

REPORT TO
OSCE/ODIHR

RESPONSE TO OSCE's ELECTION
ASSESSMENT REPORT FROM
THE 2013 PARLIAMENTARY ELECTIONS

INTRODUCTION

Following an invitation from the Norwegian Government, the OSCE/ODIHR carried out an Election Assessment Mission (EAM) in Norway during the Parliamentary Elections in September 2013. The OSCE's report from the visit was presented on 13 January 2014. This report gives an overview of the recommendations contained in the OSCE report and the planned follow up.

This is the second EAM the OSCE has carried out in Norway, as the OSCE also carried out an EAM for the Parliamentary Elections in 2009. Following the EAM report from 2009, the Ministry of Local Government and Modernisation worked together with the OSCE/ODHIR to develop a new model for following up election observations. The (Norwegian) Election Act was also amended on several points as a result of the EAM report from 2009.

The Ministry would like to thank the OSCE/OFHIR for an interesting and important cooperation. The Ministry is grateful that the OSCE/ODHIR again chose to carry out an election observation in Norway. The Norwegian electoral system enjoys great confidence, and it is important to also maintain this in the future. To this end, the Ministry believes it is essential to maintain a critical view as regards whether our system works as intended, and also that we are willing to learn from others.

In 2013, the EAM was mainly directed at three areas, trial voting over the internet, introduction of a new electoral administrative system and party financing.

In the spring of 2014, the Ministry decided to conclude the internet voting trials. The trials have been extensively evaluated. There has been significant disagreement in Norway regarding whether internet voting in uncontrolled surroundings complies with the principle of secret ballots. The Storting has also been split in its view on internet voting. The Ministry has gained useful and interesting experience through the trial. The OSCE's recommendations concerning internet voting will be included as part of the experience from the trial.

At the present time, the Ministry has not proposed any amendments as a result of this EAM report. Many of the OSCE's/ODHIR's recommendations require further assessment.

The Ministry would also like to express gratitude for good cooperation with the ODHIR representatives in the process of following up the EAM report.

RECOMMENDATIONS AND FOLLOW UP

Below is a review of the OSCE's recommendations in the EAM report and the Ministry's planned follow up.

A PRIORITISED RECOMMENDATIONS

1. The requirement imposed on citizens to accept candidate nominations should be reviewed to ensure conformity with OSCE commitments and international standards

In the report following the 2009 Parliamentary Elections, the OSCE recommended changing the rules relating to the requirement to accept a nomination. To avoid involuntarily inclusion of a candidate on a list, a person had to prove membership in another political party. The OSCE believed this could represent a conflict with human rights and the right to freedom of association. The recommendation applied to both local elections and parliamentary elections.

Based on this feedback, the Election Act was changed so that it is now sufficient in local elections to submit a declaration that one does not want to be on a list to receive an exemption. A corresponding change has not been made for parliamentary elections, as this requires amendments to the Constitution. No such proposal has been put forward in the Storting, and the very stringent exemption rules still apply for parliamentary elections.

In the report following the observation in 2013, the OSCE again raises this issue and asks Norway to consider changing the rules for parliamentary elections as well. The ministry acknowledges that it may be adverse to have different sets of rules on this matter, since the factors that formed the basis for the changes in local elections apply correspondingly to parliamentary elections. The ministry will consider whether similar changes should be made for parliamentary elections. If a proposed amendment to the Constitution is put forward during this term, it will take effect in the 2021 Parliamentary Elections at the earliest.

2. It is recommended that the selection process for the Internet Election Committee (IEC) be laid out in sufficient detail and be conducted in such a way so as to avoid any potential conflict of interest, or a perception thereof, and to enhance IEC independence

The Ministry will not follow up this recommendation, as trials with internet voting have been concluded. The recommendation from the OSCE will be included as part of the experience from the trial.

3. It is recommended that further consideration be given to providing a right to appeal all election-related matters to a competent court.

Following the 2009 Parliamentary Elections, the OSCE made a corresponding recommendation regarding our appeals system. The Ministry therefore asked the Venice Commission (advisory body for the Council of Europe) to give an account of the regulations for appeals and endorsement of elections and the relationship to international obligations. A joint statement from the Venice Commission and the OSCE was processed and adopted at

the Venice Commission's plenary assembly on 17 December 2010. The statement concludes that Norway should include the courts of law or body corresponding to a court of law in resolving disputes in election-related matters to fulfil international standards and requirements. Also, that deadlines should be introduced for when decisions in election appeals must be provided. Furthermore, it is recommended that the courts of law or another independent body with legal authority shall conduct final endorsement of the elections.

Based on this, the Ministry has decided to conduct a more in-depth assessment of regulations for appeals and the system for endorsing elections.

