



Office for Democratic Institutions and Human Rights

REPUBLIC OF MALTA

PARLIAMENTARY ELECTIONS

9 March 2013

OSCE/ODIHR ELECTION ASSESSMENT MISSION FINAL REPORT



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OSCE/ODIHR Election Assessment Mission Final Report

I. EXECUTIVE SUMMARY

Following an invitation by the Permanent Mission of Malta to the OSCE, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Assessment Mission (EAM) to observe the parliamentary elections scheduled for 9 March 2013.

The entire electoral process commanded a high level of public confidence. The campaign took place in an open and peaceful environment with no restrictions on freedoms of association or expression. However, the lack of comprehensive and effective campaign finance regulations raised certain concerns among many OSCE/ODIHR EAM interlocutors about transparency, particularly for non-parliamentary parties.

Malta is a parliamentary republic with legislative power vested in the House of Representatives, a unicameral parliament elected for a five-year term under a single transferable vote system. The political landscape is dominated by the Nationalist Party and the Labour Party, the only parliamentary parties since Malta's independence in 1964.

The legal framework, primarily regulated by the Constitution and General Elections Act, provides a sound basis for holding democratic elections. Legal amendments in 2012 refined voter registration regulations and introduced procedures for voting in hospitals and retirement homes. Certain aspects of the legislation could benefit from further review, particularly limitations on voting and candidacy rights, the absence of comprehensive campaign finance regulations, legal provisions for citizen and international election observation.

Voter registration is passive and 333,072 voters were eligible to vote in these elections. Citizens serving a prison sentence of more than 12 months are deprived of their voting right, raising concerns about the proportionality of this restriction. The voter register is open for public scrutiny within five days of elections being announced. All OSCE/ODIHR EAM interlocutors expressed confidence in the accuracy and inclusiveness of the voter register.

Candidates may stand as representatives of a political party or independently, in line with paragraph 7.5 of the 1990 OSCE Copenhagen Document. However, restrictions on candidacy rights, based on residency and incompatibility with certain official functions, could benefit from further review. Overall, the candidate registration process was inclusive and provided voters with a diverse choice.

Women are under-represented in politics. Only 15 per cent of all candidates were women and there are no legal requirements to promote their participation. Several women candidates informed the OSCE/ODIHR EAM of the persistence of negative attitudes towards women's political participation. There were no women represented on the Electoral Commission.

Elections were administered by the Electoral Commission with voting taking place in 609 polling stations. Overall, elections were administered in a professional and efficient manner that enjoyed a high degree of public trust.

The media environment is pluralistic and diverse and provided voters with a wide range of

information on candidates and campaign issues. The composition of the regulatory Broadcasting Authority was criticized by many OSCE/ODIHR EAM interlocutors as being biased in favour of the two dominant parties. Contrary to international good practice, defamation is criminalized.

The legal framework generally provides for effective redress of electoral complaints and appeals and the electoral dispute resolution system enjoyed widespread confidence among OSCE/ODIHR EAM interlocutors. However, the law does not always specify deadlines for resolving complaints, which could potentially undermine timely remedy.

According to the OSCE/ODIHR's election observation methodology, the EAM did not undertake a comprehensive and systematic observation of election day. However, mission members visited a limited number of polling stations during early voting and on election day. Voting appeared to be well organized and orderly. All polling stations visited provided access for voters with disabilities, although at times this compromised the secrecy of their vote. Counting took place in a central counting centre and was conducted efficiently and transparently.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Permanent Mission of Malta to the OSCE to observe the 9 March 2013 parliamentary elections, and based on the recommendation of a Needs Assessment Mission conducted from 15 to 17 January, the OSCE/ODIHR deployed an Election Assessment Mission (EAM) from 26 February to 12 March.¹

The OSCE/ODIHR EAM was led by Nikolai Vulchanov and consisted of five election experts from as many OSCE participating States. In line with the OSCE/ODIHR's methodology, the EAM did not observe election day proceedings in a systematic or comprehensive manner. However, mission members visited a limited number of polling stations and observed the counting of ballots in the central counting centre. Although there were concurrent local elections in a number of localities, the OSCE/ODIHR EAM only followed them to the extent that they might have impacted upon the parliamentary elections.

The OSCE/ODIHR EAM wishes to thank the Ministry of Foreign Affairs and the Electoral Commission for their assistance and co-operation. The OSCE/ODIHR would also like to thank other state institutions, political parties, media and civil society organizations who took the time to meet with the mission.

The OSCE/ODIHR had not previously observed or assessed national elections in Malta, although it did visit the country in the context of the June 2009 elections to the European Parliament.

III. BACKGROUND AND POLITICAL CONTEXT

Malta is a parliamentary republic. Legislative power is vested with the House of Representatives, a unicameral parliament elected for a five-year-term. Executive power is shared between the cabinet of ministers and the president. The latter is elected by a simple majority of the parliament and performs mostly ceremonial functions.

¹ All previous OSCE/ODIHR reports on Malta are available at: <http://www.osce.org/odihr/elections/malta>.

The political landscape is dominated by two political parties; the Christian-democratic Nationalist Party (NP) and the social-democratic Labour Party (LP). The two have been the only parliamentary parties since Malta's independence in 1964. Although other parties and independent candidates have contested elections, none have succeeded in attaining a seat in parliament. While the NP has formed the majority of governments since independence, support between the two political powers is widely perceived as being evenly split. In 2008, less than 0.5 per cent of votes separated the two parties.² The Democratic Alternative – Green Party (DA) is the next most popular party, though it has never gained a seat in parliament.³

The NP enjoyed a one-seat majority in the outgoing parliament. This slim advantage over the opposition LP proved fragile and on 30 May 2012, a NP member of parliament put forward a motion of no confidence against the Minister of Justice, which was voted through with the support of the LP. Since then the NP members of parliament refrained from holding votes on any important issue for fear of losing their majority. On 10 December 2012, the NP failed to secure a majority of votes to pass the draft budget for 2013. As a result, President George Abela confirmed the dissolution of parliament on 7 January and announced elections for 9 March 2013.

IV. LEGAL FRAMEWORK

A. GENERAL OVERVIEW

The legal framework provides a generally sound basis for the conduct of democratic elections and is primarily regulated by the Constitution, the General Elections Act and the Electoral Polling Ordinance. Further provisions relating to elections include the Broadcasting Act, the Public Meetings Ordinance, and the House of Representatives (Privileges and Powers) Ordinance.

The Constitution, which was adopted in 1964 and has since undergone a series of amendments, includes the basic principles of the electoral system, guarantees protecting fundamental freedoms, and civil and political rights including the right to elect and be elected.

The General Elections Act was initially adopted in 1991 and was most recently amended in July 2012. The last amendments included provisions for revising the voter register and introduced procedures for voting in retirement homes and hospitals. It now requires a list of hospital patients and retirement home residents, together with the medical reason for their stay, to be sent to the Electoral Commission (EC) within three days of the official announcement of elections and to be updated on a daily basis until the day before polling. On 12 December 2012, the DA challenged this provision before the Information and Data Protection Commissioner (IDPC) as not conforming to the Data Protection Act. On 21 January, the IDPC recommended that these lists should not be collected by the EC earlier than five days before the election. The EC partly followed the IDPC's recommendation and did not share the lists with political parties until five days before polling.

