



Office for Democratic Institutions and Human Rights

# ITALY

## PARLIAMENTARY ELECTIONS

13 and 14 April 2008

OSCE/ODIHR Election Assessment Mission Report



Warsaw  
5 September 2008

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**ITALY**  
**PARLIAMENTARY ELECTIONS**  
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**I. EXECUTIVE SUMMARY**

In response to an invitation<sup>1</sup> from the Permanent Mission of Italy to the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR), an Election Assessment Mission (EAM) was deployed to observe the 13 and 14 April 2008 pre-term parliamentary elections in Italy. It commenced its work on 26 March<sup>2</sup>.

The Italian Parliament is a bi-cameral body comprising the Chamber of Deputies (lower house) with 630 members and the Senate (upper house) with 315 senators. Members of both the Chamber and the Senate are elected by popular vote on the same days, on the basis of different systems of regional proportional representation. However, the Senate includes a limited number of Senators appointed for life.

Italy has a tradition of holding democratic elections, with a high turnout rate. The 13-14 April pre-term Parliamentary elections were conducted overall in keeping with this tradition. The turnout was over 80 per cent. The elections were conducted by the election administration in a professional and efficient manner. However, media reported that the chairpersons of some polling stations and their staff did not report for duty on election days.

Despite a high turnout, the OSCE/ODIHR EAM was informed by candidates and voters that they were discontent with the complex election law, and noted that under the current electoral system, they could no longer vote for individual candidates contributing to some lack of confidence in the electoral system.

The elections were conducted according to essentially the same legislation as the 2006 parliamentary elections, which were also observed by an OSCE/ODIHR EAM. Subsequent recommendations were offered which appear to have received little attention to date. In particular, some key aspects of the legal framework, such as the newly elected parliament itself being the final appeal body for election complaints, remains an outstanding issue. This was exemplified in the 2008 elections by the case of the *Democrazia Cristiana* party which had no possibility before the elections to appeal the decision by the Ministry of the Interior not to approve its logo, and hence the Ministry did not adjust its initial decision not to register its candidate list.

A new decree was adopted by the Government on 15 February 2008 and approved by Parliament on 29 February, to regulate a limited number of technical issues. These included easier registration of candidates, the conduct of partial elections for local Government to be held simultaneously with the parliamentary ones, the possibility for OSCE observers to monitor the parliamentary elections and the introduction of some new rules for the vote abroad. Notably,

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<sup>1</sup> Letter to Ambassador Christian Strohal, OSCE/ODIHR Director, from Ambassador Francesco Bascone, Head of the Permanent Mission of Italy to the OSCE, 14 February 2008.

<sup>2</sup> The OSCE/ODIHR EAM commenced media monitoring of selected TV stations on 19 March.

regulations for voting abroad now distinguish between the procedures applied for Italian citizens residing abroad on a permanent basis, and those for Italians residing abroad on official duty or on a temporary basis.

The campaign was pluralistic, competitive, and conducted in a generally calm atmosphere. Freedom of expression and freedom of assembly were respected and voters were offered a genuine choice between different political options. Candidates held rallies and presented their platforms in a free environment respecting civil and political rights. The campaign and the media generally focussed on the two main contenders, Silvio Berlusconi of the centre-right *Popolo della Libertà* (Pdl) coalition and Walter Veltroni of the centre-left *Partito Democratico* (PD) coalition; other smaller parties complained that little attention was given to their campaigns.

National broadcast and print media covered the elections extensively and all parties were given equitable access to the election programmes on public TV channels. Bias in favour of the Pdl coalition was clearly demonstrated on two TV channels owned by Mediaset.

In general, relatively few women were elected to the incoming Parliament. They represent 21 per cent of the seats in the Chamber and 17 per cent of the seats in the Senate. Moreover, women are generally not well represented in leadership positions of the political parties.

## II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Italian Ministry of Foreign Affairs (MFA) on 14 February, and subsequent to a Needs Assessment Mission undertaken from 20 to 22 February, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an election Assessment Mission (EAM) from 26 March to 18 April 2008. It was the second time the OSCE/ODIHR was invited to observe Italy's parliamentary elections. This report should be read in conjunction with the OSCE/ODIHR report on the 2006 parliamentary elections in Italy.<sup>3</sup>

The OSCE/ODIHR EAM was headed by Ambassador Audrey Glover and included nine additional experts from nine OSCE participating States respectively. The OSCE/ODIHR EAM monitored Italy's seven major national television stations.

In addition to meetings in Rome, OSCE/ODIHR EAM members visited Bari, Bologna, Florence, Turin, Aosta, Bolzano, Trento, Milan, Naples, and Palermo for meetings with electoral officials, political parties and the civil society. In line with standard OSCE/ODIHR practice for election assessment missions, the OSCE/ODIHR EAM did not conduct systematic or comprehensive observation of voting and counting procedures, although representatives of the EAM did visit a number of polling stations in Rome, Palermo, Trieste and Perugia on both election days.

The OSCE/ODIHR expresses its appreciation to the Italian authorities, including especially the Ministry of Foreign Affairs and the Ministry of the Interior, for their support and co-operation throughout the mission. The OSCE/ODIHR EAM is also grateful for the co-operation it received from the National Central Electoral Office (NCEO) at the Court of Cassation, the parliamentary election committees, as well as from regional and local officials, election administrators at all levels, political parties, representatives of the media and civil society.

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<sup>3</sup> This report is available at <http://www.osce.org/odihr-elections/18270.html>.

### III. POLITICAL BACKGROUND

#### A. OVERVIEW

The 2006 parliamentary elections were won by the centre-left coalition, led by Romano Prodi, with a narrow margin of 24,000 votes in the Chamber of Deputies. There was a difference of two seats in the Senate<sup>4</sup>. The outgoing coalition Government led by Prime Minister Romano Prodi lost its parliamentary support in January 2008 when the small *Popolari UDEUR* party withdrew from the coalition<sup>5</sup> and voted against it during a vote of confidence. After having tried to form a new government without success, the President decided on 6 February to dissolve both chambers and to call for a new election.

#### B. PARTIES AND LISTS

Candidates could run supported by an initiative group of citizens, under a party list (under one logo), or under coalition lists (more than one logo, each logo having its own list). One hundred and fifty eight (158) parties registered their logo to run<sup>6</sup>; as a whole, 292 lists registered to compete for the Senate and 433 for the Chamber of Deputies<sup>7</sup>.

On the centre-left, the *Partito Democratico* (PD), established in 2007, was running in a coalition with the *Italia dei Valori* (Italy of Values) party, led by former judge Antonio Di Pietro. After having held primaries in October 2007, the PD was headed by its candidate for Prime Minister, Walter Veltroni, who was mayor of Rome, but resigned in order to run. The outgoing Prime Minister, Romano Prodi, supported the PD. On the centre-right, the *Alleanza Nazionale* and *Forza Italia* had agreed on a joint new list called *Popolo della Libertà* (PdL People of Freedom), headed by former Prime Minister Silvio Berlusconi. The PdL ran in coalition with *Legha Nord* in the north and with *Movimento Per l'Autonomia Alleanza per il Sud* (MPA Sud) in the south of Italy.

Smaller parties which were members of one of the two large coalitions in 2006 either ran alone or formed several smaller coalitions. On the left side of the political spectrum the *La Sinistra L'Arcobaleno* (Rainbow coalition) comprised two communist parties,<sup>8</sup> the *Verdi* (Federation of the Greens) and the *Sinistra Democratica* (Democratic left).<sup>9</sup> On the right side, *La Destra* (the Right) gathered candidates from the *Movimento Sociale Fiamma Tricolore* and from former members of *Alleanza Nazionale*.<sup>10</sup>

A few parties decided to run within the lists of the two main coalitions instead of participating on their own. This was the case of the party of Alessandra Mussolini, *Azione Sociale*, who fielded 2

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<sup>4</sup> The centre-left coalition could count on 348 seats in the Chamber and on 159 in the Senate, if one also counts the seat of the *Associazioni Italiani in Sud America* whose confidence vote went to the centre-left coalition. The *Casa delle Libertà*-led coalition (Centre-right) won 156 seats at the Senate.

<sup>5</sup> The *Popolari UDEUR* party received about one per cent of the vote in the 2006 elections and held only three seats in the Senate, but it was enough to be decisive in the 315-seat Senate in which the Prodi Government only had a two-seat majority.

<sup>6</sup> However, a majority of these parties did not subsequently submit candidate lists for registration or their lists were not registered by the MoI due to an insufficient number of signatures or other shortcomings.

<sup>7</sup> Including 26 lists running for the Senate abroad and 27 lists running for the Chamber of deputies abroad.

<sup>8</sup> *Rifondazione Comunista* and *Partito dei Comunisti Italiani* (PDCI); the latter broke out of the former in 1998.

<sup>9</sup> Some of the founding members of the *Sinistra Democratica* party, which was created in May 2007, used to belong to the former *Democratici di Sinistra* (DS) party.

<sup>10</sup> Like Daniela Santanchè, head of the list, or Francesco Storace.

candidates on the PdL lists and of the *Radicali* who fielded 9 candidates in the PD lists. On the centre-right side, the *Unione di Centro* (UDC), led by Pier Ferdinando Casini, ran on its own.

#### IV. LEGAL FRAMEWORK

##### A. ELECTORAL SYSTEM

The Italian election legislation provides for no less than five electoral systems for the elections to the Parliament: a proportional system with closed lists in multi-mandate constituencies, national thresholds and “majority bonus” for the Chamber, proportional system with closed lists in multi-mandate constituencies with constituency thresholds and “majority bonus” in 18 of the regions for the Senate, a first-past-the-post system for the election to the Senate in Valle d’Aosta and six single-mandate constituencies in Trentino-Alto Adige,<sup>11</sup> as well as for the election of one deputy in the Chamber and one senator in the zones North and Central America and Africa, Asia, Oceania and Antarctic of the overseas constituency. A proportional system with open lists in one multi-mandate constituency is used (for the Senate and for the Chamber) for the remaining zones of the overseas constituency.

##### 1. General overview

The bi-cameral parliament of Italy consists of a Chamber of Deputies (*Camera*) with 630 members and a Senate with 315 members elected for a five-year term of office. Former presidents of the Republic are senators for life, as well as a limited number of citizens with special merit, appointed by the president.<sup>12</sup>

For the elections to the Chamber of Deputies, the country is divided into 27 constituencies, most of which coincide with the administrative regions, the regions with the largest population being divided into two or three constituencies. All constituencies, except Valle d’Aosta are multi-mandate constituencies. The number of seats returned from each district is proportional to the number of inhabitants according to the last census (2001). In total, 617 seats in the Chamber of Deputies are allocated to 26 districts under a proportional system, while Valle d’Aosta elects one deputy under the first-past-the-post system. The twelve remaining deputies are elected through an overseas ballot.

