



Office for Democratic Institutions and Human Rights

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND**

**GENERAL ELECTION
6 May 2010**

OSCE/ODIHR Election Assessment Mission Report



Warsaw
9 July 2010

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY	1
II.	INTRODUCTION AND ACKNOWLEDGEMENTS	2
III.	BACKGROUND AND POLITICAL CONTEXT.....	3
IV.	LEGAL FRAMEWORK.....	4
A.	OVERVIEW.....	4
B.	ELECTORAL SYSTEM.....	5
C.	FRANCHISE	6
V.	ELECTION ADMINISTRATION	7
A.	RETURNING OFFICERS	7
B.	THE UK ELECTORAL COMMISSION	9
VI.	VOTER REGISTRATION	10
VII.	METHODS OF VOTING	12
A.	PROXY VOTING	12
B.	POSTAL VOTING	12
VIII.	ADDRESSING ELECTORAL MALPRACTICE	13
IX.	POLITICAL PARTY AND CANDIDATE REGISTRATION.....	14
X.	ELECTION CAMPAIGN AND POLITICAL PARTY FINANCING	15
A.	ELECTORAL CAMPAIGN.....	15
B.	POLITICAL PARTY AND CAMPAIGN FINANCING	15
XI.	THE MEDIA	16
A.	MEDIA LANDSCAPE AND THE LEGISLATIVE FRAMEWORK	16
B.	THE DEBATES.....	18
XII.	PARTICIPATION OF WOMEN	18
XIII.	COMPLAINTS AND APPEALS	19
XIV.	ELECTION OBSERVATION.....	19
XV.	VOTING AND COUNTING.....	20
	ANNEX: RESULTS OF THE 6 MAY 2010 ELECTIONS*	23
	ABOUT THE OSCE/ODIHR	24

**UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
GENERAL ELECTION
6 May 2010**

OSCE/ODIHR Election Assessment Mission Report

I. EXECUTIVE SUMMARY

The Delegation of the United Kingdom (UK) to the OSCE invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the 6 May 2010 general election in line with OSCE commitments. Based on the recommendation of a Needs Assessment Mission,¹ the OSCE/ODIHR deployed an Election Assessment Mission (EAM) for this election but did not assess the conduct of local elections held simultaneously in a number of constituencies.

The 6 May 2010 general election was administered in a transparent and professional manner and demonstrated an open, pluralistic and highly competitive process. Contestants enjoyed equitable campaign conditions.

The legal framework for elections comprises a wide range of laws and secondary legislation. The need for its review and consolidation is widely recognized. In certain aspects, the legal framework varies between the constituent nations of the UK, with substantial differences in Northern Ireland. Some changes have been introduced to the legal framework after the last OSCE/ODIHR EAM in 2005. Some address previous OSCE/ODIHR recommendations, including the introduction of provisions for election observation. In addition, changes were initiated to address shortcomings related to voter registration and postal voting; however, substantial changes in these areas are still needed.

With the exception of Northern Ireland, the conduct of the electoral process is highly decentralized and essentially run by independent Returning Officers in each constituency. Election officials discharged their duties with professionalism and impartiality despite a short timeframe and at times limited resources. However, since many aspects of the administration of elections are under-regulated in the legislation, there were significant variations in the conduct of elections and inconsistent procedures were applied by election officials across the UK.

In the conduct of elections, a strong emphasis is placed on enfranchisement and voter participation, as well as on trust in the conduct of the process. While the system functions overall well under these conditions, concerns are regularly expressed with regard to the lack of safeguards against possible fraud resultant from a weak system of voter registration and postal voting, compounded by the absence of a requirement to produce identification at any stage of the process. Interlocutors of the OSCE/ODIHR EAM concurred that urgent measures were necessary with regard to the above concerns in order to maintain the trust of the electorate and the integrity of the process.

¹ The OSCE/ODIHR NAM report is available at http://www.osce.org/documents/odihr-el/2010/02/43374_en.pdf.

Issues related to the conduct of elections remain a topic of lively discussion. The abundance of analysis and recommendations for improvements to the electoral process testifies to the transparency and robustness of the democratic process in the UK and provides solid options for improving electoral practices.

Candidates, both independent and on behalf of political parties, were able to register without impediments and campaigned freely in constituencies and nationwide, mostly through door-to-door canvassing and targeted mail to voters. Three televised debates among the leaders of the three main political parties were organized for the first time and were widely watched. Domestic issues were in the focus of the campaign against the backdrop of the economic downturn.

During the ‘regulated campaign’ period, limits on parties’ and candidates’ spending apply, with different ceilings for campaigning nationwide and in constituencies, and weekly financial reporting to the Electoral Commission (EC) is required. The EC continued a good practice of posting all financial reports submitted to it on its website for public review.

The media landscape is highly pluralistic and the campaign was covered extensively. Public service and commercial broadcasters are legally bound to ensure impartiality in political reporting. In contrast, the print sector is more partisan, with newspapers often declaring their support for a political party.

According to standard practice for EAMs, the OSCE/ODIHR did not conduct a comprehensive and systematic election-day observation. However, mission members visited some polling stations in London and Belfast. In these polling stations, voting procedures were correctly implemented and the secrecy of the vote was uniformly respected. On election night, there were extensive reports on instances of voters being turned away at the close of polls after having waited in line outside their polling station to cast their ballots. Although in line with applicable legislation, the EC chairperson promised a full review of this situation. The centralized counting of votes was conducted efficiently and transparently.

The coalition government formed following the 6 May election agreed on a programme of electoral reforms, which envisages *inter alia* the introduction of a fixed five-year parliamentary term, review of parliamentary constituency boundaries to achieve more equal representation of voters and the conduct of a referendum in 2011 on changing the electoral system.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

The Delegation of the United Kingdom (UK) to the OSCE invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the 6 May 2010 general election in line with OSCE commitments. Based on the recommendation of a Needs Assessment Mission undertaken in January 2010, the OSCE/ODIHR deployed an Election Assessment Mission (EAM) between 25 April and 8 May 2010. The OSCE/ODIHR EAM was headed by Mr. Jean-Pierre Kingsley and consisted of a team of 10 experts from 8 OSCE participating States. The OSCE/ODIHR did not assess the conduct of local elections held simultaneously in several constituencies.

The Mission met officials from the Foreign and Commonwealth Office, the Ministry of Justice, the Electoral Commission, the Boundary Commission for England, representatives of major political parties, media, election officials in London as well as in other parts of the UK, non-governmental organizations, professional bodies involved in the election process, and others. In addition to the experts based in London, the OSCE/ODIHR EAM deployed team members to Belfast, Cardiff, Edinburgh and Birmingham.

The OSCE/ODIHR expresses its appreciation to the Foreign and Commonwealth Office for its support and co-operation. The OSCE/ODIHR would also like to thank the Ministry of Justice, the Electoral Commission and other interlocutors for having taken the time to meet.

III. BACKGROUND AND POLITICAL CONTEXT

The UK is a constitutional monarchy comprising England, Wales, Scotland and Northern Ireland. The Monarch, Her Majesty Queen Elizabeth II, is the head of state. Executive power is exercised by the UK government and the devolved governments of Wales and Scotland, as well as the Executive of Northern Ireland. The government is headed by the prime minister, who is traditionally the leader of the party that gained the largest number of seats in the House of Commons in the last general election.

The bicameral parliament is the supreme legislative body and comprises the House of Lords (upper chamber) and the House of Commons (lower chamber). Members of the House of Lords are mostly appointed for life.² The 650 members of the House of Commons are elected by popular vote.