In line with the IDPC recommendation, and given the sensitive nature of information on patients currently contained in the lists, consideration could be given to ensuring that these lists are submitted to the Electoral Commission no earlier than five days before the election.

The Constitution enshrines equal rights between men and women and commits to the elimination of

² In the 2008 parliamentary elections the NP won by 0.5 per cent (a total of 1,580 votes).

³ In the 2008 and 2013 elections, the DA came third, securing 1.31 and 1.78 per cent of the votes, respectively.

all forms of discrimination on the basis of gender.⁴ However, many OSCE/ODIHR EAM interlocutors stated that the majority of society maintains a conservative family model, in which the men are the sole breadwinners. At the same time, a number of OSCE/ODIHR EAM interlocutors spoke about positive changes in perception with regard to the role of women in public life over recent years.⁵ Only seven per cent of the outgoing parliament was women.

B. RIGHT TO VOTE

The Constitution and the General Elections Act grant active suffrage rights to citizens aged 18 years or older on election day, but withhold the right to vote from people who have been declared legally incapacitated “for any mental infirmity” by a court decision or are “otherwise determined in Malta to be of unsound mind”.⁶ On this issue the General Elections Act stipulates that the EC may not refuse to register a voter or remove their name from the register, without a unanimous decision from the Medical Board.⁷

Article 58(b) of the Constitution states that citizens serving a term of imprisonment of more than 12 months or serving a sentence on which execution has been suspended are deprived of the right to vote. In addition to the aforementioned requirements, a voter must be a resident of Malta for a period amounting to 6 months during the 18 months preceding their registration. The residency requirement was challenged several times before the courts. In March 2003, the Constitutional Court decided that residence does not require a continuous presence in the country.⁸ This requirement is also not in line with international good practice.⁹

C. RIGHT TO STAND

Citizens with active suffrage rights are entitled to stand as candidates in parliamentary elections. Article 54 of the Constitution, however, establishes a series of incompatibilities with the office of a member of parliament: the electoral contestant should not be a citizen of another country, a public servant, a member of the armed forces, holding a leading role in a body contracted by the government, be bankrupt, or hold or act in an office related with the elections to parliament.

These restrictions on the right to stand are not fully compatible with paragraph 7.5 of the 1990 OSCE

⁴ Malta is also a signatory of the International Covenant for Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination Against Women, both of which commit to equal rights (including to political participation) regardless of gender.

⁵ According to the Eurostat data, Malta has the lowest female employment rate in EU. See: Eurostat, http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Employment_statistics. The latest data of the Malta National Statistic Office show that only 44 per cent of women are professionally active in Malta. See Labour Survey from 2012, available at: http://www.nso.gov.mt/statdoc/document_file.aspx?id=3547.

⁶ See Articles 57 and 58 of the Constitution and Article 15 of the General Elections Act.

⁷ Under Article 14(2), the Medical Board consists of a doctor appointed by the EC who acts as the chairperson, and a doctor appointed by each of the parliamentary political parties. Article 27(2) states that the decision of the Medical Board is final and binding on the EC and the voter. Decisions deeming a voter is of unsound mind must be unanimous.

⁸ Decision No. 6/2003/1, Civil Courts, Judge Tonio Mallia, Sitting of 21/03/2003, *Prof. Arnold Cassola v. Electoral Commission and Jimmy Magro – Labour Party*.

⁹ See the Venice Commission “Code of Good Practice in Electoral Matters” CDL-AD(2002)023rev, I.1.1 c. iii and iv, a length of residence requirement may be imposed on nationals solely for local or regional elections; and the requisite period of residence should not exceed six months except in order to protect national minorities. Available at [http://www.venice.coe.int/webforms/documents/CDL-AD\(2002\)023rev-e.aspx](http://www.venice.coe.int/webforms/documents/CDL-AD(2002)023rev-e.aspx).

Copenhagen Document.¹⁰ Furthermore, paragraph 16 of General Comment No. 25 of the International Covenant on Civil and Political Rights (ICCPR) states that “if there are reasonable grounds for regarding certain elective offices as incompatible with tenure of specific positions (e.g. the judiciary, high-ranking military office, public service), measures to avoid any conflicts of interest should not unduly limit the rights protected”.¹¹

Limitations on the right to stand for office could be reviewed to further enhance full compliance with OSCE commitments and international obligations.

V. ELECTORAL SYSTEM

Members of parliament are elected for a five-year term through a single transferable vote (STV) system, modified to ensure that the number of seats allocated to parties is in proportion to the first preference votes obtained by their candidates.¹² Initially, the number of members of parliament is set at 65, but based on results it can be increased to achieve this proportionality objective.¹³ For these elections, Malta was divided into 13 multi-mandate electoral districts, each generally returning 5 elected members.¹⁴

Under the STV system, voters indicate their preferences by ranking, in numerical order, as many candidates on the ballot as they wish.¹⁵ In order to win seats, candidates must attain a quota of votes in their electoral district. The quota is determined by dividing the total number of valid ballots in each electoral division by the number of seats plus one. The allocation of seats proceeds as a series of counts. At the end of each count, there is either an elected candidate(s) or an excluded candidate(s).

During the first count, if a candidate received first preference votes equal or greater than the electoral quota, they are deemed elected. If the votes received by the elected candidate exceed the quota, the difference between the votes received and the quota is called a surplus, which is then distributed to the next candidates.¹⁶ If no candidate is elected during the count and therefore no surplus remains to

¹⁰ Paragraph 7.5 of the 1990 OSCE Copenhagen Document states that “participating States will [...] respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.”

¹¹ Also, in *Ahmed and Others v. The United Kingdom* (65/1997/849/1056), the ECtHR noted that “the restrictions imposed on the applicants’ right to contest seats at elections must [...] secure their political impartiality. That aim must be considered legitimate for the purposes of restricting the exercise of the applicants’ subjective right to stand for election under Article 3 of Protocol No. 1 [...] any of the applicants wishing to run for elected office is at liberty to resign from his post.”

¹² A constitutional crisis ensued in 1981 when the NP obtained a majority of first preference votes but not a legislative majority. In 1987, the Constitution was amended so that the party which attains more than 50 per cent of valid first preference votes is guaranteed a majority by allocating extra seats, if necessary. Amendments in 1996 and 2007 were passed to further proportionality, but only in situations when just two parties obtain seats. These ensured a parliamentary majority when only a relative majority is achieved and, when an absolute majority is achieved, bonus seats would be provided to the party in the minority when the proportion of candidates that the minority party elects is less than the proportion of first preference votes obtained by its candidates.

¹³ In accordance with Articles 52(1) and 56(1) of the Constitution, the parliament shall contain an odd number of members divisible by the number of electoral districts, as the parliament shall determine by law, as long as each electoral district elects no less than five and no more than seven members and there be no less than 9 and no more than 15 electoral districts.

¹⁴ The electoral boundaries were most recently reviewed in 2012.

¹⁵ Voters may rank candidates from different political parties; however, past election results and OSCE/ODIHR EAM interlocutors indicate that voters rarely vote for candidates not affiliated with their chosen party.

