



Office for Democratic Institutions and Human Rights

THE CZECH REPUBLIC

PRESIDENTIAL ELECTION
13-14 and 27-28 January 2023

ODIHR Election Expert Team
Final Report



Warsaw
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**THE CZECH REPUBLIC
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ODIHR Election Expert Team Final Report¹

I. EXECUTIVE SUMMARY

Following an invitation from the government of the Czech Republic and based on the recommendation of the Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Expert Team (EET) to follow the 2023 presidential election. The ODIHR EET assessed the regulation of campaign finance, the election campaign and its coverage in the media and the campaign on social networks.

On 1 July 2022, the president of the Senate officially called the presidential election for 13-14 January 2023. In two rounds, voters elected a president for a five-year term. Nine candidates, including one woman, stood for the election providing voters with a wide variety of choices across the political spectrum. All ODIHR EET interlocutors expressed full confidence in the professionalism and impartiality of the various state institutions dealing with the administration of elections.

All candidates were able to campaign freely, both offline and online, and fundamental freedoms were respected. The campaign was competitive but divisive, and voters could make an informed choice in both rounds, although in the second round, the campaign became more confrontational, negative and tense. While separate instances of manipulative information appeared in the campaign, election-related disinformation, including online, was not widespread. The overarching campaign topic was the war in Ukraine and its impact on issues of national security, energy independence, inflation, and social services. The main methods of campaigning were via social networks, televised/radio debates, small in-person meetings and large public events.

The campaign finance regulations provide for transparency. The law limits campaign expenditures, prohibits anonymous contributions and provides for reporting and disclosure requirements. However, certain areas would require further regulation, including limits for individual donations and funding from foreign sources. The Office for the Oversight of Financing of Political Parties and Movements oversees campaign finances and enjoys overall confidence but lacks the capacity to perform its mandate effectively.

Freedom of expression and access to information is respected overall, but retaining defamation as a criminal offence is not in line with international standards. The media landscape is vibrant, yet the concentration of major media houses in the hands of local businesspersons casts a shadow over their editorial independence and media pluralism. Insufficient funding of public broadcasters is of serious concern. The media treated contestants fairly and fulfilled their watchdog function. Positively, no attacks on journalists were reported during the campaign.

This report offers recommendations to support efforts to further align elections in the Czech Republic with OSCE commitments and other international obligations and standards for democratic elections. ODIHR stands ready to assist the authorities in addressing the recommendations contained in this and previous reports.

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

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the government of the Czech Republic and based on the findings and conclusions of the Needs Assessment Mission (NAM) conducted from 10 to 13 October 2022, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Expert Team (EET) to observe the 13-14 January 2023 presidential election. The ODIHR EET consisted of three experts drawn from three OSCE participating States and stayed in the country from 5 January to 1 February to follow both the first and second rounds of the presidential election.²

The ODIHR EET assessed the election campaign and its coverage in the media and the campaign on social networks as well as campaign finance.³ Therefore, the report is limited in scope and does not offer an overall assessment of the electoral process. The specific areas under review were assessed for their compliance with OSCE commitments and other international obligations and standards for democratic elections, as well as with national legislation. In line with the ODIHR methodology, the ODIHR EET did not undertake a comprehensive and systematic observation of the election day procedures. This final report should be read in conjunction with the 2022 ODIHR NAM report and previous ODIHR reports, which provide additional details and recommendations on the electoral process in the Czech Republic.⁴

ODIHR wishes to thank the Ministry of Foreign Affairs, the Ministry of the Interior (MoI) and other authorities for their assistance and cooperation. The ODIHR EET also wishes to express gratitude to representatives of candidates, media, civil society and other interlocutors for sharing their views.

III. BACKGROUND

The Czech Republic is a parliamentary republic, with a government led by the prime minister who is appointed by the directly elected president. The bicameral parliament is composed of the Senate (upper chamber), with 81 senators directly elected for a six-year term, and the Chamber of Deputies (lower chamber) with 200 members (MPs) directly elected for a four-year term. The 2021 elections to the Chamber of Deputies (parliamentary elections) resulted in a rightward shift in power as the coalition *SPOLU* composed of centre-right and right-wing parties together with the Pirate Party and Movement of Mayors and Independents (STAN) formed the government.⁵ Women remain under-represented in public offices.⁶

² The first round took place on 13 and 14 January and the second round - on 27 and 28 January.

³ The ODIHR EET did not conduct a systematic media monitoring or monitoring of social networks but regularly followed the profiles of all candidates and relevant government institutions.

⁴ See previous ODIHR [election-related reports on the Czech Republic](#).

