



Office for Democratic Institutions and Human Rights

# REPUBLIC OF LITHUANIA

**PRESIDENTIAL ELECTION**  
**12 May 2019**

**ODIHR NEEDS ASSESSMENT MISSION REPORT**

**28-31 January 2019**



Warsaw  
15 March 2019

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**REPUBLIC OF LITHUANIA  
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**ODIHR Needs Assessment Mission Report**

**I. INTRODUCTION**

Following an invitation from the Ministry of Foreign Affairs of the Republic of Lithuania to observe the 12 May 2019 presidential election, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 28 to 31 January. The NAM included Ana Rusu, ODIHR Senior Election Adviser, and Keara Castaldo, ODIHR Election Adviser.

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

ODIHR would like to thank the Ministry of Foreign Affairs for its assistance and co-operation in organizing the NAM. ODIHR would also like to thank each of its interlocutors for taking the time to meet with the NAM and for sharing their views.

**II. EXECUTIVE SUMMARY**

Lithuania is a parliamentary republic, with specific executive powers related to foreign affairs and defence policies granted to the president, who serves as the head of state. On 12 May 2019, voters will elect a new president for a five-year term, with a potential second round on 26 May. The same person may not be elected for more than two consecutive terms.

The election will be primarily regulated by the Constitution and the Presidential Election Law. Recent amendments have refined elements of the electoral legislation, including provisions on citizen observers, which addresses a prior ODIHR recommendation. However, several previous ODIHR recommendations remain unaddressed, related to restrictions on candidacy rights and registration, access to the vote for persons with disabilities, refinements to campaign finance regulations, decriminalisation of defamation, and judicial review of election results. Most ODIHR NAM interlocutors expressed overall satisfaction with the legal framework and its application in practice, despite these longstanding concerns.

The election will be administered by a three-tiered system of commissions, including the permanent Central Election Commission (CEC), 60 Municipal Election Commissions and some 1,970 Precinct Election Commissions. Several ODIHR NAM interlocutors reported decreased co-operation within the Central Election Commission and some questioned the consistency of certain decisions. However, most ODIHR NAM interlocutors conveyed continued trust in the overall election administration, including the conduct of polling station procedures.

The CEC has taken some positive steps to improve the accessibility of the electoral process for persons with various kinds of disabilities, including the provision of some voter information in

accessible formats. However, the current infrastructure and legislation lack sufficient legal guarantees for autonomous and integrated participation, and practice often relies instead on homebound voting. Accessible procedures are not available in polling stations for voters with visual impairments to vote autonomously.

All citizens who are at least 18 years of age by election day have the right to vote, except those declared incapable by a court decision; a restriction that raised some concern with ODIHR NAM interlocutors. Voters may cast a ballot at any polling station within their registered municipality. Electronic voter lists in polling stations facilitate voter identification and provide an effective safeguard against potential multiple voting, with contingency paper lists available in all polling stations.

Citizens over the age of 40, who have lived in Lithuania for at least the previous three years, and are eligible to be elected to parliament, may be elected president. Restrictions to candidacy based on impeachment from public office remain in place, contrary to prior ODIHR recommendations, as well as on residency. All ODIHR NAM interlocutors described an administratively inclusive process for candidate registration, though women are underrepresented among the registered candidates.

The campaign, which formally began in November 2018 at the announcement of the election, is expected to be competitive and centred on national defence, security, economic and social policies. The election administration will monitor the regulatory compliance of traditional campaign materials as well as political advertisements on social media. Some ODIHR NAM interlocutors noted isolated instances of inflammatory political rhetoric, largely on social media. No serious impediments to freely campaign were reported by interlocutors.

The CEC is the primary oversight body for campaign finance. Contestants must provide routine donation reports, and must submit final campaign finance reports to the CEC no later than 25 days after the final election results are published. Contrary to prior ODIHR recommendations, the law does not provide for a graduated system of sanctions for campaign finance violations. Several ODIHR NAM interlocutors questioned the consistency of recent CEC decisions pertaining to campaign and party financing.

The Constitution guarantees the freedoms of expression and information, and prohibits censorship and hate speech. The media environment is pluralistic and diverse, though ownership of broadcast media remains concentrated. Recent proposed amendments to the Law on Public Information and the Law on the Public Broadcaster were introduced to parliament without broad consultation and have raised some concern among electoral stakeholders as to the impact on freedom of expression and media independence.

