



Office for Democratic Institutions and Human Rights

KINGDOM OF BELGIUM

FEDERAL ELECTIONS

25 May 2014

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

3-6 March 2014



Warsaw
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TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	EXECUTIVE SUMMARY	1
III.	FINDINGS	3
A.	BACKGROUND.....	3
B.	ELECTORAL SYSTEM.....	4
C.	LEGAL FRAMEWORK.....	5
D.	ELECTION ADMINISTRATION.....	5
E.	VOTER REGISTRATION	6
F.	VOTING METHODS	7
G.	NEW VOTING TECHNOLOGIES.....	7
H.	CANDIDATE REGISTRATION	8
I.	ELECTION CAMPAIGN AND CAMPAIGN FINANCE	9
J.	MEDIA	10
K.	COMPLAINTS AND APPEALS	11
IV.	CONCLUSIONS AND RECOMMENDATION	12
	ANNEX: LIST OF MEETINGS.....	13

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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

On 30 January 2014, the Permanent Representation of Belgium to the OSCE invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the 25 May federal parliamentary elections. In accordance with its mandate, the OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Brussels from 3 to 6 March. The NAM included Richard Lappin, OSCE/ODIHR Senior Election Adviser, and Alexey Gromov, OSCE/ODIHR Election Adviser.

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

The OSCE/ODIHR would like to thank the Federal Public Service of Foreign Affairs for their assistance and co-operation in organizing the NAM. 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 25 May 2014, voters in Belgium will elect members to the House of Representatives of the federal parliament for a five-year term. The 150 members will be elected through a proportional representation system with preference voting in 11 constituencies. Following state reform in 2011, members of the Senate are no longer directly elected.

Belgium is a Federal State composed of three Regions and three language-based Communities. The political system is divided along linguistic lines and comprises Dutch-speaking, French-speaking and German-speaking political parties. No parliamentary party is active countrywide.

Elections are primarily regulated by the Constitution and Electoral Code, as well as other laws covering new voting technologies and political party and campaign funding. The legal framework provides a sound basis for the conduct of democratic elections. Nevertheless, several interlocutors noted that a number of prior OSCE/ODIHR recommendations remain unaddressed in the law, particularly in respect of the complaints and appeals system, proxy voting, and lack of provisions for citizen observation.

There is no permanent election administration body and federal elections are co-ordinated by the Federal Public Service of Interior (FPSoI) with support of the judiciary and municipal administration structures. All OSCE/ODIHR NAM interlocutors expressed a high level of confidence in the integrity and impartiality of the election administration.

All citizens over 18 years of age are entitled to vote, except for those deprived of their voting rights by an individual court decision. Voting is compulsory. Voter registration is passive and voter lists are

compiled at the municipal level based on population data maintained by the FPSoI. There are some 8 million registered voters. All OSCE/ODIHR NAM interlocutors noted a high level of confidence in the accuracy of voter lists.

Voters are provided with alternative mechanisms for exercising their suffrage, including out-of-country and proxy voting. The majority of OSCE/ODIHR NAM interlocutors did not express fundamental objections to the longstanding practice of proxy voting, despite potential challenges to the secrecy of the vote.

Touch-screen voting machines are used by nearly half of the electorate, including a new system that will be used in some parts of the country for the first time in federal elections. While overall confidence in the technical performance of new voting systems does not appear to be fundamentally questioned, several OSCE/ODIHR NAM interlocutors expressed concern about the reliability and lack of a Voter Verified Paper Audit Trail for older machines, as well as broader concerns regarding transparency, accountability, and the cost efficiency of new voting technologies (NVT).

Any citizen over the age of 18, who is resident in Belgium and enjoys civil and political rights, may be elected to the House of Representatives. Political parties can register candidate lists on the basis of a reasonable number of supporting signatures or the support by three members of parliament (MPs). The Electoral Code does not provide for self-nominated candidates, which is not fully in line with OSCE commitments. The law provides for gender parity on candidates lists and some 41 per cent of current MPs are women.

Public funding is provided to all political parties with representation in the federal parliament and is the main source of campaign financing. Private donations from individuals are limited and donations from corporations are prohibited. Recent changes to regulations, including the extension of the campaign period, widened application of disclosure rules, and increased sanctions, were welcomed by most OSCE/ODIHR NAM interlocutors as a means of enhancing transparency. However, the majority of these changes will only be effective after the upcoming elections.

The media landscape is pluralistic and divided along linguistic lines. Media coverage of the election campaign is regulated by regional legislation and by means of self-regulation. The public broadcasters provide parties with free air time on a proportional basis. Paid advertisement is forbidden on electronic media, including the Internet. The campaign is expected to be active. No concerns about the ability to campaign freely were raised.

