



Office for Democratic Institutions and Human Rights

# THE NETHERLANDS

## PARLIAMENTARY ELECTIONS

17 March 2021

### ODIHR NEEDS ASSESSMENT MISSION REPORT

19 – 22 January 2021



Warsaw  
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**THE NETHERLANDS  
PARLIAMENTARY ELECTIONS  
17 March 2021**

**ODIHR Needs Assessment Mission Report**

**I. INTRODUCTION**

Following an invitation from the Government of the Netherlands to observe the 17 March 2021 parliamentary elections, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 19 to 22 January. The ODIHR NAM included Alexey Gromov, ODIHR Senior Election Adviser, and Hamadziripi Munyikwa, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and preparations for the elections. Based on this assessment, the NAM recommends 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 and the election administration, as well as 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 and the Ministry of the Interior and Kingdom Relations for their assistance in organizing the visit. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the ODIHR NAM and for sharing their views.

**II. EXECUTIVE SUMMARY**

On 17 March, citizens will vote to elect the 150 members of the House of Representatives, the lower chamber of the Dutch parliament. Its members will be directly elected for a four-year term through a proportional representation system with preferential voting.

The electoral legal framework is comprehensive and was last amended in January 2021 to accommodate the holding of the elections under the conditions of the COVID-19 pandemic. The new temporary measures include the social distancing and other disease prevention requirements, such as early and postal voting inside the country, among other changes. Some ODIHR recommendations remain unaddressed, including those related to proxy voting, campaign finance oversight, electoral disputes and ballot design.

The administration of elections is decentralized and shared between national and local governments and electoral commissions. The Ministry of the Interior and Kingdom Relations (MoIKR) oversees the conduct of elections at the national level and is responsible for adjusting the various alternative voting methods, including proxy voting, voting from abroad, and mail voting to the new rules. The election management bodies also indicated that they are occupied with securing more spacious voting premises and sufficient polling staff, as well as preparing comprehensive and user-friendly voter education campaign on new voting modalities. All ODIHR NAM interlocutors expressed a high level of trust in the impartiality and professionalism of the election administration.

There are some 13 million registered voters. All citizens over the age of 18 have right to vote, except those convicted by court of certain crimes. There is no limitation on the right to vote for persons with intellectual and psychosocial disabilities. Voter registration is passive, except for those residing abroad who must actively register. No concerns were expressed by ODIHR NAM interlocutors regarding the accuracy and inclusiveness of the voter registration.

All eligible voters can stand for elections. To register a candidate list, all contestants should pay electoral deposit, and those not represented in the outgoing parliament must submit a small number of support signatures from the electoral districts where they intend to field candidates. The timeframes for the collection of signatures have been temporarily extended from two to four weeks, with the 1 February deadline for submitting the final lists remaining in place. ODIHR NAM interlocutors were generally satisfied with the administration of the candidate registration proceedings.

Women are generally well represented in public life, though some ODIHR NAM interlocutors noted that there has never been gender parity in the parliament, and women are still underrepresented at the leadership of political parties and as top candidates in the lists. Women constitute 36 per cent of the outgoing MPs and a half of the outgoing Cabinet of Ministers.

Election campaigning is largely unregulated. The Constitution protects fundamental freedoms and all ODIHR NAM interlocutors were confident about the ability to campaign freely notwithstanding the challenges posed by the COVID-19 pandemic. Some interlocutors voiced concerns about the use of discriminatory and intolerant rhetoric targeting Muslims, migrants and asylum seekers by some parliamentary parties.

The Political Finance Act regulates campaign finance and provides for private and public financing of the campaign. Disclosure of donations is required only for contributions above EUR 4,500, while anonymous donations of up to EUR 1,000 as well as foreign donations are allowed. The MoIKR is in charge of political finance oversight. Most ODIHR NAM interlocutors regarded the transparency of political finances as sufficient, but some called for more financial transparency of third parties and local branches of political parties, as well as more independent campaign finance oversight.

