



Office for Democratic Institutions and Human Rights

# THE NETHERLANDS

## PARLIAMENTARY ELECTIONS

15 March 2017

### OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

23 – 25 January 2017



Warsaw  
9 February 2017

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**THE NETHERLANDS  
PARLIAMENTARY ELECTIONS  
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**OSCE/ODIHR Needs Assessment Mission Report**

**I. INTRODUCTION**

Following an invitation from the Government of the Netherlands to observe the 15 March 2017 parliamentary elections, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) from 23 to 25 January to The Hague. The NAM included Dr. Richard Lappin, Deputy Head of the OSCE/ODIHR Election Department, and Mr. Radivoje Grujić, OSCE/ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the elections. Based on this assessment, the NAM should recommend whether to deploy an OSCE/ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions and the election administration, as well as representatives of political parties, media and civil society. A list of meetings is annexed to this report.

The OSCE/ODIHR would like to thank the Ministry of Foreign Affairs and the Ministry of the Interior and Kingdom Relations for their assistance in organizing the visit. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and for sharing their views.

**II. EXECUTIVE SUMMARY**

On 15 March, citizens will vote to elect the 150 members of the House of Representatives, the lower chamber of the Dutch parliament. Members will be directly elected for a four-year term through a proportional system, on the basis of open candidate lists, with preferential voting.

Recent amendments to the legal framework are technical and include changes in procedures for registering voters abroad, candidate registration, and mandatory training for polling staff. In addition, new and comprehensive campaign finance rules will be tested for the first time in the upcoming elections. While some of these changes partly addressed previous OSCE/ODIHR recommendations, others remain unaddressed, including those related to proxy voting, campaign finance oversight, complaints and appeals, and ballot design.

The administration of elections is decentralized and shared between national and local governments and electoral commissions. The Ministry of the Interior and Kingdom Relations oversees the conduct of elections at the national level and 388 municipal governments are responsible within their jurisdictions. The Electoral Council, 20 District Election Commissions, and some 10,000 Precinct Election Commissions fulfil specific roles. All OSCE/ODIHR NAM interlocutors expressed a high level of trust in the impartiality and professionalism of the election administration.

There are some 12.9 million registered voters. All citizens over the age of 18 have right to vote, except those convicted of certain crimes by a court decision. There is no limitation on the right to vote for persons with mental disabilities. Voter registration is passive, except for those residing abroad who must actively register. No concerns were expressed regarding the accuracy of the voter lists.

The law offers several options for casting a ballot. This includes voting in person, via proxy, or, for citizens abroad, by mail. The majority of OSCE/ODIHR NAM interlocutors did not express fundamental objections to the longstanding practice of proxy voting, despite potential challenges to the secrecy of the vote.

All eligible voters can stand for elections. To register a candidate list, contestants not represented in the outgoing parliament must submit a small number of support signatures from each of the 20 electoral districts where they intend to field candidates. Parties with at least 15 seats in the outgoing parliament can include a maximum of 80 candidates on each list, while others are limited to 50. A voter can sign in support for only one candidate list.

Women are well represented in public life with 38 per cent representation in the outgoing parliament. At least 25 per cent of polling stations within each municipality should be accessible for voters with physical disabilities, who may receive assistance when voting. Several OSCE/ODIHR NAM interlocutors shared concerns that this does not apply for voters with mental disabilities.

Election campaigning is largely unregulated. The Constitution protects fundamental freedoms and no OSCE/ODIHR NAM interlocutors expressed serious concerns about the ability to campaign freely. However, some interlocutors voiced concerns about the potential use of discriminatory stereotypes and intolerant rhetoric targeting Muslims, migrants and asylum seekers during the campaign.

Newly introduced campaign finance regulations provide for private and public financing under the supervision of the Ministry of the Interior and Kingdom Relations. Disclosure is required only for contributions above EUR 4,500 and debts over EUR 25,000, while anonymous donations of up to EUR 1,000 are allowed. On 8 March, reports will be published of all parties' donations and debts above the threshold for the period of 1 January 2015 to 22 February 2017.

