



Office for Democratic Institutions and Human Rights

REPUBLIC OF FINLAND

PRESIDENTIAL ELECTION 22 JANUARY 2012

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

7-9 November 2011



Warsaw
28 November 2011

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REPUBLIC OF FINLAND
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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an invitation from the Permanent Mission of Finland to the OSCE to observe the 22 January 2012 presidential election, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) from 7 to 9 November. The NAM included Armin Rabitsch, OSCE/ODIHR Senior Election Adviser, and Tamara Otiashvili, OSCE/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 should recommend whether to deploy an OSCE/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 the Ministry of Foreign Affairs, the Ministry of Justice, The Supreme Administrative Court, the Population Registration Centre, the National Audit Office of Finland, as well as with representatives of political parties, civil society and the media. A full list of meetings is included as an annex to this report.

The OSCE/ODIHR would like to thank the Ministry of Foreign Affairs of Finland and the Permanent Mission of Finland to the OSCE for their assistance and co-operation in scheduling meetings for the NAM. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM.

II. EXECUTIVE SUMMARY

Finland is a parliamentary republic with executive powers divided between a prime minister and a president. The president is elected by direct vote for a term of six years. Constitutional changes in 2000 strengthened the role of the parliament and the office of the prime minister. The powers of the president are focused on non-EU foreign policy.

The legal framework provides a sound basis for the conduct of democratic elections. The Election Act has been amended several times since its adoption, most recently in 2004 and 2010, but without substantive changes. The Act on the Disclosure of Election Financing and the Act on Political Parties were passed in 2009. They were first applied in the 2011 parliamentary elections and also apply to the current election.

Thus far, seven potential candidates have expressed their interest to stand for the election. Candidates can be nominated either by the eight political parties represented in parliament, or by a constituency association, established by at least 20,000 voters. However, the right to stand as a candidate is limited to native-born Finnish citizens.

The Ministry of Justice (MoJ) oversees the organization of the election, as well as the use of funds by political parties. Other election related tasks are shared with 15 Electoral District

Committees (EDCs) and 336 Municipal Central Election Committees (MCECs). All OSCE/ODIHR NAM interlocutors noted that the election administration enjoys a high level of confidence.

There are approximately 4.3 million eligible voters in Finland. The country has a passive system of voter registration with a centralized computerized register maintained by the Population Register Centre. There were no concerns expressed by interlocutors met by the OSCE/ODIHR NAM regarding the voter registration system.

The Election Act facilitates universal suffrage by providing for various means of voting. They include voting in polling stations on election day, voting in advance at designated polling places, home bound voting, and out-of-country voting. Finland has not yet ratified the United Nations Convention on the Rights of Persons with Disabilities.

Electoral campaigning in Finland is liberal, with no fixed campaigning period or campaign silence period, nor any restrictions on campaign advertising. Interlocutors met by the OSCE/ODIHR NAM stated that the current EU financial crisis and possible NATO accession could be focal campaign issues.

There is high level of public financing available to political parties who gain seats in parliament. However, parties are not reimbursed for their presidential election campaign expenses. Funding is largely dependent on donations and on the regular public funding paid to political parties.

Finland has a pluralistic and diverse media environment, which enjoys a high degree of editorial freedom and trust. No concerns were raised during the course of the OSCE/ODIHR NAM regarding freedom of information or other media-related issues.

The right to legal redress is limited during the presidential election. The legislation continues not to provide for the possibility of appealing election results or bringing any election violations to the attention of courts during the electoral process.

All interlocutors met by the OSCE/ODIHR NAM expressed a high level of confidence in all aspects of the electoral process. Based on this and given the recent recommendations expressed in the OSCE/ODIHR EAM's final report, the OSCE/ODIHR NAM does not recommend deploying an election-related activity for the 22 January presidential election. The OSCE/ODIHR would, however, like to reiterate that many recommendations made in previous OSCE/ODIHR reports are still current.

The OSCE/ODIHR, therefore, recommends early engagement with the authorities of Finland in a follow-up process soon after the elections and encourages the authorities to also consider issues raised by interlocutors during the course of the OSCE/ODIHR NAM, including the limitation of the right to stand as a candidate, the lack of an adequate complaints and appeals process, access of observers to all stages of the electoral process, and enhancing regulation of campaign finance.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Finland is a parliamentary republic with executive powers divided between a president, who serves as the head of state, and a prime minister. Legislative powers are vested in a 200-member unicameral parliament (*Eduskunta*). Constitutional changes in 2000 strengthened the role of the parliament and the office of the prime minister. The powers of the president are focused on non-EU foreign policy.

