



Office for Democratic Institutions and Human Rights

CANADA

EARLY FEDERAL ELECTION 20 September 2021

ODIHR Election Expert Team
Final Report



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I. EXECUTIVE SUMMARY

Following an invitation from the Permanent Representation of Canada to the OSCE and based on the findings and conclusions of the Needs Assessment Mission conducted from 23 to 26 August 2021, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Expert Team (EET) to follow the 20 September 2021 early federal election. The ODIHR EET focused its activity on the practical implementation of the legal framework, the conduct of electoral operations under COVID-19 pandemic restrictions, including cybersecurity measures and accessibility of polling for persons with disabilities, the campaign in traditional media and online platforms and its financing, as well as the participation of indigenous peoples.

Canada is a constitutional monarchy with a federal and parliamentary system of government. Members of the House of Commons, the lower chamber of parliament, are elected under a first-past-the-post system in 338 single-member constituencies. The previous federal election was held in October 2019. The 20 September 2021 early election was called on 15 August.

The Canada Elections Act (CEA) is comprehensive and provides a sound basis for conducting democratic elections. Amendments to the CEA made in 2018, several of which reflect previous ODIHR recommendations and repealed certain changes introduced in 2014, further improved the legal framework for elections. Newly introduced provisions sought to address developments in election campaigning, notably online and third-party activities. The Chief Electoral Officer (CEO) of Elections Canada modified certain electoral procedures using his authority to adapt legal provisions to protect the right to vote and to issue instructions.

The election administration, which enjoys a high level of independence, organized the election impartially and transparently and made noteworthy efforts to ensure the inclusivity and accessibility of the process. The election was administered by Elections Canada, 338 Returning Officers (ROs) and approximately 166,000 polling officials. The COVID-19 pandemic created certain additional challenges, such as securing adequate voting locations and recruiting sufficient numbers of polling officials. Elections Canada established several health and safety measures and encouraged electors to vote during the four days of advance voting or use a special ballot to vote by mail. The additional volume of mail-in votes was modest and did not have a significant impact on the administration of the election or the announcement of results.

The CEA does not explicitly guarantee citizen or international observation of elections, challenging OSCE commitments, although it does allow the CEO to authorise observers to be present at a polling station on election day. Authorised representatives of candidates have the right to observe proceedings at polling stations and at RO offices. The authorities provided the ODIHR EET with accreditation and granted full access to all voting and counting locations including the SVRA site.

All citizens who have attained 18 years of age by election day, except for the CEO, are permitted to vote. In 2018, voting rights were restored to prisoners and were extended to citizens living

¹ The English version of this report is the only official document. An unofficial translation is also available in French.

abroad, regardless of the duration of residence outside Canada or their intention to return. Elections Canada maintains a permanent, national Register of Electors, inclusion into which is passive but optional. Currently, the details of approximately 96 per cent of eligible electors are recorded in the Register. For this election, the voter lists contained 27,290,094 entries. ODIHR EET interlocutors did not raise concerns related to the accuracy of the voter lists and of the voter registration process, but noted a lower rate of inclusion among indigenous groups.

With few exceptions, citizens who are eligible to vote can stand for election to the House of Commons; candidate nomination requirements are reasonable and ODIHR EET interlocutors described it as an inclusive and accessible process. Candidates could be endorsed by a political party or stand on a non-party basis. In total, 2,010 candidates, including 1,923 nominated by 22 political parties and 87 independents, were registered. No official data was published on the number of women candidates participating in the election. The number of elected women increased only slightly. ODIHR EET interlocutors asserted that political parties are less likely to nominate women in constituencies which they deem winnable.

The Constitution recognises three groups of indigenous peoples: the First Nations, the Métis, and the Inuit. Despite differences in circumstances, indigenous peoples have identified similar access-related barriers to election participation and research indicates that, compared to non-indigenous electors, fewer indigenous peoples are registered and turn out to vote. Elections Canada has undertaken a variety of actions to remove barriers and increase participation, which were supported by a number of ODIHR EET interlocutors, and co-operated closely with representative organizations. In addition to the English and French, voter information was published in 16 indigenous languages and 32 additional languages. However, media sources noted a lack of focus on policies particularly relating to indigenous issues during the campaign.

While the polling procedures in federal elections are still manual (paper-based), the authorities noted an increased reliance on digital tools in electoral processes, and officials described significant steps to strengthen preparedness against potential cyber-attacks and disinformation processes. In recent years, Elections Canada has made major investments to strengthen its IT infrastructure and cyber-security practices.

ODIHR EET interlocutors noted that overall, campaign rights and freedoms were respected and, that due to the COVID-19 pandemic, campaigning in-person was *de facto* limited and parties increased their online campaign activities. In recent years, campaign regulations were updated to better protect voters' privacy and to establish data protection requirements for political parties. While the continued elaboration of the legislation on online campaigning is positive, concerns were raised regarding lack of transparency on the algorithms used by online platforms, especially related to micro-targeted advertising.

The CEA contains comprehensive rules on campaign finance, including provisions setting contribution and spending limits. Overall, the campaign finance rules provide for the equitable treatment of contestants. While the legal provisions on donations promote the transparency of fundraising, the requirement that candidates' and political parties' financial reports on the campaign must only be filed several months after the election limits transparency on spending, contrary to international good practice. Organizations or individuals that spend more than CAD 500 on election or partisan advertising are required to register with Elections Canada as third parties. The law requires that third parties act independently of the contestants. ODIHR EET interlocutors broadly supported the campaign finance regime as well respected and enforced.

Canada has a high degree of media freedom and a diverse and balanced information environment, in which voters could easily access information about the electoral process and contestants. Two

national leaders' debates were organized with subtitles in three indigenous languages, six minority languages, and two sign languages on multiple channels. However, some ODIHR EET interlocutors expressed concerns about the increased consolidation of private media ownership among a few major companies and the closure or purchase of local and community outlets by larger media companies, the effect of which may limit the availability of local news to voters.

This report offers a number of recommendations to bring elections in Canada more fully in line with OSCE commitments and other international standards and obligations for democratic elections. Priority recommendations relate to legal guarantees for citizen and international observation of the electoral process; temporary measures to augment the political participation of women; and harmonization of disclosure requirements for political advertisements. ODIHR stands ready in assisting the authorities in addressing the recommendations contained in this and prior reports.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Permanent Representation of Canada to the OSCE and based on the findings and conclusions of the Needs Assessment Mission (NAM) conducted from 23 to 26 August 2021, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Expert Team (EET) to follow the 20 September 2021 early federal election. The ODIHR EET consisted of three experts drawn from three OSCE participating States.

The ODIHR EET focused its activity on the practical implementation of the legal framework, the conduct of electoral operations under COVID-19 pandemic restrictions, including the anticipated increased volume of postal votes, as well as the campaign coverage in traditional media and online platforms, including social media. The ODIHR EET also followed cybersecurity measures, the participation of indigenous peoples, accessibility of polling for persons with disabilities and campaign finance rules. The ODIHR EET assessed these issues in terms of compliance with OSCE commitments and other international obligations and standards for democratic elections, as well as with national legislation. The ODIHR EET did not undertake a comprehensive and systematic observation of election day procedures. Therefore, this report does not offer an overall assessment of the electoral process. It should be read in conjunction with the 2021 ODIHR NAM report and previous reports, which provide additional detail on the electoral process in Canada.²

ODIHR extends its thanks to Global Affairs Canada and Elections Canada for their assistance and co-operation and also to other government departments and state institutions, political parties, media, civil society, and individuals met by the ODIHR EET for sharing their views.

III. BACKGROUND AND POLITICAL CONTEXT

Canada is a constitutional monarchy with a federal and parliamentary system of government.³ The parliament consists of the Crown, represented in Canada by the governor-general, the Senate⁴ (upper chamber), and the House of Commons (lower chamber).⁵ Executive power is distributed between the federal, provincial or territorial, and municipal levels.⁶

² See previous [ODIHR reports on elections in Canada](#).

³ The Queen (Crown) is the Head of State and, while formally holding executive power, governmental power is in practice exercised by ministers who enjoy the confidence of the House of Commons.

⁴ Senators are appointed by the governor-general as advised by the prime minister, serving until age 75.

⁵ By convention, bills passed by the Senate and the House of Commons are always granted royal assent.

⁶ In addition, First Nations communities elect *Band Councils*.

The members of the House of Commons are elected by universal suffrage under the first-past-the-post system in 338 single-member constituencies. Under the Constitution, every House of Commons is limited in duration to a maximum term of five-years. However, since 2007, legislation has set a fixed date for federal elections (the third Monday of October) with a four-year parliamentary term. Nevertheless, the prime minister may still, at any time, request the governor-general to dissolve the House of Commons.⁷ On 15 August 2021, at the request of Prime Minister Justin Trudeau, the governor-general issued proclamations dissolving the parliament, two years ahead of schedule, and calling for the Chief Elections Officer (CEO) to issue writs to constituency Returning Officers (ROs) with an election date of 20 September. Several opposition parties criticised scheduling elections during a pandemic.

