



Office for Democratic Institutions and Human Rights

REPUBLIC OF LATVIA

SAEIMA ELECTIONS

5 October 2002

OSCE/ODIHR FINAL REPORT



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TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY.....	1
II.	INTRODUCTION.....	2
III.	BACKGROUND	2
IV.	LEGISLATIVE FRAMEWORK	3
	A. LUSTRATION LAWS	3
	B. CITIZENSHIP AND NATURALIZATION ISSUES	5
	C. LANGUAGE LAWS	7
V.	ELECTION ADMINISTRATION	7
	A. ELECTORAL COMMISSIONS	8
	B. SYSTEM OF REPRESENTATION.....	8
	C. ABSENCE OF A VOTER REGISTER	9
	D. VOTER EDUCATION.....	10
	E. COMPLAINTS AND APPEALS	10
VI.	THE CAMPAIGN.....	11
	A. CAMPAIGN FINANCE	12
VII.	THE MEDIA.....	13
	A. MEDIA MONITORING.....	14
VIII.	GENDER ISSUES.....	15
IX.	ELECTION DAY.....	16
	A. PRESENCE OF OBSERVERS.....	17
	B. VOTING.....	17
	C. COUNTING AND REPORTING OF RESULTS.....	18
X.	THE RESULTS.....	19
XI.	RECOMMENDATIONS.....	19

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I. EXECUTIVE SUMMARY

The 5 October 2002 election to the 8th Saeima (parliament) of the Republic of Latvia was well administered and overall conducted in accordance with OSCE commitments and international standards for democratic elections. This fourth general election since the restoration of independence in 1991 marks a clear entrenchment of the democratic election process in Latvia.

Positive features of this election process include the following:

- The election administration commands a high degree of confidence from voters and candidates alike;
- The election law was amended removing Latvian language proficiency requirements in order to run for office;
- There is a healthy level of political pluralism in the election contest, and all 20 parties have had an opportunity to convey their message to the electorate in an equitable manner;
- Transparency of the election process has been enhanced by new legislation requiring political parties to disclose their income and expenditures one month prior to election day;
- New legislation also requires the media to reveal their income from political party advertisements; and
- The enhanced computerization and detailed procedures for reporting preliminary results and tabulation processes have established internal controls, promoting the accuracy and reliability of the final results.

While election officials at all levels should be credited for overseeing a successful election for the 8th Saeima, there were a few issues that arose on election day that caused some concern. They include:

- Instances where police officers reviewed passports and determined the eligibility of voters as they entered polling stations, usurping the responsibilities exclusively vested in the Polling Station Commissions;
- Instances where radio and television were playing in or around polling stations exposed some voters to political party advertisements when casting their vote; and
- The secrecy of the ballot was not adequately protected in a number of polling stations, due to inadequate or non-existent polling booth facilities, and instances of family voting.

The 8th Saeima will address some momentous issues, such as NATO membership and EU accession, and it is hoped that Latvia can also address some aspects of its election process that could now be consigned to the past.

Some of the steps that were deemed necessary to restore and secure Latvia's independence in 1991 could now be reconsidered. Specifically, Articles 5 and 13 of the Election Law still deny the right to stand for public office to persons based on their past political party and security service affiliations. Article 15 requires that candidates falling into a lesser category of alleged past security service collaboration have a notation beside their name when the candidate list is published.

The OSCE/ODIHR also remains concerned that, according to the latest statistics, approximately 22% of the population remain so-called "non-citizens" and therefore do not have the right to vote in either national or municipal elections.

The OSCE/ODIHR stands ready to work with the authorities and civil society of Latvia to remedy the technical shortcomings and some of the more difficult problems identified in this report.

II. INTRODUCTION

The OSCE/ODIHR Election Observation Mission (EOM) was invited by the Latvian Ministry of Foreign Affairs to observe the election to the 8th Saeima. The Election Observation Mission was headed by Mr. Gerald Mitchell (UK/US) and consisted of six experts deployed in Riga, and six long-term observers in three regions: Liepaja, Daugavpils, and Valmiera.

The OSCE/ODIHR EOM analyzed the legislative framework, the pre-election administration, the media, and followed the election campaign. While the EOM long-term staff observed the election day and vote count procedures in Riga and some Rajons across Latvia, the EOM did not deploy short-term observers on election day beyond. The EOM co-ordinated its election day observation efforts with a delegation from the Parliamentary Assembly of the Council of Europe (PACE), and a joint preliminary statement was issued on 6 October.

The EOM wishes to express appreciation to the Ministry of Foreign Affairs of Latvia, the Central Election Commission, other national and local authorities and non-governmental organizations, for their assistance and cooperation during the course of the observation mission.

III. BACKGROUND

The 5 October parliamentary election was the fourth general election since the restoration of independence on 4 May 1991. The Saeima is a unicameral Parliament, composed of 100 seats, elected according to a proportional system in five multi-seat constituencies with a 5% threshold.

Twenty parties have run in this election. The main parties were: the People's Party (government coalition party led by former Prime Minister Andris Skele); Latvia's Way (party of Prime Minister Andris Berzins); Fatherland and Freedom (the government

coalition); For Human Rights in a United Latvia (opposition grouping, representing the ethnic minorities, and including former Communists - led by Janis Jurkans); Social Democrats (opposition party now split into two - the Social Democratic Workers Party and the Social Democrat Union); New Era (a new party created by former central bank director Einars Repse); Green Farmers (a merger of Greens and the Farmers Union led by former Latvia's Way Prime Minister Vilis Kristopans, and former Minister of Economy Ingrida Udre); First Party (a newly formed multi-denominational "Christian" party).

