



Office for Democratic Institutions and Human Rights

# KINGDOM OF SPAIN

EARLY PARLIAMENTARY ELECTIONS

28 April 2019

ODIHR Election Expert Team  
Final Report



Warsaw  
10 July 2019

## TABLE OF CONTENTS

<b>I.</b>	<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>II.</b>	<b>INTRODUCTION AND ACKNOWLEDGEMENTS .....</b>	<b>2</b>
<b>III.</b>	<b>BACKGROUND AND POLITICAL CONTEXT .....</b>	<b>2</b>
<b>IV.</b>	<b>LEGAL FRAMEWORK, ELECTORAL SYSTEM AND ELECTION ADMINISTRATION.....</b>	<b>3</b>
<b>V.</b>	<b>CAMPAGIN .....</b>	<b>5</b>
<b>VI.</b>	<b>MEDIA .....</b>	<b>7</b>
	A. MEDIA LANDSCAPE.....	7
	B. MEDIA LEGAL FRAMEWORK .....	7
	C. MEDIA COVERAGE OF ELECTION .....	8
<b>VII.</b>	<b>RECOMMENDATIONS .....</b>	<b>10</b>
	<b>ANNEX: ELECTION RESULTS .....</b>	<b>12</b>
	<b>ABOUT ODIHR .....</b>	<b>13</b>

**SPAIN**  
**EARLY PARLIAMENTARY ELECTIONS**  
**ODIHR Election Expert Team Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Permanent Mission of Spain to the OSCE and based on the findings and conclusions of the Needs Assessment Mission (NAM) deployed from 4 to 8 March 2019, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Expert Team (EET) to follow the 28 April early parliamentary elections in Spain. The ODIHR EET focused in its work on the conduct of the election campaign and the role of the media in the election process.

On 13 February, the parliament voted not to support the 2019 state budget. As a result, the prime minister decided to call for early parliamentary elections, set for 28 April. These were the third parliamentary elections in three and a half years.

These elections were to elect the 350 deputies of the Chamber of Deputies and 208 senators of Senate of the bicameral parliament, both elected for four-year terms. Members of the Chamber of Deputies were elected under a closed list provincial proportional system with a three per cent threshold. Fourteen out of 66 candidate lists for the Chamber of Deputies qualified for seat allocation. Senators were elected through open lists in 59 constituencies. Nine of 69 contestants for the Senate won seats. The elections resulted in 164 and 98 women being elected to the Chamber of Deputies and the Senate, respectively, a slight increase since the last parliamentary elections. Four new members of the Chamber of Deputies are Roma, including two women. Voter turnout was over 75 per cent.

Since the 2016 parliamentary elections, there have been no significant modifications to the election legislation with the exception of two amendments in December 2018. In addressing a previous ODIHR recommendation, remaining restrictions on voting rights of persons with disabilities have been lifted. A controversial provision permitting parties to collect voter data to compile profiles for campaign purposes was introduced. Overall, most previous ODIHR recommendations have yet to be addressed, including key recommendations related to the electoral system, transparency of the election administration, media legal framework, candidacy and secrecy of the vote.

The elections were highly competitive and parties were able to present diverse political views. The campaign was generally peaceful, even though its tone was at times harsh and antagonistic. Candidates who were in detention were provided with certain opportunities to campaign. All major parties made wide use of online and social media, as well as messaging applications in their campaign, with some parties relying almost exclusively on these means of communicating with their voters. A number of ODIHR EET interlocutors, including the CEC and some of the political parties, voiced concerns regarding the use of messaging applications such as WhatsApp for campaigning purposes, since it was difficult to assess the compliance of such campaign activities with the legislation.

Both traditional and online media extensively covered the political campaign, offering voters a plurality of views thereby enabling them to make an informed choice. In addition to the traditional TV and press formats, digital content widely contributed both to provide political information and to disseminate campaign messages through social networks. There was a high degree of concern in the society about dissemination of false information. While attempts were made by some entities, including social networks, to enact measures aimed at safeguarding integrity of elections, it was

---

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

apparent that legal and practical arrangements are not sufficient to address the phenomenon of the use of online campaign methods.