In the October 2019 federal election, candidates from five parties and one independent candidate were elected to the House of Commons.⁸ However, no party obtained a parliamentary majority. As the party with the most seats, the Liberal Party was invited to form a minority government. At the time of its dissolution, 100 members (29.7 per cent) of the House of Commons were women. Following the early election, the political and gender balance of the incoming parliament remained similar.

Previously, ODIHR deployed two Election Assessment Missions (EAMs) to Canada, most recently for the 2015 federal election.

IV. LEGAL FRAMEWORK

The legal framework for federal elections comprises constitutional texts, legislation, and subsidiary instruments. The 1867 Constitution Act regulates the system of government and the legislative power, while the 1982 Constitution Act, which contains the Charter of Rights and Freedoms, protects democratic rights, equality rights, and freedoms of expression, assembly, and association. The Charter has been further extrapolated through legislation and jurisprudence.

The 2000 Canada Elections Act (CEA) regulates federal elections.⁹ Section 17 of the CEA authorises the Chief Electoral Officer (CEO) of Elections Canada to adapt provisions of the Act during an election period due to an emergency, or an unusual or unforeseen circumstance or an error.¹⁰ This power may be used only to enable electors to exercise their right to vote or to enable the counting of votes. In addition, section 179 authorizes the CEO to issue instructions to give effect to the CEA. Both powers proved useful in the context of the COVID-19 pandemic which necessitated several adjustments.

⁷ For governments enjoying a parliamentary majority, such requests have always been granted. In [Conacher v Canada \(Prime Minister\) 2009, \[2010\] 3 F.C.R. 411](#), a federal court found the power to call a snap election not to be justiciable, and, in the absence of evidence, did not find that it led to an unfair election or had an adverse effect on other political parties.

⁸ Liberal Party (157 seats, including 52 women), Conservative Party (121 seats, including 22 women), Bloc Québécois (32 seats, including 12 women), New Democratic Party (NDP; 24 seats, including 9 women), Green Party (3 seats, including 2 women) and an independent MP, Jody Wilson-Raybould.

⁹ The most recent amendment to the CEA was enacted on 28 June 2021, by way of budgetary act C-30, in response to an Ontario court decision, [Canadian Constitutional Foundation v Canada \(AG\), 2021 ONSC 1224](#). The amendment restored the requirement of intent to the making or publication of false statements to affect election results. This restored protection to freedom of expression which the court held had been undermined by the prior removal of the “knowingly” element in the offence.

¹⁰ Nine ‘Section 17’ adaptations were made and several new 179 instructions were introduced, which, in addition to previous instructions, applied to this election.

Canada is party to the main international human rights instruments related to the conduct of democratic elections.¹¹ The 2019 Accessible Canada Act (ACA) acknowledged obligations under the Convention of the Rights of Persons with Disabilities to respect accessibility, applying to the public sector and the federally-regulated private sector. In June 2021, bill C-15, an Act Respecting the UN Declaration on the Rights of Indigenous Peoples, was enacted, thereby incorporating the instrument into national law.

Overall, the current emanation of the CEA offers a comprehensive election code, providing a sound basis for the conduct of democratic elections. The 2018 Elections Modernization Act (EMA) substantially amended the CEA. Several amendments address prior ODIHR recommendations, including expanding certain competencies of the Commissioner of Canada Elections, a position within Elections Canada with oversight powers relating to enforcement of the Elections Act, introducing an additional measure to facilitate women's political participation, repealing restrictions on prisoner voting, and adjusting recruitment practices for polling station staff. The EMA repealed certain changes introduced in 2014 through the Fair Elections Act (FEA), including stricter rules on voter identification which had introduced the possibility of the *de facto* disenfranchisement of students, the elderly, low-income, and indigenous groups. Other provisions that were repealed included the transfer of the Commissioner for Canada Elections' Office to the Director of Public Prosecutions (DPP).

The EMA introduced several improvements to the electoral process, including by broadening the range of options for voters to prove their identity¹². New provisions updated the regulation of online political advertising and social media, strengthened defence of the electoral process against foreign interference, expanded campaign finance rules, including to third parties, and enhanced the administration and enforcement of election rules. In addition, the EMA broadened the scope for voters with disabilities to transfer to polling stations with better accessibility, or to vote via mobile polls, and introduced financial incentives for parties to make their campaigns more accessible.¹³ Greater participation of persons with disabilities and caregivers as candidates was supported through allowing defined care and support expenses to be reimbursed at 90 per cent of the cost, and through exemption from inclusion as campaign costs within the spending limits.¹⁴ The law also abolished the CAD 1,000 nomination deposit which broadened opportunities for citizens to stand as candidates.¹⁵

Additional changes introduced in the EMA increased the scope of the CEO's power to adapt certain procedures, enabling revision of some deadlines, extending the hours for advance polling, and expanding the use of mobile polls in remote and isolated communities. Enforcement of electoral law was strengthened significantly through conferring the Commissioner of Canada Elections with

¹¹ These include the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of Persons with Disabilities (CRPD), and the UN Convention against Corruption. Individual complaint procedures have also been accepted under pertinent optional protocols to the ICCPR, CEDAW and the CRPD.

¹² The requirement of photographic identification to vote was removed, while use of the Elections Canada-issued voter information card for identification purposes was restored. The practice of identification through vouching, allowing one voter to attest to the identity of another voter without ID documents, was also restored. Elections Canada listed 48 documents that prove identity and/or residence address.

¹³ Political party and candidate "accessibility expenses", costs generated by making materials or events accessible to persons with disabilities, are now subject to reimbursement.

¹⁴ The expenses that fall within the ambit of eligible personal expenses include candidates' expenses related to childcare care for a person with a mental or physical incapacity.

¹⁵ The deposit requirement had previously been found to be unconstitutional by the Court of Queen's Bench in Alberta, in [Szuchewycz v Canada \(Attorney General\), 2017 ABQB 645 \(CanLII\)](#). The judge held that it breached the right of each citizen to be eligible to participate meaningfully in the electoral process as a candidate.

the powers to impose administrative monetary penalties for violations of election laws; lay charges for prosecution arising from violations of the law; and seek a court order to compel witness testimony. The EMA also updated legislation to reflect the changing nature of election campaigning, particularly in addressing online and third-party activities.

The government and election administration sought to respond to the effect of the COVID-19 pandemic on elections through amending the CEA (Bill C-19).¹⁶ The provisions included setting a polling period of three consecutive days (Saturday, Sunday and Monday), a thirteen-day polling period for voting in long-term care institutions (where elderly persons or persons with a disability reside) and permitting citizens to apply online to be registered to vote and to vote by special ballot. While the Bill had broad support, the calling of elections and consequent dissolution of parliament meant that the amendments did not become law.

V. ELECTORAL BOUNDARY DELIMITATION

Members of the House of Commons are elected in single-member electoral districts (hereafter, *constituencies*). The Constitution establishes the framework for determining the total number of members in the House of Commons and the number of seats that are allocated to each of the 10 provinces.¹⁷ The 1985 Electoral Boundaries Readjustment Act (EBRA) provides for the establishment of electoral boundaries commissions and the criteria for adjusting constituency boundaries. The number of seats in the House of Commons is recalculated after each decennial census to reflect changes in population and should reflect the principle of proportionate representation of the provinces. Since 2015, the House of Commons has had 338 members.

Using the formula set out in the Constitution, the CEO calculates the number of seats in the House of Commons to be assigned to each province.¹⁸ Under the Constitution, provinces cannot have fewer seats than the number of provincial senators (the senatorial clause) or the provincial seats allocation on 6 March 1986 (the grandfather clause).¹⁹

After each decennial census, independent three-member commissions are appointed in each province to consider readjustments to constituency boundaries based on the allocations provided by the CEO and the new census data.²⁰ The EBRA requires that the constituencies within a province correspond to an electoral quota determined by dividing the population of a province by the number

¹⁶ The bill, introduced in December 2020 following recommendations from Elections Canada, proposed to add a new section to the Act to ensure the safe administration of elections during the pandemic. The CEO had strongly encouraged the Government, if calling an election during the pandemic, to set the longest election period allowed by (50 days). For this election, the government set the minimum 36-day election period. The CEO used his authority under Section 17 of the CEA to modify certain procedures as foreseen in Bill C-19, but in the absence of a legal change, the election day remained a Monday whereas the CEO had requested that the election be held on two days over a weekend.

¹⁷ The three territories are each allocated one seat and thus each territory forms one constituency.

¹⁸ The initial provincial allocation is made by dividing the provincial population by a quotient. The Fair Representation Act set the quotient for the 2011 boundary revision at 111,166. The quotient for the 2021-3 readjustment will be recalculated according to article 51(1)6 of the Constitution based on [population estimates](#) from 1 July 2021.

