



Office for Democratic Institutions and Human Rights

REPUBLIC OF SLOVENIA

PARLIAMENTARY ELECTIONS

24 APRIL 2022

ODIHR NEEDS ASSESSMENT MISSION REPORT

15-18 February 2022



Warsaw
16 March 2022

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ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an invitation from the authorities of the Republic of Slovenia to observe the 24 April 2022 parliamentary elections, and in accordance with its mandate, ODIHR undertook a Needs Assessment Mission (NAM) from 15 to 18 February 2022. The NAM included Vladimir Misev, ODIHR Senior Adviser on New Voting Technologies, and Kakha Inaishvili, 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 ODIHR election-related activity for the forthcoming elections and, if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions and the election administration, as well as representatives of political parties, media, civil society and the international diplomatic community in Slovenia. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs, including its Permanent Representation to the UN, OSCE and other International Organisations in Vienna, for their assistance in organizing the visit. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and for sharing their views.

II. EXECUTIVE SUMMARY

On 9 February 2022, the President Borut Pahor called for elections of the 90-member National Assembly (parliament) for 24 April. The parliament is elected for a four-year term through two methods: 88 members of parliament (MPs) are elected through an open list proportional system with a threshold of four per cent, and 2 MPs, representing the Hungarian and Italian communities, are elected through a majoritarian, first-past-the-post system. According to several ODIHR NAM interlocutors, the upcoming elections are taking place against the backdrop of a polarized pre-election environment. Women continue to be underrepresented in public and elected office, holding 26 seats in the outgoing parliament, 4 out of the 40 members in the National Council and only 2 out of 18 ministerial posts in the government.

The election-related legislation was last revised in February 2021 and the amendments included modifications of provisions related to voting in the elections for national minority communities, an increase in the number of support signatures for national minority candidates from 30 voters to 1.5 per cent of voters of the respective communities and changes in boundaries of several districts in an effort to achieve a more comparable equality of the vote. Some other amendments were related to postal voting, deadlines for nominating election commission members by political parties, election day procedures and procedures for by-elections. All ODIHR NAM interlocutors expressed confidence in the legal framework and regarded it as conducive to holding democratic elections.

The elections are administered by four-levels of election commissions, comprised of the National Election Commission (NEC), 8 Constituency Election Commissions (ConECs), 88 District Election Commissions and some 3,100 Polling Boards (PBs). Election commissions are permanent bodies formed according to a mixed judicial, political and professional model, while PBs are established for each election. Preparations for elections are underway and the NEC has adopted various instructions as well as other pertinent regulations. In light of the COVID-19 pandemic, the NEC in co-operation

with other state agencies and the COVID-19 Expert Group plans to develop specific protocols to ensure safe voting on election day. All ODIHR NAM interlocutors expressed confidence in the competence and impartiality of the election administration.

The right to vote is granted to citizens of 18 years of age by the election day, except those deprived of legal capacity. Voter registration is passive and is managed by the Ministry of Interior. Each voter has the possibility to check the accuracy of personal data at administrative units and diplomatic representations as well as online. There are some 1.7 million registered voters. ODIHR NAM interlocutors did not raise concerns with regard to the accuracy of voter lists and expressed confidence in the overall integrity of the voter registration process.

All citizens with voting rights are eligible to stand for the office. Candidates are nominated by political parties or groups of voters. While each gender must be represented with at least 35 per cent of the total number of candidates on a list, there are no requirements regarding placement on the lists. Women hold 28.8 per cent of seats in the outgoing parliament. ODIHR NAM interlocutors expressed confidence in the inclusiveness of the candidate registration process.

The official campaign starts 30 days before the elections and runs until 24 hours before election day. All ODIHR NAM interlocutors expressed confidence in the ability of contestants to campaign freely and anticipate the ongoing campaign to be competitive. Political parties plan to use variety of conventional and online tools to attract voters. During the visit the ODIHR NAM was informed that the campaign is expected to focus on issues such as rule of law, public health, social justice, media freedom, economic recovery and development and environmental topics.

Campaign finance legislation remained unchanged since the last parliamentary elections. Election campaigns may be financed from public funds, natural persons and loans. The law sets limits for donations and expenditures for campaign finance and provides disclosure requirements. There is no interim reporting on campaign donations and expenditures. The legislation does not sufficiently regulate spending in the pre-campaign period and third party campaigning, including on social networks. Campaign finance oversight is vested with the Court of Audits and other state institutions. ODIHR NAM interlocutors expressed trust in the capacity and effectiveness of the oversight bodies. However, some concerns were expressed regarding the overall comprehensiveness of the party and campaign finance regulatory framework, in particular related to the parties' campaign activities prior to the official election period, involvement of third parties and online campaigning, which can potentially undermine the transparency of the campaign and political financing system.

The media landscape is diverse but polarized with a wide variety of broadcasters as well as print and online media. The law obliges broadcasters to ensure balanced and impartial coverage and provide contestants with equal treatment in terms of airtime and political advertisements. The public broadcaster provides parties and candidates with free airtime during the campaign period based on their results in the last elections. ODIHR NAM interlocutors did not raise concerns regarding access to media, however, the majority of interlocutors expressed concerns over political pressure and influence on the public service media, biased coverage by some commercial media outlets and the use of disinformation tools during electoral campaign. ODIHR NAM interlocutors, including from the media and civil society, highlighted that critical and independent media and journalists are facing a growing number of verbal accusations and legal harassment by high-ranking officials.