IV. LEGISLATIVE FRAMEWORK

The election was conducted in accordance with the following legislation:

- Constitution of the Republic of Latvia;
- Law on the Saeima Election (henceforth "Electoral Law");
- Law on city, district and municipality Election Commissions and Polling Station Commissions;
- Law on financing political organizations (parties);
- Law on pre-election campaigning before Saeima elections;
- Law on preventing corruption;
- Law on public organizations and their associates;
- Law on storage and use of documents of former KGB and on establishment of the fact of collaboration with KGB;
- Law on civil procedure;
- Law on the Official Language of Latvia; and
- Law on Citizenship.

The current legal framework contains the overall elements necessary for the conduct of a democratic election process.

There are some anomalies in the Latvian election law, such as the lack of a voter register (see Election Administration Section), and the exclusion of suspects in custody from voter's rights but not from the right to be a candidate.

However, certain aspects of the legal framework related to elections remain of outstanding concern. These include candidacy restriction provisions, which were deemed necessary to restore and secure the re-establishment of independence in Latvia after 1991, but have the potential to become an increasing liability to the democratic process in Latvia.

A. LUSTRATION LAWS

Articles 5 and 13 of the Election Law still deny the right to be a candidate to persons based on their past political party and security service affiliations. Articles 5.5 and 5.6 of the Electoral Law stipulate that persons cannot be included in the candidate lists for the Saeima if they "belong or have belonged to the salaried staff of the USSR, Latvian SSR or foreign state security, intelligence or counterintelligence services", or those who

took part in support of the Communist Party and related structures after 13 January 1991.

The “Law on Storage and Use of the Documents of Former KGB and on Establishment of the Fact of Co-laboration with the KGB” was recently amended, and the CEC can now only consider the rejection of candidates based on a court decision. Consequently, the CEC voted on 7 August to reject the candidacy of Mr. Janis Adamsons (Social Democratic Workers Party) and Ms. Tatyana Zhdanoka (Equal Rights Party).

Mr. Adamsons was accepted as a candidate in both 1995 and 1998, and was duly elected to the Saeima on both occasions. His candidacy for this election was rejected on the grounds that he was formerly a border guard in the Soviet Union, a post that allegedly came under the responsibility of the KGB. However, another former member of the same border guard unit was permitted to contest last year’s municipal elections, and currently holds public office at municipal level. Mr. Adamsons considered the restrictions that he encountered to be a selective application of the law for political reasons, however, his appeals were rejected. He is now considering whether to take his case to the European Court of Human Rights in Strasbourg.

Ms. Tatyana Zhdanoka was previously rejected as a candidate in 1995 on citizenship grounds, and again in 1998 and 2002 based on the fact that she participated in the Communist Party of Latvia after 13 January 1991. She was elected to the Riga City Council in 1997, but her mandate was withdrawn, again based on her participation in the Communist Party after 13 January 1991. This provision in the law was retroactive, as activities of the Communist Party were actually legal until August 1991. She has exhausted her appeals in the Latvian courts, and her case is now pending before the European Court of Human Rights in Strasbourg.

In addition, Article 15 requires that the names of candidates who were not on the salaried staff, but collaborated with “the USSR, the Latvian SSR or another country’s state security, intelligence or counterintelligence services”, be published by the CEC at least 20 days before the election. Nine candidates who were determined to have been unsalaried KGB agents by the Documentation Center for the Consequences of Totalitarian Crimes, had a notation to this effect beside their name when the candidate list was published.

While the number of affected candidates is limited, it is not possible to establish or even estimate the number of people who simply do not consider running for public office due to the fact that they would fall under one or the other restrictions, and therefore prefer not to be scrutinized by the CEC and the courts.

These articles are not considered consistent with article 7.5 of the Copenhagen Document, which calls on all OSCE participating States “to respect the right of citizens to seek political or public office, individually or as representatives of political parties or organisations, without discrimination.”

Concern has also been raised regarding the vague nature of these articles and the possibility of their selective application. The Centre for the Documentation of

Totalitarian Crimes has only a fraction of the KGB files in its possession, there is no clear guideline for an investigation into someone's background, and no clear instructions when an investigation has been exhausted and is to terminated.

On 30 August 2000, the Constitutional Court of Latvia confirmed in its 4:3 decision, that these provisions are justified to protect the integrity of the State. But the Court also envisaged a clear termination of such restrictions. As the court reasoned, the exceptions to the principle of equal access to political rights for all "full-fledged" citizens are justified by the fact that the specific group concerned is clearly defined and limited by law. Further justification for these exceptions – according to the Constitutional Court – is the fact that the State needed to be protected against "disloyal" parliamentarians who may have attempted to undermine the State.

Nevertheless the Court also expressed the opinion that such provisions, justified by specific concrete circumstances in the past, should apply only temporarily and should not last indefinitely.¹

According to Article 17 of the "Law On Storage and use of the Documents of Former KGB and on Establishment of the Fact of Collaboration with the KGB" from 1994, restrictions on KGB collaborators should not apply for more than 10 years. Therefore, Article 5.5 concerning past collaboration with the KGB will become obsolete in 2004, as long as the law is not amended by the 8th Saeima.

The OSCE/ODIHR would like to emphasize the ongoing normalization of the political process in Latvia and the consolidation of political structures. Steps deemed necessary to restore and secure Latvia's independence in 1991 could now be reconsidered. The OSCE/ODIHR therefore welcomes the decision of the Constitutional Court calling for a moratorium on these statutes. Considering that under the present legislation Article 5.5 will become moribund in 2004, this would also be an appropriate time to abolish all provisions restricting candidate rights, including Article 5.6 denying candidate rights based on former Communist Party membership.

B. CITIZENSHIP AND NATURALIZATION ISSUES

Participation in both national and municipal elections in Latvia is dependant on citizenship status. According to the Citizenship Law of Latvia, only persons who were citizens before 17 June 1940, and their descendants, received automatic citizenship upon the re-establishment of independence in 1991.

Migration led to large numbers of Russians settling in Latvia (particularly in the late 1940s). As a result, a large number of residents of Latvia do not meet citizenship criteria, and fall into a category of so-called "non-citizens".