The media offers a diverse range of views. Television is the main source of political information and the public broadcaster is obliged to provide parties that submit candidate lists in 19 out of 20 electoral districts with an equal amount of free airtime. Debates will be organized on public and private television and are expected to have a decisive impact on voters' choice. While all OSCE/ODIHR NAM interlocutors positively assessed media freedom, concerns were raised over criteria for selection of participants in televised debates and a potential increase in "fake news", especially online.

Complaints on voter and candidate registration can be submitted to the electoral or administrative body dealing with those issues and appealed to the Council of State. For other aspects, including campaign finance, campaigning, and challenges to the election results, there are no specific rules and regulations that would allow judicial appeal, at odds with prior OSCE/ODIHR recommendations. No interlocutors expressed concerns related to the impartiality of electoral dispute resolution.

All OSCE/ODIHR NAM interlocutors expressed confidence in the impartiality of the election administration and their ability to organize elections professionally and transparently. Most interlocutors stated that they would welcome a potential OSCE/ODIHR observation activity for these elections, recognising that an external assessment may contribute to further improvements to the electoral process. A number of aspects would merit specific attention by an OSCE/ODIHR election observation activity, including the implementation of a recently revised Elections Act and new campaign finance rules, the administration of alternative voting methods, accessibility for persons with disabilities, the conduct of the campaign, and the complaints and appeals process. On this basis, the OSCE/ODIHR NAM recommends the deployment of an Election Assessment Mission for the upcoming elections.

### III. FINDINGS

#### A. BACKGROUND

The Netherlands, the largest part of the Kingdom of the Netherlands, is a constitutional monarchy with a parliamentary system of government.<sup>1</sup> The bicameral parliament comprises the 150-member House of Representatives (House) and the 75-member Senate. The House members of parliament (MPs) are directly elected for a four-year term through a national proportional contest and Senators are indirectly from the 12 provincial assemblies.<sup>2</sup> The executive branch of government is formed by the Council of Ministers, headed by the Prime Minister. The Council of Ministers is appointed and dismissed by the monarch, following initial approval by the parliament.

After two early elections, with the last held in 2012, the outgoing parliament will be the first assembly to complete its full term since 2006. Currently, there are 17 political groups in the parliament, with the People's Party for Freedom and Democracy (VVD) and Labour Party (PvdA) having the ruling majority.<sup>3</sup> Women are well represented in public life. In the outgoing House, 38 per cent are women, while 7 out of 20 Ministers and State Secretaries are women.<sup>4</sup>

The OSCE/ODIHR has previously observed three elections in the Netherlands since 2006.<sup>5</sup> The OSCE/ODIHR Election Assessment Mission for the 2012 early parliamentary elections concluded that “were conducted in an open, pluralistic and transparent manner and voters enjoyed a wide choice of political options. The electoral process benefited from a high level of public confidence... While the legal framework provides a sound basis for the conduct of democratic elections, it could benefit from further elaboration, particularly on the conduct of the campaign, proxy voting, political finance, and the complaints and appeals processes...”.

#### B. LEGAL FRAMEWORK

Elections are primarily regulated by the 1954 Charter of the Kingdom of the Netherlands, the 2002 Constitution of the Netherlands, the 1989 Elections Act, and the 1989 Elections Decree that unifies prior election-related regulations.<sup>6</sup> The electoral process is further regulated by the 2013 Political Finance Act, the 2009 General Administrative Law Act, and the 1994 Criminal Code, as well as organic laws on the courts and procedural codes. The Netherlands is a party to major international and regional instruments related to the holding of democratic elections and the Constitution formally integrates international law into national law.<sup>7</sup>

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<sup>1</sup> The Kingdom of the Netherlands also comprises Aruba, Curaçao, and Sint Maarten in the Caribbean. The four entities conduct their internal affairs autonomously, elects its own parliament, and has its own executive branch.

<sup>2</sup> The last elections for the senate were held in May 2015.