Decisions and actions of the election administration cannot be appealed to the courts, except in cases regarding registration of voters and candidates, and production of the ballots. Media-related complaints are considered by media regulators and are appealable to court. Only the parliament can consider complaints against the final election results and election day complaints with no possibility for judicial review, thereby contravening OSCE commitments.

All OSCE/ODIHR NAM interlocutors expressed full confidence in the election administration and their ability to organize elections impartially and professionally, noting that the diverse political and media landscape enhances transparency and accountability. As such, there would likely be limited value in deploying a significant OSCE/ODIHR presence. Nevertheless, most interlocutors indicated that they would welcome an OSCE/ODIHR assessment of the legal framework and implementation of NVT, recognizing that further improvements could be made and that an external assessment by the OSCE/ODIHR may contribute to this.

Based on these considerations, the OSCE/ODIHR NAM would have recommended the deployment of an Election Expert Team with a focus on NVT for the upcoming 25 May federal elections. However,

given the current budgetary constraints, due to the lack of adoption of the 2014 OSCE Unified Budget, the OSCE/ODIHR is not able to deploy such a mission on this occasion.

III. FINDINGS

A. BACKGROUND

Belgium is a parliamentary monarchy. Belgian institutions reflect a complex federal structure and a very specific linguistic arrangement. Since 1970, six state reforms have modified the state institutions, the most recent in 2011. On 25 May, voters will elect the House of Representatives (lower house of the federal parliament), members of the European Parliament as well as Regional and Community parliaments.

There are three levels of government. The highest level jointly comprises the Federal State, three Communities (Dutch, French, and German-speaking Communities) and three Regions (Flemish, Walloon, and Brussels-Capital Regions). The boundaries of the Communities and Regions do not coincide. There are four different linguistic areas: the Dutch-speaking area (Flemish Region), the French-speaking area (most of the Walloon Region), the German-speaking area (a small part of the Walloon region), and the Dutch/French bilingual area (Brussels-Capital Region).

The Federal State, Communities and Regions are equal under law. They each fulfil responsibilities in their field of competence with, since the last state reform, increased responsibilities transferred from the Federal State to the Communities and Regions. The Federal State is in charge of foreign relations, defence, justice, and internal affairs. The Communities are in charge of language and culture and implement social policies. The Regions have significant autonomy and powers in relation to the economy, regional development, labour policy, agriculture, housing, and the environment. Each Region and Community has its own parliament and government.

At the intermediate level there are eleven provinces, which for election purposes are sub-divided into 209 cantons.¹ At the lowest level there are 589 municipalities. All levels of government are involved in the administration of elections.

The political landscape reflects the linguistic division and no parliamentary party is active countrywide. Parties usually present candidate lists in their respective linguistic areas only, except in Brussels-Capital Region where candidate lists are presented by French-speaking and Dutch-speaking parties. However, this is up to the choice of the respective party, as the election system allows any party to present lists anywhere in the country regardless of language.

The last federal elections were held on 13 June 2010 and resulted in eleven parties elected to the House of Representatives (House).² Following 541 days of negotiations, a coalition government was sworn in on 6 December 2011 that includes Social Democrats, Christian Democrats, and Liberals of

¹ The region of Brussels-Capital is not sub-divided into cantons but into municipalities.

² The Dutch-speaking parties represented in the outgoing House are the New Flemish Alliance (*Nieuw-Vlaamse Alliantie*, N-VA) with 27 seats in the House; the Christian Democrats (*Christen-Democratisch en Vlaams*, CD&V) with 17 seats; the Liberals (*Open Vlaamse Liberalen en Democraten*, Open VLD) with 13 seats; the Social Democrats (*Socialistische Partij Anders*, SP.a) with 13 seats; the Flemish Interest (*Vlaams Belang*, VB) with 11 seats; the Greens (*Groen!*) with 5 seats; and other parties with 2 seats. The French-speaking parties represented in the outgoing House are the Social Democrats (*Parti Socialiste*, PS) with 26 seats; the Liberals (*Mouvement Réformateur*, MR) with 16 seats; the Christian Democrats (*Centre Démocrate Humaniste* (cdH) with 9 seats; the Greens (*Ecolo*) with 8 seats; and other parties with 3 seats. While represented in the Senate and Community parliaments, German-speaking parties are not represented in the House.

both the Dutch and French language groups, led by Prime Minister Elio Di Rupo (PS). The largest party in the House, the N-VA, did not enter the government coalition. In the outgoing House, 88 Members of Parliament (MPs) are part of the Dutch-speaking group and 62 are part of the French-speaking group. Some 41 per cent of MPs are women.