For the elections to the Senate, Italy is divided into 20 constituencies which coincide with the administrative regions. The number of senators elected in six of the regions is fixed in accordance with Article 57(2) of the Constitution,<sup>13</sup> while in the rest of the regions the number of seats is proportional to the population in accordance with the last census. In 18 of the regions, 301 seats are allocated under a proportional system. In the single-mandate constituency of Valle d’Aosta one senator is elected under the first-past-the-post system. In the region Trentino-Alto Adige the same system is used for the election of six senators in six single-mandate constituencies, while one more senator is elected based on the votes cast for unsuccessful

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<sup>11</sup> One more senator is elected in Trentino-Alto Adige based on the results of the unsuccessful candidates in the six single-mandate constituencies.

<sup>12</sup> Currently there are seven senators appointed for life. Each President of the Republic can appoint up to five lifetime senators.

<sup>13</sup> Valle d’Aosta returns 1 senator, Molise returns 2 senators, and Friuli-Venezia Giulia, Umbria, Basilicata and Trentino–Alto Adige return 7 senators each.

candidates in these constituencies coming from the party that won the majority of votes in the region.

As seen above, the Constitution stipulates a minimum of seats for some regions for the Senate, creating a certain imbalance with respect to equal suffrage.<sup>14</sup> The deviation from the average number of 184,452 residents returning one seat reaches about 54 per cent in Basilicata, where 7 senators are elected to represent a population of 597,768 residents.

*Given the fact that a sizable discrepancy exists in the value of each vote for elections to the Senate, consideration should be given to further enhancing the guarantees for equality of suffrage for the election of senators.*

Parties and coalitions were competing in the multi-mandate constituencies (districts for the election to the Chamber of deputies and regions for the election to the Senate) with closed lists with a number of candidates which does not exceed the number of seats distributed in the constituency, but is no less than one third of this number. To participate in the allocation of mandates, coalitions, parties within coalitions, and parties running individually, must meet certain threshold requirements, which are different for the Chamber and the Senate. For the Chamber, national thresholds apply, while thresholds for the Senate are applied at regional level. Special thresholds apply for lists representing recognized linguistic minorities exclusively in regions with special status. The electoral system encourages pre-electoral coalition building or presentation of common lists and disadvantages smaller parties running individually.

Seats are distributed among parties and coalitions, which meet the threshold conditions, using the “quota and largest remainder” method. For the Chamber, the law provides for a proportional distribution of the seats at national level, i.e. based on the numbers of votes collected by the parties nationwide. A proportional distribution of the seats among coalitions and parties participating individually is firstly made at national level. As a second step, a preliminary proportional distribution of the seats among coalitions and individual parties is done in each district, followed by a complicated adjustment procedure in order to match the total number of seats assigned to each coalition and single party by districts to the overall number of mandates they are entitled to receive nationally. Finally, and following the same two-step procedure, the number of seats allocated to each party within a coalition is established.

To inject a degree of stability in the government, the system provides for a “majority bonus”. The party or coalition receiving the highest number of votes nationwide in the election to the Chamber is guaranteed a minimum of 340 seats in the Chamber equal to 54 per cent of the seats. The remaining seats are distributed to other parties and coalitions which met the threshold requirements. A similar bonus guaranteeing 55 per cent of the seats in a region is provided for the Senate elections. However, since the bonus is applied at regional level, where the results may differ considerably from the national outcomes, the overall results may produce different majorities in the Chamber of Deputies and the Senate, thus possibly contradicting the intended purpose of the “majority bonus” for the Senate.<sup>15</sup>

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<sup>14</sup> Equality in voting power commonly refers to the drawing of the boundaries of electoral constituencies. The maximum differences in voting power should not exceed 10 to 15 per cent. (See Venice Commission, Code of Good Practice in Electoral Matters, 2002, p. 17; see HRC, General Comment No25, 1996, para 2.1; see furthermore OSCE/ODIHR, Existing Commitments for Democratic Elections in OSCE Participating States, 2003, page 13-14).

<sup>15</sup> The proportional system used at regional level does not guarantee proportionality at national level, which combined with the majority bonus applied within each separate region, may produce effects difficult to foresee.

## 2. Overseas Voting

A separate law regulates the elections in the overseas constituency. For the elections to both the Chamber and the Senate this constituency is divided into four<sup>16</sup> zones, each with a fixed number of seats. The voting power of Italian citizens differs considerably from one zone to another. The deviation from the average number of 293,400 residents abroad returning one Chamber seat reaches 34 per cent for the zone comprising Africa, Asia, Oceania and the Antarctic, where one Chamber mandate is allocated for a population of 192,390 Italians. The inequality of the voting power for the election to the Senate is even more pronounced. Whereas Europe, with 2,039,149 Italian residents, return two senators, Africa, Asia, Oceania and the Antarctic with 192,390 Italian residents return one senator.

*Given the discrepancy that exists in the value of the vote of citizens abroad, Parliament may wish to consider enhancing the guarantees for equality of suffrage.*

Voting abroad is still conducted according to the pre-2006 electoral system, with open lists, whereby voters can express their preference. The system is proportional, using the “largest remainder” method to allocate seats. Voters may express up to two preferences in the geographical zones where two or more seats are distributed.

The OSCE/ODIHR EAM has not heard of any specific reason why this system is still in use for the overseas constituency. This results in Italian voters abroad enjoying different voting rights from their compatriots in Italy by being able to exercise a preferential vote.

### B. OVERVIEW

The legislative framework for Italian elections is composed of the Constitution and over 60 different laws and decrees. These include the Consolidated Electoral Law Statute for the Chamber of Deputies, Consolidated Electoral Law Statute for the Senate, Provisions for the Right to Vote of Italians Resident Abroad; Law and regulations on *par condicio* (equal media treatment); Law on Electoral Campaign and Campaign Spending Limits; and the Consolidated Law on Active Electorate and Lists of Voters. This plethora of legislation creates a complex electoral framework but generally provides for an adequate basis for the conduct of elections, in line with OSCE Commitments and other international standards, and for a well organized election administration that mainly enjoys the confidence of citizens. However, gaps and shortcomings remain that need to be addressed, and these elections demonstrated a vacuum in the legislation as regards to the complaints and appeal procedure.

*It would be useful for the legislature to adopt or have published a single, integrated and consolidated text of election legislation related to parliamentary elections, which would make the law more accessible and simplify its implementation by election administrators.<sup>17</sup>*

### C. SUFFRAGE

Although voting is not a legal obligation, Article 48 of the Constitution makes it a civic duty.

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<sup>16</sup> 1) Europe, Russian Federation and Turkey, 2) South America; 3) North and Central America; 4) Africa, Asia, Oceania and the Antarctic.

<sup>17</sup> Paragraph 5.8 of the OSCE Copenhagen Document recognizes that legislation should be accessible to citizens.



Article 70 of the Constitution provides that the Chamber of Deputies and the Senate exercise equal legislative power. A no-confidence vote in the government in either the Senate or the Chamber results in the defeat of the government and new elections for both chambers. However, while the power for each chamber is the same, the suffrage is different.

The right to vote is 18 years for the Chamber and 25 years for the Senate. As both chambers have equal powers and are elected at the same time, this disparity does not appear to be based on an objective and reasonable criteria<sup>18</sup>. It rather appears to be the result of an historical practice.

*The new parliament may wish to consider the question of granting equal voting rights for elections to the Senate to all citizens that have reached the age of majority.*

#### **D. RIGHT TO STAND**

To be eligible to stand as a parliamentary candidate, a citizen must first qualify as an eligible voter. Citizens can lose their electoral rights for a specific period of time, or indefinitely by virtue of a final sentence<sup>19</sup> from a criminal court of at least three years imprisonment. By contrast, for local and regional elections, ineligibility commences upon being sentenced in the first instance. Hence, there were cases of candidates ineligible for local elections who were running for the parliamentary elections.<sup>20</sup>

The law makes candidates ineligible if they are employed by foreign governments or hold specified public positions,<sup>21</sup> unless they resign from their office 120 days before the end of the mandate of the Parliament, or in the event of early elections, seven days after the parliament is dissolved. Judges must take a leave of absence and cannot stand in the constituency where they worked for the past six months. In the event that they are unsuccessful, judges must wait five years before they can work in the district where they ran. The law provides for more complex cases of ineligibility (the interpretation of which is controversial) for those who are bound by contracts with the State.<sup>22</sup> When elected, a candidate must declare any position or appointment that could be incompatible<sup>23</sup> with his/her mandate, and then choose which position s/he will keep. This matter is overseen by the Parliamentary Committees for Elections.

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<sup>18</sup> *Human Rights Committee, General Comment 25 (57), General Comments under article 25, paragraph 4, of the International Covenant on Civil and Political Rights, Adopted by the Committee at its 1510th meeting, U.N. Doc. CCPR/C/21/Rev.1/Add.7 (1996).*

<sup>19</sup> I.e. by which all appeals have been exhausted.

<sup>20</sup> An example of such a case is provided by the former President of Sicily Region, Salvatore Cuffaro who resigned in January 2008, after being sentenced in the first instance to five years imprisonment for assisting the mafia and prohibited from holding public office for life. The sentence is under appeal and hence it is not a final decision. Under the current law for local and regional elections, he became ineligible by virtue of the initial decision. However, as these rules do not apply to parliamentary elections, he was on the UDC list in Sicily and, being head of a list, was elected on 14 April 2008. He will remain a member of Parliament during the appeal process.

<sup>21</sup> For example, mayors, prefects and regional governors.

<sup>22</sup> For candidates, in their own name or as legal representatives of companies or private enterprises, representatives, directors and executives of companies or enterprises which are subsidised by the State, or legal or administrative advisors that provide services to individuals, companies and enterprises with contracts with the state in the way described above.

<sup>23</sup> Examples of incompatibility are:

- appointment by the government to any public or private office, except for cultural or religious entities;
- being a Member of the European Parliament
- Italian diplomats posted abroad
- employment by, or election to, legislative or executive bodies in foreign States,

## E. CAMPAIGN FINANCES AND EXPENDITURES

The law<sup>24</sup> sets limits on campaign contributions and expenditures for both parties and candidates. These limits were increased in January 2006.<sup>25</sup> A political party is allowed to spend approximately 98 million euro. The calculation is based on one euro per vote cast to campaign for the elections to the Chamber and one euro per vote cast for the Senate elections.<sup>26</sup> The OSCE/ODIHR EAM was informed that this limit is so high that no party has ever reached it. Candidates also have the right to spend an additional 55,000 to 98,000 euro, depending on the population of their respective constituency, for each constituency in which they stand. The law allows anonymous donations of up to 50,000 euro per year for a political party and up to 20,000 euro for candidates. Above these amounts, a statutory declaration must be filed with Parliament.

