



Office for Democratic Institutions and Human Rights

# PORTUGAL

## EARLY PARLIAMENTARY ELECTIONS

10 March 2024

### ODIHR NEEDS ASSESSMENT MISSION REPORT

9-12 January 2024



Warsaw  
16 February 2024

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**PORTUGAL**  
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**ODIHR Needs Assessment Mission Report**

## **I. INTRODUCTION**

Following an official invitation to observe the 10 March 2024 early 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 9 to 12 January. The NAM included Ana Rusu, ODIHR Senior Election Adviser, and Martina Barker-Ciganikova, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and preparations for the early 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, civil society and diplomatic community. 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. The early parliamentary elections were called by the President in accordance with the Constitution and upon consultation with all parliamentary parties following the resignation of the Prime Minister due to alleged involvement in high-profile corruption cases. Voters will elect 230 members of the parliament for a four-year term through a proportional closed list system in 22 multi-member constituencies. Women are generally well represented with 85 members (37 per cent) women in the parliament and 9 out of 17 ministers in the outgoing government.

The legal framework for parliamentary elections remains unchanged and primarily consists of the Constitution, the election law as well as a number of laws that regulate different aspects of the elections. While no ODIHR NAM interlocutors raised specific concerns with the electoral legal framework and its implementation, many prior ODIHR recommendations remain unaddressed, such as on the need to address the consolidation of the electoral legal framework, lack of provisions for independent candidates and for international and citizen observers, the disenfranchisement of persons with intellectual and psychosocial disabilities, the need for decriminalization of defamation, oversight of campaign finance and adjudication of media related complaints.

Various bodies are in charge of administering the elections both at the national and local levels. The National Election Commission (NEC) is responsible for the oversight of the electoral process, while lower-level commissions conduct election day procedures. The Ministry of Internal Administration (MIA) is in charge of the logistical and administrative preparations and the local government structures assist in the process. All ODIHR NAM interlocutors expressed trust in the integrity and professionalism of the institutions administering the elections, including in the conduct of election day procedures. The MIA informed the ODIHR NAM about significant time constraints related to organization of three consecutive elections within a short period of time, namely the regional elections in Azores on 4 February, early parliamentary elections on 10 March and European Parliament elections on 9 June. The

election law provides for different voting options, such as early, mobile and in-person voting, as well as voting abroad, including by post.

Voter registration is passive and the centralized electronic voter register is extracted from the population register database; some 10.8 million voters are registered for these elections. Citizens above 18 years of age are eligible to vote, except those whose right has been explicitly revoked by a court decision for a grave criminal offence. Further, existing restrictions on the right to vote for those with intellectual and psychosocial disabilities are contrary to international standards. Voter lists are available for public scrutiny with the possibility to rectify omissions. All ODIHR NAM interlocutors expressed confidence in the inclusiveness and accuracy of the voter register.

Citizens with active suffrage rights are eligible to be elected, with the exception of certain high level public officials. Only registered political parties may nominate candidate lists and individual candidates are not allowed to contest, which is contrary to international standards. The law requires a minimum representation of 40 per cent of each gender on candidate lists and prescribes that each gender be represented among every three consecutive candidates on the lists. District courts register candidates. ODIHR NAM interlocutors did not raise concerns regarding the inclusiveness of the candidate registration process, but some questioned the efficiency of the 40 per cent gender requirement for candidate lists, as it has not translated into the same number of elected candidates.

All political parties that the ODIHR NAM met with expressed confidence in their ability to campaign freely. The official campaign starts 14 days prior to the election day. The legislation provides for equal campaign conditions and prohibits campaigning by public entities, including online. Traditional in-person canvassing, televised debates and campaigning on social networks were considered by many ODIHR NAM interlocutors as the most efficient outreach methods. The main topics of the campaign are expected to be corruption, healthcare and taxation among others. Several ODIHR NAM interlocutors anticipate that ongoing judicial proceedings involving top representatives of the government may detract the narrative from important socio-economic policy issues. A number of ODIHR NAM interlocutors expressed concerns about the potential spread of fake news and misinformation and the fact that no single institution is mandated to oversee the conduct of the campaign on social networks.

Campaigns may be financed from public and private funds and the law sets individual donation and expenditure limits. There are no legal provisions for interim reporting prior to election day. The financing of political parties and campaigning by third parties is not regulated. The Entity on Political Finance and Accounts, the primary oversight institution, issues decisions, audits campaign finance reports after the elections and has the right to apply administrative sanctions; it has noted to the ODIHR NAM that it has inadequate human and financial resources to fulfill its functions. While all ODIHR NAM interlocutors expressed satisfaction with the legal framework regulating campaign finance and its implementation, most prior ODIHR recommendations related to campaign finance remain unaddressed.

