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I. INTRODUCTION

On 22 January 2009, the Permanent Mission of the Republic of Lithuania to the OSCE invited the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the presidential election scheduled for 17 May 2009. The OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Vilnius from 6 to 9 April 2009. The OSCE/ODIHR NAM was composed of Ms. Lusine Badalyan and Mr. Gilles Saphy, both Election Advisers in the OSCE/ODIHR Election Department.

The purpose of the OSCE/ODIHR NAM was to assess the pre-electoral environment and the preparations for the presidential election, and to advise on a possible election observation activity. The OSCE/ODIHR NAM met with the Ministry of Foreign Affairs, the Constitutional Court, the Supreme Administrative Court, the Central Election Commission, the Radio and Television Commission of Lithuania, representatives of presidential candidates’ campaigns and media representatives. A full list of meetings is included as an annex to this report.

The OSCE/ODIHR is grateful to the Ministry of Foreign Affairs of the Republic of Lithuania for its assistance and cooperation in organizing the NAM.

II. EXECUTIVE SUMMARY

Following an 18 December 2008 Resolution of the Lithuanian Seimas, the unicameral parliament, Lithuanian voters are due to elect the President of the Republic of Lithuania for a five-year term on 17 May 2009, with a possible second round of voting on 7 June.

The election legislation appears to provide a thorough foundation for the conduct of elections in line with OSCE Commitments and international standards for democratic elections, and includes a detailed framework for campaign finance and activities. However, it does not explicitly provide for election observation by either non-partisan or international observers, and is therefore not fully in line with the 1990 OSCE Copenhagen Document.

The election will be administered by the Central Election Commission (CEC), 60 Municipal Election Commissions (MECs) and about 2,030 Polling District Commissions (PDCs). The CEC has extensive responsibilities and powers, as well as a wide supervisory role and enforcement capacity. The OSCE/ODIHR interlocutors expressed full confidence in the CEC. The voter lists are compiled by the CEC based on the data from population registers.

A number of voting options provided by the legislation include early voting at municipal buildings, out-of-country voting, and postal voting for those who are in prisons, hospitals and military service.

The Lithuanian authorities point out that Article 40.1 of the Law on the presidential election, which provides for the issuance of observer certificates by the CEC “upon request of the persons representing international institutions”, can serve as a basis for international observation.
The CEC has registered seven candidates for the presidential election, and will officially announce the list of candidates by 17 April, hence launching the official campaign. Most interlocutors did not expect a lively campaign, due to opinion poll data indicating an overwhelming lead of one candidate, and due to limited financial means. The election is taking place against the backdrop of an economy affected by the global financial crisis.

Lithuania’s media environment is pluralistic and diverse, although some expressed concern regarding print media ethics. The campaign in the media is thoroughly regulated, including rules prohibiting political advertisement on national broadcasters, which according to some interlocutors decreases possibilities for a lively campaign.

The electoral administration, in particular the Central Election Commission, appears to enjoy broad confidence across the political spectrum, and given this fact, almost all interlocutors questioned the value added of an OSCE/ODIHR election-related activity for the presidential election. In this context, and taking into consideration the human and financial resources already obligated to other OSCE/ODIHR election activities in the given timeframe, the OSCE/ODIHR does not recommend any election-related activity in connection with the 2009 presidential election in Lithuania.

III. FINDINGS

A. BACKGROUND


The Constitution of Lithuania provides for a system of government which combines parliamentary features, such as the Government’s responsibility to Parliament, with some specific powers vested in the office of a directly elected President, in particular in foreign policy arena.

The political landscape is pluralistic, and characterised by regular shifts between coalitions representing centre right – conservative platforms and left to centre platforms. The last parliamentary elections, in October 2008, witnessed a victory of the conservative Homeland Union – Christian Democrats list. Voter turnout was a little over 48 per cent. The elections brought an end to a minority centre-left government led since July 2006 by Social Democratic...
Party head Gediminas Kirkilas. The Homeland Union – Christian Democrats formed a government with the Liberal Movement and the Liberal Centre Union, two centrist parties, as well as the National Resurrection Party, a political entity founded several months earlier by a television celebrity Mr. Arunas Valinskas. On 27 November 2008, Homeland Union – Christian Democrats leader Mr. Andrius Kubilius became Prime Minister. His administration is the fifteenth since Lithuania regained independence.

Outgoing President Valdas Adamkus was first elected in 1998, and then lost the 2003 election to Mr. Rolandas Paksas, who was impeached by the Parliament in April 2004. Mr. Adamkus was then re-elected as President in June 2004.