In 1993 a referendum abolished public funding of political parties, but the government instead reimburses parties for campaign expenses. However, the reimbursement is not connected to actual expenses but is proportional to the number of votes received. All parties or groups who gain at least one per cent<sup>27</sup> of the vote proportionally share a fund established for that purpose. This fund is of approximately 500 million euro, paid over a five-year period.<sup>28</sup> The formula applied to establish the fund is one euro per registered voter for the Chamber and the Senate for each year of the five-year mandate. Therefore, approximately 98 million euro is disbursed every year, for 5 years, after each election. An amendment introduced in 2006<sup>29</sup> provides that should the government fall before the end of its five-year mandate, the fund continues to be paid. Therefore, parties which qualify for election reimbursement in the next parliament also continue to receive their share from the previous mandate. In these elections, only eight parties<sup>30</sup> that competed in the Chamber achieved at least one per cent of the votes, while 22 parties failed to pass the one per cent threshold.

Candidates must open a specific account for electoral campaign funding and must file a report of their expenses and contributions with the Regional Guarantee Committee (*Collegio Regionale di Garanzia Elettorale*), which is composed of judges of the Court of Appeals and of experts. The Committee has the power to impose fines of between 25,000 and 100,000 Euros for failure to file reports. Ultimately, if a winning candidate fails to pay such fines, the Chamber of Deputies or the Senate may vote to cancel his/her mandate.

There is a separate avenue for political parties' financial reports. Parties report to the President of the respective chamber for which they have run, who forwards the reports to the Court of Auditors (*Corte dei Conti*). This is a standing, independent body, whose mandate is to control public expenditures. For each election, it establishes an *ad hoc* committee, composed of three judges of the same Court, to review the campaign expense reports filed by the political parties. It

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- roles of leadership in agencies that work for or are subsidized by or have legal relations with the State leading role in Bank and financial enterprises
  - legal representatives of enterprises in disputes against the State.

<sup>24</sup> Law n. 515 of 1993 (as subsequently amended) providing "Rules on the electoral campaign for the election to the Chamber of Deputies and the Senate of Republic".

<sup>25</sup> Amendments were introduced by law decree 1/2006 converted in law on 22 January 2006.

<sup>26</sup> Article of law 515 of 1993 as amended by law decree 1 of 2006, converted into law 22 of 2006.

<sup>27</sup> In 2002 by amendment, the threshold for parties to receive election reimbursement was lowered from four per cent to one per cent.

<sup>28</sup> Article 1 of law 157 of 1999 on "New provisions on the subject of electoral and referendum expenses and cancellation of the provisions concerning voluntary contribution to political organizations and parties".

<sup>29</sup> By law 51 of 2006, amending the 1999 law.

<sup>30</sup> Il Popolo Della Libertà, Lega Nord, Movimento Per L'autonomia Alleanza Per Il Sud, Partito Democratico, Di Pietro - Italia Dei Valori, Unione Di Centro, La Sinistra L'Arcobaleno, La Destra.

has the power to levy fines from 50,000 to 500,000 s for failure to file in a timely fashion and/or for exceeding campaign spending limits. Fines can be appealed through the courts.

*In order to enhance the transparency of political parties' and candidates' financing, consideration could be given to removing the possibility of providing anonymous donations to political parties or to individual candidates.*

## **V. ELECTION ADMINISTRATION**

Italy is divided administratively into 20 regions, governed by elected parliaments (councils) and presidents.<sup>31</sup> Regions are divided into provinces (108 throughout Italy), which in turn are subdivided into 8101 municipalities. Provinces and municipalities enjoy broad autonomy and are governed by elected Presidents and mayors and local councils. The complexity of the administrative system is reflected in the complex election administration. For each parliamentary election a number of judicial bodies are established within the judicial structures at central and constituency level who are responsible for the registration of the candidates' party lists, for the tabulation of the official results and for the distribution of the seats. In the period of 25 to 20 days before election day more than 60,000 Precinct Electoral Offices (PEO) are appointed for the conduct of the polling and counting. A system of permanent Electoral Offices subordinate to the Ministry of the Interior, established at central and provincial level, are in charge with the overall organization of the elections, including the registration of the political party logos, the preparation and distribution of election materials and the processing and announcement of the preliminary unofficial results. Electoral offices within the municipal administration are in charge of the maintenance and regular up-date of the voter lists, as well as for the implementation of the election procedures at local level.

While very complex and involving a large number of independent institutions, the Italian election administration functions efficiently and mainly enjoys a high level of trust of both the public at large and participants in the election process.

### **A. JUDICIAL BODIES AND PRECINCT ELECTORAL OFFICES**

For each parliamentary election, a five-member National Central Election Office (NCEO) is appointed from among the Court of Cassation judges, by the Court's Chairman. While made up of judges from the Court of Cassation, the NCEO acts as an administrative body<sup>32</sup> and as confirmed by the decision of the Court of Cassation on the 8 April 2008, appeals from their decisions can only be heard by the newly elected Parliament. The office is headed by the chairman of a department of the Court. The role of NCEO is restricted to the consideration of complaints, related to the party and candidates' lists registration<sup>33</sup>, the tabulation of the district results and allocation of seats for the Chamber. Copies of the NCEO protocol on the results of the elections to the Chamber are sent to the General Secretariat of the Chamber and to the Supreme Court.

At constituency level, Regional Election Offices (REOs) are established for the Senate elections and District Election Offices (DEOs) for the elections to the Chamber of Deputies at the regional

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<sup>31</sup> Five regions - Sardinia, Sicily, Trentino-Alto Adige/Südtirol, Valle d'Aosta established in 1948 and Friuli-Venezia Giulia, created in 1963, have special status and self-government legislation.

<sup>32</sup> Regional and District Election Offices also act as administrative bodies.

<sup>33</sup> For details see Section IX, Complaints and Appeals.

Court of Appeal or at the ordinary court with jurisdiction over the capital of the district. REOs and DEOs are appointed by the chair of the relevant courts and include a chairperson and two (DEOs) or four (REOs) members, who must be magistrates.

Within their district DEOs (REOs for regions) are responsible for: the registration of candidate lists; the organization of a lottery determining the order in which coalitions and parties within coalitions appear on the ballot; the printing (through the relevant prefecture) of ballot papers and posters with the party logos and candidate lists; the adjudication of undetermined disputed ballots; the tabulation of the results from the precinct-level protocols; and the preparation of results protocols. DEOs send their protocols to the NCEO and proclaim the elected deputies in the Chamber after receiving the allocation of the seats in their district from the NCEO. REOs allocate the Senate seats in their region, proclaim the elected senators and send their protocol with the results to the Senate Secretariat. One copy of the DEOs and REOs protocols respectively is deposited in the registry of their Court for public acquaintance.

For the organization of the count and determination of the results of the vote for the Chamber and the Senate in the overseas constituency, a Central Electoral Office (OCEO) was established at the Court of Appeal of Rome.<sup>34</sup>

The NCEO, DEOs and REOs were appointed within the three day-period provided by law after the publication of the 6 February Decree of the President of the Republic calling for the elections on 13 and 14 April, and convening both Chambers of the newly elected Parliament for a first meeting on 29 April.

At the precinct level, elections are administered by Polling Electoral Offices (PEOs), which are composed of a chairperson, a secretary appointed by the chair, and four polling station workers "scrutineers". One of the scrutineers is selected by the PEO chair as his or her deputy. PEO chairs are appointed by the chairs of the relevant Court of Appeals. They alone lead and decide about the activities of the PEOs. Thus, their appointment by the Chairs of the Court of Appeals appears to promote a line of independence of the polling station from the central and local authorities. The scrutineers in turn are elected by a Municipal Election Commission (MEC), which is a permanent body elected by the Municipal Council from among the councillors. At least one of the MEC members should represent the opposition on the council. PEOs are responsible for the preparation of the polling station and for the lawful conduct of polling and counting. The role of the scrutineers is limited to assisting the PEO chair and they must follow the instructions of the latter. Any questions such as whether to consider a ballot valid or invalid are decided by the PEO chair, though s/he may consult the scrutineers.

The Chairs of the PEOs were appointed by 14 March from lists of people considered suitable for the position, maintained by the registries of the relevant Court of Appeals. The election law provides for the inclusion in such lists of magistrates, lawyers and attorneys, retired civil servants, judicial secretaries and registry staff, notaries as well as volunteers found suitable by the Chairman of the Court of Appeals. The common practice found by the OSCE/ODIHR EAM visits to different Courts was that priority was given to candidates with previous experience. However, the OSCE/ODIHR EAM was informed by representatives of the election

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<sup>34</sup> By a late amendment (law decree n. 24 of 15 February 2008, which became law on 27 February 2008) to the Law n. 459 of 2001 concerning "rules for the exercise of the right of vote of Italians residing abroad", the number of OCEO members was increased from two to five judges and the Chair in recognition of the amount and the complexity of the work to be performed in a very short time.

administration that some 30 per cent of the PEO Chairs from the 2006 election were replaced, some 70 per cent of these due to incompetence.

The appointment by MECs of PEO members (scrutineers) for all 61,212 polling stations was completed by 24 March, as specified by law. MECs maintain lists of volunteers to work as paid scrutineers. Following the 2005 amendments to the election legislation, scrutineers are chosen by the MECs by consensus or by voting, where no consensus was reached (each MEC member can vote for two names). Such a system of appointment may disadvantage the minority parties in the municipality council, since usually there is only one member of the MEC from the opposition, thus introducing a political element in the formation of the PEOs. Moreover, a correct application of the system could be very difficult especially in big municipalities, where the selection of scrutineers is made from a long list of volunteers, exceeding substantially the number of scrutineers needed.<sup>35</sup>

As there are no established procedures for making the initial selections, the process was handled differently in different municipalities. For example, 50 per cent were directly appointed and 50 per cent by lottery (Bari), ten per cent directly appointed and 90 per cent by lottery (Trento). In the municipality of Rome the appointment of the scrutineers for 2,600 PEOs was made on the basis of separate nomination lists of the eight MEC members, each councillor proposing the same number of scrutineers. In Palermo only the main political parties nominated candidate scrutineers and the selection was made by lottery.

