



Office for Democratic Institutions and Human Rights

PORTUGAL

EARLY PARLIAMENTARY ELECTIONS

30 January 2022

ODIHR Election Expert Team

Final Report



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I. EXECUTIVE SUMMARY

Following an invitation from the Permanent Representation of Portugal to the OSCE and based on the findings and conclusions of a Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Expert Team (EET) to follow the 30 January 2022 early parliamentary elections in Portugal. The ODIHR EET assessed the work of the election administration, in particular the expanded use of alternative voting methods due to COVID-19 pandemic restrictions, the regulation of campaign finance, conduct of election campaign including online, and the electoral participation of women.

The early elections were called by the President in accordance with the Constitution and upon consultation with all parliamentary parties following the parliament's rejection of the draft 2022 state budget. The elections took place against the backdrop of the ongoing COVID-19 pandemic and officially declared state of calamity. Voters elected 230 members of the parliament for a four-year term through a proportional system with closed candidate lists in 22 multi-member constituencies, including 2 constituencies abroad.

The various bodies in charge of administering the elections enjoyed a high level of confidence, conducted their tasks efficiently and met all legally prescribed deadlines notwithstanding the challenges imposed by the COVID-19 pandemic. However, sessions of the National Election Commission were not open to the public, which, combined with the lack of possibility for citizen observation, limited transparency. Many ODIHR EET interlocutors stressed the need for a standardized training for polling station commissioners. Voter information was comprehensive, to a large extent also for voters with disabilities. The district courts administered registration of candidate lists in a generally inclusive manner and registered a total of 5,279 candidates nominated by 20 political parties and 3 coalitions. One coalition was rejected due to technical omissions in the registration documents; no opportunity was granted to rectify the omissions, at odds with international good practice.

The election law provides for different voting options, including early, mobile and in-person voting, as well as voting abroad. A 20 January government decision to allow voters in self-isolation to vote in-person was positively assessed by most political parties, but some ODIHR EET interlocutors criticized its late adoption. Several ODIHR EET interlocutors raised concerns that although most polling stations were accessible for persons with physical disabilities, in some cases, architectural barriers hindered independent access for wheelchair users.

The campaign was competitive and allowed voters to make an informed choice. All candidates were able to campaign freely. The limited time ahead of the early elections and the COVID-19 pandemic negatively affected contestants' ability to organise comprehensive in-person campaigns. Televised debates among parliamentary parties were considered by many ODIHR EET interlocutors the main source of political information for voters. The tone of the campaign was moderate, including online, where campaigning was vivid, with occasional instances of negative speech.

¹ The English version of this report is the only official document. Unofficial translation is available in Portuguese.

The legal framework regulating campaign finance is comprehensive, and most party interlocutors of the ODIHR EET expressed satisfaction with its implementation, although some raised concern about a possibility of circumventing the ban on donations from legal entities. Nevertheless, the lack of interim campaign finance reporting prior to election day reduces transparency. The absence of administrative and financial autonomy for the campaign finance oversight body negatively impacts its effectiveness and independence.

Women are well represented in public life. The law requires a minimum representation of 40 per cent of each gender on candidate lists and prescribes that each gender be represented among every three consecutive candidates on the lists. Nevertheless, due to divergent interpretations of the requirements, in some candidate lists the proportion of women was less than the required 40 per cent. Women headed only 27 per cent of the candidate lists. In the newly elected parliament, 37 per cent of the members are women. Issues regarding gender equality and women's participation in public and political life were addressed in the contestants' platforms, but did not feature widely in the campaign.

This report offers recommendations to support efforts to further align elections in Portugal with OSCE commitments and other international obligations and standards for democratic elections. ODIHR stands ready to assist the authorities to address the recommendations contained in this and previous reports.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Permanent Representation of Portugal to the OSCE and based on the findings and conclusions of the Needs Assessment Mission (NAM) conducted from 22 to 26 November 2021, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Expert Team (EET) to follow the 30 January 2022 early parliamentary elections. The ODIHR EET consisted of three experts drawn from three OSCE participating States.

The ODIHR EET assessed the election administration, in particular the expanded use of alternative voting methods, the regulation of campaign finance, conduct of election campaign, including online, and the electoral participation of women. Therefore, the report is limited in scope and does not offer an overall assessment of the electoral process. The specific areas under review were assessed for their compliance with OSCE commitments and other international obligations and standards for democratic elections, as well as with national legislation. In line with the ODIHR methodology, the ODIHR EET did not undertake a comprehensive and systematic observation of the election day procedures, but visited a limited number of polling stations for early voting and on election day. This final report should be read in conjunction with the 2021 ODIHR NAM report and other ODIHR election reports, which provide additional details and recommendations on the electoral process in Portugal.²

ODIHR wishes to thank the Ministry of Foreign Affairs (MFA) and the Ministry of Internal Administration (MIA) for their assistance and co-operation. The ODIHR EET also wishes to express gratitude to representatives of other public institutions, political parties, media, civil society and other interlocutors for sharing their views.

² See previous ODIHR election-related [reports](#) on Portugal.

III. BACKGROUND AND POLITICAL CONTEXT

Portugal is a semi-presidential republic, where legislative power is vested in the directly elected unicameral parliament (*Assembleia da República*). Executive powers lie with the government that is led by a prime minister, who is appointed by the directly elected president.³

Following the 6 October 2019 parliamentary elections, nine political parties were represented in parliament: the Socialist Party (PS) with 108 seats, Social Democratic Party (PSD) with 79 seats, Left Bloc (BE) with 19 seats, the Unitary Democratic Coalition (CDU) with 12 seats, the People's Party (CDS) with 5 seats, People–Animals–Nature (PAN) party with 4 seats, as well as *Chega*, Liberal Initiative (IL) and *Livre*, with 1 seat each.

On 27 October 2021, the parliament rejected the draft state budget for 2022 proposed by the PS minority government.⁴ After having consulted all parliamentary parties, on 4 November, President Marcelo Rebelo de Sousa announced that early parliamentary elections would be held on 30 January. The President dissolved the parliament on 5 December, in line with the Constitution.

The elections took place against the backdrop of the ongoing COVID-19 pandemic and officially declared state of calamity.⁵ While there were no restrictions on constitutionally guaranteed fundamental freedoms, including of peaceful assembly, during the election period, the surge of COVID-19 infections shortly before election day sparked public debate on the exercise of voting rights by the growing number of citizens in isolation.

The 230 members of the parliament are elected for a four-year term through a proportional system with closed candidate lists in 22 multi-member constituencies (MMCs), including 2 MMCs in the autonomous regions of Azores and Madeira and 2 out-of-country MMCs, 1 for voters permanently residing in Europe and 1 for those residing elsewhere abroad. The boundaries of the in-country MMCs coincide with the boundaries of administrative districts of Portugal.⁶ There is no electoral threshold for political parties and coalitions to obtain a mandate; seats are allocated among the contestants using the D'Hondt method.

