

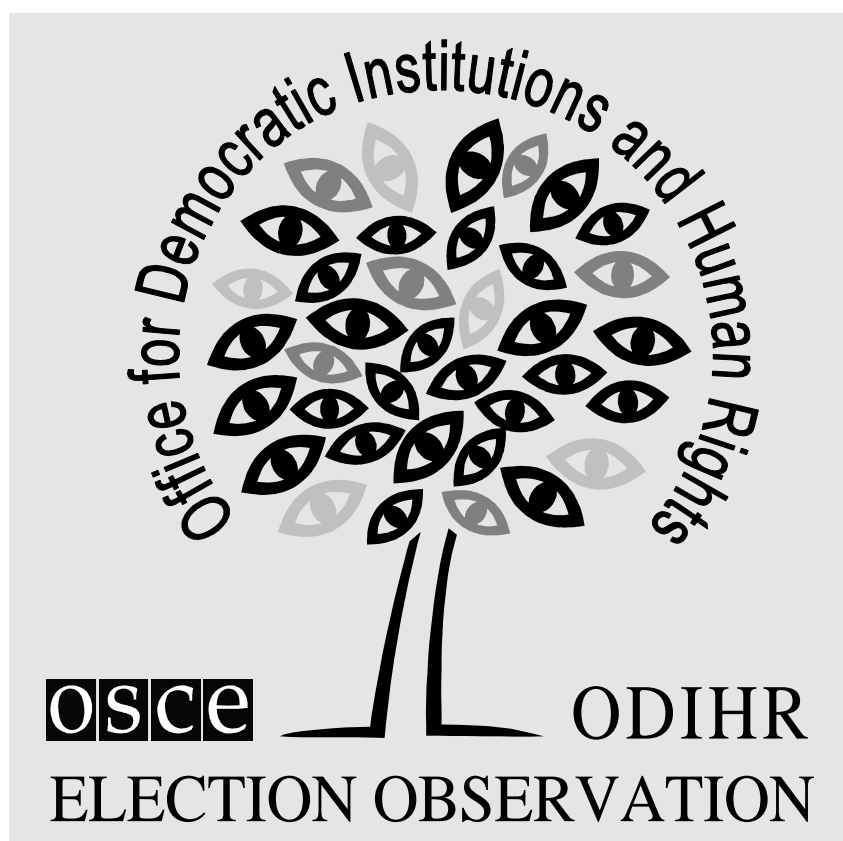


Office for Democratic Institutions and Human Rights

**ROMANIA  
PRESIDENTIAL & PARLIAMENTARY ELECTIONS**

26 November and 10 December 2000

**FINAL REPORT**



Warsaw  
15 January 2001

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**ROMANIA**  
**PRESIDENTIAL AND PARLIAMENTARY ELECTIONS**  
**26 November and 10 December 2000**

**OSCE/ODIHR FINAL REPORT<sup>1</sup>**  
**15 January 2001**

**I. EXECUTIVE SUMMARY**

The 26 November and 10 December 2000 presidential and parliamentary elections in Romania were conducted in accordance with OSCE commitments for democratic elections formulated in the 1990 Copenhagen Document.

As in 1996, although a transfer of government power has occurred, political participants and voters have accepted the outcome. The 2000 polls further demonstrated that democratic elections are firmly entrenched in Romania.

Important features of the legal and administrative framework promote an election process that is accountable, transparent, free, fair, and equal, including:

- The inclusive representation of political parties on election bureaus at all levels;
- The broad participation of political parties, electoral alliances, and independent candidates in the contests;
- The detailed information available at the polling station, constituency and central levels regarding the tabulation of the election results; and
- The large number of electronic and print media, at both national and local level, that give voters' access to a broad range of information and opinion, and the readiness of public-service broadcasters to meet their obligations to provide participants in the campaign with balanced coverage.

Romania has built a positive record with regard to the participation of national minorities in the election process, though concerns remain particularly in relation to the Roma.

Women made some gains in the 2000 elections, although they remain underrepresented in the parliamentary bodies.

While noting the overall strengths of the electoral framework in Romania, weaknesses in the law and structural shortcomings remain to be addressed:

- The absence of a standing electoral body is an impediment to the more efficient and consistent administration of elections;
- The system of amending the electoral law through Emergency Ordinances and Decisions of the Government, thus by-passing the legislative process, and the promulgation of laws, ordinances and decisions that cannot be fully implemented risk to erode the rule of law;

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<sup>1</sup> This report is also available in Romanian. However, the English text remains the only official document.

