



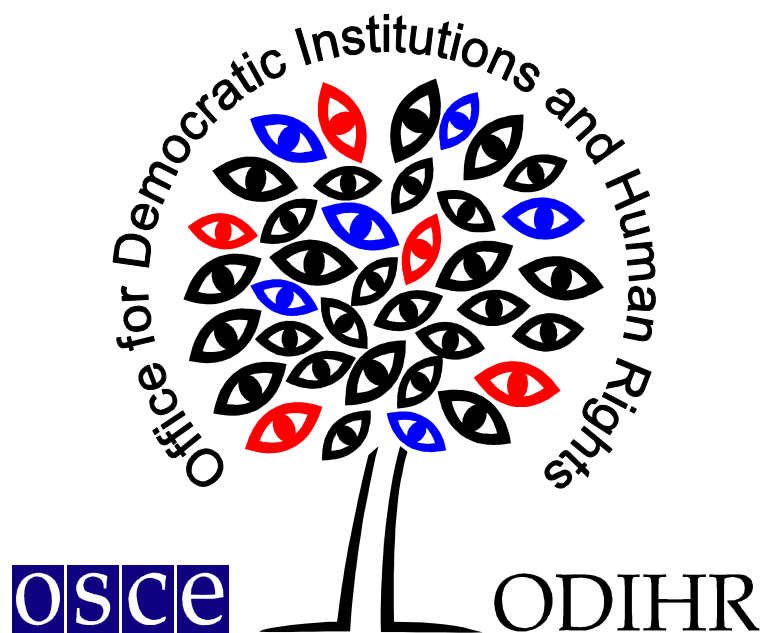
OSCE Office for Democratic Institutions and Human Rights

SPAIN

PARLIAMENTARY ELECTIONS

9 March 2008

OSCE/ODIHR Election Assessment Mission Report



Warsaw
28 August 2008

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I. EXECUTIVE SUMMARY

In response to an invitation from the Permanent Mission of Spain to the Organization for Security and Co-operation in Europe, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Assessment Mission for the 9 March 2008 parliamentary elections. Elections were held for both houses of the Spanish Parliament, the Chamber of Deputies and the Senate.

The elections were conducted in a manner which reflected Spain's established democratic tradition and a high level of public confidence in the overall process. The Spanish electoral system encourages political diversity and pluralism, offering voters a wide and genuine choice.

The legal framework, including a comprehensive Election Law, facilitates political participation and overall provides for equitable treatment of election contestants. There is a detailed and effective process for resolving election-related complaints and appeals. The legal framework has been amended since the previous parliamentary elections in 2004 to enhance gender balance on candidate lists, to enable visually impaired persons to vote in secret, and to allow for postal voting for voters temporarily outside Spain.

Although the process appears to function well in the Spanish context, some aspects of legislation and practice could benefit from a review, including the allocation of seats among the constituencies for the Chamber of Deputies to enhance the equality of the vote and polling station procedures to fully ensure the secrecy of the vote.

The election administration, consisting of a hierarchy of election commissions containing a judicial component, overseeing the operational and technical activities of State bodies, organized the process impartially and independently. The voter lists and the system for updating them appeared to be accurate. The functioning of lower level commissions, which are temporary bodies, could benefit from additional measures promoting continuity.

The official campaign took place during a 15-day period, although in practice campaigning began much earlier. The campaign was vibrant and offered voters access to a wide range of political views. The coverage of the campaign in the media appeared to be equitable overall, but the rules regarding coverage in the news programs of the public media were in some cases considered overly rigid. Two televised, live debates between the leaders of the two main parties were widely viewed, but also generated complaints from other parties claiming that the major parties were receiving an unfair advantage.

The election environment was affected to some degree by ongoing terrorist activities and responses to those activities. Shortly after the elections were called, two political parties were suspended by court decisions for their links to organizations supporting terrorist activities. The campaign activities of some parties were restricted in certain areas of the Basque region due to intimidation and fears of violence. On the last day of the campaign, a

former municipal councilor was assassinated by terrorists, and the political parties ended their campaigns early in response.

In line with standard practice for an OSCE/ODIHR election assessment mission, and in line with the recommendations of the OSCE/ODIHR Needs Assessment Mission, there was no comprehensive or systematic observation of election day procedures. However, members of the EAM did visit some polling stations throughout the country on election day. Voting and counting procedures on election day are administered by citizens selected through lottery. Their involvement, along with the widespread presence of political party observers, enhanced transparency and public confidence

While international and domestic non-partisan observation is not recognized in the Election Law, members of the OSCE/ODIHR EAM were granted access to the process, including voting and counting.

II. INTRODUCTIONS AND ACKNOWLEDGEMENTS

The 9 March 2008 parliamentary elections were called by royal decree on 14 January, at the proposal of the government. On 18 January, the Permanent Mission of Spain to the Organization for Security and Cooperation in Europe (OSCE) sent an invitation to the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the elections, in line with Spain's commitments under the 1990 Copenhagen Document.

On the basis of a Needs Assessment Mission conducted from from 29 January to 1 February 2008, the OSCE/ODIHR determined to deploy an Election Assessment Mission (EAM).¹

The OSCE/ODIHR EAM was deployed from 26 February to 14 March 2008. The mission was led by Mr. Vadim Zhdanovich and consisted of 10 election experts from 9 OSCE participating States. In addition to experts based in Madrid, teams were deployed to Barcelona, Bilbao, and Sevilla. In line with OSCE/ODIHR methodology, the EAM did not undertake systematic or comprehensive observation of election day procedures.

The OSCE/ODIHR wishes to express its appreciation to the Ministry of Foreign Affairs, the Ministry of Interior, Provincial Delegations of the Government, and the Central Election Commission for their assistance and support, as well to other election officials, representatives of official bodies, political parties, media organizations, NGOs and individuals for their co-operation.

III. BACKGROUND

Spain is a decentralized state comprising 17 regions (Autonomous Communities) that enjoy a broad degree of autonomy, as well as two cities with special status, Ceuta and Melilla. Each Autonomous Community comprises one or more provinces. There are 50 provinces, which are further subdivided into 8,112 municipalities.

¹ See the OSCE/ODIHR Needs Assessment Mission report, available at www.osce.org/odihr-elections/29696.html

According to the Constitution, Spain is a parliamentary monarchy. The Parliament (*Cortes Generales*) is composed of the Chamber of Deputies and the Senate. Both chambers serve

a maximum of four years and have concurrent terms. The Chamber of Deputies, which holds the primary legislative power, is composed of 350 directly elected deputies.² Each province, as well as the cities of Ceuta and Melilla, represents an electoral constituency. The Senate is composed of 208 senators directly elected from the provinces and an additional number indirectly elected by the assemblies of the Autonomous Communities based on population in each province. The Senate will be composed of 264 members in its new composition.³

Elections for the regional parliament of Andalucía were also held on 9 March; the OSCE/ODIHR EAM did not assess the conduct of those elections.