The media offers voters a diverse range of views. Television remains the main source of political information, and multiple debates are planned on public and private channels involving all parliamentary parties and other electoral contestants. Parliamentary parties, as well as other electoral contestants fielding candidates across the whole country, are entitled to free airtime on public television and radio. 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 parts 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. ODIHR NAM interlocutors did not express concerns related to the impartiality of electoral dispute resolution.

All ODIHR NAM interlocutors expressed a high degree of confidence in the impartiality of the election administration and its ability to organize elections professionally and transparently. However, the majority of interlocutors welcomed a potential ODIHR observation activity for these elections, recognising that an external assessment, including of the revised legal framework and its implementation, would contribute to further improvements to the electoral process.

On this basis, the ODIHR NAM recommends the deployment of an Election Expert Team for the 17 March parliamentary elections to review the legal framework and its implementation in respect of alternative voting methods, including for persons with disabilities, campaign finance rules, and the complaints and appeals process. ODIHR also encourages the authorities to consider previous electoral recommendations that remain unaddressed.

### 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.<sup>1</sup> The bicameral parliament comprises the 150-member House of Representatives (House) and the 75-member Senate. The House members of parliament (MPs) are directly elected for a four-year term through a national proportional contest, and Senators are indirectly elected from the 12 provincial assemblies. 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, following initial approval by the parliament.

The outgoing government was formed following the 2017 parliamentary elections and was the third under the leadership of Prime Minister Mark Rutte of the VVD (People's Party for Freedom and Democracy). The government was a coalition of the VVD, the Christian Democratic Appeal (CDA), Democrats 66 (D66) and the Christian Union (CU).<sup>2</sup> Following the publication of a parliamentary report charging that over 20,000 citizens had been wrongly accused of defrauding the child-benefits system, the government resigned on 15 January 2021, after elections had been called.

In the outgoing government, women held 12 out of 24 positions of Ministers and State Secretaries; 54 members of the outgoing House (36 per cent) are women. The Netherlands has never had a woman as a Prime Minister.

ODIHR has observed four elections in the Netherlands since 2006.<sup>3</sup> The final report of the ODIHR Election Assessment Mission to the 2017 parliamentary elections found that the elections “were competitive and pluralistic, providing voters with a wide range of choice. The campaign was conducted with respect of fundamental freedoms and the media provided fair access to all contestants. While certain aspects of legislation could be refined, the elections were conducted in a professional manner and were characterised by a high level of public confidence in the election administration and active voter participation”. The final report, issued in June 2017, contains 17 recommendations, including 6 priority ones, for the authorities to bring electoral process closer in line with OSCE commitments.<sup>4</sup>

#### B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The 150 members of the House are elected through a proportional representation system with preferential voting. Voters can vote for any candidate on a list, with the choice also considered as a vote for the selected candidate's list.<sup>5</sup> Seats are apportioned to a single national electoral constituency; however, the country is divided into 20 electoral districts, which allows for regional lists. There is no legal threshold for obtaining representation as seats are distributed at the national level according to a natural electoral quota.<sup>6</sup>

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<sup>1</sup> The Kingdom of the Netherlands also comprises Aruba, Curaçao, and Sint Maarten in the Caribbean.

<sup>2</sup> Other parliamentary groups include 50 Plus (50+), *Denk*, Green Left, Labour Party, Party for the Animals, Party for Freedom, Reformed Political Party and the Socialist Party.

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

<sup>4</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>5</sup> Candidates that receive preference votes amounting to at least 25 per cent of the electoral quota regardless of their position on the list are automatically declared elected. Any remaining seats are awarded to candidates by list order.

<sup>6</sup> The natural electoral quota is calculated by dividing the total number of votes by the number of seats in the House.

