



Office for Democratic Institutions and Human Rights

# SLOVAK REPUBLIC

## PARLIAMENTARY ELECTIONS 5 March 2016

### OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT 11-13 January 2016



Warsaw  
5 February 2016

## TABLE OF CONTENTS

<b>I. INTRODUCTION.....</b>	<b>1</b>
<b>II. EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>III. FINDINGS.....</b>	<b>3</b>
A. BACKGROUND AND POLITICAL CONTEXT .....	3
B. LEGISLATIVE FRAMEWORK AND ELECTORAL SYSTEM .....	3
C. ELECTION ADMINISTRATION .....	4
D. VOTER REGISTRATION.....	5
E. REGISTRATION OF CANDIDATE LISTS.....	5
F. ELECTION CAMPAIGN .....	6
G. MEDIA.....	6
H. PARTY AND CAMPAIGN FINANCING .....	7
I. PARTICIPATION OF NATIONAL MINORITIES.....	7
<b>IV. CONCLUSION AND RECOMMENDATION .....</b>	<b>8</b>
<b>ANNEX: LIST OF MEETINGS.....</b>	<b>9</b>

**SLOVAK REPUBLIC  
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**OSCE/ODIHR Needs Assessment Mission Report  
11-13 January 2016**

**I. INTRODUCTION**

On 18 November 2015, the Ministry of Foreign Affairs of the Slovak Republic invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the 5 March parliamentary elections. The OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Slovak Republic from 11 to 13 January 2016. The OSCE/ODIHR NAM included Alexander Shlyk, Deputy Head of OSCE/ODIHR Election Department, and Oleksii Lychkovakh, OSCE/ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the parliamentary elections. Based on this assessment, the NAM was to recommend whether to deploy an OSCE/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, the election administration and the judiciary, as well as with representatives of political parties, media and civil society. A list of meetings is annexed to this report.

The OSCE/ODIHR would like to thank the Ministry of Foreign Affairs for their assistance and co-operation in organizing the visit. The OSCE/ODIHR would also like to thank all of its interlocutors for having taken the time to meet with the mission and sharing their views.

**II. EXECUTIVE SUMMARY**

On 12 November 2015, the Speaker of the National Council (parliament) of the Slovak Republic announced that parliamentary elections will be held on 5 March 2016. The National Council is elected for four years and consists of 150 members who are directly elected under a proportional system with a preferential element in one nationwide constituency.

The legal framework includes the Constitution, the newly adopted Law on Conditions for the Exercise of Voting Rights and on Amendments to Certain Laws (hereinafter, Elections Act), the new Act on Election Campaign, amended Act on Political Movements and Political Parties, and the Act on Broadcasting and Retransmission.

Following OSCE/ODIHR recommendations to revise all electoral laws in order to eliminate inconsistencies and harmonize electoral practices governing different types of elections and referenda, in 2014 the parliament adopted the Elections Act and Act on Electoral Campaign. The Elections Act does not change significantly the existing electoral systems or rules, but aims at unifying the procedural aspects of elections. The Act on Election Campaigns, along with the Act on Political Movements and Political Parties, provide more detailed rules on party and campaign finance, including mechanisms for donations, expense reporting and liabilities for non-compliance with the requirements.

The new Elections Act provides for the establishment of a permanent State Commission for Elections and the Control of Funding for Political Parties (the State Commission) as an

independent body to oversee the funding of political parties and political movements, election preparations and the tabulation of election results. Election operations are managed by the Ministry of Interior (MoI), the Statistics Office and by lower level election commissions. The voter registration system is passive and largely decentralized. Municipalities are in charge of maintaining voter lists based on the permanent residence register.

Candidate lists can be nominated by registered political parties and movements. Independent candidates cannot stand for elections to the parliament at odds with OSCE commitments. The State Commission has registered 22 parties and one coalition. Official election campaign begins on the day the elections are announced and ends 48 hours before the election day. It is prohibited to publish the results of opinion polls during the last 14 days before the election day.

Europe's refugee and migration crisis and introduced homeland security measures have played a dominant role in the political discourse in recent months. Other widely discussed issues include allegations of corruption, particularly in public procurement and health sector.

