



Office for Democratic Institutions and Human Rights

THE NETHERLANDS

MUNICIPAL COUNCIL ELECTIONS 16 March 2022

ODIHR NEEDS ASSESSMENT MISSION REPORT

31 January - 3 February 2022



Warsaw
22 February 2022

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ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an invitation from the Dutch authorities to observe the 16 March 2022 municipal council elections, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 31 January to 3 February. The NAM included Hamadziripi Munyikwa and Goran Petrov, ODIHR Election Advisers.

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

ODIHR would like to thank the Ministry of Interior and Kingdom Relations for their assistance and co-operation in organizing the NAM. ODIHR would also like to thank each of its interlocutors for taking the time to meet with the NAM and for sharing their views.

II. EXECUTIVE SUMMARY

The 16 March municipal council elections will be held in 334 of 345 municipalities, in the second nationwide elections organized during the COVID-19 pandemic. Councilors are elected through a proportional system on the basis of open candidate lists with preferential voting. Many ODIHR NAM interlocutors noted previous lower turnout in municipal council elections compared to parliamentary elections and expected a similar level of participation in the upcoming elections, citing a reduced interest in local politics that has been exacerbated by the pandemic.

The legal framework for elections, which is also the basis for municipal elections, was previously assessed by ODIHR as comprehensive and generally conducive for the conduct of democratic elections. The legislation remains largely unchanged since the previous municipal elections. The temporary measures introduced in November 2020 with the purpose of regulating the safety of voters and polling staff and facilitating easier access to voting during the pandemic have been extended, as was the possibility to vote early. A number of prior ODIHR recommendations are yet to be addressed, including a review of the need for proxy voting, the possibility for detainees and all eligible prisoners to vote in person, the need for assisted voting options for persons with intellectual disabilities, adequate time limits for all election-related complaints, the possibility to appeal election results, reasonable limits on donations, including from foreign sources, and the establishment of an independent oversight body for political finance. Various legislative initiatives are being considered or have already been submitted to parliament, including on reducing the scope of proxy voting, changing the format and reducing the size of the ballot paper and introducing political finance regulations for all types of elections.

The election administration is highly decentralized. Municipal council elections are fully administered by the municipal authorities, with support and methodological guidance from the Ministry of Interior and Kingdom Relations (MoIKR) and the Electoral Council. All ODIHR NAM interlocutors expressed trust in the integrity and professionalism of the municipal election authorities, including in the conduct of election day procedures. Voting and counting procedures will be administered by some 9,000 polling station committees (PSCs) temporarily appointed for the elections. Due to the pandemic, several municipalities initially had difficulties securing sufficient polling stations and PSC members, but the ODIHR NAM was informed that these issues have generally been resolved. By law, all polling stations should be independently accessible for voters with disabilities. All citizens can observe election day proceedings and the law also provides for international election observation. Civil society organizations and political parties met by the ODIHR NAM did not plan to deploy observers, stating their high level of confidence in the polling proceedings.

Dutch citizens and resident EU citizens aged at least 18 on election day are entitled to vote in municipal council elections where they reside. Non-EU citizens are also entitled to vote if they have been legally resident in the Netherlands for at least five years. The total number of voters will be published together with the final results of the elections. No ODIHR NAM interlocutors raised concerns related to accuracy of the voter registers or the voter check-in process.

Voters can vote in any polling station of the municipality where they are registered on election day and under early voting procedures the two days prior to election day. All ODIHR NAM interlocutors supported the option for early voting as a convenience for voters and noted that two days of early voting are sufficient. Any voter who wishes to do so may authorize a proxy to vote on their behalf, provided that the proxy is a voter in the same municipality. ODIHR has previously recommended that the practice of proxy voting be reviewed, given the potential challenges to the secrecy and equality of the vote. A number of ODIHR NAM interlocutors expressed the opinion that proxy voting should be abolished and replaced by early voting.

Eligible voters may stand for election as municipal councilors in the municipality where they reside, or if they declare they will move to the given municipality if elected. Political parties, groups and associations wishing to contest elections register their names with the municipal central election committees (CECs) or, on a national level, with the Electoral Council and candidate lists are submitted on the day of nomination, which for these elections was 31 January. In general, ODIHR NAM interlocutors highlighted that the requirements participating in municipal council elections are easily met which results in an inclusive process but also leads to a large number of parties included on the ballot.