There is no legal provision for training of election officials at any level. Many municipal election officials shared the opinion that training of PEO members is necessary.<sup>36</sup>

Moreover, in a significant number of polling stations, some appointed scrutineers did not report for duty on the day prior to the election days. Instead, at most polling stations, a number of people presented themselves on their own initiative, offering to replace any scrutineers who had not turned up. Appointed scrutineers who did not arrive were usually replaced by such volunteers. No training was provided for the appointed scrutineers and obviously neither for the replacement volunteers.

*The previous system of appointing the scrutineers by lottery seems more appropriate and would offer an easy and relatively fast procedure which enjoys general support. Appropriate training should be organized for all polling station officials and, while volunteering for scrutineer duty is commendable, in order to ensure that all scrutineers are trained for their tasks, MECs should appoint some trained reserve scrutineers to replace any not showing up for duty. A short and user friendly guide describing the main procedures on election day could be published by the Ministry of the Interior.*

## **B. MINISTRY OF INTERIOR**

Organizational and logistical administrative support for the preparation and the conduct of elections in Italy is provided by standing bodies established within the central, provincial and municipal administration. The main role is played by the Central Directorate for Electoral Services at the Ministry of the Interior. The office is a permanent body that co-ordinates the administrative arrangements for the elections, registers the logos of the political parties, and

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<sup>35</sup> In Rome there were some 200,000 candidates competing for 10,400 positions.

<sup>36</sup> The Municipal Electoral Office of Rome conducted training of some 1200 potential PEO Chairs in order to have its own list of trained people for possible last moment changes or substitutions.

oversees that the printing of ballots and other election materials is done in a timely and consistent manner. It decides on the form and design of election documents and prepares detailed manuals for the PEO Chairpersons of regular and overseas polling stations. Permanent provincial electoral offices are acting within the relevant UTGs<sup>37</sup> in each of the 108 prefectures throughout Italy, co-ordinating the election-related activities in the municipalities within the province and providing organizational support.

Municipal Electoral Offices, established within the municipal administration, are responsible for maintaining voter lists and for organizing the election process in the municipality, including the distribution of election materials before election day and the collection of data about the turnout, as well as for the preliminary results on election days. While formally independent, the Municipal Electoral Offices take substantive direction from the Ministry of Interior through the prefectures.

Those election officials and representatives of the central and local administration whom the OSCE/ODIHR EAM met displayed excellent knowledge of the legal provisions and election procedures. All were helpful in providing detailed information on all issues of interest to the OSCE/ODIHR EAM.

### C. VOTER LISTS

In Italy a system of “passive” registration provides for the automatic inclusion in the voter lists of every 18 year old citizen. Permanent separate voter lists for men and women are maintained by the Municipality Electoral Offices. The record for each elector contains the names, the date and place of birth, the serial number of his/her birth certificate, as well as any additional information, which may have an impact on the elector’s eligibility to vote.

While the work on maintaining the voter lists is fully computerized, paper copies of all documents related to the voter’s status are kept in dossiers for each voter in the archive of the Municipal Electoral Office. Voter lists are up-dated twice a year and before elections. Proposals for inclusions and exclusions are made by the relevant MEC, based on information provided by the Civil Register Office of the municipality from the separate archives maintained for citizens residing in the municipality and abroad, and by the provincial authorities of public security (for persons in detention). The proposals are available for inspection by citizens within a 10-day period. The decisions on changes are taken by the relevant *Commissione Elettorale Circondariale*<sup>38</sup> or its sub commission(s). Its decisions can be contested with the relevant Court of Appeals and further with the Court of Cassation. While the system of up-dating the voter lists appears to be quite complex, it is considered to be efficient, and no concerns on its accuracy have been expressed to the OSCE/ODIHR EAM.

A separate exercise is conducted for the compilation of the voter lists of electors residing abroad. A special legal procedure allows voters accidentally excluded from the finalized voters lists to vote with a certificate issued by the MEC. Applications may be submitted to the MEC at any time after the closure of the voter lists at the end of the pre-election revision including on election days, when MECs and CECs are available for deciding on applications.

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<sup>37</sup> Ufficio Territoriale di Governo.

<sup>38</sup> A commission appointed for each prefecture, with sub-commissions for every 50,000 inhabitants where applicable.

The pre-election revision of the voter lists was completed by 29 March and announced by the Ministry of the Interior on 11 April. The total number of eligible voters in Italy was 47,126,326 for the Chamber of Deputies and 43,133,946 for the Senate,<sup>39</sup> the difference reflecting that voters must be at least 25 years old to vote for the Senate. The respective numbers of the registered voters residing permanently abroad were 2,812,422 for the Chamber and 2,531,584 for the Senate. A copy of the extract of the voters list to be posted in the polling station premises was provided to each PEO together with a copy for use on election days.

A safeguard against multiple voting is provided by issuing each voter with a voter card with information on his/her permanent residence, the municipality and the number and address of the polling station, where s/he is included in the extract of the voters list. The presentation of the voter card together with another identification document is a pre-condition for exercising the right to vote.

#### **D. REGISTRATION OF PARTIES AND CANDIDATES**

Parties and political groups operate freely in Italy; there is no requirement to register with the authorities. However, political subjects intending to contest parliamentary elections must register a logo with the Ministry of the Interior. Registration of a logo may be denied if it is too similar to a logo already registered, to a logo traditionally used by another party or to the logo of a party traditionally represented in the Parliament. The Ministry of the Interior on 10 March published 158 approved logos (out of 177 applications). Eleven appeals were considered by the NCEO, seven by parties who had their symbol rejected, and four by parties complaining that the approved logo of another party was too similar to their logo. The NCEO rejected all appeals.

The parties and political groups with a registered logo must submit their candidate lists to the DEOs (for the Chamber of Deputies) and/or to the REOs (for the Senate) in the districts and respective regions where they wish to contest the elections. The application for registration of a list must be supported by the signatures of between 1,500 and 4,000<sup>40</sup> voters from the relevant district for the election to the Chamber and between 1,000 and 3,500 voters from the relevant region for the election to the Senate, depending on the size of the population. While the precise number of signatures is fixed for each district or region, it does not exceed one per cent of the eligible voters in any constituency. Parties forming parliamentary groups in both chambers or competing in a coalition with two such parties and having one deputy in the European parliament are exempted from the requirement to collect signatures. While the law provides for a reduction by half of the number of the required signatures for extraordinary elections, an exceptional amendment for the 2008 elections was voted by the Parliament.<sup>41</sup> The amendment extended the category of the parties and political groups eligible for the exemption of collecting signatures, to all parties which had two deputies in the dissolved Parliament or have two deputies in the European parliament. Twenty political parties benefited from the amendment.

While there is no legal provision on the issue, petitions were carefully verified. The main checks were made about the residence of the signatories and the correct authentication of the signatures, which should have been made by a notary or by other officials.<sup>42</sup>

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<sup>39</sup> Surprisingly the totals show a decrease of some 170,000 for the Chamber and 124,000 for the Senate in comparison with the totals published a month before, reflecting the number of the electorate 45 days before election day.

<sup>40</sup> 300 signatures for the single-mandate constituency Valle d'Aosta.

<sup>41</sup> Law no 30/ 27 February 2008, Art.4.

<sup>42</sup> Law no.53/ 21 March 1990, Art. 14.

*Clearer definitions of what is required for party logos to be classified as “traditionally used by” individual parties or for parties to be considered as “traditionally represented in parliament” would be useful to provide some guidance for the Ministry of Interior when deciding on the registration of logos.*

#### **E. PRE-ELECTION PREPARATIONS**

The preparations for the elections appeared well organized and conducted in a consistent and timely manner. The simultaneous conduct of regional elections in Sicily and Friuli Venezia Giulia, of provincial elections in 8 provinces and of municipal elections in 426 municipalities throughout Italy apparently did not cause difficulties to the election administration.

In accordance with the law, the position of each party and coalition on the ballot, as well as the order of the parties' logos within the coalitions, were determined by drawing lots. All parties appeared satisfied with this procedure. In the constituencies visited, the ballot design was completed on time and the printing started as scheduled. Following the decision of the Council of State on the UDC logo (see Chapter VIII), the Ministry of the Interior ordered the temporary suspension of the printing of the ballots for the districts and regions where the registration of the candidate lists of the party was initially rejected. The printing continued after the subsequent decision of the Court of Cassation<sup>43</sup> and was completed on time without hindering the preparations for the election days. In order to be distinguished more easily by the voters and PEO officials, the ballot papers for the Chamber were pink, while those for the Senate were yellow.

The two coalitions were represented on the ballots by rectangles, formed by the two squares of the logos of the coalition members. Both coalitions expressed their concerns about a possible confusion among voters, who might vote by marking the rectangle, touching both logos instead of marking only one of them, which would invalidate the vote or cause a dispute over its adjudication by one of the parties. In a welcome reaction, the Ministry of the Interior ordered the production and the distribution to all polling stations of a special poster clarifying the issue and specifying that voting is made by crossing out a single logo – “one mark – one logo”. In addition, explanatory spots were broadcast on television.

In order to address the potential danger of violations of the secrecy of the vote by taking pictures of the marked ballots, on the proposal of the Ministers of Interior and Justice, the President issued a decree<sup>44</sup> prohibiting the voters from entering the voting booths with mobile phone or cameras. The decree obliges the PEO Chair to invite each voter to leave with him/her any such device before going to the voting booth. The deposit and the return of the device after the vote are recorded in a special register by the PEO Chair.

Posters providing information on all lists, running for the two houses of parliament, including logos and candidates' names, were printed by the prefectures and delivered to the municipalities for public display within the legal deadline of 29 March. Three copies of each poster were prepared for each polling station, two of which had to be displayed in the polling station during voting days. The posters also contained instructions on how to mark ballots and warnings that the indication of a candidate's name or any comments would invalidate the ballot. Similar information was contained on many parties' campaign materials.

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<sup>43</sup> See Section VIII, Complaints and Appeals.

<sup>44</sup> Decree-Law 49/ 1 April 2008.



Election material (voting kits, ballots, protocols, etc.) were prepared and delivered to the PEO chair on the morning of 12 April, and were kept in police custody overnight. All transfers of election material were documented at all stages.

#### **F. VOTER EDUCATION AND ELECTION OFFICIALS TRAINING**

Similarly to the 2006 elections the official voters' education was limited to regular broadcasts in the month before the elections by the national electronic media of different clips explaining the electoral system and voting procedures, and providing information for voting by disabled persons and homebound voting. In the last 10 days of the campaign, new versions of the video-clips broadcast by RAI, as well as by Mediaset channels, emphasized the rule "one mark over one logo", thus addressing the concerns of the two coalitions. Most of the political parties also conducted voter education, especially regarding how to mark ballot papers.