The OSCE/ODIHR had previously deployed an Election Assessment Mission for the parliamentary elections in 2004.⁴ The mission at that time noted the public trust in the honesty and integrity of the election process and confidence in the election administration, which conducted a democratic election despite the extraordinary circumstances of the terrorist attacks carried out just prior to election day. The 2004 mission also identified issues to be further addressed.

IV. LEGAL FRAMEWORK

A. OVERVIEW

Elections are regulated by the Constitution of 1978, the Election Law,⁵ and a number of royal decrees, as well as by instructions of the Central Election Commission, which are binding on lower level election commissions. Other relevant legislation includes the Law on Political Parties (6/2002), the Law on the Financing of Political Parties (Law 8/2007) and aspects of administrative and penal law.

The Election Law covers parliamentary, provincial, municipal and European elections. The detailed and comprehensive law is widely seen as an important factor contributing to political stability and as providing a basis for public confidence in the electoral process.

Since the previous parliamentary elections in 2004, there have been a few changes to the legislation, including provisions to increase gender balance on candidate lists, to increase access to voting by visually impaired persons, and to allow for postal voting for voters temporarily outside Spain.

² Article 162.1 of the Election Law. According to Article 68.1 of the Constitution, the Chamber of Deputies comprises a minimum of 300 and a maximum of 400 deputies.

³ Information of the Ministry of Interior, www.elecciones.mir.es/generales2008/i_senado1.html. The outgoing Senate had 259 senators, but the number can vary according to population changes.

⁴ See the 2004 OSCE/ODIHR Election Assessment Mission report, at www.osce.org/odihr-elections/14652.html

⁵ "Representation of the People Institutional Act" (*Ley Orgánica del Régimen Electoral General*) (5/1985).

B. ALLOCATION OF SEATS TO CONSTITUENCIES

The constitution designates the Senate as the “chamber of territorial representation” and allocates each province the same number of directly elected Senators.⁶ However, the Chamber of Deputies also has an aspect of territorial representation, as election constituencies are based on the provinces, with a minimum representation for each province.

With regard to the Chamber of Deputies the constitution stipulates that the “law shall distribute the total number of deputies, assigning a minimum initial representation to each province and distributing the remainder in proportion to the population”.⁷ Currently, the “minimum initial representation” of the provinces is set by the Election Law at two deputies per province.⁸ The emphasis on a degree of equal representation of the provinces in the Chamber of Deputies creates a situation in which voters in the most populated provinces are under-represented in the lower chamber. For example, as of 1 January 2007 the average population per seat in the Chamber of Deputies was 129,145. The average population per seat in the provinces of Madrid and Barcelona was 173,766 and 172,015, respectively, while for Soria it was 46,796, and 48,015 in Teruel.⁹

Paragraph 7.3 of the 1990 OSCE Copenhagen Document commits OSCE participating States to “guarantee universal and equal suffrage to adult citizens”. The Council of Europe’s Commission for Democracy through Law (Venice Commission), recommends for equal suffrage that “the permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity).”¹⁰

Given the fact that a sizable discrepancy exists in the value of each vote for elections to the Chamber of Deputies, *consideration could be given to further enhancing the guarantees for equality of suffrage for the election of deputies.*

C. ELECTION SYSTEM

The Senate comprises both senators elected by popular vote and senators indirectly elected by the legislative assemblies of the Autonomous Communities. Each province returns four directly elected senators on the basis of a majoritarian, open list system in which voters can choose up to three candidates from any of the political parties or associations on the ballot. The four candidates obtaining the highest number of valid votes are elected.¹¹

Members of the Chamber of Deputies are elected by proportional representation at the constituency level on the basis of closed lists. In order to contest the election for the

⁶ Constitution, Article 69. Each province directly elects four Senators, with special provisions for the Balearic and Canary Islands and for Ceuta and Melilla.

⁷ Constitution, Article 68, paragraph 2.

⁸ Election Law, Article 162, paragraph 2. The proportional allocation of the remaining 248 seats is done by the method of largest remainders, using the quota of Hare-Niemeyer-Hamilton.

⁹ According to calculations based on population figures on the website of the National Statistics Institute at www.ine.es. An analysis based on the numbers of registered voters produces similar results; see the OSCE/ODIHR assessment report on the 2004 parliamentary elections in Spain.

¹⁰ “Code of Good Practice in Electoral Matters”, Opinion no.190/2002, General remarks, I.2.2.IV.

¹¹ Election Law, Article 166. Ceuta, Melilla and the island provinces have special provisions.

Chamber of Deputies, political parties, coalitions of parties and groups of citizens register candidate lists in each constituency where they choose to run. Candidate lists that receive at least three percent of the valid votes in the respective constituency are eligible for seat allocation.

Valid votes are those cast for lists of registered parties, coalitions and groups of citizens. Although a blank vote is considered valid and is generally considered to be an expression of dissatisfaction with the entire political offer for the concrete election, such a vote cannot be considered in the allocation of seats. Therefore, the effect of a blank vote is to increase the number of votes that political parties, coalitions or groups of citizens require in order to reach the eligibility threshold of three percent.

Within each constituency, seats in the Chamber of Deputies are distributed among eligible candidate lists proportionally to the votes cast for the respective lists using the method of the largest quotients.¹² While proportionality¹³ between eligible candidate lists province-wide is ensured, proportionality can be distorted at State level. This is due to the fact that there are constituencies that return a low number of members of the Chamber of Deputies and therefore have high “natural” thresholds.¹⁴

The system used for the election of the Chamber of Deputies is designed to balance stability and inclusiveness in a relatively complex, decentralized state. It gives an advantage to parties which obtain strong support at the State level, as well as to parties with support concentrated in provinces and regions, as it provides such parties with shares of seats in the Chamber of Deputies that could exceed their respective share of the vote nationally. However, the system can have the reverse effect on political parties whose support is more limited and dispersed across the territory of Spain, as these may not obtain seats in proportion to their overall vote tally.

D. LAW ON POLITICAL PARTIES

The Law on Political Parties was adopted in 2002.¹⁵ Political parties must register with the Ministry of Interior; the procedures to register a political party are minimal, requiring three persons as founders.¹⁶ Parties must be organized and function in line with democratic principles and the law.¹⁷ The Ministry can suspend the registration process if the legal requirements are not fulfilled, or refer the matter to the Prosecutor if there are indications that there is an attempt to register a party illegally. Otherwise, the party must be registered within 20 days. A refusal to register can be appealed to a court.

The most discussed aspects of the law have been its provisions allowing the suspension or dissolution of political parties for giving effective support for terrorism or violence, which must be decided by courts of law. State authorities as well as the largest political parties

¹² Election Law, Article 163, paragraph 1. This is also known as the D'Hondt method.

¹³ In this context, proportionality means that eligible parties' shares of votes and their respective shares of seats are the same.

¹⁴ For each constituency, the “natural” threshold percentage can be approximated by the quotient of 100 divided by the number of members returned by the constituency. The three per cent eligibility threshold exceeds the “natural” threshold only in the constituencies of Madrid and Barcelona.