Decisions of election commissions can be appealed by party and candidate representatives to the higher-level commission. Although voters and observers cannot file complaints, they can make written remarks or objections to a commission decision. The law does not provide a mechanism for the parliament's decision on final election results to be appealed to a judicial authority, contrary to prior ODIHR recommendations. Notwithstanding, most ODIHR NAM interlocutors expressed a high level of trust in the system of electoral dispute resolution.

Most ODIHR NAM interlocutors expressed a high level of confidence in the overall electoral process and in the administration of voting day procedures. Nevertheless, a number of previous ODIHR recommendations have not been implemented, and several ODIHR NAM interlocutors highlighted aspects that would merit specific attention from an ODIHR observation activity, particularly the

election administration including accessibility of the electoral process for voters with disabilities and the implementation of new cyber security measures, restrictions on candidacy, campaign finance regulations, and proposed media regulations. Based on these considerations, the ODIHR NAM recommends the deployment of an Election Assessment Mission for the 12 May presidential election, subject to the availability of resources.

### III. FINDINGS

#### A. BACKGROUND

Lithuania is a parliamentary republic, with specific executive powers related to foreign affairs and defence policies vested in the office of the president, who serves as the head of state. Legislative powers are exercised by the 141-member parliament. On 12 May 2019, voters will elect a new president for a five-year term.<sup>1</sup> The incumbent president, Ms. Dalia Grybauskaitė, is ineligible for re-election, having served two consecutive terms.

The last parliamentary elections were held on 9 October 2016 and resulted in ten parties entering the parliament.<sup>2</sup> A coalition government led by Prime Minister Saulius Skvernelis was formed comprising the Lithuanian Farmers and Greens Union (LFGU), the Social Democratic Labour Party (SDL) and the Order and Justice Party. Some 21 per cent of current members of parliament are women; currently, no sitting ministers are women.

ODIHR previously deployed an Election Assessment Mission for the 2016 parliamentary elections, concluding that the elections were “competitive and pluralistic, offering voters a broad choice of political alternatives. Contestants enjoyed equitable campaign conditions and competed in a process characterized by respect for fundamental freedoms”.<sup>3</sup>

#### B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The president is directly elected by popular vote in a two-round system. To be elected in the first round, a candidate must obtain either an absolute majority of votes, with at least 50 per cent turnout, or the votes of at least one third of all registered voters, irrespective of turnout. If no candidate is elected, a second round is held between the two highest ranked candidates. The candidate who receives the most votes in the second round is then elected, irrespective of turnout.

Presidential elections are primarily regulated by the 1992 Constitution (amended in 2006), and the 1992 Law on Presidential Elections (PEL, amended in 2018). Other pertinent legislation includes the 2002 Law on the Central Election Commission (amended in 2012), the 2004 Law on Funding of and Control of Funding of Political Campaigns (amended in 2018), and the 2000 Criminal Code (amended

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<sup>1</sup> The potential second round of the presidential election on 26 May would coincide with the European Parliament elections. Prior to the presidential election, municipal elections will be held on 3 March.

<sup>2</sup> Lithuanian Farmers and Greens Union (54 seats), Homeland Union – Christian Democrats (31), Social Democratic party (17), Liberals Movement (14), Order and Justice Party (8), Electoral Action of Poles (8), Labour Party (2), Centre Party (1), Political Party ‘List of Lithuania’ (1), Green Party (1), and 4 independent seats.

<sup>3</sup> ODIHR has observed three elections in Lithuania since 1996. See all [prior ODIHR observation reports on Lithuania](#).

in 2018). Lithuania is a party to major international and regional instruments related to the holding of democratic elections.<sup>4</sup>

Amendments in 2018 refined elements of the electoral legislation, including the establishment of the legal right of citizen observation, in line with a prior ODIHR recommendation. Additional amendments prohibit all gifts to voters by political contestants, and require an earlier return of the candidate registration deposit. In addition, the Criminal Code was amended to shift the burden of proof in cases of alleged vote-buying.<sup>5</sup> Most ODIHR NAM interlocutors expressed overall satisfaction with the legal framework and its application in practice. However, several previous ODIHR recommendations remain unaddressed, including removal of restrictions on candidacy rights and registration, access to the vote for persons with disabilities, refinements to campaign finance regulations, decriminalisation of defamation, and judicial review of election results.

