



Office for Democratic Institutions and Human Rights

# REPUBLIC OF FINLAND

## PARLIAMENTARY ELECTIONS

17 April 2011

OSCE/ODIHR Election Assessment Mission Report



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**REPUBLIC OF FINLAND**  
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**I. EXECUTIVE SUMMARY**

In line with OSCE commitments, the Permanent Mission of Finland to the OSCE invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the 17 April 2011 parliamentary elections. Based on the recommendation of a Needs Assessment Mission, the OSCE/ODIHR deployed an Election Assessment Mission (EAM) for these elections.

The parliamentary elections were professionally administered, commanding high levels of stakeholder confidence. The campaign was dynamic and conducted in full respect for fundamental freedoms.

While the legal framework provides a sound basis for the conduct of democratic elections overall, it could benefit from further improvements. Shortcomings include overly restrictive provisions to the right to stand and to associate in political parties for military staff. Further, the opportunity for court appeals prior to election results being announced is limited; this restricts effective redress, should an electoral problem arise. While the legal framework provides for domestic observation, international election observation is not foreseen and this is not fully in line with OSCE commitments. Nevertheless, the OSCE/ODIHR EAM had unrestricted and unimpeded access to all aspects of the electoral process.

Parliamentary deputies are elected in 14 multi-member and one single-member constituencies. The disparity in the size of constituencies results in wide variation in the effective threshold required to win a seat in different parts of the country. Discussions on electoral system reform, including this issue, are ongoing and are to be considered by the incoming parliament.

The Ministry of Justice is the highest election authority within the government. District and municipal electoral bodies are composed on a multi-party basis by local administrations. All interlocutors expressed great confidence in the accuracy and inclusiveness of the voter register. The elections were conducted competently with very high levels of trust in the election administration's reliability and efficiency. As a result, parties, candidates and civil society organizations reported that there was no need for them to undertake observation activities.

Campaigning took place in an open atmosphere with respect for the fundamental freedoms of expression, movement and assembly. The three main parties, who have a long history of alternating and sharing power, were challenged by the True Finns party, which presented a distinct stance.

Finland's recently enacted legislation regarding political financing was implemented for the first time during these elections. While state subsidies to parliamentary parties are extensive, non-parliamentary parties currently do not receive subsidies. Under the new legal framework, parties and candidates continue to enjoy wide discretion in collecting funds and there are no spending limits. Further measures could be considered to strengthen the current legislation,

such as limiting cash donations, requiring mandatory pre-election disclosures, auditing the campaign finances of non-elected candidates, and possibly granting investigative powers to the National Audit Office.

The media is diverse and pluralistic, with extremely high levels of reach and consumption. There is no regulation of campaign coverage, except for limited requirements for the public broadcaster. Election information and coverage was extensive in these elections. However, there was some criticism that the access of non-parliamentary parties was limited. Continued efforts in this regard are necessary, particularly by public broadcasters, in the interest of a vigorous democracy.

According to standard practice, the OSCE/ODIHR EAM did not undertake a comprehensive and systematic observation of election day proceedings. However, mission members visited a number of polling stations during the early voting period and on election day. Polling was widely reported to be well organized, calm and orderly. Those who cast their ballot in advance, including most out-of-country voters, were removed from printed voter lists available on election day in order to avoid possible multiple voting. Stronger security measures for safeguarding sensitive materials during early voting could be considered.

## **II. INTRODUCTION AND ACKNOWLEDGEMENTS**

On 16 December 2010, OSCE/ODIHR was invited by the Permanent Delegation of Finland to the OSCE to observe the 17 April 2011 parliamentary elections. OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Finland from 25 to 27 January.<sup>1</sup> Based on its recommendations, OSCE/ODIHR deployed an Election Assessment Mission (EAM) from 3 to 20 April.

The OSCE/ODIHR EAM was led by Hannah Roberts and consisted of a team of seven election experts from as many OSCE participating States. In addition to experts based in Helsinki, the mission deployed a regional team which travelled to Lapland, Åland and Lappeenranta. The OSCE/ODIHR EAM also visited Tampere, Turku, Porvoo, Espoo and Vantaa. In line with standard practice, it did not observe election day proceedings in a systematic or comprehensive manner. Nonetheless the mission visited a limited number of polling stations in six municipalities within three districts of Finland.

OSCE/ODIHR wishes to thank the Ministry of Foreign Affairs of Finland for its assistance and co-operation in organizing the EAM. OSCE/ODIHR would also like to thank the Ministry of Justice, the National Audit Office of Finland, the Supreme Administrative Court, the Population Register Center as well as the representatives of election committees, political parties, media, civil society organizations, academics and other interlocutors who took the time to meet with the mission.

OSCE/ODIHR has not previously observed or assessed elections in Finland, although it did deploy a NAM to the country ahead of the April 2007 parliamentary elections.

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<sup>1</sup> See: <http://www.osce.org/odihr/75599>

### III. BACKGROUND

Following constitutional reforms in 1991 and 2000, powers have been transferred and parliament strengthened vis-à-vis the presidency. The 200 members of the unicameral parliament of Finland (*Eduskunta/Riksdagen*) are elected for four-year terms. Executive power is vested in the state council. This is led by the prime minister, who is elected by parliament and heads the government. Since 2006, Tarja Halonen has served as president; the president is directly elected every six years and serves as head of state and commander-in-chief. The same person may be elected to the post no more than two times consecutively.

There is significant political plurality, with eight established parliamentary parties offering voters a genuine choice. Traditionally, the three major political parties have been the Centre Party, the National Coalition Party and the Social Democratic Party. Other parties represented in the parliament are the Christian Democrats, the Green League, the Left Alliance, the Swedish People's Party and the True Finns party. Parliamentary parties have typically won approximately 98 per cent of votes cast.

### IV. ELECTORAL SYSTEM

Parliament is elected through a regional proportional list system with no legal threshold. The country is currently divided into 14 multi-member electoral constituencies and one single-member district (Åland).<sup>2</sup> Equal suffrage is assured by the periodic reassignment of the number of seats to be elected in each multi-member constituency according to the number of citizens registered as residing in the constituency. The allocation of seats is carried out by the state council ahead of each parliamentary election on the basis of data in the Population Information System.<sup>3</sup> Seat allocation was deemed accurate and was well regarded by OSCE/ODIHR EAM interlocutors.

Candidates from parties and constituency associations may run for seats separately or as coalitions. Voters cast their ballots for a single candidate within their constituency. While the current system has no legal threshold requiring a minimum proportion of the vote, disparity in the size of constituencies results in wide variation in the effective threshold required to win a seat in different parts of the country. For instance, in the Etelä-Savo constituency that has six allocated seats, the effective threshold was approximately 12 per cent in the 2011 elections. However, in the Uusimaa constituency which has 35 seats, it was some 2.5 per cent. Although the equality of the vote is maintained, in constituencies that have fewer seats, the current system tends to favour larger parties.

This variation in effective threshold has been widely discussed in Finland for some time. To retain the current electoral system and address this issue, re-districting would be required to reduce the variation in the number of seats in each constituency. Such re-districting was not undertaken, reportedly due to attachments to current district boundaries. After a cross-party parliamentary committee process, the parliament adopted a proposal for modifications to the

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<sup>2</sup> The Constitution of Finland requires at least 12 and at most 18 constituencies. The district of Åland, in Finnish called Ahvenanmaa, is an autonomous Swedish-speaking region of Finland. Åland is entitled to one seat in the parliament regardless of its population.

<sup>3</sup> The number of seats allocated to the electoral districts for the 2011 parliamentary elections was decided by the Council of State on 11 November 2010 (958/2010).

electoral system on 15 March 2011. A simple majority was necessary to pass the motion, but a two-thirds majority in the next parliament is required for the law to enter into force.

