

# REPUBLIC OF LITHUANIA

# PRESIDENTIAL ELECTION 12 MAY 2024

# ODIHR NEEDS ASSESSMENT MISSION REPORT 12-15 February 2024



Warsaw 23 April 2024

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# REPUBLIC OF LITHUANIA PRESIDENTIAL ELECTION 12 May 2024

# **ODIHR Needs Assessment Mission Report**

#### I. INTRODUCTION

Following an invitation from the authorities of the Republic of Lithuania to observe the 12 May 2024 presidential election, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 13 to 15 February. The NAM included Keara Castaldo, ODIHR Senior Election Adviser, and Kakha Inaishvili, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and preparations for the election. Based on this assessment, the NAM should recommend whether to deploy an ODIHR observation activity for the forthcoming election and, if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions as well as with representatives of political parties, media, and civil society. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs for assistance in organizing the NAM as well as all of its interlocutors for taking time to meet with the NAM and for sharing their views.

#### II. EXECUTIVE SUMMARY

Lithuania is a parliamentary republic with a government led by the prime minister, who is appointed by a directly-elected president, who serves as the head of state. On 12 May, voters will elect a new president for a five-year term, with a potential second round on 26 May. Concurrently with the presidential election, Lithuania will hold a constitutional referendum on dual citizenship.

The electoral legal framework was revised and consolidated into an Electoral Code in June 2022 and subsequently amended in 2023. The recent changes include additional regulations on paid political advertising, a prohibition on manipulation of accounts in social networking platforms, extended legal standing for voters and other stakeholders, an obligation for candidates to declare past party membership, a ban on campaigning by representatives of commercial institutions during working hours, and a shortened campaign silence period. Some of these amendments addressed prior ODIHR recommendations including on extending legal standing for voters and stakeholders and lifting the lifetime ban on the right to stand for those dismissed from office through impeachment; however, others, including those related to removing restrictions on candidacy and voting rights and criminal liability for defamation, remain unaddressed.

The election will be administered by a three-tiered structure led by the Central Election Commission (CEC) and voters have a range of possibilities to exercise their suffrage, including through early, homebound, out-of-country, and postal voting. Preparations for the election are ongoing and most ODIHR NAM interlocutors expressed trust in the professionalism and overall transparency of the election administration. Several ODIHR NAM interlocutors noted significant progress in the physical accessibility of polling stations, but noted that the training of election officials on facilitating the participation of persons with disabilities could be improved.

The CEC maintains a nationwide electronic voter register that contains some 2.3 million registered voters, and electronic voter lists in polling stations facilitate the ability of voters to cast ballots away from their place of residence. No ODIHR NAM interlocutors raised concerns about the voter registration process or the accuracy of voter lists. Citizens who have been deprived of legal capacity do

not have the right to vote, contrary to prior ODIHR recommendations and the principles of the Convention on the Rights of Persons with Disability.

Any citizen by birth over the age of 40, who has lived in Lithuania for at least the last three years and is eligible to be elected to the parliament, may stand for president. Candidates can be nominated by political parties or run independently, and must be supported by at least 20,000 voters and pay an electoral deposit. While most ODIHR NAM interlocutors did not raise concerns related to the candidate nomination or registration process, others considered certain legal requirements as overly strict. Despite previous ODIHR recommendations, the legal framework retains restrictions on candidate eligibility on the basis of residency, dual citizenship, and for persons declared legally incapable.

The campaign, which formally began in November 2023, is expected to focus on national security and defence policies as well as on socio-economic issues. While no ODIHR NAM interlocutor raised concerns about the ability of candidates to campaign freely, some anticipated negative online campaigns and inflammatory rhetoric, as well as disinformation and manipulation of sensitive issues, especially on social networking platforms. The new Electoral Code requires that contestants declare all social network accounts through which they intend to disseminate political advertising and contains certain prohibitions on manipulating content.

Political parties may be eligible for public funding, including for election campaigns, which may be financed from parties' and candidates' own funds as well as donations from individuals. Cash donations as well as donations by legal entities are prohibited. The Electoral Code sets limits for campaign donations and expenditures and provides disclosure requirements. Overall, most ODIHR NAM interlocutors did not express major concerns regarding campaign finance reporting or oversight mechanisms; however, some noted a lack of an effective system for monitoring third-party campaign spending on social networks.

The media landscape is diverse and includes a range of public and private television and radio stations, as well as print and online media. The national public broadcaster provides free airtime for all contestants; all political advertisements in private media should be marked and their price should be equal for all contestants. Most ODIHR NAM interlocutors expressed overall satisfaction with their access to media and information as well as electoral media coverage on the national level. Defamation remains a criminal offense, despite previous ODIHR recommendations, though interlocutors indicated this is rarely enforced. Amendments in 2022 to the Civil Procedure Code introduced measures to prevent abusive litigation against journalists.

