



Office for Democratic Institutions and Human Rights

REPUBLIC OF LITHUANIA

PARLIAMENTARY ELECTIONS

14 October 2012

OSCE/ODIHR Election Assessment Mission Report



Warsaw
3 January 2013

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I. EXECUTIVE SUMMARY

Following an invitation from the Ministry of Foreign Affairs of the Republic of Lithuania to observe the 14 October 2012 parliamentary (*Seimas*) elections and based on the recommendations of a Needs Assessment Mission conducted from 26 to 28 June, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Assessment Mission (EAM) from 1 to 19 October 2012. The EAM did not remain in the country to follow the second round of voting held on 28 October.

A high level of confidence in the functioning of the democratic process was expressed by most of the interlocutors met with by the OSCE/ODIHR EAM. The campaign was conducted with respect for all fundamental freedoms, and contestants were able to campaign freely, allowing voters to learn about their programmes.

The legal framework governing parliamentary elections provides a sound basis for the conduct of democratic elections. Based on Constitutional Court rulings, the election legislation has been significantly revised over the past years. Amendments were introduced in a number of areas, including the provisions on vote-buying, candidacy rights, review of arrangements for early and postal voting, campaign content and its financing, and media access of contestants. However, as noted in previous OSCE/ODIHR reports, the legislation does not include explicit provisions for domestic observation by civil society or for international observation.

The number of voters in each electoral district is allowed by law to differ from the national average by 20 per cent. Such differences in the size of districts compromise the equality of voting rights and are not in line with international good practice. Minor adjustments of electoral districts prior to these elections led to grievances of a party representing the Polish minority, which claimed that changes to several constituencies limited the ability of the party's candidates to be elected.

The election administration enjoyed high levels of public trust and was widely perceived to be impartial and professional. In an inclusive process, the Central Electoral Commission registered a total of 1,927 candidates to run in one proportional and 71 majoritarian races. While requirements to become a candidate were easy to meet, candidates had to declare whether they had ever been convicted for any criminal offence or if they collaborated with foreign secret services. Such candidates had a corresponding note printed below their names on the election public information materials.

The regulations on election campaign financing are detailed and closely monitored. Campaign spending limits and donation disclosure requirements apply, and contestants are required to submit comprehensive financial reports after the end of the campaign. However, certain aspects of political party financing are insufficiently regulated. In particular, interlocutors noted potential for the

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

misuse of membership fees as a way of circumventing the limits on donations and the ban on donations from legal entities, and pointed to insufficient regulation and enforcement with regard to in-kind donations.

The media played a key role in the campaigns of contestants. Contestants were given equal and ample access to the public television and radio to present their campaign platforms. Voters were able to access a variety of views and information about the candidates, especially through many debates in both public and private broadcasters. However, the criminalization of libel, together with over-detailed provisions on campaign content, has the potential to stifle vibrant pre-electoral debate.

Timelines for appeals of decisions of the election administration are short, which proved to be challenging for complainants as well as adjudicators. The process for challenging the validity of election results is indirect and, contrary to international good practice, gives the final decision over the validity of the election results to the *Seimas*, rather than to a court.

Early voting was conducted between 10 to 13 October for voters who were not able to vote in their designated constituency on election day, voters in special institutions as well as homebound voters. Citizens abroad could vote as of 1 October.

In accordance with the OSCE/ODIHR's methodology for election assessment missions, the EAM did not conduct a comprehensive and systematic election-day observation. Mission members, nevertheless, visited a limited number of polling stations. Complex procedures were applied in these elections, including newly introduced cross checks and the use of IT equipment. This resulted at times in long queues of voters on election day. In line with legal requirements, the CEC announced the final results of the first round on 21 October. At the same time, the long process of tabulation of constituency results, as well as the thorough but time-consuming verification of protocols by the CEC triggered criticism of the CEC by a few political parties.

Allegations of vote-buying emerged in the final stages of the campaign and continued after the elections. After the first round, the CEC annulled the election results in one single-member electoral district classifying the distribution of ice-cream and candy by a candidate as vote-buying. While efforts to protect the integrity of the vote are commendable, the overly broad interpretation of a definition of vote-buying could have created an exaggerated impression of the level of corruption.

Following the run-offs in single-member constituencies, the CEC approved the final election results on 4 November. A number of political parties complained against the results, alleging multiple cases of vote-buying and other violations. The Constitutional Court decided that the CEC incorrectly awarded three mandates as it did not consider available information about mass vote-buying. The Court also cancelled the results of one other majoritarian race. Following the Court's decision, the *Seimas* decided to terminate the mandate of the CEC at the end of 2012 for approving inaccurate election results. The *Seimas* assembled for its first session on 16 November with 139 MPs; two majoritarian races will be repeated in 2013.

A number of recommendations in this report set out ways in which the electoral process may be further improved. The OSCE/ODIHR stands ready to support the Lithuanian authorities in their efforts to address these recommendations.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

On 1 June 2012, the Permanent Mission of the Republic of Lithuania to the OSCE invited the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the 14 October 2012 parliamentary (*Seimas*) elections. The OSCE/ODIHR undertook a Needs Assessment Mission (NAM) in Lithuania from 26 to 28 June 2012. Based on its recommendation, the OSCE/ODIHR deployed an Election Assessment Mission (EAM) from 1 to 19 October 2012. The second round of elections in 67 out of 71 single-member constituencies on 28 October was not observed by the EAM. This was the second OSCE/ODIHR mission deployed to Lithuania for national elections.²

The OSCE/ODIHR EAM was led by Ambassador Rolf Ekéus and consisted of six election experts from five OSCE participating States. The EAM was based in Vilnius and its experts also visited several municipalities, including Kaunas, Panevėžys, Alytus, Trakai and Visaginas.

The OSCE/ODIHR wishes to thank the Ministry of Foreign Affairs, the Constitutional Court, the Supreme Administrative Court, the Central Electoral Commission (CEC), political parties, media and other interlocutors for assistance and for taking time to meet with the EAM.

III. BACKGROUND

Lithuania is a parliamentary republic with a unicameral parliament. The *Seimas* has 141 members elected for a four-year term. The executive powers are mainly vested with the government and to some extent with the president. The president is directly elected by the citizens for a five-year term. The government is led by a prime-minister nominated by the president and confirmed by the *Seimas*.

The last parliamentary elections held in 2008 resulted in a politically fragmented legislature. The government coalition was formed by four parties led by the centre-right Homeland Union – Lithuanian Christian Democrats (TS-LKD) - with 45, National Resurrection Party (TPP) - with 16 seats, Liberals' Movement of the Republic of Lithuania (LRLS) - with 11 seats, and Liberal and Center Union (LiCS) - with 8 seats. The rest of the seats were held by the Lithuanian Social Democratic Party (LSDP) - 25 seats, Order and Justice (TT) - 15, Coalition of Labour Party and Youth (DP) - 10, Electoral Action of Poles in Lithuania (LLRA) and Lithuanian Peasant Popular Union (LVLS) - 3 each, New Union – Social Liberals (NSSL) – 1, and 4 independent candidates.

On 11 April 2012, the president announced the parliamentary elections to be held on 14 October 2012. Concurrently with the parliamentary elections, an advisory referendum about the construction of a new nuclear power plant was held. The referendum was assessed by the OSCE/ODIHR EAM only to the extent that it influenced the conduct of the *Seimas* elections.

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

A. ELECTORAL SYSTEM

Elections to the parliament are held under a parallel, mixed electoral system, introduced in 1992. The *Seimas* has 71 members elected in single-member constituencies under a majoritarian system

² For previous OSCE/ODIHR reports on Lithuania, see <http://www.osce.org/odihr/elections/lithuania>.

and 70 members elected by proportional representation with preferential voting in one national constituency.³

The Law on Elections to the *Seimas* (hereafter election law) mandated the creation of 71 single-member constituencies, and granted the CEC the right to establish new constituency boundaries in advance of each *Seimas* election. The current constituencies are largely the same as in 1992, with minor changes made to the boundaries every four years in order to reflect changes in the population.

The election law initially required that the population of constituencies be within plus or minus 10 per cent of the national average.⁴ This was amended in 2002 to allow for a deviation of plus or minus 20 per cent. According to the CEC, this amendment was proposed and adopted because demographic changes would have resulted in substantial changes to the boundaries of constituencies if the original limit of plus or minus 10 per cent had remained in place. It was deemed more politically acceptable to increase the permissible deviation than to change constituency boundaries.⁵ As a result, there is a large disparity in the population size among constituencies, which affects the equality of the vote. This is contrary to international good practice.⁶

Single-member constituency boundaries should be revised in order to ensure the equality of the vote between constituencies. Such a boundary review process should be preceded by broad and inclusive discussions with all the relevant stakeholders to allow for their input (see also the section on Participation of National Minorities).

