



Office for Democratic Institutions and Human Rights

REPUBLIC OF LATVIA

PARLIAMENTARY ELECTIONS

2 October 2010

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

14 – 16 July 2010



Warsaw
27 July 2010

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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

On 17 June 2010, in accordance with OSCE commitments, the Permanent Mission of the Republic of Latvia to the OSCE invited the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the 2 October parliamentary (*Saeima*) elections. The OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Latvia on 14-16 July. The NAM included Ms. Nicola Schmidt, OSCE/ODIHR Senior Election Adviser, and Ms. Tatyana Bogussevich, OSCE/ODIHR Election Adviser.

The purpose of the OSCE/ODIHR NAM was to assess the pre-electoral environment and the preparations for the parliamentary elections, and to make a recommendation regarding a possible OSCE/ODIHR activity for these elections. The OSCE/ODIHR NAM met with the Ministry of Foreign Affairs, Central Election Commission, Office of Citizenship and Migration Affairs, Corruption Prevention and Combating Bureau, National Council of Radio and Television, political parties, media and civil society representatives. A full list of meetings is included as an annex to this report.

The OSCE/ODIHR would like to thank the Ministry of Foreign Affairs for its assistance and co-operation in organizing the NAM. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM.

II. EXECUTIVE SUMMARY

The 2 October 2010 elections will be conducted to elect 100 members of the Latvian unicameral parliament for a term of four years under a proportional representation system with open lists in five multi-member constituencies. The number of seats allocated to each constituency is proportional to the number of eligible voters in the respective constituency.

The legal framework for the conduct of parliamentary elections includes a range of laws, most of which were amended in recent years. Considerable changes were introduced to provisions pertaining to the pre-election campaign, including campaign finance regulations, some of which address previous OSCE/ODIHR recommendations. However, the legislation continues to contain a number of restrictions on the right to stand for individuals subject to 'lustration' provisions and for independent candidates. Also, the right to vote is subject to citizenship requirement which prevents large parts of the Russian minority living in Latvia to participate in elections.

The three-tiered election administration headed by the Central Election Commission (CEC) commands high levels of public trust, and manages elections in a professional and transparent manner. Political parties are not actively pursuing their right to nominate members of election commissions, evidently due to confidence in the overall integrity of

the process. It is of concern that in line with the Language Law, the CEC is prevented from providing election-related information in minority languages.

Voter lists are not in use during parliamentary elections and voters may cast ballots at any polling station upon presentation of a valid Latvian passport. Although the matter was a subject of debate in the past years, political consensus to introduce voter lists for parliamentary elections was not reached. Many stakeholders believe changes in this area might negatively affect voter turnout. According to the CEC, there are 1,532,851 eligible voters in Latvia and 41,116 voters abroad. Citizens outside Latvia can vote in person at polling stations abroad or by post.

Candidate lists can be put forward by registered political parties and alliances. Recent legal changes now allow candidates to stand in one constituency only. The amended comprehensive regulatory framework for political party and campaign financing enhances transparency and accountability. Registered political parties are obliged to submit detailed income and expenditure reports annually. Parties and alliances contesting elections are also required to submit complete campaign income and expenditure reports after an election. Furthermore, recent amendments considerably increased the campaign expenditure limit. Most political parties appeared satisfied with the new legal framework and were overall confident that they would be able to compete on equitable terms.

The campaign is expected to be most active in the electronic media. Parties are entitled to free airtime provided by public television and radio and paid advertising available to contestants on equal conditions. The media environment was assessed by OSCE/ODIHR NAM interlocutors as providing the public with diverse information and a plurality of viewpoints. However, most interlocutors expressed concerns with the lack of transparency in media ownership and with reported affiliations of some leading commercial broadcasters and newspapers with influential businessmen and politicians.