¹⁹ The grandfather clause seeks to ensure that Provinces with a declining population do not lose seats. Quebec, uniquely among the provinces, is allocated a number of seats which corresponds exactly to its proportion of the population.

²⁰ The chair of each commission is a judge appointed by the provincial chief justice, while members are appointed by the Speaker of the House of Commons.

of seats allocated.²¹ The quota should deviate less than 25 per cent from the provincial population, which is high and contributes to significant disparity in the equality of the vote between electors in different constituencies.²² The next constituency delineation process began on 15 October 2021 with the announcement by the CEO of the seat allocation to the provinces.²³

Consideration should be given to revising the legal framework to better uphold the equality of the vote, for example by reducing the permitted deviation.

With the aim of improving the equality of the vote, the provincial boundary commissions should strive to reduce disparities in the population size between constituencies.

VI. ELECTION ADMINISTRATION

A. STRUCTURE AND FUNCTIONS

Federal elections are administered by Elections Canada, headed by the CEO. Elections Canada is an independent, non-partisan agency of the parliament. The CEO is appointed by a resolution of the House of Commons for a 10-year, non-renewable term and reports directly to parliament. Elections Canada functions on a continual basis and has over 600 permanent staff at its headquarters, as well as 503 offices located in constituencies throughout the country. The Special Voting Rules Administrator (SVRA), who reports to the CEO, has general authority for organizing special voting, which mainly involves mail-in ballots. Elections Canada has established a number of advisory bodies.²⁴

Elections Canada has structural independence from the government, and its funding arrangements and authority to recruit ROs and other key election officials provide a high degree of functional independence.²⁵ It holds powers to issue instructions and make necessary adaptations to legislation, within clearly defined limits. A Code of Conduct is applicable to all election officials. All ODIHR

²¹ The commissions may deviate from the requirement to ensure equal representation to protect communities of interest; communities of identity; the historical pattern of electoral districts in the province and ensure a manageable geographic size for constituencies in sparsely populated, rural, or northern regions of the province.

²² Ten constituencies in four provinces exceed the 25 per cent deviation, some of which, such as Edmonton-Wetaskiwin in Alberta, are not large or remote. An additional 31 constituencies in provinces across Canada deviate by between 15 to 25 per cent from the provincial quota. Paragraph 7.3 of the [1990 OSCE Copenhagen Document](#) commits participating States to “guarantee universal and equal suffrage to adult citizens”. General Comment 25 on Article 25 of the ICCPR states “[...] within the framework of each State’s electoral system, the vote of one elector should be equal to the vote of another”. Section 2.2 of the [2002 Venice Commission Code of Good Practice in Electoral Matters](#) recommends that “[t]he permissible departure from the norm should not be more than 10% and should certainly not exceed 15% except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity)”.

²³ See: [House of Commons seat allocation by province 2022 to 2032](#). The boundary commissions were appointed on 1 November 2021. The Chief Statistician is scheduled to release population data for each province and current constituency in February 2022. The commissions’ are expected to undertake public proposals and hearings, and by December 2022, to submit preliminary and final reports. The delineation process is expected to be completed in September 2023 with the new boundaries established at the earliest in April 2024.

²⁴ These include advisory groups composed of disability organizations, political parties, educators, and electoral partners. The Advisory Committee of Political Parties provides advice to the CEO on the conduct of elections, the implementation of the Canada Elections Act and on political financing issues.

²⁵ Elections Canada is funded under two separate budget authorities. An annual parliamentary appropriation covers the salaries for permanent positions, which can only be increased with the approval of the Treasury Board. All expenditures other than those falling under parliamentary appropriation are funded through a statutory authority from the Consolidated Revenue Fund, requiring neither parliamentary nor governmental approval.

EET interlocutors expressed a high level of trust in the impartiality of Elections Canada and in the overall election administration, and more generally, in the integrity of the electoral process.

Following an open recruitment process, the CEO appoints a returning officer (RO) in each of the 338 constituencies for a 10-year term; for this election, 172 women and 166 men were appointed. ROs have overall authority for the organization of an election at the constituency level, including identifying polling locations; recruiting and training of polling staff; aggregating polling results and certifying results. Over 1,500 community relations officers (CROs) work in constituencies on outreach to youth organizations, ethnic minorities, indigenous peoples, the homeless, seniors (elderly persons) and on ensuring accessibility.

For this election, ROs recruited some 225,000 temporary staff including 166,000 polling officials.²⁶ ROs may appoint half of the required number of officials within eight days of the election being called. For the remaining half, ROs must solicit names from the political parties who endorsed a candidate in the last election in the constituency and appoint these persons; in line with a previous ODIHR recommendation, the right to nominate candidates for these positions was extended to all parliamentary parties. If, on the seventh day after the election is called there is a shortfall in the number of officials required, the RO may appoint polling officials up to the number required. Elections Canada informed the ODIHR EET that it experienced challenges in the recruitment of polling staff as relatively few polling officials were nominated by political parties, and time to finalize appointments after the expiration of the nomination deadline was limited.

Elections Canada gives general directions to ROs and other election officials and supervises the conduct of federal elections, ensuring compliance with the legislation. It has a wide range of responsibilities including maintaining the National Register of Electors (NRE), implementing public education and information programmes; conducting studies and commissioning research; providing legal, technical, financial, and administrative support to the provincial Boundary Commissions; registering political entities, including parties; ensuring regulatory compliance; and administering party and campaign financing rules, including for third parties.²⁷ The CEO develops recommendations on potential legislative reforms following each election.

Elections Canada administered the election transparently. Its website provides extensive information for contestants and voters, including detailed guidelines on how to register to vote and how to vote, as well as political and campaign finance reports, statutory reports, research papers, minutes of advisory group meetings and other consultations, and information on its programmes and recruitment. However, while election results at the constituency level are available, individual results from polling stations were not published on its website.²⁸

To further enhance transparency, Elections Canada should publish disaggregated election results by polling station.

The CEA contains several provisions ensuring the accessibility of the election process for persons with disabilities, including requiring that Elections Canada ensures the physical accessibility of polling stations and provides information in accessible formats.²⁹ Elections Canada has made

²⁶ For these elections, 65,000 polling stations were established in some 18,000 voting locations. Each voting location has one or more central poll supervisors, registration officers, and information officers, and one deputy returning officer.

²⁷ Elections Canada also maintains a Register of Future Electors (citizens between 14 and 17 years of age).

²⁸ Elections Canada is subject to the 1983 Access to Information Act, as amended, under which requests for information can be filed.

²⁹ Among other things, [online information](#) is also available in large print, Braille, audio, as well as videos featuring American Sign Language and Langue des Signes Québécoise interpretation.

significant positive efforts to ensure its policies address participation barriers for persons with disabilities; the agency has also established a permanent advisory group composed of experts on disability and accessibility, and regularly commissions research into accessibility issues.

ROs were required to assess possible voting locations against 35 accessibility criteria of which 15 were mandatory for premises to be designated as polling stations. The Voter Information Card (VIC) mailed to all registered voters indicated whether a polling location is accessible for wheelchair users and voters can call a service centre to receive detailed information on the accessibility of their assigned polling location.³⁰ The CEA permits voters with limited mobility to apply for a transfer certificate which allows them to vote at another polling location within their constituency if their polling station is not accessible.

On election day, polling locations were equipped with a variety of tools to assist voters with visual impairments, including light-enhanced magnifiers; a tactile and Braille voting template; large-print and Braille lists of candidates; large pencils; and a signature guide. Voters who required assistance marking their ballot could be accompanied by a person of their choice. In the absence of another option, a polling official can provide assistance, at the request of the voter.

Voting took place in hospitals, long-term care institutions and residences for elderly persons, either by establishing a polling station or through bedside visits (mobile voting). If a polling station was established, then voters received a regular ballot on which the names of the candidates are printed. However, in the case of mobile or postal voting, voters received a ballot on which they wrote the name of their chosen candidate, which could present practical difficulties for some voters.³¹

Adaptations made by the CEO included revising the rules on establishing polling stations; measures to facilitate advance voting, and adapting procedures related to voting in long-term care institutions.³² To reduce the number of election officials working in confined spaces on election day, deputy returning officers (DROs) were assigned responsibilities which had in previous elections been undertaken by poll clerks. Several election officials informed the ODIHR EET that DROs had found the additional workload burdensome and that the merging of positions had contributed to voters experiencing longer wait and processing times.

Election officials informed the ODIHR EET of significant challenges in securing suitable polling locations, including some school boards declining to permit polling stations to be established on school premises during the COVID-19 pandemic and the fact that many public spaces used previously as polling locations were already designated as vaccination centers. Consequently, some polling stations were set up in atypical venues, such as churches, hotels, and sports arenas. As a result, voters often had further to travel.

Elections Canada informed the ODIHR EET of an increase in the required administrative and counting staff, including persons to process an expected increase in the number of mail-in votes and to ensure social distancing. The agency reported that staffing shortages were particularly acute in a few constituencies.³³

³⁰ The VIC also contains information on requesting sign language interpretation at a polling location.

