



Office for Democratic Institutions and Human Rights

# ROMANIA

## PRESIDENTIAL ELECTION

22 November and 6 December 2009

OSCE/ODIHR Limited Election Observation Mission  
Final Report



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**ROMANIA**  
**PRESIDENTIAL ELECTION**  
**22 November and 6 December 2009**

**OSCE/ODIHR Limited Election Observation Mission Final Report**

**I. EXECUTIVE SUMMARY**

Following an official invitation to observe the presidential election, and in line with the recommendations of the Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Limited Election Observation Mission (LEOM) for the 22 November 2009 presidential election in Romania. The OSCE/ODIHR LEOM assessed the compliance of the election process with OSCE commitments and other standards for democratic elections, and with domestic legislation.

The presidential election took place in an environment characterized by respect for fundamental political freedoms and was generally conducted in conformity with OSCE commitments and international standards for democratic elections, as well as with national law. While the authorities took steps to remedy certain shortcomings noted during the first round of voting and to investigate allegations of irregularities, further efforts are required to address remaining weaknesses in order to improve the election process and strengthen public confidence.

Freedoms of assembly, expression and movement were respected throughout a generally calm but competitive election campaign. However, anonymously placed negative campaign materials were used, in particular in the second round. An example of this was a video clip showing the incumbent candidate, Mr. Traian Băsescu, apparently hitting a boy during his 2004 election campaign. This clip was publicized and broadcast by all main TV channels. Mr. Băsescu denied that this incident had taken place, saying the footage had been manipulated. Another prominent campaign feature was a referendum on parliamentary reform called by the president for the same day as the first round. This referendum was a focus of the incumbent's campaign, which his competitors and other interlocutors strongly criticized as a populist move.

Overall, the election legislation provides an adequate framework for the conduct of democratic elections. However, amending electoral laws by means of emergency ordinance as was done in September 2009 should be avoided as it bypasses regular parliamentary procedures. Furthermore, amending election legislation so close to election day is not in line with good electoral practice. Moreover, certain legal provisions might need to be addressed in order to improve the electoral process and to enhance its transparency. For instance, while the election law provides for election observation by civil society organizations, media, and international observers, political parties and candidates do not have the right to appoint observers. Also, the law does not provide independent candidates with representation in the election administration. Finally, the fact that not all decisions of the Central Election Bureau (BEC), including on complaints against its own activities, are subject to judicial review is not fully in line with OSCE commitments.

The election administration, led in parallel by the Permanent Election Authority (AEP) and the *ad hoc* BEC, conducted the election in a professional manner, although the late issuance of BEC instructions and clarifications may in some cases have led to inconsistent application of procedures. A cause of some controversy in these elections was the use of special polling stations for voters who were away from their usual place of residence on election day. The number of such special polling stations was limited, and additional safeguards were introduced,

in order to restrict the possibility of multiple voting. However, the limited number of special polling stations together with the additional safeguard procedures resulted in significant queues and delays in processing voters. Ultimately, there was no reliable mechanism for polling station staff to verify whether a voter had not already voted elsewhere. This created an atmosphere of suspicion over the possible misuse of special polling stations.

Interlocutors of the OSCE/ODIHR LEOM did not generally question the overall accuracy of the voter lists. Permanent voter lists are updated on the basis of residency records. In special polling stations and polling stations abroad, all voters were added to supplementary voter lists.

The BEC registered 12 presidential candidates in an inclusive process; nine nominated by political parties and three independent candidates. None of the registered candidates were women. While women are under-represented in parliament and in government, they were well represented in the election administration. Two candidates belonging to minorities (Hungarian and Roma, respectively) were among the registered candidates.

Romania has a dynamic and pluralistic media environment, including public and private broadcasters and a variety of print media. As a whole, the media in the election period offered voters an ample range of political information and opinions, mainly through news and election-related programs, enabling them to make an informed choice. Candidates are entitled to free airtime on public and private broadcast media. Private broadcasters choosing to offer free airtime must provide it to all contestants under equal conditions. Similar provisions apply to news coverage of the campaign. These provisions, however, proved difficult to implement due to some candidates receiving coverage in their official capacity and due to the different levels of campaign activities of individual candidates.

The OSCE/ODIHR LEOM media monitoring showed that public TVR 1 provided overall balanced, impartial and fair coverage of the candidates in both rounds, although its news coverage of the campaign was modest in scale. It gave all candidates equal access to free airtime in its election broadcasts. Some private TV channels provided balanced news coverage while others were highly critical of the incumbent. Among the newspapers monitored by the OSCE/ODIHR LEOM, the situation was similar.

In line with standard OSCE/ODIHR methodology, the LEOM did not conduct a comprehensive and systematic observation of election-day proceedings, but visited a limited number of polling stations on both the first and second-round election days. During both rounds, voting in regular polling stations visited by OSCE/ODIHR LEOM observers proceeded in a generally calm and orderly manner, and procedures were largely followed. By contrast, voting in most special polling stations visited on 22 November was slow; particularly, in urban centres. On 6 December, voting in most special polling stations visited was, in the absence of the lengthier procedures caused by the referendum, less time-consuming than in the first round of voting. In polling stations visited, the vote counts in both rounds were conducted in a professional and transparent manner, notwithstanding minor procedural problems. Results protocols were often not posted at the polling station, though the election law requires this.

Election-related disputes were generally handled in an efficient and timely manner throughout the election process. Three petitions to the Constitutional Court to invalidate the first election round were dismissed. After the second round, the PSD/Conservative Party political alliance requested a repeat runoff, claiming widespread fraud had affected the result. After a BEC recount of all invalid ballots, however, the Constitutional Court dismissed the petition and validated the election of Mr. Traian Băsescu.

## II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Permanent Mission of Romania to the International Organizations in Vienna, and in line with the recommendations of the Needs Assessment Mission<sup>1</sup> conducted by the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) in Bucharest on 23–25 September, the OSCE/ODIHR on 28 October 2009 deployed a Limited Election Observation Mission (LEOM) for the 2009 presidential election in Romania. The OSCE/ODIHR LEOM was headed by Vadim Zhdanovich and consisted of 11 experts and 14 long-term observers (LTOs) from 17 OSCE participating States. The LTOs were based in Bucharest and six regional centres.

The OSCE/ODIHR LEOM assessed the compliance of the election process with OSCE commitments and other standards for democratic elections, and domestic legislation. This final report follows two Statements of Preliminary Findings and Conclusions, which were released at press conferences on 23 November and 7 December 2009, respectively.<sup>2</sup>

In line with standard OSCE/ODIHR methodology, the OSCE/ODIHR LEOM included long-term observers but not short-term election observers. The LEOM did not conduct a comprehensive and systematic observation of election-day proceedings, but visited a limited number of polling stations on the first and second-round election day.

The OSCE/ODIHR LEOM wishes to thank the authorities of Romania for the invitation to observe the elections, the Central Election Bureau and the Permanent Election Authority for their co-operation and for providing accreditation documents, and the Ministry of Foreign Affairs for its assistance and co-operation. The OSCE/ODIHR LEOM also wishes to express appreciation to other national and local state institutions, election authorities, candidates, political parties and civil society organizations for their co-operation.

## III. POLITICAL CONTEXT

The presidential election called by the government of Romania on 2 September 2009 was conducted in two rounds, on 22 November and 6 December. Following the constitutional amendments adopted in 2003, this was the first time that a presidential election was held separately from parliamentary elections. On the same day as the first round, a referendum was held at the initiative of President Traian Băsescu to make the parliament unicameral and to limit the number of its members to 300.

The presidential election unfolded against the backdrop of a governmental crisis. Following the November 2008 parliamentary elections, the government was formed by the centre-right Democratic Liberal Party (*Partidul Democrat Liberal*, PD-L) and the centre-left Social Democratic Party (*Partidul Social Democrat*, PSD). On 1 October 2009, the PSD-nominated members of the government resigned following the dismissal of the PSD Minister of Administration and Interior by Prime Minister Emil Boc (PD-L), after the former alleged that the PD-L was preparing to manipulate the election. On 13 October, parliament passed a motion of no confidence in the remaining part of Mr. Boc's government. A new prime minister was nominated by President Băsescu but on 4 November failed to receive a vote of confidence in

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<sup>1</sup> See the report at [http://www.osce.org/documents/odihr/2009/10/40764\\_en.pdf](http://www.osce.org/documents/odihr/2009/10/40764_en.pdf).

<sup>2</sup> See the Statements of Preliminary Findings and Conclusions for both rounds at <http://www.osce.org/odihr-elections/40765.html>.

parliament. On 6 November, the president mandated Liviu Negoită (PD-L), Mayor of Sector 3 of Bucharest Municipality, to form a new government. The latter submitted the list of members of his proposed government to parliament on 9 November. However, parliament did not consider the presidential proposal.<sup>3</sup>

The governmental crisis changed the configuration of the pre-electoral campaign setting. From a coalition partner of the PD-L, the PSD became, along with the National Liberal Party (*Partidul Național Liberal*, PNL), a major opposition party.

#### IV. THE LEGAL FRAMEWORK AND ELECTION SYSTEM

The president of Romania is elected directly, for a term of five years, and may serve a maximum of two terms. In order to be elected in the first round, a candidate needs to obtain the votes of more than one half of all registered voters. If no candidate meets this requirement, a second round takes place two weeks later between the two candidates who obtained the highest number of votes. The candidate who obtains the majority of valid votes cast in the second round is declared elected.