While the majority of OSCE/ODIHR NAM interlocutors expressed confidence in the integrity and overall fairness of electoral process, most of them felt that the presence of international observers would be beneficial. Political parties and civil society did not express particular concerns about election day proceedings. In this context and in light of the findings included in this report, the OSCE/ODIHR recommends the deployment of a Limited Election Observation Mission (LEOM) with a core team based in Riga and six long-term observers seconded by the OSCE participating States deployed to the regions of the country. As part of the observation, the OSCE/ODIHR LEOM will conduct a comprehensive monitoring of the media. It will also review the recent legal amendments, including those pertaining to campaign finance, and will assess their impact on the process.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Latvia is a parliamentary republic, with legislative authority exercised by the unicameral 100-member parliament. The parliament elects the president by a majority of votes for a four-year term. Executive authority is vested in the Cabinet of Ministers led by the prime minister nominated by the president.

Following the 7 October 2006 parliamentary elections, seven political formations were represented in parliament. The People's Party obtained the largest number of seats (23) followed by the Greens and Farmers Union (18), New Era (18), Harmony Centre (17), Coalition of Latvia's First Party and Latvia's Way (10), For Fatherland and Freedom Party (8), and For Human Rights in United Latvia (6).

The coalition government led by the People's Party, which was formed after the 2006 elections, resigned in April 2007. The subsequently appointed prime minister and government resigned in February 2009 following mass anti-government demonstrations and strong public discontent with the government's handling of the economic crisis. In March 2009, Valdis Dombrovskis from New Era was appointed prime minister.

The OSCE/ODIHR NAM was informed that the continuing economic recession and government instability in the last years have resulted in growing public distrust towards political parties and current political system. It was suggested that voters are interested in seeing new political forces and demonstrate active civic involvement.

The OSCE/ODIHR has observed elections in Latvia since 2002, most recently in 2006.¹ The OSCE/ODIHR concluded that the 2006 election process was overall conducted in accordance with OSCE commitments, was administered transparently and professionally, and took place in a competitive and pluralistic campaign environment.²

B. LEGAL FRAMEWORK

The conduct of parliamentary elections is regulated primarily by the Constitution, the *Saeima* Election Law, the Law on Pre-Election Campaign Before the *Saeima* Elections and Elections to the European Parliament (hereafter the Law on Pre-Election Campaign), the Law on Financing of Political Organizations, and the Law on the Central Election Commission. In addition, the Law on Corruption Prevention and Combating Bureau, Administrative Violations Code, Radio and Television Law, as well as other legal acts and instructions by the CEC are applicable.

Most of the above laws have been amended since the 2006 elections, and some additional draft amendments were pending enactment at the time of the OSCE/ODIHR NAM. Among others, considerable adjustments were made to campaign finance regulations. These included an increase in the campaign expenditure limit, exclusion of some categories of expenditures from the campaign spending limit, and introduction of provisions on 'third party' financing, which was an issue of widespread concern, including of the OSCE/ODIHR, during the 2006 elections (see Section F on Campaign and Campaign Finance).

An important change was also introduced to the composition of candidate lists, which now prohibits candidates from standing in several constituencies at the same time, as was previously the practice. This amendment was assessed positively by most OSCE/ODIHR

¹ All OSCE/ODIHR reports on elections in Latvia are available at www.osce.org/odihr-elections/14486.html.

² Final Report of the OSCE/ODIHR Limited Election Observation Mission on the 7 October 2006 parliamentary elections in Latvia; available at www.osce.org/odihr-elections/20305.html.

NAM interlocutors as enhancing the link between voters and their elected representatives. Legislators also introduced a number of changes to media and campaign-related provisions aiming to address the issue of ‘hidden’ advertising, another area that was identified as problematic during previous elections.

1. Suffrage Rights

The legislation grants Latvian citizens the right to vote from the age of 18 and the right to stand as a candidate upon attainment of the age of 21. A number of restrictions on suffrage rights apply. The legislation continues to prohibit candidacies by individuals subject to ‘lustration’ provisions.³ In March 2006, the European Court of Human Rights (ECHR) in *Zhdanoka vs. Latvia* case ruled the use of ‘lustration’ provisions acceptable. It indicated, however, that “the Latvian Parliament must keep the statutory restriction under constant review, with a view to bringing it to an early end.”⁴ Furthermore, in contradiction with paragraph 7.5 of the 1990 OSCE Copenhagen Document, the legislation does not allow independent candidates to stand in parliamentary elections.⁵

In a positive development and in conformity with ECHR case-law,⁶ legal provisions which previously restricted suffrage rights of prisoners were reviewed and prisoners were granted the right to vote in elections at the place of confinement.