In a majoritarian contest, if the voter turnout is above 40 per cent, a candidate must receive an absolute majority of votes to be elected. In case of a lower turnout, the winner must have received votes from at least 20 per cent of eligible voters. If there have been more than two candidates in the election and no one wins in the first round, a run-off is held between the two candidates who received most votes. In the proportional contest, the election is valid if the turnout is more than 25 per cent. In order to be awarded mandates a party must pass a five per cent threshold, while coalitions have to pass a seven per cent threshold.

B. LEGAL FRAMEWORK

The legal framework provides a sound basis for the conduct of democratic elections. It comprises the 1992 Constitution, which was last amended in 2004, the election law⁷ as amended last in March 2012, the 2002 Law on the Central Electoral Commission as amended in March 2012, the 2004 Law

³ The voter marks on the ballot the list of candidates whom he or she is voting for and enters the numbers of five chosen candidates in designated spaces of the ballot.

⁴ Article 9 of the 1992 law read that “the number of voters in constituencies must be from 0.9 to 1.1 of the average number of voters in all single-member constituencies.”

⁵ After some minor adjustments for the 2012 elections, the average number of voters per constituency was 36,457 voters. The largest constituency had 43,574 eligible voters, while the smallest had 29,202 voters. In 26 out of 71 constituencies, the number of voters differed by more than 15 per cent from the average, while in another 11 constituencies the difference was more than 10 per cent.

⁶ The Code of Good Practice in Electoral Matters of the Council of Europe’s Commission for Democracy through Law (Venice Commission), paragraph 2.2, provides that “the permissible departure from the norm should not be more than 10% and should certainly not exceed 15%, except in special circumstances.” See at [http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)023rev-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023rev-e.pdf). See also *Existing Commitments for Democratic Elections in OSCE Participating States*, paragraph 3.2, available at <http://www.osce.org/odihr/elections/13957>.

⁷ There are separate election laws for elections to the presidency, the *Seimas*, the European Parliament and municipal elections. At the time of this report, the *Seimas* was drafting an electoral code to consolidate the provisions of the separate laws.

on the Funding of Political Parties and Political Campaigns, and Control of Funding as amended in 2012, and the Law on Political Parties as amended in 2010.⁸ The Criminal Code also defines criminal acts related to elections⁹ and other pieces of legislation govern specific issues related to the media and campaign financing.

Several Constitutional Court decisions are part of the legal framework for elections. In particular, several amendments related to the conduct of campaigns were made to the election law following a Constitutional Court decision from 2004.¹⁰ Specifically, changes were made to equate the giving of any item of material value by a candidate or political party to a voter with vote-buying, to allow the CEC to lift the immunity of candidates, to significantly reduce early voting and postal voting opportunities, and to inject standards of morality into the conduct of campaigns.

In a separate case regarding an impeached former president, the 2004 Constitutional Court ruling established that an individual who has been removed from elected office through an impeachment process may never again stand for election, a principle that was subsequently incorporated into election-related laws.¹¹ This lifetime ban on standing for elected office was successfully challenged in the European Court of Human Rights (ECtHR) in 2011.¹² The ECtHR ruled that a lifetime ban on standing for elected office was a disproportionate punishment and therefore a violation of the individual's passive electoral rights. In 2012, the *Seimas* amended the election laws to limit the ban on standing as a candidate to four years in an effort to implement the decision of the ECtHR. However, the corresponding provisions in the Constitution were not amended.

The impeached former president attempted to register as a candidate for the 2012 elections. The CEC petitioned the Constitutional Court for instructions on how to proceed – whether to comply with the new provisions of the election law and register the candidacy or whether to apply the 2004 ruling of the Court. In September 2012, the Court stood by its 2004 ruling and reiterated that the Constitution forbids the candidacy of a person who has previously been impeached.¹³ The Court acknowledged the importance of the ECtHR ruling and Lithuania's obligations under the European Convention on Human Rights, but held that it could not reinterpret its earlier decision. In the Court's view, the appropriate means for Lithuania to comply with its Convention obligations would be to amend its Constitution through a parliamentary process. The result of these decisions was that

⁸ The Code of Good Practice of the Venice Commission, paragraph II.2.b, provides that “the 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.”

⁹ Criminal Code, Chapter XXVI Crimes against Voting Rights and Election Procedures, contains provisions among others regarding vote-buying, destruction of election materials, and falsification of election materials.

¹⁰ See case number 42/2004 “Conclusion on the Inquiry of the President of the Republic Whether the Republic of Lithuania Law on Elections to the *Seimas* was not violated during the 2004 Elections to the *Seimas* of the Republic of Lithuania”, available at <http://www.lrkt.lt/dokumen-tai/2004/i041105.htm>. The Court ruled that “a duty of the legislature stems from the Constitution to establish, by means of a law, the legal regulation ensuring honesty and transparency of the election process to the *Seimas*.” The court specifically held that it would be “impermissible” for the financing of elections to be non-transparent or uncontrolled or to allow campaign techniques that “are contrary to the morals, justice and harmony of society” and that “under the Constitution, no reasoning may justify direct or indirect buying of votes” (...) or the practice of inducing voters, “through presents or other rewards,” to participate in the elections or to vote for or against any candidate.

¹¹ Case number 24/2004, “Ruling on the Compliance of Paragraph 2 of Article 1 and Paragraph 2 of Article 2 of the Republic of Lithuania Law on Presidential Elections with the Constitution of the Republic of Lithuania”; see at <http://www.lrkt.lt/dokumentai/2004/n040525.htm>.

¹² Case *Paksas v. Lithuania*, European Court of Human Rights, Judgement of the Grand Chamber, Application no. 34932/04; available at www.echr.coe.int.

¹³ Case no. 8/2012; see at <http://www.lrkt.lt/dokumentai/2012/n120905.htm>.

the leader of a party that received a number of mandates in the elections was not allowed to register as a candidate and remains under a lifetime ban.

The lifetime ban on candidacy rights of individuals who have been removed from office through the impeachment procedure should be repealed to comply with the respective ECtHR ruling and to bring the legal framework in compliance with Paragraphs 7.5 and 24 of the 1990 OSCE Copenhagen Document and with international standards.¹⁴

Another decision of the Constitutional Court from March 2012 upheld inter-related provisions of several laws governing elections. The case was brought by a group of members of the *Seimas* who questioned the constitutionality of candidate registration provisions, the electoral threshold for obtaining proportional mandates, and the distribution of funds to political parties from the state budget. The petitioners argued that some of the candidacy eligibility criteria were not based on the requirements of the Constitution, and that other provisions were inherently undemocratic and burdensome for smaller political parties. The Court rejected all challenges with the argument that the various legislative provisions were within the constitutional authority of *Seimas* to regulate.

V. ELECTION ADMINISTRATION

A. ELECTION COMMISSIONS

Elections are administered by a three-level structure, comprising the CEC, 71 Constituency Electoral Committees (CoEC) and 2,017 Polling District Committees (PDC) with up to 5,000 registered voters. Additional polling stations were opened abroad in 56 embassies and consulates of Lithuania.

The CEC is a permanent, independent, and professional body. Parties that received proportional seats in the previous parliamentary elections appoint one member each to the CEC. The Ministry of Justice and the Lawyers' Association appoint an equal number of three or more members each, so that the number of non-party members exceeds the number of party nominated members.¹⁵ The CEC chairperson is appointed by the *Seimas* upon the recommendation of its speaker. Members of the CEC are appointed for four years some four months prior to a parliamentary election.¹⁶ Several CEC members considered that the appointment takes place too close to an election, affecting the quality of the commission's work. In addition, the CEC composition is revised after elections to reflect changes in the composition of the parliament.¹⁷

¹⁴ Paragraph 7.5 obliges OSCE participating States to "respect the rights of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination." Paragraph 24 of the OSCE Copenhagen Document states: "Any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law". In addition, paragraph 15 of the General Comment 25 to the ICCPR states that "Any restrictions on the right to stand for election [...] must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements [...]"

¹⁵ The non-party CEC members must have a law degree and are chosen by drawing of lots from a pool of nominations provided by each of the two institutions.

