



Office for Democratic Institutions and Human Rights

CANADA

PARLIAMENTARY ELECTIONS

19 October 2015

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

19-22 May 2015



Warsaw
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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

In anticipation of an invitation to observe the parliamentary elections, expected on 19 October 2015, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) to Canada from 19 to 22 May. The NAM included Dr. Beata Martin-Rozumiłowicz, Head of the OSCE/ODIHR Election Department, and Dr. Richard Lappin, OSCE/ODIHR Senior Election Adviser.

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

The OSCE/ODIHR would like to thank the Department of Foreign Affairs, Trade and Development for their assistance in organizing the visit. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the mission and to share their views.

II. EXECUTIVE SUMMARY

In the upcoming parliamentary elections, voters will elect members of the House of Commons. Members are elected under a majoritarian system within single-member constituencies. Following the 2011 census, the number of constituencies was increased from 308 to 338 and boundaries were redrawn. All political parties met with by the OSCE/ODIHR NAM expressed satisfaction with the process and outcome of the boundary delimitation exercise.

Elections are comprehensively regulated by the Elections Act. In 2014, significant amendments were made to the law, including in respect of election administration responsibilities, voter identification, campaign finance, and complaints and appeals. A number of prior OSCE/ODIHR recommendations were addressed. However, several parties and civil society representatives expressed concerns about a lack of meaningful consultation and rationale for the changes.

Additional amendments are currently before parliament. The proposed changes include measures for voter registration and identification for citizens residing abroad. If passed, the amendments would come into force 60 days after their adoption. Several interlocutors informed the OSCE/ODIHR NAM that late changes may negatively affect electoral participants' understanding of provisions and their ability to fulfil their roles in an effective and timely manner.

The upcoming elections will be administered by Elections Canada at the national level, 338 Returning Officers in each of the constituencies, and polling staff in some 65,000 polling stations. Voters may cast their ballot on election day, in advance, or by post. A number of tools and services to assist voters with disabilities are provided. While basic voter information is available in over 40 languages to inform aboriginal and minority groups, recent reforms removed Elections Canada

powers to explicitly encourage voter turnout. All OSCE/ODIHR NAM interlocutors expressed full confidence that the upcoming elections would be administered in a professional, transparent, and impartial manner.

Citizens aged 18 years or older by election day are entitled to vote. There are no restrictions based on disability or criminal conviction. Voter registration is essentially passive and no concerns were expressed to the OSCE/ODIHR NAM regarding the inclusiveness of registration or the accuracy of voter lists. Stricter voter identification rules were introduced in 2014. While some parties supported the changes as a means to protect electoral integrity, others believe that it may disenfranchise voters, particularly aboriginal, student, elderly, and low-income voters who are less likely to possess the required ID or be aware of the changed rules.

In 2014, the Ontario Superior Court ruled that the withdrawal of voting rights from citizens who have lived abroad for five years or more was unconstitutional. As a result, an estimated 1.4 million Canadians living abroad are now eligible to vote in the upcoming elections. Proposed amendments, however, would require non-resident citizens to actively register for each election according to the same identification rules as resident citizens. Elections Canada and other interlocutors stated that this may make it more burdensome for citizens abroad to vote and to return their ballots in time.

Candidates can stand independently or be nominated by political parties. Nominations should be supported by 100 voters and accompanied by a financial deposit. There are no legal requirements to promote women, but all parties met with by the OSCE/ODIHR NAM noted internal policies to ensure a diversity of candidates. Women hold some 25 per cent of seats in the outgoing House, while aboriginal peoples and national minorities were reported to be underrepresented.

The official campaign begins with the dissolution of parliament. Candidates enjoy broad rights to conduct public meetings, door-to-door canvassing, and election advertising. No interlocutors raised concerns about the ability to campaign freely.

Campaign finance regulations provide for private and public financing. Recent amendments adjusted contribution limits, enhanced reporting requirements, and extended regulation to third parties. OSCE/ODIHR NAM interlocutors generally considered the campaign finance system to be comprehensive and fair. However, there is no requirement to report on campaign expenditures prior to election day.

The media is pluralistic and the Constitution guarantees freedom of expression and the press. During the elections, broadcasters are required to cover the campaign in their news programmes, while paid and free airtime is distributed in an equitable manner. A range of debates among party leaders are envisaged across broadcast media, in English and French. Broadcasters are free to decide the participants and format of the debates. All OSCE/ODIHR NAM interlocutors expressed overall satisfaction with provisions for media access and coverage during elections.