Previously, the OSCE/ODIHR deployed an Election Assessment Mission for the 2007 federal elections and an expert study of electronic voting systems for the 2006 local elections.³

B. ELECTORAL SYSTEM

The bicameral federal parliament consists of the 150-member House of Representatives and, following the 2011 state reform, the 60-member Senate. All MPs will serve five-year terms.

1. House of Representatives

Members of the House are elected through a regional proportional representation system with preference voting in 11 constituencies that correspond to the Provinces.⁴ The number of seats per constituency varies from 24 (Antwerp) to 4 (Luxembourg) according to official population figures. The Constitution provides that each seat should represent a similar population number. The size of the population is determined every ten years by census.

Longstanding political and legal discussions concerning the so-called 'BHV constituency' were resolved in 2011. While all constituencies were formed within regions, the Brussels-Halle-Vilvoorde (BHV) constituency comprised territories of the Brussels-Capital Region as well as two areas of the Flemish Region, *Hall/Halle* and *Vilvorde/Vilvoorde*. However, following the 2011 state reform, and based on a 2003 ruling of the Court of Arbitration (since renamed Constitutional Court), the territories of *Hall/Halle* and *Vilvorde/Vilvoorde* were transferred to Flemish Brabant constituency, thereby providing that there are no cross-Regional constituencies.

Voters have the possibility to vote for lists in their entirety (list votes) or to express preferences for individual candidates within one list (preference votes). Preference votes are not given in an order and can be given to as many candidates on a list as the voter wants.

Seats are allocated to lists that reach a five per cent constituency threshold, according to the d'Hondt method of highest average. Once the number of seats per list is known, the seats are allocated to candidates whose number of preference votes reached a quotient representing the number of votes won by a list divided by the number of seats allocated to the list +1. After allocation of preference seats, the remaining seats are awarded to the candidates following the order of the list. In this way, the list votes are used to top-up candidate preference votes to reach the quotient. In order to increase the effect of preference votes, only half of the list votes are used to top-up the number of preference votes cast for candidates. If the list votes are distributed, but there are still seats not allocated within the list, the rest of the seats are awarded to the candidates with the highest number of preference votes.

2. Senate

The outgoing Senate is composed of 71 senators, of which 40 were directly elected. Following the 2011 state reform, members of Senate are no longer directly elected. The new Senate will consist of

³ All previous OSCE/ODIHR reports on Belgium are available at: www.osce.org/odihr/elections/belgium.

⁴ There are five constituencies in the Walloon Region, five in the Flemish Region and one in Brussels-Capital.

60 members, of which 50 will be appointed by the parliaments of the Communities and Regions and 10 will be co-opted.⁵

C. LEGAL FRAMEWORK

The legal framework for the upcoming elections mainly comprises the Constitution (adopted in 1970 and last amended in 2014), the Electoral Code (adopted in 1894 and last amended in February 2014), as well as legislation covering particular aspects of the process such as political party funding and or electronic voting.

The latest amendments in electoral legislation were made in line with the 2011 state reform, which enjoyed broad consensus among political parties. Key changes included abolishing direct elections to the Senate, increasing the terms of both houses of the federal parliament from four to five years, and synchronizing the election day for federal and regional elections. Additionally, amendments were introduced to the voter registration system, candidate nomination procedures, use of new voting technologies (NVT), out-of-country voting rules, complaints and appeals system, organization of vote counting, and publication of elections results. In line with good electoral practice, the latest amendments, even though they were passed at a late stage before the election, also prohibit the possibility to amend the Electoral Code later than 12 months before elections.⁶

All OSCE/ODIHR NAM interlocutors expressed their overall confidence in the legal framework as providing a sound basis for the conduct of democratic elections. However, several interlocutors expressed concerns over a lack of regulations ensuring transparency and secrecy of voting using NVT, as well as undue restrictions on campaigning. Some OSCE/ODIHR NAM interlocutors expressed support for a federal constituency that would represent all regions, noting that a parliamentary working group has been established to look into the issue.