¹⁶ Not sooner than 140 days and not later than 120 days prior to parliamentary elections (Article 7.1 of the Law on CEC).

¹⁷ The *Seimas* revises the membership of CEC members nominated by political parties within 100 days from the parliament's inaugural session (Article 9 of the Law on CEC).

The current CEC was appointed in June 2012, with six members nominated by political parties and four members by the Ministry of Justice and the Lawyers' Association each. The CEC chairperson was appointed for his fifth mandate.

In order to allow for timely preparation of the elections and to provide sufficient time for new CEC members to familiarize with the process, the appointment of the CEC could take place earlier, sufficiently in advance of elections.

The CEC sessions were conducted in a collegial and professional manner.¹⁸ During sessions attended, the OSCE/ODIHR EAM observed that the CEC voted on its decisions after open and sometimes extensive deliberation. According to some EAM interlocutors, a higher number of legal experts in the CEC secretariat could further facilitate the work of the CEC, as CEC members were often tasked to prepare legal decisions for the commission. Prior to the elections, most of the EAM interlocutors expressed a high level of confidence in the electoral process, as well as in the impartiality and professionalism of the CEC. Post-election developments resulted in a number of concerns as regards the work of the election administration (see relevant sections).

The CoECs were appointed by 1 August. They comprised one nominee from the Ministry of Justice, one from the Lawyers' Association, one civil servant nominated by the mayor from each municipality included in the respective constituency and one member from each political party that won seats in the previous *Seimas* proportional elections.¹⁹ The chairpersons of the CoECs were appointed by the CEC from among the members, based on experience and education. Among their tasks, the CoECs verified signatures of self-nominated candidates in their single-member constituencies, delivered and collected election material to and from PDCs, and compiled and tabulated constituency election results. The CoEC chairpersons met with by the EAM showed extensive election experience.

The PDCs were nominated by 27 August with the number of members in each equal to the number of political parties and coalitions that won seats in the previous *Seimas* proportional elections or in the last municipal councils' elections, or a multiple thereof. Party representatives met with by OSCE/ODIHR EAM mentioned that finding qualified candidates for PDCs often proved to be a challenging task. The PDC composition was approved by CoECs, which also appointed the PDC chairpersons, based on election experience and education. The CEC and CoECs conducted several training activities for PDC chairpersons, including on how to operate the computer program for compiling result protocols and how to deal with complaints.

B. VOTER REGISTRATION

All citizens over the age of 18 on election day are eligible to vote, except those declared incompetent by a court. The voter list (VL) is extracted from the civil registry. Voters abroad must pre-register in order to be able to vote.²⁰

¹⁸ CEC sessions were broadcast via a live video stream and also recorded and accessible on the official CEC webpage. The webpage was constantly updated and provided detailed information.

¹⁹ If eligible political parties do not nominate CoEC members, the Ministry of Justice, the Lawyers' Association or mayors may nominate replacements.

²⁰ The diplomatic missions compiled final VLs of voters who registered for these elections by 29 September. Voters could register by mail, e-mail, or using an internet registration program. Voters who did not register in time could still vote in person in diplomatic missions, but only after their voter eligibility was confirmed and the voter was checked against possible multiple voting.

A total of 2,588,559 voters were registered for the 2012 elections. The legislation provides for in-person voting on election day, early voting, out-of-country voting, voting in special institutions, and homebound voting. According to data from January 2012, 162,563²¹ Lithuanian citizens had declared themselves to the authorities as living abroad.²² Of those, 17,007 citizens registered to vote out of country in these elections. Their votes were added to constituency 1 located in Vilnius, making this constituency larger than allowed by legal provisions.²³

The Office of Residency Register of the Ministry of Interior maintains an electronic database of all registered citizens. According to OSCE/ODIHR EAM interlocutors, the residency register, the source of the VL, is accurate and has been continuously updated. Each registered person is identified by a unique personal identification number in order to prevent multiple registrations.

The CEC maintains an electronic VL stored on a designated server that is synchronized with the residency register through a secure internet connection. The CEC compiles two types of voter lists: an electronic national VL for the entire country and separate VLs of voters residing in each of the 71 single-member constituencies. The latter are in electronic and printed formats for use in polling stations on election day. Protection of data is generally respected and monitored by the Inspectorate for Data Protection. It is prohibited to disseminate any information from the VL other than one's own personal data. Political parties do not receive extracts of the VL.

The CEC provided preliminary VLs to CoECs by 5 September. CoECs then divided the constituency VL into district VLs by 18 September. District VLs could be checked by voters in person or by phone. Final VLs were approved by the CEC on 8 October. Voters who could not find themselves on the VL on election day were added to a supplementary VL, based on proof of residence in the district and after checks against multiple voting. The number of voters added to the VL on election day was limited.²⁴

Special VLs were created for postal voting in institutions (such as hospitals, detention centres or prisons), for homebound voters, as well as for voters in military service, or those working on ships under a Lithuanian flag on election day.

PDCs were responsible for delivering individual voting cards to the voters in their districts by 6 October, a process that was assessed by the OSCE/ODIHR EAM interlocutors as time-consuming and labor-intensive. The card included basic information on where the voter should vote and was mandatory for early voting, institution and homebound voting, being attached to the postal ballot used for these types of voting. At the same time voters could easily check and print their own voting cards from the internet. For early voting most of the voting cards were printed on the spot, at the polling stations.

²¹ Data provided by the Office of Residency Register of the Ministry of Interior.

²² According to the Law on Declaration of Residency adopted in 1998 and amended in 2010, citizens who leave the country for more than six months must declare this to the authorities. The Law on Health Insurance adopted in 2009, stipulating that citizens who do not declare income must pay their own health insurance. This motivated citizens living out of country to register as such in order to avoid paying for the insurance in their municipality of origin.

²³ According to Article 33.1 of the election law, voters residing abroad are added to the VL in the constituency where the *Seimas* is located. In these elections, constituency 1 had 52,607 registered voters, which is 44.3 per cent more than the average number.

²⁴ A total of 9,093 voters were added to the VL on election day, including voters abroad.

C. NEW VOTING TECHNOLOGIES

The CEC used two computer programs for the administration of the elections. The first program called ABRIS²⁵ was available in about half of PDCs and allowed to look up voters in the electronic database and to mark those who voted. The ABRIS database was connected and synchronized with the residency register. PDC members could log into the application after verifying their identity by either using a digital signature or through the e-government platform using other means of identification similar to e-banking authentication. While as a general principle voters are required to vote in the polling station they are assigned to, in cases when all polling stations within the constituency are connected to ABRIS, a voter could also vote in any polling station within that constituency.

The second software called ADV²⁶ was used to enter polling station results into electronic protocols, and to compile constituency results and forward them to the CEC. Similar to ABRIS, access to the software requested an electronic identification of a PDC member operating the computer. The transmission of data between PDCs and the CEC was encrypted. Offline operation was also possible, as well as transmission of data through an electronic support by using encrypted files. The software comprised internal controls to allow PDCs to identify possible mistakes when filling in the protocols. The system was tested in 81 per cent of PDCs two days prior to the elections, and used by 86 per cent of PDCs for compiling election results.

For several years, the possible introduction of internet voting has been debated. A number of proposals were put to vote in the *Seimas* and its committees but were not successful.²⁷

VI. CANDIDATE REGISTRATION

In order to stand as a candidate for the *Seimas*, a person must be an eligible voter with permanent residence in the country and be at least 25 years old on election day. Persons who have not finished serving a prison sentence 65 days prior to elections, judges, active military personnel and policemen who have not retired from duty at least 65 days prior to elections cannot stand as candidates. Article 56 of the Constitution also provides that “any citizen ... who is not bound by an oath or pledge to a foreign state... may be elected a Member of the *Seimas*.” This provision is at odds with the evolving jurisprudence of the ECtHR on matters of dual citizenship.²⁸

Candidates had to declare if they collaborated with “special services of other states” or if they had any criminal convictions. Such candidates had a note printed below their names on information materials distributed to voters and posted in polling stations. This resulted in some stigmatization of concerned candidates. In particular, this affected the candidates with criminal convictions, as the note included was identical regardless of how recent or serious the criminal offence was.

²⁵ *Atvykusių Balsuoti Rinkėjų Informacinė Sistema* or System for Registering Voter Arrival in Polling Stations was first used in 2011 municipal elections and has been developed by the private company “Solver” since 2010.

²⁶ *Apygardos/apylinkės darbo vieta* or Constituency/Polling District Work Station.