Election campaigning is largely unregulated. The Constitution protects fundamental freedoms and all ODIHR NAM interlocutors were confident about the ability to campaign freely citing a return to more traditional modes of in-person campaigning following the easing of COVID-19 related restrictions. Political and campaign finance for municipal elections remains largely unregulated other than regulations that ordinarily apply to parties with parliamentary representation. Only parliamentary parties receive public financing and only these parties are required to disclose contributions above EUR 4,500 to the MoIKR, while anonymous donations of up to EUR 1,000 and foreign donations are permitted. Many ODIHR NAM interlocutors noted that the lack of funding for parties that are unrepresented in parliament, including local parties that collectively constitute more than one third of the representatives in all municipalities, may create an unfair financial advantage in favour of larger parties.

While the local media is shrinking, the media landscape remains diverse and pluralistic with a tradition of editorial independence. Parliamentary parties are annually entitled to free airtime on public television and radio, though these allocations do not apply to parties not represented in parliament. While some ODIHR NAM interlocutors noted a growing hostility towards the media by some political parties, all interlocutors positively assessed the freedom of the media in general.

The law regulates complaints and appeals regarding specific elements of the electoral process, such as voter registration, registration of party names, candidate registration, and election day proceedings. There are no specific rules or regulations permitting judicial appeal of other crucial aspects, including campaign finance, campaigning, and challenges to the election results. While most ODIHR NAM interlocutors did not express concerns related to the impartiality of electoral dispute resolution some noted concerns with the lack of timely recourse for important aspects of the electoral process.

The ODIHR NAM noted a high level of confidence in the work of the election authorities at all levels. ODIHR NAM interlocutors generally noted the value of an external assessment, but some expressed the view that an observation activity for these elections would be unnecessary. Some interlocutors pointed to potential areas of improvement to the regulatory framework for campaign financing, and several raised concerns related to intolerant and discriminatory rhetoric, particularly on social media. Authorities and party representatives described planned revisions to the electoral legislation to take place in the near future. Based on the findings of this report, ODIHR does not recommend the deployment of an election observation activity for these elections. However, ODIHR encourages the authorities to consider and address previous ODIHR electoral recommendations and stands ready to assist the authorities in implementing these recommendations during the planned revision process.

III. FINDINGS

A. BACKGROUND

The Netherlands, the largest part of the Kingdom of the Netherlands, is a constitutional monarchy with a parliamentary system of government.¹ It is composed of 12 provinces that further comprise 345 municipalities as the third tier of public administration. The Parliament of the Netherlands is bicameral. The Senate comprises 75 members indirectly elected for a four-year term by the 12 provincial assemblies. The House of Representatives consists of 150 members directly elected for a four-year term in a proportional system. The executive branch of government is formed by the Council of Ministers, headed by the Prime Minister. The Council of Ministers is appointed and dismissed by the monarch.

The March 2021 parliamentary elections resulted in a fragmented parliament comprising 17 parties, four of which are newcomers. Following protracted negotiations, the ruling coalition containing People's Party for Freedom and Democracy (VVD), the Christian Democrat Appeal (CDA), Democrats 66 (D66) and the Christian Union (CU) remains unchanged in retaining the government, with a slim majority of a combined 77 MPs.²

¹ The Kingdom of the Netherlands composed of four countries: Aruba, Curaçao, St Maarten and the Netherlands. These four entities conduct their internal affairs autonomously, and each elects its own parliament and has its own executive branch. The country, The Netherlands includes three public bodies located in the Caribbean region: Bonaire, St Eustatius and Saba, which will not hold municipal elections in March 2022; their Island Councils will be elected in 2023.

² The formation of a new cabinet was finalized in January 2022.

Municipalities are governed by a mayor, formally appointed by the monarch and serving six-year mandates, and an executive board that includes the mayor and a number of aldermen, which are executives appointed by municipal councils.³ Municipal councils pass regulations to determine local public policies and exercise supervision over the executive board. The number of municipalities has steadily declined both historically and in recent years, as some merged to reduce the costs and workload related to public services.⁴

Women hold 14 out of 28 positions of Ministers and State Secretaries; 60 members of the House (40 per cent) are women. The Netherlands has never had a woman Prime Minister. Of 8,619 outgoing municipal councilors, 2,730 (31,7 per cent) were women. In general, the percentage of women councilors is higher in larger municipalities.⁵

These elections will be held in 334 municipalities, and are the second nationwide elections organized under conditions of a health pandemic following the 17 March 2021 parliamentary elections.⁶ On 25 January, the government lifted recent restrictions on non-essential services, citing a risk of harmful societal and health effects of a prolonged lockdown despite the high number of new infections.⁷ The restrictions had sparked a number of protests and calls for relaxation from local authorities.⁸