¹

In a quote from the decision: "However, the legislator, periodically evaluating the political situation in the state as well as the necessity and validity of the restrictions should decide on determining the term of restrictions in the disputable norms, as such restrictions to the passive election rights may last only for a certain period of time".

Non-citizens in Latvia number 514,298 persons out of a total population of 2.3 million (approximately 22%). They do not have any electoral rights, and are thus not allowed to participate in national or local elections as either voters or candidates.

The vast majority of non-citizens live in the Riga–area and Latgale (the Eastern part of Latvia); in some places they even form, together with Latvian citizens with Russian as their first language, the majority of the respective population.

Non-citizens who have lived in Latvia for five years or more have the right to become naturalised citizens upon the completion of the naturalisation process, which includes a proficiency exam in the Latvian language as well as basic historical and constitutional facts. The naturalization procedure is clearly defined and without any specific bureaucratic hurdles. Some 87.3% of applicants passed the Latvian language proficiency test and 97.6% passed the test on the basic principles of the Constitution in their first attempt.

Since its inception in 1995, the Naturalisation Board has processed over 55,000 applicants of which 66.7% were ethnic Russians, 10.2% were Belorussian and 8.3% were Ukrainian. More than twice as many women have applied for naturalization than men.

In addition, some positive amendments to the Citizenship Law in 1998 removed “age” quotas for submitting applications, and granted citizenship to children of non-citizens if they were born in Latvia after 21 August 1991. As of the end of August 2000, 893 children had been granted citizenship under this provision.

However, in relation to the size of the non-citizen population, the overall rate of naturalization is very slow. The number of naturalizations actually peaked in 1999 during which 15,183 were received by the Board of Naturalization. In each successive year the number of applications has declined. As of 31 August 2002, just under 6,000 applications had been received in the current year.

A complex range of psychological and/or practical barriers thus far have prevented the majority of the remaining over 500,000 non-citizens from applying for Latvian citizenship. Some reasons expressed as to why “non-citizens” do not naturalize in larger numbers include: their national identification with Russia and nostalgia for the previous regime; a sense of humiliation to have to undergo a citizenship exam, particularly for those who have lived in Latvia all of their lives; easier travel between Latvia and Russia due to lower visa fees for non-citizens and no visa requirements for Russian passport holders; and young non-citizens can avoid conscription. For elderly people, who never ever in the past spoke Latvian, certainly the language test can be a difficulty.

Some non-citizens also feel a sense of alienation toward and betrayal by the Latvian State, particularly for those that supported the independence movement along with Latvians, and later felt rejected as “immigrants” after the re-establishment of independence. Despite improvements in the efficiency of the Naturalization Board, the fact that more State funds could be allocated for Latvian language instruction was also raised.

Whatever the reasons, it is clear that there will be a substantial non-citizen population in Latvia for some time to come. A local NGO has calculated that at the present rate, it would take 27 years to naturalize 50% of the current non-citizen population. During the same period of time the other 50% would be deceased.

The Council of Europe and the Council of the Baltic Sea States have previously urged Latvia to grant voting rights to “non-citizens” for municipal elections, as in Estonia.²

Involving non-citizens in local decision-making could represent a first and tangible step toward eliminating the current democratic deficit, and the OSCE/ODIHR would strongly encourage a full and public discussion on the issue of voting rights for non-citizens in municipal elections.

C. LANGUAGE LAWS

In early May, the Saeima amended the election law removing the language requirement to stand for public office. This is a welcome development that meets one of the provisions in the guidelines for successfully closing the OSCE Mission to Latvia.

At the same time that the language requirements for those seeking office to speak fluent Latvian were withdrawn, the Latvian Constitution was amended to strengthen Latvian as the State language in Parliament and local elected bodies. A new clause requires elected officials to take an oath of office in Latvian.³

The OSCE/ODIHR expects that these regulations will in no way interfere with or contradict Commitment 7.9 of the Copenhagen Document which calls on participating States to: “ensure that the candidates who obtain the necessary number of votes required by the law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to end in a manner that is regulated by law in conformity with democratic parliamentary constitutional procedures.”

V. ELECTION ADMINISTRATION

In general, election officials at all levels should be credited for overseeing a successful election. Polling Station Commissions were well-trained, competent and attentive to procedural details throughout the polling and counting activities. A great emphasis was placed on training of polling station commissions, and this was evident on election day.

² Estonia’s non-citizens have had the right to vote in municipal elections since 1993, and the pace of naturalisation has been faster than in Latvia.

³ The Latvian Constitution already lists Latvian as its single State language, thus the amendment to reiterate its status as the official procedural language in Parliament and locally elected office appears largely symbolic. However, potentially of more significance, the Rules of Procedure of the Saeima, allowing for exclusion of a deputy, “if he/she does not know the State language at the level necessary for execution of his/her professional duties” have not been amended.

A. ELECTORAL COMMISSIONS

A hierarchy of electoral commissions headed by the Central Election Commission (CEC) oversaw the conduct of the election at the national, regional and local levels. Except for Polling Station Commissions, all higher level commissions are standing bodies appointed to serve for 4-year terms. The CEC has nine members, eight appointed by the Saeima on the basis of nominations by parliamentary parties and one nominated by the Supreme Court. The Saeima also selects the Chairman. The Deputy Chairperson and Secretary are selected by the members of the Commission.

Only the Chairman, Deputy Chairman and Secretary are “professional” members who work on a full time basis. Other members only attend meetings when scheduled. During peak election periods they meet 2-3 times a week.

Although the country is divided into five constituencies, there are no constituency level election commissions. Rather, there are Regional Election Commissions (REC) in each of the 26 Rajons and 7 of the major cities of Latvia (including Riga), Local Election Commissions (LEC) in each of the other cities, towns and villages, and 944 Polling Station Commissions (PSC) on the territory of Latvia and 35 PSCs abroad.

