



Office for Democratic Institutions and Human Rights

# ESTONIA

## PARLIAMENTARY ELECTIONS

1 March 2015

OSCE/ODIHR ELECTION EXPERT TEAM

Final Report



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**ESTONIA**  
**PARLIAMENTARY ELECTIONS**  
**1 March 2015**

**OSCE/ODIHR Election Expert Team Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Permanent Mission of the Republic of Estonia to the OSCE and based on the recommendation of a Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on 15 February deployed an Election Expert Team (EET) to observe the 1 March 2015 parliamentary elections. The OSCE/ODIHR EET focused on particular aspects of the elections related to Internet voting, political party and campaign finance and the participation of national minorities.

Starting in 2005, Estonia was the first OSCE participating State to offer all eligible voters the possibility to vote via the Internet in all national and municipal elections. In these elections, a total of 176,329 voters cast their ballots via the Internet, which amounted to 30.5 per cent of all votes cast. Most OSCE/ODIHR EET interlocutors expressed a high degree of trust in reliability and security of Internet voting. Internet voting was administered efficiently and in line with the legal framework, although additional measures can be taken to enhance transparency and accountability of the process.

Since the 2011 parliamentary elections, several amendments were adopted with regard to Internet voting; including to address a number of previous OSCE/ODIHR recommendations, however, some still remain outstanding. A key development since the 2011 parliamentary elections was the establishment of the Electronic Voting Committee (EVC), under the auspices of the National Electoral Committee (NEC), to organize Internet voting and verify the electronic voting results. The work of the EVC enjoyed broad public confidence.

The NEC introduced a verification process for voters to confirm that their online vote was cast as intended and recorded on the ballot storage server as cast, which partially addressed a previous OSCE/ODIHR recommendation. However, the system does not allow for end-to-end verification. The Election Act does not require formal certification of the Internet voting system by an independent organization, which somewhat limits transparency and accountability of the system. The NEC contracted an auditor to assess compliance of Internet voting with procedural requirements and published summaries of audit reports.

The Political Parties Act has been amended several times since the last parliamentary elections, and provides a generally solid legal framework for regulating political party and campaign finance. There is no ceiling on contributions to political parties or candidates, or on party or candidate campaign expenditures. Parties are prohibited from using public funds to conduct or organize election campaigns. Political parties and other stakeholders noted to the OSCE/ODIHR EET that the misuse of public resources, specifically by local government authorities, for campaigning is a continuing problem. The continuing ban on outdoor political advertising during the campaign restricts freedom of expression.

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<sup>1</sup> The English version of this report is the only official document. An unofficial translation is available in Estonian.

The Political Party Finance Supervision Committee (PPFSC) has been established to oversee adherence to campaign finance legislation. PPFSC authority is limited, as it may not adopt regulations, issue fines or investigate possible violations. However, it has the authority to impose monetary penalties if parties do not comply with its administrative instructions to rectify identified violations. In accordance with the law, the PPFSC must send cases requiring investigation to the police, which has resulted in delays and poses a significant problem for enforcement. Political parties are required to submit quarterly and annual reports to the PPFSC on income and expenditures. The law does not require reporting on third-party campaign expenditures.

OSCE/ODIHR EET noted a positive trend of parties across the political spectrum placing candidates belonging to national minorities on party lists, in some cases in prominent positions, and greater efforts by parties and candidates to reach out to Russian-speaking voters, including with campaign information in Russian. However, the NEC website featured detailed election information only in Estonian, with some general information also available in English. Voting instructions sent to voters, as well as information in polling stations and on ballots, were only in Estonian. Some information about Internet voting was available in Russian and English.

Persons of undetermined citizenship have the right to vote in local elections but not the right to vote nor stand as candidates in parliamentary elections. While persons of undetermined citizenship could participate in party activities and donate to parties or candidates, despite a previous OSCE/ODIHR recommendation, they do not have the right to join political parties. Despite positive amendments to the Citizenship Act, the pace of naturalization of persons with undetermined citizenship remains slow.

## II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Permanent Mission of the Republic of Estonia to the OSCE and based on the recommendation of a Needs Assessment Mission (NAM) deployed from 18 to 21 January, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Expert Team (EET) from 15 February to 5 March to observe the 1 March 2015 parliamentary elections. The OSCE/ODIHR EET consisted of three experts from two OSCE participating States.

The OSCE/ODIHR EET assessed aspects of the elections related to Internet voting, political party and campaign finance, and the participation of national minorities. This report is therefore limited in scope and does not offer an overall assessment of the electoral process. The specific areas under review were assessed for their compliance with OSCE commitments and other international obligations and standards for democratic elections, as well as with national legislation. In line with OSCE/ODIHR methodology, the OSCE/ODIHR EET did not undertake a comprehensive and systematic observation of the electoral process or election day procedures. This final report should be read in conjunction with the 2015 OSCE/ODIHR NAM report, as well as the 2011 OSCE/ODIHR Election Assessment Mission final report, which provide additional detail on the electoral process in Estonia.<sup>2</sup>

The OSCE/ODIHR EET wishes to thank the Ministry of Foreign Affairs, the National Electoral Committee (NEC), the Electronic Voting Committee (EVC), the Political Party Finance Supervision Committee (PPFSC), political parties, and other interlocutors for their co-operation and assistance.