<sup>3</sup> Other parliamentary groups include 50 Plus (50+), Christian Democratic Appeal (CDA), Christian Union (CU), Democrats 66 (D66), Green Left, Party for the Animals (PvdD), Party for Freedom (PVV), Reformed Political Party (SGP), Socialist Party (SP), and independent deputies who withdrew from their original groups.

<sup>4</sup> See also UN Committee on the Elimination of Discrimination against Women “[Concluding observations on the sixth periodic report of the Netherlands](#)” (18 November 2016), CEDAW/C/NLD/CO/6, para. 31.

<sup>5</sup> See all previous [OSCE/ODIHR reports on the Netherlands](#).

<sup>6</sup> The Charter describes the political relationship between the four countries that constitute the Kingdom of the Netherlands. The Constitution of the Netherlands is legally subordinate to the Charter.

<sup>7</sup> Including the 1966 International Covenant on Civil and Political Rights, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 1979 UN Convention on the Elimination of All Forms of Discrimination against Women, 2003 UN Convention against Corruption, 2006 Convention on the Rights of Persons with Disabilities (CRPD), and 1950 European Convention on Human Rights. The Netherlands is also a member of the Council of Europe's Venice Commission and Group of States against Corruption (GRECO).

Since the 2012 elections, the Elections Act was amended several times. The amendments are largely technical and include procedural changes to registering voters abroad, candidate registration, and mandatory training for polling staff. In 2013 the Political Finance Act was adopted, replacing previous laws and comprehensively regulating finance of political activities. While some of these changes partly addressed previous OSCE/ODIHR recommendations, others remain unaddressed, including those related to proxy voting, campaign finance oversight, complaints and appeals, and ballot design.

The Elections Act provides for international election observation. All citizens can observe election day proceedings and sessions of election administration bodies and have the right to file an oral complaint on any part of the process.

### **C. ELECTORAL SYSTEM**

The 150 members of the House are elected through a proportional system, on the basis of open candidate lists, with preferential voting. A voter can vote for any candidate on a list, and his or her choice results in a vote for this list as well. The country is divided into 20 electoral districts to allow for regional lists, but is otherwise treated as a single district. There is no legal threshold for obtaining representation and seats are distributed at the national level according to a natural electoral quota.<sup>8</sup> Candidates that receive preference votes amounting to at least 25 per cent of the electoral quota are declared elected automatically, regardless of their position on the list. Any remaining seats are awarded to candidates by list order.

### **D. ELECTION ADMINISTRATION**

The administration of elections is decentralized and shared between national and local governments and electoral commissions. The Ministry of Interior and Kingdom Relations (MoIKR) oversees the conduct of elections at the national level and the 388 municipal governments are responsible within their jurisdictions. The electoral commissions are the Electoral Council (EC), 20 District Election Commissions (DECs), and some 10,000 Precinct Election Commissions (PECs).

The MoIKR is responsible for proposing legislation and issuing regulations related to the electoral process but it does not have direct authority over other election administration bodies. It is responsible for developing the format of election-related materials, such as ballots and voting cards, which are printed by the municipalities. In addition, the municipalities are responsible for voter registration, distributing voting cards, and establishing and staffing polling stations. In line with a prior OSCE/ODIHR recommendation, the training of polling staff is now mandatory and the OSCE/ODIHR NAM was informed that online and in-person courses are organized. The MoIKR and municipalities will issue a range of voter information, including to the elderly, first-time voters, and voters abroad. The MoIKR conducts an evaluation after each election to identify areas for potential improvement.

The EC is a permanent independent body of seven members appointed by the government through an open recruitment procedure for up to two six-year terms. The EC registers the names of the political parties and the candidate lists for all districts, numbers the lists of candidates, establishes the final election results, and allocates mandates.<sup>9</sup> The EC also acts as an advisory body to the government and the House on election-related matters. It has no authority over lower-level commissions. The EC, together with the MoIKR, has formed a public information centre to answer questions related to election proceedings, both to voters but election staff.

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<sup>8</sup> The natural electoral quota is calculated by dividing the total number of votes by the number of seats in the House.