2. Rights of ‘Non-Citizens’

As is the case in most OSCE countries for national elections, participation in elections in Latvia is subject to citizenship requirement. As a result, 344,095 of the country’s legal residents who do not possess Latvian citizenship, the majority of whom are ethnic Russians, are prevented from participating in elections.⁷ A number of international organizations and institutions, including the OSCE/ODIHR, the OSCE Parliamentary Assembly and the Council of Europe, have repeatedly expressed concern with regard to this situation and recommended that consideration be given to permitting ‘non-citizens’ to vote in municipal elections.⁸

³ Persons who were employed by the Union of Soviet Socialist Republics (USSR), Latvian SSR or another country’s security or intelligence services, or were actively involved after 1991 with the Communist Parties of the USSR or Latvian SSR, or certain other named organizations, are prevented from standing as candidates.

⁴ ECHR Judgment (Grand Chamber), case of *Zhdanoka vs. Latvia*, application number 58278/00, 16 March 2006; available at www.echr.coe.int.

⁵ Paragraph 7.5 stipulates that citizens should have the right to seek office “individually or as representatives of political parties...”

⁶ In 2005, the ECHR ruled that the disenfranchisement of prisoners was disproportionate and incompatible with the right to participate in elections. ECHR Judgment (Grand Chamber), Case of *Hirst vs. the United Kingdom* (No.2), application number 74025/01, 30 March 2008.

⁷ Figure as of 1 January 2010 provided by the Office of Citizenship and Migration Affairs of the Ministry of Interior.

⁸ See the Final Report of the OSCE/ODIHR Limited Election Observation Mission on the 7 October 2006 parliamentary elections in Latvia, *op.cit.*; Recommendation 257 (2008) by the Congress of Local and Regional Authorities of the Council of Europe, available at www.coe.int/t/congress/files/themes/monitoring/fact-finding-missions/Latvia/default_en.asp; Edinburgh Declaration of the OSCE Parliamentary Assembly, July 2004, available at www.oscepa.org/images/stories/documents/declarations/2004_-_edinburgh_declaration_-_english.2314.pdf; Venice Commission of the Council of Europe Report on Non-Citizens and

However, most OSCE/ODIHR NAM interlocutors spoke in favour of maintaining the limitation emphasizing that citizenship can be attained by all those interested through a ‘naturalization’ procedure that they argue is uncomplicated and reasonable. Authorities opined that the relaxation of current restrictions would mean there would be fewer incentives for the affected individuals to apply for citizenship. According to the Office of Migration and Citizenship Affairs, in 2009 the ‘naturalization’ rate dropped considerably compared to previous years and only 2,080 ‘non-citizens’ have acquired citizenship.

Opponents of this position argue that tests forming part of the ‘naturalization’ procedure are overly demanding, in particular for the elderly, or expressed disagreement in principle with the existing differentiation.

3. Election Observation

The *Saeima* Election Law permits representatives of political parties, media and persons authorized by election commissions to act as observers. Individuals observing on behalf of political parties only need to be nominated by the respective party and do not require accreditation. Political parties whom the OSCE/ODIHR NAM met intended to field their party supporters to ensure a degree of oversight of polling station commissions’ work. As noted by the OSCE/ODIHR during previous elections, the legislation does not contain any detailed provisions on accreditation procedures and rights of international and domestic observers from civic organizations. While some civil society organizations plan to carry out election-related projects, especially with regards to campaign financing, they do not anticipate election observation.

C. ELECTORAL SYSTEM

Members of the parliament are elected for a four-year term under a proportional representation system with a five per cent national threshold in five multi-member constituencies with preferential voting. The CEC determines the number of seats allocated to constituencies four months before an election that is proportionate to the number of eligible voters in each constituency based on data from the population register.