Portugal enjoys a diverse media environment; television is the main source of information. Fundamental freedoms are guaranteed, but defamation, insult, and slander remain criminalized, contrary to international standards. The media-related legislation provides for editorial freedom of media during election campaigns, fair and equitable treatment of candidates in the news, free airtime for contestants, and a ban on paid political advertising on TV and online from the day the elections are called. The national media regulator is mandated to oversee the compliance of broadcast and print media with election related legislation and to conduct systematic monitoring of major public and private TV networks. While most ODIHR NAM interlocutors expressed a general confidence in the overall conduct of media during election campaign, some noted that the coverage of parties' activities on news programming may be perceived as disproportionately in favour of the far-right parties.

All ODIHR NAM interlocutors expressed confidence in an impartial and effective election dispute resolution mechanism. Different laws and regulations contain legal provisions for election dispute resolution. Election-day related complaints are decided upon at polling stations and further reviewed by higher-level election commissions. The NEC deals with complaints and imposes sanctions for violations with respect to equal treatment of voters and contestants. The Constitutional Court rules on complaints related to candidate registration and election results as well as against the NEC decisions.

All ODIHR NAM interlocutors expressed confidence in the electoral process and the ability of the election administration to professionally and transparently administer early parliamentary elections. The ODIHR NAM did not identify any new issues pertaining to the conduct of elections that would benefit from a review by an election observation activity. No legal or procedural changes were introduced since the last parliamentary elections observed by the ODIHR and no significant concerns were expressed relating to the respect for fundamental freedoms, voter registration, candidate registration, campaign and media conduct, election dispute resolution and election day procedures. While all ODIHR NAM interlocutors acknowledged a benefit from an independent examination of the electoral process, the vast majority of them noted no added value from an observation activity for the upcoming elections as they had strong confidence in the democratic process in Portugal. Based on these findings, the ODIHR NAM does not recommend an election-related activity for the 10 March early parliamentary elections. Nevertheless, ODIHR encourages the authorities to consider previous recommendations, which remain unaddressed and reiterates that it stands ready to offer its assistance upon request in a post-election process.

### III. FINDINGS

#### A. BACKGROUND AND POLITICAL CONTEXT

Portugal is a semi-presidential republic, with legislative powers vested in the 230-member unicameral parliament (Assembly of the Republic). Executive powers are exercised by the government led by a prime minister appointed by the president, after consultations with all leaders of parties represented at the Assembly. The president is elected for a five-year term by direct, universal suffrage and has a number of powers including dissolving the Assembly to call early elections.

Following the last early parliamentary elections on 30 January 2022, eight political groups gained representation in parliament.<sup>1</sup> The Socialist Party (PS) of the incumbent Prime Minister Antonio Costa received four seats above the minimum required and was able to form a majority government. In the outgoing parliament, 85 members (37 per cent) are women, a 3 per cent decrease from the previous convocation. Nine out of 17 ministers in the outgoing government were women.

On 9 November 2023, the President of the Republic, Marcelo Rebelo de Sousa announced dissolution of the parliament and called early elections for 10 March 2024.<sup>2</sup> The announcement followed the Prime Minister's resignation two days earlier, after it was reported that authorities including the Public Prosecutor's Office and the Public Security Office searched the official residence of the Prime Minister as well as other ministers and high level state officials for their alleged involvement in a corruption case involving mining and energy concessions.

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<sup>1</sup> The Socialist Party (120 seats), Social Democratic Party (72 seats), the Chega (Enough) Party (12 seats), the Liberal Initiative (8 seats), the Communist Party (6 seats), Left Bloc (5 seats), and People-Animals-Nature and LIVRE with 1 seat each. Several other parties are represented in the legislatures of the autonomous regions, the Legislative Assembly of Azores and the Legislative Assembly of Madeira.

<sup>2</sup> The President announced the parliament would be dissolved only at a later stage in order to allow the parliament sufficient time to approve the 2024 budget plan; this was adopted on 29 November 2023.

The President consulted all parliamentary political parties as well as the Council of State, an advisory body composed of renowned public figures, before taking the decision. While the PS proposed a new caretaker cabinet without the involvement of Prime Minister Costa that would last until the end of the regular government's term in 2026, opposition parties were in favor of early elections. Mr. Costa continues to govern as Prime Minister until the elections. The parliament was officially dissolved on 15 January, 55 days before holding of the elections, in accordance with the Constitution.