³¹ If needed, a helper or election official could assist the voter in marking the ballot. Voters who are unable to read or unable to vote using the special ballot process because of a disability may, upon request, vote at home.

³² Adaptations to the organization of the vote in residential care institutions were necessary following recommendations made by the Public Health Agency, and measures implemented by provincial governments which limited the ability of ROs to conduct mobile polling or establish ordinary polling stations on polling day in these institutions.

³³ Elections Canada noted that in 2019, 47 per cent of poll workers were 60 years of age or older; a demographic that national health authorities consider more at risk of COVID-19 related complications, and potentially less willing to serve as polling officials.

Elections Canada adopted measures aimed at lessening the concentration of people at polling stations on election day by encouraging voters to vote in advance or by mail.³⁴ Health and safety measures established by Elections Canada included a mandatory use of masks and social distancing, and frequent sanitization of polling areas. Polling stations were equipped with hand sanitizer, screens, and single-use pencils to mark ballots. However, public health is largely a provincial competence and some provinces' rules were different to those set by Elections Canada. Rule enforcement fell to polling officials, and Elections Canada informed the ODIHR EET that some polling staff had suffered insults and faced aggressive behaviour by voters in response to asking for masks to be worn.

The ODIHR EET observed that the election administration made a significant and commendable effort to ensure that voters in long-term care residences and institutions could vote safely.³⁵ In many constituencies, polling at these institutions was conducted on different days in advance of election day to avoid the risk of cross contamination through polling officials travelling from one institution to another.

B. VOTING METHODS

The law provides for a number of voting methods, including voting in-person at polling stations on election day or in advance over a four-day period, or by special ballot. Most voters voted in person on election day, but some 5,780,000 (approximately 21 per cent of registered voters) voted between 10 and 13 September at advance polls. Election administrators informed the ODIHR EET that ballot boxes containing votes cast in advance were securely stored at ROs' offices and were counted on election night.

A special ballot may be requested by persons who are unable or prefer not to vote in person at a polling station. All Canadians were eligible to apply to vote by special vote, but some electors are required to vote in this way including: most members of the Canadian Armed Forces, overseas residents, incarcerated persons, and those who are or will be located outside their election district on election day.³⁶ Residents in long-term care institutions in which a polling station is not established also had to vote by special vote, as did hospitalised persons who did not vote during advance voting.

The special voting kit contained a 'blank' ballot, on which voters must write the name of the candidate of choice, an inner envelope in which to place the ballot, an outer envelope with a declaration that the voter must sign and a postal envelope. For those who voted by-mail outside their election district, the votes were sent to and counted at the SVRA centre in Ottawa. For those who voted by special vote inside their election district, the special votes were returned to and counted at the RO offices.³⁷ In total, 1,270,037 special voting kits³⁸ were issued (some 4.6 percent of the electorate) - much lower than the 3 million initially anticipated by Elections Canada - of

³⁴ For example, through allowing online applications for mail-in ballots and providing postage-paid return envelopes.

³⁵ Rules to access long-term residential facilities for the elderly are a provincial competence.

³⁶ Applications could be made online or in person at local Elections Canada Offices. The ODIHR EET was informed that Elections Canada required up to 72 hours to approve applications. Members of the armed forces may be registered vote at regular polling stations if they reside permanently outside of a military facility.

³⁷ The special vote could be sent by post, deposited at the Elections Canada constituency office(s) or on election day at a polling station in the voter's constituency.

³⁸ See [data on special ballot voting kits](#), of which 1,014,708 were issued to voters in their election district, 199,629 to those outside their election district and 55,700 to overseas voters.

which 1,078,189 were returned.³⁹ Election officials informed the ODIHR EET that postal times (dispatch and return) for voters residing abroad and in some remote constituencies meant that some special votes were unlikely to be received on time, meaning that these votes were not included in the vote count.⁴⁰

The counting of special ballots at the SVRA site began on 16 September and in the 338 constituencies on 21 and 22 September after verification that the respective voters had not voted in advance or on election day. While the counting of special votes led to a delay in announcing final vote totals, the prompt release of the results for votes cast on election day and during advance voting meant that, in most cases, the outcome of the constituency contests was clear at an early stage. Political parties met by the ODIHR EET accepted the delay in announcing preliminary vote totals and none expressed concern related to the special voting or counting process.

C. ELECTION OBSERVATION

The CEA does not explicitly guarantee citizen or international observation of elections, challenging paragraph 8 of the 1990 OSCE Copenhagen Document, although it does allow the CEO to authorise observers to be present at a polling station on election day. Elections Canada provided the ODIHR EET with accreditation and granted full access to polling locations and to centres where postal votes were counted, including the SVRA site.

The CEA grants authorised representatives of candidates the right to observe proceedings at polling stations and at RO offices. In a positive development, for the first time, these representatives were given access to observe the counting of the special ballots at the SVRA site, and media were invited to visually record the count of special ballots.

To provide for the effective implementation of OSCE commitments, the law should be revised to guarantee the access of citizen and international observers to all stages of the electoral process.

VII. VOTER REGISTRATION

The right to vote is guaranteed to all citizens who have attained 18 years of age on the day of elections, except for the CEO who is, by law, not permitted to vote.⁴¹ In 2018, voting rights were restored to prisoners and were extended to citizens living abroad regardless of their duration of residence outside of Canada or of their intention to return.⁴²

Elections Canada maintains a permanent, national Register of Electors from which voter lists are extracted for each constituency. The register is updated continuously using federal, provincial, and territorial data sources.⁴³ Persons whose names are included in the Register of Electors automatically receive a voter information card which contains personal data and the location of

³⁹ Of which, 899,819 were issued to electors voting in their constituency, 151,117 (76 per cent of the special votes issued to electors outside their constituency) and 27,253 (49 per cent of the special votes issued to residents abroad). In 2019, 643,462 electors voted using the special ballot.

⁴⁰ The ODIHR EET was informed that post to the three territories could take 5 days or more each way.

⁴¹ Successive CEOs have advocated to retain this exclusion, to strengthen the perception of their impartiality.

⁴² Under the previous legislation, citizens residing abroad could vote only if they declared an intention to resume residence in-country and had not been resident abroad for more than five consecutive years, and prisoners in correctional institutions serving a sentence of two or more years were excluded from voting.

⁴³ Including from the provincial and territorial driver's licence and vital statistics agencies, provincial and territorial voter registration data. For federal agencies including the Canada Revenue Agency and Immigration, Refugees and Citizenship Canada, citizens must opt-in to data sharing for their details to be added to the Register of Electors.

their assigned polling station. Voter lists are extracted from the National Register ahead of each election. ODIHR EET interlocutors did not raise concerns related to the accuracy of voter lists and of the voter registration process, but noted a lower rate of inclusion among indigenous groups.

Inclusion in the Register of Electors is optional, and citizens may, at any time, verify and request the update or removal of their data from the Register.⁴⁴ Removal of an entry does not affect the right to vote. Citizens whose data is removed from the register can, during the pre-election period, have their data added to a voter list. All eligible voters whose details are not included in the Register are able to register to vote at polling stations by presenting a valid form of identification and proof of residence.⁴⁵ According to Elections Canada, as of November 2020, the details of approximately 96 per cent of eligible electors are recorded in the Register. For this election, the revised voter lists announced on 13 September contained 27,290,094 entries.

The 1983 Privacy Act, as amended, allows a person to request to see his or her personal data held by Elections Canada in its Personal Information Bank. The Privacy Commissioner may at any time audit how Register information is collected, stored, updated, and used, to ensure that electors' right to privacy is respected. The CEA requires Elections Canada to provide data contained in voters' lists to members of parliament as well as registered and eligible political parties and candidates. The information can only be used for legally authorised purposes and the misuse of personal information contained in the Register of Electors is a criminal offense.

VIII. CANDIDATE REGISTRATION

With few exceptions, citizens who are eligible to vote can stand for election to the House of Commons.⁴⁶ Candidates may be endorsed by a political party or stand on a non-party basis. The candidate nomination requirements are reasonable and ODIHR EET interlocutors described it as an inclusive and accessible process. Nomination papers must include, among other data, the names, addresses and signatures, made in the presence of a witness, of at least 100 electors resident in the electoral district. The number of supporting signatures is reduced to 50 in sparsely populated areas. Voters may sign in support of multiple contestants. COVID-19 mitigation measures adopted for this election included the possibility to submit supporting signatures via an online portal.

Candidates were registered by Returning Officers. Candidate nominations opened subsequent to the published notices of election and ended on 30 August. In total, 2,010 candidates were registered to contest the election, including 1,923 nominated by 22 political parties, and 87 independents. Political parties are not required to ensure gender balance in the selection of candidates. While the candidate nomination forms include a field for gender, it is not mandatory to complete and there is no official data on the gender of candidates. The NGO Equal Voice announced that, based on its analysis, women and gender-diverse people accounted for 43 per cent of nominated candidates from the five parliamentary parties.⁴⁷ The number of women elected increased only slightly, from 98 to 102. ODIHR EET interlocutors asserted that political parties are less likely to nominate women in constituencies which they deem winnable. While the Charter of Rights and Freedoms

⁴⁴ This verification can be done online, by mail, or in person at a local Elections Canada office.

