



Office for Democratic Institutions and Human Rights

ITALY

PARLIAMENTARY ELECTIONS

13-14 April 2008

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

20-22 February 2008



**Warsaw
10 March 2008**

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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an invitation of the Ministry of Foreign Affairs of Italy to observe the parliamentary elections on 13-14 April 2008, the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) to Italy. The NAM took place from 20 to 22 February 2008, two weeks after the dissolution of Parliament on 6 February. It included Mr. Mats Lindberg, OSCE/ODIHR Election Adviser, as well as Mr. Nikolai Vulchanov and Ms. Delphine Blanchet, OSCE/ODIHR External Election Experts. The purpose of the NAM was to assess the pre-electoral environment and advise on a possible OSCE/ODIHR activity in relation to the upcoming early parliamentary elections, in line with OSCE commitments.

The NAM held meetings in Rome with representatives of the authorities, election administration, political parties, public media and the media regulatory body (see annex for list of meetings). The OSCE/ODIHR is grateful to the Ministry of Foreign Affairs and the Ministry of Internal Affairs, for their co-operation and assistance during the NAM.

II. EXECUTIVE SUMMARY

The Italian Parliament is a bicameral 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 life¹.

All interlocutors met by the NAM expressed the view that more stability of government would be beneficial to the country. Recent changes in the political landscape appear to indicate two tendencies: (a) the merger of political parties to create larger single parties with fewer coalition partners and (b) former smaller partners of large coalitions creating new coalitions with only a few parties within them. Interlocutors anticipated that, as a result, the number of parties in the new parliament might decrease overall.

The 13-14 April early parliamentary elections will be conducted, essentially, according to the same legislation as the 2006 parliamentary elections.² Thus, the recommendations contained in the OSCE/ODIHR Election Assessment Mission report on the 9-10 April 2006 elections remain valid.

¹ Currently there are seven senators appointed for life. Each President of the Republic can appoint up to five lifetime senators and every President becomes senator for life after the presidential term expires.

² OSCE/ODIHR Election Assessment Mission report for the 9-10 April 2006 parliamentary elections in Italy, <http://www.osce.org/odihr-elections/18270.html>

To complement the election law, a new decree has been adopted by the Government on 15 February 2008 and approved by Parliament on 26 February, to regulate a limited number of technical issues. These include easier and more transparent registration of parties and 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 elections³ and the introduction of some new rules for the vote abroad. Notably, regulations for voting abroad now distinguish between the procedures applied for Italian citizens residing abroad by their own choice, and those for Italians residing abroad on official duty.

The NAM interlocutors expressed confidence in the election administration, conducted at central level by the Electoral Services Department of the Ministry of the Interior. However, some advised that the means of voting of Italian citizens abroad could merit some attention.

The role of media in providing equal opportunities to all electoral contenders remains an issue of interest. Broadcast media is strictly regulated by the *par condicio* (equal treatment) law.

With regard to media coverage of the election campaign, the period between the day when elections are called and election day comprises two parts. Before completion of registration procedures for candidate lists on 10 March, equal treatment is required for parties represented in the outgoing Parliament. After that date, equal treatment is required for the registered candidate lists. As coalitions include different numbers of partners and their registered candidate lists, it remains to be clarified how anticipated regulations for the implementation of equal treatment would address this aspect of the media coverage. The official media campaign began on 7 February, the day after the dissolution of parliament.

The OSCE/ODIHR recommends the deployment of an Election Assessment Mission (EAM) for the 13-14 April 2008 parliamentary elections in Italy, some three weeks ahead of election day. The Mission will include a media monitoring component, in line with the OSCE/ODIHR methodology, and will deploy fact finding visits outside Rome as appropriate. An OSCE/ODIHR EAM does not envisage systematic and comprehensive observation of election day, but members of the EAM will visit polling stations around the country on election day. The partial elections for local Government authorities will be monitored only to the extent that they could have an impact on the conduct of the parliamentary elections.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

The Italian parliament consists of the Chamber of Deputies with 630 members and the Senate with 315 senators. In 1993, Italy changed to a mixed system whereby 75 per cent of the seats in the Chamber were allocated in single seat constituency one round contests

³ Similarly to the 2006 parliamentary elections, this decree was adopted in 2008 to permit election observation by OSCE monitors, in line with OSCE commitments.

and 25 per cent of seats were allocated on a proportional basis. This electoral system was adopted by popular referendum and was expected to enhance political stability. However, in December 2005, shortly before the 9-10 April 2006 general elections, the then parliamentary majority changed the electoral system into one with proportional representation which encouraged coalition building.