### C. ELECTION ADMINISTRATION

The election will be administered by a three-tiered system comprising the Central Election Commission (CEC), 60 Municipal Election Commissions (MECs) and some 1,970 Precinct Election Commissions (PECs).<sup>6</sup> Several ODIHR NAM interlocutors reported decreased co-operation within the commission and some questioned the consistency of decisions made by the chairperson, which led to a motion of no-confidence that was initiated and then failed in the parliament.<sup>7</sup> However, most ODIHR NAM interlocutors conveyed continued trust in the overall election administration, including the conduct of polling station procedures.

The CEC is a permanent body with extensive administrative and oversight responsibilities, including regulation of media and campaign finance, as well as the ability to initiate legislation. The CEC comprises a mixed professional-political body of 13 members, appointed by the parliament for four-year terms. Members are nominated by the president, the Ministry of Justice and the Lithuanian Bar Association (two each), as well as by the political parties that received proportional seats in the previous parliamentary elections (one each).<sup>8</sup> All CEC members must have a university or law degree, and party-nominated members must also have prior experience serving on an election management body. Although there are no requirements for gender representation in the election administration, half of the CEC members are women including the CEC chairperson.

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<sup>4</sup> Including the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 1966 International Covenant on Civil and Political Rights (ICCPR), 1979 UN Convention on the Elimination of All Forms of Discrimination against Women, 2003 UN Convention against Corruption, 2006 UN Convention on the Rights of Persons with Disabilities (CRPD), 1953 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and 1998 Framework Convention for the Protection of National Minorities. Lithuania is also a member of the Council of Europe's European Commission for Democracy through Law (Venice Commission) and Group of States against Corruption.

<sup>5</sup> Previously, vote-buying was considered a criminal offense only if it could be demonstrated that the induced voters had altered their choice as a result.

<sup>6</sup> The PEL foresees additional polling stations to be established in Lithuania's diplomatic and consular offices and on ships-at-sea to facilitate out-of-country voting.

<sup>7</sup> According to interlocutors, in June 2017, an internal CEC investigation concluded that a television series financed by the LFGU chairperson constituted hidden advertising; however, the conclusion was not published nor shared with CEC members for debate until the following year, and the case has since been appealed to court. In March 2018, 29 opposition members of parliament initiated a no-confidence vote to remove the CEC chairperson; with 58 votes in favour, 65 against and 3 in abstention, this motion failed to reach the required 71-vote majority.

<sup>8</sup> The number of members nominated by parties depends on the number of qualifying parties, but must not exceed the total number of members nominated by non-partisan institutions; in such cases the latter may nominate additional members to ensure balance, as prescribed by law.

MECs were established in November 2018, and PECs in early 2019, to administer the scheduled municipal, presidential and European Parliament elections in 2019.<sup>9</sup> These are temporary bodies appointed by the CEC and MECs, respectively.<sup>10</sup> MECs oversee election preparations in each municipality, including registering election observers, organising early and postal voting, tabulating and transferring the voting results of the municipality to the CEC, considering complaints against PEC decisions and actions, and monitoring the campaign within the municipality. PECs facilitate access to voter lists and consider complaints on errors in the lists, supervise postal voting and provide homebound voting within the precinct, organise voting, counting and transfer of results to the MECs, and consider election day complaints.

The CEC plans to provide extensive voter information, including via a call centre which operates in Lithuanian and minority languages. Some information is available in accessible formats for persons with disabilities.<sup>11</sup> A 2006 Constitutional Court decision precludes the CEC from producing ballots in languages other than Lithuanian, though this prohibition does not extend to voter information materials.<sup>12</sup> However, the CEC informed the ODIHR NAM of insufficient resources to provide minority language translations of all informational materials, including online. Some ODIHR NAM interlocutors regretted the limited amount of information provided by the CEC in minority languages and accessible formats. ODIHR previously recommended that the CEC should intensify its efforts of providing accessible and comprehensive voter information to persons with disabilities and national minorities.

The law provides for alternative voting methods, specifically, early, postal, and out-of-country voting. Voters who cannot go to their polling station on election day can vote in advance at designated municipality premises. Postal voting via a designated service is allowed for voters in health and social care institutions, prisons and detention centres, and those in military service.<sup>13</sup> Voters who register for out-of-country voting can vote by post or in diplomatic and consular offices during a 10-day period prior to the election.