The new system would retain the current electoral districts, but to allocate seats to parties, the country would be counted as single constituency (except for Åland). Seats would be distributed, by district, proportionally to the votes cast nationally for each electoral list using a combination of the d'Hondt method and the Hare-Niemeyer method. The new system would include a three per cent national threshold. Electoral alliances between parties would no longer be permitted for parliamentary elections. While dispensing with electoral alliances would make it clearer which specific party would actually benefit from a vote during seat allocation, such a system may tend to favour larger parties.

The new system with the three per cent threshold requirement<sup>4</sup> would reportedly favour current smaller parliamentary parties, while making it very difficult for new parties and popular regional parties to enter parliament. Independent candidates would be very unlikely to be able to pass the three percent threshold; they, therefore, risk being excluded *de-facto*.<sup>5</sup> It is important to retain the effective opportunity for independent candidates to be elected, as prescribed in paragraph 7.5 of the OSCE Copenhagen Document.<sup>6</sup>

*It is recommended that the proposed three per cent threshold be reviewed in order to maintain opportunity for independent candidates to be elected in line with OSCE commitments.*

## V. LEGAL FRAMEWORK

### A. ELECTION LEGISLATION

The legislative framework provides a sound basis for democratic elections. The constitution guarantees basic rights and fundamental freedoms, and defines who has the right to vote and who can stand for election to parliament. It provides for the right to a secret vote with equal and universal suffrage.

Election procedures are further governed by primary legislation. The Election Act contains detailed rules on parliamentary, presidential, local, and European Parliament elections. The Act on Candidate's Election Funding and the Act on Political Parties govern campaign and party finance. The Penal Code criminalizes fraudulent voting, falsification of election returns, and other violations of election legislation. The Act on Openness of Government Activities provides general requirements on transparency of government and access to information. Decrees on electoral matters may also be issued by the Ministry of Justice (MoJ).<sup>7</sup>

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<sup>4</sup> Various interlocutors expressed concern that the three per cent national threshold did not have full consensus within the parliamentary committee.

<sup>5</sup> The change to Section 108 of the Election Act would provide for independent candidates to form a joint list, which could increase opportunities for passing the three per cent threshold.

<sup>6</sup> Copenhagen Document paragraph 7.5 refers to respecting "the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination." The UN Human Rights Committee, the official treaty monitoring body for the International Covenant on Civil and Political Rights (ICCPR), have also commented that "The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties." General Comment 25, paragraph 17.

<sup>7</sup> Election Act, sections 195 and 10 respectively. The MoJ reports that it has never issued a decree and instead

Finland has no constitutional court. The constitution and electoral legislation are interpreted by the supreme administrative court (SAC) and the lower-level regional administrative courts (RACs). The constitutional law committee in parliament is responsible for assessing the constitutionality of legislation. The Parliamentary Ombudsman and Chancellor of Justice issue non-binding opinions, including on elections, which serve as guidance for future decisions.

Finland is a party to various international treaties and other documents that contain various levels of electoral obligations. These include the International Covenant on Civil and Political Rights (ICCPR), the OSCE 1990 Copenhagen Document, and the European Convention on Human Rights (ECHR). It has signed, but not yet ratified, the United Nations Convention on the Rights of Persons with Disabilities (CRPD).

## **B. RIGHT TO VOTE**

Every Finnish citizen, aged 18 or older on the day of the election, has the right to vote in parliamentary elections. There are no limitations on the basis of residence, conviction, imprisonment, mental disability, or any other condition.

The legislation requires a dedicated assistant to be present at each polling station, to facilitate voters unable to mark their ballots alone for reasons of disability. Furthermore, transportation costs of disabled voters to and from polling stations can be covered by the state. However not all polling stations were wheelchair accessible and not all polling stations had special voting booths.<sup>8</sup> Although candidate lists are now available in Braille, ballots or other method of independent voting for the blind are not. The vote for blind people is currently compromised as they continue to be dependent on an assistant to mark their ballot. Full compliance is therefore yet to be reached with various international and Finnish legal documents that require every citizen to be guaranteed the right to a secret ballot and the prohibition of discrimination on the basis of disability.<sup>9</sup>

*Efforts should be increased to fully enable voters with disabilities in their right to a secret vote as per the OSCE Copenhagen Document and the UN Convention on the Rights of Persons with Disabilities.*

## **C. RIGHT TO STAND**

The legal framework gives broad provisions for the right to stand.<sup>10</sup> For parliamentary

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chooses to provide instructions and guidelines to the other electoral authorities.

<sup>8</sup> The MoJ issued guidelines requiring polling stations to be accessible, but not all municipalities implemented this requirement.

<sup>9</sup> Constitution of Finland section 6 and 25, ECHR article 14, Charter of Fundamental Rights of the European Union article 21 and 39 numerous provisions of CRPD including article 29, ICCPR article 25(b), and Copenhagen Document paragraph 7.4.

<sup>10</sup> However, the Constitution of Finland section 54 stipulates that the President is required to be a “native-born Finnish citizen”. This excludes those who acquire Finnish citizenship and is therefore discriminatory. In General Comment 25 the UN Human Rights Committee notes that “No distinctions are permitted between citizens in the enjoyment of these rights on the grounds of (...) national or social origin (...). Distinctions between those who are entitled to citizenship by birth and those who acquire it by naturalization may raise questions of compatibility with article 25.” The OSCE 1990 Copenhagen Document also requires respect for the right of citizens “to seek political or public office, individually or as representatives of political parties or organizations, without discrimination”. The Constitution of Finland also stipulates that “everyone is equal before the law. No one shall, without an acceptable reason, be treated differently from other

elections, the constitution provides for nominations by registered political parties as well as by groups of voters, thereby allowing for independent candidacy. Candidate requirements are minimal, with anyone with the right to vote, who is not under guardianship, being eligible.<sup>11</sup>

The constitutional restriction on those in the paid military employment from being “elected as a representative”<sup>12</sup> potentially affects over 11,000 people.<sup>13</sup> The UN Human Rights Committee, the ICCPR treaty monitoring body, has noted that “if there are reasonable grounds for regarding certain elective offices as incompatible with tenure of specific positions (e.g. the judiciary, high-ranking military office, public service), measures to avoid any conflicts of interest should not unduly limit the rights protected [in ICCPR, article 25]”.<sup>14</sup> This candidacy restriction also fails to specify whether being “elected” refers to the period at which a candidate would take up office, the period of polling, or the nomination of candidacy. Requiring resignation prior to nomination may be regarded as an indirect barrier on the right to stand.

*It is recommended to reconsider the broad restriction on the right to stand by people holding military office. Should some restriction continue, these could be more clearly specified.*

#### **D. ACCESS FOR OBSERVERS**

Representatives of parties, joint lists, and constituency associations, as well as those specifically authorized in writing by election authorities are entitled by law to attend meetings of election administration bodies. The MoJ has not established any system for observer accreditation but can authorize individuals to observe elections. The legislation, however, only refers explicitly to access to meetings and does not encompass all aspects of an electoral process. The lack of explicit legal guarantees for international and domestic civic election observation is not fully consistent with the intent of paragraph 8 of the 1990 OSCE Copenhagen Document, which states “the presence of observers, both foreign and domestic, can enhance the electoral process.”<sup>15</sup>

*Legislative provisions should be adopted for international and domestic observers to attend all stages of the election process in order to ensure legal certainty. The system of accreditation*

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persons on the ground of (...) origin”.

<sup>11</sup> Constitution of Finland section 27 for parliamentary elections. This section also specifies that the Chancellor of Justice, the Parliamentary Ombudsman, a Justice of the Supreme Court or the Supreme Administrative Court, and the Prosecutor-General cannot serve as representatives.

<sup>12</sup> Constitution of Finland section 27.

