



Office for Democratic Institutions and Human Rights

# REPUBLIC OF LITHUANIA

**PRESIDENTIAL ELECTION  
12 AND 26 MAY 2019**

**ODIHR Election Assessment Mission  
Final Report**



Warsaw  
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**REPUBLIC OF LITHUANIA  
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**ODIHR Election Assessment Mission Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Government of the Republic of Lithuania to observe the 12 and 26 May presidential election, and based on the recommendation of a Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Assessment Mission (EAM) from 29 April to 27 May 2019.

The presidential election was competitive and offered voters a choice among clear political alternatives, with fundamental freedoms largely respected in the campaign. The media provided extensive coverage and created conditions for citizens to make an informed choice. Although certain aspects of election-related legislation could be improved, the election was effectively administered and generally enjoyed public confidence.

The legal framework provides a sound basis for the conduct of democratic elections. Amendments adopted in 2018 and 2019 introduced additional measures to facilitate the participation of voters with disabilities, an expanded period for early voting, firmer rules on electoral offences, and other technical changes relating to campaign finance, election administration and media coverage of the campaign. Provisions were also introduced for citizen observation, in line with a prior ODIHR recommendation. However, certain prior ODIHR recommendations remain unaddressed, including those related to restrictions on candidate eligibility, sanctions for campaign finance violations, mechanisms for election dispute resolution, and media obligations during election campaigns.

The Central Election Commission (CEC) administered the election in a professional and efficient manner and the overall election administration enjoyed a high level of trust among stakeholders. Positively, the CEC introduced additional practices to facilitate the participation of voters with disabilities in the electoral process, including the distribution of Braille ballot guides in polling stations. Although ODIHR has previously recommended that the authorities increase the scope of voter education for national minorities, stakeholders described the reach of these materials as limited. Some stakeholders noted a public perception of increased politicization within the election administration, and several CEC members voiced concerns about decreased co-operation and a lack of transparency within the commission. Legal provisions on the dismissal of election commission members are unclear, at odds with good practice.

Citizens who are 18 years of age by election day have the right to vote, except those disenfranchised by a court decision on the basis of mental disability, which is at odds with international standards. For the first time in this election, eligible voters could cast a ballot at any polling station in the country regardless of their place of residence, which was facilitated by electronic voter registries. Stakeholders generally expressed confidence in the accuracy of the voter lists and integrity of the electronic registries.

The legal framework contains several restrictions on candidate eligibility, including on the basis of mental disability, which is at odds with international commitments. Some candidates described

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<sup>1</sup> The English version of this report is the only official document. An unofficial translation is available in Lithuanian.

overly burdensome administrative procedures for both paper and electronic signature collection. Notwithstanding, stakeholders generally raised no concerns related to the inclusive registration of candidates.

The campaign was competitive, with fundamental freedoms generally respected, and voters were presented with various political alternatives. Although outdoor canvassing was limited, the campaign was visible through debates and political advertisements on television and social media. Some ODIHR EAM interlocutors voiced concerns over the advantages of incumbency enjoyed by the prime minister, who was a candidate for president, but described an overall free campaign environment.

The regulatory framework for campaign finance largely provides for transparency and accountability and the CEC published timely information on declared donations prior to the election, as required by law. However, candidates were obliged to report expenditures only after the election, which detracted from transparency. Some stakeholders raised concerns that expenditures incurred on online media and social networks remained largely unreported.

The media environment is pluralistic, and media coverage of the election created conditions for citizens to make an informed choice, including through a number of candidate debates. However, certain aspects of the legal framework raised concerns among stakeholders, including the continued criminalization of defamation as well as proposed amendments which were seen as politicizing the oversight of the public broadcaster. Furthermore, political advertising remains defined in ambiguous terms in legislation, undermining the distinction between editorial coverage and political advertising and raising concerns related to restrictions on editorial freedom.

Mechanisms for complaints and appeals are in place. However, the law does not provide for a timely and effective review of all disputes and lacks guarantees for transparency. Judicial review of the final validation of election results is not guaranteed by legislation, which is at odds with OSCE commitments and prior ODIHR recommendations.

In line with ODIHR's methodology, the EAM did not observe election day proceedings in a systematic or comprehensive manner, but visited a limited number of polling stations. Voting and counting processes observed were orderly and procedures were mostly followed. Most polling stations visited were not suitable for independent access by voters with reduced mobility. Precinct-level results were published on the CEC website in a timely manner, contributing to transparency.

## **II. INTRODUCTION AND ACKNOWLEDGMENTS**

Following an invitation from the Government of the Republic of Lithuania to observe the 12 and 26 May 2019 presidential election and based on the recommendation of a Needs Assessment Mission conducted from 28 to 31 January 2019, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Assessment Mission (EAM) from 29 April to 27 May.<sup>2</sup> The ODIHR EAM was led by Ambassador Albert Jónsson and consisted of five experts from five OSCE participating states. The EAM was based in Vilnius and visited Dieveniškės, Šalčininkai and Trakai.

The electoral process was assessed for compliance with OSCE commitments, other international obligations and standards for democratic elections, and with national legislation. In line with

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<sup>2</sup> See all [previous ODIHR reports on Lithuania](#).

ODIHR's methodology, the EAM did not observe election day proceedings in a systematic or comprehensive manner, but visited a limited number of polling stations.

The ODIHR EAM wishes to thank the Ministry of Foreign Affairs and the Central Election Commission (CEC) for their co-operation and assistance, as well as to express gratitude to representatives of other state and municipal institutions, election commissions, political parties, candidates, media, civil society, academia, the resident diplomatic community, and other interlocutors for sharing their views.

### III. BACKGROUND

Lithuania is a parliamentary republic with specific executive powers related to foreign affairs and defence policies vested in the office of the president, who serves as the head of state. Legislative powers are exercised by the 141-member unicameral parliament (*Seimas*).

On 12 and 26 May voters elected a new president for a five-year term. The incumbent president, Dalia Grybauskaitė, was ineligible for re-election, having served two consecutive terms. The first round of the presidential election took place together with two referenda, one on dual citizenship and one on reducing the number of *Seimas* members.<sup>3</sup> The presidential run-off coincided with the European Parliament elections. Municipal elections were held on 3 and 17 March.

The political landscape is pluralistic. Following the October 2016 parliamentary elections, ten political parties entered the parliament.<sup>4</sup> In September 2018, the Lithuanian Farmers and Greens Union (LFGU) formed a new governing coalition led by Prime Minister Saulius Skvernelis with the newly created Lithuanian Social Democratic Labour Party, a faction from the Social Democratic Party, and with the support of the Order and Justice Party. The political atmosphere in the run up to the election was further marked by ongoing corruption trials involving the leadership of the Liberal Movement and Labour Party. Although the office of the outgoing president was held by a woman, women are underrepresented in politics.<sup>5</sup> Some 21 per cent of current members of parliament are women, and only one sitting minister is a woman.

### IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The president is directly elected for a five-year term in a two-round system in a single nationwide

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<sup>3</sup> In the referendum on amending Article 12 of the Constitution, voters were asked to decide whether to allow Lithuanian citizens by birth to retain their Lithuanian citizenship when they acquire the citizenship of a state meeting European and transatlantic integration criteria, with a list of such countries to be set by a constitutional law. In the referendum on Article 55 of the Constitution, the electorate voted on reducing the number of *Seimas* members from 141 to 121. The first referendum was initiated by the parliament, and the second one by the ruling party. Neither initiative passed at referendum.

<sup>4</sup> Lithuanian Farmers and Greens Union (54 seats), Homeland Union–Christian Democrats (31), Social Democratic Party (17), Liberal Movement (14), Order and Justice Party (8), Electoral Action of Poles (8), Labour Party (2), Centre Party (1), Political Party 'List of Lithuania' (1), Green Party (1), and 4 independents.

<sup>5</sup> See also paragraph 28 of the [2014 UN Committee on the Elimination of Discrimination Against Women concluding observations](#): "The Committee commends the State party on the high percentage of women in its civil service and on the fact that two of the three highest State officials are women. The Committee is nonetheless concerned that no special measures have been applied as part of a comprehensive strategy to accelerate the achievement of substantive equality of women and men in political and public life and to promote the participation of women in disadvantaged groups, such as rural women, women from ethnic minorities and women with disabilities, in political and public life".

constituency. To be elected in the first round, a candidate must obtain the absolute majority of all votes cast with a turnout of at least 50 per cent, or the votes of at least one-third of all registered voters, if turnout is less than 50 per cent. If no candidate is elected, a second round is held between the two frontrunners and the candidate who receives the most votes is elected, irrespective of turnout.