²⁷ The most recent one took place on 25 September 2012, when the *Seimas* rejected the proposal to introduce internet voting for out-of-country voters; see http://www3.lrs.lt/pls/inter/w5_sale.bals?p_bals_id=-14616.

²⁸ In its judgment in the case *Tanase v. Moldova* (application no. 7/08, 27 April 2010), the ECtHR considered that the exclusion of citizens holding dual citizenship from eligibility to vote and to be elected is a disproportionate measure and, thus, contrary to Article 3 of the First Protocol of the European Convention on Human Rights. See also the Legal Framework section regarding the constitutional restriction on the right to stand for individuals removed from elected office through an impeachment process.

Candidates could be nominated by political parties and by self-nomination in single-member constituencies. In the latter case, they had to provide 1,000 support signatures, which were checked by CoECs. A candidate could run in the multi-member and in a single-member constituency at the same time, but only for one political party. In an inclusive process, the CEC registered a total of 1,927 candidates. Of these, 1,872 were registered on lists of 17 political parties and one coalition. Candidate lists comprised between 30 and 141 candidates. Another 978 candidates ran in 71 single-member constituencies on behalf of 27 parties and 31 as self-nominees. Registration applications from 15 self-nominated candidates did not meet the signature requirement and were not registered. Nineteen candidates withdrew from the races and 15 candidates were de-registered by the CEC for noncompliance with legal requirements.²⁹

In order to register a candidate list, political parties and coalitions had to submit a deposit of 10 average monthly salaries (AMS)³⁰. A candidate in a single-member constituency had to submit one AMS. These were the first parliamentary elections during which the deposit was returned also to those election contestants who did not win any seats, provided they submitted the financial disclosure forms after the elections.³¹

According to some OSCE/ODIHR EAM interlocutors, the requirements for establishing a political party³² and for registering candidacy were easy to meet, hence the large number of candidates. The most contested single-member constituency had 17 candidates competing, while the least contested had 11 candidates. Posters and proportional candidate lists, as well as booklets with single-member constituency candidates' information were printed by the CEC and provided to each polling station.

VII. ELECTION CAMPAIGN

The election campaign is mainly regulated by the election law and the Law on the Funding of Political Parties and Political Campaigns and Control of Funding. The election campaign starts with the announcement of the elections and ends 30 hours before election day. Apart from compliance with the Constitution and other legal provisions, the election campaign should not "conflict with the morals, justice or society's cohesiveness".³³ The CEC is responsible for monitoring the campaign content.

The campaign was conducted with respect for all fundamental freedoms and contestants were able to campaign freely. The campaign was more active and visible in the urban areas and conducted predominantly through electronic media and printed materials. Television was the most influential campaign means, with social media also used and gaining in importance. In addition, posters, leaflets and other printed information materials were circulated. Some candidates conducted a more personalized campaign through meetings with voters or door-to-door campaigning.

²⁹ Eight candidates did not declare they had a criminal record, one candidate was still serving a sentence 65 days before elections, one candidate was holding an incompatible position, one candidate had dual citizenship, and four candidates failed to declare collaboration with "special services of another state".

³⁰ The AMS is calculated based on the fourth quarter of the previous calendar year. Currently, one AMS is equivalent to EUR 690.

³¹ Article 41 of the election law was revised in 2010.

³² According to Article 5.3 of the Law on Political Parties, "in order to establish a political party it shall be necessary that the political party would have ... not less than one thousand of founders".

³³ Article 50.2 of the election law.

The campaign mostly focused on the economy with an emphasis on unemployment, taxes, the economic crisis and social policy issues. An important campaign topic was the debate over energy independence, particularly due to the concurrent organization of an advisory referendum about the construction of a new nuclear power plant. The construction of the power plant was strongly supported by the governmental parties TS-LKD and LRLS and opposed by LSDP, DP and the Lithuanian Peasants and Green Union (LVLS).

Another campaign feature was the emergence of new political parties. Most of them campaigned about the need for radical reforms of the political and justice systems. Some OSCE/ODIHR EAM interlocutors claimed that a number of the new parties engaged in inflammatory and provocative campaign activities.³⁴

During the campaign, allegations of vote-buying were frequent. In the run-up to the first round of elections, there were over 200 official complaints and 13 police investigations were launched in connection with such allegations. The legal definition of vote-buying is broad and was interpreted to include a wide range of activities and incentives, including provision of food at campaign events or giving a voter a ride to the polls.³⁵ While there seemed to be a high level of trust in the political and the electoral systems, the widespread accusations of vote-buying during the elections can seriously diminish public confidence.

VIII. POLITICAL AND CAMPAIGN FINANCE

The financing of political parties and election campaigns is regulated by the Law on the Funding of Political Parties and Political Campaigns and Control of Funding.³⁶ Political parties may be financed from the state budget,³⁷ membership fees, bank loans, interest on the party funds and by citizens' donations of up to one per cent of the personal income tax amount, as well as from the management of property, organization of political, cultural and other events, and the distribution of printed material. Legal entities are not allowed to make donations to political parties and to election campaigns. According to the CEC, state budget allocations constitute the largest part of political parties' income. Election campaigns may be financed from political party funds, citizens' donations, loans and interest on the funds kept in the campaign account.³⁸ Campaign expenses are mostly covered from political parties' own funds (approximately 85 per cent), and most of the campaign spending is on television and outdoor advertising (approximately 60 per cent).

³⁴ In one such case, the CEC referred to the General Prosecutor for further investigation an allegedly anti-Semitic campaign material of two candidates belonging to the "Lithuania for Lithuanians" coalition. The Prosecutor found that the material did not indicate that the primary intent was to incite ethnic or racial hatred and therefore did not launch an investigation.

³⁵ Article 5.1 of the election law prohibits "directly or indirectly buying votes, offering gifts or other rewards" to voters.

³⁶ In 2009, the Group of States against Corruption (GRECO) of the Council of Europe produced an evaluation report on the transparency of party funding and later in 2011 issued a compliance report. Recommendations offered were related to the need of strengthening the capacities of institutions for monitoring the transparency of party and campaign financing. The law was amended on several occasions, and out of 12 GRECO recommendations, 9 were "satisfactorily" and 3 "partially" implemented; see [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2011\)7_Lithuania_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2011)7_Lithuania_EN.pdf).

³⁷ Parties that received more than three per cent of votes cast in *Seimas*, municipal council, or European Parliament elections are entitled to a yearly state subvention proportional to the number of votes received.

³⁸ Private donations can not exceed 10 AMS or 10 per cent of annual income. Candidates in single-member constituencies can receive a maximum of 20 AMS in donations.

Contestants in the proportional and majoritarian races have an expenditure limit that is linked to the numbers of voters in the respective constituencies.³⁹

While campaign finance regulations are detailed and compliance with them is monitored, certain aspects of political party financing are insufficiently regulated. Members of a political party may contribute to party funding with initial, periodic and other types of membership fees in amounts detailed in the parties' statutes. OSCE/ODIHR EAM interlocutors noted potential for misuse of membership fees as a way of circumventing the limits on donations and the ban on donations from legal entities.

*In order to increase the transparency of political party and campaign financing, reasonable limits for membership fees of the political parties could be established.*⁴⁰

According to most OSCE/ODIHR EAM interlocutors, the political party and campaign funding system is perceived as transparent and providing for equitable treatment of all contestants. However, some smaller and newly formed political parties complained about the ban of financing from legal entities. Accusations from different parties and non-governmental organizations (NGO) were received by the EAM about indirect campaign financing of political parties from third entities, such as charities and youth organizations.

The correct estimation of the value of in-kind donations and the fact that they are rarely reported remain a serious challenge for transparency of funding. According to the CEC and NGOs met with by OSCE/ODIHR EAM, the instructions on the reporting of in-kind donations and the respective reporting forms which are available on the CEC website are rarely used by contestants.

The CEC is the main body responsible for supervising party and campaign finance together with the State Tax Inspectorate and the National Audit Office. All donations are public and posted on the CEC website within 10 working days. Detailed financial statements and audit reports are submitted to the CEC and made public through the CEC website within 100 days of the proclamation of the final results. Since 2010, the National Audit Office has responsibilities for auditing state subventions to political parties, but to date has not carried out such an audit.⁴¹

To ensure due oversight and compliance with legal requirements, the authorities should implement their respective legal responsibility of auditing state subventions.

³⁹ The limit in a single-member constituency is the number of voters multiplied by LTL 2 (EUR 0.6), but not less than LTL 20,000 (EUR 5,792). For contestants in the proportional race, the expenditure limit is the national number of voters multiplied by LTL 1 (EUR 0.3).