For decades, the UK political landscape has been characterized by the domination of the Conservative and Labour Parties, which have ruled with absolute majorities of seats most of the time. Ten political parties and one independent candidate were represented in the House of Commons elected in 2005, with Labour having held 356 seats, the Conservative Party – 198 seats, and the Liberal Democratic Party – 63 seats.³ In the run-up to the 2010 general election, predictions of a “hung” parliament⁴ and opinion polls suggesting an increase of votes for the Liberal-Democrats resulted in debates on the extent to which these changes would impact the fundamental features of the UK’s essentially two-party political system.

² The House of Lords currently has some 740 members. The majority of members are appointed for life by the Queen. Other members are hereditary peers, who were elected internally to retain membership on an exceptional basis following the prohibition introduced in 1999 for hereditary peers to sit and vote in the House of Lords. In addition, a limited number of Church of England archbishops and bishops sit in the House.

³ Apart from the three main parties, the following parties were represented in the House of Commons: the Democratic Unionist Party – 9, Scottish National Party (SNP) – 6, Sinn Féin – 5 (did not take up its seats), *Plaid Cymru* – 3, Social Democratic and Labour Party (SDLP) – 3, Ulster Unionist Party – 1, Respect – 1 and Health Concern – 1.

⁴ A parliament, in which no party holds an outright majority.

The OSCE/ODIHR deployed an EAM to the 2005 general election and concluded that the election enjoyed the confidence of candidates and voters and was administered in a professional manner, allowing for a fair and pluralistic campaign.⁵

IV. LEGAL FRAMEWORK

A. OVERVIEW

The main legislation governing the conduct of general elections is the Representation of People Act (RPA; adopted in 1983 and amended in 1985 and 2000), the Political Parties, Elections and Referendums Act (PPERA; 2000), the Electoral Administration Act (EAA; 2006), and the Political Parties and Elections Act 2009 (PPEA; 2009). There is also secondary legislation that governs elections including statutory instruments, regulations, orders and rules, in particular the Parliamentary Elections Rules (PER) appended to the RPA.⁶

The two most recent legislative acts, the EAA and the PPEA, were elaborated largely in an attempt to address some of the shortcomings that were identified in voter registration and postal voting procedures, as well as in reaction to allegations and confirmed cases of electoral fraud in previous elections. Many of the changes brought about by the EAA and the PPEA address prior recommendations of the OSCE/ODIHR and the Electoral Commission (EC). Nevertheless, many OSCE/ODIHR EAM interlocutors stressed the need for further regulation and inclusion of additional safeguards to prevent possible malpractices and to preserve the integrity of the elections.

Differences exist in the legal framework for the conduct of elections in the constituent nations of the UK, in particular in Northern Ireland. In England, Wales and Scotland the electoral process is conducted according to largely similar principles such as the independence of Returning Officers (ROs), household voter registration and absence of an identification requirement at any stage of the process. In Northern Ireland, elections are conducted according to different principles, which were brought about by the Electoral Fraud Act (EFA) of 2002, including an election administration centralized under a Chief Returning Officer, individual voter registration, and requirements of voter identification before voting. The EC has noted these positive changes in Northern Ireland, and has encouraged parliament to consider adoption of similar provisions to apply UK-wide.

The fragmented and complex legal framework is based on legislation dating back to 1695, with most key principles having first been established in 19th century legislation. Although there have been relatively frequent changes to the legislation, especially over the past ten years, no concerted effort has been made in recent years to review the entire legal framework for elections. Most OSCE/ODIHR EAM interlocutors stressed the need to conduct such a review in order to consolidate and simplify the legal framework.

⁵ Final Report of the OSCE/ODIHR Election Assessment Mission to the 2005 general election, www.osce.org/documents/odihr/2005/08/15921_en.pdf.

⁶ The Electoral Commission has noted that law applicable to elections can be found in no less than 36 separate pieces of legislation and 63 pieces of secondary legislation. Voting for Change: An Electoral Law Modernization Programme, June 2003, p. 29; available at www.electoralcommission.org.uk/document-summary?assetid=16055.

Another goal of such a review would be the modernization of the legal framework as many interlocutors felt that it was not suitable to conduct a 21st century election. The EC has been calling for such a review since 2003. The OSCE/ODIHR EAM for the 2005 general election also made such a recommendation.⁷

The legal framework for the elections should be consolidated, simplified and modernized through the conduct of a comprehensive review of all relevant legislation and legal acts. This would improve the transparency and accessibility of the electoral legislation.

Issues related to the conduct of elections remain a topic of lively discussion. The abundance of analysis and recommendations for improvements to the electoral process testifies to the transparency and robustness of the democratic process in the UK and provides sound options for improving electoral practices. The Queen in her 25 May 2010 annual speech announced a programme of electoral reforms, which is to be implemented by the coalition government formed after the 6 May election. The envisaged reforms include *inter alia* the introduction of a fixed five-year parliamentary term, review of parliamentary constituency boundaries to achieve more equal representation of voters and the conduct of a referendum in 2011 on the introduction of an alternative vote electoral system.

B. ELECTORAL SYSTEM

Members of the House of Commons are elected under the first-past-the-post system in single member constituencies. The House of Commons comprises 650 members, an increase of four seats compared to the last parliament as a result of an increase in the size of the electorate.⁸ The maximum duration of the legislature is five years.⁹ The prime minister can ask the Queen to exercise her prerogative power to dissolve parliament and to call a general election before the end of the five-year period at any time.¹⁰ The term of the outgoing parliament was due to expire on 10 May 2010.

The boundaries of parliamentary constituencies are delineated by the Boundary Commissions for England, Scotland, Wales and Northern Ireland. The commissions are required by law to carry out reviews every eight to 12 years and to re-draw boundaries to reflect the changes in the electorate. The Commissions must respect the borders of local administrative units as much as possible while maintaining the electoral quota.¹¹ The last review was carried out across the UK in 2007, which led to the alteration of some boundaries and the creation of four new constituencies. Based on the 1 December 2009 electoral register, the average number of voters per constituency for the 2010

⁷ *Op.cit.*, OSCE/ODIHR EAM Report on the UK General Election, 5 May 2005, p. 4.

⁸ In the 2010 election, parties and candidates competed for 533 seats in England, 59 in Scotland, 40 in Wales and 18 in Northern Ireland.

⁹ This is regulated by the Septennial Act 1715 as amended by the Parliament Act of 1911.

¹⁰ In practice, after the dissolution of the parliament a writ of election is issued for each constituency by the Clerk of the Crown in Chancery who is a senior civil servant heading the Crown Office. The Crown Office has custody of the Great Seal of the Realm and has certain administrative functions in connection with the courts and the judicial process, as well as functions relating to the preparation of royal documents. After the count, the writ is returned by a Returning Officer to the Clerk of the Crown with the name of the successful candidate.

¹¹ The electoral quota is the average number of voters in a constituency and is calculated by dividing the total number of voters by the number of constituencies in each nation of the UK.

election was approximately 70,000 voters for England, 66,000 for Scotland, 64,500 for Northern Ireland and 56,000 for Wales.¹² However, according to the EC, exceptional deviations from the average, which are justified by specific local conditions, remain in the new constituency plan.¹³ The Commissions strive to maintain a deviation of no more than ten per cent from the quota.