⁵ Parties within the *SPOLU* coalition included Civic Democratic Party (34 seats), Christian Democratic Party (23 seats) and TOP 09 (14 seats). The liberal coalition included the centre-right STAN (33 seats) and Pirate Party (4 seats). The previous ruling movement ANO received 72 mandates, while the right-wing Freedom and Direct Democracy party received 20 seats.

⁶ Women hold 52 seats out of 200 MPs (26 per cent), including the position of the speaker of the Chamber of Deputies, and 3 out of 6 deputy speakers, as well as 15 out of 81 Senators (18.5 per cent). Women hold only 2 out of 18 ministerial posts. The [UN Human Rights Committee 2019 Concluding Observations](#) (Paragraphs 18 and 19) previously expressed concern about the persistently low representation of women in public and political life in the Czech Republic, and noted the absence of temporary special measures to reverse this trend. The Government [Gender Equality Strategy for 2021-2030](#) acknowledges that the current soft measures aimed at increasing the participation of women in politics are proving ineffective (see Paragraph 4.1.1).

The president is elected directly by citizens for a five-year term under a two-round system and can serve for a maximum of two consecutive terms.⁷ A candidate receiving more than 50 per cent of valid votes in the first round is elected president. Otherwise, a second round is held two weeks later between the two leading candidates when the candidate receiving the greatest number of votes is elected.

The MoI originally registered nine candidates, two of whom were women.⁸ Subsequently, the Supreme Administrative Court cancelled the registration of one woman candidate and registered a candidate previously rejected by the MoI, thus maintaining the total number of candidates at nine.⁹

IV. ELECTION CAMPAIGN

The campaign officially started on 1 July, following the announcement of the election by the president of the Senate. Candidates campaigned freely, and voters had a wide variety of choices across the political spectrum.¹⁰ Several interlocutors informed the ODIHR EET that the prolonged campaign might benefit candidates from well-established parties.¹¹ Registered third parties campaigned independently in support of or against specific candidates.¹² According to most ODIHR EET interlocutors, despite prior concerns, there was no evidence of direct foreign interference in the election.

There is no campaign silence period.¹³ By law, political advertising, including on social networks, should clearly indicate who commissioned the advert and who paid for it. In addition, the law stipulates honesty and integrity in the conduct of the election campaign and prohibits the publication of untruthful information about candidates.¹⁴ Besides the internal corporate guidelines and policies of social networks, there are no self-regulatory mechanisms for campaigning on social networks for candidates or media covering the campaign. Campaign regulations for print and broadcast materials were respected. According to most ODIHR EET interlocutors, the amounts spent on political advertising on social networks were reasonable.

The overall campaign, both offline and online, was competitive but divisive, and voters could make an informed choice in both rounds.¹⁵ The overarching theme throughout the campaign was the war

⁷ In 2012, the constitution was amended to allow for the direct election of the president by voters instead of by the parliament. The first direct presidential election took place in 2013. President Miloš Zeman held the office for the second consecutive term and was not eligible to stand as candidate.

⁸ Voters at least 40 years old on the second voting day may stand as candidates. The nomination of candidates should be supported by a group of at least 20 MPs, or 10 senators, or by at least 50,000 voters.

⁹ Candidate Josef Středula dropped out of the campaign on 9 January and endorsed Danuše Nerudová. The only woman candidate did not proceed to the second round.

¹⁰ The Constitution and the Charter of Fundamental Rights and Freedoms guarantees fundamental freedoms of expression, peaceful assembly and association.

¹¹ The election campaign lasted seven months, whereas candidates had to submit their applications for registration no later than 66 days prior to the date of the election. The MoI had to take final decision regarding registration no later than 49 days prior to election day. According to the MoI, most prospective candidates who intended to collect the supporting signatures, including those eventually not registered, launched campaign activities even prior to the official call for election.

¹² By law, natural or legal persons may also register as a third party and independently campaign in favour or against any candidacy. See a complete [list](#) of registered third parties.

¹³ Election Law prohibits publication of opinion polls in the last three days before the election and on election days before the closure of the polls. Campaigning at the polling premises and immediate vicinity is not allowed.

¹⁴ Article 35.4 of the Election Law stipulates the “election campaign must be conducted with integrity and honesty, in particular, false information about the candidates must not be published”.

¹⁵ A 68 per cent turnout in the first round, the third highest in the last three decades, indicated a strong voter interest in the candidates, campaign issues and the presidential election.

in Ukraine and its impact upon issues of national security, energy independence, inflation, and social services. Several ODIHR EET interlocutors referred to ongoing public debates about whether the country needs a direct presidential election given the limited constitutional powers of the president.