Opportunities for parties to nominate members of election commissions at all levels are established by law, with the intent of promoting transparency. While cross-party representation is generally achieved in the upper levels of election administration, this is not the case at the LEC and PSC levels. A significant number of committee members at the LEC and PSC level are employees of the State and local governments. Although there have been some reports that party nominees have been rejected in favor of nominees proposed by local councils, frequently parties seem to have failed to provide nominees.

B. SYSTEM OF REPRESENTATION

Latvia is divided into five multi-member constituencies and elects its Saeima on the basis of proportional representation. The number of mandates allocated to each of the constituencies is determined on the basis of population figures provided to the CEC by the Department of the Population Register four months prior to the election. Under the law, the number of mandates must be relative to as equal a number of voters as possible.

In each constituency, parties and coalitions compete and voters select their favorite party’s candidate list. Each party is entitled to place the names of the same candidates on their lists in different constituencies simultaneously. Under the Electoral Law, independent candidates are precluded from running in the Saeima elections which is inconsistent with the international standard established in the Paragraph 7.5 of the 1990 Copenhagen Document.

A 5% threshold is established on a national basis to determine which parties may participate in the distribution of seats. For those parties that reach the 5% threshold, the number of mandates won by each party is determined based on the constituency-wide votes applying the St. Lague formula.

Because parties and coalitions are entitled to place the same candidate on more than one candidate list, it is not always obvious which candidate will win the mandate in any particular constituency. If a candidate wins in more than one constituency, he/she wins the seat in the constituency in which the greatest number of votes was achieved, and his/her name is eliminated from the competition in all other constituencies in which the candidate's name appeared. The next candidate on the same party's list is then considered. As a result, within a particular constituency, the candidates placed in lower positions on a party's list may, in fact, win the seats in that constituency.

The system of representation in Latvia virtually eliminates possibilities for regionally based parties to succeed. For example, Latgale's Light achieved nearly 10% of the votes in the Latgale constituency, however, won no seats since the party failed to pass the 5% national threshold. In contrast, Fatherland and Freedom/LNNK Union was able to win a seat in Latgale Constituency although they only received 3.77% of the votes there.

C. ABSENCE OF A VOTER REGISTER

Latvia has never implemented a voter registration program and polling stations operate without pre-prepared voter lists. In Saeima elections, a citizen may appear at any polling station to vote including a station outside his or her own resident constituency. Voter lists are created as voters appear to vote.

The citizen passport is the only acceptable identification document for substantiating the person's eligibility to cast a ballot. As each voter appears, polling station officials must inspect the passport to confirm the voter's eligibility. The criteria that must be reviewed is whether the voter holds a citizen or non-citizen passport, whether the birth date indicates the person is at least 18 years of age, and whether the passport has not expired. The information from the passport is added to the voter list at the time the voter receives his or her ballots. A stamp stating "8th Saeima Election" was placed in the passport, as a safeguard against a voter attempting to vote more than once.

As of 1 July 2002, a law prescribing the new passports went into affect. An extensive campaign was produced to encourage people to apply for their new passports. However, old passports remain valid until their expiration date and were also acceptable as identification on election day. Passports are issued by branch offices of the Board of Immigration and Citizenship. These branches were also open on election day so they could be contacted by Polling Station Committees in the event they had questions regarding the validity of a passport being presented by a voter.

The new passport does not require a residence address to be included. Although in Saeima elections any voter can vote at any polling station, in municipal elections a residence address is a factor in determining a person's eligibility to vote in a specific community. The EOM was advised that there is a plan to make a transition to ID cards with residence address by 2004. It is unlikely, however, that such a card could be sufficiently useful in future elections if they continue to be held without pre-prepared voters lists. A plastic or laminated card would be unsuitable for stamping, which is the current method to ensure that voters cannot vote more than once.

The EOM was advised that there have been discussions about going to a voter list system in the near future as part of European Union accession planning. Some interlocutors, however, expressed interest in identifying new technologies that might be available that would allow the ID card to be scanned at the polling station in much the way an ATM card is processed. Linked to the main database, the eligibility of the voter could be determined at the same time the scanner could record that a voter has already voted. However, it appears that no formal steps have been taken to plan for either alternative as yet.

D. VOTER EDUCATION

Despite the fact that approximately one quarter of the Latvian voting population are from minority language communities with varying degrees of proficiency in the Latvian language, the CEC provides no official voter education information in minority languages except for one Russian language page on the CEC website and Russian language versions of its official press releases. It should be acknowledged, however, that the CEC accepted assistance from the Easy-to-Read Agency, an NGO which specializes in simplifying official Latvian text. This was an attempt to ensure the broadest possible comprehension of the Latvian language among the voting public.

Although all Latvian citizens that have gone through the naturalisation procedure should have at least an elementary level knowledge of the Latvian language, the present situation has the potential to create a substantial “information gap” about the election process for a significant proportion of the electorate, and especially for those citizens from minority linguistic communities in which Latvian may not be used on a daily basis. According to 2000 census figures, Russian is the native language of 308,200 Latvian citizens.

Furthermore, citizens with Russian as their first language are forced to depend largely upon one political party, For Human Rights in a United Latvia, for their information about the voting process. This may reinforce their support for this party, and forfeit the potential support from this block of the electorate for other political parties.

E. COMPLAINTS AND APPEALS

Articles 28 and 50 of the Election Law contain very brief provisions for the filing of an election related complaint and appeal. The complaints and appeals process is largely regulated according to the 1998 Civil Procedure law, which in fact is mainly based on the former Soviet law.

Decisions of an LEC or a PEC can be appealed within seven days. The appeal must be submitted to the court of the respective district and the court’s decision is final. Complaints after the seven-day period can directly be submitted to the CEC, whose decision can be appealed to the Riga District Court. However, only people who have submitted a candidates’ list or candidates themselves are entitled to submit appeals or complaints. Voters, observers and election officials cannot submit complaints.