Presidential elections are regulated by the 1992 Constitution (amended in 2006), the 1992 Law on Presidential Elections (“PEL”, amended in 2018), the 2002 Law on the Central Election Commission (amended in 2012), the 2004 Law on Funding of Political Campaigns and Control of Funding (“CFL”, amended in 2019) and CEC regulations and decisions.<sup>6</sup> Lithuania is a party to major international and regional instruments related to the holding of democratic elections.<sup>7</sup>

The legal framework largely provides a sound basis for the conduct of democratic elections. Nevertheless, a number of prior ODIHR recommendations remain unaddressed, including those related to restrictions on candidate eligibility, sanctions for campaign finance violations, mechanisms for election dispute resolution, and media obligations during election campaigns. In addition, the law contains some gaps and ambiguities, mainly related to timeframes for dispute resolution, which may undermine legal certainty (see *Complaints and Appeals*).

A number of legal amendments were adopted in 2018 and 2019, shortly before and after the start of the campaign, which introduced some refinements and did not alter the fundamental aspects of the election law.<sup>8</sup> These amendments include earlier return of the candidate registration deposit and stricter rules on electoral criminal offences, including vote buying, as well as additional technical modifications related to campaign finance, election administration and media coverage of the campaign.<sup>9</sup> Some additional changes were not yet applicable to this election, including a ban on amending electoral legislation between the call of elections and the announcement of final results.<sup>10</sup> Stakeholders met by the ODIHR EAM generally supported the changes and did not raise concerns related to the legislative process of adopting them.

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<sup>6</sup> Other pertinent legislation includes the 1990 Law on Political Parties (LPP, amended in 2018), the 2015 Code on Administrative Offences, the Law on Administrative Procedures, the Law on Public Administration and the 2000 Criminal Code (amended in 2018).

<sup>7</sup> Including the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICRD), 1966 International Covenant on Civil and Political Rights (ICCPR), 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 2003 UN Convention against Corruption, 2006 UN Convention on the Rights of Persons with Disabilities (CRPD), 1953 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and 1998 Council of Europe Framework Convention for the Protection of National Minorities (FCNM). Lithuania is also a member of the Council of Europe’s European Commission for Democracy through Law (Venice Commission) and Group of States against Corruption (GRECO).

<sup>8</sup> According to section II.2.b of the [2002 Venice Commission’s Code of Good Practice in Electoral matters](#), “[t]he fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election, or should be written in the constitution or at a level higher than ordinary law”. The [2005 Venice Commission Interpretive Declaration on the Stability of Electoral Law](#) further notes that changes may be made to electoral law less than one year prior to an election in order to conform with the Code of Good Practice or with the recommendations of international organizations.

<sup>9</sup> It is no longer necessary to prove that the act of undue influence or vote buying altered the voter’s choice.

<sup>10</sup> Except for implementation of Constitutional Court rulings.

## V. ELECTION ADMINISTRATION

The election was administered by a three-tiered structure comprising the Central Election Commission (CEC), 60 Municipal Election Commissions (MECs) and 1,972 Precinct Election Commissions (PECs). In addition, 57 polling stations were established at diplomatic-consular offices to administer voting abroad. Most ODIHR EAM interlocutors expressed a high level of trust in the overall election administration and the conduct of the election, including the election day procedures.

The CEC is a permanent body with extensive administrative and oversight responsibilities, including regulation of media and campaign finance, as well as the ability to initiate legislation. The CEC is a mixed professional-political body of 12 members and a chairperson appointed by the parliament for four-year terms.<sup>11</sup> Nearly half of the CEC members are women, including the chairperson. Members of the CEC can be dismissed by a decision of the Seimas following a vote of no-confidence by a simple majority. Prior to the election, two such votes were initiated by the parliament along party lines, concerning the CEC chairperson and an opposition-nominated member.<sup>12</sup> Contrary to international good practice, the law does not prescribe any clear criteria for the dismissal of CEC members and permits nominating parties to recommend the dismissal and replacement of their nominated member, potentially detracting from the perceived independence of the CEC.<sup>13</sup>

*The legislation should be amended to provide for clear criteria upon which the chairperson and members of the CEC can be dismissed from office.*

The CEC conducted its work in a largely professional manner and met legal deadlines. Regular open sessions were live-streamed on the CEC website and administrative decisions were published online in a timely manner, contributing to transparency. Several CEC members reported concerns to the ODIHR EAM regarding decreased cooperation within the CEC and with the CEC secretariat, in particular with respect to non-inclusive decision-making and provision of information, and voting along party lines.<sup>14</sup> Only the CEC chairperson is employed full-time, while all the other members are paid on an hourly basis.<sup>15</sup> Many CEC members and the chairperson emphasized to the ODIHR EAM that the insufficient number of members working on a permanent basis detracted from the effectiveness and collegiality of the commission's work. Although some ODIHR EAM interlocutors described a perception of increased politicization of the CEC and questioned the

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<sup>11</sup> Members are nominated by the president, the Minister of Justice and the Lithuanian Bar Association (two each), as well as by the political parties that received proportional seats in the previous parliamentary elections (one each). The number of members nominated by parties depends on the number of qualifying parties, but must not exceed the total number of members nominated by non-partisan institutions; in such cases the latter may nominate additional members to ensure balance.

<sup>12</sup> In March 2018, several opposition parties in the Seimas initiated a no-confidence vote to remove the chairperson. In June 2018, the ruling coalition initiated a no-confidence vote to remove the CEC member representing the main opposition party. Neither attempt was successful.

<sup>13</sup> Section II.3.1. of the [Code of Good Practice](#) states that “bodies that appoint members to electoral commissions should not be free to recall them, as it casts doubt on their independence. Discretionary recall is unacceptable, but recall for disciplinary reasons is permissible – provided that the grounds for this are clearly and restrictively specified in law (vague references to ‘acts discrediting the commission’, for example, are not sufficient)”.

<sup>14</sup> Most decisions observed by the ODIHR EAM were drafted by the secretariat or individual members, and members reported that draft decisions were selectively shared among the commission.

<sup>15</sup> By law, upon the recommendation of the chairperson, the two deputies can also be employed full-time.

consistency of certain decisions, most expressed trust in the overall administration of and integrity in the election process.

*The structure, composition and internal rules of procedure of the Central Election Commission could be reviewed to enable effective operations and inclusive decision-making.*

MECs were established in November 2018, and PECs in early 2019, to administer the scheduled elections and referenda in 2019.<sup>16</sup> These are temporary bodies appointed by the CEC and MECs, respectively. A minimum of five members is required to form PECs. Whereas the parties may nominate MEC and PEC members, presidential candidates may not.<sup>17</sup> Some ODIHR EAM interlocutors reported that MECs faced challenges in forming PECs, describing low remuneration and heavy workload. Although the law does not specify any requirements for gender representation in the election administration, the CEC collected data on the representation of each gender in lower commissions.<sup>18</sup>

Polling staff were required to complete an online training course focusing mostly on completion and transmission of results protocols, but no other training was provided. Several interlocutors, including polling staff and citizen observers, raised concerns regarding the overall quality of the training. PECs were provided with a large volume of election laws, but not with a simplified and updated manual of procedures.<sup>19</sup>

*The CEC could consider updating the training curricula and simplifying training materials provided to lower commissions, to ensure uniform application of procedures.*

The law provides for various alternative voting methods, including early voting, homebound voting, voting at special points and out-of-country voting.<sup>20</sup> Homebound voting and voting at special points lasted respectively three and two days prior to election day. Following amendments to the election law, early voting was extended in this election from two to five days, during which time envelopes containing marked ballots were stored at PEC and MEC premises.<sup>21</sup> In case voters who voted early also chose to cast a ballot on election day, the vote cast early was not counted.<sup>22</sup> Election commissions professionally adjusted to the expanded period for early voting, which was generally supported by ODIHR EAM interlocutors, though some expressed concerns over the secrecy of the

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<sup>16</sup> MECs and PECs are established respectively at least 74 and 65 days prior to election day. Because of overlapping elections in 2019, the CEC retained the same compositions of MECs and PECs might administer all elections, as provided for by law.