<sup>13</sup> The Finnish Defence Forces state in their 2009 publication “Facts about National Defence” that military office is being held by 8,800 people in the military and 2,575 people in the Frontier Guard. [http://www.puolustusvoimat.fi/wcm/58926d804fc07da3914af7fa0e27a8ed/facts\\_about\\_national\\_defence\\_08.pdf?MOD=AJPERES&CONVERT\\_TO=url&CACHEID=58926d804fc07da3914af7fa0e27a8ed](http://www.puolustusvoimat.fi/wcm/58926d804fc07da3914af7fa0e27a8ed/facts_about_national_defence_08.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=58926d804fc07da3914af7fa0e27a8ed).

<sup>14</sup> United Nations Human Rights Committee, General Comment 25 on “The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service”, paragraph 16; see also the Council of Europe Committee of Ministers Recommendation CM/Rec(2010)4 of the Committee of Ministers to member states on human rights of members of the armed forces, paragraph 58 and 59, [http://www.coe.int/t/dghl/standardsetting/hrpolicy/other\\_committees/DH-DEV-FA\\_docs/CM\\_Rec\\_2010\\_4\\_Armed\\_forces\\_en.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/DH-DEV-FA_docs/CM_Rec_2010_4_Armed_forces_en.pdf);

OSCE Code of Conduct on Politico-Military Aspects of Security 1994, paragraph 23 that “each participating State, while providing for the individual service member’s exercise of his or her civil rights, will ensure that its armed forces as such are politically neutral.”, <http://www.osce.org/fsc/41355>.

<sup>15</sup> The UN Human Rights Committee has also stated that “There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes.” General Comment 25 paragraph 20.



*and observer rights and responsibilities should be stipulated in secondary legislation.*

The OSCE/ODIHR EAM received authorization from the MoJ and was given full access to all aspects of the election process without restriction.

## **E. POLITICAL PARTY PARTICIPATION**

Freedom of association is provided for in section 13 of the constitution. However, the Finnish criminal code restricts those in military service from participating in party politics.<sup>16</sup> While international law and practice stipulates that a reasonable limitation on the freedom of association of military personnel may be imposed,<sup>17</sup> chapter 45 of the criminal code appears to be excessive in that it subjects military personnel to disciplinary punishment for participation in political activity.

*It is recommended that a review is undertaken of the necessity of restricting military officials from participation in political parties, with reference to freedom of association as committed to in paragraph 10.3 of the OSCE Copenhagen Document and in article 22 of the ICCPR.*

## **VI. ELECTION ADMINISTRATION**

The election administration, at all levels, carried out their duties in a well-organized, transparent and efficient manner. It enjoyed a high degree of confidence from stakeholders. Elections have traditionally been held without incident or significant controversy over the process. The election administration is experienced, reliable and respected. Impressive effort is made to maximize enfranchisement.

The MoJ is the highest electoral authority. The MoJ's election department has a staff of six and is responsible for registering political parties and managing the Election Information System (EIS)<sup>18</sup> as well as developing and distributing materials such as ballots, candidate lists and information materials. The MoJ also provides the lower level election authorities with written guidelines and instructions, but it is not vested with authority to overrule the decisions made by lower-level electoral authorities.

At the local level, there are permanent election management bodies appointed for four-year terms by the regional state administration, providing institutional continuity. There are Election District Committees (EDCs) in each of the 15 electoral constituencies and Municipal Central

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<sup>16</sup> Chapter 45 states that "a soldier or a person in military service in the frontier guard (...) who joins a political party or an association engaged in, or clearly supportive of, party politics, or fails to resign the membership of a party or an association referred to above, shall be sentenced for unlawful political activity to disciplinary punishment." Criminal Code of Finland, chapter 45, section 19.

<sup>17</sup> Article 22 of the ICCPR states that freedom of association "shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right."; Paragraph 9.4 of PACE Recommendation 1742 (2006) - expressly states that the right of association belongs also to members of the armed forces, nevertheless, paragraph 10.2 of that same PACE recommendation, does foresee reasonable restrictions on association rights.  
<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta06/EREC1742.htm>.

<sup>18</sup> The Election Information System is a comprehensive electronic system owned by the MoJ that contains the voter register, information on candidates, as well as the system to accept results information from the election committees and calculate national results.

Election Committees (MCECs) in each of the 336 municipal councils. The election administration at the lower level is multi-party, appointed on the basis of nominations from registered political parties that participated in previous parliamentary elections. Each administration consists of a chairperson, a deputy chairperson, three members and an adequate number of substitute members.

The EDC's main role is to process candidate applications and to re-count all ballots. Under the Finnish electoral system, the preliminary count is undertaken at polling stations immediately after polling while the final, official count takes place at the 15 EDCs. The 336 MCECs are responsible for most of the technical preparations, such as equipping each polling station. The MCECs are mostly responsible for the technical preparations for the election as well as the intermediary handling of early electoral documents.

A total of 2,361 temporary election committees operated on election day for these elections. Committees consist of party nominees appointed by respective municipal boards. Officials for committees that oversee the early voting, however, are non-partisan and are hired directly by MCECs. Postal workers are typically appointed for early voting taking place in post offices.

A variety of recruitment methods are used for appointing polling staff and there are varying levels of multi-party representation. Particularly in sparsely populated areas, multi-party composition is difficult to achieve, and a preponderance of one or two parties reportedly occurs at times.<sup>19</sup> While OSCE/ODIHR EAM interlocutors generally expressed confidence in the conduct of these committees, some were not content with how appointments had been undertaken. At times, complaints on appointments to committees were brought to administrative courts, as provided for in the legislation.<sup>20</sup>

*Guidelines on the mechanisms for nominating electoral committee members could be considered to promote consistency and minimize bias.*

The MoJ made efforts to expand voter education and the electoral information available, including extensive website content. Personal letters were sent to all new voters, while pamphlets and booklets were sent to schools for teaching purposes. The MoJ established a presence in social media, such as *Facebook*, where they held a number of well-attended live question and answer sessions. Information guides were distributed in 20 languages. For the first time, candidate lists were provided on audio CD and in Braille making it possible for the visually impaired to independently study candidate lists in their district.

## VII. VOTER REGISTRATION

Voter lists are extracted from the Population Information System (POIS). This is a single, centralized database, administered by the Population Register Center (PRC). Registration and

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<sup>19</sup> Candidates are restricted from serving on all levels of election administration except where they are given the right to serve on election committees in order to overcome the problem of a lack of staff. Recruitment is especially difficult for municipal elections with large numbers of candidates.

<sup>20</sup> Under the Finnish Local Government Act and the Administrative Judicial Procedure Act. After receiving a complaint about the composition of an EDC, the Kuopio Administrative Court required the EDC to be reconstituted. Another complaint regarding the composition of a committee for these elections was filed at court in Rovaniemi.

any subsequent updates to the POIS are passive; thus, eligible voters are included in voter lists automatically. The PRC and its 25 district registry offices maintain the POIS and it is continuously updated on the basis of data supplied by citizens and state institutions.<sup>21</sup>

The voter register for parliamentary elections is created by filtering the POIS for all Finnish citizens over the age of 18 on election day. The register includes data on voters, as found in the POIS 51 days prior to election day. The voter register is then hosted on the MoJ's Election Information System and opened for public review, during which time voters may check all entries.

Polling cards with information on how and where to vote are sent directly to each voter by the PRC. During the 25-day voter register review period, voters may file complaints with local register offices or appeal to courts. The PRC informed the OSCE/ODIHR EAM that only one claim for a correction was reported. Authorities notify affected voters of any corrections made during the review period. Election day registration is not permitted. Homeless citizens can collect polling cards in district offices and vote at specified polling stations.

