



Office for Democratic Institutions and Human Rights

# REPUBLIC OF SLOVENIA

PRESIDENTIAL ELECTION  
22 OCTOBER 2017

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

29-31 August 2017



Warsaw  
2 October 2017

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**REPUBLIC OF SLOVENIA**  
**PRESIDENTIAL ELECTION**  
**22 October 2017**

**OSCE/ODIHR Needs Assessment Mission Report**

**I. INTRODUCTION**

Following an official invitation from the authorities of the Republic of Slovenia to observe the 22 October 2017 presidential election and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 29 to 31 August. The NAM was composed of Alexander Shlyk, OSCE/ODIHR Head of Election Department, and Tamara Otiashvili, OSCE/ODIHR Election Adviser.

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

The OSCE/ODIHR would like to thank the Ministry of Foreign Affairs of the Republic of Slovenia for the assistance and co-operation in organizing the visit. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM.

**II. EXECUTIVE SUMMARY**

On 22 October, Slovenia will hold presidential election where the incumbent will seek re-election for a second and final term. The role of the president carries authority in areas of defence and foreign policy.

This election will be conducted under a revised legal framework. Key changes to the electoral legislation addressed a number of previous OSCE/ODIHR recommendations and introduced new provisions with regard to electoral participation of persons with disabilities, on the voter register, the publication of voting results per polling station and new campaign finance regulations. In addition, in line with OSCE commitments, the law now contains explicit provisions for election observation.

The election will be administered by the National Electoral Commission supported by 8 Constituency Election Commissions, 88 District Election Commissions and over 3,000 Polling Boards across the country and in over 30 diplomatic representations. All OSCE/ODIHR NAM interlocutors expressed full confidence in the integrity of the election administration and its ability to organize elections professionally.

All citizens over the age of 18 by election day enjoy the right to vote unless declared mentally incapable or placed under guardianship by a court decision. Voter registration is passive and is managed by the Ministry of Interior. There are some 1,624,000 registered voters in the country and 91,000 abroad. Considerable efforts have been undertaken to facilitate voting for persons with

disabilities, including ensuring accessible polling stations and wheelchair-friendly voting booths. OSCE/ODIHR NAM interlocutors expressed full trust in the voter registration process.

All citizens with voting rights are eligible to stand for the office. Candidates can be nominated by political parties or voters. In order to support a candidate, a voter is required to visit a local administrative unit and sign a nomination form. While OSCE/ODIHR NAM interlocutors did not see it as a matter of concern, the restriction to support only one candidate may potentially limit political pluralism.

The official campaign starts 30 days before and runs until 24 hours before election day. Most of OSCE/ODIHR NAM interlocutors expected the campaign to be low profile and viewed it as a platform for the 2018 parliamentary elections. While television remains important, campaigning online and the use of social media were also emphasized as key means of outreach.

Campaign finance legislation has been amended, taking into account some of the OSCE/ODIHR and the Council of Europe Group of States Against Corruption recommendations. Changes include mandatory detailed reporting on campaign incomes and expenditure, requirements to publish reports, revised donation and expenditure limits, and increased penalties for abusing campaign finance regulations. While the law does not provide for interim reporting on campaign donations and expenditures, nearly all OSCE/ODIHR NAM interlocutors were supportive of the current campaign finance legislation for presidential election.

The media landscape is pluralistic with television considered as the main source of political information. While there is no independent self-regulatory body mandated to oversee media conduct of elections, OSCE/ODIHR NAM interlocutors did not raise concerns in this regard.

Legislation provides for an effective and timely legal redress. While expressing overall confidence in the integrity and impartiality of the complaints adjudication system, some OSCE/ODIHR NAM interlocutors noted, however, that voters may benefit from more clarity on the process.

OSCE/ODIHR NAM interlocutors expressed a high level of confidence in all aspects of the electoral process. Authorities have carefully considered and followed-up on the number of findings and recommendations contained in the previous OSCE/ODIHR report on the 2011 early parliamentary elections. Since then, measures aimed at addressing a number of OSCE/ODIHR recommendations have been introduced, while others are pending review. Based on this, as well as the findings of this NAM, the OSCE/ODIHR NAM recommends deploying an Election Expert Team for the 22 October 2017 presidential election to review the implementation of the amendments introduced to the legal framework, including with regard to campaign finance and electoral participation of persons with disabilities.