Voters with disabilities and those aged over 70 have the right to request homebound voting, and/or to request assistance in voting from a person of their choice. A memorandum of understanding signed between the CEC, the Association of Municipalities and the Lithuania Disability Forum commits at least 50 per cent of polling stations in each municipality to be accessible for persons with physical disabilities. According to ODIHR NAM interlocutors, attempts to amend the legislation that would allow the use of electronic voting systems, including in accessible formats, failed in the parliament due to cyber security concerns. The CEC informed the ODIHR NAM that Braille ballot paper or

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<sup>9</sup> MECs are established at least 74 days prior to election day, and PECs at least 65 days. However, in case of overlapping or consecutive elections, the CEC may decide that the same compositions of MECs and PECs may administer all such elections.

<sup>10</sup> MEC members consist of nominees from the Ministry of Justice, Lithuanian Bar Association, municipal administration and all parliamentary parties that won a proportional seat in that MEC district in the most recent elections. PEC members are nominated by political parties represented in either the parliament or the corresponding local council that received proportional seats in the previous elections with any vacancies filled by citizens nominated by the heads of local administrations.

<sup>11</sup> The hotline operates in Lithuanian, Polish, and Russian languages. Certain materials will be produced in Braille and easy-to-understand language. The Lithuania Disability Forum informed the ODIHR NAM that the easy-to-understand materials in prior elections failed to meet professional standards.

<sup>12</sup> See [case no. 25/03, Constitutional Court, 10 May 2006](#). According to the [2011 census](#), 84 per cent of the population are ethnic Lithuanian, 7 per cent are ethnic Polish, and 6 per cent are ethnic Russian. Most residents indicated the language of their ethnicity as their mother tongue.

<sup>13</sup> Recent amendments to the PEL require a competitive procurement to designate a single courier service to handle electoral mail. The national postal service won the bid for this election at a lower price than in prior elections, when its role had been guaranteed by law.

tactile ballot guides will not be used in the election and, as such, no opportunity exists for voters with visual impairments to mark and cast a ballot autonomously.<sup>14</sup>

The CEC uses information technologies (IT) to facilitate a range of electoral processes, including voter registration and identification, collection of candidate support signatures, completion of result protocols, and tabulation of results. In line with a prior ODIHR recommendation, the CEC has published documentation on the procurement and technical specifications of these systems. However, the CEC has not conducted public tests for these technologies, citing cyber security concerns.

In July 2018, amendments to the Law on Cyber Security consolidated the government's approach to cyber security management, oversight and response, including election administration, under the National Cyber Security Centre (NCSC). The NCSC collaborates directly with the CEC in advance of elections to conduct upgrades and tests to related information systems. The NCSC has installed sensors in CEC information systems to monitor and analyse network traffic and react to suspicious activity. In addition, the NCSC conducts advanced technical training for CEC IT staff, as well as cyber hygiene training for administrative staff; the CEC is then responsible for extending this training to MECs and PECs. The NCSC informed the ODIHR NAM that the technical infrastructure is adequate to securely administer the electoral process, although regulation could be strengthened. ODIHR NAM interlocutors welcomed the new measures to enhance cyber security, noting that their practical implementation in the upcoming election would merit attention.<sup>15</sup>

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

All citizens who are at least 18 years of age by election day have the right to vote, except those declared incapable by a court decision; a restriction that raised concern with ODIHR NAM interlocutors.<sup>16</sup> Voter registration is passive. The CEC maintains a national electronic voter register based on data from the population register as well as information provided by diplomatic and consular representations. The CEC provides voter lists to MECs in electronic format. MECs also compile lists of voters whose place of residence is unknown. Preliminary voter lists are delivered by the MECs to PECs no later than 26 days before election day. According to the CEC, there are some 2.5 million voters eligible for the presidential election. All ODIHR NAM interlocutors expressed confidence in the accurate and inclusive compilation of voter lists.

Voter lists are not published for inspection. Voters can confirm their individual data at PECs, by telephone or via the Internet. Final voter lists are approved no later than seven days before election day. After this date and until 18:00 on election day, voters can be added to supplementary voter lists by PECs based on proof of residence.

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<sup>14</sup> Paragraph 58 of the [2016 CRPD Concluding Observations on Lithuania](#) recommended, *inter alia*, that the authorities, “[e]xpeditiously the parliamentary approval of election laws to ensure the legally enforceable right of persons with disabilities to vote and have access to, among others, accessible ballots, election materials and polling stations, and the provision of freely chosen, adequate and necessary assistance in order to facilitate voting by all persons, regardless of impairment”.