¹⁶ The surplus is transferred at a ratio found by taking the elected candidates surplus ballots divided by the total number of votes the elected candidate received.

distribute, the candidate with the least number of votes is excluded and their ballots' second preferences are distributed to the remaining candidates. Further counts are conducted until all vacant seats are allocated to candidates on the basis of second, third and further preferences. A ballot paper only becomes non-transferable when no second or subsequent preference is indicated or if it is not clear which candidate the next preference should be allocated to. On the last count, a candidate may potentially be elected without reaching the quota.

The aforementioned regulation to establish proportionality was triggered during these elections and the NP was awarded four additional seats so that the difference in seats between the NP and the LP would be proportional to the first preference votes they obtained. This increased the number of members of parliament to 69.

VI. ELECTION ADMINISTRATION

Parliamentary elections are administered by the EC. It is a permanent body with eight members and a Chief Electoral Commissioner, with three-year terms in office. Members are appointed by the president based on proposals by the prime minister after consultations with the leader of the opposition. Generally, the commissioners are equally appointed from the two parliamentary parties. The Chief Electoral Commissioner is a public servant who is appointed by the prime minister. In addition to the EC members, each parliamentary party may nominate two party delegates to represent them at the EC.

The EC is responsible for the oversight of the entire electoral process as well as for most of the technical preparations for the elections and has direct oversight of the counting process. It also reviews the boundaries of electoral divisions every five years and, if necessary, proposes alterations. On election day, the EC operates a hotline where they directly answer questions from any electoral official in the country.

The EC is assisted by a secretariat consisting of some 50 staff which produce and organize the distribution of materials such as the voter lists, ballots, voting documents and special ballot templates for visually impaired voters. It also creates and distributes written instructions for trainings and hosts a website with voter and candidate information. Voter education is not provided by the EC as it is assumed that political parties provide sufficient information to voters.

During the electoral period, the EC generally meets once per week. Meetings are held behind closed doors and decisions are only provided to those involved in the decision. No minutes or decisions are published except press releases and government notices pertinent to the public.

Notwithstanding the overall confidence in the performance of the election administration, with a view to further enhancing transparency, the Electoral Commission should consider having open meetings and publishing all decisions in a timely manner.

There are no intermediary commissions between the EC and polling stations. On election day, polling is conducted by 609 polling station commissions, in 110 polling locations, composed of Assistant Commissioners (ACs) appointed directly by the EC. Each polling station is staffed by a minimum of three ACs, at least two of whom are hired directly by the EC. All ACs are trained by EC representatives. The political parties could nominate one AC per station as well, however by law, the EC randomly assigns all ACs, ensuring that they are not stationed in a district they normally reside or

work in. In addition to being an AC, the law allows for party nominees to simultaneously act in the capacity of a party agent.¹⁷

Consideration could be given to reviewing the current arrangement for the simultaneous appointment of people as party agents and Assistant Commissioners, with a view to avoid perceptions of potential conflict of interests.

A special EC sub-committee was established for organizing voting in hospitals and retirement homes. As elections in these facilities were conducted in advance of election day, members of the EC directly administered these elections with a representative from each of the political parties.

While the gender balance seemed to be well distributed among the ACs observed, the EC itself was an entirely male team. The absence of women in senior positions within the election administration is at odds with obligations outlined in the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹⁸

Consideration could be given to introducing mechanisms that would ensure greater participation of women in senior decision-making roles within the election administration.

Overall, the election administration organised and administered the elections in a professional, efficient, and well-organized manner. All electoral deadlines were respected. The election administration enjoyed a high degree of public confidence, in part created by providing the parties full access to the electoral process.

VII. VOTER REGISTRATION

Voter registration is passive and voters are automatically included in voter lists extracted from a voter register that is maintained and updated by the EC. Voters must be registered in the electoral district they habitually reside in and may only cast their ballot in this same area. The register is a single database with records updated on the basis of data supplied monthly by civil institutions, primarily the Public Registries of Malta and Gozo. An update of the voter register is published for public scrutiny biannually. In addition, following recent amendments to the General Elections Act, the EC must publish a further update of the register within five days of elections being announced. All OSCE/ODIHR EAM interlocutors expressed a high level of confidence in the accuracy and inclusiveness of the voter register.

The voter register was published on 12 January and voters could apply for corrections until 4 February. In total, 333,072 citizens were included on the register for these elections, including some 23,850 first time voters.¹⁹ The voter register was published in the government's official gazette. In

¹⁷ As per Article 61(1) "Every political party shall have the right to nominate as its agents such number of persons as is equal to the number of ballot boxes and such persons are in this Act referred to as party agents. A political party may designate as a party agent, a person already nominated by it as Assistant Commissioner in which case such person may act both as Assistant Commissioner and party agent".

¹⁸ Article 7(b) of CEDAW. Paragraph 26 of General Recommendation 23 on CEDAW by the UN Committee on the Elimination of Discrimination Against Women provides that "states parties have a responsibility, where it is within their control [...] to appoint women to senior decision-making roles".

¹⁹ Recent amendments to the General Elections Act, allow those who reached the age of 18 prior to election day to be added to the voter register, while in the past only those aged 18 at the time of the October publication of the voter register were included.

addition, both parliamentary parties provided applications on their website in which voters could enter their national identification numbers to confirm their voter registration details.

Citizens could request the EC to correct the voter register should they not be found on the register or if their or other citizens' details are incorrect. Any decision the EC takes on registration matters can be appeal to a Revising Officer. If an application is filed on the grounds of a voter's mental incapacity, the case must be referred to the Medical Board. While any registered voter or citizen who believes they should be on the voter register may apply for changes to the register, most cases regarding voter registration issues are brought by political parties. Many cases stem from the question of whether a voter meets the six-month residency requirement to be eligible to vote. The majority of OSCE/ODIHR EAM interlocutors acknowledge that this provision is difficult to prove, especially since Malta signed the Schengen Agreement and borders within the Schengen area are no longer monitored. Subsequently, relatively few cases were brought forward and the EC approved a total of 65 additions to the register, 2 deletions and 8 entries to be corrected.

Voters can only vote with a personalized voting card, which includes the personal data and photo that would appear on the voters' national identification document, as well as information on where and when they may vote. Voting cards were prepared by the EC and distributed door-to-door by police officers, accompanied by political party representatives. If the registered voter was not at home at the time of delivery, the documents could be left with anyone in the home over the age of 18. Lists of voters whose voting cards could not be delivered were published in the official gazette and these individuals could collect their voting card in person until 7 March by showing their national identification document.²⁰ If an individual did not obtain their voting card by 7 March or lost it after this date, they could not vote.²¹ The OSCE/ODIHR EAM was informed that the production and distribution of the voting cards consumed approximately 10 per cent of the electoral budget.

Following the planned update of national identification cards, the authorities could consider reviewing the need for voting cards in order to bring down election expenditures and ensure voters are not disenfranchised for losing their voting document prior to election day.

Voter registration in hospitals occurred separately, as any eligible citizen registered as a patient in hospital on 5 March was automatically registered to vote in early voting at that hospital on 8 March, regardless of whether that voter was released before voting commenced. The relevant data on patients was transferred to the EC, which shared the list with the political parties.