IV. ELECTION ADMINISTRATION

A. ELECTION MANAGEMENT BODIES

The organization of the elections was overseen by a three-tiered structure of election commissions comprised of the NEC, 22 Tabulation Centre Commissions (TCC) and 13,747 Polling Station Commissions (PSCs). In addition, the General Secretariat of the MIA along with 308 municipal authorities and some 3,092 civil parishes were in charge of the logistical and administrative preparations

³ The government enjoys limited legislative powers on matters concerning its own organization and functioning. The president serves as the supreme commander of the armed forces and has executive powers related to dismissal of the government, dissolution of the parliament, declaration of a state of emergency and vetoing legislation.

⁴ The two left-wing formations, the BE and the CDU, which traditionally supported the PS minority government, rejected the governing party's proposed spending plan for 2022, demanding increased social expenditure to overcome the consequences of the COVID-19 pandemic. Previously, the BE rejected the budget for 2021.

⁵ Portugal had a state of emergency between 19 March and 2 May 2020 as well as between 9 November and 30 April 2021. Most recently, the official state of calamity was extended on 25 November 2021 until 20 March 2022.

⁶ For these elections, the number of seats per MMC varied from 2 to 48 seats. According to the [NEC decision](#) of 6 December 2021, 6 MMCs had 2 to 4 seats; 9 MMCs had 5 to 10 seats; and 3 MMCs had 16 to 19 seats. The MMC of Porto had 40, and the MMC of Lisbon had 48 seats.

for the elections.⁷ The election management bodies met all legally prescribed deadlines and efficiently administered the elections. All ODIHR EET interlocutors reported a high level of confidence in the integrity of election administration.

The NEC is the only permanent election commission, and its composition was renewed in February 2020.⁸ The NEC has 11 members, 4 women and 7 men, including the chairperson. There are no legal provisions for gender composition of election management bodies, and no gender-disaggregated data is collected in this regard.⁹

Disaggregated data on gender representation in the election administration should be collected and published in a comprehensive manner.

The legislation does not explicitly provide for observation of any stage of the election proceedings by citizen or international observers, contrary to OSCE commitments.¹⁰

The NEC has the overall responsibility to supervise the legality of the electoral process, provide equal conditions for all contestants, publish election results and adjudicate certain election-related complaints. The NEC makes decisions by a simple majority, provided that more than half of the members are present. Prior to election day, the NEC held regular sessions with substantive discussions and published its session minutes and decisions online. However, despite a previous ODIHR recommendation, session agendas were not made public in advance, and the sessions were not open to the public. This, combined with the lack of possibility for citizen observation, limited transparency.¹¹

In line with the principle of transparency, the election administration should consider opening its sessions to the public and publishing the draft agendas in advance of its sessions.

The members of all 22 TCCs were appointed by the legal deadline of 28 January. TCCs conduct the tabulation of voting results, verify the complaints adjudicated by the PSCs and distribute mandates among the contestants within their constituency. By law, each TCC is chaired by a judicial representative and comprised of 11 members, including 2 lawyers appointed by the chairperson, 2 mathematicians appointed by the government and 6 PSC chairpersons from the respective MMC, appointed by the district courts. Several TCC chairpersons informed the ODIHR EET that the TCCs received no training, and their first meeting in advance of the tabulation session only took place after election day.

⁷ Each municipality is sub-divided into several parishes.

⁸ By law, it is chaired by a Supreme Court judge appointed by the Supreme Council of Magistrates; seven members are appointed by each of the parliamentary groups and three by the government. The mandate of the NEC members terminates 30 days after a newly elected parliament is inaugurated.

⁹ Paragraph 40.13 of the 1991 OSCE Moscow Document commits participating States to “ensure the collection and analysis of data to assess adequately, monitor and improve the situation of women”.

¹⁰ According to Paragraph 8 of the 1990 OSCE Copenhagen Document, “The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place”.

¹¹ The NEC informed the ODIHR EET that its politically balanced composition does not make it necessary to open its sessions to the public. Paragraph 19 of the 2011 HRC General Comment No. 34 to the ICCPR states that: “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest”. UN General Assembly 2011 Resolution No. 66/163 reiterates that “transparency is a fundamental basis for free and fair elections, which contributes to the accountability of Governments to their citizens, which, in turn, is an underpinning of democratic societies”.

The PSCs administer the elections at the polling stations. By law, the PSCs are established by parish councils following co-ordination meetings between electoral contestants in the relevant MMC.¹² According to the NEC, all the PSCs were appointed by the legal deadline of 19 January, despite the limited number of applications for PSC positions due to the COVID-19 pandemic. Each PSC consisted of five members, including a chairperson, a deputy and a secretary. In case of insufficient party nominations, municipal and parish councils could appoint any local voter to serve as a PSC member. By law, only specific categories of citizens, such as the elderly, sick, or those staying abroad, could opt out of this service. Several municipal and parish councils informed the ODIHR EET that they maintained a pool of applicants and avoided appointing citizens who did not volunteer to serve as PSC members.¹³

The NEC and the MIA provided the local authorities and the PSCs with high-quality information material on the electoral preparations and voting procedures.¹⁴ Nevertheless, no comprehensive trainings for the PSC members were provided. Some municipalities, however, did organize information sessions before election day and aimed to appoint at least one PSC member with previous experience per each polling station. Still, most ODIHR EET interlocutors representing the NEC, local authorities and the PSCs, emphasized the need for a standardized training for polling station commissioners, especially regarding assistive tools provided for voters with disabilities and the vote-counting procedures.¹⁵

To ensure consistent application of the election procedures, standardized training for all lower-level commission members should be provided in advance of election day.

On 19 January, the state health authorities adopted COVID-19 related protocols for the elections, prescribing the use of personal protection equipment, physical distancing and regular disinfection of the voting premises. On 20 January, the government amended the public health protection measures to provide a one-time waiver for citizens in self-isolation to vote in person at the polling station (see *Voting Methods*).¹⁶ Most political parties positively noted that the amendment allowed a high number of individuals affected by COVID-19 isolation rules to vote.¹⁷ However, some raised concerns that the decision was adopted too close to election day for voters to be properly informed. The NEC and some municipalities informed the ODIHR EET that a number of PSC members resigned following the adoption of the amendment, citing the increased epidemiological risk associated with their work on election day.

Any measures impacting the exercise of voting rights and the conduct of voting procedures, including with respect to temporary measures such as health-protection related adjustments, should be adopted well in advance of the elections as a result of an open process allowing a meaningful public debate.

¹² As provided for by law, municipal and parish mayors organized meetings among the local representations of political parties to allocate membership to the PSCs for the early election day and election day, respectively. In case of no consensus, the PSCs were appointed by the municipalities by drawing lots, based on the existing proposals submitted by the parties and coalitions.

¹³ By law, rejecting the appointment to work as a PSC member incurs a fine. According to municipalities met by the ODIHR EET, the fine is rarely imposed in practice.

¹⁴ According to the MIA, two general video coordination meetings were held with the 308 municipal councils on a number of technical aspects, including early voting.

¹⁵ Section 3.1.g of the European Commission for Democracy through Law (Venice Commission) 2002 [Code of Good Practice in Electoral Matters](#) recommends that “Members of electoral commissions must receive standard training”.

¹⁶ The [Government Decree](#) recommended that self-isolated citizens vote on election day between 18:00 and 19:00.

¹⁷ According to [data](#) of the Ministry of Health, there were 597,879 active COVID-19 cases and 624,599 people in self-isolation on election day in Portugal, or some 12 per cent of the population.