At present, there is no formal administrative appeals procedure, separated from the civil judiciary to deal with complaints and reviews of decisions made by civil authorities. A new Administrative Law shall be put into force effective 1 July 2003 and a new Administrative Court will be created at the same time. This law will apply for electoral complaints and appeals in the future. It should guarantee that voters and election officials can also have access to the appeals procedure, in addition to parties and candidates.

VI. THE CAMPAIGN

The campaign was overall a low key event. A poll released in September claimed that more than half of Latvia's eligible voters were disinterested in the pre-election campaign. There was an absence of party activity at street level. Indoor rallies were more a feature of the campaign in the provinces rather than in Riga. Only during the final month did the billing of posters in the streets become an important feature, in particular at the initiative of the People's Party in Riga. New Era, the winning party, engaged in door-step canvassing, which is a new feature for Latvian campaigns.

The campaign featured the entry onto the political stage of several new parties. These included the New Era, and two others – the First Party and the Green Farmers – who were successful in getting over the 5% threshold. Three out of the six parties which will be represented in the 8th Saeima are new parties. During the period of the 7th Saeima, there was a general perception that not enough had been done by governments to stem corruption. This helped new parties entering the election campaign with fresh policy platforms.

Issues debated in the campaign included the entry of Latvia into NATO and the European Union. The government coalition parties argued in favor of both NATO and EU accession, while For Human Rights in a United Latvia and the Greens/Farmers Union argued against NATO and the EU respectively. Domestic issues which were raised included minority issues, social integration, social welfare and public sector salaries.

Two major polling organizations – Latvijas Fakti and SKDS – showed New Era to be well ahead. However, later in the campaign they indicated that the People's Party had caught up with and even overtaken New Era. This turned out to be wrong.

In the final week of the campaign there was a significant dispute between Latvia's Way and the People's Party known as the "leaflet scandal", which led to the dismissal of the (People's Party) Minister of the Interior, Mareks Seglins. The People's Party accused Latvia's Way of producing and planning to distribute leaflets with a slanderous anti-People's Party message.

The leaflet scandal broke out five days before the election day when the police detained two employees of the Latvian Way Riga Bureau after seizing a vehicle with a large amount of slanderous leaflets about the People's Party, allegedly made at the order of Latvia's Way. It had not been established that Latvia's Way was actually engaged in

such activity, and the actions of the Interior Minister in detaining two Latvia's Way activists were criticized as an unauthorized intervention by police authorities in the political campaign. The police released information on the leaflets and the detention of two Latvia's Way representatives to the press.

Prime Minister Berzins (Latvia's Way) asked the Prosecutor General to investigate the case. The Prosecutor General's Office said that if they are charged and found guilty, the two Latvia's Way activists could face up to three years in jail. This raises the question as to whether in the heat of an election campaign, such offenses should be addressed under criminal law procedures as presently adjudicated, or according to the civil procedures. Certainly the potential penalty in this case is out of proportion to the actual offense. Both Latvia's Way and the People's Party suffered a drop in support on election day.

A meeting of Janis Jurkans, the leader of For Human Rights in a United Latvia (mainly representing the ethnic Russian minority) with Russian President Vladimir Putin two weeks before the election day received criticism as an attempt to win over apathetic voters among the ethnic Russian population.

The Mayor of Moscow was also due to pay a visit to Riga the weekend before the election, where he would have been hosted by his opposite number, the Chairman of the Riga City Council, Gundars Bojars (Social Democratic Workers Party). The visit was perceived as an attempt by the (LSDWP) to improve their standing with the ethnic Russian electorate, but the visit was postponed at the last minute until November.

For Human Rights in a United Latvia (FHRUL) activists complained to the EOM that Mayor Rihards Eigims of the Latgale's Light Party had influenced a private TV station to exclude FHRUL from televised pre-election debates. FHRUL have initiated a court procedure against the television station concerning this matter. On election day itself, local radio stations carried an interview with the mayor several times, urging voters to vote for his Latgale's Light Party and not to vote for FHRUL.

A. CAMPAIGN FINANCE

The recently adopted amendments of the *Law on Financing Political Parties* regulating the declaration of all party revenues (donations, in-kind contributions etc.) permitted more transparency than in previous elections. Parties generally fulfilled the legal requirement of submitting campaign finance declarations. However, the law was devalued by the fact that the Anti-Corruption Bureau, designated as the oversight body, was not operational. The position of the Chairperson of the "Anti-Corruption-Committee", which is the key position for the supervision of the different declarations, was vacant (the holder of the chairmanship has to be appointed by the parliament). Thus, the proper investigation of allegations of abuse did not take place. While these provisions are a step forward, their ultimate impact is not easy to estimate, particularly since sanctions are not very clear.

In the interim, the Revenue Service has served the oversight role, and stated that almost all parties received some payments that have not been reported. A more vigorous

oversight role and clear sanctions will be needed in the future to ensure the full regard for the law, and particularly to prevent the potential for parties to camouflage large donations from wealthy contributors under the guise of individual contributions which are set at a maximum of 10,000 Lats. In a report issued by the Soros Foundation Latvia it was stated that there was indirect evidence of doubtful donors, particularly in respect of two political parties.⁴ The Soros Foundation Latvia will recommend that the maximum individual contribution be significantly lowered for future elections.

On the eve of the election, the Social Democrats asked the Prosecutor-General to investigate the People's Party's campaign finances. However, there appears to be a lack of means for investigating such allegations. The State Revenue Service was not well resourced for tracking some 2,000 corporate and individual donations that had been identified, and appeared to have no sanctions at its disposal. The Prosecutor-General had not been involved in investigating any alleged abuses, which can only take place when there are complaints registered about the State Revenue Service's work. As of 10 October, when the OSCE/ODIHR election observation mission departed Latvia, the State Revenue Service had still not published its findings.