In the revised electoral legislation, election-related complaints can be filed by voters, political parties and candidates, their proxies, and observers. Decisions of election commissions can be appealed with superior election commissions and those of the CEC to the Supreme Administrative Court and for certain matters the Regional Administrative Court. Despite a prior ODIHR recommendation, the Electoral Code does not provide a mechanism for the parliament's final decision on election results to be appealed to a judicial authority. ODIHR NAM interlocutors did not raise major concerns with the current system for resolving election disputes, but a few noted shortcomings in the procedures for appealing election results.

The Electoral Code provides for citizen and international election observation throughout the electoral process. The authorities facilitated the work of the ODIHR NAM and gave assurances that a potential ODIHR observation activity for the election would be welcome. However, the invitation extended to ODIHR to observe the election was conditioned on excluding the nationals of certain OSCE participating States, contrary to Lithuania's commitments in paragraph 8 of the 1990 OSCE Copenhagen Document and impacting the ability of ODIHR to deploy an election-related activity.

Most ODIHR NAM interlocutors expressed full confidence in the electoral process while also welcoming a potential ODIHR observation activity, recognising the value of an external assessment for further improvements. At the same time, many interlocutors raised concerns regarding disinformation and intolerant rhetoric on social networks. Others highlighted issues that would merit specific attention from an ODIHR observation activity, including the conduct of the campaigns, including online and in the media, restrictions on candidacy, the participation of underrepresented groups, including national minorities and persons with disabilities, and some aspects of campaign finance regulations. Based on these considerations, the ODIHR NAM recommends the deployment of an Election Assessment Mission for the 12 May presidential election but is unable to accept the invitation to observe with the included conditions.

#### III. FINDINGS

#### A. BACKGROUND AND POLITICAL CONTEXT

Lithuania is a parliamentary republic, with a government led by the prime minister, who is appointed by a directly elected head of state – the president. The 141-member *Seimas* (parliament) is elected for a four-year term. On 12 November 2023, the parliament called the presidential election for 12 May 2024 with a potential run-off taking place on 26 May. The current president, Gitanas Nausėda, elected in May 2019, has announced his intention to seek re-election.

Concurrently with these elections, Lithuania will hold a constitutional referendum on dual citizenship, the second attempt at organizing such a referendum following its failure in 2019 to obtain the required votes to pass the amendments. ODIHR NAM interlocutors did not raise any concerns related to the simultaneous administrative and political conduct of the referendum process during the presidential election. In addition to the presidential election, Lithuanians will also vote in European Parliament elections in June and in parliamentary elections on 13 October. Given the number of electoral processes in the coming months and citing a difficult geopolitical situation, several interlocutors expressed concerns regarding potential external interference, including through the manipulation of online content.

The 2020 parliamentary elections resulted in a shift of power to the then-opposition party Homeland Union – Lithuanian Christian Democrats (50 seats), which formed a majority coalition with the Liberal Movement (13 seats) and the Freedom Party (11 seats). The Farmers and Greens, the main party in the previous governing coalition, came second in the polls (32 seats), followed by the Social Democratic Labour Party (13 seats), the Labour Party (10 seats), the Electoral Action of Poles – Christian Families Alliance (3 seats), the Social Democratic Labour Party (3 seats), and 4 seats were obtained by independent candidates.

Women remain under-represented in the parliament holding 40 of 141 seats (27.6 per cent); in the current government, 6 of 15 ministerial posts are held by women.<sup>2</sup> There are 3 women among the 9 judges of the Constitutional Court and 7 among the 20 judges of the Supreme Administrative Court. In the outgoing parliament, 45.4 per cent of MPs are below 45 years of age.<sup>3</sup>

The parliament approved the resolution on the referendum on 23 May 2023. The compulsory referendum will be on a proposed amendment to Article 12 of the Constitution which would provide for dual citizenship.

See 2023 Inter-parliamentary Union data on Women in Politics.

See 2023 Inter-parliamentary Union report on <u>Youth Participation in National parliaments</u>.