Parliamentary elections are primarily regulated by the 1954 Charter of the Kingdom of the Netherlands, the 2002 Constitution of the Netherlands, the 1989 Elections Act, and the 1989 Elections Decree that unifies prior election-related regulations.<sup>7</sup> The electoral process is further regulated by the 2013 Political Finance Act, the 2009 General Administrative Law Act, and the 1994 Criminal Code, as well as organic laws on the courts and procedural codes. 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.<sup>8</sup>

Overall, the legal framework is comprehensive and provides a solid basis to conduct democratic elections. 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.

An Act on Temporary Rules regarding elections in the context of the COVID-19 pandemic was passed on 30 October 2020 by broad consensus within the parliament, putting into place measures on the safety of voters and polling staff. These changes included social distancing requirements and increase of the number of proxy vote authorisations for an individual from two to three. The act was further amended in January 2021 to permit all voters to cast the ballot in advance on 15 and 16 March, to allow voters over the age of 70 to vote by mail and to extend the deadlines for receipt of overseas postal votes, among other changes. All ODIHR NAM interlocutors expressed confidence with the planned measures.

Some previous ODIHR priority recommendations still remain unaddressed, including those related to adequate legal deadlines for handling election-related complaints, possibility to appeal election results to a court as a final instance and establishment of an independent oversight body for political finance.

### C. ELECTION ADMINISTRATION

The administration of elections is decentralized and shared between national and local governments and electoral commissions. The Ministry of Interior and Kingdom Relations (MoIKR) oversees the conduct of elections at the national level, and the 352 municipal governments and 3 public entities are responsible within their jurisdictions. The electoral commissions are the Electoral Council (EC), 20 District Election Commissions (DECs), and some 10,000 Precinct Election Commissions (PECs).

The MoIKR is responsible for proposing legislation and issuing regulations related to the electoral process but it does not have direct authority over other election administration bodies. It is also responsible for developing the format of election-related materials, such as ballots and voting cards. The MoIKR conducts an evaluation after each election to identify areas for potential improvement.

The municipalities are responsible for voter registration, printing and distributing voting cards, and establishing and staffing polling stations. The training of polling staff is mandatory and will for the upcoming elections take place online. Several interlocutors informed the ODIHR NAM about the need to find larger voting premises, new personnel for voting day, as well as a challenging task to comprehensively inform the population on new voting modalities. The MoIKR and municipalities will be launching various types of voter information, particularly on the COVID-19 related measures in

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<sup>7</sup> The Charter describes the political relationship between the four countries that constitute the Kingdom of the Netherlands. The Constitution of the Netherlands is legally subordinate to the Charter.

<sup>8</sup> 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, 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).

polling stations, with a special emphasis on elderly citizens, people from at-risk groups, young people, and people with disabilities including mental and visual disabilities.

The EC is a permanent independent body of seven members appointed by the government through an open recruitment procedure for a maximum of two four-year terms.<sup>9</sup> The EC registers the names of the political groups and the candidate lists for all districts, assigns the numbers to the lists registered, establishes the final election results and allocates mandates.<sup>10</sup> The EC also acts as an advisory body to the government and the House on election-related matters. In line with the temporary COVID-19 related rules, all sessions of the EC should be livestreamed and accessible to all parties interested.

The DEC's are ordinarily composed of five members and three substitutes and have been increased to eight members due to the pandemic. The DEC's are appointed by the MoIKR for a four year-term. An additional three members have been added to their membership. The DEC's tabulate, announce and forward the voting results from the municipalities under their jurisdiction to the EC. The PEC's are temporary bodies appointed by the municipalities to conduct the voting and counting process.<sup>11</sup> A municipality must have at least one PEC, ordinarily composed of a chairperson and between two and six members. Due to the pandemic the minimum number of PEC staff has been increased to three. The MoIKR informed the ODIHR NAM that it had conducted an online recruitment drive for polling staff, which would alleviate concerns over sufficient staff numbers due to the pandemic.

