



Office for Democratic Institutions and Human Rights

PORTUGAL

PARLIAMENTARY ELECTIONS

6 October 2019

ODIHR NEEDS ASSESSMENT MISSION REPORT

3-5 June 2019



Warsaw
25 July 2019

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6 October 2019**

ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an official invitation to observe the 6 October parliamentary elections in Portugal, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 3 to 5 June 2019. The NAM included Alexander Shlyk, Head of the ODIHR Election Department, and Keara Castaldo, ODIHR Election Adviser.

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

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

II. EXECUTIVE SUMMARY

Portugal is a semi-presidential republic, with legislative powers vested in the unicameral parliament. Executive powers are exercised by the government, led by the prime minister, as well as by the directly-elected president, who has authority to veto legislation and to dissolve the parliament. In the upcoming elections, voters will elect 230 deputies for a four-year term.

The electoral legal framework comprises many pieces of legislation regulating specific aspects of the process, and has been amended on several occasions since the previous parliamentary elections. Changes that are in place for the upcoming elections were generally supported by ODIHR NAM interlocutors, and include an increased gender quota for party lists, expanded opportunities for early voting, and automatic voter registration and in-person voting for citizens residing abroad. Certain prior ODIHR recommendations remain unaddressed, such as on the disenfranchisement of persons with mental disabilities, lack of timely remedy for media-related complaints, and lack of provisions for observers. Notwithstanding, stakeholders expressed overall satisfaction with the electoral legal framework

The administration of elections is decentralized across many institutions, with the National Election Commission (NEC) supervising the overall electoral process, while the Ministry of Interior (MoI) and regional and local government structures play significant logistical and administrative roles. All ODIHR NAM interlocutors conveyed a high level of trust in the integrity and professionalism of the election administration, including in the conduct of election day procedures. The election law is silent with respect to both citizen and international observers, but the authorities informed the ODIHR NAM that they would enable a potential observation activity.

Since the previous parliamentary elections, the authorities have introduced some practices which facilitate the electoral participation of persons with disabilities, such as the availability of Braille ballot guides for voters with visual impairments and sign language interpretation of electoral debates for hard-of-hearing voters. However, stakeholders noted that persistent problems, such as inadequate physical infrastructure and the inaccessibility of some electoral information, continue to hinder autonomous participation.

Voter registration is passive, including for citizens with a registered address abroad. All citizens at least 18 years of age are eligible to vote, unless revoked of this right by a court decision for a criminal offense. The law retains restrictions on suffrage on the basis of mental disability, though the authorities informed the ODIHR NAM that these provisions are not enforced. Overall, ODIHR NAM interlocutors expressed confidence in the accuracy of the voter lists.

Citizens who have the right to vote are eligible to stand as candidates through nomination by a registered political party, but cannot stand independently. Political parties are prohibited to use regional or religious names or symbols, and elected deputies cannot change their party affiliation and retain their seat in parliament. ODIHR NAM interlocutors were generally confident in the inclusivity of the candidate registration process.

Stakeholders expressed confidence in their ability to campaign freely. Campaign rules cover both traditional and online political activity, foresee equal allocation of public spaces to electoral contestants, and regulate advertising by public officials and entities. Some ODIHR NAM interlocutors criticized the prohibition on institutional advertising during the pre-election period and the associated financial penalties.

Several interlocutors lauded the active participation and visibility of women in political campaigns, including as party leaders, but noted continued instances of sexist rhetoric and commentary about women candidates, generally in social media. New requirements for candidate lists include an increase in the minimum representation of each gender from one-third to 40 per cent, and stronger sanctions for noncompliance. However, official statistics on the actual number of women in electoral lists or in the overall election administration are not published. Only one member of the NEC is a woman.

Both public and private funding is permitted in election campaigns. Amendments to the legal framework in 2017 and 2018 reduced public funding and expenditure limits and repealed certain reporting requirements for fundraising events, and according to some stakeholders were adopted without broad public consultation. Although the oversight entity enjoys public trust in its impartiality, several interlocutors remarked that it lacks sufficient resources and capacity to effectively monitor campaign finance.