The last presidential election was held on 15 January 2006, with a run-off on 29 January. The election resulted in the re-election of the incumbent President, Tarja Halonen, who was the first woman to be elected President of Finland in 2000.

The OSCE/ODIHR has not observed a presidential election in Finland, however it undertook NAMs for the 2007 and 2011 Parliamentary Elections and deployed an Election Assessment Mission for the 17 April 2011 Parliamentary Elections. These elections were administered transparently and professionally, “commanding high levels of stakeholder confidence.”¹

B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The presidential election is primarily regulated by the Constitution and the Election Act. Rules pertaining to campaign and party finance are regulated by the Act on the Disclosure of Election Financing and the Act on Political Parties. The Penal Code includes provisions on criminalizing fraudulent voting, falsification of election results, and other election-related violations. In addition, the Ministry of Justice is authorized to issue decrees and regulations on various aspects of the election process.²

The 2000 amendment of the Constitution moved Finland from a semi-parliamentary to parliamentary republic. Based on the amendments, the president no longer has the possibility of heading the government without the ministerial approval, and no longer enjoys the power to dissolve the parliament.

The Election Act, which contains detailed rules on parliamentary, presidential, local, and European parliamentary elections, was adopted on 8 October 1998. It has been amended several times since its adoption, most recently in 2004 and 2010, but without substantive changes. The Act on the Disclosure of Election Financing and the Act on Political Parties were passed in 2009 and were first applied for the 2011 Parliamentary Elections.

There is no Constitutional Court in Finland. The mandate to oversee the constitutionality of laws and legal acts falls under the Constitutional Law Committee in the parliament.³ The

¹ Previous OSCE/ODIHR reports are available at: <http://www.osce.org/odihr/81121>.

² Section 195 of the Election Act.

³ According to Section 74 of the Constitution, the Committee issues statements on the constitutionality of legislative proposals, as well as on their relation to international human rights treaties.

Supreme Administrative Court and Regional Administrative Courts are also mandated to interpret electoral legislation.

Avenues of legal redress are restricted during the presidential election. The legislation does not provide for the possibility to “lodge an appeal against decisions on the confirmation of the results of the first and second round of the Presidential election”⁴ or bring to the courts’ attention any election violations during the course of the process. The OSCE/ODIHR NAM’s interlocutors noted that the Administrative Judicial Procedure Act allows for extraordinary appeals by means of procedural complaint. Although it was never tested, some NAM interlocutors thought that election-related disputes could be appealed in this way.⁵ However, the courts’ discretion to accept the case and long deadlines undermine the right to seek legal remedy in a timely manner.⁶

The Constitution and the Election Act establish voting rights for all citizens who have reached the age of 18 years without any limitation. The right to stand as a candidate, however, is limited to native-born Finnish citizens.

The president is elected by direct vote for a term of six years. The same person may be elected for no more than two consecutive terms. The legislation calls for a two-round system of voting, where the candidate who obtains more than half of the valid votes is elected. In case no candidate obtains over 50 per cent of the vote, a second round is held between the two candidates who received the highest number of votes. In case of only one candidate contesting the election, the candidate is appointed without an election being held.

C. ELECTION ADMINISTRATION

The Ministry of Justice (MoJ) oversees the organization of the election, as well as the use of funds by political parties. Other election-related tasks are shared by the 15 Electoral District Committees (EDCs) and the 336 Municipal Central Election Committees (MCECs). These are permanent bodies appointed for a four-year term by the provincial offices and local council in each of the electoral districts and municipal councils, respectively.⁷

Each committee consists of a chairperson, a deputy chairperson, three members and four substitute members. EDC members represent political parties that contested the previous parliamentary elections and are registered in the respective district. Members of MCECs represent group of voters that nominated candidates in previous municipal elections. The EDC in Helsinki is particularly mandated to receive and review candidate applications. It also tabulates election results. MCECs are charged with technical electoral preparations.

⁴ Section 100 of the Election Act.

⁵ According to Section 58 of the Act, an administrative decision that has become final may be subject to extraordinary appeal by means of procedural complaint, restoration of expired time or annulment.

