



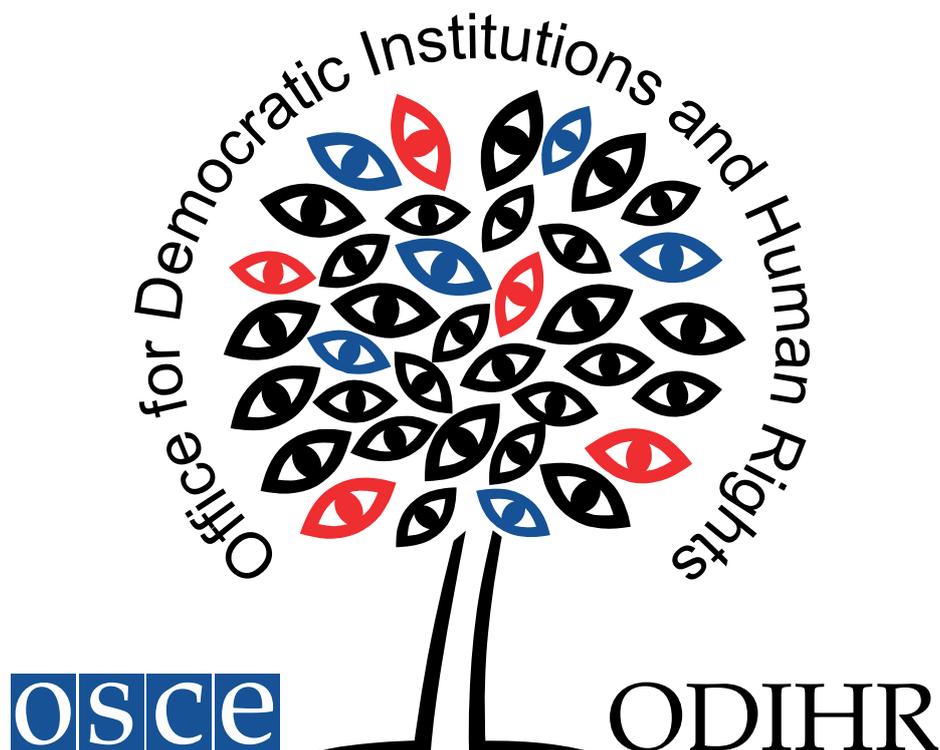
Office for Democratic Institutions and Human Rights

# REPUBLIC OF SLOVENIA

## EARLY PARLIAMENTARY ELECTIONS

3 June 2018

ODIHR Election Assessment Mission  
Final Report



Warsaw  
12 September 2018

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**REPUBLIC OF SLOVENIA**  
**EARLY PARLIAMENTARY ELECTIONS**  
**3 June 2018**

**ODIHR Election Assessment Mission Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Permanent Mission of the Republic of Slovenia to the OSCE, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Assessment Mission (EAM) to observe the 3 June 2018 early parliamentary elections.

The elections were conducted under a partially revised legal framework. The electoral legislation has incorporated some previous ODIHR and GRECO recommendations and constitutes a solid basis for the conduct of democratic elections. Nevertheless, some aspects, such as provisions on the removal of election commission members and on candidate list nomination, do not fully comply with OSCE commitments and international good practice.

The early parliamentary elections were contested by 25 political parties, of which 7 were previously represented in the National Assembly. Nine parties reached the four per cent threshold to enter parliament. In addition to 88 deputies elected from candidate lists in a proportional electoral system, two national community deputies – one Hungarian and one Italian – are elected on the basis of a majoritarian electoral system.

While voters had the opportunity to make an informed choice from a variety of political options, public interest and participation in the elections remained low. ODIHR EAM interlocutors attributed this disinterest to diminished trust in elected institutions amidst reports of corruption, incomplete social reforms and a lack of vision among political decision makers. The electoral competition was tainted by instances of hate speech, disinformation campaigns, and allegations of foreign involvement in the campaign, especially through social media.

The elections were administered in an efficient and professional manner by four levels of election commissions who enjoyed a high level of confidence among all stakeholders. The election administration provides for several alternative voting arrangements, such as early, postal and mobile voting, including for voters with disabilities. While all interlocutors expressed a high degree of confidence in the work of the election administration, some indicated that the instructions for counting the votes for the election of the deputies of national communities on the basis of the *Borda count* lacked clarity and should have been provided earlier.

Citizens aged 18 or older are entitled to vote. The right to vote of persons with mental disabilities may be revoked on the basis of individualized court decisions, and although an improvement from earlier legislation, it is still at odds with the UN Convention on the Rights of Persons with Disabilities (CRPD). Voter registration is passive, except for new voters for the election of the deputies of the Hungarian and Italian national communities. Political parties expressed a high confidence in the accuracy of the voter registers, which included some 1.7 million citizens.

The election administration enforced the legal requirements for gender representation in the lists.

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

However, women comprise only 23 per cent in the newly elected National Assembly, which is below average among OSCE participating States, and the only female leader of a political party was not re-elected. Few of the parties met by the ODIHR EAM had a strategy in place to enhance the role of women in politics.

Voters were presented with a variety of choices across the political spectrum. All political parties were able to campaign freely and the freedoms of speech, movement and association were respected. However, the campaign environment was tainted by disinformation tactics, instances of negative campaigning, intolerant rhetoric and hate speech.

Prior amendments to the legal framework for political and campaign finance addressed several previous ODIHR and GRECO recommendations. These amendments also increased parties' dependence on public funding to an average of 89 percent, and were assessed positively by ODIHR EAM interlocutors as helping to prevent undue influence in political campaigns. However, certain oversight provisions could be further enhanced to improve the transparency of party income and expenditures to address concerns over possible illegal foreign financing.

All contestants were provided with several opportunities to present their views in public and private media, as well as on-line, through debates, talk shows and special programmes. Regional public media helped voters of the Hungarian and Italian national communities to make an informed choice. A lack of comprehensive oversight of election-related reporting in the media was noted by ODIHR EAM.

The electoral dispute resolution system establishes deadlines that provide for timely remedy. However, there is a lack of clear and hierarchical structures with regard to complaints on irregularities before election administration bodies. The lack of procedures for voters to appeal decisions of the upper-level election commissions on results undermines the right to effective remedy. Validation of results by the National Assembly remains largely unregulated and does not address concerns about potential conflict of interest.

Protection of minority rights in Slovenia, including political participation, is strong for the Italian and Hungarian communities, but less so for Roma. No members of the Roma community were nominated as candidates on party lists, and the participation of these voters was low, with regional variations.

In accordance with ODIHR methodology, ODIHR EAM visited a limited number of polling stations during early voting and on election day. Overall, observed voting and counting were well organized and efficiently conducted. While almost full compliance was achieved in making polling stations physically accessible for voters with disabilities, other recommendations remain to be addressed, including sufficient safeguards for the secrecy of the ballot.

## **II. INTRODUCTION AND ACKNOWLEDGEMENTS**

Following an invitation from the Permanent Mission of the Republic of Slovenia to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the 3 June 2018 early parliamentary elections, ODIHR deployed an Election Assessment Mission (EAM) from 17 May to 7 June 2018. The ODIHR EAM was headed by Ilze Brands Kehris and consisted of five experts drawn

from five OSCE participating States. The EAM was based in Ljubljana and visited several locations across the country.<sup>2</sup>

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 ODIHR methodology, the ODIHR EAM observed a limited number of polling stations during early voting and on election day.

