ICELAND

PRESIDENTIAL ELECTION
27 JUNE 2020

ODIHR NEEDS ASSESSMENT MISSION REPORT
2-8 June 2020

Warsaw
19 June 2020
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ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an invitation from the Permanent Mission of Iceland to the OSCE to observe the 27 June 2020 presidential election, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a distant Needs Assessment Mission (NAM) from 2 to 8 June. The NAM included Alexey Gromov, ODIHR Senior Election Adviser, and Kakha Inaishvili, ODIHR Election Adviser.

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

ODIHR would like to thank the Ministry for Foreign Affairs (MFA) for its assistance in organizing the visit. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and for sharing their views.

II. EXECUTIVE SUMMARY

Iceland is a parliamentary republic, with a president serving as the head of state, directly elected for a four-year term without term limits. Presidential election scheduled for 27 June 2020 is primarily regulated by the Constitution and the law on presidential and parliamentary elections. Recent legal amendments touch upon candidate registration and campaign finance issues; however, these amendments are mostly of a technical nature. Overall, ODIHR NAM interlocutors assessed the electoral legislation as providing a sound basis for the conduct of democratic elections.

The responsibility for the organization of the election is shared between state bodies, election commissions, municipalities, and the judiciary. The Ministry of Justice oversees most of the technical preparations. All ODIHR NAM interlocutors expressed full confidence in the professionalism and impartiality of the election administration.

All citizens over 18 years of age have the right to vote. There are some 252,000 registered voters. Voter registration is passive, except for those residing abroad for more than eight years who must actively register. No concerns were expressed regarding the accuracy of the voter lists.

Eligible voters over 35 years of age may stand for the presidency. Prospective candidates must be supported by signatures of at least 1,500 voters, but one voter can only sign in support of one candidate. The signatures could be collected on paper and, for the first time, electronically. Only two candidates, including the incumbent, are registered for this election. No ODIHR NAM interlocutors expressed concerns regarding the inclusiveness of the candidate registration process.
The Constitution protects fundamental freedoms and no ODIHR NAM interlocutors raised concerns about the ability to campaign freely. Election campaigning is largely unregulated. While political parties are not prohibited from supporting candidates, all parties met with by the ODIHR NAM stated that they do not plan to campaign in what they consider to be a non-partisan contest.

Electoral campaign can be financed by private donations only. No public financing is available for presidential candidates. Campaign finance legislation sets limits for donations and expenditures and obliges candidates to submit reports on their finances. The National Audit Office, which is responsible for monitoring campaign finance, provides guidance to candidates, but does not have the authority to directly audit the candidates’ reports and impose sanctions in case of violations.

The media environment is pluralistic and television is the main source of political information, followed by online and social media. The public broadcaster plans to broadcast interviews and debates between candidates with the aim to present their views to the voters. Some ODIHR NAM interlocutors expressed concerns over considerable coverage of the incumbent in public media. Although none of the ODIHR NAM interlocutors questioned the media freedom or diversity of political views in the media, some raised concerns over the concentration of private media ownership.

Election-related complaints can be filed with the Supreme Court by any interested party or voter. Some ODIHR NAM interlocutors noted that the possibility of judicial appeal only after the election may be not effective, particularly for candidate registration and campaign-related disputes.

All ODIHR NAM interlocutors expressed full confidence in the integrity of the electoral process and the ability of the election administration to professionally conduct transparent elections. All ODIHR NAM interlocutors welcomed a potential election observation activity, noting the value of previous ODIHR assessments and recommendations. While isolated concerns were raised on media coverage and adjudication of complaints, these were not identified by electoral stakeholders as significantly impacting the upcoming election and benefitting from an additional assessment by ODIHR. Based on this, the ODIHR NAM does not recommend deploying an election-related activity for the 27 June presidential election. ODIHR, however, reiterates that a number of its previous recommendations remain valid and reaffirms its readiness to support the authorities in ongoing electoral reform.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Iceland is a parliamentary republic with legislative powers vested in the directly elected unicameral parliament (Althingi) which is composed of 63 deputies. The president is elected for four-year term and serves as head of state. The president mainly plays a ceremonial role and enjoys moral authority, but formally holds both legislative and executive powers. According to the Constitution, the president appoints the prime minister and other government ministers, dissolves the parliament and can veto laws adopted by parliament, in which case the law is put for