Consideration should be given to adhering more closely to the electoral quota for all constituencies across the United Kingdom, in line with electoral best practices concerning the equality of the vote.¹⁴

Consideration could also be given to basing the electoral quota on the size of the population, rather than on the number of voters as it is generally recognized that a member of parliament represents his/her entire constituency and not only the voters.

C. FRANCHISE

The right to vote and to stand in elections is granted to citizens of the UK, the Commonwealth¹⁵ and the Republic of Ireland who are at least 18 years of age on the day of the election and are on the register in an electoral constituency. UK citizens living abroad can register and vote by post or by proxy, provided they were registered to vote in UK at any time within the last 15 years. Restrictions to the right to vote and to stand apply, among others, to prisoners, people who have declared bankruptcy and persons found guilty of illegal or corrupt practices.

The European Court of Human Rights (ECtHR) ruled in 2005 that the blanket prohibition on voting by sentenced prisoners was disproportionate and incompatible with the right to participate in elections.¹⁶ The issue has been under review by the government, but no changes to the legislation have yet been adopted.¹⁷ The Ministry of Justice completed public consultations on the matter and has proposed that prisoners with a sentence of less than four years be allowed to vote. The prison population was 85,147 in May 2010.¹⁸

¹² The Boundary Commission for England explained the differences as having historical grounds. It intends to advocate for a uniform quota for all constituencies across the UK.

¹³ For example, the Isle of Wight constituency had 110,228 electors and the *Na h-Eileanan* (formerly Western Isles) constituency, 21,908 electors as of 1 December 2009.

¹⁴ See the 1990 OSCE Copenhagen Document, paragraph 7.3 and the Code of Good Practice in Electoral Matters, European Commission for Democracy through Law (Venice Commission), section 2.2, paragraphs 13-17.

¹⁵ Commonwealth citizens qualify to be registered as voters provided they do not require permission to remain in the UK or have such permission granted under the 1971 Immigration Act. Citizens of the Commonwealth and the Republic of Ireland may only vote in general elections if residing in the UK. The age to stand for elections was lowered from 21 to 18 by the EAA in 2006.

¹⁶ *Hirst v. United Kingdom*, no. 74025/01 (6 October 2005), available at www.echr.coe.int.

¹⁷ The Committee of Ministers of the Council of Europe, in its 3 December Interim Resolution, expressed serious concern with regard to the substantial delay in implementing the judgment of the ECHR and urged the government to adopt corresponding measures. See press release 932(2009) on the Interim Resolution M/ResDH(2009)160 at <https://wcd.coe.int/ViewDoc.jsp?id=1555725&Site=CM>.

¹⁸ Her Majesty's Prison Service; see www.hmprisonerservice.gov.uk/resourcecentre/publicationsdocuments/index.asp?cat=85.

The existing legislation on the suffrage rights of prisoners should be brought in line with the judgments of the ECtHR.

V. ELECTION ADMINISTRATION

A. RETURNING OFFICERS

The administration and organization of elections is mostly vested with local government authorities. At the national level, the Ministry of Justice is responsible for developing policy in relation to the electoral process, in particular by promulgating regulations relating to the administration of elections, and proposing changes to the legislation. It is also responsible for some aspects of election funding.

In Great Britain, the conduct of elections is decentralized and at the constituency level the process is essentially run by ROs¹⁹ appointed by local authorities.²⁰ ROs enjoy considerable independence in the performance of their duties and by law they are only accountable to the courts through the election petition process after elections.²¹ Election officials have purely administrative functions and do not oversee the campaign and the conduct of candidates.

The structure of election administration in Scotland is currently undergoing changes following a review of shortcomings identified during the May 2007 Scottish parliamentary and local government elections²² and a report by the EC on election administration in Scotland.²³ In its report, the EC recommended *inter alia* to establish an Electoral Management Board (EMB) to co-ordinate the work of all ROs. An interim EMB is now functioning and necessary legislative changes are anticipated to be made after the 2011 Scottish elections.

In Northern Ireland, the election process is conducted by the Electoral Office for Northern Ireland (EONI) comprising 18 Returning and Electoral Registration Officers supervised by the Chief Electoral Officer (CEO).

As elections can be called at any time resulting in a short official pre-electoral period, election officials informed the OSCE/ODIHR EAM that it was challenging to make all necessary arrangements in the time available. The EC has repeatedly called for an

¹⁹ The position of Returning Officer is largely ceremonial. The election process is mostly conducted by an Acting Returning Officer, who is often referred to as 'the Returning Officer'. Unless otherwise specified, any mention of a Returning Officer in this report with regard to the conduct of the process in Great Britain should be understood as referring to the Acting Returning Officer.

²⁰ In England and Wales, ROs' functions are discharged by Electoral Registration Officers (EROs), who are usually senior officials of a local authority appointed by the local council to handle voter registration as their primary responsibility. In Scotland, the two posts are separate.

²¹ Criminal liability also exists if the RO violates some provisions of the criminal code.

²² Independent review of the Scottish parliamentary and local government elections of 3 May 2007, available at www.electoralcommission.org.uk/document-summary?assetid=13223.

²³ Electoral Administration in Scotland by Electoral Commission, August 2008, available at: www.electoralcommission.org.uk/data/assets/pdf_file/0003/62184/EA-Report-Scotland-2008-08-20-CYMK-Final-web.pdf.

extension of the timetable for general elections to bring it in line with the local elections timetable of 25 days.²⁴

In view of technical challenges posed by the short timeframe for the conduct of general elections, consideration could be given to extending the length of the official pre-electoral period so as to facilitate the organization of the process. As general and local elections are often conducted simultaneously, it is also recommended that the timetables for these elections be harmonized.

As some legal provisions are rather generic and do not contain detailed requirements on the organization and conduct of elections, many aspects of the administration of elections are left to the discretion of ROs. Some OSCE/ODIHR EAM interlocutors expressed concern that this results in significant variations in the administration of elections and an inconsistent application of procedures across the UK.²⁵

In an effort to foster uniformity in the administration of elections and to develop an accountability mechanism for ROs, the EAA²⁶ tasked the EC to set standards and to assess the performance of election administrators.²⁷ In July 2008, the EC published standards for Electoral Registration Officers (EROs) and in March 2009 for ROs. It also developed an evaluation system to assess compliance with these standards. However, some OSCE/ODIHR EAM interlocutors opined that the effectiveness of the evaluation system is limited due to the fact that it relies entirely on ROs' and EROs' self-evaluation, and because it focuses on means allocated rather than on actual performance. In addition, the EC has no authority to take any action in case of non-compliance or underperformance.²⁸ In its Interim Report on the conduct of this general election, the EC concluded that the difficulties experienced in some constituencies on election day suggest that the standards and evaluation system in place might not be sufficient to ensure adequate performance.²⁹

Consideration should be given to developing more detailed procedures governing the conduct of the process by the ROs. In addition, consideration could be given to making ROs more clearly accountable to a centralized authority in order to ensure that procedures are applied consistently across the UK.

²⁴ See, for example, Voting for Change: An Electoral Law Modernization Programme, *op.cit.*, p.10.

²⁵ Returning Officers make decisions *inter alia* concerning the number and size of polling stations, the number of ballot boxes, staff and ballots required without having to follow any standard. See the Review of the Electoral Commission by the Committee on Standards in Public Life, Eleventh Report, January 2007, p. 4; available at www.public-standards.gov.uk/Library/OurWork/11thReport_FullReport.pdf.

²⁶ New sections 9A, 9B and 9C of the PPERA added by the EAA.