The legal framework for media protects freedoms of expression and of the press, elaborates on equitable coverage of electoral contestants, and contains provisions meant to prevent concentration of media ownership and to guarantee the independence of the public broadcasters. Defamation still carries criminal penalties, contrary to several decisions of the ECtHR. Certain media rules, including commercial and institutional advertising in elections, have not been subject to the required review and were criticized by stakeholders. Notwithstanding, ODIHR NAM interlocutors generally expressed confidence in the conduct of media in election campaigns and in the impartiality and effectiveness of oversight.

Legal provisions with regard to dispute resolution are dispersed across different laws and regulations. The NEC informed the ODIHR NAM that certain cases might be more efficiently handled if filed

directly with other institutions, such as media-related complaints, which the NEC receives and forwards to the national media regulator (ERC). Notwithstanding, interlocutors expressed overall confidence in the system of election dispute resolution.

Interlocutors welcomed a potential ODIHR activity for the upcoming elections, underlining the value of an external review, but generally held the opinion that it was unnecessary. The ODIHR NAM noted full stakeholder confidence in the integrity of the electoral process, including election day procedures, and in the impartiality of the election administration and other relevant authorities. Recent amendments to the election law were welcomed by a majority of interlocutors as enhancing the inclusiveness of the electoral process. Nevertheless, certain prior ODIHR recommendations remain unaddressed, and some ODIHR NAM interlocutors identified specific areas that would benefit from further review. Considering recent changes to the legal framework, the ODIHR NAM sees benefit in undertaking a more in-depth assessment of the implementation of campaign finance and media regulations.

On this basis, the ODIHR NAM recommends deploying an Election Expert Team (EET) for the upcoming parliamentary elections, subject to the availability of resources, to assess the legal framework and practical implementation of campaign finance and media rules. ODIHR also encourages the authorities to consider previous recommendations which remain unaddressed.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Portugal is a semi-presidential republic, with legislative powers vested in the 230-member unicameral parliament. Executive powers are exercised by the government, led by the prime minister, as well as by the directly-elected president, who has authority to veto legislation and to dissolve the parliament.

Following the last parliamentary elections in October 2015, six political groups gained representation in the parliament. The then-incumbent Portugal Ahead coalition, comprising the Social Democratic Party (PSD, 89 seats) and the People's Party (CDS-PP, 18 seats), obtained the largest number of seats, but not an overall majority. The Socialist Party (PS, 85 seats) formed a government with the support of the Left Bloc (19 seats) and the coalition of the Communist Party (15 seats) and the Green Party (2 seats). Joining PSD and CDS-PP in opposition is the People-Animals-Nature (PAN) party, which holds one seat.

ODIHR previously observed the 2009 parliamentary elections in Portugal.¹ The Election Assessment Mission concluded that “the elections were conducted in a manner which reflected Portugal’s established democratic tradition, respect for political pluralism and fundamental freedoms as well as a high level of public confidence in the overall process. Voters enjoyed a wide and genuine choice of political parties. Some aspects of the political system may nevertheless merit review”.

B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

Parliamentary elections are primarily regulated by the 1976 Constitution and the 1979 Law on Parliamentary Elections (“election law”, amended in 2018). ODIHR previously recommended the consolidation of the electoral legal framework, which comprises several pieces of legislation

¹ See [prior ODIHR election-related reports on Portugal](#).

regulating specific aspects of the process, such as the law on the National Election Commission (NEC), the law on the voter register, the law on out-of-country voting, the law on political parties, the law on funding of political parties and campaigns, the law on the right of assembly, the law on media coverage of elections, the law on the format of political campaigns, and the law on opinion polls. These are frequently supplemented by administrative acts, including the subsidiary regulations and rules of internal procedure of the NEC. Some ODIHR NAM interlocutors criticized the voluminous legislation related to the conduct of elections, which at times lacks conformity and can pose an obstacle to public understanding of the electoral process. Notwithstanding, stakeholders expressed overall satisfaction with the electoral legal framework.²