⁶ Electoral good practice suggests reasonable deadlines to guarantee the exercise of rights of defence and a reflected decision. See [http://www.venice.coe.int/docs/2002/CDL-EL\(2002\)005-e.asp](http://www.venice.coe.int/docs/2002/CDL-EL(2002)005-e.asp)

⁷ In the presidential election the country is one electoral districts; however, in carrying out the technical arrangements for elections, the electoral district division applies.

Some 2,337 polling stations will operate on election day. In addition, some 903 advance in-country polling stations, 255 advance polling stations abroad,⁸ and 46 polling stations on ships will facilitate advance voting, including in hospitals, prisons, and voters' homes. Measures have also been taken by the Ministry of Foreign Affairs to facilitate voting abroad.⁹

All OSCE/ODIHR NAM interlocutors expressed high levels of confidence in the election administration and their ability to organize elections professionally and transparently.

D. CANDIDATE REGISTRATION

Candidate nominations can be submitted to the Helsinki EDC until 7 December. Candidates can be nominated either by parliamentary political parties or by a constituency association established by at least 20,000 voters. Parties and constituency associations can nominate the same candidate. A nominated candidate has to give his/her consent to stand for office.

Seven potential candidates have publicly expressed their interest to stand for election. These include two female candidates, Sari Essayah from the Christian Democrats and Eva Biaudet from the Swedish People's Party, as well as Pekka Haavisto from the Green League, Paavo Väyrynen from the Centre Party, Timo Soini from the True Finns Party, Paavo Lipponen from the Social Democratic Party and Sauli Niinistö from the National Coalition Party. At the time the OSCE/ODIHR NAM was deployed, the Left Alliance had indicated its intention to field a candidate, but not announced a name. At the time of the OSCE/ODIHR NAM, no constituency association was known to be collecting signatures.

E. VOTER REGISTRATION AND VOTING METHODS

There are approximately 4.3 million eligible voters in Finland. The country has a passive system of voter registration with a centralized computerized register maintained by the Population Register Centre (PRC). The voting register is publicly available at the local register offices. In addition, each voter receives an information card in advance, which provides information about election day, advance voting, as well as the address of the polling station that the voter is assigned to.

For the 2012 presidential election, the voter register will be compiled by 7 December and be posted for public scrutiny from 11 December. Complaints on the voter register can be submitted to the Civic Administration, which decides on them no later than 10 January, when the register is finalized. These decisions can be appealed to the Regional Administration Court, and further to the Supreme Administrative Court and such court decisions are the only permissible amendments after the deadline. Interlocutors met by the OSCE/ODIHR NAM expressed a high level of confidence in the registration system.

The Election Act contains provisions facilitating universal suffrage, providing various ways of voting. This includes voting on election day, voting in advance, home bound and out-of-

⁸ Polling stations will be opened in 91 countries.

⁹ This includes providing polling stations abroad with additional ballots. During the 17 April 2011 parliamentary elections, voting in Berlin was delayed due to a shortage of ballots.

country voting. During advance voting, any eligible voter can cast his or her ballot at any polling station in Finland or at diplomatic representations abroad, as a networked voter register allows the processing of voters in real time. The advance voting begins 11 days before election day and ends 5 days before election day in-country and 8 days before abroad. Those voters who are unable to reach a polling station due to inability to move or function, may apply for a home-bound voting.¹⁰

In addition, special provisions are in place for providing assistance to voters with disabilities. Finland has signed but has not yet ratified the UN Convention on the Rights of Persons with Disabilities, but the OSCE/ODIHR NAM was informed that necessary legal changes will be undertaken prior to the ratification of the convention.

In 2008, Finland piloted electronic voting in three municipalities.¹¹ However, by a government decision on 13 January 2010 this exercise was terminated until 2016.¹²

F. THE CAMPAIGN AND CAMPAIGN FINANCING

Electoral campaigning in Finland is liberal, with no fixed campaigning period or campaign silence period, nor any restrictions on campaign advertising. However, campaigning is prohibited near polling stations during voting days. Most prospective candidates have already been actively informing the electorate about their candidacy and views and have been speaking out on various political issues. Several OSCE/ODIHR NAM interlocutors expected an active campaign, using a variety of means, including new social media. Interlocutors met by the OSCE/ODIHR NAM stated that the current EU financial crisis and possible NATO accession could be focal campaign issues.

There is a high level of public financing given to political parties who gain seats in parliament. Parties are reimbursed for campaign expenses during the parliamentary elections, but are not reimbursed for presidential election campaigns. Presidential election campaign funding is largely depending on contributions and on the regular public funding paid to political parties.