There was also an allegation in the press that a Russian businessman had provided US\$ 7 million for the campaign of one of the main parties. The Prosecutor-General is following up on these reports.

Although the law provides guidelines for the funding and expenditures of political parties, there are no provisions covering the campaigns of candidates, who also distributed their campaign materials and engaged in broadcast advertising in some constituencies. For example, Daugavpils Mayor Rihards Eigims (Latgale's Light Party) broadcast campaign messages encouraging voters to vote for him.

VII. THE MEDIA

New legislation requires that the public be informed as to who has financed each political party broadcast on both private and public media, which has facilitated greater transparency. The new law also requires the media to reveal their income from political party advertisements, which also serves as a crosscheck on whether figures reported by the parties correspond to actual expenditures. While the public media have disclosed their income from political party revenues, the private media generally have not, and have therefore failed to live up to their responsibilities according to the new legislation.

"Hidden advertising", for example, paid editorial coverage, or candidates using their presence on programs not related to politics to convey a political message, was expected to be a factor in this election. However, it did not really materialise as a problem to any great extent. This was largely due to a project conducted by the Soros Foundation Latvia and Delna (Transparency International) – the Transparency in Political Party Financing Project. This raised the issue of "hidden advertising" as a topic of concern

⁴ Soros Foundation Latvia, "Analysis of Political Expenditures and Income Before Latvia's Parliamentary Election", October 2002.

prior to the campaign, alerting parties and the media to the fact that this issue would be monitored.

Concern was expressed that particularly during an election period, restrictions on the media for broadcast in minority languages may present an obstacle for both citizens and non-citizens alike to absorb the political debate, and create an “information gap” concerning the election.

At present, the public broadcast service has devoted 20% of the second channel LTV 2 and one of the four public radio stations to broadcast in minority languages. In terms of the private media, Section 19 para. 5 of the media law pertaining to private broadcast media stipulates that “the amount of broadcasting time in foreign languages (all languages except Latvian and Liv) in programs produced by broadcasting organisations shall not exceed 25% of the total volume of the broadcasting time in a twenty-four hour period”.

According to a representative of the National Broadcasting Council, recommendations will be proposed to the 8th Saeima to permit broadcasting in minority languages beyond the present limits, in order to more accurately reflect the linguistic profile of the Latvian population.

A. MEDIA MONITORING

The EOM monitored the election campaign on State-owned LTV1 and LTV2 together with the private LNT for six hours per day (6-12 p.m.) from the 13 September. It has also monitored five private newspapers, including three published in Latvian language - *Diena*, (estimated circulation 63,000 copies), *Neatkarīga Rita Avīze* (37,000) and *Lauku Avīze* (60,000) as well as Russian language *Panorama Latvii* (13,100) and *Telegraf* (18,000).

Overall the regulation of the media offered an opportunity for all parties to convey their message to the electorate. The larger political parties enjoyed more television coverage on LTV1 and LTV2. However, the stipulated 20 minutes of free television time, as well as paid advertising, were available to each political party.

Concerning the public and private broadcast media, there were substantial amounts of paid political advertisements, primarily for the People’s Party and the Latvian First Party. The First Party, a newcomer on the political stage, actually reached 9% of the total airtime. There was also significant paid advertising in the print media for a wide range of parties, with the exception of the New Era party.

Coverage on Latvian Television news broadcasts was higher for political parties that are not members of the governing coalition, although this changed somewhat during the last week of the campaign as a member of the governing coalition, Latvia’s Way, became embroiled in the “leaflet scandal”.

The Latvian language newspapers generally gave more coverage to Latvia's Way and the People's Party, while the Russian language newspapers gave more coverage to For Human Rights in a United Latvia.

As required by law, Latvian Television had to provide 20 minutes of free airtime to each political party prior to election day, and it appears that this time distribution was allocated equally.

Latvian Television broadcast a weekly program entitled Battle of the Giants, in which parties with 4-5% in the opinion polls were invited to participate. With twenty parties competing in the election, this was considered to be a practical formula. Parties with less than 4-5% support in the polls were only invited to participate in two televised discussions on 28 August and 4 September. Smaller parties with less than 4-5% in the polls claim they were discriminated against.

Private Latvian Independent Television (LNT) is mainly a commercial outlet. Except for three daily news programs, there were no informative programs or televised debates specific to this election. LNT did broadcast voter information and also broadcast a significant amount of paid political advertising.

The print media can be deemed rather fair with few exceptions. Parties enjoyed a high coverage, particularly through paid advertising. The tone of the campaign coverage in the print media was often negative, as candidates attempted to de-legitimize their opponents through various charges and accusations.

Print media election coverage was different from paper to paper: in terms of advertising, campaign reporting and editorial comments. *Diena* devoted a large amount of space to major parties. Latvia's Way (LC) together with the People's Party (TP) received the higher percentage – 19% and 16% - partly due to their involvement in the "leaflets scandal". Green Party (ZZS) enjoyed then 11%, followed by Fatherland and Freedom (TB/LNNK) with 10% and the Social Democratic Workers' Party (LSDLP), 9%. *Diena* often reported on New Era "door to door" campaign (8%). *Neatkarīga Rita Avīze* reported mainly on the main parties. People's Party gained 26% of the space (due to a massive advertising campaign) as well as Latvian Social democratic Workers' Party (LSDSP). Latvian Way (LC) also obtained relevant coverage with 14%.

Russian-language newspapers gave to For Human Rights and United Latvia (PCTVL) the highest coverage. While *Telegraf* showed a reasonable distribution among other relevant political forces, *Panorama Latvii* openly supported PCTVL (77%) and overall ignored the other parties.