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<sup>2</sup> [See all previous OSCE/ODIHR reports on Estonia.](#)

### III. ELECTORAL SYSTEM, LEGAL FRAMEWORK, AND ELECTION ADMINISTRATION

Estonia is a parliamentary republic with a unicameral parliament (*Riigikogu*) of 101 members, elected for 4-year terms from 12 multi-member districts through open lists. District sizes range from 5 to 14 seats, based on the number of registered voters in each district.

Parliamentary elections are regulated primarily by the *Riigikogu* Election Act. Other legal instruments of relevance to the issues covered by the OSCE/ODIHR EET include the Constitution, the Political Parties Act, the Penal Code, and the Language Act. These laws are complemented by NEC regulations and decrees. There are no special legal provisions aiming to promote women's political participation. OSCE/ODIHR EET interlocutors generally expressed satisfaction with the legal framework as a solid basis to conduct democratic elections.

The elections were administered by a three-tiered election administration, comprising the NEC, 15 County and 2 City Electoral Committees (CCECs), and 547 Division Committees (one per polling station).<sup>3</sup> Voting via the Internet was organized by the EVC, which operates under the auspices of the NEC. The NEC, EVC, and CCECs are permanent bodies appointed for four-year terms. Division committees are formed anew for each election. The election administration enjoyed widespread trust by election stakeholders.

The Election Act provides for a wide range of possibilities for citizens to exercise their right to vote. In addition to election day, voters could vote during the advance voting period from 19 to 25 February, either in a polling station or over the Internet. Mobile voting on election day was organized in hospitals, nursing homes and pre-trial detention centres, as well as for homebound voters. Voters abroad could cast their ballots in 39 diplomatic or consular missions or online.

### IV. INTERNET VOTING

Starting in 2005, Estonia was the first OSCE participating State to offer all eligible voters the possibility to vote via the Internet in all national and municipal elections. These were the third parliamentary and eighth consecutive elections to include online voting.<sup>4</sup> The Internet voting system relies on activated identity document (ID) cards that offer a possibility of digital identification and authentication, including via mobile phones with specially enabled SIM cards (*mobil-ID*).<sup>5</sup> Secrecy of votes cast online is protected through the use of a process that can be compared to the "double envelope" system used in postal voting.<sup>6</sup> The system relies on well-established cryptographic methods.

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<sup>3</sup> Due to an increasing number of Internet voters, the number of polling stations used for parliamentary elections has been steadily reduced. In 2007 there were 657 and 625 in 2011.

<sup>4</sup> Internet is widely used in Estonia; some 83 per cent of households had Internet access as of 2014.

<sup>5</sup> According to the Identity Documents Act, all citizens must have an ID card. The cards have a special chip that contains the private keys and a certificate necessary for secure identification. However, the ID does not have to be digitally activated if a citizen does not want to use the electronic services.

<sup>6</sup> The completed electronic ballot has no information about the voter and is sealed in an electronic "envelope". This envelope is then sealed inside another one which contains information about the voter. After the eligibility of the voter is confirmed, the outer envelope is opened electronically and the ballot is deposited in the electronic ballot box.

As a measure to further protect secrecy, voters could cast their ballots via the Internet as many times as they wished – thus mitigating the potential for pressure or intimidation – with only the voter’s final electronic vote counted. An electronic vote was cancelled if the voter cast a paper ballot during early voting. The names of voters who cast ballots via the Internet were marked on voter lists and these voters were ineligible to cast paper ballots on election day, despite a previous OSCE/ODIHR recommendation. Although this was publicized on the NEC website and through the media, it was not mentioned on polling cards sent to voters and some voters were not aware of this restriction. Voters who voted online so close to the end of Internet voting as not to be able to change their votes could potentially demonstrate for whom they voted by showing their cast ballot as displayed on the computer screen or a mobile phone.<sup>7</sup>

For these elections, a total of 176,329 voters (19.6 per cent of all registered voters) cast ballots via the Internet, which amounted to 30.5 per cent of all votes cast.<sup>8</sup> Most OSCE/ODIHR EET interlocutors expressed a high degree of trust in the reliability and security of Internet voting. While they acknowledged its potential vulnerabilities, they believed the benefits outweigh the risks. A few political parties and candidates, including one parliamentary party, generally oppose Internet voting. Overall, political parties and candidates showed limited interest in or understanding of specific features of the Internet voting system and observed the work of election administration only to a limited extent.

