



Office for Democratic Institutions and Human Rights

PARLIAMENTARY ELECTIONS REPUBLIC OF LITHUANIA OCTOBER 20 and NOVEMBER 10, 1996

FINAL REPORT

The Office for Democratic Institutions and Human Rights (ODIHR) received an official invitation from the Central Electoral Commission (CEC) of the Republic of Lithuania to observe the October 20 elections for Representatives to the Parliament (Seimas) of the Republic of Lithuania and a referendum. Professor Frank Aarebrot was appointed by the ODIHR as On-site Co-ordinator, upon being seconded by the Government of Norway. He observed the election campaign and the balloting during October 9 - October 20. Mr. Simon Osborn (UK) returned as On-Site co-ordinator for the second round of balloting during November 8-11.

Prior to the first round of the election, the ODIHR On-site Co-ordinator met with numerous individuals and organisations, including the President of the Seimas, the Central Electoral Commission (CEC), several Area Election Committees, several District Election Committees, and a broad range of political parties, the Director General of the Lithuanian Radio and TV Corporation, the Director General of the Baltic Television, the Director of Baltic Surveys, and representatives of Info-Tec, who operate the scanning equipment to be used for counting individual preferences on party lists in the national ballots.

The ODIHR would like to note the co-operation and assistance extended to the ODIHR On-site Co-ordinator by the Danish, British and Finnish Embassies. The ODIHR would also like to thank the following organisations for providing observers: the Civic Education Project, National Democratic Institute, International Republican Institute, Central and East European Law Initiative, and the German Language Institute.

Prior to the election, the ODIHR On-site Co-ordinator monitored the postal voting system. The ODIHR On-site Co-ordinator and his staff also monitored the preparation for the election in several Area Election Committees.

Despite the fact that the ODIHR had requested eight long-term observers for this observation, only one was seconded, Christian Christensen of Denmark. K. Elizabeth Ryder (US) was recruited locally.

The ODIHR On-site Co-ordinator briefed and debriefed the corps of approximately 40 observers from 12 OSCE countries. The participating States include: Denmark, Finland,

France, Germany, Italy, Norway, Poland, the Russian Federation, Spain, Sweden, the United Kingdom, and the United States.

CONCLUSIONS

The ODIHR Observation Mission issued a statement on the first round of balloting on October 22 based on observation in 90% of the single member constituencies of Lithuania. It concluded that, despite the generally efficient administration and the democratic spirit under which the elections were conducted, there was serious concern drawn from the Election Day observation involving the legal guarantee to vote by secret ballot in the privacy of a polling booth.

Many voters were seen voting outside the polling booth and in some polling stations inadequate booths were provided. This is not in keeping with Commitment 7.4 of the Copenhagen Document which states “that votes are cast by secret ballot or by equivalent free voting procedure”.

I. ELECTION ADMINISTRATION

The ODIHR was in general impressed by the ability of the personnel on all levels of the election administration to conduct the elections in a dignified manner despite unreasonable working conditions and a very complicated voting procedure decided upon by the Seimas.

In particular the ODIHR noted that the counting was very expedient considering that four ballot sheets had to be counted including a complicated ballot sheet for the national party list and a ballot sheet containing no less than 3 separate referenda questions. The fact that the counting was conducted by the same personnel who had attended the voting procedures from 7 o'clock in the morning to 9 o'clock in the evening only adds to the commendation of their work.

During the election an unforeseen situation occurred where ballot boxes became full without reserve ballot boxes being available. This contingency was not provided for in the rules and regulations of the Lithuanian elections and in relation to this the ODIHR would like to note the following:

1. The Central Electoral Commission (CEC) reacted very rapidly and provided a new temporary set of regulations to be used in this contingency.
2. Most Area Committees were informed very fast and were thus able to provide advice on the new temporary rules to District Committees in constituencies where this problem had occurred.
3. Some District Committees which did not receive this information were still able to improvise in a satisfactory manner.

Training of Election Officials for Area and District Election Committees

The ODIHR was pleased that the CEC produced training materials to explain the election procedures to election commission personnel, however these could be improved in the future. The ODIHR observer team would suggest that the CEC create standardised procedures to

insure that all new members of District Election Committee are offered short courses by the Area Election Committees.

Compensation for Election Officials for Area and District Election Committees

The compensation paid to district level and area level personnel is not commensurate to the amount of work they are expected to do. This is particularly true when they are required to deal with so many different ballots. Although the amount is a matter for the State to determine, the ODIHR was concerned that this could affect their willingness to continue as members of their committee in future elections.

