



Office for Democratic Institutions and Human Rights

REPUBLIC OF LITHUANIA

PARLIAMENTARY ELECTIONS 14 October 2012

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

26-28 June 2012



Warsaw
23 July 2012

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**REPUBLIC OF LITHUANIA
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**OSCE/ODIHR Needs Assessment Mission Report
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I. INTRODUCTION

On 1 June 2012, the Permanent Mission of the Republic of Lithuania to the OSCE invited the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the parliamentary elections scheduled for 14 October 2012. The OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Vilnius from 26 to 28 June 2012. The NAM included Robert Krimmer, OSCE/ODIHR Senior Adviser on New Voting Technologies, and Raul Mureşan, 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 should recommend 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 state institutions, the election administration, and the judiciary, as well as with representatives of political parties, the media, and civil society. A list of meetings is included as an annex to this report.

The OSCE/ODIHR is grateful to the Ministry of Foreign Affairs for its assistance and co-operation in organizing the visit. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the mission.

II. EXECUTIVE SUMMARY

The elections for the 141 members of the parliament (*Seimas*) will take place on 14 October. They will be held under a parallel, mixed electoral system, with 71 members elected in single-member majoritarian constituencies and 70 elected proportionally in one national constituency.

The legal framework appears to provide a sound basis for the conduct of democratic elections, in line with OSCE commitments. However, the law does not explicitly provide for non-party domestic observation or for international observers; the authorities have assured the OSCE/ODIHR NAM that this should not affect potential international observation. According to some NAM interlocutors, campaign finance rules are considered overly restrictive.

Elections are administered by a three-tiered system, comprising the CEC, Constituency Electoral Committees and Polling District Committees. The CEC oversees the organization of the electoral process and preparations appear underway. Most OSCE/ODIHR NAM interlocutors expressed a high level of confidence in the electoral process, as well as in the impartiality and professionalism of the election administration. A few interlocutors stated that small irregularities are expected at local level, but anticipated that such elements should not impact the overall process. The representative of the Electoral Action of Poles in Lithuania alleged that the election authorities are discriminating against the rights of their minority by re-districting electoral constituencies.

The CEC compiles voter lists based on data from population registers. For the first time, all polling stations will be equipped with a computer connected to the internet and to constituency voter

registers. These computers will also be used for entry and transmission of election results. The law provides for voting in person, early, by post and homebound.

Candidates may be nominated by 10 August and the CEC is to register contestants by 14 September. The OSCE/ODIHR NAM's interlocutors expect the campaign to be active, even heated at times. At the same time, they expressed that new provisions of the law on campaign finance may dampen the campaign given that contributions from legal entities are no longer allowed, which formed a significant part of parties' campaign funding. They noted that the campaign may also be affected by the high prices of political advertisement and the restrictive format of television and radio debates.

Lithuania has a diverse media environment. The legal framework, however, criminalizes defamation and one journalist was recently sentenced to a criminal fine. During the campaign period, public broadcasters are to provide equal conditions to all contestants. According to OSCE/ODIHR NAM interlocutors, candidates' access to media broadcasters is over-regulated.

OSCE/ODIHR NAM interlocutors expressed general confidence in the impartiality and professionalism of the election administration. At the same time, this report finds that new campaign finance regulations, legal framework issues with regard to media in elections, issues to do with national minority participation and the equality of the vote between constituencies may benefit from further scrutiny. Accordingly, OSCE/ODIHR recommends the deployment of an Election Assessment Mission for the upcoming 14 October parliamentary elections.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

The parliament (*Seimas*) is a unicameral body comprising 141 members, elected to a four year term. The political landscape is pluralistic and the last parliamentary elections in October 2008 resulted in a win for the conservative Homeland Union–Christian Democrats list.¹ They form the current government, led by Prime Minister Andrius Kubilius, in coalition with the Liberal Movement and the Liberal and Centre Union. The next *Seimas* elections are set to take place on 14 October against the backdrop of an economy affected by global crisis.