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1 Eight parties are currently represented in the parliament: Independence Party with 16 members (MPs), Left-Green Movement (10 MPs), Progressive Party (8 MPs), Centre Party (9 MPs), Social Democratic Alliance (7 MPs), Pirate Party (6 MPs), Liberal Reform Party (4 MPs), and People’s Party (2 MPs). One MP is independent.
popular vote. In practice, however, the president’s decisions are typically based on the recommendations of the government. Executive power is exercised by the government led by the prime minister.

Last early parliamentary elections took place on 28 October 2017 following the crisis of the government due to the alleged cover-up of an affair involving then prime minister’s father. The early elections resulted in a new coalition composed of the Left-Green Movement, the Independence Party and the Progressive Party, with Katrín Jakobsdóttir (Left-Green Movement) as the Prime Minister.

Presidential election will be held on 27 June. The incumbent president, Guðni Thorlacius Jóhannesson elected in 2016, is standing for re-election.

Women are well represented in political life, currently holding some 40 per cent of seats in the parliament and 5 out of 10 ministerial positions, including the Prime Minister. Women have previously run several times for the presidency, and Vigdís Finnbogadóttir was a president from 1980 to 1996. At the same time, the UN Committee on the Elimination of Discrimination against Women has recommended introduction of temporary special measures to increase the participation of women in political and public life.2

ODIHR previously deployed Election Assessment Missions for the 2013 and 2009 parliamentary elections and Election Expert Team for 2017 early parliamentary elections.3 The final report on the 2017 elections concluded that “the elections were administered efficiently and professionally with respect for fundamental principles of democratic elections. They were characterized by a high level of public confidence in the election administration and active voter participation”.

B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The president is directly elected for a four-year term, without term limits. The candidate that obtains the highest number of valid votes in a single-round election becomes president. According to the Constitution, if there is only one candidate, that person is elected unopposed without the voting.4 Several ODIHR NAM interlocutors noted that some provisions related to the powers of the president should be revised to provide for more clarity. Changing the simple majority single round elections into a two-round majoritarian system has also been part of public discourse, however less so in recent years.

The presidential election is primarily regulated by the 1944 Constitution (last amended in 2013), the 1945 Law on Candidacy and Election of the President of Iceland (LCEPI, last amended in 2020) and the 2000 Parliamentary Elections Law (PEL, last amended in 2020). The legal framework is further complemented by other laws and regulations by various state institutions.5

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2 See UN Committee on the Elimination of Discrimination against Women Concluding observations on the combined seventh and eighth periodic reports of Iceland (10 March 2016), CEDAW/C/ISL/CO/7-8, paragraph 26(b).
3 See previous ODIHR election-related reports on Iceland.
4 This situation occurred in 1945, 1949, 1956, 1960, 1964, 1972, 1976, 1984, 1992, 2000 and 2008. In all these cases, the only candidate for the presidency was the incumbent.
5 Other laws include the 2006 Law on the Finances of Political Organisations and Candidates and their Information Disclosure (Campaign Finance Law), the 2011 Media Law, and the 2013 Law on National Broadcaster.
Iceland is a party to major international and regional instruments related to the democratic elections.\(^6\)

The electoral legal framework has been amended since the last presidential election. These amendments were mostly of a technical nature, including on voter registration, candidate registration and campaign finance. The April 2020 temporary amendments allowed for collecting of electronic signatures in support of candidates as a measure facilitating nomination of candidates and holding elections during the COVID-19 pandemic (see Candidate Registration). Most of the ODIHR NAM interlocutors confirmed that the amendments enjoyed broad consensus among political stakeholders and assessed the electoral legislation as providing a sound basis for the conduct of democratic elections.