ODIHR has observed five elections in Lithuania since 1996.<sup>4</sup> Most recently, ODIHR deployed an Election Expert Team to assess the 2020 parliamentary elections. Its Final Report contains 14 recommendations, including 4 priority ones, for the authorities to improve the electoral process and bring it closer in line with OSCE commitments.<sup>5</sup>

#### B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The presidential election is regulated by the 1992 Constitution (last amended in 2022), the 2022 Electoral Code (last amended in 2023), the Law on Political Organizations adopted in 2022, and the relevant provisions of the Code of Administrative Offences and the Criminal Code. The Central Election Commission (CEC) issues supplementary regulations. Lithuania is a party to major international and regional instruments related to the holding of democratic elections.<sup>6</sup>

The electoral legal framework was revised and consolidated into an Electoral Code in June 2022 and subsequently amended in 2023. The new Code introduced, among other changes, regulations on paid political advertising, prohibition of the manipulation of accounts on social networking platforms, a ban on campaigning by representatives of commercial institutions in their organisations during working hours, revised deadlines for candidate and voter registration, a shortened campaign silence period, an obligation for candidates to declare past party membership, and a requirement for the CEC to publish candidate information indefinitely on its website. While some changes were in line with prior ODIHR recommendations, including the extended legal standing for voters and other stakeholders and the revision of the lifetime ban on the right to stand for those dismissed from office through impeachment, other previous recommendations remain unaddressed, including those related to removing unnecessary restrictions on candidacy and voting rights, repealing criminal liability for defamation, publishing voter lists, and enabling judicial review of election results.

The president is directly elected for a five-year term through a two-round system in a single nationwide constituency. To be elected in the first round, a candidate must obtain the absolute majority of all votes cast with a turnout of at least 50 per cent, or the votes of at least one-third of all registered voters if the turnout is below 50 per cent. If no candidate is elected, a second round is held between the two frontrunners, and the candidate who receives the most votes is elected, irrespective of turnout.

# C. ELECTION ADMINISTRATION

The election will be administered by a three-tiered system led by the CEC and comprising 60 Municipal Election Commissions (MECs) and some 2,000 Precinct Election Commissions (PECs). Most ODIHR NAM interlocutors expressed trust in the professionalism and overall transparency of the election

See all prior ODIHR observation reports on Lithuania.

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". See ODIHR Electoral Recommendations Database at Paragraph25.odihr.pl.

Including the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICRD), 1966 International Covenant on Civil and Political Rights (ICCPR), 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1995 Council of Europe Framework Convention for the Protection of National Minorities, 2003 UN Convention against Corruption, and 2006 UN Convention on the Rights of Persons with Disabilities (CRPD). Lithuania is a member of the Council of Europe's European Commission for Democracy through Law (Venice Commission) and the Group of States against Corruption.

The Electoral Code incorporated provisions from the Laws on Presidential and Parliamentary Elections, the Law on the Central Election Commission, and the Law on Funding of Political Campaigns and Control of Funding.

Additional polling stations are established in Lithuania's diplomatic and consular offices and on ships at sea to facilitate out-of-country voting.

administration, though some questioned the efficiency of certain processes as well as the role of the CEC, as a partially politically-composed body, in regulating certain aspects of the process.

The CEC is a permanent body with extensive election management and oversight powers, including the right to initiate draft legislation and to conduct investigations. The CEC is a mixed professional-political body, currently comprised of 13 members, appointed by the parliament for four-year terms. Members are nominated by the president, the Ministry of Justice, and the Lithuanian Bar Association (two each), as well as by the political parties that received proportional seats in the previous parliamentary elections (one each). Seven CEC members, including the chairperson, are women. All CEC sessions are open to the public and streamed online. Preparations for the election are underway, and the CEC has regulated various aspects of the ongoing process.

The MECs, which are temporary bodies appointed by the CEC, were established in February to administer the upcoming presidential and European Parliament elections.<sup>10</sup> They oversee election preparations and the conduct of elections in each municipality, including tabulating and transferring the voting results of the municipality to the CEC. PECs, which were formed by the MECs by 28 March, conduct voting and counting on election day as well as facilitate homebound voting and consider election day complaints.<sup>11</sup>

The Electoral Code provides for alternative voting methods, specifically, early, postal, mobile, and out-of-country voting. Voters who cannot go to their polling station on election day can vote in advance at designated municipal premises. <sup>12</sup> Voters with physical disabilities or limited mobility, those aged over 70 as well as ill voters may request a mobile voting option at their home before election day. <sup>13</sup> Voters at health or social care institutions, military units, and penitentiaries may vote at special polling stations established at these institutions. <sup>14</sup> Some ODIHR NAM interlocutors questioned the integrity of the voting process in special institutions.

The Electoral Code requires municipalities to consult disabled persons' organizations when choosing premises for polling stations, and the Central Election Commission has taken some positive steps to facilitate the voting process for voters with various types of disabilities, including by developing criteria for municipalities in consultation with DPOs and by providing assistive tools such as Braille templates for ballots, magnifying glasses and easy-to-read informational materials. Several ODIHR NAM interlocutors noted significant progress in providing physically accessible spaces for polling locations in recent years. However, some interlocutors described a lack of sufficient evaluation of selected locations prior to election day and limited resources for DPOs to evaluate such premises and to create accessibility tools on behalf of election management bodies when requested. Interlocutors also noted that further training could be provided to polling staff to ensure adequate knowledge of the tools available for voters with disabilities.