#### **A. LEGAL FRAMEWORK AND ADMINISTRATION OF INTERNET VOTING**

Internet voting is regulated by the Election Act, supplemented by the Identity Documents Act, the Digital Signatures Act and NEC regulations. The Election Act establishes an adequate legal basis for regulating Internet voting, but specific issues require further attention. A number of amendments to the Election Act since the 2011 parliamentary elections further consolidated Internet voting, addressing several previous OSCE/ODIHR recommendations. A chapter was added to describe the general principles, preparation, voting, and counting procedures for Internet voting. The Election Act was also amended to clarify validity criteria for votes cast via the Internet.

A key positive amendment since the 2011 parliamentary elections was the establishment of the EVC to organize the Internet voting and verify the electronic voting results. The establishment of the EVC formalized the Internet voting management structure and increased accountability and transparency, as previously recommended by the OSCE/ODIHR. The EVC was composed of seven members appointed by the NEC from among experts in relevant disciplines, such as Internet security, computer programming, and administration of servers. The Election Act does not, however, explicitly specify qualifications or other conditions for membership in the EVC. The work of the EVC appeared to be efficient and enjoyed broad public confidence.

*To maintain and further strengthen confidence in the EVC, consideration could be given to formalizing the qualifications or other possible requirements for its members.*

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<sup>7</sup> [Council of Europe \(CoE\) Recommendation \(2004\)11 on Legal, Operational and Technical Standards for E-Voting](#), recommendation 51 states that “A remote e-voting system shall not enable the voter to be in possession of a proof of the content of the vote cast.”

<sup>8</sup> In the 2011 parliamentary elections, 24.3 per cent of all ballots were cast online. See [NEC comparative statistics on Internet voting](#).

The EVC does not have the authority to issue regulations. Its decisions may be reviewed by the NEC, although according to the EVC, it is not obliged to report to the NEC on a regular basis. During these elections, the EVC held three formal sessions to approve the election software, technical documentation and timeframe for testing of components and system set-up, and to organize a final test.<sup>9</sup> The minutes of these meetings were available online. One of the three sessions was held online, and could not be directly observed. According to the EVC chairperson, all other decisions were made on an *ad hoc* basis as a part of a daily routine.

*To increase accountability of its work, the EVC should hold regular meetings and formally adopt and publish all decisions related to Internet voting in sessions open to observers.*

The Election Act stipulates that in case of discovered breaches in security and reliability of the system, the NEC may decide, upon a proposal of the EVC, not to start Internet voting or to suspend or terminate it. However, despite a previous OSCE/ODIHR recommendation, the law does not provide sufficiently detailed conditions for the invalidation of the Internet voting results.

## **B. ORGANIZATION OF INTERNET VOTING**

The Internet voting process consists of five stages: testing, system set-up, voting, counting, and data destruction.<sup>10</sup> The OSCE/ODIHR EET observed that the EVC organized the process in a professional and timely manner. The comprehensive testing of software and hardware before the arrival of the OSCE/ODIHR EET was not conducted in the presence of election observers or auditors. No detailed formal procedures were prescribed for software development and testing.

The vendor delivered the Internet voting software on 6 January; it was then tested from 19 to 23 January. The EVC made available the source code of the server-side software.<sup>11</sup> The last change to the software was made on 4 February and system was set up at the NEC premises between 10 and 13 February. The keys for encrypting and decrypting votes were distributed to NEC members on 13 February.

*The NEC could consider adopting and publishing detailed and formal procedures and deadlines for software development, testing, and updates of the Internet voting system.*

Voting online was available from 19 to 25 February through software that voters could download from the EVC website, which included enhanced support for the visually impaired. The NEC did not provide Internet voters with an option for casting a blank ballot.<sup>12</sup>

The NEC introduced a verification process for voters to confirm that their online vote was cast as intended and recorded on the ballot storage server as cast, which partially addressed an OSCE/ODIHR

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<sup>9</sup> This was a limited end-to-end test, in which 14 electronic ballots were cast and results checked.

<sup>10</sup> The OSCE/ODIHR EET did not observe the stages of testing, set-up, and data destruction.

<sup>11</sup> Software source code can be found at: <https://github.com/vvk-ehk/evalimine>. The EVC also used calculation and comparison of hash values of the source code files to demonstrate that the software installed on the server was the same as published in the repository.

<sup>12</sup> CoE Recommendation (2004)11 recommendation 13 calls for electronic voting systems to “provide the voter with a means of participating in an election or referendum without the voter exercising a preference for any of the voting options, for example, by casting a blank vote” in order to ensure free suffrage.

recommendation.<sup>13</sup> Verification is done using a separate smart device (mobile phone or tablet), which reads a code displayed on the voter's computer screen upon completion of voting. The mobile device then temporarily displays the voter's choice, enabling the voter to confirm that his/her vote was recorded as cast. The EVC did not receive any reports of incorrect verification.<sup>14</sup> The EVC informed the OSCE/ODIHR EET that there were no attempts of denial-of-service (DoS) attacks on its servers during the voting period and the Estonian Computer Emergency Response Team noted that it constantly observed the Estonian Internet for potential threats of malware and DoS attacks.