The main methods of campaigning were via social networks, televised/radio debates, and small in-person meetings; in the second round, also large public events and rallies took place, sometimes attended by supporters of both contenders and resulting in confrontations and altercations that were extensively covered by the media. According to ODIHR EET interlocutors, none of the campaigns utilized easy-to-read or other accessible materials to communicate with persons with disabilities.¹⁶

To strengthen the electoral participation of persons with disabilities, political parties should provide their programmes, campaign messages and materials in accessible and easy-to-understand formats. Legal or financial incentives could be introduced to encourage accessible campaign content.

The campaign was moderate in the first round, but more negative, tense and punctuated by controversies and personal attacks in the second round.¹⁷ In a parliamentary manoeuvre viewed as a campaign strategy by many ODIHR EET interlocutors, the movement ANO initiated a vote of no confidence in the current government, which was unsuccessfully held immediately after the first round.¹⁸ Threats of violence were reported by two campaign offices, including against the only woman candidate who also faced sexist criticism during the campaign.¹⁹

Violence against women in the campaign should be recognised by political parties and institutions as a barrier to women's political participation. Consideration should be given to strengthening existing proactive and preventive measures against such actions.

The campaign on social networks was very prominent in both rounds of the election.²⁰ Presidential campaigns utilized different platforms based upon the preferences of their targeted voters.²¹ The online campaign was sometimes personal in nature and also used to counter or refute information spread by opponents.²² According to most ODIHR EET interlocutors, election-related online

¹⁶ Article 38 of the [General Comment on Article 9: Accessibility](#) by the UN Committee on the Rights of Persons with Disabilities states that “It is also important that political meetings and materials used and produced by political parties or individual candidates participating in public elections are accessible. If not, persons with disabilities are deprived of their right to participate in the political process in an equal manner”. The recommendation [CM/Rec\(2011\)14 of the Council of Europe Committee of Ministers](#) on the participation of persons with disabilities in political and public life calls member States to require political parties “to ensure that persons with disabilities have access to information on political debates, campaigns and events which fall within their field of action”.

¹⁷ For example controversies that featured in the campaign included: in a lengthy proceeding, Andrej Babiš was acquitted of EU subsidy fraud during the first round of the election; Ms. Nerudová was reported to be linked with cases of academic impropriety during her tenure as a university rector; Mr. Fischer was accused of homophobia. The level of engagement with the former communist regime that Mr. Babiš and Petr Pavel had came up frequently in the campaign. Mr. Pavel also called into question the personal integrity and morality of Mr. Babiš.

¹⁸ Mr. Babiš is the leader of the opposition movement ANO. An unsuccessful vote of no confidence was also held against Prime Minister Fiala's government in September 2022.

¹⁹ Some ODIHR EET interlocutors indicated that Ms. Nerudová's physical appearance was frequently highlighted on social networks. According to Mr. Babiš's public statements, he received threatening letters and informed the police. Earlier in the campaign, Ms. Nerudová's team also announced receipt of threatening letters.

²⁰ Several ODIHR EET interlocutors described this campaign as the first one so prominent on social networks.

²¹ For example, according to some ODIHR EET interlocutors, all of the campaigns used *Facebook*, but Mr. Pavel and Ms. Nerudová used *Instagram* more extensively; Ms. Nerudová used *TikTok* to target younger voters.

²² For example, candidates featured posts about their daily lives, families, pets and other personal characteristics unrelated to the public campaign issues. Many posts also sought to directly counter perceived misinformation distributed by their electoral opponents and others.

disinformation was not widespread.²³ However, some indicated that increasingly used private online communication channels, such as chain emails, text messages, private groups on social networks and messengers, were a source of disinformation and misinformation, and some candidates and third parties disseminated inaccurate information. A new element of disinformation on social networks was altered visual content, including faked videos of candidates' speeches.²⁴ Positively, fact-checking activities online and by the media may have reduced the impact of disinformation.²⁵

Relevant authorities monitored social networks and cyber-infrastructure for misinformation, disinformation and cyber-attacks; however, no serious incidents were reported.²⁶ *META* informed the ODIHR EET that it did not encounter any cases of coordinated inauthentic behaviour or foreign interference during the election campaign on *Facebook*, *Instagram* or *WhatsApp*.