#### **G. OUT-OF-COUNTRY VOTING**

Italian citizens residing abroad, regardless of whether on a permanent or temporary basis, are entitled to vote by mail in parliamentary elections and national referenda. The voter lists for the overseas constituency are prepared on the basis of the unification of the data in AIRE<sup>45</sup> and in the files of Italian residents abroad, maintained by the relevant Italian consular offices. The numbers of eligible voters registered as residing permanently abroad were 2,812,422 for the Chamber of Deputies and 2,531,584 for the senate. The consular offices automatically mailed to the voters included in the lists for the overseas constituency, 18 days before the first election day, envelopes with the following voting materials: voter card, envelope with the address of the office, ballot paper(s) with a small envelope, instructions on how to vote, a copy of the law<sup>46</sup> and the candidate list for the zone, according to the country of residence. Voters had to send back their ballots to the consular office at the latest 10 days before the first election day. The deadline for the consular offices to send the votes cast to Italy was 16:00 on Thursday 10 April.

A novelty in the legislation introduced for the 2008 elections<sup>47</sup> provided for several categories of citizens residing temporarily abroad because of official duty to vote by mail. Diplomats, civil servants and their family members, police forces, university professors and researchers<sup>48</sup> scheduled to stay abroad for more than six months, could vote in the elections for the Chamber of Deputies for the candidate lists registered in the district Lazio 1 and in the election to the Senate for the lists registered in the region of Lazio. Military personnel abroad were entitled to vote for the candidate lists of the region where their military unit is based in Italy. According to information provided to the OSCE/ODIHR EAM by the MFA 10 days before election day, some 14,400 citizens were registered to vote under the new provisions.

As any method of voting in a non-controlled environment, postal voting creates a potential problem in relation to the secrecy of the vote and could be subject to abuse. A number of interlocutors expressed concerns about a possible manipulation of the overseas voters, including an increased facility for vote buying, and advised that the means of voting by Italians abroad could merit more attention. Furthermore, at a press-conference on 11 April the Minister of

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<sup>45</sup> Anagrafe degli Italiani Residenti all'Estero (Register of Italian nationals residing abroad). A.I.R.E. is maintained by the Municipalities and the Ministry of the Interior and contains data of Italian citizens residing permanently abroad.

<sup>46</sup> Law no 459/ 27 December 2001, Art. 3.

<sup>47</sup> Law no 30/ 27 February 2008.

<sup>48</sup> For the last two categories at least 3 months stay abroad by the date of the call for the elections is required.

Interior announced that the Ministry was informed by the Prosecution office in Reggio Calabria about attempts to manipulate the out-of-country vote, but did not provide details so as not to hinder the investigations. He gave assurances that the MFA was warned and that all the necessary measures to secure the ballots would be taken.

Serious efforts and good co-ordination were needed for the organization of the out-of-country vote and for the successful delivery of the envelopes with ballots to Italy. Some 220 consular offices were involved. Disks with the approved design of the ballots were sent by diplomatic mail to the consulates organizing the ballot printing, which appeared to be troublesome in a few places due to the lack of appropriate paper or problems related to the printing houses contracted for the printing.

*Consideration should be given to the possibility of printing all ballots in Italy. This would ensure uniformity with respect to the design and paper quality of the ballots and would increase the security of the process.*

The Ministry of Foreign Affairs provided a detailed schedule for the secure and timely collection of the envelopes and their delivery by diplomatic mail, accompanied by authorized consular officers to Rome. All ballots were received in Rome by Sunday 13 April at 9:30 am, in time for the delivery of the envelopes to the Counting centre in Castelnuovo di Porto before the start of their processing, scheduled for 7:00 am on Monday, 14 April.

## **VI. CAMPAIGN**

The campaign was considered to be less antagonistic and less confrontational than in 2006. Freedom of expression and freedom of assembly were respected and voters were offered a genuine choice between different political options. Political parties were given an opportunity to campaign in a competitive environment.

### **A. POLITICAL PARTIES**

The political constellations were restructured for these pre-term elections, reportedly with the aim of achieving stability of the future government, as evidenced by the fact that the main political parties presented common lists under the same logo, and to coalitions with fewer constituent parties than in 2006. As a result, the elections were contested by two main coalitions, the PD and the PdL, and a large number of smaller political parties or coalitions.

There were fewer candidates running in multiple constituencies than in 2006; however, the leader of the PdL, Silvio Berlusconi, ran in 26 constituencies throughout the country, as did Gianfranco Fini who was in second position on the PdL list, while the UDC leader, Pier Ferdinando Casini, was running in 22 constituencies. Antonio Di Pietro, from *Italia dei Valori* ran in 12 constituencies and Umberto Bossi, from *Lega Nord* in 12. On the opposite side of the political landscape, Walter Veltroni from the PD ran in only one constituency, as did Fausto Bertinotti, from *La Sinistra L'Arcobaleno*.

*The possibility of candidates running in all constituencies could be reviewed to ensure that voters are informed in advance of the candidates who are likely to be seated as a result of their support.*

When elected in different regions, candidates have eight days to choose the region which they will represent. As a result, the list of elected candidates of the same party in the other regions is changed, as the next candidate in the list “moves up”. With this system, voters may be surprised to see that the candidate they hoped would represent them is actually representing another region.

Parties and candidates often cited to the OSCE/ODIHR EAM that the electoral system does not allow for a close linkage between candidates and their electorate, and therefore does not encourage campaigning by candidates locally. This campaign in fact showed the pre-eminence of the main national leaders in rallies and in the media. Such an environment provided for the shift of campaigning from the local to the national level.

Moreover, candidates in top positions of party lists may feel confident about getting elected without campaigning, while those far down on the list may question their chances of getting elected regardless of how much they campaign. Therefore those candidates whose position on the list gives them a realistic possibility, although no certainty of election, may have more incentive to campaign actively.

Preferential voting, by which voters can choose the candidate of their choice, was often referred to by both candidates and voters as being the more appropriate and the closest to the spirit of the Constitution.<sup>49</sup>

The unpredictable effect of the majority bonus for the Senate was a source of concern for some parties, in particular for the PD and the PdL, who called on supporters from other, smaller, parties to split their vote between the Chamber and the Senate and thus to vote for the party of their choice for the Chamber but to tactically cast a “useful” vote for the Senate.

*Consideration should be given to the removal of the closed list system to enable a closer link between candidates and voters to exist and to the removal of the bonus scheme because of its unpredictable effect.*

## **B. CAMPAIGN ISSUES**

The official campaign period for the pre-term elections, which started 45 days prior to election day, was considered sufficient by representatives of political parties to mobilize their supporters, setting up street stalls, as well as putting up posters in areas designated by local authorities, often on top of their competitors’ posters. However, the campaign was most visible through the nationwide media. There was a general frustration with the lack of face-to-face debates between the main candidates.

The parties mostly concentrated on national issues, providing little attention to regional ones. A few main issues retained public attention, including the possible takeover of Alitalia, immigration of foreign workers, the general economical situation, and reform of the social system. A pro-life, controversial list, *Aborto?No grazie* received notable attention for its campaign in favour of a revision of the law on abortion.

The political establishment was also preoccupied generally with the fairness and legality of the election system itself. Parties campaigned around the issue of how to best reform the election system, and some major forces blamed their opponents for having introduced inconsistencies

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<sup>49</sup> Art. 67.

into the system. However, after the election results became clear, PdL leader Berlusconi made statements to the effect that he might not wish to have the electoral system amended.<sup>50</sup>

The attention was focussed primarily on the leaders of the two main parties, giving the impression to some of a presidential race rather than of a parliamentary contest.

## VII. MEDIA

### A. MEDIA LANDSCAPE

The Italian media landscape is lively and diverse. There are 11 TV channels and 21 radio stations broadcasting nationally, as well as some 600 TV channels and about 1,000 radio stations operating on local or regional levels. Further, there are 165 daily newspapers, offering a diverse range of views and opinions.<sup>51</sup> Readership of the daily press is about six million. Television remains by far the most important source of news and information in Italy (92 per cent of population watch Television at least three times per week<sup>52</sup>). Three public TV channels of *Radiotelevisione Italiana* (RAI) along with three private national TV channels owned by *Mediaset* (*Rete Quattro*, *Canale Cinque* and *Italia Uno*) dominate the television market, in terms of audience share as well as advertising revenues.

Significant ownership concentration in the television sector<sup>53</sup> and involvement of political parties in influencing the broadcast media are enduring problems of the Italian media scene. As the OSCE/ODIHR EAM was told by numerous Italian media professionals and other interlocutors, Silvio Berlusconi's considerable control through his Fininvest Holdings company over the *Mediaset* TV channels as well as over the major advertising company *Publitalia*, resulting in the conflict of his business and political interests, remains an issue of concern. The enduring dominance<sup>54</sup> of the RAI and *Mediaset* TV channels, the so-called "*duopoly*", and especially the quasi-monopoly of *Mediaset* within the commercial television market, has deprived the Italian audience of an effective variety of sources of information, and has thereby weakened the guarantees of pluralism<sup>55</sup>. The public broadcasting service is controlled by the political parties, especially by the party in power, which appoints the majority of the RAI executive board postholders<sup>56</sup>. Therefore Italy has an ongoing record of control over public-service television by political parties and governments.

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<sup>50</sup> Repubblica newspaper and ADNKRONOS news agency 14 April 2008.

<sup>51</sup> Number of broadcast and print media provided by AGCOM.

<sup>52</sup> CENSIS, 41 annual report of social situation of the country (2007).

<sup>53</sup> The share of TV viewers in per cent of RAI and RTI (Mediaset (according to an AGCOM report (available at [www2.agcom.it/](http://www2.agcom.it/) and [www2.agcom.it/Default.aspx?message=viewrelazioneannuale&idRelazione=15](http://www2.agcom.it/Default.aspx?message=viewrelazioneannuale&idRelazione=15) ) has been as follows from 2000-2007:

2000	2001	2002	2003	2004	2005	2006	2007
Rai 47,3	47,0	46,4	44,9	44,3	43,3	43,6	41,8
RTI 43,4	43,2	43,0	43,9	43,0	42,0	40,3	40,5

<sup>54</sup> Ibid.

<sup>55</sup> OSCE Representative on Freedom of the Media "Visit to Italy: The Gasparri Law" (2005): [http://www.osce.org/documents/rfm/2005/06/15459\\_en.pdf](http://www.osce.org/documents/rfm/2005/06/15459_en.pdf).

<sup>56</sup> The RAI Board is composed of nine members. Two of them (including the president of the Board) are appointed by the Government, and seven are elected by Parliament (four of them are appointed by the majority, three by the opposition). The RAI General Director is elected by the Board, in agreement with the Government.