The ODIHR EAM wishes to thank the Ministry of Foreign Affairs of the Republic of Slovenia, the State Election Commission and the election administration at all levels for their co-operation and assistance, as well as to express gratitude to representatives of state institutions, political parties, candidates and their campaign teams, media, civil society and other interlocutors for sharing their views.

### III. BACKGROUND

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.<sup>3</sup> Executive power is exercised primarily by the government, headed by a prime minister. The president is directly elected for a five-year term and has limited powers.

Following a Supreme Court decision to annul a 2017 referendum concerning the law on the construction of a new railway route, Prime Minister Miro Cerar resigned on 14 March 2018 on the basis of strained relations with coalition partners.<sup>4</sup> President Borut Pahor called early elections, dissolved the National Assembly on 14 April, and set the election date for 3 June 2018.<sup>5</sup>

In the outgoing parliament, seven parties were represented, all of which contested the elections again.<sup>6</sup> The new List of Marjan Šarec (LMŠ), led by a candidate who lost to Borut Pahor in the 2017 presidential runoff, joined the electoral race with high visibility. In addition to the 88 seats filled by political parties, the National Assembly includes two seats held by representatives of the Hungarian and Italian national communities, respectively, that were contested in these elections.<sup>7</sup>

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<sup>2</sup> The ODIHR EAM visited 22 districts across all 10 electoral constituencies, including those of the Hungarian and Italian national communities.

<sup>3</sup> It is comprised of 40 representatives of different professional groups and local communities, elected indirectly for a five-year term.

<sup>4</sup> The two previous parliamentary elections were also early elections. In 2011, early elections were called following a vote of no confidence against the government led by Prime Minister Borut Pahor, and in 2014, early elections were called following the resignation of Prime Minister Alenka Bratušek.

<sup>5</sup> Based on the constitutional framework, regular parliamentary elections were foreseen to be held between 1 June and 15 July 2018.

<sup>6</sup> During the last term, the government was formed by the Modern Centre Party (SMC, 36 seats) together with the Democratic Party of Pensioners of Slovenia (DeSUS, 10 seats) and the Social Democrats (SD, 6 seats). Opposition parties in the National Assembly were the Slovenian Democratic Party (SDS, 21 seats), the United Left (6 seats), the New Slovenia-Christian Democrats (NSi, 5 seats), and the Party of Alenka Bratušek (SAB, 4 seats).

<sup>7</sup> Since 1992, the national community seats in the National Assembly were held by only one Italian deputy and two Hungarian deputies. In the last parliamentary elections in 2014, both national community candidates stood unopposed.

## IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

### A. LEGAL FRAMEWORK

The legislation regulating the elections to the National Assembly comprises primarily the 1991 Constitution (last amended in 2016), the 2006 Elections to the National Assembly Act (election law, last amended in 2017), 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 2014) and the 2005 Radio and Television Corporation of Slovenia Act (last amended in 2014).<sup>8</sup> Legislation is complemented by regulations of the State Election Commission (SEC). The electoral legal framework has been shaped by a rich jurisprudence of the Constitutional and the Supreme Courts.

The 2018 early parliamentary elections took place under a partially revised legal framework. The 2017 amendments to the election law introduced provisions to regulate accessibility of all polling stations by persons with disabilities, removal of election commission members before the end of their mandate, as well as election observation. Changes to other key legislation pertain to campaign finance regulations and the voter register for national minorities.

Overall, the legal framework is robust and constitutes a solid basis for the conduct of elections. However, the conditions for termination of commission members include imprecise terms<sup>9</sup> and no legal remedy is foreseen for challenging such decisions.<sup>10</sup> Provisions on support of candidate nominations are also not fully in line with international commitments and international good practice (see *Candidate Registration* section).

*Procedures for the removal of election commission members, including a possibility for legal remedy in such cases, should be brought in line with international commitments and good practice.*

### B. ELECTORAL SYSTEM

The 90 members of the National Assembly are elected for a four-year term through two methods. Eighty-eight deputies are elected on the basis of proportional representation. The two deputies

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<sup>8</sup> Other applicable legislation includes the 1994 Constitutional Court Act (last amended in 2012) and relevant provisions of the Criminal Code. Slovenia is a party to major international and regional instruments related to democratic elections, 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).

<sup>9</sup> Articles 32, 35 and 36 of the election law allow the removal of members of the SEC and of lower commissions, by the National Assembly and SEC respectively, *inter alia* for “negligent performance of duties”, without the possibility of appeal against such decisions. The [Venice Commission Code of Good Practice in Electoral Matters](#) states in its explanatory report (paragraph 77) that “...recall for disciplinary reasons is permissible – provided that the grounds for this are clearly and restrictively specified in law”.

<sup>10</sup> The lack of means to challenge such a decision is at odds with paragraph 5.10 of the [1990 OSCE Copenhagen Document](#) that states: “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”, as well as ICCPR Article 2 in which state parties “ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity”.

representing the Hungarian and Italian communities, in line with their constitutional right of direct representation in the National Assembly, are elected through a majoritarian system with a preferential component. For the election of 88 deputies, the country is divided into 8 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. Mandates are allocated on the basis of the *Droop* quota, calculating the largest remainder of votes. The *D'Hondt* method is used to calculate the overall proportional representation resulting in the number of seats each contestant has obtained nationwide. The difference in mandates distributed by the two methods is allocated to contestants in the constituencies where they have the highest percentage.<sup>11</sup>

For the election of national community representatives, two special constituencies are formed for the members of these communities who are registered on the respective special voter register. These voters also participate in the election of the other members of the National Assembly, thus having two votes. The allocation of votes for these two deputies is performed on the basis of the *Borda count*.<sup>12</sup> Several ODIHR EAM interlocutors expressed their dissatisfaction with this system's complexity and a preference for a more simple majoritarian system, *inter alia* due to late and inconsistent SEC instructions for the allocation of points and validation of ballots (see also *Voting Methods* section).

## V. ELECTION ADMINISTRATION

The election administration has four levels, reflecting the overall administrative structure. It comprises the SEC, 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 3,164 polling boards (PBs) across the country as well as in 32 diplomatic representations. All ODIHR EAM interlocutors expressed full confidence and satisfaction in the integrity of the election administration and its ability to organise the elections professionally.

Election commissions are permanent bodies composed according to a mixed judicial, political and professional model. They have a four-year mandate and each supervises electoral operations at their level. SEC is responsible for the overall conduct of elections, coordinating the work of and providing instructions to lower-level election administration, implementing voting at the diplomatic representations and declaring election results. The main role of ConECs is to review candidate lists and to determine election results in constituencies. DECs are responsible for designating polling stations, counting postal votes and determining results in the districts.<sup>13</sup> The PBs conduct voting and counting on election day.

The SEC is appointed by the National Assembly. It 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 through an open and competitive recruitment process, two members and two

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<sup>11</sup> In 2015, the National Council submitted to the Constitutional Court a request for review of the constitutionality of the provisions of the election law regarding the allocation of seats and nomination of candidates, as well as the designation of electoral constituencies. At the time of writing, the request was pending at the Constitutional Court.

<sup>12</sup> The *Borda count* is a form of ranked choice voting in which points can be allocated to several candidates.