- The rules regarding the observation of elections by domestic organizations are overly restrictive and fail to safeguard against abuses by political supporters; and
- Laws regarding campaign financing and disclosure are inadequate and fail to provide sufficient levels of transparency, accountability and oversight.

## II. INTRODUCTION AND ACKNOWLEDGEMENTS

On 1 November, the OSCE Office for Democratic Institutions and Human rights (ODIHR) established an election observation mission (EOM) in Romania headed by Linda Edgeworth (USA) and comprising a core staff of eight experts and three long-term observers (LTOs). In spite of the original plans that called for opening regional offices in five locations, the number of seconded LTOs limited the EOM's capacity. Therefore, offices were established in Bucharest and Cluj, a region with a significant Hungarian population. In addition, core staff traveled to several constituencies for a regional perspective.

For the first time, two new components were integrated into the election observation methodology. Special emphasis was placed on issues relating to the participation of national minorities and women in the election process<sup>2</sup>.

On 27 November, the EOM issued a statement of preliminary findings and conclusions. In addition, a two-member team of the EOM stayed in Bucharest to report on the 10 December second round of the presidential elections.

The OSCE/ODIHR wishes to thank the Embassies of Macedonia, Slovakia, Poland and Japan in Bucharest for providing STOs in the field. The OSCE/ODIHR is particularly grateful to the Embassy of France and the National Democratic Institute (USA) for logistical support to the EOM.

The OSCE/ODIHR expresses its appreciation to the Ministry of Foreign Affairs, the Central Election Bureau, and other national and local authorities of Romania for their assistance and co-operation during the course of the observation.

## III. POLITICAL BACKGROUND

The 2000 Presidential and Parliamentary elections were the fourth to take place since the overthrow of the Ceausescu regime in 1989, and the third under the new Constitution adopted in 1991. The peaceful and orderly transfer of power that took place in 1996 with the election of a parliamentary majority and President from the former opposition already suggested that the concept of democratic elections has firmly taken root in Romania.

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<sup>2</sup> OSCE participating States are committed to “encourage and promote equal opportunity for full participation by women in all aspects of political and public life”. (Moscow Document 40.8). The ODIHR is committed to integrating gender into all aspects of its work, specifically by the Gender Action Plan adopted in 2000 which contains a range of steps required of participating States, OSCE institutions and field operations. For issues relating to national minorities, see “*Guidelines to Assist National Minority Participation in the Electoral Process*”, OSCE/ODIHR, December 2000.

The 2000 elections took place in the context of severe economic hardships for a large proportion of the Romanian population. On 8 November 2000, the publication of the 2000 Regular Report of the European Commission on the status of Romania's application to join the European Union highlighted the need for structural economic reforms, weaknesses in the legislative process and corruption.<sup>3</sup> The Report helped focus the public debate on the significance of the elections for Romania's attempts to integrate into the European structures, and the need to tackle conclusively the economic problems.

Approximately 20,000 candidates and some 80 parties, electoral alliances and independent candidates contested the parliamentary seats in the 2000 elections. Among the major parties and alliances competing for seats in the Parliament were:

- The Social Democratic Pole of Romania (PDSR), an alliance led by the Party of Romanian Social Democracy (PDSR) of former President Ion Iliescu.
- The Democratic Convention of Romania 2000 (CDR 2000), a five party coalition led by the National Christian Democratic Peasants Party (PNTCD), the leading party in the outgoing Government.
- The National Liberal Party (PNL), a former coalition member of CDR 2000. In August 2000 PNL broke away from CDR 2000 but remained in the Government. PNL also ran separately from CDR 2000 in the June 2000 local elections.
- The Party of Greater Romania (PRM). Won less than 5% of the vote in 1996. A nationalist party that supported the PDSR Government from 1992-1996. In 1997, PDSR disassociated itself from the PRM and its inflammatory rhetoric.
- The Alliance for Romania (ApR). Split from PDSR in 1997 and appeared to be the reform minded wing of the PDSR.
- The Democratic Party (PD) headed by Petre Roman, Minister for Foreign Affairs with the outgoing ruling coalition.
- The Democratic Alliance of Hungarians in Romania (UDMR), a member of the outgoing government coalition in a post election arrangement.