VIII. POLITICAL PARTY AND CANDIDATE REGISTRATION

Candidates can be nominated independently or as a political party representative, in line with paragraph 7.5 of the 1990 OSCE Copenhagen Document. Candidate nominations require signatures of a minimum of four voters registered in the electoral district for which the candidate is nominated. Nominations were to be submitted to the EC along with a EUR 90 deposit. The legal framework does not include any provisions for the registration of political parties and the only definition of a "political party" is in Article 2 of the General Elections Act, according to which a political party is defined as "any person or group of persons contesting the election as one group bearing the same name."

²⁰ Voting cards were available at local police stations from 23 February to 2 March and from 4 to 7 March at the EC in Valletta or the Identity Card Office in Gozo.

²¹ In total, 6,523 voting cards remained uncollected after 7 March.

The candidate registration process for these elections was inclusive. A total of 168 candidates, the majority of whom represented the two parliamentary political parties, were registered. The NP put forward 70 candidates, while the LP nominated 86. The DA contested the elections with nine candidates, and single candidates were registered by both the Democratic Liberal Alliance and the Eagle's Party. One candidate ran as an independent.

There are no legal requirements to promote women candidates, although party representatives informed the OSCE/ODIHR EAM that they apply self-imposed voluntary measures to promote gender balance in their internal party structures. Of the 168 candidates, 26 were women, representing some 15 per cent of all candidates.²² The NP, LP and DA stated that despite their best efforts it was difficult to convince women to contest elections. In addition, the current wording of the General Elections Act implies only male participation.

Consideration could be given to introducing measures to promote women candidates. The General Elections Act could be updated to apply gender sensitive language. Political parties could also consider nominating a minimum number of candidates of each gender.

IX. ELECTION CAMPAIGN

The election campaign began on 7 January following the announcement of elections and ended 24 hours before election day. The campaign environment was generally peaceful, and marked by strong competition both between the parliamentary parties and inter-party competition between candidates in their respective electoral districts. In order to minimize tensions during the campaign, the leadership of NP and LP, in conjunction with the police, co-ordinated the locations of their respective rallies.

The campaigns by NP and LP were far more visible than the ones launched by other electoral contestants. These two parties benefitted from well-developed networks, including party-owned businesses. In contrast, DA and other candidates had substantially less political and financial strength and their campaigns were less visible.

The main topics of the campaign included the economy and employment issues, with a particular emphasis on energy sources and costs, as well as education and healthcare services. The key electoral contestants, NP, LP and DA, presented comprehensive electoral platforms in which they addressed a variety of issues and targeted different electorates. The parties' leaders tried to pace their campaigns by dedicating each week to a different portion of their platforms. Although the official electoral campaign lasted nine weeks, the OSCE/ODIHR EAM interlocutors indicated that party leaders started campaigning as early as May 2012, when it became apparent that the NP parliamentary majority appeared fragile.

Individual candidate campaigns were framed by the overarching campaigns of their parties. Candidates utilized door-to-door campaigning, small gatherings, and mailing leaflets directly to voters. On a larger scale, parties embarked on billboard campaigns, TV spots, print and online advertisements, and rallies. While the OSCE/ODIHR EAM interlocutors confirmed that posters were excluded in order to keep the streets clean, the DA asserted that this necessitated the use of costly billboards that limited the campaign for smaller electoral contestants. The parties also sought direct contact with voters through canvassing, as well as mail, email and text messages.

²² NP – 13 out of 70 candidates were women; LP - 12 out of 86; and DA - 1 out of 9. There were no female independent candidates. In comparison with the 2008 and 2003 elections this represented an increase, when the number of women candidates amounted to 10.7 per cent and 10.5 per cent respectively.

The few women candidates were visible during the campaign, while at the same time civil society and the media fostered discussion on women's participation in politics and potential gender quotas for candidate nominations. However, several women candidates informed the OSCE/ODIHR EAM that during door-to-door campaigning they were often faced with voters who questioned their place in politics rather than dedicating themselves to a more traditional role of taking care of the family. During the campaign, a few instances were observed of electoral contestants being presented in advertisements in a negative manner without the source being published. Such practices undermine campaign transparency.

Consideration could be given to requiring all electoral advertisements to clearly state which party, group, or individual procured the advertisement, so that voters can make informed choices.

X. PARTY AND CAMPAIGN FINANCE

A. OVERVIEW

There are no political finance laws except a few provisions in the General Elections Act that regulate candidate campaign expenses. Political party and campaign financing, however, has been the subject of parliamentary debate for some time. Some OSCE/ODIHR EAM interlocutors referred to a 1995 report prepared by a government commission, which proposed limitations on donations and measures of transparency for such donations.²³ As the parliament could not come to an agreement on proposed limitations to donations, the report's recommendations were never implemented. In 2009 the Council of Europe's Group of States against Corruption (GRECO) issued an Evaluation Report on Malta on Transparency of Party Funding in which it highlighted the lack of regulations or transparency mechanisms, and recommended potential areas for improvement.²⁴

In 2011, the government proposed the Political Parties Act, a draft law to address the GRECO recommendations, but the act was not adopted by parliament. Since then the authorities have not undertaken any legislative measures to regulate political party or campaign financing.²⁵ All OSCE/ODIHR EAM interlocutors underlined the need to develop such legislation and expressed their support for greater transparency, anticipating that this would increase public trust in political parties.

The legal framework would benefit from enacting a comprehensive system for regulating party and campaign financing.

The two parliamentary political parties own a number of companies and properties, the revenues of which can be used for any purpose. Furthermore, these parties maintain their own television and radio stations, newspapers and news portals. Such resources are not enjoyed by non-parliamentary parties,

undermining the ability of candidates to campaign on a level playing field.²⁶

²³ The report was prepared by the Commission for the Finance of the Political Parties and Candidates for General Elections in the Office of the Cabinet.

²⁴ See, [www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2009\)2_Malta_Two_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2009)2_Malta_Two_EN.pdf), and the 2011 report, [www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2011\)11_Malta_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2011)11_Malta_EN.pdf).

²⁵ Paragraph 59 of the OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulations provide that "The regulation of political party funding is essential to guarantee parties independence from undue influence created by donors, to ensure parties the opportunity to compete in accordance with the principle of equal opportunity, and to provide for transparency in political financing." Available at <http://www.osce.org/odihr/77812>.

²⁶ Paragraph 7.6 of the 1990 OSCE Copenhagen Document requires participating States to provide "political parties

In order to provide for a more level playing field during election campaigns, it is important that campaign finance provisions are clearly defined and separated from regular party operations.

B. PARTY AND CAMPAIGN CONTRIBUTIONS

Political parties and their campaigns are funded primarily through individual and company donations. Parties and candidates can receive unlimited funds from any source, and have no requirements to disclose the source or amount of such donations. There is no regulation of in-kind donations. All OSCE/ODIHR EAM interlocutors regarded the transparency of donations as one of the main issues that need to be addressed, in order for voters to be properly informed and avoid and to minimize perceptions of businesses purchasing political influence.

Authorities could consider introducing requirements for political parties and candidates to disclose donation amounts and the identity of all individuals who donate above a certain minimum threshold, while also prohibiting donations from anonymous donors. To further enhance the transparency of campaign finance, it is recommended that in-kind donations and loans are disclosed.