²⁷ These powers do not apply to Northern Ireland and to local elections in Scotland.

²⁸ The chairperson of the EC has called for such authority previously and suggested that "there should be powers to direct Returning Officers where necessary" after the conduct of this election was called into question in several constituencies. See www.electoralcommission.org.uk/news-and-media/news-releases/electoral-commission-media-centre/news-releases-corporate/electoral-commission-publishes-review-into-polling-station-queues.

²⁹ Interim Report by the EC, Review of problems at polling stations at close of poll on 6 May 2010, 20 May 2010, available at www.electoralcommission.org.uk/_data/assets/pdf_file/0010/99091/Interim-Report-Polling-Station-Queues-complete.pdf.

In England and Wales, expenses that ROs are entitled to recover from the government's budget in connection with elections were specified in the Parliamentary Elections (Returning Officers' Charges) Order 2010 issued on 15 March 2010.³⁰ Some interlocutors of the OSCE/ODIHR EAM suggested that planning for the conduct of elections would have benefitted from an earlier publication of the RO Charges Order and of financial guidelines by the Ministry of Justice.

B. THE ELECTORAL COMMISSION

The EC,³¹ established in 2000 as an independent public body reporting to the parliament, does not have a direct role in administering elections. Its responsibilities include registration of political parties, oversight of party and campaign finance, issuance of guidance and evaluation of the election administration, as well as the conduct of public awareness and voter participation campaigns.

In 2006, the Committee on Standards in Public Life, an independent advisory body to the government, conducted a review of the EC to assess its mandate, governance and accountability framework. While noting that the EC "has made a positive impact since its creation" and that "its advice and guidance on electoral issues has generally been welcomed by electoral administrators and some politicians", the Committee made a number of recommendations.³² It suggested that the mandate of the EC be streamlined to focus mainly on two core functions: regulating party and campaign funding, and regulating election administration in Great Britain. Some of the Committee's recommendations were included in the PPEA.

To assist the ROs in the preparation and conduct of elections, the EC publishes a wide range of guidance, manuals and support documentation, which are widely used. It also provides analytical reports on past elections or on particular aspects of the process. The EC has also been involved in developing training modules for election administrators. In practice, training sessions are held by non-governmental organizations such as the Association of Electoral Administrators and the Society of Local Authority Chief Executives and Senior Managers on the basis of training manuals produced by the EC.

In addition, since its creation, the EC has been very active in reviewing electoral practices and making recommendations for changes. In its August 2008 report on electoral administration in the United Kingdom, the EC mentions three particular areas of concern, including the confusing and fragmented legal framework, opaque and inconsistent funding arrangements, and inadequate accountability mechanisms. In order to address these issues, the EC has called for the establishment of Electoral Management Boards to improve co-ordination and suggested that their chairpersons be vested with statutory powers to direct ROs and EROs. It also proposed to review and rationalize electoral funding arrangements, and to consider introducing a co-ordinated electoral registration service across the UK.

³⁰ In Scotland and Northern Ireland, funding arrangements are the responsibility of the Scotland and Northern Ireland Office, respectively.

³¹ The EC has six members appointed by a Royal Warrant, after debate in the House of Commons upon an initial list of names submitted by the Commissioner for Public Appointments. The PPEA foresees the appointment of four additional permanent commissioners by parliamentary parties. It has approximately 160 staff in its offices in London, Edinburgh, Cardiff, Belfast, Exeter, York and Coventry.

³² *Op.cit.*, Review of the Electoral Commission by the Committee on Standards in Public Life, p.27.

VI. VOTER REGISTRATION

The responsibility for compiling the voters' lists lies with EROs,³³ who are also in charge of maintaining the registers of postal and proxy voters. As of 1 December 2009, the UK electorate was 45,420,808 (38,129,082 voters in England, 3,869,700 in Scotland, 2,261,269 in Wales and 1,160,757 in Northern Ireland).³⁴

In Great Britain, voter registration is primarily carried out in the form of an annual canvass, also referred to as the 'household system'. EROs send an electoral registration form to each address within the area and it is mandatory for the head of a household to return the form listing all eligible voters living in the household and their citizenship. The law requires EROs to take all steps to maintain the lists, including sending forms more than once, making house-to-house enquiry or checking submitted information against other locally held records.³⁵ However, the legislation does not explicitly oblige EROs to verify the information they receive. Citizens are obliged to submit their household forms each year, although EROs may carry forward the entry of non-responders for another year. Following the conclusion of the canvass, EROs are obliged to publish updated versions of voters' lists by 1 December of the canvass year.

The voter register is considered as being the most complete record of personal data in the UK and as such it is used for various purposes other than just elections. The legislation distinguishes between an 'edited' version of the register, from which voters can opt out and which is available for sale, and a 'full' version, access to which is limited to registered candidates and political parties, courts, the Office of National Statistics, government departments, as well as to credit reference agencies.³⁶

The household canvass system faces challenges when registering voters living in "houses in multiple occupation" (HMOs).³⁷ Some of the cases of fraudulent registrations and fraudulent use of postal voting in previous elections involved using addresses in HMOs. Recognizing the importance of the issue, the EC issued a number of recommendations to EROs in this respect, including a recommendation that submissions from HMOs should be checked against the data held in registers of local authorities responsible for the respective HMOs.³⁸

In addition to household registration, the legislation also provides for 'rolling registration', which allows voters to be entered in the lists at any point, up to eleven working days before an election. Some election administrators met by the

³³ In England and Wales, the local council appoints an officer of the council, usually the Chief Executive, as an ERO. In Scotland, the EROs' functions are generally performed by the official in charge of land and property valuation. In Northern Ireland, the CEO is the ERO for each constituency.

³⁴ Office for National Statistics, see www.statistics.gov.uk.

³⁵ Article 9A, RPA 1983.

³⁶ The register was available for sale without restrictions until this practice was found to be contrary to the UK Data Protection Act and the European Convention on Human Rights by a court in 2001. The law was changed as a result.

³⁷ Term used to refer to premises housing three or more people, with at least one of them not related to the others, with some facilities being shared and rent being paid.

³⁸ Managing Electoral Registration in Great Britain, Guidance for Electoral Returning Officers, 2008 – 2009, p. 25, www.electoralcommission.org.uk/data/assets/pdf_file/0006/42927/Full-ERO-FINAL_amended_March_2010_v2.pdf.

OSCE/ODIHR EAM team described the voter registration system as the weakest link of the electoral process due to the absence of safeguards against fictitious registrations. Many argued that the 'rolling registration' is the most open to abuse, in particular when applications are submitted shortly before an election, as this might leave insufficient time to EROs to verify new registrations.

Consideration should be given to reconsidering the time limit within which voters can apply for 'rolling registration' with a view to allowing the EROs sufficient time to conduct checks.

Neither persons applying for the 'rolling registration' nor those registering by means of the annual canvass are required to provide personal identification.

Consideration should be given to introducing an identification requirement for voters when applying for registration as a safeguard against fraudulent registration.

The EAA created a possibility to register to vote anonymously; this required justifying that the safety of a person or someone in their household would be endangered if their name and/or address were made public. In practice, in case of an anonymous registration only an elector's number appears on the voters' list. This procedure is rarely used and does not seem to raise concerns among stakeholders.