Many ODIHR NAM interlocutors noted the previous lower turnout in municipal council elections compared to parliamentary elections and expect a similar level of participation in the upcoming elections, citing a reduced interest in local politics, which is exacerbated due to the COVID-19 pandemic.⁹ ODIHR has observed five elections in the Netherlands since 2006.¹⁰

B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The number of municipal councilors depends on the number of inhabitants and ranges from 9 members, for municipalities with fewer than 3,000 inhabitants, to 45 members for those with more than 200,000 inhabitants. Members of each council are elected through a proportional system on the basis of open candidate lists with preferential voting. Seats are proportionally distributed to candidate lists according to the electoral quota, which is determined by dividing the total number of valid votes cast by the number of seats elected in a given municipality. Following the initial distribution, remaining seats are distributed either by the arithmetical rule of highest averages or remainders, depending on the size of the council.

All lists containing all candidates are included on the ballot. A voter can vote for any one candidate on a list, which also results in a vote for the respective list. Candidates that receive a sufficiently

³ The mayors chair both the municipal council and the executive board. The number of appointed aldermen depends on the size of the municipal council and ranges from 2 to 7.

⁴ For instance, there were 380 municipalities during the last municipal council elections in 2018 elections, and 537 in 2000.

⁵ See a more detailed [overview](#) of women representation in the outgoing municipal councils.

⁶ On 24 November 2021, municipal council elections were held in 11 municipalities that were amalgamated into 4 new municipalities. The elections will not be held in these municipalities. Several other municipalities held elections in November 2020, prior to a redivision of those municipalities.

⁷ See the government's [information](#) on COVID-19 and related measures.

⁸ On 20 January 2022, a group of 30 mayors published an open letter in the media [describing](#) the measures imposed by the government as oppressive and called for their relaxation citing a need to strike a balance between the health effects and the negative socio-economic consequences.

⁹ Turnout in the 2018 municipal council elections and 2021 parliamentary elections was 55.0 per cent and 78.7 per cent, respectively.

¹⁰ See all previous [ODIHR election related-reports on the Netherlands](#).

high number of preference votes are automatically declared elected.¹¹ The remaining seats that the list won are awarded to candidates in the list order. According to some ODIHR NAM interlocutors, due to the high number of preferential votes required to win a mandate regardless of the list order, deviations from the initial order are rare.¹²

The 1954 Charter of the Kingdom of the Netherlands provides for basic principles of elections, such as a free and secret ballot. The Constitution of the Netherlands is subordinate to the charter. The Netherlands is a party to major international and regional instruments related to the holding of democratic elections, and the Constitution formally integrates international law into national law.¹³

Municipal council elections are regulated by the 1989 Elections Act which serves as the basis for the conduct of all types of elections. The Act remains largely unchanged since the previous municipal council elections in 2018.¹⁴ In general, ODIHR NAM interlocutors considered the legal framework as suitable for the conduct of democratic elections.

The 2013 Political Finance Act includes comprehensive regulation of the financing of political and campaign activities, in line with several prior ODIHR and GRECO recommendations.¹⁵ However, the law regulates only the political financing of parliamentary parties on a yearly basis, whereas campaign financing for municipal council elections remains largely unregulated.

A Temporary COVID-19 Elections Act was passed with a wide political consensus in November 2020 to provide for the safety of voters and polling staff and facilitate easier access to voting during the pandemic. The validity of most measures of this act was extended in October 2021 and provides for distancing and protection requirements during the polls and a possibility for voters to vote early on 14 and 15 March. Certain temporary measures, such as providing the possibility for voters over the age of 70 to vote by post and allowing a voter to vote as a proxy for up to three instead of two voters, were abolished.

A number of prior ODIHR recommendations are yet to be addressed, including a review of the need for proxy voting, a possibility for detainees and all eligible prisoners to vote in-person, for the possibility for persons with intellectual disabilities to request assistance in voting from a person of their choice, adequate time limits for all election-related complaints, a possibility to appeal election results, reasonable limits on donations including from foreign sources, and the establishment of an independent oversight body for political finance. Some ODIHR NAM interlocutors explained that various legislative initiatives are being considered or were already submitted as bills in the parliament, including on reducing the scope of proxy voting, changing the format and reducing the size of the ballot paper, and introducing campaign finance regulations for all types of elections.

¹¹ For municipalities with at least 19 councilors, a number of preference votes amounting to at least 25 per cent of the electoral quota is required to be directly elected; for smaller municipalities, 50 per cent is required.

¹² A civil society organization [Vote for a Woman](#) encourages voters to vote for women listed in lower positions on the ballot from among any political options of their choice.