*In light of the impact these issues can have on the media's coverage of elections, the authorities should take steps to implement the recommendations of the OSCE Representative on Freedom of the Media, as presented in his 2005 report "Visit to Italy: The Gasparri Law".*

## **B. LEGAL AND REGULATORY FRAMEWORK**

The Constitution of the Republic of Italy guarantees freedom of expression and freedom of the press. The key legislation stipulating access of political parties and lists to the broadcast media is the *par condicio* law (equal treatment) adopted in February 2000. This law primarily addresses the issue of access of parties who have registered candidate lists, to national broadcast media, both public and private. The law provides registered parties with such lists with equal access to election programmes in the national broadcast media. Coverage of contestants in news and regular current affairs programmes is not provided on an equal, but rather on an equitable basis, taking into consideration the editorial independence of the broadcast media. However, the news and current affairs programmes must be impartial. National broadcast media are banned from airing any paid political advertising during the campaign period.

As required by *par condicio*, the broadcast media regulatory body, the Communications Regulatory Authority (AGCOM)<sup>57</sup>, as well as RAI Parliamentary Oversight Committee<sup>58</sup> issued detailed regulations on how to apply principles stipulated by the *par condicio* law and other relevant legislation during the campaign. Both sets of regulations addressed media coverage during two campaign periods. First, the period from the day after the dissolution of Parliament (7 February) lasting until the end of registration of contestants (10 March),<sup>59</sup> and second, for the period from 11 March until the elections days.<sup>60</sup> Because these elections were not foreseen, and the two regulatory bodies were not prepared, the regulations for the first period were issued rather late. In any event, the *par condicio* law always applies, even without the specifications provided for each election by the two sets of regulations. While in the first period, equitable access to the media was provided to parliamentary groups represented in the outgoing parliament, in the second period access to national media had to be given to the registered contestants.

For these elections, 18 party lists met the regulatory requirement<sup>61</sup> to be given access to the national broadcast media to participate in the campaign. Each list was entitled to equal access to election programmes aired on RAI; there were also two special programmes reserved for the leaders of the lists<sup>62</sup>. One of these programmes, the final election programme *Le Interviste* (the interviews) aired on RAI on 11 April gathered leaders of the lists and gave each of them an opportunity to address voters with their campaign message, without the possibility of direct

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<sup>57</sup> AGCOM was established in 1997 as a media regulatory body. It has nine members; the Chamber of Deputies and the Senate each appoint four members while the chairman is proposed by the Government and appointed by the President.

<sup>58</sup> RAI Parliamentary Oversight Committee is composed of 40 members – 20 Deputies and 20 Senators – with a composition reflecting that of the parliament. As provided by RAI law adopted in 1975, the Committee oversees the public television to ensure its respect of the public broadcasting principles such as pluralism and fairness.

<sup>59</sup> Committee and AGCOM issued regulation addressing the first period of the campaign on 20 and 21 February, respectively.

<sup>60</sup> Committee and AGCOM issued regulation addressing the second period of the campaign on 28 February and 4 March, respectively.

<sup>61</sup> To register party lists in a sufficient number of constituencies to cover at least one quarter of the active electorate (4 March, AGCOM regulations)

<sup>62</sup> PD and IDV as well as PdL, Lega Nord and Movement for Autonomy, were two election coalitions, each of which was represented by one common leader in the special election programmes reserved for the leaders of the lists. Altogether, there were 15 leaders representing 18 lists.

debate with other leaders present in the studio. In contrast to the 2006 elections, no face-to-face debates or other direct debate programmes between the leaders were aired in the national media, primarily due to lack of interest on the side of some political leaders to participate in such programmes. In any event, having a total of 15 leaders would have made it rather difficult for the media to organize such broadcasts, providing all the leaders with equal opportunities in the debate.

The AGCOM, which is in charge of monitoring and overseeing broadcasters' compliance with the *par condicio* law and other relevant regulations, received a total of 139 complaints during the campaign. The majority of these were filed by a few political parties on the matter of insufficient (too small) or unequal coverage in the national media. During the campaign AGCOM fined *Rete Quattro*<sup>63</sup>, and issued several warnings to the media to improve their election coverage. While AGCOM was addressing the complaints in a timely manner and overall played an active role during the campaign, bias of some private media, as well as limited media coverage of a number of party lists, were issues of concern during the whole campaign.

*AGCOM could be given more powers to enforce its decisions. Independence of AGCOM could be further enhanced by amending the appointment procedure of its members with a view to limiting possibilities for political influence on its decision making by incumbent majorities in both chambers of parliament.*

## C. MEDIA MONITORING

From 19 March until 11 April, the OSCE/ODIHR EAM conducted qualitative and quantitative analyses of prime-time broadcasts of three public TV channels (*RAI Uno*, *RAI Due* and *RAI Tre*), three private channels of *Mediaset (Italia Uno, Rete Quattro and Canale Cinque)* and a private channel, *La7*, owned by *Telecom*.

National broadcast and print media extensively covered the elections allowing voters to have access to information. The monitored TV channels provided a wide coverage of the elections in their regular news and discussion programmes, and all party lists were able to present their platforms in the special election programmes aired on the national public media.

In general, all monitored channels focused their news and discussion programmes on PdL and PD. The media focus on the two main coalitions was apparent especially in the initial phase of the campaign period. While the amount of time given to some other parties, in particular UDC and *La Sinistra l'Arcobaleno (SA)* and to an extent also *Partito Socialista (PS)*, *La Destra (LD)*, *Lega Nord (LN)* and *Italia dei Valori (IDV)* increased during the campaign, a number of party lists were given only very limited coverage in most of the media monitored.

### 1. Public TV channels

*RAI* TV channels complied with their legal obligations and provided all party lists and their leaders with equal access to special election programmes, aired in evening prime-time on *RAI Due* and *RAI Tre*. A representative of each party list was given 20 minutes in the *L'Intervista* (interview) programme and members of four party lists twice participated during the campaign period in the *RAI* election programme *Tribuna Elettorale TV* (electoral tribunes). In addition,

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<sup>63</sup> A fine of 100,000 euro was issued by AGCOM on 18 March (no 54/08) for violation of campaign regulations. It should be noted that the Mediaset TV group charges more than 100,000 euro for some prime time advertisements of 30 seconds.

free-of-charge spots presenting the party lists were aired in the morning broadcasts on *RAI Due* and *RAI Tre*. Furthermore, each of the 15 leaders of the lists or coalitions participated in one of the weekly broadcasts of the 45-minute long programme called *Conferenza stampa* (press conference), answering the questions of five journalists representing different media outlets. A final election programme *Le Interviste* aired on 11 April, the last day of the campaign, provided all leaders with seven minutes of time to address voters with their key campaign message.<sup>64</sup> *RAI* also aired free-of-charge spots of the parties, but these were aired in the morning broadcasts, the audience of which is considerably smaller than that of the evening ones.

Overall, the news programmes of the *RAI* TV channels provided approximately 30 per cent of their coverage to each of the two main contenders – PD and PdL. At the same time, UDC and SA were each given about ten per cent while LN, SP, IDV and LD all received coverage of between two and five per cent of the total. The distribution of the time between the parties in the debate programmes of *RAI* was similar to that in the news. Of all *RAI* channels, in terms of the tone of the coverage as well as allocation of time to lists and their leaders, *RAI Uno* was the most balanced. While the tone of the coverage of the parties in all three *RAI* channels was predominantly neutral, *RAI Tre* presented a slightly negative portrait of PdL while portrayal of PD was more positive, in comparison with the other two *RAI* channels.

## 2. Private TV channels

Two *Mediaset* channels, *Italia Uno* and *Rete Quattro* showed clear bias in favour of PdL. *Italia Uno* provided only limited coverage of the relevant political developments. In that coverage, PdL (37 per cent) and PD (33 per cent) clearly dominated the election reporting in its news programme called *Studio Aperto*. However, while the portrayal of PdL was predominantly positive or neutral, PD was portrayed in a mostly neutral or negative light. An apparent bias in favour of PdL, both in terms of time as well as tone of the coverage, was shown by *Rete Quattro*. While PdL received 54 per cent of the news coverage, PD was given 21 and SA, as well as UDC, 5 per cent each. The portrayal of PdL in this channel was overwhelmingly positive, while other parties were presented in a neutral or negative light. The presenter and director of the news continuously demonstrated support to Silvio Berlusconi and his party.

PdL and PD received 35 and 32 per cent, respectively, of the news on *Canale Cinque*, which of all *Mediaset* channels was the most balanced in its coverage of parties. However, this channel was also somewhat tilted towards the PdL, which was portrayed more positively in comparison with other parties. On the other hand, the discussion programme of this channel *Matrix*, was well balanced and offered a significant amount of coverage to a large number of party lists (9 parties received at least 8 per cent of the overall time in the programme).

The news programmes of *La7* offered wide-ranging and overall very balanced coverage of party lists. PdL was given the biggest amount of coverage (28 per cent), while PD received 17 per cent, another eight lists were given more than 4 per cent, and yet another eight parties about two per cent of coverage each. Overall, all parties were portrayed in an unbiased manner. In the programmes the parties were also subject to critical coverage, including of both frontrunners PdL and PD. The discussion programmes of *La7* gave one third of the time to PdL and PD respectively.

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<sup>64</sup>

Walter Veltroni did not participate. The programme overlapped with the final campaign rally of PD.

## VIII. COMPLAINTS AND APPEALS

### A. THE PARLIAMENTARY ELECTION COMMITTEES<sup>65</sup>

The power of the legislature to settle electoral disputes finds its roots in Article 66 of the Constitution, which empowers each chamber to determine the “electoral admissibility of its members as well as (their) ineligibility and incompatibility.”

Pursuant to the Rules of Procedures, election committees are established within the Senate and the Chamber of Deputies to examine election-related complaints. As a practice, both committees are chaired by a member of the opposition. The committees operate with specific rules, which include the possibility of public hearings. The committees refer their recommendations to the Parliament for final decision by the plenary.

Complaints with regard to election results, distribution of seats, as well as election day complaints and verification of the results, are adjudicated by the newly elected Chamber of Deputies or by the Senate. Their decisions are final, with no possibility of recourse to a court.

### B. PRE-ELECTION DAY APPEALS

In the pre-election period, appeals heard by the parliamentary election committees related to either the refusal to approve party logos or the exclusion of candidate lists. Logos are approved by the Ministry of the Interior with the possibility of an appeal to the NCEO. Admission of lists are made either by the DEOs in the case of the Chamber or by the REOs in the case of lists for the Senate. The question of where to appeal from the NCEO was answered by the decision of the Court of Cassation on 8 April 2008, when the Court held that all appeals from the NCEO regarding electoral operations, including admission of lists and approval of party logos, were to be heard by the newly elected Parliament (i.e. after the elections). The Court expressly excluded any court or judge from having jurisdiction to deal with such complaints or appeals.