Citizens abroad may register to vote with their diplomatic or consular office and may indicate whether they would cast a ballot either in-person at the respective diplomatic site or by mail. For the first time,

The number of members nominated by parties depends on the number of qualifying parties, but must not exceed the total number of members nominated by non-partisan institutions; in such cases, the latter may nominate additional members to ensure balance, as prescribed by law.

MEC members consist of nominees from the Ministry of Justice, Lithuanian Bar Association, municipal administration, and all parliamentary parties that won a proportional seat in that MEC district.

PEC members are nominated by political parties represented in either the parliament or the corresponding local council with any vacancies filled by citizens nominated by the heads of local administrations.

Early voting will take place from 7 to 9 May.

Voting at home will take place on 10 and 11 May. For voters requiring mobile voting who are temporarily staying in the territory of a polling station where they are not registered, mobile voting will take place on 9 May.

Voting at special polling stations will take place from 8 to 10 May.

citizens may pre-register once to participate from abroad in all elections taking place in the calendar year. Pre-registration for in-person voting abroad is not obligatory, as citizens may also vote at designated polling locations without pre-registering. According to the CEC, out-of-country voting will be organized in 52 locations.

The CEC collaborates directly with the National Cyber Security Centre (NCSC) on a regular basis in order to inspect the CEC's information resources and to conduct upgrades and tests to the related information systems. For the upcoming elections, the CEC and NCSC will provide various trainings for election commissions and other stakeholders, including on cyber-hygiene, with the aim to increase resilience against potential cyber-attacks, and will establish a situation centre to monitor network systems for potential interference or breaches on and around the election day.

#### D. VOTER REGISTRATION

Citizens aged 18 years or older on election day are eligible to vote. Despite previous ODIHR recommendations and contrary to the Convention on the Rights of Persons with Disabilities (CRPD), the Electoral Code continues to disenfranchise persons declared by a court as legally incapable.<sup>15</sup>

Voter registration is passive and voters are automatically included in voter lists based on their permanent residence. Citizens residing abroad may actively register either in the diplomatic representation or via the designated online system in order to indicate their preferred voting method. The CEC maintains a national electronic voter register which is updated daily based on data extracted from population and residency registers as well as information provided by different institutions, such as diplomatic representations, healthcare institutions, and military units. <sup>16</sup> According to the CEC, there are currently 2,339,533 million registered voters.

The CEC prepares preliminary voter lists by municipality and polling station and transfers them to respective MECs no later than 39 days before election day. By law, voters are given the possibility to verify the accuracy of their data in-person at polling stations and online. The voter lists are not published, but observers as well as political parties and their representatives may scrutinise voter lists in line with a procedure established by the CEC. The voter lists are finalised seven days before election day and can only be amended by the CEC. Voters may be added to the lists at polling stations on election day with proof of identity and residence, with verification facilitated by the electronic register.

On election day, registered voters may cast a ballot in any polling station in the country, regardless of their place of residence. PECs are equipped with electronic voter lists which are connected to the nationwide voter register. Upon arrival and following their identification, voters are marked in the electronic lists, and voters who wish to vote in a polling station other than that where they are registered, may do so once the polling staff has verified that the voter has not yet voted. No ODIHR NAM interlocutors raised concerns about the process of voter registration or the accuracy of voter lists.

According to Articles 12 and 29 of the <u>CRPD</u>, "State Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life" and ensure their "right and opportunity [...] to vote and be elected". Paragraph 48 of the CRPD Committee's <u>General Comment No. 1 to Article 12 of the CRPD</u> states that "a person's decision-making ability cannot be a justification for any exclusion of persons with disabilities from exercising [...] the right to vote [and] the right to stand for election".

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

#### E. CANDIDATE REGISTRATION

Citizens by birth over the age of 40, who have resided in the country for at least the past three years, and are eligible to be elected to parliament, may stand for election. <sup>17</sup> The legal framework disqualifies citizens serving a prison sentence, persons with intellectual or psychosocial disabilities, and those with dual citizenship. Following the legal amendments and in line with a prior ODIHR recommendation, individuals who have been removed from state office, had their mandate in the parliament revoked, or were dismissed due to impeachment are no longer permanently disqualified from holding public office and can stand for election 10 years after the expiry of such a decision. <sup>18</sup> ODIHR has previously criticized other restrictions, including on the basis of residency, dual or naturalized citizenship, and for persons declared legally incapable, which remain in the legal framework.

Candidates can be nominated by political parties or may self-nominate. Before the official nomination period, prospective contestants were required to pre-register with the CEC by 19 February as political campaign participants and to open a designated bank account to manage their campaign contributions and expenditures. <sup>19</sup> At the time of holding the NAM, the CEC had received applications from 12 prospective contestants, including 7 independent candidates.

