

## **8. Ballot access for political parties and candidates**

*The legal framework should ensure that all political parties and candidates are able to compete in elections on the basis of equitable treatment.*

The legal framework should differentiate between the registration of political parties in general and the rules governing ballot access at election time. Many of the procedural requirements for getting access to the ballot may be the same as for the initial registration of parties (signature requirements, deposits, geographic spread etc.) but the legal framework might make it easier, or sometimes even automatic, for registered parties to be on the ballot papers.

### ***Equitable treatment***

The legislative framework for elections should provide for the right of all individuals and groups to establish, in full freedom, their own political parties or other political organizations with legal guarantees to enable them to

compete with each other on a basis of equitable treatment before the law. Accordingly the legal framework must provide a level playing field for the recognition and registration of all political parties, regardless of ideological position. Once registered, each category of political parties must be treated equitably for the purposes of access to the ballot. Similarly, within the confines of the electoral system, the right of individuals to run as independent or non-affiliated candidates must be protected.

### ***Registration of political parties***

The legal framework may provide a structure for the registration of political parties. The legal framework should clearly provide for notification of the dates for commencement and closure of registration, or provide that such registration could be continuously open; specify when, how and where registration procedures must be undertaken; and set out the process of verification of registration. Where the legal framework requires the collection of signatures as evidence of support of an application for registration, it should provide for a reasonable timeframe for this to be done and for the subsequent verification of the signatures. The legal framework should provide for uniformity in the registration process so that the same process applies to all political parties at all levels.

The grounds for rejection of a registration application should be based on objective criteria and clearly stated in the legal framework for elections, along with avenues of appeal against such rejection.

### ***Ballot access***

Some registered parties may be able to gain ballot access automatically by virtue of their status as a registered party, while unregistered parties may need to fulfil some or all of the requirements for registration before gaining ballot access.

The legal framework should clearly provide for notification of the dates for commencement and closure of nominations; specify when, how and where

nomination procedures must be undertaken; and set out the process of scrutiny and verification of nomination forms and declarations. Where the legal framework requires the support of a nomination by the collection of signatures, it should provide for a reasonable timeframe for this to be done and for the subsequent verification of the signatures. The legal framework should provide for uniformity in the nomination process so that the same process applies to all political parties at all levels.

Unless the electoral system is restricted to parties or party lists, individuals should not be precluded from being nominated as independent or unaffiliated candidates.

Ballot access for a particular election is usually granted when a political party, coalition, bloc, or independent candidate meets one or more of the following requirements:

- Having paid a monetary deposit: monetary deposits should be of a sufficient level to discourage frivolous independent candidates and political parties, but should not be so high as to prevent legitimate political parties or independent candidates from obtaining ballot access. Additionally, monetary deposits should be refundable upon a reasonable number or percentage of votes being received. This threshold should be stated in the electoral legislation;
- Having previously won a seat in the legislature or having gained a minimum percentage of the votes in the last election; and
- Having collected a minimum number of validated signatures of registered voters. Special attention should be given to the manner of validating signatures. An invalid signature should merely be what it is -- an invalid signature. It should not invalidate other signatures or the signature list. When signature collection is involved, registration should be based on verification of a fixed number of valid signatures without regard to the number or percentage of invalid signatures that may be on the registration list. The law should be very clear on the verification process involved in order to ensure that all party and candidate lists are exposed to the same level of scrutiny, under clearly stated objective criteria. Legal provisions to achieve this objective may include:

- The size of the sample to be drawn and checked;
- The method by which the sample is to be drawn (for example, the computer generation of random numbers);
- The tests to be applied to determine whether a particular signature is valid;
- A formula for determining the number of signatures in the sample which must be valid in order for the registration to be accepted;
- The circumstances under which a further sample may be drawn if necessary;
- The definition of the deadlines for approval or rejection of registration application;
- The acceptable grounds for objections by other parties, candidates or voters.

There are three other points worth noting:

- Provisions regarding the geographic regions where signatures are obtained must also be carefully reviewed. An election law may require that a party obtain a certain number of signatures in every region of the country. Such a provision discriminates against regional, ethnic and smaller parties that enjoy a strong public following but whose support is limited to a particular area,
- Any requirement that voters may only sign in support of one candidate or party which can give rise to abuse of the registration process; and
- Provisions regarding the process for appeal and the requirement for expedited court ruling -- adequate time must be permitted for correcting minor deficiencies before formally rejecting the nomination. The law should provide for appeal to a court of law after final rejection of registration. The law should clearly specify the process for appeal and require either an expedited court ruling to enable a candidate or party to be placed on the ballot where registration was improperly denied, or to allow the appellant to file an election petition after the election is concluded.

### ***Checklist***

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- ☐ Are all political parties and candidates assured equitable treatment?
- ☐ Are eligible citizens assured of the right to seek office as either candidates for a political party or independent candidates?
- ☐ Does the legal framework provide a level playing field for registration and ballot access for all political parties and candidates?
- ☐ Are the requirements and procedures for party and candidate registration based on relevant, reasonable and objective criteria? Are these criteria clearly stated in the law?
- ☐ Does the legal framework provide for a timely appeal to expeditiously review the decisions made on party and candidate registration?
- ☐ Does the legal framework provide for minor corrections of errors or allow further information to be added so that candidates' nominations are not rejected on flimsy grounds?