Interlocutors conveyed their opinion that in the Italian political landscape, large coalitions hosting many small parties have a potential to contribute to less stable government. As a case in point, the outgoing coalition Government led by Prime Minister Romano Prodi lost its parliamentary support in January 2008 when the small Catholic Popolari UDEUR withdrew from the coalition.⁴ While there seems to be a general agreement among Italian political parties that the electoral system should be reviewed to promote stability of Government, the forthcoming elections will be held under the current system.

In the 2006 election the coalition led by Mr. Prodi won with a margin of some 24,000 votes in the Chamber. The respective committee in the Chamber and in the Senate which are responsible for verifying election results and for addressing election complaints decided to start the time consuming process of checking a large sample of ballots one by one to verify the election result. However, it proved impossible for the Chamber committee to conclude this verification work before the early elections were called in 2008.

Any possible coalitions for the April 2008 parliamentary elections need to have been finalized by 4 March, when the Ministry of the Interior made public the registered party list logos and coalition manifestos.⁵ The NAM was informed of recent and ongoing changes in the political landscape, some considerable. Such changes appear to display two tendencies: (a) the merger of political parties to create larger single parties with few coalition partners and (b) former smaller partners of large coalitions creating new coalitions with only a few parties within them. Somewhat paradoxically, the move away from two large coalitions competing against each other may lead to a higher overall number of coalitions, although the individual coalitions may hold larger parties and/or fewer members than did the two main coalitions in 2006. Interlocutors anticipated that, as a result of these two trends, the number of parties in the new parliament might decrease overall.

The tendency of consolidation at political party level includes mergers of previously existing political parties. In the centre-left, the *Partito Democratico* (PD) established in 2007 had absorbed the *Margherita* party which used to be in the outgoing Government coalition. In the 2008 elections the PD is likely to run in a coalition only with the “*Italy of Values*” party. The PD is headed by its candidate for Prime Minister, Walter Veltroni, who until recently was mayor of Rome, but resigned in order to run for Prime Minister. The outgoing Prime Minister, Romano Prodi, supports the PD. To the centre-right, the *Alleanza Nazionale* and *Forza Italia* have agreed on a joint new list called *Il Popolo della Libertà* (PdL - People of Freedom), headed by former Prime Minister Silvio Berlusconi.

⁴ 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 one-seat majority.

⁵ The party list registration process must be concluded by 10 March.

Smaller parties which were members of one of the two large coalitions in 2006 in 2008 appear to form several smaller coalitions. Accordingly, on the Centre-left the creation of a "Rainbow Coalition" seems likely. This would be comprised of two communist parties,⁶ as well as the Federation of the Greens and the Sinistra Democratica.⁷ To the center-right, at the time of the NAM's visit, it was not yet known whether *Lega Nord* and *Alternativa Sociale*⁸ will join the PDL. In addition, the Union of Christian and Centre Democrats, led by Mr. Lorenzo Cesa and Mr. Pier Ferdinando Casini, has decided to run on its own this time.

B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The legal framework includes the Constitution of Italy, the electoral code, the law on voting abroad and several laws regulating media coverage (see below, "Media Environment). The 13-14 April parliamentary elections will be conducted according to essentially the same legislation as were the 2006 parliamentary elections. Thus, the recommendations contained in the OSCE/ODIHR Election Assessment Mission report on the 9-10 April 2006 elections remain valid.

In addition to the election law, a new Governmental decree has been adopted by Government on 15 February 2008 and approved by Parliament on 26 February, to regulate a limited number of technical issues. These include easier and more transparent registration of parties and 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.

Eligibility to vote for the Chamber is extended to all Italian citizens who have reached 18 years of age, while to be eligible to vote for the Senate they must have reached 25 years of age.

For the election of the Chamber, Italy is divided into 26 constituencies which will return 618 deputies. For the elections of the Senate, the country is divided into 20 constituencies which coincide with the administrative division of the country into 20 regions⁹ and will return 309 senators. The numbers of seats returned from each constituency are determined on the basis of respective population numbers. In addition, 12 deputies and six senators are to be elected by some 2, 9 million Italian registered voters who are resident abroad.