¹³ Including the 1966 International Covenant on Civil and Political Rights, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 1979 UN Convention on the Elimination of All Forms of Discrimination against Women, 2003 UN Convention against Corruption, 2006 Convention on the Rights of Persons with Disabilities (CRPD), and 1950 European Convention on Human Rights. The Netherlands is also a member of the Council of Europe's Venice Commission and Group of States against Corruption (GRECO).

¹⁴ The 1989 Elections Decree unifies prior regulations and further details several sections of the Elections Act. Several aspects of the electoral process are further regulated by the 2013 Political Finance Act, the 2009 General Administrative Law Act, the 1994 Criminal Code, and the 1992 Municipalities Act.

¹⁵ See the GRECO reports on Transparency of Party Funding in [the Netherlands](#).

C. ELECTION ADMINISTRATION

The election administration is highly decentralized. Municipal council elections are administered by the municipal authorities, with support and methodological guidance from the Ministry of Interior and Kingdom Relations (MoIKR) and the Electoral Council (EC), an independent administrative body. The MoIKR is responsible for proposing legislation and for issuing regulations related to the election process.¹⁶ For municipal council elections, the EC has no functions or authority over the election administration.

By law, each municipality has a central election committee (CEC) chaired by the municipal mayor and comprising four other members appointed for four years.¹⁷ The municipal CECs register names of political parties wishing to contest the elections, register the candidate lists, determine the election results, and allocate the mandates. Furthermore, municipal authorities are responsible for maintaining voter registers, mailing voting cards, identifying polling premises, recruiting and training the polling station committee (PSC) members, procuring electoral materials, and providing voter information. All ODIHR NAM interlocutors expressed trust in the integrity and professionalism of the municipal election authorities, including in the conduct of election day procedures.

Voting and counting procedures will be administered by some 9,000 PSCs temporarily appointed before elections.¹⁸ Each PSC consists of between four and seven members, including the chairperson.¹⁹ To serve in PSCs on election day, all members must complete a training course; municipalities also conduct separate webinars for PSC chairpersons.²⁰ PSC members are prohibited from indicating political preferences while carrying out their duties, but the law does not prohibit candidates, councilors and aldermen from serving in PSCs.²¹ The MoIKR informed the ODIHR NAM that due to the COVID-19 pandemic, several municipalities initially experienced difficulties securing sufficient number of polling station premises and PSC members, but that these issues have generally been resolved.²²

By law, all polling stations should be fully equipped and independently accessible for voters with physical disabilities.²³ If any of the required conditions are not met, the mayor must inform the municipal council about the reasons.²⁴ Voters with intellectual disabilities may not request assistance in the voting booth, which is at odds with the international standards.²⁵ Eighty-two municipalities have purchased one or more ballot-sized stencils which, combined with audio devices with headphones that sequentially read the names of candidates, can be used for independent voting of the visually impaired voters.

¹⁶ The MoIKR also conducts a review after each election to identify areas of potential improvement.

¹⁷ According to the Election Act, further rules regarding the establishment, composition and work of the election committee may be determined by a decision of the municipal council.

¹⁸ According to the EC, in the 2018 municipal elections, there were 8,699 polling stations. The law does not prescribe the deadline for the formation of PSCs.

¹⁹ Substitute members may be designated to fill in for absent members.

²⁰ Due to the pandemic, all training sessions will be organized online.

²¹ The EC had advised the municipalities not to appoint as PSC members those who were elected or appointed to political office, as they might be perceived as politically biased.

²² Some schools and hospitals where polling stations are usually located could not be used due to the pandemic.

²³ Includes a ramp, parking facilities, voting booths suitable for wheelchair access and a magnifying glass.

²⁴ According to civil society organization Ieder(in), some 80 per cent of polling station locations are fully accessible.

²⁵ Article 29.a.iii of the CRPD stipulates the provision of assistance to voters with disabilities by a person of their choice.

Due to the COVID-19 pandemic, the municipal CECs have set up a number of polling stations in care homes. As access to this polling station is restricted only to voters and polling staff, the CECs will assign an independent observer for each such polling station. The CECs may also organize a number of mobile PSCs and set up polling stations in places such as malls and transportation hubs. In order to decrease the risk of mistakes during the vote count due to conditions in polling stations and tiredness of the PSC members, as in previous elections, some 34 municipalities will collect and hand-count the votes centrally.²⁶

All citizens can observe election day proceedings and sessions of election administration bodies and have the right to file an oral complaint on any part of the process. The Elections Act also provides for international election observation. None of the civil society organizations or political parties met by the ODIHR NAM plan to deploy observers, stating their high level of confidence in the polling proceedings.