¹⁵ Law 6/2002. The law supplemented the pre-constitutional law on political parties from 1978.

¹⁶ Information from the Ministry of Interior at www.mir.es/DGPI/Partidos_Policos_y_Financiacion/Tipos_Formaciones_Policas/

¹⁷ Law on Political Parties, Article 6.

informed the OSCE/ODIHR EAM that parties cannot be suspended or dissolved for their political views, even those that run contrary to the constitution, but only for support for violence. However, a number of other parliamentary political parties expressed the view that the list of reasons for suspension or prohibition of a political party on these grounds (Article 9 of the law) is too broad.

The new provisions of the law were applied in 2003, when the Supreme Court prohibited the *Batasuna* party, finding that it was associated with and supported terrorist groups and aims. The case is currently pending with the European Court of Human Rights.

In the run-up to the 2008 elections the *Audiencia Nacional*, a national court that investigates terrorism-related cases, suspended the *Partido Comunista de las Tierras Vascas* (PCTV-EHAK) and the party *Acción Nacionalista Vasca* (ANV). The court found that both parties were *de facto* controlled by the prohibited *Batasuna* party and continued the activities of *Batasuna*. The suspensions are initially for a period of three years, and the decisions were taken as preliminary measures, pending final judgments.¹⁸

In parallel, the Supreme Court ruled on the basis of similar findings and in accordance with the Law on Political Parties and the Election Law, that the two parties should not receive state funding and that lists of candidates which ANV had submitted for the 9 March elections should not be registered.¹⁹ Consequently, ANV could not participate in the 9 March elections (PCTV did not submit candidate lists). The parties are currently represented in elected assemblies at regional and/or municipal level. The suspensions have no effect on the status of their representatives in those assemblies.

The suspension or prohibition of political parties is an extremely serious step, which should not be taken except in the gravest circumstances. OSCE participating States have committed themselves to respect the rights of citizens to establish political parties and to allow them to compete on an equal basis.²⁰ However, reasonable restrictions can be imposed on the right to establish and operate political parties, i.e. “in the interests of national security or public safety”.²¹ In these cases, the courts issued detailed decisions to substantiate their conclusions that the parties are linked to the banned *Batasuna* party.

E. POLITICAL PARTY AND CAMPAIGN FINANCING

Political parties can receive three forms of state funding. These are (a) campaign contributions under the Election Law, (b) financial support to political groups in the two chambers of Parliament and (c) annual support on the basis of votes and seats gained in the last elections.²² Parties can receive private donations within certain limits.

The Election Law includes detailed provisions on state funding for election campaigns, the use and reporting of campaign funds. Overall, the system is favorable to established and stronger parties. Parties, coalitions and lists of candidates receive funds for each seat won in either chamber of Parliament and a set sum for each vote for a candidacy, provided it

¹⁸ *Audiencia Nacional*. Decisions against PCTV and ANV on 8 February 2008.

¹⁹ Supreme Court. Decision against ANV of 8 February 2008 and against PCTV on 11 February 2008.

²⁰ OSCE 1990 Copenhagen Document, paragraphs 7.5 and 7.6.

²¹ European Convention of Human Rights, Article 11; see also the limitations under Article 22 II International Covenant for Civil and Political Rights.

²² Law 8/2007 on the Financing of Political Parties. Article 3.

has won at least one seat in the Chamber of Deputies.²³ Costs for sending electoral material to voters are additionally covered, but only where a list has obtained enough seats to form a group in either chamber of Parliament.²⁴ The costs for electoral materials include the mailing of ballots and envelopes under the Spanish voting system.

The Central and Provincial Election Commissions supervise the respect of campaign funding and spending rules from the date of the convocation of elections. After the elections, the National Audit Court (*Tribunal de Cuentas*) verifies whether the campaign accounts of parties, coalitions and lists of candidates were in line with the relevant legislation. In cases of irregularity, the Court can propose that public funding to a given party be reduced or cancelled. According to some interlocutors, the Court limits itself to an accounting control of a party's expenditures, rather than assessing whether the party's accounts fully reflect the party's practices. The Election Law does not include a requirement for public disclosure of party campaign financing.²⁵

F. RIGHT TO STAND FOR ELECTIONS

Candidate lists may be presented by political parties, coalitions or groups of citizens. Groups of citizens which would continue activities of illegal or suspended parties are not allowed to present candidate lists. The Election Law provides criteria for the administration to make such a determination, and a rejection to register a list can be appealed to the courts. Candidates are nominated sequentially with as many candidates on the list as the number of mandates in the relevant constituency. No candidate can be on more than one list or appear in more than one constituency. An amendment to the law in 2007 (Article 44 *bis*) requires a "balanced" gender representation on candidate lists (see section XI Participation of Women).

The Election Law does not fully provide for the possibility for individuals to be candidates to the Chamber of Deputies, inasmuch as they can only be candidates if they are nominated as part of a list of candidates. This is inconsistent with the commitments established in the Copenhagen Document of 1990, paragraph 7.5, which specifies the right of citizens to seek office "individually or as representatives of political parties...."

The authorities should consider eliminating the requirement that parties, coalitions or groups of citizens must nominate as many candidates as the number of mandates in the constituency.

V. ELECTION ADMINISTRATION

The election administration has a four-tier structure consisting of a Central Election Commission (CEC), 50 Provincial Election Commissions (PEC), 303 District or Zone Election Commissions (DEC) and 59,346 Electoral Boards at polling station level.²⁶ In

²³ A set sum is also received for each vote received by a candidate who obtains a seat in the Senate.

²⁴ Election Law Article 175.3.a.

²⁵ "Political party, candidates and election campaign funding must be transparent." Council of Europe, Commission for Democracy through Law, Code of Good Practice in Electoral Matters, Opinion no. 190/2002, Point 2.3.D.

²⁶ Ministry of Interior, www.elecciones.mir.es/generales2008/i_cifras.html. For Ceuta and Melilla, the functions of the PEC are performed by the respective DEC.

addition, the Ministry of Interior plays a significant role in the technical preparation of the elections, with the support of State representatives at provincial level and of municipal authorities. The Electoral Census Office under the National Statistical Institute manages the voter register.

The election administration at all levels is generally considered independent, non-partisan and competent, and as a whole appears to enjoy the confidence of most stakeholders including political parties, candidates, voters and media. Nevertheless, some representatives of smaller parties stated that PECs and DECAs in some cases tended to favor the views of the two largest political parties.

A. CENTRAL ELECTION COMMISSION

The CEC is a permanent body, appointed near the beginning of each new parliamentary term. The CEC is composed of thirteen members, of whom eight are judges of the Supreme Court designated by lottery and five are university professors of Law, Political Science or Sociology nominated by the Chamber of Deputies. The CEC members elect their President and Vice-President from amongst the judges on the commission. The Secretary General of the Chamber of Deputies is the Secretary of the CEC, and CEC staff are shared with the Parliament. Once appointed, members of election commissions can be removed only for electoral offences and only by the superior commission or, in the case of the CEC, by the absolute majority of its members.