The NEC and the MIA maintained comprehensive websites and conducted voter information campaigns through posters, radio and television, focusing on early voting modalities and COVID-19 related health protocols. While most ODIHR EET interlocutors considered the voter outreach efforts comprehensive and efficient, some disabled persons organizations raised concerns that the information available in formats accessible to persons with different disabilities was limited. In addition, some election administration websites, including the site to register for early voting, could not be independently used by voters with visual impairment, as the websites were inaccessible for most screen reader applications.¹⁸

B. CANDIDATE REGISTRATION

Citizens over the age of 18 years have the right to be elected. This right may be revoked by a court decision for a grave criminal offence. Some high-level public office holders, including the president, judges, prosecutors and those on military or diplomatic service, are not eligible to stand. The Law on Parliamentary Elections (election law) allows for the disenfranchisement of citizens with intellectual and psychosocial disabilities at odds with international standards.¹⁹

The legal framework should be harmonized with international standards by removing any restrictions on electoral rights based on intellectual or psychosocial disability.

Registered political parties may contest the elections.²⁰ While candidates are not required to be party members, there are no provisions allowing candidates to stand individually, in contradiction to OSCE commitments.²¹ ODIHR EET interlocutors generally perceived the candidate registration process as inclusive and transparent. District courts assessed the lists against the registration criteria, including the gender quota and placement requirements. By law, non-compliant candidate lists had to be corrected on a two-day notice, or were otherwise rejected. In total, 5,279 candidates (including 1,201 reserve) were registered on 362 district candidate lists of 20 political parties and 3 coalitions.²² However, the ODIHR EET observed that, due to divergent interpretations and enforcement of the gender quota by district courts, some 8.6 per cent of the candidate lists published by the MIA had less than 40 per cent candidates

¹⁸ On 17 January, the Association of the Blind and Visually Impaired of Portugal (ACAPO) submitted a [complaint](#) to the MIA because most screen reader applications used by blind and visually impaired individuals were unable to access the captchas on two election-related websites maintained by the MIA. Following the complaint, the captcha was removed from a webpage containing voter registration data but remained on the early voting application website. The law-decree 83/2018 on web accessibility stipulates that public sector bodies should take measures to make their websites accessible.

¹⁹ The election law disenfranchises persons “who clearly have a limitation or seriously impaired mental functions, even if they are not subject to monitoring, when they are admitted to a psychiatric establishment or declared as such by a board of two doctors”. Deprivation of the right to vote and to be elected on the basis of mental disability is inconsistent with Articles 12 and 29 of the 2016 [Convention on the Rights of Persons with Disabilities](#) (CRPD) and with Paragraph 48 of the CRPD [2014 General Comment No.1](#). See also Paragraph 55 of the CRPD [2016 Concluding Observations on the Initial Report of Portugal](#) which states: “The Committee is seriously concerned that in the State party there are persons with disabilities, especially those who are deprived of their legal capacity or live in psychiatric institutions, who are deprived of their right to vote or prevented from exercising this right in elections”.

²⁰ By law, parties are registered by the Constitutional Court (CC); there is no requirement to renew the registration prior to new elections. The [list published](#) by the CC listed 23 parties registered between 1974 and 2020.

²¹ Paragraph 7.5 of the 1990 OSCE Copenhagen Document prescribes the participating States to “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination”.

²² The legislation stipulates that the lists must contain the same number of candidates as there are seats attributed to the respective constituency as well as alternate (reserve) candidates who can only be elected if a candidate lose their right to be elected.

of one gender in 18 out of the 22 MMCs.²³ The respective district courts registered these lists without requesting corrections (see *Electoral Participation of Women*).

Political parties may form *ad hoc* electoral coalitions in all or any MMCs of their choice, upon a request submitted to the Constitutional Court (CC). There is no legally established deadline for the submission of requests for coalitions. On 17 December, the CC rejected the coalition of two political parties, Retirees' and Pensioners' United Party (PURP) and People's Monarchist Party (PPM), due to non-compliance with submission requirements.²⁴ The PURP and PPM submitted a new application the following working day, 20 December, which was rejected by the CC on 22 December due to late submission. In practice, the CC accepted requests until 19 December, the day before the deadline for the registration of district candidate lists. The PURP and PPM appealed both rejection decisions at the plenary of the CC, but their appeals were rejected on 22 and 27 December, respectively. As a result and seeing as they submitted their application for coalition on the last day of the registration for district candidate list, the two parties had no opportunity to register their lists either within a coalition or individually.

While the CC informed the ODIHR EET that submitters of rejected applications, per its established practice, are not provided with an opportunity to correct the omissions in the registration documentation, the aspiring coalition alleged the decision was politically motivated.²⁵ The lack of opportunity to correct registration applications is at odds with international good practice.²⁶

In line with international good practice, prospective electoral coalitions should enjoy the same rights as other contestants to correct technical mistakes in registration documents within a reasonable time.

C. VOTING METHODS

In accordance with the ODIHR methodology for EETs, the expert team did not observe the voting proceedings in a systematic or comprehensive manner. Team members visited a limited number of polling stations on the early voting day and election day in Lisbon and its surroundings.

²³ The courts followed different interpretations whether rounding off the number of nominated candidates is permitted under the law. For example, the district court of Leiria informed the ODIHR EET that it rounded off the 40 per cent equivalent to the nearest whole number, which, in some cases, reduced the overall share below the threshold prescribed in the law. Conversely, the CC informed the ODIHR EET that rounding off may not lead to the reduction of the effective representation of a gender below 40 per cent. In addition, nine cases of non-compliance of candidate lists with the 40 per cent quota could not result from rounding off the figures. For example, *Chega's* candidate list in the out of Europe MMC included no women among the four candidates; on the party's list in the Europe MMC, only one of four candidates was a woman. The *Chega* list in the Azores and the Party of the Earth list in Viseu each included only 3 women out of 10 candidates.

²⁴ According to the CC, the request submitted by the PURP and PPM was not signed by their respective authorized representatives, and the legally required announcement of the coalition in two newspapers did not specify the list of the MMCs in which the parties intended to run together.

²⁵ According to the representatives of the PURP and PPM, their rejection was politically motivated as they expressed a skeptical position against COVID-19 vaccination.

²⁶ The CC informed the ODIHR EET that rejected applicants may appeal the decision to the plenary of the CC or submit a new request. Paragraph 87 of the 2020 ODIHR and Venice Commission Guidelines on Political Party Regulation recommends that "in case of technical omissions or minor infringements of registration requirements, the political party should be given reasonable time in which to rectify the failure".

Citizens over the age of 18 years have the right to vote.²⁷ The legislation provides for a wide range of voting options for different categories of voters, including those in hospitals or penitentiary institutions, and those who on election day are in a different municipality or abroad.

Voters with permanent residence in Portugal could request early in-person voting in any municipality, irrespective of the place of their permanent residence, without providing a justification.²⁸ The government encouraged voters to request early voting to avoid raising the epidemiological risk due to possible crowding at polling stations on election day. Requests were to be submitted to the MIA electronically or by post between 16 and 20 January. A total of 315,785 voters registered for early voting which took place on 23 January at 1,347 polling stations.²⁹

Mobile voting for voters in self-isolation due to the COVID-19 was introduced as a temporary measure in November 2020. In November 2021, the provision was extended to all elections held in 2022. Voters whose self-isolation period included election day could electronically request mobile voting through the MIA or the parish council no later than 23 January. Mobile voting was conducted by municipal staff on 25 and 26 January for a total of 397 voters.