Consideration could also be given to the introduction of limits for individual and company donations to political parties and candidates in order to minimize possibilities for corruption or the ability of particular groups to gain undue political influence through financial advantage.

The law does not provide for direct public funding of parties or electoral contestants, however, some indirect public funding is foreseen through the Income Tax Act, which provides for a tax exemption on political party income, including income from party affiliated clubs.²⁷ In addition, the supply of services by “non-profit organizations of political nature” to their members is exempt from the Value Added Tax.²⁸ Similarly, a deduction of expenses incurred by an elected candidate to support his/her campaign is given, as long as these do not exceed the ceiling stipulated in the General Elections Act.

C. CAMPAIGN EXPENDITURES

Total campaign expenditures per candidate must not exceed EUR 1,400. This limit was criticized by all OSCE/ODIHR EAM interlocutors as being unreasonably low to conduct an effective campaign that encompasses all campaign-related expenditures.²⁹

Consideration could be given to adjusting campaign expenditure limits for individual candidates to a more realistic and appropriate level. Consideration could be given to basing the legal limit on a form of indexation rather than an absolute amount in order to take account of inflation.

While legal limits on campaign expenses for individual candidates exist, there are no such ceilings on party expenditures. Several OSCE/ODIHR EAM interlocutors argued that this led to a distorted electoral campaign that disproportionately favored the two well-resourced parliamentary parties.

or other organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities”.

²⁷ Article 12(1)(f) of the Income Tax Act (Chapter 123 of the Laws of Malta).

²⁸ Article 8 of Part 2 of the Value Added Tax (Chapter 406 of the Laws of Malta).

²⁹ According to paragraphs 193-197 of the OSCE/ODIHR and Venice Commission Guidelines Political Party Regulations “This requires that spending limits be carefully constructed so that they are not overly burdensome” and “Limits should be realistic, to ensure that all parties are able to run an effective campaign, recognizing the high expense of modern electoral campaigns.”

D. REPORTING AND OVERSIGHT REQUIREMENTS

The law does not require political parties to report campaign contributions and expenditures. Likewise, there is no special authority mandated to oversee campaign finance or mechanisms for their effective control. The only regulations applicable refer to claims against a candidate or their agent, which should be submitted within 14 days after the day the candidate is elected. The agent is then required to report candidate expenses to the EC within 31 days after the announcement of election results. However, the EC does not have the legal authority to verify the accuracy of these financial reports or effective means to apply sanctions. Furthermore, the law does not require the EC to publish its conclusions on candidate reports, nor does it establish a deadline for the publication of these reports for public inspection. These factors undermine the effectiveness of any reporting mechanism and potentially decrease the electorate's trust in the way election campaigns are financed.

Consideration could be given to establishing an independent body with a mandate and resources to undertake full campaign finance audits. Candidates and parties could be subject to effective and proportionate sanctions should they violate campaign finance laws.

Consideration could also be given to requiring parties and candidates to open dedicated bank accounts for campaign financing, through which all campaign transactions should be made.

Consideration could be given to requiring both candidates and political parties to provide regular detailed reports on their campaign income and expenses, within an acceptable time limit. These could be made public, in a timely manner, in order to improve transparency and accountability.

XI. MEDIA

A. MEDIA LANDSCAPE

The media environment is pluralistic and diverse. Public and private television channels, radio stations and newspapers offer a wide variety of sources for news and the internet is fast becoming an important source of information for voters.³⁰

There are nine television channels in Malta. The state-owned Public Broadcasting Services (PBS) operates *TVM* and *TVM2*, and both of the parliamentary political parties operate a television channel.³¹ The state-run *TVM* is the most viewed television channel, followed by the LP channel, *ONE TV*, and the PN channel, *NET TV* third.³² In addition, PBS operates three radio stations,³³ and there are about 13 FM/AM analogue radio stations in addition to numerous local radio stations with limited range. The most listened radio station is the private *Bay Radio*, followed by the LP station, *ONE Radio*. The PBS station, *Radio Malta* is the third most popular.

³⁰ The National Statistics Office (NSO) reported that 78 per cent of homes were connected to the internet in 2012. Of young people (16 to 24 years old), 98 per cent have internet access. Of internet users, 40 per cent have smart phones and 28 per cent of these use their phones to read news and 28 per cent to access social networks such as Facebook or Twitter.

³¹ The NP owns *NET TV* and the LP owns *ONE TV*. Other, independent commercial stations include *SMASH TV* and *Favourite TV*, but these have limited viewership.

³² "TVM Continues to Lead TV Ratings," *TheTimesofMalta.com*, February 6, 2012. See.

³³ <http://www.timesofmalta.com/articles/view/20120206/local/tvm-continues-to-lead-tv-ratings.405605>.

³³ Magic Malta 91.7, Radio Malta (93.7), and 106.6.

Some 27 per cent of citizens read a daily newspaper, and there are numerous newspapers published.³⁴ Both parties have newspapers that serve as conduits for their partisan messages.³⁵ Several OSCE/ODIHR EAM interlocutors agreed that *The Times* is the most read paper and *L-orizzont* is thought to be a distant second.

State-owned media have a special responsibility to provide balanced and neutral information on elections and on candidates and parties. A number of OSCE/ODIHR EAM interlocutors, however, expressed strong feelings that the state media are heavily biased in favor of the NP. In addition, while there were no concerns that media faced any interference in gathering and imparting information freely without intimidation, obstruction or censorship, one independent paper alleged that they are subject to a *de facto* advertiser boycott because of their opposition to the outgoing government.

While parliamentary parties had ample access to the media, independent candidates and non-parliamentary parties complained to the OSCE/ODIHR EAM that they did not receive adequate coverage. Nevertheless, few concerns were raised that voters had insufficient access to diverse information to enable them to make well-informed choices.

B. LEGAL FRAMEWORK

Many principles important to free speech and a free press are enshrined in the law, including freedom of expression, impartial and accurate broadcasting of politics and public policy; fair access for political parties; and media pluralism.³⁶ While these principles are generally respected, a number of OSCE/ODIHR EAM interlocutors criticized defamation laws, both civil and criminal, as creating obstacles to professional and effective journalism

Consideration should be given to decriminalize defamation, in line with international good practice on freedom of expression.

The Constitution delegates responsibility for regulating broadcast media to the Broadcasting Authority (BA), which consists of four members appointed by the president after consulting the prime minister and the leader of the opposition. In practice, two members are chosen to represent the interests of the NP and two to represent the LP. The chairperson is then selected among the members, but if they cannot agree, then the prime minister appoints. This system was criticized by the smaller parties as biased toward the two parliamentary parties. The Chairperson of the BA indicated support for reforming the way the BA is comprised so as to insulate it from partisan considerations.³⁷

Consideration could be given to reviewing the manner of selecting the members of the Broadcasting Authority with a view to protect the body from possible political interference.

³⁴ Circulation data are difficult to obtain and widely considered unreliable. One study cited a Media Warehouse figure of 27 per cent in 2008. Other interlocutors considered this figure to be high. See, http://ejc.net/media_landscapes/malta.