The CEC has broad powers, including issuing instructions to lower level commissions; resolution of complaints and appeals; directing and supervising the Electoral Census Office; approving election materials produced by the Ministry of Interior; imposing administrative sanctions; and making uniform interpretations.

When an election process is underway, the CEC meets as necessary, usually twice a week. CEC decisions are made by majority vote but are normally taken by consensus. The Secretary, as well as the Director of the Electoral Census, participate in sessions but do not have a vote.

Although not specified in the Election Law, the CEC and lower level commissions meet in closed sessions, reflecting both judicial tradition and a view that independence from outside pressure is strengthened by private deliberations. Election stakeholders appeared to be comfortable with this approach. However, closed sessions reduce the transparency of election commission activities and the decision-making process. *As the election commissions are not judicial bodies, and in order to enhance transparency, the CEC and lower level commissions may wish to consider meeting in open session as a general rule, with closed sessions being held only in special situations.*

B. LOWER LEVEL COMMISSIONS

Unlike the CEC, lower level election administration bodies are not permanent. A PEC is formed in each province after the elections are called, and its term usually expires 100 days after election day. PECs are composed of three judges and two professors or lawyers. The judicial members are appointed by lottery on the third day after the elections are called, and the other two members are designated after lists of candidates have been registered.

These two members are designated by the CEC on the basis of a joint proposal of representatives of the candidate lists.

The territorial areas for which DEC's are established are based on judicial administrative districts. The composition of the DEC's is similar to that of the PEC's, three judges appointed by lottery and two professors or lawyers proposed by representatives of the candidate lists after the registration of candidates.

Although the Secretaries of PEC's and DEC's are permanent civil servants and provide continuity for the respective commissions, the judicial members are frequently new for each election. Some concerns were expressed by judges and political parties about the lack of continuity among judicial members of PEC's and DEC's and about the over-reliance of some DEC's on advice from political parties due to the inexperience of election commission members.

As mentioned, there is a high degree of confidence in the various bodies responsible for the administration elections. *To ensure that this confidence is not only maintained but strengthened, and with a view to further enhancing the continuity of performance of PEC's and DEC's, consideration could be given to ensuring that each commission include at least one judge who has previously been a commission member.*

C. ELECTORAL/POLLING STATION BOARDS

The location of polling stations is determined by the provincial offices of the Electoral Census Office in consultation with the municipalities. Constituencies are divided into electoral sections which normally include between 500 and 2000 registered voters. Each electoral section has one polling station, but additional polling stations can be created if necessary. In practice, in sections with up to 900 voters, one polling station is established; in sections with up to 1,500 voters – two polling stations; in sections with up to 2000 voters – three polling stations.

Electoral or polling station boards (*mesas electorales*) are established for the purpose of conducting voting and counting. Each board consists of a president and two members who are selected by public lottery, as well as two substitutes. The president must have a university degree. Service on electoral boards is mandatory and failure to appear is an electoral offense, unless an exemption is granted prior to election day. Service is compensated, and exemptions are not normally granted. This system of composing polling station boards has the advantage of involving citizens in the election day process and enhancing the impartiality of election administration. A disadvantage is that electoral boards could potentially include members with no experience in administering the process or limited motivation for doing so.

The Ministry of Interior plays an important role in organizing the elections under the supervision and control of the election commissions. The Ministry is responsible for procurement, logistics, and for distribution of all election materials including ballots, ballot boxes, and voting booths. The Ministry also arranges for some voter education spots to appear in the media. On election day, the Ministry assigns its representatives to assist electoral boards as necessary and organizes a system for the provisional tabulation and announcement of the preliminary results of the election.

Electoral boards do not receive training but are provided with a detailed operational manual issued by the Ministry of Interior. On election day, they can seek the assistance of the Ministry of Interior representatives or consult a help desk by telephone. Although this system appears to work well, there is always the possibility that untrained persons selected at random could be more susceptible to undue influence, particularly by party observers. *It would be a desirable practice for the Ministry of Interior to conduct a training program, at least for electoral board presidents, to ensure that the boards are better able to exercise effective, independent control over the process.*

D. VOTER REGISTRATION

Spanish citizens aged 18 years or older are eligible to vote in elections for Parliament unless they (a) have been sentenced a court to be deprived of the right to vote; (b) have been declared legally incapable by a court; or (c) have been confined in a psychiatric hospital by judicial decision. In these cases, a citizen does not lose the right to vote unless this is expressly stated by the court.

In order to exercise the right to vote, a Spanish citizen must be a registered voter. A voter's record in the voter list should be limited to the first and last names, and the number of the national identity document.²⁷

Voter registration is the responsibility of the State and is conducted by the Electoral Census Office, which is part of the National Institute of Statistics.²⁸ The Electoral Census Office has branches in each of the provinces. Municipal administration bodies and the Ministry of Foreign Affairs cooperate with the Office in compiling the voter list. The work of the Electoral Census Office is directed and supervised by the CEC.

The voter list is based on the registration of permanent residence of citizens maintained at the municipalities and, for Spanish citizens permanently residing abroad, in the consulates. Changes of address are made by informing the "new" municipality of residence. Each voter's record should be included only once in the voter list. This is enforced through a statewide database of registered voters, which allows for the elimination of possible multiple records.

Voter registration is an ongoing process, and voter lists are updated on the first day of each month. Voters may check their own records at any time. Once elections are called, the update of the previous month is the basis for the provisional voter list. Six days after an election is called, the authorities announce that voters have eight days to inspect their records. A voter may request a correction from the municipality or the Electoral Census Office. After the expiry of the correction period, the Electoral Census Office sends a card to each voter including the details of the voter's registration and location of the polling place. The voter card is informative only.

²⁷ Election Law, Article 32.1. On election day, voter lists in some polling stations also included voters' dates of birth.

²⁸ The system for voter registration is a "passive" one, in that the voter list is maintained without citizens being required to register to vote.

Access to the voter list is limited. Representatives of candidate lists in each constituency may obtain a copy for electoral purposes only. Individual voters may request deletion of their entries prior to any disclosure, if they could be subject to threats or other pressure.²⁹

For parliamentary elections, the voter list includes the records of voters resident in Spain and of voters who are registered residents abroad. For the 9 March parliamentary elections, there were some 33,868,000 registered voters residing in Spain, and more than 1,200,000 residing abroad; the total number of registered voters was 35,073,179.³⁰

The OSCE/ODIHR EAM was not informed of any concerns related to the accuracy of the voter list, which appeared to be comprehensive and of high quality

VI. CAMPAIGN

More than 90 political parties and coalitions contested this election. The political landscape is generally defined by a tendency towards a two-party system at the national level and a number of regionally-based parties. The two major political parties were, on the left, the governing Spanish Socialist Workers' Party (PSOE), and on the right, the opposition People's Party (PP). The United Left (IU) is the third largest party in terms of overall support at the national level. Regional parties tend to express nationalist views to varying degrees; the major regional parties contesting the election included the Basque Nationalist Party (EAJ-PNV), Convergence and Union (CiU) of Catalonia, Republican Left of Catalonia, the Canarian Coalition (CC-PNC), and the Galician Nationalist Bloc (BNG).