Voters in penitentiary institutions, hospitals or care homes for the elderly could request voting in the institutions where they stayed. Requests were to be submitted by 10 January electronically or via post to the MIA for penitentiary institutions and hospitals; and between 20 and 23 January electronically to the MIA or relevant parish council in the case of homes for the elderly. Mobile voting then was conducted by municipal authorities between 17 and 20 January in penitentiary institutions and hospitals and on 25 and 26 January in homes for the elderly. According to the MIA, 399 voters voted in prisons, 3,057 in hospitals and 12,723 in homes for the elderly.

Voting abroad was organized by the MIA and the MFA between 18 and 20 January at 117 diplomatic representations in 73 countries, where 7,206 residents of Portugal voted. By law, only specific categories of voters such as those studying, working or undergoing medical treatment abroad are eligible to choose this option. However, according to the MFA, no justification was requested in practice, and any voter resident in Portugal was allowed to vote this way.

Voters permanently residing abroad could choose between postal option and in-person voting at diplomatic representations. Voters who did not express their preference were mailed a postal ballot at their registered address abroad. According to the MIA, 1,519,075 voters abroad received postal ballots, and 2,872 citizens registered to vote in person.

By law, postal votes, in order to be valid, need to have a photocopy of the voter's identity documents (ID) attached. Acting upon a complaint by the PSD due to the absence of ID copies, the TCCs invalidated more than 80 per cent of the postal votes from the MMC Europe during the tabulation of postal votes on 8 and 9 February.³⁰ Upon a complaint by the political party *Volt Portugal* submitted on 10 February, the Constitutional Court invalidated the election results in the MMC Europe on 16

²⁷ Citizens of Brazil who are permanent residents in Portugal enjoy equal rights with Portuguese citizens. The number of Brazilian citizens registered as voters was 5,353.

²⁸ For early voting, voters received a ballot belonging to the MMC of their registration. Early votes were delivered to the polling station where the voter was registered and reconciled on election day, before the voting started. Postal ballots from abroad were counted and tabulated in Portugal.

²⁹ By law, polling stations for early voting were to be constituted in every municipality for a maximum of 500 voters each. The mayor of a given municipality may divide a polling station into polling units, so as not to exceed this number. For these elections, the number of voters requesting early voting increased by 28 per cent compared to the 2021 presidential election.

³⁰ According to [a MIA press statement](#), all political parties represented in the vote counting teams, in line with a 2019 [NEC resolution](#), initially took a decision to recognize the validity of votes irrespective of whether or not they were accompanied by a photocopy of the voter's ID.

February on the grounds that the high number of invalidated votes might impact the election results. Repeat elections for the MMC Europe took place through postal voting and in-person at the diplomatic representations of Portugal on 12 and 13 March.

In the limited number of polling stations visited by the ODIHR EET, the early and ordinary voting process was well-organized. PSC members and voters generally followed the procedures, including the COVID-19 related health protocols. The legally prescribed procedures to reconcile the early votes before voting started led to delayed opening and queuing at some polling stations on election day.

While most polling stations visited by the ODIHR EET were accessible for persons with physical disabilities, in some cases, stairs, inadequate ramps or other obstacles hindered the access for wheelchair users. Due to health-protection requirements posed by the COVID-19 pandemic, the number of polling stations increased compared to previous elections.³¹ As a result, some newly established polling stations located on upper floors were also not fully accessible, at odds with international standards.³²

Voters with visual impairments could request tactile ballot guides at all polling stations. However, civil society organizations raised concerns about the quality of braille templates provided in some MMCs.³³ By law, voters who were not able to cast their votes independently could receive assistance from another voter of their choice. Some civil society organizations informed the ODIHR EET that several PSCs requested a medical confirmation of disability or a self-declaration from the voters who requested assisted voting, at odds with the election law.³⁴

The election administration should consider additional measures, in close co-operation with disabled persons organizations, to ensure that voters with disabilities, including voters with visual impairments, can vote independently. The premises and layout of polling stations should be suitable for independent access. Election authorities should provide detailed information about the electoral process in formats accessible to persons with various types of disabilities.

V. ELECTION CAMPAIGN

The official campaign period started 14 days before election day. The ODIHR EET did not observe any significant breaches of the campaign silence in place on election day and the day preceding it, including online.³⁵ The election law provides for equal opportunities for all contestants, including by equally allocating public spaces for campaign purposes. During the official campaign period, rules for equitable media access for electoral contestants and coverage by media of the election campaigns apply. However, most political parties organized meetings with voters and distributed campaign materials before the

³¹ In November 2020, the maximum number of voters per polling station was reduced from 1,000 to 750, as a temporary measure against COVID-19.

³² The [National Strategy for the Inclusion of Persons with Disabilities](#) foresees full accessibility to all polling stations by 2024. Article 9 of the 2006 [CRPD](#) stipulates that States take appropriate measures to ensure access to persons with disabilities “on an equal basis with others”, while Article 29 calls on ensuring that “voting procedures, facilities and materials are appropriate, accessible and easy to understand and use”.

³³ ACAPO [noted](#) that in bigger MMCs, such as Lisbon or Porto, some party names were printed on the backside of the tactile ballot guide, without indicating that the guide had two sides. In addition, ACAPO noted that the guide was too large to use in most polling booths.

³⁴ Article 97 of the election law stipulates that voters with disabilities may vote with the assistance of a voter of their choice, and the PSCs may request a medical certificate if the disability is not manifest. ACAPO [raised concerns](#) that on election day, some PSCs asked all voters with visual disabilities who requested assistance to sign a declaration that they did not know how to read the braille script on the tactile ballot guide.

³⁵ On election day, for instance, several politicians and political parties posted content depicting their party leaders casting a ballot, often calling on the electorate to participate, or reposted interviews they gave to the media.

official campaign period started, which is not prohibited by the law. Overall, the campaign was competitive and allowed voters to make an informed choice.

By law, campaigning by public entities is prohibited, and no public works may be inaugurated within 60 days of election day.³⁶ The election law expressly prohibits dismissing from or promising employment to anyone in order to compel them to vote for a certain contestant or abstain from voting. There was no indication of the misuse of administrative resources during the campaign period.

Apart from public funding of parties and reimbursement of campaign costs (see *Campaign Finance*), free airtime is provided to contestants on public and some private TV and radio outlets.³⁷ A ban on paid political advertising, including online, was in place starting from the day the elections were called. Although this ban applies on social networks, the Facebook Ad Library showed that, in isolated cases, a limited number of contestants purchased political adverts during the election period. A majority of these ads circulated for up to two days. Several ODIHR EET interlocutors expressed concerns about possibilities for bypassing the ban by campaigning in novel forms online, for instance, through the engagement of influencers or organized amplification of content.