Enforcement of the Elections Act is carried out by the Commissioner of Canada Elections. Anyone may submit a complaint and a range of tools are available to ensure compliance, including prosecution through the courts. Following the 2014 amendments, the Office of the Commissioner was transferred from Elections Canada to the Director of Public Prosecutions. While provisions exist in the revised law to ensure that the Commissioner and Elections Canada can continue to freely share information, some OSCE/ODIHR NAM interlocutors expressed reservations in the change in structure.

All parliamentary parties stated their intention to deploy observers on election day, adding an important layer of transparency. International and citizen observation is not explicitly provided for in the law, but the OSCE/ODIHR NAM was informed that a formal invitation and accreditation to observe the upcoming elections would be extended to the OSCE.

Although the majority of OSCE/ODIHR NAM interlocutors expressed high confidence in the election administration and their ability to organize elections professionally and transparently, most welcomed a potential OSCE/ODIHR observation activity for these elections, recognizing that further improvements could be made and that an external assessment may contribute to this. While several previous OSCE/ODIHR recommendations have been addressed, some areas would benefit from closer attention, including the implementation of a recently revised legal framework and the concomitant impact on voter registration and identification, election administration responsibilities, campaign finance, complaints and appeals, and the participation of women, aboriginal groups, national minorities and persons with disabilities. On this basis, the OSCE/ODIHR NAM recommends the deployment of an Election Assessment Mission for the upcoming elections.

III. FINDINGS

A. POLITICAL BACKGROUND

Canada is a constitutional monarchy with a federal system of parliamentary government. The Crown is the head of state and legislative powers are vested in the bicameral parliament. Members of the lower chamber, the House of Commons, are elected by popular vote, while members of the upper chamber, the Senate, are appointed and serve until the age of 75. In line with the legal framework, elections to the House of Commons are anticipated for 19 October 2015.¹

The party with the largest number of elected representatives traditionally forms the government and its leader serves as prime minister. In turn, the prime minister appoints the cabinet of ministers. While the Crown formally holds executive authority, in practical terms, the executive powers of government are exercised by the prime minister and cabinet. As a federal state, a number of regional competencies and powers are exercised by ten provincial and three territorial governments.² The country has two official languages, English and French. Québec is the only province with a majority French-speaking population.

The last parliamentary elections were held on 2 May 2011 and resulted in five parties elected to the House of Commons. The Conservative Party obtained 167 of the 308 seats at stake to secure a parliamentary majority. The opposition was led by the New Democratic Party with 102 seats, followed by the Liberal Party (34), Bloc Québécois (4), and the Green Party (1).

Women are underrepresented in public office, holding some 25 per cent of seats in the outgoing House, 12 of the 39 ministerial posts, and 3 of the 13 provincial/territorial premier/government leader posts. One parliamentary party at the federal level is headed by a woman. Aboriginal peoples and national minorities are also reported to be underrepresented in political structures.³

¹ In 2007, fixed dates for parliamentary elections were introduced.

² Provinces: Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Québec, Saskatchewan. Territories: Northwest Territories, Nunavut, Yukon.

³ See, UN Human Rights Council "Report of the Independent Expert on Minority Issues" (8 March 2010), A/HRC/13/23/Add.2, p.2. Aboriginal peoples include the First Nations, Métis, and Inuit.

Previously, the OSCE/ODIHR deployed an Election Assessment Mission for the 23 January 2006 parliamentary elections. The mission concluded in its final report that the elections were administered “in a professional manner and according to procedures which enjoy the overall trust of candidates and voters”.⁴ The report included several recommendations for the authorities on how electoral processes may be improved and brought more closely in line with OSCE commitments.⁵

B. LEGAL FRAMEWORK

Parliamentary elections are primarily regulated by the Constitution, the Elections Act, the Electoral Boundaries Readjustment Act, and opinions issued by Elections Canada. Other relevant legislation includes the Charter of Rights and Freedoms, the Human Rights Act, the Broadcasting Act, and relevant provisions of the Criminal Code, as well as judicial decisions at the federal level, notably those of the Supreme Court. In line with a prior OSCE/ODIHR recommendation, all legislation is readily accessible to the public.