The official campaign period lasts for 15 days by law.³¹ The campaign began on 22 February and lasted until 7 March. During this two-week period the competing parties are provided with free time on public electronic media proportional to the votes obtained by the parties in the previous election; designated outdoor spaces to place posters, banners and other materials; and special tariffs for sending campaign materials by post. In practice, the pre-electoral campaign started much earlier with an increase in political party activities aimed at attracting support within the limits of the law. The primary legal restriction is that parties can only ask for voters to vote for them during the official campaign period.

The main issues discussed during the campaign were the economic situation, anti-terrorism policy, the relationship between the State and the regions, housing, immigration, education, and linguistic issues. The campaign also focused on the respective leaders of the PSOE and the PP, the incumbent prime minister Mr. Luis Rodríguez Zapatero and Mr. Mariano Rajoy, as the prospective candidates to head the next government.

The electoral campaign was vibrant and permitted voters to be fully informed about their choices. In addition to traditional campaign activities, such as large rallies, posters and banners, mailings, direct canvassing and small gatherings with voters, many political parties increased their internet visibility through use of video-sharing and social networking websites, candidate "blogs", and online discussions with candidates.

²⁹ Election Law, Article 41.6.

³⁰ National Statistics Institute, www.ine.es/censoe/elec_grales_andalu08/grales_andalu08_tab12.xls

³¹ Election Law, Article 51.

The campaign was polarized between the PSOE and the PP to a considerable extent, due to factors such as the larger share of media attention enjoyed by these two parties and the personalization of the campaign around their leaders. This tendency was reinforced by the organization of two face-to-face debates between Mr. Zapatero and Mr. Rajoy on TVE (public television), which were seen by an average audience of 13 million people, one of the highest audience levels ever registered in Spain.³² The format of the debates, agreed by the two parties, did not allow for questions to be put to the party leaders. Nevertheless, the debates offered voters an opportunity to compare the positions of the major parties and generated a high level of interest, particularly as this was the first time that debates between the leaders of the two main parties had been held during an election campaign since 1993.

Several parties complained that the holding of these debates gave an unfair advantage to the PSOE and PP and that the resulting coverage of the debates contributed to a distorted media view of the campaign. The CEC allowed the debates to proceed, ruling that the Election Law requires equitable rather than equal treatment. It also invited television channels airing the debates to offer compensatory time to other election contestants in order to respect the principle of proportionality. On 3 March, the Supreme Court rejected a request by the political parties IU, EAJ-PNV and CiU to suspend the second debate, which was aired the same day. TVE also organized two debates under the same rules with the seven parties with a group in the outgoing Chamber of Deputies. These debates had a significantly lower audience of around 1.5 million viewers.

While the campaign overall appeared to be conducted with respect for fundamental rights, the electoral campaign in the Basque region took place in an ongoing atmosphere of intimidation, especially in smaller towns, due to the activities of the terrorist group ETA. The PSOE and the PP indicated that it was practically impossible for them to conduct outdoor rallies in the Basque region and that their candidates had to travel with a security escort, which significantly limited their ability to campaign freely. ETA detonated a bomb outside the office of the PSOE office in the Basque town of Derio on 29 February.

Numerous posters of various formats, calling first for abstention and later for boycott of the elections, were widely posted throughout the region during the campaign. The posters were generally attributed to ETA and organizations close to it. The atmosphere of intimidation was also reflected by press reports that individuals linked to ETA would monitor polling stations and take note of those ignoring their calls for a boycott. The OSCE/ODIHR EAM also heard these allegations from numerous interlocutors.

On 7 March, the last day of the electoral campaign, a former PSOE municipal councilor, Mr. Isaías Carrasco, was assassinated by ETA in the Basque town of Mondragón. This regrettable event led all parties represented in the Chamber of Deputies to jointly condemn the assassination and to agree to end their campaigns several hours before the official end of the campaign period.

The campaign silence period, which is a general prohibition against any type of campaign activity, begins one day prior to election day.³³ The silence period was not implemented uniformly because of differing interpretations of the Election Law by the PECs. For

³² The debates were also broadcast on some other television channels.

³³ Election Law, Article 53.

example, marches and other acts to mark International Women's Day on 8 March were not allowed in some provinces (e.g., Madrid) because of concerns it would be an element of the election campaign, while such demonstrations were permitted in other provinces (e.g., Barcelona). Similarly, the Barcelona PEC decided that a signature collection effort in support of the independence of Catalonia by two associations on election day would violate the silence period, whereas the PEC in nearby Girona province allowed the same signature collection effort to go ahead, with some restrictions.

The Central Election Commission should provide more detailed criteria to define what should not be allowed during the campaign silence period in order to achieve a more uniform approach.

VII. MEDIA

A large number of print, electronic and online media outlets provide Spanish citizens with access to a wide range of information. The media landscape in Spain includes a public corporation of radio and television (RTVE), which comprises two national TV channels, and four commercial nationwide TV stations. In addition, there are public television channels in most of the Autonomous Communities and a number of private regional broadcasters. The majority of citizens rely primarily on television for information about current events and election issues; however, print media, which includes national newspapers as well as important regional and local newspapers, also have wide distribution. Radio is also an important news medium in Spain.

The Election Law establishes the basic legal framework for media coverage of the election. Media are further governed by the Law (2/1988) Regulating Electoral Advertising on Private Television Broadcasters and related laws, and by CEC instructions and decisions, which set out procedures for the coverage of the campaign. The CEC is also responsible for deciding on complaints and appeals alleging unfair media coverage.

Under the legislation, public broadcasters and private television broadcasters have to ensure, in their overall programming, the respect of political pluralism and guarantee a non-partisan approach during the campaign period.

Public broadcasters, national and regional, are required to provide free-of-charge airtime to all electoral contestants on an equitable basis. The allocation of free airtime is based on the results obtained by each party in the last election to the Chamber of Deputies. The law provides the contesting political forces with a range of different amounts of free-of-charge time, from 10 minutes for parties which did not obtain representation in the outgoing Chamber of Deputies, and up to the 45 minutes for those parties that obtained at least 20 per cent of the votes in the previous election.³⁴ The CEC and PECs decide the format and allocation of the free broadcasting time in the relevant public media, in consultation with political parties and public broadcasters.

Paid political advertisements are not permitted on public TV and radio or on private TV channels. Limits are established by the law on the amount of resources a list can spend for

³⁴ Only parties presenting candidate lists in 75 per cent of the constituencies covered by the public broadcaster qualify for free airtime, with some exceptions.

political advertising in the print media and on commercial radio in relation with its total campaign expenditure.