The Presidency race was contested by 12 candidates, down from 16 in 1996. The leading contenders were former President Ion Iliescu (PDSR), outgoing Prime Minister Mugur Isarescu (Independent), Senator Corneliu Vadim Tudor (PRM), former Prime Minister Theodor Stolojan (PNL), Senator Gyorgy Frunda (UDMR), Foreign Minister Petre Roman (PD).

#### **IV. LEGAL FRAMEWORK**

##### **A. CONSTITUTIONAL PROVISIONS**

The legal framework for the elections, including the Constitution, laws related to the formation of political parties and conduct of presidential and parliamentary elections, and governmental electoral ordinances, provide an adequate basis for democratic elections. The Constitution adopted in 1991 protects the rights of individuals, including persons belonging to national minorities, guaranteeing freedom from discrimination on the basis of race,

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<sup>3</sup> "EC 2000 Progress Report on Romania," Central Europe Review, Vol. No. 39, 13 November 2000.

nationality, ethnic origin, language, religion, gender, opinion, political affiliation, property or social origin. In addition, international human rights treaties ratified by Romania are a constituent part of its domestic legal system.<sup>4</sup>

The Constitution also provides the basis for universal, equal, direct, secret and free suffrage for the election of the President and the Parliament, and establishes their terms at four years. Although a presidential candidate may be nominated by a political party, “during his term of office, the President may not be a member of any political party, nor may he perform any other public or private office.”<sup>5</sup>

## **B. LAWMAKING AND THE USE OF EMERGENCY ORDINANCES**

The Constitution provides for a hierarchy of laws: constitutional laws, organic laws, and ordinary laws. Laws related to the electoral system, referendum, and the organization and functioning of political parties are organic laws. Organic laws must be adopted by a majority of members of each chamber of the Parliament. Regular laws need only be adopted by a majority of those members who are present.

The Constitution allows for the delegation of law-making authority to the government.<sup>6</sup> However, a legitimate question can be raised as to whether the amendment of election laws through this ordinance mechanism is constitutional since election laws are categorized as organic laws that are specifically placed beyond the scope of ordinances.<sup>7</sup> This question is particularly relevant since recent ordinances have altered fundamental principles underpinning the electoral system, including the threshold requirements for participation in the distribution of seats in the parliamentary bodies.

No deadline is established for the adoption of ordinances, seriously impacting not only the administration of the process, but also the decisions and preparations by participants in the election. Moreover, because most of the ordinances have never been passed by the Parliament, the law is not published in a consolidated version with the resulting amendments integrated into the text. As a result, changes are difficult to follow causing confusion among political participants and resulting in implementation that is sometimes lacking in uniformity and consistency.

Even while expressing their criticism of the practice, there appears to be general agreement among parliamentarians, that due to the slowness of legislative action, ordinances have become a necessary alternative. Notwithstanding that consultations between the government and parliamentary parties occur, “political agreement” seems to prevail rather than a strict adherence to legal order through the legislative process. Such a practice undermines the separation of executive and legislative powers and the rule of law.

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<sup>4</sup> Constitution of Romania, 1991, Article 20.

<sup>5</sup> Ibid, Article 84.

<sup>6</sup> Ibid., Article 114.

<sup>7</sup> Ibid., Article 114 (1).

## C. FEATURES OF ELECTORAL LAWS

In July 1992, the Parliament passed two laws: one governing the election of the parliamentary bodies and the other the election of the President. Although a number of amendments have been incorporated through legislation and through emergency ordinances, the fundamental electoral system has remained unchanged.

### 1. *Election of the Senate and Chamber of Deputies*

The Parliament is comprised of two chambers, the Senate and the Chamber of Deputies. Both chambers are elected in an identical manner and have identical functions.

Romania has attempted to discourage the hyper-pluralism exhibited in the early years of transition, when more than 250 political parties were registered. Legislation was enacted in 1996 requiring submission of the signatures of not less than 10,000 founding members, with no fewer than 300 from each of at least 15 constituencies, for registration as a political party.<sup>8</sup> In addition, the electoral threshold for a seat in the Parliament was raised by an Emergency Ordinance from 3% to 5% for political parties, independent candidates and associations, while a graduated scale was adopted for political formations (coalitions and alliances) with a threshold of 8% for groupings with two members, 9% for those with three members, and 10% for those with four or more members.

Although the number of parties and alliances participating in the elections was lower than in previous elections, nonetheless, most constituencies' ballots contained 35-45 contestants, with some exceeding that number. Additionally, while the 5% threshold for parties is within the generally accepted international norms, the 10% threshold for political formations may be overly restrictive.