The municipalities, the EC and the MoIKR maintain comprehensive elections-related websites, though according to ODIHR NAM interlocutors, voters mostly get informed about the election process through the national and local media.

D. VOTER REGISTRATION

Dutch citizens and resident EU citizens aged at least 18 on election day are entitled to vote in municipal council elections where they reside. Non-EU citizens are also entitled to vote if they have been legally resident in the Netherlands for at least five years. Only those who committed serious violation against the foundations of the state are disenfranchised.²⁷

Voter registers are maintained by municipalities based on information derived from the national Personal Records Database (PRD). Dutch citizens abroad may not vote in municipal elections; however, if temporarily abroad and included in the PRD, they can still vote in person in the Netherlands or by authorizing a proxy. Detainees and eligible prisoners can vote only via proxy, except if they are granted prison leave on election day or if the municipality opens a polling station at the place of confinement. For the purpose of upcoming elections, the voter registers closed on 31 January, coinciding with the day of nomination of candidates. The total number of voters will be published together with the final results of the elections.²⁸

There are no voter lists in polling stations on election day. To be able to vote, voters must receive their voter cards, which are dispatched by the municipalities to all eligible voters no later than two weeks before election day.²⁹ At the polling station, a voter must present their voter card and a state-issued identification document to a member of the PSC, which retains the voter cards.³⁰

No ODIHR NAM interlocutors raised concerns related to accuracy of the voter registers. Some municipal election officials noted that there are always a number of returned voting cards, indicating a possibility that some voters do not actually reside where registered, or that they are

²⁶ By law, the PSCs will provisionally count and record only the total number of votes cast for each list, pack the election materials and delivered it to the central counting location, where the CEC will organize the vote-count on the following day.

²⁷ By law, this can be imposed as an additional punishment to those serving sentences longer than one year for certain crimes including electoral fraud. EU citizens disenfranchised by a court decision of another member state are also not entitled to vote.

²⁸ A total of 12,461,540 voters were eligible to participate in the 2018 municipal council elections.

²⁹ Voter cards are personalized documents with some security features aimed to prevent forgery and duplication. In case of loss, voters may request a replacement voter card no later than five days before election day.

³⁰ ID documents may also be expired, but no more than five years.

temporarily away. Homeless voters and those without a registered address are not able to vote, as they are not included in the PRD and do not receive voter cards, unless they are registered under a postal address such as the address of the social welfare institution.

E. ALTERNATIVE VOTING METHODS

Voters can cast their ballots at any polling station in their municipality of residence. This can be done in-person or, upon request, by proxy. For municipal council elections, there is no possibility to vote by post.³¹

The temporary measures related to the COVID-19 pandemic include a possibility for early voting on 14 and 15 March. By law, the municipalities are obliged to open several polling stations for early voting, depending on the number of registered voters.³² All ODIHR NAM interlocutors supported the option for early voting as a convenience for voters and noted that two days of early voting are sufficient.

Any voter who wishes to do so may authorize a proxy to vote on their behalf, provided that the proxy is a voter in the same municipality. This may be done by providing the proxy with a signed voter card and a copy of the voter's ID card.³³ By law, a proxy may cast up to two proxy votes, and must cast their own vote at the same time. The number of proxy votes is recorded on the results protocol at each polling station.³⁴ ODIHR has previously recommended that the practice of proxy voting be reviewed, given the potential challenges to the secrecy and equality of the vote and indications of a higher incidence of voting by men on behalf of women in some communities, as well as the impossibility of verifying that the proxy voted as intended. A number of ODIHR NAM interlocutors expressed an opinion that proxy voting should be abolished and replaced by early voting.

F. CANDIDATE REGISTRATION

Eligible voters may stand for election as municipal councillors in the municipality where they reside, or if they declare they will move to the given municipality if elected. By law, certain functions are incompatible with being elected as councillors, including members of governmental, provincial or local executive bodies.

Political parties, groups and associations wishing to contest elections can register their names and logos with the CEC up to 43 days before the deadline for candidate list nomination.³⁵ If a party's name was previously registered with the EC, it may run in any municipal council election using that name; this includes parties that participated in previous elections. In accordance with the law, on 22 December, the EC published in the official gazette a list of 43 party names and authorised persons.³⁶

³¹ In parliamentary elections, Dutch voters residing abroad can cast their votes by post. In the March 2021 parliamentary elections, the temporary pandemic-related voting measures allowed voters over the age of 70 to vote via post.

³² Municipalities with fewer than 10,000 registered voters were required to open 1 polling station; between 10,000 and 30,000 – 2; between 30,000 and 60,000 – 4; between 60,000 and 100,000 – 8; between 100,000 and 350,000 – 10, and over 350,000 – 20 polling stations.

