ICELAND

EARLY PARLIAMENTARY ELECTIONS
28 October 2017

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT
2-3 October 2017

Warsaw
9 October 2017
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I. INTRODUCTION

Following an invitation from the Permanent Mission of Iceland to the OSCE to observe the 28 October 2017 early parliamentary elections, and in accordance with its mandate, the OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Reykjavik from 2 to 3 October. The NAM included Mr. Alexander Shlyk, Head of OSCE/ODIHR Election Department, and Mr. Radivoje Grujić, OSCE/ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the 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 representatives of political parties and media. A list of meetings is annexed to this report.

The OSCE/ODIHR would like to thank the Ministry for Foreign Affairs for its 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 NAM and for sharing their views.

II. EXECUTIVE SUMMARY

Iceland is parliamentary republic with a directly-elected president serving as head of state. The parliament is a unicameral body composed of 63 deputies directly elected for four-year terms. On 18 September, after one of the three parties left the ruling coalition, the president announced early parliamentary elections for 28 October. These will be the second early parliamentary elections in Iceland within one year.

Parliamentary elections are primarily regulated by the constitution and the law on parliamentary elections. The OSCE/ODIHR previously assessed the legal framework as providing a generally sound basis for the conduct of democratic elections. The OSCE/ODIHR NAM was informed that previously prepared draft amendments to electoral legislation will likely be submitted to the parliament following these elections. The amendments intend to address a number of prior OSCE/ODIHR recommendations, including harmonizing deadlines between candidate registration and early voting, extending timeframes for complaints and appeals, and introducing provisions for international and citizen observers.

The responsibility for the organization of the elections is shared between several state bodies. The Ministry of Justice oversees most of the technical preparations but does not have direct authority over election commissions operating at the constituency and polling station levels. All OSCE/ODIHR NAM interlocutors expressed full confidence in the professionalism and impartiality of the election administration, although some raised concerns about non-uniform approach by the lower-level election commissions to certain aspects of the process, specifically candidate registration and election day proceedings.
All citizens over 18 years of age have the right to vote. There are 248,502 voters registered, including 13,461 residing abroad. Voter registration is passive, except for those residing abroad for more than eight years who must actively register. No concerns were expressed regarding the accuracy of the voter lists.

Anyone who has a right to vote can stand for parliamentary elections, except Supreme Court justices, the parliament’s ombudsperson and those serving criminal sentences of at least four months in prison. Candidate lists can be put forward by political organizations, as defined by the law. The law does not provide for individual candidates, but individuals can present joint lists. Candidate registration ends on 13 October. Several OSCE/ODIHR NAM interlocutors expressed some concern regarding the lack of guidance and non-uniform approach of the Senior Election Commissions in this process.

Election campaigning is largely unregulated. The Constitution protects fundamental freedoms and no OSCE/ODIHR NAM interlocutors raised concerns about the ability to campaign freely. The campaign is expected to focus more on personalities but also on such issues as economy, environment and healthcare.

Campaign finance legislation sets limits for donations and expenditures and obliges candidates to submit post-election reports on their finances to the National Audit Office (NAO). Political parties submit only annual reports to the NAO. Some OSCE/ODIHR NAM interlocutors noted a continuing gradual decrease of public subventions to parties in recent years.

The media environment is pluralistic and offers a diverse range of views. The main source of political information is television, followed by daily newspapers and, increasingly, online and social media. Campaign debates and paid advertising are foreseen on public and private television. The public broadcaster intends to provide all candidate lists running nation-wide with free airtime and equal coverage. Although some concerns were noted about concentration of private media ownership and a degree of political affiliation of the media, all OSCE/ODIHR NAM interlocutors expressed overall satisfaction with media freedom and provisions for media coverage during elections.

The National Election Commission, the Senior Election Commissions and the parliament have jurisdiction over election disputes. Complaints related to voter registration can be lodged with the municipal authorities. The newly elected parliament certifies the legality of elections and the eligibility of the elected members of the parliament. There is no possibility of a judicial review of the parliament’s decision.