The EVC performed daily updates of the voter register and backed up encrypted ballots on a CD. This was done through direct access to the servers, which the EVC insisted was preferable to establishing a remote connection, even though direct (administrative) access and maintenance during critical operations is not considered a good security practice. The EVC maintained that backing up encrypted votes on an external storage medium is preferable to organizing and securing another location with a direct connection to mirrored servers. However, in case of a catastrophic event at the server location, there could be a considerable interruption of voting and loss of votes cast after the last backup. There is no formal disaster recovery plan, despite a previous OSCE/ODIHR recommendation.

*The EVC could consider reviewing its security practices related to server maintenance and backup.*

Internet votes were counted in a public counting ceremony on the evening of election day. First, encrypted votes were transferred to an offline counting server. Votes were then sorted by constituency and voters' digital signatures were removed and stored separately to preserve vote secrecy. Subsequently, encrypted votes were decrypted using the decryption key and counted. In an efficient process, the EVC showed results of Internet voting by the time polls closed on election day. The next day, the EVC performed successful checks of the server log files in order to verify the consistency of the counting process.<sup>15</sup>

The system does not allow for verification that all electronic ballots were counted exactly as recorded in the ballot storage server without jeopardizing vote secrecy. The EVC is aware of possible technical solutions to this problem, including end-to-end verifiability, which would not jeopardize the secrecy of the vote, and stated publicly that it is considering such improvements of the system.

*The authorities could continue efforts to include end-to-end verifiability in the Internet voting system to enhance system accountability through verification that votes are counted as recorded.*

### **C. CERTIFICATION AND AUDIT**

Formal certification by an independent organization is not required, despite a previous OSCE/ODIHR recommendation and CoE guidelines.<sup>16</sup> The EVC stated that certification was not necessary due to the openness of the Internet voting software. However, in the absence of certification, independent scrutiny of all individual components, their interaction, and the system as a whole is not envisaged.

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<sup>13</sup> Verification was piloted during the 2013 local elections and was introduced in the law for these elections.

<sup>14</sup> Although just 4.2 per cent of online voters used the verification tool, the EVC considered the process a success, explaining that a minimum of two per cent of vote verifications is sufficient to ensure statistically that there was no malicious software targeting the voting client over the Internet.

<sup>15</sup> These log files contain information about which electronic ballots were excluded as required and which were counted. This process can be compared to reconciliation of ballots cast with those counted in different categories.

<sup>16</sup> See for example, Council of Europe [Guidelines on "Certification of e-voting systems"](#).



*Authorities could consider establishing a formal process for end-to-end certification of the Internet voting system by an independent body, in line with the CoE guidelines, with its report made public.*

The NEC contracted an auditor to assess compliance of Internet voting with procedural requirements. The auditor produced two interim reports during the election period and was to issue a final report following the end of election process, after the OSCE/ODIHR EET's departure. Published summaries of the audit reports stated that the EVC accurately followed technical protocols and verified that all security seals on servers and other components were intact but did not include any recommendations.

*To increase transparency and accountability, the NEC could consider publishing full audit reports of the Internet voting system.*

The EVC was required to conduct all critical interventions on the servers with at least two EVC members present. Video recordings of all such actions by the EVC constituted the only record. No paper records were made, although such records could potentially be of crucial importance during the complaints and appeals process. The EVC decided informally not to make the video recordings publicly available during the election period, but to post them online only after the election results were final.

*To increase accountability of the Internet voting process, the EVC could consider producing and retaining records at all stages of the process.*

Technical documentation (operational manuals and step-by-step instructions) on the Internet voting system was produced and published by the EVC. However, the information was not always presented to interested stakeholders in a readily comprehensible way. Auditors noted that documentation is at times cross-referenced and difficult to follow and in a few cases not all command line instructions that the operator needed to execute during the system set-up were included in the step-by-step instructions. There is no consolidated operational manual that describes all Internet voting procedures, despite a previous OSCE/ODIHR recommendation.

## **V. POLITICAL PARTY AND CAMPAIGN FINANCE**

The Political Parties Act has been amended several times since the 2011 elections and provides a generally solid legal framework for regulating political party and campaign finance. In line with international good practice, it includes detailed provisions requiring transparency on party income and expenditures. These legal provisions also extend to organizations affiliated to political parties. It also establishes the basis for public funding of parties and regulates borrowing. Since the 2011 parliamentary elections, the PPFSC was established to verify parties' adherence to the legislation. The Election Act also has provisions, in particular, concerning financial deposits by candidates and permitted types of campaigning. Several interlocutors welcomed that the candidate deposit had been reduced by half, highlighting that this was particularly beneficial to smaller parties.<sup>17</sup> The CoE's Group of States against Corruption (GRECO) has noted "remarkable progress" in implementing GRECO's

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<sup>17</sup> The candidate deposit amount was equivalent to one minimum monthly salary (EUR 390). The deposit is returned if a candidate garners at least half a simple quota in the district in which he or she is standing, or if his or her political party wins enough votes to enter parliament.