V. CAMPAIGN FINANCE

Political finance is adequately regulated by the Law on Political Parties and Political Movements, and presidential campaign finance - by the Law on the Election of the President. The Office for the Oversight of Financing of Political Parties and Movements (Office for Oversight) is the independent administrative authority, which oversees campaign finances for political parties and movements and presidential candidates.²⁷

A. FUNDING SOURCES AND EXPENDITURES

Presidential candidates may finance their campaigns from private donations, including from natural and legal persons, and use their own funds and loans. Anonymous donations are prohibited. No direct public funding is provided for candidates; however, they may receive donations from publicly funded political parties or movements.²⁸ The law does not set a ceiling on campaign donations (cash or in-kind) to candidates.²⁹

²³ For example, on the eve of the second round, emails circulated reporting Mr. Pavel's untimely death; the false emails were reported to the police which launched an investigation.

²⁴ For example, a fake video of Mr. Pavel giving a speech allegedly calling for military mobilization first appeared in the *Telegram* channel "NoČT24", which, after the elections, the Ministry of Interior's [identified](#) as a new account of Russia's state-sponsored propaganda outlet Sputnik. The same fake speech was then shared on the *Facebook* account *Jsem zděšena!* with 17,000 followers.

²⁵ *Facebook's* local fact-checking partner, NGO [Demagog](#), marked fake video content and warned that it could mislead people.

²⁶ The MoI published a [summary of findings](#). The Statistical Office issued [public outreach statements](#) about Denial of Service (DoS) attacks upon their website to educate the public that their internal election results processing systems were not actually hacked. According to the National Office for Cyber and Information Security, while the number of DDoS attacks in campaign period exceeded the long-term average, no large-scale incidents took place.

²⁷ The Office for Oversight consists of a chairperson and four members, all appointed by the president. In January 2023, following expiry of relevant mandates, the president appointed a new chairperson and three new members.

²⁸ In 2021, all eligible political parties and movements received a total of CZK 1 billion (around EUR 42 million; EUR 1 is approximately CZK 24.5 (Czech *Koruna*)) in direct public funding, based upon the results of the previous parliamentary and regional elections. One part of this amount is an election-based instalment, granted only for the year of the parliamentary elections, dependent upon the number of votes received on previous elections.

²⁹ Paragraph 211 of the [2020 ODIHR and Venice Commission Joint Guidelines on Political Party Regulation](#) reads that "Limits have historically been placed on funding, in an attempt to limit the ability of particular categories of persons or groups to gain political influence and influence the decision-making process through financial advantages". Further, Paragraph 213 provides that "[r]easonable limitations on private donations may include the determination of a maximum amount that may be contributed by a single donor. Such limitations have been shown to be effective in reducing the possibility of corruption or the purchase of political influence".

To avoid undue influence by donors consideration could be given to introducing reasonable limits on individual donations from natural and legal persons for presidential campaigns.

Any donation for a political party (but not for candidates) above CZK 1,000 (around EUR 42) requires a donation agreement. Cash donations to political parties not exceeding CZK 5,000 are permitted, provided that the money is deposited to the bank account before incurring any expenses. While loan amounts or sources are not limited for presidential campaigns, the candidates and political parties must also follow disclosure and reporting requirements to the Office for Oversight.

Foreign donations are prohibited for political parties but not regulated for presidential candidates, at odds with international good practice.³⁰ Most ODIHR EET interlocutors expressed serious concerns regarding the potential negative impact of the foreign funding of the candidates' campaigns.

Consideration should be given to regulating foreign donations for presidential campaigns.

Electoral expenses are capped at CZK 40 million for each candidate in the first round of the election, and an additional CZK 10 million for the two candidates in the second round. Most ODIHR EET interlocutors found this limit reasonable.³¹ This ceiling covers expenses to be paid for campaign purposes, including those incurred by third parties that campaigned with the candidates' knowledge.

A natural or legal person who intends to participate in the campaign without the candidate's knowledge or consent is required to register as a third party at the Office for Oversight and open a dedicated bank account. A registered third party can only begin campaigning on the day following registration.³² They are also required to identify themselves in the election campaign.³³ The spending limit for registered third parties is set at CZK 800,000 for the first round, and an additional CZK 200,000 for the second round.

Every political party supporting a candidate is required to set up a transparent special account to accept financial donations or state contributions of any amount.³⁴ Within five days of the official announcement of their intention to stand, presidential candidates are required to establish a dedicated single electoral account for recording all campaign contributions and expenditures. A candidate's website should provide public access to this electoral account and all the transactions reflected there. Registered third parties also notify the Office for Oversight where their transparent accounts and campaign finance reports will be accessible online.³⁵

³⁰ Article 7 of the [2003 Council of Europe Recommendation Rec\(2003\)4 of the Committee of Ministers on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns](#) provides that "states should specifically limit, prohibit or otherwise regulate donations from foreign donors". With reference to this Recommendation, Paragraph 229 of the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#) states: "Donations from foreign sources to political parties may be prohibited by domestic legislation".