Amendments made to the Elections Act in January 2019 require all polling stations to be accessible for voters with physical disabilities and that these voters be in a position to receive additional assistance in voting from the PEC chairperson or from a person of their choosing. Several ODIHR NAM interlocutors positively noted overall physical accessibility of polling stations but shared concerns that voters with intellectual and psychosocial disabilities are still unable to choose the person to assist them. Some ODIHR NAM interlocutors raised additional concerns that voter information materials and ballots are not produced in formats accessible for voters with visual impairments, while others noted the need to improve materials for low literacy voters.<sup>12</sup>

All ODIHR NAM interlocutors expressed a high level of trust in the election administration at all levels to conduct elections in an impartial and professional manner. At the same time, some interlocutors referred to considerable reservations among the population with regard to safety of the voting proceedings due to the COVID-19 pandemic.

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

All citizens over the age of 18 have the right to vote, except those convicted of certain crimes whose voting rights can be temporarily suspended upon a court's decision. There is no limitation on the right to vote for persons with intellectual or psychosocial disabilities, including those under guardianship. Voter registration is passive and based on extracts of the unified population register maintained by municipalities. The voter register closes six weeks prior to election day, on 30 January. Some 13 million citizens are eligible to vote.

Voters residing abroad who wish to receive the ballot are required to actively register with the municipality of The Hague before 3 February by post or electronically. When registering, they can

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<sup>9</sup> There are two women in the current EC composition.

<sup>10</sup> Once the EC announces the election results and allocates seats, the Credentials Committee of the outgoing parliament checks that each elected candidate is eligible to become an MP, in line with the Incompatibility Act.

<sup>11</sup> The ODIHR NAM was informed by the EC that pilots will be held in 30 municipalities in which the votes will be counted at the municipal level. In these cases, votes for the candidate lists will still be counted at the polling station level, while preferential votes for individual candidates will be counted centrally.

<sup>12</sup> The ballot includes all lists and candidates' names and at times reaches one metre in length.

express their choice on voting method and how they would like to receive their ballot (see *Alternative Voting Methods*). With a view to increasing participation of voters residing abroad, the parliament passed legislation for such voters to be registered permanently. The MOIKR estimates that up to 1 million citizens reside outside of the Netherlands, noting that some 80,000 requested registration for the upcoming elections.

At least two weeks before election day, municipalities send voting cards to all eligible voters. Voter cards are personalized documents, with security features against copying. Voters may request a replacement in case of loss, including on election day. Polling stations do not keep voter lists, and the retention of voting cards prevents multiple voting. ODIHR NAM interlocutors did not raise concerns over the accuracy or inclusivity of voter registration.

## E. ALTERNATIVE VOTING METHODS

A voter can vote in any polling station of the municipality where she or he is registered, but may also request to vote at any other location in the country. In accordance with the new temporary rules, all voters can vote in advance on 15 and 16 March at early voting polling stations. In order to cast a ballot, a voter must present her or his voting card and an identification document to a member of the PEC, who verifies that the voter card has not been invalidated.<sup>13</sup> New voting technologies have not been used for casting ballots since 2006.

All voters, including those residing abroad, may appoint a proxy to vote on their behalf if they are unable to be present at a polling station.<sup>14</sup> No justification is required to request a proxy vote, but the Elections Act prohibits voters from requesting a proxy in a polling station. The COVID-19 related temporary rules now permit an individual to be able to cast up to three proxy votes. Notwithstanding the challenges to the secrecy and equality of the vote and previous ODIHR recommendations, the majority of ODIHR NAM interlocutors did not express fundamental objections to the longstanding practice of proxy voting.

Citizens residing abroad may request a postal ballot. Overseas voters have the option of downloading their postal ballot electronically but have to mark and cast the ballots in hard copy. These postal votes should reach The Hague DEC or to the Dutch embassies serving as collection points of votes from abroad by 22 March.<sup>15</sup> For these elections, mail voting has been extended to voters over the age of 70, with ballots being returned to the voter's municipality. Some ODIHR NAM interlocutors voiced concerns whether the voters would be able to receive and send their ballots in time. Others welcomed this solution to mitigate additional risks of spreading the COVID-19 but also advocated for potential further extension of postal voting for all voters, especially for persons with disabilities.