Unlike during municipal and European Parliament elections, voter lists are not used during parliamentary elections and voters are permitted to cast ballots on election day at any polling station upon presentation of a valid Latvian passport. The OSCE/ODIHR NAM was informed that although there have been some discussions on the introduction of voter lists for parliamentary elections there is no political consensus on the matter. Many OSCE/ODIHR interlocutors believe the introduction of voter lists might negatively affect voter turnout. According to the CEC, there are 1,532,851 voters in Latvia and 41,116 voters abroad.

On election day, voters receive one ballot for each party or alliance contesting the elections and one security envelope. While making their choice for a party or coalition, voter can express a preference for certain candidates on the list. They may place a “+” next to candidates’ names if they wish those candidates to be moved up the list, or to

strike out candidates' names to remove them from the list. As a safeguard against multiple voting, voters' passports are stamped after a voter has been issued ballots.

Voters abroad may cast ballots both in person at polling stations established in diplomatic and consular representations or Latvian cultural centres, or by post. Applications for postal ballots can be submitted as early as four months before an election. According to the CEC, only 7,530 voters abroad voted by mail during the 2006 elections. The CEC opined that postal voting is not widely used, possibly due to the reluctance of voters to send their passports together with ballots in order for passports to be stamped as envisaged by the law.

D. ELECTION ADMINISTRATION

Elections will be administered by a three-tier structure, comprising the Central Election Commission (CEC), 118 Municipal Election Commissions (MECs)⁹ and 948 Polling Station Commissions (PSCs). In addition, 64 polling stations will administer the electoral process abroad.

The CEC has nine members; eight are appointed by the parliament on the basis of nominations from parliamentary parties, and one is nominated by the Supreme Court. An overwhelming majority of the OSCE/ODIHR NAM interlocutors had full confidence that the CEC would administer the elections in a professional, transparent and neutral manner.

MECs are appointed by municipal councils for four years. They are generally only operational during an election period. MECs appoint PSC members ahead of each election. The composition of PSCs abroad is suggested by the responsible diplomatic representations. Decisions and actions of election commissions can be challenged through an administrative procedure in courts.

The legislation grants an opportunity to political parties, alliances and groups of voters to propose members of MECs and PSCs. However, many political parties whom the OSCE/ODIHR NAM met did not see a benefit in nominating their representatives to election commissions, evidently due to overall confidence in their work. One political party informed the OSCE/ODIHR NAM that it put forward some candidacies for commission members, but nominations were on occasion rejected by municipal councils, reportedly due to high numbers of applications.

The CEC informed the OSCE/ODIHR NAM that it is providing training to the leadership of MECs, which are to deliver training to PSC members. In May 2010, the CEC held a special training for the representatives of Latvia's diplomatic and consular missions on the administration of the vote abroad. With reference to the Language Law, the CEC stated it would be unable to produce voter information materials in any other language but Latvian. The OSCE/ODIHR has previously recommended that relevant legal

⁹ Following the territorial-administrative reform completed in 2009, there are 9 cities and 109 parishes in Latvia. MECs were established in each of these 118 localities. MECs replaced and united two former intermediate levels of election administration – Regional Election Commissions and Local Election Commissions.

provisions be revisited to enable sizeable linguistic minority communities in Latvia to receive information in their preferred language.¹⁰

E. CANDIDATE REGISTRATION

The candidate registration process started on 14 July. Political parties and alliances wishing to contest the elections are required to submit nomination documents and candidate lists to the CEC until 3 August. Political parties informed the OSCE/ODIHR NAM that while women and national minorities are included in their candidate lists, no special efforts are made to ensure their representation.

The CEC forwards the candidate lists to different institutions for verification of the eligibility of candidates. The Ministry of Interior checks eligibility with regard to incapacity and pending criminal record and the Centre for the Documentation of Consequences of Totalitarianism with regard to 'lustration' provisions. Once registered, candidates are prohibited from withdrawing from elections. They can, however, refuse to take up the mandate if elected.