³¹ Based on [Meta's advertising disclosures](#), between 23 October 2022 and 20 January 2023, all candidates spent a combined sum of CZK 6,427,402 (around EUR 270,000). At the same time, the candidates spent some CZK 5 million on [Google political advertising](#).

³² A case regarding the constitutionality of the need for third parties to register before campaigning was pending consideration by the Constitutional Court during the campaign ([Case Pl. ÚS 92/20](#)).

³³ Article 35.5 of the Law on the Election of the President requires the consistent display of the name and the registration number of the registered third party assigned by the Office for Oversight in their campaign materials.

³⁴ The accounts must display all payment transactions, including the purpose of the payments.

³⁵ Information about accounts of registered third parties is published on the [webpage](#) of the Office for Oversight.

B. REPORTING AND OVERSIGHT

Two days prior to the first day of voting, all candidates had to submit to the Office for Oversight a report of all entities that covered or would cover their campaign-related expenses and who provided donations or in-kind contributions for the benefit of the candidate. According to the Office for Oversight, only four of the nine candidates fully complied with their obligation to disclose their donors and supporters, limiting the transparency of campaign finances.³⁶

Candidates are required to submit campaign finance reports to the Office for Oversight within 90 days following the announcement of official election results and to publish these reports on their website.³⁷ The Office for Oversight has to assess the conformity of all campaign finance reports to applicable rules. It provides regular guidance to both political parties and presidential candidates during the campaign and in the preparation of financial reports. In addition, it reviews all complaints submitted by citizens. Registered third parties must publish their financial reports within 10 days following the second voting day.

Most ODIHR EET interlocutors expressed concerns over the capacity of the Office for Oversight to fulfil its oversight mandate due to the limitations in its human and financial resources. Such limitations constrain the Office for Oversight from functioning effectively and in a timely manner, taking into consideration the volume of financial transactions to track.³⁸ Nevertheless, the majority of ODIHR EET interlocutors expressed overall confidence in the work and professionalism of the Office for Oversight.

To ensure effective oversight, consideration should be given to providing the Office for Oversight with adequate financial and human resources.

The Office for Oversight can approve, request additional documentation, require rectification of financial reports, and, if sufficient evidence of non-compliance is gathered, impose sanctions. There is no set timeframe to audit and publish the results of the audit of the campaign finance reports.³⁹ Some ODIHR EET interlocutors shared concerns that considerable delays in the publication of the audit results by the Office for Oversight may reduce accountability.

Consideration should be given to introducing a reasonable timeline for the Office for Oversight to publish the results of audit of campaign finance reports.

Generally, the law provides for proportional sanctions for campaign finance violations. A failure to comply with the reporting requirements may result in financial sanctions between CZK 10,000 and 300,000. A candidate who exceeds the expenditure ceiling may be fined from CZK 10,000 up to one and half times the amount beyond the campaign spending limit. Nevertheless, most ODIHR EET interlocutors do not consider the sanctions sufficiently dissuasive.

³⁶ See [news release](#) of the 11 January from the Office for Oversight (in Czech).

³⁷ Campaign finance reporting period began on 1 July 2022.

³⁸ According to Paragraph 268 of the Guidelines on Political Party Regulation, “adequate financing and resources are also necessary to ensure the proper functioning and operation of the oversight body”.

³⁹ According to Paragraph 271 of the Guidelines on Political Party Regulation, “any deadlines that the respective authority is obliged to adhere to need to be drafted in such a way as to provide this body with enough time to substantively monitor and analyse reports submitted by political parties”.

Appeals against the Office for Oversight's decisions can be made to the Regional Court in Brno within eight days from the date of receipt of the decision and further appealed to the Supreme Administrative Court.

VI. MEDIA

A. MEDIA LANDSCAPE

The media landscape is vibrant and pluralistic. Approximately 85 per cent of households have access to the Internet. Online media have become the primary source of political information, followed by television (TV) and print media whose audiences are continuing to decline.⁴⁰ Public broadcasters, *Český rozhlas (ČR)* and *Česká televize (ČT)*, remain the most trusted sources of information.⁴¹ The most popular private broadcasters are *TV Nova* and *TV Prima*. The national and regional newspaper market is divided between a number of large market players, one of which, *MAFRA*, is related to the former prime minister and presidential candidate Mr. Babiš.