ODIHR has previously observed three elections in Portugal.<sup>3</sup>

## B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

Parliamentary elections are primarily regulated by the 1976 Constitution and the 1979 Law on Parliamentary Elections (hereinafter election law).<sup>4</sup> In addition, a broad range of election-related legislation regulates specific aspects of the process, including laws on voter registration, out-of-country voting, on political parties, their campaigns and funding, on media coverage of elections, on opinion polls and others. The laws are further supplemented by subsidiary regulations issued by the National Election Commission (NEC) and the Ministry of Internal Administration (MIA). In July 2023, a parliamentary resolution was passed, establishing a working group comprising the election administration and all parliamentary political parties with the aim to consolidate the electoral legal framework. The working group has not yet commenced its work.<sup>5</sup>

Overall, ODIHR NAM interlocutors expressed satisfaction with the legal framework concerning elections and its implementation in practice. Nevertheless, many prior ODIHR recommendations remain unaddressed, including those regarding the consolidation of the electoral legal framework, disenfranchisement of persons with intellectual and psychosocial disabilities, lack of provisions for independent candidates, the need for decriminalization of defamation, oversight of campaign finance, and the handling of media related complaints.<sup>6</sup> Another long-standing ODIHR recommendation relates to the fact that the legislation does not provide for citizen and international election observation, which is contrary to the 1990 OSCE Copenhagen Document.<sup>7</sup>

While the legal framework regulating parliamentary elections remains unchanged, an amendment regarding voter registration procedures was introduced in December 2023 impacting the conduct of the 9 June European Parliament elections enabling voters to vote at any polling station both inside and outside of the country using the electronic voter register. The ODIHR NAM was informed that

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<sup>3</sup> See all previous [ODIHR election-related reports on Portugal](#).

<sup>4</sup> 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, 1979 Convention for the Elimination of All Forms of Discrimination against Women, 1965 Convention on the Elimination of All Forms of Racial Discrimination, the 2006 Convention on the Rights of Persons with Disabilities (CRPD), the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and the 1995 Framework Convention on the Protection of National Minorities. Portugal is a member of the Council of Europe's European Commission for Democracy through Law (Venice Commission) and Group of States against Corruption (GRECO).

<sup>5</sup> The ODIHR NAM was informed that no formal meetings of the working group took place prior to the dissolution of the parliament.

<sup>6</sup> In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations". See ODIHR Electoral Recommendations Database [Paragraph25.odihr.pl](#).

<sup>7</sup> Paragraph 8 of the 1990 OSCE Copenhagen Documents states that participating States "consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place".

consultations with relevant stakeholders, including election administration bodies, took place and almost all parliamentary parties voted in favour of the amendment.<sup>8</sup>

The 230 members of the unicameral parliament are elected for a four-year term through a proportional system with closed candidate lists in 22 multi-member constituencies (MMCs), including 2 MMCs in the autonomous regions of Azores and Madeira and 2 constituencies for voters residing in Europe and elsewhere abroad. The boundaries of the in-country MMCs coincide with the boundaries of administrative districts. The NEC allocates the number of parliamentary seats per constituency based on the number of registered voters aiming to respect the principle of equality of the vote across constituencies.<sup>9</sup> There is no electoral threshold for political parties to obtain a mandate, and seats are allocated among the parties in accordance with the d'Hondt method. Elected deputies enjoy a free mandate but cannot join a party other than their nominating party without losing their seat in parliament.

### C. ELECTION ADMINISTRATION

The organization of the elections is decentralized and administered by a three-tiered structure of election commissions: the NEC, 22 Tabulation Centre Commissions (TCCs) and some 13,000 Polling Station Commissions (PSCs) and a number of public administration institutions at all levels. In addition, the General Secretariat of the Ministry of Internal Administration (MIA) along with regional and local government structures (including 308 municipal authorities and some 3,092 civil parishes), are in charge of the logistical and administrative preparations for elections. All ODIHR NAM interlocutors expressed a high level of trust in the integrity and professionalism of election administration, including in the conduct of election day procedures.

The NEC has the overall responsibility to supervise the legality of the electoral process, provide equal conditions for campaigning for all contestants, publish election results and adjudicate certain election-related complaints. The NEC is the only permanent election commission, and its composition was renewed following the January 2022 elections.<sup>10</sup> By law, it is chaired by a Supreme Court judge appointed by the Supreme Council of Magistrates, as well as members appointed anew by the parliamentary parties after every parliamentary election, representatives of the MIA, Ministry of Justice and the national media regulator (ERC). There are no legal provisions for gender composition of election management bodies, and no gender-disaggregated data is collected contrary to international standards. Despite previous ODIHR recommendations, NEC sessions are not open to public.