<sup>13</sup> Each election commission has a secretary who carries out much of the operational work. The secretaries are appointed by SEC for four years from among civil servants at the proposal of the administrative units.

deputies from among legal experts, and the remaining members upon the proposal of political parties represented in the National Assembly.<sup>14</sup>

The SEC appoints ConECs and DECAs. Each consists of a President, Vice President, three members and their deputies.<sup>15</sup> ConECs include two judges, while DECAs include one judge and one legal expert. The remaining members are appointed according to political representation in the parliament. PBs are appointed by DECAs for each election based on the nomination by parliamentary parties followed by nominations and designation of local communities and administrative units. Gender disaggregated data on the composition of EMBs at all four levels, including the number of women who are in leadership positions, need to be extracted from diverse documents and are not readily available, which is at odds with international standards.<sup>16</sup>

*In line with national commitments and international standards, gender disaggregated data produced during the electoral process should be made available in a comprehensive manner.*

## VI. 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 mental disability, which is contrary to international standards.<sup>17</sup>

*To comply with international standards and to ensure equal suffrage, all restrictions to the right to vote which are based on mental disability should be removed.*

Slovenia has a passive voter registration system based on permanent residence. Electoral registers are linked electronically to the civil register and the register of spatial units.<sup>18</sup> For the purpose of the National Assembly elections, there are three types of voter register: the register of voters with permanent residence, the register of voters without permanent residence, and the voter registers from the Hungarian and Italian national communities. For these elections, a total of 1,712,667 voters were registered.<sup>19</sup>

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<sup>14</sup> Appointments take the proportional representation of political parties in the National Assembly into account.

<sup>15</sup> According to the SEC contact list, women constitute on average 54 per cent of all election commission appointments. Women are increasingly found in decision-making positions at lower level election commissions.

<sup>16</sup> Article 48d of the [CEDAW General Recommendation No. 23](#), requires state parties to provide “statistical data, disaggregated by sex, showing the percentage of women relative to men who enjoy those rights.” According to the [Resolution on the National Programme for Equal Opportunities for Women and Men 2015–2020](#) adopted by the Government of Slovenia, “data broken down by sex” should be provided “to allow an assessment of whether significant gender differences exist in a particular area”.

<sup>17</sup> According to the law, persons whose legal capacity has been removed 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. The law allows for the deprivation of the legal capacity of persons with psychosocial and/or intellectual disabilities, which is considered discriminatory under the CRPD. Article 12 of the CRPD commits ratifying States to recognize that “persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life” and Article 29 guarantees 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”.

<sup>18</sup> The civil register is a computerised database with records including birth, marriage and death, change of personal name, eventual deprivation of the right to vote and admission to citizenship. The register of spatial units is the source of data on the areas of polling stations, linked with the address registry.

<sup>19</sup> According to the MoI, for these elections there were 1,614,898 registered voters with permanent residence, 96,769 registered voters without permanent residence, 5,950 registered voters on the Hungarian community register, including 41 abroad, and 2,734 registered voters on the Italian community register, including 110 abroad. Gender disaggregated data were not publicly available.

According to the Voting Rights Register Act, the electoral registers are maintained by the Population Registration and Public Documents Division of the Ministry of Interior (MoI), and can be accessed and updated by the administrative units. The registers contain 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.

To ensure data protection, the lists are not publicly displayed or shared. The final voter lists are provided by the MoI to the election commissions fifteen days before election day. Citizens can review their voter registration record at any time at administrative units and diplomatic representations. All ODIHR EAM interlocutors expressed full confidence and satisfaction in the integrity and accuracy of the voter register.

Inclusion in the register of voting rights for the Hungarian and Italian national communities is active, with permanent registration. To be eligible, a voter must be considered a member of the respective community.<sup>20</sup> Voters who were previously not included as well as voters who have reached voting age must make an individual request to the relevant self-governing body to enter the register. The criteria set by law were described to ODIHR EAM by national community representatives as potentially infringing on the principle of voluntary self-identification.<sup>21</sup>

The Voter Rights Register Act delegates the responsibility to develop further criteria to the self-governing bodies of the Hungarian and Italian national communities. No additional criteria have yet been officially adopted. ODIHR EAM interlocutors from these communities stressed the overall lack of consensus on determining criteria or the need for any criteria.

## VII. CANDIDATE REGISTRATION

All citizens of at least 18 years of age may stand for election as a deputy in the National Assembly, except those deprived of their candidacy rights by an individualized court decision. A candidate may only run on a list of candidates in the constituency where he/she has permanent residence.

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 list is endorsed by three deputies of the National Assembly, or in one constituency if the list is nominated by party members who have resident status in the constituency and endorsed by at least fifty voters with permanent residence in the constituency.<sup>22</sup> 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 100 voters with

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<sup>20</sup> Since 2014, the law provides three eligibility criteria for the inclusion in this voter register: “[m]aintaining long-lasting, solid and on-going connections with their community, actively preserving the common identity that constitutes a particular community, including their culture or language, and being a relative up to a second-degree with a citizen who has already been granted the right to vote as a member of the Hungarian or Italian national community.”

<sup>21</sup> The pro-active use of the register on the side of MoI to identify potentially eligible voters based on the criterion of family relationship with a person who is already on the special voter register, and providing the names and addresses of such persons, although seemingly welcome by the communities as providing a possibility of direct outreach, raises issues of personal data protection.

<sup>22</sup> 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. According to the SEC, the lists of candidates of seven political parties received the support of deputies (Good Country (DD), DeSUS, NSi, SAB, SD, SDS, SMC).

permanent residence in the constituency. A voter may support only one list. This restriction is at odds with international good practice and may limit political pluralism.<sup>23</sup>

*To further encourage political pluralism, voters should be allowed to sign in support of multiple lists.*

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 eleven 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, each 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 ConECs register lists of candidates within their respective constituencies. The lists of candidates are submitted to ConECs at least 30 days before election day and must be confirmed or rejected at least 20 days before the elections. The final lists are published at least 15 days before the elections. A total of 1,636 candidates from 25 parties were contesting the elections, constituting the highest number of competing political parties since Slovenia's independence in 1991.<sup>24</sup> Two lists were rejected, in two different constituencies (see *Complaints and Appeals* section).

Members of the Hungarian and Italian national communities who are included on the special voter register have the right to vote and to stand as candidates for the reserved seat of their community. The candidates are nominated by at least 30 voters who are members of these communities. For these elections, two candidates were nominated for the Hungarian community and three candidates were nominated for the Italian community.

## VIII. ELECTION CAMPAIGN

The election campaign is regulated by the ERCA. The 30-day campaign period was set between 4 May and 1 June, followed by 24 hours of campaign silence, including a prohibition on publishing opinion polls from 24 hours prior to election day until the closure of polling stations. Contestants were able to campaign freely and voters were presented with a variety of choices among different parties across the political spectrum. No obstacles to campaigning were observed, and the freedoms of speech, movement and association were respected.

The campaign took place against the backdrop of parliamentary commissions investigating misuse of public funds, as well as on-going arbitration with Croatia and perceived voter fatigue and diminished trust in elected political positions. A historically low turnout of 51 per cent for parliamentary elections in 2014 and reports of a significant number of undecided voters in the immediate period leading to the elections also characterized the pre-electoral environment.

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<sup>23</sup> Paragraphs 77 and 144 of the 2011 [OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation](#) recommend that “in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party,” and, “...a requirement that a citizen be allowed to sign in support of only one party should be avoided, as such a regulation could easily disqualify parties despite their attempts in good faith to fulfil this requirement”.

<sup>24</sup> United Right (ZD) withdrew from the race on 25 May 2018, after the deadline for candidate nominations, and called on its supporters to vote for SDS.