In 2014, the parliament adopted the Fair Elections Act (C-23) which introduced significant amendments to the Elections Act, including in respect of election administration responsibilities, voter identification, campaign finance, and complaints and appeals. A number of prior OSCE/ODIHR recommendations were addressed in the law. However, several parties and civil society representatives expressed concerns about a lack of meaningful consultation and the rationale for the changes. The amendments were passed with a slim majority in the parliament, with limited support from the opposition.⁶

Additional amendments to the Elections Act (C-50) are currently before the House of Commons. The proposed amendments focus on new requirements for voter registration and identification for citizens residing abroad. The amendments, if passed, would come into force 60 days after their adoption. Elections Canada and several other interlocutors informed the OSCE/ODIHR NAM that late changes may negatively affect electoral participants’ understanding of provisions and their ability to fulfil their roles in an effective and timely manner.

The law provides for election observation by candidate representatives. All parliamentary parties stated their intention to deploy observers on election day, adding an important layer of transparency. International and citizen observation is not explicitly provided for and is left to the discretion of the Chief Electoral Officer of Canada. The OSCE/ODIHR NAM was informed that a formal invitation and accreditation to observe the upcoming elections would be extended to the OSCE.

C. ELECTORAL SYSTEM

Members of the House of Commons are elected by a simple majority vote in single-member ridings (constituencies). Vacancies arising between elections are filled through by-elections. The Constitution requires that the number of seats in the House be recalculated after each decennial census to reflect population changes and movements, subject to certain requirements.⁷ Following

⁴ All previous OSCE/ODIHR reports on Canada are available at: www.osce.org/odihr/elections/canada.

⁵ In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”.

⁶ Of 269 votes cast, 146 were in favour and 123 against. See: www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&Bill=C23&Parl=41&Ses=2&billId=6398775&View=5.

⁷ As per the Constitution, the number of constituencies cannot be fewer than (1) the number of seats allocated to the province or territory in the Senate, or (2) the number of seats it held in the House either in 1976 or during the 33rd parliament elected in 1984.

the 2011 census, the parliament approved the Fair Representation Act that led to an increase in the number of constituencies from 308 to 338.⁸

Within each province, independent Electoral Boundaries Commissions determined the constituency boundaries following consultation with the public and parties. While constituencies should be divided equally among the population, the law permits deviations of up to 25 per cent from the average. This deviation may be further exceeded in special circumstances, such as to protect a minority, to align boundaries with historical divisions, or to maintain a manageable size in sparsely populated areas. The OSCE/ODIHR has previously recommended that such exceptions be reviewed so as to protect the equality of the vote. For the upcoming elections, the smallest constituency has 26,278 inhabitants, while the largest has 132,443.⁹ All political parties met with by the OSCE/ODIHR NAM expressed satisfaction with the process and outcome of the boundary delimitation exercise.

D. ELECTION ADMINISTRATION

The upcoming elections will be administered at three levels: the Chief Electoral Officer (CEO) and Elections Canada at the national level, 338 Returning Officers (ROs) in each of the constituencies, and Deputy Returning Officers (DROs) and Poll Clerks (PCs) in each of the some 65,000 polling stations. All interlocutors met with by the OSCE/ODIHR NAM expressed full confidence that the upcoming elections would be administered in a professional, transparent, and impartial manner.

Elections Canada is an independent, non-partisan body that reports directly to parliament. It is mandated to prepare and oversee the conduct of federal elections, with specific responsibilities including the maintenance of the National Register of Electors, training and support of ROs, oversight of campaign finance, and dissemination of public information. The CEO is appointed by a resolution of the House of Commons for, as of 2014, a ten-year non-renewable term.¹⁰ It's some 350 permanent staff are appointed according to rules that govern public service employment, which includes provisions to ensure equitable representation of women, persons with disabilities, aboriginal peoples, and national minorities. The total number of election workers is expected to increase to some 250,000 persons during the upcoming elections.

ROs are responsible for overseeing the administration of elections at the constituency level, including the establishment of polling locations, recruitment and training of polling staff, and the validation of constituency results. In line with a prior OSCE/ODIHR recommendation, ROs are appointed through a merit-based process for a fixed ten-year term. ROs are required to sign a code of conduct and abstain from activities of a politically partisan nature. As in previous elections, Elections Canada intends to deploy 30 Field Liaison Officers (FLOs) to the regions to provide operational support and guidance to ROs. The recruitment process and the responsibilities of FLOs have been clarified in the law, addressing a past OSCE/ODIHR recommendation.