The primary legislation regulating the presidential election consists of the Constitution of Romania (adopted in 1991, as amended in 2003 after a referendum) and the Law on the Election of the President of Romania (2004; hereafter presidential election law) as amended by Government Emergency Ordinance 95/2009. The Ordinance, which was adopted on 2 September 2009 and entered into force the following day, aimed at consolidating the previous law by removing cross references to the 2004 parliamentary election law which was amended in 2008.<sup>4</sup> The new elements introduced by the emergency ordinance include inter alia: (1) provisions on the establishment of special polling stations for voters who on election day are away from their place of registered residence, and (2) provisions stating that free airtime be provided to the candidates by the private broadcast media that decide to cover the election campaign. The practice of amending electoral laws shortly before elections, although a recurrent feature in Romania, is not in line with good electoral practices;<sup>5</sup> furthermore, doing so by means of Government Ordinances is highly unusual and circumvents the legislative process, thereby challenging both the constitutional principle of the separation of legislative and executive powers and the requirement that electoral matters be regulated by organic laws.

Overall, the election legislation provides an adequate basis for the conduct of democratic elections. Nevertheless, certain provisions need to be addressed in order to improve the electoral process and to enhance its transparency. These include: (1) the provision on observers which excludes political parties and candidates' representatives from observing the voting

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<sup>3</sup> Article 72 of the "Rules of Procedure for Joint Sessions of the Chamber of Deputies and the Senate", adopted in 1992, provides that the standing committees of parliament within 15 days after receiving the government's program and the list of Ministers from the Prime Minister designate should set a date for the special committees' joint sessions for hearings of the designated Ministers. Thereafter, the commissions' conclusions should be submitted as a consultative opinion to both chambers of parliament.

<sup>4</sup> This consolidation was necessitated by the fact that as a rule, presidential and parliamentary elections no longer take place on the same day, contrary to what was the case before the 2003 constitutional amendments.

<sup>5</sup> The Code of Good Practice in Electoral Matters of the European Commission for Democracy through Law (Venice Commission) of the Council of Europe states that: "The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than a year before an election, or should be written in the constitution or at a level higher than ordinary law."

process, which is particularly disadvantageous to independent candidates who are not entitled to representation in election bureaus at any level; (2) the provision on selection of citizens to be included in the drawing of lots for the appointment of presidents and deputy presidents of Polling Station Election Bureaus (*Birourile Electorale ale Secțiilor de Votare*, BESVs) when the number of jurists is insufficient to fill all positions, which is too vague and open to arbitrary implementation; and (3) the provisions on complaints and appeals which lack clarity in particular with regards to the post-election stage and which also do not provide effective means for legal redress against certain decisions of the Central Election Bureau (*Biroul Electoral Central*, BEC).

The funding of political parties and campaigns is regulated by the Law on the Funding of the Activities of Political Parties and Electoral Campaigns (2006, last amended in 2009). The competent body for the control of the campaign funding and the implementation of the law is the Permanent Election Authority (*Autoritatea Electorală Permanentă*, AEP), which now exercises the functions that were within the competence of the Court of Accounts under previous legislation.<sup>6</sup> The law establishes certain prohibitions and restrictions, including a ceiling for campaign expenses.<sup>7</sup> If the limit is exceeded, the party or independent candidate is to be fined; in addition, the offender has to contribute a sum equal to the excess amount spent to the state budget. Candidates may fund their campaign activities through donations, which have to be declared to the AEP and can only be used after the declaration. Disclosure and reporting on the expenditures for the campaign are required only after the election and are to be effectuated within 15 days from the publication of the final election results. If necessary, the AEP may request additional documentation within another 15 days, and within 30 days it has to pronounce itself on the compliance by each candidate with the legal provisions. AEP decisions in implementation of this law may be challenged to the Bucharest Court of Appeals.

## V. THE ELECTION ADMINISTRATION

### A. STRUCTURE AND COMPOSITION OF THE ELECTION ADMINISTRATION

The 2009 presidential election was administered by two distinct administrations: the AEP and a three-tier structure of election bureaus which is established anew for each election and headed by the BEC. The mid-level comprised 48 election bureaus: one County Election Bureau for each of the 41 counties in Romania (*Birourile Electorale Județene*, BEJs), one bureau for each of the six sectors of Bucharest Municipality, and one for the polling stations abroad. Polling was administered by 21,706 BESVs.<sup>8</sup>

The AEP is an independent election authority, established in 2004, and foreseen by the Romanian constitution. In the period between elections, the AEP ensures institutional electoral continuity, and drafts proposals for the parliament concerning electoral reform and improvements to the election legislation. During the election period, the AEP has a number of

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<sup>6</sup> The Court of Accounts retains the function of controlling the subsidies which political parties receive from the state budget.

<sup>7</sup> For a presidential election, the maximum expenditure limit for a party or political alliance which has nominated a registered presidential candidate, or for independent candidates, is 25,000 minimum salaries. The official minimum salary for 2009 was 600 RON (around 140 Euro); thus, the spending limit for each nominating party or alliance, or independent candidate, was around 3.5 million Euro.

<sup>8</sup> These included 18,053 regular polling stations, 3,359 special polling stations in Romania, and 294 polling stations abroad, which were located in 94 different countries.

legal obligations, including assisting the prefects and mayors with the delineation of precincts and endorsing all candidates for presidents and deputy presidents of BESVs.

The AEP appointed members to the BEC and middle-level bureaus and supported them by seconding technical personnel. However, the AEP did not meet its obligation to appoint a representative to all mid-level bureaus and could not appoint them in 14 BEJs, due to a lack of resources.

The BEC had the overall authority over the election process. It was composed of 17 members, which included five judges from the High Court of Cassation and Justice. The judges elect the BEC president and vice-president from among themselves. The BEC also included the president and the two vice-presidents of the AEP and nine representatives of those political parties which participated in the election by nominating presidential candidates.<sup>9</sup> However, the three independent presidential candidates were not represented at any level of the election administration since the law does not provide for such representation.

The BEC and the mid-level bureaus held daily sessions and reached decisions by majority vote. Regrettably, their sessions were not open to the public<sup>10</sup>. In addition, the BEC decided that the minutes of its sessions would not be public, which effectively reduced the transparency of the process. It issued several instructions through communiqués,<sup>11</sup> some of them very close to the two election days. Many of these communiqués aimed to instruct lower-level election bureaus on issues pertaining to the organization of the election process. Although the BEC addressed all issues with expediency, the late issuance of instructions and clarifications may in some cases have led to inconsistent application of procedures.

BEJs consisted of three judges from the county-level courts (or local-level courts for the sectors of Bucharest), one member appointed by the AEP, and up to seven political party representatives. The president of the mid-level bureau was one of the judges. The four parliamentary parties were represented in all mid-level bureaus, while lots were drawn to determine which of the five non-parliamentary parties would fill the remaining three positions.

BESVs were composed of a president and a deputy president, who by law should be non-partisan, and up to seven political party members. The presidents and deputy presidents should have a law degree, which was frequently not the case.<sup>12</sup> In case not enough jurists were available, vacant positions could be filled from a roster of persons “who enjoy a good reputation”. Such a vague legal provision led to non-uniform application of selection criteria around the country. By law, the lists of candidates for positions of BESV presidents and their deputies are drawn up by the presidents of the county-level courts together with the county prefects, who are government-appointed public officials. However, the presidents of the courts did not generally propose any names, and the compilation of the lists was effectively left to the

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<sup>9</sup> The presidential election law provides for a maximum of ten BEC members nominated by political parties. The parties that are represented in the parliament may each nominate one member in the first stage. There were four such parties for this election, and the BEC therefore consisted of 12 members in the initial phase of the election process. After all presidential candidates were approved; the five non-parliamentary parties whose candidates had been registered nominated their BEC members on 29 October.

<sup>10</sup> The Council of Europe Venice Commission’s Code of Good Practice in Electoral Matters states that meetings of a central electoral commission should be open to everyone, including the media.

<sup>11</sup> The BEC also issued four resolutions before the first round of the election, as well as 18 decisions on the interpretation and uniform application of the law.

<sup>12</sup> For example, in Iași county, less than 5 per cent of BESV Presidents and deputy presidents had a law degree.



prefects. Some interlocutors expressed concerns that the selection of candidates for BESV presidents and their deputies by the prefects was politically influenced.

The referendum on parliamentary reform was administered by the same election bureaus as the presidential election. The BEC and the government issued timely decisions to BEJs and BESVs for organizing the parallel conduct of these polls. On 12 November, the Bucharest Court of Appeals suspended a government decision that provided for one voter list with two separate columns for voters' signatures (one for the presidential election and one for the referendum). The government passed a new decision the following day, which provided for two separate voter list copies. This in turn highlighted the problems that can occur due to the practice of regulating technical election-related matters through government decisions rather than by a specialized body such as the BEC.

Voting in the second round was conducted in the same polling stations and administered by the same BESVs as in the first round. The administration of the second round was significantly simplified by the fact that it was the only electoral contest.

## **B. SPECIAL POLLING STATIONS AND FRAUD PREVENTION MECHANISMS**

As a rule, voters voted in the polling stations serving their place of permanent residence. However, voters who on election day are away from their place of residence<sup>13</sup> could vote in any of the 3,359 special polling stations throughout the country.<sup>14</sup> By law, at least one such polling station was set up at in each municipality, town or commune. On 28 September, the government passed a decision announcing the number and locations of special polling stations, which for urban centres typically included student dormitories, hospitals and train and bus stations. Their number was limited in order to limit the possibility of multiple voting.