<sup>15</sup> For example, the legal framework does not designate the election administration as critical infrastructure, which would authorize the NCSC to enforce stricter security elements.

<sup>16</sup> According to the CEC, only those individuals with a court judgment that explicitly revokes suffrage are excluded. Paragraph 57 of the [2016 CRPD Concluding Observations](#) noted concern that the legal framework “denies persons with disabilities the right to vote and stand for election if they have been declared legally incapable...” as well as the “lack of reliable statistical information on the number of persons with disabilities who have been removed from the electoral register on grounds of disability...”. Paragraph 9.4 of the [2013 CRPD Committee’s Communication No. 4/2011](#) states that exclusion of the right to vote even on the basis of individualized assessment constitutes discrimination.



Polling stations are equipped with computers that connect via the Internet to CEC information systems, including the national electronic voter list. Voters are marked remotely and in real-time on this list at the time of voting, as well as in the case of early and homebound voting.<sup>17</sup> While voters and election commissioners must still sign the paper voter lists, the electronic register serves as an additional safeguard against multiple voting.

## E. CANDIDATE REGISTRATION

Any citizen by birth over the age of 40, who has lived in Lithuania for at least the previous three years, and is eligible to be elected to parliament, may be elected president. The same person may not be elected president for more than two consecutive terms. The Constitution prohibits the right to be elected from those with dual citizenship. The PEL further restricts citizens who have not finished serving a prison sentence 65 days prior to elections, as well as judges, active military personnel and policemen who have not retired from duty at least 65 days prior to elections.

In addition, the PEL provides that a person who has been removed from office in accordance with impeachment proceedings may not be elected.<sup>18</sup> In 2011, the ECtHR ruled that this lifetime ban on standing for elected office was a disproportionate punishment that violates the ECHR.<sup>19</sup> Contrary to prior ODIHR recommendations, and despite ongoing parliamentary initiatives to amend this provision, the restriction has not yet been remedied in the law.<sup>20</sup>

Before the official nomination period, prospective contestants needed to apply to the CEC to register as political campaign participants. After this preliminary registration, prospective candidates were required to open a dedicated bank account and could then commence fundraising and campaign activities.

Candidate registration took place from 12 November 2018 to 18 February 2019, during which time the CEC registered 12 contestants, including 1 woman. Candidates were nominated by registered political parties or self-nominated. Two political parties informed the ODIHR NAM that they held primary contests for the first time to select the nominee.<sup>21</sup> To register, potential candidates were required to pay a deposit equivalent to five average monthly salaries and to provide a minimum of 20,000 valid supporting signatures to the CEC.<sup>22</sup> A voter can sign in support of multiple candidates. The CEC had 11 days to register candidates following the receipt of supporting signatures and other required documents. Several ODIHR NAM interlocutors indicated that the electronic system of signature collection facilitates this process, but that the number of signatures required could pose an undue burden for independent candidates without political party support.<sup>23</sup>

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<sup>17</sup> Polling stations within the same polling district are connected via secure server to the electronic municipal voter list database, and all polling stations to the nationwide electronic voter list database.

<sup>18</sup> This limitation was introduced following the 2004 impeachment of former president Rolandas Paksas.

<sup>19</sup> See *Paksas v. Lithuania*, ECtHR, 6 January 2011.

<sup>20</sup> To comply with the ECtHR judgment, the parliament amended the PEL in 2012 to limit the ban to four years. However, this change was [found unconstitutional by the Constitutional Court](#), which reiterated that the lifetime ban can only be revoked through constitutional amendments by the parliament's qualified majority.

<sup>21</sup> LGFU and Homeland Union – Christian Democrats.

<sup>22</sup> The CEC verifies signatures by comparing the voter's supplied personal data against various state registries. The deposit is returned upon receipt of the candidate's final campaign finance report following the election, if the candidate receives at least 7 per cent of the vote.

<sup>23</sup> The signature requirement constitutes approximately 0.8 per cent of registered voters, which is in line with the [2002 Code of Good Practice](#), which recommends that "the law should not require collection of the signatures of more than 1% of voters in the constituency concerned".

Potential candidates must declare if they collaborated with “special services of other states” to the CEC. This information is posted in polling stations and included in voter information materials. ODIHR previously recommended that the purpose and format of including such information could be reviewed.