The official nomination period began on 19 February and ended on 8 March.<sup>20</sup> Upon nomination, prospective candidates were required to submit to the CEC their income and asset declarations, approved by the State Tax Inspectorate, together with declarations of private interests. Some ODIHR NAM interlocutors stated that the declaration of private interests is in practice a formalistic procedure without genuine verification.

By law, nominees must disclose past co-operation with foreign security services and current or prior criminal convictions, as well as, since 2023, all previous and current party memberships and their duration. The information on convictions and party membership, along with other potentially sensitive information, must be included in official voter information materials.<sup>21</sup> ODIHR previously recommended that the purpose and format of including such information could be reviewed.

To register, potential candidates are required to pay a deposit of EUR 8,995 and to provide a minimum of 20,000 supporting signatures, which are subject to verification either partially or in full.<sup>22</sup> A voter can sign in support of multiple candidates. The verification procedure is not public, but contestants receive a detailed list of errors discovered. Following the 2023 amendments, the CEC may, at the request of the political organisation that nominated the candidate, refuse to register, or cancel the registration of a candidate if it is found that a pre-trial investigation has been initiated against the candidate. Registration ends on 11 April and the CEC must publish the list of registered candidates on its website

Judges, military personnel, certain categories of public officials, as well as persons "bound by an oath or pledge to a foreign state" cannot stand.

In 2011, the European Court of Human Rights ruled that this lifetime ban on standing for elected office was a disproportionate punishment in violation of the ECHR. See *Paksas v. Lithuania*, ECtHR, 6 January 2011.

In addition to proof of opening a bank account, prospective contestants must submit a document certifying that there are no funds in the account as well as a copy of the contract with the financial audit firm or an auditor.

Upon receipt of the application documents, the CEC shall, within no more than three days, either issue the signature collection sheets to the party or candidate or adopt a reasoned decision to refuse to issue them.

According to the Ministry of Justice the requirements for this information to be disclosed are aimed at ensuring voters are well informed about the candidates. The CEC also publishes on its website candidates' place of birth, nationality, education, foreign language skills, hobbies, marital status, spouse's name, children's name, telephone number, and email address.

If needed, the CEC verifies signatures by comparing the voter's supplied personal data against various state registries. Nominees can also collect support signatures via a CEC-administered electronic system. The deposit is returned upon receipt of the candidate's final campaign finance report following the election if the candidate receives at least 7 per cent of the vote.

by 12 April. While most ODIHR NAM interlocutors did not question the candidate nomination or registration process, a few interlocutors considered certain legal requirements, such as the residency requirement, as overly strict, and raised concern about a lack of clarity on the eligibility of prospective candidates who held posts outside of Lithuania.

#### F. ELECTION CAMPAIGN

The official campaign period starts from the call of the elections (12 November 2023) and ends with a silence period, shortened by the recent amendments, that starts seven hours before the opening of polls and lasts until the end of voting. The law stipulates principles of morality, social harmony, fairness, and honesty in the conduct of the election campaign and prohibits campaigns that contradict these principles. The Constitution guarantees the freedoms of association and peaceful assembly. No ODIHR NAM interlocutors noted any concern about their ability to campaign freely.

The Electoral Code prohibits campaigning by public institutions on the national and European levels, and public employees may not participate in political activities during office hours nor use public resources for campaign purposes. Following the 2023 amendments, employees of commercial and other private bodies or enterprises are prohibited from conducting campaigns in their offices during working hours.

The new Electoral Code requires that contestants must declare to the CEC all accounts on social networks through which they intend to disseminate paid political advertising and campaign materials and must designate authorized individuals who will administer the dissemination of paid advertising on these accounts. The 2023 amendments to the Electoral Code included a prohibition on manipulating accounts on social networking platforms, such as by artificially promoting content with the use of automated accounts. The CEC may request the Lithuanian Radio and Television Commission and the Inspector of Journalists' Ethics to assess potential manipulation of content on these platforms during the campaign, and may decide against such actions based on the provided assessment. Campaigning by third-parties is not regulated, including in online media and on social networking platforms, except for the prohibition of third-party funding of contestants' campaigns. All paid political advertisements must be marked as such with the disclosure of sponsorship.

Most ODIHR NAM interlocutors noted that in addition to national security and defence policies, which fall directly under presidential authority, the campaign topics will feature the ongoing war in Ukraine, domestic social and economic issues, migration, and co-operation with NATO. At the same time, some interlocutors expressed concerns about negative online campaigns by third parties, polarization exacerbated by disinformation and manipulation of sensitive issues, as well as inflammatory or intolerant rhetoric, including sexist rhetoric and especially on social networks. Some questioned the potential advantages of incumbent politicians as candidates and their access to public resources, and related oversight of this. A few indicated that vote-buying remains a potential concern, but mostly in parliamentary and local elections.