The campaign was dominated by political parties previously represented in the National Assembly, as well as the newly established LMSŠ. In addition to public funds management the campaign themes included immigration, internal and external security, the performance of the judiciary, as well as the pensions, health and education system. Allegations of foreign funding of campaigns were also a recurrent topic (see *Campaign Finance* section). Several EAM interlocutors opined that the Church does not maintain political neutrality and would provide barely veiled recommendations to vote for a particular political party.

The majority of lead candidates and campaign managers were men. Few of the parties met by the ODIHR EAM had a policy in place to enhance the role of women in the electoral process.<sup>25</sup> Only one of the 25 political party leaders standing for election was a woman, and she was not re-elected. The absence of women among party leaders was most apparent in televised debates.

The LMSŠ campaign profited from considerable media interest, including participation in debates alongside the leaders of longer-established political parties.<sup>26</sup> Most contestants intensively used social media platforms, predominantly Facebook and Twitter, and to a lesser degree Instagram. While Facebook was considered a more neutral campaign channel, several contestants described Twitter to ODIHR EAM as infested with inflammatory language and chose not to use it.

While guarantees for fundamental freedoms in the legal framework were mostly respected, the campaign was tainted by disinformation tactics, including false allegations concerning civil society organizations, negative campaigning and intolerant rhetoric by some contestants<sup>27</sup> contrary to OSCE commitments and international good practice.<sup>28</sup> On 31 May, some hundred people attended a peaceful demonstration against the increasing dissemination of hate speech in the political campaign, organized in Ljubljana by an informal group of around 30 individuals from various civil society organisations (see also *Media* section).

*The authorities should consider the introduction of an effective mechanism to counter instances of intolerant rhetoric, including xenophobia and inflammatory language, in the campaign period.*

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<sup>25</sup> See Article 32 of the [CEDAW General Recommendation No. 23](#) states that “Political parties should be encouraged to adopt effective measures, including the provision of information, financial and other resources, to overcome obstacles to women’s full participation and representation and ensure that women have an equal opportunity in practice to serve as party officials and to be nominated as candidates for election.” Article 31 of the Equal Opportunities for Women and Men Act promulgates that political parties should identify “ways and measures to promote a more balanced representation of women and men in party bodies, on candidates’ lists for elections to the National Assembly and local authorities, and for the election of the (male or female) President of the Republic”.

<sup>26</sup> TV debates in the national RTV and on private POP TV were widely considered by ODIHR EAM interlocutors as critical in determining voters’ choice in the immediate period before election day.

<sup>27</sup> During an RTV debate on 7 May, the leader of SNS used inflammatory language expressing intolerance against migrants and evoking the use of force. On 13 May SDS candidate tweeted that “white people are more developed and more advanced than migrants”, describing them as “primitive” and “parasitic”, wondering “why should we let ourselves be subordinate to them or be slaughtered by them”.

<sup>28</sup> Paragraph 40 of the 1990 OSCE Copenhagen Document states that “the participating States clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-semitism, xenophobia and discrimination against anyone as well as persecution on religious and ideological grounds...They declare their firm intention to intensify the efforts to combat these phenomena in all their forms...” OSCE Ministerial Council Decision 10/07 calls for continued efforts by political representatives, including parliamentarians, strongly to reject and condemn manifestations of racism, xenophobia, anti-Semitism, discrimination and intolerance”. Article 27 of the [Ljubljana Guidelines on Integration of Diverse Societies](#) of the OSCE High Commissioner on National Minorities (HCNM) state that “politicians have a particular responsibility to engage in dialogue that is respectful of diversity and to take a clear stance against the incitement to hatred.”

SDS and the Slovenian National Party (SNS) posted billboards before the start of the campaign period, which raised concerns over a possible circumvention of the provisions on campaign expenditures and distortion of a level playing field, though the authorities found no violation of the law.<sup>29</sup> After election day, the Ministry of Interior's Inspectorate also scrutinized 63 cases of campaign silence violation.<sup>30</sup>

Minority rights protection in Slovenia, including regarding political participation, is strong for the Italian and Hungarian national communities, but less so for Roma.<sup>31</sup> The Roma community, numerically larger than the two other groups, has special participation rights in local government, but not at the national level.<sup>32</sup> Participation by members of the Roma community in these elections was not visible, no Roma candidates were nominated on party lists, and participation as voters was low, with regional variations.

The Hungarian and Italian national community seats were genuinely contested, but candidates exercised their campaigns on a different scale than those nominated by political parties. These campaigns targeted voters in five Hungarian and four Italian bilingual municipalities, employing a variety of campaign tools including mailed flyers. The candidates profited from the free use of public venues for debates and direct voter contact as well as local media interest to cover their campaign. Their main campaign themes evolved around enhancing bilingualism and safeguarding their communities' rights through work in the National Assembly and vis-à-vis their kin states. Political parties were not engaged in the campaign of national community candidates.

## IX. CAMPAIGN FINANCE

The ERCA and PPA regulate campaign and political finance. Both legal acts were amended in 2013 and 2014, respectively, to address ODIHR and GRECO recommendations.<sup>33</sup> Key legislative changes banned donations from legal entities, introduced mandatory detailed reporting and disclosure requirements and increased sanctions for violations of the political finance provisions. The majority of ODIHR EAM interlocutors stated general satisfaction with the legislative framework for political finance.

### A. CAMPAIGN INCOME AND EXPENDITURE

The political parties' incomes stem predominantly from public funding, supplemented by donations from private persons and membership fees. Public funding is provided to political parties which

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<sup>29</sup> The Ministry of Public Administration's legal opinion on the matter was that, in line with the freedom of speech, political parties can use different tools of communication with their electorate also outside the electoral campaign period. The Court of Audit (CoA) informed the ODIHR EAM that in case of billboards which appeared before the official campaign period, but were used till the elections, printing costs should be classified as campaign expenses, whereas costs of renting billboard space should be reported in accordance with the time of the billboards' exposure as political or campaign expenses. The MoI's Inspectorate of Internal Affairs received two complaints related to the matter and decided that the law does not prohibit parties using billboards outside the electoral campaign.

<sup>30</sup> The Inspectorate of Internal Affairs received 177 notifications about alleged violations of campaign silence of which it considered 66 as relevant, 17 referred to publications on social media, 14 to distribution of election propaganda, and 9 to campaign via sms on election day.

<sup>31</sup> Other minorities, including numerically small groups that are not recognized as national communities by the authorities, do not have specific political rights, and neither do the three numerically largest ethnic minorities – the Bosnians, Croats and Serbs.

<sup>32</sup> No official census data exist, but unofficial estimates indicate approximately 10,000 members, comprising several Roma communities and a small Sinti community.

<sup>33</sup> See [GRECO Evaluation and Compliance Report on transparency of party funding](#).

obtained at least one per cent of votes nationwide in parliamentary elections.<sup>34</sup> A quarter of the funds for political parties is divided equally between all eligible parties and the rest in proportion to the number of votes received.<sup>35</sup>

The ban on donations from legal entities increased the parties' dependency on public funding, which amounts to an average of 89 per cent of parties' budgets.<sup>36</sup> The majority of parties met by the ODIHR EAM recognized that the prohibition of donations from legal entities protects the political landscape from potential undue influences. Some stated that in light of this ban public funding should be increased.