The presidential election is taking place against the backdrop of an economy affected by the global financial crisis. In January 2009, demonstrations against a government package of anti-crisis measures degenerated into riots in Vilnius when some protesters attempted to enter the Seimas building.

B. LEGISLATIVE FRAMEWORK


According to the Constitution, the President of the Republic is elected for a five-year term. All citizens of the Republic of Lithuania, who on the day of the election are 18 years old or over, have the right to vote for the President of the Republic. Article 81 of the Constitution sets forth the principles of the election system. A candidate can be elected during the first round of voting in two circumstances: (1) if more than half of the registered voters participated in the election, the candidate who obtained more than half of the votes of the voters who participated is elected, or (2) if less than half of the voters participated in the election, the candidate who received the greatest number of votes, but not less than one-third of votes of all registered voters is elected. If no candidate is elected during the first round, a run-off is held between the two candidates who received the highest number of votes. The candidate who receives the highest number of votes is then elected.

Any citizen of the Republic of Lithuania by origin, over the age of 40, who has lived in Lithuania for at least the last three years, and who is eligible to be elected a member of the unicameral Parliament, the Seimas, may be elected the President of the Republic (Article 78 of the Constitution). Article 56 of the Constitution limits the right to be elected as a member of the Seimas to “any citizen of the Republic of Lithuania who is not bound by an oath or allegiance to a foreign state, and who, on the election day, is 25 years of age and has permanently been residing in Lithuania”. Lithuania does not allow dual citizenship, although Lithuanian citizenship can be exceptionally granted to a foreign national by the President of the Republic.

In addition, Article 2 of the Presidential Election Law (PEL) provides that “a person who has grossly violated the Constitution or broken the oath and who has been removed from office or his mandate of Seimas member has been revoked by the Seimas in accordance with
impeachment proceedings, may not be elected President of the Republic.” This last requirement was added following the above-mentioned impeachment in 2004 of Mr. Rolandas Paksas.

Finally, Article 2 of the PEL provides that “the same individual may be eligible to the office of the President of the Republic for not more than two terms”, a more restrictive formulation than the Constitution (Article 78), which provides that the same person may not be elected President “for more than two consecutive terms.” The Constitutional Court confirmed to the OSCE/ODIHR NAM that the restriction applies to “two consecutive terms”, and would have theoretically allowed outgoing President Adamkus to run for a new term.

The PEL establishes a detailed procedure regarding the obligation for candidates to provide “information about [their possible] relations with foreign services”. Article 3 of the PEL provides that before he/she is registered as a candidate, a nominated individual must “furnish the Central Electoral Commission with information about his work with the NKVD, NKGB, MGB, KGB of the USSR or other Soviet republics as well as with other corresponding services (structures) of other foreign states, studying at schools of said services (structures) or about collaboration with said services (structures).” The information is given in the form of a questionnaire elaborated by the CEC. The questionnaire’s data is available to the public. In case a nominee does not provide the required information, or provides incorrect information, the CEC can refer the case to the Supreme Administrative Court of Lithuania.

Decisions of electoral commissions can be appealed by all parties which have nominated candidates and by candidates’ representatives to the electoral commission of the next level. Decisions of the CEC, with the exception of the decision to declare the final results of the election, may be appealed to the Supreme Administrative Court. According to Article 77 of the PEL, only the Constitutional Court, acting upon an appeal from the Seimas, can “investigate and evaluate the decision of the Central Electoral Commission or its refusal to investigate complaints concerning the violations of the Law in the cases when decisions have been adopted or other actions of the Central Electoral Commission have been performed after the closing of voting during the election of President of the Republic.” The Constitutional Court’s conclusion in this case is not a ruling. The Seimas must then adopt the final decision in view of the Constitutional Court conclusions. The OSCE/ODIHR NAM was informed that a debate exists on opening an individual right to petition to the Constitutional Court.

Amendments were made to the PEL in December 2008 and in February 2009. They mostly touched upon election commission membership requirements, procedures for the distribution of voter certificates, and provisions related to the concomitance of European Parliament elections and a possible second round of the presidential election.

The legal framework for campaign and party finance was strengthened in August 2004, when the 1997 Law on Funding and Control of Political Campaigns and the 1999 Law on Funding Political Parties and Political Organisations was merged into a new Law on Funding of Political Parties and Political Campaigns and Control of Funding (hereafter law on campaign finance). The law was adopted following the impeachment of former President Rolandas Paksas.