All contestants could campaign freely. Still, most political parties met by the ODIHR EET remarked that the limited time ahead of the early elections and the COVID-19 pandemic had negatively affected their ability to run comprehensive campaigns. While some contestants limited their in-person contact with voters, most parties held events, including large rallies and so-called ‘campaign dinners’. Campaign stands, mobile units distributing leaflets, billboards, posters and banners were observed in moderate numbers by the ODIHR EET.

Topics that dominated the campaign included the measures to address the consequences of the pandemic, the use of the EU recovery funds, healthcare, taxation, judicial reform, migration, climate change, animal rights and euthanasia. Corruption repeatedly featured as a topic in political debate.³⁸ The campaign rhetoric remained moderate overall, with a few worrying exceptions of intolerant rhetoric related to Roma or the LGBT community.³⁹

Most ODIHR EET interlocutors noted that traditional media remains the leading source of political information. Representatives of several political parties expressed frustration at the level of coverage their activities received on news programming, which they claimed was disproportionately focused on the largest or most controversial political parties.⁴⁰

In accordance with the law, all nine parliamentary parties were invited to debate on main TV and radio outlets with national reach and terrestrial reception.⁴¹ Broadcasters organized a series of one-on-one

³⁶ The prohibition is extended to enterprises partially owned by the state or those that hold public concessions, and their officeholders when acting in that capacity.

³⁷ Free airtime is available at primetime hours and is allocated proportionally to parties and coalitions that registered candidates for at least 25 per cent of the parliamentary seats. Time slots are assigned to parties by drawing lots.

³⁸ In April 2021, former Prime Minister José Sócrates was cleared of corruption charges but was charged with forgery and money laundering. In September 2021, the former CEO of a private bank (Banco Privado Português) fled overseas after he was convicted of economic and financial crimes.

³⁹ In a 26 January [Facebook post](#), the *Chega* leader snubbed the representative of the National and International Roma Association who accused him of ostracising the community. In a [tweet](#) of 28 January, Mr. Ventura postulated the existence of “a problem with the Roma community in Portugal”. Similar posts appeared on the social network pages of the *Chega* party. During a TV debate on 12 January, Mr. Ventura repeatedly referred to the CDS party in a derogatory manner, using language commonly used to demean sexual minorities.

⁴⁰ Some ODIHR EET interlocutors remarked that apart from the PS and PSD, media focused disproportionately on *Chega*, whose leader purportedly addressed controversial topics to the detriment of substantive policy proposals.

⁴¹ The three media outlets include the public broadcaster *RTP* and private outlets *SIC* and *TVI/CNN Portugal*. The format of the debates was revised to accommodate a larger number of political parties.

debates among the representatives of parliamentary parties.⁴² The public broadcaster also organized a debate among the non-parliamentary parties. Many ODIHR EET interlocutors considered the debates to be a decisive source of information for voters, but several expressed dissatisfaction that the debate between the leaders of the largest parties was longer and broadcasted more widely than other debates.⁴³

The campaign on social networks was vivid, as most parties increased their online outreach in light of public health concerns. The profiles of parties and party leaders observed by the ODIHR EET featured primarily organic content.⁴⁴ The content of the posts mirrored the offline campaigns and reflected themes discussed in the TV debates. The tone of the campaign observed online was generally calm but at times dominated by negative speech, with contestants devoting considerable amount of time and space to criticizing their opponents, in particular from the other side of the political spectrum. Leaders of *Chega*, PS and PSD enjoyed high levels of engagement from social networks users.⁴⁵ The profiles of parties such as *Chega* and IL also received significant attention from *Facebook* and, to a lesser extent, *Twitter* audiences.⁴⁶ State institutions followed online by the ODIHR EET limited their social network presence to reassuring their narrow audiences that voting is safe during the pandemic.

A number of fact-checking initiatives focused on both online and offline content, in particular statements by politicians. Most ODIHR EET interlocutors believed that disinformation was not a significant feature of these elections, with some exceptions.⁴⁷ The National Cybersecurity Centre stated that at least two political parties experienced cyberattacks during the campaign period.⁴⁸

Some political parties made efforts to adapt their campaign materials to the needs of voters with hearing or visual impairments; the BE set out to make its message accessible to those with cognitive disabilities. Although some party programmes addressed the needs of persons with disabilities, these themes were not prevalent in the campaign.⁴⁹

⁴² All nine parties were invited to a single radio debate; however, only seven participated.

⁴³ The debate between the leaders of the PS and PSD lasted 75 minutes and was simultaneously shown by all three broadcasters; other party debates were limited to 25 minutes. Some debates among smaller parties were only broadcast on cable networks.

⁴⁴ The ODIHR EET did not conduct a systematic monitoring of social networks but followed the profiles of all nine parliamentary parties and their leaders, five social networks influencers or commentators and key state institutions such as the MIA, the government and the prime minister's office.

⁴⁵ Of all political party leaders, *Chega*'s André Ventura had the highest number of followers on *Facebook* (some 175,000), while Prime Minister António Costa came second (with close to 100,000). On *Twitter*, Catarina Martins (BE) had the highest number of followers (some 105,000), *Livre*'s Rui Tavares had some 80,000, with Mr. Ventura and PSD's Rui Rio tied for the third place (with over 60,000 followers each).

⁴⁶ Parties with the most followers on *Facebook* included PAN and PSD (some 165,000 each), *Chega* (145,000) and IL (120,000). On *Twitter*, the PSD had the most significant following (some 59,000), as did the PS and IL (52,000 each) and CDS (42,000).

⁴⁷ Among others, the PSD's Mr. Rio accused Prime Minister Costa of taking out of context and ultimately misrepresenting his earlier comments on minimum wage. PAN leader Inês Sousa Real dismissed allegations that a farm in which she holds an investment endangers local ecosystems.

⁴⁸ *Chega*'s website experienced a Denial-of-Service (DoS) attack during the campaign period, while the credentials of BE's *Twitter* account were briefly compromised during the campaign. Small scale cyberattacks against other political parties were also reported. On 13 January, the [OSCE Representative on Freedom of the Media](#) expressed concern about a recent hacking and blocking of websites of one of the country's largest media groups.

⁴⁹ Article 38 of the [UN General Comment on Article 9: Accessibility](#) (CRPD/C/11/3) by the UN Committee on the Rights of Persons with Disabilities states that "It is also important that political meetings and materials used and produced by political parties or individual candidates participating in public elections are accessible. If not, persons with disabilities are deprived of their right to participate in the political process in an equal manner". The recommendation [CM/Rec\(2011\)14](#) of the Council of Europe Committee of Ministers to member states on the participation of persons with disabilities in political and public life states that member states should require political parties "to ensure that persons with disabilities have access to information on political debates, campaigns and events which fall within their field of action".

To facilitate meaningful participation, contestants should be encouraged to take steps to make their platforms, programmes, campaign materials and messages in formats accessible to persons with various types of disabilities.

VI. CAMPAIGN FINANCE

Party and campaign finance is primarily regulated by the 2013 Law on Financing of Political Parties and Election Campaigns (LFPPEC) and the 2005 Law on the Organization and Functioning of the Entity on Political Finance and Accounts. The legal framework is comprehensive and regulates all key areas, including income and spending limits, reporting requirements for contestants and a system of sanctions and enforcement mechanisms. While representatives of political parties expressed general satisfaction with the legislation and its implementation, other ODIHR EET interlocutors reported concerns regarding the possibility to circumvent the ban on donations from legal entities, a lack of reporting and transparency on campaign finance prior to election day, and the limited administrative and financial autonomy of the campaign finance oversight body.