OSCE/ODIHR has conducted four election observation activities in the country to date. For the 2009 presidential election, the Needs Assessment Mission (NAM) found that “the electoral administration, in particular the Central Election Commission appear[ed] to enjoy broad confidence across the political spectrum, and no immediate issues of outstanding concern were brought to [its]...attention”. Thus, no election observation mission was deployed at that time.²

¹ Homeland Union – Lithuanian Christian Democrats (*Tėvynės sąjunga – Lietuvos krikščionys demokratai*) won 45 seats, the Social Democratic Party of Lithuania (*Lietuvos socialdemokratų partija*) - 25, the National Resurrection Party (*Tautos prisikėlimo partija*) - 16, Order and Justice (*Tvarka ir teisingumas*) - 15, the Liberals' Movement of the Republic of Lithuania (*Lietuvos Respublikos liberalų sąjūdis*) - 11, the Coalition Labour Party + Youth (*Koalicija Darbo partija + jaunimas*) - 10, the Liberal and Centre Union (*Liberalų ir centro sąjunga*) - 8, Electoral Action of Poles in Lithuania (*Lietuvos lenkų rinkimų akcija*) - 3, the Lithuanian Peasant Popular Union (*Lietuvos valstiečių liaudininkų sąjunga*) - 3, the New Union (Social Liberals) (*Naujoji sąjunga (socialliberalai)*) - 1; and independents - 4.

² For previous OSCE/ODIHR reports on Lithuania, see <http://www.osce.org/odihr/elections/lithuania>.

B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

Elections to the parliament are held under a parallel, mixed electoral system. The *Seimas* has 71 members elected in single-member constituencies under a majoritarian system and 70 members elected by proportional representation in one national constituency.

In the majoritarian contests, the winner must have an absolute majority if the voter turnout is above 40 percent. In case of lower turnout, the winner must have at least 20 percent of votes. If neither condition is satisfied and at least two candidates participated in the election, there is a runoff round between the two candidates who received most votes. In the proportional contest, an election is valid if the turnout is at least 25 percent, and a party must pass a threshold of 5 per cent in order to be awarded mandates.³

The legal framework governing parliamentary elections appears to provide a sound basis for the conduct of democratic elections, in line with OSCE commitments. It comprises the 1992 Constitution - last amended in 2004, the 1992 Law on Elections to the *Seimas* - last amended in 2010, the 2002 Law on the Central Election Commission (CEC) - last amended in 2012, and the 2004 Law on the Funding of Political Parties and Political Campaigns, and Control of Funding - last amended in 2011.

All OSCE/ODIHR NAM interlocutors expressed satisfaction over the way the legal framework regulates the elections in general, with two notable exceptions. The first is that campaign finance rules are considered too complex and, according to some, restrictive; second, media access for campaigning is considered by them to be overregulated, leading in their estimation to a low-key and non-interactive campaign. According to the CEC, the authorities are in the process of drafting an Electoral Code to consolidate the various pieces of legislation relevant to elections, but this will not impact the current elections.

C. ELECTION ADMINISTRATION

Elections are administered by a three-tiered system, comprising the CEC, 71 Constituency Electoral Committees (CoEC)⁴ and some 2,017 Polling District Committees (PDCs).⁵

The CEC is a permanent, independent, and professional body. Its members are appointed for four years before each national election. The Ministry of Justice and the Bar Association appoint three members each (chosen by lots from a minimum of six nominations from each institution). The parliamentary parties with members elected under the proportional system appoint one member each. The CEC chairperson is appointed by the *Seimas* upon the recommendation of its speaker. There are no gender requirements for nominations. The current CEC members, eight women and seven men, were appointed in June 2012. The CEC chairperson opined that such an appointment

³ The threshold requirement also applies to parties representing national minorities. According to the “Lund Recommendations on the Effective participation of National Minorities in Public Life” (II.B.9), “lower numerical thresholds for representation in the legislature may enhance the inclusion of national minorities in governance”; see at <http://www.osce.org/hcnm/32240>.