³³ A voter may also request proxy voting by sending a request to the municipality, who will issue a proxy certificate to the proxy.

³⁴ According to the EC, in the 2021 parliamentary elections, some 8.8 per cent of votes were cast through a proxy.

³⁵ To register with the municipal CEC, parties must submit a deposit of EUR 112.50 which is returned if the party submits a candidate list on the day of nomination.

³⁶ See the [relevant page](#) of the official gazette.

The registration of a party name is not a prerequisite for submitting a candidate list. Non-registered groupings and individuals are also allowed to compete with the lists labelled only by an ordinal number determined by the respective CEC. A group of parties may contest a particular municipal council election on a common list by submitting a candidate list under an agreed name (most commonly, as a sequence of their acronyms). A party list can include a maximum of 50 candidates, and parties with more than 15 councilors in the outgoing municipal council may include up to 80 candidates.³⁷ The lists are ordered on the ballot by the number of seats won in the outgoing municipal council, followed by parties and unnamed lists with their ordinal numbers determined by drawing lots. Candidates can *de facto* run individually, by submitting an unnamed list with only one candidate listed.

The candidate lists can be submitted to the municipal CECs only on the day of nomination, which for these elections was set to 31 January.³⁸ To be accepted, the list must be accompanied by ten, twenty or thirty support declarations, depending on the size of the municipal council, unless the party won at least one seat in the previous municipal council elections.³⁹ The submitter must also pay a deposit of 225 EUR, which is returned in case the list wins at least one seat, or at least 75 per cent of one electoral quota. In general, ODIHR NAM interlocutors described this low threshold for participating in municipal council elections as ensuring an inclusive process but also leading to a large number of parties included on the ballot.

In case of omissions, parties have two days to rectify them and submit corrected documents. Many ODIHR NAM interlocutors stated that the candidate registration process is administratively burdensome, as even minor mistakes require correction as well as the resubmission of the entire documentation. They also noted that municipalities are generally helpful during this process.

G. ELECTION CAMPAIGN AND CAMPAIGN FINANCING

The Constitution guarantees freedoms of association, assembly and expression. Election campaigns are unregulated, as there is no official campaign period, with campaigning permitted in the lead up to and during election day, and no restrictions to where parties can campaign other than in the vicinity of and within the polling stations.

ODIHR NAM interlocutors did not foresee any hindrances to the freedom to campaign. Several political parties informed the ODIHR NAM that while they would be employing some traditional campaign methods, such as door-to-door canvassing and street stalls, larger public rallies would not be taking place. All parties indicated that they would make use of the online and social media for campaigns. Smaller parties indicated to the ODIHR NAM that owing to the disparity in financial resources, larger parties had a distinct advantage in their social media outreach.

The central themes of the campaign are expected to be the cost of living, housing and energy transition. For number of larger municipalities, web applications such as *Stemwijzer* (or Vote Match), aim to provide non-partisan information on the election programmes of political parties by allowing voters to compare their views with those of the contesting parties.

While some ODIHR NAM interlocutors noted online misinformation as a concern at a national level most did not perceive it as a threat related to municipal council elections.

³⁷ Each candidate may be included only on one list in each municipality.

³⁸ According to the Election Act, the nomination day must fall between 31 January and 6 February (in leap years). Candidate lists are accepted from 9am until 5pm on the nomination day.

³⁹ The support declarations must be given by persons registered to vote in a given municipality. A voter may not sign for more than one declaration of support.

There are no political and campaign finance regulations specific to municipal council elections, other than those requirements that ordinarily apply to parties with parliamentary representation. The 2013 Political Finance Act (PFA) elaborates disclosure requirements for electoral contestants. There were no substantial amendments to the PFA after the 2021 parliamentary elections and many prior recommendations made by ODIHR related to campaign finance remain unaddressed.

The law provides for both public and private funding, though only political parties with at least one seat in parliament are eligible for public funding.⁴⁰ Local party branches collect membership dues and can receive donations. Many ODIHR NAM interlocutors noted that the lack of funding for parties that are unrepresented in parliament, including local parties that collectively constitute more than one third of the representatives in all municipalities, may create an unfair financial advantage in favour of larger parties. Concurrently, only those parties that receive public funding are required to disclose their finances, which some ODIHR NAM interlocutors noted results in a lack of transparency in the financing of municipal election campaigns.