Election dispute resolution is primarily regulated by the election law. The NEC and the ConECs adjudicate complaints about alleged election irregularities and their decisions can be appealed to the Supreme Court. While the electoral dispute resolution system establishes deadlines that provide for timely remedy, there is a lack of procedures for voters to appeal decisions of the upper-level election

commissions on results. Overall, ODIHR NAM interlocutors expressed general confidence in the integrity and impartiality of the complaints adjudication system.

All ODIHR NAM interlocutors welcomed a potential ODIHR activity for the upcoming elections, noting the value of previous ODIHR assessments and the importance of an external assessment, including due to the highly polarized political environment. The ODIHR NAM noted stakeholder confidence in the electoral legislation and in the professionalism and impartiality of the election administration in organizing the elections. Nevertheless, there have been significant amendments to election legislation and ODIHR NAM interlocutors noted that several aspects of the electoral process, including conduct of the campaign, transparency of campaign finance, media coverage of the elections, and the media environment could benefit from further assessment. On this basis, the ODIHR NAM recommends the deployment of an Election Assessment Mission for the upcoming parliamentary elections.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Slovenia is a parliamentary republic with legislative authority exercised by a 90-member National Assembly (parliament). The National Council, the upper chamber, has a secondary role in the legislative process.¹ Executive power is exercised by the government, headed by a prime minister. The president is directly elected for a five-year term. Parliamentary elections were called by the president on 9 February and are scheduled for 24 April 2022.

The last early parliamentary elections were held on 3 June 2018 and resulted in a minority government led by Prime Minister Marjan Šarec.² At end of January 2020, the crisis in the government of Mr. Šarec resulted in a new coalition government led by Prime Minister Janez Janša of the Slovenian Democratic Party (SDS) party. Many ODIHR NAM interlocutors voiced their concerns regarding the Prime Minister's verbal attacks on critical journalists and pressure on media and civil society, including citizens participating in public anti-corruption protests, which is believed to have tainted the public image of the government.

Women remain underrepresented in public offices, holding 26 out of 90 seats (28.8 per cent) in the outgoing National Assembly and 4 out of the 40 members (10 per cent) of the National Council. There are 2 women among 9 judges of the Constitutional Court. Women hold only 2 out of the 18 ministerial posts. The UN Committee on the Elimination of Discrimination against Women (CEDAW) has previously recommended the introduction of temporary special measures and gender quotas of at least 35 per cent in all elected and appointed decision-making bodies in Slovenia at both the national and local levels.³

¹ It is comprised of 40 representatives of different professional groups and local communities, elected indirectly for a five-year term.

² The 2018 early parliamentary elections resulted in nine parties and two deputies from the Hungarian and Italian national minorities: SDS, 25 seats, List of Marjan Šarec (LMS), 13 seats, Social Democrats (SD), 10 seats, Modern Centre Party (SMC), 10 seats, the Left (Levica), 9 seats, New Slovenia-Christian Democrats (NSi), 7 seats, Party of Alenka Bratušek (SAB), 5 seats, Democratic Party of Pensioners of Slovenia (DeSUS), 5 seats, Slovenian National Party (SNS), 4 seats).

³ See [UN CEDAW Concluding Observations](#) on the combined fifth and sixth periodic reports of Slovenia (24 November 2015), CEDAW/C/SVN/CO/5-6, paragraphs 23 and 24 (c).

National minority rights protection in Slovenia, including regarding political participation, is strong for the Hungarian and Italian national communities, but less so for Roma.⁴ The Roma community, which numerically appears to be larger than the two other groups, has special participation rights only at the local level.⁵

ODIHR has previously observed three elections in Slovenia.⁶ Most recently, ODIHR deployed an Election Assessment Mission to the 3 June 2018 early parliamentary elections. The final report stated that the partially revised legal framework, which addressed some previous ODIHR and GRECO recommendations, constituted a solid basis for the democratic elections. Nevertheless, some aspects did not fully comply with OSCE commitments and international good practice. The final report issued on 12 September 2018 contains 17 recommendations, including 6 priority ones, for the authorities to improve the electoral process and bring it closer in line with OSCE commitments.⁷

B. LEGAL FRAMEWORK

The legislation regulating the parliamentary elections is comprised primarily of the 1991 Constitution (last amended in 2021),⁸ the 2006 Elections to the National Assembly Act (election law, last amended in 2021), the 2007 Elections and Referendum Campaign Act (ERCA, last amended in 2013), the 1994 Political Parties Act (PPA, last amended in 2014), the 2013 Voting Rights Register Act (last amended in 2015), the Mass Media Act (last amended in 2021) and the 2005 Radio and Television Corporation of Slovenia Act (last amended in 2014).⁹ Slovenia is party to major international and regional instruments related to the holding of democratic elections.¹⁰

The February 2021 legal amendments to the election law, among other things, extended the deadline for requesting postal voting, changed the deadlines for nominating election commission members by political parties, increased the number of support signatures for national minority candidates from 30 voters to 1,5 per cent of voters of the respective communities, modified some provisions related to election day and by-elections and introduced digital optimisation of the NEC's work with candidate lists and with the verification of candidate eligibility.¹¹ Following the proposals made by the members in the parliament of the Hungarian and Italian national communities, the electoral system used for the election of representatives of these communities was simplified by removing the *Borda count*

⁴ Other minorities, including numerically small groups that are not recognized as national minorities by the authorities, do not have specific political rights, and neither do the three numerically largest ethnic minorities – the Bosnians, Croats and Serbs.

⁵ While ODIHR NAM interlocutors noted the lack of official state statistics on the number of Roma, according to the European Commission's [Roma inclusion in Slovenia](#), Facts and Figures, there are around 8,500 Roma in Slovenia. Other sources such as the [Minority Rights Group International](#) provide a higher estimate of around 10,000 Roma.

⁶ See previous [ODIHR election-related reports on Slovenia](#).