Every citizen can donate up to ten average gross monthly salaries, which amounts to approximately 16,300 EUR. Cash donations are allowed up to 50 EUR. Political parties sought incomes from private funding on a limited scale. Of the parties met by the ODIHR EAM, only the Left resorted to active fundraising via crowd-funding, where the scale of private donations ranged from 10 to 200 EUR. Membership fees and candidates' contributions were among other mentioned sources of incomes.

Funding from foreign sources is not allowed. However, the law does not prohibit parties to own companies which receive financial resources from abroad, and a number of ODIHR EAM interlocutors raised concerns over possible foreign financial support to SDS. The party owns significant shares in the publishing company *Nova Obzorja*, which reportedly received substantial financial instalments from Hungary over the last year. SDS denied allegations about illegality of their campaign financing and informed the ODIHR EAM that all party income was deposited in the designated campaign account and came only from sources permitted by the ERCA and the PPA.

By law, campaign expenditures should not exceed 0.40 EUR per eligible voter in each electoral unit, which amounts to some 687,000 EUR for electoral competitors who registered their candidates in all constituencies. The earmarked campaign budgets of electoral contestants met by the ODIHR EAM ranged from EUR 50,000 to 400,000 for political parties and did not go beyond 1,500 EUR for candidates running in Hungarian and Italian communities.<sup>37</sup> The political parties managed their campaign finance in a centralized manner, providing their candidates in the field with campaign materials rather than financial resources. TV spots and direct postal mailing of campaign materials were mentioned among the most costly campaign expenditures. Some campaign organizers opined that their budget would allow only a limited outreach to voters.

The Anti-Corruption Commission informed the ODIHR EAM that the introduction of amendments to political and campaign finance legislative framework, such as donation limits, had not been preceded by an analysis of their implications. Neither the commission nor civil society organizations met by the ODIHR EAM could estimate an average cost of the electoral campaign prior to election day. The Court of Audit (CoA) concurred that civil society-led monitoring of campaign finance would improve the transparency of the electoral process and the accountability of electoral contestants.

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<sup>34</sup> Based on the results of the 2018 early parliamentary elections, 13 political parties became eligible for party funding.

<sup>35</sup> Women and youth branches of political parties can also receive co-funding for their programmatic activities.

<sup>36</sup> Data based on parties' 2017 annual financial reports.

<sup>37</sup> Pursuant to the number of voters who are registered as members of these national communities, the limits of campaign expenditures for candidates running in the Hungarian and Italian electoral units amounted to 2,328 EUR and 1,044 EUR respectively.

*Transparency and accountability of campaign finance could be improved by independent monitoring of campaign incomes and expenditures.*

Parties can receive loans only from banks and loan institutions. The latter is limited to ten average gross monthly salaries per annum. A campaign organizer can take a loan only from banks. LMŠ, SNS, NSi and the Left informed the ODIHR EAM that they took commercial loans, with the envisaged future public funding as the collateral. In 2017, SDS signed two loan agreements which violated the law.<sup>38</sup> The CoA launched a pre-audit investigation in both cases and on 6 March 2018 filed a prosecution request to the Local Court of Ljubljana. SDS informed the ODIHR EAM that they had returned both loans and were awaiting the court decision.

The ERCA envisions partial reimbursement of campaign expenditures from public funds for electoral contestants who won at least two per cent of votes countrywide.<sup>39</sup> Apart from the nine parties that reached the threshold to enter parliament, the Slovenian People's Party (SLS) and the Pirate Party of Slovenia were also eligible for this reimbursement.

## **B. DISCLOSURE AND REPORTING**

Prior to any transaction related to the campaign and no later than 45 days before election day, a campaign organizer must open a special bank account into which all campaign funds shall be deposited and from which all the campaign expenses shall be paid. The account shall be closed no later than four months after the elections, and loans taken for campaign purposes need to be paid 30 days before closing the account.

Not later than 15 days after closing the account, the campaign organizer needs to submit a financial report to the Agency of the Republic of Slovenia for Public Legal Records and Related Services (AJPES), at which point the full report is published on the agency website. The report should contain detailed information on collected funds, identity of donors, 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.

## **C. OVERSIGHT**

Political and campaign finance oversight is implemented by the MoI Inspectorate of Internal Affairs, AJPES and the CoA.<sup>40</sup> These institutions informed the ODIHR EAM that they do not have established mechanisms for co-ordinated oversight. The Inspectorate is mandated with the supervision of implementation of the ERCA provisions, including those that aim at transparency of campaigning and require that all bulletins, catalogues, posters and banners display information about the entity that commissioned them. The application of this provision by campaign organizers was

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<sup>38</sup> One for 450,000 EUR from a citizen of Bosnia and Herzegovina, which violated both the prohibition on loans from natural persons and the prohibition of receiving funds from foreign sources. The other loan of 60,000 EUR was taken from a private company, which is not a loan institution.

<sup>39</sup> Every campaign organizer whose list obtained mandates for deputies is entitled to 0.33 EUR per obtained vote. Every campaign organizer whose list received at least 2 per cent of votes countrywide or 6 per cent of votes in a constituency shall receive 0.17 EUR per vote cast in its favour. Campaign organizers for Hungarian and Italian communities, whose candidate obtained the mandate or at least 25 per cent of the total number of points calculated for all candidates in their respective communities, is entitled to a reimbursement equal to 0.33 EUR per vote obtained.

<sup>40</sup> The Anti-Corruption Commission, which according to the law can propose the CoA to initiate an audit procedure, expressed its readiness to support the oversight bodies with expertise on international standards and practices in the field of political financing.

inconsistent. The Inspectorate informed the ODIHR EAM that it does not have sufficient resources to effectively implement the provision.

*In order to ensure effective implementation of the political and campaign finance provisions, the capacities of the oversight bodies need to be enhanced, to match the responsibilities they are vested with. These bodies should consider taking a more proactive stance in providing guidance and information on political and campaign finance provisions. Co-operation between the institutions could be further enhanced.*

The CoA is both the political and campaign finance oversight body. The audit of the campaign finance reports is done for parties eligible for partial reimbursement of campaign expenses and needs to be finalized within 10 months after election day. The CoA conducted active monitoring of campaign events organized by electoral contestants to compare the gathered data with the information provided in campaign reports. In case of irregularities in reporting, the campaign organizer has an opportunity to rectify errors within 30 days.

Considerable financial sanctions are envisaged for unlawful or not duly accounted financing, untimely submission or failure to submit reports, and late opening of the campaign account.<sup>41</sup> Exceeding the limit on expenditures can result in limiting or revoking of partial reimbursement of funds and reduced or suspended public funding. The CoA outlined to the ODIHR EAM that parties can be sanctioned for violation of legal conditions for obtaining loans, but no fines are foreseen for exceeding the limit of loans from a natural person.

*In order to increase the transparency of political and campaign funding and to eliminate existing gaps, the legal provision regulating loans should be subject to revision.*

All cases of identified violations of political and campaign finance provisions are forwarded to the Ljubljana Local Court for adjudication. Between 2014 and 2018, the court received 29 cases from the CoA, of which 7 were rejected on procedural grounds, 7 were dismissed for the lack of sufficient evidence, and 15 were processed.<sup>42</sup> Of these, 4 concerned violations of political financing and 11 campaign financing. The grand majority of cases were concluded by issuing only an official warning to the political party or campaign organizer, due to the insignificance of the violations.

The CoA informed the EAM about a high number of legal inquiries coming from campaign organizers and increased media interest in campaign and political finance before the elections. The campaign organizers met by the ODIHR EAM assessed positively their cooperation with the CoA, whereas civil society and academics opined that the court's capacities should be further enhanced.