### 2. *Additional Seats for National Minorities*

A key element of Romanian law is the safeguard protecting the interests of national minorities in the legislative body. Under the Constitution, additional seats are to be allotted in the Chamber of Deputies for associations representing national minorities that fail to pass the threshold for the normal distribution of mandates.<sup>9</sup> These seats are in addition to the number of seats allocated to each constituency based on population figures. In these elections, the total number of seats awarded in the Chamber of Deputies increased to 345, including 18 awarded to national minorities, up from 15 seats in 1996.

According to the election law, only one representative may be elected to represent any single national minority, even if more than one association representing that minority competes in the election.<sup>10</sup> Shortly after the official campaign period began, another Emergency Ordinance was adopted which liberalized the opportunity to win seats through the normal distribution by allowing the different associations representing the same national minority to

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<sup>8</sup> Law No. 27/1996 On Political Parties.

<sup>9</sup> Constitution of Romania, 1991, Article 59 (2).

<sup>10</sup> Law No 68/1992 On the Election to the Chamber of Deputies and the Senate, Article 59 (hereinafter Parliamentary Election Law).



run a common list of candidates in any or all constituencies. However, the adoption of the ordinance was too late for most associations to plan for and take advantage of its provisions.

Noteworthy is that minority representatives in the Chamber of Deputies play a significant role in post-election politics. As independents with no declared party affiliation, their votes can be pivotal especially when the party winning the largest number of seats only needs a few votes to ensure a majority in the Chamber.

### **3. *Election of the President***

In general, the Law on the Election of the President covers only those provisions which are unique to the presidential election. The majority of votes required to win in the first round is based on the total number of registered voters, rather than the number of voters participating in the election. Based on this criterion, it is almost a certainty that a second round will always be required, as was the case in 1996 and in 2000. In the second round, the candidate obtaining the greatest number of votes is the winner.

Candidates for the presidency may be proposed by political parties or other formations (coalitions and alliances) or may run as independent candidates. More than one party or formation may nominate the same candidate either jointly or separately. However, no party or formation may nominate more than one candidate.

Regardless of whether a candidate runs independently or is nominated by a party or formation, his or her application must be accompanied by a petition containing the signatures of 300,000 voters. This significant amendment came into effect through promulgation of an Emergency Ordinance changing the former 100,000-signature requirement.<sup>11</sup> In addition, the ordinance included a provision that a voter could only support the petition of one candidate.

## **V. PRE-ELECTION PHASE**

### **A. ELECTION ADMINISTRATION**

As during the 1996 general elections, the absence of a standing electoral administration body remains an impediment. Election bureaus are established for the official election period which begins when the date of the election is announced. Under an Emergency Ordinance, the election period for the 2000 elections was cut from 60 to 45 days. Once the date is announced, the Central Election Bureau (CEB) must be appointed within five days.<sup>12</sup> Although legislation has been proposed creating a permanent body, no action has ever been taken.

Representatives of parties, political formations and coalitions are entitled to participate on election bureaus at all levels. At the Central Election Bureau, there can be up to 16 party or political formation representatives, based on the number of constituencies in which they have

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<sup>11</sup> Emergency Ordinance No. 129/2000, Amendment to Article 9 (2)(c) dated 30 June 2000 and published in the Official Gazette, Part I., No. 311, 5 July 2000.

<sup>12</sup> Parliamentary Election Law, Article 24 (2).

candidate lists. No party or formation can have more than five representatives. Similar provisions exist for political representation at the Constituency level as well, although the total number of such representatives is limited to eight. Party representatives are also given access to participate on Polling Station Bureaus which are limited to seven members.

Technical staff at the Ministry of Civil Services and Statistical Institute provide administrative support to the CEB. Shortcomings and challenges resulting from this lack of permanence, combined with the extremely short time period for election preparations, were manifest in the 2000 elections. In particular, there was no established election office where formalized, pre-printed registration forms, applications, petition instructions or informational materials could be obtained by political participants and activists.

In spite of the professionalism of CEB members, their capacity to fully meet all requirements imposed by law was limited. For example, the CEB chose to interpret the laws regarding any responsibility for verification of signatures for candidate petitions very narrowly as merely an administrative duty to ensure that all documents were complete and filed in a timely manner. The CEB pointed to the law, which does not specifically refer to the verification of the authenticity of signatures in candidate petitions.<sup>13</sup> Technically this interpretation may have legal merit. Nevertheless the imposition of the signature requirements without a formal review process, even if it involves only a random verification is counter to the spirit of the law.