The TCCs and PSCs are temporary bodies formed only for the election period. The TCCs are responsible for the tabulation of results, verification of complaints adjudicated by the PSCs and allocation of mandates in each of the 22 constituencies.<sup>11</sup> The PSCs administer the elections at polling stations. The mayor of each parish appoints PSC members on the basis of nominations of parties contesting the elections.<sup>12</sup> The MIA maintains voter registration and election results management systems. It is also responsible for providing public information, including voter education and information materials about the location of polling stations, and ensuring unimpeded access.

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<sup>8</sup> Chega party abstained from the vote due to potential security concerns associated with use of technology.

<sup>9</sup> Seat allocation is done after an election for the following one.

<sup>10</sup> The mandate of the NEC members terminates 30 days after a newly elected parliament is inaugurated.

<sup>11</sup> Each TCC is chaired by a judge of the district court and is comprised of a secretary and 11 members, including 2 lawyers appointed by the chairperson, 2 mathematicians appointed by the Ministry of Education and Culture or, in Azores or Madeira, by the Minister of the Republic, and 6 chairpersons of the PSCs of the respective constituency, selected by the district court.

<sup>12</sup> Each PSC consists of five members, including a chairperson, a deputy, a secretary and two clerks. In case of insufficient party nominations, the mayor may compel citizens who are residents of the election 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.

The MIA informed the ODIHR NAM about significant time constraints related to organization of three consecutive elections within a short period of time, namely the regional elections in Azores on 4 February, early parliamentary elections on 10 March and European Parliament elections on 9 June. The election administration bodies also noted difficulties in identifying a sufficient number of polling staff, a long-standing challenge when preparing for the elections. To pro-actively address this shortage, in 2021 the MIA has created an online platform through which citizens can continuously express their interest to serve as polling staff. While there are no legal provisions to conduct training on election day procedures, the MIA prepared an online training platform available for all polling staff.

The legislation provides for a wide range of voting options for different categories of voters, including early, mobile, out-of-country and postal voting for those permanently residing abroad.<sup>13</sup> Provisions allowing voters in isolation to vote at home or care-taker institutions introduced as a consequence of the COVID-19 pandemic were eliminated for these elections. The Ministry of Foreign Affairs (MFA) coordinates the out-of-country voting in cooperation with MIA. Early voting takes place on the Sunday one week prior to election day and is available to all voters upon request that must be submitted latest 10 days prior to the election day, without any justification required.<sup>14</sup> All ODIHR NAM interlocutors expressed an overall satisfaction with the available alternative voting methods.

By law, voters who are not able to cast their votes independently can receive assistance from another voter of their choice. Use of Braille ballot guides is provided for to accommodate visually impaired voters. Nevertheless, representatives of civil society organizations informed the ODIHR NAM that due to inadequate physical infrastructure, many polling stations are not independently accessible for voters with physical disabilities. They also informed that a few political parties make their election materials available in Braille and easy-to-read formats. Some political parties the ODIHR NAM met with, mentioned high costs for making campaign information available for persons with various disabilities.

For election day, the National Cyber Security Centre (CNCS) in co-operation with intelligence and criminal investigation services intends to conduct a risk assessment and set-up a situation room, including for election results management. Furthermore, the CNCS informed the ODIHR NAM about awareness raising plans for citizens and political parties alike on the dangers of information disorder and the use of trusted sources.

#### **D. VOTER REGISTRATION**

Citizens aged 18 or older on election day have the right to vote, unless explicitly revoked of this right by a court decision for a grave criminal offence. Further, legal restrictions on the right to vote for those with intellectual and psychosocial disabilities remain and are contrary to international standards.<sup>15</sup>

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<sup>13</sup> Eligible citizens with registered residence abroad may vote in-person at diplomatic missions or by mail. Citizens temporarily residing abroad can only vote in-person in one of the 117 polling stations abroad.

<sup>14</sup> Early voting is also available for voters in prisons, hospitals as well as for certain voters temporarily out of the country. Each municipality is by law obliged to set up at least one polling station for early voting.

<sup>15</sup> 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”. Deprivation of the right to vote on the basis of mental disability is inconsistent with Articles 12 and 29 of the CRPD. See also concluding observations of the [2016 report](#) on Portugal by the Committee on the Rights of Persons with Disabilities which recommends that the State party, in cooperation with representative organizations of persons with disabilities, take the necessary measures to enable all persons with all types of disability, including those who are under guardianship or in psychiatric institutions, to exercise their right to vote and stand for election on an equal basis with others, by providing accessible facilities and means of communication.