OSCE/ODIHR NAM interlocutors expressed full confidence in the integrity of the electoral process and the ability of the election administration to conduct professional and transparent elections. Most OSCE/ODIHR NAM interlocutors welcomed potential observation, noting the value of previous OSCE/ODIHR assessments and underlining the importance and added value of an updated external review. All of them also noted that the ongoing electoral reform process would benefit from additional inputs of an external review. Based on this, the OSCE/ODIHR NAM recommends deploying an Election Expert Team (EET) for the 28 October early parliamentary elections to review the effects that the interaction between various bodies in charge of administering elections has on a uniformity and consistency of the process, as well as to review the oversight of campaign finance.
III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Iceland is parliamentary republic with a directly-elected president serving as head of state. The parliament is a unicameral body composed of 63 deputies directly elected for four-year terms.

Outgoing parliament was elected in the early parliamentary elections on 29 October 2016, following the crisis of the government due to the alleged involvement of prime minister in a financial conflict of interest related to an offshore company. The outgoing parliament consists of seven political parties. Women are well represented in political life – 30 members of the outgoing parliament and 4 of the 10 ministers are female.

On 14 September, the Bright Future, one of the three parties in the ruling coalition, quit the government, leaving it without parliamentary majority. The party stated it stepped out because of a “serious breach of trust” over the alleged cover-up of an affair involving the prime minister’s father. On 18 September, in accordance with his constitutional authority and after a request by the prime minister, the president called for early parliamentary elections on 28 October. These will be the second early parliamentary elections in Iceland within one year.

The OSCE/ODIHR previously deployed Election Assessment Missions for the 2013 and 2009 parliamentary elections. The final report on the 2013 elections concluded that “the parliamentary elections were conducted in pluralistic and transparent manner and voters enjoyed a wide choice of political options. The electoral process benefited from a high degree of respect for fundamental rights and freedoms and trust in the impartiality of the election administration.”

B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

Members of parliament are elected through a proportional list system, with 54 seats filled from 6 constituencies and the remaining 9 seats distributed at the national level among parties that passed the five per cent threshold. These 9 “adjustment seats” are considered a compensatory measure to ensure proportionality at the national level. Political parties that are putting forward candidate lists determine the sequence of candidates on the ballot. However, voters can change the sequence of candidates by preferential vote. According to OSCE/ODIHR NAM interlocutors, this possibility is not widely used by voters.

The legal framework for the parliamentary elections consists primarily the 1944 Constitution (last amended in 1999) and the 2000 Parliamentary Elections Law (PEL, last amended in 2017), as well as several other laws. Previous OSCE/ODIHR final reports assessed the legal framework as providing a generally sound basis for the conduct of democratic elections.

After the 2013 parliamentary elections, a working group was created by the parliament to prepare amendments to the PEL. The role of the working group was to address some prior OSCE/ODIHR
recommendations, including the harmonization of deadlines between candidate registration and the start of early voting, extension of timeframes for complaints and appeals, and introduction of provisions for international and citizen observers. The OSCE/ODIHR NAM was informed that draft amendments had been prepared on the basis of inclusive discussions with a broad range of stakeholders and that these proposals may be on the next parliament’s agenda.

Most OSCE/ODIHR NAM interlocutors mentioned the long-standing problem with regard to the equality of the vote. The legislation provides that if the number of voters per parliamentary seat in one constituency is more than half of the number of voters per seat in another constituency, the National Election Commission (NEC) should reallocate the seats after parliamentary elections to reduce the difference. The NEC has on two occasions relocated two seats from North-West Constituency to the South-West Constituency, in 2009 and in 2013. However, considerable differences in the number of votes needed to elect a candidate from different constituencies remain. According to several OSCE/ODIHR NAM interlocutors, this issue is not adequately addressed by the current legal provisions for the reallocation of seats.