Many ODIHR NAM interlocutors opined that there was no urgent need to reform the legal framework for presidential elections. At the same time, adopting a unified electoral code was considered as a key issue for anticipated electoral reform with the aim to regulate all types of elections in a single law. Other elements of electoral legislation, such as integration of data protection rules in combination with transparency and inclusiveness in elections, counting process as well as voting procedures for voters abroad, were mentioned as potential areas that could benefit from further refining. Several ODIHR NAM interlocutors noted a need to explicitly provide for international observation, the provision currently missing in the law.\(^7\)

C. ELECTION ADMINISTRATION

The responsibilities for the organization of presidential election are shared between several institutions, including the Ministry of Justice (MoJ), Supreme Court, 6 Senior Election Commissions (SECs) and 72 Local Election Commissions (LECs). Each LEC coordinates the work of a number of polling stations in their respective municipalities. The MFA co-ordinates out-of-country early voting in some 240 Icelandic embassies and consulates.

The MoJ oversees most of the technical preparations for the election but does not have direct authority over the election commissions.\(^8\) It is responsible for registering candidates, as well as developing and distributing all election-related materials, including ballots. The MoJ provides a wide range of election-related information on its website accessible in different formats.

The SECs are composed of five members each nominated by the parliamentary political parties and appointed by parliament after each parliamentary elections for a four-year period. Any parliamentary party not represented in the SECs, may appoint a member with an observer status and an advisory vote. The LECs are established by the municipalities and have three to four members. Each commission member at all levels has a substitute.

The SECs oversee the electoral process at constituency level. They are responsible for the receipt and verification of candidate supporting signatures, training members of subordinate LECs,

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\(^7\) Paragraph 8 of the 1990 OSCE Copenhagen Document provides that “the participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place”.

\(^8\) In 2017, the MoJ has taken over the functions previously held by the Ministry of Interior of technical preparations for elections, including the printing of ballots and information materials for elections.
counting votes, and transferring results protocols and other materials to the Supreme Court. The LECs organize and conduct voting at polling stations and transfer ballot boxes to the SECs (in a specially designated locations), where counting and tabulation should take place.

The Supreme Court receives all voting results protocols, rules on disputed ballots, announces the election results, and decides on complaints regarding the election. It is also tasked to organize the inauguration of the elected president.

While the legislation provides for early voting that starts eight weeks before election day, registration of candidates was finalized only on 27 May. ODIHR has previously recommended that early voting should not begin before candidatures have been confirmed. In-country early voting takes place at the offices of nine District Commissioners throughout the country. A voter may cast multiple early votes, as well as cast a ballot on election day, and only the last vote is counted. Some interlocutors informed the ODIHR NAM that due to limited number of the offices, especially in rural areas, voters have to travel long distances to cast their votes early. They considered that authorities could have taken this fact into consideration and establish more offices for voters’ convenience.

Special arrangements also allow for early voting to take place at hospitals, prisons and ships-at-sea. The law provides for mobile voting for a limited category of voters not able to cast their vote on election day in a polling station. According to many ODIHR NAM interlocutors, all polling stations are accessible to voters with physical disabilities. Voter with special needs can be assisted in polling stations by a person of their choice. The ODIHR NAM was informed that Braille templates are made available in polling stations for visually impaired voters. Several interlocutors informed the ODIHR NAM that special measures would be taken on election day with the aim of countering potential spread of COVID-19 disease, including through opening more voting premises, regular disinfection of voting areas and materials, enhanced queue control and separation of entry and exit ways in the polling stations.

All ODIHR NAM interlocutors expressed full confidence in the professionalism and impartiality of the election administration, although some noted inconsistencies in legislation and practice pertaining to election day proceedings.

D. VOTER REGISTRATION

Icelandic citizens aged 18 years or older on election day and having a permanent domicile in Iceland are eligible to vote. Voters residing abroad remain in the voter register for eight years following their departure, after which they must actively register for elections every four years.

Voter registration is passive and Registers Iceland maintains a central database of voters based on the population register. After elections are called, Registers Iceland provides extracts of the voter list to the municipalities, who split them by polling stations. The lists are made available for public scrutiny 10 days before election day (17 June for this election). Voters can check their records and addresses of voting premises online or at local municipal offices and request changes in respective municipalities. Corrections, except for changes of residence, can be made up to and

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9 District Commissioners are appointed by the MoJ and have wide administrative responsibilities.