In March 2010, the EC published an assessment of voters' lists in Great Britain.³⁹ It noted a gradual long-term decline in completeness and growing variations in the accuracy of lists, with highest levels of under-registration prevalent in metropolitan areas among specific minorities and young people. The review also concluded that the 'rolling registration' procedure was insufficient to keep track of population movements, and considered that the 'carry forward' provisions introduced by the RPA in 2000 contributed to the rise in inaccurate entries. According to the report, the most common anomalies found were the duplication of names and the inclusion of an unusually high number of individuals in a household.

Since 2002, Northern Ireland has introduced a system whereby citizens register to vote individually and provide personal identifiers, such as signature, date of birth and national insurance number. The annual household registration system was gradually phased out and abolished in 2006.

A move towards individual electoral registration (IER) in Great Britain, along the same principles as in force in Northern Ireland, was introduced by the PPEA. As of July 2010, voters may start providing on a voluntary basis personal identifiers such as date of birth, signature and national insurance number when registering. The EC is due to issue an evaluation report by mid-2014 on the basis of which parliament will decide whether or not to make IER compulsory.

As the voters' list compilation process is not centralized, there is no possibility to check the registers for multiple entries across local authority boundaries. The government

³⁹ The completeness and accuracy of electoral registers in Great Britain, Electoral Commission, March 2010, available at www.electoralcommission.org.uk/_data/assets/pdf_file/0018/87111/The-completeness-and-accuracy-of-electoral-registers-in-Great-Britain.pdf.

continues to develop a Co-ordinated Online Record of Electors, provided for by the EAA, which is meant to allow for centralized data access and cross-checks. While the implementation of the project has been temporarily put on hold, according to the MoJ, significant progress has already been achieved in adopting consistent and compatible standards for keeping election registration data.

Consideration should be given to ensuring that all voter registration data UK-wide is kept in a consistent and compatible format, ideally using the same software. A UK-wide system allowing for co-ordination and verification of voter registration information would help identify and eliminate multiple entries.

Objections related to voter registration can be made at any time, both with regard to records already on a register and with regard to applications for registration. Objections can be made by voters registered in the same local authority area. Decisions of the ERO related to voter registration may be appealed to the county court in England, Wales and Northern Ireland, and to a court formed of three judges of the Court of Session in Scotland.⁴⁰

VII. METHODS OF VOTING

A. PROXY VOTING

The legal framework offers voters the possibility to vote by proxy. Proxy voting has been limited in scale and is only permitted on the basis of a justification. Applications for proxy voting need to be submitted at the latest six working days before election day. During the 2005 general election, some 99,000 voters used proxies, representing 0.22 per cent of the electorate.⁴¹ In case of an emergency medical condition and on the basis of a relevant medical certificate, an application for proxy voting can be made until 5 pm on election day. According to OSCE/ODIHR EAM interlocutors, the development of postal voting appears to have rendered the proxy voting option somewhat redundant.

B. POSTAL VOTING

Provisions for postal voting were relaxed in 2000 as a measure to counter falling voter turnout. The need for voters to provide an explanation for requesting a postal ballot was removed and postal voting 'on demand' was introduced.⁴² As a result, the percentage of voters casting their ballots by mail has noticeably increased. In the 2005 general election, some 12 per cent voted by mail, and in the 2009 elections to the European Parliament, the figure rose to 14 per cent.

Registered voters have the possibility to apply for a postal ballot for a particular election, for a specific period, or for an indefinite period. The deadline for applying to an ERO for a postal ballot is 11 working days before election day. Voters who have registered for a postal ballot receive a postal ballot pack, which includes a ballot paper, a postal voting statement (PVS), an explanatory note, a ballot paper envelope, and a

⁴⁰ Sections 56 to 58 of RPA.

⁴¹ The 2010 figures are not yet available on the EC website.

⁴² In Northern Ireland, the requirement to provide a justification, such as proof of illness, professional obligations or absence from the country in order to be able to vote by mail is still in force.

return envelope. Voters must mark their ballot, seal it in the ballot paper envelope to which the PVS is attached, and send this in the return envelope. Voters who have applied for a postal ballot are marked accordingly in the voters' lists and cannot be issued a ballot on election day; however, they may deliver their postal ballot envelope at their polling station until the closing of the poll.

The EAA has introduced a requirement for voters to provide two personal identifiers when applying for a postal ballot, namely their date of birth and their signature. The EC had initially recommended adding the national insurance number as a third identifier, but this recommendation was not followed as concerns were expressed at the time that this might affect voter participation. Upon receipt of postal ballots, election officials are obliged to check at least 20 per cent of personal identifiers against those included in applications. Most local authorities have adopted computerized solutions to verify the identifiers. A visual check is performed by a poll worker when identifiers are not recognized as identical by the software. Interlocutors in Scotland informed the OSCE/ODIHR EAM that some 30 per cent of postal ballots require visual re-verification. It is foreseen that poll workers will be trained in visual comparison of signatures by forensic experts.

While postal ballot 'on demand' has proved popular, the procedure has also raised concerns that, combined with the lack of an identification requirement for voter registration, it creates opportunities for fraud. The system does not provide sufficient guarantees against the registration of fictitious voters and/or subsequent application for a postal or a proxy vote in their name, as demonstrated by allegations and confirmed cases of malpractice in previous elections and pending investigations into possible fraud in this election.⁴³ Some interlocutors of the OSCE/ODIHR EAM expressed doubt about the efficacy of introduced personal identifiers, noting that the system cannot detect instances when the same fake identifiers are provided on a postal ballot application and on the statement accompanying postal ballots.

Additional safeguards should be introduced in order to restore the confidence in the postal voting procedure and to protect the integrity of the process. An example of good practice can be found in Northern Ireland.

VIII. ADDRESSING ELECTORAL MALPRACTICE

While according to the EC electoral fraud has been relatively rare⁴⁴ and mostly limited to local elections, reported cases of malpractice in previous elections have attracted considerable media attention and have the potential to undermine the confidence of the electorate in the process. Civil society organizations,⁴⁵ as well as international

⁴³ For a comprehensive overview of the issue, see Postal Voting & Electoral Fraud, House of Commons Library, January 2010, available at www.parliament.uk/documents/commons/lib/research/briefings/snpc-03667.pdf.

⁴⁴ See Electoral Commission, Guidance on Preventing and Detecting Electoral Malpractice, December 2009 available at www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0009/72558/062-Preventing-Malpractice-Final-23-March-WEB.pdf.

⁴⁵ See in particular the report: Purity of Elections in the UK – Causes for Concerns, Stuart Wilks-Heeg, the Joseph Rowntree Reform Trust, 2008, available at www.jrrt.org.uk/uploads/Purity%20of%20Elections%20in%20the%20UK.pdf.

organizations, including the OSCE/ODIHR and the Parliamentary Assembly of the Council of Europe,⁴⁶ have also reported on these issues, stressing the need to make the system more robust against abuses.

In an effort to counter fraud in future elections, in December 2009, the EC published guidance on preventing and detecting electoral malpractice, which was developed in cooperation with the Association of Chief Police Officers. ROs are suggested to liaise regularly with Single Point of Contact Officers in their corresponding police units as a measure of increasing awareness about electoral malpractice within the police and of fostering joint planning and co-ordination between election officials and the police. The EAA also strengthened the framework for offences and penalties as defined in the RPA of 1983. Offences related to applications for postal and proxy voting are now considered 'corrupt practice' and are punishable, as is 'personation'⁴⁷ by up to two years of imprisonment and/or a fine. However, many interlocutors expressed the view that most corrective measures introduced by the EAA do not address the causes of electoral malpractice, but rather its consequences.