Although the law does not explicitly provide for international observation, the OSCE/ODIHR has received a timely invitation to observe the upcoming early elections and all stakeholders affirmed their willingness to co-operate with a potential OSCE/ODIHR election observation activity, as was the case in past elections. The Ministry of Justice (MoJ) assured the OSCE/ODIHR NAM that, should the OSCE/ODIHR decide to deploy an election-related activity, full access would be granted to election administration bodies and all other aspects of the process.

C. ELECTION ADMINISTRATION

The responsibility for the organization of parliamentary elections is shared between a number of state bodies, including the MoJ, the Registers Iceland, local authorities, National Election Commission (NEC), Senior Election Commissions (SECs) and Local Election Commissions (LECs). The Ministry of Foreign Affairs (MFA) co-ordinates out-of-country voting.

The division of responsibilities between various election commissions and executive bodies is not clearly defined in the law. The MoJ oversees the technical preparations for elections. It is responsible for registering political groups, developing and distributing ballots, candidate lists, and general voter information materials to the SECs. While the MoJ does not have direct authority over the election commissions it established a practice of co-ordination meetings with the SECs, in an attempt to enhance consistency in implementing the law. In addition, the MoJ provides a wide range of election-related information on its website, easily accessible in Icelandic and English.

The NEC, and the SECs in each of the six constituencies, are composed of five members nominated by the parliamentary political parties and appointed by the parliament after each parliamentary election for a four-year period. The law does not provide clear criteria for the selection of commission members. The NEC and SECs elect their own chairpersons. The SECs have no permanent offices or staff and generally meet several times prior to each election. LECs are formed

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

5 Three constituencies, Reykjavik North, Reykjavik South and South-West, collectively have some 46 per cent more registered voters per seat than the remaining three constituencies. ODIHR previously recommended to consider a review of the legal provisions for the distribution of parliamentary seats among constituencies to ensure compliance with the principle of equal suffrage.
by the municipalities and consist of three members. It is considered a civil duty to take up a seat in an election commission, if appointed.

The NEC acts as an appeal body for SEC decisions and other disputes with regard to the registration of candidate lists and allocates parliamentary mandates to those elected.

The SECs oversee the election process at the constituency level. The primary responsibility for the SECs is the receipt and verification of candidate lists in their constituency. They also count the votes and tabulate the results. LECs are responsible for organizing and conducting voting at polling stations and for transferring ballot boxes to the SECs. For these elections, some 260 LECs will be created, placed in some 130 localities, across 74 municipalities.

As an established practice to promote inclusive participation, the authorities are undertaking specific arrangements for voters with disabilities who can be assisted in polling stations by a person of their choice in casting their vote. In addition, following consultation with groups and organizations representing persons with disabilities, the MoJ has developed Braille templates for visually impaired voters.

The legislation provides for early voting that starts eight weeks before election day at the earliest (for these elections, early voting started on 20 September). This is more than three weeks before the deadline for registering candidates (13 October). In-country early voting takes place at the 9 District Commissioner offices (DCOs) throughout the country, while out-of-country early voting takes place in some 260 Icelandic embassies, consulates and honorary consulates abroad. Special arrangements also allow for early voting to take place at hospitals, prisons and ships-at-sea. A voter may cast multiple early votes, as well as a ballot on election day, and only the last vote is counted. Early voting has long tradition in Iceland and it is expected that a significant share of all votes will be cast before election day. The OSCE/ODIHR has previously recommended that early voting should not begin before candidatures have been confirmed.

Most OSCE/ODIHR NAM interlocutors expressed confidence and trust in the professionalism and impartiality of the election administration, although some raised concerns about continuing gaps in legislation and inconsistency in practices, particularly on election day.