The Electoral Code allows for the presence of international observers and political party observers in polling stations and at all other election administration levels. All political parties met with by the OSCE/ODIHR NAM expressed their intention to field observers across the constituencies that they will contest. The Electoral Code, however, does not provide for citizen observation, which is not fully in line with paragraph 8 of the 1990 OSCE Copenhagen Document.⁷

D. ELECTION ADMINISTRATION

The structure of the election administration is complex and involves the Ministry of Interior (FPSoI), the judiciary, and municipal authorities. There is no permanent election administration body. The upcoming elections will be administered by what is, essentially, a four-tiered structure, comprising the FPSoI at the federal level, 11 Main Electoral Committees of the Constituency (MECCs) at the constituency level, 209 Canton Electoral Committees (CanECs) at the cantonal level with some support from 589 municipal authorities, and some 10,750 Polling Station Boards (PSBs) and 6,800 counting offices at the local level. In addition, the Federal Public Service of Foreign Affairs will co-

⁵ Twenty-nine Senators are appointed by the parliaments of Flanders, the Dutch-speaking Community, and the Dutch-speaking part of Brussels-Capital Region. Twenty Senators are appointed by the parliaments of Wallonia, the French-speaking Community, and the French-speaking part of Brussels-Capital Region. One Senator is appointed by the parliament of the German-speaking Community. These newly appointed Senators co-opt ten more Senators from among citizens eligible to stand for the federal elections.

⁶ Section II.2.b of the 2002 Venice Commission's Code of Good Practice in Electoral Matters recommends that fundamental elements of electoral law should not be amended within the last 12 months before an election.

⁷ Paragraph 8 of the 1990 OSCE Copenhagen Document states that 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".

ordinate the voting process for citizens residing abroad. While the King is vested with some authorities regarding the electoral process, all his decisions are prepared by the FPSoI.⁸

The FPSoI has overall responsibility for the organization of the elections, including maintaining the national population register and regulating NVT. The FPSoI also publishes the elections results disaggregated by constituency, canton, and municipality. The OSCE/ODIHR previously recommended that results also be disaggregated by polling station (for electronic voting) and counting offices (for paper ballots) and be publicly disclosed.

The MECC's duties include registration of candidate lists and tabulation of the constituency election results. The 209 CanECs are responsible for administering the electronic voting systems and tabulating the election results at cantonal level. They also nominate the presidents and members of the PSBs and counting offices and are responsible for their training. The 589 municipalities organize material aspects of the electoral process, including sending invitations to voters and establishing polling stations.

PSBs are responsible for the conduct of election day procedures at some 10,750 polling stations, including some 6,000 using NVT.⁹ The presidents of PSBs are appointed at least 30 days before election day, with other PSB members and counting office members appointed at least 12 days before election day. Voting takes place on election day from 8.00 to 14.00 in polling stations using paper ballots and until 16.00 in polling stations using NVT. The early closing time is a feature of the Belgian electoral system, and takes into account the duration of counting preference votes. Counting of paper ballots is performed in counting offices, which comprise at least 2,400 voters and three polling stations. In cantons where NVT is used, there are no counting offices, with tabulation directly done at the CanECs.

MECCs and CanECs are headed by judges, while PSBs and counting offices are headed by judges, attorneys, or civil servants. All election administration bodies have four members, four deputies, and a secretary who has only an advisory vote. The OSCE/ODIHR NAM was informed that PSB and counting office members will be randomly selected from eligible voters, who are notified in advance of election day.

All OSCE/ODIHR NAM interlocutors expressed high satisfaction and trust in the election administration. However, some indicated a need for a more proactive role of the election administration with regard to providing transparency and public awareness of NVT.

E. VOTER REGISTRATION

All citizens above the age of 18 who are registered in a municipality or a diplomatic representation and are not deprived of their voting rights by court order are eligible to vote. Since 2009, voting rights are suspended only if it is explicitly provided in an individual court decision. Voting is compulsory in Belgium since 1893, and penalties are foreseen in case of breach of this obligation.¹⁰ However, the OSCE/ODIHR NAM was informed that the enforcement of this provision is not systematic and is not a priority task for the election administration. As of 1 March 8,003,856 voters were registered for the elections, including 129,139 out-of-county voters.

⁸ Among other responsibilities, the King may change the number of voters assigned to polling stations that use NVT, determine the rules of filing campaign finance declarations, define the colour and size of ballots, and prolong the working hours of the polling stations.

⁹ Polling stations can have from 150 to 800 assigned voters, or in the case of use of NVT, up to 2,000 voters. Voting will also take place at some 116 at embassies and consular offices abroad.

¹⁰ Penalties range from a reprimand to fines from EUR 5 to 25, as well as possible deprivation of the right to vote after a fourth case of failure to vote within 15 years.

Voter registration is passive and voter lists are compiled by municipalities based on information extracted from population registers no later than 1 May. After this date, voters can request the authorities to eliminate errors and may appeal relevant decisions to the courts. The voter lists will be available in municipal offices for voters' scrutiny up to 13 May. Copies of voter lists are available free of charge for political parties contesting the elections and for a fee for all standing candidates. The voter lists are publicly displayed at polling stations premises on election day.