In the first round, it became clear that the number of special polling stations in some highly populated urban centres was not sufficient to avoid significant queues and delays in processing voters.<sup>15</sup> Before the second round, the BEC instructed all prefects and mayors to provide polling stations with five voting booths each, corresponding to the number of voting stamps per polling station available for voters to mark their choice on the ballot, so that the voters could be processed in less time.<sup>16</sup>

Some specific safeguards were introduced in an effort to prevent the possibility of multiple voting in special polling stations. In particular, voters had to sign declarations that they will not vote more than once. In addition, cameras were installed at these polling stations in order to record citizens voting in these polling stations. The party-nominated BESV members had the right to copy information from the supplementary voter lists in an effort to increase checks and confidence in the process.

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<sup>13</sup> Meaning outside the municipality, town or commune where they are registered with the authorities as being permanently resident.

<sup>14</sup> Up until the first round of the 2004 presidential election, voters could vote in any polling station if they were away from their place of residence. After allegations of serious irregularities, the BEC decided to strictly limit the number of special polling stations for the second round of the 2004 presidential election. In the 2007 referendum on recalling the president and in the 2009 European parliament elections, voters could again vote in any polling station if they were away from their place of permanent residence.

<sup>15</sup> Notably, there were only 34 special polling stations in the Municipality of Bucharest.

<sup>16</sup> The election law provides that the number of voting stamps in a polling station should be proportional to the number of voters registered in the permanent voter list and to the estimated number of voters who will be entered in the supplementary voter list. The decision to have five voting stamps in each polling station was determined by an internal BEC regulation.

The measure of applying stickers on the back of the plastic ID cards at the time of voting again proved to be an ineffective measure against multiple voting as the stickers are easily removed from the IDs.<sup>17</sup> Due to the ineffectiveness of this measure, there was no reliable mechanism for a BESV to know at the time of voting that a voter had not already voted elsewhere. This in turn created an atmosphere of reduced trust in the overall integrity of the election process.

After the two rounds, the AEP received all voter lists in order to start checking voter information and signatures, with a view to uncovering possible cases of multiple voting. This process is to be completed within six months, after which the AEP has to forward any findings to the competent authority for prosecution.

### C. OUT-OF-COUNTRY AND MOBILE VOTING

Polling abroad was organized by the Ministry of Foreign Affairs and was overseen by an election bureau based in Bucharest. The Presidents of BESVs abroad were selected by the Ministry of Foreign Affairs, mainly among diplomats. The parties which had presidential candidates had the right to appoint BESV members. However, due to various constraints, the party members, where present, were mainly from the four parties represented in the parliament.<sup>18</sup> Due to the fact that voting procedures were in essence the same as in special polling stations and to ensure sufficient staffing at the BESVs abroad, the Ministry of Foreign Affairs and the Election Bureau for Polling Stations Abroad included additional BESV members employed by or seconded through the Ministry or the diplomatic missions abroad.<sup>19</sup> Voting abroad took place from 07:00 until 21:00 local time, with some polling stations therefore closing significantly later than those in Romania. The results protocols were received in Bucharest by fax or email and confirmed by telephone.

Voters who due to sickness or invalidity can not go to vote at the polling station serving their precinct can apply for use of a mobile ballot box. Similarly, persons in pre-trial detention or serving a prison sentence who have not been deprived of their voting rights by a final court decision can also vote using the mobile ballot box. However, voters who were hospitalized in their place of residence but outside the area served by their polling station were effectively deprived of their right to vote, since they could not be served by the mobile ballot box, which by law may not leave the precinct area, but also could not vote in the special polling station in the hospital since they were in their place of residence.

## VI. VOTER REGISTRATION

Permanent voter lists are used in regular polling stations serving voters who vote at their place of registered residence. These lists are updated by mayors' offices, based on residency records. Voters had a possibility to check their records and request corrections. There was no widely publicized voter awareness program calling on voters to perform these checks; nonetheless, concerns about potential disenfranchisement were generally alleviated by the fact that voters whose names had been omitted from the permanent voter list could be added to a

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<sup>17</sup> Of the total of 18,317,925 registered voters, 14,913,409 voters had plastic ID cards. The remaining voters had booklet-type ID cards, which are stamped at the time of voting.

<sup>18</sup> The PD-L had representatives in 180 polling stations abroad, the Political Alliance of the PSD and the Conservative Party in 176, the PNL in 150, and the UDMR in 122. Of those, the PD-L had two members in 111 polling stations, and the PSD in 38.

<sup>19</sup> In total, the MFA seconded 911 members to BESVs abroad, which included the Presidents of BESV.

supplementary list since the address on their ID card proved that they were resident within the precinct in question.<sup>20</sup> In special polling stations in Romania and in polling stations abroad, all voters were added to supplementary voter lists.

The same voter lists were used for both rounds. However, before the second round, the BEC issued an instruction that BESVs should allow citizens who turned 18 between the two rounds to vote and include them in the supplementary voter list. Therefore, the total number of registered voters was 18,293,277 for the first round, and 18,303,224 for the second one. The number of ballot papers printed in both rounds included a prescribed reserve of 10 per cent of the total number of registered voters. An additional 1,245,992 ballots were printed for use in special polling stations in Romania, a figure decided upon based on experience from previous elections. The Ministry of Foreign Affairs advised that 600,000 ballots should be printed for voting abroad. Such a generous estimation for the ballots needed abroad was made in order to remove any risks that any polling station would run out of ballots on election day.

While not questioning the overall accuracy of the voter list, some interlocutors voiced concerns related to the issue of unrecorded migration, both inside Romania and abroad.<sup>21</sup> In particular, they pointed to the risk of impersonation and multiple voting on behalf of citizens known to be living outside their place of registered residence.

## VII. CANDIDATE REGISTRATION

Any Romanian citizen with voting rights who has permanent residence in Romania and is at least 35 years old on election day may run for president, unless he or she belongs to one of the categories of citizens barred from joining political parties under Article 40 of the constitution.<sup>22</sup> Nominations were submitted to the BEC and had to contain supporting signatures of at least 200,000 registered voters. Supporting signatures were scrutinized by the BEC for obvious mistakes and incompleteness, but the BEC was not in a position to check each and every signature against the voter list, due to a lack of time and resources. To a degree, this inability to properly scrutinize supporting signatures raises questions about the efficiency and meaningfulness of the current system of signature collection.

According to the presidential election law, a voter can sign in support of only one candidate. During the collection of signatures, a political party could face problems in qualifying as it has no means to control whether a voter has already signed another petition. This provision raises concerns as it could be misused and open the door to electoral malpractices.

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<sup>20</sup> In the first round, at least 50,000 voters, i.e. some 0.5% of all voters who turned out, were added to supplementary voter lists in regular polling stations. According to various representatives of the election administration itself, this occurred due to errors on the voter lists (i.e. omissions), and in some cases, due to failure of BESV members to properly scrutinize the voter list to find the entries of voters and instead simply recording the voter's entry in the supplementary voter list.

<sup>21</sup> Some 3 million registered voters are estimated to be living abroad, but remain registered on the voter list in their place of registered residence in Romania. Such voters are only deleted if they register their permanent residence abroad with the respective Romanian diplomatic mission.

<sup>22</sup> According to Article 37 of the constitution, persons who may not join political parties are not eligible to stand for elected office. Article 40 of the constitution specifies that judges of the Constitutional Court, the advocates of the people (ombudspersons), magistrates, active members of the armed forces, policemen and other categories of public servants, established by an organic law, are forbidden to join political parties.

Of a total of 27 nominations submitted within the legal deadline, the BEC registered 12 candidates in an inclusive process. Nine of the registered candidates were nominated by political parties, while three ran as independent candidates. Fourteen nominations were rejected due to lack of signatures or other required documentation,<sup>23</sup> while one nomination had not been signed by the authorized representative of the nominating party, due to an internal leadership struggle within that party. Twenty BEC decisions on nominations were appealed to the Constitutional Court, mostly by independent candidates about the rejection of their own candidatures; in some cases, individual voters appealed against the registration of certain candidates. The Constitutional Court in all cases upheld the relevant BEC decisions.

The candidates nominated by parliamentary parties were: incumbent president Traian Băsescu (nominated by the PD-L); president of the Senate and PSD Chairman Mircea Geoană; PNL Chairman Crin Antonescu, and Hunor Kelemen, nominated by the Democratic Union of Hungarians in Romania (*Uniunea Democrată Maghiară din România*, UDMR).

The candidates nominated by non-parliamentary parties were: Corneliu Vadim Tudor, president of the Greater Romania Party (*Partidul România Mare*, PRM); George Becali of the Christian Democratic New Generation Party (*Partidul Noua Generație – Creștin Democrat*, PNG-CD); Remus Cernea of the Green Party (*Partidul Verde*, PV); Constantin Rotaru of the Socialist Alliance Party (*Partidul Alianța Socialistă*, PAS); and Ovidiu-Cristian Iane of the Romanian Ecologist Party (*Partidul Ecologist Român*, PER). The three independent candidates were Sorin Oprescu, the Mayor of Bucharest, Constantin Ninel Potîrcă and Gheorghe-Eduard Manole.

According to the election law, two separate lots are drawn to determine the order of the candidates on the ballot, one for candidates proposed by the parliamentary parties, the other for the other candidates. Since the presidential ballot is designed as a booklet and can have more than one page (it had two pages for the first round of this presidential election), this provision may have given preferential treatment to those candidates who were nominated by parliamentary parties, since their names appear above those of other candidates on the ballot.

## VIII. THE ELECTION CAMPAIGN

The election campaign was characterized by respect for fundamental freedoms, including freedom of assembly, of expression and of movement. The election campaign for the first round was fairly active, with posters, billboards and banners of many candidates in evidence. Candidates could campaign freely across the country in order to get their message to the electorate. The ten presidential candidates whom the OSCE/ODIHR LEOM met underlined that the campaign was conducted in an overall calm environment, without major incidents or problems.