The legislation does not impose campaign expenditure limits on either parties or candidates. There are no limits to the contributions that parties can accept from individuals or legal entities, including private corporations. Those parties that are required to register donations must maintain records of contributions over EUR 1,000, including those made in-kind, though this does not include a requirement for public disclosure. Public disclosure requirements apply for contributions of upwards of EUR 4,500 from an individual donor in a given calendar year, and debts totaling EUR 25,000 and above per calendar year.⁴¹ These thresholds for recording and for disclosure of sources were previously observed by ODIHR as being too high to permit adequate transparency and stand contrary to international standards and good practice.⁴² Donations from foreign donors are unregulated, which also stands at odds with international standards. Some ODIHR NAM interlocutors noted that some parties have committed to internal disclosure requirements. The Commission on Political Party Finance advises the MoIKR on political and campaign finance but does not have any responsibilities related to municipal elections other than those relating to all parliamentary parties.

H. MEDIA

The constitution guarantees freedom of expression and freedom of speech, while detailed media-related regulations are elaborated in the 2008 Media Act. While ODIHR NAM interlocutors noted the decline of local media, the media landscape remains diverse and pluralistic with a tradition of

⁴⁰ Parties receive a base amount (EUR 178,384), plus an amount per seat in the parliament (EUR 51,740). In addition, a political party with at least 1,000 members who each pay an annual membership fee of at least EUR 12, receives an amount equal to EUR 1,953,202 divided by the total number of political parties who are eligible for that type of subsidy.

⁴¹ The annual financial reports submitted by parties to the MoIKR are made available on the ministry's website. In addition, pursuant to Article 25(5) of the Law, the overviews of donations equal to or exceeding EUR 4,500 and debts equal to and above EUR 25,000 are to be published in the Government Gazette.

⁴² Paragraph 209 of the 2020 ODIHR and Venice Commission Guidelines on Political Party Regulation states that "reasonable limits on the total amount of contributions may be imposed and the receipt of donations should be transparent", while paragraph 213 provides that "reasonable limitations on private donations may include the determination of a maximum amount that may be contributed by a single donor." The Final Report of the ODIHR Expert Team to 17 March 2021 Parliamentary elections recommended: "In order to increase the transparency of campaign funding, the law could be reviewed to lower the public disclosure threshold on donations and require the disclosure of donations received up until the election day. Consideration should be given to introducing a post-electoral reporting requirement, covering all campaign contributions and expenditures

editorial independence. There are 23 public broadcasters, 10 of which are national and 13 regional, and over 600 broadcasters in total.

The regulation of campaign coverage or campaign advertising in public or private media is limited to the allocation of free airtime on public media for parties with representation in parliament and limitations on paid political advertisements. The Media Authority is responsible for the allocation of free airtime, while the quantity is decided by the Ministry of Education, Culture and Science. Parties without parliamentary representation are not entitled to free airtime in the public media which some ODIHR NAM interlocutors emphasized provides an unfair advantage to parliamentary parties particularly in municipal elections.

The Dutch Media Authority (DMA) upholds the rules set out in the Media Act and grants licenses to private broadcasters. It processes complaints related to the respect of the media law and where media outlets are deemed to not be in compliance with the legislation, the DMA has the power to impose sanctions ranging from warnings to financial penalties. Internet content is not subject to DMA oversight.

A self-regulatory Press Council oversees compliance with journalistic ethics and good practice and it can comment on all media production including broadcast content.⁴³ It is possible to file a complaint with the Press Council, but only related to journalistic work. The Press Council has no power to impose sanctions or fines; however, its decisions do contribute to public opinion regarding journalistic conduct.

Most ODIHR NAM interlocutors were confident that the media environment provides the voters with a full and diverse range of political information. Public broadcasters are organizing debates that plan to include the leadership of all parliamentary parties with some media outlets planning to hold debates with local contestants. Some ODIHR NAM interlocutors were concerned with an increasing polarization of debate in national media and hostility towards the media by certain political parties and some sections of the public.

I. COMPLAINTS AND APPEALS

The Elections Act provides recourse to complaints and appeals in relation to voter registration and the registration of political groupings and candidates, which can all be submitted to the respective municipal CEC. Most ODIHR interlocutors were satisfied with the procedures and deadlines in place for appeals in relation to the registration of party names and candidate lists. The Council of State is the highest administrative court with general jurisdiction, and in relation to municipal elections only hears cases related to the registration of the party names, candidate and voter registration; its decisions are final.

The General Administrative Law Act excludes the possibility of appeal of important facets of the electoral process including voting procedures, vote counting and the election results. A complaint or appeal on any electoral matter otherwise not specified can be submitted to the Civil Court, provided there was a 'gross' violation of electoral procedures. Serious electoral violations are regulated by the Penal Code and fall under the jurisdiction of the criminal courts with no expedited deadlines for election related cases. For other aspects of elections, including campaign finance, campaigning and challenges to the election results, there are no election-specific rules and regulations that would allow judicial appeal other than to the civil court, despite prior ODIHR recommendations.