## II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Permanent Mission of Spain to the OSCE and based on the findings and conclusions of the Needs Assessment Mission (NAM) deployed from 4 to 8 March 2019, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Expert Team (EET) to follow the 28 April early parliamentary elections in Spain. The ODIHR EET consisted of three experts drawn from three OSCE participating States.

The ODIHR EET focused in its work on the conduct of the election campaign, including through social media, and the role of traditional media in the election process. Therefore, the report is limited in scope and does not offer an overall assessment of the electoral process. Specific areas under review were assessed for their compliance with OSCE commitments and other international obligations and standards for democratic elections, as well as with national legislation. In line with the ODIHR methodology, the ODIHR EET did not undertake a comprehensive and systematic observation of the election day procedures. This final report should be read in conjunction with the 2019 ODIHR NAM report and previous ODIHR reports, which provide additional detail and recommendations on the electoral process in Spain.<sup>2</sup>

The ODIHR EET wishes to thank the Ministry of Foreign Affairs and Co-operation, the Central Election Commission, Ministry of Interior, the People's Defender's office, the Spanish Data Protection Commissioner's office, other national authorities for their support and co-operation. The ODIHR EET as also wishes to express gratitude to representatives of political parties, media, civil society and other interlocutors for sharing their views.

## III. BACKGROUND AND POLITICAL CONTEXT

Spain is a constitutional monarchy with the ruling monarch serving as the official head of state and the prime minister as the head of government.

The parliamentary elections in 2015 resulted in a fragmented parliament and no party was able to secure a governing majority. This led to early parliamentary elections in 2016 and, after a series of negotiations, the People's Party (PP) formed a minority government, led by Mariano Rajoy. In May 2018, following a corruption case against the PP, the Chamber of Deputies supported a motion of no confidence and the Spanish Socialist Workers' Party (*PSOE*) formed a new government led by Pedro Sánchez. Since then, the *PSOE* had relied on support from *Podemos* and New Canaries (NCa) as well as a number of smaller regional parties. On 13 February, this support was withdrawn and the parliament voted against the 2019 state budget. As a result, the prime minister decided to call for early parliamentary elections, set for 28 April, and the parliament was officially dissolved on 5 March. These were the third parliamentary elections in three and a half years and were held ahead of local, European Parliament and regional elections in certain provinces.

ODIHR previously assessed four elections in Spain since 2004, most recently the 2015 parliamentary elections. The ODIHR Election Assessment Mission (EAM) final report for these elections concluded

---

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

that “elections were held in a professional, efficient and generally transparent manner, and electoral stakeholders expressed confidence in most stages of the process”.

#### IV. LEGAL FRAMEWORK, ELECTORAL SYSTEM AND ELECTION ADMINISTRATION

ODIHR has previously assessed that the legal framework provides a basis for the conduct of genuinely democratic elections. It was also noted that the legal framework has increasingly become subject to calls for reform from some political forces and the public. Since the 2016 parliamentary elections, there have been no significant modifications to the election legislation with the exception of two amendments in December 2018 to the Organic Law on General Election Regime (LOREG).

In addressing a previous ODIHR recommendation, remaining restrictions on voting rights of persons with disabilities have been lifted. The participation of voters with disabilities in the elections has also been prominently featured in the news contributing to public awareness of this positive change. Several ODIHR EET interlocutors noted that voters and representatives of election administration were pro-active in facilitating the inclusion of voters with disabilities in the process. The amendments also provided voters an opportunity to opt out of receiving campaign materials by post. ODIHR EET interlocutors expressed an opinion that such possibility should also apply to the internet-based content.

Additionally, new amendments allowed the political parties to collect publicly available data to compile voter profiles for campaign purposes. These amendments specifically permitted collecting personal data of voters related to their political opinions. Two weeks after adoption of the amendment, the Spanish Data Protection Agency (SDPA) released a report to clarify that parties are not allowed to develop profiles based on political opinions without an explicit consent of the interested subjects. The report was followed by the SDPA’s instruction on the application of new provisions (SDPA instruction).<sup>3</sup>

The SDPA informed the ODIHR EET that it received 44 election-related complaints in relation to the use of personal data, and no requests from parties regarding consultation prescribed by the SDPA instruction.<sup>4</sup> The Ombudsperson has appealed the constitutionality of the provision related to collection of data on political opinion to the Constitutional Court. On 22 May, after the elections, the Constitutional Court of Spain ruled the provision unconstitutional.