Public media are also required in their news and informative programs to report on election contestants according to proportional criteria, on the basis of the parties' previous election results. Each broadcaster proposes a plan for coverage, with the respective election commission deciding in the event of a complaint. Private TV stations are also required to notify the relevant election commission at least five days in advance if they plan to show debates or interviews.

After considering the plan for election coverage presented by RTVE prior to the campaign and following a number of complaints regarding the plan, the CEC stated that the proportional allocation of campaign news coverage on RTVE must be guaranteed on a daily basis during the campaign period and that proportionality should prevail over any other criteria. In doing so, the CEC applied the legal criteria for free airtime to the news, although there is no legal requirement in this respect.

Three journalist associations, the Madrid Press Association and the Journalist Associations of Catalonia and of Galicia, appealed to the Supreme Court, arguing that the CEC decision impeded public media from freely operating in its news reporting and that the measure violated freedom of expression.

A number of OSCE/ODIHR EAM interlocutors – from political parties, media, and others – also expressed dissatisfaction with the CEC decision. They stated that fair and balanced reporting of election-related news should be achieved through self-regulation and codes of conduct based on the principles of journalistic professional criteria, rather than imposed by rigid external regulations.³⁵

Interpretation and application of media provisions could merit a review to guarantee both equitable coverage for political parties contesting elections and enhanced ability for public broadcasters to cover the campaign in line with their editorial criteria.

Another area of concern for some journalists was the control by the two main parties over the images from their campaign rallies. The PSOE and PP tightly limited the access of television cameras to Mr. Zapatero's and Mr. Rajoy's campaign events, instead providing images recorded by the parties' own cameras. These parties stated that this was done for reasons of space and that they provided full coverage of the complete events, leaving each broadcaster free to select whatever images they deemed interesting. Many broadcasters acquiesced in this practice for economic reasons.

A media issue that dominated public discourse during the campaign was the organization of two debates between the leaders of the PP and PSOE. Discussion of the preparations and post-debate analysis had a significant presence in all media. As noted above, several parties objected to the format of these debates (see section VI, Campaign).

The print media covered the campaign actively, offering a wide variety of opinions and information to the public through reports on election-related developments, interviews with

³⁵ For example, public television of Catalonia (TV3) adopted more flexible rules for campaign coverage which required overall proportionality of news coverage rather than proportionality on a daily basis. Their plan was not challenged by any party.

candidates, editorials, and analysis of election-related issues. A range of different political views was represented in the various newspapers, with some publications endorsing political options in their editorials.

On 6 March the newspaper *El Periódico de Catalunya* featured a front page protest against the prohibition on publication of opinion polls within five days of election day (Article 69 of the Election Law). The paper published a web link to the online version of the daily in Andorra, inviting the readers to visit the webpage to know the results of the latest opinion polls. The front page also included an editorial criticizing the prohibition. The paper described the ban as improper and anachronistic in a consolidated democracy, as a limitation to freedom of expression, and as an obsolete measure in the internet era, when citizens can get information from foreign sources. The paper also noted that it was respecting the law by not publishing the opinion polls in the paper itself. Other media representatives also informed the EAM that they found the prohibition overly restrictive.

VIII. COMPLAINTS AND APPEALS

Overall, the system of complaints and appeals is clearly regulated and provides effective remedies. Deadlines are generally short in the interest of timely adjudication. There are a number of complaint and appeal mechanisms, depending on the subject matter. As a general principle, complaints against decisions of lower level election commissions can be raised at the next higher level commission or before the respective courts. If a complaint is brought directly to a court, the venue through the higher levels of the election administration is closed. Appeals against decisions of the CEC can be lodged with the Supreme Court.

Appeals against candidate registration decisions must be lodged with administrative courts at provincial level. In this case, the court decision can only be appealed to the Constitutional Court in order to ensure that election preparations are not unnecessarily delayed by a lengthy appeals process. Appeals against decisions related to candidacy on the grounds that the nominating group continues *de facto* activities of dissolved or suspended political parties can be appealed to the Supreme Court. Appeals against results can be lodged with the Supreme Court and from there to the Constitutional Court.

During the parliamentary elections political parties used complaint mechanisms relatively frequently, with media coverage of the campaign being a primary concern. The CEC resolved complaints swiftly.³⁶

IX. ELECTION OBSERVATION

The Election Law provides for the presence of political party observers in polling stations on election day. This right was widely exercised and contributed to transparency and the high level of public confidence. In addition, the vote count is open to the public. The OSCE/ODIHR EAM was accredited by the CEC on an *ad hoc* basis, and all levels of the election administration were co-operative and provided all information that was requested.

³⁶

The CEC published summaries of its decisions at www.juntaelectoralcentral.es

However, the law does not provide for access to the election process by international observers or by domestic observers who are not nominated by political parties.

The co-operation and accreditation received by the OSCE/ODIHR EAM was most welcome and permitted the mission to have full access to the election process. However, to eliminate any uncertainty in regard to observers and to bring the law into full compliance with OSCE commitments and best practices, *the authorities should adopt a specific legal provision permitting non-partisan domestic observers and international observers to monitor elections.*

X. PARTICIPATION OF MINORITIES

The Constitution of Spain recognizes different nationalities among the people of Spain and guarantees the right to autonomy of the nationalities and regions. Official languages, in addition to Spanish, can be decided by the Autonomous Communities. Spain has ratified the Council of Europe Framework Convention for the Protection of National Minorities.

Numerous regionally-based political parties took part in the elections, representing a wide range of citizens in the different Autonomous Communities of Spain. The electoral system generally enables political parties with significant regional support to obtain representation in the Parliament, thereby facilitating the representation of regionally concentrated nationalities.

At the national level, Roma are the most significant minority group. As the population register does not include data on ethnicity, there are no exact figures on the number of Roma in Spain, and estimates range from around 650.000³⁷ to one million.³⁸ Roma live throughout Spain but are concentrated in Andalusia, Extremadura, Madrid, Valencia and Catalonia. Although no groups are formally recognized as national minorities in Spain, the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities has previously welcomed that “the protection afforded under the Framework Convention is available to Roma.”³⁹

The political participation of Roma in Spain appears to be very limited in scope. There were no Roma candidates on the lists of the major parties in these elections, although Roma have been included in candidate lists for elections at other levels.⁴⁰ At present, there are two deputies in the parliaments of the Autonomous Communities, one in Extremadura and one in Valencia.⁴¹ There are two Roma political parties: *Partido Nacionalista Calo*, created in Barcelona province in 1999 and *Alianza Romani ARO* that was created in 2004 in Badajoz. Neither presented candidates for the parliamentary elections. According to

³⁷ The Ministry of Work and Immigration at www.mtas.es/SGAS/ServiciosSocDep/Gitano/Programa/Programa.htm

³⁸ Advisory Committee on the Framework Convention for the Protection of National Minorities, *Second Opinion on Spain*, 22 February 2007, ACFC/OP/II(2007)001.