⁴⁵ These voters are required to register at the polling station covering their place of residence.

⁴⁶ Exceptions include holders of certain official positions, including certain categories of judges, election officers and members of provincial legislatures, and persons serving prison sentences. Persons found guilty of corrupt or illegal practices at previous elections are ineligible (subject to a five to seven-year moratorium), as are candidates in past elections who failed to comply with campaign return requirements.

⁴⁷ See [Equal Voice report on final count of women and gender diverse candidates in this federal election](#).

permits affirmative action programmes, Canada has not enacted any special temporary measures to promote gender equality in the composition of the parliament.⁴⁸

The legislature could consider adopting temporary special measures to promote an increased representation of women in parliament.

IX. INDIGENOUS PEOPLES AND ETHNIC MINORITIES

Canada has a diverse population. Respondents of the 2016 Census identified as having over 250 ethnic origins or ancestries, with 41 per cent identifying as having more than one.

The Constitution recognises three groups of indigenous peoples:⁴⁹ the First Nations,⁵⁰ the Métis and the Inuit. According to the 2016 census, there were 1,673,785 indigenous people, or 4.9 per cent of Canada's population.⁵¹ Indigenous peoples form the majority of the population in Nunavut (86 per cent), the Northwest Territories (51 per cent) and significant minorities in the Yukon Territory (23 per cent), Manitoba (18 per cent) and Saskatchewan (16 per cent).⁵² There are more than 50 distinct First Nations and language groups.⁵³ The First Nations people live in 634 communities, known as 'reserves', as well as in towns and cities across Canada.⁵⁴ The Métis are a distinct indigenous people and nation as recognized by the 1982 Constitution Act.⁵⁵ The Inuit are indigenous people of the Arctic.⁵⁶

While indigenous peoples' experience of electoral participation varies depending on their specific situation, in general, voter registration and turnout is lower among those living on reserves and

⁴⁸ In its 2016 Concluding Observations, CEDAW recommended that Canada strengthen its efforts to increase the number of women in elected decision-making bodies and to achieve equal representation of women in political and public life, including through the adoption of temporary special measures, such as quotas.

⁴⁹ According to [Crown-Indigenous Relations and Northern Affairs Canada](#), "Indigenous peoples' is a collective name for the original peoples of North America and their descendants. [...] These are three distinct peoples with unique histories, languages, cultural practices and spiritual beliefs".

⁵⁰ The [Government of Canada now uses the terms "Indigenous" and "First Nations"](#), however, the Constitution still uses the terms "aboriginal peoples" for indigenous peoples and "Indian" for First Nations. The government recognises that several laws use outdated terminology and that these terms may be offensive and problematic. This report uses the terms "Indigenous Peoples" and "First Nations".

⁵¹ Of these, 977,230 had a single First Nation identity, 587,545 had a single Métis identity and 65,025 had a single Inuit identity. According to [Statistics Canada](#), 2.1 million Canadians reported an indigenous ancestry with single or multiple identities.

⁵² [Minister of Indigenous Services, Annual Report to Parliament \(2020\)](#). However, Ontario has the largest population of indigenous peoples (374,395) but represent just 3 per cent of Ontario's total population. Alberta (258,640) and British Columbia (270,585) also have sizeable populations of indigenous peoples.

⁵³ The most [numerous ancestries](#) being Cree (356,660), Mi'kmaq (168,480) and Ojibway (125,725).

⁵⁴ The First Nations include persons who are registered as being of First Nation ancestry and non-registered (non-status) persons. According to the 2016 census, there were 820,120 registered First Nations people. As of 30 December 2019, the details of 1,008,955 First Nations people were entered into a register maintained by Indigenous Services Canada. According to the 2016 census, about 40 per cent of persons who are registered as being of First Nation ancestry live "on reserve", while 14 per cent live in rural areas ("off reserve"), and 45 per cent live in urban areas. Non-registered First Nations people account for approximately 14 per cent of indigenous peoples and live almost exclusively off reserve.

⁵⁵ According to the [Métis National Council](#), the Métis are "[...] originally the mixed offspring of Indian women and European fur traders. As this population established distinct communities separate from those of Indians and Europeans and married among themselves, a new Indigenous people emerged – the Métis people – with their own unique culture, traditions, language (Michif), and way of life, collective consciousness and nationhood".

⁵⁶ The word Inuit means "the people" in the Inuit language of Inuktitut. The majority (73%) of Inuit live in Inuit Nunangat, which comprises 51 communities across Inuvialuit Settlement Region (Northwest Territories and Yukon), Nunavut, Nunavik (northern Quebec), and Nunatsiavut (Labrador).

their knowledge of the electoral process is lower.⁵⁷ However, ODIHR EET interlocutors noted that indigenous peoples have identified similar access-related barriers to election participation including residence in remote areas without standardized addresses and subsequent lack of proof of address; frequent migration between two or more communities; large distances between residences and polling stations and infrequent public transportation; and language and motivational barriers. While access to digital information has improved in recent years, First Nations communities have comparably less access to broadband services (some 30 per cent saturation) than other rural communities (some 40 per cent) and the general population (some 85 per cent), which potential impacts their access to electoral and political information.⁵⁸

Elections Canada has put in place various measures to mitigate barriers to indigenous peoples' electoral participation, which were assessed positively by ODIHR EET interlocutors. Such measures included the deployment of CROs for indigenous electors; increased numbers of advance and election-day polling stations on reserves; consultations and programmes with national and regional organizations representing indigenous peoples' interests. Elections Canada also supports electoral programme activities conducted by the Assembly of First Nations (AFN), which include operating a call centre for First Nations electors and media outreach. Elections Canada prepared voter information in 16 indigenous languages and aired election information in English, French, and Inuktitut on indigenous language radio stations. However, ballot papers were only available in English and French.⁵⁹

No official data is available on the number of indigenous candidates that participated in this election or were elected, although several entities conducted analysis.⁶⁰ All sources found that the percentage of indigenous candidates as a proportion of all candidates was lower than the proportion of indigenous peoples among the general population. Some party platforms contained policy proposals related to indigenous peoples but media commented on a general lack of attention to indigenous issues during the campaign.

Canadian legislation and census data refer to many ethnic minorities as “visible minorities”, defined as persons other than indigenous peoples “who are non-Caucasian in race or non-white in colour”.⁶¹ The 2016 census indicated that 22.3 per cent of the population identified as belonging to one or more ‘visible minority’ groups. In addition to English and French and the indigenous languages, Elections Canada produced printed voter information materials in 32 additional languages. To varying degrees, all major political parties fielded candidates from ethnic minorities. No official data on candidates from minority groups in this election is publicly available.

⁵⁷ In the 2019 federal election, voter turnout for registered electors living on reserves was 51.8 per cent compared to 67 per cent among the general population. See [data from Elections Canada](#) on the participation of indigenous electors.

⁵⁸ See the [2019 CRTC Communication report](#). Some experts cautioned that any figure could be misleading as many indigenous candidates ran against each other in the same constituency or stood in constituencies that the party has little chance of winning

⁵⁹ The 1985 Official Languages Act recognises the official status of English and French.

⁶⁰ Based on analysis of party websites and information received from political parties.

⁶¹ In its 2017 Concluding Observations, the [Committee on the UN Convention on the Elimination of Racial Discrimination \(CERD\)](#) reiterated its concern about the continued use of the term “visible minority” in Canada to describe minority groups, as it “renders invisible the differences in the lived experiences of diverse communities” and recommended Canada to “revise its use of the term “visible minority” in the Employment Equity Act, of 1995, and in other legislation”. CERD also commented that “the lack of detailed data and information on the representation of minority groups in public and political life in the State party, prevent [the Committee] from evaluating the enjoyment of civil, political, economic, social and cultural rights in the State party by these groups”. For the explanation on the justification for continued use in the 2021 Census see [Statistics Canada](#).