⁷ In paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves “to follow up promptly the ODIHR's election assessment and recommendations”.

⁸ The Constitution now guarantees free use and development of sign language in Slovene and national minority languages.

⁹ Other applicable legislation includes the 1994 Constitutional Court Act (last amended in 2021) and relevant provisions of the Criminal Code.

¹⁰ Including the 1966 UN [International Covenant on Civil and Political Rights](#) (ICCPR), the 1965 UN [International Convention on the Elimination of All Forms of Racial Discrimination](#) (ICERD), the 1979 UN [Convention on the Elimination of All Forms of Discrimination against Women](#) (CEDAW), the 1995 Council of Europe [Framework Convention for the Protection of National Minorities](#) (FCNM), the 2003 UN [Convention against Corruption](#), and the 2006 [Convention on the Rights of Persons with Disabilities](#) (CRPD). Slovenia is also a member of the Council of Europe's [Venice Commission](#) and [Group of States against Corruption](#) (GRECO).

¹¹ The ODIHR NAM was informed that new provisions on digital optimisation of the NEC's work with candidate lists and with the verification of candidate eligibility will not be implemented for these elections.

component from the first-past-the-post system. Furthermore, following the 2018 decision of the Constitutional Court and as result of an inclusive and consultative process, the parliament amended the Act on Establishing Constituencies for the Election of Deputies to the National Assembly (hereinafter law on constituencies) whereby the boundaries of several districts were changed in an effort to achieve a more comparable equality of the vote (See *Electoral System* section).¹²

Most previous ODIHR recommendations remain unaddressed, including those concerning limitations on the right to vote, criminal liability for defamation, legal standing for voters and campaign finance and media oversight. Nonetheless, all ODIHR NAM interlocutors expressed confidence in the legal framework and regarded it as conducive to holding democratic elections.

C. ELECTORAL SYSTEM

The 90 members of the National Assembly are elected for a four-year term through two methods. Eighty-eight deputies are elected under the proportional representation system and the two deputies, representing the Hungarian and Italian communities, are elected through a majoritarian, first-past-the-post system in two special constituencies.¹³ For the election of the 88 deputies, the country is divided into eight constituencies; each constituency is further subdivided in 11 districts. In every constituency, 11 representatives are elected. A candidate list is eligible for the allocation of mandates if it has obtained at least four per cent of valid votes nationwide.¹⁴

In 2021, boundaries of 15 electoral districts in five constituencies were redrawn with aim to reduce the size of the electoral districts and achieve a more comparable equality of the vote.¹⁵ Following the 2018 decision of the Constitutional Court, the Ministry of Public Administration (MPA) initiated the process of redrawing the boundaries of districts in an inclusive and consultative process with the participation of all parliamentary groups.¹⁶ Some ODIHR NAM interlocutors opined that the redrawing of districts favours certain political parties.

¹² In 2018, following the request of the National Council, the Constitutional Court assessed the constitutionality of several articles of the election law and the law on constituencies. Among others, the Court has ruled that 26 years after the adoption of the electoral legislation, the electoral districts no longer meet the criteria set out in Article 20 of the election law (equal population, geographical roundness, maximum possible integrity of the municipality). Therefore, the Court established that the inconsistency between Article 4 of the law on constituencies and Article 20.5 of the election law, constituted an infringement of the principles of state governed by the rule of law, as laid down in Article 2 of the Constitution, and found Article 4 of the law on constituencies inconsistent with the Constitution. The Court stated that the parliament had to make amendments within two years (by the end of 2020).

¹³ Voters in these constituencies also participate in the election of the other members of the National Assembly, thus having two votes.

¹⁴ Mandates are first allocated within each constituency to the eligible candidate lists using the so called *Droop* quota. After the first allocation, the overall proportional calculation of the number of mandates each party is entitled to is done on a nationwide basis using the *d'Hondt* method. Undistributed mandates are then allocated to candidate lists among all the constituencies, in the order of the highest remainder of votes in proportion to the quota used in each constituency.

¹⁵ The changes altered boundaries in following constituencies: Ljubljana-Bežigrad, Celje, Novo Mesto, Maribor and Ptuj.

¹⁶ This process commenced in 2019 with aim to implement the ruling of the Constitutional Court and involved several rounds of negotiations including the President of the Republic and leaders of parliamentary groups. The initial proposal to amend the election system by abolishing electoral districts and introducing preferential voting was submitted to the National Assembly on 31 January by Levica, LMŠ, NSi, SAB, SD, SNS, SMC and the MPs representing the Hungarian and Italian national minorities. This proposal however, did not receive the required two-third of votes. Following another initiative of the MPA, an agreement was reached to amend the law on constituencies and re-draw the boundaries of several districts.

D. ELECTION ADMINISTRATION

The election administration has four levels, reflecting the overall administrative structure of the country. It is comprised of the National Election Commission (NEC), 10 Constituency Election Commissions (ConECs) including two special ConECs for the election of deputies from the Hungarian and Italian national communities, 88 District Election Commissions (DECs), and around 3,100 polling boards (PBs) across the country and in 31 diplomatic representations.

Election commissions are permanent bodies formed according to a mixed judicial, political and professional model. They have a four-year mandate and each commission supervises electoral operations at their level.¹⁷ The NEC is responsible for the overall conduct of elections, coordinating the work of and providing instructions to lower-level election commissions and declaring election results. The main role of ConECs is to review candidate lists and to determine election results in the constituencies. DECs are responsible for designating polling stations, counting postal votes and determining results in the districts.¹⁸ The PBs conduct voting and counting on election day. The NEC informed the ODIHR NAM that all polling stations are accessible and adapted to the needs of voters with special needs. For the first time, voting results, broken down by polling station will be available online shortly after the completion of the count at respective polling stations.