## F. ELECTION CAMPAIGN

The election campaign officially began on 12 November 2018 following the announcement of the election. The recent political environment has centred on the 3 March municipal contests, though some campaign activities have also been pursued by presidential candidates, mostly via social media and a small number of television advertisements. In addition to foreign affairs and defence policies, which fall directly under presidential authority, the campaign is expected to predominantly feature social and economic issues such as migration, income inequality and child welfare.

A campaign silence period starts 30 hours before the opening of the polls on election day at 07:00 and lasts until the end of voting at 20:00. There is no obligation to remove outdoor campaign materials placed before the start of the campaign silence period. Campaign posters may not be posted on buildings occupied by public institutions, on public transport, within 50 meters of a polling station, or on buildings without the owner’s consent. In practice, MECs investigate allegations of illegal posting of campaign materials and report any violations to the CEC, which has authority to settle disputes related to election campaigning. No serious impediments to freely campaign were reported by ODIHR NAM interlocutors.

The law provides for the participation of national minorities in electoral processes on an equal basis. The establishment of political parties based on ethnic grounds is permitted, and according to ODIHR NAM interlocutors, these parties conduct campaign activities in minority languages, often promoting awareness of electoral procedures.<sup>24</sup> Some ODIHR NAM interlocutors noted instances of inflammatory and xenophobic rhetoric, mostly online, and also anticipated that disinformation tactics would be present in the campaign.<sup>25</sup>

Political advertisements in social media are subject to general rules on political advertising in media, and disclosure of sponsorship is therefore compulsory. A web-hosted project administered by the CEC, *Reklamos gaudykle*, identifies violations in social media advertisements, such as failure to disclose sponsorship, based on citizen reports.<sup>26</sup>

## G. CAMPAIGN FINANCE

The financing of election campaigns is regulated by the Law on Funding of and Control of Funding of Political Campaigns. The CEC is the primary oversight body with responsibility for reviewing and publishing contestants’ campaign finance reports and reacting to violations, while the State Tax Inspectorate (STI) inspects donor eligibility and informs the CEC of violations.

Election campaigns may be financed from political party funds, citizens’ donations, loans, and a candidate’s own money. Legal entities are not allowed to contribute to election campaigns, but the law

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<sup>24</sup> The Electoral Action of Poles in Lithuania – Christian Families Alliance, the Russian Alliance, and the Union of Russians are registered political parties representing national minorities.

<sup>25</sup> See also paragraph 11 of the [2018 CCPR Concluding Observations](#) and paragraph 25 of the [2016 European Commission against Racism and Intolerance report](#).

<sup>26</sup> According to the CEC, sanctions are not imposed in these cases if the violations are remedied.

does not prohibit third parties (including associations, foundations or private individuals) from campaigning for or against a candidate, unless formally connected to an electoral contestant.<sup>27</sup>

Upon receipt of donations, campaign treasurers must verify in a CEC-administered database whether the donors are eligible. All donations are disclosed within 10 working days from the date of receipt, and donors whose contributions exceed EUR 12 are disclosed on the CEC website. Donations cannot exceed 10 per cent of the donor's previous annual income.<sup>28</sup> Some ODIHR NAM interlocutors assessed donation limits as being too restrictive.

The CEC set the expenditure limit, which is linked to the total number of voters, to EUR 1.1 million for the presidential election. According to the law, no more than 50 per cent of the spending limit can be used for television advertisements. The CEC has discretion to count the expenses incurred before the start of the campaign towards the spending limit if it considers that the expenses related to the electoral campaign. All campaign finance transactions must be made via a dedicated bank account.

Contestants must provide final campaign finance reports to the CEC no later than 25 days after the final election results are published, and the CEC forwards these reports to the STI for auditing.<sup>29</sup> All financial and audit reports must be published by the CEC within 100 days of the announcement of final results.

The CEC may impose financial sanctions in cases of gross violations of the law and turn to law enforcement agencies in cases of criminal infringements. Contrary to prior ODIHR recommendations, the law does not provide for a graduated system of sanctions for campaign finance violations and the CEC can either impose very strict financial sanctions, such as the loss of public funds for a two-year period, or minor administrative fines. Several ODIHR NAM interlocutors questioned the consistency of recent decisions pertaining to campaign and party financing.<sup>30</sup>

## H. MEDIA

The Constitution guarantees the freedoms of expression and information, and prohibits censorship and hate speech. However, contrary to a prior ODIHR recommendation, defamation remains subject to criminal penalties, despite some initiatives in parliament. The media landscape is diverse and constitutes some 36 television and 43 radio broadcasters and some 200 print newspapers at the national, regional and local levels, as well as numerous Internet-based media. However, stakeholders informed the ODIHR NAM that ownership of the broadcast media market remains concentrated.