<sup>17</sup> MEC members are nominated by the Minister of Justice, the Lithuanian Lawyers' Association, municipal administration (civil servants), and the parties represented in the Seimas. PEC members are nominated by parties or coalitions of parties which have seats at the Seimas or the municipal councils and the head of municipal administration in case of shortage.

<sup>18</sup> According to the CEC, women comprised some 80 per cent of MEC members and some 84 per cent of PEC members.

<sup>19</sup> The manual was assessed by ODIHR EAM interlocutors as being out of date, convoluted and not user-friendly.

<sup>20</sup> Early voting is meant for voters who cannot go to their polling station on election day. They can vote in advance at designated municipality premises. Homebound voting is for voters with disabilities, temporarily incapacitated or aged over 70 years old; voting in special points for voters in health and social care institutions, prisons and detention centres, and those in military service.

<sup>21</sup> Per CEC decision of 18 December 2018. Envelopes of homebound voting and voting at special points were stored by PECs and envelopes of early voting ballots were stored by MECs, in double envelopes to provide secrecy during the count. On election day, the Lithuanian Post delivered the envelopes containing marked ballots to the PECs where voters were registered. Recent amendments to the PEL required a competitive procurement to designate a single courier service to handle electoral mail. The national postal service won the bid for this election.

<sup>22</sup> In such a case, the envelope containing the ballot was deemed invalid and not opened.



vote during homebound voting and its high use among persons with disabilities due to lack of accessible polling stations.

As part of its voter information campaign, the CEC produced audiovisual spots for public and private broadcasters and published posters and banners on news websites, public transport, and social networks. The CEC produced some voter education materials in the Polish and Russian languages which were published on the CEC website and in newspapers, and the CEC's information hotline operated in Lithuanian, English and Russian. By law, ballot papers may only be provided in the Lithuanian language. Stakeholders informed the ODIHR EAM that the reach of voter information is limited among minority communities and that their participation in the election remains below average. ODIHR has previously recommended that the authorities increase efforts to provide comprehensive voter education to national minorities.

The CEC implemented measures to facilitate the participation of voters with disabilities in the electoral process, such as provision of information in easy-to-read formats and sign language interpretation of candidate debates for hard-of-hearing voters. As in prior elections, stakeholders informed the ODIHR EAM that the quality of easy-to-read materials was unsatisfactory. Positively, the CEC distributed Braille ballot guides to polling stations to facilitate voting for persons with visual impairments. Amendments to the PEL in December 2018, not yet in force for this election, will require all polling stations to be accessible for persons with physical disabilities, and authorize the CEC to rent premises to meet this requirement. Although the CEC designated 69 per cent of polling stations as accessible for voters with reduced mobility, civil society organizations assessed that the actual number was much lower.

*The CEC should continue to undertake efforts, in consultation with stakeholders, to facilitate the autonomous participation of persons with disabilities in the electoral process, including through improving the physical accessibility of polling locations and providing adequate information in accessible formats.*

The CEC is using information technologies (IT) to facilitate a range of electoral processes, and, in line with a prior ODIHR recommendation, has published documentation on the procurement and technical specifications of these systems.<sup>23</sup> In July 2018, amendments to the Law on Cyber Security consolidated the government's approach to cyber security management, oversight and response, including election administration, under the National Cyber Security Centre (NCSC). The NCSC collaborated directly with the CEC in advance of the elections to conduct upgrades and tests to related information systems, and provided IT security and management training to CEC technical and administrative staff, which the CEC replicated to MEC members and PEC chairpersons. CEC information systems were installed with sensors to monitor and analyse network traffic and, if needed, to react to suspicious activity. Dedicated personnel teams also monitored network traffic two days prior to and after the election, and for 24 hours on election day. ODIHR EAM interlocutors welcomed measures to enhance the security of IT systems and raised no concerns related to the integrity of the electoral infrastructure.

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<sup>23</sup> The use of IT extends to, among other processes, voter registration and identification, collection of candidate support signatures, completion of result protocols, and tabulation of results.

## VI. VOTER REGISTRATION

Citizens who are at least 18 years of age by election day have the right to vote except those whose legal capacity is revoked by a court decision, which primarily impacts the suffrage rights of persons with mental disabilities, contrary to international standards.<sup>24</sup>

*The law should be amended to remove restrictions on voting rights on the basis of mental disability.*

Voter registration is passive, except for citizens residing abroad who must actively register.<sup>25</sup> The voter list is extracted from the population register and regularly updated based on data provided by the residency register.<sup>26</sup> Despite a prior ODIHR recommendation and good practice, voter lists were not made publicly available.<sup>27</sup> However, voters could verify and request updates to their individual data in voter lists for 25 days prior to polling day, through a dedicated telephone hotline, online, or in-person at PECs. On the first round election day, the CEC announced that a total of 2,479,668 voters were registered.<sup>28</sup> A record number of 60,640 voters registered for out-of-country voting.<sup>29</sup> Voters could be added to supplementary voter lists by PECs on election day, until two hours before the close of polls, based on proof of residency or vouching by two other persons.<sup>30</sup> The voter list was updated prior to the second round which resulted in 4,127 new inclusions.<sup>31</sup> ODIHR EAM interlocutors generally expressed confidence in the inclusiveness and accuracy of the voter list.

*To further increase transparency, consideration could be given to making voter lists available for public scrutiny, while maintaining the security of personal data.*

*The practice of registering voters on election day by PECs should be reviewed in the law.*

Legal amendments in 2018 allowed voters to cast a ballot in any polling station in the country, regardless of their place of residence. To verify eligibility and prevent multiple voting, polling stations were equipped with computers that connected to the nationwide electronic voter list. Voters were recorded in the electronic list upon arrival and were also required to sign paper voter lists, which served as contingency for purposes of the vote count in case of failure of the electronic

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<sup>24</sup> See Articles 12 and 29 of the [2006 CRPD](#). See also, paragraph 9.4 of the [2013 CRPD Committee Communication No. 4/2011](#) which states that: “Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities. Therefore, an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability”. See also the [2011 Council of Europe Recommendation CM/Rec\(2011\)14](#) on the participation of persons with disabilities in political and public life.

<sup>25</sup> Registration online for voters residing permanently or staying temporarily abroad was opened on 14 February 2019. Voters voting in-person at their respective diplomatic representation could register until election day.

<sup>26</sup> The residency register, under the Ministry of Interior, receives data from municipal administration civil registry units, local migration boards, municipalities, and community councils.

<sup>27</sup> Section I.1.2.iii of the [Code of Good Practice](#) recommends that “electoral registers must be published”.

<sup>28</sup> On 6 May, the CEC had approved a final voter list with a total of 2,472,405 voters. The difference was due to 7,263 voters, whose permanent address of residence was unknown or who were not registered and were added to the voter list between the approval of the final voter list and election day.

<sup>29</sup> In 2016 parliamentary elections, out-of-country turnout was 19,401; in the 2014 presidential election, 15,744.

<sup>30</sup> Section I.1.2.iv of the [Code of Good Practice](#) recommends that “polling stations should not be permitted to register voters on election day itself”.

<sup>31</sup> According to the CEC, the voter list was updated to reflect voters that turned 18 (1,121), requested to vote abroad (2,390), declared a new permanent address, and or were otherwise newly registered between rounds.

system.<sup>32</sup> ODIHR EAM interlocutors raised no concerns related to the effectiveness and integrity of the electronic registries.

## VII. CANDIDATE REGISTRATION

The Constitution and electoral legislation foresee numerous restrictions on candidate eligibility. The right to stand for president is granted to citizens by birth, older than 40 years, who have resided in the country for at least the past three years; the requisite citizenship by birth and period of residency challenge international standards.<sup>33</sup> The legal framework further disqualifies persons who are revoked of legal capacity, primarily impacting the suffrage rights of persons with mental disabilities, which violates the country's commitments under the CRPD.<sup>34</sup>

*The law should be amended to remove restrictions on candidacy on the basis of mental disability. Restrictions on candidacy based on residency and dual or naturalized citizenship should be reviewed.*

In addition, judges in office and active law enforcement officers may not participate in the activities of political parties and are ineligible to stand for public office, as are those who have not completed a sentence imposed by a court or completed their military service 65 days prior to the election. The Constitution also prohibits persons 'bound by an oath or pledge to a foreign state' to be elected. Consequently, the CEC has wide discretionary powers on the implementation of this provision, as the law does not prescribe any objective and reasonable criteria for its enforcement, which is at odds with international commitments.<sup>35</sup>

Persons who have been removed from state office or had their mandate in the Seimas revoked, or were dismissed due to impeachment, are permanently disqualified from standing for election, contrary to a decision of the European Court of Human Rights (ECtHR) and a prior ODIHR recommendation.<sup>36</sup> Efforts by the parliament to remedy this restriction have not met the

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<sup>32</sup> By law, in case of Internet failure or other system malfunction in a polling station, voters could only cast a ballot in their polling station at their place of residence, where they are already included in the paper voter list.