The current NEC, appointed by the National Assembly in 2020, is composed of a President, Vice President, five members and their deputies. The President and Vice President are appointed from among the Supreme Court judges, two members and two deputies from among legal experts, and the remaining members upon the proposal of political parties represented in the parliament.¹⁹ The NEC appoints ConECs and DECs while PBs are appointed by DECs for each election based on nominations from parliamentary parties followed by designations from local communities and administrative units.²⁰

Election preparations have commenced as of 14 February and the NEC has adopted a calendar of activities, various instructions for candidates and election commissions as well as other pertinent regulations. In light of the COVID-19 pandemic, the NEC in co-operation with other state agencies and the COVID-19 Expert Group, has been conducting regular consultations to develop specific protocols and regulations to ensure safe voting, including for voters with COVID symptoms or in quarantine, social distancing measures at voting premises and the provision of personal protective equipment for electoral officials and voters.

Representatives of the political parties met by ODIHR NAM intend to nominate their members in the election commissions at all levels; however, most of them noted a lack of capacity to have full country coverage. Several interlocutors informed the ODIHR NAM that some public officials have called upon to sympathisers of the ruling party to fill vacant quotas of other parties to increase their

¹⁷ The election law allows for the removal of members of the NEC and of lower commissions, by the parliament and NEC respectively, *inter alia* for “negligent performance of duties”. While the election law does not provide a legal remedy to challenging such decisions, the ODIHR NAM was informed that in practice no such case has ever occurred and that such decisions could be appealed according to the Code of Administrative Procedure.

¹⁸ Each election commission has a secretary who carries out much of the operational work. The secretaries are appointed by NEC for four years from among civil servants at the proposal of the administrative units. ConECs include two judges, while DECs include one judge and one legal expert.

¹⁹ Appointments take into account the proportional representation of political parties in the parliament.

²⁰ Eligible parties must submit applications of their nominees for PB membership latest 1 March. Each PB consists of six members, a President, Vice President, and two members and their deputies. The members are appointed according to political representation in the parliament. In case of insufficient proposals from parliamentary parties, nominees may be accepted from other registered political parties and local authorities.

representation. Nonetheless, all ODIHR NAM interlocutors expressed trust in the election administration, and no concerns were raised regarding the technical preparations and conduct of the elections or the professionalism of the commissions.

E. VOTER REGISTRATION

All Slovenian citizens who are 18 years or older on election day have the right to vote, unless their suffrage rights have been revoked by an individualized court decision on the basis of lack of legal capacity.²¹ Voter registration is passive and based on the Central Population Register maintained by the Ministry of Interior (MoI). The voter register contains the voter's constituency, district, polling station and chosen method of voting if a request to vote outside a regular polling station on election day has been declared. As of 14 February, the voter register included 1,699,433 million voters.

There are three types of voter lists used for parliamentary elections: general voter lists, which include all citizens who are eligible to vote, voter lists of voters residing abroad (105,251 voters), and the voter lists for the Hungarian and Italian national minority communities with 5,563 and 2,771 voters respectively. Inclusion in the voter register for the Hungarian and Italian national communities is active, and once registered the voter remains on that register permanently. To be eligible, a voter must be a member of the respective community.

To ensure data protection, the lists are not publicly displayed or shared. The MoI provides the final voter lists to the election commissions fifteen days before election day.²² Citizens can review their voter registration record at any time at administrative units and diplomatic representations as well as online. Voters who were previously not included must make an individual request to the relevant self-governing body to enter the register. ODIHR NAM interlocutors did not raise specific concerns with regard to the accuracy of voter lists and expressed confidence in the overall integrity of the registration process.

F. VOTING METHODS

The law provides for diverse and inclusive voting methods as alternatives to standard in-person voting at polling stations. These include: early voting from 19 to 21 April for those who will be out of their district on election day, mobile voting for ill and disabled voters as well as postal voting available for out-of-country voters, those in hospitals, retirement homes, penitentiaries and persons with disabilities.²³ Special polling stations called OMNIA are also available across the country for eligible voters without permanent residence in Slovenia.²⁴

Voters registered abroad can either vote by mail, in-person at a diplomatic representation, or in-person voting at an OMNIA polling station in Slovenia. All voters with a registered permanent residence outside the country receive a ballot automatically.²⁵ A voter who wishes to vote at a polling station

²¹ According to the law, persons whose legal capacity has been revoked or who are under guardianship can be deprived of the right to vote if they are "incapable of understanding the meaning, purpose and effect of elections" due to their impairment.

²² Voters who are turning 18 by or on election day are automatically included in these lists.

²³ By law, persons with special needs can be assisted in voting by a person of their choice.

²⁴ Citizens permanently residing abroad who plan to be in Slovenia on election day may vote at a so-called OMNIA polling station (a special polling station at the headquarters of the of the DEC's or administrative unit). The voters should inform the NEC of their intention to vote in Slovenia no later than 20 April 2022. Applications may also be submitted online, via the [eGovernment portal](#).

²⁵ If the sent electoral materials return undelivered during two consecutive elections, the voter will stop receiving a postal ballot until a confirmation of the address of residence is provided.

outside the district of his/her place of residence (so-called OMNIA polling stations) must inform the DEC of his/her intention not later than 20 April 2022.

The NEC provides detailed information on voting rights and alternative voting methods on its website. In case one of the alternative voting methods is used, the voter's choice is recorded in the voter register, enabling commission members to prevent double voting. The NEC plans to adopt specific protocols for various means of voting, including for voters in quarantine by 30 March 2022.