At least two weeks before voting, municipal authorities send an invitation with a reference number to each voter. On election day, this number is matched with the number in the voter list, facilitating quick identification of voters in polling stations. Voters who do not receive an invitation can obtain a duplicate in municipal offices, which are open on election day. Voters residing abroad are automatically included in the voter lists if they register at a consulate abroad. All OSCE/ODIHR NAM interlocutors expressed a high level of confidence in the accuracy of voter lists.

F. VOTING METHODS

The law offers five options for casting a ballot: voting in person or via proxy at polling stations in Belgium or, for citizens residing abroad, to vote in person or via proxy in diplomatic and consular representations or by mail. Voters residing abroad must indicate their voting option and their municipality when registering with the consulate.

If due to illness, work, studies, military service, imprisonment, staying abroad, or religious beliefs voters are unable to visit the polling station, they may appoint a proxy to vote on their behalf.¹¹ In each case voters must provide a document certifying their inability to visit the polling station on election day. Each proxy can vote on behalf of only one voter on the basis of written authorization signed by the voter and proxy. The majority of OSCE/ODIHR NAM interlocutors did not express fundamental objections to the longstanding practice of proxy voting, despite potential challenges to the secrecy of the vote.

Voting in diplomatic and consular representations will be conducted on 21 May between 13.00 and 21.00 local time. After this, the ballots will be sent to counting centres to be counted on 24 May, with results provided for each constituency and sent electronically to the corresponding MECC by the close of polls in Belgium. Postal voting is used by some 70 per cent of out-of-country voters, and their votes must arrive at the corresponding MECC by the close of polls in Belgium, which are then distributed to the relevant counting office and mixed with the votes cast locally before counting.

G. NEW VOTING TECHNOLOGIES

Since the early 1990s, Belgium has developed a specific experience with touch-screen voting machines in polling stations, which are used by some 49 per cent of the electorate. The Law on Automated Voting (adopted in 1994 and last amended in 2014) and the Law on Organizing Electronic Voting with Paper Proof (adopted in 2014) regulate the organization of electronic voting. There are two types of NVT which will be used for the upcoming elections. The first system records the voter's selection on a magnetic card, which the voter then inserts into an electronic ballot box that automatically records the vote. The 'magnetic card' system has been the subject of OSCE/ODIHR assessment during the 2006 local and 2007 federal elections. While some technical security and accountability features were recently updated for this system, other prior OSCE/ODIHR recommendations remain unaddressed, including the lack of a Voter Verified Paper Audit Trail

¹¹ OSCE/ODIHR previously recommended to consider a review of the regulation and practice of proxy voting, in order to further enhance consistency with the principles of equality and secrecy of the ballot.

(VVPAT), transparency of the certification process of the system, and provisions for recounts at randomly selected polling stations. The system will be used in 39 cantons in Walloon Region and 17 municipalities in Brussels-Capital Region.

To address public concerns over the transparency of NVT and OSCE/ODIHR recommendations, a second system was developed and piloted during the 2012 local elections that will be used for the first time in federal elections on 25 May. The new system also relies on touch-screen technology but replaces the magnetic card with a paper printout that confirms a voter's choice in writing and by barcode. The printout acts as a VVPAT and voters can scan the barcode to check whether their vote has been recorded correctly before inserting the printout into an electronic ballot box, which scans the barcode and counts the vote. The 'barcode' system will be used in 151 cantons in Flemish region and 2 municipalities in Brussels-Capital Region.

While overall confidence in the technical performance of both NVT does not appear to be fundamentally questioned, some OSCE/ODIHR NAM interlocutors, in particular from the French-speaking parties and civil society, expressed concerns. For the magnetic card system, concerns were expressed about the absence of the VVPAT, as well as the use of out-of-date hardware with an increased risk of malfunctioning. For the barcode system, while, many OSCE/ODIHR NAM interlocutors noted that the introduction of the VVPAT enhances transparency and accountability, concerns were expressed about certifying and testing its integrity, as well as its price efficiency. The majority of OSCE/ODIHR NAM interlocutors noted that the implementation of the new system would benefit from an external assessment by the OSCE/ODIHR.

The College of Experts is an independent public body whose members are appointed before the elections by the House of Representatives and the parliaments of the Communities and Regions. The College of Experts assesses the use and functioning of all automated voting, counting and tabulation systems mostly through analysis of the source codes and the hardware before election day, and through spot checks on election day. The experts are entitled to request any information and to visit polling stations for carrying out audits. The College starts operating 40 days before election day and has to deliver a report to the House of Representatives and to the FPSoI within 15 days after the elections.