<sup>33</sup> Paragraph 3 of the [1996 UN CCPR General Comment No. 25](#) states that "No distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Distinctions between those who are entitled to citizenship by birth and those who acquire it by naturalization may raise questions of compatibility with article 25." Paragraph 15 states that "persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation".

<sup>34</sup> Only persons eligible for election to the parliament may stand for president, excluding persons revoked of legal capacity. See Article 29 of the [2006 CRPD](#), which requires States to "ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by... [protecting the right of persons with disabilities] to stand for elections, to effectively hold office and perform all public functions at all levels of government". See also Article 12 as well as paragraph 9.4 of the [2013 CRPD Committee's Communication No. 4/2011](#), which states that "Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities".

<sup>35</sup> Article 4 of the [CCPR General Comment No. 25](#) states that "the exercise of these rights by citizens may not be suspended or excluded except on grounds which are established by law and which are objective and reasonable." See also [ECtHR judgment in Sevidzade v. Azerbaijan](#).

<sup>36</sup> See [ECtHR judgment in Paksas v. Lithuania](#).

requirements for amending the related constitutional provisions.<sup>37</sup>

*In line with the decision of the European Court of Human Rights, the legal framework should be revised to remove restrictions on candidacy on the basis of prior removal from office.*

The nomination of candidates began 85 days before election day. Candidates could be nominated by registered political parties or self-nominated, and were required to pay a deposit equivalent to five average monthly earnings (AMEs).<sup>38</sup> In addition, the law requires nominees to disclose past cooperation with foreign security services and publicize this cooperation in all campaign activities and materials. In an inclusive and transparent process, the CEC registered 13 nominees, including one woman and twelve men.<sup>39</sup>

Once pre-registered by the CEC as an authorized nominee, in order to be formally registered as a candidate, prospective candidates were required to collect a minimum of 20,000 supporting signatures within 45 days prior to election day.<sup>40</sup> A voter could sign in support of multiple nominees. The CEC was required to verify signatures within 10 days of receipt. In an inclusive manner, the CEC registered nine candidates including one woman.<sup>41</sup>

Nominees could collect support signatures either using paper forms or a CEC-administered electronic system.<sup>42</sup> Although majority of stakeholders welcomed the possibility of electronic collection of signatures, some nominees met by the ODIHR EAM noted that the process for citizens to submit signatures electronically was cumbersome and reported that the electronic system malfunctioned at times. Further, during two campaign silence periods prior to each round of the municipal elections, the CEC banned signature collection by presidential nominees, on the basis of the practice constituting a breach of campaign silence.<sup>43</sup> Some nominees complained to the ODIHR EAM that these actions hindered the collection of signatures and were undertaken by the CEC without a written decision.<sup>44</sup>

*To ensure legal certainty, the law should clearly prescribe whether collection of signatures is prohibited during campaign silence periods, in case of overlapping election contests.*

## VIII. ELECTION CAMPAIGN

The election campaign officially began on 12 November 2018, following the announcement of the election. Campaign silence periods started 30 hours before the opening of polls for each round. In

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<sup>37</sup> Following the ECtHR judgment, the parliament amended the PEL to limit the ban to four years. However, this change was found unconstitutional by the Constitutional Court, which determined that the lifetime ban can only be revoked through constitutional amendments by the parliament's qualified majority.

<sup>38</sup> New to this election, deposits were to be returned upon receipt of the candidate's final campaign finance report, rather than within 40 days of the election, if the candidate received more than 7 per cent of the vote.

<sup>39</sup> After the call of elections, 17 individuals were registered by the CEC as independent campaign participants, four of whom did not apply to be registered as candidates.

<sup>40</sup> The signature requirement constitutes approximately 0.8 per cent of registered voters, which is in line with the [Code of Good Practice](#), which recommends that "the law should not require collection of the signatures of more than 1% of voters in the constituency concerned". Nominees were also required to submit a statement of personal income tax, property declaration, and declaration of private interest.

<sup>41</sup> Four nominees failed to collect the 20,000 signatures.

<sup>42</sup> Signatures collected electronically ranged from 725 to 40,450.

<sup>43</sup> Article 49.1 of the PEL stipulates that campaign for the presidential election is prohibited for 30 hours while other elections are held. The CEC announced that supporting signatures provided during this period would be deemed invalid but it did not issue any written decision on this issue.

<sup>44</sup> These contestants stated that they learned of the bans by CEC announcements on the internet and public radio.

practice, MECs were largely responsible for the oversight of compliance with campaign rules, with potential violations reported to the CEC, and local authorities for the equitable allocation of public space. Overall, contestants were able to conduct their campaigns without undue obstacles, and fundamental freedoms of association, assembly and expression appeared to be generally respected, although some candidates complained about scant media attention and limited funds.

In general, candidates did not employ traditional campaign methods, such as canvassing in the streets with distribution of leaflets and other paraphernalia, or organization of rallies. However, a highly visible campaign featured political advertisements and debates on television and social media, with the latter subject to the general rules on political advertising (see also *Campaign Finance*). In the final days prior to the election, occasional posters and billboards were mounted. Some contestants also organized small-scale regional meetings while touring the country. The campaign, including debates, was still ongoing during the period for early voting.

The campaign was competitive with nine candidates contesting the presidential seat. From early in the campaign, opinion polls generally indicated three frontrunners, widely reported as such in the media: the incumbent Prime Minister Saulius Skvernelis, Ingrida Šimonytė, supported by the main opposition party, and the independent candidate Gitanas Nausėda. In addition to foreign affairs and defence policies, which fall directly under presidential authority, contestants emphasized socio-economic issues such as migration and social inclusion, pensions, energy policies and regional development. The concurrent referendum on dual citizenship was also frequently debated among candidates. On the whole, the tone of the campaign was moderate and voters were presented with distinct political alternatives.

The PEL prohibits “exceptional conditions” for incumbent state officials in election campaigns, including in mass media, and does not regulate in detail the campaign activities of public officials.<sup>45</sup> The majority of ODIHR EAM interlocutors, including all other registered candidates, voiced concern over possible advantages of incumbency enjoyed by the prime minister, including the possible misuse of state resources. The prime minister informed the ODIHR EAM that he conducted his campaign only outside of official working hours, including during 10 days of leave from office. No stakeholders reported that any official complaints were filed on the matter.

In the last week of the campaign before the first round, the chairman of the ruling party announced the party would leave government if Mr. Skvernelis failed to advance to second round. The opposition denounced these statements as a stratagem to mobilize votes on the basis of threatening the stability of the government. Three days ahead of the second round vote, after Mr. Skvernelis did not advance to the runoff, the ruling party called on its supporters to cast their ballots for Mr. Nausėda.

The law provides for the participation of national minorities in electoral processes on an equal basis. One of the candidates, nominated by the Electoral Action of Poles in Lithuania, conducted his campaign mostly in minority languages, reaching out to the ethnic-Polish and Russian communities. However, the campaign materials of most candidates featured only Lithuanian language content, and the rights of national minorities did not emerge as a campaign topic in their programmes. Campaign-related events were aired by the public broadcaster only in the Lithuanian language, without subtitles. Some ODIHR EAM interlocutors noted instances of hate speech by individuals against national minority groups in social media and online news portals.<sup>46</sup>

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<sup>45</sup> Article 47 of the PEL.

<sup>46</sup> See also paragraph 11 of the [2018 CCPR Concluding Observations](#) and paragraph 25 of the [2016 European Commission Against Racism and Intolerance report](#).