X. CYBERSECURITY

While the polling procedures in federal elections are manual (paper-based) and less vulnerable to cyber threats, ODIHR EET interlocutors acknowledged that the increased use of digital tools in elections presents a threat of cyber-attack.⁶² Officials informed the ODIHR EET that in recent years the government has significantly strengthened its preparedness for possible cyber-attack and the risks posed by disinformation. Ahead of the 2019 federal election, the government developed an Elections Security Plan which described response measures to potential threats to both the physical infrastructure for elections and those stemming from disinformation.⁶³ The Plan includes the Critical Election Incident Public Protocol (CEIPP), organizational strategies of Elections Canada, the Security and Intelligence Threats to Elections (SITE) Task Force to combat foreign interference, and collaboration with social media and other online platforms.⁶⁴

The CEIPP is a mechanism for determining how information on potential major incidents, such as significant cyber-attacks or large-scale disinformation, are communicated to the public.⁶⁵ ODIHR EET interlocutors were supportive of the protocol, especially as a means to protect public trust, but some noted that the ‘action threshold’ under the protocol is high, and it is unclear how the CEIPP panel would respond in the case of a less serious but still significant incident which could impact public confidence in the integrity of the election process.⁶⁶ The CEIPP panel met regularly during the 2021 federal election to assess and share information on potential threats. The authorities also produced educational campaigns to increase citizens’ awareness of cyber-threats and on identifying potential disinformation in the electoral process.

Elections Canada, in consultation with the Canadian Centre for Cyber Security and other security agencies, has implemented certain internal cybersecurity measures, and for this election provided technical and security advice to common targets of election interference, notably election authorities, political parties, candidates and their campaign teams. Political parties and contestants met by the ODIHR EET lauded these efforts. The IT systems of Elections Canada are continuously monitored for integrity and against potential attacks, and election officials routinely undergo training on cyber-hygiene and on safeguarding data. In addition, Elections Canada monitors both traditional and social media to identify inaccurate information about the electoral process, as well as social media accounts and websites that impersonate Elections Canada.

Under the Elections Security Plan, the government increased its collaboration with social media companies and other online platforms operating in the country. In August 2021, the Office of the Privy Council, updated the 2019 Declaration for Electoral Integrity Online. Among other things, under the Declaration, online platforms commit to intensify efforts to combat disinformation;

⁶² Elections Canada informed the ODIHR EET that over 40 IT systems are critical to conducting elections. In addition, political parties’ IT and communications systems store citizens’ personal data.

⁶³ See the [updated Plan for 2021](#).

⁶⁴ The SITE Task Force is composed of four institutions: the Communications Security Establishment (CSE), the Canadian Security Intelligence Service, Global Affairs Canada (GAC), and the Royal Canadian Mounted Police. During elections, each organization that is part of the SITE Task Force analyses and monitors cyber threats within their assigned competence area and provides advice and briefings as required to the CEIPP, government departments, Elections Canada, and political parties. For example, GAC focuses on foreign interference by analysing publicly available information using OSINT (Open Source) data, tools, and methods and attributing incidents.

⁶⁵ See the [Cabinet Directive on the Critical Election Incident Public Protocol](#). The five-person CEIPP panel is composed of the Clerk of the Privy Council; the National Security and Intelligence Advisor to the Prime Minister; the Deputy Minister of Justice and Deputy Attorney General; the Deputy Minister of Public Safety; and the Deputy Minister of Foreign Affairs. The panel determines whether the threshold for triggering the Protocol has been met.

⁶⁶ The CEIPP can, however, be triggered if there is an accumulation of incidents, but with the threshold still requiring that they “threaten Canada’s ability to have a free and fair election”.

protect against misrepresentation of candidates, parties and other key electoral officials; use best efforts to safeguard privacy protection; promote transparency for regulated political advertising and work to remove abuses of platforms, such as fake and malicious automated accounts, and co-ordinated inauthentic behaviour.⁶⁷

XI. ELECTION CAMPAIGN

The 36-day election period began on 15 August with the issuing of the election writs. Thereafter, parties and candidates could campaign until the day prior to election day. The five parliamentary parties, together with the People's Party of Canada (PPC), were the most active and visible during the campaign.

The Charter of Rights and Freedoms applies to all aspects of election campaigning, with protections in place for the freedoms of assembly, association, and expression. The campaign generally progressed peacefully, and all ODIHR EET interlocutors considered that, overall, political rights and freedoms were respected. However, some instances of harassment were noted by ODIHR EET interlocutors, including online harassment of women candidates at a higher rate than male counterparts, as well as a few cases of physical harassment against volunteers of Asian heritage while canvassing. In addition, protestors disrupted numerous Liberal Party campaign events, sometimes aggressively, and on one occasion caused the event to be cancelled.⁶⁸

Primary campaign issues included the economy and COVID-19 recovery, cost of living, health care, vaccine mandates and climate change. Due to the COVID-19 pandemic, in-person canvassing, and rallies were *de facto* more limited than in previous elections, and ODIHR EET interlocutors reported an increased reliance on online campaigning.⁶⁹

The legislature partly addressed the increased importance of the digital environment in election campaigning through the 2014 and 2018 amendments to CEA and the Telecommunications Act.⁷⁰ In recent years, federal legislation has been amended to better protect voters' privacy and establish requirements for parties to protect personal data that they hold. In 2021, the Office of the Privacy Commissioner (OPC) noted that political parties have increased the collection of data and information on voters, which is sometimes used for profiling and micro-targeted advertising, and which was deemed of concern for the privacy of voters' data.

Positively, the Canadian Radio-television Telecommunications Commission (CRTC) maintains a registry of voter calling services – the Voter Contact Registry, which aims to regulate voter calling services and the use of personal data by political parties. In addition, the CRTC ensures compliance with rules on unsolicited and automated communications, including from political parties, derived from the Telecommunications Act. However, currently the legislation does not cover mass text messages and bulk emails sent by parties to citizens. Thus, political communications are treated

⁶⁷ See the [Canadian Declaration on Electoral Integrity Online](#). The Declaration was endorsed by Facebook, Google, LinkedIn, Microsoft, TikTok, Twitter, and YouTube.

⁶⁸ Protests often concerned the government's COVID-19 vaccination policies. For example, at an event on 7 September, stones were thrown at Prime Minister Justin Trudeau, and an event planned for 27 August was cancelled due to security concerns.

⁶⁹ ODIHR EET interlocutors noted that the number of participants was limited, and some parties required proof of vaccination for candidates and participants. In 2020, Elections Canada released COVID-19 guidelines for canvassers.

⁷⁰ In addition, Elections Canada issued three discussion papers in 2020 on possible next steps in the regulation of political communications, the impact of social media platforms in elections, and the protection of electors' personal information in the federal electoral context.

differently depending on the technology used, with some subjected to a higher level of scrutiny and transparency requirements than others.

The legislature could consider extending the supervision and regulation of political communications to cover bulk communications sent by political parties.

Amendments to the CEA adopted in 2019 require political parties to establish a publicly available policy for the protection of citizens' personal information.⁷¹ The OPC and CEO have issued guidance on the use of personal data by political parties, which notes that existing federal privacy laws do not apply to political parties.⁷² The OPC has repeatedly called for political parties to be subject to legislation that creates obligations based on internationally-recognized privacy principles and that provide for an independent authority to verify compliance.

Online platforms that have traffic above a certain volume and directly or indirectly provide partisan, electoral, and third-party issue advertising are required, under the CEA, to establish and maintain a digital registry of such advertisements, in order to avoid micro-targeting and misleading ads, as well as to provide for monitoring of potential illicit spending.⁷³ The requirement applies to advertisements placed by parties, candidates and third parties. The registry must be publicly available for at least two years after the elections. The CEA prohibits foreign entities or persons from purchasing regulated advertisements during the election period.⁷⁴ Television or radio commercials are not required to be registered, although other rules apply. After the registry requirement was enacted, with the exception of Facebook, all social media platforms decided to exit the electoral advertising market.⁷⁵ Currently, each organization is free to host the registry on their own servers and there is no common format, nor a single repository for the advertisements.

To harmonize disclosure requirements among different types of media, the legislature could consider establishing a single repository and a standard format for advertisement registries.

The CEA defines electoral advertising as “an advertising message that promotes or opposes a registered party or the election of a candidate” or “takes a position on an issue with which a registered party or candidate is clearly associated”.⁷⁶ A similar definition applies to partisan advertising. Some ODIHR EET interlocutors commented that the definitions of electoral and

⁷¹ Among other things, the policies must state the types of information collected and collection method, including online; how the party uses and protects personal information under its control, and training of party staff on collection and use of personal information. Parties can face deregistration for not having a policy on personal information or for not notifying the CEO of any changes to the policy.

⁷² See the [Guidance for Federal Political Parties on Protecting Personal Information](#). Subsequently, responding to a 2019 complaint, the OPC determined that the Personal Information Protection and Electronic Documents Act does not apply to federal political parties.

⁷³ The registry includes an electronic version of the advertisement and the name of the person authorising the advertisement. The CEA defines an online platform as “an Internet site or Internet application whose owner or operator, in the course of their commercial activities, sells, directly or indirectly, advertising space on the site or application to persons or groups”. Thus, it covers not only digital platforms but also other websites and applications that sell advertising. For English and French language sites the threshold is 3 million and 1 million visits per month, respectively, and for sites in other languages, 100,000 visits per month.

⁷⁴ It is prohibited to sell election advertising, in traditional and online media, if paid for with foreign funds. Platform operators or owners who knowingly sell election advertising to non-citizens may, on the basis of a complaint, be investigated by the Commissioner of Canada Elections, and compliance or enforcement actions could result in prosecution.