IX. POLITICAL PARTY AND CANDIDATE REGISTRATION

The EC administers political party registration and maintains two registers of political parties, one for Great Britain and one for Northern Ireland. In order to be registered, a political party needs to submit a set of documents to the EC, and once registered, parties are obliged to comply with various reporting requirements.⁴⁸ The EC can refuse to register a name or description for a number of reasons.⁴⁹ To contest an election, a party must appear on the EC's register no later than two days before the close of nominations for that election. There were 449 political parties on the two registers for the 2010 election.

To become validly nominated, a candidate must submit before the deadline a deposit of 500 British pounds along with a full set of nomination forms. The nomination paper must be signed by a 'proposer', a 'seconder' and eight 'assentors', all of them registered voters in the constituency. The deposit is returned to candidates obtaining at least five per cent of the valid votes in the electoral constituency. Nomination forms must be submitted to the RO no later than 11 working days before the poll. A candidate can withdraw before the close of nominations, otherwise he/she will be included in the ballot paper.

In total, 215 political parties registered with the EC fielded candidates across the UK and some 4,150 party-supported and independent candidates were registered nationwide

⁴⁶ *Op. cit.*, Final Report of the OSCE/ODIHR Election Assessment Mission to the 2005 general election; PACE Monitoring Committee Opinion AS/Mon (2007) 38, Application to initiate a monitoring procedure to investigate electoral fraud in the United Kingdom, available at www.assembly.coe.int/CommitteeDocs/2008/electoral_fraud_UK_E.pdf.

⁴⁷ Term used for voting in place of another voter.

⁴⁸ To be registered, parties need to file an application form, copy of a party's statute, draft financial scheme and a non-refundable cheque of 150 British pounds. Once registered, parties are obliged to keep information in the register updated, report on donations and loans, provide annual financial statements and information on campaign expenditures.

⁴⁹ These include the possibility of confusing a name with an existing party or of causing offence.

in an inclusive and unhindered process. A record number of 149 members of the outgoing parliament⁵⁰ chose not to seek re-election.

X. ELECTION CAMPAIGN AND POLITICAL PARTY FINANCING

A. ELECTORAL CAMPAIGN

The formal campaign period lasts only 17 working days.⁵¹ Political parties and candidates campaigned freely in their respective constituencies and nationwide. Smaller parties focused mainly on the constituencies where they had strong local support. In the campaign, domestic issues dominated over foreign policy, with the economic crisis and its possible impact on key public services being at the fore. Questions related to immigration were also topical, while European issues and the UK's foreign policy were at the margins of campaign discussions. Regional parties, such as *Plaid Cymru* or the Scottish National Party, focused on regional issues. Campaign methods consisted mainly of door-to-door canvassing and targeted mail. Internet and social media have proven to be increasingly significant as a mean of outreach for parties and candidates to younger voters.

B. POLITICAL PARTY AND CAMPAIGN FINANCING

The election legislation establishes limits on candidate, party and third party spending for the campaign. The PPEA, building upon the PPERA, provides the basis for the regulation of party donations and expenditures. In particular, the PPEA increased the EC's powers in regulating political party and election finances and enabled it to impose civil sanctions in addition to referring cases for criminal investigation.

All political parties must submit quarterly reports on donations and loans received, as well as annual accounts to the EC. Donations above 7,500 British pounds must be registered and must come from a 'permissible source'.⁵² Additional regulations apply during the campaign period. Political parties and prospective candidates can begin campaigning at any point before an election; however, the 'regulated campaign' period when the financial limits and reporting obligations apply was set to begin on 1 January 2010. The actual limits were only set after the announcement of the date of the elections. During the campaign period reports on donations and loans must be submitted to the EC on a weekly basis. Complete campaign reports of expenditure must also be submitted within 3 months after election day if below 250,000 British pounds and within 6 months if over 250,000 British pounds.⁵³ All financial reports submitted to the EC are publicly available on its website.

Limits on campaign spending by political parties are distinct from those set for candidates and depend on the number of seats contested. Nationwide, parties can spend 30,000 British pounds multiplied by the number of constituencies contested. The

⁵⁰ Among them, there were 100 Labour, 35 Conservatives and 7 Liberal-Democrats.

⁵¹ The general election is held 17 working days after officially calling the election.

⁵² This must be an individual registered on an electoral register or a UK registered company or organization. There are no limits on how much may be received from any one donor.

⁵³ Both annual accounts and campaign expenditure reports must be audited if total amounts exceed 250,000 British pounds.

amounts of permitted campaign expenditures for candidates are different during what is referred to as the “long campaign”, i.e. between 1 January and the date that parliament is dissolved, and the “short campaign”, which only starts once the candidate is registered. During the long campaign, the maximum amount is 25,000 British pounds plus 5 to 7 pence per elector in the constituency. This maximum can be lowered depending on how early in the year parliament is dissolved. During the short campaign, the limit is 7,150 British pounds plus 5 to 7 pence per elector in the constituency.⁵⁴

Limits are also set on third party expenditures in support of a party or a candidate. These limits vary across the UK, with the maximum that can be spent UK-wide by a registered third party set at 988,500 British pounds.

The legislation grants electoral contestants the right to discounted postal communication with potential voters, free use of public venues for campaign events, as well as free campaign broadcasts on television. Some public funding is available to eligible political parties which are allocated to parliamentary opposition parties by the House of Commons and the House of Lords respectively. However, most party expenditures are covered from donations from corporations, unions and private individuals. Consequently, financially stronger political parties are able to invest considerably more in visual and media advertising. Following the start of the election campaign, there was a marked increase in the amounts of donations received by political parties.⁵⁵

XI. THE MEDIA

A. MEDIA LANDSCAPE AND THE LEGISLATIVE FRAMEWORK

The media landscape in the UK is characterized by a strong tradition of public service broadcasting and highly pluralistic press. Public service and commercial broadcasters are legally obliged to ensure impartiality in political reporting. In contrast, newspapers often declare their support for a particular political party.

Laws and regulations provide a detailed and solid framework for the work of the broadcast media. In line with the Communications Act of 2003 and the Broadcasting Act of 1996, the Office of Communications (Ofcom), the statutory licensing and regulatory body for television and radio,⁵⁶ draws up a code covering standards in programmes, sponsorship, fairness and privacy. Section 5 of the Ofcom’s Broadcasting Code requires that “news, in whatever form, must be reported with due accuracy and presented with due impartiality”. Outside news, programs dealing with “matters of political or industrial controversy and matters relating to current public

⁵⁴ See Guidance for Candidates and Agents by the Electoral Commission, December 2009, available at www.electoralcommission.org.uk/_data/assets/pdf_file/0006/83337/UKPGE-C-and-A-Final-web.pdf.

⁵⁵ In total, during the official pre-electoral period, main political parties received the following donations: Conservative Party - 7,317,602 British pounds, Labour Party - 5,283,199 British pounds, Liberal Democrats - 724,000 British pounds. See summary on weekly donations and loans reported by political parties during the 6 May 2010 general elections at www.electoralcommission.org.uk/_data/assets/excel_doc/0003/88302/UKPGE-2010-Donations--and--Loans-Week5-2010-05-14.xls.

⁵⁶ Ofcom has the legal power to fine broadcasters as well as to suspend and cancel licenses. However, it does not conduct a systematic monitoring and rather acts on complaints.

policy” are required to maintain ‘due impartiality’. The Code explains that due impartiality may be achieved within a programme or over a series of programmes taken as a whole, and does not mean that equal time has to be given to every view, or that every view has to be represented.