The OSCE/ODIHR NAM was informed that in several cantons where traditional paper ballots are used, the counting process will be partially automated. For this, a special software will be used to assist the PSBs to count the votes by means of entering marks from the ballot into an electronic database. Some interlocutors noted that the transparency of this system would benefit from a public audit of the software and greater public awareness. In addition, while a debate on the introduction of Internet voting has been ongoing for several years, no decision has been made to implement it.

H. CANDIDATE REGISTRATION

Any citizen over the age of 18, who is resident in Belgium and enjoys civil and political rights, may be elected to the House of Representatives. Nobody can run for different elections or in different constituencies at the same time. The Electoral Code does not provide the possibility for self-nominated or individual candidates, which is not fully in line with paragraph 7.5 of the 1990 OSCE Copenhagen Document.¹²

¹² Paragraph 7.5 of the 1990 OSCE Copenhagen Document requires participating States to "respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination".

Candidate lists should be submitted to MECCs on 26 and 27 April. Each list must be supported by signatures from 200 to 500 voters, depending on the constituency population. A voter can sign in support of only one list. Alternatively, lists can be supported by three MPs, each of whom can sign in support of only one list per constituency.¹³ The number of candidates included on a list cannot exceed the number of seats contested in the constituency and should be supplemented by a list of substitute candidates. The Electoral Code requires gender parity on candidate lists.

The FPSoI and MECCs are responsible for checking candidate eligibility as well as respect of nomination rules, with the possibility to appeal any decisions to the Court of Appeals. All OSCE/ODIHR NAM interlocutors were satisfied that legislation provides for an inclusive candidate registration process. However, Article 119.2 of the Electoral Code provides for the rejection of a candidate who does not sign a written commitment to respect campaign finance regulations.¹⁴ In addition, the law does not specify procedures for checking supporting signatures. The OSCE/ODIHR has previously recommended that consideration be given to introducing uniform procedures for the verification of supporting signatures.

If the number of all nominated candidates does not exceed the number of seats contested within a constituency, these candidates are declared elected by the MECC before election day without any further formalities.

I. ELECTION CAMPAIGN AND CAMPAIGN FINANCE

The campaign period for federal elections is three months. The campaign as well as campaign financing are mainly regulated by the Law on the Limitation and Control of Electoral Expenses for Federal Elections and Accountability of Political Parties (adopted in July 1989 and last amended in December 2013). The law closely regulates the campaign, prohibiting the use of commercial billboards and posters; non-commercial posters exceeding four square meters; and paid advertisement on electronic media, including the Internet. Political parties and candidates are not allowed to make any gifts during the campaign period, including low-value campaign souvenirs.

Political parties met with by the OSCE/ODIHR NAM informed that their federal campaign will be held together with that of the European Parliament and regional elections. They intend to convey their campaign messages to voters via political discussion in traditional and social media, debates organized by the public broadcasters, and political advertisement in print media, as well as through small meetings with voters and door-to-door canvassing. The campaign is expected to be active and focused on economic issues. No OSCE/ODIHR NAM interlocutor raised concern about the ability to campaign freely; however, some noted that the campaign rules are too restrictive and at times differ from those regulating the concurrent European Parliament elections.

The same law regulates campaign financing, with recent amendments partially addressing recommendations made by the Group of States against Corruption (GRECO) of the Council of Europe, including extending the campaign period from three to four months, providing disclosure requirements for donations and gifts, adding independent experts to the Audit Commission which oversees compliance with the law, and increasing sanctions for violations including the possible withdrawal of parliamentary mandates.¹⁵ However, the majority of these changes will only apply to

¹³ Most candidate lists for parliamentary parties obtain ballot access through MP support. The OSCE/ODIHR NAM was informed that smaller non-parliamentary parties also often get support from MPs of parliamentary parties as a means to ensure diversity of candidates.

¹⁴ Paragraph 24 of the 1990 OSCE Copenhagen Document provides that restrictions on rights and freedoms must be “strictly proportionate to the aim of the law.”

¹⁵ The amendments were made after release the 2012 GRECO Interim Compliance Report on Belgium. See: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2012\)5_Belgium_Interim_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)5_Belgium_Interim_EN.pdf).

subsequent elections due to the short time left before the 25 May elections. The recommendation to extend all campaign finance regulations to non-parliamentary parties is still to be addressed.

Public funding is provided to all political parties that have at least one representative in one of the houses of the federal parliament, including an annual stipend of EUR 125,000 and a supplementary EUR 1.25 per vote received in the last federal elections. Additional funding for political parties can be decided by the Regional parliaments. The law provides that parties which do not respect the rights and liberties included in the European Convention on Human Rights may be deprived of public funding for a specific period. Additionally, public funding can be suspended in case of delay in providing the annual financial report or if the data of the report are incorrect.

