions of EUR 10,000 per donor per campaign and prohibits anonymous, foreign, cash

²⁰ ODIHR previously recommended considering establishing equal conditions for the nomination of candidates by non-parliamentary parties and groups of citizens.

donations and those from public bodies or state-affiliated entities. The campaign spending limit is set at EUR 0.37 per voter in each constituency where a contestant stands for election and only applies during the two weeks of the campaign period.²¹ The law does not allow for the financing of election campaigns by third parties.²²

The state reimburses campaign expenditures only to those contestants who obtained seats in the amounts defined per each seat obtained in the parliament (EUR 21,167) and each vote received in the elections to the Congress of Deputies and the Senate (EUR 0.81 and EUR 0.32, respectively).²³ In addition, parties eligible to form a parliamentary group as the result of the elections are entitled to EUR 0.18 per each voter registered in the constituencies, where they registered their lists.

The CEC and relevant PECs are in charge of monitoring compliance with the campaign finance rules by the contestants. In this regard, they may require the contestants as well as banking institutions to provide financial information they deem necessary for the auditing functions. The election administration informs the Court of Auditors of the result of their monitoring activity, and, in case of potential offences, reports to the Public Prosecutor.

Between 100 and 125 days after the elections, each electoral contestant must submit a report detailing campaign income and expenditures to the Court of Auditors. There are no provisions for interim reporting, reducing the transparency of the information available to voters before election day. The Court of Auditors oversees campaign finance and can undertake investigations on its initiative or upon a complaint. In line with the legislation, the Court only audits campaign finance reports of those contestants who obtained seats and are thus eligible for reimbursement of electoral expenses.²⁴ The Court of Auditors publishes the audited campaign finance reports on its website within 75 days after their submission as well as publicly presents the results of the audit of these reports to the newly elected parliament.

The Court of Auditors informed the ODIHR NAM that it had recently strengthened the capacity of its department for auditing political parties and developed a series of internal regulations, including for online submission of the annual party and campaign finance reports. Political parties met with the ODIHR NAM acknowledged that they could use the Court's guidelines and consult about technicalities of financing and reporting.

The law provides for a graduated system of proportionate and dissuasive sanctions for financial violations. The CEC and PECs can impose financial sanctions for minor violations, while the Court of Auditors may withhold or reduce public subsidies, impose fines and turn to law enforcement in case of criminal infringements. Overall, the ODIHR NAM interlocutors did not raise any specific concerns over the transparency of the campaign finance, referring to effective control mechanisms and the reliance of most contestants on public funding of their campaigns.

I. MEDIA

The Spanish media landscape includes a range of public and private television (TV) and radio stations, print and online media outlets, which play an important role in framing political coverage.

²¹ The spending limit may amount up to some EUR 13 million per each chamber of parliament for a contestant who registers its lists in all constituencies.

²² Despite previous ODIHR recommendations, foundations and other entities with ties to political parties are not subject to the regulation and are not bound by the same financial requirements as political parties.

²³ The state makes advance payments to reimburse campaign expenditures in the amount up to 30 per cent of the subsidies allocated based on the results of the previous parliamentary elections.

²⁴ The Court audits annual reports of publicly funded parties and only randomly reviews annual reports submitted by other parties.

The main source of political information is TV. The media environment is pluralistic and offers a diverse range of views. Freedom of expression is guaranteed by the Constitution, and ODIHR NAM interlocutors noted overall freedom of the media despite concerns regarding a significant degree of concentration of media ownership. Defamation and insult remain criminal offences.

The law obliges public and private broadcasters to respect the principles of pluralism, equity, proportionality and neutrality in their coverage of the elections. Paid campaign advertising on public and private TV is prohibited. Print media are unregulated concerning electoral coverage, except for an obligation to guarantee the same rate for commercial and political advertising. There is a ban on the publication of results of election-related opinion polls during the last five days of the campaign, but there are no specific rules for campaign coverage on the Internet. Spain still has no independent national broadcast authority despite previous ODIHR recommendations. The CEC is the primary regulator of broadcast media during the 15-day official campaign: its instructions and decisions clarify the rules for campaign coverage, including criteria for proportional campaign coverage and holding debates, but the CEC does not monitor the media.