Voter registration is passive, and the digital voter register is extracted from a national population registration database administered by the MIA. The MIA informed the ODIHR NAM that there are currently some 10.8 million registered voters, including almost 1.6 million voters abroad. The MIA finalizes the continuous updates to the register 55 days before election day. Those voters who change their residence after this deadline have to vote according to their place of previous residence. Voter lists are displayed for verification and voters can request changes in case of mistakes or omissions. Voters also have the possibility to verify their registration and confirm the location of their polling station by Internet or by free SMS; they can also use a driving application on their smartphones to navigate them to their assigned polling station. ODIHR NAM interlocutors expressed overall confidence in the accuracy and inclusiveness of the voter register.

## E. CANDIDATE REGISTRATION

Citizens with active suffrage rights are eligible to be elected with the exception of certain high level serving officials, including the president, judges, members of the NEC, as well as active military and diplomatic personnel. Only registered political parties may contest the elections though candidates are not required to be party members.<sup>16</sup> The law does not allow individual candidates to stand for elections, contrary to paragraph 7.5 of the OSCE Copenhagen Document which provides for rights of individual independent candidates to contest the elections.

Political parties or their coalitions submit candidate lists to the district court of the respective constituency at least 41 days prior to election day and the courts assess the lists against the registration criteria, including the 40 per cent gender quota and placement requirements.<sup>17</sup> Political parties may form ad hoc electoral coalitions in all or any MMCs of their choice, upon a request submitted to the Constitutional Court. Candidates can only appear on one candidate list, and in one constituency. Parties and coalitions have two days to correct or challenge a rejected list to the Constitutional Court whose decisions are final and not subject to appeal. In general, ODIHR NAM interlocutors did not raise concerns regarding the inclusiveness of the candidate registration process.

The law on parity requires a minimum representation of 40 per cent of each gender on candidate lists and prescribes that each gender be represented among every three consecutive candidates on a list. By law, district courts are to verify the compliance of candidate lists with the legal requirements, request corrections where necessary and reject those that ultimately fail to meet them. ODIHR previously noted an inconsistent interpretation or enforcement of the quota requirements by the district courts and recommended a uniform interpretation of the legally prescribed measures for women's participation.

Political parties the ODIHR NAM met with use different internal mechanisms to promote women; a few noted challenges in complying with the legal requirements and identifying a sufficient number of women candidates. Civil society organizations promoting women's participation in elections pointed to increased online violence against women candidates and their families in the form of threats as barriers to women seeking political office. They also questioned the efficiency of the 40 per cent legal requirement for candidate lists, as it does not translate to the same number of elected candidates, in particular due to the fact that parties do not ensure balance among the candidates heading their MMC lists.<sup>18</sup> The ODIHR NAM was informed about practices used by some political parties that ask elected women to leave the

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<sup>16</sup> The Constitutional Court registers political parties based on the submission of 7,500 supporting signatures and other required documents. Parties are prohibited to use regional or religious names or symbols. There is no requirement to renew the registration prior to new elections. The [list](#) published by the Constitutional Court lists 23 parties registered between 1974 and 2023.

<sup>17</sup> If a list is submitted by a coalition, each candidate must be designated to a constituent party.

<sup>18</sup> In the 2022 elections, women were in the first place on only 99 of the 362 candidate lists (some 27 per cent). Consequently, in smaller constituencies only the one leading candidate, mostly a man, is elected.

office for another position in order to be replaced by the next candidate on the list, usually a man. The ODIHR NAM was also informed that, as in previous elections, civil society organizations aim to conduct a range of trainings for aspiring women politicians as well as an in-depth analysis of political parties' programmes and manifestos on how these address the issues of gender equality and women's participation in political and public life.

## F. ELECTION CAMPAIGN

The official campaign period starts 14 days before election day. There is a campaign silence period on election day and the day preceding it, including online. During the official campaign period, rules for equitable media access for electoral contestants and coverage by media of the election campaigns apply. The legislation provides for equal opportunities for all contestants, including by equally allocating public spaces for campaign purposes by parish councils and mayors. Political parties may organize campaign rallies and distribute campaign materials also before the start of the official campaign. Campaigning by public entities and their office holders is prohibited by law and no public works may be inaugurated within 60 days of election day. The election law further forbids dismissing from or promising employment to anyone in order to compel them to vote for a certain contestant or abstain from voting.

No ODIHR NAM interlocutors expressed any concerns with respect to their ability to campaign freely. Most political parties informed the ODIHR NAM that they were still developing their campaign programmes and strategies. Political parties that the ODIHR NAM met with informed that traditional in-person canvassing remains particularly important; however, prominence will be also given to online promotion on social networks and media appearances in the form of televised debates. The main focus of the campaign is expected to be corruption, healthcare, taxation, economic issues together with the consequences of the COVID-19 pandemic and the war caused by the Russian Federation's invasion of Ukraine. Several ODIHR NAM interlocutors expressed concerns that ongoing judicial proceedings involving government's top representatives may detract the narrative from important socio-economic policy issues.