The concentration of major media houses in hands of few local businesspersons is a cause for concern over their editorial independence and self-censorship. There are no specific protections against the monopolisation of the media and no restrictive thresholds for the ownership of most media types.⁴² The Office for the Protection of Competition (OPC) has never denied a media merger and evaluates the impact of competition upon the functioning of the market only, and not on media pluralism.⁴³

The negative impacts of media ownership concentration are partially offset by smaller independent media outlets ensuring that critical investigative reporting remains, but their financial prospects are not stable. An important factor safeguarding media pluralism has been the domestic online search engine *Seznam.cz*. It not only owns the media outlet *Seznam Zprávy*, one of the strongest newsrooms in the country, but also allows smaller independent publishers to post stories to reach wide audiences for mutual financial benefit. However, the upcoming merger of *Novinky.cz*, the second most popular news site, with *Seznam.cz* has raised questions about the further strengthening of its dominant position in the market, the long-term effects on newsroom pluralism and the impact it may have on the advertising income of other online publishers.⁴⁴

To protect media pluralism, the authorities should consider thresholds for ownership across all media types and an impact assessment of potential mergers on media pluralism before their approval.

The state does not provide support for independent media directly or indirectly via tax relief or other measures. The funding gaps for independent media are filled by project-based support from local

⁴⁰ See [Reuters Institute, Digital News Report, 2022](#).

⁴¹ ČT operates six channels, including a dedicated 24-hours news channel and separate studios in Brno and Ostrava. ČR has 12 national and 14 regional news channels.

⁴² The legal framework does not prohibit cross-ownership of print and online media. However, there are some restrictions regarding television and radio broadcasting, for example, an owner of a nationwide TV or radio station should not own shares of another station.

⁴³ The European Union in 2022 started to discuss a draft [European Media Freedom Act](#) which proposes member States to designate a responsible national regulator to assess the impact of notable media mergers on media pluralism and editorial independence. Paragraph 40 of the 2011 [ICCPR General Comment No.34](#) requires that “States parties should take appropriate action [...] to prevent undue media dominance or concentration by privately controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views”.

⁴⁴ On 23 December 2022, *Seznam.cz* notified the OPC of its merger with *Silky/BORGIS*, which owns the fourth most popular daily *Právo* and news portal *Novinky.cz*. According to *Seznam.cz*, the merger *de facto* legalises the *status quo* as it already holds one third of shares of these companies and both newsrooms will remain separate.

philanthropic foundations. According to several ODIHR EET interlocutors, the distribution of state-sponsored advertising, either by institutions or enterprises, is not transparent. Most ODIHR EET interlocutors flagged recent changes in the Copyright Law and subsequent actions of large online platforms as a concern due to the negative impact on media economics, especially in the case of smaller publications.⁴⁵

The appointment of the members of the ČT council in 2020-2021 raised concerns about the intentions of the previous ruling coalition to politicize the oversight of the public broadcaster, erode its independence and force a change of the ČT director general. The standoff between the management of ČT and its Council has eased with a change of government in 2021. The current government coalition has proposed legal changes to protect public media oversight from politicisation in the future. Until that, all members were appointed by the lower house of parliament, but amendments, if adopted, would give the Senate the right to appoint one-third of the broadcasters' council members, decreasing their dependency on the government which has a majority in the lower house. Non-governmental organisations are also expected to have the right to nominate councillors who will have to have at least a 10-years track record to prevent spurious nominations. The draft changes also propose to replace the collective recall of all council members with individual dismissals on clearly defined grounds.⁴⁶ Proposed amendments are in line with the previous ODIHR recommendations.

Most ODIHR EET interlocutors stated that the public broadcasters' current budget situation was unsustainable, as licence fees for ČT and ČR had not changed since 2008 and broadcasters received no state compensation for rising costs.⁴⁷ Insufficient funding of public broadcasters casts doubts on their continued independence and the quality of information programmes.⁴⁸ In order to respond to financial hurdles due to a worsening economic situation and rising inflation, ČT announced large budget cuts and closed one channel, but kept news and investigative programmes intact.⁴⁹ Similarly, ČR reduced staff by 20 people from a 300-strong newsroom across the country in 2022. The Ministry of Culture, established a working group under its auspices to solve the financing of public broadcasters, but any proposed changes would not come into force earlier than 2025.

To guarantee editorial independence and programmatic quality, public media should receive adequate funding ensured through an appropriate, secure and transparent funding framework.