The major national public broadcaster *Radiotelevisión Española (RTVE)* operates seven TV and six radio channels and has a public duty to inform voters about upcoming elections, including via proportional coverage of contestants and holding election debates. During the official campaign period, public broadcasters are obliged to provide electoral contestants with free airtime which is allocated upon consultation with the CEC in proportion to the results from the last parliamentary elections.²⁵ *RTVE* informed the ODIHR NAM that the parties, which were not successful in the previous elections as well as new contestants also have access to free airtime, but on a smaller scale compared with the incumbent parties. Airtime in news and elections-related programming, including interviews and debates, is also distributed based on past electoral performance.²⁶ According to *RTVE*, it plans to broadcast voter education materials on suffrage rights, voting procedures, voter registration, participation of people with disabilities and postal voting, including in formats adapted for the needs of different groups.

Overall, party representatives the ODIHR NAM met with were satisfied with access to the media and coverage of electoral campaigns but also noted the challenges that broadcasters face in addressing disinformation within the campaign.

J. ELECTION DISPUTE RESOLUTION

Complaints against the allocation of polling stations and irregularities in candidate nomination documents can be filed to the PECs, and complaints against inaccuracies in the voter lists - to the Provincial Electoral Census Offices. Relevant decisions may further be appealed to the administrative court. Complaints on candidate registration are submitted to the administrative court whose decisions may further be appealed to the Constitutional Court. Complaints against any irregularities by the lower-level commission and other election administration bodies as well as campaign and media-related issues may be brought to the attention of the CEC. Appeals against relevant CEC decisions as well as complaints against registration of candidate lists of political parties, which continue the activity of a party that has been banned, dissolved or suspended, can be filed to the Supreme Court.

²⁵ Paid advertisement is not allowed on public and private broadcasters during this period.

²⁶ ODIHR has previously raised concern with such rigid rules for coverage of contestants on public broadcasters as not reflecting the political reality of current elections and providing voters with insufficient information.

Deadlines for filing and deciding on complaints and appeals during the election period range from two to five days.²⁷ Only candidates, their proxies and contesting parties or groups may initiate disputes over election results, within three days after the announcement of the candidates elected.²⁸ The Supreme Court should adjudicate these disputes no later than 37 days after election day. Within 3 days, the constitutionality of its decision may be appealed to the Constitutional Court, which has 15 days to decide upon the issue. Many ODIHR NAM interlocutors noted general confidence in the effectiveness of remedies provided by the election administration and courts in election disputes.

K. ELECTION OBSERVATION

The law provides for the presence of party and contestant representatives in election commissions, but proxies cannot attend closed commission sessions and may only communicate with them in writing. Representatives of contestants can be accredited as observers in polling stations only for election day proceedings, and several party representatives informed the ODIHR NAM of their plans to deploy observers on election day. The law does not provide for citizen or international election observation despite a long-standing ODIHR recommendation.²⁹ As in previous elections, the authorities assured the ODIHR NAM that arrangements to facilitate access to all levels of election commissions for any possible election-related activities would be provided.

IV. CONCLUSIONS AND RECOMMENDATION

All ODIHR NAM interlocutors expressed a high level of confidence in the impartiality of the various bodies administering elections and their ability to organize elections transparently. All interlocutors recognized the well-established democratic tradition in Spain, nevertheless they welcomed an external assessment and a potential ODIHR observation activity as a way to further enhance the electoral process. No specific concerns were expressed regarding the respect for fundamental freedoms, voter and candidate registration, the financing of the campaign and election dispute resolution. Some ODIHR NAM interlocutors identified specific areas that would benefit from an external review, such as the practical implementation of amended legal framework, the conduct of electoral operations, including expected increase in postal voting, as well as the conduct of the campaign, including on social networks.