G. CANDIDATE REGISTRATION

Citizens of at least 18 years of age, except those, declared incapable by an individualized court decision, may stand for office. A candidate may only run on a list of candidates in the constituency where she/he has permanent residence.

Political parties are registered by the MoI based on the declarations of no less than 200 citizens.²⁶ According to the MoI, as of February 2022, there are around 90 registered parties in Slovenia. The ODIHR NAM was informed that on 6 January, supporters of NSi and SDS have filed an initiative to review the constitutionality of the parties Levica and SD.

Candidates can be nominated by political parties or groups of voters. A political party may nominate a list of candidates in every constituency if the lists are endorsed by at least three MPs, or in one constituency if the list is nominated by party members who have resident status in the constituency according to party rules and endorsed by at least fifty voters with permanent residence in the constituency.²⁷ Two or more political parties can also submit a joint list of candidates. Voters can nominate a list of candidates in one constituency if the list is endorsed by at least 1,000 voters with permanent residence in the constituency. A voter may support only one list.

The number of candidates on a list may not be higher than the number of deputies to be elected in the constituency. The nominating party must designate in which district each candidate on the list is running, with one candidate per district. There is no minimum number of candidates required on a candidate list. If there are fewer than 11 candidates on the list, one or more candidates can run in two different districts in the constituency. If there is only one candidate on a list, this candidate can run in all the districts of the constituency. In a list of more than three candidates, either gender must be represented with at least 35 per cent of the total number of candidates on the list. Failure to fulfil this condition leads to the rejection of the entire list. The UN CEDAW has previously recommended to increase the representation of each sex on candidate lists from 35 to 40 per cent, and introduce a zipper system for the first half of each electoral list.²⁸

Nomination of candidates commenced on 14 February and the lists of candidates together with the irrevocable letter of consent by each candidate should be submitted to respective ConECs no later than 24 March.²⁹ The list must be confirmed or rejected by 3 April and published no later than 8 April. Following the 2021 amendments, members of the Hungarian and Italian communities should be nominated by at least 1.5 per cent of voters registered in these communities. Overall, ODIHR

²⁶ According to the Article 10 of the Political Parties Act, application for registration should include at least 200 signed declarations, the party statute and programme, minutes of the founding assembly and the logo of the party.

²⁷ A party may also submit a list of candidates for a constituency if the list is supported by at least 100 voters with permanent residence in the constituency.

²⁸ See [UN CEDAW Concluding Observations](#) on the combined fifth and sixth periodic reports of Slovenia (24 November 2015), CEDAW/C/SVN/CO/5-6, paragraphs 23 and 24 (a).

²⁹ In the case of a political party list, the party must also submit the minutes of the establishment of the list of candidates and the rules of the political party according to which the list was established.

NAM interlocutors expressed confidence with regard to the inclusiveness of the candidate registration process.

H. ELECTION CAMPAIGN

The official campaign starts 30 days prior to election day and is followed by 24 hours of campaign silence that includes a prohibition on publishing opinion polls prior to election day until the closure of polling stations. The legal framework guarantees fundamental freedoms necessary for the democratic conduct of election campaigns.

Election campaigns can be organized by candidates, representatives of the proposer of the candidate or lists of candidates, a political party, or by third parties (legal or natural persons). By law, local communities designate special places, on equal conditions and free of charge, for all campaign organisers to post and place their posters.³⁰ In order to organize a campaign rally organizers must notify the competent police station at least 48 hours before the date of the rally.³¹ All campaign materials should display information about the entity that commissioned them.

Political parties did not raise concerns about their ability to campaign freely, but expressed concerns about bias of certain media in their political coverage as well as growing cases of information of a manipulative nature in the run-up to the elections, including online. Many ODIHR NAM interlocutors described the pre-election climate as polarized and tense, and the discourse as aggressive, with hostile accusations between the ruling and opposing coalitions. Some ODIHR NAM interlocutors voiced concerns over increased aggressive and discrediting rhetoric against media and civil society representatives from the prime minister and other public officials, especially on social networks. Many ODIHR NAM interlocutors anticipate the campaign to be vibrant and competitive.

The ODIHR NAM was informed by political party representatives that as the campaign intensifies the campaign topics would include, among others, rule of law, public health, social justice, media freedom, economic recovery and development and environmental protection. Political parties plan to use both conventional and online tools to attract the voters, however, some political party representatives noted reduced door-to-door and in-person campaign activities due to COVID-19 related concerns.

I. PARTY AND CAMPAIGN FINANCE

Party and campaign finance is regulated by the PPA and ERCA. Political parties are entitled to an annual support from the state based on votes received in the last parliamentary elections.³² In addition, funding can be supplemented by donations from natural persons, membership fees, loans, funds from local budgets and income from property.³³ Both parties and candidates may not receive contributions from legal entities or from foreign sources. However, the law does not prohibit parties to own companies, which may receive financial resources from abroad. A number of ODIHR NAM

³⁰ Placing posters outside the designated poster sites is allowed based on consent by the owner or manager of advertising boards, buildings, other facilities or land.

³¹ Article 13 of ERCA stipulates that if the rally requires any restriction or redirection of traffic, the election campaign organizer should also request an authorisation issued by the competent authority on limiting the traffic or a roadblock in the rally area during the campaign rally.

³² Public funds are allocated annually to parties that have received at least one per cent of the votes cast in the last parliamentary elections. Of the annual subsidy, 25 per cent is distributed among the eligible political parties in equal shares and 75 per cent in proportion to the number of votes the parties received.