The ODIHR EET interlocutors noted that the SDPA instruction is not fully in line with the EU General Data Protection Regulation (GDPR), as well as 2018 European Commission guidance on the application of Union data protection law in the electoral context.<sup>5</sup>

---

<sup>3</sup> The instruction has attempted to alleviate the “high risk to rights and freedoms of physical persons”, because the legislator has not established such guarantees in the law. The instruction significantly limits the circumstances and sets conditions under which data may be collected and used, as well as the modes in which it may be used. It also requires carrying out an impact assessment, provides relevant safeguards before any treatment of personal data and mandates that such treatment must be consulted with the SPDA in advance. The instruction also specifically prohibits micro-targeting.

<sup>4</sup> According to the SDPA, most complaints related to receiving campaign materials by post and were under examination at the time of the meeting with ODIHR EET. The ODIHR EET was unable to establish if any of the election contestants profiled voters pursuant to the amendment.

<sup>5</sup> Article 9.1 of the GDPR states that “processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation shall be prohibited”. See also [2018 European Commission’s guidance on the application of Union data protection law in the electoral context](#).

*Data-driven electoral campaigning, based on segmentation and profiling of users should be further regulated in the law in order to ensure transparency, data protection, safeguard public trust and a level playing field for the electoral contestants. Existing regulations on collection and use of personal data for electoral purposes should be updated to reflect the decision of the Constitutional Court and ensure that any use of personal data of voters is in line with EU policy documents.*

The bicameral parliament (*Cortes Generales*) consists of Chamber of Deputies and the Senate, both elected for four year terms. The Chamber of Deputies comprises 350 members elected under closed list provincial proportional system. Parties, which obtained the minimum of 3 per cent of votes in the constituency qualified for seat allocation. All together 609 lists were submitted for the Chamber of Deputies (4,113 candidates) and 620 lists for the Senate (1,319 candidates). A total of 208 senators of the currently 266-seat Senate were elected through open lists in 59 constituencies.

Despite previous ODIHR recommendation, the principle of the equality of the vote, measured by the number of votes required to obtain a seat, is challenged in numerous constituencies, for both chambers.<sup>6</sup> As in previous observation activities, many of the ODIHR EET interlocutors stated that the electoral system designed in 1985 requires reforms in order to address the inequality of the vote and to change the seat allocation system.

*The principle of equality of the vote should be upheld, in accordance with the Constitution, OSCE commitments, other international obligations and standards and good international practice.*

The elections were administered by a four-tiered administration comprising the CEC, 50 Provincial Election Commissions (PECs), some 303 District Election Commissions (DECs) and some 60,000 Electoral Boards (EBs). Mostly addressing previous ODIHR recommendation, the current composition of the CEC includes five women, up from the previously reported two.<sup>7</sup> There are no official statistics regarding the participation of women in the election administration. The Ministry of Interior (MoI) manages key aspects of the process related to electoral operations, safety and security, logistics, and voter information.

The law provides that each bloc of five candidates in every list for the Chamber of Deputies contains at least two candidates of the other gender, and that lists for the Senate have as close as possible to equal numbers of women and men. All parties ODIHR EET met with are following the requirement of the electoral law regarding gender representation on their lists.<sup>8</sup> The elections resulted in 164 women being elected to the Chamber of Deputies, the highest number of women in national legislature in the democratic history of Spain. Four new members of the Chamber of Deputies are Roma, including two women.

Postal voting, especially that of the citizens voting abroad, remained a source of dissatisfaction for most of the ODIHR EET interlocutors, including the CEC. Tight deadlines, host country postal services, as well as in-person registration requirements appeared to be factors limiting the possibility to vote from aboard.

---

<sup>6</sup> Over 30 of Chamber of Deputies' constituencies deviate in population by more than 15 per cent from the average. Most Senate constituencies deviate by more than 15 per cent from the average.

<sup>7</sup> ODIHR previously recommended that consideration should be given to promoting gender balance in the nomination process of the CEC members.

<sup>8</sup> Some parties informed ODIHR EET that they have a requirement for equal representation of each gender within their party statutes.