The law provides for the participation of national minorities in elections on an equal basis and political parties may be established based on ethnic grounds. Campaign-related events are usually aired by broadcasters only in the Lithuanian language, and without subtitles. While some election-related information is translated in minority languages, and available online, there is no public or private television (TV) or radio channel based in Lithuania that operates in any minority language. The CEC plans to prepare special press releases with key election-related information in some minority languages to inform voters.

#### G. PARTY AND CAMPAIGN FINANCE

The Electoral Code and the Law on Political Organizations regulate party and campaign finance. Direct public funding is provided for political parties that received at least two per cent of of all votes cast in the last parliamentary, municipal councils elections and elections to the European Parliament.<sup>23</sup> Other sources of political party income include donations from natural persons (only during the campaign), membership fees, loans, interest accrued on bank deposits, commercial activities, income from property and 0.6 per cent of annual income tax voluntarily accorded to political parties by citizens. As indirect public funding, the state covers costs associated with the campaign such as debates and programmes on radio and TV.

Campaigns may be financed from political party funds, candidates' private funds, and donations (including in-kind) from individuals.<sup>24</sup> Both parties and candidates may not receive contributions from legal entities or foreign sources. All campaign finance transactions must be made via a dedicated bank account. Cash donations as well as donations by third parties are prohibited.

The CEC is the primary oversight body with responsibility for reviewing and publishing contestants' campaign finance reports and reacting to violations, and establishes limits on campaign contributions and expenditures for each election. For this election, individual donations may not exceed EUR 17,990 while contributions from a candidate's own funds are capped at EUR 35,980.<sup>25</sup> Each contestant is subject to public disclosure of campaign income. Upon receipt of donations, campaign treasurers must verify the eligibility of the donor in a CEC-administered database.<sup>26</sup> The identities of donors who contributed more than EUR 50 are disclosed online. The campaign expenditure ceiling is set at EUR 2.2 million per contestant and increases by 25 per cent for run-off candidates.

Contestants are required to provide the CEC with detailed and regular information on their campaign income and expenses throughout the election period, including any contracts with service providers. The CEC is responsible for publishing this information on their website within 10 working days after receiving it. After the election, contestants are required to submit final income and expenditure reports to the CEC. For income above EUR 125,930, the reports must be submitted within 85 days after the announcement of final election results (27 August), and for lower amounts, within 25 days (27 June). All finance and audit reports must be published by the CEC no later than 10 working days from the date of their receipt.

The legislation provides for sanctions for campaign finance and reporting violations. The CEC can impose financial sanctions and refer cases to the Special Investigation Service and the Prosecutor's Office. Sanctions include administrative fines or imprisonment, rejection of reimbursement of the financial deposit, loss of public funds of a political party for up to two years, and dismissal from elected office. Overall, most ODIHR NAM interlocutors did not express major concerns regarding campaign finance reporting or oversight mechanisms. While many welcomed efforts to track sponsored political content in online platforms, some noted a lack of an effective system for monitoring third-party campaign spending.

Parliamentary parties receive additional support. The amount of funding per party depends on the number of votes received and number of parliamentary seats obtained.

The value of in-kind as well as monetary donations by natural persons may not exceed 10 average monthly salaries. The procedure for evaluating in-kind donations and calculating their real value is determined by the CEC.

Donations are calculated as follows: individual donations may not exceed 10 per cent of the donor's annual income during the previous year or 10 average monthly salaries. Candidates' donations (including for their campaign or other campaign participants and membership fees paid to a political party) may not exceed 20 average monthly salaries or 20 per cent of the candidates' annual income during the previous year.

The State Tax Inspectorate inspects donor eligibility and informs the CEC of any potential infringements.

#### H. MEDIA

The media landscape includes a range of public and private TV and radio stations, print media outlets, and online media. Television, radio, and news websites are the most popular forms of media, whereas the consumption of print media follows the global downward trend. TV3 Group comprising 3 TV channels, and 1 radio station, and LNK Group with 5 TV channels dominate the market in terms of audience. Despite the considerable number of media outlets, media ownership remains concentrated within two private media groups. As of January 2023, the legislation requires the public disclosure of ownership details of media outlets, including of ultimate owners of news media.

While the public broadcaster *Lithuanian Radio and Television (LRT)* operates independently and the Information Law guarantees its editorial independence, several ODIHR NAM interlocutors conveyed that the editorial autonomy of private and especially regional media remains a concern, claiming that media organisations with political ties are often not immune to political influence.