‘Special impartiality requirements’ included in the Code also stipulate that programmes related to matters of political and industrial controversy and matters relating to current public policy must be free from expressions of views and opinions of “any person providing a service”.⁵⁷ This requirement refers to licensees and persons with editorial responsibility for a programme or a broadcast, rather than to programme presenters.

In connection with current discussions on whether the ‘due impartiality’ requirements should be loosened for commercial broadcasters, the OSCE/ODIHR EAM interlocutors, including news editors of the British Broadcasting Corporation (BBC) and of some commercial television channels, upheld existing impartiality obligations. Interlocutors expressed concerns that relaxation of the impartiality requirements, as currently lobbied for by some groups, might have negative impact on the quality and balance of commercial broadcasting.

Section 6 of the OFCOM Broadcasting Code sets rules on how the ‘due impartiality’ requirement applies to the coverage of elections and referenda. Broadcasters are required to give ‘due weight’ to the coverage of major parties during the election period.⁵⁸ They must also consider giving appropriate coverage to other parties and independent candidates offering significant views and perspectives. Electoral silence is required for election day only.

Sections 5 and 6 of the Code do not apply to the BBC. Obligations on “due accuracy and impartiality” and rules on coverage of elections are set out in detail in the BBC’s own editorial and election guidelines. The implementation is overseen by the BBC Trust.⁵⁹

Paid political advertising on television and radio is prohibited by law. All television and radio channels with public service obligations⁶⁰ are required to air Party Election Broadcasts (PEBs) on behalf of registered political parties. Each major party must be offered two or more PEBs on television of up to 4 minutes and 40 seconds in length. Other registered parties qualify for a PEB if they contest one sixth or more of seats. As all other broadcasts, it is required that PEBs comply with relevant provisions of the

⁵⁷ According to Section 5, Rules 5.5 to 5.12 of the OFCOM Code, this refers to “television programme services, teletext services, national radio and national digital sound programme services.”

⁵⁸ “Major party” is defined as follows. In the UK, the Conservative Party, the Labour Party and the Liberal Democrats; in Scotland and Wales, the Scottish National Party and *Plaid Cymru*; in Northern Ireland, the Democratic Unionist Party, *Sinn Fein*, the Social Democratic and Labour Party and the Ulster Unionist Party.

⁵⁹ Similar obligations apply to S4C (the Welsh language broadcaster), with the Welsh Fourth Channel Authority as regulator.

⁶⁰ OFCOM requires that certain television and radio broadcasters fulfil certain requirements as part of their licence to broadcast. All of the BBC’s television and radio stations have a public service remit, including those that broadcast digitally. Additionally, all stations broadcasting on terrestrial analogue television – the regional Channel 3 companies (the *ITV Network*), GMTV, *Channel 4*, *S4C* in Wales, and *Five* – are obliged to provide public service programming as they can be viewed freely almost anywhere nationwide.

OFCOM's Code, including the provisions on harm and offence, notwithstanding that the content is under the responsibility of the relevant political parties.

Concerns were raised by some OSCE/ODIHR EAM interlocutors with regard to a prohibition on broadcasting of paid advertisements on political issues or matters of public controversy as stipulated in Section 321 of the 2003 Communications Act. Some regarded this prohibition as contradicting the principle of freedom of expression provided for by Article 10 of the European Convention on Human Rights.⁶¹

Provided they work within the general norms in respect of defamation, accuracy and privacy, the print media are largely free in their reporting. Print media are overseen by a voluntary non-statutory body, the Press Complaints Commission. The Commission adjudicates complaints with reference to its Code of Practice, which includes provisions on accuracy, right to reply and privacy. The Commission has no legal powers, but its decisions are to be published by the paper complained against.

B. THE DEBATES

The leaders of the three major parties (Labour leader Gordon Brown, Conservative leader David Cameron and Liberal Democrat leader Nick Clegg) took part in three "prime-ministerial" televised debates, which were organized for the first time in the context of an electoral campaign. The debates were broadcast on three successive Thursdays before election-day, produced by three major public and private broadcasters. Separate debates were held in Scotland, Northern Ireland and Wales. The debates pushed some new topics, such as electoral reform, to the forefront of discussions.

The arrangements for the "prime-ministerial" debates have been criticized by some political parties for being restricted to the major UK parties excluding other regional ones in Scotland and Wales. OFCOM has rejected complaints from *Plaid Cymru* and the SNP about their exclusion, having decided that the broadcasting of the debates complied with requirements of the Broadcasting Code and that no remedial action was therefore required.

XII. PARTICIPATION OF WOMEN

The number of female candidates in general elections, as well as the number of women in parliament has been gradually increasing. In the outgoing House of Commons, 19.5 per cent of all members of parliament were women. The number of women who stood as candidates in this election was at an all time high (877 women, or 21 per cent of all candidates). Of parties with more than 100 candidates, the Green Party had the highest percentage of women (33 per cent), followed by the Labour Party (30 per cent), the Conservative Party (24 per cent) and the Liberal Democrats (21 per cent). Except for the Liberal Democrats, all parties had a higher proportion of women candidates than in the 2005 election. In this election, 143 women won in their respective constituencies,

⁶¹ In 2008, the ban was upheld by the Divisional Court and the House of Lords dismissed an appeal by the claimant, organization Animal Defenders International. Robertson, Geoffrey, and Nicol, Andrew (2008) *Media Law*, fully rev. 5th edition, London: Penguin, p. xvii.

representing 22 per cent of the new House of Commons. Both the government and the parties reported making efforts to encourage the participation of women.

The Labour Party used so-called “all-women shortlists” during the candidates’ nomination process, a controversial quota system allowing only women to stand as candidates in selected constituencies. In 1996, this system was ruled unlawful under the Sex Discrimination Act. However, in February 2002, parliament passed the Sex Discrimination (Election Candidates) Act, which enabled parties to take positive action in selection of female candidates till 2015. A recently adopted Equality Bill extends this permission until 2030.

XIII. COMPLAINTS AND APPEALS

In line with the RPA and the Election Petition Rules of 1960, the outcome of an election can be challenged on grounds of an irregularity by a voter, someone who had the right to vote, or an unsuccessful candidate. The challenge is made through an election petition filed with Election Petitions Office at the Royal Courts of Justice within 21 days after the return of the writ. A fee of 400 British pounds must accompany the filing of a petition. Longer timeframe for the submission of a petition may be allowed if the petition questions the election on the grounds of corrupt or illegal practices involving the payment of money or another reward, or in connection with election expenses.

Petitions are heard by an ‘election court’ formed by judges on rota for the trial of parliamentary election petitions. However, complaints against actions of Returning or Electoral Registration Officers must first be addressed to the respective officers involved. If the petitioner is not satisfied with the decision taken, s/he may appeal to the county court. OSCE/ODIHR EAM interlocutors concurred that in practice complaints are rarely filed with the court as any objections or queries are most often dealt with on the local level by the RO and ERO and appeals are not filed.

Four petitions were filed after the 2010 election and their review is pending. In addition, the OSCE/ODIHR EAM was informed that more than 50 allegations of electoral fraud have been made with regard to the registration of fictitious voters and the issuance of postal ballots. These allegations are being investigated by the police for possible prosecution.

XIV. ELECTION OBSERVATION

In response to previous recommendations by the OSCE/ODIHR, the EAA adopted in 2006 created a legislative basis for election observation. Election observers were granted the right to follow such stages of the electoral process as issuance and receipt of postal ballots, voting and counting of votes. However, current provisions do not allow observation of such important stages of an electoral process as voter registration, nomination and registration of candidates and the work of election officials prior to election day.