*As previously recommended, the authorities should address the shortcomings of the postal voting, and take steps to ensure that all voters benefit from equal voting opportunities to the maximum extent possible.*

## V. CAMPAIGN

The official election campaign period started 15 days before the election day and ended 24 hours before the election day. At the same time, political parties are permitted to conduct outreach activities other than explicitly seeking voter support during the period between the time when the elections are called and the start of the campaign. In accordance with the law, the polls can be published up to five days before the election day. While leading politicians were widely covered by the media on the day of silence, ODIHR EET did not note direct campaigning during the silence period.

The elections were highly competitive and sixty six political contestants participated in these elections. The campaign largely dominated by four main nation-wide political forces, the PP, *PSOE*, *Unidas Podemos* and *Ciudadanos* (Cs) that ran lists in all the constituencies, and a far right party *VOX* emerging as the fifth major contestant.<sup>9</sup> The Catalan *Junts per Catalunya* (*JxCAT*), the *ERC*, the Basque *Partido Nacionalista Vasco* (*EAJ-PNV*), *EH Bildu* coalition, the Valencian *Compromís*, and the Canarian *Coalición Canaria* (*CC-PNC*) were amongst the most visible regional parties and coalitions in respective autonomous regions.

The campaign was generally peaceful but tensions and some confrontations were noted in several instances. The tone in the campaign was harsh, at times bordering on insults.<sup>10</sup> The campaign was dominated by political developments in Catalonia and discussions on Spanish unity and territorial integrity. It ensued in increased visibility of Spanish flags and calls for unity in all of the gatherings of the right-leaning political parties. One of the key issues of the election campaign was also gender equality and violence against women. The gender equality issue was high on the agenda of most parties, as according to the polls, 60 per cent of all undecided voters in run up to the elections were women.<sup>11</sup>

The political discourse during the first week of election campaign was dominated by discussions about formats of TV debates. A CEC decision not to allow a TV debate on a private channel that would include the *VOX* leader together with the leaders of the four biggest parliamentary parties created a further controversy.<sup>12</sup>

The co-operation of some of the contestants with the Catalan and Basque parties was at times linked to separatism, terrorism and *coup d'état* by some parties. The highly charged language was used by some parties to warn voters that supporting contestants representing the regions might undermine democracy in Spain.

---

<sup>9</sup> Contestants are eligible political parties, coalitions, and groups of citizens, which put forward candidate lists in elections.

<sup>10</sup> The language during televised debates, for example, included such terms as “liars”, “rude”, “indecent”, “shameless”, “fake”. The head of the Cs and the president of PP also referred to the Catalan and Basque parties (not present in the debates) as “participants in the *coup d'état*” or “terrorists”. The PP president described the EH Bildu members as “pro-ETA” and called their leader “expert in kidnapping”. While talking at the rally the Cs head was disrupted by protestors calling him a “fascist”.

<sup>11</sup> See [El País article with the survey](#).

<sup>12</sup> In response to complaints from smaller parliamentary parties, CEC decided that a TV-debate format, which would include a non-parliamentary party, but not include the parliamentary forces would violate the principle of proportionality.

A rally speech of the Cs leader in Renteria, Basque country was disrupted by protestors, which led to a sporadic altercation. Cs filed the case with the Prosecutor for slander, threats and hate crime, requesting to launch an investigation to identify the participants and organisers of these events. *PNV, EH Bildu, Unidas Podemos*, and the Mayor of Renteria have called the Cs and *VOX*'s presence in the province where they have no political representation a provocation.

Five candidates on the lists of Catalan pro-independence parties were under preventive detention pending trial for their role in the Catalan independence referendum, ruled illegal by the Constitutional Court. Although limited by considerations of prison security and regime, these candidates were permitted to take part in the campaign activities. According to the General Secretariat of Penitentiary Institutions, 16 press conferences, interviews with media and political rallies were made possible for these candidates via video conferences from 18 April until the end of the campaign period. Some of the requests of the Catalan parties for campaign activities were denied due to prison regime considerations. The ODIHR EET noted the effort of the CEC and General Secretariat of Penitentiary Institutions to ensure campaigning opportunities to candidates in these specific circumstances. The Supreme Court allowed the detained candidates who won seats in the Chamber of Deputies to leave detention temporarily in order to swear their oaths of office. On 24 May the Chamber of Deputies decided to suspend their parliamentary mandates for the period of their detention.