⁴ The single-member constituencies are formed based on the number of inhabitants and the administrative-territorial division. The number of voters in a constituency is between 0.8 and 1.2 of the average national number of voters per single-member constituency.

⁵ Each district has a maximum of 5,000 voters. 50 PDCs will also be opened outside Lithuania in diplomatic missions.

system, as close as four months before election day, can negatively effect the preparations for elections, particularly if a large number of members are new appointees.⁶

The CoECs are to be appointed by 1 August, and will include citizens living in the respective constituency. Their members will consist of one nominee from the Ministry of Justice; one from the Bar Association; one civil servant representing each municipality from the respective constituency; and two representatives of each party which won seats in the previous *Seimas* proportional elections in the respective constituency. The chairpersons of the CoECs are appointed by the CEC chairperson.

The number of PDCs members is to be determined by 10 August and must be a multiple of the number of the parties (or their coalitions), which have the right to nominate candidates to CoEC. A party or coalition which won seats in the previous *Seimas* proportional elections or municipal councils' elections may nominate an equal number of members. The names of the PDC members have to be submitted by 27 August. The chairpersons of the PDC are appointed by the respective CoEC chairperson.

All meetings of election commissions are public, and can be observed by representatives and observers of the parties, candidates, as well as mass media.

The CEC is responsible for all aspects related to the organization of the electoral process. The preparations were underway at the time of OSCE/ODIHR NAM visit. Most of the NAM interlocutors expressed a high level of confidence in the electoral process, as well as in the impartiality and professionalism of the election administration.

A few OSCE/ODIHR NAM interlocutors stated that small irregularities are expected at the lower levels, but anticipated that such elements should not impact the overall process. They indicated that based on previous elections potential violations could be attempts of vote buying and offering of gifts to voters, particular in national minorities' areas.

Specific concerns were raised by representatives of the Electoral Action of Poles in Lithuania, who felt that the election authorities were discriminating against the rights of the Polish minority.⁷ The issues raised by them were alleged political motives in changing constituency boundaries, the issue that official election materials are only provided in Lithuanian⁸ and a stated lack of representation of this party at the level of CoEC chairpersons.

The law provides that constituency boundaries can be changed no later than 95 days before an election.⁹ For these elections, the CEC re-defined six constituencies through a regulation passed on 11 July. This decision was criticized by the Electoral Action of Poles in Lithuania, which claimed

⁶ Eight of the current 15 members are new appointees.

⁷ The 2001 census showed ethnic minorities representing some 16.5 per cent of the population (3,483,972), with Poles (6.7 per cent), Russians (6.3 per cent), Belarusians (1.2 per cent), and others.

⁸ The CEC informed the NAM that it will ensure the translation of the manifestos of political parties running in the upcoming elections and some voter education materials into Polish and Russian.

⁹ Article 9.1 of the Law on Parliamentary Elections.

that it discriminated against the rights of this minority and weakens its voting power.¹⁰ This underscores certain other questions regarding the overall equality of the vote in the upcoming elections.¹¹ The CEC informed the OSCE/ODIHR NAM that the authorities intend to conduct a major re-districting reform after the October elections.

The law provides voters with several voting methods: voting in person, early, by post and homebound. Any voter who cannot come to a polling station on election day can vote in advance in municipal buildings from 10 to 11 October. Postal voting will be available to specific categories of voters and homebound voting will take place upon special request in the days prior to election day.

For several years, a debate on the possible introduction of internet voting has been ongoing. Several proposals were put to the vote in the *Seimas* and its committees.¹² However, so far, stakeholders have not opted for the implementation of new voting technologies in elections.

D. VOTING RIGHTS AND VOTER REGISTRATION

All citizens over the age of 18 on election day are eligible to vote, except those declared incompetent by a court. All citizens over 25 years old who permanently reside in Lithuania, except “those not under allegiance to a foreign state”,¹³ those who have not served a sentence imposed by the court with 65 days remaining before elections, and those declared legally incapable by a court enjoy the right to stand as parliamentary candidates.