VIII. GENDER ISSUES

Women were elected to 22% of the seats in the 7th Saeima. It is possible that this share will hold or rise slightly when final results are certified and seats are allocated. Several factors may increase the possibilities for women to succeed in the elections in Latvia

when compared to the average for OSCE participating States that. In the Nordic countries, women hold nearly 40% of the seats in parliamentary bodies.

Two of the political parties passing the 5% threshold had placed a significant number of women on their candidate lists. Forty-one percent of the candidates on the lists of the New Era party were women, while Latvia's First Party lists placed women in 30% of the positions on their candidate lists. The prominence of women in the lists for New Era is also reflected in the fact that over half of them were listed in the top ten positions. For the People's Party and For Human Rights in a United Latvia 21% of their candidates were women. Only Fatherland and Freedom/LNNK Union and the Green and Farmers' Union presented significantly fewer women, with the proportion of women on their lists at 15% and 13% respectively.

Although parties have opened their candidate lists to women, a review of the platforms of the parties indicates that there is little effort to appeal directly to women voters. Of the parties winning mandates in the Saeima, only the Latvia's First Party included a brief reference to women's issues in its platform, promising to promote an increase in State support to new families and to families with three or more children. Of the other 19 parties, only two specifically addressed issues with direct relevance to women in their platforms. The Latvian Social Democratic Workers' Party proposed tax incentives and credits guaranteed by the State for home crafts for women with children, and the disabled. Latvian Way espoused social justice, health protection, equal opportunities and a lowering of the pension age to 55 for women and 60 for men.

IX. ELECTION DAY

The core staff and long-term observers of the OSCE/ODIHR Election Observation Mission and parliamentary observers from the Parliamentary Assembly of the Council of Europe (PACE) observed polling stations throughout Latvia in both urban and rural communities. In spite of the diverse sizes and locations of the polling stations visited, observers found that polling stations were well managed and efficient, and that legal and procedural requirements were being carried out consistently and uniformly.

Advance preparations for election day were expertly carried out and polling stations were well supplied with a sufficient quantity of ballots and envelopes for the anticipated number of voters at each location. Voter participation was at 72.5%, some two percentage points higher than in 1998. Although there is no pre-prepared voter list on which to rely, voter turnout from previous election is used as a basis for distribution of voting materials.

Although the conduct of polling and counting activities was rated highly by observers, there are a few issues that will warrant attention.

- The advisability of having a police presence inside a polling station while polling is underway could be reconsidered for future elections. Of specific concern in this election were instances where police officers reviewed passports to determine the eligibility of voters as they entered polling stations. Security officers should have no

role in the conduct of polling or in decision-making responsibilities exclusively vested in the Polling Station Commissions.

- In spite of strict restrictions on the presence of printed campaign materials in and around polling stations, radios and televisions were occasionally in use in and around polling stations during voting hours. There is no “silence period” prohibiting the broadcast of political advertising on election day, and therefore some voters may have been subjected to campaign messages as they went to vote. The absence of a campaign silence period on broadcast media contradicts the laws prohibiting printed campaign materials in and around polling stations. In order to fully facilitate a campaign free environment on election day, laws regarding electronic broadcast and print media should be brought into conformity.
- The secrecy of the ballot is fundamental to the conduct of democratic elections, but this principle was not adequately protected in many polling stations. Not only did family voting occur, but at some polling stations the proper voting booth facilities for ensuring a voter’s privacy while voting were inadequate or non-existent.

A. PRESENCE OF OBSERVERS

The right of domestic observers to be present at the polling stations is not specifically provided for in the law, although general wording allows the presence of any person authorized by the relevant commission. In fact, the EOM found that there seemed to be no of interest in election observation from the civil society sector as yet.

The law is very specific, however, about the rights of party agents to observe the voting and counting process. Party agent observers were present at virtually all polling stations observed, and typically 3 – 4 parties were represented. Generally, it was found that party agents remained present for the counting of the party list ballots, but often left before the protocol was finalized.

B. VOTING

The Latvian electoral system dictates that each voter is given a set of 20 ballots, each of which contains the names of all the candidates on a single party’s list. To vote, a voter selects one party list ballot and inserts it in a secrecy envelope. The voter has the option of leaving the ballot paper unaltered, or to express a preference for certain candidates by placing “+” marks next to their names, or crossing out the names of other candidates they reject. The voter deposits the secrecy envelope which has been stamped with the number of the polling station.

The other 19 ballots may be removed from the polling station, discarded or left behind on a table located near the exit. A unique feature of the system is that the secrecy envelopes are treated as sensitive documents, but the ballots are not. If a voter damages an envelope, it can be replaced upon return of the damaged envelope. The replacement must be recorded in the minutes. If a torn or damaged envelope is found in the ballot box, it is considered invalid and the ballot it contains will not be included in the counting of votes.

The casual disposition of ballots, especially in the manner in which the 19 unused ballots can be kept or left behind by the voter, was explained as a vestige of a past practice. A voter would be expected to bring all his or her unused ballots to the employer, or other officials to whom they were subordinated, the day following the election to prove that he or she had voted “correctly.” When asked if such occurrences still happened, a few election officials indicated that it might still be the case in some instances. However, officials indicated that from those left behind at the table near the exit a voter can pick up a ballot paper for the party for whom he or she voted, so that a full set of all the ballot papers remains in their possession securing the secrecy of their vote.

The fact that officials raised these views suggests that such practices may still linger. It also suggests that the casual disposition of unused ballots may leave the system open to “vote buying”. Whereas secrecy of voting tends to neutralize such abuses when a single ballot paper is issued to a voter, in Latvia’s system the display of a person’s unused ballots could provide the mechanism for offering payment to entice voters to vote for a certain party. In past elections there have been allegations that “vote buying” may have occurred.

C. COUNTING AND REPORTING OF RESULTS

Ballots are counted immediately upon closure of the polling stations. Since the municipal elections in 2001, greater emphasis has been placed on the use of computers for generating the final protocols at the polling stations.