F. CAMPAIGN AND CAMPAIGN FINANCE

The duration of the official campaign period for parliamentary elections is 120 days before election day. Election contestants are allowed to start campaigning at any point ahead of the formal beginning of the campaign. The legislation does not provide for a campaign silence period, with the exception of a prohibition to report on results of opinion polls on election day and the day preceding it. According to OSCE/ODIHR NAM interlocutors, many parties and alliances have long started preparing and positioning themselves for the upcoming elections and the campaign is expected to intensify closer to election day.

Political parties and alliances that the OSCE/ODIHR NAM met plan to use free airtime provided by public television and radio (see Section G for details). Many of them also informed the OSCE/ODIHR NAM that they plan to invest mostly in paid advertising in electronic media as this is deemed to be the most effective way of campaigning. Less affluent political parties prepare for grassroots campaigns in constituencies and place greater emphasis on personal contact with the electorate. Issues related to employment, taxes, social welfare and improvement of the economic situation are expected to be the focus of the campaign. Most political parties appeared confident that they would be able to compete with each other on equitable terms. Some concerns were expressed, however, that certain parties have far greater financial means than others and enjoy the support of influential businessmen.

The comprehensive regulatory framework for political party and campaign financing provides for transparency and accountability. Registered political parties are obliged to submit detailed income and expenditure reports annually. Parties and alliances contesting elections are also required to submit complete campaign income and expenditure reports after an election. No campaign finance reporting is required before or during an election.

¹⁰ *Op.cit.*, Final Report of the OSCE/ODIHR Limited Election Observation Mission on the 7 October 2006 parliamentary elections, p. 20.

Parties are mostly financed through donations; however, recently adopted amendments foresee state funding of eligible political parties starting from 2012. The legislation stipulates that only natural persons can make donations to political parties. Foreign and anonymous funding is prohibited. Following recent amendments, the limit for individual contributions was increased to 18,000 Latvian lats (approximately 25,330 Euro) per donor per year. Amendments also introduced a definition and set a limit on ‘third party’¹¹ contributions to 2,700 Latvian lats (approximately 3,808 Euro) per donor per year. Introduction of provisions on ‘third party’ financing was welcomed by most OSCE/ODIHR NAM interlocutors. The lack of regulation on the matter had proved problematic during the 2006 parliamentary elections. However, some party representatives opined that regulations needed to be further tightened.

Changes were also introduced to the campaign spending limit and categories of expenditures that fall under it. The ceiling was raised to 571,000 Latvian lats (approximately 803,605 Euro) per party or alliance, nearly double the previous limit. At the same time, several types of expenditures were excluded from the campaign spending limit, including costs related to rental of premises, hiring of staff and printing of campaign materials. Interlocutors explained that this liberalization of campaign finance regulations resulted from attempts of legislators to strike a balance between setting a high enough expenditure ceiling, which parties would not try to circumvent, and keeping it accessible in order to ensure equal opportunities. Political parties whom the OSCE/ODIHR NAM met were overall satisfied with the campaign finance regulations.

The Corruption Prevention and Combating Bureau (KNAB) is responsible for overseeing party and campaign financing. It carries out an in-depth review of all submitted reports within a period of six months. All reports are made public on KNAB’s website. As part of the review process, KNAB has the authority to request additional information, and in cases of violations, to forward cases to courts to decide on possible sanctions, such as fines or return of funds to the state budget. KNAB’s authority was recently enhanced by granting its Director the right to stop an electoral campaign if KNAB is in possession of strong evidence of serious violations pertaining to campaign finance. Two cases initiated by KNAB after the 2006 elections involving two parties that plan to stand in the 2010 elections are still awaiting judicial review.

G. MEDIA

The conduct of media during the electoral period is regulated by the Law on Pre-Election Campaign, which obliges both public and private media to ensure neutrality, diversity, objectivity and balance in reporting. The National Radio and Television Council is the body responsible for the monitoring of electronic media and has authority to impose sanctions in case of non-compliance with the law.