The media environment is diverse with a wide variety of commercial and public broadcasters as well as print media. The law allows the broadcast of paid political advertising from 21 days before election day. According to the law, all broadcast media should abide by the principles of pluralism, objectivity and impartiality. During the official campaign period, both public and private broadcasters allocate up to 30 minutes of paid time to each contesting party, but not more than a total of 10 hours for all contestants. In addition, the public broadcaster should allocate up to ten hours for discussion programmes. Some OSCE/ODIHR NAM interlocutors expressed concerns about further concentration of media ownership. In their view, this led to media being less critical towards the government and the ruling party and to stagnation of investigative journalism.

Party and campaign financing is regulated by the Act on Political Movements and Political Parties, amended in 2014 and the new Act on Election Campaigns. Contestant may spend a maximum of EUR 3 million on the campaign. In line with previous OSCE/ODIHR and Council of Europe's Group of States against corruption (GRECO) recommendations, the law provides detailed information on donations made to political parties and the scale of sanctions for violations of party finance regulations.

The recent amendments to the political party and campaign finance regulations provide for publicly accessible 'transparent accounts' to be opened by parties for campaign purposes. Every entity that wishes to support a political party or a candidate has to register with the State Commission as a "third party". Each registered third party may spend up to EUR 100,000 for an election campaign using the 'transparent account'.

The OSCE/ODIHR NAM noted confidence of most interlocutors in the integrity of the electoral process. No significant concerns were expressed relating to the respect of fundamental freedoms, the transparency of the electoral process, candidate registration, voter registration and election day proceedings. OSCE/ODIHR NAM interlocutors stated, however, that the implementation of recently adopted amendments to the legal framework, particularly on political party and campaign finance regulations and oversight, by the election administration and other responsible bodies, as well as media environment, could benefit from a closer review. They expressed an interest in the OSCE/ODIHR's expertise in these areas and mentioned that a potential election-related activity and the subsequent recommendations would be of help for further improvements.

In these circumstances, the OSCE/ODIHR NAM recommends the deployment of an Election Assessment Mission to specifically look into issues outlined in this report, such as the implementation of the recently amended legal framework by the election administration and other responsible bodies as well as media environment. The OSCE/ODIHR continues to stand ready to engage with the authorities in a follow-up process after the upcoming elections to assist them in addressing outstanding recommendations from OSCE/ODIHR's previous assessments.

### III. FINDINGS

#### A. BACKGROUND AND POLITICAL CONTEXT

On 12 November 2015, the Speaker of the National Council (parliament) of the Slovak Republic announced that parliamentary elections will be held on 5 March 2016. The National Council is elected for four years and consists of 150 members. Following the 2012 early parliamentary elections, six political parties are represented in the parliament: Direction – Social Democracy (*SMER-SD*), Christian Democratic Movement (*KDH*), Ordinary People and Independent Personalities (*OLaNO*), *Most-Hid*, Slovak Democratic and Christian Union – Democratic Party (*SDKÚ-DS*) and Freedom and Solidarity (*SaS*).

*SMER-SD*, led by Prime Minister Fico, won the overwhelming majority of seats, and, for the first time since the democratic transition in the early 1990s, formed a single-party government. In March 2014 Mr. Fico ran as a candidate for the presidential elections, but lost to Mr. Andrej Kiska during the second round.

The OSCE/ODIHR has observed five elections in Slovakia since 1998. The Election Assessment Mission (EAM) for the 2010 parliamentary elections concluded that the elections “were conducted in a pluralistic environment characterized by general respect for fundamental rights and freedoms, equitable campaign conditions and a high degree of public trust in the impartiality of the election administration.”<sup>1</sup>

#### B. LEGISLATIVE FRAMEWORK AND ELECTORAL SYSTEM

The legal framework regulating the parliamentary elections includes the Constitution, the Law on Conditions for the Exercise of Voting Rights and on Amendments to Certain Laws (Act no. 180, hereinafter, Elections Act) complemented by other applicable legal acts, such as the Act on Election Campaign, the Act on Political Movements and Political Parties, the Act on Broadcasting and Retransmission.