The decision arose from the case of *Democrazia Cristiana* (DC) whose logo had been rejected by the Ministry of the Interior, on the grounds that it was too similar to the UDC party symbol.<sup>66</sup>

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<sup>65</sup> For the Senate: Committee for Elections and Immunity (*Giunta delle elezioni e delle immunità parlamentari*) and for the Chamber: Committee for the Elections (*Giunta delle elezioni*).

<sup>66</sup> Cronology of Democrazia Cristiana Symbol case:

- 3 March 2008: The Minister of Interior rejects the symbol presented by Mr. Pizza from the Democrazia Cristiana, (DC) as too similar to the Unione di Centro (UDC) symbol.
- 6 March 2008: DC files an appeal to NCEO on the grounds that their symbol is not so similar to the symbol of UDC and in any case an executive civil decision of Roma Civil court (sent. 19381 of 25.9.2006) recognized the right of Mr Pizza to use the name of Democrazia Cristiana and the symbol “scudo crociato” (cross shield)
- 8 March 2008: NCEO rules to uphold the decision of the Minister of the Interior and excludes the symbol based on Article 14 of the Election Code which prohibits the use of symbols that could confuse the voter and where the symbol that is in question is already used by a party that is present in Parliament.
- 10 March 2008: REO of Lazio refused to admit the list of DC for the Senate because their symbol had not been approved by the Ministry of the Interior (DC applied to 11 other REOs but was refused each time on the same grounds).
- 13 March 2008: NCEO confirmed REO’s exclusion of DC list.
- 13 March 2008: DC filed an appeal with the Tribunale Amministrativo Regionale (TAR) Lazio against the NCEO refusal to register its symbol and approve its list. Similar appeals were filed at other regional TARs for the same reason.
- 20 March 2008 : the Rome TAR ruled they did not have jurisdiction.



Article 14 of the Election Code prohibits parties from using symbols that are used by other parties already “present” in the Parliament.<sup>67</sup> Notwithstanding that their logo had not been approved, DC had applied to have their lists approved in various REOs.

The DC appealed the decision to the NCEO, which upheld the Ministry of the Interior decision, then to five different Administrative Regional Tribunals *Tribunale Amministrativo Regionale* (TAR) as well as to the Senate Committee for elections (*Giunta delle elezioni e delle immunità parlamentari*), and finally to the Council of State (*Consiglio di Stato*).<sup>68</sup> In almost all cases, the TARs declined to hear the appeal on the ground that they did not have jurisdiction. The Council of State, however, concluded on 1 April that it had jurisdiction. It issued a provisional measure suspending the exclusion of DC logo, with the effect that the Ministry of the Interior would have been compelled to include DC lists on the ballots. Twelve days before election day, the Ministry of the Interior was thus facing the prospect of a possible delay of the elections, reprinting of the ballots and re-organizing the lottery determining parties’ places on the ballot. The Ministry of the Interior then appealed to the Court of Cassation, seeking a decision on the question as to whether the Council of State had jurisdiction to rule on the matter.

The Court of Cassation ruled on 8 April that only Parliament had jurisdiction to hear an appeal from the NCEO with respect to logos and lists. As a result, the Ministry of the Interior’s original decision was upheld. The DC logo was not approved, and its lists were not admitted.

Should DC appeal to the new Parliament, and the new Parliament rule in its favour, the only remedy available would be to invalidate the results of the parliamentary elections in order to include the DC logo on the ballot. In practice, this is neither an effective nor a timely remedy to resolve pre-election day complaints.

The OSCE/ODIHR EAM heard concerns from various interlocutors, courts and electoral administrators, about this legal vacuum created by the lack of a competent body to decide on pre-election day complaints. Interlocutors suggested that legislation should specifically define the NCEO as a judicial body, and then its decision would be final without the need for a further appeal. Another possibility would be to provide for a judicial court (the Court of Cassation, the Constitutional Court or the Council of State) to be competent to hear appeals. In either case, this would allow a judicial body to make timely decisions in the case of appeals about the rejection of logos or lists in advance of the elections.

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- 20 March 2008: Salerno Campania TAR, did not rule on the question of jurisdiction but forwarded the case to the Napoli TAR for determination. This decision was appealed to the Council of State.
  - 26 March 2008: Parliamentary Election Committees at the Senate and Chamber refused to hear the DC appeal on the grounds that their jurisdiction related to appeals from the 2006 elections and the new Parliament will deal with appeals related to the 2008 elections.
  - 1 April 2008: Council of State ordered the admission of the DC lists. Ministry of the Interior filed an appeal to the Court of Cassation.
  - 8 April 2008: Court of Cassation ruled that “every complaint regarding the electoral operations, included the ones connected with list admission, belongs exclusively to the competency of the Chambers, any intervention by courts is precluded”.

<sup>67</sup> UDC had used its logo in 2006 parliamentary elections and had 21 senators and 40 members of the chamber elected under it.

<sup>68</sup> The Consiglio di Stato (Council of State) is a legal-administrative consultative body which ensures the legality of public administration in Italy. Generally, it is the appeal body for decisions from the Tribunale Amministrativo Regionale (TAR). The council derives its authority and powers from article 100, 103, and 111 of the Constitution.

*Notwithstanding the constitutional basis for the existing complaint procedure, the new Parliament may wish to consider measures to provide for an impartial and timely resolution of electoral disputes before election day.*<sup>69</sup>

### C. COMPLAINTS RELATED TO ELECTION RESULTS

The aftermath of the 2006 parliamentary elections highlighted the challenges of the verification of results which are the responsibility of Parliament.<sup>70</sup> In the Chamber, and because the margin of victory of the centre-left coalition in the 2006 elections was so narrow<sup>71</sup>, the opposition initially insisted that all ballots should be recounted. Ultimately, an agreement was reached on a recount of the ballots of ten per cent of the polling stations, but the committee was unable to finish the task within its mandate<sup>72</sup>. This issue is especially relevant for the Chamber, and because of the new electoral system, where results are tabulated centrally, and the majority bonus is awarded based on the results at the national level. It is therefore impossible to systematically verify results constituency by constituency which was possible in past electoral systems. The committee was hence left with an impossible task as regards the verification of the 2006 vote.

*Parliament may wish to consider introducing effective procedures, adapted to the electoral system in force, in order to make it possible to comply with its verification responsibility.*

Moreover, the available remedies that the committees have to redress potential mistakes in the results are ineffective. Under the present electoral system, if the re-count yields a different result, it is not possible to dismiss an individual member from parliament,<sup>73</sup> but the committee must either annul the elections, or reassign the majority bonus, therefore changing the political results of the whole election.

In conclusion, the system does not provide an effective or a timely mechanism to review and consider election day complaints and results.

OSCE commitments and other standards<sup>74</sup> for democratic elections state that election contestants must have the opportunity to submit complaints on all aspects of election operations to a relevant court. The Council of Europe's Commission for Democracy through Law, Code of Good Practice in Electoral Matters 2002, states: "the appeal body in electoral matters should either be an electoral commission or a court. For appeals to Parliament, an appeal to a parliament may be provided for the first instance. In any case, final appeal to a court must be possible."<sup>75</sup>

*The election law should provide for the possibility of an appeal to a court from the decisions made by Parliament in respect of post-election results and complaints.*

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<sup>69</sup> The Venice Commission, European Commission for Democracy through law, *Code of Good Practice (Paragraph 95)* emphasis the importance of having appeals about pre-election matters resolved in a timely manner before election day.

<sup>70</sup> Cf art.66 of the Constitution.

<sup>71</sup> 24,000 votes from an electorate of approximately 43 million.

<sup>72</sup> This amounted to 6,000 polling stations; the committee managed to recount only 180 polling stations and calculated that to recount the total would require two additional five year mandates.

<sup>73</sup> The committee can only dismiss a member of Parliament if s/he is declared ineligible/incompatible or if s/he resigns. The next candidate on the list would then be awarded the seat.

<sup>74</sup> Human Rights Committee, General Comment No. 25 of 12/07/96: *The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25)* contemplates the need for independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes.

<sup>75</sup> Section 3.3(a).

## IX. ELECTION OBSERVERS

The law provides for each political party contesting the elections to appoint representatives to observe the work of Regional and District Election Offices, as well as polling stations in constituencies where it has registered a list of candidates. Party representatives are entitled to attend all meetings of election offices.

Domestic non-partisan observers are not foreseen in the election laws. The OSCE/ODIHR EAM did not meet or hear of any domestic non-partisan group that wished to observe the elections. By article 3 of the decree-law n°24 of February 2008,<sup>76</sup> OSCE observers were allowed to observe the 2008 parliamentary elections, in the same way as in 2006.

*While the accreditation and co-operation received by the OSCE/ODIHR EAM was most appreciated, in order to fully comply with paragraph 8 of the 1990 OSCE Copenhagen Document, the election legislation should be amended to allow for domestic non-partisan observers and make permanent the provision for international observers.*

## X. PARTICIPATION OF WOMEN

In the 2006 election, women won 109 seats in the Chamber (17.3 per cent) and 45 seats in the Senate (14 per cent) which was an important increase over the previous Parliament<sup>77</sup>. However, in the last government, out of 18 Ministers, only two were women<sup>78</sup>, and out of the 101 members of the whole cabinet (including deputy ministers, secretaries and sub-secretaries of State), only 19 were women.

Theoretically, a closed list system should enable more women to be elected. This is because parties could select women to be in positions on their lists from which they would be sure to be elected. However, in general, women were not in “winnable” positions on their party lists in the 2008 elections. Only four women<sup>79</sup> were registered as leader of their party, and none of them were elected. A total of fifty-nine lists (Chamber and Senate together) were headed by women. In total, 1,729 women stood for the House of Deputies and 801 for the Senate. From among these, 55 were returned to the Senate and 132 to the Chamber. Political parties that included more women on their lists were *La Sinistra L’Arcobaleno* (44 per cent of women on its lists), *Partito Democratico* (43 per cent) *Lega Nord* (35 per cent) and *Sinistra Critica* (35 per cent). The PdL only included 21 per cent of women on its lists. The issue of the participation of women was discussed during the campaign,<sup>80</sup> however, there still appeared to be some reluctance to recognize the need for greater participation of women in politics.

*Parties should include more women in winnable positions on their lists.*

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<sup>76</sup> Art.3, Decree-law n°24 of 15 February 2008, amended and converted into law by Parliament on 27 February and published in the Official Gazette on 29 February 2008.