⁴⁰ The OSCE/ODIHR and Venice Commission *Guidelines on Political Party Regulation* 2011, paragraph 163, provide that: "Political parties may require the payment of a membership fee. While such fees should not be of such a high level as to restrict membership unduly, they are a legitimate source of political party funding. Legislation should ensure that membership fees are not used to circumvent contribution limits. This can be accomplished by treating membership fees as contributions"; see at [http://www.venice.coe.int/docs/2010/CDL\(2010\)073-e.pdf](http://www.venice.coe.int/docs/2010/CDL(2010)073-e.pdf).

⁴¹ Private audit firms audit political parties that receive more than 200 AMS and campaigns that receive more than 70 AMS. Political parties submit their annual reports and audit (if needed) by 15 March each year.

IX. MEDIA

A. GENERAL OVERVIEW

Some 50 television channels and 50 radio stations, 150 newspapers and magazines, as well as numerous internet-based media offer a variety of views and contribute to a pluralistic media environment. Despite growing significance of the internet,⁴² television remains the primary source of political information.⁴³

The public broadcaster - National Radio and Television of Lithuania (LRT), operates three television channels (LTV1, LTV2 and LTV *Lituanica*) and three radio stations (LR1, *Klasika* and *Opus3*). LTV1 ranks third in viewership, after the private TV3 and LNK.⁴⁴ Public LR1 along with private radios M-1 and *Lietus* have the biggest audience. As the annual budget of LRT is subject to parliamentary approval, the public broadcaster is yet to enjoy full financial independence. Except for LRT, all other media, including local ones, are private.

The most popular daily newspapers are *Vakaro žinios* (Evening News) and *Lietuvos Rytas* (Lithuania's Morning), each with an estimated daily circulation of 50,000 copies. Internet-based media Delfi.lt, reportedly with around half a million daily users, is generally perceived as a neutral source of political information.

Media are largely self-regulated. According to some OSCE/ODIHR EAM interlocutors, over the past three years, the financial situation of media (in particular of print media), has worsened due to the reduction of advertising revenues and tax increases. These financial circumstances resulted in the government becoming one of the main advertisers, as it is running public information campaigns financed from the state budget and/or EU funds. Such dependence on the government as an advertiser could compromise media's editorial independence.

B. LEGAL FRAMEWORK FOR THE MEDIA

The Constitution guarantees freedom of expression, and the right to seek, receive and impart information and ideas. However, it regards defamation as a criminal act. Libel and insult of someone's honour and dignity are also criminalized and could be punishable by imprisonment or high fines.⁴⁵ OSCE/ODIHR EAM interlocutors pointed out that cases of criminal trials targeting journalists led to an increase of self-censorship among journalists.⁴⁶

⁴² Internet is used regularly by some 63 per cent of the population; see TNS, Survey on Internet Use from Summer 2012, <http://www.tns.lt/lt/news/interneto-naudotoju-tyrimas-2012-m-vasara/>

⁴³ TNS Annual Review of Media Surveys, 2011, http://www.tns.lt/data/files/Metines_apzvalgos/Ziniasklaidos%20tyrimu%20apzvalga%202011.pdf

⁴⁴ Ibid.

⁴⁵ The Penal Code provides that defamation is punishable by up to two years (Article 154) and insult by up to one year of imprisonment (Article 155).

⁴⁶ In June 2012, the Chairperson of the Union of Journalists, Dainius Radzevicius, was sentenced to a criminal fine for defamation "as a result of his online post commenting on alleged corruption in the media based on a Wikileaks cable"; see the 21 June 2012 Regular Report to the Permanent Council of the OSCE Representative on Freedom of the Media, available at <http://www.osce.org/fom/91528> and the press-release following the sentencing, available at <http://www.osce.org/fom/91880>. Mr. Radzevicius was acquitted in October 2012 upon appeal to a higher level court.

*To fully guarantee the freedom of expression, as recommended by the OSCE Representative on Freedom of the Media, defamation and slander should be decriminalized.*⁴⁷

Media conduct during election campaigns is governed mainly by the election law, Law on the Funding of Political Parties and Political Campaigns and Control of Funding and the Law on the Provision of Information to the Public. The public media are obliged to provide equal access to all political parties and coalitions, as well as to candidates running in majoritarian contests. Debate programmes on public television and radio (LRT), which offer all contestants equal access and ample opportunities to present their views, are financed by the CEC.⁴⁸ All media can also organize free-of-charge debate programmes.

The media are obliged to provide contestants with equal conditions for paid campaigning. Campaign programmes and spots have to be paid for from the campaign fund, should not exceed 50 per cent of overall campaign expenditures and have to be clearly marked as such. The form and content of political advertising is further regulated: it should not be published on the front pages of print media, paid campaign spots should not be shorter than 30 seconds, and they have to include direct presentation of campaign platforms or important issues by contestants.⁴⁹ While the content limitations are potentially restricting the freedom of expression, several OSCE/ODIHR EAM interlocutors welcomed them as measures enforcing issue-based campaigning by the contestants.⁵⁰

The regulatory and self-regulatory system for overseeing media compliance with the legislation and the ethical code is complex.⁵¹ During the campaign period, the supervisory role over the media is vested with the CEC. In this capacity, the CEC on 25 September found some television campaign spots of the Order and Justice party to be in violation of the Law on Protection of Minors from Negative Influence of Public Information.⁵² This decision of the CEC, upon appeal, was not upheld by the Supreme Administrative Court due to the lack of justification in the CEC decision.

The CEC informed the OSCE/ODIHR EAM that before elections it registered some 150 complaints related to campaign advertising. Of these, a CEC working group on media investigated 46 complaints and adopted decisions in 10 cases; 36 cases were responded to by letter without passing a decision. Additional 59 investigations were ongoing during the week following the first round of the elections. Complaints were mostly related to hidden advertising, placement of advertising by the

⁴⁷ The General Comment 34 to Article 19 of the International Covenant of Civil and Political Rights provides that “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”. See also the 29 October 2012 press release of the OSCE Representative on Freedom of the Media hailing the above mentioned acquittal and called on the authorities “to use this momentum and decriminalize defamation altogether”, available at <http://www.osce.org/fom/96680>.

⁴⁸ On 3 September 2012, the CEC adopted the rules for debates on LRT among candidates.

⁴⁹ On 17 April 2012, the CEC provided clarifications of the legal framework and issued recommendations on political advertising that specified that other forms of political advertising such as running text, spots shorter than 30 seconds or spots created by actors, are not compatible with the legal framework.

⁵⁰ The campaign regulations were considered as less restrictive in comparison with the 2010 regulations, when the minimum length of a campaign spot was 90 seconds, and in comparison with 2008 regulations, when contestants could not use “any audio or video creations (advertising short movies, movies) on radio and TV.”

⁵¹ The overall compliance with the Law on the Provision of Information to the Public is supervised by the Inspector of Journalist Ethics, who also deals with complaints on violations of honour and dignity, privacy requirements and non-compliance with requirement of impartial coverage. Potential violations of principles of journalistic ethics are dealt with by the self-regulatory Commission on Ethics of Journalists and Publishers while the licensing of broadcasters is assigned to the Radio and Television Commission.

⁵² While the protection of minors in media is the competence of the Inspector of Journalist Ethics, the opinion of the Inspector was not consulted prior to taking the decision.

media without prior declaration of pricelists, abuse of professional positions, campaigning carried out by a third party, or publication of negative information without offering space for rebuttal.

C. MEDIA COVERAGE OF ELECTIONS

The media played a key role in the campaigns of contestants. All political parties and contestants were given equal and ample access to the public television and radio to present their campaign platforms. Voters were able to access a variety of views and information about the candidates in a wide range of media outlets.

On public LTV1, each of the 18 contestants in the proportional race was given a minimum of one hour of airtime during the campaign period. This airtime was divided among several live debate programs, with usually three contesting parties debating. All contestants were also given additional air time in debate programmes aired by LTV1 during the last week of the campaign.

While the debates among the contestants running in the proportional race were frequent during the campaign, this was not the case for the majoritarian races. Public radio LR1 aired one 30-minute live debate per each of the 71 single-member races. These presented crucial opportunities for voters to get to know and compare these candidates. However, as the debates were organized and aired live from Vilnius, they were not equally easily accessible to all candidates.