The CEC is responsible for compilation and maintenance of voter lists based on data from the population registers. The national voter register is electronic, as are single-member constituency voter lists. In addition, printed voter lists are used by PDCs.¹⁴ For the first time, PDCs will be equipped with a computer connected to the internet and to constituency voter registers. These computers will also be used for entry and transmission of election results.

Provisional voter lists are to be sent by the CEC to CoECs by 5 September and then to PDCs by 18 September.¹⁵ Voters can check their personal data in-person or by phone. The CEC is to approve the final voter lists by 7 October. However, a voter can be added by PDCs on a supplementary voter list until 18:00 hours on election day, based on an identification with proof of residence in the district. Such votes will be conditional on CoECs establishing that such voters did not vote multiple times (tendered ballots). The national voter register comprises some 2.7 million voters.

¹⁰ See at: http://www.awpl.lt/index.php?option=com_content&view=article&id=349%3Allra-lietuvos-dabartin-valdia-neilaiko-egzamino&catid=42%3Aaktualia&Itemid=59&lang=pl. The Code of Good Practice in Electoral Matters of the Venice Commission (2.2.iv) advises that electoral re-districting should be done without detriment to national minorities and take into account the opinion of a committee whose members include, if necessary, national minority representatives; see [http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)023rev-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023rev-e.pdf).

¹¹ For the 2008 elections, the number of voters in 21 of the 71 constituencies varied by more than 10 per cent from the national average of voters per constituency, and additional 15 varied by more than 15 per cent. Limited re-districting took place after the 2008 parliamentary elections. According to the Code of Good Practice in Electoral Matters of the Venice Commission (2.2.iv), the permissible departure from the norm should not be more than 10 per cent, and should certainly not exceed 15 per cent.

¹² The most recent one took place on 20 June. See: <http://www.15min.lt/en/article/politics/lithuanian-parliamentary-committee-rejects-e-voting-proposals-526-227915>.

¹³ Article 2 of the Law on Elections to the *Seimas*. Article 56 of the Constitution also provides that “any citizen ... who is not bound by an oath or pledge to a foreign state... may be elected a Member of the *Seimas*.”

¹⁴ A voter has the right to refuse the publication of his or her address in the voter list of the polling district.

¹⁵ A list of citizens whose place of residence is unknown will also be compiled.

The PDCs must deliver voter certificates to voters by 24 September. The certificates contain basic information on where the voter should vote and are mandatory for voter identification.

Voters from outside the country are registered to vote for the first single-member constituency in Vilnius. For the first time, they will be able to apply and submit registration documents in electronic format. The Lithuanian diplomatic missions have to submit a final voter list at least 15 days before the elections. Non-registered out-of-country voters can also vote at embassies by 'tendered' ballot. At the time of writing, some 18,000 citizens were registered on such lists.

E. CANDIDATES REGISTRATION AND THE CAMPAIGN

Candidates may be nominated by parties (for single or multi-member constituencies) or through self-nomination (for single-member constituencies) starting with 10 August. Candidate lists must include between 25 and 141 names. Majoritarian candidates have to submit a financial deposit equivalent to one average monthly salary; a list of candidates for the proportional race has to have a deposit equivalent to ten average monthly salaries lodged on its behalf.¹⁶ Most of the parties met with by the OSCE/ODIHR NAM nominate their candidates at headquarters level. Some of them have internal quotas for women or youth candidates. The CEC is to register party/coalition lists and single-member constituency candidates by 14 September. Their order on the ballots is determined by the drawing of lots.

OSCE/ODIHR NAM interlocutors expect the campaign to be active and occasionally heated due to the large number of parties and candidates intending to stand. At the same time, the campaign is anticipated to be limited by new law on campaign finance, high prices for political advertisement, and perceived over-regulated access to media and restrictive format of television and radio debates. The main campaign topics expected to include the economic crisis, European policy, emigration, and the environment (including the debate over the construction of a nuclear power plant in Visaginas).