## **X. MEDIA**

### **A. MEDIA ENVIRONMENT**

The media landscape in Slovenia is pluralistic. Television is the main source of information, with a large portion of viewers watching it online. Public *RTV Slovenia* includes three national TV channels, three national radio channels as well as two regional channels mainly addressing national

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<sup>41</sup> 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 disclosure.

<sup>42</sup> The CoA informed the EAM that they would receive a training session on filing administrative decisions from the Ljubljana Local Court after the elections.

communities in Koper and Maribor and a studio in Lendava. Most traditional media are accessible online, including *RTV Slovenia* and private *POP TV*, *Kanal A*, *TV3* and *Planet TV*, as well as the most popular print media *Dnevnik*, *Delo* and *Večer*. Despite declining circulation rates, these dailies remain influential, particularly online. Left-wing oriented magazines like *Mladina* and right-wing oriented *Reporter*, *Demokracija* and *Skandal24* are also sources of political information. In the first quarter of 2017, 79 per cent of persons aged 16-79 regularly used the internet, 61 per cent read online news and 46 per cent used social networks.<sup>43</sup>

Recent developments in the media market have raised concerns among all ODIHR EAM media interlocutors. In the past few years, foreign companies invested in Slovenian media outlets of major audience. The acquisition of the company Pro Plus by Central European Media Enterprises represents a commercial operation implying the purchase of two key commercial TV channels, *POP TV* and *Kanal A*, which reach 70 per cent of all viewers and receive an even higher share of advertising revenues. The financial support given by companies allegedly associated with Hungarian governing parties to some Slovenian media outlets has been criticised due to its potential influence on the campaign (see also *Campaign Finance* section). Media outlets such as *Nova24TV* and the magazines *Skandal24* and *Demokracija*, whose ownership is related to SDS y as well as to Hungarian investors, promoted the party's campaign.<sup>44</sup>

## B. LEGAL FRAMEWORK FOR THE MEDIA

The legislation provides a sound framework for freedom of the media. The freedoms of expression and of the press are protected by the Constitution, which also establishes the right to access public information. Other laws governing the media are the 2001 Mass Media Act (last amended in 2006), the 2003 Access to Information Act (last amended in 2015), the 2011 Act on Audiovisual Media Services (last amended in 2015), the 2005 Radio and Television Corporation of Slovenia Act (last amended in 2014) and the election law. Defamation, slander and insult persist as criminal offences punishable by fines or imprisonment, which is at odds with international standards for freedom of opinion and expression.<sup>45</sup>

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

Positively, the Mass Media Act stipulates a specific threshold for ownership concentration (20 per cent) 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 a media register, which is accessible for the public and supervised by the regulator.

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.

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<sup>43</sup> See data at [Statistical Office of the Republic of Slovenia web-page](#).

<sup>44</sup> While *NovaTV24* was founded by several SDS members and supporters, *Skandal24* and *Demokracija* belong to the company *Nova Obzorja*, founded and jointly owned by the Hungarian company *Ripost Založništvo* (51.84 per cent), SDS (44.16 per cent) and *Kaloh Dejan* (4 per cent). *Ripost Založništvo* belongs to Peter Schatz, legal representative of the Hungarian *Ripost.hu*.

<sup>45</sup> According to paragraph 47 of the 2011 CCPR General Comment No. 34 to the ICCPR “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”.

ERCA specifies that public media shall ensure balance and impartiality by providing equal conditions to all contestants. All political advertising shall disclose who ordered it. Last updated in 2014, *RTV Slovenia's* internal regulation further details that one third of the total airtime allocated to debates and election-related programmes must be devoted to non-parliamentary parties and two thirds to parliamentary parties.

There is a lack of oversight of campaign and election-related reporting by the media. Both the Ministry of Culture Inspectorate responsible for Culture and Media, nominally in charge of supervising the implementation of provisions on election campaign in the media, and the Agency for Communication Networks and Services (AKOS), responsible for detecting and denouncing suspected instances of hate speech to the competent authorities, did not effectively respond to such instances during the campaign, according to ODIHR EAM interlocutors. Several stakeholders doubted the effectiveness of filing complaints to these institutions, noting that they are not perceived as independent from political power and lack public trust. Two petitions disputing the constitutionality of Articles 6 of the ERCA and 12 of the Radio and Television Corporation of Slovenia Act were filed to the Constitutional Court before the elections.<sup>46</sup>

*Compliance with campaign coverage should be supervised by an independent body empowered to conduct systematic media monitoring, authorized to decide on complaints and take prompt and effective action against infringements of the law.*

### C. MEDIA COVERAGE OF THE ELECTION

All electoral contestants were provided with several opportunities to present their views on public and private media through debates, talk shows and special programmes dedicated to elections. *RTV Slovenia* organized several political debates with all parliamentary and non-parliamentary representatives, allowing for occasional political confrontation. Sign language was always provided to guarantee deaf and hard of hearing persons the possibility to make an informed choice. Private TV channels *POP TV* and *Kanal A* organized debates among the contestants for whom opinion polls predicted entry to parliament. *RTV* regional media in Koper and Maribor mainly focused on the Italian and Hungarian candidates' political campaign.

All media interlocutors raised concerns about the broad use of racist and intolerant speech, further amplified by political discussions in social media. SDS was critical towards the press during the last week before election day, accusing the mainstream media and the public television of bias.

*Regulators could consider measures to identify instances of hate speech and disinformation in the media, with a view to ensuring an appropriate follow up in case of violations of the legislation in place.*

## XI. VOTING METHODS

While most voters cast their vote in-person at a regular polling station on election day, voting is facilitated through the provision of diverse and inclusive alternatives. These include early voting, mobile voting for ill and disabled voters as well as postal voting from both abroad and within the country, available to voters in hospitals, retirement homes, penitentiaries and persons with

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<sup>46</sup> The two petitions were filed by Mr. Blaž Babič, a former member of the party Nova Stranka and a founding member of the Gibanje Zedinjena Slovenija movement (March 2018), and Mr. Janko Veber (May 2018), head of Sloga party. The complainants argued that the legislation in force does not provide a sound basis to guarantee equal representation of all contestants in the public media.

disabilities.<sup>47</sup> Polling stations without territorial jurisdiction (OMNIA) are also made available across the country for voters without permanent residence in the district area where they vote by choice.<sup>48</sup>

Voters residing abroad could choose between three voting options: a postal ballot, in-person voting at a diplomatic representation, or in-person voting at an OMNIA polling station in Slovenia.<sup>49</sup> All voters with a registered permanent residence outside the country receive a ballot automatically.<sup>50</sup> For the first time, Hungarian and Italian national community voters residing outside of the bilingual municipalities had the opportunity to vote for their respective deputy in their place of residence anywhere in Slovenia and abroad.

Although the SEC is not provided with a specific mandate or budget for voter education, it provides detailed information on voting rights and alternative voting methods on its website. In case one of the alternative voting methods was used, the voter's choice is recorded in the voter register, enabling commission members to prevent double voting. While potential risks of voting in an uncontrolled environment were recognised by some ODIHR EAM interlocutors, no fundamental objections were raised.

Despite the broad array of voting arrangements provided to voters, some 53 per cent of registered voters took part in these elections, which was evaluated as low by ODIHR EAM interlocutors. Turnout was particularly low among the youth. Some EAM interlocutors expressed an interest in the introduction of electronic voting to encourage youth participation. Others opined that voters are not sufficiently aware of the already existing voting alternatives.