The legal framework has been amended on several occasions since the last parliamentary elections. Amendments to the election law in August 2018 introduced expanded opportunities for early voting, automatic voter registration and in-person voting for citizens residing abroad, and requisite Braille ballot guides in polling stations, among other technical changes. In addition, February 2019 amendments to the so-called “parity law” increased the obligatory number of candidates on electoral lists which must belong to each gender, from one-third to 40 per cent. Most ODIHR NAM interlocutors welcomed these legal changes as increasing the accessibility and inclusivity of the electoral process, and noted that most of the amendments enjoyed broad consensus. However, certain prior ODIHR recommendations remain unaddressed, such as on the disenfranchisement of persons with mental disabilities, lack of timely remedy for media-related complaints, and lack of provisions for citizen and international observers.

Members of parliament are elected through a proportional system for four-year terms from 22 multi-member constituencies, including two constituencies for the autonomous regions of Azores and Madeira, and two additional constituencies for voters residing in Europe and elsewhere, respectively. The number of seats per constituency is determined by the NEC based on the number of registered voters. There is no legal threshold for allocation of seats to political parties. A prior ODIHR report noted that the allocation of seats has previously resulted in sparsely-populated constituencies being underrepresented in parliament.

C. ELECTION ADMINISTRATION

The administration of elections is decentralized across many institutions. The NEC supervises the overall electoral process, while the Ministry of Interior (MoI) and regional and local government structures play significant logistical and administrative roles. Entities responsible for the conduct of election day procedures include 22 Tabulation Centre Commissions (TCCs), 308 municipal authorities, and some 12,000 polling station commissions (PSCs). All ODIHR NAM interlocutors conveyed a high level of trust in the integrity and professionalism of the election administration, including in the conduct of election day procedures.

The NEC is responsible for general oversight of the electoral process, including equal treatment of voters and contestants, and the publication of final results. The NEC comprises a Supreme Court judge who serves as the chairperson, as well as representatives of the MoI, Ministry of Justice, and the

² Portugal is party to major international and regional instruments related to the holding of democratic elections, including the 1966 International Covenant on Civil and Political Rights (ICCPR), 1979 Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), 1965 Convention on the Elimination of All Forms of Racial Discrimination (CERD), and the 2006 Convention on the Rights of Persons with Disabilities (CRPD). Portugal is also a member of the Council of Europe’s European Commission for Democracy through Law (Venice Commission) and Group of States against Corruption (GRECO), and is a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the Framework Convention on the Protection of National Minorities (FCNM).

media regulator. Additional members are appointed anew by the parliamentary groups represented in each legislature, hence the total number of commission members varies. The current NEC comprises 10 members, of whom only one is a woman. There is no legal requirement for the gender composition of election management bodies and no gender-disaggregated data is collected on the overall representation of each gender in the election administration, including in leadership positions. The election law is silent with respect to both citizen and international observers, but the ODIHR NAM was informed that an ODIHR observation activity would be enabled by the authorities.

The primary responsibility of each TCC is the tabulation of results and allocation of mandates in each of the 22 constituencies. Each TCC is chaired by a judicial representative and comprises a secretary and 11 members, including two lawyers appointed by the chairperson, two mathematicians appointed by the Ministry of Education and Culture or, in Azores or Madeira, by the Minister of the Republic, and six chairpersons of PSCs of the respective constituency, selected by the district court.

PSCs administer the elections at polling stations. Each PSC comprises five members, including a chairperson and deputy. The mayor of each parish determines the delimitation of polling station precincts and organizes the appointment of PSC members on the basis of nominations of parties contesting the elections. In case of insufficient party nominations, the mayor may compel citizens who are resident of the precinct to serve as a PSC member, though certain categories of citizens may opt out of this service, such as the elderly, sick, or those residing abroad. No formal training is provided to PSC members prior to election day, although the NEC produces guidance documents and manuals on election day procedures.