At the polling station level, election day procedures are administered by DROs and PCs. The parties that finished first and second in the last parliamentary elections in that constituency are granted priority in nominating candidates for these positions; the DRO position is reserved for the strongest party and the PC for the second-strongest party. The OSCE/ODIHR has previously recommended that party engagement in the appointment process could be reconsidered as a means to further the

⁸ Ontario received 15 additional seats, Alberta and British Columbia each gained 6, and Québec added 3.

⁹ The constituencies, respectively, of Labrador and Brantford-Brant. See Elections Canada data at: www.elections.ca/content.aspx?section=res&dir=cir/list&document=index338&lang=e.

¹⁰ The ten-year limit does not apply to the current CEO.

independence of the election administration. No OSCE/ODIHR NAM interlocutors raised concerns about this procedure, with several noting that it helped ensure adequate staffing on election day.

Elections Canada undertakes a number of strategic, monitoring and evaluation reports to strengthen internal procedures, risk management, and reporting practices. Following the 2014 reforms, electoral contestants may request Elections Canada to provide written opinions, guidelines and interpretation notes.¹¹ All relevant election-related information is available on its website. Basic voter information is provided by Elections Canada, including initiatives in over 40 languages to inform aboriginal and minority groups. However, the 2014 reforms removed the CEO's power to transmit messages that explicitly encourage voter turnout. Many OSCE/ODIHR NAM interlocutors expressed concern at this change, especially in light of a general decline in voter participation.

Voters can cast their vote in four ways: in-person at polling stations on election day; in-person at special locations in a four-day period in advance of election day; in-person at any Elections Canada office across the country during the full election period; or by mail from within or outside the country. A number of tools and services to assist voters with disabilities are provided, including tactile and Braille voting templates, large-print documents, and sign-language interpretation. ROs are also tasked to establish polling stations that guarantee level access and, in cases where a voter cannot leave their home, mobile voting may be provided.¹²

E. VOTER REGISTRATION AND IDENTIFICATION

Citizens aged 18 years or older by election day are entitled to vote. There are no restrictions based on disability or criminal conviction. In 2002, the Supreme Court ruled that limits on prisoner voting rights were unconstitutional.¹³ Although such restrictions remain in the Elections Act, the CEO has since exercised special powers to allow these people to vote and will do so again for the upcoming elections. In 2014, the Ontario Superior Court ruled that the withdrawal of voting rights from citizens who have lived abroad for five years or more was unconstitutional.¹⁴ As a result, an estimated 1.4 million Canadians living abroad are now eligible to vote in the upcoming elections. The government's request for a stay of the judgment was rejected by the Ontario Court of Appeal on 23 June 2014, but the case remains under appeal.

Voter registration is essentially passive and voter lists are extracted from the permanent National Register of Electors, as maintained by Elections Canada. The register includes all eligible voters and is continually updated using federal, provincial and territorial data sources. Voters may register and update their details online or by mail, as well as with their local Elections Canada office once elections are called, or at their polling station on advance or election voting days. Voters may opt out of the register and can be registered at the time of voting upon proof of identity and residence. Extracts of the voter lists (excluding gender and date-of-birth) are shared with candidates and parties, who may use the information only for electoral purposes. Approximately 25 million citizens are registered to vote. No concerns were expressed to the OSCE/ODIHR NAM regarding the inclusiveness of voter registration or the accuracy of voter lists.

Proposed amendments to the Elections Act that are currently under parliamentary review would enable Elections Canada to use data provided by the Minister of Citizenship and Immigration to delete non-citizens from the register. In addition, non-resident citizens would be required to actively

¹¹ Opinions are binding on Elections Canada. Guidelines and interpretation notes are for information purposes.

¹² Many of these developments were in response to the judgment of *Hughes v. Elections Canada*, 2010, Canadian Human Rights Tribunal (T1373/10308).

¹³ *Sauvé v. Canada (Chief Electoral Officer)*, 2002, Supreme Court (27677).

¹⁴ *Frank et al. v. AG Canada*, 2014, Ontario Superior Court (CV-12-453976).

register for each election according to specific identification rules. Elections Canada and other OSCE/ODIHR NAM interlocutors stated that these new rules may make it more burdensome for citizens abroad to vote and to return their ballots in time.