It is in itself undesirable to have a large turnover in personnel between elections. This is particularly true in Lithuania's case where the turnover in personnel has, in the recent past, been as high as 33%. Fortunately the high turnover of personnel has dropped in the last few years. However if the elections continue to be as complex and time consuming in the future, the ODIHR fears that the relatively poor compensation will only encourage a return to a higher turnover of personnel and a lack of continuity.

II. ELECTION DAY OBSERVATIONS

Voting by Secret Ballot

On numerous occasions voters chose to vote openly in front of each other. Marking ballot papers in public was by far the most extensive deviation from the Election Law (Article 65) observed. The ODIHR observed open voting in more than 70 polling stations. In two stations the ODIHR even observed voters marking their ballot papers using the ballot box as a table.

In most of the larger polling stations too few private booths were available. In a few polling stations, private polling booths were not even provided, as required by law. In such cases, voters were required to vote in less than private circumstances.

Voters seemed to choose to vote openly due to a number of circumstances, including:

- ❑ Shortage of polling booths, and in a few stations no polling booths were available.
- ❑ Lack of writing space in the polling booth to fill in the national party-list ballot.
- ❑ Lack of light in the polling booths.
- ❑ Lack of writing utensils in the polling booths.

Although the professionalism of officials administering the elections was generally high, the lack of resources meant to be provided by local councils contributed to varying levels of organisational proficiency.

The Lithuanian Election Law for the Seimas, hereafter referred to as the Election Law, specifically requires voters to cast their ballots in the privacy of a polling booth. The observed practice in Lithuania appears to give voters the prerogative to vote outside the privacy of the polling booth.

Open voting is potentially a serious threat to the integrity of any election process. It runs contrary to OSCE Commitment 7.4, and to Lithuania's own Election Law. As long as the law

is not administered correctly in this regard, providing uncategorically for a secret ballot, the potential exists for voter intimidation and manipulation.

Family voting

The marking of ballots in the polling booths by several voters at the same time, generally family members, is another very common deviation from Article 65, Section 1. of the Election Law. This was observed in 102 polling stations.

In this case, however, the current Election Law is not clear. In Section 6 of Article 65, the official English translation states that “The voter who because of his physical disability is unable to mark the ballot himself, cast it in the ballot box, may invite another person (with the exception of the chairman of the committee or its members, or an election observer) to carry out these actions in his place.”

The original Lithuanian text employs a wider term than “physical disability” , closer to “physical impairment”. Moreover, no provisions are made for the electoral committee to ask for any sort of proof of “physical impairment” from the voter, or even to have the right to grant permission to such a voter to enter the polling booth accompanied by another person.

As a result of this, the electoral committees did not wish to intervene for fear of confrontation with voters.

This vague and imprecise definition of "physical impairment" in the polling stations stands in stark contrast to the detailed provisions for home voting as a part of postal voting Article 66, section 7 which clearly demands written confirmation of disability from the town, regional social guardianship and care institutions for voter to be allowed to vote at home.

Postal voting

The procedure for postal voting is covered by Article 66 of the Election Law. The ODIHR observed voting in several postal offices during the week prior to the elections. In general, postal workers seemed to be well informed about the procedures of postal voting and home voting.

In many post offices, however, the provisions for the secret voting place were less than satisfactory. Often local post offices used one of their telephone booths as their voting booth, and it was impossible for the voter to mark the large national ballot sheet inside the narrow and badly lit telephone booth. In many post offices the telephone booths have glass doors, and the postal officials had failed to cover the glass.

A technical detail which may seem small, but which is unfortunately rather important, is the glue on the inner and outer envelopes used for postal voting. Lithuanian glue is intended for multiple use of envelopes. This makes public voting possible if a voter goes outside the postal office, opens the inner and the outer envelope in public, cross his/her ballot papers, reseal the envelopes and then drop them in the nearest mail box. This contradicts the intention of the election law.

The ODIHR Mission's concerns regarding the secrecy of voting in post offices is further underlined by the recent allegations published in Respublika (8/11/96) and confirmed by the

Chairman of the CEC to the Second Round On-site Co-ordinator. These allegations concern the activities of persons unknown, who, it is alleged, bribed eighteen voters who were voting in Vilnius City Post Office No. 4 which serves polling station 6 in the electoral area 1 in Vilnius. Clearly this is a gross violation of the law and concrete and prompt action needs to be taken.