While the only woman candidate enjoyed substantial visibility in the media throughout the campaign, issues related to gender equality and women's rights remained marginal, despite the prominence of other domestic policy issues in candidates' programmes. Although the ODIHR EAM did not observe instances of sexist rhetoric, in January 2019, the prime minister made widely-reported discriminatory remarks addressed to women in public life.<sup>47</sup>

## IX. CAMPAIGN FINANCE

Campaign finance is regulated by the CFL.<sup>48</sup> Overall, the regulatory framework provides for adequate accountability of campaign finances, in line with international standards. Recent amendments introduced some technical changes and clarified rules on reporting certain expenditures. However, some prior ODIHR recommendations remain unaddressed, including those related to strengthening sanctions and regulating third party campaigning.

### A. INCOME AND EXPENDITURE

Presidential candidates could be self-financed or financed by individual donations.<sup>49</sup> While there is no direct public funding for contestants apart from an allocation of free media air time, by law, political parties, which receive public funding, could financially support any presidential candidate.<sup>50</sup> All campaign finance transactions were required to be made via a designated bank account. All donations over EUR 290 needed to be received via bank transfer, whereas donations below this amount were to be deposited to the campaign account within a day of receipt. All individual donors, including citizens living abroad, who donated over EUR 12, were also required to declare their incomes and property.<sup>51</sup> Several ODIHR EAM interlocutors criticized this requirement as an unnecessary obstacle to fundraising and an undue limitation of eligible voters' freedom of association.<sup>52</sup> Some contestants informed the ODIHR EAM that they were obliged to

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<sup>47</sup> For example, the Prime Minister in [public remarks](#), stated: "It's time to hear jubilant children's laughter and feel the warmth of a family in the cold palace of the head of state". Both the outgoing president and Ms. Šimonytė are childless. See also paragraph 28 of the [2014 CEDAW concluding observations](#), in which the Committee noted "gender discrimination against women politicians based on prevailing stereotypes."

<sup>48</sup> The CFL is applicable to presidential, parliamentary, municipal and European Parliament elections. In addition, the Law on Political Parties regulates finances of political parties.

<sup>49</sup> The ceiling for a candidate's own funds is 20 AMEs (roughly EUR 17,700), whereas for individual donations it is 10 (roughly EUR 8,850) per contestant. According to information published by the CEC by 22 May, Mr. Skvernelis received some EUR 585,000 of party funds and EUR 5,832 from donors; Ms. Šimonytė some EUR 330,000 of party funds and EUR 251,242 from donors; Mr. Nausėda EUR 206,220 from donors and EUR 17,700 of own funds; Mr. Povilas Andriukaitis EUR 115,850 of party funds, EUR 18,824 from donors and EUR 8,000 of own funds; Mr. Tomaševski EUR 79,000 of party funds; Mr. Juozaitis some EUR 1,500 of party funds, EUR 43,000 from donors and EUR 4,240 of own funds; Mr. Puidokas some EUR 7,290 from donors and EUR 7,000 of own funds; Mr. Mazuronis EUR 77.77 from donors and EUR 2,000 of own funds; and Mr. Puteikis EUR 1,431 from donors.

<sup>50</sup> According to article 21 of the Law on Political Parties, parties which have obtained on average two per cent of the votes in each of the last parliamentary, municipal and EU parliament elections are entitled to public funding, which is proportional to the number of votes received. In 2019, ten parties, including six parties which nominated presidential candidates, were entitled to public funds of EUR 6 million. Half of the funds were allocated in April whereas the other half will be allocated in October.

<sup>51</sup> The State Tax Inspectorate (STI) informed the ODIHR EAM that the declaration of incomes and property is not mandatory for all Lithuanians and only about one million residents submit such declarations.

<sup>52</sup> Paragraph 170 of the [2010 ODIHR and Venice Commission Guidelines on Political Parties](#) states that "With the exception of sources of funding which are banned by relevant legislation, all individuals should have the right to freely express their support of a political party of their choice through financial and in-kind contributions. However, reasonable limits on the total amount of contributions may be imposed."

return many donations to donors who failed to declare incomes and property.

*Consideration could be given to reviewing the threshold for donors to declare incomes and property for small donations.*

A presidential candidate may spend up to EUR 1.1 million.<sup>53</sup> In accordance with the law, for the second round, the expenditure ceiling was increased by 25 per cent. Expenses for television advertisements could not exceed 50 per cent of the expenditure ceiling. Amendments in 2018 and 2019 prescribed that consulting, campaign organizing, training and legal services are allowed only by legal entities from certain countries, and are reportable expenditures; this includes campaign-related travel expenses.<sup>54</sup>

Only third parties not formally connected to an electoral contestant (including associations, foundations or private individuals) are allowed to campaign and incur expenses for or against a candidate. However, campaign finance regulations, including reporting requirements, are not applicable to third parties, thus undermining the transparency and accountability of campaign finances.<sup>55</sup>

*As previously recommended, consideration could be given to extending campaign finance regulations to third parties.*

## **B. DISCLOSURE AND REPORTING REQUIREMENTS**

After nomination, prospective candidates are required to submit to the CEC their income and property declarations, approved by the State Tax Inspectorate (STI), as well as declarations of interest. As required by law, information on donations and campaign funding agreements was published on the CEC website prior to each round. Prior to election day, contestants were not required to report and publish any information on expenditures, which detracted from transparency. After the election, if the declared income exceeded EUR 61,950 (70 AMEs), contestants were required to submit campaign finance reports to the CEC audited by a certified auditor within 85 days after the announcement of final election results. Campaign finance reports with a lower declared income were required to be submitted within 25 days, to be audited by certified auditors hired by the CEC.

*To enhance transparency, consideration could be given to requiring interim campaign finance reports and to publishing such reports in a timely manner, prior to elections.*

## **C. OVERSIGHT AND SANCTIONS**

The CEC is the primary oversight body for campaign finance. All finance and audit reports must be published by the CEC within 100 days of the announcement of final results and remain published indefinitely.<sup>56</sup> In addition, the CEC is required by law to publish on its website summarized data on

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<sup>53</sup> CEC decision SP-121, 25 October 2018 established the expenditure ceiling.

<sup>54</sup> Namely member states of European Union, European Economic Area and North Atlantic Treaty Organization.

<sup>55</sup> See also paragraph 13.c. of the [2018 ODIHR Opinion on Certain Provisions of the Law on Control of Political Parties and Financing](#), which recommends that the law prescribe reporting requirements for third parties. Article 6 of the [Recommendation Rec\(2003\)4](#) states that "rules concerning donations to political parties should also apply, as appropriate, to all entities which are related directly or indirectly to a political party or are otherwise under the control of a political party".

<sup>56</sup> The CEC stated that according to draft amendments to the CFL, reports would remain published up to five years, on grounds of personal data protection.

oversight. The STI inspects donor eligibility on a CEC-administered database and informs the CEC.<sup>57</sup> As provided for by law, the CEC partially outsourced monitoring of the campaign, including expenditure, to a private company.<sup>58</sup> The CEC may impose financial sanctions and refer cases to the Special Investigation Service and the Prosecutor. For this election, the CEC stated that it had not referred any cases to other institutions.

MECs were legally required to monitor campaign activities, materials and observed expenditures within their constituencies and submit comprehensive reports to the CEC. In addition, citizens could report any information about political advertising, including on social media or outdoors, to *Reklamos gaudykle*, a web platform administered by the CEC to track the number of disseminated advertisements, and identify failures to disclose sponsorship and undeclared expenditures. In total, some 600 notifications were submitted to the CEC. ODIHR EAM interlocutors questioned the utility of this tool for oversight, and expressed concerns that expenditures made towards advertisements on online media and social networks would remain unreported. The CEC acknowledged that they were not able to verify all such expenditures and that these notifications, in addition to reports from MECs, would be reviewed only after the election.