⁷⁵ Media companies that abide to the registry requirement include Bell Media, CBC, The Globe and Mail, La Presse, Narcity Media, Post Media, Rogers, Snap Inc., The Toronto Star, and Vice.

⁷⁶ Certain types of digital communications are exempt from the registration requirement, including user-generated content on social media sites; text messages, emails, and other private messages; content posted on a political party's or candidate's website, or videos posted on other online platforms, such as Instagram or YouTube; and editorials and news articles.

partisan advertising are not clear and leave platforms with the burden of determining whether an advert falls within the scope of these definitions and create potential unnecessary liability for civil society organisations that regularly campaign on issues which may subsequently be covered in parties' electoral platforms.

The legislature could consider defining issue advertising separately from political advertising and providing clear guidance on determining whether an issue is clearly associated with a party or candidate.

ODIHR EET interlocutors expressed concern over micro-targeting advertising, especially when directed at minorities and vulnerable communities. While the continued elaboration of the legal rules on online campaigning was generally assessed by interlocutors as a positive development, some stressed the need for additional regulation requiring increased transparency from platforms on the functioning of their algorithms, especially as they relate to political ads, micro-targeting, and content recommendations.

Future regulation of online platforms during electoral periods could focus on increasing the transparency of the algorithms used, especially concerning political advertisement and content recommendations.

XII. CAMPAIGN FINANCE

The CEA contains comprehensive rules on campaign financing, including contribution limits, spending limits, and reporting requirements for parties, candidates, and third parties. Overall, existing campaign finance rules provide for equitable treatment of parties and candidates and reasonable transparency guarantees. ODIHR EET interlocutors broadly agreed that the regulatory framework for campaign financing is respected and enforced.

In 2018, the EMA extended the application of the campaign finance regime to a pre-election period, introduced spending limits for political parties and third parties during this period, and adopted measures to increase the transparency of third-party partisan campaigns during the electoral process.⁷⁷ In addition to the EMA, in 2018, Bill C-50 revised the rules on fundraising events extending reporting requirements on nomination and leadership contests, furthering transparency.⁷⁸

A. POLITICAL PARTIES AND CANDIDATES

Political parties and candidates can raise electoral funds through loans, contributions (donations) from citizens or permanent residents, and regulated fundraisers.⁷⁹ Individual contributions are limited to CAD 1,650 to each party annually and CAD 1,650 to each candidate, whether party

⁷⁷ In a fixed-date, full term election, the pre-election period is the period between 30 June and the issuing of the election writs. The 'election period' is the period between the issuing of the writs and the day before election day (inclusive). The EMA also limited the length of the election period to a maximum of 50 days. The 2021 federal election had a 36-day election period and, as it was an early election, there was no pre-election period and consequently Elections Canada did not set spending limits on partisan advertising during the pre-election period.

⁷⁸ Political parties are now required to publicly advertise and report on fundraising events attended by ministers, party leaders or leadership candidates where a contribution of more than CAD 200 is required to attend. One Euro is equivalent to approximately 1.45 Canadian Dollars (CAD).

⁷⁹ Contributions by companies, trade unions and organizations are not permitted. The 2014 FEA phased out the quarterly allowance paid to political parties from federal funds.

endorsed or independent.⁸⁰ The names of persons contributing over CAD 200 must be disclosed. Candidates can contribute up to CAD 5,000 to their own campaign fund. After the enactment of the EMA, persons who are not citizens or permanent residents, as well as foreign entities, are prohibited to make financial contributions to parties, candidates and third parties.⁸¹

The election expenses of political parties that received either two per cent of the national vote or five per cent of the vote in the districts, in which they endorsed candidates, are reimbursed at the rate of 50 per cent.⁸² Candidates that secure 10 per cent of the valid votes are eligible to receive reimbursement of 60 per cent of their campaign expenses.⁸³

Elections Canada established nationwide campaign spending limits for political parties based on the number registered voters in the constituencies where the party has endorsed a candidate and for candidates in constituencies. For this election, the five parties contesting seats nationwide could spend between CAD 22,659,866 and CAD 30,127,505.⁸⁴ For candidates, the constituency spending limits varied between CAD 88,992 and CAD 152,723.

Political parties are required to file audited quarterly and annual accounts.⁸⁵ In addition, they are required to file individual reports on regulated fundraising events. Parties must file audited financial reports on their campaigns within eight months of election day and candidates must submit financial reports within four months of election day, limiting transparency and contrary to international good practice.⁸⁶ Political parties and candidates are not required to submit any campaign finance reports prior to election day, unlike third parties and at odds with international good practice.⁸⁷

To further enhance the transparency of political financing, consideration could be given to requiring political parties to periodically disclose provisional or interim data on contributions and expenditures prior to election day, and for the final campaign accounts to be filed earlier after election day.

B. THIRD-PARTY CAMPAIGNING

Third parties that campaign to promote the election of a party or candidate, including through issue-based advertising, are required to act independently of political parties and candidates. Third parties that spend more than CAD 500 on election advertising, partisan advertising, partisan activity, or election surveys (regulated activities), are required to register with Elections Canada. Third parties

⁸⁰ Eligible individuals can make contributions to a party and a candidate and a constituency association. Contributions are tax-deductible on a sliding scale depending on the amount donated.

⁸¹ Previously, foreign entities could make contributions up to CAD 500.

⁸² Political parties also receive reimbursement of 90 per cent of their accessibility expenses, subject to a CAD 250,000 maximum.

⁸³ Election expenses, remuneration of candidate representatives and personal expenses subject to upper limits are reimbursed at 60 per cent. Care expenses and expenses related to a candidate's disability are reimbursed at 90 per cent as are accessibility expenses, subject to a CAD 5,000 limit. Expenses related to a candidate's disability and care costs are not considered as campaign expenses.

⁸⁴ The following limits on party spending were applicable: Liberal Party and NDP (CAD 30,127,505); Conservative Party (30,043,902); PPC (27,957,508); Green Party (22,659,866.36). The spending limit for the Bloc Québécois, which only contested seats in Québec, was 7,162,417.

⁸⁵ In addition, political parties' constituency associations are required to file annual financial returns. These reports must be audited if contributions or expenses exceed CAD 10,000. Parties and candidates' annual reports are due on 30 June each year.

⁸⁶ Candidates' must also submit an audit report if contributions totalling CAD 10,000 or more were made or if electoral campaign expenses, not including transfers to affiliated political entities, totalling CAD 10,000 or more were incurred or if the candidate received 10 per cent or more of the valid votes cast.

⁸⁷ See Paragraph 261 of the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#).

are subject to spending limits and stringent reporting requirements but, unlike political parties and candidates, are not subject to contribution limits.

To bring regulation of third-party campaign finances closer in line with that of electoral contestants, consideration could be given to introducing additional measures such as registration with Elections Canada prior to incurring any campaign expenses, and limitations on individual and legal entity contributions made to dedicated accounts for campaign purposes.

The EMA amended the reporting requirements for third parties engaging in regulated activities – defined as partisan activity, partisan advertising, and election surveys – by harmonising the rules for these activities with existing rules on election advertising. Consequently, third parties are now required to open a separate bank account for expenses related to their partisan activities, to report all expenses and all contributions which they receive for election-related activities to Elections Canada, and to use identifying taglines in any partisan advertising.

Elections Canada set an annual, nationwide spending limit for third parties for partisan and election spending at CAD 525,700 and CAD 4,506 per constituency. Third parties can receive contributions from citizens and permanent residents but, unlike political parties, can receive them from businesses and organizations that operate in Canada. However, third parties are subject to more rigorous reporting obligations than political parties and those which receive contributions or spend more than CAD 10,000 are required to submit financial reports 21 days and 7 days prior to election day and a consolidated report four months after election day. For this election, 104 third parties were registered and 31 submitted financial reports.

C. ENFORCEMENT OF CAMPAIGN FINANCE RULES

Elections Canada implements campaign finance rules and prepared a wide range of informational materials on the legal obligations of parties, candidates, constituency associations and third parties. The Commissioner of Canada Elections is responsible for ensuring compliance with and enforcement of the CEA, including reviewing complaints on campaign finance and referrals from Elections Canada. Compliance measures open to the Commissioner range from informal communications to formal administrative measures or recommending criminal charges be pursued. Penalties for proven serious offenses include monetary penalties, imprisonment, barring from participation in future elections, and deregistration of a party.

XIII. MEDIA

A. MEDIA LANDSCAPE

The Constitution guarantees freedoms of expression and of the press. Canada has a high degree of media freedom and a diverse, balanced and well-regulated information environment.⁸⁸ Trust in the media remains relatively high but is in decline.⁸⁹ Overall, election-related information was easily available to voters, in multiple languages, although some ODIHR EET interlocutors expressed concern that some indigenous communities do not have equal access to broadband and information. In addition, they noted a growing degree of harassment towards women journalists, especially online.⁹⁰

⁸⁸ In 2021, Canada was ranked 14th on the [2021 World Press Freedom Index](#).