These provisions should be expanded to allow election observers to monitor all stages of the election process, including voter and candidate registration and work of election administration prior to election day.

For this general election, the EC registered 318 international observers representing 45 organizations.⁶²

XV. VOTING AND COUNTING

In accordance with standard practice, the OSCE/ODIHR EAM did not observe election day proceedings in a systematic or comprehensive manner. However, mission members visited a few polling stations in London and Belfast. The OSCE/ODIHR EAM was granted access to all polling stations visited, and in general was able to receive all information requested. In these localities, polling was organized professionally and transparently and took place in a calm environment.

Polling stations are usually located in public buildings. A commendable effort was made to ensure accessibility to voters with reduced mobility. The EC issued specific guidelines for ROs in this respect. Accessibility is an important item in the EC performance standards for both ROs and EROs.

Each polling station is supervised by a Presiding Officer assisted by clerks in numbers decided upon by the RO and varying from one to four. Polling stations visited by the OSCE/ODIHR EAM were administered efficiently despite at times limited staff.

In Great Britain, voters are not required to show any form of identification to be allowed to vote. In Northern Ireland, voters are obliged to present one of the forms of identification listed in the law as acceptable.⁶³ Voters, who upon arrival in a polling station discover that their name is marked on the voters' list as having already voted, are allowed to cast a tendered ballot. When tendered ballot papers are issued, the name of a voter and his/her elector's number are entered in the list of tendered votes. Tendered ballots are not placed into the ballot box, but are kept separately by the Presiding Officer. These ballots are not counted, but might eventually be used by ROs' to establish whether there were any patterns of personation across their area.

OSCE/ODIHR reiterates its recommendation that serious consideration should be given to introducing a more robust mechanism for identification of voters. Existing national and local government-issued cards could be considered for this purpose and voters could be obligated to sign the voters' list before being issued a ballot paper.

Ballot papers are numbered, with numbers printed on the backside of a ballot paper. Before issuing a ballot, the poll clerk records the ballot paper number in a voters' list next to the voter's name and number. Alternatively, in some constituencies, ballot papers are torn off a booklet where the unique ballot paper number appears both on the

⁶² See the register of observers accredited by the Electoral Commission at www.electoralcommission.org.uk/data/assets/excel_doc/0009/57285/Accredited_observers.xls.

⁶³ In Northern Ireland voters may vote with a passport, driving licence, senior citizen's travel card, or identification issued for the purpose of voting by the Electoral Office for Northern Ireland.

ballot paper and on the counterfoil. In that case, the elector's number is recorded on the ballot paper counterfoil. After the closure of polls, ballot papers and lists/counterfoils are kept in separate sealed containers. Safeguards are in place to ensure that a linkage between a voter and her/his marked ballot paper can only be established with a court order.

This procedure for the numbering of ballots was introduced together with the principle of a secret ballot by the Ballot Act of 1872, and was considered at the time as an additional guarantee against corrupt practices. The OSCE/ODIHR has previously commented negatively on this aspect of the procedure as potentially challenging the secret ballot principle provided for by the 1990 OSCE Copenhagen Document. Currently, the justification for maintaining this procedure is that it facilitates ballot paper consolidation after the closure of polls, allows tracking of ballot papers unduly inserted in the ballot box, and presents basis for courts to investigate possible cases of abuse.

The law specifies that polling takes place between 7 am and 10 pm. The EC manual for poll workers states that “No one may be issued with a ballot paper after 10 pm even if they are inside the polling station and waiting to receive their ballot paper”.⁶⁴ On election night, the media extensively reported on instances of voters being turned away at the close of polls after having waited in line outside their polling station to cast their ballots.

In line with the underlying principles of enfranchisement and participation, which are prevalent in other aspects of the process, consideration should be given to allowing voters standing in line at the close of poll to be issued a ballot and vote.

Subsequently, the EC chairperson promised a full review of what had happened in polling stations where voters were turned away at the close of polls without being able to vote, as well as in a number of polling stations which ran out of ballot papers during the day.⁶⁵

Additional attention should be paid to ensuring adequate equipment and staff are allocated to polling stations. Consideration could be given to introducing a maximum number of voters per polling station, and a ratio of poll clerks per polling station commensurate with the number of registered voters in order to ensure that all potential voters can be processed during the opening hours of polling stations.

Some OSCE/ODIHR EAM interlocutors expressed concerns with legal provisions allowing for marked and sealed postal ballots to be collected from voters and delivered to the polling station or the RO before the count by third parties, in particular by political parties. In his report to the High Court of Justice, the Commissioner appointed for the trial of cases related to fraud in the 2004 local government elections to the

⁶⁴ Handbook for polling station staff - Supporting a UK Parliamentary election, Electoral Commission, 2010, p. 17; available at www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0009/55836/UKPGE-PSH-web-FINAL.pdf.

⁶⁵ *Op. cit.*, Interim Report by the Electoral Commission, Review of problems at polling stations at close of poll on 6 May 2010, 20 May 2010.

Birmingham City Council strongly criticized this practice, and stressed that a legal possibility for completed ballots to be handled by third parties was an invitation to tamper with the contents.⁶⁶

Legal provisions related to the transfer of election materials, in particular marked postal ballots, should be reviewed with the view to excluding a possibility for those materials to be handled by third parties.

Ballots from the entire constituency are counted together in a counting centre. The number of ballot papers in each box is compared with the figures supplied by the Presiding Officers. The ballots contained in all ballot boxes are then mixed together with the postal ballots, sorted and counted. The candidates and their agents attending the count can request a recount without having to justify their request. The ROs may refuse if they consider the request to be unreasonable.

After completion of the count, the ROs declare the results in the constituency, most commonly in presence of all candidates. The results announced have legal effect unless overturned by a court (See Section VIII on Complaints and Appeals). Media were present in counting centres and reported on the results as they became available throughout the election night.

⁶⁶ Judgement of Commissioner Mawrey QC, presented on 4 April 2005, available at www.hmcourts-service.gov.uk/cms/2384.htm.

ANNEX: RESULTS OF THE 6 MAY 2010 ELECTIONS*

Contestants	Seats	Votes	Percent
Conservative	307	10,726,614	36.1
Labour	258	8,609,527	29.0
Liberal Democrat	57	6,836,824	23.0
Democratic Unionist Party	8	168,216	0.6
Scottish National Party	6	491,386	1.7
Sinn Fein	5	171,942	0.6
Plaid Cymru	3	165,394	0.6
Social Democratic & Labour Party	3	110,970	0.4
Green	1	285,616	1.0
Alliance Party	1	42,762	0.1
UK Independence Party	0	919,546	3.1
British National Party	0	564,331	1.9
Ulster Conservatives and Unionists - New Force	0	102,361	0.3
English Democrats	0	64,826	0.2
Respect-Unity Coalition	0	33,251	0.1
Traditional Unionist Voice	0	26,300	0.1
Christian Party	0	18,623	0.1
Independent Community and Health Concern	0	16,150	0.1
Trade Unionist and Socialist Coalition	0	12,275	0.0
Scottish Socialist Party	0	3,157	0.0
Others	1	321,309	1.1
Total and turnout	650	29,691,380	65.1

* Voting was postponed until 27 May in the constituency of Thirsk & Malton, North Yorkshire following the death of one of the candidates.

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 programmes 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).