³⁵ The NP operates *In Nazzjon*. The newspaper often associated with the LP, *l-orizzont*, is actually the official paper of the General Workers' Union. The LP maintains that they have no control over the paper, but they acknowledge that its editorial policies favour the LP.

³⁶ Article 32(b) of the Constitution. The Broadcasting Act restates many of these principles and imposes an obligation on the Broadcast Authority to ensure their realization.

³⁷ There are a number of proposals that have been raised and debated. The Today Public Policy Institute released a document in 2012, "A Strategy for Addressing the Nation's Priorities," that included specific recommendations for reforming broadcasting laws. Last year the President also convened a forum of scholars that discussed Constitutional reform that reportedly included some reforms of the BA.

For these elections, the BA issued several directives aimed at providing guidance to broadcasters on the rules for covering the elections.³⁸ These rules provided detailed instructions regarding televised debates; press conferences, political spots and productions; and the allocation of free time to the LP, NP, and DA on all broadcast stations during the campaign period. While the DA complained that media coverage and the media laws are biased in favour of the two parliamentary parties, they also noted that the amount of time allocated to them under the BA directive was more than they would likely get if such allocations were based on popular support. Independent candidates expressed discontent with their lack of coverage in the media.

The BA focuses its regulatory mandate on PBS, acknowledging that the two party stations do not offer balanced coverage individually, but that their partisan leanings balance each other out. While the legal framework does appear to allow this interpretation, many OSCE/ODIHR EAM interlocutors noted that the Constitution and the Broadcasting Act could allow the BA to demand impartiality on each and every broadcast outlet if it chose to do so.³⁹

The print media are not regulated, except by provisions of the General Elections Act that restricts what may be printed during the campaign silence period. Self-regulation is provided through a voluntary association, the Institute of Maltese Journalists (IGM), which established a Code of Ethics and an Ethics Board. While the Code of Ethics aims at achieving high standards of journalism, the board is widely regarded as ineffective and several OSCE/ODIHR EAM interlocutors suggested ways to enhance self-regulation.

C. MEDIA COVERAGE OF ELECTIONS

There were three televised debates and numerous discussion programmes that provided opportunities for party representatives to discuss campaign issues. While some OSCE/ODIHR EAM interlocutors thought the BA regulations for these programmes were overly restrictive, no concerns were voiced in respect of the provision of information needed for voters to make informed decisions.

The campaign silence period was largely followed by the media, although criticized by several media outlets as an infringement of their right to free expression. Police, however reacted to violations of this rule and questioned people concerning comments made on the internet. It was not clear at the time of this report whether any sanctions would be imposed against alleged infractions.

The BA received three complaints against broadcasting stations. One of these was filed by the DA and one by a newspaper editor; both were settled amicably. The third case was filed by the LP, arguing the lack of impartiality and hostility towards its representative during a *TVM* programme by the presenter. This was decided in favor of the complainant.

³⁸ “Directive by the Broadcasting Authority in Terms of Article 15 of the Broadcasting Act, 16 January 2013. Rules for Debates between Political Leaders”. Available at: <http://www.ba-malta.org/prdetails?id=245>.

³⁹ Article 13(2) of the Broadcasting Act explicitly allows the BA to consider the output of the various broadcasting outlets as a whole when considering impartiality.

XII. ELECTION OBSERVATION

Political parties have full access to all stages of the electoral process through party agents who may at the same time act as ACs on election day. Also, in line with its OSCE commitments, the authorities invited the OSCE/ODIHR to observe the elections and provided the mission unimpeded access to all stages of the electoral process. The OSCE/ODIHR EAM observers were welcomed by all election stakeholders, including in the polling stations on election day and in the counting centre on the following days. However, the legal framework does not explicitly provide for citizen or international election observation, falling short of compliance with paragraph 8 of the 1990 OSCE Copenhagen Document.⁴⁰

Consideration should be given to amending the legal framework to explicitly provide full access to the electoral process to international and citizen observers, in order to comply with paragraph 8 of the 1990 OSCE Copenhagen Document.

XIII. COMPLAINTS AND APPEALS

The Constitution and the General Elections Act provide various administrative and judicial procedures for addressing election-related disputes. In general, few election-related complaints and appeals were filed during these elections. OSCE/ODIHR EAM interlocutors did not express concerns with regard to the election dispute resolution system.

Objections to candidate nominations should be filed with the EC within two days of the expiration of the deadline for receipt of nominations and the Court of Appeal examines appeals against EC decisions that uphold objections against candidate nominations. Revising Officers are mandated to review requests for amending the voter register and appeals against these decisions may be filed with the Court of Appeal.

While such requests must be filed within 21 days from the date the voter is informed of the decision by the EC, there are no specified deadlines for considering these cases. However, the law does provide that the Revising Officers and the Court of Appeal should consider all election-related disputes 14 days before election day. Additionally, the law does not provide a deadline for the Constitutional Court to adjudicate petitions referred to it. Although it is commendable that the Constitutional Court examined and ruled on the two petitions filed by the NP in a timely manner, the guarantee of a timely remedy in election-related disputes is integral to the principle of effective means of redress set out in paragraph 5.10 of the 1990 OSCE Copenhagen Document and should be explicitly stipulated in the law.⁴¹

Consideration should be given to set specific time limits for the adjudication and publication of election-related complaints and appeals by the Electoral Commission and the courts in order to be fully consistent with paragraph 5.10 of the 1990 OSCE Copenhagen Document.

⁴⁰ 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. They therefore invite observers from any other [O]SCE participating States...”.

⁴¹ Paragraph 5.10 of the 1990 OSCE Copenhagen Document states: “Everyone will have an effective means of redress against administrative decision, so as to guarantee respect for fundamental rights and ensure legal integrity”. The Venice Commission’s Code of Good Practice, paragraph 95, stipulates: “A time limit of three to five days at first instance (both lodging appeals and making rulings) seems reasonable for decisions to be taken before the elections. It is however, permissible to grant a little more time to Supreme and Constitutional Courts for their rulings”.

One appeal was submitted to the Court of Appeal regarding the registration of a candidate and another was submitted regarding voter registration.⁴²

The Constitutional Court is mandated to adjudicate other election-related complaints, including election results. Upon submission of a petition, it can order a re-count of all or part of the ballots, or annul the elections in all or some of the electoral districts if irregularities might have affected the final results. During the counting process, NP contestants filed two petitions with the Constitutional Court requesting recounts of two electoral districts on the grounds of errors committed during count.⁴³ The Court rejected the petitions reasoning that the NP candidates would be elected in any case based on the principle of proportionality invoked in these elections.⁴⁴

In addition to the DA complaint noted above regarding the lists of voters from retirement homes and hospitals that was to be submitted to the EC and shared with parties daily from the date that elections were announced until election day, the IDPC received some 60-100 election related complaints regarding unsolicited messages and emails sent by parties and candidates to voters. The IDPC requested that parties provide documented evidence that the emails addresses of the complainants had been obtained with their consent. In case of failure to do so it issued warnings and informed the parties that an administrative fine would be imposed if the act was repeated.

XIV. VOTING, COUNTING AND TABULATION OF RESULTS

In line with the OSCE/ODIHR's methodology, the EAM did not observe election day proceedings in a systematic or comprehensive manner. However, mission members visited a limited number of polling stations in Valletta and Rabat and early voting in Naxxar.