In August 2018, amendments to the election law expanded the option of early voting to nearly all voters, upon prior registration.³ The names of voters who cast early ballots is recorded, and voters who register for early voting but then do not vote early can still cast a ballot on election day. Early voting is administered on the Sunday one week prior to election day in special polling stations established in the capital of each electoral district. Several ODIHR NAM interlocutors noted that the deadline to register for early voting, 48 hours prior to the day of voting, results in limited ability to adequately plan for early voting turnout, particularly in urban district capitals with larger populations.

Voters with limited mobility, physical disability or visual impairment may request assistance in the polling station from another voter of their choice. Recent amendments to the election law introduced the use of Braille ballot guides to facilitate voting by persons with visual impairments. ODIHR NAM interlocutors welcomed the steps taken to promote the autonomous participation of persons with disabilities, but noted that persistent problems such as inadequate physical infrastructure continue to hinder the autonomous exercise of voting rights. In addition, much of the voter education published by the NEC is not available in accessible formats for persons with visual impairments, intellectual disabilities or who possess other communications requirements.

No electronic systems are currently utilized in the voting process. However, as a pilot programme during the 26 May European Parliament elections, 50 direct-recording electronic voting machines (DREs) were furnished to 23 parishes in 14 municipalities of the Évora district. Voters at DRE-equipped polling stations could choose whether to vote electronically. The machines were adaptable in height and angle for voters with reduced mobility and included auditory instructions to facilitate autonomous voting for persons with visual impairments. After casting a ballot on the device, a paper receipt is produced as confirmation of the vote cast. No additional pilot programmes related to the use of new voting technologies are planned for the forthcoming parliamentary elections. ODIHR NAM

³ Voters in hospitals or in prisons may also request to cast a ballot in advance of election day.

interlocutors generally supported the current, paper-based system of voting, citing concerns related to the security and reliability of electronic systems.

In April 2019, the government in coordination with the NEC and the National Cyber Security Centre organized tests and a crisis management exercise, related to ICT security infrastructure and coordination among state institutions in responding to cyber security incidents or targeted disinformation campaigns.

D. VOTER REGISTRATION

All citizens at least 18 years of age are eligible to vote, unless explicitly revoked of this right in a court decision for a criminal offense. Although authorities informed the ODIHR NAM that restrictions on suffrage on the basis of mental disability are no longer in force, the recently amended election law retains these restrictions.⁴

Voter registration is passive, and the voter list is compiled by the MoI based on the national population register. The voter list is finalized 60 days prior the election day, and citizens who change their residence after this deadline must vote in their place of prior residence. Voter lists are displayed for verification in each parish, and citizens can also verify their registration and confirm the location of their polling station by Internet or SMS. Following the recent amendments to the election law, voter lists in polling stations are no longer organized according to the identification number on voter cards, which have been discontinued, and voters are instead listed alphabetically. In addition, eligible citizens with registered residence abroad are now automatically included in special voter lists, and may vote in-person at diplomatic missions, in addition to the established practice of postal voting. According to the MoI, there are currently some 10.7 million registered voters, including some 1.5 million residing abroad. All ODIHR NAM interlocutors expressed confidence in the accuracy of the voters lists, and most expressed support for the introduction of automatic registration for voters residing abroad.

E. CANDIDATE REGISTRATION

Citizens who have the right to vote are eligible to stand as candidates through nomination by a registered political party. Certain public officials cannot stand for parliament, including the president, judges, members of the NEC, and active military and diplomatic personnel. The law does not provide for independent candidates, contrary to a prior ODIHR recommendation.

Political parties register as legal entities with the Constitutional Court on the basis of 7,500 support signatures. Political parties are prohibited to use a regional or religious name or symbol. To contest the elections, parties and coalitions must submit candidate lists to the district court of the respective constituency at least 41 days prior to election day. Candidates may not appear on more than one candidate list, or in more than one constituency. On lists submitted by coalitions, each candidate must be designated to a single party. The courts have two days from the legal deadline to verify the lists, parties and coalitions have two days to correct or challenge a rejected list. Elected deputies cannot

⁴ Article 2.b of the election law disenfranchises persons “who clearly have a limitation or seriously impaired mental functions, even if they are not subject to monitoring, when they are admitted to a psychiatric establishment or declared as such by a board of two doctors”. See also paragraph 55 of the [2016 CRPD concluding observations](#), which states: “The Committee is seriously concerned that in the State party there are persons with disabilities, especially those who are deprived of their legal capacity or live in psychiatric institutions, who are deprived of their right to vote or prevented from exercising this right in elections...”.

change their party affiliation and retain their seat in parliament. ODIHR NAM interlocutors were generally confident in the inclusivity of the candidate registration process.