³³ Parties can receive loans only from savings banks. The loan from a natural person is limited to ten average gross monthly salaries per annum.

interlocutors raised concerns over possible financial support from Hungary to certain political parties.³⁴

Election campaigns can be financed from public and private sources, including loans. The expenditure ceiling is calculated on the basis of 0.40 EUR per eligible voter in each electoral unit contested. A citizen can donate up to approximately 19,700 EUR to each contestant; cash donations are allowed up to 50 EUR. In addition, the law provides for in-kind contributions.³⁵ Parties may donate from their account an amount not exceeding the campaign expenditure ceiling.

The ERCA envisions partial reimbursement of campaign expenditures from public funds. Every campaign organizer whose list obtained mandates for deputies is entitled to 0.33 EUR per obtained vote but not exceeding their total expenditures. Every campaign organizer whose list received at least two per cent of votes countrywide or six per cent of votes in a constituency can receive 0.17 EUR per vote cast in its favour.³⁶

Contestants are required to open a dedicated bank account no later than 45 days before election day to carry out campaign related transactions. The accounts are closed within four months after the elections, and loans taken for campaign purposes need to be paid 30 days before closing the account. There are no requirements for interim reporting on campaign donations and expenditures.

The Court of Audit (CoA) is both the political party and campaign finance oversight body.³⁷ The CoA audits campaign finance reports for parties eligible for partial reimbursement of campaign expenses. Within 15 days after closing their bank account, all contestants eligible for reimbursement are obliged to submit detailed financial reports to AJPES.³⁸ Within six months of closing the bank account, the CoA conducts a financial audit of the campaign accounts and publishes findings on its website.

The legislation does not regulate and there is no effective oversight of expenses related to third party campaigning and campaigning on social networks. The CoA has informed the ODIHR NAM that online expenses may be subject to oversight only if a contestant, at its own will, includes them in their financial reports.³⁹ Moreover, pre-campaign period activities of political parties aimed at self-promotion or promotion of contestants does not fall under the election campaign oversight and is subject only to the regular party activities reports. However, either *ex-officio* or upon complaint of the citizen or any other party, the CoA may request a contestant/political party to reflect related

³⁴ In May 2018, a [Parliamentary Inquiry Commission](#) was established to investigate alleged usage of financial support during the 2018 parliamentary elections.

³⁵ Such as free services or commitment and provision of services for a campaign organiser, sale of goods under conditions that provide the campaign organiser with a more favourable position compared to other service users or buyers of goods from such persons.

³⁶ Candidates of the Hungarian and Italian national communities are also entitled to partial reimbursement of elections campaign expenses.

³⁷ In addition to the Court of Audits, political party and campaign finance oversight is implemented by the MoI Inspectorate of Internal Affairs, the Agency of the Republic of Slovenia for Public Legal Records and Related Services (AJPES). The Inspectorate is mandated to ensure contestants compliance with the ERCA provisions, including those that aim at transparency of campaigning. The MoI Inspectorate also establishes the contents and forms/templates of campaign finance reports and publishes campaign finance reports in the official gazette.

³⁸ The report should contain detailed information on collected funds, the identity of donors who donate more than ten salaries, information about loan-granting institutions as well as a detailed account of expenditures. Any surplus on the campaign account needs to be transferred to a humanitarian organization as stipulated by the Humanitarian Organizations Act.

³⁹ The CoA informed the ODIHR NAM that it would send requests to the social networks platforms, which are not under Slovenian jurisdiction, to provide the CoA with information on the income generated from political advertising by the electoral contestants.

expenses in the financial reports, if the CoA obtains proofs of such activities. The CoA informed the ODIHR NAM that campaign finance legislation would further benefit from revision with the aim to address, among others, the above-mentioned shortcomings.⁴⁰

The legislation provides for financial sanctions for various types of campaign finance irregularities, such as unlawful financing, untimely or failure to submit reports, as well as for false reporting.⁴¹ However, there is no threshold for permissible irregularities and financial sanctions are applied even for minor financial irregularities. Exceeding the limit on expenditures can result in limiting or revoking the partial reimbursement of funds or the reduction or suspension of public funding. Overall, ODIHR NAM interlocutors expressed trust in the CoA and its capacity to effectively oversee campaign finances.

J. MEDIA

The Slovenian media landscape includes a range of public and private television and radio stations, print media outlets and online media. Television remains the main source of political information, with the public broadcaster, RTV Slovenia⁴² and private broadcasters *Kanal A*, *POP TV*, *TV3* and *Planet TV*, as well as the most popular print media *Delo*, *Dnevnik*, and *Večer* dominating the market in terms of audience.⁴³ Magazines such as *Mladina*, *Reporter*, *Demokracija* and *Skandal24* are also sources of political information. With Internet penetration standing at 84 per cent, the relevance of social networks and online media as a source of news continues to grow.⁴⁴

The freedoms of expression and of the press are protected by the Constitution, which also establishes the right to access to public information.⁴⁵ Defamation, slander, and insult remain criminal offenses punishable with fines or imprisonment.⁴⁶ Many ODIHR NAM interlocutors noted that in recent years there has been an increase in vexatious lawsuits targeting the journalists critical of the government as another form of pressure.⁴⁷ In 2020, a financial advisor to the prime minister launched 39 defamation

⁴⁰ The CoA has submitted, on several occasions since 2016, draft proposals with the aim to address identified areas for improvements however, no amendments were made thus far. The MPA interlocutors informed the ODIHR NAM that proposals made by the CoA are being reviewed and considered for legislative amendments.

⁴¹ Sanctions for campaign organizers for breaching the campaign finance provisions may reach up to 20,000 EUR. Fines up to 15,000 EUR are envisioned for legal entities, entrepreneurs and self-employed persons who violate the provisions related to donations, delivery of services and disclosures.