Contestants used traditional campaign tools, including banners, rallies as well as meetings and gatherings. In the capital most visible were campaign posters and billboards of the four parliamentary parties. Parties also extensively used social media and messaging applications during these elections.<sup>13</sup> While some parties said that they used social media and messaging to amplify the outreach of their offline and traditional media campaigns, others appeared to rely on them as their main campaigning tool.<sup>14</sup> All parties the ODIHR EET met with stated they had dedicated teams to conduct social media campaigning, including paid advertising.

A number of ODIHR EET interlocutors, including the CEC and some of the political parties, voiced concerns regarding the use of messaging applications such as WhatsApp, since it was difficult to comprehensively assess the compliance of campaign activities with the legislation. At least one party indicated a concern related to the disclosure of personal data in WhatsApp groups.

The ODIHR EET was informed by the CEC that the legislation governing campaign in the traditional media applies to digital media, which are further regulated by the 2007 CEC instruction "On the use of the new information and communication technologies as tools for campaigning". The instruction, however, does not provide essential details, including the definition of online campaigning, identification of paid advertisement, campaigning on social media and messaging applications.

*Consideration could be given to enhancing the regulation of online campaigning with the aim to ensure a level playing field for all contestants and voters' informed choice).*

---

<sup>13</sup> Facebook, Instagram, Twitter, WhatsApp, YouTube, Telegram were used to various extent by all parties.

<sup>14</sup> For example, *PSOE, Cs, PP and Unidas Podemos* used social media for amplifying their offline campaign to different extents. *VOX* appeared to rely only on online campaigning and rallies. *Partido Animalista PACMA* stated that online campaign comprised some 70-80 per cent of their campaigning. Some parties used printed and magnified screenshots of alleged message exchanges of their opponents as campaign billboards.



## VI. MEDIA

### A. MEDIA LANDSCAPE

The media environment is pluralistic with a variety of commercial and public television and radio channels, as well as newspapers and Internet portals. The three largest media groups, private Mediaset, Atresmedia and public RTVE, dominate the market. Television remains the most popular media.<sup>15</sup> With the growing popularity of internet-based media as source of news, voters increasingly refer to websites, search engines, social networks and mobile applications. Over the past 10 years, the circulation of print newspapers has almost halved and magazines lost one third of their circulation. Online newspapers lead the online media sector, with *El Pais*, *El Mundo* and the digital-born *El Confidencial* and *Eldiario.es* in top four positions. Facebook is the leading social network, followed by YouTube, Twitter and Instagram. Instant-messaging apps are also quite popular, with WhatsApp largely leading in terms of penetration.

### B. MEDIA LEGAL FRAMEWORK

The Constitution provides for freedom of expression without censorship, as well as the right to information. The 2014 Transparency Act guarantees free access to public information. Contrary to international standards, a 2015 Public Security Act introduced a range of measures and administrative sanctions that challenge the exercise of freedom of expression and the right to information, as well as the right to freedom of assembly.<sup>16</sup> These include excessive fines (e.g. the organisers of public protests can be fined up to EUR 600,000), the use of administrative sanctions without judicial guarantees, an ambiguous definition of an “organiser” of public events, and a prohibition on the use of images of or data on law enforcement officers. Defamation remains a criminal offence, contrary to international standards.<sup>17</sup> There is no legislation to prevent ownership concentration in the print-media market and cross-media ownership concentration. In addition, contrary to international good practice, the current legislation does not ensure ownership transparency.<sup>18</sup>

*To enhance transparency of media ownership media should be required to publish accurate data on their ownership. In order to safeguard media pluralism consideration could further be given to provide for media-ownership regulation.*

LOREG regulates media coverage of the campaign with respect for the principles of pluralism, equity, proportionality and neutrality. Public media must provide free airtime to electoral contestants based on the results from the last parliamentary elections. Coverage in news and election-related programmes, including interviews and debates, is also distributed on the basis of past electoral performance. Before the beginning of the election campaign, the Newsroom Committee, an internal self-regulatory body representing journalists at RTVE, made a statement to express disagreement with the format of

---

<sup>15</sup> According to [European University Institute](#), the top 4 TV companies, the RTVE, Mediaset, Atresmedia and CCMA, have some 94 per cent of the market and hold 78 per cent of audience share.

<sup>16</sup> See articles 10 and 11 of the European Convention on Human Rights, as well as the [2018 Council of Europe Commissioner for Human Rights statement](#).