The legal requirement for representation of each gender on candidate lists was increased in April 2019 from one-third to 40 per cent. In addition, each gender must be represented among every three consecutive candidates, and candidates that withdraw must be replaced by a candidate of the same gender.⁵ Failure to meet this requirement now results in rejection of the list; previously parties could contest elections with a noncompliant list but would receive reduced funding. Political parties met by the ODIHR NAM welcomed the new requirements, including the stronger sanction. However, official statistics on the actual number of women in electoral lists are not published. Currently, some one-third of members of the current parliament are women, reflecting the previous minimum requirement, and women are generally underrepresented in decision-making positions in government.⁶

F. ELECTION CAMPAIGN

The official campaign period commences 14 days prior and ends one prior to election day, during which the rules on media access and coverage apply. The prohibition on campaigning before and on election day also precludes the dissemination of campaign content on the Internet. Political parties may otherwise campaign prior to the official period, including by distributing campaign materials and organizing public rallies. The election law foresees equal allocation of public spaces for campaign purposes, which is supervised by parish councils and mayors, and prohibits advertising on certain public or religious premises. Political parties met by the ODIHR NAM expressed confidence in their ability to campaign freely and without hindrance.

Campaigning by public officials and entities is prohibited, as is the inauguration of public works during a pre-election period of 60 days. Additionally, institutional publicity, or state advertising in traditional and social media, is prohibited following the announcement of elections, except in cases of urgent public need (see also *Media* section). The NEC does not actively monitor violations of this rule but may react to complaints. Some ODIHR NAM interlocutors described the provision as overly restrictive and requiring additional clarity on what constitutes illegal publicity by a public official or a media outlet during a campaign. In case of violation of this rule, the law foresees payment of a fine of between EUR 15,000 and EUR 75,000. According to interlocutors, the Constitutional Court has determined that the prohibition should be applied on an ad hoc basis, and some political parties are seeking to amend the law.

ODIHR NAM interlocutors expected the campaign to be competitive but civil. Stakeholders did not raise major concerns related to hate speech or inflammatory rhetoric, but some pointed to instances of xenophobic rhetoric by smaller parties which are expected to contest the elections.⁷ Several interlocutors lauded the active participation and visibility of women in political campaigns, including as party leaders, but noted continued instances of sexist rhetoric and commentary about women candidates, generally in social media.

⁵ An additional legislative proposal supported by some ODIHR NAM interlocutors would have required a candidate of each gender in the first two places on all lists, but was not adopted in parliament.

⁶ The [2015 CEDAW concluding observations](#) noted that “despite some improvements, the numbers of women in decision-making posts in the executive branch of government ... remain low”.

⁷ Previously, paragraph 14 of its [2012 CERD concluding observations](#) raised concern related to “incidence of racist and xenophobic speech emanating from a few extremist political parties”.

G. CAMPAIGN FINANCE

The law on funding political parties provides for both public and private funding to election campaigns. According to some ODIHR NAM interlocutors, amendments to the legal framework in 2017 and 2018, which reduced public funding and expenditure limits and repealed certain reporting requirements for fundraising events, were adopted without broad public consultation.

Annual public funding is allocated to parties represented in parliament or that received at least 50,000 votes in the previous election. Following each election, additional subvention is available to parties which nominated candidates for at least half of the parliamentary seats and won at least one. Following a 20 per cent reduction introduced in 2017, the base amount of state subvention is some EUR 7 million, of which 20 per cent is divided equally among eligible parties, and the remainder allocated proportionally based on election results.⁸ Some ODIHR NAM interlocutors suggested that the current system of state party subvention disproportionately advantages incumbent parties.