The Entity on Political Finance and Accounts (EPFA) is the primary oversight institution and has the right to issue administrative sanctions. The Constitutional Court (CC) serves as the appellate instance for the EPFA's decisions on the legal compliance of the annual and campaign accounts. According to the EPFA, its human resources do not correspond to its responsibilities, thus creating challenges in terms of capacity.

A. INCOME AND EXPENDITURE

The LFPPEC allocates annual public funds to parliamentary political parties and those that received at least 50,000 votes in the last parliamentary elections.⁵⁰ In 2021, the total annual subsidy for political parties amounted to some EUR 14 million.⁵¹ In addition, reimbursement of campaign expenses is foreseen for parties and coalitions that nominate candidates for at least half of the parliamentary seats and gain at least one mandate. The base amount of this subsidy is some EUR 7 million, of which 20 per cent is divided equally among all eligible parties, and the remainder is distributed in proportion to their election results.⁵² Following these elections, eight political parties were eligible to have their campaign expenses reimbursed.

While the distribution of public funds in proportion to election results is an objective criterion and may shield parties from a disproportionate dependence on private interests, many ODIHR EET interlocutors from parties and civil society perceived it as a factor contributing to the dominance of the well-established parties.⁵³ In addition, according to some political party representatives, parties that benefit from public funding have easier access to private loans from banks.

⁵⁰ The public grant amounts to 0.66 per cent of the Social Support Index (IAS) for each vote obtained in the last parliamentary elections. The IAS, equal to EUR 443.20 in 2022, is a reference value established annually by the government and used to determine pensions and other social benefits.

⁵¹ The PS received around EUR 5.5 million, PSD – EUR 4.2 million, BE – EUR 1.4 million, Portuguese Communist Party – EUR 800,000, CDS – EUR 650,000, PAN – EUR 500,000, *Chega* and IL – EUR 200,000 each, and Ecologist Party “the Greens” and *Livre* – slightly above EUR 160,000 each.

⁵² The reimbursement of campaign expenses takes place after elections, and its total amount is equal to IAS 16,000. The amount granted to a specific party may not exceed the expenses it incurred; the revenue from fundraising activities undertaken by parties must be deducted from the amount of expenses eligible for state reimbursement, and the cost of design, production and display of outdoor advertisement cannot exceed 25 per cent of the total expenses paid from the subsidy.

⁵³ Paragraph 232 of the 2020 ODIHR and Venice Commission Guidelines on Political Party Regulation states that “public funding and its requisite regulations, including those related to spending limits, disclosure, and impartial enforcement, have been designed and adopted in many states as a potential means to support political parties in the important role they play, prevent corruption, and remove undue reliance on private donors”.

In addition to public funds, campaign activities can be financed from the parties' own resources, income from fundraising activities and donations by natural persons.⁵⁴ An individual may donate up to some EUR 11,000 annually for party activities as well as some EUR 26,600 for an election campaign. Loans and in-kind contributions are counted towards these limits. Anonymous donations and contributions from national and foreign legal entities are prohibited. However, several ODIHR EET interlocutors from civil society, parties and the EPFA expressed concern that these rules are at times circumvented by splitting corporate donations into smaller amounts donated in the name of natural persons.

Campaign expenses made without co-ordination with a specific contestant are not regulated, at odds with international good practice.⁵⁵ At the same time, most ODIHR EET interlocutors concurred that indirect support by third parties is not a common feature of Portuguese politics and did not see the necessity of regulating this aspect.

The EPFA publishes a list of indicative market prices for goods and services that can be purchased in the course of the campaign. If the value of the acquired goods or services substantially differs from the market prices, contestants are required to provide a justification.⁵⁶ Some party representatives informed the ODIHR EET that the EPFA's list of prices did not take into consideration regional differences of rates or the difference between rural and urban areas, and this inflated their campaign expenses.⁵⁷

The cap on spending for a political party's campaign is set at approximately EUR 21,200 per each registered candidate. Most ODIHR EET interlocutors considered these limits sufficient. All expenses incurred for campaign purposes within six months before election day are considered campaign costs and must be channelled through a dedicated bank account.⁵⁸ Given the unexpected nature of the early elections and limited in-person campaign activities due to the COVID-19 pandemic, most political parties met by the ODIHR EET estimated that their spending would be below the applicable limits.

B. REPORTING AND DISCLOSURE

Interim reporting prior to election day is not foreseen in the legislation, and political parties do not publish any report before election day, limiting transparency.⁵⁹ Contestants are required to submit their estimated campaign budgets to the EPFA 41 days before the election day.⁶⁰ These estimated budgets are of a non-binding nature, and some ODIHR EET interlocutors noted that in previous elections, they substantially differed from the final campaign accounts.⁶¹

⁵⁴ The 2018 legal amendments removed the limit on income from fundraising events. However, the EPFA applies strict disclosure rules for donations made at these events, and parties are required to report the identity of respective donors as well as the individual amounts.

⁵⁵ Paragraph 218 of the 2020 ODIHR and Venice Commission Guidelines on Political Party Regulation recommends that "campaign expenditures made independently of a [contestant] may not be banned, but they may be subject to reasonable and proportionate limitations".

⁵⁶ Failure to do so is subject to a fine ranging from EUR 443 to EUR 35,456.

⁵⁷ For example, according to some party interlocutors, they had to refuse the lower rates offered by local companies, as the rates were below the EPFA price list.

⁵⁸ Cash payments are allowed for campaign expenditures up to EUR 443.2, provided that the total amount of cash payments does not exceed 2 per cent of the applicable spending limits.

⁵⁹ Paragraph 261 of the 2020 ODIHR and Venice Commission Guidelines on Political Party Regulation recommends "to provide oversight bodies and the public with preliminary information on campaign incomes and expenses [...] several days before election day".

⁶⁰ For these elections, PS and PSD estimated their budgets above and around EUR 2 million, respectively; no other party foresaw expenses beyond EUR 700,000.

⁶¹ For the 2019 parliamentary elections, several final accounts had a surplus or a deficit of up to 30 per cent compared to the estimated budgets.

To enhance the transparency of campaign finance and contribute to voters' informed choice, consideration should be given to introducing interim reporting prior to election day.

In December 2021, the EPFA published a set of recommendations for contestants detailing procedures on how to fill in the templates. Positively, the EPFA and political parties shared the understanding that expenses related to digital campaign activities were also subject to reporting; a specific category for this purpose was foreseen in the EPFA reporting templates.⁶²

Annual party accounts are required to be submitted to the EPFA by the end of May of the following year. Submission of campaign finance reports by electoral contestants is subject to a floating deadline tied to the post-election public reimbursement of campaign expenses. Preliminary accounts of income and expenditure are compiled by the parties within two weeks after the elections to request the public reimbursement of their campaign expenses. According to some ODIHR EET interlocutors, the payment of this subsidy is concluded some two to four months after the announcement of the final election results. Contestants have an additional 60 days to submit the reports to the EPFA.⁶³

While contestants are required to submit their accounts in print and electronic format, the EPFA only publishes scanned copies of the accounts on its website, which does not allow for comparison or analysis of the data.⁶⁴

To facilitate voters' informed choice, authorities should proactively publish institutional information of public interest in an easy, prompt, effective and practical manner, facilitating a wide-range of inquiries.