### **III. FINDINGS**

#### **A. BACKGROUND AND POLITICAL CONTEXT**

On 11 August, the speaker of the parliament called presidential election for 22 October. The president carries authority in areas of defence and foreign policy. The incumbent president, Borut Pahor, elected in 2012, stated that he will seek re-election.

Slovenia went through a series of early parliamentary elections in recent years attributed to low confidence in the government as a result of allegations of corruption and a lack of reforms.<sup>1</sup> The centre-left government took office in September 2014 and is headed by Prime Minister Miro Cerar of the Modern Centre Party, which rules in a coalition with the Democratic Party of Pensioners of Slovenia and Social Democrats. The opposition, while fragmented, consists of the United Left, Slovenian Democratic Party and New Slovenia – Christian Democrats. The SDS opined previously that the 2014 early parliamentary elections were illegitimate due to the imprisonment of its leader, Janez Janša, during the election campaign.

The OSCE/ODIHR has only observed the 2011 early parliamentary elections. The Election Assessment Mission (EAM) deployed for those elections concluded that “overall, the legislative framework provides a sound basis for the conduct of democratic elections. Particularly noteworthy is the attention given to ensuring the universality of the vote, provided through different means of voting. Certain aspects of the legislation could benefit from further consideration, including the lack of explicit legal provision for international election observation. Nevertheless, the National Election Commission (NEC) and other electoral bodies ensured that the OSCE/ODIHR EAM had full access to the entirety of the electoral process.”<sup>2</sup>

## **B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM**

The presidential election is primarily regulated by the Constitution, the Act on Election of President, Law on Elections to the National Assembly (election law), the Elections and Referendum Campaign Act, and the Voting Rights Register Act.<sup>3</sup> Previously OSCE/ODIHR assessed the electoral legal framework as comprehensive, providing a sound legal basis for the conduct of democratic elections.

This election will be conducted under a revised legal framework. All legislation was adopted in an inclusive and transparent process and addressed a number of previous OSCE/ODIHR recommendations. Key changes to the electoral legislation pertaining to the presidential election include new provisions on electoral participation of persons with disabilities, the electronic voter register, the publication of voting results per polling station, and new campaign finance regulations. In addition, and in line with OSCE commitments, the law now contains explicit provisions for election observation.<sup>4</sup>

Legislation provides for an effective and timely legal redress. While expressing overall confidence in the integrity and impartiality of the complaints adjudication system, some OSCE/ODIHR NAM interlocutors noted, however, that voters may benefit from more clarity on the process. They opined as well that the very low number of complaints is due to an effective system of checks and balances. Previously, the OSCE/ODIHR recommended establishing a uniform, hierarchical dispute procedure for all decisions and acts of electoral commissions.

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<sup>1</sup> In January 2015, as a result of growing concern, the government adopted a two-year action plan to combat corruption and promote transparency. In its 2017 [Second Compliance Report](#), the Group of States Against Corruption (GRECO) noted that regarding “corruption prevention in respect of members of parliament, the situation remains to a large extent the same.”

<sup>2</sup> See [previous OSCE/ODIHR election reports on Slovenia](#).

<sup>3</sup> Law on Elections to the National Assembly was amended on 28 April 2017, the Elections and Referendum Campaign Act was amended on 29 November 2013, and the Voting Rights Register Act was amended on 27 November 2013.

<sup>4</sup> Paragraph 8 of the 1990 Copenhagen Document provides that 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.

The president is elected by popular vote for a five-year term and may serve a maximum of two consecutive terms. To be elected in the first round, a candidate must receive more than 50 per cent of the valid votes cast. Otherwise, a second round between the two candidates with the highest number of votes is held two weeks later. The candidate who receives more votes in the second round is elected.

### C. ELECTION ADMINISTRATION

The presidential election is administered on four levels – the NEC is supported by 8 Constituency Election Commissions (ConECs), 88 District Election Commissions (DECs) and over 3,000 Polling Boards (PBs) across the country and in over 30 diplomatic representations.

The NEC is a permanent body appointed by the National Assembly, headed by a president and supported by a deputy president, and comprising five members and five deputy members.<sup>5</sup> The president and the deputy president are appointed from amongst the Supreme Court judges at the recommendation of the Judicial Council. One member and one deputy are appointed from among legal experts, and the remaining members and deputies are appointed on the proposal of the parliamentary groups taking into account the proportional representation of the parties in the parliament.