recommendations and for a “substantial reform process” concerning the transparency of political funding.<sup>18</sup>

#### A. REGULATION OF INCOME AND EXPENDITURES

Most party funding comes from public resources. The parliament allocated EUR 5,412,678 for parties in both 2014 and 2015. Non-parliamentary parties that meet two thresholds (receiving at least one or four per cent of the votes at the last parliamentary elections) are entitled to funding (EUR 9,587 and EUR 15,978 yearly, respectively). The rest is divided among the parliamentary parties in proportion to the number of seats each holds.<sup>19</sup> While some parties advocate reducing the amount of public support for parties, most OSCE/ODIHR EET political party interlocutors believed that the percentage allocated to non-parliamentary parties should be increased.

There is no ceiling on contributions to political parties or candidates, or on party or candidate campaign expenditures.<sup>20</sup> Several parties and civil society organizations advocated instituting such limits. The legislation allows for in-kind donations and prohibits anonymous contributions, donations by legal persons and donations in cash in excess of EUR 1,200 per year from a single donor. There are no limits on donations made by bank transfer. The press reported that since the 2011 elections, several individuals made large contributions to political parties, including a single donor reportedly giving over EUR 1 million. If verified, this would constitute a large proportion of total party funding since 2011.<sup>21</sup>

*The authorities could consider limiting the amount a single donor may contribute to a candidate or political party in a year, in order to ensure that the democratic process is not distorted by political influence through financial advantages.*

Despite a previous OSCE/ODIHR recommendation, outdoor political advertising during the campaign remains prohibited, which restricts freedom of expression.<sup>22</sup> The Supreme Court acknowledged that the ban infringed on electoral rights, freedom of expression, and other constitutional rights, but nevertheless ruled that it is an appropriate measure “to reduce the role of money” in politics.<sup>23</sup> In practice, the ruling has not reduced campaign expenditures, as parties displayed posters before the official election period and shifted expenses to other forms of advertising, primarily television. There is no legal requirement for campaign materials to include the name of the person or organization that paid for them.

<sup>18</sup> See [GRECO Third Evaluation Round, Second Compliance Report on Estonia](#), adopted 14-16 May 2012.

<sup>19</sup> In 2014 and 2015, public funding ranged from about EUR 1 million to almost EUR 1.8 million per parliamentary party, which is equivalent to some 76 to 87 per cent of their total respective income.

<sup>20</sup> Article 3.b.ii of the [CoE Recommendation Rec\(2003\)4](#) on common rules against corruption in the funding of political parties and electoral campaigns notes that “states should ... consider the possibility of introducing rules limiting the value of donations to political parties”. The [2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation](#) state that “The regulation of party and campaign finance is necessary to protect the democratic process, including spending limits, where appropriate.”

<sup>21</sup> For example, in 2014, the PPFSC website indicates that the total funding from private donations of all four parliamentary parties was EUR 1.1 million.

<sup>22</sup> Article 19 of the International Covenant on Civil and Political Rights (ICCPR) states that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” The right may be subject to restrictions only if these “are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.”

<sup>23</sup> See [Judgement](#) of the Supreme Court, case No. 3-4-1-33-09, 1 July 2010.

Parties are prohibited from using public funds to conduct or organize election campaigns.<sup>24</sup> However, parties and other stakeholders noted to the OSCE/ODIHR EET that the misuse of administrative resources for campaigning is a continuing general problem. They specifically asserted that Tallinn city government was the most visible example of such malpractice. This assertion was supported by the PPFSC in a meeting with the EET, as well as by a detailed report of the National Audit Office, which found that the Tallinn city government acted against the public interest during the 2013 local elections.<sup>25</sup> The Tallinn city government maintained that its advertisements were notices related to its responsibilities or city events and were in the public interest. The OSCE/ODIHR EET was made aware of several complaints with regard to these allegations that were formally filed with the authorities.

*To address concerns with regard to the alleged misuse of administrative resources, the authorities could consider clarifying relevant provisions regulating the use of public funds during the campaign period.*

## **B. REPORTING AND DISCLOSURE**

Political parties submit quarterly and annual reports to the PPFSC on income and expenditures. Separate reports on campaign expenses are required from both parties and independent candidates within 30 days of the elections. Campaign finance reports are publicly available on the PPFSC website.

A number provisions aim at ensuring transparency of political finance. Parties may use only bank accounts that have been communicated to the PPFSC. Names of individual donors and the amounts of their contributions, including in-kind donations, must be published, as must names of political party members and their membership dues.

Party expenses must be reported in specified categories, such as advertising, public relations, and publications. For elections, a party must provide detailed reports on the expenses of each candidate, as well as its own expenses. Some civil society organizations pointed out to the OSCE/ODIHR EET that the categories are not sufficiently specific to enable them to assess whether the reports are accurate or realistic, explaining that parties report a lump sum for each category and not costs of each poster or each television advertisement. The law does not require reporting on third-party campaign expenditures. Several election stakeholders mentioned to the OSCE/ODIHR EET that these elections were the first to see third-party advertising in noticeable quantities.