³⁹ Advisory Committee on the Framework Convention for the Protection of National Minorities, *Opinion on Spain*, 27 November 2003, ACFC/INF/OP/I(2004)004. Spain ratified the Framework Convention on 1 September 1995, and it entered into force on 1 February 1998.

⁴⁰ One Roma deputy was elected to the Chamber of Deputies in 1977, serving until 1986.

⁴¹ According to the Advisory Committee, apart from Valencia and Extremadura, “Roma political participation is negligible in the Autonomous Communities and at the municipal level.” *Second Opinion on Spain*, 22 February 2007.

interlocutors, the Roma population is fully registered on the voter list, and do not face difficulties in exercising their right to vote. As registered voters, Roma can also be selected by lottery to serve on electoral boards at polling stations.

The NGO *Fundacion Secretariado Gitano* made detailed propositions to the main political parties before the general elections. While the PSOE included a section on “equal treatment and opportunity for the Roma population” in its program, Roma issues did not appear to be present in the campaign.

The Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities has recommended that the relevant authorities further “examine the situation, in close consultation with the persons concerned, and identify ways and means of encouraging the participation of Roma in elected bodies at all levels.”⁴²

XI. PARTICIPATION OF WOMEN

As a result of legislation adopted in 2007, political parties, coalitions and groups of citizens nominating candidate lists must now ensure that for each constituency at least 40 per cent of each gender is represented on the entire candidate list. Within the list, at least 40 per cent of each gender must be represented in each group of five candidates. This provision was already in effect for the 2007 municipal elections. For the Senate, each gender must be represented on the list as close as possible to numerical equality.⁴³

This provision was challenged before the Constitutional Court by a group of deputies of the PP, after the party had not been allowed to register a list comprised entirely of women in a municipality in the Canary Islands. The Constitutional Court upheld the provision on 29 January 2008.

In total, 46 per cent of candidates for the elections to the Chamber of Deputies were women and 38 per cent for the Senate.⁴⁴ Compared to the 2004 election, this represented an increase in the number of women candidates by 12 per cent and 8 per cent respectively. Despite the increase in the number of candidates, the number of women elected to the Chamber of Deputies was 127 (36 per cent of the total number of deputies), the same as in 2004. For the Senate, 66 women were elected (31 per cent of the 208 elected Senators).

XII. ELECTION DAY

According to OSCE/ODIHR standard practice for the deployment of an election assessment mission, the OSCE/ODIHR EAM did not observe polling day procedures in a comprehensive and systematic manner. Nevertheless, the representatives of the OSCE/ODIHR EAM did visit a limited number of polling stations on election day in the provinces of Barcelona, Madrid, Seville and Vizcaya. Political parties and others expressed a high level of confidence in the conduct of voting, counting and tabulation of results.

⁴² Advisory Committee, *Second Opinion on Spain*, paragraph 153.

⁴³ Election Law, Article 44 *bis*.

⁴⁴ Information from the Ministry of Interior at www.elecciones.mir.es/generales2008/i_cifras.html. The percentage for the Chamber of Deputies including supplemental candidates was also 46 per cent. The percentage for the Senate including supplemental candidates was 43 per cent.

Polling stations were generally located in schools and other public buildings, frequently with several polling stations in each building. In some cases, there were multiple polling stations in the same room. There were copies of voter lists on display in each polling station available for review by voters and party representatives. Voter turnout was 73.8 per cent.

A. METHODS OF VOTING

The voting system in Spain is relatively unusual in that ballots are not accounted for until they are deposited in the ballot box. For the Chamber of Deputies election, each candidate list is on a separate ballot, and the voter places one ballot corresponding to the candidate list of his or her choice in a special envelope. For the Senate election, all candidate lists appear on the same ballot. The voter marks the ballot for up to three candidates from any candidate list and places a ballot in a special envelope. In both cases the envelope is deposited in the respective ballot box by the president of the electoral board, after verification that the voter is on the voter list for that polling station.

Ballots and envelopes are available at the polling station, but may also be produced by political parties and mailed to voters prior to election day. Voters may therefore choose to put the ballot in the envelope at home and bring it to the polling station. Voting may also be done by post (see section XII, Election Day, Postal Voting).

For the first time in Spanish elections, visually impaired voters had the option to cast ballots without assistance. Following a 2007 amendment to the Election Law, voters certified as being visually impaired could apply to use a special voting system at polling stations on election day.⁴⁵ In order to ensure secrecy of the vote, the ballot papers and envelopes were the same as for other voters, but visually impaired voters were provided with supplementary documents in Braille, designed in consultation with the Spanish Braille Commission. The application to use this system had to be made by 11 February but could be made by telephone. Visually impaired voters could also vote by requesting assistance from the electoral board on election day.

B. SECRECY OF THE BALLOT

While the law states that voting is secret, voters are not required to use the voting booths but may use them “if they so desire”.⁴⁶ The OSCE/ODIHR EAM noted that in practice voters often voted openly and that voting booths were used only occasionally in polling stations visited.

The voting system and the organization of polling stations generally did not appear to facilitate the secrecy of the ballot. There were several factors in this respect. First, due to the provision that use of voting booths is optional, electoral boards did not encourage the use of booths, and there were no signs at polling stations encouraging voters to vote in secret. Second, the Chamber of Deputies ballots and envelopes were usually laid out in stacks by candidate list on tables, with a separate stack for Senate ballots and envelopes. Voters could take ballots from these stacks freely and place a ballot in the envelope (or

⁴⁵ Election Law, Article 87.2, and Royal Decree 1612/2007.

⁴⁶ Election Law, Articles 86.1 and 86.2.

mark the ballot) in view of party observers, electoral board members or other voters. Third, it appeared to be the general practice to have only one or two voting booths per polling station or, in some cases, for multiple polling stations. Finally, whereas the law specifies that the booths must contain ballots and envelopes, this was not uniformly implemented; the OSCE/ODIHR EAM noted that the voting booths frequently lacked this material in the polling stations visited. The confluence of these factors meant that a voter wishing to vote in secret had to take additional measures in order to do so.

A number of political parties and election administration officials informed the OSCE/ODIHR EAM that the possibility for voters to bring their ballots in envelopes from home is a safeguard for the secrecy of the vote. However, as described above, not all political parties, coalitions or groups of voters presenting candidate lists are in an equal position in this respect, since only parties winning enough seats to form a group in Parliament are reimbursed for the expense of printing and mailing ballots.⁴⁷ Therefore, voters bringing a ballot from home usually do not have the full range of ballots from which to choose.

While no interlocutors raised concerns with regard to open voting, which is considered by many in Spain to be a sign of confidence among voters, the current practice may open the door for possible intimidation in some places. This was widely acknowledged as a concern in certain areas of the Basque region, where some electors may fear to pick up certain ballots from the ballot table or to vote in a voting booth. Some voters in this region apparently prefer to cast their ballots by post due to such potential intimidation.