*Authorities, with adequate budget allocation, should enhance civic and voter education to promote participation and increase awareness of all existing voting arrangements.*

Persons with disabilities could be assisted in voting by a person of their choice. Almost full compliance was achieved in making all polling stations physically accessible to persons with disabilities by closing certain inaccessible polling stations, merging others, and establishing mobile polling stations in six locations.<sup>51</sup> NSIOS, a consortium of disabled persons' organizations (DPOs), expressed satisfaction with the new arrangements. While efforts were clearly notable, the ODIHR EAM observed that the mobile polling stations (rented containers) replacing inaccessible polling stations did not provide sufficient turning space inside to permit a voter in a wheelchair to access the polling booth.<sup>52</sup>

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<sup>47</sup> According to the SEC, early voting took place in 63 voting polling stations across the country during three consecutive days during the week before election day. A total of 53,158 voters cast their vote during this period (3.10 per cent of actual voters) and 1,599 voters (0.17 per cent of actual voters) participated in postal voting inside the country. Some 1,000 voters registered to vote from home, 26 voters with disabilities registered for permanent postal voting and 12 voters with disabilities registered temporarily for postal voting.

<sup>48</sup> A voter can register to vote in an OMNIA polling station up to three days before election day. 4,163 voters (0.5 per cent of actual voters) cast a vote in one of 55 OMNIA polling stations across the country.

<sup>49</sup> Some 6,831 voters used postal voting from abroad and 2,561 voters cast their ballot in diplomatic representations.

<sup>50</sup> According to authorities, many voters do not systematically provide or update their address of residence abroad, resulting in undelivered postal ballots during each election. Starting with the 2017 presidential election, should the sent electoral materials be returned undelivered during two consecutive elections, the voter will stop receiving a postal ballot until a confirmation of the address of residence is provided.

<sup>51</sup> This followed a 2017 amendment to the election law, pursuant to a 2014 Constitutional Court Decision, which specifically required all polling stations be made accessible for persons with disabilities.

<sup>52</sup> The EAM observed voting in three out of six containers set up as polling stations across the country.

There is a general lack of digital accessibility of information and communication technology tailored to persons with disability. DPOs expressed concerns to the ODIHR EAM in particular about the lack of accessible information and communication for persons with sensory, psychosocial and intellectual disabilities, such as large print and easy-to-read formats, and regretted that the SEC has not established a respective working group.<sup>53</sup> DPOs shared the opinion that e-voting could provide a viable alternative for disabled voters to exercise their suffrage rights without assistance. Previous ODIHR recommendations on the use of information formats accessible to persons with disabilities and the implementation of consultations are yet to be implemented.

*In line with previous ODIHR recommendations, authorities should engage in an inclusive dialogue with the election administration and DPOs regarding accessibility of the electoral process.*

## **XII. COMPLAINTS AND APPEALS**

The mechanism of election dispute resolution is mainly regulated by the election law. Complaints on irregularities during the nomination of candidates can be filed with the ConEC by candidates or representatives of candidate lists up to the expiry of deadline for candidate nomination. The ConEC decision can be further appealed at the Supreme Court. Complaints at ConEC can be filed until the end of the candidate registration period. The deadline for appeals as well as for issuing decisions is 48 hours. The SEC 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 has caused a violation of human rights or fundamental freedoms, with serious consequences for the plaintiff, 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. In practice, the Court has been endeavouring to examine complaints on electoral rights in time to grant remedy in case a violation is established. The President of the Court stated to the ODIHR EAM that streamlining the procedures alone is not sufficient and that constitutional complaints will need to be better regulated in the law.

During these elections, the SEC used for the first time its power to annul a ConEC decision in a case where the same person was a candidate on the lists of two different contestants. The nomination was confirmed for the list that was submitted first, resulting in the second list being rejected, as without this particular candidate the list did not meet the required gender quota for candidate list registration. The decision was overturned by the Supreme Court and the list was allowed to contest the election on the grounds that the political party should not be penalized for an occurrence that was beyond its control and due diligence. Five other appeals to the Supreme Court regarding candidate nomination were rejected. Two constitutional complaints – alleging violations of the right to stand caused by the rejection of lists for not meeting the gender quota and not giving the possibility to remedy the list – were deemed inadmissible by the Constitutional Court.

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The [CRPD Concluding Observations](#) of 16 April 2018 recommend that Slovenia ensures “the right of all persons to vote, whatever their impairment, and provide them with supported decision-making, including accessible voting materials for all persons with disabilities, regardless of their impairment”. In line with CRPD, Slovenia’s [Action Programme for Persons with Disabilities 2014-2021](#) states that accessibility “is a comprehensive concept, covering not only access to the built environment and removal of architectural barriers, but also access to information and/or communication, which enables a person with disability to be included in a wider social environment and/or all spheres of human life, (...) and political and cultural life”.

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. The ConEC can annul results in polling stations and can determine election results in the district upon a complaint. The SEC can also determine or annul results in a constituency if it has established irregularities in the work of a ConEC; the wording in the election law would imply that the SEC can only act *ex officio*. Furthermore, there is no procedure set out in the law that would allow voters to challenge ConEC and SEC decisions on results. Since these decisions are not considered administrative acts and cannot be challenged with the administrative courts, the lack of an established procedure in that regard undermines the right to effective remedy at odds with paragraph 5.10 of the 1990 OSCE Copenhagen document.

*In line with OSCE commitments, the law should be amended to establish a clear and hierarchical system of election dispute resolution pertaining to election day procedures and to the establishment of election results. To ensure effective legal redress, judicial review of relevant decisions of election administration bodies and legal standing for voters or groups of voters should be made possible.*

The National Assembly is the constitutionally mandated body vested with the authority to confirm the election of deputies through its Commission for Public Office and Elections. The National Assembly decision can be appealed to the Constitutional Court only by candidates or representatives of candidate lists. Besides potential conflicts of interest that may arise, the procedure before the Commission is not regulated in the Rules of Procedure of the National Assembly. Even if the issue of conflict of interest may be remedied during the Constitutional Court review, the absence of provisions on the procedure undermines the principle of due process and the right to effective legal redress, as guaranteed by paragraph 5.10 of 1990 OSCE Copenhagen Document.<sup>54</sup>

*In line with OSCE commitments, consideration should be given to revising the role of the National Assembly in adjudicating disputes pertaining to election results.*

### **XIII. ELECTION DAY**

In line with ODIHR methodology, the EAM visited a limited number of polling stations throughout the country during early voting and on election day, including in constituencies where Hungarian and Italian national communities can cast a second ballot.<sup>55</sup> The voting process in polling stations visited by the ODIHR EAM was transparent and orderly, and procedures were mostly followed. PB members were generally well trained.

The vote counts observed by the ODIHR EAM were reasonably well organised but procedures were not always followed, including announcing and showing the voter's choice on the ballot, as required by law. While all ODIHR EAM interlocutors expressed a high degree of confidence and satisfaction in the work of the election administration on election day, many indicated that the instructions for the counting of votes for the election of the two national community deputies lacked clarity and could have been provided earlier.

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<sup>54</sup> Paragraph 5.10 of the 1990 OSCE Copenhagen Document commits participating States to provide "effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity".

<sup>55</sup> On election day, the EAM visited 25 polling stations, including 6 OMNIA and 3 mobile polling stations, across 12 districts and 7 constituencies.