10 Registers Iceland, is a state institution under the Ministry of Transport and Local Government, which maintains a Property and National Registry and issues passports, ID cards and other various documents. Registers Iceland also operates information systems for district commissioners and municipalities.
According to Registers Iceland, 252,217 voters are registered for this election, including 11,564 living abroad. No concerns were expressed to the ODIHR NAM regarding the accuracy of the voter lists.

E. CANDIDATE REGISTRATION

Eligible voters over 35 years of age may stand for presidency. Prospective candidates have to submit an application to the MoJ, supported by signatures of between 1,500 and 3,000 voters that have been certified by the SECs for eligibility of supporters. A voter can only sign in support of one candidate. By law, candidates have to collect a minimum number of signatures from each of the four quarters of the country, which is calculated in proportion to the number of voters in that region.

For this election, due to the restrictions on gatherings and movement imposed in response to the Covid-19 pandemic, the law was amended to allow voters to submit signatures not only on paper but electronically via ID authentication process. Registers Iceland has developed software, which allows the SECs to check for duplicate signatures and confirm the eligibility of supporters. According to Registers Iceland, some 87 per cent of signatures submitted by candidates were electronic.

No ODIHR NAM interlocutors expressed concerns regarding the electronic signature collection and verification process and some considered that electronic collection could be used for parliamentary elections as well. ODIHR NAM interlocutors from election administration noted that the boundaries of the quarters where the support signatures are collected do not correspond to the areas of responsibilities of the SECs. In addition, the voter register is updated and finalized for specific elections after the nomination of candidates. These inconsistencies pose practical challenges for the SECs in their verification process. A number of the ODIHR NAM interlocutors noted that the requisite nationwide number of support signatures can no longer be considered as sufficient enough to discourage candidates without a realistic chance of winning to stand for election.

The MoJ reviewed the applications, certified that the conditions for registration were met, and announced the names of the candidates on 27 May. A total of six individuals had declared their intention to stand for this election; however, only two of them, President Jóhannesson and Guðmundur Franklín Jónsson, eventually submitted their applications and were registered. The ODIHR NAM interlocutors raised no concerns regarding the candidate registration process, but some noted that more could be done by the authorities to enhance access of women and people with disabilities to candidacy and campaign.

11 For instance, changes related to acquiring citizenship or removal of a voter from the register due to death can be introduced up to and on election day.

12 Paragraph 77 of the 2010 ODIHR and Venice Commission Guidelines on Political Party Regulation recommends that “in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party”.

13 According to the Prime Minister’s announcement from 18 March, at least 1,224 signatures are needed from the southern quarter of the country, 160 from the northern, 59 from the western, and 57 from the eastern quarter.

14 The amendment is provisional and applicable only for this election. On 16 April, the MoJ issued detailed rules introducing template forms, setting user interface and defining required documents for electronic support.


F. ELECTION CAMPAIGN AND CAMPAIGN FINANCE

The constitution guarantees freedoms of association, assembly and expression and no ODHIR NAM interlocutors raised concerns about the ability to campaign freely. Election campaign remains unregulated and there is no official campaign period. Campaign may take place up to and including on election day. The candidates primarily rely on broadcast and social media for their campaign.

While political parties are not prohibited from nominating or supporting candidates, all parties met with by the ODHIR NAM stated that they do not plan to participate in the campaign, viewing the election as a non-partisan contest. According to many ODHIR NAM interlocutors, the campaign is expected to focus on whether to maintain the largely ceremonial role of the president or to expand the presidential powers pertaining to political decisions.

Electoral campaign can be financed by private donations only. No public financing is available for presidential candidates. Donations from state, foreign and anonymous sources are forbidden. Candidates can receive private donations from legal entities and individuals up to ISK 400,000 (some EUR 2,600) per calendar year, including in-kind contributions. Donations in excess of the limit are to be promptly returned. A spending limit is calculated according to the number of adult residents and for this election amounts to some ISK 73.6 million.