## F. CANDIDATE REGISTRATION

All eligible voters can stand for elections, as can any citizen of 16 years of age at the time of elections.<sup>16</sup> Registration of contestants occurs in two stages beginning with the registration of names of contesting political parties with the EC. Non-registered political groups and individuals can also compete as so-called 'blank lists'.<sup>17</sup> Applications with the grouping name and a deposit of EUR 450 must have been

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<sup>13</sup> Invalidated cards include those that have been replaced, stolen or unlawfully in circulation, or those of a voter who has died. Documents which expired less than five years ago will be accepted for voter identification.

<sup>14</sup> Prisoners can only vote by proxy.

<sup>15</sup> In addition, there will be three collection points abroad assigned by the Ministry of Defence and three collection points in Dutch representations at the Caribbean countries of the Kingdom of the Netherlands. The votes are counted at these collection points, with results transmitted electronically to The Hague DEC.

<sup>16</sup> If elected, they are put on a so-called "reserve list" until they turn 18, when they may start their mandate.

<sup>17</sup> Individual candidates and non-registered groups run without a specific name in the ballot but only with a number.



submitted by 21 December 2020. For these elections, over 80 groups have applied to submit candidate lists.

Once a contestant has been approved by the EC, candidate lists can be registered along with a deposit of EUR 11,250 paid to the EC and written consent from all the candidates. Political groups not represented in the outgoing parliament must submit additionally 30 supporting signatures from each electoral district where they intend to field candidates.<sup>18</sup> Parties that obtained at least 15 seats in the previous parliamentary elections can include a maximum of 80 candidates on their lists combined, while others are limited to 50.<sup>19</sup> Recent COVID-19 related temporary rules have increased the timeframe for the collection and verification of supporting signatures from 14 to 28 days, with the period for nomination having been opened earlier and the 1 February deadline remaining. Some ODIHR NAM interlocutors indicated that the COVID-19 pandemic would pose some challenges for new parties seeking supporting signatures given the necessity for voters to verify identity to validate their signature.<sup>20</sup> An individual voter is permitted to sign in support for only one candidate list, which is at odds with the international good practice.<sup>21</sup>

The EC examines submitted candidate lists and, in case of any error, the parties receive an additional three days to correct and resubmit documents to the EC. The EC informed the ODIHR NAM that prior to the deadline for submission of candidate lists, it would invite all interested parties to review the documentation to be sure that all requirements were fulfilled. Political parties that the ODIHR NAM met with expressed their view that the candidate registration process would be inclusive and that they see no challenges in meeting registration requirements.

There is no legal gender quota requirement for candidate lists. However, all ODIHR NAM interlocutors opined that women were well represented in political life, and that most political parties would submit a balanced number of male and female candidates on their lists. At the same time, some interlocutors noted that there were still too few women leading political parties and relevant candidate lists.

## G. ELECTION CAMPAIGN

Election campaigning is generally unregulated. There is no official campaign period, and campaigning may take place up to and on election day, except at polling stations. The Constitution guarantees freedoms of association, assembly and expression, and ODIHR NAM interlocutors did not note any obstacles in the ability of contestants to campaign freely, other than those related to the pandemic. However, some interlocutors voiced concerns about online misinformation as well as the potential use of discriminatory stereotypes and intolerant rhetoric targeting Muslims, migrants and asylum seekers during the campaign.<sup>22</sup>

The campaign is expected to be focused on post-COVID economic development, national identity, policies regarding immigration, social inclusion, healthcare, climate and relations with the European

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<sup>18</sup> The maximum number of supporting signatures countrywide is 580. In Bonaire electoral district, the required number of supporting signatures is 10.

<sup>19</sup> Contestants may register lists at national level and/or in each of the 20 electoral districts.

<sup>20</sup> A possibility to collect signatures electronically was declined by the government.