<sup>9</sup> Once the EC announces the election results and allocates seats, the Credentials Committee of the outgoing parliament checks that each elected candidate is eligible to become a MP, in line with the Incompatibility Act.

The DEC's are composed of five members and three substitutes appointed by the MoIKR for a four year-term term. The DEC's tabulate, announce and forward the results from the municipalities under their jurisdiction to the EC. The PEC's are temporary bodies appointed by the municipalities to conduct the voting and counting process.<sup>10</sup> A municipality must have at least one PEC, usually composed of a chairperson and between two and six members.

The Elections Act requires that at least 25 per cent of polling stations within each municipality are accessible for voters with physical disabilities, who may receive additional assistance to vote from the PEC chairperson. Several OSCE/ODIHR NAM interlocutors shared concerns that voters are unable to choose the person of assistance and that the rule does not apply for voters with mental disabilities, at odds with prior OSCE/ODIHR recommendations and the objectives of the CRPD. Representatives of the MoIKR noted that the prohibition on persons with mental disabilities was in line with a declaration made by the Netherlands at the time of ratification of the CRPD that expressed concerns about potential intimidation of voters with mental disabilities.<sup>11</sup> Some OSCE/ODIHR NAM interlocutors raised additional concerns that voter information materials and ballots are not produced in formats accessible for voters with visual impairments.

All OSCE/ODIHR NAM interlocutors expressed a high level of trust in the election administration at all levels to conduct elections in an impartial and professional manner. However, several interlocutors shared concerns that the format of the ballot would be difficult to handle in anticipation of a high number of candidate lists.<sup>12</sup> The MoIKR stated that it proposed a change of ballot format, in line with a prior OSCE/ODIHR recommendation, but that the initiative was not supported by parliament.

## E. VOTER REGISTRATION

All citizens over the age of 18 have right to vote, except those convicted of certain crimes whose voting rights can be temporarily suspended upon a court's decision. There is no limitation on the right to vote for persons with mental disabilities, including those under guardianship. Voter registration is passive and based on extracts of the unified population register maintained by municipalities. The voter register closes six weeks prior to election day, on 30 January, and it is estimated that there is some 12.9 million eligible voters.

Voters residing abroad should actively register with the municipality of The Hague up to 1 February.<sup>13</sup> Voters residing abroad can register by post or electronically. When registering, they can express their choice on voting method and how they would like to receive their ballot (see *Alternative Voting Methods*). With a view to increasing participation of voters residing abroad, the parliament has passed legislation for such voters to be registered permanently in future elections. It is estimated that up to 1 million citizens reside outside of the Netherlands, while some 74,000 requested registration for the upcoming elections.

At least two weeks before election day, municipalities send voting cards to all eligible voters. Voter cards are personalized documents with security features that cannot be copied. Voters may request a

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<sup>10</sup> The OSCE/ODIHR NAM was informed by the EC that pilots will be held in two municipalities in which the votes will be counted at the municipal level, pending approval by the MoIKR.

<sup>11</sup> Article 29 of the 2006 CRPD, ratified by the Netherlands in 2016, requires states to “guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others... (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice”. The Government [declared](#) that this article stands only for persons with physical disabilities.

<sup>12</sup> The ballot includes all lists and candidates' names and is anticipated to be around one metre in length.

<sup>13</sup> Voters residing in Aruba, Curaçao or Sint Maarten can register at the Netherlands Representative Office in the respective country.

replacement in case of loss, including on election day. A voter can vote in any polling station of the municipality where she or he is registered, but may also request to vote at any other location in the country. In order to cast a ballot, a voter must present his or her voter card and a state-issued identification document to a member of the PEC, who verifies that the voter card has not been invalidated.<sup>14</sup> There are no voter lists in polling stations and multiple voting is prevented through the retention of voter cards. No concerns over the accuracy or inclusivity of voter registration were raised by OSCE/ODIHR NAM interlocutors.

#### **F. ALTERNATIVE VOTING METHODS**

In addition to casting their vote in person at a polling station, a voter may cast their ballot via proxy or, for citizens residing abroad, by mail. While a debate on the re-introduction of new voting technologies has been ongoing in recent years, no decision has been made to implement it.