Following OSCE/ODIHR recommendations to revise all electoral laws in order to eliminate inconsistencies and harmonize electoral practices governing different types of elections and referenda, in May 2014 the parliament adopted the Elections Act and Act no. 181 (Act on Electoral Campaign). The Elections Act does not change significantly the existing electoral systems or rules, but aims at unifying the procedural aspects of elections.<sup>2</sup> The Act on Election Campaigns along with the Act on Political Movements and Political Parties, last amended in

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<sup>1</sup> [See all previous OSCE/ODIHR election reports for the Slovak Republic.](#)

<sup>2</sup> The Elections Act aggregated the separate Acts on Parliamentary Elections, on Local Elections, on Referendum, on Presidential elections, on Regional Elections, on European Parliament elections and parts of other acts.

2014, provide more detailed rules on party and campaign financing, including mechanisms for donations, expense reporting and liabilities for non-compliance with the requirements.

The Elections Act provides that international observers and anyone who expresses interest may observe the voting and counting process. However, the law does not provide details on the accreditation procedure or status of observers, despite previous OSCE/ODIHR recommendation.

Members of the parliament are elected in one nationwide constituency on the basis of proportional representation with a preferential option. Political parties have to receive at least five per cent of valid votes to win mandates.<sup>3</sup> In addition to selecting a party list, voters may also indicate preferences for up to four particular candidates. Candidates who obtain at least three per cent of valid votes cast for the relevant party or coalition that crossed the five percent threshold as preferential votes are automatically elected. The remaining mandates are allocated to candidates in their ballot list order.

### C. ELECTION ADMINISTRATION

The elections are administered by several institutions, including the State Commission, the Ministry of Interior (MoI), the Statistics Office, as well as by lower level election commissions.

The new Elections Act provides for the establishment of a permanent State Commission for elections and the control of funding for political parties (the State Commission) as an independent body to oversee the funding of political parties and political movements, the management of elections, and the tabulation of election results. The State Commission has 14 members. Ten of them are delegated by parliamentary political parties in proportion to the number of seats obtained in last elections, but equal for governing parties and the opposition. The President of the Constitutional Court, the President of the Supreme Court, the Attorney General and the President of the Supreme Audit Office each nominate one member of the State Commission. Several OSCE/ODIHR NAM interlocutors questioned whether this mechanism of appointment of the State Commission ensures its full impartiality.

The mandate of the State Commission expires with each outgoing parliament. The State Commission is based in the premises of the MoI and enjoys their technical and logistical support. The new Elections Act, in line with previous OSCE/ODIHR recommendation, provides for Rules of Procedures of the State Commission. However, neither the Elections Act, nor the Rules of Procedures, explicitly state that State Commission sessions are open to observers, which is a long-standing OSCE/ODIHR recommendation.

Lower level election commissions include 49 District Election Commissions (DECs) and some 6,000 Precinct Election Commissions (PECs) at polling station level.<sup>4</sup> The political parties and coalitions contesting the elections have the right to nominate members to these commissions. An electoral officer with an advisory vote is also appointed to each commission to support its work.<sup>5</sup>

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<sup>3</sup> Coalitions of two to three parties have to overcome a seven per cent threshold, while coalitions of four or more parties need to exceed ten per cent.

<sup>4</sup> Each PEC serves a maximum of 1,000 voters.

<sup>5</sup> The State Commission's officer is appointed and recalled by the government, the DEC electoral officer – by the head of the district administrative office, and the PEC officer – by the respective mayor.

The MoI is in charge of logistical and technical organizational aspects of election administration. The Ministry is responsible for most electoral operations in the field, including printing election materials, training election commissioners, and conducting voter information and education programmes. The Statistics Office is responsible for processing and tabulating election results. It establishes summarization units composed of experts in the State Commission and in each DEC, providing personnel, hardware, and software.

The majority of the OSCE/ODIHR NAM interlocutors expressed confidence in the election administration bodies. No particular concerns were raised regarding the technical preparations and conduct of these elections. However, some OSCE/ODIHR NAM interlocutors stated that the recently established State Commission may face certain challenges with implementing the legal framework, which contains a number of new changes and additions.