The programmes on LRT were aired nation-wide from 16 September. According to the representatives of public media, the rating of the debates aired in prime time was relatively high, despite their rather rigid set-ups.⁵³

Numerous other debates among contestants in the proportional race were available on private television channels and some internet portals. For example, eight debates among leaders of the five most popular political parties were aired by the private television *Lietuvos Rytas* during the eight weeks preceding the elections.

Paid campaign advertisements were used by parties especially on television channels. Media representatives met with by the OSCE/ODIHR EAM reported fewer requests for advertising time and space in comparison to previous elections, especially in the print and local media.

X. COMPLAINTS AND APPEALS

Decisions of electoral commissions can be appealed by the affected person or political party. Appeals can be lodged with the higher-level commission. Appeals against CEC decisions, including appeals of complaints originating from lower commissions, can be lodged with the Supreme Administrative Court. A voter can also appeal a PDC decision on VL inaccuracies to the regional administrative court.

Appeals against CEC decisions must be submitted within five days of the announcement of the decision. The five-day time period has been judicially interpreted to begin from the posting of the decision on the CEC website.⁵⁴ There were 25 appeals decided by the Supreme Administrative Court before and during the first round of elections, mostly dealing with the registration and

⁵³ The presentations of contestants were strictly timed and in comparison with some private media debates, contestants were more restricted in interacting with opponents

⁵⁴ Constitutional Court of Lithuania, Case no. 32/2008; see at <http://www.lrkt.lt/dokumentai/2008/i081107>.

deregistration of candidates.⁵⁵ The tight deadline resulted in the dismissal of one appeal brought by LLRA that challenged changes made to electoral district boundaries.⁵⁶

Decisions regarding the tabulation of election results can also be appealed to higher-level commissions. These complaints must be submitted within 24 hours of the completion of the results protocols and must be investigated by CoECs within 24 hours. Complaints related to the processing of results protocols by a CoEC must be submitted within 72 hours of the issuance of those protocols.

The process for challenging the validity of election results raises several concerns. Candidates and their parties, but not voters, can appeal the final election results to the Constitutional Court within 24 hours of their official announcement.⁵⁷ Such appeals are not filed directly with the court, but through either the president or the *Seimas*. These two institutions have discretion over whether to forward the appeal to the Court,⁵⁸ but must do so within 48 hours. The Court has 72 hours to investigate the complaint. The timelines for challenging the results are extremely short and may not allow for proper investigation or well reasoned decision-making.⁵⁹

The law should be amended to allow voters to challenge final election results and to provide for direct appeals of final results to a court.⁶⁰ Timelines for the submission and review of appeals should be reviewed to allow complainants to gather evidence and prepare well-founded challenges. Courts should also be given a sufficient amount of time to consider the evidence and to adopt well-reasoned decisions.

The Constitutional Court's conclusions are then submitted to the outgoing *Seimas* for a final decision on whether the election law has been violated. If the *Seimas* finds a serious violation and that the violation could have affected the outcome of the election, the *Seimas* has to declare the elections invalid or establish "the true" election results based on election materials submitted by the election commissions.⁶¹ The final decision on the validity of election results is taken by the *Seimas*.⁶²

⁵⁵ See details under Candidate Registration section.

⁵⁶ Supreme Administrative Court Decision no. R-146-5-2012 of 24 July 2012 and no. R-261-7/2012 of 21 August 2012.

⁵⁷ The Code of Good Practice in Electoral Matters suggests that "standing in [...] 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", II 3.3, paragraph 99. See also OSCE/ODIHR Guidelines for Reviewing a Legal Framework for Elections (CDL-AD 2009/054) paragraph 49, available at <http://www.osce.org/odihr/elections/13960>.

⁵⁸ In case number 42/2004 (see Legal Framework section) where the Constitutional Court considered a challenge to election results, the candidate appealed to both the President and the *Seimas*. The *Seimas* decided not to send the appeal to the Constitutional Court, while the President did.

⁵⁹ The Code of Good Practice in Electoral Matters, II 3.3, paragraph 95, provides that "time limits must, however, be long enough to make an appeal possible, to guarantee the exercise of rights of defense and a reflected decision. A time limit of three to five days at first instance (both for lodging appeals and making rulings) seems reasonable for decisions to be taken before the elections. It is, however, permissible to grant a little more time to Supreme and Constitutional Courts for their rulings."

⁶⁰ The ECtHR has ruled in case of *Petkov and others v. Bulgaria* of 11 June 2009 that "a remedy can be considered effective only if the applicant is able to initiate the procedure directly".

⁶¹ Article 95.2 of the election law.

⁶² Code of Good Practice in Electoral Matters, II 3.3, paragraph 94 provides that "Appeal to parliament, as the judge of its own election, is sometimes provided for but could result in political decisions. It is acceptable as a first instance in places where it is long established, but a judicial appeal should then be possible."

To ensure compliance with international good practice, the final determination regarding the validity of elections should be made by a court.

XI. PARTICIPATION OF WOMEN

The Constitution guarantees the right to gender equality. Furthermore, two anti-discriminatory laws develop gender equality more specifically: the Law on Equal Rights for Women and Men from 1999 and the Law on Equal Treatment from 2003. The Ministry of Social Security and Labour is responsible to implement the gender equality laws, while the Office of Equal Opportunities Ombudsperson oversees the implementation and respect for gender equality. In addition, many civil society organizations are active in the field of gender equality.

The president and the speaker of the outgoing *Seimas* as well as some other high-level public officials are women. However, women are under-represented in the new *Seimas* (24 per cent), although it represents a 5 per cent increase over the composition of the outgoing *Seimas*. Most political parties do not have gender quotas.⁶³ During these elections, 32 per cent of candidates were female.⁶⁴ Women constituted 78 per cent of election commission members.⁶⁵

Consideration could be given to introduce possible legislative measures that would facilitate a more balanced participation of women and men in political and public life, and especially in decision-making.

XII. PARTICIPATION OF NATIONAL MINORITIES

National minority groups in Lithuania include ethnic Poles (6.6 per cent of the population), Russians (5.8 per cent) and Belarusians (1.2 per cent). Smaller minority groups include Ukrainians, Tatars, Germans, Jews, Latvians, and Roma.⁶⁶ The Constitution guarantees the right of ethnic communities to foster their language, culture and customs. Lithuania ratified the Council of Europe's Framework Convention for the Protection of National Minorities in 2000.

The establishment of political parties on an ethnic basis is permitted. The LLRA, Russian Alliance, and Union of Russians identify themselves as representing the interests of national minorities. Of these, the LLRA contested these elections.⁶⁷ National minority candidates were also included on other parties' lists, though generally not in high positions, as noted by some OSCE/ODIHR EAM interlocutors. According to the CEC, candidates in these elections represented 11 different ethnicities.⁶⁸ National minority parties are subject to the same electoral threshold as other political parties.⁶⁹

⁶³ LSDP was the only party with a gender quota requirement for nominating candidates.

⁶⁴ On proportional lists, the average representation of women was 34 per cent and in single-member constituencies 21 per cent.

⁶⁵ Eight out of 15 members of the CEC appointed in June 2012 are women.

⁶⁶ According to the 2011 census results; see at <http://www.stat.gov.lt/en/pages/view/?id=3408>.

⁶⁷ The LLRA list also included candidates of the Russian Alliance. Two candidates of the Union of Russians ran on the Labour Party list.

⁶⁸ Provision of information about ethnic identity by candidates to the CEC was voluntary.

⁶⁹ In the 2008 elections, the LLRA fell 0.2 per cent short of the 5 per cent threshold in the proportional contest, but won 3 single-mandate seats. None of the other ethnic minority parties had seats in the outgoing *Seimas*.

*A lower threshold for minority parties could be considered to enhance the representation of national minorities in the legislature.*⁷⁰

The LLRA appealed a CEC decision on the establishment of single-mandate constituencies for these elections to the Supreme Administrative Court, claiming, among other issues, that changes to several constituencies limited the ability of the party's candidates to be elected. The Court rejected the complaint on procedural grounds and did not address the merits of the case (see Complaints and Appeals section).

*It is advisable to make future decisions about changes to constituency boundaries in consultation with national minority representatives in cases where national minority communities are affected.*⁷¹

Ballots were not available in minority languages. This was based on a 2006 Constitutional Court ruling that stated that the use of referendum ballot papers with translation into national minority languages had violated the constitutional provision on Lithuanian being the state language.⁷²

Information about political parties and basic voter information, which the CEC translated into Polish and Russian, was published in *Kurier Wilenski*, a Polish-language daily newspaper, and in the Russian-language weekly *Obzor*. The CEC also permitted an NGO to translate information about voters' rights into Polish. The OSCE/ODIHR EAM noted instances of voters appearing confused about voting procedures, which seemed to be due to, or compounded by, the lack of knowledge of the Lithuanian language.