C. OVERSIGHT

The EPFA is mandated to scrutinize party and campaign finance, issue decisions on the compliance and accuracy of the reports and apply administrative sanctions.⁶⁵ Criminal sanctions are within the competence of the Public Prosecutor's Office and can be applied for exceeding spending limits and obtaining funds from illegal sources. Most ODIHR EET interlocutors, including party representatives, perceived the system of gradual sanctions as proportionate and sufficient for deterring violations.⁶⁶

The EPFA is comprised of a president and two members appointed by the CC. The audit of the financial statements is carried out by independent auditors, whereas the EPFA employs temporary special monitors for the campaign period to follow contestants' expenditures with the aim of assessing the veracity of their reports. The EPFA has one year to verify the annual and campaign finance reports of political parties and to decide on their accuracy. Within this period, external auditors have 35 days to

⁶² The LFPPEC implicitly extends the reporting requirements to the digital activities as it requires that all expenses made for electoral benefit be reported.

⁶³ Paragraph 259 of the 2020 ODIHR and Venice Commission Guidelines on Political Party Regulation states that "Reports on campaign financing should be submitted to the proper authorities after elections in a timely manner, but with a reasonable deadline that allows parties to compile data, invoices, information on reimbursements of loans, etc."

⁶⁴ Paragraph 19 of the UN HRC [General Comment No. 34](#) to the ICCPR calls the states to "proactively put in the public domain Government information of public interest" and to "make every effort to ensure easy, prompt, effective and practical access to such information". Paragraph 259 of the 2020 ODIHR and Venice Commission Guidelines on Political Party Regulation states that "in an effort to support transparency and provide civil society and other interested stakeholders with the possibility of reviewing parties' campaign finances, it is good practice for such financial reports to be made available on publicly available resources in a coherent, comprehensive and timely manner over an extended period of time". Paragraph 263 further states that "[...] reports need to contain enough details to be useful and understandable for the general public".

⁶⁵ Following the 2018 amendments, the EPFA has no longer regulatory powers.

⁶⁶ Sanctions include fines and prison terms of up to three years.

scrutinize the campaign accounts, and the EPFA has almost 11 months to issue a decision on their compliance with the rules.⁶⁷

Most ODIHR EET interlocutors positively assessed the professionalism of the EPFA but some raised questions about its institutional capacity. The EPFA does not have control over its budget and depends on the CC for all financial and administrative decisions. This also creates a potential conflict of interest between the decision-making body and its appellate instance. Further, due to a legal gap, the EPFA cannot create intermediate staff positions, and most of its staff are seconded from other public institutions on a rotational basis, posing challenges in consolidating the acquired skills.⁶⁸ The EPFA noted to the ODIHR EET that their limited human resources and the current level of expertise do not correspond to the institutional responsibilities.⁶⁹

In order to allow the Entity on Political Finance and Accounts to perform its oversight role in an effective and timely manner, and to ensure a clear division between the oversight body and its appellate instance, consideration should be given to granting it institutional and financial autonomy and providing it with a legal basis to recruit its own permanent staff.

VII. ELECTORAL PARTICIPATION OF WOMEN

In Portugal, women are well represented in public life.⁷⁰ In the outgoing government, 8 of 19 ministers and 17 of 40 state secretaries were women. There were 89 women in the outgoing parliament (39 per cent) and 85 women were elected to the new convocation (37 per cent).⁷¹ However, only two of the nine parliamentary parties, BE and PAN, are headed by women. According to ODIHR EET interlocutors, representation of women in local self-government continues to lag behind national politics.

The law on parity requires a minimum representation of 40 per cent of each gender on candidate lists and prescribes that each gender be represented among every three consecutive candidates on a list. The representation of women and men among the candidates was broadly balanced; 2,494 of the 5,279 candidates (47 per cent) were women. Several parties nominated more women than the minimum prescribed by the quota, with some aiming for parity as a matter of their internal policies.⁷² Yet, most

⁶⁷ According to Paragraph 261 of the 2020 ODIHR and Venice Commission Guidelines on Political Party Regulation, “[i]t is critical that the timeframe be sufficient, yet not too long [...] to allow the oversight body to undertake a thorough and expedient auditing and, where necessary, initiate proportionate and timely sanctions”.

⁶⁸ The total number of EPFA staff fluctuates between 9 and 12, depending on the number of external employees. The LFPPEC only allows the entity to recruit temporary service providers and temporarily detach technicians from other public administrations, upon approval by the CC, but not to recruit permanent staff.

⁶⁹ According to Paragraph 267 of the 2020 ODIHR and Venice Commission Guidelines on Political Party Regulation, “a clear delineation of which bodies are responsible for different aspects of implementing regulations on political parties, as well as clear guidelines establishing their functions and the limits of their authority” is needed. Paragraph 268 states that “[a]dequate financing and resources are also necessary to ensure the proper functioning and operation of the oversight body”.

⁷⁰ The UN Human Rights Committee [2020 Concluding Observations on the fifth periodic report of Portugal](#) (Paragraph 3) positively noted the 2019 increase of the minimum threshold of women in candidate lists and minimum 40 per cent threshold of women among top civil servants in public administration, public higher education institutions and public associations.

⁷¹ In the 2003 Council of Europe [Recommendation Rec\(2003\)3](#), governments committed themselves to achieving balanced participation of women and men in political and public life, defined as a minimum representation of 40 per cent of each sex.

⁷² Parties that nominated a higher number of women included BE (52 per cent), CDU (51 per cent), PAN (51 per cent), *Livre* (50 per cent), PS (47 per cent) and PSD (46 per cent).

parties did not ensure balance among the candidates heading their MMC lists, with women in the first place on only 99 of the 362 candidate lists (27 per cent).⁷³

By law, district courts are to verify the compliance of candidate lists with the legal requirements, request corrections where necessary and reject those that ultimately fail to meet them.⁷⁴ However, according to the ODIHR EET's analysis of the final candidate lists, 31 lists registered by 14 contestants in 18 MMCs had fewer than 40 per cent women candidates, mainly due to an inconsistent interpretation or enforcement of the quota requirements by the district courts.⁷⁵

The registration of candidate lists should be based on a uniform interpretation of the legally prescribed measures for women's participation. All relevant state institutions and political parties should strengthen efforts to entrench the understanding of existing legal measures.

Women candidates from various parties informed the ODIHR EET that they did not feel disadvantaged in terms of campaign financing since in their experience political parties spend equal amounts on male and female candidates. Although political parties generally addressed the issue of gender equality and women's participation in public and political life in their programmes, these topics did not feature widely in the campaign or the contestants' debates.⁷⁶ Several ODIHR EET interlocutors from political parties and civil society remarked that women were more exposed to sexist or degrading treatment, especially on social networks, which in their view remains an important consideration preventing some women from seeking political office.