<sup>77</sup> In the 2005 legislature, women made up 9.8 per cent of the Chamber of Deputies and 7.7 per cent of the Senate.

<sup>78</sup> Emma Bonino was Minister of international trade and Livia Turco was Minister of Health.

<sup>79</sup> Daniela Santanché for *La Destra*, Flavia D’Angeli for *Sinistra Critica*, Fabiana Stefanoni for *Partito di Alternativa Comunista*, Eva Rossi for *Lega per l’Autonomia - Alleanza Lombarda - Lega Pensionati*.

<sup>80</sup> Silvio Berlusconi said that he would have four female ministers in his cabinet.

## XI. PARTICIPATION OF NATIONAL MINORITIES

Roma issues were raised in the campaign by some of the parties. It is generally agreed that there are about 170,000 Roma dispersed throughout the country of whom 40 per cent are Italian citizens. Half of all Roma live in camps. Some Roma are from former Yugoslavia, others are from Romania and Bulgaria. Of the Roma who are Italian citizens, it is estimated that about 30 per cent are of voting age. The law<sup>81</sup> provides that Roma, or any other persons, who are Italian citizens and have no fixed address may register at their local municipal office and use that address. It appears that there is no uniform interpretation and application of this law.

Historically, Roma have been marginalized, and a negative stereotype was used by *Lega Nord* in their campaign to advocate the expulsion of Roma. *La Sinistra L'Arcobaleno*, on the other hand, had a female candidate, Dijana Pavlović, eighth on its list who is a Roma originally from Bosnia Herzegovina. She is the first Roma to have stood as a candidate in a national election, although she was not elected.

*Authorities should address issues of possible disenfranchisement among the Roma community and take steps to ensure that Roma are informed of their rights and responsibilities, are not discriminated against and are encouraged to vote. The authorities should implement the OSCE Action Plan on Roma and Sinti, especially Chapter VI, "Enhancing Participation in Public and Political Life".*

## XII. ELECTION DAYS

In line with the standard OSCE/ODIHR EAM practice, the OSCE/ODIHR EAM did not observe voting and counting in a systematic or comprehensive manner. However, representatives of the OSCE/ODIHR EAM did visit some forty polling stations in the area of their deployment, in Rome, Trieste, Perugia and Palermo and their surroundings.

### A. VOTING

On 13 April, 61,212 polling stations throughout Italy opened at 8:00 and closed at 22:00. Voting continued on the next day from 7:00 to 15:00 as provided by law. In urban areas, polling stations were set up in schools, hosting several polling stations. Municipal employees were responsible for the transmission of the turnout and of the preliminary polling stations results to the Municipal Electoral Office (MEO).

In those Precinct Election Offices (PEO) visited, voting was conducted in a calm and orderly manner with most of the PEO members present. Women and youth were well represented as PEO members. With some exceptions, the PEO Chairs appeared to be experienced and familiar with the voting procedures. Party representatives were registered in many polling stations, but were rarely seen during the voting. Voters' identification was properly checked, the data from the voters' ID recorded in the voter list<sup>82</sup> and the number of the voting card entered in a control book. Voters voted by correctly marking the logo of the political party of their choice. Partial regional, provincial and municipal elections took place in parallel which did not seem to affect the overall organization of the polling.<sup>83</sup>

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<sup>81</sup> Article 2 of Law 1228 of 24 December 1954.

<sup>82</sup> In some cases, especially in rural polling stations, as provided by law the scrutineer would put his signature instead, certifying he/she knows the voter.

<sup>83</sup> In Rome for example five elections were taking place at the same time, in the same polling stations.

While in general the secrecy of the vote was rigorously respected, in some polling stations the chairs did not ask the voters to leave with them their mobile phone or camera before entering the voting booths as provided by a recent presidential decree.<sup>84</sup>

Much effort had been put into creating conditions for voters to participate. Municipalities had drawn up, and made public, lists of polling stations with easy access for physically impaired voters. Special transport to polling stations was provided for elderly voters. Public transportation<sup>85</sup> was less expensive for voters away from their place of residence and who wished to go to vote. In some municipalities special polling stations were established for homeless people, as well as soldiers, police, sailors and fire brigade on duty on election days.

The official data for the turnout gave 80,51 per cent for the Chamber and 80,47 per cent for the Senate, which was slightly less than for the 2006 elections<sup>86</sup>.

## B. COUNTING

In those PEO visited, the counting started immediately after the polling closed on 14 April. Before opening the ballot boxes, the PEO determined separately for the election to the Senate and for the election to the Chamber the number of citizens who have voted by counting the number of records in the voter list(s). These numbers were then checked against the number of ballots handed out to voters. As an additional safeguard the records in the control book were counted. The ballots for the Senate were counted first. The count was very slow if the procedure provided by law was respected. The Chair then had to sort each ballot individually from the box. The process was closely observed by party representatives, which ensured a high level of transparency.

The count of the votes cast in Italy was concluded before midnight on 14 April. The well-organized system for forwarding the results by PEOs to the municipalities, the prompt tabulation and consequent transmission of the data to the Prefectures and further to the Ministry of the Interior permitted the publication of preliminary unofficial results early in the morning of 15 April.<sup>87</sup> Initially, results were announced at regional level only and finally at municipal level. Breakdown by polling stations was not provided and the OSCE/ODIHR EAM was informed that the release of results by polling station was not planned for the official results either.

*The publication of preliminary results by polling stations as soon as they are received would enhance the transparency of the tabulation process. The official results by polling stations should be published once they have been validated.*

For the purpose of counting the votes of the overseas constituency 1200 PEOs were established close to Rome, in Castelnuovo di Porto. The preliminary processing of the envelopes started at 7:00 on 14 April. Some 300 PEO Chairs and a considerable number of scrutineers came late ,or did not come at all, which delayed the start of the process. The MEO of Rome had difficulties in

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<sup>84</sup> Decree-law No 49/ 1 April 2008.

<sup>85</sup> A 60per cent discount was granted for all travels by bus or train upon presentation of the voting card indicating the place of residence, with the obligation to present the stamped voting card on the return journey if requested by the agent checking the tickets.

<sup>86</sup> 83.617 per cent for the Chamber and 83,564 per cent for the Senate.

<sup>87</sup> Intermediate results were available during the evening and during the night on the website and in the Press Centre of the Ministry of Interior. Up-dates were made immediately after new information was received and checked.

immediately finding substitutes for the absent PEO Chairs because it had to solve similar problems the day before for the regular polling stations in the municipality. The OSCE/ODIHR EAM was informed that the count of the votes of the overseas constituency was completed by the legal deadline of 14:00 on 15 April.

*The system of appointing PEO Chairs and scrutineers for both regular and overseas constituency polling stations should be reviewed, and the necessary measures should be taken in order to avoid absences of appointed poll workers on election days.*

In general the specific procedures for processing the votes were correctly followed. In a few instances, polling staff was lax in strictly applying the legal procedures, but the secrecy of vote was never violated.

The Central Directorate for Electoral Services of the Ministry of the Interior published the unofficial results at 5:00 on 16 April.<sup>88</sup>

### **C. ELECTION DAY-RELATED COMPLAINTS AND APPEALS**

According to information provided by the International Department of the Italian Chamber of Deputies, the Election Committee of the Chamber (*Giunta delle elezioni*), received, by the 20 May deadline for complaints and appeals, ten petitions. Most of these concerned the count of the votes cast in the constituency of Italians abroad, the distribution of chamber seats in the Chamber as based on the calculation of the election results, or the non-registration of candidate lists or party symbols in the pre-election period.

The Senate Committee for Elections and Immunity (*Giunta delle elezioni e delle immunità parlamentari*) before the corresponding deadline of 15 May received five complaints. Two of these concerned the non-registration of candidate lists submitted in the pre-election period, while two concerned the eligibility of two specific senators, and one requested an interpretation of a legal act.

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<sup>88</sup> The results of the count in 27 PEOs in the Overseas constituency were still missing, but could not influence the announced results.

## ANNEX: OFFICIAL RESULTS

As regards the two main coalitions, the PdL won 46,8 per cent and PD 37,5 per cent of the vote for the Chamber of Deputies, while the corresponding figures were 47,30 per cent for the PdL and 38 per cent for the PD for the Senate. From the approximately 30 parties who stood<sup>89</sup> only seven were returned.

	Chamber	Senate
Number of PS established (Italia + abroad)	62.521	62.521
Number of registered voters (all)	47,126,326	43,133, 946
Number of registered voters abroad	2,812,422	2,531,584
Percentage of voters casting their ballot abroad	39,5 %	40,3 %
Percentage of voters casting their ballots (all) *	80,46 % (37.954.253)	80,45 % (34.718.630)
Percentage of blank ballots *	1,28 % (487.746)	1,34 % (465.620)
Percentage of void ballots *	2,46 % (935.730)	2,45 % (853.038)
Percentage of contested ballots **	0,01 % (3.566)	0,01 % (3.776)
Percentage of valid ballots *	96,24 % (36.527.211)	96,19 % (33.396.196)

The figures come from the Parliament website with these notes:

- \* Unofficial results from the Electoral offices of sections, municipalities and prefectures, those data are transmitted to the IT Centre of the Central Direction for Electoral Services.
- \*\* (temporarily not assigned). The ballots having contested votes and temporarily not assigned are re-examined by the REOs and PEOs that will decide on the allocation of votes.

### Number of seats

Senate		
Rank	List	Number of seats
1	Popolo della Libertà (PdL)	147
2	Partito Democratico (PD)	118
3	Lega Nord	25
4	Unione di Centro (UDC)	3
5	Italia dei Valori (IDV)	14
6	Movimento per l'autonomia (MPA)	2
7	Südtiroler Volkspartei (SVP)	2
8	SVP – Insieme per le autonomie	2
9	Autonomia Liberté Democratie	1
10	Movimento Associativo Italiani all'estero	1

<sup>89</sup>

The number is slightly higher if the parties which ran in the single-mandate constituencies or the overseas constituency are also counted.

<b>Chamber of Deputies</b>		
<i>Rank</i>	<i>List</i>	<i>Number of seats</i>
1	<i>Popolo della Libertà (PdL)</i>	277
2	<i>Partito Democratico (PD)</i>	217
3	<i>Lega Nord</i>	60
4	<i>Unione di Centro (UDC)</i>	36
5	<i>Italia dei Valori (IDV)</i>	29
6	<i>Movimento per l'autonomia (MPA)</i>	9
7	<i>Südtiroler Volkspartei (SVP)</i>	2
8	<i>Autonomia Liberté Democratie</i>	1
9	<i>Movimento Associativo Italiani all'estero</i>	1



## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect human rights and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website ([www.osce.org/odihr](http://www.osce.org/odihr)).