Stricter voter identification rules were introduced in 2014. Voters are now required to present either: one government-issued identification document (ID) that includes the voter's name, address and photo; two pieces of ID with both, including the name and at least one with the address; or two pieces of ID that include only the name, provided that the voter signs a written oath confirming their address and that another registered and identified voter from the same polling division attests to that address. Although voter information cards were previously authorized as part of a pilot project on a limited basis, they are no longer allowed as a valid ID.

Political parties expressed contrasting views on the new identification rules. While some regarded it as a means to protect electoral integrity, others believe it will disenfranchise voters, particularly aboriginal, student, elderly, and low-income voters who are less likely to possess the required ID or be aware of the new rules. Elections Canada also noted that what constitutes a valid ID lacks legal clarity and may lead to confusion and procedural errors among election officials and voters.

F. CANDIDATE REGISTRATION

Citizens with the right to vote can stand for election, except those serving a prison sentence, those convicted of electoral fraud, and those who stood in previous elections but failed to submit campaign finance reports. The Elections Act lists categories of officials who must resign from their position prior to registering as a candidate. A candidate may stand in only one constituency but does not have to be registered to vote in that constituency. Candidates can be nominated by political parties or by groups of voters. Seventeen parties are currently registered at the federal level.

Candidate nominations should be submitted at least 21 days before election day to the corresponding RO. Prospective candidates must submit the names, addresses and signatures of at least 100 voters from their constituency (50 in sparsely populated constituencies) as well as a deposit of CAD 1,000.¹⁵ The deposit is returned if the candidate submits the required campaign finance reports. Voters may support multiple contestants.

While there are no legal requirements to promote women candidates, all political parties met with by the OSCE/ODIHR NAM noted internal policies to ensure diversity in their candidates. The UN Committee on the Elimination of Discrimination against Women (CEDAW) has expressed regret that no temporary special measures are in place to encourage women's participation in politics.¹⁶

G. ELECTION CAMPAIGN

The official campaign period begins with the dissolution of parliament. The Elections Act provides that the campaign must last at least 36 days, although in recent elections it has lasted longer, sometimes up to 55 days. The campaign is expected to focus on issues related to the economy, employment, social welfare, and the environment.

The Elections Act provides candidates with broad rights to conduct public meetings, door-to-door canvassing, and election advertising. Recent amendments empower the Canadian Radio-Television and Telecommunications Commission (CRTC) to monitor voter contact calling services, as a means

¹⁵ EUR 1 is approximately CAD 1.35 (Canadian Dollar).

¹⁶ See, CEDAW "Concluding Observations on Canada" (7 November 2008), CEDAW/C/CAN/CO/7.

to safeguard against potential voter misinformation. Political parties informed the OSCE/ODIHR NAM that they intend to convey their campaign messages to voters via political discussion in traditional and social media, televised debates, and advertisements, as well as through small meetings and canvassing. No interlocutors raised concerns about the ability to campaign freely.

H. CAMPAIGN FINANCE

Campaign finance is primarily regulated by the Elections Act, which provides for public and private financing. Amendments in 2007 and 2014 adjusted contribution limits, enhanced reporting requirements, introduced rules on loans, imposed additional regulation to third parties, and addressed ambiguities in the law. OSCE/ODIHR NAM interlocutors generally considered the campaign finance system to be comprehensive and fair.

Candidates and parties are entitled to public reimbursement of campaign expenses based on votes received, provided campaign finance rules are complied with.¹⁷ Candidates are entitled to up to 60 per cent of the district expenditure limit and parties are entitled to up to 50 per cent of their paid campaign expenses. There are no financial incentives to promote gender equality within parties.

Citizens and permanent residents may contribute up to different amounts to various political entities annually and per contest.¹⁸ This may take the form of money, goods, or services. Income tax credits of up to CAD 650 are provided as an incentive to encourage individual donations. Contributions are not permitted from corporations, trade unions or foreign sources. Anonymous donations are allowed up to CAD 20. Expenditure limits are imposed on parties and candidates, with the amount determined, respectively, according to the number of constituencies contested and the number of registered voters per constituency.