The Constitution and the Law on Public Information (hereinafter Information Law) guarantee the freedom of expression, and the right to information and prohibit censorship and hate speech. <sup>29</sup> Despite previous ODIHR recommendations, defamation remains a criminal offense punishable by fines or imprisonment. <sup>30</sup> In practice though, the punishment has not been used for some time. Amendments in 2022 to the Civil Procedure Code introduced measures to prevent abusive litigation against journalists. <sup>31</sup>

Media conduct during the election is regulated by the Electoral Code and the Information Law. The CEC oversees the compliance of broadcast, print and online media with these rules during elections and issues relevant instructions and additional regulations. The Radio and Television Commission (RTC) is responsible for adjudicating complaints related to the content of broadcast media, including on dis- or misinformation and hate speech.<sup>32</sup> The CEC may apply to the RTC, the Public Information Ethics Commission, and the Inspector of Journalist Ethics to request their expertise regarding electoral media coverage, political advertisements, or other issues.

Election contestants must be provided with free airtime on an equal basis on the public broadcaster *LRT*, which is usually provided in the form of candidate debates organized together with the CEC.<sup>33</sup> Several ODIHR NAM interlocutors, including media representatives, questioned the effectiveness of the current rules, which prioritise the equal allocation of time to contestants rather than the quality of the debates or their content. The *LRT* informed the ODIHR NAM that it plans to air the CEC's voter information

According to the World Bank data, internet penetration in the Republic of Lithuania stood at 88 per cent.

Also known as "Strategic Lawsuits Against Public Participation" (SLAPP). The amendments provide a possibility of early dismissal of the claim if a court establishes that the very claim may be categorized as SLAPP.

The Ministry of Culture developed the publicly available Information System of Producers and Disseminators of Public Information, which among others provides data on media owners and amounts of funds obtained from public bodies. Media service providers had to submit their ownership data by June 2023.

Access to information held by public authorities is regulated by the Law on the Right to Obtain Information and Data Reuse.

According to Paragraph 47 of the <u>2011 CCPR General Comment No. 34 to ICCPR</u>, "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".

The RTC regulates and supervises activities of radio and TV broadcasters and providers of on-demand audio-visual media services, activities of video-sharing platform providers and re-broadcasters as well as other persons providing users with the service of dissemination of TV programmes or individual programmes via the Internet. As an independent body, RTC is accountable to the parliament. As of March, 2022, following the Russian Federation's invasion of Ukraine, the RTC decided to suspend broadcasts by certain Russian and Belarusian TV channels, as well as 57 websites, for a period of five years on the basis of propaganda and incitement of war.

The CEC, in agreement with the head of *LRT*, approves the rules for the preparation of these programmes, their duration and time. The CEC also reviews complaints concerning the production of debates.

campaign, and that it will broadcast election-related programmes, including content with sign language interpretation.

All broadcasters have the right to host debates on their initiative, to ensure diversity of opinion and equality. The Electoral Code introduced the definition of paid political advertising during electoral campaigns and updated related provisions. Private media are obliged to provide contestants with equal conditions for paid advertising which must be marked as such and indicate the source of funding. The Electoral Code obliges the entities that disseminate political advertisements, to submit their price list to the CEC at least 30 days before election day. By law, the CEC monitors the editorial coverage of broadcast, online and print media during the election campaign, including via contracting an external company for this purpose, and regularly publishes monitoring results on its website. ODIHR NAM interlocutors did not raise major concerns regarding media freedom and a level playing field for electoral media coverage on the national level.

#### I. ELECTION DISPUTE RESOLUTION

The electoral legal framework provides for the resolution of disputes by the election administration and courts. Following the adoption of the Electoral Code and in line with prior ODIHR recommendations, complaints can be filed by voters, political parties and candidates and their proxies, as well as observers. Decisions, actions, or inactions of election commissions can be appealed with superior election commissions, and those of the CEC to the Supreme Administrative Court and for certain matters the Regional Administrative Court.

During elections, the CEC and MECs must review complaints about non-inclusion to the voter lists within two days, but not later than election day. The CEC's decisions on complaints related to candidate registration and ballot papers should be issued within three and five days, respectively.<sup>34</sup> The Electoral Code provides for longer deadlines for the CEC to address complaints related to campaign financing, political advertising, and vote buying. The CEC is required to investigate these complaints within three months, and related decisions may be challenged in the Regional Administrative Court.

In line with prior ODIHR recommendations, the Electoral Code guarantees the right of candidates, political parties, their representatives, and observers to challenge voting and election results. Complaints about the voting results are considered by the MECs while complaints about election results - by the CEC. Election commissions must issue decisions within 48 hours from the receipt of the complaint. The CEC examines all complaints regarding the voting or election results before publication of the final election results. Only the parliament can challenge the validity of final election results to the Constitutional Court, which has 120 hours to make a recommendation to parliament. Despite a prior ODIHR recommendation, the Electoral Code does not provide a mechanism for the parliament's final decision on election results to be appealed to a judicial authority. ODIHR NAM interlocutors did not raise major concerns with the current system for resolving election disputes, but a few noted shortcomings in the current procedures for appealing election results.