On this basis, the ODIHR NAM recommends the deployment of an Election Expert Team (EET) for the 2023 early parliamentary elections. Given the number of concurrent election-related activities taking place across the OSCE region, the deployment of an EET will be contingent upon availability of resources. ODIHR also encourages the authorities to consider recommendations and issues of concern from its previous reports that remain unaddressed.

²⁷ Election administration bodies may request additional written clarifications from interested parties, but make their decisions without an open hearing.

²⁸ Section 3.3.f of the Venice Commission 2002 Code of Good Practice in Electoral Matters recommends: “all candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections”.

²⁹ Paragraph 8 of the [1990 OSCE Copenhagen Document](#) provides that “the participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place”.

ANNEXE: LIST OF MEETINGS

Ministry of Foreign Affairs, European Union and Co-operation

Cecilia Robles Cartes, Director-General, United Nations, International Organizations and Human Rights

Guillermo Ardizzone, Director-General, External Policy

Fernando Fernandez-Aguayo, Director, Human Rights

Luis González Vayá, Deputy Director-General, Consular Department

José Ignacio Mongé, Adviser, OSCE

Isabel Menchón López, Office of Human Rights

Ministry of Interior

Carmen Lopez García, General Director, Interior Policy

Irune Arratibel Irulegui, Advisor, Interior Policy

Mireya Corredor Lanás, Deputy Director General, Interior Policy and Electoral Processes

María Luisa López García, Assistant Deputy Director, Interior Policy and Electoral Processes

Alba Victoria Romero Requejo, Technical Adviser, Interior Policy and Electoral Processes

Central Election Commission

Miguel Colmenero Menéndez de Luarca, President

Manuel Delgado-Iribarren García-Campero, Head, Technical Secretariat

Ignacio Gutiérrez Cassillas, Head, Legal Advisory Department

Electoral Census Office

Ana Jurado Jimenez, Deputy General Director

Bernardo Castro Egido, Assistant Deputy General Director

Provincial Election Commission of Madrid

María Gemma Gallego Sánchez, President

Elena de Arce Milla, Secretary

Ignacio José Fernández Soto, Member

María Rosario Hernández Hernández, Member

Mariano Pérez-Hickman, Member

Manuel Herrera Espiñeira, Delegate of the Electoral Census Office

National Postal Service

José Luis Nistal, Deputy Director of Operations

Nuria Lera, Director for Institutional Relations

Julián Caro, Deputy Director for International Operations

Pilar Caballero, Postal Business Manager Director

Carmen Fernández Miranda, Institutional Manager

Rafael de Vicente, Head, International Operations

Court of Audit

Santiago Martínez Arguelles, Director, Technical Office

Jose Antonio Monzo Torrecillas, Director, Department for Political Parties

Virginia Roscales García, Deputy Director, Presidency

Soledad Fuentes Escribano, Director, Presidency

Elena Hernández Salguero, Counsellor, Department for Political Parties

Political Parties

Joaquín García, MP, People's Party
Marta Rosique i Saltor, MP, Republican Parliamentary Group
Pere Joan Pons, MP, Spanish Socialist Workers' Party
Carlos Sánchez Mato, MP, GCUP-ECP-GEC
Enrique Santiago Romero, MP, GCUP-ECP-GEC
Mauricio Valiente, MP, GCUP-ECP-GEC

Media

Pedro Celis, President's Office, Public Corporation of Radio and Television
Juan Carlos Carrazon Castro, International Relations, Public Corporation of Radio and Television
Alfonso Bauluz, President, Journalists without Borders

Civil Society

María Luisa Soletto Ávila, Director General, Foundation Women
Teresa Agustin Hernandez, Press Officer, Foundation Women
Israel Berenguer Muñoz, Director, Access to Justice for People with Intellectual Disabilities,
Foundation *A la par*
Myriam Becerril Basa, Director, Psychosocial Department, Foundation *A la par*

Diplomatic Missions Resident in Spain³⁰

Representatives of diplomatic missions of Montenegro, Norway, Poland, the Russian Federation,
United States of America

³⁰

The ODIHR NAM extended an invitation to representations of all OSCE participating States resident in Spain.