*For the election of national community deputies, timely and clear instructions for the allocation of points on the ballot and the (in)validation of ballots, enhanced training for election officials, and more voter education could be considered.*

SEC instructions require that less than 10 ballots cast for a district or constituency have to be transported to DEC or ConEC in a sealed envelope. The DEC is responsible to send the ballots to the relevant special ConEC for counting. ODIHR has previously recommended SEC to review the safeguards for ballot secrecy while operating with small number of ballots, including at OMNIA polling stations, and reiterates this recommendation.

*In line with previous ODIHR recommendations, the SEC should review the safeguards for secrecy of the vote in circumstances with a small number of ballots.*

The ODIHR EAM also observed the verification and correction of PB minutes at the DEC level. The results protocols were posted outside polling stations and SEC published the results from polling stations on its website. The ballots from early voting were counted on election day after the closing of regular polling stations. Postal ballots from Slovenia were counted on 4 June while postal ballots from abroad were counted on 11 June.

The law allows representatives of candidate lists to witness electoral process and foresees election observation by accredited organisations. For the first time for these elections, the SEC has provided regulations on criteria, conditions and procedures for obtaining accreditations.<sup>56</sup> The ODIHR EAM was informed about some party representatives visiting polling stations on election day.

#### **XIV. RECOMMENDATIONS**

These recommendations, as contained throughout the text, are offered with a view to further enhance the conduct of elections in Slovenia 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 remain to be addressed. ODIHR stands ready to assist the authorities of Slovenia to further improve the electoral process and to address the recommendations contained in this and previous reports.<sup>57</sup>

##### **A. PRIORITY RECOMMENDATIONS**

1. The authorities should consider the introduction of an effective mechanism to counter instances of intolerant rhetoric, including xenophobia and inflammatory language, in the campaign period.
2. In order to ensure effective implementation of the political and campaign finance provisions, the capacities of the oversight bodies need to be enhanced, to match the powers they are vested with. These bodies should consider a more proactive stance in providing guidance and information on political and campaign finance provisions. A possibility of closer cooperation between the institutions could be examined.

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<sup>56</sup> Two organisations, including ODIHR, were accredited as international observers. For the first time, one group of citizen observers was also accredited to observe parliamentary elections.

<sup>57</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.”

3. Consideration could be given to establishing a proactive independent media supervisory body to ensure compliance with campaign coverage. Such a body should be empowered to conduct systematic media monitoring and be authorized to decide on complaints and take prompt and effective action against infringements of the law.
4. Authorities, with adequate budget allocation, should enhance civic and voter education to promote participation and increase awareness of all existing voting arrangements.
5. In line with OSCE commitments, the law should be amended to establish a clear and hierarchical system of election dispute resolution pertaining to election day procedures and to the establishment of election results. To ensure effective legal redress, judicial review of relevant decisions of election administration bodies and legal standing for voters or groups of voters should be made possible.
6. In line with OSCE commitments, consideration should be given to revising the role of the National Assembly in adjudicating disputes pertaining to election results. If the current system will be retained, the procedure before the Commission for Public Office and Elections should be regulated to ensure due process.

**B. OTHER RECOMMENDATIONS**

7. Procedures for the removal of election commission members, including a possibility for legal remedy in such cases, should be brought in line with international commitments and good practice.
8. In line with national commitments and international standards, gender disaggregated data on the electoral process should be provided in a comprehensive manner.
9. To comply with international standards and to ensure equal suffrage, all restrictions to the right to vote which are based on mental disability should be removed.
10. To further encourage political pluralism in line with international commitments, voters should be allowed to sign in support of multiple lists.
11. Transparency and accountability of campaign finance could be improved by independent monitoring of campaign incomes and expenditures.
12. In order to increase the transparency of political and campaign funding and to eliminate existing gaps, the legal provision regulating loans should be subject to revision.
13. To comply with international standards, criminal provisions for defamation, slander and insult should be repealed in favour of civil remedies designed to restore the reputation harmed.
14. Regulators could consider measures to identify instances of hate speech and disinformation in the media, with a view to ensuring an appropriate follow up in case of violations of the legislation in place.
15. In line with previous ODIHR recommendations, authorities should engage in an inclusive dialogue with the election administration and DPOs regarding accessibility of the electoral process.

16. For the election of national community deputies, timely and clear instructions for the allocation of points on the ballot and the (in)validation of ballots, enhanced training for election officials, and more voter education could be considered.
  
17. In line with previous ODIHR recommendations, the SEC should review the safeguards for secrecy of the vote in circumstances with a small number of ballots.

## ANNEX: FINAL RESULTS

Final results were published by the State Election Commission as follows:

	Amount	Percentage
Total number of registered voters	1.712.676	100%
Total number of votes cast (turnout)	901,454	52.64%
Total number of valid votes	891,097	98.85% (of votes cast)
Total number of invalid votes	10,357	1.15% (of votes cast)

Distribution of valid votes to the political parties and allocation of seats:

Campaigning Party	Votes received	Percentage	Number of seats
Slovenian Democratic Party	222.042	24.92 %	25
List of Marjan Šarec	112.250	12.60 %	13
Social Democrats	88,524	9.93 %	10
Modern Centre Party	86,868	9.75 %	10
The Left	83,108	9.33 %	9
New Slovenia – Christian Democrats	63,792	7.16 %	7
Party of Alenka Bratušek	45,492	5.11 %	5
Democratic Party of Pensioners of Slovenia	43,889	4.93 %	5
Slovenian National Party	37,182	4.17 %	4
Slovenian People's Party	23,329	2.62 %	0
Pirate Party of Slovenia	19,182	2.15 %	0
Good Country	13,540	1.52 %	0
Andrej Čuš and Greens of Slovenia	9,708	1.09 %	0
List of Journalist Bojan Požar	7,835	0.88 %	0
For a Healthy Society	5,548	0.62 %	0
Unified Slovenia Movement	5,287	0.59 %	0
United Left and Unity	5,072	0.57 %	0
Together Forward Movement	4,345	0.49 %	0
ReSET – Save Slovenia from Elites and Tycoons	3,672	0.41 %	0
GAS – Economically Active Party	3,132	0.35 %	0
Solidarity, For a Fair Society!	2,184	0.25 %	0
Kangler & Primc United Right – Voice for children and families, the New people's party	2,141	0.24 %	0
Socialist Party of Slovenia	1,551	0.17 %	0
Slovenian Nation Party	1,237	0.14 %	0
Forward Slovenia	187	0.02 %	0
<b>TOTAL</b>	891,097	100 %	88

Distribution of votes for two seats reserved for the Italian and Hungarian national communities:

Hungarian deputy seat:

	Amount	Percentage
Total number of registered voters	5,950	
Total number of votes cast (turnout)	3,043	51.14 %
Total number of valid votes	3,001	98.62 %
Total number of invalid votes	42	1.38 %

<b>Candidate</b>	<b>Number of points</b>
Ferenc Horvath	4.193
Gabrijela Sobočan	2.772

Italian deputy seat:

	<b>Amount</b>	<b>Percentage</b>
Total number of registered voters	2,734	
Total number of votes cast (turnout)	1,486	54.35 %
Total number of valid votes	1,464	98.52 %
Total number of invalid votes	22	1.48 %

<b>Candidate</b>	<b>Number of points</b>
Felice Žiža	2.570
Maurizio Tremul	2.160
Bruno Orlando	1.043

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

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, 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 programs 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 persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, 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)).