The law foresees sanctions for certain infringements, including contribution and use of unlawful donations, knowingly presenting false information in campaign finance reports, exceeding the expenditure ceiling by over 10 per cent, unlawful political funding agreements, undeclared expenditure or political advertising exceeding 10 per cent of the expenditure ceiling, and loss of supporting documentation for campaign finance reports. Sanctions include loss of public funds of a political party for a two-year period and administrative fines ranging from EUR 30 up to EUR 5,800.<sup>59</sup> Most of the prescribed fines are low and thus not dissuasive.<sup>60</sup>

*To promote compliance with campaign finance regulations, the law could be revised to provide proportionate and dissuasive sanctions for violations.*

## X. MEDIA

### A. MEDIA ENVIRONMENT AND LEGAL FRAMEWORK

The media landscape is diverse and pluralistic. Television is the main source of political information alongside the Internet, followed by radio, whereas print media circulation is steadily shrinking.<sup>61</sup> The public broadcaster, *Lithuanian Radio and Television (LRT)*, is composed of three TV channels, three radio stations and one online news portal. The *LRT*'s annual budget is fixed as a percentage of state tax revenues, contributing to its independence. Despite the considerable number of media outlets, media ownership remains concentrated, with two private media groups enjoying

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<sup>57</sup> The STI verifies whether a donor has declared incomes and property and whether the total amount donated to all political campaigns does not exceed 10 per cent of a donor's declared income.

<sup>58</sup> In line with article 22.4 of CFL, following a public procurement tender, 'Kantar-TNS' has been contracted for three years. The company stated that it cannot monitor expenditures made for advertisements on Internet and social media.

<sup>59</sup> See article 85 of the 2015 Code of Administrative Offences.

<sup>60</sup> Article 16 of the [Recommendation Rec\(2003\)4](#) prescribes that infringement of the law should be subject to effective, proportionate and dissuasive sanctions.

<sup>61</sup> According to a [2018 survey by Kantar-TNS](#), daily media consumption of citizens is as follows : TV 84 per cent, Internet 71 per cent, radio 50 per cent, print media 24 per cent.



half of the total national TV audience.<sup>62</sup> ODIHR EAM interlocutors reported that media, at both the national and local levels, at times endure pressure from or serve political interests.<sup>63</sup>

The Constitution and the Law on the Provision of Information to the Public (LPIP) guarantee the freedom of expression and information and prohibit censorship and hate speech. Despite some positive steps in the previous years, such as decriminalising insult against individuals and public officials, defamation remains subject to criminal penalties, which is at odds with international standards for freedom of opinion and expression and contrary to a prior ODIHR recommendation.<sup>64</sup>

*To comply with international standards, criminal provisions for defamation should be repealed in favour of civil remedies designed to restore the reputation harmed.*

The media sector is regulated by a sound legal framework. However, recent draft amendments to the law on the public broadcaster introduced by the ruling party raised concerns among many ODIHR EAM interlocutors. The amendments include the establishment of an additional supervisory authority which would narrow the powers of the current *LRT* council, as well as an internal Ombudsperson with extensive but not clearly defined powers. Most stakeholders met by the ODIHR EAM expressed the opinion that the amendments constitute an attempt to politicize and thereby undermine the independence of the *LRT*, and described a lack of broad public consultation.<sup>65</sup> The chairperson of the ruling party has stated that it will seek approval of the draft by the parliament.<sup>66</sup>

*Any potential amendments to the regulatory framework for media should be preceded by meaningful and inclusive public consultation.*

The draft amendments to the law on the public broadcaster were based partially on the conclusions of an *ad hoc* commission established by the parliament to investigate the financial and economic activities of the management of *LRT*. On 16 May 2019, the Constitutional Court ruled that the establishment of this commission by the Seimas was unconstitutional, namely in contradiction, *inter alia*, to media freedom as enshrined in Article 25 of the Constitution.<sup>67</sup> The court also considered it *de facto* undue political interference in the management of the public broadcaster, since according to law only state institutions independent from the government may investigate the *LRT*.

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<sup>62</sup> According to the 2018 survey of Kantar-TNS: LNK Group 30,7 per cent, All Media Group 22,8 per cent, followed by the public broadcaster LRT with 11,7 per cent of TV audience.

<sup>63</sup> To counter the alleged undue influence by media group owners on the editors, some prominent journalists in September 2016 launched a crowdfunded web-based TV channel: *Laisves TV (Freedom TV)*.

<sup>64</sup> According to the Paragraph 47 of the [2011 CCPR General Comment No. 34](#), “States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty”. It has to be noted that so far no cases of journalists convicted for a prison sentence for a defamation crime were registered in Lithuania.

<sup>65</sup> See: [LRT General Director’s letter](#) to the European Broadcasting Union (EBU) on 3 January 2019; [EBU’s letter](#) to the Committee on Culture Seimas of the Republic of Lithuania on 9 January 2019; [Response of the Government of Lithuania](#) on 8 January 2019 to an alert published on the Council of Europe platform to promote the protection of journalism and safety of journalists.

<sup>66</sup> See the [statement](#) by the chairman of the ruling party.

<sup>67</sup> The Seimas voted against the conclusions of the *ad hoc* commission on 20 December 2018. The Constitutional Court [ruled the establishment of this commission by the Seimas as unconstitutional](#) on 16 May 2019.

## B. MEDIA REGULATION FOR THE ELECTION CAMPAIGN

Media conduct during the election is regulated by the PEL, CFL, and the LPIP. The CEC is the regulatory body responsible for supervising the media conduct and issuing further regulation. The Radio and Television Commission (RTC) is responsible for adjudicating complaints on hate speech.

The law requires all political advertising to be marked as such, and any unmarked political advertising is regarded as “hidden advertising” and is prohibited. Political advertising is defined in ambiguous terms as information intended to influence voters, regardless of whether it is paid for or not. Positively, following recent amendments in line with a prior ODIHR recommendation, information on electoral programs disseminated free of charge and in accordance with the principles of objectivity and equal coverage are excepted from this definition.<sup>68</sup> However, this media content could still be brought to the attention of the CEC as “hidden political advertising”, if deemed to influence voters, potentially blurring the line between editorial coverage and political advertising. Some ODIHR EAM media interlocutors stated that they refrained from reporting and commenting on candidates’ electoral programmes or inviting candidates to interviews, citing a lack of clear guidance on the requirements for objective and equal treatment of candidates. Several ODIHR EAM interlocutors emphasized that the lack of clear criteria could result in inconsistent enforcement and could undermine editorial independence, and thereby infringing freedom of expression.<sup>69</sup>

*To protect the freedom of expression, rules governing media conduct during campaigns should be reviewed to clearly distinguish paid political advertising from other forms of campaign coverage.*

The CEC does not have a system in place to monitor the editorial coverage of broadcast, online and print media during the election campaign. An external company was contracted to monitor paid political advertising,<sup>70</sup> which enabled comprehensive monitoring of traditional media, although monitoring of online media and social networks was limited to a panel of Internet users and no monitoring findings were published.<sup>71</sup> Additionally, the CEC relied largely on complaints or notifications received from third parties to detect cases of possible hidden advertising or unequal access to media. Although the CEC may submit cases of possible hidden advertising to the media self-regulatory body, the Public Information Ethics Commission, for a technical and non-binding opinion, the broad definition of political advertising gives the CEC wide discretionary power to define media content. Though the CEC acknowledged that complaints were filed in connection with potential hidden advertising, comprehensive information on complaints was not published (see *Complaints and Appeals*).

During the last 30 days before the election, and between the two rounds of the election, the law provides for participation on an equal basis to all candidates in debates funded and organized by the

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<sup>68</sup> Article 16.6 of the amended CFL.

<sup>69</sup> Paragraphs 21-25 of the [CCPR General Comment No. 34](#) indicate that the exercise of the right to freedom of expression “carries with it special duties and responsibilities... For this reason, two limitative areas of restrictions on the right are permitted [...]. However, when a State party imposes restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself... Restrictions must be provided by law... For the[se] purposes ... a norm, to be characterized as a “law”, must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public”.

<sup>70</sup> MECs were also tasked with monitoring and reporting to the CEC secretariat information on political advertising disseminated in local media.

<sup>71</sup> The Kantar-TNS company, during the election campaign, submitted to the CEC two weekly reports, one on traditional media (14 TV, 9 radio and 60 print media), and the second based on the Internet and social networks activity of a panel of 2,000 internet users.