<sup>21</sup> Paragraph 96 of the [ODIHR and Venice Commission Guidelines on Political Party Regulation](#) (2nd edition) states: "It should be possible to support the registration of more than one party, and legislation should not limit a citizen or other individual to signing a supporting list for only one party".

<sup>22</sup> On 4 September 2020, the Dutch court of appeal upheld the 2016 conviction of the leader of the PVV Geert Wilders for insulting people of Moroccan descent when leading his supporters in anti-Moroccans chants. The Court confirmed that such actions went beyond freedom of expression. However, the court also overturned a conviction by the lower court and dismissed prosecution claims that Mr. Wilders had incited to hatred and discrimination. It also did not hand down a punishment for the former conviction, stating that Mr. Wilders had already paid a high price for his actions.

Union. Several political parties informed the ODIHR NAM that owing to the pandemic traditional campaign methods, such as meetings and canvassing, would not be used. It is widely expected that campaign will rely heavily on the use of the online and social media, with some parties and candidates holding rallies over online platforms. Most of ODIHR NAM interlocutors noted that televised debates among leaders of parties will play a key part of the campaign (see *Media*).

A special and longstanding feature of elections in the Netherlands is the voluntary analysis of the potential economic impact of party programmes, conducted by the Central Planning Bureau (CPB), an independent body under the Ministry of Economic Affairs. The CPB informed the ODIHR NAM that for these elections it would present its analysis in mid-February. A number of popular non-partisan web applications, such as *Kieskompas* (or Vote Compass) and *Stemwijzer* (or Vote Match), aim to engage voters by comparing the voters' views with the election programmes of political parties. Several ODIHR NAM interlocutors noted positive initiatives by the government to promote distribution of public information and campaign materials, including holding some debates, in easy-to-understand language.

## H. CAMPAIGN FINANCE

The 2013 Political Finance Act provides for a mixed political finance system, including both public and private financing. Parliamentary parties receive public funding in proportion to their representation, while all parties and candidates may receive unlimited contributions from private individuals and legal entities. Individual anonymous donations of up to EUR 1,000 each and any donations from abroad are allowed. Some interlocutors informed the ODIHR NAM that the government had proposed to limit the possibility for political parties to use foreign donations, but the law was not yet adopted by the parliament. The legislation does not impose expenditure ceilings related to campaign on either parties or candidates.

Parties must record all contributions over EUR 1,000, whether monetary or in-kind. Public disclosure of donors for their contributions of over EUR 4,500 as well as debts of over EUR 25,000 in a calendar year is required. Parliamentary parties must submit their annual financial reports certified by an auditor by 1 July (for the previous year) to the MoIKR.<sup>23</sup> Several ODIHR NAM interlocutors positively assessed current rules as contributing to overall transparency of political finance but noted that more could be done to enhance transparency of political contributions from third parties and finances of local branches of political parties.

The Commission on Political Party Finance oversees political and campaign finance. The Commission serves as an advisory body to the MoIKR and consists of three members appointed for up to two four-year terms, none of whom represent the governing parties. The Commission meets once a year and upon request by the MoIKR provides opinion on issues related to political finance.

In election years, the regulations on donations and debts apply to all candidates. For these elections, all candidates are required to submit a financial report of donations and debts to the Commission for the period from 1 January 2019 to 24 February 2021. The Commission informed the ODIHR NAM of plans by MoIKR to publish all donation reports by 10 March. However, the law does not provide for any post-election reporting requirements. Some ODIHR NAM interlocutors regarded the deadline for disclosure of finance related to this campaign (1 July 2022) as too late after the elections.

In the case of infringements of political finance rules, the MoIKR, under the advice of the Commission, can impose a range of administrative fines. Several ODIHR NAM interlocutors noted that the MoIKR is under no obligation to impose the sanctions for violating financial rules. Administrative fines may be

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<sup>23</sup> While there is no legal deadline for publishing the party annual financial reports, the MoIKR informed the ODIHR NAM that it published annual reports by 1 October.

imposed up to a maximum of EUR 25,000. Where a political party is a recipient of public funding, the amount of the fines can be withdrawn from the state subsidies. In cases involving criminal convictions, eligibility for state subsidies is suspended for up to four years.