Although the current voting system appears to function well in the Spanish context, it does not ensure full respect for the secrecy of the vote, a fundamental principle for democratic elections. *The authorities should consider measures to further enhance safeguards for the secrecy of the ballot.*

C. OTHER ISSUES

Over 900 hundred million ballots were produced for this election by the State and political parties.⁴⁸ In addition, due to the large number of postal ballots which were sent to postal voters and were often duplicated by parties, the mailing costs alone were estimated at 11 million euros. Given the amount of paper and costs incurred in the production and provision of postal and regular ballots, as well as the fact that parties do not have equal conditions for mailing such ballots due to campaign financing provisions, *the authorities may wish to consider balloting alternatives which would achieve the same objective and would not require any adjustment to the present electoral system.*

The Senate ballots did not contain any explanation regarding the voting system and the fact that voters could choose (in most constituencies) up to three candidates. While some polling station locations had explanatory posters, this was not always the case. The OSCE/ODIHR EAM noted that some voters requested help from the electoral board or party representatives regarding voting for the Senate ballot. The percentage of invalid votes in the Senate election was just over two per cent, while for the Chamber of Deputies it was just over one per cent.⁴⁹

⁴⁷ Election Law, Article 175.3. (see also section IV, Legal Framework, Campaign Finance)

⁴⁸ Ibid.

⁴⁹ Information from the Ministry of Interior at www.generales2008.mir.es/ini99v.htm

It could be useful for the authorities to conduct more voter education regarding the voting system for Senate elections, or for the ballot to include basic instructions.

D. COUNTING, TABULATION AND PUBLICATION OF RESULTS

Counting of votes is public and starts immediately after the closing of the polls. According to the Election Law, the president of the electoral board should take the envelopes out of the ballot box one by one, open it, read the vote aloud, and show the ballot to each member of the board (Art 95.4). The OSCE/ODIHR EAM noted that on occasion this provision was not strictly adhered to, as envelopes were being opened simultaneously by more than one person.

In some cases party representatives were actively participating in the count. This could be attributed to the fact that while electoral boards are selected by lot for each election and do not receive special training, party representatives often represent their respective parties on a regular basis and might be more experienced.

When the counting is finished, the ballots are destroyed, except for invalid or contested ballots. According to the CEC, this approach gives legal force to results which are not disputed by electoral board members or party representatives at the time of counting and prevents any post-count tampering with ballots. However, destroying the ballots also excludes the possibility for a full recount in the event of any post-election complaints.

The process of tabulating of results contains several safeguards to ensure that the votes are reported honestly. Polling station results are detailed in a protocol. Copies are posted at the polling station and are provided to party representatives, and a copy is immediately sent by post to the PEC. The electoral board then takes the protocols to the first-instance court, where they are verified by a judge who then takes the documents to the PEC.

On the third day after the elections the PECs aggregate the results for the province, including votes received from permanent residents abroad, which are counted on the third day after the elections. During this process, the PECs cannot annul any protocols or votes but can only correct mathematical errors and rule on disputed and invalid ballots. After the period for appeals expires and all complaints are resolved, the PEC proclaims the results and elected candidates in the respective constituency. One copy of the proclamation is sent to the CEC, which orders the publication in the official gazette of the results and elected candidates from all constituencies.

In parallel to the official aggregation of results, the Ministry of Interior undertook a quick tabulation of provisional results to be published on the night of the election. As in each polling station there should be a representative of the authorities, this person was charged with providing the polling station results to the Ministry. For some 40 per cent of polling stations, the provisional results were communicated directly to Madrid via “PDA” (personal digital assistant). For the remainder, the provisional results were communicated by telephone to the capital of the respective Autonomous Community where they were entered into computers.

Provisional results are not posted on the internet by polling station. The lowest level is the aggregate total for each municipality. *To increase transparency, the Ministry of Interior*

should make the provisional results publicly available for each polling station board (mesa electoral).

E. POSTAL VOTING

Postal voting is available for Spanish citizens (a) residing in Spain; (b) residing in Spain but temporarily abroad; and (c) residing permanently abroad. Any citizen registered to vote in Spain can vote by mail by filing a request in person at a post office,⁵⁰ between the day elections were called and 10 days before election day. After verification of the voter's registration, the Electoral Census Office mails the ballot materials to the voter. The voter should mail the ballot at least three days before election day. The post office delivers all mailed ballots to the electoral boards on election day. For these elections, there were 762,646 accepted requests to vote by mail.

Spanish citizens who reside temporarily abroad⁵¹ who wish to vote by mail must be registered with the respective consulate as non-residents and must make the request at the consulate in person. For these elections, the first in which this practice has been introduced, there were 8,183 such requests accepted. The set of ballots is mailed to the voter after his/her registration is verified by the Electoral Census Office.

Spanish citizens who are registered as permanently residing abroad with the respective consulate are sent the voting materials automatically, not later than 34 days after the election was called, to the voter's last registered address. The voter must mail the ballot to the respective PEC at least one day before election day.⁵² These votes are counted by the respective PEC three days after election day. Votes received after this date are not counted. Ballot materials were mailed to nearly 1,200,000 citizens permanently residing abroad; according to the Ministry of Foreign Affairs, 384,154 votes were cast either through the consulates or by post.

⁵⁰ It is also possible for a voter to authorize a proxy to make the request due to illness or incapacity.

⁵¹ Voters who were abroad on the day the election was called and who believe that they will be abroad until election day. Regulated by Royal Decree 1621/2007 of 7 December 2007.

⁵² Ballots can also be delivered to the consular office in person at least 7 days before election day.

ANNEX: SUMMARY OF RESULTS OF ELECTIONS TO THE CHAMBER OF DEPUTIES

Political Party, Federation or Coalition	Votes	Seats
People's Party (PP)	10,144,750	152
Spanish Socialist Workers' Party (PSOE)	9,598,787	144
Socialist Party of Catalonia (PSC-PSOE)	1,689,911	25
Convergence and Union (CiU)	779,426	10
Basque Nationalist Party (EAJ-PNV)	306,128	6
Republican Left of Catalonia (ERC)	291,532	3
United Left-Alternative (IU)	969,871	2
Galician Nationalist Bloc (BNG)	212,543	2
Canarian Coalition – Canarian Nationalist Party (CC-PNC)	174,629	2
Union of the People of Navarra in Coalition with the People's Party (UPN-PP)	133,059	2
Progress and Democracy Union (UPyD)	306,078	1
Navarra Yes (Na Bai)	62,398	1
Total Number of Seats		350

Total Valid Votes	25,734,863
Total Invalid Votes	165,576
Total Number of Voters	25,900,439
Total Number of Voters on Voter Lists	35,073,179
Turnout	73.8 per cent

Information from the *Boletín Oficial del Estado* (Official Gazette), BOE Number 93, 17 April 2008.

Election results for the **Senate** are also available in the *Boletín Oficial del Estado* of 17 April 2008.

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect human rights and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).