CEC and aired by the public broadcaster. Paid advertising is strictly regulated, in which media outlets should provide contestants with equal conditions, and any paid advertising must be clearly marked as such and must indicate the source of funding.<sup>72</sup>

During the election campaign, the CEC received complaints and notifications related to possible breaches in traditional and online media, as well as social networks. According to the CEC, most complaints related to unmarked paid advertising, violations of the silence period, and news items considered to be “hidden advertising”. No comprehensive information on complaints and notifications received and violations detected was made public nor shared with the ODIHR EAM, undermining transparency. The RTC did not receive any complaints related to incitement to hatred during the presidential election campaign.<sup>73</sup>

### C. MEDIA COVERAGE OF THE CAMPAIGN

The media created conditions for citizens to make an informed choice by organizing a number of debates among presidential candidates, which constituted a primary means for contestants to communicate to the electorate.<sup>74</sup> The CEC organized six debates on the main public TV channel and six on the main public radio station. Each debate on the public TV channel offered 11 minutes to each contestant. All ODIHR EAM interlocutors complained that the strict rules resulted in constrained debate formats. Nonetheless, *LRT* reported that ratings showed that debates enjoyed a considerable audience. Ahead of the second round, the CEC organized two additional debates on the public broadcaster. *LRT* also organized, independently of the CEC, an election debate on the last day of the campaign. Several other debates were organised by private TV channels and a news agency before the first round of the elections, but none ahead of the runoff.<sup>75</sup>

The two main news websites, *Delfi.lt* and *15min.lt*, positively contributed to the coverage of the election campaign by creating a special section dedicated to the election, and by organizing and streaming several live debates among two or more candidates.<sup>76</sup> Overall, voters were afforded extensive information about candidate programmes from diverse sources, contributing to the ability to make an informed choice.

## XI. COMPLAINTS AND APPEALS

Overall, mechanisms for dispute resolution are in place and enjoy public trust. However, the law limits standing to file complaints to candidates’ proxies and nominating parties. Voters and observers may only submit notifications for which a written response or action is not required by

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<sup>72</sup> Media outlets must submit pricelists to the CEC at least 30 days before the election day, and the CEC must publish these on its website. Other provisions include a minimum length of 30 seconds for a paid spot on television, and a prohibition on publishing paid advertising on the front page of print media.

<sup>73</sup> The RTC does not conduct proactive monitoring to assess possible violations, and only reacts to complaints.

<sup>74</sup> All candidates participated in debates organised by *LRT*, except for the independent candidate Arvydas Juozaitis, who left the TV studio during one debate, did not participate in two televised debates and in none of the debates on the public radio, claiming unfair treatment by the *LRT* and one of the debate hosts.

<sup>75</sup> In addition to debates hosted by the public broadcaster, the private TV channel *Lietuvos Rytas TV* received a financial instalment from the CEC to organize two debates for the first round of election, and one debate for the second round after winning a tender regulated by the Law on Public Procurement.

<sup>76</sup> The prime minister was the only candidate who did not participate in interviews or debates organized by *15min.lt*.

law, undermining their right to effective remedy, at odds with international good practice.<sup>77</sup>

*To guarantee effective legal remedy, and in line with good practice, the right to file complaints and appeals on the electoral process could be extended to all voters.*

The law provides for an expedited review process for appeals of election commission decisions, but the legal framework contains some gaps and ambiguities in the timeframes for filing and reviewing complaints. Prior to election day, complaints and appeals against decisions of lower election commissions must be reviewed by the higher commission within 48 hours, but there are no deadlines for filing such complaints. Appeals of CEC decisions must be filed to and reviewed by the Supreme Administrative Court, which is the final instance, within three days. After election day, complaints on PEC results protocols should be filed to MECs and reviewed within 24 hours. There is no deadline for filing complaints to the CEC against MEC results protocols, whereas CEC decisions may be appealed to the SAC and reviewed within 48 hours. Complaints related to other actions or inactions of the CEC as well as on campaign and campaign finance violations are regulated by general administrative procedures, which do not provide sufficiently short timelines for review within the election context, contrary to good practice.<sup>78</sup>

*The law should prescribe expedited deadlines for filing and adjudicating all election-related disputes, including on campaign and campaign finance violations as well as election results.*

The CEC's decision on election results is not subject to judicial review, contrary to good practice and a prior ODIHR recommendation.<sup>79</sup> Only the parliament may decide on the validity of election results, after addressing the Constitutional Court.<sup>80</sup> The Constitutional Court has twice reviewed the validity of election results (in 2009 and 2012); each time, the parliament's decision adhered to the recommendation of the Court. The Court informed the ODIHR EAM that a contrary decision of parliament could be challenged to the Constitutional Court pursuant to its constitutionally-granted authority.

*Judicial review of the validity of election results should be guaranteed by law. The law should prescribe the grounds and evidentiary issues for partially or fully invalidating election results.*

Complaints to the CEC could be filed in various formats, as there is no template. Complaints were often considered by the CEC as requests, despite the alleged violations.<sup>81</sup> Subsequently, the CEC

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<sup>77</sup> Section II.3.3.f of the [Code of Good Practice](#) recommends that “Standing in such appeals must be granted as widely as possible. It must be open to every elector in the constituency and to every candidate standing for election there to lodge an appeal. A reasonable quorum may, however, be imposed for appeals by voters on the results of elections.” Paragraph 5.10 of the [1990 OSCE Copenhagen Document](#) states that “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”.

<sup>78</sup> Section II.3.3.g of the [Code of Good Practice](#) recommends that time limits for lodging and deciding appeals be within three to five days in most cases.

<sup>79</sup> According to Section II.3.3.a of the [Code of Good Practice](#), “final appeal to a court must be possible.”

<sup>80</sup> According to article 77 of the PEL, the Seimas may ask the Constitutional Court whether the law has been violated during the election. The Court has 120 hours to review the complaint. Based on its recommendation, the parliament renders the final decision by a simple majority vote.

<sup>81</sup> Article 2.14 of the Law on Public Administration states that “[a] request is an application by a person not related to violation of rights or legitimate interests” whereas article 2.15 states that “[a] complaint is a person’s written application to a public administration entity that states that his or another person’s rights or legitimate interests were violated and asking to defend them”.

often responded to requests by letters rather than formal decisions, which are not subject to judicial review. This approach undermined effective remedy.

*In line with the law, all applications on violations of rights or legitimate interests should be considered complaints requiring a formal decision, subject to judicial review.*

The CEC stated that it does not produce any statistics on complaints and appeals, and no member knew how many complaints and appeals had been filed to or against the CEC.<sup>82</sup> Subsequently, the ODIHR EAM was unable to obtain accurate information on the final numbers and content of complaints handled by the election administration. Nevertheless, the CEC affirmed that it received over one hundred complaints, requests, and notifications relating to candidate registration, campaign violations, misuse of state resources and campaign finances. In addition, the ODIHR EAM was informed of six complaints against the CEC filed to the courts, most rejected as inadmissible or unfounded.<sup>83</sup>

The CEC chairperson has wide discretionary powers to decide who will adjudicate the complaint, and most complaints were reviewed by the secretariat or individual CEC members. In such cases, draft decisions, without the respective complaints, were shared and approved by e-mail. Only the most serious complaints were dealt with by working groups and a few were discussed in CEC sessions. Some ODIHR EAM interlocutors noted that this practice, while time-effective, does not ensure due process and consistency. Further, the CEC does not publish on its website any information related to complaints, which undermines the transparency of the process.<sup>84</sup>

*To enhance transparency and to serve the public interest, the CEC could publish in a timely manner information on all complaints received and actions taken, without prejudice to privacy and personal data protection.*

## **XII. CITIZEN AND INTERNATIONAL OBSERVATION**

In line with prior ODIHR recommendations, 2018 amendments to the PEL provided for citizen election observation. Observers can also be accredited to represent political parties, candidates, non-governmental organizations, and international organizations, as well as media. Electoral contestants and political parties can appoint up to two observers per PEC.

The accreditation process was inclusive. A total of 2,389 observers and proxies were accredited, including more than 360 citizen observers from 3 domestic organizations, and 42 international observers.<sup>85</sup> Some 40 per cent of political party and candidate representatives accredited by the CEC and the MECs represented Mr. Nausėda. The deadline for applications was 5 May while early voting began as of 6 May.

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<sup>82</sup> The CEC secretariat uploaded complaints and requests into an internal electronic registry. However, CEC members informed the ODIHR EAM that the registry was not user-friendly and not updated in a timely manner, and that part-time members lack sufficient time to adequately review complaints.