Candidates and parties must open bank accounts for all campaign-related incomes and expenditures. For the first time during the upcoming elections, legal entities are not allowed to fund election campaigns. Parties that received more than three per cent of votes cast in *Seimas*, municipal councils, or European Parliament elections are entitled to a yearly state subvention, in proportion to the votes received.

Campaign finance is overseen by the CEC, the State Tax Inspectorate and the National Audit Office. Contestants must provide the CEC with a campaign funding report 25 days after final results are published. Data on donations are publicised on the CEC website within 10 working days of receipt. The CEC is to publish the political campaigns' financial statements together with the auditor's report on its website no later than 100 days after the election results are finalized.¹⁷

OSCE/ODIHR NAM interlocutors expressed limited satisfaction with the current campaign finance rules and raised a number of issues. They stated that state subvention is insufficient and suffices to only cover media-related expenses. While some interlocutors said the new rules increase

¹⁶ This deposit is double for a party which nominated candidates for the previous *Seimas* or municipal council elections and did not submit a financial report for that respective election campaign. The CEC returns the deposit within 40 days of the election for candidates or lists that have submitted a campaign finance report.

¹⁷ Audit reports are required from parties that received donations above 200 average monthly salaries in a calendar year and from candidates who received donations above 70 average monthly salaries in the same period.

transparency of donations from businesspeople to campaigns, others expressed discontent that the new law is overly restrictive and companies can no longer donate; in their estimation, this could lead to a more limited campaign. They also indicated that the current legal framework favours parliamentary parties. Civil society representatives also noted that under current practice, parties do not always detail in-kind donations, that campaign funding information published is difficult to audit, and that party support organizations' (e.g., youth branches) spending is largely un-regulated.

F. MEDIA

A variety of commercial and public broadcasters, print and electronic media at national, regional and local levels constitute a diverse media environment. There are some 76 television (TV) broadcasters and 48 radio broadcasters. The public broadcaster, National Radio and Television of Lithuania (LRT), operates two nationwide channels, LTV1 and LTV 2, and LTV World via satellite, as well as three national radio stations. The three largest national newspapers are *Vakaro žinios* (Evening News), *Lietuvos Rytas* (Lithuania's Morning) and *Respublika* (Republic).

The legal framework criminalizes defamation. On 29 June, Dainius Radzevicius, the chairperson of the Union of Journalists, was sentenced to a criminal fine after a "trial for defamation...as a result of his online post commenting on alleged corruption in the media based on a Wikileaks cable".¹⁸

The legal framework regulating the activities of media during the campaign includes the law on campaign finance, the law on parliamentary elections and CEC decisions. The media is largely self-regulated. The two main journalist organizations are the Journalists' Union, which includes an Ethics Commission, and the Commission of the Ethics of Journalists and Publishers. In addition, the Radio and Television Council oversees LRT's operations.¹⁹

During the campaign, broadcasters must provide equal conditions to all candidates. The CEC is vested with a supervisory role over the media during the campaign. In case of violations of the rules, the CEC (as well as lower-level commissions) can request an investigation by a district court.

According to OSCE/ODIHR NAM interlocutors, certain aspects of the law on campaign finance over-regulate candidates' access to media broadcasters.²⁰ Most stakeholders considered television debates to be of limited significance due to their over-regulated format and a lack of professionalism on the part of some journalists.

G. COMPLAINTS AND APPEALS

Decisions of electoral commissions can be appealed by all parties that have nominated candidates, by proxies and by observers. Appeals can be lodged with the higher-level commission. Complaints against the CEC can be lodged with the Supreme Administrative Court. A voter can also appeal a PDC decision on voter list inaccuracies to the county administrative court.

¹⁸ See the 21 June 2012 Regular Report to the Permanent Council of the OSCE Representative on Freedom of the Media, available at <http://www.osce.org/fom/91528> and her press-release following the sentencing, available at <http://www.osce.org/fom/91880>.