Donations from abroad are allowed if they derive from a private person or an organization of the same political ideology. Any contribution above 3,400 EUR has to be declared, but there are no disclosure requirements for donations below this amount without the donor's consent. Neither is there a ceiling on cash donations.¹³ Parties are not permitted to receive donations

¹⁰ Home voting may be carried out by just one member of an election committee, but requires a witness other than the voter to ensure the voter may vote secretly and the proper procedures are carried out. The witness may be an individual who may already be at the voter's home, or as is sometimes done, an individual who travels with the election committee member, to ensure that a third person is always present to legally facilitate the voting process.

¹¹ Municipality of Karkkila, Kauniainen and Vihti.

¹² <http://www.valtioneuvosto.fi/ajankohtaista/tiedotteet/tiedote/en.jsp?oid=285753>.

¹³ As already noted by the OSCE/ODIHR Election Assessment Final Report for the 2011 Parliamentary Elections, good practice requires donations to be paid through bank accounts since cash donations are hard to track and undermine the transparency of campaign funding regimes.

that annually exceed 30,000 EUR from a single donor, except in cases when the donation derives from a party-near-organization.¹⁴

There are currently no limits on campaign expenditures. None of the OSCE/ODIHR NAM's interlocutors voiced any concern over this element, but some did argue that a campaign ceiling could be imposed to better ensure equality of all participants. Interlocutors also noted reduced campaign funding and more reluctance on large donations since the new disclosure requirements. The Act on the Disclosure of Election Financing regulates this element during a presidential election. For presidential elections, the law provides that all parties or constituency associations that nominate candidates must submit a campaign finance report to the National Audit Office. The reports have to be submitted within two months of the confirmation of the election result.¹⁵ The National Audit Office reviews the reports and submits recommendations to the parliament within six months. The only sanction provided for is the loss of public subsidy. As outlined by many NAM interlocutors, the strong media oversight of the political process, including party finance, is perceived as having a greater impact.

G. MEDIA

Finland has a pluralistic and diverse media environment, which enjoys a high degree of editorial freedom. Eighty-nine per cent of the population use the internet, with a majority using it to access political information.¹⁶ The media generally enjoys high public trust and its reports and coverage of politics are perceived to be very influential.

The Finnish public service broadcaster (*Yleisradio- YLE*) has the legal obligation "to treat all political parties equally and to follow uniform criteria." It largely operates on the basis of the Finnish Broadcasting Company Act, Code of Conduct and Article 10 of the Political Party Act, which allows *YLE* to take "aspects relating to public service programming" into consideration when implementing this obligation of equal treatment.

YLE informed the OSCE/ODIHR NAM of its planned election coverage; this includes debates, interviews and reporting on campaign events. *YLE* has already broadcast individual candidate interviews, giving each a 30 minutes primetime slot. In addition, *YLE* is also planning to produce a series of live radio interviews and broadcasts as well as election-related programs for Swedish speaking TV and Radio (*Svenska Yle*). One major debate including all candidates is scheduled for 19 January.

Private TV channel *MTV3* is organizing a number of discussions and interactive panels, to which all candidates will be invited. Two major debates with all candidates are scheduled for 4 December and 18 January.

¹⁴ According to Section 8 of the Act on Political Parties a party-near-organisation is any organisation (company, association etc.) declared by a party and approved by the National Audit Office.

¹⁵ The reporting period in the campaign finance reports covers the six months before election day until two weeks after election day.

¹⁶ Statistics are as of November 2011. http://tilastokeskus.fi/til/sutivi/2011/sutivi_2011_2011-11-02_tie_001_en.html

Both channels are consulting private companies to conduct opinion polls and will operate an 'election tool' where people are given an opportunity to express their opinions and evaluate candidates. Social networks, such as Facebook, are used by media for postings internet polls.

The Council for Mass Media is a self-regulating independent body, which promotes good journalistic practice and considers complaints on breaches of professional ethics.¹⁷ It enjoys the investigative role when violations pertaining freedom of the media are brought to its attention. Its decisions are then published on its website, including the complete decision if the complaint is upheld. The OSCE/ODIHR NAM was informed that such verdicts tend to be very influential, media journalists largely act within the legal and ethical norms.