ConECs and DECs consist of a president, a deputy president, three members and three deputies. ConECs members include two judges and two legal experts, while DECs have one of each. In both cases, the remaining members and deputies are appointed according to political representation in the parliament. The main responsibility of ConECs is determining election results in the respective constituency, while DECs are responsible for appointing PBs and supervising the operational organization of the elections in the district. PBs consist of a president, a deputy president, two members and two deputies appointed on the basis of political party nominations. Their main responsibility is to administer the voting and counting processes in polling stations. All political parties that the OSCE/ODIHR NAM met with intend to nominate members to PBs, and the NEC does not envisage any challenges with timely appointments.

The NEC is responsible for registering candidates, deciding on complaints, issuing instructions and establishing the final results. The NEC informed the OSCE/ODIHR NAM that it plans a comprehensive awareness campaign on various aspects of the election, and the information for voters pertaining to the presidential election is available on its website.

The election law contains provisions aimed at facilitating universal suffrage through various methods of voting, including early and postal voting. Specific efforts have been undertaken to facilitate voting by persons with disabilities, including ensuring accessible polling stations and wheelchair-friendly voting booths. Currently over 50 per cent of polling stations are wheelchair accessible and their list is published on NEC website.<sup>6</sup> For the first time, voters with disabilities who are unable to reach a polling station on election day will also be able to vote by post. The NEC informed the OSCE/ODIHR NAM that all non-governmental organizations working on disability issues were informed on all changes to ensure voter awareness.

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<sup>5</sup> For all levels, deputy commissioners take part in discussions but do not have the right to vote, except in the absence of a member. Deputies do not necessarily come from the same party as the member they replace.

<sup>6</sup> Slovenia ratified the UN Convention on the Rights of Persons with Disabilities on 24 April 2008. According to the 2017 Act on Persons with Disabilities, all public buildings and public services, including polling stations should be fully accessible from 1 February 2018.

All OSCE/ODIHR NAM interlocutors expressed full confidence in the integrity of the election administration and its ability to organize elections professionally.

#### **D. VOTER REGISTRATION**

All citizens over the age of 18 by election day enjoy the right to vote. Those who have been declared mentally incapable or who are placed under guardianship can be deprived of their right to vote based on a court decision.

Voter registration is passive and is managed by the Ministry of Interior. There are two voter registers maintained for the presidential election. The general voter register includes some 1,624,000 voters with permanent residence in the country. Voters living abroad without permanent registration in Slovenia are included in a special register. There are currently some 91,000 such voters, who can vote either in diplomatic representations on election day or by post. The OSCE/ODIHR NAM was informed of challenges faced by the authorities in delivering voting cards, despite the legal obligation of voters to notify the authorities of changes to their residence.<sup>7</sup>

A number of changes were introduced to the Voting Rights Register Act in 2013. Voter registers are now available electronically and all 58 administrative units have access to the information.<sup>8</sup> Administrative units are no longer responsible for the distribution of voting cards to voters, who would like to vote by post. These voting cards are now distributed by the election administration; however, for those who live abroad, they are issued *ex officio* by the Ministry of the Interior. In addition, while voters could previously check and request correction of any voter's data, the 2013 amendments limited such access due to data protection.<sup>9</sup> Also, the amendments allow the NEC to access to the voter registers with due adherence to data protection provisions.

Any voter can request corrections either in writing or verbally no later than 15 days before election day. Complaints regarding the voter register, after being reviewed by administrative units, can be submitted to the local court and further appealed to the Supreme Court. However, the OSCE/ODIHR NAM was informed that there have been no such cases in recent elections.

All OSCE/ODIHR NAM interlocutors expressed full trust in the voter registration process and in the accuracy and integrity of the register.

#### **E. CANDIDATE REGISTRATION**

All citizens with voting rights are eligible to stand for the office.<sup>10</sup> Candidates can be nominated by 10 members of parliament, political parties supported by at least 3 members of parliament or 3,000 voters, or by at least 5,000 voters. In order to support a candidate, a voter is required to visit any local administrative unit and sign a nomination form. Provided that the form does not include a name of a supported candidate, it can be given to any contestant. Some OSCE/ODIHR NAM interlocutors noted unproved allegations that, in the past, potential candidates who did not collect

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<sup>7</sup> In general, only 7 to 10 per cent of voters registered abroad cast their vote by mail.

<sup>8</sup> These units can access voter information such as name, personal number and address. Previously printed copies of the voter registers were distributed to the administrative units that applied manual changes.

<sup>9</sup> This is in line with the Act on Personal Data Protection, as well as international commitments and obligations. See Article 17 of the United Nations General Comment No. 16 to the International Covenant for Civil and Political Rights, as well as paragraph 24 of the 1991 OSCE Moscow Document.