Private legal entities and citizens may contribute up to 60 minimum monthly wages, or some EUR 26,000, to each political party per year. Foreign entities and individuals may not donate. Loans as well as in-kind contributions are accounted under these limits. Amendments to the political finance law in early 2018 removed income limits on party fundraising events, and parties are not obligated to report the origin of funds accrued at such events, potentially undermining limits on private income. Some ODIHR NAM interlocutors noted this lack of regulation and of clear distinctions between income and fundraising requirements detract from the transparency of campaign financing and effective oversight.

Following a 20 percent reduction introduced in 2017, the expenditure limit for campaigns amounts to 80 percent of 60 minimum monthly wages, or some EUR 20,900, per candidate. Third party spending toward political campaigns is not regulated. Some ODIHR NAM interlocutors expressed concern that the activities of private entities with vested interests in political parties, including banks and corporations, are not sufficiently accounted for in the electoral campaign.

Contestants must submit campaign finance reports within 90 days of the publication of official election results, as well as annual financial reports, to a political finance oversight entity, which operates within the Constitutional Court but is nominally independent. This entity must audit campaign finance reports within 35 days of receipt, and parties have 10 days to respond to requests for clarification. The oversight entity has six months to verify the parties' annual financial reports. Decisions of this entity can be appealed to the Constitutional Court, which is the final instance. A system of gradual sanctions for violations of campaign finance rules includes fines, denial of public funding, and prison terms of up to three years. Several ODIHR NAM interlocutors noted that the oversight entity has insufficient resources and capacity to effectively monitor campaign finance, and merely confirms compliance of report submissions with legal obligations, rather than conducting proactive and investigative monitoring. Notwithstanding, several stakeholders expressed confidence in the entity's impartiality and professionalism.

H. MEDIA

The media environment is pluralistic. Television is considered the primary source of political information, amidst relatively low readership of national print media. The public broadcaster, *Radio e Televisao de Portugal*, includes national television channels *RTP1*, *RTP2*, and *RTP3*, as well as two additional regional channels broadcast in the autonomous regions of Azores and Madeira, as well as

⁸ Per law, the amount of state subvention equals 80 per cent of twenty thousand minimum monthly salaries (EUR 435.76 in 2019).

three national and six regional radio stations. The major private national television networks are *SIC* and *TVI*. ODIHR NAM interlocutors generally expressed confidence in the overall conduct of media in election campaigns and in the impartiality and effectiveness of oversight.

The Constitution protects freedoms of expression and of the press, elaborates on equitable coverage of contestants in election campaign and contains provisions meant to prevent concentration of media ownership and to guarantee the independence of the public broadcasters. Several different laws further regulate the conduct of traditional and online media, including legislation (Law No. 72-a) adopted in 2015. The new law provides for editorial freedom of media during election campaigns, including the format of political debates, and regulates commercial and institutional advertising during the pre-election period. Although the law prescribed a review of these regulations to take place within one calendar year, no such review has taken place.

Amendments to the criminal code in February 2018 introduced special protections for journalists, against whom threats or physical assaults are to be treated as serious crimes. However, defamation still carries criminal penalties, despite several decisions of the ECtHR which found Portugal in violation of Article 10 of the ECHR, most recently in 2017.⁹ In defamation cases, higher fines may be imposed if the injured party is a public official.

The national media regulator (ERC) oversees the compliance of broadcast and print media with election-related rules and obligations, including through systematic monitoring of major television networks, and can initiate investigations. The ERC can also issue directives and guidelines to media outlets which are not legally binding. The ERC comprises four members appointed by the parliament and a fifth chairperson selected by the members. The NEC receives and forwards media-related complaints to the ERC; the ERC's decisions can be appealed to administrative courts, which are not subject to expedited timelines in an election period. By law, the ERC may not issue sanctions during the two-week campaign period.