The law establishes a fairly comprehensive and regulated framework for party and campaign funding, which foresees regular public funding for political parties that gained over three per cent of the votes in the last Seimas elections, in proportion to votes received. All financial operations related to candidates’ campaigns for the presidential election must be made on one
specifically designated bank account, where campaign funding is accumulated and from where campaign expenses are covered. Donations can be provided by physical persons and legal entities up to a maximum of LTL 39,000 (a little over EUR 11,000) per year for one contestant. All donations of legal entities and donations of physical persons over LTL 100 (approx. EUR 29) are published on the CEC website. The maximum amount of campaign expenses is determined by the CEC following a procedure established in the law on campaign finance. For the presidential election, the ceiling of expenses is LTL 4 million (approx. EUR 1.16 million). The State may reimburse up to 25 per cent of the campaign expenses.

Campaign finance is primarily controlled by the CEC and the State Tax Inspectorate. Contestants should provide an initial campaign funding report to the CEC ten days before election day, and a final one 25 days after final results are published. Reports are sent to the State Tax Inspectorate for examination. All reports and conclusions of examinations are publicly available on the CEC website.

C. ELECTION ADMINISTRATION

The presidential election is administered by a three-tier election administration headed by the CEC. The CEC is the only permanent body in the system of the election administration. The CEC combines professional and party representation: the Ministry of Justice and Lithuanian Bar Association appoint three members each, and the parties represented in the Seimas have also the right to appoint CEC members. Before the election, 60 MECs and about 2,030 PDCs are formed. The composition of the MECs also provides balanced representation of political parties and professional members, while the PDCs are formed by the political parties represented in the Seimas and municipal councils.

The CEC has extensive responsibilities and powers in the organization and conduct of the election. The CEC is responsible for all aspects related to the organization of the election process. It also has a wide supervisory role and possesses enforcement powers, among others, in the spheres of the campaign finance and media coverage of the campaign. The CEC has the right of legislative initiative. The interlocutors of the OSCE/ODIHR NAM expressed full confidence in the CEC’s professionalism and impartiality.

Voter lists are compiled based on the data from population registers. The CEC is responsible for compilation, checking and maintenance of voter lists. The voter register comprises of about 2.7 million voters. Municipality voter lists are compiled based on the voter register of Lithuania; both are in electronic format. In municipalities, voter lists are distributed by polling districts, with a maximum of 5,000 voters in each. Provisional voter lists are sent to the polling districts at least 26 days before the election day. Lists of voters residing abroad are also compiled and delivered to the diplomatic and consular representations of Lithuania by the CEC, on the basis of consular departments’ information on Lithuanian residents abroad. Together with provisional voter lists, the PDCs receive voter certificates that must be delivered to voters. The certificates contain basic information where the voter should vote. Besides serving an informative role, these are necessary for early, postal and homebound voting.

The PDCs and diplomatic representations should provide conditions for voters to check their data in voter lists. There is also the possibility to check the voter lists via phone and internet. Transfer of voters’ data from one list into another within one municipality is done by the

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3 50 polling districts will be opened outside Lithuania in diplomatic and consular representations.
MECs, and the CEC should be immediately informed about the change. The changes that affect different municipalities are executed only by the CEC. Final voter lists are approved no later than seven days before the election.

The Lithuanian legislation provides voters with a wide range of possibilities for exercising their suffrage, including early, postal and homebound voting, as well as out-of-country voting. The voters who on election day cannot come to their polling station can vote in advance. Early voting will be conducted in the premises of municipalities by MECs and will take place on 13-14 May 2009. The CEC informed the OSCE/ODIHR that though in 2004 postal voting was allowed for every voter, now it is allowed only for voters who are in healthcare institutions, prisons or detention centers and voters who are on military service. Postal voting will be conducted at especially designated post offices on 13-15 May 2009. Voting at home will take place on 15-16 May, 2009, and disabled voters, as well as voters over 70, have the right to request homebound voting. The CEC informed the OSCE/ODIHR that during the 2004 presidential election, some seven per cent of voters used early and postal voting. None of the OSCE/ODIHR NAM interlocutors expressed concerns regarding these voting modalities.

While a debate on introducing electronic voting took place several years ago, Lithuanian stakeholders have not until now opted for the implementation of new voting technologies in elections.

E. **Candidates Registration and Campaign**

Candidates could be nominated between 26 February and 13 March 2009. The legislation provides for individual nominations, as well as nominations by political parties. Each candidate should support its candidature by at least 20,000 signatures.