Corporate donations are prohibited. Donations from individuals are limited to EUR 500 per party and per year, and each individual cannot give more than EUR 2,000 in total to different political parties per year. Other sources for party funding include membership fees as well as in-kind contributions. Public funding is reported to be the main source of income for political parties and most parties met with by the OSCE/ODIHR NAM expressed their satisfaction with the current funding system.

The ceiling for campaign expenses for political parties is set as EUR 1 million per party. Ceilings for individual candidates are determined by the size of the constituency that they contest, as well as their position on the list.¹⁶ The latter provision challenges paragraph 7.5 of the 1990 OSCE Copenhagen Document regarding the ability of candidates to compete on equal conditions. The OSCE/ODIHR previously recommended to review the law so that all candidates running in the same constituency have the same expenditure ceilings. Nevertheless, the majority of OSCE/ODIHR NAM interlocutors did not express concern over this issue, noting that it does not affect the equality of parties competing with each other. They were also generally supportive of the updated campaign finance legislation as a means of enhancing the transparency of elections.

Political parties and candidates must declare to the federal parliament's Audit Commission all expenses incurred for campaign purposes during the official campaign period. The Audit Commission is mandated to check the reports for financial violations.

J. MEDIA

The media landscape is pluralistic and structured primarily along linguistic lines. There is a variety of public and private television channels and radio stations, a range of daily and weekly newspapers, and an increasing number of Internet-based news services.

The Constitution guarantees freedom of expression and the press. Limitations to freedom of expression are provided in federal law regarding the promotion of racism and xenophobia, as well as denial of the genocide committed by the German national-socialist regime. Media is largely self-regulated, with specific rules concerning elections resting with the three Communities. All three Communities provide free airtime for contestants on public media and seek to limit any undue advantage incumbents may have in terms of media access during the campaign period. The French-language public broadcaster introduced a so-called '*cordon sanitaire*' rule, whereby a "non-democratic" political party is denied live air-time for political messages. The decision as to what constitutes a "non-democratic" party rests solely with the public broadcaster. Although several

¹⁶ Candidates who are placed in first positions on lists (usually incumbent candidates) are allowed to spend between some EUR 15,500 in Luxembourg and some EUR 53,500 in Antwerp. All other candidates, throughout the country, can spend only EUR 5,000.

OSCE/ODIHR interlocutors noted that application of this rule is usually well-grounded, such practice could potentially challenge the freedom of expression.¹⁷

The public broadcasters play an important role in providing political information to voters. All three Communities have a public broadcasting service financed and supervised by the Community's institutions.¹⁸ The public broadcasters have an obligation to allocate free air time to the political parties standing for the elections. The distribution of free air time is defined by the broadcasters based on the number of seats the parties hold at the federal, regional and community parliaments. Regional legislation imposes an obligation of non-discrimination and impartiality on public broadcasters, while their internal rules often provide a number of good practices for election coverage, ensuring pluralism and objectivity. Most OSCE/ODIHR NAM interlocutors expressed a high level of confidence in the impartiality and professionalism of the public broadcasters.

All three Communities have established institutions in charge of supervising media.¹⁹ They are mostly responsible for issuing licenses, supervising respect of media regulations, and considering media-related complaints. The regulators are appointed by the corresponding Community governments and consist of media experts, journalists, and lawyers.

K. COMPLAINTS AND APPEALS

Complaints against inaccuracies in the voter lists can be lodged no later than 12 May with the respective municipal administration and should be considered within four days. The registration of candidate lists and individual candidates is finalized by MECCs on 29 April and rejected candidacies can be challenged no later than 1 May. Decisions on voter and candidate registration can be appealed to the Court of Appeals which must adjudicate the case within five days. Media-related complaints are heard by media regulators in each community.

The decisions and actions of MECCs regarding producing the ballots, including use of party logos as well as decisions to declare the candidates elected before election day can also be appealed to the Court of Appeals. Other decisions of election committees cannot be appealed to the courts, including in respect of the election results, distribution of seats, and election day complaints. Such practice is not in line with OSCE commitments²⁰ Instead, the newly-elected House of Representatives has the final authority in adjudicating election disputes when validating the election results, with no possibility of appeal. The only exception concerns decisions to withdraw a mandate of a newly-elected MP based on campaign finance violations, which can be appealed to the Constitutional Court. The jurisdiction of the House of Representatives to validate the election of their own members, with

¹⁷ Paragraph 9.1 of the 1990 OSCE Copenhagen Document provides that “everyone will have the right to freedom of expression including the right to communication. This right will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of this right may be subject only to such restrictions as are prescribed by law and are consistent with international standards”.