<sup>17</sup> Paragraph 47 of the [2011 CCPR General Comment No. 34 to the ICCPR](#) states that “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”.

<sup>18</sup> Recommendation CM/Rec(2018)1[1] of the [Council of Europe’s Committee of Ministers to member States on media pluralism and transparency of media ownership](#) states that “the adoption and effective implementation of media-ownership regulation can play an important role in respect of media pluralism. Such regulation can enhance transparency in media ownership; it can address issues such as cross-media ownership, direct and indirect media ownership and effective control and influence over the media.”

campaign coverage within the news as provided by law and as interpreted by the CEC. The Committee claimed that the existing rules limited the public TV's ability to cover the most recent developments of the political campaigns, as well as its capacity to guarantee principles of neutrality, impartiality and pluralism.

*Legislation could be reviewed to allow public media to rely on editorial discretion in their news coverage of election campaigns rather than a formula-based distribution of airtime, provided that all contestants are treated equally and are allowed genuine opportunity to present their platforms.*

Concerns of explicit political interference into the editorial line of the public *RTVE* have been expressed during the campaign. On 18 April, the *RTVE*'s Newsroom Committee issued a public statement criticising the TV channel's administrator's decision to change the originally scheduled date for the debate among the candidates of the four leading parties, claiming that the move was to accommodate the request of a specific party. On 20 April this decision was retracted.

In 2017 the parliament adopted the law to modify the procedure for designating the members of *RTVE*'s management and governing bodies, introducing the criteria of merit and public contest. This reform established that board members shall be appointed by two-third majority in both chambers of the parliament, replacing the procedure of appointment by absolute majority. However, after an interim administrator was appointed and an experts' committee selected a pool of candidates for the consideration of the parliament, in September 2018 political parties failed to find an agreement on the nomination of the new President of *RTVE*.<sup>19</sup> As a result, the *RTVE* continues to be run by an interim administrator, which has caused general discontent among the employees.

*The management of the public broadcaster should be appointed in line with the reformed procedures as soon as possible with a view to protecting it from political interference and ensuring standards of professionalism and editorial independence.*

Paid campaign advertising on public and private television is prohibited. Print media are not regulated with respect to electoral coverage, except for an obligation to guarantee the same rates for commercial and political advertising.

In the absence of a national media regulator, responsible for overseeing media compliance during and outside the campaign periods, the CEC oversees broadcast media during the 15-day campaign.<sup>20</sup> The CEC does not monitor the media and only adjudicates media-related complaints.

*Authorities could consider establishing an independent media oversight authority in order to ensure transparency and pluralism in the broadcast media, issue licenses, conduct media monitoring, including during electoral campaigns, and adjudicate complaints.*

### **C. MEDIA COVERAGE OF ELECTION**

Both traditional and online media extensively covered the campaign, offering voters a plurality of views thereby giving them the possibility to make an informed choice. In addition to the traditional TV and press formats, digital content widely contributed both to providing political information and to disseminating campaign messages.<sup>21</sup>

---

<sup>19</sup> A committee of experts is formed of persons of recognized professional prestige, members of which are designated for each occasion by lot from among those proposed proportionally by the parliamentary groups.

<sup>20</sup> Two regional councils supervise the activities of broadcast media in Catalonia and Andalusia.

<sup>21</sup> This included various infographics, memes, user generated content, photo galleries, newsletters, gifs, online events, images, screenshots, disclaimers, music videos and audio recordings.

In the week approaching the elections two TV debates, with participation of the leaders of *PSOE*, *PP*, *Cs* and *Unidas Podemos* took place on the public *RTVE* and the private *Artesmedia* television channels.<sup>22</sup> Catalan and Basque parties did not participate in these debates and were instead offered time on another channel. Besides the issues of “Spanish unity” and territorial integrity, debates also touched on issues of economy and social policies, abortion, euthanasia and sexual consent.

As media coverage of election contestants, particularly the format of the two main televised debates became a disputed topic during these elections, several ODIHR EET interlocutors noted that the legal requirement to distribute coverage among different contestants based on past election performance does not reflect current multi-party political reality. They also opined that this requirement prevents the broadcasters to organise debates that would include parties who run in the elections for the first time.