## I. MEDIA

The media environment is pluralistic and offers a diverse range of views. The Constitution and Media Act provide a robust system that protects freedom of expression and freedom of media. Detailed media-related regulations are stipulated in the 2008 Media Act.

The main sources of political information are television, followed by daily newspapers and, increasingly, online and social media. There are around 600 broadcasters, largely self-regulated with a tradition of editorial independence. The public broadcasting system includes 20 independent organizations under the umbrella of NPO (*Nederlandse Publieke Omroep*), which co-ordinates and distributes airtime allocated to political contestants on the various broadcasters.

The Dutch Media Authority (DMA) upholds the rules set out in the Media Act and grants as well as suspends licenses for private broadcasting. It allocates free airtime to political parties and other electoral contestants and handles media-related complaints. The DMA has the power to impose sanctions if media outlets do not comply with the legislation, ranging from warning to a series of financial penalties. Internet content is not subject to DMA oversight.

The Press Council, a self-regulatory body, oversees compliance with journalistic ethics and can comment on all media production, including online.<sup>24</sup> All citizens and organizations named in a publication can file a complaint related to journalistic work with the Press Council. While it has no power to impose sanctions, decisions of the Press Council contribute to public opinion regarding journalistic conduct. The Press Council informed the ODIHR NAM on lack of complaints related to the journalists' work during the ongoing election campaign.

Parliamentary parties are allocated free airtime in the public media on an annual basis, on an equal approach for all. In addition, during the campaign, parties that submit candidate lists in at least 19 out of 20 electoral districts get additional free airtime, also on an equal basis. The DMA informed the ODIHR NAM that it would allocate 18 minutes on public television and 20 minutes on public radio to each qualified party by drawing lots. Paid advertisement is also allowed.

Many ODIHR NAM interlocutors commended the efforts and ability of the media to provide the voters with full range of political information. The commercial and public broadcasters are organizing debates on a comprehensive set of topics, involving the leadership of all parliamentary parties as well as other contestants. The media also cover participation of women, national minorities, persons with disabilities in politics, and, at times, deliver the information in easy-to-understand formats. While all ODIHR NAM interlocutors positively assessed media freedom and fairness of access to the media, some interlocutors raised concerns about an increasingly hostile tone towards the media by certain political parties in recent months.

## J. COMPLAINTS AND APPEALS

The Elections Act and the General Administrative Act regulate complaints and appeals regarding specific parts of the electoral process, such as voter registration, registration of party names, candidate registration, and election day proceedings. Complaints can be submitted to the electoral or

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<sup>24</sup> The Press Council is funded by the Press Council Foundation, which is composed of major print and audio-visual media associations, as well as by professional media organizations.

administrative body dealing with relevant issues. The Administrative Jurisdiction Division of the Council of State (Court) reviews appeals related to voter registration, registration of party names and candidate registration. Except for appeals in candidate registration cases (six days), there are no special expedited deadlines for resolving election-related appeals and, in line with general administrative procedures, they are to be decided within a period of six weeks. The Court informed the ODIHR NAM that in election-related cases they act in an accelerated manner. According to the Court, they received and dismissed so far two complaints related to registration of names and logos of political groups.

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, despite prior ODIHR recommendations. However, civil lawsuits can be filed with courts of first instance, in line with the General Administrative Act, with the Court being an appeal body and final instance. All decisions of the Court are published online.

All protocols from the PECs are submitted to the Credentials Committee of the outgoing parliament, which checks the complaints recorded and, in case of serious violations, may decide on a partial or total recount of votes or repeat elections. No ODIHR NAM interlocutors expressed concerns related to electoral dispute resolution mechanism, citing a longstanding tradition of well administered elections and that remedy is rarely needed.