The voter register was closed on 5 April, one day prior to the start of early voting. After this point, it could only be altered by a decision of a Regional Administrative Court (RAC). Voters casting their ballots in advance, including most out-of-country voters, were removed from printed voter lists for election day in order to avoid possible multiple voting. A few cases of delayed data on citizens who had voted abroad were processed manually by striking the early voters' names off the lists.

While the period for completing these processes was minimal, the system provided for very accurate and up-to-date information on voters. All interlocutors expressed a high level of confidence in the accuracy and inclusiveness of the voter register. Very few voter list errors were reported, including in internal reviews. In total, 4,387,701 citizens were included on the 2011 register,<sup>22</sup> including 227,844 eligible to vote abroad.

For early voting, a networked electronic voter list was used in polling stations. This allowed voters to check their constituency and to cast their ballot at any polling station in the country ahead of election day. On election day itself, 31 polling stations piloted the networked electronic voter list. The pilot had positive reviews from each of the election committees the EAM was in contact with, as well as from the MoJ.

## VIII. POLITICAL PARTY AND CANDIDATE REGISTRATION

### A. PARTY REGISTRATION

Seventeen political parties were registered for the 2011 parliamentary elections. Registration is conducted by the MoJ upon the submission of at least 5,000 support cards from citizens eligible to vote in parliamentary elections. In addition, the political party must guarantee internal party democracy and have a party programme. A party failing to gain seats in two

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<sup>21</sup> The information in the POIS is updated from data collected at over 1,000 institutions, including municipalities, immigration offices, courts, hospitals, maternity wards, parishes, and national land registries.

<sup>22</sup> MoJ website, 16 April 2011: [http://192.49.229.35/E2011/e/aanioikeutetut/aoik\\_kokomaa.html](http://192.49.229.35/E2011/e/aanioikeutetut/aoik_kokomaa.html).

consecutive parliamentary elections is de-registered but may re-apply for registration. Such de-registration may not be regarded as consistent with good practice, as for example identified by the OSCE and Council of Europe in Guidelines on Political Party Regulation.<sup>23</sup>

*Consideration could be given to removing provisions that de-register political parties that fail to gain seats in two consecutive parliamentary elections.*

## **B. CANDIDATE REGISTRATION**

Candidates for parliamentary elections may be nominated either by a registered political party or a constituency association, based on the support of 100 eligible voters of the respective electoral district.<sup>24</sup> Joint lists and electoral alliances can be formed by the constituency associations and parties, respectively. Lists of candidates were submitted to respective EDCs who examined the lists, assessed eligibility and confirmed or rejected nominations. The Election Act provides opportunity for correcting incomplete nominations.

In total, 2,315 candidates were registered. Seventy three per cent of candidates were nominated by incumbent parliamentary parties. All 17 registered political parties nominated candidates. A total of 22 independent candidates also stood in these elections.<sup>25</sup> No OSCE/ODIHR EAM interlocutor expressed concerns regarding the candidate registration process.

## **IX. THE CAMPAIGN**

The election campaign is largely unregulated in Finland, with the exception of campaign financing requirements. There is no official campaign period and campaigning may take place up to and on election day. However, during these elections a silence period was generally respected on election day by mutual agreement. In practice, campaign activities intensified after the nomination of candidates, which was about one month before the elections.

There was competition between candidates on the same list and candidates ran their own individual campaigns, in addition to those run by their parties since in the open-list system, electors vote for individual candidates.

Campaigning took place in an open atmosphere with respect for the fundamental freedoms of expression, movement and assembly. The campaign was generally calm and was regarded as more dynamic than in elections of recent years. The high level of public engagement was typically attributed to the economic crisis and the rise of the True Finns party, which was reportedly gaining support from voters disillusioned with the leading established parties.

There was polarization between the positions of the True Finns party and other parties. Topics included international issues such as the crisis in Libya and the financial crisis in Europe, with

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<sup>23</sup> The guidelines assert that “In some states, a political party that does not meet a minimum results threshold in an election loses its status as a registered political party. This practice is far from ideal and should not be included in relevant legislation.” See OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation, paragraph 88, [http://www.osce.org/files/documents/2/b/77812\\_0.pdf](http://www.osce.org/files/documents/2/b/77812_0.pdf).

<sup>24</sup> Initiative groups of citizens registered for the specific purpose of nominating candidates, who are independent of other electoral subjects.

<sup>25</sup> Statistics Finland [http://tilastokeskus.fi/til/evaa/2011/01/evaa\\_2011\\_01\\_2011-03-22\\_tie\\_001\\_en.html](http://tilastokeskus.fi/til/evaa/2011/01/evaa_2011_01_2011-03-22_tie_001_en.html).

the True Finns party being the most Euro-skeptic. The rise in popularity of the True Finns party caused much media discussion of their priorities and their potential role in a government coalition also played a role in the campaign.

Media coverage was seen as a leading campaign influence, with OSCE/ODIHR EAM interlocutors placing great importance on the widely followed television debates. In addition to media reporting and advertisements, the main forms of campaigning consisted of small-scale gatherings rather than large rallies. Posters and billboards for displaying campaign material were also widely used, with standardized municipal space allocated, at varying charge in different parts of the country. The Internet was increasingly important for reaching voters, including candidate blogs, social networking websites, and online discussions with candidates.

## **X. PARTY AND CAMPAIGN FINANCING**

During the last parliamentary term, several financial scandals diminished public trust in the political finance system.<sup>26</sup> These, and a relatively critical GRECO evaluation report on the transparency of Finnish party funding, triggered a major revision of political finance laws.<sup>27</sup> Campaign finance is now governed by the 2009 Act on Candidate's Election Funding and the Act on Political Parties, last amended in 2010. The new legislation was applied for the first time during these elections, and was, thus, still in the process of being tested.

### **A. PARTY SUBSIDIES**

Finland uses a mixed system of political finance, where parties receive extensive public funding and are also allowed to receive private donations. Public funding is based on a yearly decision of the government, distributed to all parliamentary parties in proportion to the number of seats won in the last parliamentary elections.<sup>28</sup> While parliamentary parties are funded quite substantially, non-parliamentary parties do not receive any funds from the state budget.<sup>29</sup> Various OSCE/ODIHR EAM interlocutors expressed concern that this disadvantages non-parliamentary parties and reduces opportunity for plurality and debate.<sup>30</sup>

*In the interests of promoting a vibrant democracy, consideration could be given to providing limited state subsidies to certain categories of non-parliamentary parties (for example, those with representation at the municipal level).*

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<sup>26</sup> On the Transparency International Corruption Perception Index, Finland typically had a score of 10.00 and was rated as one of the two least corrupt countries in the world. However, in 2009 it fell to sixth place (its lowest in the history of the index); this was partly attributed to political finance problems.

<sup>27</sup> Council of Europe, Group of States against Corruption. Evaluation Report on Finland on Transparency of Party Funding. Adopted in Strasbourg, 3-7 December 2007:

[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2007\)2\\_Finland\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2007)2_Finland_Two_EN.pdf)

<sup>28</sup> In 2010, all the parties combined received 36 million EUR, which corresponded to 180,000 EUR per MP per year. Decision of the Government of Finland of 11 February 2010.

<sup>29</sup> The proposal for changing the electoral system (awaiting the new parliament) includes provision for public funding of parties that win at least two per cent of all the votes (whether or not they obtain a seat in parliament).

<sup>30</sup> For such reasons, various national courts in Europe have ruled against state funding being limited to parliamentary parties. For example, see the Federal Constitutional Court of Germany 20 B VerfG 56 of 19 July 1966, the Federal Constitutional Court of Germany of 1968, or Constitutional Court of Slovenia U-I-367/96 of 11 March 1999.