⁴⁵ On 5 January 2023, the amended Copyright Law entered into force envisaging a fine of 1 per cent of global annual revenue on the Big Tech platforms if they do not adequately compensate publishers. *Google* in a response stopped its *News Showcase* programme, which meant loss of income for its participants. Also, *Google* search engine now links only to headlines without displaying news snippets, which reduces traffic to the sites and subsequently their advertising income. *META* has introduced the same practice.

⁴⁶ According to the current law, it is not possible to dismiss one member of a council for wrongdoing but only the whole council unless the council member in question has committed a crime, has been absent from council meetings over three months or has infringed the dignity or impartiality of the council.

⁴⁷ The monthly licence fee is CZK 45 for ČR and CZK 135 for ČT. Each household self-declares whether they own a TV or radio. Online users are not charged. [According to ČT](#), approximately 91 per cent of households should pay a fee, but only some 80 per cent do that.

⁴⁸ In its [Recommendation 1878 \(2009\) on funding of public service broadcasting](#) Parliamentary Assembly of the Council of Europe emphasises that “public service broadcasters must be independent from the government and be able to function without its political interference [...and] that their funding model should reflect this independence.” In 2006 [Declaration of the Committee of Ministers](#), the Council of Europe notes: “editorial independence and institutional autonomy of public service broadcasting shall be ensured through appropriate, secure and transparent funding framework”.

⁴⁹ ČT3, the channel targeting older viewers, ceased to broadcast on 31 December 2022.

B. LEGAL FRAMEWORK

Freedom of expression is enshrined in the Charter of Fundamental Rights and Freedoms and is generally respected. Overall, access to information is respected. However, contrary to international standards, defamation remains a criminal offence.⁵⁰ People are regularly prosecuted, but authorities insist that custodial sentences are extremely rare and criminal proceedings are used only in the most socially harmful cases.⁵¹

Criminal sanctions for defamation should be repealed in favour of proportionate civil sanctions.

The law requires public and private broadcasters to cover candidates in news and political programmes in a balanced and objective manner. Paid political advertising is allowed only in print and online media. Public radio and TV each provided all candidates with five hours of free airtime before the first round and one hour before the second round, on an equal basis. Both *ČT* and *ČR* published special rules for election coverage well in advance of the election. Citizens can submit complaints about campaign coverage in public media separately to the *ČT* and *ČR* oversight councils.

The Council for Radio and Television Broadcasting (CRTB) is a broadcasting regulator. It oversees TV and radio coverage and addresses complaints after the end of the campaign so as not to interfere with the freedom of media and the campaign.⁵² The CRTB can issue administrative warnings and fines to broadcasters for violations, but in practice, these are not used in relation to election coverage.

Campaign activities in online media are not regulated, apart from having to follow the general rules on paid advertising and respect the ban on the publication of results of opinion polls three days prior to the first voting day. Some online outlets, for example, *Seznam Zprávy*, published their own voluntary codes for covering the election.

C. CAMPAIGN COVERAGE IN THE MEDIA

Despite the growing importance of campaigns in social networks, in-person meetings and especially televised debates were still major vectors to inform voters' decision-making.

There were plenty of debates on both public and private TV and other media outlets. The non-participation of Mr. Babiš in debates prior to the first round got more media coverage than the actual debate itself.⁵³ Several candidates either officially complained or informed the ODIHR EET that the private *TV Nova* and *TV Prima* treated them unfairly by separating candidates with higher and lower public opinion ratings into different debates and timeslots. However, there are no legal rules for the

⁵⁰ Paragraph 47 of the [2011 UNHRC General Comment No.34 to the ICCPR](#) states that “defamation laws must be crafted with care to ensure [...] that they do not [...] stifle freedom of expression. States parties should consider the decriminalization of defamation in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty”.

⁵¹ Ministry of Justice informed the ODIHR EET that 43 people were convicted for defamation in 2021-2022. There is no data on how many of them were public figures and/or journalists.

⁵² During the presidential election, the CRTB monitored the news and current affairs programmes of *ČT*, *TV Nova*, *TV Prima/CNN*, *TV Barrandov* and *ČR (Radiožurnál and ČR Plus)*. The results of monitoring will be published within six months after the campaign together with decisions on complaints. By the end of the campaign, the CRTB received 44 complaints.