All voters may appoint a proxy to vote on their behalf if they are unable to come to a polling station. Contrary to a prior OSCE/ODIHR recommendation, no justification is required to request a proxy vote. Each proxy can vote on behalf of a maximum of two persons and recent amendments to the Elections Act prohibit voters requesting a proxy in a polling station. Prisoners can only vote by proxy. The majority of OSCE/ODIHR NAM interlocutors did not express fundamental objections to the longstanding practice of proxy voting, despite potential challenges to the secrecy of the vote.

Citizens residing abroad may vote in person or by proxy in the Netherlands or request a postal ballot. For the first time in these elections, as a means to avoid delays with international postal services, voters can opt to electronically download their postal ballot. Voters can return their ballot by mail to The Hague DEC or to any of 22 Dutch Embassies that are assigned by the Ministry of Foreign Affairs as collection points of votes from abroad.<sup>15</sup> In order to be valid, ballots should be received by 15:00 local time on election day.

#### **G. CANDIDATE REGISTRATION**

All eligible voters can stand for elections. Additionally, a person who is at least 16 years old at the time of elections can stand as well.<sup>16</sup> Candidate registration starts with the registering of names of political groupings with the EC, with applications and a deposit of EUR 450 submitted at least 43 days before the deadline for candidate list nomination, 30 January. Non-registered groupings and individuals can compete as so-called 'blank lists'. All 81 political grouping that submitted names were registered for the upcoming elections.

Following amendments to the Elections Act, candidate lists are to be submitted centrally to the EC. To register a candidate list, political groups not represented in the outgoing parliament must submit 30 support signatures from each electoral district where they intended to field candidates, a deposit of EUR 11,250, and written consent from all the candidates.<sup>17</sup> Parties that obtained at least 15 seats in the previous elections can include a maximum of 80 candidates on their lists, while others are limited to

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<sup>14</sup> Such cards include those that have been replaced, those that have been established as stolen or unlawfully in circulation, or whose holder submitted a written application to vote by proxy, has been issued a postal vote or has died. Documents expired less than five years ago will be accepted for voter identification.

<sup>15</sup> In addition, there will be three collection points abroad assigned by the Ministry of Defense and three collection points in Dutch representations at the Caribbean countries of the Kingdom of the Netherlands. The ballots are counted at these collection points with results transmitted electronically to The Hague DEC.

<sup>16</sup> If elected, they are put on a so-called "reserve list" until they turn 18, when they may start their mandate.

<sup>17</sup> In electoral district 20, Bonaire, the required number of signatures is ten.



50.<sup>18</sup> The time for collecting support signatures has been extended from previous elections, from 7 to 14 days. Contestants may register different candidate lists in each of the 20 electoral districts. A voter can sign support for only one candidate list.

The EC examines submitted lists and, in case of any error, the parties receive an additional three days to correct and resubmit to the EC. The EC informed the OSCE/ODIHR NAM that prior to the deadline for submission of candidate lists, it invites all interested parties to review the documentation to be sure that all requirements were fulfilled. Political parties met with by OSCE/ODIHR NAM expressed their view that the candidate registration process will be inclusive and that they see no challenges in meeting registration requirements.

There is no gender quota requirement in the law. However, all OSCE/ODIHR NAM interlocutors noted that gender equality is well-respected in political life and that most political parties will submit a balanced number of male and female candidates on the lists.

## H. ELECTION CAMPAIGN

Election campaigning is generally unregulated. There is no official campaign period and campaigning may take place up to and including on election day, except at polling stations. The Constitution guarantees freedoms of association, assembly and expression and no OSCE/ODIHR NAM interlocutors expressed serious obstacles concerning their ability to campaign freely. However, some interlocutors voiced concerns about the potential use of discriminatory stereotypes and intolerant rhetoric targeting Muslims, migrants and asylum seekers during the campaign.<sup>19</sup> Racist speech and intimidation of political candidates are criminal acts, but some OSCE/ODIHR NAM interlocutors shared examples of political figures receiving threats during meetings and via social media.