## B. FUNDING AND SPENDING LIMITS

Campaign funding in Finland is two-tiered: parties and candidates collect donations, run their campaigns and submit financial reports separately. Candidates do not receive any funds directly from the state budget, but they can receive unlimited funds from parties and have no limits on using personal funds or taking out loans. Both candidates and parties can receive contributions from individuals as well as from legal entities, including private corporations. These contributions are capped, with the maximum donation to a political party being limited to 30,000 EUR per year and 6,000 EUR to a parliamentary candidate for each election. However, a single donor can donate to as many parties and candidates as s/he wishes and total donations made by a single donor are unlimited.

A party may not accept donations from corporations under government or municipal control, or from an institution or foundation governed by public law. Donations may further not be accepted from unidentified donors. A political party, however, may accept foreign financial support from private individuals and such legal entities that support the same ideology as the party.

Finnish legislation does not provide maximum limits on cash donations. Good practice requires donations to be paid through bank accounts, with cash donations allowed only where the amounts provided are small, since cash contributions are hard to track and undermine the transparency of campaign funding regimes.

*Consideration could be given to placing a limit on the size of cash donations in order to provide for transparency and accountability.*

The legislation does not impose expenditure ceilings on either parties or candidates. Local media and OSCE/ODIHR EAM interlocutors estimated that each of the major parties spent 1-1.5 million EUR on the 2011 campaign, and that most candidates spent extensively from their own personal resources with many of the more well-known candidates spending over 10,000 EUR and as much as 50,000 EUR.<sup>31</sup> The level of spending was said to be about the same as in the 2007 parliamentary election.<sup>32</sup>

## C. TRANSPARENCY REQUIREMENTS

Political parties receiving public subsidies must submit yearly reports accompanied by a report of an auditor appointed by the party. On a monthly basis, parties must also disclose either monetary or in-kind donations exceeding 1,500 EUR. All such reporting is immediately made available on their website.

While elected candidates are required to submit reports on their campaign finance within two months of the confirmation of the election results, unsuccessful candidates are not required to do so. Both successful candidates and all contesting parties need to disclose their total election funding, accompanied by an itemized list of the candidates' own funds, loans, and

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<sup>31</sup> *Helsingin Sanomat* on 18 April 2011: <http://www.hs.fi/english/article/Candidates+disclose+campaign+funding+more+eagerly+than+before/1135265498534>.

<sup>32</sup> MTV3 on 1 April 2011: <http://www.mtv3.fi/uutiset/kotimaa.shtml/2011/01/1250950/vain-kolme-suurta-puoluetta-aikovat-mainostaa-ennen-vaaleja-tvssa>.

contributions received. For each donation, either monetary or in-kind, exceeding €1,500, the donor must be disclosed in the report. The reports also include the total campaign costs accompanied by an itemized list of expenditures for example for various types of advertisements (radio, television, newspaper, etc.). However, the costs per item were not broken down further into individual expenditures.

*Consideration could be given to reviewing the specifications for final financial reports to be submitted by political parties and candidates. More detailed reports could result in increased transparency and greater opportunities to verify their accuracy.*

In addition to the final reports, candidates and parties may voluntarily file advance disclosure reports containing an estimate of future campaign funding and costs. These reports can be filed and updated at any time during the election campaign. They are published on a website managed by the National Audit Office of Finland (NAOF). Before election day, just over 40 per cent of the candidates submitted such advance reports.

Advance reports, however, show estimates of future spending instead of actual revenues collected and spent in the time before the report was submitted. This diminishes the usefulness of such reports. If they included information on actual incomes and expenditures to a certain date, they could be subject to checks by interested individuals.

*Consideration could be given to mandating advance reports and to including requirements for up-to-date disclosure on incomes and expenditures. The NAOF could undertake real-time checks of such submissions.*

#### **D. SUPERVISION OF FINANCE REQUIREMENTS**

Political finance oversight is vested with the MoJ and the NAOF. The MoJ monitors parties' use of state subsidies, while the NAOF oversees whether parties and candidates comply with the rules on donations, disclosure of campaign income, expenditures and reporting.

The NAOF fully audits political party accounts, but only undertakes a limited review of candidates' campaign financing, and only of those who have been elected. The NAOF is also limited in its investigative powers. It is reliant on the information provided by parties and candidates, and on information voluntarily given by third parties.

*Consideration could be given to granting NAOF investigative powers to undertake full campaign finance audits.*

Failure to comply with regulations may result in the NAOF imposing monetary sanctions.<sup>33</sup> The legislation also authorizes the government to sanction political parties by ordering a reduction, discontinuation or recovery of party subsidies. Since a particular government is, by nature, partisan, this may be subject to accusations of conflict of interest. The NAOF is a constitutionally independent body and enjoys high levels of trust.

*Consideration could be given to transferring decisions on sanctions resulting from non-compliance of political finance regulations from the government to an independent and non-*

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<sup>33</sup> The OSCE/ODIHR EAM was informed that no monetary sanctions have been applied.



*partisan body, such as a court or the NAOF. Detailed provisions on sanctions, specifying minimum and maximum penalties, could also be stipulated to ensure proportionality and consistency of application.*

## **XI. MEDIA**

### **A. MEDIA LANDSCAPE**

The media environment in Finland is pluralistic and diverse. Media outlets operate largely on the basis of self-regulation, enjoying a high degree of editorial freedom. The traditional media landscape is dominated by strong regional newspapers and popular public as well as private nationwide TV channels. The vast majority of the population, some 86 per cent, has an Internet connection.<sup>34</sup> The Internet is widely used to access political information with approximately 70 per cent of internet users reading online magazines.<sup>35</sup> While most media focuses on the Finnish-speaking audience, several broadcast and print media outlets offer media products in Swedish. Social media, both global and local, are popular.

Finnish citizens are avid newspaper readers; almost 90 per cent of the population over 12 years of age reads at least one newspaper a day.<sup>36</sup> There are some 200 newspapers published in the country, with a combined circulation of over 1,500,000 per day.<sup>37</sup> *Helsingin Sanomat*, one of a few newspapers with nationwide distribution, is the most popular daily.

There are 34 TV and 60 radio channels licensed in Finland.<sup>38</sup> The national public service broadcaster YLE (*Yleisradio*) operates four national TV channels and six radio channels. Most YLE programming is in Finnish, but there are also extensive Swedish broadcasts and some Sámi language programmes. YLE's operations are financed primarily from license fees paid by citizens. Advertising on YLE's channels is banned by the Act on Yleisradio Oy. Among private broadcasters, TV MTV 3 and *Radio Nova* are the most popular nationwide media outlets airing extensive informative programming.

### **B. LEGAL FRAMEWORK FOR THE MEDIA**

Freedom of expression and the right of access to information are enshrined in the constitution. Other key media-related legislation includes the Act on the Exercise of Freedom of Expression in Mass Media, which regulates publishing and sets conditions for the right to reply and correction, and the Act on Radio and Television Activities regulating TV programme quotas.<sup>39</sup> The Act on Yleisradio Oy deals with the organizational structures of the public broadcaster and specifies the nature and scope of public service programming. YLE's public service mission requires it to "support democracy and everybody's participation right by providing a multitude

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<sup>34</sup> Tilastokeskus (Statistics Finland), 2010 report, [http://www.tilastokeskus.fi/til/sutivi/2010/sutivi\\_2010\\_2010-10-26\\_fi.pdf](http://www.tilastokeskus.fi/til/sutivi/2010/sutivi_2010_2010-10-26_fi.pdf).

<sup>35</sup> Tilastokeskus, [http://www.stat.fi/til/sutivi/2008/sutivi\\_2008\\_2009-04-27\\_tie\\_002\\_en.html](http://www.stat.fi/til/sutivi/2008/sutivi_2008_2009-04-27_tie_002_en.html).

<sup>36</sup> <http://www.finland.fi/Public/default.aspx?contentid=162833&nodeid=41808&culture=en-US>.