Parties contesting at least a quarter of seats, and in at least a quarter of constituencies, are entitled to free airtime on public and private television and radio broadcasters. Free airtime on national broadcasters is allocated proportionally according to the number of candidates nominated by the eligible parties, and on regional broadcasters should be allocated equally among all contestants in the respective constituencies. Some stakeholders noted that news programmes and electoral debates organized by private media generally exclude smaller or newly established parties, which undermines these parties' communication to voters. Positively, debates aired on public television now include sign language interpretation for hard-of-hearing voters.

I. COMPLAINTS AND APPEALS

Legal provisions with regard to election dispute resolution are dispersed across different laws and regulations. The NEC, vested with oversight of the electoral rights of citizens and contestants, has a broad possibility to receive complaints and to issue sanctions. On election day, PECs accept complaints and decide on their admissibility and merits by a majority vote of members. TCCs verify all decisions of complaints submitted to PECs. Decisions of the NEC and of TCCs can be appealed to the Constitutional Court, whose rulings are final. Cases of a criminal nature are referred to the prosecutors and the police for investigation. The NEC informed the ODIHR NAM that certain cases might be more efficiently handled if filed directly with other institutions, such as media-related

⁹ [Tavares De Almeida Fernandes and Almeida Fernandes v. Portugal](#), Application no. 31566/13, 17 January 2017.

complaints, which the NEC receives and forwards to the ERC. Notwithstanding, interlocutors expressed overall confidence in the system of election dispute resolution.

IV. CONCLUSIONS AND RECOMMENDATIONS

Interlocutors welcomed a potential ODIHR activity for the upcoming elections, underlining the value of an external review, but generally held the opinion that it was unnecessary. The ODIHR NAM noted full stakeholder confidence in the integrity of the electoral process, including election day procedures, and in the impartiality of the election administration and other relevant authorities. Recent amendments to the election law were welcomed by a majority of interlocutors as enhancing the inclusiveness of the electoral process. Nevertheless, some prior ODIHR recommendations remain unaddressed, and some ODIHR NAM interlocutors identified specific areas that would benefit from further review. Considering recent changes to the legal framework, the ODIHR NAM sees benefit in undertaking a more in-depth assessment of the implementation of campaign finance and media regulations.

On this basis, the ODIHR NAM recommends deploying an Election Expert Team (EET) for the upcoming parliamentary elections, subject to the availability of resources, to assess the legal framework and practical implementation of campaign finance and media rules. ODIHR also encourages the authorities to consider previous recommendations that remain unaddressed.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs

Francisco Alegre Duarte, Deputy Political Director for Foreign Policy
Tiago Mauricio, OSCE Desk Officer

Ministry of Interior

Joaquim Morgado, Deputy Secretary-General for Electoral Management

National Election Commission

Carla Luís, Member
Miguel Gaspar, Legal Department
Joaquina Martins, Legal Department

Constitutional Court

Cláudio Monteiro, Constitutional Judge

Media Representatives

Regulatory Authority for Media (ERC)

Telmo Gonçalves, Chief of Staff
Marta Carvalho, Legal Department

Public Broadcaster

Maria Flor Pedroso, Director for Information
Candida Pinto, Journalist

Union of Journalists (Sindicato dos Jornalistas)

Sofia Branco, President

Political Parties¹⁰

Susana Lamas, MP, Social Democratic Party
Sandra Pereira, MP, Social Democratic Party
Fernando Corvelo, Adviser, Social Democratic Party
Susana Amador, MP, Socialist Party

Academia and Civil Society

Jorge Silva, Vice-President, National Confederation of Disabled Persons' Organizations
Helena Rato, Portuguese Association for Persons with Disabilities
Ana Sofia Fernandes, President, Portuguese Platform for Women's Rights
Margarida Medina Martins, Vice-President, Portuguese Platform for Women's Rights
Isabel Romão, Expert, Portuguese Platform for Women's Rights
Joao Paolo Batalha, Chairman of the Board, Transparency International Contact Point for Portugal
Dr. Luís Macedo Pinto de Sousa, Political Science Research Fellow, University of Lisbon

¹⁰ ODIHR offered meetings to all parliamentary political parties.