The campaign is expected to be focused on national identity, policy towards immigrants, social inclusion, healthcare and relations with the European Union. While traditional campaign methods will be in place, including meetings, posters, and canvassing, it is widely expected that campaign will rely heavily on the use of the Internet and social media. Most of OSCE/ODIHR NAM interlocutors agreed that televised debates among selected candidates will play a key part of the campaign (see *Media*).

A special and longstanding feature of elections in the Netherlands is the voluntary analysis of the potential economic impact of party programmes, conducted by the Central Planning Bureau (CPB), an independent body under the Ministry of Economic Affairs. For the upcoming elections, the CPB will present its analysis on 16 February. A number of popular non-partisan web applications, such as *Kieskompas* (or Vote Compass) and *Stemwijzer* (or Vote Match), aim to engage voters by comparing the voters' views with the election programmes of political parties.

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<sup>18</sup> On 24 January, the parliament rejected a proposal that all parliamentary parties be allowed to have 80 candidates on their lists.

<sup>19</sup> On 9 December 2016 a court found Mr. Geert Wilders, leader of the PVV, guilty of insulting and inciting racial discrimination against Dutch Moroccans. At the same time, the court did not impose a fine, arguing that the conviction itself was punishment enough. See UN Committee on the Elimination of Racial Discrimination [Concluding observations](#) on the seventeenth and eighteenth period reports of the Netherlands (25 March 2010), CERD/C/NLD/CO/17-18 and "[Consideration of reports submitted by States parties, Nineteenth to twenty-first periodic reports](#)" (18 November 2013), CERD/C/NLD/19-21. See also UN Committee on the Elimination of Discrimination against Women "[Concluding observations on the sixth periodic report of the Netherlands](#)" (18 November 2016), CEDAW/C/NLD/CO/6, para. 21.

## I. CAMPAIGN FINANCE

The 2013 Political Finance Act introduced comprehensive regulation of campaign finance, thus addressing a previous OSCE/ODIHR recommendation. The upcoming parliamentary elections will be the first under the new legal framework. The law provides for a mixed political finance system, including both public and private financing. Parliamentary parties receive public funding in proportion to their representation, while all parties and candidates may receive unlimited contributions from private individuals and legal entities. Anonymous donations of up to EUR 1,000 and donations from abroad are allowed. Parties must record all contributions over EUR 1,000, whether monetary or in-kind and public disclosure is required for contributions of over EUR 4,500 EUR from a single donor and debts of over EUR 25,000 EUR in a calendar year. The legislation does not impose expenditure ceilings on either parties or candidates.

Parliamentary parties must submit their annual financial reports certified by an auditor by 1 July (for the previous year) to the MoIKA.<sup>20</sup> These rules do not apply to individual MPs, but in election years the regulations on donations and debts apply to all candidates and must also be published in the Government Gazette. On 1 March all political parties that will participate in the elections have to submit report of donations and debts above the threshold for the period 1 January 2015 to 22 February 2017, which will be published on 8 March. From 22 February until election day, there is no requirement for candidates or parties to disclose their campaign income and expenditure.<sup>21</sup>

Since February 2014, the MoIKA established a Commission on Political Party Finance. The Commission serves as an advisory body to the MoIKA and consists of three members appointed for up to two four-year terms, none of whom represent the governing parties. The Commission meets once a year and upon request by the MoIKA provides opinion on issues related to political finance.

A range of administrative fines can be imposed by the MoIKA in case of infringements, including failure to record contributions and debts, failure to submit a financial report, non-compliance with the rules on disclosure, and acceptance of anonymous donations above the established threshold. Administrative fines may be imposed up to a maximum of EUR 25,000. In case a political party is a recipient of public funding, the amount of the fines will be withdrawn from the subsidy. In cases involving criminal convictions, eligibility for state subsidies is suspended for up to four years.