<sup>37</sup> The Union of Newspapers Finland (Sanomalehtien Liitto) 2009,

[http://www.sanomalehdet.fi/files/1419/levikit\\_2009.pdf](http://www.sanomalehdet.fi/files/1419/levikit_2009.pdf).

<sup>38</sup> FICORA (the Finnish Communications Regulation Authority) 2011.

[http://www.ficora.fi/attachments/suomimq/5xam7PDL3/Markkinakatsaus\\_1\\_2011.pdf](http://www.ficora.fi/attachments/suomimq/5xam7PDL3/Markkinakatsaus_1_2011.pdf).

<sup>39</sup> Relating to EU Directive "Televisions without Frontiers".



of information, points of view and discussions and means of interaction”.<sup>40</sup>

The legislation does not specifically regulate coverage of political contestants in the media. Principles for treatment of political parties by state institutions (including YLE) are specified by the Act on Political Parties, according to which “state institutions should treat all parties equally”.<sup>41</sup> The same law also grants YLE the right to take “aspects relating to public service programming” into consideration in its coverage. YLE’s criteria guiding the access of the political parties to its election broadcasts includes: the size of a party, the parliamentary status and the interest of viewers.

There is no legal regulation of the media coverage of the campaign, no campaign silence period, no conditions for publishing opinion polls, and no rules concerning paid advertising in the media. In practice, however, the broadcast and print media appear to follow good practices for election coverage in the above-mentioned areas, based on self-regulation mechanisms, including a ban on publicizing opinion polls on the eve of the elections, an end to campaign coverage on election day, and respect for equal treatment of the parties in setting the conditions for paid advertising in the media.

The Finnish Communications Regulatory Authority (FICORA) is the media regulatory body that supervises broadcasters’ compliance with the media legislation, in particular Act on Television and Radio Operations, and issues broadcasting licenses. The Council for Mass Media, a self-regulatory body for the content of broadcast and print media and respect of journalistic ethics, was established in 1968 by publishers and journalists. While the body has no legal powers, it enjoys wide authority and its decisions are published in the media. In 2010, it received 246 complaints, of which 33 per cent were upheld. A very limited numbers of complaints (one or two per year) are filed in connection with coverage of political contestants. The council informed the OSCE/ODIHR EAM that it had received one complaint related to the 2011 elections, but this was dismissed as being without grounds.<sup>42</sup>

### C. MEDIA COVERAGE OF ELECTIONS

Voters were able to access a wide variety of information about political contestants through the media and to make well-informed decisions when voting. The media provided extensive news coverage of the elections and organized electoral debates, allowing voters to compare contestants. Election coverage by national media primarily presented party platforms and campaigns, while specific information about candidates was more accessible through regional newspapers. Although social networks were used for campaigning and as sources of political information, traditional print and broadcast media dominated as key information channels. Parties and candidates were easily able to place campaign advertisements.

Overall, the media concentrated coverage on the parties represented in the outgoing parliament. YLE’s campaign-related TV and radio broadcasts provided significant airtime in electoral debates and interviews for representatives from the eight parliamentary parties.<sup>43</sup> Four political

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<sup>40</sup> Act on Yleisradio Oy section 7.

<sup>41</sup> Act on Political Parties section 10.

<sup>42</sup> The details of the case were not available at the time of the OSCE/ODIHR EAM’s departure from Finland.

<sup>43</sup> Each party represented in the parliament was given access to two debates: Election Launch (7 March) and the Great Debate (14 April), both 110 minutes long. The party leader and party secretary of each political party represented in the parliament were also given 20 minutes in the election programming in YLE’s

parties with the highest ratings in opinion polls were also given additional time in a special election debate “The Big Four - the Prime Minister Debate”, including the three traditionally strongest parties with the most seats in the parliament, and the True Finns party. The rise in popularity of the True Finns party, as reflected in opinion polls, played a significant role in influencing media coverage during the pre-election period. A separate TV debate was organized for nine non-parliamentary parties that contested the elections and an interview with a leader of each of these parties was aired in YLE radio programmes.<sup>44</sup>

MTV3 aired several election programmes, including debates, targeting parliamentary parties. Among parties presented in its election interviews programme, MTV3 also gave space to four non-parliamentary parties, which received the biggest number of votes during the previous parliamentary elections.

Many media outlets posted “voting choice advisors” (*Vaalikoneet*) on their websites and these were used by a large numbers of potential voters.<sup>45</sup> Such websites contained political information, such as candidates’ comments on several political issues and were intended to provide potential voters with advice on which political parties’ or candidates’ platforms were most akin to voter’s preferences. Contesting parties were given equal opportunity to submit their campaign platforms, regardless of their size or popularity. While the potential of such websites to influence voters’ decisions remains unclear, they increased the level of access to information, and helped provide parties and candidates with more equal levels of exposure.

Non-parliamentary parties complained to the OSCE/ODIHR EAM about limited access to media and a lack of opportunities to present their platform. Complaints were also raised in connection with the design of the election debates in YLE, which excluded non-parliamentary parties from discussion with parties represented in parliament. OSCE/ODIHR EAM interlocutors from the media community referred to using criteria like the size of the party or its parliamentary status, allowing voters to gain enough information about key political players, and the need to retain audience interest. At the same time, many media representatives recognized the crucial role of the public media in providing all parties, including those with less support, with sufficient amounts of time and fair opportunity to present their views, especially during the election campaigns.

*In line with its public service mission and in the interest of on-going promotion of vigorous democracy, the YLE should further continue developing modalities of access in a fair and non-discriminatory manner for all political parties running in the elections, allowing sufficient time and opportunity also for smaller and new parties to present their views.*

## **XII. PARTICIPATION OF WOMEN**

Finland ratified the Convention on the Elimination of Discrimination Against Women in 1986. The Act on Equality between Women and Men establishes a quota of minimum 40 per cent gender representation in officially appointed committees and councils, and specifies measures

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<sup>44</sup> Finnish-speaking radio and additional time was allocated to parties in TV and radio broadcasts in Swedish.  
<sup>45</sup> Leaders of non-parliamentary parties were interviewed in 20 minutes programmes, two per programme.  
<sup>45</sup> Vaalikoneet of YLE was launched on 18 March, and had a total of 1.2 million users. Similar numbers of users visited Vaalikoneet on the MTV3 web site, which was launched on 22 January. Vaalikoneet of Helsingin Sanomat was launched on 18 March, and had a total of 240,000 users.

for preventing discrimination and improving the status of women. There is also an Ombudsman for Equality responsible for monitoring the observance of the Act.

In the outgoing parliament, 42 per cent of representatives were women and out of 20 ministers, 11 were women. The outgoing prime minister and the current president are also women. In the incoming parliament, 43 per cent of representatives are women. This one per cent increase on the previous parliament was despite a small drop in the proportion of female candidates.<sup>46</sup> The Green League had the highest gender balance with 51 percent female candidates, and the True Finns party had the lowest proportion of the parliamentary parties, with 33 per cent female candidates. The MoJ did not have centralized figures on the proportion of the genders among election administration staff, as appointment of staff is de-centralized and not a MoJ responsibility. Adherence, however, was reported at all levels to 40 per cent quota.

Reasons given for the strong level of female participation are the entrenched culture of women's empowerment, the Nordic socio-economic model and women's organization in parties. Currently, 12 per cent of state subsidies to parliamentary parties are dedicated to women's association in parties. Thus, out of approximately 36 million EUR of state subsidies given to parliamentary parties,<sup>47</sup> women's organizations receive approximately 4.32 million EUR. Such subsidies are reportedly used to provide some additional support to female candidates.