⁴² There are also regional channels in Maribor and Koper. In addition, RTV Slovenia carries special programming for the Italian and Hungarian communities. Together with regional centres, RTV Slovenia broadcasts five television channels and eight radio channels.

⁴³ According to the [media registry of the Ministry for Culture](#), there are around 2,500 media outlets in Slovenia.

⁴⁴ As of January 2021, according to the [Datareportal](#).

⁴⁵ Other laws governing the media are the 2001 Mass Media Act, the 2003 Public Information Access Act, the 2011 Act on Audio-visual Media Services, the 2005 Radio and Television Corporation of Slovenia Act and the election law.

⁴⁶ The use of inflammatory language is regulated under the Criminal Code. The law establishes that public incitement to hatred, violence or intolerance is punishable with imprisonment for up to two years if formulated in a manner that implies incitement to public disorder, the use of force or dissemination of ideas on the supremacy of one race over another.

⁴⁷ Paragraph 13 of the [2016 CoE Recommendation CM/Rec\(2016\)4](#) of the Committee of Ministers to member States recommends that “[m]ember States must exercise vigilance to ensure that legislation and sanctions are not applied in a discriminatory or arbitrary fashion against journalists and other media actors. They should also take the necessary legislative and/or other measures to prevent the frivolous, vexatious or malicious use of the law and legal process to intimidate and silence journalists and other media actors. [...]”

cases against investigative journalists.⁴⁸ Furthermore, ODIHR NAM interlocutors noted that online harassment or threats against journalists are rarely sanctioned by the justice system.⁴⁹

Several ODIHR NAM interlocutors expressed concerns that media pluralism has been negatively affected by growing political influence over the media.⁵⁰ While ODIHR NAM interlocutors noted a lack of regulations regarding the conflict of interest as one of the contributing factors, foreign investments in Slovenian media outlets with major audiences are considered as the main reason of concern. In particular, ODIHR NAM interlocutors criticised financial support by foreign companies to some Slovenian media outlets due to its potential influence on the electoral campaign.⁵¹

Many ODIHR NAM interlocutors expressed concerns over a growing number of instances of verbal and legal harassment and accusations by high-ranking officials towards critical and independent media and journalists, including accusations of the manipulation of public opinion. The OSCE Representative on Freedom of Media (RFoM), has previously expressed his concern regarding the accusations against, and pressure on, the public service broadcaster RTV.⁵²

The law provides that the Agency for Communication Networks and Services (AKOS) is the media regulator but the Agency has no specific competences during the election campaign period.⁵³ The Ministry of Culture Inspectorate responsible for Culture and Media, is supervising the implementation of provisions regarding the media coverage of the election campaign, however the Inspectorate does not conduct systematic monitoring of media campaign coverage and mostly acts on the basis of complaints.

Coverage of the elections in broadcast media is mainly regulated by the ERCA and the Radio and Television Corporation of Slovenia Act. The legislation obliges broadcasters to ensure balanced and impartial coverage and provide contestant with equal treatment in terms of airtime and political advertisements. The public broadcaster provides parties and candidates with free airtime during the campaign period based on their results in last parliamentary and European Parliament elections. Non-parliamentary parties receive equal free airtime amounting to a total of one-third of the total time allotted for all political parties and candidates participating in the elections. Contestants can have paid

⁴⁸ See 2020 [Joint Statement issued by the International Press Institute](#) about Slovenian investigative news outlet *Necenzurirano* hit with 39 lawsuits. The ODIHR NAM was informed that currently there are 42 lawsuits against this journalist.

⁴⁹ According to ODIHR NAM interlocutors, this is mainly due to the legal interpretation of the State Prosecution, whereby public incitement to hatred needs to be ‘concrete’, amounting to a ‘concrete danger for public order and peace’ to be prosecuted as a crime.

⁵⁰ See also [European Commission 2021 Rule of Law Report](#), Country Chapter on the rule of law situation in Slovenia. See also 2021 In-depth Analysis - [The situation of Democracy, the Rule of Law and Fundamental Rights in Slovenia](#) by European Parliament's Committee on Civil Liberties, Justice and Home Affairs, for the Democracy, Rule of Law and Fundamental Rights Monitoring Group.

⁵¹ The Media Act stipulates a 20 per cent threshold for ownership concentration and contains measures to prevent a high degree of cross-ownership between different media. Media companies are also required to disclose details about their ownership in the media register, which is accessible to the public. Nevertheless, ODIHR NAM interlocutors noted that ultimate owners are not always identifiable in the public register.

⁵² See news item by the [OSCE RFoM \(27 March 2020\)](#). In addition, many ODIHR NAM interlocutors perceive recent attempts to suspend funding for the state owned Slovenian Press Agency (STA) and instances of hostile rhetoric against the STA as politically motivated pressure by the current government and the Prime Minister. The [OSCE RFoM](#) has previously called on authorities to urgently find sustainable funding for Slovenia’s public press agency (2 June 2021).

⁵³ The only competence that AKOS has during election campaign periods is related to detecting and reporting suspected instances of hate speech to the competent authorities. AKOS is managed by the Director and the Agency’s Council. Both are appointed by the Government based on a selection procedure, with the Director being proposed to the Government by the responsible minister.

advertisements in private media and on public broadcaster and the advertisements must clearly indicate the entity funding it.

K. COMPLAINTS AND APPEALS

The mechanism of election dispute resolution is mainly regulated by the election law and there are different avenues for lodging election related complaints. Complaints related to candidate nomination and registration can be filed with the ConECs by candidates or representatives of candidate lists up to the deadline for candidate nomination. The ConEC decision can be further appealed at the Supreme Court. The deadline for filing complaints and appeals as well as for issuing decisions is 48 hours. The NEC can *ex officio* annul or modify the ConEC decision on candidate nomination if it determines that the decision contains irregularities or was taken in breach of the law.