The National Audit Office of Iceland (NAO) is responsible for monitoring campaign finance and provides guidance to candidates through its instructions. Candidates are obliged to submit an independently audited statement on their campaign contributions and expenditures within three months of an election. Following the 2018 legal amendments, the NAO is responsible for publishing full candidates’ reports, including the sources of donations exceeding ISK 300,000. The NAO may also request additional information or documentation and order independent audit of the reports submitted by candidates, should it consider that a report contains incorrect or inaccurate information.

The Campaign Finance Law foresees fines and criminal sanctions for not submitting the reports or for submitting incomplete information to the NAO as well as for accepting illegal donations. The NAO does not have the authority to impose sanctions, but turns to the police for investigation.

G. MEDIA

The media environment is pluralistic and includes a range of television (TV), online and print media. TV is the main source of political information, followed by online and social media and daily newspapers. The two television channels of the public broadcaster RÚV and the privately-owned Channel 2 enjoy the most viewers. Two newspapers, Morgunbladid and Fréttabladid, retain a strong position in influencing political opinion despite falling circulation.

Some concerns were noted regarding the concentration of private media ownership and dependence of certain media on specific businesses. Many ODHIR NAM interlocutors supported

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15 EUR 1 is approximately ISK 151 (Icelandic Crown).
16 If it is impossible to return the donation, it should be separately reported and deposited in a separate bank account.
17 See the 2019 Guideline of the National Audit Office for more details.
18 The candidates are exempt from this duty if campaign spending is less than ISK 550,000.
government’s plan to provide considerable financial support to private media within a general post-pandemic support package. At the same time, they raised concerns over unclear nature of the mechanism for allocation of subsidies to individual media outlets, potentially affecting the independence of the media. No ODIHR NAM interlocutors questioned the media freedom or diversity of political views in the media.

By law, RÚV is tasked to provide equal coverage of all candidates and introduce their programmes to the voters. Each candidate is entitled to a total of up to four minutes of free airtime. In addition, the candidates may also purchase unlimited advertisement airtime on public and private broadcasters, and relevant materials should be clearly labelled as paid for. For this election, RÚV scheduled radio interviews and a series of TV debates to provide the candidates with an opportunity to present their views to the voters. RÚV also informed the ODIHR NAM of their plans to post voter education materials and candidates’ campaign spots on its website.

Majority of ODIHR NAM interlocutors expressed satisfaction with overall access to both private and public media during elections. However, representatives of some political parties and civil society questioned ability to cover the two contestants in a balanced manner, especially by RÚV, due to the fact that the incumbent president was receiving considerable coverage in his official capacity outside the free airtime.

The activities of print, broadcast and online media are mainly regulated by the Media Law that obliges media to provide objective, reliable and impartial news. The Media Commission has a general obligation to ensure that media comply with the law. A campaign-related complaint against media can be submitted to the Commission by any citizen or electoral stakeholder, upon which the Commission may release an opinion. The Media Commission may not apply any sanctions to any media on electoral matters; however, its opinions are treated seriously by the media who adhere to effective self-regulatory mechanisms. The Media Commission is not conducting media monitoring.

H. COMPLAINTS AND APPEALS

Administrative complaints pertaining to voter registration can be filed with the municipal authorities and the SECs who resolve the disputes jointly with the Registers Iceland. Complaints related to election administration, including on election day, can be filed with respective election commissions.

Election-related complaints and appeals to a judicial body can only be made after the election. Such complaints can be filed with the Supreme Court by any interested party or a voter at least five days before the Supreme Court meets to validate and announce the election results. The time of this meeting is not specified in the law, but it must be held between election day and the date that the newly-elected president takes office. The Supreme Court decisions are final.

Some ODIHR NAM interlocutors noted that the possibility of judicial appeal only after the election may be not effective, particularly in cases of complaints regarding candidate registration.

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19 The Media Law stipulates that the media must respect democratic principles and safeguard freedom of expression and must ensure that it meets the requirements for objectivity and accuracy.
20 The Media Commission was established in 2011. The Minister of Education, Science and Culture appoints all five members of the Commission’s Board, including directly its Chairperson, two members upon nomination of the Supreme Court, and one member nominated by the Association of Universities and by the Press Council each.
21 In all other non-electoral matters, the Media Commission passes a decision that further can serve as a basis to initiating proceedings according to administrative law.
Furthermore, fragmented system of legal redress with several bodies and mechanisms of decision making is viewed as ineffective by some stakeholders.