While candidates focused on the economic crisis, social policy, and proposals to resolve the current political stalemate, the referendum became a prominent and controversial issue in this campaign. President Băsescu's campaign in particular emphasized his proposed parliamentary

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<sup>23</sup> Some prospective candidates failed to submit supporting signatures altogether, and other submitted less than the required 200,000 signatures. Signatures submitted by two prospective candidates were partly invalidated since records were incomplete or signature sheets had been photocopied, bringing the total below the required 200,000. In addition, some prospective candidates failed to submit other required documentation to the BEC when they applied for registration. One person filed a registration request after the legal deadline.

reform. This campaign strategy was strongly criticized as a populist move by his competitors and other interlocutors (mainly from civil society), both in public and in their meetings with the OSCE/ODIHR LEOM.<sup>24</sup>

During the campaign, billboards and banners attacking the incumbent president were put up, without indicating the source (in violation of Article 29 of the Law on Funding of Political Parties and Election Campaigns).<sup>25</sup> Within days, large stickers accusing previous PSD-led governments of corruption were pasted on top of some of these billboards. Such unattributed campaign material targeting the PSD also appeared in a number of newspapers, one of which told the OSCE/ODIHR LEOM that these ads had been placed by the PD-L.

Political parties launched a number of formal complaints regarding destruction of their candidates' campaign posters in several counties, and representatives of different parties complained to OSCE/ODIHR LEOM long-term observers (LTOs) in several regions about such cases.

During their meetings with the OSCE/ODIHR LEOM, candidates and their representatives highlighted a number of issues that in their view might have impacted negatively on the election. Apart from criticism related to the referendum, these included concerns over the high number of special polling stations and of polling stations abroad, which in their view might have facilitated electoral fraud. Many interlocutors also highlighted the issue of possible vote buying. OSCE/ODIHR LEOM LTOs based in Bucharest, Constanța, Iași, Cluj and Timișoara were approached by different candidates' representatives, who accused supporters of other candidates of distributing food, domestic appliances or money in order to secure popular support. At the same time, these interlocutors could not substantiate their accusations, noting that it is very difficult to prove such violations in practice. However, police after both rounds investigated cases of suspected vote buying (see Section XVI, Post-Election Complaints and Appeals), and OSCE/ODIHR LEOM LTOs based in Bucharest, Iași, Brașov and Timișoara reported credible cases of vote buying.

Candidates from non-parliamentary parties complained during their meetings with the OSCE/ODIHR LEOM that existing legislation favors the parties represented in the parliament, e.g. with regard to party and campaign financing provisions<sup>26</sup> and representation on election-administration bodies. Candidates of non-parliamentary parties and independent candidates also said that they were at a disadvantage in terms of media access and media coverage, as well as due to most local administrations being loyal to major political parties.

On 25 November, Mr. Geoană, and Mr. Antonescu, who had come third in the first round, signed an agreement on co-operation and mutual support in the second round. The agreement included a number of political and socio-economic measures meant to be implemented if Mr.

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<sup>24</sup> The referendum campaign featured particularly prominently on the incumbent's visual campaign materials. Posters, billboards and banners campaigning for a "yes" in the referendum also contained a mention of the incumbent's campaign website ([www.basescu.ro](http://www.basescu.ro)).

<sup>25</sup> Later, small stickers with identical messages appeared; these clearly stated that the printing had been ordered by the political alliance of the PSD and the Conservative Party.

<sup>26</sup> According to the Law on the Funding of the Activities of Political Parties and Electoral Campaigns, political parties are entitled to funding from the state budget based on their results received in parliamentary and local elections. Seventy-five per cent of the money set aside for funding political parties goes to parties which passed the electoral threshold in the parliamentary elections and is divided among them based on the number of votes received by each of these parties. The remaining 25 per cent is divided proportionally among parties who obtained at least 50 mandates (nationwide) in county councils and the Bucharest Municipal Council.

Geoană were to be elected. The parties also agreed that in this case Sibiu's Mayor Klaus Johannis should become Prime Minister. Later on, the citizens' association representing the ethnic-Hungarian minority, named the Democratic Union of Hungarians in Romania (*Uniunea Democrată Maghiară din România*, UDMR) in Romanian, together with the parliamentary group representing national minorities, joined the agreement,<sup>27</sup> while some other first-round candidates and their parties also endorsed it. Commenting on the agreement, the incumbent president said that he had no intention to bargain with the votes of the Romanians and that his only partner for the second round was the Romanian electorate.

The election campaign for the second round started on 26 November, when the Constitutional Court validated the results of the first round, and ended at 07:00 hours on 5 December.

As before the first round, the campaign environment was competitive and generally calm; campaign activities were reduced in comparison with the first-round campaign, in particular public rallies with the candidates themselves. The candidates addressed the electorate without impediments mainly through posters, banners and statements. Cases of campaign banners being vandalized were reported from Bucharest, Râmnicu Vâlcea and Mureș. On 3 December, the PSD and PNL offices in Botoșani were sprayed by unknown perpetrators with anti-communist slogans and insults against the parties' leaders.

Notably, both sides stepped up negative campaigning between the two rounds, including in the form of posters, billboards, banners and advertisement in the media which, in violation of existing legislation, were designed in such a way as to closely resemble the actual campaign material of the candidate being attacked. Such campaign materials were in evidence in Bucharest and the regions, targeting both candidates and the parties supporting them and in some cases linking them to prominent businesspeople.

On 26 November, a controversial video clip showing Mr. Băsescu apparently hitting a boy during his 2004 election campaign was publicized on the website of the newspaper *Gardianul* and broadcast by all main TV channels. Mr. Băsescu denied that this incident had taken place, saying the footage had been manipulated. He initiated legal proceedings against the company which publishes *Gardianul* and against Dinu Patriciu, a prominent businessman and PNL member, who was the first to talk about the alleged incident in the media and to announce that a video clip proving his claims existed. Mr. Patriciu for his part countersued Mr. Băsescu for slander.

On 1 December, a campaign meeting of Mr. Geoană in Timișoara was disrupted by anti-PSD protesters; police had to separate the two sides. Later that day, outdoor demonstrations in support of the anti-PSD protesters were held in Bucharest and several other cities.

## **IX. THE MEDIA**

### **A. GENERAL MEDIA ENVIRONMENT**

Romania has a dynamic and pluralistic media environment, including public and private broadcasters and a variety of print media. TV is the main source of political information. The public broadcaster, Romanian Television (*Televiziunea Română*, TVR), operates, among others,

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<sup>27</sup> The Federation of Jewish Communities in Romania, which is represented by one Member of parliament, on 30 November publicly stated that as a non-political organization it could not sign a political agreement.

a second national network, TVR 2, a cultural channel, and a pan-European satellite channel. There are many smaller, private stations. Pay TV channels have a smaller but significant audience. Private Pro TV and Antena 1, and the first channel of public television, TVR 1, are the most popular channels; however, as in previous elections, private information channels Realitatea TV and Antena 3 increased their viewership during the campaign period. Public Radio Romania operates four national networks and regional and local stations. Among the quality press, *Adevărul* currently enjoys the highest readership, but the paper decided not to cover the campaign, claiming that it did so in order to clearly distance itself from any of the candidates.

## **B. LEGAL FRAMEWORK FOR THE MEDIA**

The Constitution of Romania grants freedom of expression and the right to information. The presidential election law regulates access to the media during the official campaign period (Articles 16–19). Before the start of the official campaign period, as well as from the closing of the polls during the first-round until the validation of the first-round results, the Law on Radio and Television Broadcasting (2002, last amended in 2008) was the applicable law. The National Audiovisual Council (*Consiliul Național al Audiovizualului*, CNA), an autonomous body responsible to the parliament, is in charge of supervising and monitoring the broadcast media. As provided by Article 19<sup>1</sup> of the election law, the CNA established the rules for conducting the campaign in the broadcast media within ten days from the day the election date was set. These rules were the result of an inclusive and co-ordinated effort by the CNA, representatives of media companies and media NGOs. The rules were clear and agreed by all stakeholders, although not fully respected by all media outlets during the campaign.

As a result of the recent amendments to Article 19<sup>1</sup> of the election law and of a CNA decision,<sup>28</sup> candidates were entitled to free airtime not only on public broadcast media, but also on private ones. Paid political advertisement is prohibited on broadcast media. Private broadcast media were not obliged to accept campaign spots, but if they chose to do so, they had to provide this opportunity to all contestants under equal conditions and free of charge. The same applied to the coverage of the campaign in the news: if a private broadcaster decided to cover campaigning in the news, it had to give all candidates equal access. In practice, however, provisions relating to the equal news coverage of candidates proved difficult to implement, particularly during the first-round campaign, due to the fact that some candidates were covered in the news while performing official duties, but also due to the different levels of campaign activities of individual candidates.

Private broadcast media had to inform the CNA of whether they intended to cover the campaign so that the CNA could organize monitoring of the coverage. If necessary, the CNA could impose sanctions on media that violated the law or CNA regulations.

Although the CNA reacted in a timely manner to input received from its monitoring department, CNA meetings were held only two or three times per week rather than on a daily basis: thus, some delay in the approval of sanctions occurred. The penalties and fines imposed by the CNA had a minor impact on the sanctioned media, mainly because the fines imposed were low and therefore were not a real deterrent in such a developed media market.

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<sup>28</sup> CNA Decision No. 853 of 29 September 2009, “On the Rules of Conducting the Election Campaign for the Election of the President of Romania in the Audiovisual Media”.