<sup>83</sup> Complaints were filed by Mr. Juozaitis against the CEC ban on outdoor signature collection; by Mr. Austrevicius and Mr. Juraitis against the shutdown of the CEC portal for electronic collection of signatures and by Mr. Bute on unequal media coverage of nominees before registration. The former two were filed to the Vilnius Regional Administrative Court and the latter two to the CEC and the SAC, respectively.

<sup>84</sup> The CEC published only one decision imposing a sanction on Mr. Juozaitis for the outdoor collection of supporting signatures during the municipal election campaign silence period.

<sup>85</sup> White Gloves (331), The Human Right Voice (3), and The Lithuanian Forum for Disability (28).

### XIII. ELECTION DAY

In line with ODIHR's methodology, the ODIHR EAM did not observe election day proceedings in a systematic or comprehensive manner, but visited a limited number of polling stations on both the first and second round election days.

The voting process in polling stations visited by the ODIHR EAM in each round was orderly and procedures were largely followed. Many voters opted to vote early or to vote in polling stations outside their place of residence on election day.<sup>86</sup> Only a few citizen and partisan observers were present in the polling stations visited. Group voting was observed in several instances, without response from the respective PEC. In all polling stations observed, voters did not systematically fold their ballot, hampering the secrecy of the vote.

The majority of polling stations visited by the ODIHR EAM were not accessible to voters with reduced mobility, including several identified as accessible by MECs. Polling stations were not consistently located on the ground floor as requested by the CEC. In some polling stations, ramps or elevating seats allowing voters with reduced mobility to independently access the premises were installed but not accessible.<sup>87</sup> Braille ballot guides and information sheets had not been delivered to all of the visited polling stations. Positively, a Skype speech-to-text translation service was provided by the CEC for hard-of-hearing voters.

During the first round of voting, the CEC reported that ballots in up to three PECs had to be replenished due to a shortage.<sup>88</sup> While MECs reported that they were generally provided with a sufficient number of ballots by the CEC, some PECs located in populous resort areas and in the capital were provided with ballots from neighbouring MECs. The CEC information system generally worked well in observed PECs, and appeared to provide an effective safeguard against multiple voting.

Counting in polling stations observed by the ODIHR EAM was conducted in an organized and professional manner in each round, despite complex procedures to sort and count a high number of ballots cast using several alternative voting methods.<sup>89</sup> However, the CEC reported that due to a configuration mistake, PECs faced challenges completing the online results protocols.<sup>90</sup> Notwithstanding, immediately following the counting, PECs uploaded the results to the CEC website, increasing the transparency of the process, although copies of actual protocols were not posted online. The CEC declared the official results on 2 June 2019.

### XIV. RECOMMENDATIONS

These recommendations, as contained throughout the text, are offered with a view to further enhance the conduct of elections in Lithuania and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past ODIHR recommendations that

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<sup>86</sup> In total, some 5.5 per cent voted in a polling station where they were not registered.

<sup>87</sup> ODIHR EAM noted closed doors, flower boxes or rows of chairs in front of the equipment.

<sup>88</sup> Prior to election day, PECs received a number of ballots equal to 80 per cent of voters registered.

<sup>89</sup> More than 20 per cent of the ballots were cast using alternative voting methods during both rounds.

<sup>90</sup> The total number of envelopes received by PECs from the Lithuanian National Post did not systematically match the number of ballots within each envelope, as voters could choose whether to vote in each election or referendum.

remain to be addressed. ODIHR stands ready to assist the authorities of Lithuania to further improve the electoral process and to address the recommendations contained in this and previous reports.<sup>91</sup>

**A. PRIORITY RECOMMENDATIONS**

1. The legislation should be amended to provide for clear criteria upon which the chairperson and members of the CEC can be dismissed from office.
2. The law should be amended to remove restrictions on voting rights on the basis of mental disability.
3. In line with the decision of the European Court of Human Rights, the legal framework should be revised to remove restrictions on candidacy on the basis of prior removal from office.
4. The law should be amended to remove restrictions on candidacy on the basis of mental disability. Restrictions on candidacy based on residency and dual or naturalized citizenship could be reviewed.
5. To guarantee effective remedy, and in line with good practice, legal standing to file complaints and appeals on the electoral process could be extended to all voters.
6. To enhance transparency, consideration could be given to introducing interim reporting requirements that would be made public in a timely manner, prior to elections.
7. To protect the freedom of expression, rules governing media conduct during campaigns should be reviewed to clearly distinguish paid political advertising from other forms of campaign coverage.

**B. OTHER RECOMMENDATIONS**

**Election Administration**

8. The structure, composition and internal rules of procedure of the CEC could be reviewed to enable effective operations and inclusive decision-making.
9. The CEC could consider updating the training curricula and simplifying training materials provided to lower commissions, to ensure uniform application of procedures.
10. The CEC should continue to undertake efforts, in consultation with stakeholders, to facilitate the autonomous participation of persons with disabilities in the electoral process, including through improving the physical accessibility of polling locations and providing adequate information in accessible formats.

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<sup>91</sup> 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”. The follow-up of prior recommendations is assessed by the ODIHR EAM as follows: from the 2016 Final Report on parliamentary elections, recommendation 17 is fully implemented, recommendations 6 and 8 are mostly implemented, and recommendations 1, 2, 3, 7, 10 and 18 are partially implemented.

### **Voter Registration**

11. To further increase transparency, consideration could be given to making voter lists available for public scrutiny, while maintaining the security of personal data.
12. The practice of registering voters on election day by PECs should be reviewed in the law.

### **Candidate Registration**

13. To ensure legal certainty, the law should clearly prescribe whether collection of signatures is prohibited during campaign silence periods, in case of overlapping election contests.

### **Campaign Finance**

14. Consideration could be given to reviewing the threshold for donors to declare incomes and property for small donations.
15. Consideration could be given to extending campaign finance regulations to third parties.
16. To promote compliance with campaign finance regulations, the law could be revised to provide proportionate and dissuasive sanctions for violations.

### **Media**

17. To comply with international standards, criminal provisions for defamation should be repealed in favour of civil remedies designed to restore the reputation harmed.
18. Any potential amendments to the regulatory framework for media should be preceded by meaningful and inclusive public consultation.

### **Complaints and Appeals**

19. The law should prescribe expedited deadlines for filing and adjudicating all election-related disputes, including on campaign and campaign finance violations and election results.
20. Judicial review of the validity of election results should be guaranteed by law. The law should prescribe the grounds and evidentiary issues for partially or fully invalidating election results.
21. In line with the law, all applications on violations of rights or legitimate interests should be considered complaints requiring a formal decision, subject to judicial review.
22. To enhance transparency and to serve the public interest, the CEC could publish in a timely manner information on all complaints received and actions taken, without prejudice to privacy and personal data protection.



**ANNEX I – FINAL RESULTS<sup>92</sup>**

<b>Candidate</b>	<b>Percentage of valid votes cast</b>	<b>Valid votes cast</b>
<b>First Round, 12 May 2019</b>		
<b>Ingrida Šimonytė</b>	<b>31.31</b>	<b>446,719</b>
<b>Gitanas Nausėda</b>	<b>30.94</b>	<b>441,396</b>
Saulius Skvernelis	19.58	279,413
Vytėnis Povilas Andriukaitis	4.77	68,118
Arvydas Juozaitis	4.69	66,957
Valdemar Tomaševski	3.96	56,476
Mindaugas Puidokas	2.60	37,036
Naglis Puteikis	0.79	11,302
Valentinas Mazuronis	0.65	9,205
<b>Data regarding the voting process</b>		
Number of registered voters	2,486,915	
Turnout/ percentage of voting participation	1,426,694/ 57.37 %	
Number of total valid votes	1,416,622 (99.29 %)	
Number of total invalid votes	10,072 (0.71 %)	
<b>Second Round, 26 May 2019</b>		
Gitanas Nausėda	65.68	881,496
Ingrida Šimonytė	33.04	443,394
<b>Data regarding the voting process</b>		
Number of registered voters	2,491,042	
Turnout/ percentage of voting participation	1,342,094/ 53.88 %	
Number of total valid votes	1,324,890 (98.72 %)	
Number of total invalid votes	1,7205 (1.28 %)	

<sup>92</sup> Source: [Final results](#) as published by the Central Election Commission.

## ABOUT ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is 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.

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 150 staff.

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 obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the 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. ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

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 people, 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**, 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. 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.

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](http://www.osce.org/odihr)).