According to some ODIHR EET interlocutors, public policy proposals, including those made during the campaign by political parties, generally do not include consideration of how they might impact each gender.⁷⁷ In addition, limited availability of gender-disaggregated data hinders efforts to ensure public policies address the needs of citizens of each gender.⁷⁸

⁷³ Women headed 50 per cent of BE, 45 per cent of CDU and PAN, 30 per cent of PSD and 27 per cent of PS lists. *Chega* placed women in the first place in 9 per cent of its lists.

⁷⁴ The CC, as the appellate body of the district court decisions, does not enjoy *ex officio* power to compel political parties to fulfil their quota obligation. The CC adjudicated three appeals submitted by political parties against district court decisions to register six candidate lists that did not comply with the gender quota or placement requirements. The CC required these lists to be corrected.

⁷⁵ The courts followed different interpretations whether rounding off the number of nominated candidates is permitted under the law. For example, the district court of Leiria informed the ODIHR EET that it rounded off the 40 per cent equivalent to the nearest whole number, which, in some cases, reduced the overall share below the threshold prescribed in the law. Conversely, the CC informed the ODIHR EET that rounding off may not lead to the reduction of the effective representation of a gender below 40 per cent. In addition, nine cases of non-compliance of candidate lists with the 40 per cent quota could not result from rounding off the figures. For example, *Chega's* candidate list in the out of Europe MMC included no women among the four candidates; on the party's list in the Europe MMC, only one of four candidates was a woman. The *Chega* list in the Azores and the Party of the Earth list in Viseu each included only 3 women out of 10 candidates.

⁷⁶ According to the Portuguese Platform for Women's Rights, all parliamentary parties, with the exception of *Chega* and CDS, addressed the issue of sexual or domestic violence. Most parliamentary parties advocated for care provision, including childcare, as well as work and family-life balance. Fewer parties discussed the pay gap or gender and poverty.

⁷⁷ According to the [General Recommendation No. 23](#) to the 1979 [Convention on the Elimination of All Forms of Discrimination against Women](#) (CEDAW), State parties should ensure that "women have the right to participate fully in and be represented in public policy formulation in all sectors and at all levels". Article 191c of the [1995 Beijing Declaration and Platform for Action](#) provides that political parties "shall consider incorporating gender issues in their political agenda, taking measures to ensure that women can participate in the leadership of political parties on an equal basis with men".

⁷⁸ Among others, Paragraph 40.13 of the [1991 OSCE Moscow Document](#) commits participating States to "ensure the collection and analysis of data to assess adequately, monitor and improve the situation of women". See also the 1989 General Recommendation No. 9 adopted by the CEDAW Committee ([A/44/38](#)) and Goal 17.18 of the UN [2030 Agenda for Sustainable Development](#) adopted in 2015.

Political parties should strengthen their efforts to foster inclusivity, including by adopting binding policies to place women in leading positions on candidate lists and integrating gender considerations into their policy proposals.

VIII. RECOMMENDATIONS

These recommendations, as contained throughout the text, are offered with a view to further enhance the conduct of elections in Portugal and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past ODIHR recommendations that have not yet been addressed. ODIHR stands ready to assist the authorities of Portugal to further improve the electoral process and address the recommendations contained in this and previous reports.⁷⁹

Election Administration

1. Disaggregated data on gender representation in the election administration should be collected and published in a comprehensive manner.
2. In line with the principle of transparency, the election administration should consider opening its sessions to the public and publishing the draft agendas in advance of its sessions.
3. To ensure consistent application of the election procedures, standardized training for all lower-level commission members should be provided in advance of election day.
4. Any measures impacting the exercise of voting rights and the conduct of voting procedures, including with respect to temporary measures such as health-protection related adjustments, should be adopted well in advance of the elections as a result of an open process allowing a meaningful public debate.
5. The legal framework should be harmonized with international standards by removing any restrictions on electoral rights based on intellectual or psychosocial disability.
6. In line with international good practice, prospective electoral coalitions should enjoy the same rights as other contestants to correct technical mistakes in registration documents within a reasonable time.
7. The election administration should consider additional measures, in close co-operation with disabled persons organizations, to ensure that voters with disabilities, including voters with visual impairments, can vote independently. The premises and layout of polling stations should be suitable for independent access. Election authorities should provide detailed information about the electoral process in formats accessible to persons with various types of disabilities.

⁷⁹ In Paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”. The follow-up of prior recommendations is assessed by the ODIHR EET within its mandate as follows: recommendations number 2, 14 and 15 from the ODIHR Final Report [on the 2021 presidential election](#) are partially implemented. See also the ODIHR [electoral recommendations database](#).

Campaign

8. To facilitate meaningful participation, contestants should be encouraged to take steps to make their platforms, programmes, campaign materials and messages in formats accessible to persons with various types of disabilities.

Campaign finance

9. To enhance the transparency of campaign finance and contribute to voters' informed choice, consideration should be given to introducing interim reporting prior to election day.
10. To facilitate voters' informed choice, authorities should proactively publish institutional information of public interest in an easy, prompt, effective and practical manner, facilitating a wide-range of inquiries.
11. In order to allow the Entity on Political Finance and Accounts to perform its oversight role in an effective and timely manner, and to ensure a clear division between the oversight body and its appellate instance, consideration should be given to granting it institutional and financial autonomy and providing it with a legal basis to recruit its own permanent staff.

Electoral participation of women

12. The registration of candidate lists should be based on a uniform interpretation of the legally prescribed measures for women's participation. All relevant state institutions and political parties should strengthen efforts to entrench the understanding of existing legal measures.

ANNEX: FINAL ELECTION RESULTS⁸⁰

Contestants	Votes received	Percentage	Seats obtained
Socialist Party	2,302,601	42.50	120
Social Democratic Party	1,539,415	28.41	72
<i>CHEGA</i>	399,659	7.38	12
Liberal Initiative	273,687	5.05	8
Left Bloc	244,603	4.52	5
Coalition: Portuguese Communist Party – Ecologist Party ‘The Greens’	238,920	4.41	6
PEOPLE-ANIMALS-NATURE	88,152	1.63	1
CDS – Popular Party	89,181	1.65	0
<i>LIVRE</i>	71,232	1.31	1
Coalition: Social Democratic Party – People’s Party	50,636	0.93	3
Coalition: Social Democratic Party – People’s Party – Monarchical People’s Party	28,330	0.52	2
React Include Recycle	23,233	0.43	0
Portuguese Workers’ Communist Party	11,265	0.21	0
National Democratic Alternative	10,874	0.20	0
Together for the People	10,786	0.20	0
Party of the Earth	7,561	0.14	0
<i>Volt Portugal</i>	6,240	0.12	0
Alternative Socialist Movement	6,157	0.11	0
Get Up	5,043	0.09	0
Us, Citizens!	3,880	0.07	0
Portuguese Workers’ Party	3,533	0.07	0
Alliance	2,467	0.05	0
Monarchical People’s Party	260	0.0	0
Blank ballots	68,103	1.13	
Invalid votes	83,721	1.50	
Registered voters	10,813,246		
Voters who voted	5,564,539	51.46	

⁸⁰ Data according to the final results [published by the NEC](#).

ABOUT ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is 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.

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 150 staff.

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 obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, 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. ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

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 people, 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**, 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. 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.

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).