## **B. DOMESTIC OBSERVERS**

An Emergency Ordinance provided opportunities for domestic observers to participate. However, the terms were criticized by the domestic organizations, OSCE/ODIHR and other international organizations as too restrictive. The CEB may accredit as domestic observers persons who are specifically empowered by a non-governmental organization whose only purpose is to defend human rights.<sup>14</sup> In addition, the NGO has to have been legally registered by the date when the election campaign is declared open. The CEB may accredit to a polling station only one domestic observer, regardless of the number of NGOs which may have applied to observe the elections. If several persons request to be at the same polling station, accreditation is decided by lot. Clearly, this restrictive approach undercuts the effectiveness of domestic observers, especially when they are not free to visit polling stations randomly.

Significantly, some observer groups were registered whose “observers” were actually representatives of political or governmental bodies. The persons designated as domestic observers cannot be members of a party or of a political formation under the law.<sup>15</sup> However, the EOM confirmed that one organization with a high number of registered observers was actually reporting to a political party participating in the elections and one of its founding members holds a leadership role in the party.

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<sup>13</sup> Law on Election of the President, Law 69/1992, Section 1, Article 5, and Law on Election of the Chamber of Deputies and the Senate, Law 68/1992, Article 25 (hereinafter Presidential Election Law).

<sup>14</sup> Parliamentary Election Law, Article 93.

<sup>15</sup> Ibid., Article 93 (2).

Moreover, the right of observers to be present during the counting of votes and at the constituency level during the consolidation of returns is not clear. The law only refers to observation of the “voting.”

### C. PARTICIPATION OF NATIONAL MINORITIES

Romania has demonstrated a commitment to ensuring the protection of national minority rights and the participation of minorities in public life.

Although national minorities are represented by their own associations, they do not only vote along ethnic lines. Generally the situation among the minority communities vis-à-vis the elections was rather quiet, reserved and confident. Representatives of the smaller minority groups in Romania, such as the Germans, Bulgarians, Lipovans (Russians) did not express serious concerns with the electoral process, including the electoral legislation itself, minority representation in Parliament, or minority participation in the process. In fact, they appear to greatly appreciate provisions for minority associations and feel their concerns and issues are being adequately and effectively addressed by the current system.

For the Hungarian minority, the lead party is the UDMR. Its representation in Parliament is roughly equivalent to the percentage of Hungarians in the population at large. The UDMR is registered as a political party and not an Association Representing National Minorities and has representatives both in the Chamber of Deputies and the Senate. In the last government, the UDMR was a post election coalition partner.

In this year’s elections, two Romani associations, the largest being the Partida Romilor (PR), presented lists for seats in the Chamber of Deputies.

The Hungarian minority expressed few concerns over minority representation and participation in the up coming elections. In Timisoara, the UDMR reported instances of their posters being torn down. In Transylvania, the OEOM noted some remaining tensions between the ethnic Hungarian and majority Romanian populations. Recent polls indicate that, while ethnic Hungarians generally do not believe that minority safeguards and provisions have gone far enough, ethnic Romanians feel they have already gone too far. While the overt inter-ethnic tensions characteristic of early electoral campaigns have largely abated, vigilant dedication to inter-ethnic dialogue and cooperation should be maintained.

Unlike previous elections, the campaign for the first round was characterized by a general absence of inter-ethnic tension and anti-minority campaigning. Minority groups also reported open access to minority and main stream media bodies, although they noted that the cost of advertising in mainstream publications was prohibitively expensive.

## D. PARTICIPATION OF WOMEN IN THE ELECTORAL PROCESS<sup>16</sup>

### 1. *Participation of Women in Public Life and Politics*

In general, women remain underrepresented in the political life of the country. In the outgoing Parliament, 7% of Deputies and 1.5% of Senators were women, a level of representation that is low in comparison to OSCE and European averages. In local government, 3% of mayors are women, and 6% of local and county councillors. There have been two women ministers for brief periods during the past decade. Few women politicians are high profile or have name recognition. Without more women in Parliament, experience from around the world has shown that there is less likelihood of laws and budgetary allocations reflecting the issues that are a priority for women.<sup>17</sup>

By contrast, women are well represented in the judiciary, from which members of the Central and constituency election bureaus are appointed. Over 60% of the judicial representatives on the Central and Constituency Election Bureaus are women. Likewise, at more than 200 polling station bureaus visited by EOM observers on election day, over 50% had women presidents while overall membership was spread evenly among men and women. However, among the party representatives on the election bureaus, only 19% were women.