During the two rounds, the CNA imposed 38 fines ranging from 2,500 to 30,000 Romanian Lei (around 600–7,000 Euro) against 12 media companies for various violations of the election law and other legislation, including for breaches of the campaign silence provision. The CNA also imposed 60 sanctions against 45 media companies. The sanctions consisted of the requirement to broadcast a written notice to the public explaining the reasons for the punishment; they were not accompanied by fines. The most frequently sanctioned outlet was Antena 3, which received four sanctions and nine fines of a total of 100,000 Romanian Lei (around 24,000 Euro). On both election days, several Internet sites, including those of major media outlets, published exit poll results throughout the day, in violation of the election law.

During the first-round campaign, two independent candidates (Constantin Ninel Potîrcă and Eduard Manole) filed complaints to the Constitutional Court with regard to their access to free airtime on public television and radio. The Court accepted both complaints and ordered that airtime be granted to the candidates.<sup>29</sup> An additional complaint by Mr. Manole, also with regard to free airtime, was dismissed by the Court.

### C. OSCE/ODIHR LEOM MEDIA MONITORING

The OSCE/ODIHR LEOM started its media monitoring activities on 29 October and continued until the end of the second-round campaign.<sup>30</sup>

Taken as a whole, the media offered the electorate an ample range of political information and opinions, mainly through news and election-related programs, which enabled voters to compare candidates and their platforms and to make an informed choice.

Overall, the coverage of public television was balanced, impartial and fair.<sup>31</sup> During the three weeks preceding the first-round election day, TVR 1 granted all candidates equal access to free airtime in all its election-related broadcasts.<sup>32</sup> Special electoral programs were broadcast on a daily basis during prime time, giving all candidates the opportunity to reach out to voters. The programs' format, with journalists interviewing the candidates, allowed candidates to present their views and opinions on the main topics of the campaign. However, TVR 1 provided little campaign coverage during its regular news reporting. TVR 1 devoted 26 per cent of its political and electoral prime-time news coverage to the incumbent president;<sup>33</sup> 67 per cent of this coverage was neutral in tone, and often related to his institutional activities, while 14 per cent was positive.<sup>34</sup> Nineteen per cent of the coverage, mainly neutral or positive in tone, went

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<sup>29</sup> Mr. Manole was not given airtime because he had not explicitly requested it. With his second complaint he asked that the airtime be allocated to him retroactively, but this was dismissed. Mr. Potîrcă was given airtime only in the public TV local branches in Timișoara and Craiova, because his fax requesting airtime on the national Public TV did not arrive due to an incorrect fax number on the internet site of the latter. The Constitutional Court ruled that his request for airtime should be granted country wide.

<sup>30</sup> The media monitoring included the campaign coverage during the prime-time period (18:00–24:00 hours) of five television channels with nationwide coverage (public TVR 1, Pro TV, Realitatea TV, Antena 1, and Prima TV). The OSCE/ODIHR LEOM also monitored the campaign coverage of five national newspapers (Cotidianul, Evenimentul Zilei, Jurnalul Național, Gândul and România Liberă).

<sup>31</sup> See the Council of Europe Committee of Ministers Recommendation CM/Rec (2007) 15 on measures concerning media coverage of election campaigns: "Underlining that the coverage of elections by the broadcast media should be fair, balanced and impartial."

<sup>32</sup> News, current affairs and special election programmes.

<sup>33</sup> This figure included both coverage of the President's activities as a candidate and as a representative of the institution of president.

<sup>34</sup> The remaining share of coverage belongs to the category of tone which is not specifically mentioned in the main text, for example in this section the remaining shares of the respective coverage in this section were negative in tone.



to Mr. Croitoru's and Mr. Negoiță's attempts to form a new government. Candidates other than Mr. Băsescu received marginal coverage: Mr. Geoană received 2 per cent (95 per cent of which was neutral and 0 per cent positive)<sup>35</sup> and Mr. Antonescu, 2 per cent (73 per cent neutral and 27 per cent positive).

Overall, TVR 1 offered balanced, neutral and fair coverage of both candidates also during the second round. TVR 1 however covered the campaign in its news less than before the first round, partly reflecting the lower level of campaign activity. In its prime-time news, president Băsescu and the PD-L received 28 per cent of the coverage devoted to politics (56 per cent of which was positive and 3 per cent negative), while Mr. Geoană and the PSD received 24 per cent (64 per cent positive and 3 per cent negative); Mr. Antonescu and the PNL also played a role in the campaign and received 13 per cent of the coverage (61 per cent positive and 0 per cent negative).

During the first-round campaign, the media were generally focusing less on candidates' platforms than on the incumbent president and his management of the ongoing political crisis. Some private broadcasters, notably Realitatea TV and the Antena network, took a hostile attitude against the incumbent, providing coverage which was not balanced and lacked impartiality. This was particularly evident during the first days of the second-round campaign, when these two broadcasters, among others, repeatedly broadcast the controversial video clip showing Mr. Băsescu apparently hitting a boy during his 2004 election campaign.

Realitatea TV devoted significantly more coverage to the elections than the public broadcaster, both in its news and in other information programs. During the first round of the campaign, in its prime-time news, Realitatea TV devoted 39 per cent of the relevant time to the incumbent (56 per cent of which was negative in tone and 23 per cent positive), 12 per cent to Mr. Geoană (53 per cent positive and 28 per cent negative), and 9 per cent to Mr. Antonescu (41 per cent positive and 22 per cent negative). During the second round, Realitatea TV provided coverage that was again unbalanced. It gave 51 per cent of its news, current affairs and electoral programs to president Băsescu and the PD-L (44 per cent of which was negative in tone, with 35 per cent being positive), while Mr. Geoană and the PSD received 20 per cent (29 per cent negative, 51 per cent positive), and Mr. Antonescu and the PNL, 8 per cent (19 per cent negative, 53 per cent positive).

A similar trend, although more pronounced, was observed in Antena 1's prime-time news during the first round, where president Băsescu received 59 per cent of the coverage, 72 per cent of which was negative in tone and only 4 per cent positive. Mr. Antonescu received 6 per cent of the coverage (all neutral in tone), while Mr. Geoană's coverage was insignificant (around 1 per cent). Antena 1's prime-time news in the second round confirmed the tendency: president Băsescu and the PD-L received 74 per cent of the coverage (37 per cent was negative and only 17 per cent positive); Mr. Geoană and the PSD received 10 per cent (only 5 per cent was negative while 67 per cent was positive), and Mr. Antonescu and the PNL received 4 per cent (39 per cent was positive and 0 negative).

Private broadcasters Pro TV and Prima TV provided very limited coverage of the campaign, both in their news and in other programs. Pro TV showed a bias against the incumbent, especially before the second round, while Prima TV took a more balanced approach.

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<sup>35</sup> This figure includes both coverage of Mr. Geoană's activities as a candidate and as the Speaker of the Senate.

Although limited in number, debates among the candidates played a significant role in the political communication during the campaign. A number of debates were organized and televised during the last week of the first-round campaign. During the second-round campaign, the only debate between the two candidates took place on 3 December. The debate was well organized, with both candidates being able to present their platforms and exchanging views on previously agreed topics. This debate was watched by a significant audience and served to underline policy differences between the two presidential candidates.

Among the monitored newspapers, during the first-round campaign *Jurnalul Național* gave 83 per cent out of the total space dedicated to candidates to president Băsescu (77 per cent of it negative in tone and only 8 per cent positive), *Cotidianul* gave him 74 per cent (83 per cent negative and 3 per cent positive), and *Gândul* gave him 62 per cent (59 per cent negative and 29 per cent positive). *România Liberă* and *Evenimentul Zilei*, by contrast, provided more balanced coverage of the candidates, both in terms of space devoted to them and tone of coverage. A similar trend was observed for the second-round campaign, when *Jurnalul Național* and *Cotidianul* were again clearly biased against the incumbent, while *Evenimentul Zilei* and *România Liberă* were more balanced. *Gândul* also had a more balanced approach to the campaign during the second round, giving president Băsescu 34 per cent of the coverage (33 per cent negative and 32 per cent positive), Mr. Geoană 23 per cent (32 per cent negative and 39 per cent positive) and Mr. Antonescu 13 per cent (34 per cent negative and 38 per cent positive).

## **X. PARTICIPATION OF WOMEN**

Under the constitution, women and men enjoy equal rights, freedoms and opportunities. However, women are under-represented both in the parliament and the government; 46 of the 471 members of parliament are women (9.8 per cent), as were three of the 20 members of the coalition government formed by the PD-L and the PSD (15 per cent), and two of the 11 members of the caretaker government which was in place during the election period (18.2 per cent). None of the registered candidates was a woman, and there were only two women among the 27 nominees.

Women are better represented in the election administration; one of the two vice-presidents of the AEP is a woman. The president and the vice-president of the BEC were also women, as were five more BEC members (42.2 per cent of the 17 BEC members were women). In BEJs, 50 per cent of the presidents and 77 per cent of deputy presidents were women. Women were also well-represented in the BESVs visited by OSCE/ODIHR LEOM observers during both election days.

## **XI. PARTICIPATION OF NATIONAL MINORITIES**

According to the latest population census conducted in 2002, the total population of Romania is 21,680,974 (of which 21,655,329 Romanian citizens). Out of these, 19,399,597 are Romanians (89.5 per cent of the country's population), 1,431,807 Hungarians (6.6 per cent), and 535,140 Roma (2.5 per cent), while other nationalities (Ukrainians, Germans, Russians, Turks, Bulgarians, Greeks, Armenians, etc.) together make up slightly more than 1 per cent.

The constitution protects the rights of persons belonging to national minorities, as well as their individual rights and freedoms, regardless of race, nationality, language or religion.