Several ODIHR NAM interlocutors expressed concerns about the spread of fake news and misinformation and the fact that no single institution is mandated to oversee legal compliance of campaign conduct on social networks. Notwithstanding this gap, the ODIHR NAM was informed about joint efforts, including media literacy projects, conducted by several institutions, including the election administration, the National Cyber Security Centre (CNCS), the media regulator and others to tackle misinformation and the spread of fake news online.<sup>19</sup> Some ODIHR NAM interlocutors mentioned a potential for hate speech and discriminatory narratives from certain political parties against ethnic minority groups or migrants.<sup>20</sup>

## G. CAMPAIGN FINANCE

Party and campaign finance is primarily regulated by the 2013 Law on Financing of Political Parties and Election Campaigns (LFPPEC) and the 2005 Law on the Organization and Functioning of the Entity on Political Finance and Accounts, both amended in 2018. Notwithstanding the amendments, most prior ODIHR recommendations related to campaign finance, including provisions for interim reporting, and

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<sup>19</sup> Several ODIHR NAM interlocutors opined that the best positioned institution in terms of capacity and know-how to monitor campaign online would be the media regulator.

<sup>20</sup> See also concluding observations on the combined eighteenth and nineteenth 2023 [periodic reports](#) of Portugal by the UN Committee on the Elimination of Racial Discrimination which calls Portugal to: Effectively investigate and, as appropriate, prosecute and punish all acts of racist hate speech and hate crimes, including those committed by political and public figures, and encourage the State party to distance itself from expressions of racist hate speech by public and political figures.

proactive publication of public information in an easy, prompt, effective and practical manner, remain unaddressed. All ODIHR NAM interlocutors expressed satisfaction with the current legal framework regulating campaign finance as well as its implementation in practice.

The legislation provides for both public and private funding to election campaigns. Annual public funding is allocated to parliamentary political parties and those that received at least 50,000 votes in the last parliamentary elections, proportionally to the number of votes received. In addition, after each parliamentary elections, parties and coalitions that nominate candidates for at least half of the parliamentary seats and gain at least one mandate, are eligible to have their campaign expenses reimbursed.<sup>21</sup> In addition to public funds, campaign activities can be financed from the parties' own resources, income from fundraising activities and donations by natural persons. An individual may donate up to some EUR 12,000 annually for party activities as well as some EUR 28,800 for an election campaign. Loans and in-kind contributions are counted towards these limits. Anonymous donations and contributions from national and foreign legal entities are prohibited. Financing of political parties and campaigning by third parties are not regulated.

The expenditure limit for the campaign is approximately EUR 28,800 per each registered candidate. All ODIHR NAM interlocutors expressed satisfaction with both income and expenditure limits. All expenses incurred for campaign purposes within six months before election day are considered campaign costs and must be channelled through a dedicated bank account.

The Entity on Political Finance and Accounts (EPFA) is the primary oversight institution and has the right to issue decisions, audit reports and apply administrative sanctions.<sup>22</sup> The Constitutional Court serves as the appellate instance for the EPFA's decisions on the legal compliance of the annual and campaign accounts.<sup>23</sup> The EPFA informed the ODIHR NAM that it only has scarce financial and human resources at its disposal, which prevent the entity to conduct the campaign finance oversight efficiently. Previously, ODIHR recommended that consideration should be given to granting EPFA institutional and financial autonomy and providing it with a legal basis to recruit its own permanent staff.

The legislation does not provide for interim campaign finance reporting prior to election day. Contestants are required to submit their estimated campaign budgets of a non-binding nature to the oversight authority 41 days before the election day. Annual party accounts are required to be submitted to the EPFA by the end of May of the following year. Submission of campaign finance reports by electoral contestants is not fixed and is subject to a floating deadline tied to the post-election public reimbursement of campaign expenses.<sup>24</sup> All political parties the ODIHR NAM met with reported an efficient and transparent co-operation with the EPFA.

## H. MEDIA

The Portuguese media landscape encompasses a range of public and private television (TV) and radio stations, print and online media outlets, which play an important role in framing political coverage. TV

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<sup>21</sup> The base amount of state funding is some EUR 9.6 million (20,000 Social Support Indices), of which 20 per cent is divided equally among eligible parties, and the remainder allocated proportionally based on their election results. The public grant amounts to 0.66 per cent of the Social Support Index (IAS) for each vote obtained in the last parliamentary elections. The IAS, equal to EUR 480.43 in 2023, is a reference value established annually by the government and used to determine pensions and other social benefits.