<sup>10</sup> In 2015, a draft law banning citizens convicted to more than six months imprisonment from running for a public office was tabled in the parliament but has not been put to a vote.

enough signatures were selling the forms they had collected. In this respect, many noted that having the name of the candidate on the form could eliminate such concerns. In addition, a voter can only sign in support of one candidate. While OSCE/ODIHR NAM interlocutors did not see it as a matter of concern, this restriction may potentially limit political pluralism.<sup>11</sup>

All nominations should be submitted to the NEC by 28 September. All political parties that the OSCE/ODIHR NAM met with expressed full confidence in the candidate registration process and did not raise major concerns with registration requirements. However, some noted that introducing an electronic signature collection process would ease the burden of the registration process.<sup>12</sup>

## F. CAMPAIGN AND CAMPAIGN FINANCE

The official campaign starts 30 days before and runs until 24 hours before election day. Most of OSCE/ODIHR NAM interlocutors expected the campaign to be low profile and viewed it as a platform for the 2018 parliamentary elections. While television remains important, campaigning online and the use of social media were also emphasized as key means of outreach. The campaign is expected to focus on the role of the president, as well as the role of the country in the context of the European Union. Some stakeholders also noted the importance of focusing on social issues and future economic reforms. No OSCE/ODIHR NAM interlocutor raised any concern about the ability to campaign freely and all believed that campaign would be conducted in a positive manner.

Campaign finance regulations are contained in the Elections and Referendum Campaign Act and the Political Parties Act. Both were amended in 2013 in response to OSCE/ODIHR and GRECO recommendations.<sup>13</sup> Changes introduced mandatory reporting on campaign incomes and expenditures, requirements to publish finance reports, limits on donations by individuals and campaign spending by each contestant, a ban on donations by legal entities, and increased penalties for abusing campaign finance regulations. GRECO's Evaluation Report of 2014 noted that "the new legislation is, to a large degree, in conformity with the recommendations issued by GRECO more than six years ago and it provides for more transparency of political financing, provided the law is applied as intended."<sup>14</sup>

Every contestant is obliged to open special bank account for the campaign. Campaigns can be funded by political party's membership fees and individual donations. Any citizen can donate up to approximately EUR 16,000 to each contestant; cash donations are allowed up to EUR 50. Campaigns cannot be financed by legal entities or foreign sources (both individual and entity). A candidate can spend up to EUR 0.25 per eligible voter in the country.

The amended legislation clarified the role of institutions supervising different aspects of the campaign finance regulations. The Inspectorate at the Ministry of Internal Affairs is the main supervisory body in respect of the implementation of the law. The Court of Audit is tasked with oversight of political party and campaign financing and by law has been vested with adequate

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<sup>11</sup> Paragraph 3 of the 1990 OSCE Copenhagen Document states that the OSCE participating States "recognize the importance of pluralism with regard to political organizations." Paragraph 77 of the [2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation](#), recommends that "in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party."

<sup>12</sup> The OSCE/ODIHR NAM was informed that electronic signature collection was already introduced for referenda and is also being considered for future elections.

<sup>13</sup> GRECO highlighted a total of 13 recommendations in its 2007 [Evaluation Report](#).

<sup>14</sup> See GRECO [Compliance Report on Slovenia](#), 26 June 2014.



investigative tools and resources. The Ljubljana Local Court, upon the initiative of the Court of Audits, is responsible for ruling on related violations and issuing sanctions.<sup>15</sup>

Within 15 days of closing their bank account, all elected candidates are obliged to submit detailed financial reports to the Court of Audits that examines their accuracy and timeliness of submission.<sup>16</sup> Within six months of closing the bank account, the Court of Audits shall conduct a financial audit of the campaign accounts and publish its findings on its website. Monetary sanctions are envisaged for various forms of unlawful financing of campaigns, untimely or failure of submission of reports, as well as false reporting. There are no requirements for interim reporting on campaign donations and expenditures. Nevertheless, nearly all OSCE/ODIHR NAM interlocutors were supportive of the current campaign finance legislation for presidential election as an improved framework for transparent elections.

## G. MEDIA

The media landscape is pluralistic with television considered the main source of political information. The Internet, and especially the social media, is increasingly used as a source of information. Print media circulation rates are declining due to the growth of digital media and Internet-based news services. Public RTV Slovenia has three national television channels and three national radio channels, as well as regional channels in Maribor and Koper. In addition, RTV Slovenia carries special programming for the Italian and Hungarian communities. Commercial television includes three main national television channels: Pop TV, *Kanal A* and TV3.