No OSCE/ODIHR NAM interlocutors raised pressing concerns related to campaign finance regulation and oversight. In June 2013, the Council of Europe's GRECO welcomed the new law but repeated concerns related to the independence of oversight institution, the disclosure threshold, the possibility to make anonymous donations, and the lack of requirements for parties to consolidate national and local accounts.<sup>22</sup> The implementation of the Political Finance Act is to be reviewed in 2017 with a view to potential refinements.

## J. MEDIA

The media environment is pluralistic and offers a diverse range of views. The Constitution and Media Act provide a robust system that protects freedom of expression and freedom of media. The main source of political information is television, followed by daily newspapers and, increasingly, online and social media. There are around 600 broadcasters, largely self-regulated with a tradition of editorial

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<sup>20</sup> While there is no deadline for publishing the annual reports, the MoIKR informed OSCE/ODIHR NAM that it publishes annual reports on 1 October. See [2015 annual financial report](#) of parliamentary parties.

<sup>21</sup> All donations and expenditures for this period will be presented in annual reports for 2017, published in 2018.

<sup>22</sup> See GRECO's [Interim Compliance Report on the Netherlands](#) from 27 June 2013.

independence. The public broadcasting system includes 20 independent organizations. They broadcast jointly on six television and seven radio channels under the umbrella of NPO (*Nederlandse Publieke Omroep*), which co-ordinates the programme structure and distributes airtime among the broadcasters. There are also several newspapers with high daily circulation.

The Dutch Media Authority (DMA) upholds the rules set out in the Media Act and grants licenses to private broadcasters. It handles media-related complaints and has the power to impose sanctions if media outlets do not comply with the legislation, ranging from warning to a series of financial penalties. In addition, the DMA can withdraw the broadcasting license for a certain period of time. Internet content is not subject of media oversight.<sup>23</sup>

Parliamentary parties are allocated free airtime in the public media on an annual basis, on a strictly equal approach for all. In addition, during the campaign, parties that submit candidate lists in 19 out of 20 electoral districts get additional free airtime, also on an equal basis.<sup>24</sup> The DMA is responsible for the allocation of this airtime, while the quantity is decided by the Ministry of Education, Culture and Science. Paid advertisement is allowed but, according to most OSCE/ODIHR NAM interlocutors, is rarely used. The commercial broadcasters will organize debates, with RTL expected to invite the four parties ranked highest in opinion polls. The public broadcaster will organize a debate with 14 parties on the evening prior to election day, selected on the basis of opinion polls and number of MPs. Several OSCE/ODIHR NAM interlocutors shared concern over the criteria for participating in televised debates, saying that this will impact candidate's ability to reach out to voters.

While all OSCE/ODIHR NAM interlocutors positively assessed media freedom, concerns were raised about a potential increase in intolerant speech and "fake news", especially online. On 8 December 2016 an investigative journalist was murdered, with the perpetrators not yet brought to justice.<sup>25</sup>

## K. COMPLAINTS AND APPEALS

The Elections Act regulates complaints and appeals regarding specific parts of the electoral process, such as voter registration, registration of party lists, candidate registration, and election day proceedings. Complaints can be submitted to the electoral or administrative body dealing with those issues. The Council of State reviews appeals related to voter registration, registration of party lists and candidate registration. Except for appeals in candidate registration cases (six days), there are no special terms and expedited deadlines for other election-related appeals and, in line with general administrative procedures, they are to be decided within a period of six weeks. The Council of State informed the OSCE/ODIHR NAM that in election-related cases they act in an accelerated manner.

For other aspects of elections, including campaign finance, campaigning, and challenges to the election results, there are no specific rules and regulations that would allow judicial appeal, at odds with prior OSCE/ODIHR recommendations. However, civil law suits can be filed with courts of first instance, in line with the General Administrative Act, with the Council of State being an appellation body and final instance. All decisions of the Council of State are published online.

Voters present at polling stations can orally file a complaint which is written down in the protocol of the polling station. If a matter is of a small technical nature, and the PEC agrees with the complainant,

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<sup>23</sup> In its [Concluding observations from 2010](#), (CERD/C/NLD/CO/17-18) the UN CERD stated that "The Committee welcomes the concerted efforts of the State party to police and remove discriminatory or racist material from Dutch websites. Nevertheless, it is concerned that the dissemination of such material through the internet remains widespread".