# J. ELECTION OBSERVATION

The Electoral Code provides for citizen and international election observation. Observers can register to observe individually or as representatives of political parties, candidates, non-governmental and international organizations, and foreign states. Domestic and international organizations, contestants and political parties can appoint up to two observers per polling station.

The Electoral Code provides for extended deadlines for reviewing complaints during non-election period.

The Constitutional Code only investigates and evaluates the decisions of the CEC or its refusal to examine complaints about violations of the Electoral Code.

The authorities facilitated the work of the ODIHR NAM and gave assurances that a potential ODIHR observation activity for the election would be welcome. However, the invitation extended to ODIHR to observe the election was conditioned on excluding the nationals of certain OSCE participating States, contrary to Lithuania's commitments in paragraph 8 of the 1990 OSCE Copenhagen Document and impacting the ability of ODIHR to deploy an election-related activity.

# IV. CONCLUSION AND RECOMMENDATION

Most ODIHR NAM interlocutors expressed full confidence in the electoral process while also welcoming a potential ODIHR observation activity, recognising the value of an external assessment for further improvements. At the same time, many interlocutors raised concerns regarding disinformation and intolerant rhetoric on social networks. Others highlighted issues that would merit specific attention from an ODIHR observation activity, including the conduct of the campaigns, including online and in the media, restrictions on candidacy, the participation of underrepresented groups, including national minorities and persons with disabilities, and some aspects of campaign finance regulations. Based on these considerations, the ODIHR NAM recommends the deployment of an Election Assessment Mission for the 12 May presidential election but is unable to accept the invitation to observe with the included conditions.

#### ANNEX: LIST OF MEETINGS

#### **Ministry of Foreign Affairs**

Rasma Ramoškaitė, Acting Director, UN, International Organizations and Human Rights Department Algimantas Rimkūnas, Ambassador at Large, Advisor to Minister Laura Dilytė, Head, Relations with Diaspora Division, Global Lithuanian Department Eduardas Petkevičius, Councellor, Consullar Department Raimondas Nugaras, Attaché, UN, International Organizations and Human Rights Department

#### **Ministry of Justice**

Mėta Matuzevičienė, Senior Adviser, Legislative Policy Group

# **Central Election Commission**

Lina Petronienė, Chairperson
Andrius Puksas, Deputy Chairperson
Rokas Stabingis, Head, Law and Investigation Unit, Data Protection Officer
Janina Latvienė, Head, Political Parties and Campaign Finance Control Unit
Reda Daniškevičiūtė, Head, Electoral Management Unit
Diana Daubarė, Acting Head, Training and Communications Unit
Milda Pocevičiūtė, Adviser, Political Parties and Campaign Finance Control Unit

#### **National Cyber Security Centre**

Antanas Aleknavičius, Deputy Director Rūta Apeikytė, Senior Adviser

#### **Radio and Television Commission**

Antrius Katinas, Head, Supervision Division Vadim Gasperskij, Head, Legal Division Nerijus Maliukevičius, Market Research Analyst

# National Radio and Television of Lithuania

Monika Garbačiauskaitė-Budrienė, Director General Guoda Litvaitienė, Head, LRT Radio Indrė Makaraitytė, Head, Investigative Journalism Unit Mindaugas Jackevičius, Editor-in-Chief, LRT.lt Viktorija Cieminytė, Head, International Relations Communications and Marketing

#### **Equal Opportunities Ombudsperson**

Laima Vengalė–Dits, Senior Adviser Ieva Laugalytė, Senior Adviser Lina Cicėnaitė, Adviser

# **Political Parties**

Linas Savickas, MP, Union of Democrats "For Lithuania"
Arnoldas Pikžirnis, Union of Democrats "For Lithuania"
Radvilė Morkūnaitė-Mikulėnienė, MP, Homeland Union-Lithuanian Christian Democrats
Martynas Prievelis, Homeland Union-Lithuanian Christian Democrats
Rita Tamašunienė, MP, Lithuanian Electoral Action of Poles-Cristian Families Alliance
Waldemar Tomaševski, President, Association of Poles in Lithuania

#### Civil Society and Media

Dainius Radzevičius, Chairman, Lithuanian Journalists Union Vytis Jurkonis, Project Director, Freedom House Šarunas Černiauskas, Investigative Journalist, Siena Dovilė Juodkaitė, President, Lithuanian Disability Forum Lina Garbenčiūtė, Expert, Lithuanian Disability Forum