D. VOTER REGISTRATION

All citizens that are at least 18 years of age have the right to vote. Voter registration is passive and Registers Iceland maintains a central database of registered voters based on the population register. Voters residing abroad remain registered for eight years following their departure, after which they must actively register every four years. After elections are called, Registers Iceland provides extracts of the voter list to the municipalities who then split them by polling station. The lists are made available for public scrutiny ten days before election day. Corrections, except changes to location or residence, can be made up to and on election day. Voters can also check their entries via an online platform. According to Registers Iceland, there are 248,502 voters registered, including

6 District Commissioners are appointed by the MoJ and have wide administrative responsibilities. Besides 9 DCOs, the District Commissioners can extend possibility for early voting to be organized at municipal administration venues. Responsibilities of District Commissioners extend over territories that are not necessarily congruent with the electoral constituencies.

7 Early voting in these special polling stations starts on 7 October.

8 In addition, small group of Danish citizens retain their right to vote based on having been resident in Iceland before 6 March 1946. For these elections five Danish citizens retain their right to vote.

9 For these elections, the parliament amended the PEL allowing voters from abroad to register until 11 October.
13,461 residing abroad. Given that these elections have been called early, a temporary provision was introduced to the PEL to allow registration of voters abroad until 11 October. No concerns were expressed to the OSCE/ODIHR NAM regarding the accuracy of the voter lists.

E. **Candidate Registration**

Anyone who has a right to vote can stand for parliamentary elections except Supreme Court justices, the parliament’s ombudsperson and those serving criminal sentences of at least four months in prison. Candidate lists can be put forward by political organizations.\(^{10}\) Contrary to the 1990 OSCE Copenhagen Document, the PEL does not provide for individual candidates, but individuals can present joint lists.

To contest elections, political organizations should be first assigned by the MoJ a letter of the alphabet as an identifier. The MoJ keeps a record of letters assigned to political organizations during the last parliamentary elections and publishes it no later than eight weeks before the parliamentary elections. In case of early elections, the MoJ should publish this record within three days from elections announcement.\(^{11}\) Political organizations without assigned letters should apply to the MoJ no later than three days before the candidate nomination deadline (i.e. until 10 October for these elections), presenting 300 supporting signatures of voters.\(^{12}\)

Candidate lists should be submitted to relevant SECs no later than 15 days before election day – by 13 October for the upcoming elections. Each candidate list must contain exactly double the number of candidates as there are seats in the relevant constituency. Candidate lists should be supported by signatures of voters from the relevant constituency. The number of supporting signatures should be between 30 and 40 times the number of seats in the constituency. A voter can sign in support of only one candidate list. In cases when a SEC identifies that the voter signed for two or more lists the signature is not considered for any of them. Since the 2016 presidential election, Registers Iceland has developed software that SECs may use to check for duplicate signatures and confirm the eligibility of supporters.

The law does not provide any guidance on how the supporting signatures should be collected, or on the criteria or procedure for their verification. Some OSCE/ODIHR NAM interlocutors characterized the signature collection process as burdensome and expressed their concern regarding the lack of guidance and non-uniform approach of the SECs in this process. At the same time, no OSCE/ODIHR NAM interlocutors expressed concerns regarding the inclusiveness of candidate registration.

F. **Election Campaign**

Election campaigning is generally unregulated. There is no official campaign period and campaigning may take place up to and on election day. The constitution guarantees freedoms of association, assembly and expression and no OSCE/ODIHR NAM interlocutors raised concerns about the ability to campaign freely. In addition to broadcast and print media, most of political parties that the OSCE/ODIHR NAM met with plan to rely to a significant degree on social media and coverage on the Internet, due to the short time to conduct the campaign and the lack of financial

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10 According to the PEL, political organizations are those who put forward candidates or have done so in previous elections.

11 On 19 September, the MoJ published the record, in accordance with the law. There are 12 political organizations registered since last elections.

12 The MoJ checks the signatures with the help of the Registers Iceland.
resources. Also, meeting with voters in localities around the country and door-to-door canvassing will be conducted.

The campaign is expected to focus more on personalities rather than issues, with special attention paid to the level of trust to politicians and transparency of work of elected officials. Political parties that the OSCE/ODIHR NAM met with expect to also focus their campaign on such issues as economy, environment and healthcare.