⁵³ Mr. Babiš agreed to participate only in one debate (on *TV Nova*) and kept refusing interviews with media outlets he deemed hostile. The issue lost importance in the second round since both contenders participated in TV debates.

media on how to organize debates and it was an editorial choice.⁵⁴ By the conclusion of the campaign, voters had ample opportunities to familiarize themselves with the candidates' programmes.⁵⁵

The media behaved fairly overall and fulfilled their watchdog function. Positively, there were no verbal attacks by the candidates toward journalists. Several ODIHR EET interlocutors pointed out the trend that apolitical lifestyle magazines of the media group related to Mr. Babiš published articles promoting him as a family man in advance of the election, but the articles were not marked as campaign advertising. Several interlocutors expressed the opinion that part of the media market was favouring Mr. Pavel.

VII. RECOMMENDATIONS

These recommendations contained throughout the text are offered with a view to enhancing the conduct of elections in the Czech Republic and bringing them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past ODIHR recommendations that remain to be addressed. ODIHR stands ready to assist the authorities of the Czech Republic to further improve the electoral process and to address the recommendations contained in this and previous reports.⁵⁶

Campaign

1. To strengthen the electoral participation of persons with disabilities, political parties should provide their programmes, campaign messages and materials in accessible and easy-to-understand formats. Legal or financial incentives could be introduced to encourage accessible campaign content.
2. Violence against women in the campaign should be recognised by political parties and institutions as a barrier to women's political participation. Consideration should be given to strengthening existing proactive and preventive measures against such actions.

Campaign Finance

3. To avoid undue influence by donors consideration could be given to introducing reasonable limits on individual donations from natural and legal persons for presidential campaigns.
4. Consideration should be given to regulating foreign donations for presidential campaigns.
5. To ensure effective oversight, consideration should be given to providing the Office for Oversight with adequate financial and human resources.
6. Consideration should be given to introducing a reasonable timeline for the Office for Oversight to publish the results of audit of campaign finance reports.

⁵⁴ See also the [decision of the Supreme Administrative Court](#) that, on 16 February, confirmed lack of violations by *ČT*, *TV Nova* and *TV Prima* in organizing the election debates.

⁵⁵ The ODIHR EET did not conduct media monitoring.

⁵⁶ In paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations". The follow-up of prior recommendations is assessed by the ODIHR EET as follows: recommendations 4, 8 and 18 of [the final report on the 2017 parliamentary elections](#) are partially implemented. The recommendations 8 and 10 from [the final report on the 2021 parliamentary elections](#) are partially and mostly implemented, respectively.

Media

7. To protect media pluralism, the authorities should consider thresholds for ownership across all media types and an impact assessment of potential mergers on media pluralism before their approval.
8. Criminal sanctions for defamation should be repealed in favour of proportionate civil sanctions.
9. To guarantee editorial independence and programmatic quality, public media should receive adequate funding ensured through an appropriate, secure and transparent funding framework.

ANNEX: FINAL RESULTS⁵⁷

| General election data | First round | Second round |
|------------------------------|--------------------|---------------------|
| Number of registered voters | 8,245,962 | 8,242,566 |
| Number of votes cast | 5,622,812 | 5,787,540 |
| Number of invalid votes | 44,227 (0.78%) | 28,343 (0.49%) |
| Voter turnout | 5,626,824 (68.24%) | 5,789,991 (70.25%) |

| Candidate | Nominating entity | Party affiliation | First round | | Second round | |
|--------------------|--------------------------|--------------------------|--------------------|----------|---------------------|----------|
| | | | Valid votes | % | Valid votes | % |
| 1. Pavel Fischer | Senators | Non-party | 376,705 | 6.75 | - | - |
| 2. Jaroslav Bašta | MPs | SPD | 248,375 | 4.45 | - | - |
| 3. Josef Středula | Senators | Non-Party | Withdrawn | | | |
| 4. Petr Pavel | Citizens | Non-party | 1,975,056 | 35.40 | 3,359,151 | 58.32 |
| 5. Tomáš Zima | Senators | Non-party | 30,769 | 0.55 | - | - |
| 6. Danuše Nerudová | Citizens | Non-party | 777,080 | 13.92 | - | - |
| 7. Andrej Babiš | MPs | ANO | 1,952,213 | 34.99 | 2,400,046 | 41.67 |
| 8. Karel Diviš | Citizens | Non-party | 75,475 | 1.35 | x | - |
| 9. Marek Hilšer | Senators | MHS | 142,912 | 2.56 | x | - |

⁵⁷ More detailed election results on the website of the [Czech Statistical Office](#).

ABOUT ODIHR

The Office for Democratic Institutions and Human Rights (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.

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

ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it 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 obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, ODIHR helps participating States to improve their electoral framework.

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

ODIHR also assists participating States in fulfilling their obligations to promote and protect **human rights** and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas, including human rights in the fight against terrorism, enhancing the human rights protection of trafficked 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**, ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

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

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

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