Coverage of the election campaign in broadcast media is primarily regulated by the Elections and Referendum Campaign Act, which emphasizes the importance of safeguarding balance and impartiality by providing each contestant with equal treatment. This is supplemented by the Radio and Television Corporation of Slovenia Act and internal regulations adopted by the RTV Slovenia and other media broadcasters for each election. These regulations should determine the use of airtime and political advertisements. All media that the OSCE/ODIHR NAM met with stated that such regulations will be issued in a due time and will include provisions on equal representation.

Apart from campaign coverage in news programmes, the broadcast media also plan to organize various television debates with the participation of all candidates. Following the Constitutional Court decision recognizing a ban on the publication of opinion polls during seven days before an election as unconstitutional, the law has been amended to provide for the ban from 24 hours before election day to the closing of voting.<sup>17</sup>

The Inspectorate responsible for Culture and Media supervises the implementation of provisions on election campaign in the media. As noted by OSCE/ODIHR NAM interlocutors, the media directly receive complaints on election coverage and, if they are substantiated, correct any errors. However, the OSCE/ODIHR NAM was informed that such complaints are few. Despite previous OSCE/ODIHR recommendations, there is no independent self-regulatory body mandated to monitor campaign-related regulations, investigate alleged violations, and impose effective remedies for

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<sup>15</sup> GRECO noted that, positively, the new legislation “provides for a new distribution of powers... The legislative measures taken by Slovenia have established that the Court of Audit – which is an independent body – is responsible for supervision in relation to the political financing, whether concerning political parties’ ordinary accounts or the election campaign financing. This represents an important development from the previous situation where the Ministry of Finance had that function.”

<sup>16</sup> There is no specific deadline for closing the bank account. The law provides that this account should be closed within four months after the election day.

<sup>17</sup> See the [Constitutional Court Decision](#).

violations. OSCE/ODIHR NAM interlocutors did not raise concern in this regard.

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

OSCE/ODIHR NAM interlocutors expressed a high level of confidence in all aspects of the electoral process. Authorities have carefully considered and followed-up on the number of findings and recommendations contained in the previous OSCE/ODIHR report on the 2011 early parliamentary elections. Since then, measures aimed at addressing a number of OSCE/ODIHR recommendations have been introduced, while others are pending review. Based on this, as well as the findings of this NAM, the OSCE/ODIHR NAM recommends deploying an Election Expert Team for the 22 October 2017 presidential election to review the implementation of the amendments introduced to the legal framework, including with regard to campaign finance and electoral participation of persons with disabilities.

## **ANNEX: LIST OF MEETINGS**

### **Ministry of Foreign Affairs**

Blažka Kepić, Head of Department for International Organisations  
Tjaša Pečan, Department for International Organisations

### **Ministry of Public Administration**

Mateja Prešern, Head of Service  
Klaudija Korazija, Secretary  
Anja Hostnik, Undersecretary

### **Ministry of Interior**

Alenka Colja, Head of Division for Civil Status, Public Documents and Residence Registration

### **State Election Commission**

Anton Gašper Frantar, Director  
Dušan Vučko, Head of the Office  
Miroslav Pretnar, Member

### **Political Parties**

Valentin Hajdinjak, New Slovenia - Christian Democrats  
Jan Škoberne, Social Democrats  
Jernej Štromajer, Social Democrats  
Branko Grims, Slovenian Democratic Party  
Andrej Šircelj, Slovenian Democratic Party  
Bojan Dobovšek, Unaffiliated Deputies Group

### **Human Rights Ombudsman Office**

Miha Horvat, Deputy Ombudsman  
Gašper Adamič Metlikovič, Adviser

### **Radio-Television Slovenia**

Igor Kadunc, Director General  
Natalija Gorščak, Deputy Director TV Slovenia  
Jadranka Rebernik, Managing Editor, News and Current Affairs  
Nataša Rijavec Bartha, Head of Current Affairs  
Andrej Stopar, Managing Editor, Channel One Radio Slovenia  
Manica J. Ambrožič, Editor of News Programme

### **POP-TV**

Tjaša Slokar Kos, News Director and Chief Editor  
Anže Božič, Journalist  
Irena Joveva, Journalist

### **Transparency International**

Vid Doria, Secretary General  
Vid Tomić, Project Assistant