4. Consideration could be given to further amending the Election Act to prevent candidates from holding positions in the election administration

In the report following the 2009 Parliamentary Elections, the OSCE recommended amending the Election Act so that list candidates were not directly involved in the implementation of the election. The Election Act was subsequently amended so that list candidates can no longer hold positions in polling committees or serve as election officials in the polling stations. The Ministry also assessed whether list candidates could be on electoral committees, and concluded there was no reason to limit list candidates' opportunity to serve as members of electoral committees. This received broad-based support in the consultation round and was approved in the Storting. In the report following the 2013 Parliamentary Elections, the OSCE recommends a new assessment of whether list candidates can serve on electoral committees.

Electoral committees and county electoral committees are standing committees pursuant to the Local Government Act and are elected by the municipal councils and county councils. In order to be eligible for these councils, members and deputy members must be a representative or deputy representative in the municipal council or county council, respectively. Meetings in standing committees are public and open. The meetings can only be closed in very special individual cases, and if this is relevant, it will follow from the Freedom of Information Act. The meetings in these committees are planned and publically accessible case documents are available prior to the meetings. Minutes from the meetings, including the decisions made, are published after the meeting.

The electoral committees do not have tasks where they are in direct contact with the voters at the polling station. The electoral committees' tasks are general and administrative. The composition of the electoral committees spans across all political parties, and many municipalities and county authorities ensure that all parties elected to office are represented in the electoral committees. This contributes to establishing trust and prevents suspicion regarding abuse of authority.

Based on this, it is the assessment of the Ministry that list candidates can still hold positions on electoral committees. The Ministry does not find it necessary to follow up OSCE's recommendation on this point.

5. Consideration could be given to amending the Political Parties Act to provide for a more timely disclosure of campaign finance.

On 10 January 2013, the Storting approved the Act relating to amendment of the Political Parties Act (Act No. 102 of 17 June 2005). The decision was made following a proposal in a proposition to the Storting regarding the same topic, cf. Prop. 140 L (2011-2012) and Recommendation 155 L (2012-2013) from the Standing Committee on Local Government and Public Administration. The amendments entered into force on 1 March 2013. These amendments to the Political Parties Act will facilitate more transparency and control over financing of political parties to satisfy the Council of Europe/GRECO's recommendations to Norway. GRECO is very pleased with Norway's revision of the political party legislation and implementation of all recommendations.

In connection with this work there was also an extensive discussion on potential systems for campaign financing which entail that exhaustive information about campaign income and costs must be reported and published before the election. Norway has not introduced cost limits in connection with election campaigns. Until now, the parties' spending during election campaigns has been relatively modest compared with a number of other countries, which is e.g. due to the ban on political television ads in the Broadcasting Act. The amendment entails that all election campaign contributions exceeding NOK 10 000 must be reported and published before the election day, while campaign costs must be reported and published as part of the annual account reporting, i.e. by 1 June the following year. This solution was also supported by GRECO. Norway therefore assumes that the Political Parties Act's system regarding election campaign financing is in line with international obligations and GRECO's recommendations.

The Ministry believes the recommendation the OSCE asks us to assess has already been sufficiently evaluated, and will therefore not follow-up the matter any further.

B. OTHER RECOMMENDATIONS

6. The Election Act should be amended to provide a possibility for independent candidates to stand for elections, in line with OSCE commitments.

The Norwegian electoral system is based on a list system with election for proportional representation. Individual candidates cannot run for election on their own. However, one is not required to be affiliated with a political party or organisation in order to stand for election. The requirements are related to two factors; one must document sufficient support (500 signatures, or 500 votes on a county basis, or 5000 votes on a national basis in the last parliamentary election) and the list for parliamentary elections must contain as many names as there are seats in the relevant county (4-19).

The Ministry's assessment is that the opportunity to seek political office is sufficiently safeguarded and that the actual thresholds for standing for election are low in Norway. The Ministry notes that the list system is a basic and well-functioning element in our democracy and sees no reason to change these rules.

7. To avoid possible errors and delays, all electronic systems should be tested in a timely manner ahead of election day.

The EVA electoral administration system was implemented and put to use by all municipalities and county authorities in the 2013 Parliamentary Elections. This was a major change for municipalities and county authorities, as well as for the Ministry, which received a new role in election implementation. Development of sound system functionality was prioritised ahead of the 2013 elections, which entailed that the system was not tested for a sufficient length of time before it was put to use. The Ministry acknowledges that software updates and error corrections in early phases of the election implementation were rolled out to municipalities and county authorities without complete testing.

The Ministry has implemented a new test programme for EVA so that all software and all error corrections will be tested extensively before they are implemented in the system. There will always be a possibility of users discovering minor errors, for example due to the fact that different types of computers are used, but test plans and implementation of tests have high priority in the work on electronic solutions for future elections.

The Ministry has already implemented measures to follow up the OSCE's recommendation in this area.

8. The authorities could consider regulating in more detail the electronic administration system and providing comprehensive guidance on its use to ensure that all aspects are addressed

Before the 2013 elections, the Ministry prepared a comprehensive user manual and routines describing the various steps in election implementation for municipalities and county authorities in the use of the EVA electoral administration system. This was made available through an employee information portal. This will be continued for future elections.