A constitutional complaint can be brought before the Constitutional Court against an individual act that caused a violation of human rights or fundamental freedoms, with serious consequences for the complainant, after all other legal remedies have been exhausted. The deadline for filing such a complaint is 60 days after the issuance of the act; the Constitutional Court is not bound by a deadline for rendering a decision.

Decisions regarding the voter register, after being reviewed by state administrative authorities, can be submitted to the administrative court and further appealed to the Supreme Court through extraordinary legal remedy. The ConEC can annul results in polling stations and can determine election results in the district upon a complaint. The NEC can also determine or annul results in a constituency if it has established irregularities in the work of a ConEC.

Complaints regarding irregularities in the work of PBs and DECAs can be filed with a ConEC by candidates and voters within three days from election day and must be decided upon within 48 hours. However, there is no procedure set out in the law that would allow voters to challenge ConEC and NEC decisions on results as these decisions are not considered administrative acts and cannot be challenged with the administrative courts. ODIHR NAM interlocutors expressed general confidence in the integrity and impartiality of the complaints adjudication system.

IV. CONCLUSIONS AND RECOMMENDATION

Almost all ODIHR NAM interlocutors welcomed a potential ODIHR activity for the upcoming elections, noting the value of previous ODIHR assessments and the importance of an external assessment, including due to the highly polarized political environment. The ODIHR NAM noted stakeholders confidence in the electoral legislation and in the professionalism and impartiality of the election administration in organizing the elections. Nevertheless, there have been significant amendments to election legislation and ODIHR NAM interlocutors noted that several aspects of the electoral process, including conduct of the campaign, transparency of campaign finance, media coverage of the elections, and the media environment could benefit from further assessment. On this basis, the ODIHR NAM recommends the deployment of an Election Assessment Mission for the upcoming parliamentary elections.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs

Mitja Močnik, Ambassador, Deputy Director-General of Directorate for Multilateral Affairs and Development Co-operation
Saša Ivanc, Department for International Organisations

Ministry of Interior

Alenka Colja, Head of Population Registration and Public Documents Division,
Renata Blaznik, Population Registration and Public Documents Division,
Kristina Magajna Miklavčič, Head of Public Assembly and Weapons Division
Iva Knap, Public Assembly and Weapons Division Registration

Ministry of Culture, Inspectorate of Culture and Media

Uršula Menih Dokl, Director-General of Media Directory
Adem Skender, Media Directory
Sonja Trančar, Chief Inspector
Petra Lešnik Kromar, Senior Inspector

Ministry of Public Administration

Saša Jazbec, Acting Director Local Self-Government, Non-governmental Organisations and Political System Directorate
Urška Gorenc, Transparency, Integrity and Political System Division
Eva Černigoj International Cooperation Office

State Election Commission

Dušan Vučko, Director of the Office
Kristina Klinc, Deputy Director
Silva Bratanič, Assistant to Director

Constitutional Court

Sebastian Nerad, Secretary General
Andreja Krabonja, Adviser

Supreme Court

Blaž Možina, Organizational Secretary
Alenka Dolinšek, Expert

Court of Audit

Miroslav Kranjc, Supreme State Auditor
Katja Božič, Supreme State Auditor
Petra Zemljič, Adviser to Supreme State Auditor
Maša Železnik, Adviser to Supreme State Auditor

Agency for Communication Networks and Services

Tanja Muha, Director
Tomaž Gorjanc, Head of Electronic Media Department

Human Rights Ombudsman Office

Peter Svetina, Human Rights Ombudsman
Miha Horvat, Deputy Ombudsman

Media

Nataša Rijavec Bartha, Public Broadcaster, Acting Editor of Daily News Programme
Jadranka Rebernik, Public Broadcaster, Acting Managing Editor of News and Current Affairs
Lenart Kučič, Pod Črto/Below the line, Investigative Journalist
Primož Cirman, *Necenzurirano.si*, Editor-in-Chief
Špela Stare, Slovene Association of Journalists, Secretary General
Mojca Zorko, Slovenian Press Agency, Home and International Affairs Desk Editor
Grega Repovž, *Mladina*, Independent Journalist

Political Parties

Janja Sluga, MP, Freedom Movement
Urška Klokočar Župančič, Freedom Movement
Nataša Sax, Freedom Movement
Matej T. Vatovec, MP, the Left
Dan Juvan, the Left
Jerca Korče, MP, List of Marjan Šarec
Nik Prebil, MP, List of Marjan Šarec
Jakob Bec, New Slovenia - Christian Democrats
Roman Jakič, Party of Alenka Bratušek
Ferenc Horvath, Representative of Hungarian National Community
Branko Grims, MP, Slovenian Democratic Party
Jernej Štromajer, Social Democrats
Jernej Pikalo, Social Democrats
Neva Grašič, Social Democrats

Civil Society Organizations

Tina Tomšič, Institute 8 March
Barbara Rajgelj, Legal Network for the Protection of Democracy
Katarina Bervar Sternad, Legal Center for the Protection of Human Rights and Environment
Filip Dobranič, the Voice of the People Initiative

International Community⁵⁴

Representatives of diplomatic missions of Andorra Belgium, Croatia, Denmark, France, Germany, Greece, Ireland, Luxembourg, Montenegro, Netherlands, Norway, Poland, Slovakia, Switzerland, Turkey, United Kingdom, United States of America.

⁵⁴ The ODIHR NAM extended an invitation to representations of all OSCE participating States resident in Slovenia.