¹⁸ RTBF (*Radio-Television Belge de la Communauté Française*) with three television channels and two main radio stations serves the French-speaking Community. VRT (*Vlaamse Radio- en Televisieomroep*) with its three television and five radio networks serves the Dutch-speaking Community The German-speaking Community has one public radio station BRF(*Belgischer Rundfunk*).

¹⁹ CSA (*Conseil supérieur de l'audiovisuel*) for the French-speaking Community, VRM (*Vlaamse Regulator voor de Media*) for the Dutch-speaking Community and *Medienrat* for the German-speaking Community.

²⁰ Paragraph 5.10 of the 1990 OSCE Copenhagen Document states that “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”. Paragraph 18.4 of the 1991 OSCE Moscow Document states that the OSCE participating States will endeavour to provide for judicial review of administrative regulations and decisions.

no possibility of judicial review is contrary to OSCE commitments and international good practice.²¹ The OSCE/ODIHR has previously recommended that authorities consider measures to provide for impartial resolution of electoral disputes, including the possibility of an appeal to a court.

IV. CONCLUSIONS AND RECOMMENDATION

All OSCE/ODIHR NAM interlocutors expressed full confidence in the election administration and their ability to organize elections impartially and professionally, noting that the diverse political and media landscape further enhances transparency and accountability. As such, there would likely be limited value in deploying a significant OSCE/ODIHR presence. Nevertheless, most interlocutors indicated that they would welcome a potential OSCE/ODIHR assessment of the legal framework and implementation of NVT, recognizing that further improvements could be made and that an external assessment and recommendations offered by the OSCE/ODIHR may contribute to this.

Based on these considerations, the OSCE/ODIHR NAM would have recommended the deployment of an Election Expert Team with a focus on NVT for the upcoming 25 May federal elections. However, given the current budgetary constraints due to the lack of adoption of the 2014 OSCE Unified Budget, the OSCE/ODIHR is not able to deploy such a mission on this occasion.

²¹ Paragraph 94 of the 2002 Venice Commission Code of Good Practice in Electoral Matters provides that “Appeal to parliament, as the judge of its own election, is sometimes provided for but could result in political decisions. It is acceptable as a first instance in places where it is long established, but a judicial appeal should then be possible”.

ANNEX: LIST OF MEETINGS

Federal Public Service of Foreign Affairs

Jan Van de Velde, Adviser General
François Delhayé, Ariadne Petridis, Counsellors

Federal Public Service of the Interior

Peter Grouwels, David Van Kerckhoven, Stéphan De Mul, Régis Trannoy, Counsellors
Emmanuelle de Foy, Diplomatic Adviser for Minister of Interior

Federal Parliament

Jan Deltour, Head of the Secretariat on Legislation,
Guido Hostyn, Committee on Institutional Affairs, Senate
Paul Muls, First Executive Counsellor, Federal Committee on Control of Campaign Expenses

College of Experts

Emmanuel Williems, System Engineer, Senate
Freddy Tomicki, Director of the ICT Department, Federal House of Representatives

Main Electoral Committee of Brussels-Capital

Luc Hennart, President, Court of First Instance of Brussels
Guy Collin, Head of Administration of the Court of First Instance of Brussels
Vera Aerts, Administration of the Court of First Instance of Brussels

Media Regulatory Bodies

Mathilde Alet, Secretary of Instruction, CSA
Geneviève Thiry, Advisor, CSA
Marc Chatelet, Deputy Director, VRM
Dirk Peereman, Advisor, VRM

Public Broadcasters

Roger Pint, Head of the Brussels Studio, BRF
Simon-Pierre De Coster, Head of Legal Service, RTBF
Luc Rademakers, Editor in Chief, VRT News
Carl Voet, Chief Editor of TV Programmes, VRT News

Political Parties

François Desquesnes, Head of Cabinet, cdH
Laetitia de Radigues, Advisor on International Relations, cdH
Peter Poulussen, Political Director, Niko Gobbin, Ceder Director, CD&V
Benoit Hellings, Senator, Ecolo
Pieter De Gryse, Political Director, Groen!
Valentine Delwart, Secretary General, Anne Junion, Head of Staff, MR
Piet De Zaeger, Director, Benjamin Muylaert, Parliamentary Adviser, N-VA
Mark Vanleeuw, Guy van Hevele, Emmanuel Vandebossche, Open VLD
André Flahaut, President of Chamber of Representatives, Marie Arena, MP, PS
Tom Troch, Director of Research Department, SP.a
Gerolf Annemans, President, Klaas Sloopmans, Press Officer, VB

Civil Society

David Glaude, Pierre Beaumadier, PourEVA
Yves Dejaeghere, University of Antwerp