¹⁹ According to the constitution, the Law on the Provision of Information to the Public, and other laws and regulatory enactments such as the Rules for Licensing Broadcasting and Re-broadcasting Activities and its own regulations.

²⁰ Political advertisement can not be shorter than 90 seconds (although a reduction to 30 seconds is apparently being considered by *Seimas*), which increases the cost of such advertisements. Advertisements can only include a candidate's speech about his or her political programme, and campaign expenditures for media may not exceed 50 per cent of total campaign costs.

Election results can also be appealed to higher-level commissions. Contestants can appeal the final election results to the Constitutional Court, which by its conclusions can compel the *Seimas* to either declare the elections invalid or to “establish the real election results”.

H. ELECTION OBSERVATION

Contestants can appoint up to two observers per polling district. Several parties informed the OSCE/ODIHR NAM that they intend to deploy observers to all polling stations as a measure to maintain confidence in the electoral process.

The law does not detail the rights of observers and does not provide for non-party domestic observation or for international observers, as set forth in paragraph 8 of the OSCE 1990 Copenhagen Document. The authorities have assured the OSCE/ODIHR NAM that this will not impact potential international observer activities.

IV. CONCLUSION

OSCE/ODIHR NAM interlocutors expressed general confidence in the impartiality and professionalism of the election administration. Limited concerns were raised with regard to election day proceedings, but such elements were anticipated as not having an impact on the overall process. The political pluralism, the diverse media environment, and the sound legal framework indicate that there would be limited value in a large-scale OSCE/ODIHR election observation activity.

Nevertheless, the OSCE/ODIHR NAM found that new campaign finance regulations, legal framework issues with regard to media in elections, issues to do with national minority participation, and issues related to the equality of the vote between constituencies may benefit from further scrutiny. Based on these considerations, the NAM recommends the deployment of an Election Assessment Mission for the upcoming 14 October parliamentary elections.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs

Darius Staniulis, Deputy Director, United Nations, International Organizations and Human Rights Department

Central Election Commission

Zenonas Vaigauskas, Chairperson

Lina Petroniene, Head of the Division for Political Party and Campaign Funding Control

Constitutional Court

Toma Birmontiene, Judge

Kestutis Jankauskas, Director of Law Department

Rytis Krasauskas, Assistant to the President of the Constitutional Court

Lolita Aukse Raudiene, Head of the Secretariat of the President of the Constitutional Court

Supreme Administrative Court

Ricardas Piliciauskas, President of the Court

Media

Radio and Television Commission

Paulius Subacius, Chairperson

Nerijus Maliukevicius, Executive Director

Birute Kersiene, Head of Public and International Relations

Lithuanian National Public Broadcaster “State Radio and Television”

Dainius Radzevicius, Chairperson of the Council of the Lithuanian National Public Broadcaster, and Head of Lithuanian Union of Journalists

Political Parties

Homeland Union – Lithuanian Christian Democrats

Mantas Adomenas, Member of Parliament

Order and Justice

Dailis Alfonsas Barakauskas, Member of Parliament

Social Democratic Party of Lithuania

Algirdas Butkevicius, Chairperson, Member of the Parliament

Coalition Labour Party + Youth

Paulius Kalina, Member of Vilnius Municipality, Candidate to the Parliament

Reda Daniškevičiūtė, CEC Member Proposed by the Labour Party

Liberal and Centre Union

Andrius Burba, Dean of the Liberal and Centre Union Fraction in the Parliament

Inga Milasiute, CEC Member Proposed by the Liberal and Centre Union

Electoral Action of Poles in Lithuania

Valdemar Tomasevski, Chairperson, Member of the European Parliament

Lithuanian Peasant Popular Union

Tomas Tomilinas, Deputy Chairperson

Civil Society

“Transparency International” Lithuanian Chapter

Neringa Mickeviciute, Project Coordinator