<sup>22</sup> Criminal sanctions are within the competence of the Public Prosecutor's Office and can be applied for exceeding spending limits and obtaining funds from illegal sources.

<sup>23</sup> In line with a prior ODIHR recommendation, the Constitutional Court is obliged to make its decision public.

<sup>24</sup> Preliminary accounts of income and expenditure are compiled by the parties within two weeks after the elections to request the public reimbursement of their campaign expenses. Contestants have an additional 60 days to submit the reports to the EPFA.

is considered the primary source of political information.<sup>25</sup> The media environment is pluralistic and offers a diverse range of views. Nevertheless, a number of ODIHR NAM interlocutors highlighted the fact that media market is small and the financial situation of many journalists is precarious, which in their view might lead to a reduced quality of reporting and negatively impact the pluralistic environment.<sup>26</sup>

Freedom of expression and of the media is guaranteed by the Constitution.<sup>27</sup> Nevertheless, defamation, insult and slander remain criminal offences and entail a higher penalty if the injured party is a state official or an elected politician, which is contrary to international standards. Different pieces of legislation regulate the conduct of both traditional and online media. Among others, the media-related legislation provides for editorial freedom of media during election campaigns, fair and equitable treatment of candidates in the news, and a ban on paid political advertising on TV and online from the day the elections are called. Free airtime is provided to contestants on public and some private TV and radio outlets. Time slots are assigned to parties by drawing lots by the NEC.

The national media regulator (ERC) has broad powers. Among others, it oversees the compliance of broadcast and print media, as well as their online outlets,<sup>28</sup> with election related legislations, decides upon media-related complaints and conducts systematic monitoring of major public and private TV networks one month prior to the elections.<sup>29</sup> The ERC informed the ODIHR NAM that it intends to outsource the monitoring of the upcoming election campaign to external companies. By law, the ERC may issue non-binding directives and guidelines as well as binding decisions *ex officio* or following a specific complaint/ notification by any interested party/citizen. In case of non-compliance, the ERC may apply sanctions in form of binding decisions; these include fines ranging from EUR 15,000 to 75,000. The ODIHR NAM was informed that the sanctions are only rarely applied and broadcasters usually rectify their wrongdoing following a warning.

The public broadcaster, *Radio e Televisao de Portugal (RTP)*, informed the ODIHR NAM that from 5 to 23 February, until the start of the 14-days official campaign, its main focus is to organize two main joint debates, one for parliamentary and one for non-parliamentary parties contesting the elections. The two joint debates are traditionally broadcast by all three major broadcasters, *RTP*, *SIC* and *TVI*. In addition to the joint debates, 28 one-to-one discussions and interviews with leaders and representatives of contesting parties are envisaged. From 24 February until the campaign silence day, the RTP intends to cover the daily campaign activities of contesting political parties.

Some interlocutors expressed dissatisfaction with the provisions of the election law regulating media conduct as the legislation only provides for coverage of parliamentary political parties. Nevertheless, the ODIHR NAM was informed that, in practice, both public and private media aim to ensure a balanced representation and also cover activities of non-parliamentary parties, and include them among others in the debates.

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<sup>25</sup> The public broadcaster, *Radio e Televisao de Portugal (RTP)*, includes the national TV channels *RTP1*, *RTP2* and *RTP3*, two regional channels that broadcast in the autonomous regions of Azores and Madeira, as well as three national and six regional radio stations. The major private national TV networks are *SIC*, and *TVI*.

<sup>26</sup> A strike by a Global Media Group against precarious working and payment conditions of their journalists was organized during the NAM.

<sup>27</sup> Constitution also protects the independence of the public broadcaster, ensures equitable coverage of contestants in election campaigns, and entails provisions to prevent concentration of media ownership.

<sup>28</sup> Social networks are exempt.

<sup>29</sup> Further ERC responsibilities include ensuring media pluralism and preventing the concentration of media ownership. The ERC informed the ODIHR NAM that it is also involved in efforts to counter disinformation and media literacy projects.

While overall, ODIHR NAM interlocutors expressed a general confidence in the conduct of media during election campaign, some noted a political bias, and opined that the coverage of parties' activities on news programming, at times, may be perceived as disproportionate in favour of opposition far-right parties.