Elections Canada are authorized to monitor and enforce campaign finance rules. Recent reforms established an Advisory Committee of Political Parties to enhance guidance and compliance. In addition to quarterly and annual reports, parties are obliged to submit an audited compliance report on campaign expenses within six months of election day. Candidates and third parties are required to submit reports within four months; there is no obligation to report on spending before election day.¹⁹ Sanctions for breaching campaign finance rules include withholding public finance, fines, and imprisonment upon the judgement of a court.

I. MEDIA

The media landscape is pluralistic and structured primarily along linguistic lines. There are some 250 television stations, nearly 1,200 radio stations, and a diverse and vibrant daily press. The public broadcaster, Canadian Broadcasting Corporation (CBC), operates in English and French and runs two national television channels and four radio networks. The Internet is increasingly used as a source of political and campaign information, particularly social media. Although some concerns were noted about increasing concentration of media ownership, all OSCE/ODIHR NAM interlocutors expressed overall confidence in the CBC's impartiality, as well as satisfaction with media access and coverage during elections.

¹⁷ To qualify a candidate must receive at least 10 per cent of the vote in their district. A party must receive at least two per cent of the national vote or five per cent in the districts where they endorsed candidates.

¹⁸ This includes, CAD 1,500 to each of: a registered political party; a local party association, nomination contestants, or party-endorsed candidate; an independent candidate; and a party leadership contest. In addition, candidates may contribute up to CAD 5,000 to their own campaign funds.

¹⁹ Third parties are required to submit a report only if more than CAD 500 in expenses is incurred.

The Constitution guarantees freedom of expression and the press. However, criminal defamation remains on the books, punishable up to five years in prison, although no case has been prosecuted in over 20 years. During elections, the rules applying to media are outlined in the Elections Act, the Broadcasting Act, and regulations of the CRTC. The CEO appoints a Broadcasting Arbitrator, in consultation with parliamentary parties, to resolve disputes between electoral contestants and broadcasters during the campaign. Print media and the internet are not bound by any statutory requirements.

Broadcasters are required to cover the campaign in their news programmes and to inform their audiences about the main issues and positions of all electoral contestants in a reasonable manner. Paid and free airtime is allocated to parties according to a formula set out in the Elections Act and elaborated upon by guidelines issued by the Broadcasting Arbitrator.

Airtime is distributed in an equitable manner,²⁰ while all parties have the right to purchase additional airtime at the lowest equivalent prices. Broadcasters may air advertisements by third parties, but are not obliged to do so. All airtime must include clear identification of the sponsoring party. Broadcasters can refuse to air messages that include obscene content or are likely to encourage hatred or contempt of certain social groups.

A range of debates among party leaders are envisaged across broadcast media, in English and French. Broadcasters are free to decide the participants and format of the debates. The OSCE/ODIHR previously recommended that clear criteria for participating in debates be considered. Election-related broadcasts from outside of Canada are prohibited.

J. COMPLAINTS AND APPEALS

Enforcement of the Elections Act is carried out by the Commissioner of Canada Elections. Following the 2014 amendments, the Office of the Commissioner was transferred from Elections Canada to the Office of the Director of Public Prosecutions. The Commissioner is appointed for a non-renewable seven-year term, is mandated to conduct investigations independent of the Director of Public Prosecutions, and is supported by a 24-person staff. While specific provisions exist in the revised law to ensure that the Commissioner and CEO are able to continue to freely share information, some OSCE/ODIHR NAM interlocutors expressed reservations in the change in structure.

Anyone may submit a complaint to the Commissioner and all complaints are reviewed to determine whether there is a basis to conduct an investigation. The Commissioner may also launch an investigation on his/her own initiative. A range of tools are available to ensure compliance, including caution letters, voluntary compliance agreements, and court injunctions. In case of a serious offence, the Commissioner may refer the matter to the Director of Public Prosecutions, who decides whether to initiate a prosecution through the courts.

Sections 480 to 499 of the Elections Act list electoral offences, which are mostly centred around illegal attempts to influence voters on or close to election day, as well as campaign finance infringements. Recent amendments also added the offences of impersonating an election official, obstructing investigations of the Commissioner, illegal registration on voter lists, and failure to comply with rules governing voter contact calling services. If found guilty, a court may impose fines, a period of imprisonment, or both. The 2014 amendments increased the amount of financial

²⁰ Free and paid airtime is divided among registered parties in accordance with their share of House seats and their share of the popular vote in the last parliamentary elections. New parties are entitled to free airtime.

penalties. For the more serious offences, it raises the maximum fine from CAD 5,000 to CAD 50,000, with intentional campaign finance infringements subject to fines of CAD 100,000.