Use of EVA is not required by law. Following the 2015 elections, the Ministry will consider stipulating that use of EVA is mandatory, and follow this up with more detailed regulatory provisions regarding how to use the system. There are no detailed routines for how information gathered through use of the system is subsequently processed. The Ministry will continue working on this area, and this will be a natural part of detailed regulatory provisions stipulated as a result of making EVA a statutory requirement.

The Ministry will continue its work on following up the OSCE's recommendation on this point.

9. In order for the IEC to fulfil its mandate, it should be allocated the necessary resources to thoroughly and independently audit the security, integrity and secrecy of the system and to perform complete end-to-end verification

The Ministry will not follow up this recommendation, as internet voting trials have been concluded. The recommendations from the OSCE will be included as part of the experience from the trial.

10. It is recommended that preparations for any future Internet voting pilot start earlier and that sufficient resources are allocated. This will allow for proper documentation in line with previous OSCE/ODIHR recommendations.

The Ministry will not follow up this recommendation, as internet voting trials have been concluded. The recommendations from the OSCE will be included as part of the experience from the trial.

11. Election authorities could further enhance voter education by providing information to voters on how to protect their computers against viruses and how to conduct the various verification steps

The Ministry will not follow up this recommendation, as internet voting trials have been concluded. The recommendations from the OSCE will be included as part of the experience from the trial.

12. The election authorities could take steps to encourage third party verification of Internet voting, perhaps by explicitly introducing such possibilities in the regulations and inviting political parties and other stakeholders to participate.

The Ministry will not follow up this recommendation, as internet voting trials have been concluded. The recommendations from the OSCE will be included as part of the experience from the trial.

13. Consideration could be given to provide clear guidelines on which activities are not permitted during the pre-election campaign as well as some form of disclosure requirement of financing the campaign activities of third party organizations.

OSCE recommends that consideration be given to providing clear guidelines for which activities are not permitted during the pre-election campaign, as well as a form of disclosure requirement for third party financing of election campaign activities.

This is not regulated in Norwegian law. Neither the Political Parties Act nor other regulations in this area address this or provide a foundation for such guidelines. The Ministry is not aware of current factors that would indicate the necessity of establishing regulation of this area. This was not a focus area in GRECO's review of all 49 member countries (including Norway). However, the Ministry will continue to monitor international developments in this area.

14. Consideration could be given to issuing regulations on the appointment procedures for PPAC members. Furthermore, consideration should be given to whether the possibility for elected officials and candidates to serve on the PPAC is compatible with requirements of impartiality and neutrality

The Political Parties Act stipulates that at least two of a total of five members of the Political Parties Act Committee (PPAC) must be politically elected. The practice so far has been that three members are nominated by the parties. GRECO was concerned with this in its review of the Norwegian regulations. The question was thoroughly assessed in the follow-up, but

the Norwegian solution was subsequently accepted. Nevertheless, the Ministry will consider a reduction in the Act's minimum requirement of two elected members when appointing the new PPAC in 2017.

15. In keeping with regulatory good practice, the PPAC could establish an enforcement policy and clear, written procedures in order to ensure a consistent, proactive and accountable approach.

This issue has been extensively discussed in Norway in the past. The PPAC has all necessary authority to verify the reported information. If there is a suspected breach of the General Civil Penal Code, the police will be involved. It must be emphasised that the PPAC's main function is to ensure compliance with the Act's prohibition provisions and that the financing information reported to Statistics Norway is correct and complete. The PPAC can act on its own initiative and according to tips from the media or the general public. There is no desire for the PPAC to have a more proactive function, for example where it could actively seek out information that is not yet reported through home searches, etc. The Act balances the considerations for the parties' private autonomy and independence on the one hand, with public control on the other hand – including that the control authority cannot be abused politically. The PPAC's performance of administrative duties is adapted to the administrative sanctions which it can use. GRECO has highlighted the Norwegian model as an example to follow in this field, cf. follow-up report No. 2 of 20 March 2013.¹

The Ministry sees no reason to make changes in the PPAC's mandate or role.

16. To further increase transparency, the election authorities could consider publishing voting results by polling station.

OSCE notes that only the four largest municipalities publish count results from electoral proceedings for each polling station and recommends that this is also published per polling station for more municipalities. This is also requested by voters and the Norwegian media.

As of the 2015 elections, the Ministry will be responsible for the election result reporting and has considered it part of this assignment to publish election results by polling station for additional municipalities. The municipalities themselves will decide how the count will take place, whether the votes are counted by polling station or counted together. The Ministry will assist all municipalities that have election results by polling station in publishing this information on a polling station-by-polling station basis on the Ministry's election results page.

The OSCE's recommendation on this point is followed up for the municipalities with election results by polling station.

¹[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2013\)5_Second_Norway_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)5_Second_Norway_EN.pdf)