## I. ELECTION DISPUTE RESOLUTION

A number of different laws and regulations contain legal provisions for election dispute resolution. On election day, the PSCs consider complaints related to the voting and counting process, deciding on the admissibility and merits of each complaint by a majority vote of the members. The TCCs verify all decisions on complaints submitted to the PSCs. Decisions of the NEC and of TCCs can be appealed to the Constitutional Court, whose rulings are final. The Constitutional Court also rules on complaints related to candidate nomination and election results.<sup>30</sup> The NEC handles complaints and imposes sanctions for violations of legislation on equal treatment of voters and election contestants. NEC also receives media-related complaints, and forwards them to the ERC within 48 hours accompanied by its opinion. The decisions of the ERC can be appealed to administrative courts, and these disputes are not subject to expedited timelines in an election period.<sup>31</sup> ODIHR previously recommended that a single authority should be designated to decide on media-related complaints and that the law should define a reasonable timeframe for consideration of complaints and appeals. Cases of a criminal nature are referred to the prosecutors and the police for investigation. All ODIHR NAM interlocutors expressed a high level of confidence in an impartial and effective election dispute resolution mechanism.

## IV. CONCLUSIONS AND RECOMMENDATIONS

All ODIHR NAM interlocutors expressed confidence in the electoral process and the ability of the election administration to professionally and transparently administer early parliamentary elections. The ODIHR NAM did not identify any new issues pertaining to the conduct of elections that would benefit from a review by an election observation activity. No legal or procedural changes were introduced since the last parliamentary elections observed by the ODIHR and no significant concerns were expressed relating to the respect for fundamental freedoms, voter registration, candidate registration, campaign and media conduct, election dispute resolution and election day procedures. While all ODIHR NAM interlocutors acknowledged a benefit from an independent examination of the electoral process, the vast majority of them noted no added value from an observation activity for the upcoming elections as they had strong confidence in the democratic process in Portugal. Based on these findings, the ODIHR NAM does not recommend an election-related activity for the 10 March early parliamentary elections. Nevertheless, ODIHR encourages the authorities to consider previous recommendations, which remain unaddressed and reiterates that it stands ready to offer its assistance upon request in a post-election process.

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<sup>30</sup> Any person can lodge a complaint with respect to the election results.

<sup>31</sup> The legislation provides for expedited deadlines for most election disputes, with the exception of media-related ones. The ODIHR NAM was informed that according to the administrative code, the procedure may take up to 120 days; however, the ERC deals with cases in an expedited manner, if needed.

## **ANNEXE: LIST OF MEETINGS**

### **Ministry of Foreign Affairs**

Elisabete Cortes Palma, Head, Department of International Political Organisations  
Filipa Cornelio da Silva, Head OSCE Division, Department of International Political Organisations  
Raquel Bastos, OSCE Desk-officer, Department of International Political Organisations  
Claudia Cardoso, OSCE Desk-officer, Department of International Political Organisations  
Isabel Martins, Co-ordinator, Commission of the Electoral Registration of Portuguese living abroad

### **Ministry of Internal Administration**

Joaquim Morgado, Deputy Secretary-General for Electoral Management  
Isabel Ramos, Legal Director  
Sofia Teixeira, Head, Legal and Electoral Research Division  
Paula Vasco, Director, Electoral Information Systems Division  
Amélia André, Electoral Information Systems Division  
Nuno Silva, Project Management Officer  
Elisabete Baptista, EU interface

### **National Cybersecurity Centre**

Pedro Matos, Development and Innovation Unit  
Rui Pereira, Development and Innovation Unit  
Inês Martins, International Relations  
Nuno Santos, Development and Innovation Unit

### **Media**

Tania Soares, Head, Media Analysis Department, Regulatory Authority for Media  
Antonio Jose Teixeira, Head of News, *Radio e Televisao de Portugal*

### **Political Parties**<sup>32</sup>

Diogo Pacheco de Amorim, Vice-President, Foreign Affairs Commission, Chega  
Ricardo Dias Pinto, International Relations, Chega  
Fabian Figueiredo, Member, Secretariat and Political Bureau, Paulo Vieira, Left Bloc  
Tânia Mesquita, Member, People-Animals-Nature  
Helena Costa, Head of Campaign, People-Animals-Nature  
Eurico Brilhante Dias, MP, Socialist Party  
Marta Valentin da Costa, Head of Cabinet, Socialist Party

### **Civil Society**

José Reis, President, National Confederation of Disabled Persons' Organizations  
Alexandra Silva, Project Co-ordinator, Portuguese Platform for Women's Rights  
Maria Sepulveda, Project Officer, Portuguese Platform for Women's Rights  
Isabel Romao, Volunteer, Portuguese Platform for Women's Rights

### **International Community**

Representatives of diplomatic missions resident in Portugal

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<sup>32</sup> ODIHR offered meetings to all parliamentary political parties.