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

The voter registration system is passive and largely decentralized. Municipalities are in charge of maintaining voter lists on the basis of the permanent residence register. Voter lists are updated continuously based on the municipalities' own records, inputs provided by state institutions or other municipalities and voters' complaints or requests. Voters may verify their data in the voter lists at municipalities, and, if necessary, request their correction. On election day, a voter can be added to the voter list upon presenting an identity card and proving his/her residency. The number of voters is about 4.4 million.

Voters have the possibility to vote in person in polling stations, by absentee ballot, by post or by mobile ballot box. Absentee voting is available to voters who are away from home on election day. Mobile voting is allowed for serious health reasons at the request of the voter. The new Elections Act provides that citizens who do not have permanent residence status are entered into a special register of voters maintained by the MoI.<sup>6</sup>

Postal voting is only available to citizens who are abroad on election day and is based on the principle of active registration. Applications had to be made by 15 January. To make the application process easier, a dedicated on-line platform was developed by activists.

#### **E. REGISTRATION OF CANDIDATE LISTS**

Candidate lists can be nominated by registered political parties and movements. Political parties must pay an electoral deposit of 17,000 EUR, which is returned to a party or coalition that receives at least 2 per cent of valid votes. Parties may form a coalition of two or more parties and submit a joint candidate list. Independent candidates cannot run in parliamentary elections, which is at odds with paragraph 7.5 of the 1990 OSCE Copenhagen Document.<sup>7</sup> Introducing a provision to allow independent candidates to stand in parliamentary elections is a long standing OSCE/ODIHR recommendation.

By the deadline of 6 December, 24 candidate lists were submitted to the State Commission for registration. On 7 December, the list of 23 registered contestants (22 parties and one coalition) was published. One political party refused to pay the election deposit, thus failed to fulfil

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<sup>6</sup> Previously this special register was maintained by the municipality of Bratislava – Petržalka.

<sup>7</sup> In Paragraph 7.5 of the 1990 OSCE Copenhagen Document the OSCE participating States commit to “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination”.

registration requirements.<sup>8</sup> The State Commission verified the lists with the assistance of the MoI, the Statistical Office and other state bodies, and upon registration assigned a position on the ballot to each of them by drawing a lottery.

## F. ELECTION CAMPAIGN

The political discourse is dominated by public discussion over Europe's refugee and migration crisis and introduced homeland security measures, despite the fact that the number of refugees and migrants currently in Slovakia is marginal, according to many OSCE/ODIHR NAM interlocutors. Other widely discussed issues include allegations of corruption, particularly in public procurement and health sector.

The election campaign is mainly regulated by the Act on Election Campaigns adopted in 2014. According to the Act, the official election campaign begins on the day of publishing the decision on holding the elections and ends 48 hours before the election day. At the same time, the law allows the broadcast of paid political advertisement from 21 days before election day. Contestants can display their election materials during the same period in places designated by the municipalities. There are, however, no time restrictions for parties and coalitions to engage in outdoor campaigning, including billboard placements.

The Act on Election Campaigns contains prohibition on publishing opinion polls less than 14 days before the election day. A number of OSCE/ODIHR NAM interlocutors expressed their doubts whether this will be fully observed.

## G. MEDIA

The media environment is diverse with a wide variety of commercial and public broadcasters as well as print media. The public national broadcaster is Radio and Television of Slovakia (RTVS). Current RTVS management was appointed in 2012 after early parliamentary elections. The main private broadcasters are *Markiza* TV and *JOJ* TV, and main daily newspapers are *Nový Čas*, *SME*, *Dennik N* and *Pravda*.

According to the Law on Broadcasting and Retransmission, broadcast media should ensure the plurality of views, as well as objectivity and impartiality of news and current affairs programmes. The Act on Election Campaigns provides that during the official election campaign both public and private broadcasters allocate up to 30 minutes of paid time to each contesting party, but not more than a total of up to 10 hours for all contestants. In addition, according to the law, the RTVS should allocate up to ten hours for discussion programmes.

The Council for Broadcasting and Retransmission oversees broadcasters' activities and is responsible for ensuring objectivity and impartiality in news and current affairs programmes. The Council acts upon its own initiative and upon complaints. According to the Elections Act, the State Commission can also have a role in the allocation of broadcasting time. The Act on Election Campaigns provides that both public and private broadcasters shall ensure equal conditions for price and terms of the purchased broadcasting time for all contestants, which is in line with previous OSCE/ODIHR recommendation. The law does not contain any regulation with regard to the coverage of campaign on the Internet.