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<sup>27</sup> See the [2018 ODIHR Opinion on Certain Provisions of the Law on Funding of and Control of Funding of Political Campaigns](#), which recommended "...a clear distinction between contributions to the campaign of a campaign participant and campaigning directly by natural persons or legal entities that is independent of the campaign of a campaign participant. In addition, in order to eliminate the possibility of circumventing prohibitions on third party financing in funding election campaigns and political party activities, Article 12.2 could be reviewed with an aim to more clearly define the term 'third parties'. The law could also prescribe comprehensive reporting requirements for third parties".

<sup>28</sup> Donors who contribute more than 12 EUR must also declare income and assets to the CEC.

<sup>29</sup> Under certain circumstances in which an external audit is required, final reports must be submitted within 85 days after the election results are published.

<sup>30</sup> In December 2018, the CEC found no violation when the ruling LFGU party distributed free traditional costumes to voters. In March 2018, the CEC found that the opposition Liberal party had received an illegal campaign contribution during 2016 parliamentary election when members attended a workshop financed by a legal entity, and the party's public funding was reduced.

The CEC oversees all electoral media content during the campaign period, while the Radio and Television Commission (RTC) can react to content that incites hatred, including on social networks.<sup>31</sup> Registered candidates are provided with free airtime on a strictly equal basis, usually provided in the format of candidate debates organized by the CEC and the public broadcaster, Lithuania Radio and Television (LRT).<sup>32</sup> Private media are obliged to provide contestants with equal conditions for paid advertising. Such advertising must be clearly marked, be at least 30 seconds in duration, include direct presentation of campaign platforms, and not be published on the front pages of print media. The CEC does not conduct media monitoring, but informed the ODIHR NAM that they will contract external monitoring services for this campaign.

Media conduct during the campaign is closely regulated, including by the PEL and the Law on Public Information. The CEC routinely organizes workshops in collaboration with the RTC and the Lithuanian Union of Journalists to familiarize broadcast journalists with election-related media regulations. In line with a prior ODIHR recommendation, the CEC has issued guidance to media stakeholders explaining the difference between political information and political advertisement.

In December 2018, in an attempt to transpose certain provisions of the 2018 European Union directive on audio-visual media, the chairperson of the RTC together with the parliamentary committee on culture introduced amendments to the Law on Provision of Information to the Public which would empower the RTC to restrict audio-visual media content that constitutes a threat to national interests.<sup>33</sup> Several ODIHR NAM interlocutors opposed the draft amendments as an undue restriction to freedom of expression, and criticized the lack of public consultation prior to their introduction in parliament.<sup>34</sup> A final parliamentary vote on adoption of the proposed amendments is expected in April.

In addition, members of the ruling LFGU have introduced amendments to the Law on the Public Broadcaster, which envisions establishing a new governance board to manage LRT.<sup>35</sup> Most ODIHR NAM interlocutors expressed confidence in the work of LRT and indicated concern that the proposed structural changes could undermine its independence.<sup>36</sup>

## I. COMPLAINTS AND APPEALS

Decisions of election commissions can be appealed by candidates' representatives to the higher-level election commission. CEC decisions, excluding the decision on final election results, may be appealed to the Supreme Administrative Court. PEC decisions regarding errors in the voter list may be appealed to the regional administrative court, which is the final instance. Additionally, voters and observers have a right to make remarks or written objections to an election commission against its actions or inaction. Most ODIHR NAM interlocutors expressed a high level of trust in the institutions dealing with the resolution of election-related disputes.

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<sup>31</sup> The RTC informed the ODIHR NAM of an increased role in recent elections given the increased presence of inflammatory political rhetoric on social media.

<sup>32</sup> According to LRT, four debates will be scheduled in advance of the first round of voting, and an additional two between rounds, if applicable.

<sup>33</sup> See the [full text of the directive](#), which should be implemented by EU member states within 21 months of its publication.

<sup>34</sup> According to ODIHR NAM interlocutors, the proposed amendments would allow RTC to restrict content that threatens national identity, security or democratic institutions. The draft amendments remain in committee, are not publicly available, and were not shared with the ODIHR NAM.

<sup>35</sup> The amendments would reduce the terms of LRT members and change its formation procedures.