There is no official register for political parties in Italy. Parties are registered only for general elections by the Ministry of Interior. In order to be registered, a party should submit its logo, name, candidate list, its programme and the name of the person who is heading the list. Grounds for refusal of registration are the presence of religious or fascist symbols in the logo, or close resemblance of the name with the name of another party already registered. A coalition of parties is constituted if the respective parties agree on a

⁶ The *Rifondazione Comunista* and the *Partito dei Comunisti Italiani* (PDCI); the latter broke out of the former in 1998.

⁷ 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.

⁸ Led by Alessandra Mussolini.

⁹ These include 15 "ordinary" regions and 5 regions of special status.

common electoral manifesto and a personality to lead the coalition. Parties which are not represented in the Italian or European Parliament have to collect signatures to register.

Both the Chamber and the Senate will mainly be elected on a proportional basis from closed constituency lists, with a series of thresholds to determine eligibility of parties and coalitions to participate in the allocation of seats. Thresholds are determined at national level for the Chamber and at constituency level for each senatorial constituency. Seats are allocated to eligible parties and coalitions with a quota method. Should unallocated seats remain after the respective quotas are determined, these are further distributed in accordance with the rule of the “largest remainder”.

A “majority bonus” for the winning coalition was introduced in 2005 with the aim of increasing stability of Government should there be no party or coalition that achieves at least 55 percent of the seats, or a total of 340 seats, in the Chamber.¹⁰ For the Senate the bonus is granted at regional level for each constituency.¹¹ If the strongest party has received less than 55 percent of the seats in the respective constituency, the bonus ensures that such a party is allocated 55 percent of the seats. Individual regional bonuses could cancel each other out. This system could theoretically lead to different majorities in the Chamber and the Senate, which could potentially lead to blockages in the legislative process.

For the Chamber, a coalition must receive at least 10 per cent of the valid votes in order to become eligible for the seat allocation. Within a coalition, each party must receive at least 2 per cent of the valid votes to receive seats, with the “best loser” (party closest to the 2 per cent threshold) also eligible for seats. Parties that are not in a coalition must receive at least 4 per cent to receive seats. If a coalition receives less than 10 percent of the valid votes, but a party within the coalition receives more than 4 percent, such a party becomes eligible to participate in the allocation of seats.

For the Senate, seats are allocated on a regional basis. A coalition must receive 20 per cent of the valid votes within the constituency to receive seats. A party which is a member of a coalition must receive at least 3 per cent of the valid votes in order to be able to receive seats, and for a party which is not a member of a coalition, the respective threshold is 8 per cent. If a coalition receives less than 20 percent of the valid votes, but a party within the coalition receives more than 8 percent, such a party becomes eligible to participate in the allocation of seats.

C. ELECTION ADMINISTRATION

The Electoral Services Department of the Ministry of Interior is the permanent body responsible for administering elections in Italy. In addition, each of the 103 administrative districts has an electoral office within the prefect’s office and each municipality has a municipal election office that updates voter lists and runs municipal elections. Temporary election bodies include the municipal level courts that receive and tabulate election results. Finally, electoral boards oversee voting and counting in the approximately 60,000

¹⁰ A “bonus” has been in used in Italy also in the 1950’s.

¹¹ It would appear that the draft amendments originally foresaw a single bonus for the Senate, but this change was later considered to be against the constitutional principle of a regionally based Senate, and separate regional bonuses were therefore introduced.

polling stations. Among Italy's population of approximately 59 million people, there are some 50,5 million eligible voters.

Voters are registered under a "passive" system of registration which is based on "automatic" registration of all individuals that reach voting age on election day. Voter registers are based on voters' registered permanent residence and are updated regularly, twice a year as well as when an election is called.

Article 66 of the Constitution confers responsibility upon each of the parliament chambers for ensuring the eligibility and compatibility of its members. Both the Chamber and the Senate have a parliamentary election committee (*giunta*) responsible for verifying the results of the elections and the eligibility of candidates. The parliamentary election committees receive results from the district judiciary offices which conduct the allocation of seats, and verify the final results. The committees also rule on election-related complaints, with no appeal possible. In its report following the 2006 elections the OSCE/ODIHR recommended the introduction of a possibility to address election complaints to courts instead of to the parliamentary committees, as their newly elected members may experience a conflict of interests. While the composition of the committees is proportional to the composition in parliament, traditionally, the president of the committee is chosen by the opposition.