### 2. *The Status of Women Within Political Parties*

Most political parties have a women's wing, which can be a useful training ground for women to learn the skills and techniques of politics. However, women's sections can tend to sustain a system in which women remain outside the mainstream of party activities and decision-making. Few of the politicians that the EOM met said that their party attempted to encourage or promote women within the party, and none of the parties had any specific policies to do so. Many women politicians and women's NGOs have emphasised the need for training of young and aspiring women politicians.

Since Romanian elections are conducted on a closed party list system, each party has a key role in deciding how many women candidates to include on its list, and their position on the list. The Law on Political Parties is silent as to how parties nominate their candidates, and contains no requirements of internal party democracy, thus each party is free to make nominations by any means it wishes. Each party's central committee generally makes the candidate selection decisions, based on recommendations from the local committees.

An analysis of the candidate lists of seven of the major parties and coalitions revealed a low number of women candidates. Women made up between 6% and 15% of the candidates, and furthermore, many of the women candidates were low down the lists. Thus, many were not in

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<sup>16</sup> Ibid, Articles 4 and 16 guarantee equality before the law and non-discrimination on the basis of gender. Romania has signed the *Convention to Eliminate all forms of Discrimination Against Women* (CEDAW), and accepted the *Beijing Platform for Action*, 1995, which includes the objective of increasing women's capacity to participate in decision-making and leadership. Other commitments relating to gender equality relate to the process of Romania's accession to the European Union.

<sup>17</sup> *Women in Parliament: Beyond Numbers*, International IDEA Handbook, 1998.

positions to win. Nonetheless, women made significant gains in both the Senate and the Chamber of Deputies during these elections (See Appendix II for Charts).

The parties' central and local committees are all predominantly male bodies. Only one party (UMDR) has attempted to introduce transparent and democratic procedures for the nomination of candidates, by holding primaries. Evidence shows that when candidate selection procedures are more transparent and democratic, women have a greater chance of being selected.<sup>18</sup>

Few of the parties covered women's issues in their campaign platforms or targeted women voters at all. The PDSR and the PD made some limited attempts to appeal to women voters, whilst a few of the other parties made occasional reference to women's economic and social concerns in the Social Issues sections of the platforms, without highlighting them for women voters.

## **E. THE MEDIA**

### **1. *The Media Environment***

The Romanian media scene is characterized by pluralism and the general absence of direct State interference. Public and private broadcasting media at the national and local level and a high number of privately-owned print media offer a wide range of political views and opinions, enabling the population to make an informed choice on election day.

Despite the existence of a free and pluralistic media, concerns remain over certain legal provisions, the financial viability of some media, and lack of legal protection of journalists that can ultimately promote self-censorship.

Women hold less than 20% of leadership positions in the print and broadcast media, both national and local. Women's presence is particularly low in top positions in the national press and press agencies. The media has little coverage of the issues important to women, and little coverage of women politicians and candidates, with the result that these issues have low visibility. There is a significant role for the media to play in the awareness-raising needed to bring equality of opportunity into the national debate.

### **2. *The Legal Framework***

In addition to guarantees regarding fundamental freedoms of thought, opinion, and expression, augmented by a prohibition against censorship and the freedom of the press, the Constitution provides that "no publication shall be suppressed."<sup>19</sup> The Constitution also states that public-service broadcasting media are autonomous and must guarantee "for any important social and political group the exercise of the right to be on the air."<sup>20</sup>

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<sup>18</sup> Research cited in Ibid.

<sup>19</sup> Constitution of Romania, 1991, Article 30 (1-4).

<sup>20</sup> Ibid., Article 31(4-5).