*To enhance transparency of campaign finance, the authorities could consider amending the law to require reporting on election-related expenditures by third-parties.*

## **C. MONITORING AND OVERSIGHT**

The PPFSC is the principal body charged with verifying party and candidate adherence to the law. It is made up of representatives appointed by three institutions and by each parliamentary party.<sup>26</sup> None of

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<sup>24</sup> This does not include the funding granted to political parties from the national budget.

<sup>25</sup> See [summary of the National Audit Office report](#) issued 13 January 2015. Although the report does not relate to these elections, it was released in January 2015 during the election campaign, leading to some accusations that the timing was political.

<sup>26</sup> The Chancellor of Justice, Auditor General, and NEC each appoint a member. At the time of these elections, the PPFSC also comprised four representatives appointed by four parliamentary parties.

its members works full time. An appointing body or party may remove its representative at any time, which could negatively impact the PPFSC's independence.

*The parliament could consider amending the law to secure the tenure of PPFSC members, in order to enhance the independence of the Committee and its members.*

The PPFSC meets monthly to review regular finance reporting required of parties; it does not meet more frequently during election periods. The PPFSC provided parties with guidance on how to prepare financial reports.

PPFSC authority is limited, as it may not adopt regulations, issue fines or investigate possible violations. It may, however, issue precepts, for example asking a party to return funds or pay for services provided to it, and may impose monetary penalties that are not considered fines if the party does not comply.<sup>27</sup> The PPFSC may look into complaints or initiate actions on its own. Through its February meeting, it considered around 20 complaints relating to these elections and issued several precepts, some of which were still pending action on election day, as they were challenged by political parties in courts. Since the PPFSC may not conduct its own investigations, it must forward cases requiring investigation to the police. According to the PPFSC, lengthy or delayed investigations pose a problem for enforcement. The PPFSC is bound by confidentiality, which reduces the transparency of its work. Both the PPFSC and the National Audit Office recommended giving the PPFSC power to conduct investigations.

*Authorities could consider amending the law to provide the PPFSC with more resources and authority to conduct investigations in order to improve effectiveness of political and campaign finance oversight.*

The police may also receive complaints from individuals on issues related to election finance, and may open criminal investigations. Several such investigations were initiated with regard to these elections. Police enforce the ban on outdoor political advertising and can issue fines up to EUR 400 for violations or up to EUR 9,600 if a police order is not complied with. They also issued guidelines on outdoor political advertising. Police reported to the OSCE/ODIHR EET, however, that enforcement requires substantial resources and they are forced to adjudicate difficult and sometimes politically sensitive issues. Police received some 75 complaints during the campaign period, in addition to acting on their own. They issued many warnings and instructions to remove material and instituted misdemeanour procedures in five cases. All OSCE/ODIHR EET stakeholders expressed full confidence in the integrity and impartiality of the police.

*The authorities could consider giving the NEC the responsibility to provide guidance and make judgements on what constitutes outdoor political advertising.*

In 2014, the Penal Code was amended to re-criminalize the making or receiving of “prohibited large-scale donations”, as previously recommended by the OSCE/ODIHR. However, the amendment did not define the amount of a “large-scale” donation from a prohibited source, and did not specify the amount of a possible fine. Although several cases related to party financing received public attention in recent years, according to OSCE/ODIHR EET interlocutors, few if any violators have been prosecuted.

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<sup>27</sup> Under [Substitutive Enforcement and Penalty Payment Act](#), penalties for non-compliance with precepts are not considered to be fines or punishments.

*Consideration could be given to clearly defining in law the amount of a “prohibited large-scale donation” and the penalty for making or receiving one, while ensuring that the penalty is sufficient to dissuade would-be violators.*

## VI. PARTICIPATION OF NATIONAL MINORITIES

Ethnic Estonians make up 69 per cent of the population. The largest national minorities are Russians (25 per cent), Ukrainians (1.7 per cent) and Belarusians (1 per cent). Other groups, including Finns, Tatars, Latvians and Poles each make up less than one per cent of the population. The government established a national programme to promote the integration of national minorities, and maintains that encouraging national minorities to participate more actively in social and political life is the cornerstone of its integration policy.<sup>28</sup> International bodies have recommended increased efforts to ensure greater participation of persons belonging to national minorities in public life, including in parliament.<sup>29</sup>

OSCE/ODIHR EET interlocutors noted positive trends in terms of parties across the political spectrum placing candidates belonging to national minorities on party lists, in some cases in prominent positions, and greater efforts by parties and candidates to reach out to Russian-speaking voters, including with campaign information in Russian. It appeared that candidates of minority background made up less than ten per cent of candidates on all but two party lists.<sup>30</sup> Unlike during previous elections, none of the contesting parties explicitly identified itself along ethnic lines.