⁸⁹ See the [2021 Edelman Trust Barometer](#) of the Reuters Institute.

⁹⁰ In October 2021, the [Canadian Broadcasting Corporation joined a group of public broadcasters and international organizations in support of the Brussels Declaration](#) on journalists' safety and media freedom.

Television remains the most accessed information source. Consistent with global trends, the significance of the print media is declining rapidly. The main media conglomerates and their primary outlets are Postmedia (*National Post*); Bell Media (*CTV*); Rogers Media (*City TV*); Quebecor; Corus, and Torstar (*Toronto star*). Diverse information is easily available across the country, and local outlets broadcast in English, French and a large number of minority and indigenous languages. However, ODIHR EET interlocutors expressed a concern about increased consolidation of private media ownership among a few major companies and the closure or purchase of local and community outlets by larger media companies, the effect of which may limit the availability of local news to voters.⁹¹

The use of digital media and social media as information sources is growing. Several ODIHR EET interlocutors noted that misinformation on social media contributed to misconceptions about the political and electoral process during this election, and that, in addition to misinformation of domestic origin, external disinformation narratives appeared in the Canadian discourse, particularly owing to a saturation of traditional and online media content from the United States.⁹²

B. LEGAL FRAMEWORK

The 1991 Broadcasting Act regulates broadcast media, including the public broadcaster – the Canadian Broadcasting Corporation (CBC) – and national broadcasting policies, while the 1985 Canadian Radio-television and Telecommunications Commission Act (last amended in 2019) regulates the activities of the CRTC. CBC is accountable to two separate Ombudspersons (one for English broadcasts and one for French), who oversee adherence to the relevant legal provisions. The CRTC licenses, regulates, and supervises over 2,000 private broadcasters, and monitors media ownership.

During federal elections, the CEA requires licensed broadcasters to make a total of 390 minutes of prime-time available for purchase by political parties.⁹³ This time is allocated among the parties based on an inter-party agreement, or if the parties cannot reach agreement, by a decision of the Broadcasting Arbitrator.⁹⁴ While the allocation should adhere to criteria set out in the CEA, the Arbitrator has discretion to modify the allocation if he or she considers the allocation is unfair or contrary to the public interest. No such requests were raised during this election. Since 2016, the Broadcasting Arbitrator has used a modified allocation formula in which half of the time is divided equally among all registered parties, while the other half is divided according to the statutory criteria. In February 2021, the Broadcasting Arbitrator issued a decision on the allocation of paid airtime to 23 political parties, which was applicable to this election, in which she retained the one-half allocation approach applied in recent prior elections.

The CEA requires that all network operators must provide no less free broadcasting time to registered and eligible parties as they did in the most recent prior election. The time must be provided to the parties in proportion to the allocation of paid broadcasting time. ODIHR EET interlocutors generally approved of the allocation of paid and unpaid time.

⁹¹ See the [study](#) coordinated by the Ryerson University's School of Journalism and the University of British Columbia.

⁹² For example, a [McGill University study](#), also cited in the CSE report, found that Canadian Twitter accounts retweeted 10 tweets from US-based users for every tweet retweeted from a Canadian user.

⁹³ Both public and private broadcast may charge a political party, a candidate, or any person acting on their behalf, not more than the lowest rates charged for equal amounts of equivalent time made available to any other persons at any time within the same advertising period.

⁹⁴ The current Broadcasting Arbitrator was chosen unanimously by the parties represented in the House of Commons and appointed by the CEO of Elections Canada in July 2020.

The Leaders Debate Commission (LDC) was established in 2018 as an impartial and independent public body with a mandate to oversee and organize party leaders' debates ahead of federal elections. The Commission functions on a part-time basis and has an advisory board of industry experts. After each election cycle, the LDC releases a comprehensive report which includes recommendations. Some ODIHR EET interlocutors commented that the LDC's Commissioner and Executive Director were appointed by the government without consultation with the other parliamentary parties and suggested that establishing the LDC as a permanent institution and engaging in a formal consultation process to select the Commissioner would increase trust and support.

The LDC organized two debates (one in English and one in French), and set the participation criteria. While respecting journalistic independence, the LDC worked with the Debate Broadcast Group, a partnership of ten media organizations, to develop the debate format.⁹⁵ The two leaders' debates took place on 8 and 9 September and were available with subtitles in three indigenous languages, six minority languages, and two sign languages on multiple channels.

XIV. RECOMMENDATIONS

These recommendations, as contained throughout the text, are offered with a view to enhance the conduct of elections in Canada and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections.⁹⁶ These recommendations should be read in conjunction with ODIHR recommendations from the 2015 EAM Final Report that remain to be addressed. ODIHR stands ready to assist the authorities to further improve the electoral process and to address the recommendations contained in this and previous reports.

A. PRIORITY RECOMMENDATIONS

1. To provide for the effective implementation of OSCE commitments, the law should be revised to guarantee the access of citizen and international observers to all stages of the electoral process.
2. The legislature could consider adopting temporary special measures to promote an increased representation of women in parliament.
3. To harmonize disclosure requirements among different types of media, the legislature could consider establishing a single repository and a standard format for advertisement registries.
4. The legislature could consider defining issue advertising separately from political advertising and providing clear guidance on determining whether an issue is clearly associated with a party or candidate.

⁹⁵ The media organization chosen to host the debate is responsible for the editorial supervision.

⁹⁶ According to paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed to "follow up promptly the ODIHR's election assessment and recommendations". The follow-up of prior recommendations by the ODIHR EET is as follows: from the final report on the 2015 federal election, recommendations 4 and 11 are fully implemented, recommendation 5 is mostly implemented, and recommendations 1, 8 and 10 are partially implemented. See also the [ODIHR Electoral Recommendations Database](#).

B. OTHER RECOMMENDATIONS

5. Consideration should be given to revising the legal framework to better uphold the equality of the vote, for example by reducing the permitted deviation.
6. With the aim of improving the equality of the vote, the provincial boundary commissions should strive to reduce disparities in the population size between constituencies.
7. To further enhance transparency, Elections Canada should publish disaggregated election results by polling station.
8. The legislature could consider extending the supervision and regulation of political communications to cover bulk communications sent by political parties.
9. Future regulation of online platforms during electoral periods could focus on increasing the transparency of the algorithms used, especially concerning political advertisement and content recommendations.
10. To further enhance the transparency of political financing, consideration could be given to requiring political parties to periodically disclose provisional or interim data on contributions and expenditures prior to election day, and for the final campaign accounts to be filed earlier after election day.
11. To bring regulation of third-party campaign finances closer in line with that of electoral contestants, consideration could be given to introducing additional measures such as registration with Elections Canada prior to incurring any campaign expenses, and limitations on individual and legal entity contributions made to the dedicated accounts for campaign purposes.

ANNEX: FINAL RESULTS

Four judicial recounts took place after completion of which Elections Canada published the following data on [election results](#). Information on the number of women MPs is sourced from the [Parliament of Canada](#).

Party	Seats Won	% of Seats	No. of votes	% of Votes	No. Female MPs
Animal Protection Party	0	0.00	2,546	0.00	
Bloc Québécois	32	9.50	1,301,615	7.60	12
Centrist	0	0.00	648	0.00	
CFF - Canada's Fourth Front	0	0.00	105	0.00	
Christian Heritage Party	0	0.00	8,985	0.10	
Communist	0	0.00	4,700	0.00	
Conservative	119	35.20	5,747,410	33.70	22
Free Party Canada	0	0.00	47,252	0.30	
Green Party	2	0.60	396,988	2.30	1
<i>Independent</i>	0	0.00	25,605	0.20	
Liberal	160	47.30	5,556,629	32.60	57
Libertarian	0	0.00	4,765	0.00	
Marijuana Party	0	0.00	2,031	0.00	
Marxist-Leninist	0	0.00	4,532	0.00	
Maverick Party	0	0.00	35,178	0.20	
National Citizens Alliance	0	0.00	476	0.00	
Nationalist	0	0.00	52	0.00	
NDP - New Democratic Party	25	7.40	3,036,348	17.80	11
<i>No Affiliation</i>	0	0.00	6,876	0.00	
Parti Patriote	0	0.00	244	0.00	
Parti Rhinocéros Party	0	0.00	6,085	0.00	
People's Party – PPC	0	0.00	840,993	4.90	
Pour l'Indépendance du Québec	0	0.00	2,934	0.00	
VCP	0	0.00	1,246	0.00	
Total:	338		17,034,243		103

Elections Canada announced that there were 27,366,297 electors, giving a turnout of 62.25 per cent, although this figure does not include electors who registered on election day.

ABOUT ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 150 staff.

ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it coordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE commitments, other international obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights and fundamental freedoms** consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas, including human rights in the fight against terrorism, enhancing the human rights protection of trafficked people, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).