In spite of such liberal provisions, however, other provisions pose restraints that—if applied in a restrictive manner—can negatively impact the exercise of these freedoms. In particular, these include prohibitions against “defamation of the country and the nation” as well as expression which is prejudicial to the dignity, honor, privacy of a person or against one’s own image.<sup>21</sup>

### 3. *Regulation of the Media*

While print media is not regulated, electronic media is by a number of laws, the most important of which is the Law on Radio and Television Broadcasting (Law 48/1992). Under this law, broadcasting media are licensed and overseen by the National Audiovisual Council (CNA), an autonomous body whose 11 members are appointed for four-year terms by the Parliament, the Government and the President. The CNA issues broadcasting licenses, ensures that media adhere to legal provisions and the conditions laid down in their license, and sanctions possible violations. Romanian Television and Romanian Radio, which were transformed into “editorially independent autonomous public service services” in 1994, are overseen by boards of management whose members are elected by a majority vote of both chambers of Parliament. There are 13 board members: eight proposed by the Parliament; one each by the President and the Government; two by the broadcaster’s staff; and one by the parliamentary group of national minorities. The manner of selection of board members proposed by the Parliament effectively ensures that the main political forces are represented on the board and that no single party can exert dominating influence.

Overly restrictive laws and regulations may have contributed to a pre-election campaign period with relatively few debates, little political programming, and limited campaign advertising, particularly in broadcast media. An example is CNA Decision 240 detailing conditions for the broadcast media<sup>22</sup>:

- Election participants had to apply for airtime within 48 hours of the calling of elections.
- Private broadcasters had to notify the CNA “before the beginning of the election campaign” if they intended to have special electoral broadcasts. The deadline resulted in at least two broadcasters filing their application too late and thus being prevented from having special election coverage.
- Broadcasters were limited to no more than three broadcasts a day, after 5 p.m., a total of 30 minutes. The total aggregated time for all electoral messages could not exceed 120 minutes per day.
- Candidates and their supporters were not to engage in rhetoric that could offend their opponents, refer to “the temperament, character, private life of another candidate” or to his or her “professional, religious and intellectual options”, and the use of material infringing on a person’s right to his or her own image was banned.

While Decision 240 largely reiterated constitutional and legal provisions from other documents, it encouraged self-censorship. In at least one case, citing the Decision, *ProTV* declined to air a campaign message of Petre Roman of the Democratic Party, because of a statement within the announcement that “Iliescu and PDSR should not be entrusted with the

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<sup>21</sup> Ibid., Article 30 (6-7).

<sup>22</sup> CNA Decision No. 240, 9 October 2000, Article 6 (3).

country's leadership". The spot was eventually broadcast by another private broadcaster, *7abc*. Another factor contributing to self-censorship may be the significant number of lawsuits for libel and slander (criminal offences under Romanian law) brought against media and journalists, especially since journalists are often held accountable without protection from their employers.

#### **4. Media Coverage of the Campaign<sup>23</sup>**

Most media provided regular coverage of party activities and major political issues. The print media in particular showed great interest in the campaign and gave broad coverage to the parties and presidential candidates. However, the campaign coverage often remained superficial and paid little attention to social and economic issues.

Most newspapers showed a pronounced editorial policy that showed support for specific parties and candidates. Due to the lack of regulations for the print media, many newspapers engaged in paid journalism and published articles paid by parties which were not distinguished from news or editorial content. Such articles were often written by staff writers, further disguising campaign advertisements as journalistic coverage. The EOM also noted that several newspapers violated the 48-hour campaign silence, some by indirectly calling on their readers to support specific parties or candidates and others by using party slogans as headlines.

The broadcast media, on the other hand, took a much more balanced approach, partly due to the strict guidelines adopted and enforced by the CNA. Romanian Television and Romanian Radio generally met their obligation as public-service broadcasters, providing participants in the campaign with airtime and giving them overall fair and balanced treatment. Incumbents did not enjoy an undue advantage. Prime Minister and presidential candidate Mugur Isarescu, for example, received just a few minutes more time on Romanian Television's news than presidential candidate Ion Iliescu. Equally important, reporting on the ruling parties and their candidates on the public media also included critical coverage and mentions in a negative context. Among the political parties, the PDSR received most attention, followed by the PNL. Again, the presentation was largely in a neutral context. The main private TV stations, *Pro TV* and *Antena 1*, also covered the activities of all major parties. However, *Antena 1* often reported on the *CDR 2000* and on Isarescu in a negative context, and certain news associated with the outgoing government was not mentioned by the broadcaster. Also noteworthy is that the President of the Romanian Humanist Party (PUR), one of the junior coalition partners in the PDSR, owns *Antena 1*.

#### **F. CAMPAIGN FINANCING**

The election laws are vague with regard to campaign funding and spending, and virtually vacant with regard to financial disclosure and oversight. The general financing of political parties for their year-round activities is regulated by the 1996 Law on Political Parties.