A. EARLY VOTING

Early voting commenced on 2 March at a single polling station for voters that provided a sworn declaration that they would be outside of Malta on 9 March.⁴⁵ As voters could come from any electoral district, ballots for all districts were available to the 2,269 voters that used this opportunity to vote.⁴⁶

ACs were provided with the opportunity to vote on 8 March at the same polling place utilized on 2 March. A total of 4,519 ACs took this opportunity to vote. For the first time in Malta, special voting was available in hospitals and retirement homes.⁴⁷ Voters residing in these facilities were served by a special sub-committee for each facility that provided ballots for every district. Voting in these facilities proved popular as 1,453 citizens voted and in some facilities queues remained after the 22:00 closing

⁴² In one case a candidate challenged the denial to print her name on the ballot without her former husband's surname. The EC held that a candidate's name on the ballot appear as it is on the electoral register; the Court of Appeal upheld this decision. In a second case the Court of Appeal accepted the appeal and ordered the EC to register the complainant as a voter.

⁴³ Civil Appeal Number 525/2013/1, *Frederick Azzopardi and Dr. Justyne Caruana v. EC*, and Civil Appeal Number 526/2013/1, *Claudette Buttigieg v. EC*, hearings of 13 March 2013.

⁴⁴ The two NP candidates affected filed another petition against the EC with the Constitutional Court on 20 March, arguing that the electoral results "do not reflect the will of the people". The first sitting was held on 15 April and the case has been adjourned until 17 June.

⁴⁵ Voters were required to complete this declaration in person between 25 February and 1 March.

⁴⁶ Each district had its own ballot box and was stored in a secure room until counting began on 9 March.

⁴⁷ As per Article 80 of the General Elections Act, only retirement homes with at least 50 voters were eligible.

time. As per the legal requirement, voting continued until all those within the polling place had cast their vote.

Out-of-country voting is not available for citizens living abroad. However, the government provided subsidized flights on Air Malta for registered voters and their dependents to return to Malta to cast their ballots in person.⁴⁸ For these elections, flights cost EUR 35 per person and 4,598 passengers were provided such flights, of which approximately 20 per cent were dependents of voters. Political parties were invited to obtain daily updates of the passenger lists and availability of space on all eligible flights to alleviate concerns of misappropriating seats. Several OSCE/ODIHR EAM interlocutors suggested that the flights provided by Air Malta were less effective and more costly than other potential methods of providing expatriates with voting possibilities.⁴⁹

B. ELECTION DAY VOTING

Polls were open from 07:00 until 22:00. In some districts, turnout was heavy in the morning and voters were faced with long queues. In all locations visited by the OSCE/ODIHR EAM, the voting process was professionally administered and took place in a peaceful manner. Police officers were present at all polling places, generally controlling the lines of voters waiting to cast their vote. Public interest on election day was very high and some citizens were observed spending long periods of time just outside the required 50-metre zone within which loitering was prohibited.

In the limited number of polling stations visited by the OSCE/ODIHR EAM, the ACs were well-prepared and acquainted with their responsibilities. In general, voters were processed quickly and efficiently, especially given the preferential ballot and that many districts concurrently held local elections. Voters were required to identify themselves with their voting card, which they exchanged for a ballot.

The OSCE/ODIHR EAM noted that election day enjoyed a high level of trust from voters and political parties. Furthermore, safeguards were implemented at every stage, including the right for parties to affix their own seals on ballot boxes and to stamp ballots along with those of the EC.⁵⁰

C. VOTERS WITH SPECIAL NEEDS

All polling stations visited by the OSCE/ODIHR EAM were wheelchair accessible. While braille templates and audio recordings were provided for visually impaired voters, most voters did not use these facilities. It would appear that only a fraction of such voters knew how to use braille and were comfortable using the templates provided.⁵¹

Visually impaired voters or other voters with special needs, such as the illiterate or physically incapacitated, had to request assistance from the ACs rather than assistance by another voter of their

⁴⁸ Voters were required to fly into Malta from 27 February to 9 March and had to use the return portion by 17 March. No date changes were permitted for these subsidized fares.

⁴⁹ A petition calling for out-of-country voting in embassies for these elections garnered some 1,300 support signatures. See: www.change.org/petitions/make-an-absentee-ballot-system-a-key-part-of-the-2013-election-campaign.

⁵⁰ However, only the seals and stamps of the EC are legally required. If a party stamp or seal is missing, it has no bearing on the validity of a ballot or whether the EC shall raise concern on the security of the ballot box.

⁵¹ According to the EC, in 2008 only three voters used Braille templates available for visually impaired voters while over 1,000 sought the assistance of ACs.

own choice.⁵² When such a request was made, the polling station was closed to other voters and the voter with special needs had to verbally confirm their voting preferences to the chief AC in the view of the other ACs. This seemingly puts political party concerns of undue influence on the voter ahead of the right to vote in secrecy.⁵³ In addition, in the polling stations visited by the OSCE/ODIHR EAM, it seemed that some capable elderly voters were encouraged to use the assistance of the ACs when they appeared to be able to vote independently. This contributed to the formation of long lines of voters waiting to cast their ballots as it considerably slowed the process.

Further efforts should be made to ensure the secrecy of the vote for all voters with special needs. This could include allowing such voters to select a person of their own choice to assist them in casting their vote.

D. COUNTING, TABULATION AND THE ANNOUNCEMENT OF RESULTS

At the close of polls, materials were reconciled in the polling stations with the ballot boxes remaining sealed. All polling materials were brought to the national counting centre in Naxxar. Counting began at 11:00 on the day after the elections, with each district being counted at a separate counting station. All proceedings at the count centre were conducted with full transparency, including the presence of candidate and party agents and the entire proceeding being broadcast on national television. Party agents had full view of the counting process from behind transparent plastic barriers from where they were able to question particular ballots and at the same time tabulate samples to determine a winner prior to official results being announced.

The counting process was conducted efficiently and transparently. Although unofficial overall results were acknowledged early in the process, counting continued for nearly 24 hours, with 8 hour counting staff shifts. Over 20 rounds of counting to transfer surplus ballots and allocate seats were required in 4 districts.⁵⁴

After preliminary results were announced, the NP requested recounts in two districts based on concerns that there were mistakes made transferring a few ballots to the incorrect candidate; however, the EC ruled that the law provides it no authority to conduct a recount after a particular count is completed and any request for a recount had to be made to the Constitutional Court. The Constitutional Court rejected the recount request and final results were announced on 13 March, with a traditionally high turnout of 93 per cent.

As the General Elections Act allows for candidates to run in two districts simultaneously, if a candidate was elected in both districts, they were required to resign from one. The vacated seat was filled by conducting a 'casual election', which means taking the ballots attributed to the candidate that resigned and utilizing the subsequent choices on those ballots to fill the vacancy. Casual elections were held to fill 11 such vacated seats and only candidates originally on that ballot and later nominated for the casual election were eligible.⁵⁵

Of the 69 seats allocated from these elections, 10 women won seats, corresponding to some 14 per

⁵² Article 29(a.iii) of the United Nations Convention on the Rights of Persons with Disabilities require States Parties to allow persons with disabilities "assistance in voting by a person of their own choice." While Malta is a signatory to this convention, it placed a reservation on this particular article.