IV. CONCLUSION AND RECOMMENDATION

All ODIHR NAM interlocutors expressed full confidence in the integrity of the electoral process and the ability of the election administration to professionally conduct transparent elections. All ODIHR NAM interlocutors welcomed a potential election observation activity, noting the value of previous ODIHR assessments and recommendations. While isolated concerns were raised on media coverage and adjudication of complaints, these were not identified by electoral stakeholders as significantly impacting the upcoming election and benefitting from an additional assessment by ODIHR. Based on this, the ODIHR NAM does not recommend deploying an election-related activity for the 27 June presidential election. ODIHR, however, reiterates that a number of its previous recommendations remain valid and reaffirms its readiness to support the authorities in ongoing electoral reform.

Paragraph 5.10 of the 1990 OSCE Copenhagen Document states that “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity.”
ANNEX: LIST OF MEETINGS

Ministry for Foreign Affairs
Svanhvíð Adalsteinsdóttir, Head, Consular Affairs Department

Ministry of Justice
Bryndís Helgadóttir, Director, Department of Legal Affairs
Hjórdís Stefánsdóttir, Senior Legal advisor
Þorvaldur Heiðar Þorsteinsson, Legal advisor

Supreme Court
Benedikt Bogason, Vice President

Registers Iceland
Guðni Rúnar Gíslason, Manager of Information & Communication
Índriði Björn Ármannsson, Lawyer

National Audit Office
Guðrún Jenný Jónsdóttir, Deputy Auditor General
Birgitta Arngrímsdóttir, Head of Human Resources

Media Commission
Elfa Ýr Gylfadóttir, Director
Heiðdis Lilja Magnúsdóttir, Legal Advisor

Constitutional and Supervisory Committee of the Parliament
Thorhildur Sunna Ævars dóttir, Pirate Party, MP, Chair
Líneik Anna Sævars dóttir, Progressive Party, MP, First vice-chair
Guðmundur Andri Thorsson, Social Democratic Alliance, MP, Second vice-chair
Þorsteinn Sæmundsson, Centre Party, MP, Member
Óli Björn Káráson, Independence Party, MP, Member
Brynjar Níelsson, Independence Party MP, Member
Kolbeinn Óttarsson Proppé, Left-Green Movement, MP, Member
Þórunn Egilsdóttir, Progressive Party, MP, Member
Andrés Íngi Jónsson, Independent MP, Member
Björn Freyr Björnsson, Legal Advisor, Committee Secretary

Reykjavík City Council
Helga Björk Laxdal, Director of the Office
Bjarni Þóroddsson, Election Manager
Pall Hilmarsson, Data Specialist

Political Parties
Gunnar Bragi Sveinsson, MP, Centre Party
Birgir Árman nsson, MP, Independence Party
Leifur Gunnarsson, Lawyer, Left-Green Movement
Dagbjartur Gunnar Lúdvíksson, Adviser, Liberal Reform Party
Sigurjón Arnórsson, Senior Advisor to Chairperson, People’s Party
Thorhildur Sunna Ævars dóttir, MP, Pirate Party
Björn Leví Gunnarsson, MP, Pirate Party
Eiríkur Rafín Rafnsson, Member, Pirate Party
Helga Vala Helgadóttir, MP, Social-Democratic Alliance
Guðmundur Andri Thorsson, MP, Social-Democratic Alliance

Icelandic National Broadcasting Service (RÚV)
Heidar Órn Sigurfinnsson, Deputy Head of News

Civil Society
Tatjana Latinovic, President, Icelandic Women's Rights Association
Brynhildur Heiðar-og Ómarsdóttir, Secretary General, Icelandic Women's Rights Association
Ólafur Þórður Harðarson, Professor of School of Social Sciences, University of Iceland
Gústaf Adolf Skúlason, Director, Institute of Public Administration and Politics, University of Iceland