*The provision of information on voting procedures in minority languages, particularly in areas inhabited by large minority populations, could help ensuring that national minority voters do not face language-related obstacles when voting.*⁷³

National minorities were represented at the regional and local levels of the election administration.⁷⁴ PDCs visited by the OSCE/ODIHR EAM appeared to reflect the diversity of the local population. The LLRA had 827 observers accredited for these elections.

⁷⁰ See the OSCE HCNM Lund Recommendations on the Effective Participation of National Minorities in Public Life, recommendation number 9, available at <http://www.osce.org/hcnm/32240>, and the Code of Good Practice in Electoral Matters, paragraph 2.4.

⁷¹ According to paragraph 2.2.vii of the Code for Good Practice in Electoral Matters, redefinition of constituency boundaries should be done “impartially; without detriment to national minorities; taking account of the opinion of a committee, the majority of whose members are independent; this committee should preferably include a geographer, a sociologist and a balanced representation of the parties and, if necessary, representatives of national minorities.”

⁷² The decision was taken in reference to Article 14 of the Constitution; see at: <http://www.lrkt.lt/dokumentai/2006/r060510.htm>.

⁷³ See, for example, the Concluding Document of the Vienna Meeting of 1989, paragraph 45, which calls on OSCE participating States to “ensure in practice that persons belonging to national minorities or regional cultures on their territories can disseminate, have access to, and exchange information in their mother tongue;” the UN Human Rights Committee General Comment No. 25 (1996), paragraph 12, which states that “information and materials about voting should be available in minority languages”; and Article 9 of the Council of Europe Framework Convention for the Protection of National Minorities (ratified by Lithuania without reservations in 2000), which provides for the right of national minorities “to receive and impart information and ideas in the minority language.”

⁷⁴ In August 2012, the Supreme Administrative Court ruled against a complaint by LLRA which challenged the CEC decisions regarding the appointment of two CoEC chairpersons. The LLRA had alleged that these decisions unfairly favoured other political parties.

XIII. DOMESTIC AND INTERNATIONAL OBSERVERS

Political parties and self-nominated candidates have the right to nominate two observers per polling district as well as observers to the CEC and CoECs. In addition to the accreditation of observers, contestants could also nominate representatives to the CEC and CoECs. A representative had the right to “a deliberative vote” and to express opinions during electoral committees’ meetings. The OSCE/ODIHR EAM noted that party representatives were always allowed and actively used the possibility to express their opinions during CEC sessions on matters pertaining to their own parties.

The elections were observed by 14,856 party observers and 859 party representatives, nominated by 27 parties and one coalition. The larger political parties were present with observers and election representatives in all or almost all single-member constituencies.

The legislation does not explicitly provide for observation by domestic civil society and international organizations. Nevertheless, the CEC displayed a flexible approach towards the legal provision and used its own discretion to certify 53 international observers.⁷⁵

*In order to create the legal basis for the effective implementation of Paragraph 8 of the 1990 Copenhagen Document and to ensure full access to all stages of the election process to observers, consideration should be given to introducing an explicit provision for election observation, in particular setting out rights and responsibilities of observers as well as accreditation arrangements.*⁷⁶

XIV. VOTING, COUNTING AND TABULATION OF RESULTS

Out-of-country citizens could vote starting from 1 October. Early, homebound and out-of-country voting was conducted by mail.⁷⁷ The voter placed the marked ballots into an inner secrecy envelope that was inserted together with the voting card into an outer envelope, which was then mailed to or taken to the respective PDC.

Early voting was conducted on 10 and 11 October in the municipal buildings for voters who could not come to their regular polling stations on election day. Polling stations established for early voting had ballots for all 71 constituencies. Voters had to present their voting cards or print it from the internet providing a personal identification number and ID number.

The OSCE/ODIHR EAM assessed early voting conducted in Vilnius and noted high participation, with many young voters, mostly students. Voters had to queue for up to an hour. The process inside polling stations was cumbersome, as PDCs had to process voters from 71 constituencies. Procedures were complex, including those related to voter identification, printing the voter cards, filling out the outer envelope, and placing the ballots in the secrecy envelope, and time-consuming. In combination with a limited number of voting booths for marking the ballots this led in some cases to overcrowding.

⁷⁵ Article 61.1 point 1 of the election law specifies that “...Also, [the CEC may decide on issuing observer certificates] at its own discretion”.

⁷⁶ Paragraph 8 of the 1990 Copenhagen Document states: “The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law.”

⁷⁷ Out-of-country voters could also vote in person at embassies and consulates on election day.

Voting in hospitals, detention centres and prisons was conducted from 10 to 12 October. By 10 October, homebound voters could request to be visited by one of the mobile PDC teams on 12 or 13 October, providing a justification for their inability to visit a polling station for health reasons. Voters older than 70 years of age could request voting at home without providing any justification. The CEC reported that a total of 141,300 voters used the various methods of early voting.⁷⁸

In accordance with the OSCE/ODIHR methodology, the EAM did not conduct a comprehensive and systematic observation of election day proceedings. However, mission members visited polling stations in 13 constituencies in Vilnius, Trakai, Elektrenai, Salcininkai, Svencionys, Visaginas and Ignalina municipalities.

On 14 October, election day, voting was conducted from 07:00 to 20:00. According to the CEC, all polling stations opened on time. At the entrance of polling stations, a voter's identity was checked and the voter was issued a polling station arrival card. Voter identification documents were the national ID, passport or the new type of driving license. Identified voters could be then marked as having voted in the electronic system ABRIS. The OSCE/ODIHR EAM noted that not all PDCs visited were confident in using the system. In addition, temporary system failures were reported. In large polling stations it appeared that checking and marking voters in the computer system was slowing down the process.

The OSCE/ODIHR EAM noted that a few PDCs did not have the required number of members, as not all political parties had filled the positions designated to them. Moreover, there seemed to be no correlation between the size of the district and the size of the PDC. Insufficient numbers of PDC members and of voting booths in some large urban districts slowed down the process. Queues formed inside polling stations with voters waiting to enter the booths. On several occasions, the EAM observed voters marking the ballots outside voting booths and in a few polling stations party observers were organizing the queue.⁷⁹ PDC members in polling stations visited did not provide voters with explanations on how to mark the ballots and did not instruct them to fold them. A relatively high number of invalid ballots were cast in these elections.⁸⁰

Consideration could be given to linking the number of PDC members to the number of voters in the district, as well as to lowering the current maximum number of registered voters per polling station from 5,000 to a significantly lower number. An enhanced voter information campaign, including on how to correctly mark the ballot, could also be considered.

The CEC announced at the end of election day that it had received some 343 complaints to its designated e-mail address or by phone. Most of the complaints were related to long queues or other minor incidents. The CEC forwarded these complaints for consideration to the respective CoECs. Also, some 150 complaints were submitted to the police, mostly about allegations of vote-buying. The number of these complaints increased in the days following the elections (see Post Election-Day Developments section).

⁷⁸ 5.5 per cent of registered voters voted early. This figure was 4 per cent in the 2008 elections.

⁷⁹ According to Article 61.3 of the election law, an observer has "the right to demand that the chairman and members of an electoral committee, as well as persons who are in the polling station should adhere to this and other laws". This article law was interpreted as allowing observers to be active and to intervene in the voting process.

⁸⁰ 4.2 per cent of the total votes cast in the multimember constituency election and 5.7 per cent of the votes cast in the single-member constituency elections were deemed invalid.

According to the CEC, in about 84 per cent of PDCs the election results protocols were completed directly on computers using the ADV software. Several PDCs decided not to use the software and filled in hardcopy protocols provided by the CEC. The use of ADV allowed swift collection of data at the CEC. Preliminary results were immediately uploaded on the official CEC webpage, providing transparency of the process. Electronic results from all polling stations were then checked against the hard copy protocols at the CoEC, as legally required.

The CEC announced partial preliminary results from 1,877 out of 2,017 polling stations the morning after election day. The tabulation of results took longer than in previous elections, mainly due to counting of the preferential votes,⁸¹ several recounts performed by PDCs after encountering problems when using the computer software AVD, and due to an obligatory recount of a certain percentage of proportional ballots by CoECs. CoEC 42 in Raseiniai recounted all ballots in its constituency, as the difference of votes received by the second and third placed candidates running in the single-member constituency was minimal.⁸² The recount did not change the result. The requests for recounts in another 10 constituencies as well as requests for annulling election results in 2 constituencies were dismissed by the respective CoECs as lacking grounds.