*Consideration should be given to reviewing legislation on media coverage of the elections to make it possible for parties not represented in the parliament to participate in the debates.*

Ahead of the elections, some media were the subject of verbal attacks by *VOX*, which threatened to shut down *LaSexta* private TV channel and the public *TV3* once in power. The Federation of Spanish Journalists’ Organizations publicly condemned these statements.<sup>23</sup>

There was a high degree of concern about dissemination of false information in the society and several initiatives were put in place to counter it. In 2019 an inter-institutional working group was created to protect the integrity of the electoral process and adopt measures to combat disinformation. For the first time, 16 media outlets joined forces in a fact-checking project “Comprobado” to identify cases of misinformation, and several media outlets ran fact-checking actions to confirm the veracity of politicians’ statements. Several outlets conducted professional fact-checking throughout the campaign, including to support Facebook’s effort to implement a package of election integrity measures designed in view of the European elections but already implemented for the national election campaign.<sup>24</sup> Despite the concerns related to new media environment and the abovementioned activities to tackle them, several media interlocutors informed the ODIHR EET that efforts in terms of digital literacy are limited.<sup>25</sup>

*To enhance voters’ ability to make an informed choice the authorities in consultation with civil society, media and academic institutions could consider developing mechanisms to increase digital literacy among voters and other electoral stakeholders.*

Social media platforms played a significant role in the campaign coverage. Some of these platforms informed the ODIHR EET to have taken active measures to safeguard the integrity of elections. Their

---

<sup>22</sup> The debate was organized by *Atresmedia* and broadcast simultaneously by TV channels *Antena 3* and *LaSexta*, radio *Onda Cero*, the digital platform *Atresplayer* and *Antena 3 International*.

<sup>23</sup> Paragraph 23 of the 2011 UN CCPR General Comment No. 34 to Article 19 of the 1966 ICCPR provides that states “should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression.” Paragraph 6 of the 2010 OSCE Astana Document states that “the important role played by civil society and free media in helping us to ensure full respect for human rights, fundamental freedoms, democracy, including free and fair elections, and the rule of law”.

<sup>24</sup> See [23 April European Commission Statement on Code of Practice Against Disinformation](#)

<sup>25</sup> Recommendation CM/Rec(2012)4 of the Committee of Ministers to member States of the Council of Europe on the protection of human rights with regard to social networking services states that “media literacy is particularly important in the context of social networking services in order to make the users aware of their rights when using these tools, and also help them acquire or reinforce human rights values and develop the behavior necessary to respect other people’s rights and freedoms.”

efforts included marking paid political advertisement, special procedures to authorise political advertisement, and fact-checking initiatives. Despite this, according to the government authorities and non-governmental organizations that monitored campaigning in social media, they were used to spread disinformation and/or target one or another political contestant.

Few days before election day, Facebook removed several pages of three far-right networks engaged in coordinated behaviour intended to spread politically divisive content. A few hours before the debate among the leaders of *PSOE*, *PP*, *Cs* and *Unidas Podemos* on the public *RTVE*, Twitter also removed 130 fake accounts after verifying their suspicious activity in favour of one candidate. WhatsApp also suspended several parties' accounts for breaking the terms of services by using the app for automated mass messages.

Since elections were called, 55 media-related complaints were filed to the CEC. Of them 18 regarded publication of campaign messages on social networks, half of which were upheld by the CEC. Some of the dismissed complaints related to the posts in social media, which were already removed at the time of verification. On 26 April, *Unidas Podemos* filed a complaint to the CEC against Facebook, Google and WhatsApp claiming violations of electoral legislation and Constitution, as well as discrimination. On 4 May, the CEC dismissed this complaint finding that none of the claims could be substantiated by the documents provided by the complainant or the explanations provided by the entities against which the complaints were filed.

While attempts were made by some of the entities, including social networks, to enact measures aimed at safeguarding integrity of elections, it is apparent that legal and practical arrangements were not sufficient to address challenges presented by the use of online campaign methods.