G. CAMPAIGN FINANCE

Campaign finance is regulated by the Campaign Finance Law (last amended in 2012), as well as instructions issued by the National Audit Office (NAO). Political parties and candidates may be funded from public subsidies and private donations. Candidates and parties can receive private donations from legal entities and individuals of up to ISK 400,000 per year (approximately EUR 3,150).\(^\text{13}\) Parties that obtain at least one seat in the parliament or receive more than 2.5 per cent of votes in the last general elections are entitled to public funding. The total amount of public funding distributed to parties yearly is some ISK 290 million. Parties that contest elections in all six constituencies are entitled to claim campaign expenses for up to ISK 3 million. Donations from state, foreign and anonymous sources are forbidden. There is no spending limit for political parties; however, the act sets a spending limit for candidates.\(^\text{14}\)

The NAO is responsible for monitoring campaign finance and provides guidance to parties and candidates through templates and trainings. Political parties are obliged to submit annual financial reports to the NAO by 1 October every year.\(^\text{15}\) After reviewing the reports, the NAO publishes summaries displaying total contributions and expenditures together with the sources of donations exceeding ISK 200,000. The legislation does not require parties to provide separate campaign-related financial reports, while candidates are obliged to submit statements on their campaign expenditures within 3 months of an election. The Campaign Finance Law foresees fines for not submitting reports or for submitting incomplete information to the NAO. Should the NAO consider a report to contain incorrect or inaccurate information, it may require an additional independent audit. In case of identified violations, the NAO does not have the authority to sanction candidates, but it may submit cases to the police for investigation.

No OSCE/ODIHR NAM interlocutors raised pressing concerns related to campaign finance regulation and oversight, but some noted a continuing gradual decrease of public subventions to parties in recent years. The OSCE/ODIHR NAM was informed that an informal working group that comprises representatives of all parliamentary parties has been reviewing the existing legal framework for political financing. It is expected that after these elections the newly elected parliament will create a committee to formally review the suggestions from this group and eventually propose changes to the existing legislation. In 2012, the Council of Europe’s Group of States against Corruption (GRECO) concluded that the revised campaign finance law addressed all of its prior recommendations.\(^\text{16}\)

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13 1 EUR is approximately 130 ISK (Icelandic Krona).
14 A spending limit per candidate is sum of the fixed amount of ISK 1 million and a surplus calculated based on the number of voters per constituency, in range from ISK 75 to ISK 175 per voter.
15 According to the NAO, all parliamentary parties submitted their annual reports for 2016 within the legal deadline.
H. MEDIA

The media environment is pluralistic and offers a diverse range of views. The main source of political information is television, followed by daily newspapers and, increasingly, online and social media. The two television channels of the public broadcaster (RÚV) and the privately-owned Channel 2 are expected to be the main source of election-related news and coverage of the campaign. Although some concerns were noted about concentration of private media ownership and a degree of political affiliation of the media, all OSCE/ODIHR NAM interlocutors expressed overall satisfaction with media freedom and provisions for media coverage during elections.17

The activities of broadcast media are mainly regulated by the Broadcasting Act and the National Broadcasting Service Act, obliging media to provide objective, reliable and impartial news. RÚV is further required by law to provide equal coverage of all contestants and will provide each candidate list with a total of four minutes of free airtime. RÚV will organize two debates among the candidates and provide them with an opportunity to present their views during news and political programmes. Expecting a high number of contestants, RÚV is considering splitting the group into two, based on opinion polling, for one of the debates. Candidates may also purchase paid airtime on public and private media.

While the law does not require the Media Commission to monitor media coverage of elections, this body has a general obligation to ensure that media comply with the law and to apply sanctions in case of violations. Complaints are to be dealt with by the Commission in an expedient manner and it can initiate procedures ex officio. While for 2016 presidential election the Commission conducted comprehensive monitoring of the RÚV coverage of election campaign, for these parliamentary elections it does not plan to do so, due to lack of financial resources.