⁵³ Paragraph 7.4 of the 1990 OSCE Copenhagen Document stipulates that participating States should "ensure that votes are cast by secret ballot or by equivalent free voting procedure".

⁵⁴ Districts 1, 9 and 11 required 22 rounds of counting, while District 13 required the least at just 10 rounds.

⁵⁵ Casual elections were held on 28 March and 3 April to replace five LP seats and six NP seats.

cent of all members of parliament, which is a substantial increase in comparison with the previous elections.⁵⁶ Nevertheless, the current representation of women is significantly below what is considered the current OSCE average of 23.6 per cent.⁵⁷

XV. RECOMMENDATIONS

The following recommendations, as contained throughout the text, are offered for consideration by the authorities, political parties, and civil society with a view to supporting efforts to conduct elections fully in line with OSCE commitments and other international standards for democratic elections. The OSCE/ODIHR stands ready to assist the authorities of Malta to further improve the electoral process and in following up on the recommendations contained in this report.

A. PRIORITY RECOMMENDATIONS

1. Consideration should be given to decriminalize defamation, in line with international good practice on freedom of expression.
2. Further efforts should be made to ensure the secrecy of the vote for all voters with special needs. This could include allowing such voters to select a person of their own choice to assist them in casting their vote.
3. The legal framework would benefit from enacting a comprehensive system for regulating party and campaign financing.
4. Consideration could be given to requiring both candidates and political parties to provide regular detailed reports on their campaign income and expenses, within an acceptable time limit. These could be made public, in a timely manner, in order to improve transparency and accountability.
5. Consideration should be given to amending the legal framework to explicitly provide full access to the electoral process to international and citizen observers, in order to comply with paragraph 8 of the 1990 OSCE Copenhagen Document.
6. Limitations on the right to stand for office could be reviewed to further enhance full compliance with OSCE commitments and international obligations.

B. OTHER RECOMMENDATIONS

Legal Framework

7. In line with the IDPC recommendation, and given the sensitive nature of information on patients currently contained in the lists, consideration could be given to ensuring that these lists are submitted to the Electoral Commission no earlier than five days before the election.

⁵⁶ In the 2008 parliament, some 7 per cent of members of parliament were female.

⁵⁷ See compiled data from the Inter-Parliamentary Union 'Women in Parliament' database, <http://www.ipu.org/wmn-e/world.htm>.

Election Administration

8. Notwithstanding the overall confidence in the performance of the election administration, with a view to further enhancing transparency, the Electoral Commission should consider having open meetings and publishing all decisions in a timely manner.
9. Consideration could be given to reviewing the current arrangement for the simultaneous appointment of people as party agents and Assistant Commissioners, with a view to avoid perceptions of potential conflict of interests.
10. Consideration could be given to introducing mechanisms that would ensure greater participation of women in senior decision-making roles within the election administration.

Voter Registration

11. Following the planned update of national identification cards, the authorities could consider reviewing the need for voting cards in order to bring down election expenditures and ensure voters are not disenfranchised for losing their voting document prior to election day.

Political Party and Candidate Registration

12. Consideration could be given to introducing measures to promote women candidates. The General Elections Act could be updated to apply gender sensitive language. Political parties could also consider nominating a minimum number of candidates of each gender.

Election Campaign

13. Consideration could be given to requiring all electoral advertisements to clearly state which party, group, or individual procured the advertisement, so that voters can make informed choices.

Party and Campaign Financing

14. In order to provide for a more level playing field during election campaigns, it is important that campaign finance provisions are clearly defined and separated from regular party operations.
15. Authorities could consider introducing requirements for political parties and candidates to disclose donation amounts and the identity of all individuals who donate above a certain minimum threshold, while also prohibiting donations from anonymous donors. To further enhance the transparency of campaign finance, it is recommended that in-kind donations and loans are disclosed.
16. Consideration could also be given to the introduction of limits for individual and company donations to political parties and candidates in order to minimize possibilities for corruption or the ability of particular groups to gain undue political influence through financial advantage.
17. Consideration could be given to adjusting campaign expenditure limits for individual candidates to a more realistic and appropriate level. Consideration could be given to basing

the legal limit on a form of indexation rather than an absolute amount in order to take account of inflation.

18. Consideration could be given to establishing an independent body with a mandate and resources to undertake full campaign finance audits. Candidates and parties could be subject to effective and proportionate sanctions should they violate campaign finance laws.
19. Consideration could also be given to requiring parties and candidates to open dedicated bank accounts for campaign financing, through which all campaign transactions should be made.

Media

20. Consideration could be given to reviewing the manner of selecting the members of the Broadcasting Authority with a view to protect the body from possible political interference.

Complaints and Appeals

21. Consideration should be given to set specific time limits for the adjudication and publication of election-related complaints and appeals by the Electoral Commission and the courts in order to be fully consistent with paragraph 5.10 of the 1990 OSCE Copenhagen Document.

ANNEX: FINAL RESULTS

	FIRST PREFERENCE VOTES						TOTAL VALID	Invalid	% Invalid of Cast	Total Cast	Registered Voters	Turnout
	Liberal Alliance	Democratic Alternative	Party Ajkla	Labour	Nationalist	Ind.						
District 1	0	267	0	12,462	9,957	0	22,686	238	1.04%	22,924	24,727	93%
District 2	5	218	47	16,312	6,373	7	22,962	235	1.01%	23,197	24,607	94%
District 3	0	343	0	16,050	7,025	0	23,418	273	1.15%	23,691	25,189	94%
District 4	0	254	0	15,323	7,354	0	22,931	264	1.14%	23,195	24,546	94%
District 5	0	315	0	16,201	7,689	0	24,205	343	1.40%	24,548	26,129	94%
District 6	7	219	0	13,934	9,330	0	23,490	269	1.13%	23,759	25,357	94%
District 7	0	375	0	13,805	10,269	0	24,449	350	1.41%	24,799	26,303	94%
District 8	0	596	0	11,350	11,738	0	23,684	292	1.22%	23,976	25,625	94%
District 9	0	714	0	9,854	12,409	25	23,002	276	1.19%	23,278	25,268	92%
District 10	0	741	0	8,665	12,662	0	22,068	309	1.38%	22,377	24,813	90%
District 11	0	717	0	10,404	13,459	0	24,580	328	1.32%	24,908	26,763	93%
District 12	0	537	0	10,862	11,610	0	23,009	416	1.78%	23,425	26,015	90%
District 13	0	210	0	12,311	12,551	0	25,072	451	1.77%	25,523	27,730	92%
TOTAL	12	5,506	47	167,533	132,426	32	305,556	4,044		309,600	333,072	93%
%	0.00%	1.78%	0.02%	54.11%	42.77%	0.01%	98.69%	1.31%				

	Seats Allocated	Constitutional Bonus *	Total Seats
Labour	39	0	39
Nationalist	26	4	30

* Bonus seats distributed based on Article 52(1) of the Constitution

Source: Election Commission Website: <http://www.electoral.gov.mt>

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 standards for democratic elections and 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 programmes 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).