A decree law passed in January 2006 allowed a pilot project to use electronic tabulation in four regions for the 2006 general elections. However, because the 2008 elections are pre-term ones, there was no time to prepare any follow-up to the 2006 pilot. The same decree law introduced mobile ballot boxes for people who, because of illness or similar reasons, cannot come to polling stations on election day. The provisions about the mobile ballot box were later converted into a normal law adopted by Parliament. Thus there will be a possibility to request a mobile ballot box also in 2008 and beyond. However, in 2006, the number of requests for the mobile ballot box remained marginal.

D. VOTING ABROAD

There are some 2,9 million Italian citizens registered as voters abroad and about 1,2 million of them voted in the 2006 elections. In 2008, all Italians living abroad and who have ever registered with Italian consular services will, as in 2006, receive their ballots by mail from the consulate as of 26 March, without specifically requesting them. Expatriated voters will then send their marked ballots back to their consulate by mail. Ballots must reach the consulate by 16.00 on 10 April in order to be accepted and sent back to Italy in time to be counted with other votes on election day. As any other method of voting in a non-controlled environment, postal voting creates a potential challenge to the secrecy of the vote.

One novelty in the legislation to be in force during the 2008 parliamentary elections is introduced by the 15 February Decree-law with provisions regarding the postal vote of Italians residing abroad on a temporary basis because of official duty. Diplomats, civil servants¹² and university professors are counted into this category and their votes are added to other votes in the constituency of Lazio which comprises Rome and some surrounding areas.¹³ Another new feature is that in 2008 the votes of military personnel

¹² And civil servants' family members

¹³ Lazio 1 for the Chamber and Lazio 2 for the Senate.

abroad will go to the constituency in which their military unit is based in Italy. The votes of all other Italian citizens residing abroad will go to a special constituency for Italian expatriates, from which 12 deputies and six senators are to be elected.

A number of interlocutors advised that the means of voting of Italian citizens abroad could merit some attention.

E. MEDIA ENVIRONMENT

One of the most discussed aspects of the forthcoming elections remains the media environment. The official media campaign began on 7 February, the day after the dissolution of parliament. In contrast to the 2006 parliamentary elections, the current pre-election period is free from the so-called “Italian anomaly” whereby the then outgoing Prime Minister had a degree of influence *ex officio* on public broadcasters, while he at the same time controlled the major private Italian TV network.

The *par condicio* (equal treatment) law, passed on 22 February 2000, provides for equal treatment in both private and public media broadcast of all political parties and coalitions during the official media campaign period¹⁴ and bans all paid political advertising on broadcast media. From the day after the dissolution of the parliament (7 February) until the registration of the candidate lists (10 March) this law guarantees equal quantitative and qualitative coverage to all political parties represented in parliament. For the period after 11 March, the law guarantees equal treatment to all parties which have registered party lists for the elections.

In 2006, OSCE/ODIHR media monitoring of the pre-election period showed that while the public TV Radiotelevisione Italiana (RAI) respected the legal provisions for free airtime, and by and large gave similar amounts of prime time news coverage of the main candidates and parties, there was a clear difference in the tone of the news commentary in favour of the incumbent and to the disadvantage of his challenger.

RAI is obliged by law to provide equal opportunities for coalitions and lists¹⁵. As coalitions include different numbers of partners who have registered candidate lists, it remains to be clarified how anticipated regulations for the implementation of equal treatment would address this aspect of the media coverage.

The RAI is also obliged to broadcast face-to-face debates between leaders of parties or coalitions. RAI representatives pointed out to the NAM that as the number of coalitions or parties running independently is likely to be considerably higher in 2008 than in 2006, it could be difficult to find enough time to provide all contenders with the legally guaranteed airtime, and TV viewers’ choice of non-election related broadcasts may be limited.

The provisions of *par condicio* are monitored and enforced by two regulatory bodies. Private broadcasters are regulated by the Guarantee Authority in the Field of

¹⁴ From 5 March to 11 April, when the campaign silence begins.

¹⁵ Law n. 28, 22 February 2000, Art. 4, paragraph 2 (political communication on electronic media and free airtime during the election campaign) requires that “during the period between the presentation of candidates and the end of the official campaign, the spaces shall be allocated on the basis of equal opportunities for coalitions and lists”.

Communications (AGCOM) and public broadcasters by the Parliamentary Oversight Committee for the RAI. In addition to its regulatory responsibilities, AGCOM monitors both public and private broadcasters.