Prison Voting

Voting in places of confinement is covered by Article 72 and is part of the postal voting system since a special postal office is set up in such institutions.

A team of observers visited the Pravienskio prison and witnessed voting. Despite the fact that the number of prisoners is approximately 1800, only sixty had applied to vote. Most of the voter certificates were sent to the prisoners' home addresses. Without this certificate, it is uncertain to what extent the prisoners were given sufficient information about the possibility to apply for a vote on the basis of their passports. As for the remaining 1200-1300 prisoners without passports, the ODIHR is not convinced that they had been properly informed about their possibilities to be identified through a regular prison register.

Media

The team of OSCE observers observed the last part of the election campaign in Lithuania. Several articles in the Elections Law (Article 50-55) cover campaigning. Two articles deserve further comment: Article 51 Condition and Procedure for the Mass Media, and Article 54 Provision of Finances for Campaigning. Articles 51 and 52 contain some very detailed provisions about the use of television time on Lithuanian State Radio and Television. Article 54 is related to the use of commercial television, since it imposes limits on the provision of finances for the campaigning.

In the commercial TV stations regular commercials as well as whole programs were bought by some political parties. Some parties made extensive use of the commercial programs made by themselves. In part this usage was so extensive that the ODIHR doubts that the costs for buying this commercial time was within the limit provided by the Article 54 concerning finances for campaigning.

It is encouraging that all the political parties the ODIHR interviewed expressed confidence in fair campaigning and appreciated free access to media. This was in large part due to the regulations drawn up by the CEC in consultation with State TV and Radio which demanded that all the contestants should have equal editorial time on State TV and Radio. Given the large number of parties contesting the elections, this regulation effectively hindered journalists from State TV and Radio from covering the elections.

The intent of the law is to provide equal time on radio and television for all candidates in single-member constituencies and for all parties listed on the national party ballot. More than a thousand local candidates were given five minutes State TV and seven minutes State Radio time and each party was given 1,5 hour of State TV and radio time during the campaign period.

State TV and Radio, the political parties and the CEC should come to a consensus on the role of State TV and Radio during elections. At present State TV suffers a considerable

competitive disadvantage due to the restrictions on their coverage and yet it is still the main source of information for most Lithuanians. Clearly its role, as a public broadcaster, is critical for the public in receiving news and engaging the contestants in elections to a constructive debate.

Taking into consideration that the Parliament has recently passed a new law restructuring Lithuanian State Radio and TV according to the public broadcasting model, it ought to be possible in future elections to allow personnel of a public broadcasting TV and Radio station to have a stronger influence on the content of these programs.

Instructions for Linguistic Minorities

Balloting material is issued only in Lithuanian. The ODIHR did observe, however, on Election Day in areas of highly concentrated linguistic minorities a lot of confusion about voting procedures. The CEC had indeed issued voter education information in the most common minority languages. It is regrettable that this information was not posted on the walls of polling stations in minority areas.

Late Alterations to the Ballot Forms

Prior to the election, the ruling majority party had enacted legislation for a new form for the ballot papers of the national party lists. Whereas it is the evident right of any Parliament to change election laws prior to the elections, it is highly regrettable that neither Parliament nor consultants to the Parliament had given due consideration to the consequences that a folded large ballot sheet would require considerably more space in the ballot boxes than the ballot sheets used in earlier elections. In addition, many voters were confused by the complexity of this ballot paper.

On Monday before Election Day the leading opposition party in Parliament (The Conservative party) secured the passage of a law requiring an additional referendum question to be added to the election procedure. The ODIHR considered it highly problematic both in principle and in practice to add ballots after polling had started in post offices and institutions. The most serious consequence of this decision of the Parliament however was that it served to disturb the area committees and the district committees during the most important days for their planning of activities for Election Day.

Regrettably the ODIHR has to conclude that the Parliament (Seimas) as a body has not shown proper consideration for its own election personnel working on the area and district level. The ODIHR fears that if this attitude on part of leading politicians in Parliament continues in the future it might become difficult to recruit electoral personnel on all levels.

III. SECOND ROUND OF THE ELECTION

The ODIHR appointed Mr. Simon Osborn (UK) as On-site Co-ordinator for the second round of voting on Sunday 10 November. He was assisted by Ms. Elizabeth Ryder as Deployment Officer. A total of 20 international observers representing 8 OSCE participating States monitored the second round. These included observers from: Denmark, Finland, Germany, Norway, Spain, Sweden, UK and the USA. The observers in teams of two visited 37 of the 65 (56%) electoral areas where repeat voting was taking place. Voting was monitored in 72 polling stations in the 37 electoral areas visited.