Well-defined procedural instructions guiding the counting of votes and tabulation of results contributed to rapid reporting of preliminary results and the audit-ability of the final results. Party agents, observers and the media were allowed to be present at each stage of the process. Transparency was also enhanced by a new instruction that a copy of the results protocol was to be posted for public scrutiny at each polling place. The unofficial preliminary results for the party lists were immediately reported by the polling stations by phone, fax or email so that they could be disclosed on the Central Election Commission Website and available to the media within a few hours after the polls closed.

Data from each polling station’s protocol is integrated into the Rajon-wide results. The tabulated data from the Rajon, as well as the protocols from all polling stations are delivered to the Central Election Commission, where data entry is done again directly from original polling station reports. This double entry system is an effective audit tool that promotes accurate reporting of the final certified results. Certification of final results was expected to be completed 2 weeks after the 5 October election.

The administration of the mobile voting program for voters voting at home was well documented and the issuance of secrecy envelopes and ballots is fully accounted for. Each voter utilizing this service is added to a special voter list so that the number of ballots and envelopes used can be accounted for against the list of voters voting by this method.

X. THE RESULTS

The preliminary result in terms of Saeima seats won was as follows:

Rank	Party	Votes	%	Seats
1	New Era	237021	23.93	26
2	For Human Rights in a United Latvia	187564	18.94	24
3	People's Party	165449	16.71	21
4	Latvia's First Party	94833	9.58	10
5	Green & Farmers' Union	93732	9.46	12
6	Fatherland and Freedom/LNNK	53395	5.39	7

Latvia's Way and the Social Democratic Workers' Party, respectively government coalition and opposition parties in the 7th Saeima, both failed to achieve the 5% threshold.

XI. RECOMMENDATIONS

- Lustration Laws** - Steps deemed necessary to restore and secure Latvia's independence in 1991 could now be reconsidered. Specifically, Articles 5 and 13 of the Election Law still deny the right to stand for public office to persons based on their past political party and security service affiliations. Article 15 requires that candidates falling into a lesser category of alleged past security service collaboration have a notation beside their name in the published candidate list. The OSCE/ODIHR welcomes the decision of the Constitutional Court calling for a moratorium on these statutes, and considers that when article 5.5 becomes moribund in 2004, this would be the appropriate time to abolish lustration law provisions restricting candidate rights.
- The Issue of Municipal Voting Rights for Non-Citizens** - The OSCE/ODIHR would encourage a full and public discussion on the issue of voting rights for non-citizens in municipal elections. The Council of Europe and the Council of the Baltic Sea States have previously urged Latvia to grant voting rights to "non-citizens" for municipal elections. Involving non-citizens in local decision-making could represent a first and tangible step toward eliminating the current democratic deficit, as represented by the 22% of the population with no voting rights at national or municipal level.
- Police Presence Inside Polling Stations** - The advisability of having a police presence inside polling stations during polling day should be reconsidered for future elections. Security officers should have no role in the conduct of polling or in decision-making responsibilities exclusively vested in the Polling Station Commissions.

4. **Campaign Broadcasts In and Around Polling Stations** - In order to fully facilitate a campaign free environment on election day, a “silence period” prohibiting political advertising to be broadcast on election day should be established.
5. **Secrecy of the Ballot** - The secrecy of the ballot was not adequately protected in many polling stations. Polling booths of a uniform standard should be provided to each polling station in adequate numbers, in order to ensure full privacy for each and every voter. Voter education efforts to discourage family voting should also be produced, and Polling Station Commissions should be more attuned to preventing family voting.
6. **Campaign Finance Regulation.** The fact that the Anti-Corruption Bureau designated as the oversight body to regulate the disclosure of campaign finances is not yet operational, the new legislation was significantly devalued. A more vigorous and clearly defined oversight role, including the elaboration of investigation procedures and meaningful sanctions, will be needed in the future to ensure the full regard for the law. In addition, there are no provisions in the law requiring individual candidates to disclose their funding sources or report their expenditures, despite the fact that campaign materials were distributed by individual candidates, leaving a loophole in the legal framework.
7. **Party Representatives on Election Commissions** - Political party representatives nominated to serve on election commissions should be given priority over those nominated by the local government and/or groups of 10 citizen voters. While cross-party representation to promote transparency is generally achieved in the upper levels of election administration, this is not the case at the Local Election Commission (LEC) and Polling Station Commission (PSC) levels. A significant number of committee members at the LEC and PSC levels are employees of the State and local governments. There were some reports that party nominees have been rejected in favor of nominees proposed by local councils, but often parties failed to provide enough nominees.
8. **Lack of a Voter Register** - A special commission or task force should be appointed to consider issues arising from the issuance of new passport/identification cards in conjunction with the absence of a voter register. Production of a centralised voter registration system could be considered.
9. **Voter Education Materials in Minority Languages** –The present situation has the potential to create a substantial “information gap” about the election process for a significant proportion of the electorate. The CEC should produce voter education materials for sizable national minority linguistic communities.
10. **Broadcast Restrictions in National Minority Languages** - Restrictions on the media for broadcast in minority languages may present an obstacle for both citizens and non-citizens alike to absorb the political debate, and create an “information gap” concerning the election. The EOM welcomes the intention of the National Broadcasting Council to submit new guidelines to the 8th Saeima, recommending

the lowering of present restrictions to more accurately reflect the linguistic profile of the Latvian population.

11. **Adjudication of Slander and Libel Accusations Under Criminal Law** – The “leaflet scandal” has focused attention on whether slander and libel accusations should be adjudicated under criminal law, as is presently the case, or according to a civil procedure. The nature of slander and libel accusations can be very subjective, particularly in the heat of a political campaign, and the potential three year jail penalty for the Latvia’s Way activists accused of distributing slanderous campaign literature is out of all proportion to the offense.