A total of 20 national minorities are represented in the Council of National Minorities, a consultative governmental body. In the current parliament, the ethnic-Hungarian minority association UDMR has nine seats in the Senate and 22 seats in the Chamber of Deputies. The Chamber of Deputies also includes 18 members who represent the interests of the other 19 national minorities (the Czech and Slovak minorities are jointly represented by one MP) and are elected under a constitutional provision which establishes a special lower threshold for representatives of national minority organizations.<sup>36</sup> Two presidential candidates belonged to national minorities, Hunor Kelemen of the UDMR, who is an ethnic Hungarian, and independent candidate Constantin Ninel Potîrcă, who is a member of the Roma community.

A number of interlocutors told the OSCE/ODIHR LEOM that they expected vote buying to be an issue particularly affecting the Roma community, due to the social vulnerability of many Roma. Similar charges of widespread vote buying among Roma were made in previous elections. Furthermore, some interlocutors estimated that a considerable number of Roma do not have identity documents or are not registered with the authorities, and would thus be unable to vote. The number of such people is, however, not known, which makes it difficult to establish the veracity of those claims.

## XII. DOMESTIC OBSERVERS

The election legislation provides for domestic and international observation. The election law is silent with regard to the rights and obligations of observers before and after election day; Article 19<sup>8.9</sup> specifically mentions that observers are entitled to be in polling stations on election day, from 06:00 hours until the results protocol has been completed and signed by the BESV. Domestic observers can be put forward by non-governmental organizations (NGOs) active in the field of human rights and democratization, and by the media. Political parties and candidates do not have the right to appoint observers but the candidates themselves are allowed to observe election-day proceedings. Domestic NGOs must first be certified by the AEP as being eligible to observe and can then apply for accreditation with BEJs. The AEP certified a total of 47 NGOs as domestic observer organizations, enabling them to accredit observers with BEJs.<sup>37</sup> The Pro Democracy Association (*Asociația Pro Democrația – APD*) deployed 1,500 and 1,400 observers for the first and second round, respectively. In addition, APD monitored candidates' and parties' spending for outdoor campaign material in Bucharest and 14 cities around Romania.

Before the first round, several NGOs publicly warned that political parties may try to accredit their activists under the guise of NGO observers, in contravention of the law which provides that domestic observers may not be party members. The NGO Millennium for Human Rights Foundation, which deployed for both rounds approximately 2,000 observers in Bucharest and Ilfov county, told the OSCE/ODIHR LEOM that they would accredit sympathizers of several major parties under the organization's name. PSD officials in various counties stated publicly or in meetings with the OSCE/ODIHR LEOM that their party would have field activists accredited under the umbrella of various "foundations" on election day. This was confirmed by OSCE/ODIHR LEOM observers, who reported that on election day PSD observers were deployed under the aegis of the United Europe Foundation. NGO observers from other

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<sup>36</sup> National minority organizations are entitled to one seat in the Chamber of Deputies if they obtain, nationwide, a number of votes equal to 10 per cent of the average number of valid votes needed to elect a member of the Chamber of Deputies.

<sup>37</sup> The total number of certifications is higher since some NGOs submitted requests for their national structures as well as for local branches.

organizations also told OSCE/ODIHR LEOM observers that they represented the interests of certain candidates.

### **XIII. PRE-ELECTION COMPLAINTS AND APPEALS**

#### **A. COMPLAINTS AND APPEALS MECHANISMS**

Election-related disputes were generally handled in an efficient and timely manner, providing complainants with effective remedy. The electoral legislation foresees the resolution of election-related disputes both by the election administration and by judicial bodies. In addition, mayors can decide on complaints related to the updating and public scrutiny of the voters' lists. The BESVs have the competence to resolve complaints concerning their own activities and the voting process. The BEJs and the BEC are competent to decide on complaints against their own activities and appeals against decisions of the subordinate electoral bureaus. In both cases the BEC decisions are final. It is potentially problematic that the election law does not provide possibilities to appeal actions by the BEC beyond the BEC, as it is unlikely to deem its own actions as incorrect.<sup>38</sup> Challenges on the formation and composition of election bureaus are filed with the superior-level election bureau, and in the case of the BEC, with the High Court of Cassation and Justice. Challenges on the accreditation of observers or rejection of a request for accreditation are filed with the Tribunals. Complaints pertaining to violation of election campaign regulations are resolved by the BEJs, whose decisions can be appealed to the BEC; complaints alleging obstruction of parties, candidates or electoral alliances to conduct their campaign fall within the competency of the Constitutional Court. The Constitutional Court also adjudicates challenges against BEC decisions to accept or reject a candidacy and against BEC decisions to accept or reject a contestant's electoral sign.

#### **B. THE ADJUDICATION OF COMPLAINTS AND APPEALS**

Up to the first-round election day, the vast majority of complaints and appeals filed with BEJs and the BEC pertained to violations of election campaign regulations – in particular with regards to the locations and dimensions of election materials – and the composition of mid-level and lower-level election bureaus. The placing of posters for the referendum in spaces allocated for the presidential campaign turned out to be one of the most contentious issues in this respect. The BEC, after overturning on appeal more than 20 BEJ decisions that ordered referendum posters to be removed, issued a decision within its competence of interpreting the law. The decision stated that a candidate is entitled to put one single poster on each space allocated for that purpose, i.e. promoting either a presidential candidate or one of the two choices in the referendum - or both, by means of a single poster.

Another contentious issue, which continued to be the object of complaints and appeals up to the second round, was the content of various election posters. In cases where the logo of PSD was used without the party's consent and in cases where the content was deemed to be defamatory to president Băsescu, the BEC ordered that such posters and banners be removed. Although in at least four instances BEJs and the BEC ascertained breaches of Article 29.2 of

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<sup>38</sup> Paragraph 5.10 of the 1990 Copenhagen Document provides that "everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity". The 1991 Moscow Document stipulates that "participating States will endeavour to provide for judicial review of [administrative] regulations and decisions".

the Law on the Funding of Political Parties' Activities and Election Campaigns<sup>39</sup>, AEP imposed no sanctions.

The election law states that the decisions of the BEC shall be transmitted to the interested parties and shall be made public by posting on its website. The practice of the BEC, however, was to publish short summaries of its decisions in the form of daily communiqués, while the complete reasoning behind the decisions was only posted much later. Even though BEC decisions of this type are final, a timely publication would have enhanced the transparency of the process and of the decision making.

Before the first round, the Constitutional Court adjudicated two complaints filed by independent candidates alleging obstruction of the campaign in the media; by interpreting the law broadly, the Court provided timely and effective remedy (see above Chapter IX on Media, Subchapter B on Legal Framework for the Media).

#### **XIV. ELECTION-DAY PROCEEDINGS**

In line with standard methodology, the OSCE/ODIHR LEOM did not conduct a comprehensive and systematic observation of election-day proceedings, but visited a limited number of polling stations on both election days (22 November and 6 December 2009).

The voter turnout was 54.37 per cent of registered voters for the first round, and 58.02 per cent for the second round. During both rounds, voting in regular polling stations proceeded in a generally calm and orderly manner, and procedures were largely followed. By contrast, voting in most special polling stations visited on 22 November was problematic, with long queues and a slow processing of voters, in particular in urban centres. This appeared to be due, to a large extent, to the fact that voters in these polling stations needed to fill in up to three declarations (if they chose to vote in the presidential election and the referendum, as most voters did) that they would only vote once, and because each voter in special polling stations had to be entered into the supplementary voter lists. In some cases, a considerable number of people were queuing outside the polling station at the official time of closing the polls at 21:00 hours and were unable to vote, being effectively disenfranchised.

During the second-round election day, voting in most special polling stations visited was less problematic than in the first round; processing of voters was noticeably faster, mainly due to the fact that no other electoral event was held concurrently. Nonetheless, in a few special polling stations visited the process was again relatively slow. During both rounds, several special polling stations visited by the OSCE/ODIHR LEOM ran out of ballots during the day, having to wait for several hours for additional ballots to be sent by the BEJ.

During both election days, domestic observers present in polling stations visited could frequently not readily state which organization they represented, and some said they were observing on behalf of certain candidates or parties. During the first round, such observers were at times seen interfering in the process in some polling stations.

In polling stations visited, the vote count was conducted in a professional, orderly and transparent manner during both rounds, although minor procedural problems were noted both

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<sup>39</sup> Article 29.2 states: "The parties and the political alliances, as well as the independent candidates have the obligation to print on all the electoral propaganda material the following information: a) the name of the candidate, political party or alliance that ordered them; b) the name of that company that printed them."

on 22 November and on 6 December. Results protocols were frequently not posted at the polling station, although the election law requires this.

## **XV. AGGREGATION AND TABULATION OF RESULTS**

According to the presidential election law, BESVs have 24 hours after the closing of the polls to conduct the vote count and deliver the results protocol, together with the invalid and contested ballots, to the mid-level election bureaus. After receipt of all protocols from BESVs, the mid-level bureaus have 24 hours to submit all invalid and contested ballots, together with one copy of each BESV protocol, to the county-level court for archiving, and 48 hours to submit the results protocol for the whole county, together with another copy of each BESV protocol, to the BEC. After the last mid-level bureaus have submitted this documentation, the BEC have 24 hours to submit the final aggregated BEC protocol to the Constitutional Court for validation of the final election results.

There is no clear legal deadline for contestations of results at the level of BEJs or the BEC. The deadline is implicit and defined by the deadline for the bureaus to submit the results to the next higher instance, i.e. BEJs to the BEC and the BEC to the Constitutional Court (for the validation of the results).