## VII. RECOMMENDATIONS

These recommendations, as contained throughout the text, are offered with a view to enhance the conduct of elections in Spain and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past ODIHR recommendations that remain to be addressed, in particular in its final report from the 2015 parliamentary elections.<sup>26</sup>

1. Data-driven electoral campaigning, based on segmentation and profiling of users should be further regulated in the law in order to ensure transparency, data protection, safeguard public trust and a level playing field for the electoral contestants. Existing regulations on collection and use of personal data for electoral purposes should be updated to reflect the decision of the Constitutional Court and ensure that any use of personal data of voters is in line with EU policy documents.
2. The principle of equality of the vote should be upheld, in accordance with the Constitution, OSCE commitments, other international obligations and standards and good international practice.

---

<sup>26</sup> According to the paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations". The follow-up of prior ODIHR recommendations from the final report on the 2015 parliamentary elections demonstrated that recommendations 10 and 14 were implemented fully, recommendations 6 and 8 are mostly implemented, and recommendation 9 is partially implemented.

3. As previously recommended, the authorities should address the shortcomings of the postal voting, and take steps to ensure that all voters benefit from equal voting opportunities to the maximum extent possible.
4. Consideration could be given to enhancing the regulation of online campaigning with the aim to ensure a level playing field for all contestants and voters' informed choice.
5. To enhance transparency of media ownership media should be required to publish accurate data on their ownership. In order to safeguard media pluralism consideration could further be given to provide for media-ownership regulation.
6. Legislation could be reviewed to allow public media to rely on editorial discretion in their news coverage of election campaigns rather than a formula-based distribution of airtime, provided that all contestants are treated equally and are allowed genuine opportunity to present their platforms.
7. The management of the public broadcaster should be appointed in line with the reformed procedures as soon as possible with a view to protecting it from political interference and ensuring standards of professionalism and editorial independence.
8. Authorities could consider establishing an independent media oversight authority in order to ensure transparency and pluralism in the broadcast media, issue licenses, conduct media monitoring, including during electoral campaigns, and adjudicate complaints.
9. Consideration should be given to reviewing legislation on media coverage of the elections to make it possible for parties not represented in the parliament to participate in the debates.
10. To enhance voters' ability to make an informed choice the authorities in consultation with civil society, media and academic institutions could consider developing mechanisms to increase digital literacy among voters and other electoral stakeholders.

**ANNEX: ELECTION RESULTS<sup>27</sup>**

**CHAMBER OF DEPUTIES**

	<b>TOTAL</b>	
<b>Number of Registered Voters</b>	34,799,107	
<b>Number of Ballots Cast</b>	26,361,051	75.75%
<b>Number of Valid Ballots to candidates</b>	25,886,130	74.08%
<b>Number of Invalid Ballots</b>	275,410	0.93%
<b>Number of blank votes</b>	199,511	0.74%

<b>Political party or coalition</b>	<b>Votes</b>	<b>% Votes</b>	<b>Seats</b>	<b>% Seats</b>
Spanish Socialist Workers' Party (PSOE)	7,480,755	28.68%	123	35.14%
People's Party (PP)	4,356,023	16.70%	66	18.85%
Ciudadanos (Cs)	4,136,600	15.86%	57	16.28%
Unidas Podemos (UP)	3,118,191	11.95%	35	10%
Vox	2,677,173	10.26%	24	6.86%
Republican Left of Catalonia – Sovereignists (ERC-S)	1,015,355	3.89%	15	4.28%
ECP-Guanyem el Canvi*	614,738	2.36%	7	2%
Together for Catalonia (JxCat-Junts)	497,638	1.91%	7	2%
Basque Nationalist Party (EAJ-PNV)	394,627	1.51%	6	1.71%
Basque Country Unite (EH Bildu)	258,840	0.99%	4	1.14%
Canarian Coalition and Canarian Nationalist Party (CC-PNC)	137,196	0.53%	2	0.57%
Sum Navarre (NA+)**	107,124	0.41%	2	0.57%
Compromís 2019	172,751	0.66%	1	0.28%
Regionalist Party of Cantabria (PRC)	52,197	0.20%	1	0.28%
Others	866,922	3.35%	0	-
<b>TOTAL</b>	<b>25,886,130</b>		<b>350</b>	

\*Podemos in Catalonia

\*\*Coalition of PP, Cs, and Navarrese People's Union (UPN).

<sup>27</sup> As aggregated by ODIHR EET based on preliminary results. For final official results please visit <http://www.boe.es>.

## ABOUT ODIHR

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

ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 150 staff.

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

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

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

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

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

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

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