### XIII. PARTICIPATION OF MINORITIES

There are various traditional and recent minority groups in Finland. The constitution recognizes the Sámi as an indigenous people and grants them, as well as to "the Roma and other groups", the "right to maintain and develop their own language and culture".<sup>48</sup> The constitution does not define these "other groups". State authorities do not collect data on ethnicities, but rather on mother language and citizenship. There is an Ombudsman for Minorities, but this office does not currently monitor minority participation in political life.<sup>49</sup>

Since its formation in 1996, the Sámi parliament has functioned as a representative body of self-government in the Sámi homeland,<sup>50</sup> mainly tasked with linguistic and cultural issues. The definition of the Sámi identity is laid down in the Act on the Sámi Parliament and is mainly based on the Sámi language, with the right to use the language, as stipulated in the Sámi Language Act. Finland has not yet ratified the International Labour Organization's Convention 169 concerning the rights of indigenous and tribal people in independent countries, a subject of much discussion within the Finnish Sámi community. The Sámi parliament estimates that there are some 9,000 Sámi in Finland, of which less than half reside in the homeland. According to Sámi and other interlocutors, there are no particular obstacles for Sámi participation in political

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<sup>46</sup> To 39 per cent compared to 40 per cent in 2007.

<sup>47</sup> [http://www.iltasanomat.fi/kotimaa/Puolueilla\\_palkkapäivä!\\_Näin\\_jaettiin\\_36\\_miljoonan\\_tukirahat/art-1288338286316.html](http://www.iltasanomat.fi/kotimaa/Puolueilla_palkkapäivä!_Näin_jaettiin_36_miljoonan_tukirahat/art-1288338286316.html).

<sup>48</sup> The Constitution of Finland section 17.

<sup>49</sup> The Ombudsman for Minorities is an authority with the basic task of advancing the status and legal protection of ethnic minorities and foreigners as well as equality, non-discrimination and good ethnic relations in Finland. The Ombudsman also acts as the national rapporteur on trafficking in human beings. <http://www.vahemmistovaltuutettu.fi/intermin/vvt/home.nsf/pages/index3>.

<sup>50</sup> The Sámi homeland territory encompasses four areas of the northern Finland, the municipalities of Utsjoki, Enontekiö, Inari and the area of the reindeer owners' association of Lapland in Sodankylä.

life. Sámi candidates ran for a variety of parties. Voter information materials were produced in the Sámi languages.

NGOs estimate there are about 10-12,000 Roma in Finland, whose situation may be regarded as better than in most European countries. However, socially and politically, they report not being fully included in mainstream society. Roma representatives also reported that many elderly Roma are illiterate, making it difficult for them to vote. Limited access to finances for campaigning may also make it harder for Roma candidates to run for office.

In addition to the Roma, there are small numbers of other traditional historical minority groups that have lived in Finland for a long period of time, such as Tatars, Jews and Russians. At the end of 2010, approximately 97,000 or 1.85 per cent of Finnish citizens permanently resident in Finland were born abroad. Approximately 168,000 or 3.2 per cent of the total population who are foreign citizens resident in Finland are not eligible to vote in national elections but could qualify for municipal or European Parliament elections. The MoJ published information for voters in twenty different languages on its website.

*Political parties could be encouraged to more actively support candidates of minority backgrounds in order to promote their full participation in political life.*

Swedish and Finnish have both been national languages since 1919 and, thus, Swedish-speakers are not considered a minority under the constitution. As of 2010, approximately 279,000 citizens or 5.36 per cent of the total population declared Swedish as their native language. The autonomous region of Åland, which has one reserved seat in parliament, enjoys a range of legislative powers relating to its internal affairs. Separate elections are held to the Legislative Assembly of the Åland Islands and Swedish is the only official language of the region. The Swedish People's Party is the only minority party established in Finland, and it draws support mainly from the Swedish speaking population. For the last 30 years, the party has consistently joined government coalitions.

#### **XIV. COMPLAINTS AND APPEALS**

The Administrative Judicial Procedure Act and the Municipalities Act provide provisions for general complaints and appeals relating to administrative bodies. However, within the electoral administration structure, there is no specific system established for lodging complaints related to different aspects of the elections. Instead, reports of problems were dealt with on an *ad hoc* basis. Ultimate authority was not always fully clear to stakeholders. Although the MoJ acts as the highest election authority within the government, it has no power to overrule the decisions made by lower-level electoral authorities.

*Consideration could be given to establishing a clearly publicized mechanism for processing administrative complaints within the various levels of the electoral authorities.*

Citizens can also make complaints concerning the actions of authorities, civil servants and other persons performing public tasks, to the Parliamentary Ombudsman or to the Chancellor of Justice, including on election-related matters. However, neither institution can prescribe corrective actions for individual remedy. Rather, they can issue opinions, which can serve as guidance for future elections. OSCE/ODIHR EAM reported that the complaint procedures with

both institutions can typically take three to six months or longer.

Opportunity for appeals to courts prior to the election results being announced is limited, restricting access to judicial redress should an electoral problem arise. Voter list omissions and the composition of electoral administration bodies can be appealed before election day. In other key stages of the election process, however, judicial appeals are explicitly prohibited. Most significantly, there is no access to judicial review on decisions relating to candidate nomination until after the election results are declared. One case arose relating to an employee of the defense forces that registered as a candidate and was retiring during the campaign period.<sup>51</sup> The Helsinki RAC dismissed the case due to the prohibition on appeals before the results are announced.

Similarly, the legislation also explicitly denies the possibility of appeal against any decision concerning voting; therefore, any issues arising must wait until after the election results are announced.

Limiting appeal opportunities until after the elections is argued to be beneficial in avoiding the use of appeals for political motives. However, the possibility of meaningful redress is compromised as remedy is not provided until after elections.<sup>52</sup> Re-running an election may unduly burden the candidates, voters, the election administration, and the state budget.

*Consideration should be given to allow certain complaints and appeals to be resolved during an electoral process. Effective remedy for election-related complaints and appeals are an important part of international standards and good practices. Consideration could be given to specifying limited time periods for lodging and adjudicating appeals.*

After the election results have been confirmed, appeals can be lodged against the decision on the election results, on the grounds that it is unlawful. The appeal can be lodged by candidates, parties, or other individuals who feel that their interests or rights have been violated. In addition, any voter can lodge an appeal on the grounds that the election has been carried out incorrectly and that this may have affected the results of the election. Such appeals must be lodged with the Regional Administrative Court (RAC) within 14 days of the confirmation of results and must be processed without delay. If the court determines that the decision or action of an election authority was unlawful and this unlawfulness has clearly affected the election result, a new election is held, or, whenever possible, the election result is rectified. The RAC decision may be challenged in the Supreme Administrative Court (SAC) within 30 days. Its decision is final.

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<sup>51</sup> The election administration approved acceptance of the candidacy, stipulating that the candidate should clarify in his campaign material that he was no longer in active service.

<sup>52</sup> Paragraph 5.10 of the Copenhagen Document requires everyone to “have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity.” Also the Moscow document of 1991 paragraph 18.2, 18.3 and 18.4 provide for judicial review of administrative decisions. The ICCPR article 2 requires that “any person whose rights or freedoms are herein recognized as violated shall have an effective remedy” and the Human Rights Committee General Comment 31 refers to the “obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.” The Venice Commission’s Code of Good Practice in Electoral Matters, paragraph 95, emphasizes the importance of having appeals about pre-election matters resolved in a timely manner before election day. Section 21 of the Constitution of Finland states that “everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority”.

On the whole, OSCE/ODIHR EAM interlocutors expressed full confidence in the judicial system and court decisions issued on election-related cases.