For both rounds, the great majority of BESVs submitted the result protocols during the night after the closing of the polls. Although party-nominated BESV members could accompany the election materials from the polling station to the mid-level bureau, they apparently chose to do so only in a few cases. According to the election administration, it was up to the parties to instruct their BESV members accordingly.

In many cases, BESV Presidents did not always post a copy of the signed protocol in an accessible place at the premises of the polling station. When posting results protocols, BESV presidents frequently posted them on or near the entrance to the polling station proper, rather than on the main entrance of the building, where they were not readily accessible to the public (e.g. in the case of schools, in which many polling stations were located).

According to many representatives of the election administration, numerous BESVs made technical mistakes in completing the results protocols during the first round; this was also noted by OSCE/ODIHR LEOM observers. Election administration officials at the national and middle level told the OSCE/ODIHR LEOM that such problems were mainly due to insufficient training of BESV presidents and deputy presidents. In the second round, this part of the process was simplified since no other electoral contest was held concurrently. Because of this, and due to re-training of BESV presidents, fewer mistakes were recorded in the second round.

Problems noted in compiling the results protocols were typically related to minor mathematical mistakes in checking whether the figures in the protocol added up correctly. In a few cases where the figures could not be reconciled,<sup>40</sup> the BESVs were ordered by the mid-level bureaus to conduct a recount,<sup>41</sup> or to establish again the number of persons who voted.<sup>42</sup> In both rounds,

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<sup>40</sup> One example is when the number of received ballots would not match the sum of valid, invalid and unused and spoiled ballots, e.g. due to mistakes in counting or as a result of the BESV not accounting for the one annulled ballot posted on the entrance of the polling station as a sample.

<sup>41</sup> For instance, if the number of valid votes did not match the sum of votes cast for all the candidates.

mid-level bureaus generally conducted the tabulation procedures professionally and expeditiously. However, in some cases the process of reception and first checks of protocols seemed disorganized, usually due to the limited size of the premises.

All protocols were processed electronically at the mid-level election bureaus. The centralized electronic results database was located in the BEC premises and maintained by staff of the National Institute of Statistics (*Institutul Național de Statistică*, INS). During the processing of BESV protocols in the mid-level bureaus, INS staff scanned and digitally stored all BESV protocols. By decision of the BEC, access to the processing and tabulation room in the mid-level bureaus was allowed only to the BEC and members of the mid-level bureaus, as well as persons given access under the discretion of the president of the mid-level bureau in question. Accredited observers could only be present in areas designated by the presidents of mid-level bureaus.<sup>43</sup> While in the majority of cases, OSCE/ODIHR LEOM observers were allowed to visit and observe the electronic tabulation process, such access was usually not granted to domestic observers, thus reducing the transparency of an important part of the process.

According to a BEC decision, the parties and candidates contesting the election had the opportunity to receive, through the mid-level election bureaus, compact discs (CDs) with electronic copies of all BESV results protocols, but only after the protocol of the mid-level bureau was completed, which typically occurred within 48 hours after the polls were closed.

By decision of the BEC, the first preliminary partial results for both rounds were published at 08:00 hours in the morning after election day, and updated partial results were published at regular intervals as additional BESV protocols were added to the results database, until all protocols had been processed by the mid-level election bureaus and transmitted to the BEC.

In both rounds, the BEC chose not to publish the results by polling station immediately after publishing the preliminary results on the morning after election day, arguing that the initial results could change if there were contestations or if an error was discovered later on. Instead, the BEC published the results by polling station after the results of each round were finalized for the whole country.

On 25 November, the BEC announced the final results of the first round, which were validated the following day by the Constitutional Court. The two candidates receiving the highest number of votes and thus contesting the second round were President Băsescu and Mr. Geoană.

After the second round, preliminary results indicated a very close race, with the incumbent slightly ahead. The PD-L and the PSD both released parallel vote tabulation results, according to which their candidate had narrowly won. The PSD subsequently claimed that a high number of irregularities had occurred and announced that it had asked its BEJ members not to sign the results protocols. In total, PSD did not sign the mid-level results protocols in 16 out of 48 BEJs. Moreover, PNL representatives did not sign them in 12 BEJs and the UDMR representatives left them unsigned in four.

The results protocol for voting abroad was initially signed only by five members of the Election Bureau for Polling Stations Abroad. The members nominated by five political parties decided to contest the results and asked for a recount of all ballots cast abroad. The Election

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<sup>42</sup> For instance, if the number of ballots found in the ballot box was greater than the number of signatures on the voter lists, the BESV needed to recheck the total number of signatures on the voter lists and/or recount the ballots.

<sup>43</sup> Article 19<sup>8</sup>.10 of the presidential election law.

Bureau for Polling Stations Abroad argued that recounts would be effective only if they would be conducted under its supervision in Bucharest, and asked the BEC for an exemption from a previous BEC decision which stated that any recounts should be conducted by the BESV members themselves.<sup>44</sup> The BEC instructed them against doing so, as the BEC's decision was final. Subsequently, the election bureau ordered a recount in only one polling station abroad, in which the BESV president himself had not been sure that the results protocol correctly reflected the election results.

## XVI. POST-ELECTION COMPLAINTS AND APPEALS

According to the Ministry of Administration and the Interior (MAI), the police received 1,435 reports on election-related incidents on the first-round election day; upon verification, the police confirmed that 724 of these incidents had taken place. Fines were imposed in 121 cases of minor administrative offences, mostly concerning campaigning during the campaign silence period and selling alcohol in the vicinity of polling stations.<sup>45</sup> The police was notified of 159 cases of suspected criminal offences including cases of suspected multiple voting involving 312 individuals.

On the second-round election day, fines were imposed in 269 cases of minor offences. The police undertook investigations of 200 reported criminal offences, of which 78 alleged vote buying. As of 7 December, the files on these criminal offences were about to be taken over by the Prosecutor's Office. Two persons were detained for election-related criminal offences: one in Săcele (Braşov county), caught *in flagrante* attempting to vote for a second time, and one in Ştefăneşti (Argeş county) on charges of vote buying. Police units identified 279 persons suspected of having committed multiple voting. With regard to cases of suspected multiple voting, thorough investigations can only be conducted once the AEP has processed the copies of all the voter lists used on election day, which is expected to take several months.

The Constitutional Court validates the elections and ensures the publication of the results in the media and the Official Gazette. Political parties and candidates that participated in the election may, within three days of the closing of the polls, file petitions with the Constitutional Court requesting the annulment of the election, in case they believe fraud was committed to such an extent that it could potentially have altered the order of the candidates to contest the second round or the allocation of the presidential mandate. Three petitions were filed after the first round. The Greater Romania Party and independent candidate Constantin Ninel Potîrcă requested the annulment of the first round, the former on the grounds of alleged irregularities, and the latter on the grounds that the Constitutional Court did not examine a petition he filed before the first round on the alleged unconstitutionality of certain provisions of the election law. The Court dismissed both petitions as groundless, since no evidence supporting the claims was provided. The PSD requested the annulment of the election in four polling stations in the commune of Slatina (Suceava county), due to irregularities. These irregularities were also ascertained by the Suceava BEJ, which replaced the presidents of polling stations in question. Since the election law only foresees the annulment of an election for the entire country, the

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<sup>44</sup> On 29 October, the BEC adopted Decision 50 which stated that any potential recounts must be conducted only by the members of the respective BESVs.

<sup>45</sup> The election law bans selling or consuming alcohol within 500 meters of a polling station during voting hours.



Constitutional Court dismissed the petition, noting that in any case, these irregularities had been rectified and did not affect the results.

The Constitutional Court, according to Art. 24.4 of the election law, shall resolve complaints by the date set by law for making the election results public. Such a date is clearly established with regards to the first round (Art. 26.2), but not for the second round. Under previous legislation, the date could be established in conjunction with the parliamentary elections law that was applied concurrently; subsequent amendments have resulted in a gap in the law.

On 8 December, the Political Alliance of the PSD and the Conservative Party (PC) filed a petition with the Constitutional Court, asking for the annulment and the repetition of the second round. The PSD asserted that 263,170 votes were the outcome of election fraud and that consequently, the election result was altered. The arguments in support of the claim were the high number of invalid ballot papers; the high number of votes cast in special polling stations, which according to the petitioner indicated that proper voting procedures were not followed; the results from the polling stations abroad which were different from those in Romania, as well as reports of irregularities abroad indicating multiple voting; incorrect and nonexistent personal identification numbers in voter lists; and numerous corrections of polling stations protocols. On 11 December, the Constitutional Court ordered the BEC to conduct a recount and re-examination of all invalid ballots. The recount was concluded on 14 December. Of 138,476 invalid ballot papers, 1,260 were found to be valid in favor of Mr. Băsescu, and 987 in favor of Mr. Geoană.

With regard to the remaining claims, the Court found that the assertion pertaining to special polling stations had not been proven and furthermore did not take into account the particular circumstances, such as multiple voting booths and stamps that enabled the processing of a high numbers of voters. As to the polling stations abroad, the Court held that the result itself does not constitute electoral fraud but pertains to the voters' choice. Reports and declarations of individuals denouncing fraud submitted to the Court as evidence did not indicate the competent authority with which they were filed, or whether they were filed at all. As to the corrections of polling station protocols, the Court found that they were performed in accordance with the provisions of the law.