The law obliges Latvian public radio and television to provide each party and coalition contesting the elections with a total of 40 minutes of free airtime during the campaign: 20 minutes each on public radio and television. Political parties and coalitions as well as individual candidates on a political party or coalition list are also entitled to place paid

¹¹ The term relates to a private individual, a legal entity or an association that is not related to a political party or an alliance standing in elections, but that carries out pre-election campaign on its behalf.

advertisements both with public and private broadcasters. Electronic as well as print media are obliged to publicize and to inform KNAB of their advertising rates and to provide all parties with equal conditions for placing such advertisements. All paid materials must be clearly identified as such and include information on whom it was paid by. Apart from free and paid advertising, both electronic and print media are planning to cover the electoral campaign through a variety of programmes and series of thematic articles. Public radio and television intend to organize debates and discussions among parties and alliances throughout the campaign, including debates among candidates for the post of prime minister closer to election day.

The media environment in Latvia was assessed by OSCE/ODIHR NAM interlocutors as providing the public with diverse information and a plurality of viewpoints. However, most OSCE/ODIHR NAM interlocutors expressed concerns with the lack of transparency in media ownership and with reported affiliations of some leading commercial broadcasters and newspapers with influential businessmen and politicians. While it was acknowledged that the reporting by those media outlets is not evidently biased, such affiliations are regarded as highly problematic from the perspective of neutrality and independence of media. In this context, most OSCE/ODIHR NAM interlocutors strongly favoured a comprehensive and independent media monitoring during the upcoming elections.

IV. CONCLUSION AND RECOMMENDATION

While the majority of OSCE/ODIHR NAM interlocutors expressed confidence in the integrity and overall fairness of the electoral process, most of them felt that the presence of international observers would be beneficial, particularly with regards to providing comprehensive and independent media monitoring. In this context and in light of the findings included in this report, the OSCE/ODIHR recommends the deployment of a Limited Election Observation Mission (LEOM) with a core team based in Riga and six long-term observers seconded by the OSCE participating States deployed to the regions. Given the overall confidence expressed in election day proceedings by political parties and civil society, systematic observation of electoral proceedings by short-term observers is not deemed necessary.

As part of the observation, the OSCE/ODIHR LEOM will conduct a comprehensive monitoring of the media. It will also review the recent legal amendments, including those pertaining to campaign finance, and will assess their impact on the elections.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs

Zanda Grauze, Director of Consular Department
Inese Freimane-Deksne, Head of Human Rights Division, Acting Director of Department for International Organizations and Human Rights
Nora Labanovska, Head of Consular Assistance Division
Ingmārs Bisenieks, Counsellor, International Organizations Division

Central Election Commission

Arnis Cimdars, Chairperson of the Commission
Kristīne Bērziņa, Assistant to the Chairperson, PR Manager

Office of Citizenship and Migration Affairs

Uldis Apsītis, Acting Head of Population Register Department

Corruption Prevention and Combating Bureau

Alvis Vilks, Deputy Director on Corruption Prevention Matters
Inga Soloveja, Head of Division of Control of Political Parties' Financing

Centre for Harmony

Valērijs Agešins, Deputy Chairperson
Andrejs Klementjevs, Member of Parliament

For the Good Latvia

Mārtiņš Zemītis, Member of the Board

Greens and Farmers' Union

Raimonds Vējonis, Minister for Environment

Unity

Ģirts Valdis Kristovskis, Chairperson
Ina Druviete, Representative
Karīna Jermušs, Communications Consultant

National Council of Radio and Television

Dace Buceniece, Vice-Chairperson
Sergejs Kārītis, Member

Latvian Television

Edgars Kots, General Director
Baiba Šmite, Director of LTV1
Ija Circene-Grosa, Director of LTV7

Latvian Radio

Ilona Madesova, Director
Aidis Tomsons, Director of Programme "Krustpunktā"

Newspaper "Diena"

Guntis Bojārs, Editor-in-chief

Electoral Reform Society

Valdis Liepiņš, Chairperson of the Board

Centre for public policy PROVIDUS

Iveta Kažoka, Researcher

Latvian Centre for Human Rights

Ilze Brands Kehris, Head of Latvian Centre for Human Rights

Embassy of the Russian Federation

Andrey Skachkov, Chargé d'Affaires

Yury Nikiforov, Counsellor