It is the view of the second round observation mission that the election was conducted efficiently, calmly and according substantially to international and OSCE standards. However, the secrecy of the ballot was still not observed universally in the second round despite attempts by the CEC to rectify this breach of the law. Although observers noted that the incidence of voters voting openly outside the polling booths had been dramatically reduced they did report many voters voting collectively, usually in family groups, inside the booths (collective/family voting was observed in 65 of the 72 polling stations visited).

This breach in OSCE standards and Lithuania's election law is of particular concern given the very disturbing allegations already mentioned of persons bribing a small number of voters to cast their postal vote for a certain candidate outside Vilnius City Post Office. Clearly open and collective voting could result in intimidation, manipulation and bribery of voters.

The ODIHR welcomed the CEC efforts to enforce the secrecy of the ballot by printing instructions to vote in secret on the voter certificates issued for the second round. Furthermore, observers noted that in rural areas more polling booths had been erected for the second round. However in urban areas, observers recorded that there still was only the statutory minimum number of booths and consequently noted a high proportion of voters voting collectively and, in some cases, openly.

In a couple of polling stations observers reported that the District Electoral Commission had placed a sign on the polling booths instructing voters to vote in secret and one at a time. These examples of limited efforts to inform voters of their duties under the law seemed to bear fruit as observers did not, in these cases, see open or collective voting.

IV. RECOMMENDATIONS

Despite the generally efficient administration under which the elections were conducted, there are instances where both the OSCE commitments and Lithuania's own laws were not fully respected. This gives reason for concern, and the following recommendations are suggested:

- ❑ Enforcement of the right to a secret ballot, which is specified in the Election Law (Article 65, Section 1.), needs to be seriously addressed before any future elections.
- ❑ Education of voters to inform them of their rights and responsibilities, including the right to a secret ballot, under the law.
- ❑ Procurement of standardised and sufficient polling station equipment and an increase in the minimum number of polling booths required per head of population, currently 2 per 2,000 voters. A procedure for a thorough inventory of polling station equipment should be incorporated into the official timetable of the Central Election Commission.
- ❑ Control of funds for organising the polling stations by the apparatus of the election organisation in the areas and/or districts, and not by the local councils, which contributed to varying levels of organisational proficiency.
- ❑ Commandeering of space in any public building suitable for polling stations by election area committees, which would provide better localities for polling stations.

- ❑ Limitation on the maximum number of ballots to be voted upon in one election should be established, and preferably the limit would be set at two different ballots.
- ❑ Establishment of a deadline prior to the election after which no more ballots may be added irrespective of parliamentary majority. It is highly recommended not to have more than one referendum question on one ballot paper.
- ❑ Permission for additional administrative staff to assist the counting process under the supervision of the election commission members.
- ❑ Improvement in the conditions for postal voting.
- ❑ Storage by District Electoral Committees of postal votes so that they can be safely kept under seal and unopened until the votes cast in the polling station on Election Day have been counted.
- ❑ Instructions to all prison wardens to inform all prisoners about their possibility to register to vote no less than 30 days prior to the elections on a special voters list established for the prison population.
- ❑ Transferral of TV time given to candidates running in single-member constituencies to regional broadcast rather than national broadcast.
- ❑ Establishment of a consensus by State TV and Radio, the political parties and the CEC on the role of State TV and Radio during elections. Time allocated to parties should be offered within a professional context defined by the journalistic staff of the State Radio and Television. The parties should not be able to dictate the form of the election programs to the personnel of the Lithuanian State Radio and Television.
- ❑ Review the possibility that the new Program Council of Lithuanian State Radio and Television could monitor standards, balance and impartiality of State TV and Radio's coverage of elections. This could be achieved within an agreed framework of a code of conduct similar to those adopted by other public service media outlets elsewhere.
- ❑ Amendment of election law making it mandatory to post on the wall of a polling station information about voting procedures in minority languages in all single member constituencies where the percentage of voters using a specific minority language exceeds a certain percentage.
- ❑ Requirement for voters who want to be assisted in the polling booth to ask for the chairman's permission to be accompanied by someone he/she trusts.
- ❑ Production of a guide to "best practice of standardised procedures" for election commission members.
- ❑ Introduction of standardised training for all new members of District Election Committee and availability of short courses by the Area Election Committees.