⁴³ The Press Council is funded by the Press Council Foundation, which is composed of major print and audiovisual media associations, as well as by professional media organizations.

IV. CONCLUSIONS AND RECOMMENATIONS

The ODIHR NAM noted a high level of confidence in the work of the election authorities at all levels. ODIHR NAM interlocutors generally noted the value of an external assessment but some expressed the view that an observation activity for these elections would be unnecessary. Some interlocutors pointed to potential areas of improvement to the regulatory framework for campaign financing, and several raised concerns related to intolerant and discriminatory rhetoric, particularly on social media. Authorities and party representatives described planned revisions to the electoral legislation to take place in the near future. Based on the findings of this report, ODIHR does not recommend the deployment of an election observation activity for these elections. However, ODIHR encourages the authorities to consider and implement previous ODIHR electoral recommendations, and stands ready to assist the authorities in implementing these recommendations.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs

Annemijn van de Broek, Head, Security and Defence Department

Pieter van Donkersgoed, Co-ordinator, Security and Defence Department

Ministry of Internal Affairs and Kingdom Relations

Hans Klok, Deputy Head, Election Department

Reinier Fleurke, Senior Policy Adviser, Election Department

Jorieke van Leeuwen, Senior Policy Officer for Elections

Joep Severens, Senior Policy Officer for Financing Political Parties

Edward Brüheim, Senior Legislative Lawyer

Electoral Council

Saskia Scheerhout, Head, Legal Department

Mirjam de Bruin, Legal Adviser

Council of State

Eric Daalder, State Councillor

Marcel Rijdsdijk, Judge

Municipalities

André Vervooren, Head of Election Project, Rotterdam Municipality

Wim Groen, Project Coordinator Elections, Rotterdam Municipality

Max Albers, Process Manager Elections, Rotterdam Municipality

Arjan Brak, Project Coordinator Elections, Den Haag Municipality

Michelle Mangert, Project Manager Elections, Den Haag Municipality

Marloes Dettingmeijer, Head of Citizens' Affairs Department, Gouda Municipality

Karel Baas, Project Coordinator Elections, Gouda Municipality

Political Parties

Arnout Hoekstra, General Secretary, Socialist Party

Benjamin van Es, Campaign Manager, People's Party for Freedom and Democracy

Lennart Salemink, Board Member, People's Party for Freedom and Democracy

Herman de Vries, Senior Marketing Advisor, Christian Democratic Appeal

Paul Rüpp, Board Member, Christian Democratic Appeal

Thomas Roskam, Municipal Council Member, *Leefbaar Rotterdam*

Peter Bos, Municipal Council Member, *Haagse Stadspartij*

Joost Sneller, MP, Democrats 66

Media

Jan Müller, Director, Foundation Regional Public Broadcasters (RPO)

Civil Society

Juliette van der Jagt-Jobsen, Senior Legal Advisor, Association of Dutch Municipalities (VNG)

Hanneke van Katwijk, Legal Advisor, Association of Dutch Municipalities (VNG)

Henk van Dijkhuizen, Vice Chairperson, Dutch Association for Citizens' Affairs (NVVB)

Winnie Prins, Chairperson, Information Centre Local Political Parties

Lionel Martijn, Director, Consultative Body for Caribbean Dutch citizens (OCaN)

Xavier Donker, Communication Advisor, Consultative Body for Caribbean Dutch citizens (OCaN)

Devika Partiman, Chairperson, *Stem op een Vrouw* (Vote for a Woman)
Geeke van Velzem, Director, Reading and Writing Foundation
Jarre Middeljans, Advisor, Reading and Writing Foundation
Anna Nynke Heidbuurt, External Relations, Reading and Writing Foundation
Thijs Hardick, Policy Officer, Association of Disabled Persons Organisations *Ieder(in)*
Marijke Hempenius, Programme Manager, Association of Disabled Persons Organisations *Ieder(in)*
Timo Veldman, Policy Advisor, Institute for Human Rights
Enno Koops, Lawyer, The Netherlands Committee of Jurists for Human Rights
Eric Stokkink, Director, *ProDemos*
Merle te Molder, Project Officer, *ProDemos*

International Community⁴⁴

Representatives of diplomatic missions of France, Norway and United States.

⁴⁴ The ODIHR NAM extended an invitation to representations of all OSCE participating States resident in the Netherlands.