<sup>24</sup> Each qualified party will get 18 minutes on television and 20 minutes on radio. The DMA decided on the order of use of free airtime by drawing lots.

<sup>25</sup> See [9 December 2016](#) statement by the OSCE Representative on Freedom of the Media.

they may take necessary action immediately. Any citizen can file an oral complaint during the meetings of DECs, which is written down in the DEC minutes and is to be reviewed by the EC. As a result, the EC may order a partial or full recount of the vote.

All protocols from PECs are submitted to the Credentials Committee of the outgoing parliament, which checks the complaints recorded and, in case of serious violations, may decide on a partial or total recount of votes or repeat elections. No OSCE/ODIHR NAM interlocutors expressed concerns related to electoral dispute resolution, stating that there is longstanding tradition of well administered elections and that remedy is rarely needed.

#### **IV. CONCLUSIONS AND RECOMMENDATION**

All OSCE/ODIHR NAM interlocutors expressed confidence in the impartiality of the election administration and their ability to organize elections professionally and transparently. Most interlocutors stated that they would welcome a potential OSCE/ODIHR observation activity for these elections, recognising that an external assessment may contribute to further improvements to the electoral process. A number of aspects would merit specific attention by an OSCE/ODIHR election observation activity, including the implementation of a recently revised Elections Act and new campaign finance rules, the administration of alternative voting methods, accessibility for persons with disabilities, the conduct of the campaign, and the complaints and appeals process. On this basis, the OSCE/ODIHR NAM recommends the deployment of an Election Assessment Mission for the upcoming elections.

## **ANNEX: LIST OF MEETINGS**

### **Ministry of Foreign Affairs**

Marieke H. Monroy-Winter, Head, Security and Defence Policy Division  
Eva A.C. van Ginneken, Policy Officer, Security and Defence Division

### **Ministry of the Interior and Kingdom Relations**

H. Aernoud Akse, Head, Elections Team  
Reinier K. Fleurke, Policy Advisor  
Maria Gonzales, Programme Manager  
Tycho Laan, Policy Advisor  
Joep B.A. Severens, Senior Policy Officer

### **Electoral Council**

Jan-Kees Wiebenga, Chairperson  
Melle Bakker, Secretary-Director  
W.A. Edward Bruheim, Senior Legal Advisor

### **Commission on Political Party Finance**

Ewout Irrgang, Member

### **Council of State**

H.G. Lubberdink, Judge  
Marcel Rijdsdijk, Registrar

### **Dutch Media Authority**

Wim Groen, Project Chief, Research  
Bert Kipp, Researcher

### **Central Planning Bureau**

Laura B.J. van Geest, Director  
Wim Suyker, Programme Leader Public Finance

### **The Hague Election Commission**

Gerjan Wilkens, Chairperson  
Frans Andriessen, Senior Adviser  
Samira Voorham, Project Manager, Voters Abroad

### **Political Parties**

Edward de Lanoy, Parliamentary Faction Secretary, Christian Democratic Appeal  
Selçuk Öztürk, MP, Denk Party  
Fatma Koşer Kaya, MP, D66 Party  
Manon Fokke, MP, Labour Party  
Joost Taverne, MP, People's Party for Freedom and Democracy  
Ronald van Raak, MP, Socialist Party

### **Media**

Marcel Gerlauff, Editor in-Chief, NOS News  
Nynke de Zoeten, Political Editor, NOS News Hour  
Frits van Exter, Chairperson, Press Council

### **Civil Society**

Franka Olujić, Executive Director, Dutch Lawyers Committee for Human Rights  
Jurriaan Regouin, Programme Manager, Netherlands Institute for Multiparty Democracy  
Stans Goudsmit, Commissioner, Netherlands Institute for Human Rights

*\* Meetings were requested with other parliamentary parties but no positive response was received.*