#### **IV. CONCLUSIONS AND RECOMMENDATION**

All ODIHR NAM interlocutors expressed high degree of confidence in the impartiality of the election administration and its ability to organize elections professionally and transparently. However, interlocutors welcomed a potential ODIHR observation activity for these elections, recognising that an external assessment, including of the revised legal framework and its implementation, would contribute to further improvements to the electoral process, in particular with regards to new voting modalities.

On this basis, the ODIHR NAM recommends the deployment of an Election Expert Team for the 17 March parliamentary elections to review the legal framework and practice in respect of alternative voting methods, including for persons with disabilities, campaign finance rules, and the complaints and appeals process. ODIHR also reiterates that a number of its previous recommendations on other electoral components remain valid and encourages the authorities to consider these in any future electoral reform process.

## **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 the Interior and Kingdom Relations**

Hans Klok, Deputy Head, Election Department  
Maria Gonzalez, Programme Manager, Election Department  
Reinier Fleurke, Senior Policy Adviser, Election Department  
Sterre van Heemst, Policy Adviser, Election Department

### **Electoral Council**

Mirjam de Bruin, Legal Adviser  
Pamela Young, Secretary Director

### **Commission on Political Party Finance**

Ed Anker, Chairperson  
Helma Nepperus, Member  
Martijn Zwart, Secretary  
Joep Severens, Senior Policy Officer

### **Council of State**

Marcel Rijdsdijk, Judge  
Hans Hagen, Registrar

### **Dutch Media Authority**

Wim Groen, Project Manager  
Bert Kipp, Adviser

### **The Hague Election Commission**

Gerjan Wilkens, Head, Elections Team  
Sanne Sterenborg, Project Manager, Voters Abroad

### **Political Parties<sup>25</sup>**

Rutger Ploum, Chairperson, Christian Democratic Appeal  
Nelleke Weltevrede, Head of Communications, Christian Democratic Appeal  
Jop Douma, Director, Christian Union  
Anne-Marie Spierings, Chairperson, Democrats 66  
Joost Sneller, MP, Democrats 66  
Katinka Eikelenboom, Chairperson, Green Left  
Benjamin van Es, Campaign manager, People's Party for Freedom and Democracy  
Arnout Hoekstra, General Secretary, Socialist Party

### **Media**

Chris Ostendorf, Reporter The Hague, *Nieuwsuur*  
Frits van Exter, Chairperson, Press Council

### **Central Planning Bureau**

Pieter Hasekamp, Director  
Suzanne van Gils, Head Communication and Organization Department

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<sup>25</sup> Meetings were requested with all parliamentary parties.

### **Civil Society**

Illya Soffer, Director, Association of Disabled Persons Organizations *Ieder(in)*

Thijs Hardick, Policy Officer, Association of Disabled Persons Organizations *Ieder(in)*

Marijke Hempenius, Programme Manager, Association of Disabled Persons Organizations *Ieder(in)*

Leontine Bijleveld, Chairperson, Association for Women and Law

Habib el Kaddouri, Co-ordinator, Dutch Moroccan Association (SMN)

Nenita La Rose, President, Dutch Women Council

Maria Ibrahim, Board Member, Dutch Women Council

Justin Hoeger Dijkof, Policy Adviser, Institute for Human Rights

Sahidah Somer, Lawyer, The Netherlands Committee of Jurists for Human Rights

Kiki Udding, Board Secretary, The Netherlands Committee of Jurists for Human Rights

Mirjam Brandenburg, Executive Secretary, *ProDemos*

Anita de Jong, Head of Communications, *ProDemos*

Sedi Van Loon, Project Assistant, *ProDemos*

Geeke van Velzem, Director, Reading and Writing Foundation

Jarre Middeljans, Advisor, Reading and Writing Foundation

Judith Stevens, Advisor, *Stem op een Vrouw* (vote for a woman)