The Constitutional Court also adjudicated two requests by the PSD and PC branches of Caraș-Severin county for recounts in five polling stations on grounds of fraud, and one complaint by the PSD and PC branches in Arad claiming multiple voting had taken place. These requests had been forwarded by the BEC, which deemed they were not within its own competence. The Court rejected all three requests as inadmissible. The case of Caraș-Severin was rejected on the grounds that the decision for a recount at the polling-station level and the repetition of the tabulation lies exclusively with the BEC, and can only be ordered in case errors or discrepancies are observed in the protocols. In a departure from previous decisions, the Court decided in the case of Arad that the complainant did not have the right to address the Constitutional Court, being a local organization of a political alliance; it did not therefore examine the merits of the petition, although it found that the object of the petition falls within the Court's competence. In effect, these complaints remained unaddressed.

On 14 December, the Constitutional Court established and made public the election results, as modified after the re-examination of invalid ballot papers, and on 16 December validated the election of Traian Băsescu.

## XVII. RECOMMENDATIONS

The following recommendations are offered for consideration by the authorities, political parties and civil society of Romania, in further support of their efforts to improve the conduct of elections. The OSCE/ODIHR stands ready to assist the authorities and civil society in these efforts.

### A. LEGAL FRAMEWORK

1. The electoral legal framework could benefit from the adoption of a consolidated election code that would regulate all types of elections, including referenda. This would eliminate inconsistencies and *lacunae* generated by the concurrent application of several pieces of legislation. This electoral code could be adopted by parliament in an inclusive manner after due deliberation and consultation with all stakeholders.
2. Any amendments to electoral legislation should be enacted well ahead of an election, by the parliament. The practice of amending electoral legislation by government Emergency Ordinances should be avoided.

### B. ELECTION ADMINISTRATION

3. For a presidential election, in order to improve the equality of access of all candidates to the election process, independent candidates could be given the right to nominate members to election bureaus, in a manner similar to the one currently used for political parties not represented in the parliament.
4. Consideration could be given to either reinforcing the AEP with additional resources in order to fulfill its duties more efficiently or to replacing the current system of dual administration with a more permanent, professional election administration. In any case, the election administration should continue to be pluralistic and include representatives of stakeholders, in particular political parties and/or candidates.
5. The election legislation could be amended to introduce unambiguous criteria for the selection of BESV presidents and deputy presidents, such as the level of legal and other education and previous relevant experience. The responsibility for the selection and training of the presidents and their deputies should rest with the AEP. Consideration could be given to creating a roster of candidates for these positions. In this case, nominations could possibly also be put forward by other state and local institutions and NGOs. If such a roster is created, people included in it should be trained on a regular basis, rather than only shortly before an election day.
6. Electoral matters pertaining to the technical organization of the election process, such as the format of voter lists and ballots, and the number and location of polling stations, should not be regulated by government decisions. Such matters should be regulated by the election law and be implemented by resolutions and decisions of the highest-level election administration body, in consultation with local and state authorities, where needed.

**C. VOTER REGISTRATION**

7. In order to prevent the possibility of multiple voting in polling stations abroad, consideration could be given to amending the election legislation to register voters who intend to vote in a polling station abroad at Romanian diplomatic missions before election day and deregister them from their place of permanent residence.

**D. CANDIDATE REGISTRATION**

8. Consideration could be given to amending the election law to allow a voter to give supporting signatures to more than one potential presidential candidate. The election authorities should introduce a mechanism for checking the entries in the support signature sheets, perhaps through inspection of a sample. Such a mechanism could be established in good time before the actual verification of supporting signatures and could be communicated to all stakeholders. If necessary, relevant deadlines could furthermore be reviewed and adjusted in order to allow for a thorough verification.
9. The determination of the order of the candidates on the ballots could be reconsidered in order to ensure equal treatment of all presidential candidates, e.g. by drawing lots among all candidates, or by placing candidates in alphabetical order.

**E. ELECTION CAMPAIGN**

10. In order to enhance the accountability of political parties and the overall transparency of the election process, consideration could be given to revising the Law on the Funding of Political Parties' Activities and Election Campaigns so as to include a requirement of periodic reporting on campaign expenditures during the campaign and before election day.

**F. MEDIA**

11. In order to increase awareness and ensure implementation of the rules regulating broadcast media during the campaign, consideration could be given to incorporating the rules for conducting the campaign in the broadcast media directly into the election legislation.
12. Consideration could be given to significantly raising the minimum and maximum limits for fines so that they are appropriate to the Romanian media context and represent a proper deterrent.
13. Consideration could be given to including experts in the field of media analysis nominated by independent media institutions, such as journalists' trade unions or NGOs active in the field of media, in the composition of the CNA.
14. Consideration could be given to strengthening the CNA's media monitoring department, both in terms of allocation of funds and of *ad hoc* training in quantitative and qualitative content analysis. This would enable the CNA to better assess whether broadcasters comply with their detailed legal obligations during a campaign.
15. During the official campaign period, the CNA could consider holding daily sessions, in order to avoid delays in addressing possible violations of media-related provisions of the election law.

## **G. VOTING, COUNTING AND TABULATION AND ANNOUNCEMENT OF RESULTS**

16. The authorities should consider introducing additional mechanisms to effectively prevent any possibility for multiple voting. The authorities might consider limiting the possibility of voting to a duly registered residence. If the authorities want to retain the possibility for a voter to vote in polling stations other than the one where s/he is registered, stronger and more effective safeguards should be devised to prevent the possibility of multiple voting. To this end, the re-introduction of voter cards could be considered.
17. The election law could be amended to clearly state the conditions and timeframe for conducting recounts. In order to ensure the integrity of establishing correct results, the election law should provide for the possibility of recounts conducted or supervised by a higher-level election administration body.
18. Steps could be taken to amend the election law in order to allow those waiting in line at the time of closing of the polling stations to vote.
19. In order to further the possibility for homebound voters to exercise their voting rights, consideration could be given to allowing for the submission of applications for mobile voting for a longer period than the current two-hour slot on the day before election day.
20. The election law could be amended to provide for the publication of BESV protocols by polling station on the BEC or AEP website as soon as possible, but at the latest at the time of publishing the preliminary results. This measure would allow observers to verify that results were reported honestly and accurately.
21. The election law could benefit from providing for the posting of BESV result protocols in a clearly visible and easily accessible location at each polling station.
22. Voters who are patients in hospitals should not be *de facto* deprived of their voting right. Consideration could be given to allowing such people to vote using a mobile ballot box, similar to the existing arrangements for detainees and prisoners with the right to vote.

## **H. COMPLAINTS AND APPEALS**

23. In order to ensure the right of candidates to seek effective and timely remedy, greater clarity is needed with regards to rules on complaints and appeals, in particular during the tabulation of results. To this end, a set of clear deadlines for complaints and appeals pertaining to election results could be provided in the election law. It could be clearly noted who can submit such contestations to which body and when. All BEC decisions, including on complaints against its own activities, should be subject to judicial review in line with OSCE commitments.
24. Clear deadlines should be established with regard to the resolution of petitions brought before the Constitutional Court after the second round of a presidential election in order to ensure effective and timely remedy.

25. Consideration could be given to revising the law in order to provide the possibility to annul an election in specific polling stations if the extent of irregularities raises questions on the integrity and authenticity of the result. The annulment of an election countrywide could be examined at a second stage if the annulment of the election in specific polling stations may have affected the result.

**I. ELECTION OBSERVATION**

26. In order to increase the scrutiny of the election process by political parties and the overall level of transparency, the election law could be amended to allow political parties and independent candidates to accredit observers. This would serve to keep a clear distinction between non-party observers and observers nominated by political party stakeholders since the current system does not effectively prevent political parties from accrediting supporters under the guise of NGO observers.
27. Consideration could be given to specifically providing for domestic and international observation of the entire election process, rather than just to election-day proceedings in polling stations.

ANNEX: ELECTION RESULTS

	First Round	Second Round
<b>Total number of registered voters on permanent voter lists</b>	18,293,277	18,303,224
<b>Total number of registered voters who turned out to vote</b>	9,946,748	10,620,116
<i>Number of voters registered on permanent voter lists who turned out to vote</i>	9,122,896	9,586,040
<i>Number of voters who voted in a polling station other than that of their permanent place of residence</i>	789,250	986,887
<i>Number of voters who voted using the mobile ballot box</i>	34,602	47,189
<i>Turnout in per cent</i>	54.37	58.02
<b>Total number of valid votes</b>	9,718,940	10,483,815
<b>Number of invalid votes</b>	227,446	136,229
<i>Invalid votes in per cent of votes cast</i>	2.29	1.28

Candidate	First Round		Second Round	
	Votes	Per cent	Votes	Per cent
Traian Băsescu (PD-L)	3,153,640	32.45	5,277,068	50.34
Mircea Geoană (Political Alliance PSD+PC)	3,027,838	31.15	5,206,747	49.66
Crin Antonescu (PNL)	1,945,831	20.02		
Corneliu Vadim Tudor (PRM)	540,380	5.56		
Hunor Kelemen (UDMR)	372,764	3.84		
Sorin Oprescu (independent)	309,764	3.19		
George Becali (PNG-CD)	186,390	1.92		
Remus Cernea (PV)	60,539	0.62		
Constantin Rotaru (PAS)	43,684	0.45		
Gheorghe-Eduard Manole (independent)	34,189	0.35		
Ovidiu-Cristian Iane (PER)	22,515	0.23		
Constantin-Ninel Potîrcă (independent)	21,306	0.22		

The results for the second round reflect the final results protocol, as amended following the decision of the Constitutional Court which called for a recount of all invalid ballots.

[Source: BEC website ([www.bec2009p.ro](http://www.bec2009p.ro)), Constitutional Court website ([www.ccr.ro](http://www.ccr.ro))]

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the 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.

The OSCE/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 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates 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 standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/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. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/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 persons, 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**, the OSCE/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. The OSCE/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.

The OSCE/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](http://www.osce.org/odihr)).