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<sup>8</sup> Movement for Democratic Slovakia (HZDS).



Some OSCE/ODIHR NAM interlocutors expressed concerns about further concentration of media ownership, which, from their perspective, is influencing the media environment. They stated that such processes led to media being less critical towards the government and the ruling party, as well as to stagnation in investigative journalism.

## H. PARTY AND CAMPAIGN FINANCING

Party and campaign financing is regulated by the Act on Political Movements and Political Parties, amended in 2014 and the new Act on Election Campaigns. Political parties may receive funds from state subventions, private donations, bank loans, and membership fees. Parties may receive state funding under three categories: contributions for votes received, contributions for party activity, and for seats in parliament. A political party that receives more than 3 per cent of the total number of valid votes is entitled to receive a state subvention for each vote received, which is equal to one per cent of the average nominal salary.<sup>9</sup> The same total amount is also paid to these parties for their activities. A party is also entitled to receive a yearly subvention for each parliamentary seat.<sup>10</sup> Parties can also receive private monetary donations and in-kind contributions. They have to publish the list of those contributors who donated more than the average nominal salary in the course of the previous year, and are also required to submit annual party income and expenditure reports.<sup>11</sup> In line with previous OSCE/ODIHR and Council of Europe's Group of States against corruption (GRECO) recommendations, amendments to the Act on Political Movements and Political Parties provide for detailed information on donations made to political parties and the scale of sanctions for violations of party finance regulations.

The law provides that each contestant may spend a maximum of EUR 3 million on the campaign. The recent amendments to the political party and campaign finance regulations provide for a system of "transparent accounts". For the election campaign purposes the party has to open a dedicated "transparent" account. Details of transactions through this account are available to the public. These changes also provide that every physical person or a legal entity that wishes to support a political party or a candidate has to register with the State Commission as a "third party". A third party may spend no more than EUR 100,000 for an election campaign. These funds also have to be managed via "transparent accounts".

Some OSCE/ODIHR NAM interlocutors stated that newly adopted regulations on party and campaign finance still contain gaps and ambiguities that could be misused. Concerns were expressed that entities have a possibility to cover campaign expenses with just one transaction (to the PR-agency, for example), which limits public awareness as to the details on how the funds are spent. OSCE/ODIHR NAM interlocutors also mentioned that requirements for the third party reporting of expenses are vague and that State Commission is not pro-active enough in specifying to the elections stakeholders how exactly the new regulations have to be implemented.

## I. PARTICIPATION OF NATIONAL MINORITIES

According to the 2011 census, the largest minorities are Hungarians with 8.5 per cent of the

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<sup>9</sup> Average nominal salary is about EUR 800.

<sup>10</sup> For each seat up to the first 20, the party receives 30 times the average salary. For every subsequent seat the party receives 20 times the average salary.

<sup>11</sup> Annual reports are submitted to the State Commission by 30 April of the year following the reporting period. Parties are also required to publish lists of their donors on a regular basis.

population (over 450,000 people) and Roma with 2 per cent (about 100,000).<sup>12</sup> Ethnic Hungarian parties are active in politics and two Hungarian parties are contesting these elections: *Most-Híd* and the Party of Hungarian Coalition (*SMK*). In contrast to the local elections, Roma are less active during the parliamentary campaign. Political parties that the OSCE/ODIHR NAM met with reported that they have Roma candidates in their lists, but few in winnable positions. The use of ethnic stereotypes in the campaign and instances of intolerant speech towards and with regard to national minorities are not visible during these elections.

In line with previous OSCE/ODIHR recommendation, the Elections Act stipulates that voter information is to be provided not only in the Slovak but also in minority languages. In practice, according to the MoI, municipalities with significant minority representation may decide to produce voter information materials, such as invitations to vote, in one or more out of six officially recognized national minority languages.