Issues related to national minorities did not feature prominently in the campaign, with the exception of Russian-language education. According to most OSCE/ODIHR EET interlocutors, divisive rhetoric concerning minority issues featured less than in previous elections. A torchlight procession to commemorate Estonia’s Independence Day on 24 February, organized by the youth wing of a party contesting the elections was viewed by some OSCE/ODIHR EET interlocutors and media commentators as having nationalistic and anti-Semitic overtones.

The Constitution stipulates that Estonian is the only official language. Approximately 30 per cent of the population speak Russian as their mother tongue, according to 2011 census data. The NEC website featured detailed election information only in Estonian, with some general election-related information also available in English. Voting instructions sent to all voters and information in polling stations and on ballots was only in Estonian. The NEC maintained that as only Estonian citizens have the right to vote in parliamentary elections, they should possess sufficient Estonian language proficiency to understand information about voting. Information about Internet voting was available in Estonian, and to a limited extent in Russian and English. Despite a previous OSCE/ODIHR recommendation, the electronic voting interface was only in Estonian. Internet voting levels were lowest in Ida Viru County, which has Estonia’s highest proportion of Russian speakers.

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<sup>28</sup> See the [fourth report](#) submitted by Estonia on the CoE Framework Convention for the Protection of National Minorities, May 2014.

<sup>29</sup> See: [Concluding observations on the combined tenth and eleventh periodic reports of Estonia](#) by the UN Committee on the Elimination of Racial Discrimination, 22 September 2014.

<sup>30</sup> Candidates were not required to declare their ethnicity when registering as candidates; therefore no official statistics on candidates’ ethnic backgrounds were available.

According to most OSCE/ODIHR EET interlocutors, including minority representatives, the lack of Estonian language proficiency was generally not an obstacle for minority voters in terms of understanding the voting process and casting their votes. In addition, Russian-language print and broadcast media provided information about voting procedures. However, it was noted that greater availability of official voter information in Russian would make such information more accessible to minority voters and would send a positive message about their inclusion in Estonian political life, as well as bringing practice into line with international standards.<sup>31</sup>

The Language Act requires that if a foreign language is used in outdoor campaign advertisements, the same text should be included in Estonian and should be no less visible than the other language. The Language Inspectorate oversees compliance with language legislation and receives and follows up complaints about possible violations. Before the start of the campaign period, when outdoor political advertising was still allowed, one verbal warning was issued to a party for an outdoor campaign advertisement where the Russian-language text was more prominent than the text in Estonian. Estonia's public broadcaster aired election debates in Russian on TV and radio. Some private media outlets also organized Russian-language debates.

As of 1 February 2014, persons of undetermined citizenship made up 6.5 per cent of Estonia's population.<sup>32</sup> According to the Ministry of Interior, as of 1 February 2015, they numbered more than 85,000 people, almost all of whom are of voting age. The vast majority of persons of undetermined citizenship belong to national minorities.<sup>33</sup> These persons have the right to vote in local elections but not the right to vote nor stand as candidates in parliamentary elections. While they could participate in party activities and donate funds to parties or candidates, despite a previous OSCE/ODIHR recommendation, they do not have the right to join political parties. The restriction on party membership is not consistent with international standards and recommendations concerning freedom of association.<sup>34</sup>

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<sup>31</sup> Paragraph 12 of United Nations Human Rights Committee General Comment 25 on the ICCPR states that "information and materials about voting should be available in minority languages". Paragraph 32.5 of the 1990 OSCE Copenhagen Document states that "persons belonging to national minorities have the right [...] to disseminate, have access to and exchange information in their mother tongue". The Advisory Committee to the Framework Convention for the Protection of National Minorities, *Commentary on the Language Rights of Persons Belonging to National Minorities under the Framework Convention*, adopted on 24 May 2012, states that "The authorities should also consider providing opportunities for the use of minority languages in public service television and radio programmes devoted to election campaigns and on ballot slips and other electoral material in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers."

<sup>32</sup> After the restoration of Estonian independence in 1991, citizenship was granted automatically to holders of Estonian citizenship prior to 16 June 1940 and their descendants. Long-term residents of Estonia and their descendants who did not receive Estonian citizenship automatically, obtain another citizenship, or naturalize as Estonian citizens, are referred to as persons of undetermined citizenship.

<sup>33</sup> According to 2011 census data, only about 2,000 of the more than 85,000 persons of undetermined citizenship are ethnic Estonians.

<sup>34</sup> Article 22.1 of the ICCPR states that "Everyone shall have the right to freedom of association", while Article 2.1 notes that this right is not limited to citizens but applies to "all individuals" within a State's "territory and subject to its jurisdiction" and Article 22.2 specifies that this right cannot be restricted unless "necessary in a democratic society" for a specific and limited set of circumstances. Paragraph 9.3 of the 1990 OSCE Copenhagen Document reaffirms freedom of association. According to the [Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and Public Affairs](#) by the Advisory Committee on the Framework Convention for the Protection of National Minorities, adopted on 27 February 2008, "Citizenship should not be a condition for persons belonging to national minorities to join trade unions and other civil society associations."