The CEC received the CoEC results protocols and verified them by 19 October. The long process of tabulation of constituency results, as well as the thorough but time-consuming verification of original results protocols against electronic results by the CEC, resulted in criticism of the CEC by a few political parties. On 21 October, the CEC announced the final results, in line with the legal requirement.⁸³ The turnout was 52.9 per cent. One majoritarian election was cancelled due to irregularities (see Post Election Day Developments). The second round of voting took place in 67 single-member constituencies on 28 October 2012. The EAM did not remain in the country to follow the second round of voting.

XV. POST ELECTION DAY DEVELOPMENTS

The days following the first round of elections were marked by public complaints about the slow vote-count and allegations of vote-buying. Most of the allegations of vote-buying were directed at the Labour Party, an opposition party and the winner of the largest number of mandates in the first round.

The CEC declared the results of the majoritarian contest in constituency 52 invalid due to alleged abuses by the Labour Party candidate, who came second. In its decision, the CEC found that the early votes cast for this candidate compared with his election day results had been “unusually high” and that he and his wife had been present at events during which there was “a massive distribution of ice cream and candy”.⁸⁴ The CEC believed that such gifts might have influenced a sufficient number of voters to change the results between the second and the third placed candidates. The winning candidate in the first round challenged the CEC decision by asking the President to request

⁸¹ In previous parliamentary elections, the preferential votes were counted only after the finalization of vote counts for the proportional and majoritarian races. Thereby, the result of seat allocation was known earlier.

⁸² Article 82.6 of the election law provides the possibility of a recount of all votes cast in a single-member constituency when the difference in votes between the top two candidates is less than 50.

⁸³ Between preliminary and final results, the maximum difference of votes received by each of the seven winning parties in the proportional race was 0.7 per cent of valid votes. One seat was reallocated from LSDP to TS-LKD.

⁸⁴ CEC decision no. 313 argues that the candidate received 25 per cent of the early votes, but only 17.9 per cent on election day, www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=435454&p_query=&p_tr2=2.

the Constitutional Court to rule on the legality of the CEC decision. The Court upheld the CEC decision.

In a separate development, previous criminal charges against the leader of the Labour Party were re-filed by the Public Prosecutor in the days between the first and second rounds of voting. The Public Prosecutor claimed that the renewal of charges was routine, while the Labour Party alleged that it was politically motivated.

The CEC approved the election results for the second round on 4 November. It found that "violations were committed in the multi-mandate area during the 2012 parliamentary elections; however, they did not have a major effect upon the final election results in the area."⁸⁵

Following a series of complaints from a number of political parties against the results in the proportional race as well as in several single-member constituencies alleging multiple cases of vote-buying and other violations, both the president and the outgoing *Seimas* announced on 6 November that the Constitutional Court should review the results of the elections. The *Seimas* also asked the Court to consider whether the CEC "examined the effects of the reported multiple instances of vote-buying upon overall election results in a proper manner."

On 10 November, the Constitutional Court ruled that "the scope of the violations of the Law on Elections to the *Seimas* was not big enough to have a major effect upon establishment of the number of mandates for candidate lists".⁸⁶ The Court decided that the CEC decision to award mandates to three of the winning Labour Party candidates ran counter to the law as it failed to take into consideration the available information about mass vote-buying.⁸⁷ In addition, the Court found that voting violations reported in constituency 48 could have affected the result in that constituency.

Following the Constitutional Court decision, on 13 November, the *Seimas* approved a resolution terminating the mandate of the CEC as of mid-December 2012 for violating the law by approving inaccurate election results.⁸⁸ On the same day, the *Seimas* passed a resolution annulling election results in constituency 48. Repeat voting in this area will be held on 3 March 2013.

On 14 November, the outgoing *Seimas* approved the list of new MPs. The mandates of the three candidates were handed to the next party members on the list. Based on the final election results, 139 members of the *Seimas* were elected and the election results were deemed invalid in two constituencies due to electoral violations. The *Seimas* assembled for its first sitting on 16 November.

⁸⁵ CEC decision no. 325, www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=436971&p_query=&p_tr2=2.

⁸⁶ See the Court decision at <http://www.lrkt.lt/dokumentai/2012/i121110.htm>.

⁸⁷ The decision was based on violations of articles 5 and 90 of the election law.

⁸⁸ Article 10.1 of the Law on CEC provides that "the powers of the CEC chairperson, his or her deputy and the Commission members shall be terminated in the following cases: ... 10) the *Seimas* adopts a decision to terminate the powers of the Central Electoral Commission according to the findings of the Constitutional Court indicating that the essential election results established by the Central Electoral Commission are not accurate or that its activities are not in compliance with the Law on Elections to the *Seimas* or the Law on Presidential Elections".

ANNEX: ELECTION RESULTS

Results in the multi-member constituency

Number of mandates	70	
Number of eligible voters	2,588,418	
Total vote cast (turnout)	1,370,014	52,93% of eligible voters
Valid votes cast	1,312,090	95,77% of total vote cast
Invalid votes cast	57,924	4,23% of total vote cast
Votes cast in early elections	143,654	10,48% of total vote cast

Political party or coalition	Number of votes	% of votes	Number of mandates
Labour Party	271,520	19.82	17
Lithuanian Social Democratic Party	251,610	18.37	15
Homeland Union - Lithuanian Christian Democrats	206,590	15.08	13
Liberals Movement of the Republic of Lithuania	117,476	8.57	7
Political Party 'The Way of Courage'	109,448	7.99	7
Party 'Order and Justice'	100,120	7.31	6
Lithuanian Poles' Electoral Action	79,840	5.83	5
Lithuanian Peasant and Greens Union	53,141	3.88	0
Liberal and Centre Union	28,263	2.06	0
Political Party 'Union YES'	24,129	1.76	0
Socialist People's Front	16,515	1.21	0
Christian Party	16,494	1.20	0
National Association 'For Lithuania in Lithuania' (Lithuanian Centre Party, Lithuanian Social Democratic Union, Coalition of National Union and the National Unity Union)	12,854	0.94	0
Party 'Young Lithuania'	8,632	0.63	0
Democratic Labour and Unity Party	4,383	0.32	0
Emigrants' Party	4,015	0.29	0
Republican Party	3,661	0.27	0
Lithuanian People's Party	3,399	0.25	0

Results in the single-member constituencies

Number of mandates	71	
First round		
Number of eligible voters	2,588,418	
Total vote cast (turnout)	1,369,909	52,92% of eligible voters
Valid votes cast	1,291,973	94,31% of total votes cast
Invalid votes cast	77,936	5,69% of total votes cast
Second round		
Number of eligible voters*	2,438,641	
Total vote cast (turnout)	875,681	35,91% of eligible voters
Valid votes cast	827,726	94,52% of total votes cast
Invalid votes cast	47,955	5,48% of total votes cast

* Elections in single-member constituency 52 were annulled, hence the lower number of total eligible voters in the second round of elections.

Political party or coalition	First round	Second round	Number of mandates
	Number of constituency where elected	Number of constituency where elected	
Lithuanian Social Democratic Party	68	4, 23, 24, 25, 28, 29, 30, 32, 34, 41, 42, 44, 50, 51, 59, 60, 62, 63, 64, 65, 71	23
Homeland Union - Lithuanian Christian Democrats		1, 2, 3, 5, 6, 7, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 35, 47, 66	20
Labour Party	43	10, 20, 26, 37, 39, 40, 49, 53, 54, 58, 69	12
Party 'Order and Justice'		31, 33, 36, 38, 61	5
Liberals Movement of the Republic of Lithuania		21, 46, 70	3
Lithuanian Peasant and Greens Union		45	1
Lithuanian Poles' Electoral Action	56	55, 57	3
Linas BALSYS (self nominated)		8	1
Povilas URBŠYS (self nominated)		27	1
Andrius PALIONIS (self nominated)		67	1
TOTAL			69**

** Elections in constituency No. 52 were annulled by the CEC. Elections in constituency 48 were annulled by the *Seimas*, following a Constitutional Court decision.

Source: http://www.vrk.lt/2012_seimo_rinkimai/output_en/rinkimu_diena/index.html

ABOUT THE OSCE/ODIHR

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

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it coordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights** and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).