<sup>36</sup> See also the public statements and letters of [LRT](#) and the [European Broadcasting Union](#).

The PEL provides 48 hours to consider complaints against decisions of election commissions, but deadlines for filing complaints prior to election day are not generally provided. In addition, while complaints related to the completion of PEC results protocols should be filed to and considered by the MECs within 24 hours, respectively, corresponding deadlines are not provided for similar complaints against MEC results protocols. Only the parliament can challenge the final election results to the Constitutional Court, which has 120 hours to investigate the complaint and make a recommendation to parliament. The parliament's final decision is rendered by a simple majority vote. Contrary to a prior ODIHR recommendation, the PEL does not provide a mechanism for the parliament's final decision on election results to be appealed to a judicial authority.<sup>37</sup>

#### **J. CITIZEN AND INTERNATIONAL OBSERVATION**

In line with prior ODIHR recommendations, amendments to the PEL provide for domestic non-governmental organizations to accredit citizen observers, in addition to international organizations. Electoral contestants can also appoint up to two observers per PEC and representatives to the CEC and MECs. All CEC sessions are public, including via live audio-visual transmission on the CEC website. Sessions of all commissions are open to media.

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

Most ODIHR NAM interlocutors expressed a high level of confidence in the overall electoral process and in the administration of voting day procedures. Nevertheless, a number of previous ODIHR recommendations have not been implemented, and several ODIHR NAM interlocutors highlighted aspects that would merit specific attention from an ODIHR observation activity, particularly the election administration including accessibility of the electoral process for voters with disabilities and implementation of new cyber security measures, restrictions on candidacy, campaign finance regulations, and proposed media regulations. Based on these considerations, the ODIHR NAM recommends the deployment of an Election Assessment Mission for the 12 May presidential election, subject to the availability of resources.

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<sup>37</sup> The Constitutional Court has twice reviewed the validity of election results (in 2009 and 2012); each time, the parliament's decision adhered to the recommendation of the Court. According to the Court, a contrary decision of parliament could be challenged to the Constitutional Court pursuant to its constitutionally-granted authority.

## **ANNEX: LIST OF MEETINGS**

### **Ministry of Foreign Affairs**

Darius Staniulis, Director, Department for UN, International Organizations and Human Rights  
Laima Birštunaitė, Second Secretary, UN and Global Policy Division  
Erika Šalčiuvienė, Chief Officer, Consular Information Division

### **Ministry of Justice**

Eugenijos Šuliokas, Adviser to the Minister of Justice  
Žana Jaročovienė, Adviser in the Group of Legal Institutions

### **Central Election Commission**

Laura Matjošaitytė, Chairperson  
Lina Petronienė, Head of the Division for Political Party and Campaign Finance Control  
Kristina Ivanauskaitė-Pettinari, Head of the Training and Communication Unit  
Darius Gaižauskas, Head of the Division of Information Technologies  
Rokas Stabingis, Data Protection Officer

### **Constitutional Court**

Dainius Žalimas, President  
Ingrida Danėlienė, Chancellor

### **Supreme Administrative Court**

Gintaras Kryževičius, President of the Court  
Rytis Krasauskas, Judge  
Dalia Višinskienė, Judge  
Johanas Baltrimas, Adviser

### **National Cyber Security Defence Centre**

Deividas Stumbras, Adviser  
Eglė Ivanovaitė, Head of Incident Management Section

### **Radio and Television Commission**

Mantas Martišius, Chairperson  
Vincentas Vobolevičius, Commission Member

### **National Radio and Television of Lithuania**

Monika Garbačiauskaitė-Budrienė, Director General  
Armen Airapetian, Legal Advisor  
Jolanta Tarasevičienė, Head of International Relations

### **Political Parties**

Rasa Juknevičienė, Radvilė Morkūnaitė-Mikulėnienė, MPs, Homeland Union – Christian Democrats  
Bronius Markauskas, Rūta Miliūtė, MPs, Lithuanian Farmers and Greens Union  
Rita Tamašunienė, Vanda Kravčionok, Valdemar Urban, MPs, Lithuanian Poles' Electoral Action Group  
Rasa Budbergytė, MP, Social Democratic Party

### **Civil Society**

Dovilė Juodkaitė, President, Lithuania Disability Forum  
Dainius Radzevičius, Chairperson, Lithuanian Union of Journalists  
Julius Lizūnas, Board Member, "White Gloves" Civic Movement