H. ACCESS OF OBSERVERS

The Ministry of Justice has not established any system of observer accreditation but can authorize individuals to observe elections. Representatives of parties, joint lists, and constituency associations that nominate candidates for the presidential election, as well as those specifically authorized in writing by election authorities are entitled by law to attend meetings of election administration bodies.¹⁸ The legislation, however, only refers explicitly to access to meetings and does not encompass all aspects of an electoral process, undermining the legal guarantees for international and domestic observers.¹⁹

IV. CONCLUSIONS AND RECOMMENDATIONS

All interlocutors met by the OSCE/ODIHR NAM expressed a high level of confidence in all aspects of the electoral process. Based on this and given the recent recommendations expressed in the OSCE/ODIHR EAM's final report, the OSCE/ODIHR NAM does not recommend deploying an election-related activity for the 22 January presidential election. The OSCE/ODIHR would, however, like to reiterate that many recommendations made in previous OSCE/ODIHR reports are still current.

The OSCE/ODIHR, therefore, recommends early engagement with the authorities of Finland in a follow-up process soon after the elections and encourages the authorities to also consider issues raised by interlocutors during the course of the OSCE/ODIHR NAM, including the limitation of the right to stand as a candidate, the lack of an adequate complaints and appeals process, access of observers to all stages of the electoral process, and enhancing regulation of campaign finance.

¹⁷ The council is regulated by a charter signed by all organizations that have committed to themselves to it and have accepted its objectives.

¹⁸ Section 184 of the Election Act.

¹⁹ This is not fully in line with OSCE commitments and international standards; paragraph 8 of the 1990 OSCE Copenhagen Document.

ANNEX: LIST OF MEETINGS

Ministry for Foreign Affairs

Outi Holopainen, Director, Unit for Security Policy and Crisis Management
Pasi Tuominen, Director, Unit for Consular Assistance
Hanna Rantala, Legal Officer, Unit for Consular Assistance
Karita Tammi-Kortelainen, Departmental Secretary, Unit for Consular Assistance
Outi Hyvärinen, Counsellor, Unit for Security Policy and Crisis Management
Anna Huovila, Attaché, Unit for Security Policy and Crisis Management
Pasi Kokkonen, First Secretary, Unit for Human Rights

Ministry of Justice

Johanna Suurpää, Director, Democracy and Language Affairs Unit
Arto Jääskeläinen, Director, Electoral Administration
Jussi Aaltonen, Ministerial Adviser
Anne Rautiainen, Researcher

The Supreme Administrative Court

Anne E. Niemi, Justice
Matti Pellonpää

National Audit Office of Finland

Jaakko Hamunen, Chief Information Officer
Jaakko Eskola, Director of Financial Audit

The Finnish Delegation to the OSCE Parliamentary Assembly

Ismo Soukola, Vice-Chairperson of the Finnish Delegation to the OSCE Parliamentary Assembly
Elisabeth Nauclér, MP
Johannes Koskinen, MP
Gunilla Carlander, Counsellor of International Affairs
Tiina Virtanen, Information Officer

Population Registration Centre

Timo Salovaara, Manager, Information Services
Riitta Haggrén, Director, Information Services

Political Parties

Tuomo Puumala, Vice President – **The Centre Party of Finland**
Jari Haapiainen, Secretary for International Affairs -- **The Centre Party of Finland**
Erkki Snellman, Secretary General -- **The Left Alliance**
Elisabeth Nauclér, MP -- **The Swedish People's Party in Finland**
Fredrik Guseff, Political Advisor -- **The Swedish People's Party in Finland**
Jouni Bäckman, MP, Chairperson of the Social Democratic Group - **The Social Democratic Party of Finland**
Panu Laturi, Secretary General - **The Greens League**

Pasi Rajala, Secretary for International Affairs - **The National Coalition Party**
Ossi Sandvik, Secretary General -- **The True Finns Party**

Finnish League for Human Rights

Kristiina Kouros, Secretary General
Mikko Joronen, Research Manager

Coalition of Finnish Women's Associations (NYTKIS)

Johanna Pakkanen, acting Secretary General

Transparency Finland

Santeri Eriksson, Project Manager
Kimmo Collander, Board member

The Finnish Broadcasting Company (Yleisradio-YLE)

Jouni Kemppainen, Editor-in-Chief, Producer of the election results programme
Jyrki Richt, Head of Current affairs, Producer of the Pre-election programmes

MTV3

Tomi Einonen, News Anchor, Election Producer
Mari Haavisto, Reporter, Election Producer

Council for Mass Media

Risto Uimonen, Chairperson