Initially fifteen persons submitted the relevant applications to the CEC. Fourteen nominations were accepted; one was rejected on the grounds that the person was not a Lithuanian by birth. Six nominated candidates failed to present the required 20,000 supporting signatures before the deadline of 2 April. The nominee of the National Resurrection Party, the Speaker of Parliament, A. Valinskas withdrew his application. After checking the signatures, the CEC registered all seven remaining candidates: D. Grybauskaitė, Č. Jezerskas, K. Prunskienė, V. Kundrotas, D. Grybauskaitė, J. Jankauskas, L. Graužinienė, candidate of the Labour Party, V. Mazuronis, of the Order and Justice Party, and V. Tomaševski, from the Electoral Action of Poles in Lithuania. The CEC should announce the list of the officially registered candidates not later than 17 April 2009.

According to most interlocutors of the OSCE/ODIHR NAM, during the weeks leading to the opening of candidates’ nominations, the public’s attention focussed on the question of a possible candidacy of Ms. Dalia Grybauskaitė, currently a member of the European Commission. Ms. Grybauskaitė announced her intention to run as candidate on 26 February. Although not nominated by a political party, she enjoys the support of the Homeland Union – Christian Democrats, who after internal debates, decided not to nominate a candidate of their
own. Opinion polls place Ms. Dalia Grybauskaitë as a frontrunner, with a significant lead ahead of the other contestants.

The law on campaign finance (Article 4) distinguishes three distinct campaign periods: the initial period runs from the day the presidential election is announced; the official election campaign period starts with the announcement of candidates by the CEC one month before election day and ends with a campaign silence period, 30 hours before voting; a final period, running from the day of the announcement of the final results, is considered for the purpose of settling campaign accounts.

While contestants’ obligations related to campaign funding, transparency and control, apply to the three periods, only the one-month long official campaign period sees a number of restrictions applied to campaign activities. This includes a prohibition on public posters outside specifically designated places, a prohibition of political advertising on national broadcast media, an obligation to mark political advertising in newspapers indicating the source of funding, as well as a rule that material potentially compromising to a candidate cannot be published later than three days before election day, so as to enable the candidate to respond. Except campaign material, such as flags or T-shirts, handouts to voters are strictly forbidden. The 2008 parliamentary elections were the first held under these rules.

Most interlocutors expressed satisfaction with the current campaign rules. Only one of the campaign headquarters complained that the rules were too stringent to allow a lively campaign to unfold. The OSCE/ODIHR NAM interlocutors generally expected the campaign to be low key, due in part to the current economic crisis, and in part to the apparent overwhelming support, as indicated in public opinion polling data, for the election’s frontrunner.

F. MEDIA

Lithuania has a diverse media environment with a wide variety of commercial and public broadcasters, print and electronic media at national, regional and local levels. There are some 30 commercial TV stations and one public broadcaster, part of National Radio and Television of Lithuania with two nation-wide channels LTV1 and LTV2. Other channels with national coverage are private broadcasters TV3, LNK and BTV. There are 49 radio broadcasters, and except for Lithuanian National Radio, all are commercial stations.5 There is a diversity of print media with two large national newspapers Lietuvos Rytas and Respublica. Use of the internet is growing in the country, and internet news portals are playing an increasing role in the media market.6

The legal framework regulating the activities of media during the electoral campaign includes the Law on Campaign Finance, the Law on Presidential Elections and the decisions of the CEC. The CEC is vested with an overarching supervisory role for the media during the campaign.

There are three main media regulatory bodies: the Radio and Television Commission of Lithuania (RTCL), the Commission of the Ethics of Journalists and Publishers, and the Office of the Inspector of Ethics of Lithuanian Journalists (Inspector). The RTCL regulates and

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5 Public radio with three stations, LR1, LR2 and LR3 and 10 commercial channels have nationwide coverage.
6 The leading Internet news portal in Lithuania is www.delfi.lt. There is also a tendency that main newspapers establish their Internet news portals, like www.lrytas.lt, and others.
monitors the activities of radio and television broadcasters and re-broadcasters. The Inspector’s office oversees that the media acts in accordance with a code of ethics elaborated among the actors of the media market, and based on its recommendations media can be fined. The RTCL informed the OSCE/ODIHR that de facto the Inspector’s office is responsible for the print and internet media.

There are nearly no restrictions during the campaign period for print media; the only condition is that the front page of the newspaper should not include political advertisements. According to the Law on Campaign Finance, media may disseminate political advertisements only at the rates and conditions equal for all participants of the political campaign; such rates and conditions must be presented to the Inspector’s office.