Persons of undetermined citizenship may acquire Estonian citizenship through naturalization, requirements for which are residency for at least eight years (including continuous residence for at least five years), and knowledge of the Estonian language and Constitution. Since 2009, the naturalization rate has dropped to less than 2,000 people per year.

On 21 January, the parliament adopted a number of positive amendments to the Citizenship Act. As of 1 January 2016, children born in Estonia to parents of undetermined citizenship, and children who are under 15 years of age, will receive Estonian citizenship through naturalization without an application by the parents. Another amendment provides that persons over 65 years of age are exempt from the written language examination. Previously, this applied only to persons born before 1 January 1930.

*Authorities should maintain and enhance their efforts to stimulate the naturalization rate among the still-large group of persons of undetermined citizenship with a view to granting them suffrage rights.*

## **VII. RECOMMENDATIONS**

The recommendations contained throughout the text are offered with a view to enhancing the conduct of elections in Estonia and bringing them fully in line with OSCE commitments, other international obligations, standards and good practice for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. The OSCE/ODIHR stands ready to assist the authorities of Estonia to further improve the electoral process and in following up on the recommendations contained in this and previous reports.<sup>35</sup>

### **A. PRIORITY RECOMMENDATIONS**

1. The authorities could continue efforts to include end-to-end verifiability in the Internet voting system to enhance system accountability through verification that votes are counted as recorded.
2. Authorities could consider establishing a formal process for end-to-end certification of the Internet voting system by an independent body, in line with the CoE guidelines, with its report made public.
3. The authorities could consider limiting the amount a single donor may contribute to a candidate or political party in a year, in order to ensure that the democratic process is not distorted by political influence through financial advantages.
4. Authorities could consider amending the law to provide the PPFSC with more resources and authority to conduct investigations in order to improve effectiveness of political and campaign finance oversight.
5. Authorities should maintain and enhance their efforts to stimulate the naturalization rate among the still-large group of persons of undetermined citizenship with a view to granting them suffrage rights.

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<sup>35</sup> In paragraph 24 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations.”

**B. OTHER RECOMMENDATIONS**

6. To maintain and further strengthen confidence in the EVC, consideration could be given to formalizing the qualifications or other possible requirements for its members.
7. To increase accountability of its work, the EVC should hold regular meetings and formally adopt and publish all decisions related to Internet voting in sessions open to observers.
8. The NEC could consider adopting and publishing detailed and formal procedures and deadlines for software development, testing, and updates of the Internet voting system.
9. The EVC could consider reviewing its security practices related to server maintenance and backup.
10. To increase transparency and accountability, the NEC could consider publishing full audit reports of the Internet voting system.
11. To increase accountability of the Internet voting process, the EVC could consider producing and retaining records at all stages of the process.
12. To address concerns with regard to the alleged misuse of administrative resources, the authorities could consider clarifying relevant provisions regulating the use of public funds during the campaign period.
13. To enhance transparency of campaign finance, the authorities could consider amending the law to require reporting on election-related expenditures by third-parties.
14. The parliament could consider amending the law to secure the tenure of PPFSC members, in order to enhance the independence of the Committee and its members.
15. The authorities could consider giving the NEC the authority to provide guidance and make judgements on what constitutes outdoor political advertising.
16. Consideration could be given to clearly defining in law the amount of a “prohibited large-scale donation” and the penalty for making or receiving one, while ensuring that the penalty is sufficient to dissuade would-be violators.



**ANNEX: ELECTION RESULTS**

<b>Political party</b>	<b>Number of votes</b>	<b>% of votes</b>	<b>Number of mandates</b>
Estonian Reform Party	158,965	27.7	30
Estonian Central Party	142,438	24.8	27
Social Democratic Party	87,186	15.2	15
Pro-Patria Union-Res Publica	78,707	13.7	14
Estonian Free Party	49,885	8.7	8
Estonian Conservative Party	46,772	8.1	7
Greens of Estonia	5,193	0.9	0
Party of People's Unity	2,289	0.4	0
Estonian Independence Party	1,046	0.2	0
Independent Candidates	887	0.2	0
Estonian United Left Party	764	0.1	0
Number of eligible voters	899,793		
Total votes cast	577,929		
Valid votes cast	574,132		
Turnout (%)	64.23		
<b>Internet voting</b>			
Internet votes cast including repeated votes	181,084		
Repeated Internet votes	4,593		
Number of Internet votes	176,491		
Number of Internet votes cancelled due to advanced voting	162		
Internet votes counted	176,329		
Share of the Internet votes among all votes (%)	30.5		

A total of 24 women were elected to the parliament, representing 23.8 per cent of the total number of members.

## ABOUT THE OSCE/ODIHR

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

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

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

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

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

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

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

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

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