## **XV. POLLING**

### **A. EARLY VOTING**

Early voting is popular in Finland and effective in providing greater opportunity for enfranchisement. A total of nearly 32 per cent of eligible voters cast their ballots from 6 to 12 April. General early voting was administered at 901 polling stations. Additionally, some 450 election committees carried out voting at special early polling stations in various locations like hospitals and prisons, and also included mobile early voting in travelling buses. This increased voters' access, particularly in sparsely populated areas.<sup>53</sup> During early voting, any eligible voter could cast their ballot in any location across the country, as a networked voter register allowed processing of voters in real time.

Home voting is available for homebound voters and their caregiver.<sup>54</sup> Some electoral committees informed the OSCE/ODIHR EAM that allowing applications for home voting until the day prior to elections was difficult to manage, but was preferred as it maximized opportunities for voters. This, and voting in hospitals and other institutions, allowed immobile voters to cast their ballots.

During early voting, electors return their completed and folded ballot paper to polling staff, which stamps the ballot and inserts it into a secrecy envelope. The envelope is then placed in another outer envelope with a cover letter signed by the voter and the election official confirming that correct voting procedures were followed. These envelopes are then kept in open top boxes or bags throughout the day and are later secured at night. The open access storage of completed early ballot envelopes has the potential to compromise the security of materials.

*Consideration could be given to enhancing ballot safeguards during early voting, in particular by using sealed ballot boxes, in order to protect the overall integrity of the early voting process.*

Out-of-country voting took place over a four day period. Some 160,000 of the 227,844 eligible Finnish citizens abroad received polling cards notifying them of where and when they could vote. Voters could cast their ballot in the district in which they were last registered in Finland, or if there was no place of registration, in the district of Helsinki. Out-of-country voting reportedly proceeded smoothly. However, on the last day of voting, the Finnish Embassy in Berlin ran out of ballots, leaving some 30 voters unable to cast ballots. As voters had arrived at the polling station before the close of polling, Article 48 of the Election Act was invoked to

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<sup>53</sup> By law, at least one general early polling station is available in each municipality.

<sup>54</sup> Home voting may be carried out by just one member of an election committee, but requires a witness other than the voter to ensure the voter may vote secretly and the proper procedures are carried out. The witness may be an individual who may already be at the voter's home, or as is sometimes done, an individual who travels with the election committee member, to ensure that a third person is always present to legally facilitate the voting process.

allow them to cast their ballots two days later, once ballot papers had arrived.

## **B. ELECTION DAY VOTING**

In polling stations visited, voting was well organized and took place in a calm environment. Election committees were well prepared and competent in fulfilling responsibilities. Voters were processed quickly, efficiently and according to procedures. The largest polling stations had over 6,000 assigned voters, but since a significant share cast their ballots during early voting, this did not seem to pose a problem.

Voters were required to identify themselves with an identification document with a photograph. Nevertheless, some flexibility was allowed by the MoJ in its official guidelines which allowed committees to accept voters in cases when polling staff recognized them. However, a lack of uniform instructions on how to confirm the identity of a voter without identification documents led to varying practices.<sup>55</sup> While such discretion potentially widens enfranchisement, there is a risk that it can also lead to inequality of votes if there is no consistency in application.

*Consideration could be given to elaborating uniform instructions on how to confirm a voter's identity if s/he has no identification document, in order to maintain equal access to voting for all eligible voters.*

## **C. COUNTING, TABULATION AND THE ANNOUNCEMENT OF RESULTS**

After each day of early voting, marked ballots were delivered to the respective MCECs to be sorted and secured. The secrecy envelopes containing ballots were then separated from the cover letters once each voter's eligibility and the integrity of the sealed envelope was verified. The sealed envelopes with ballots were then delivered to the corresponding EDC for counting on election day.

In some instances, early voting ballots were invalidated at MCECs over procedural irregularities. For instance, if a voter had not signed the cover letter or it was missing the polling official's signature, the ballot was generally invalidated. In some cases, early voting took place without a voter list, which required voters to know their district. If voters were incorrect, cover letters may have been completed for wrong districts, thus invalidating the votes. While these administrative issues might have been rectified by contacting voters to correct errors, this was apparently not undertaken by MCECs. These issues appeared to affect a small numbers of voters; nevertheless, they are important for assuring the equality of the vote and avoiding problems in close races.

*Consideration could be given to establishing a consistent approach on how to deal with early ballots in cases of procedural mistakes.*

The counting of early ballots took place at EDCs on election day and was generally finished by 20:00. Each district's results were entered into EIS and posted on the MoJ website.<sup>56</sup> The

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<sup>55</sup> Varying answers were given to the OSCE/ODIHR EAM by election committee members on whether they would accept voters without identification documents. The majority said they would in certain circumstances, but gave different answers as to what criteria would be used.

<sup>56</sup> Due to high turnout and limited space to complete the counting, the Helsinki EDC only completed preliminary counting of the early ballots on the morning of 18 April 2011.

counting of early votes appeared to be efficient, with most results available by 24:00 on election night.

A preliminary ballot count is done at polling stations immediately after polling. This provides initial results on election night. However, these are only preliminary results, with the official count taking place on the following day. In polling stations visited by the OSCE/ODIHR EAM, the initial count was conducted efficiently and accurately, in full view of all those present. Results were entered into the results protocols and immediately forwarded by phone to the MCECs, who entered the data into the EIS for prompt tabulation and publication on the MoJ website.

Sensitive materials were then forwarded to the 15 EDCs and the official count began on 18 April. It resulted in one change in mandate, with 27 votes separating two candidates from the same party. Final results were announced at 18:00 hours on 20 April; the turnout announced was 67.4 per cent.



## ANNEX 1: OFFICIAL ELECTION RESULTS

Party Name	Percentage of Votes		Number of Votes		Number of Seats	
	%	Change from 2007		Change from 2007		Change from 2007
Center Party of Finland	15.8	-7,3	463,266	-177,162	35	-16
National Coalition Party	20.4	-1,9	599,138	-17,703	44	-6
Social Democratic Party of Finland	19.1	-2,3	561,558	-32,636	42	-3
Left Alliance	8.1	-0,7	239,039	-5,257	14	-3
Green League	7.3	-1,2	213,172	-21,257	10	-5
Christian Democrats in Finland	4.0	-0,9	118,453	-16,337	6	-1
Swedish People's Party in Finland	4.3	-0,3	125,785	-735	9	0
True Finns	19.1	+15,0	560,075	447,819	39	34
Communist Party of Finland	0.3	-0,4	9,232	-9,045	0	0
Suomen Senioripuolue	0.1	-0,5	3,195	-13,520	0	0
Communist Worker's Party - For Peace and Socialism	0.1	0,0	1,575	-432	0	0
Suomen Työväenpuolue STP	0.1	0,0	1,857	93	0	0
Itsenäisyyspuolue	0.1	-0,1	3,236	-2,305	0	0
Köyhien Asialla	0.0	-0,1	1,335	-1,186	0	0
Piraattipuolue	0.5	+0,5	15,103	15,103	0	0
Muutos 2011	0.3	+0,3	7,504	7,504	0	0
Vapauspuolue (VP) - Suomen tulevaisuus	0.1	+0,1	4,285	4,285	0	0
Others	0.4	-0,1	11,763	-825	1	0
Rejected votes	0.6		16,294			
<b>Total</b>			<b>2,955,865</b>			
<b>Voter Turnout</b>						
	Registered In Finland	Registered Out of Country *	Total			
Ballots Cast	2,931,817	24,048	2,955,865			
Registered Voters	4,159,857	227,844	4,387,701			
Turnout	70.48%	10.55%	67.37%			

\* Note: 35,049 voters actually cast ballots outside of Finland, as this includes voters registered as residents in Finland.

Source: Ministry of Justice website [http://192.49.229.35/E2011/e/tulos/tulos\\_kokomaa.html](http://192.49.229.35/E2011/e/tulos/tulos_kokomaa.html)

## 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](http://www.osce.org/odihr)).