The Supreme Court is the final court of appeal and may review any case where a question of public importance is involved or if there is an important issue of law. Most cases are heard by a panel of seven or nine judges and are decided by a majority. Candidates and voters may challenge election results at a competent court and appeals may be lodged with the Supreme Court within eight days. The Supreme Court is required to hear such cases without delay.

IV. CONCLUSIONS AND RECOMMENDATION

All OSCE/ODIHR NAM interlocutors expressed high confidence in the election administration and their ability to organize elections professionally and transparently. Although several previous OSCE/ODIHR recommendations have been addressed, most interlocutors stated that they would welcome a potential OSCE/ODIHR observation activity for these elections, recognising that further improvements could be made to the electoral process and that an external assessment may contribute to this.

In particular, this concerns the implementation of a recently revised legal framework and the concomitant impact on voter registration and identification, election administration responsibilities, campaign finance, complaints and appeals, and the participation of women, aboriginal groups, national minorities and persons with disabilities. On this basis, the OSCE/ODIHR NAM recommends the deployment of an Election Assessment Mission for the upcoming 19 October parliamentary elections.

ANNEX: LIST OF MEETINGS

Department of Foreign Affairs, Trade and Development

Jennifer May, Director, Defence and Security Relations Division

Lydia Shemeluck, Junior Policy Analyst, Defence and Security Relations Division

Carly Volkes, Head, International Election Observation, Stabilization and Reconstruction

Asfia Tareen, Program Officer, International Election Observation, Stabilization and Reconstruction

Privy Council Office

Natasha Kim, Director, Democratic Reform

Office of the Minister of Employment and Social Development and Democratic Reform

George Rae, Director of Policy

Elections Canada: Office of the Chief Electoral Officer

Marc Mayrand, Chief Electoral Officer

Michel Roussel, Deputy Chief Electoral Officer, Electoral Events

Stéphane Perreault, Deputy Chief Electoral Officer, Regulatory Affairs

Belaineh Deguéfé, Deputy Chief Electoral Officer, Integrated Services, Policy and Public Affairs

Vivian Cousineau, Chief of Staff

Karine Morin, Senior Advisor, International, Provincial and Territorial Relations

Madeline Dupuis, Policy Analyst, International, Provincial and Territorial Relations

Office of the Commissioner of Canada Elections

Yves Côté, Commissioner

Marc Chénier, General Counsel and Senior Director

Eric Ferron, Senior Director of Investigations

Elections Canada: Broadcasting Arbitrator

Peter Grant, Broadcasting Arbitrator

Canadian Radio-Television and Telecommunications Commission

Nanao Kachi, Director, Social and Consumer Policy

Emilia de Somma, Legal Counsel

Rachelle Frenette, Legal Counsel

Kelly-Anne Smith, Legal Counsel

Michael Mangulabnan, Senior Advisor, Voter Contact Registry

Soniya Mukhedkar, Analyst, Strategic Policy and International Affairs

Michel Saumier, Manager, Telecommunications Enforcement

Supreme Court

David Power, Deputy Registrar

Political Parties

Louis Plamondon, MP, Bloc Québécois

Dustin Van Vugt, Executive Director, Conservative Party

Simon Thompson, Chief Operating Officer, Conservative Party

Craig Cantin, Deputy Executive Director, Green Party

Rebecca Harrison, Political Campaign Director, Green Party

Nick Carter, Electoral District Association Support Administrator, Green Party

Jeremy Broadhurst, National Director, Liberal Party

Lucy Watson, National Campaign Co-ordinator, New Democratic Party
Dave Hare, Associate Director, Operations, New Democratic Party

Civil Society

Tonio Sadik, Director, Assembly of First Nations
Wendy Moss, Senior Advisor, Assembly of First Nations
Aaron Asselstine, Policy Analyst, Assembly of First Nations
Donnie Garrow, Junior Policy Analyst, Assembly of First Nations
Nancy Peckford, Executive Director, Equal Voice
Mary Anne Carter, Local Chapter Co-chair, Equal Voice
Scott Thurlow, Local Chapter Co-chair, Equal Voice
Joshua Lehr, Protest Canada
Krista Simon, Protest Canada