In 2008 new amendments were introduced in the Law on Campaign Finance, banning the use of political advertisements in the programs of national broadcasters during the official campaign period. According to the new rules, the CEC buys airtime on the commercial national TV and radio channels, which is then distributed among the candidates. For this election, LTL three million (about 880,000 EUR) is allocated to the CEC for those purposes. According to the CEC, about 23 per cent of that sum will be dedicated to airtime on radio stations, the rest will be allocated to the TV channels based on viewership levels. The Lithuanian National Radio and Television should provide airtime for candidates free of charge. The candidates are free to choose the format of their airtime, between an interview, a debate or the presentation of the candidate. Political advertisements are allowed on the regional and local broadcasters. All TV and radio campaign related programs have to be marked so that the viewers know that it is a political advertisement, and the source of funding should be indicated.

During the official campaign period the RTCL monitors national broadcasters, and the CEC conducts the monitoring of the regional broadcasters. In case of violations of the rules, the CEC can impose sanctions.

Candidates’ campaigns met by the OSCE/ODIHR NAM, overall perceived positively the current rules on campaign coverage on the national broadcasters. While most of them seemed to consider them as a valid response to previous concerns, in particular in the aftermath of the 2003 presidential election won by Mr. Rolandas Paksas, some expressed concerns of possible persistent instances of hidden political advertisement. In addition, a few interlocutors mentioned that these rules may decrease the possibilities for a lively campaign. Several interlocutors of the OSCE/ODIHR NAM expressed dissatisfaction with what they considered as inadequate journalistic ethics amongst the print media.

G. **ELECTION OBSERVATION**

The Law on Presidential Election provides for the presence of political party observers in polling districts on election day. The OSCE/ODIHR was informed that this right is widely exercised by parties, and according to all interlocutors contributes to public confidence in the election process. However, the law does not provide an explicit framework for international observers or domestic observers who are not nominated by political parties. While the OSCE/ODIHR NAM understands that this would not constitute an obstacle to a possible OSCE/ODIHR observation activity in Lithuania, it is still not fully in line with Paragraph 8 of the OSCE Copenhagen document.

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7 Official campaign starts from 17 April and will stop on 16 May, 2009.
IV. CONCLUSION

The electoral administration, in particular the Central Election Commission, appears to enjoy broad confidence across the political spectrum, and no immediate issues of outstanding concern were brought to the attention of the OSCE/ODIHR NAM. Given this fact, almost all interlocutors questioned the value added of an OSCE/ODIHR election-related activity for the presidential election. In this context, and taking into consideration the human and financial resources already obligated to other OSCE/ODIHR election activities in the given timeframe, the OSCE/ODIHR does not recommend any election-related activity in connection with the 2009 presidential election in Lithuania.
ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs of the Republic of Lithuania
- Ms. Dalia Kraulitė, Director, Global Policy Department
- Mr. Julius Rakitskis, Head of the Human Rights Division, Global Policy Department
- Ms. Lina Rukštelienė, Councillor, Transatlantic Cooperation and Security Policy Department

Media
- Newspaper “Vilniaus diena”, Mr. Evaldas Labanauskas, Deputy Editor
- Newspaper “Lietuvos Rytas”, Mr. Marius Laurinavičius, Deputy Editor-in-Chief
- Web News Portal “Delfi”, Ms. Monika Garbačiauskaitė, Editor
- Lithuanian National Public Broadcaster “State Radio and Television”, Mr. Audrius Matonis, Head of News Programs
- Radio and Television Commission of Lithuania, Mr. Nerijus Maliukevičius, Executive Director, and Mr. Viktoras Popandopula, Lawyer

Judicial Bodies
- Constitutional Court of the Republic of Lithuania, Justice Dr. Toma Birmontienė
- Supreme Administrative Court of Lithuania, Mr. Ričardas Piličiauskas, Vice-President and Ms. Audrone Gedminaite, Consultant of the Unit on Judicial Practice

Central Election Commission
- Mr. Zenonas Vaigauskas, Chairman of the Commission
- Mr. Pavelas Kujalis, Deputy-Chairman of the Commission
- Ms. Lina Petronienė, Head of the Devison for Political Party and Campaign Funding Control

Candidates’ campaigns
- Mr. Valentinus Mazuronis, candidate for the Order and Justice Party, and Mr. Vytautas Kamblevičius, Head of campaign headquarters
- Mr. Viktoras Uspaskich, Campaign headquarters of Mrs. Loreta Graužinienė, Labour Party
- Mr. Vitas Vasiliauskas and Ms. Jovita Pranevičiūtė, campaign headquarters of Ms. Dalia Grybauskaitė
- Mr. Juozas Olekas Campaign headquarters of Mr. Algirdas Butkevičius, Social Democratic Party of Lithuania

8 The OSCE/ODIHR requested meetings with campaign headquarters of all candidates supported by a group in Parliament, as well as with the Civil Society Institute and the Institute for Democratic Politics.