#### IV. CONCLUSION AND RECOMMENDATION

The OSCE/ODIHR NAM noted confidence of most of its interlocutors in the integrity of the electoral process. No significant concerns were expressed relating to the respect of fundamental freedoms, the transparency of the electoral process, candidate registration, voter registration and election day proceedings. OSCE/ODIHR NAM interlocutors stated, however, that the implementation of recently adopted amendments to the legal framework, particularly on political party and campaign finance regulations and oversight by the election administration and other responsible bodies, as well as the media environment, could benefit from a closer review. They expressed an interest in the OSCE/ODIHR's expertise in these areas and mentioned that a potential election-related activity and the subsequent recommendations would be of help for further improvements.

In these circumstances, the OSCE/ODIHR NAM recommends the deployment of an Election Assessment Mission to specifically look into issues outlined in this report, such as the implementation of the recently amended legal framework by the election administration and other responsible bodies as well as media environment. The OSCE/ODIHR continues to stand ready to engage with the authorities in a follow-up process after the upcoming elections to assist them in addressing outstanding recommendations from OSCE/ODIHR's previous assessments.

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<sup>12</sup> By some estimates the actual number of Roma is between 380,000 and 600,000.

## **ANNEX: LIST OF MEETINGS**

### **State and Electoral Authorities**

#### **Ministry of Foreign Affairs**

Igor Slobodník, State Secretary

Michal Mlynár, Director General of the OSCE and Counter-Terrorism Section

#### **State Commission for Elections and Control of Financing of Political Parties**

Eduard Bárány, President

Karol Nagy, Member

#### **Ministry of Interior**

Eva Chmelová, Director of the Department of Elections and Referenda

#### **Statistics Office**

Štefan Tóth, Director General of the Section of Methodology and IT

Mr. Igor Lorenc, Director of Information Systems

Mr. Jozef Brinda, IT Officer

#### **Ministry of Finance**

Milos Nosal, Director of Public Administration Budget Department

Martin Zemko, Desk Officer, Public Administration Budget Department

#### **Supreme Court of the Slovak Republic**

Miroslav Gavalec, Presiding Judge at the Administrative College

#### **Constitutional Court of the Slovak Republic**

Miloslav Babjak, Director of the Department of Advisors of the Constitutional Court

Mária Siegfriedová, Director of the Foreign Relations and Protocol Department

### **Political Parties (in alphabetical order)**

#### **Christian-Democratic Movement (KDH)**

Darius Anton Hatok, Campaign Manager

Pavol Kossey, Executive International Secretary

Martin Dilong, Head of European and International Department

#### **Direction – Social Democracy (SMER-SD)**

Ivana Remšíková, Member of the State Commission

Peter Repák, Member of the State Commission

Lubica Končalová, Spokesperson

#### **Most-Híd Party**

Ábel Ravasz, Campaign Finances' Manager

Lubica Kováčová, International Secretary

#### **Ordinary People and Independent Personalities Movement (OĽaNO)**

Jozef Viskupič, Member of Parliament

#### **Network Party (SIEŤ)**

Katarína Cséfalvayová, Deputy Chairperson  
Vladimír Bilčík, Head of Working Group for European and International Affairs  
Silvia Hudáčková, Head of Policy Support Section

**Slovak National Party (SNS)**

Anton Hrnko, Deputy Chairperson

**Media**

**Council for Broadcasting and Retransmission**

Euboš Kukliš, Head of the Office

**Radio and Television Slovakia (RTVS)**

Ingrid Blichová, Head of Radio News

Juraj Fellegi, Editor-in-chief of Television News

***Markiza TV***

Henrich Krejča, Head of News and Current Affairs Programmes

**Dennik N newspaper**

Matúš Kostolný, Editor-in-Chief

**Civil Society**

**Civic Eye**

Peter Novotny, Election Expert

**Fair-Play Alliance**

Zuzana Wienk, Program Director

**Institute for Public Affairs**

Grigorij Mesežnikov, President

Oľga Gyarfášová, Program Director, Senior Research Fellow

**MEMO 98**

Rasťo Kužel, Executive Director

Ivan Godársky, Media and Legal Consultant

**Milan Šimečka Foundation**

Laco Oravec, Chairperson

**National Democratic Institute (NDI)**

Tomáš Hruštič, Coordinator for Roma Political Participation Programme