The Parliamentary Oversight Committee is a bicameral committee including 20 senators and 20 deputies, with a composition reflecting that of the parliament and a president selected by the opposition. It is expected to issue two main sets of regulations before each parliamentary election on how to implement the *par condicio* law. The first one should be issued in time to cover the period from the announcement of the election on 6 February until the registration of party lists, and the second from 11 March on until the campaign silence enters at 24.00 on Friday before election day.¹⁶ However, in 2008 the first regulation was issued late, on 21 February. In the absence of any regulation, the general provisions of the *par condicio* law apply.

AGCOM, established in 1997, is an independent body, which is financed by mandatory contributions by private media operators as well as, to a lesser extent, by public funding. It has 8 members selected by parliament and a chair nominated by parliament and appointed by the President. The AGCOM representatives assured the NAM that their guiding principle will be to ensure equitable (fair) treatment of all contenders. One interlocutor expressed the view that not only the quantity and tone of broadcasts should be monitored but also the scale of the viewing audience.

In case of violations of the *par condicio* or of its complementing regulations, AGCOM may order the media outlet to correct the situation. In case of non-compliance with such an order, AGCOM may issue fines. During the 2006 elections four private media outlets were fined, in some cases up to 200,000 Euros. However, the maximum amount AGCOM can fine a company is considered low, as major TV networks can easily compensate for any fines with small parts of the overall income from advertisement. Nonetheless, the fact that a fine is issued is considered as a sanction of significance in itself because of the negative publicity. RAI received a warning from AGCOM in 2006 but complied and was therefore not fined.

In addition to the monitoring by AGCOM, RAI has tasked the Osservatorio di Pavia¹⁷ to monitor its broadcasts with regard to compliance with legislation. The monitoring results of the Osservatorio are submitted not only to RAI but also directly to Parliament. There have not been any significant differences between AGCOM's and the Osservatorio's monitoring results.

IV. CONCLUSIONS AND RECOMMENDATIONS

Respecting its OSCE commitments, the Italian authorities have invited the OSCE/ODIHR to observe the 13-14 April early parliamentary election. As with the 2006 parliamentary elections, special legislation was introduced by a Governmental decree on 15 February and approved by Parliament on 26 February 2008, to permit election observation by OSCE monitors.

¹⁶ These dates apply to the 2008 elections.

¹⁷ The Osservatorio, founded in 1994, is an independent non-profit organisation which has become an internationally recognised institute of analysis and research on mass communication and whose mission is to ensure social, cultural and political pluralism in the field of mass media.

The OSCE/ODIHR recommends the deployment of an Election Assessment Mission (EAM) for the 13-14 April 2008 parliamentary elections in Italy, some three weeks ahead of election day. The Mission should include a media monitoring component, in line with the OSCE/ODIHR methodology, and deploy fact finding visits outside Rome as necessary. An OSCE/ODIHR EAM does not envisage systematic and comprehensive observation of election day, but members of the EAM will visit polling stations around the country on election day.

Important partial local, regional and provincial elections will be also held in some provinces and regions on 14 April. These partial elections for local Government authorities will be monitored only to the extent that they could have an impact on the conduct of the parliamentary election.

ANNEX 1: LIST OF MEETINGS

Ministry of Foreign Affairs

Mr. Vincenzo Palladino, Deputy Director for Italians Abroad and Migrations

Counsellor Elena Basile

Ministry of the Interior

Prefetto Giovanni Troiani, Chief Department of Territorial Affairs

Prefetto Michele Penta, Vice Chief Department

Prefetto Adriana Fabbretti, Director of Central Direction for election services

Vice Prefetto Ciro Trotta

Vice Prefetto Giovanni Capuano.

Parliament

House Committee for the Elections:

On. Donato Bruno (FI)

On. Gianfranco Burchiellaro (PD)

On. Vincenzo Nespoli (AN)

On. Gaetano Pecorella (FI).

Senate Committee for the Elections:

Senator Lucio Malan (FI)

Senator Luigi Lusi (PD)

Italian Delegation to the OSCE PA

Senator Carlo Vizzini

Senator Rosa Villecco Calipari

Political Parties

Partito Democratico:

Mrs Donata Renzi

Mr. Erminio Quartiani

Alleanza Nazionale:

Senator Alfredo Mantica

Public Media and Media Regulatory Body

RAI:

Dr. Pierluigi Malesani – Director of the Institutional Relations Department
Dr Stefano Luppi
Dr Armando Melchionna
Dott.ssa Sara Bianchi
Dott.ssa Laura Sboarina.

Guarantee Authority in the field of Communications (AGCOM):

Dr Antonio Amendola, Secretary General Assistant
Dott.ssa Laura Aria, General Director for Audiovisual and Multimedial Contents