I. COMPLAINTS AND APPEALS

Jurisdiction over election-related disputes is regulated by the Constitution and PEL and is shared among the NEC, the SECs, and the parliament. Complaints pertaining to voter registration can be lodged with the municipal authorities. The courts do not have any role in the adjudication of election-related complaints, unless those concern criminal matters. The newly elected parliament certifies the legality of elections and the eligibility of the elected members of the parliament.

Most interlocutors met with by the OSCE/ODIHR NAM expressed strong confidence in the complaints and appeals system, did not raise concerns on the process of adjudication, and positively noted existing checks and balances and a longstanding tradition of well-administered elections. Nevertheless, the law does not provide a mechanism for parliament’s final decision on election results to be appealed to a judicial authority, which is inconsistent with OSCE commitments and international good practice.18 Some OSCE/ODIHR NAM interlocutors raised concern over lack of

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17 See also statement of the OSCE Representative on Freedom of Media, 8 September 2015.
18 Paragraph 18.4 of the 1991 OSCE Moscow Document states that “the participating States will endeavour to provide for judicial review of such [administrative] regulations and decisions.” Section II.3.3.a of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that “Appeal to parliament, as the judge of its own election, is sometimes provided for but could result in political decisions. It is acceptable as a first instance in places where it is long established, but a judicial appeal should then be possible”. 
judicial control over the election process, particularly in cases of complaints regarding candidate registration.19

IV. CONCLUSION AND RECOMMENDATION

OSCE/ODIHR NAM interlocutors expressed full confidence in the integrity of the electoral process and the ability of the election administration to conduct professional and transparent elections. Most OSCE/ODIHR NAM interlocutors welcomed potential observation, noting the value of previous OSCE/ODIHR assessments and underlining the importance and added value of an updated external review. All of them also noted that the ongoing electoral reform process would benefit from additional inputs of an external review. Based on this, the OSCE/ODIHR NAM recommends deploying an Election Expert Team (EET) for the 28 October early parliamentary elections to review the effects that the interaction between various bodies in charge of administering elections has on a uniformity and consistency of the process, as well as to review the oversight of campaign finance.

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

Ministry for Foreign Affairs
Olöf Kristjansdottir, Directorate for International and Security Affairs
Svanhvit Adalsteinsdottir, Counsular Service

Ministry of Justice
Bryndis Helgadottir, Director of Legal Affairs
Hermann Saemundsson, Director, Ministry of Transport and Local Government
Hjördís Stefansdottir, Legal Adviser
Thorvaldur Heidar Throsteinsson, Legal Adviser

Constitutional and Supervisory Committee of the Parliament
Jon Steindor Valdimarsson, Chairperson
Eva Pandora Baldursdottir, Member

Registers Iceland
Astrídur Jónsdóttir, Legal Adviser

National Audit Office
Jon Loftur Björnsson, Director, Auditor General’s Secretariat
Larus Ógmundsson, Director, Legal and Archives Services

National Election Commission
Kristin Edwald, Chairperson
Asdis Rafnar, Deputy Chairperson
Dagny Rut Haraldsdottir, Member
Björn Þor Johannesson, Member
Thorhallur Valdimarsson, Secretary

Media Commission
Elfa Yr Gylfadottir, Member
Heiddís Lilja Magnúsdóttir, Legal Adviser

Political Parties
Válgerdur Palsdottir, Party Secretary, Bright Future
Birgir Ármannsson, Head of parliamentary faction, Independence Party
Thórdur Thórarinsson, Secretary General, Independence Party
Halla Gunnarsdottir, Office Manager, Left-Green Movement
Björn Levi Gunnarsson, Member of Parliament, Pirate Party
Hakon Johannesson, Pirate Party
Silja Dögg Gunnarsdóttir, Member of Parliament, Progressive Party
Birna Thorarinsdottir, Party Secretary, Reform Party

Icelandic National Broadcasting Service (RÚV)
Heidar Örn Sigurfinsson, News Editor, Election related programmes
Ragnhildur Thorlacius, Reporter, Election related programmes