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<sup>23</sup> The OSCE/ODIHR Election Observation Mission followed the campaign coverage and media issues closely, and for a quantitative analysis, it also drew on data provided by the European Institute for the Media (EIM), a non-governmental, non-profit organization based in Düsseldorf and Paris.

Certain restrictions are imposed including a ceiling on donations by natural and legal persons, prohibitions against contributions from public institutions, self-managed public companies, trading companies and banks in which the State has a majority capital interest, and states or organizations abroad.<sup>24</sup> An exception is made relative to material goods required for party activities received from an international political organization with which the party is affiliated. The only provision in the Law on Political Parties directly related to election campaign funding is that the ceiling for donations to political parties is doubled during election years.<sup>25</sup>

Although the provisions of the Law on Political Parties generally replicate language related to campaign funding in the parliamentary election law, there are also some differences. For example, under the latter, the prohibition on contributions for the campaign from State-held banks is extended to any company in which the State holds a majority capital interest. Although the Law on Political Parties sets annual limits on contributions from various sources for general party operations and activities, no limitations are applied to campaign spending in the election law.

Under the election law, the Parliament can pass a special law creating State subsidies to parties specifically for campaign expenses.<sup>26</sup> Such a law is also supposed to define the “classes of activities” that can be paid for out of the subsidy. If such subsidies are provided for, the law requires that the funds be returned to the State within two months if a party fails to receive at least 5% of the votes cast in the elections. However, no such law was passed for the 2000 elections.

Notably absent from the law are guidelines related to public disclosure of campaign contributions and expenditures. The lack of complete and timely disclosure of the sources of a party funding and campaign expenditures gives voters little opportunity to understand the influences potentially impacting the policies, platforms and decisions of a party and its candidates.

The laws also fail to assign responsibility to an appropriate authority for oversight of this crucial aspect of the electoral process. The only reference relates to the ability of the Court of Audit to review a party’s compliance with the rules regarding funding sources and limitations.<sup>27</sup> The law is silent, however, as to the circumstances under which such audits are warranted, the frequency with which they are to be conducted, and requirements that all parties are subject to audits on an equal basis. Without such safeguards, audits could be conducted in an arbitrary and punitive manner.

## **G. THE ELECTION CAMPAIGN**

The campaign for the 2000 parliamentary and presidential elections was muted for most of the 45-day campaign period, and failed to generate much public interest. Only in the last ten days before the first election day did the campaign become more aggressive, with parties and

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<sup>24</sup> Law on Political Parties, Articles 35 and 36 (1) and (2).

<sup>25</sup> Ibid., Article 35 (2).

<sup>26</sup> Parliamentary Election Law, Article 45 (1).

<sup>27</sup> Law on Political Parties, Law No. 27, 26 April 1996, Article 44.



their leaders trading accusations and personal attacks. In addition, concrete political issues played only a minor role and the campaign focused mostly on the presidential, rather than the parliamentary, race.

While the campaign in general remained within acceptable limits, the EOM noted with concern a violent incident in Craiova on 23 November. In this incident, a local leader of the Democratic Party's youth organization was seriously injured during an argument with PRM supporters. In another incident, PRM members led by a senator assaulted poet Mircea Dinecu for criticizing PRM leader Corneliu Vadim Tudor during a talk show on a local television station in Piatra Neamt on 8 November.

Three days before the elections, the National Council for Studying the Archives of the Securitate (CNSAS) published its files on the investigations into the party candidates' lists. 17 Romanian politicians, including prominent figures such as PNL and Senate President Mircea Ionescu Quintus, were shown to have had close ties to Ceausescu's Securitate. Publication of the report came too late and not only did the public not have a chance to properly digest the information in the run-up to election day, but the candidates themselves did not have enough time, under the Council's rules of procedure, to defend their records published by the Council.<sup>28</sup>

## VI. PREPARATIONS AND CONDUCT OF THE ELECTIONS

### A. VOTER LISTS

Compilation of the voter lists has been the subject of controversy at each election. Transfer of responsibility to the Ministry of the Interior and the expanded computer linkages between the central, county and local communities appear to have improved the timeliness of corrections. Nevertheless, laws that allow a voter to be added to a supplemental list at any polling station, even if they are not registered in the constituency, continues to make the voter registration process vulnerable.

Similar questions may be raised for citizens living abroad whose votes are counted in the Bucharest Constituency, as well as voting at train stations and at military installations regardless of where the voter is registered.

Voter registration is a passive system in which all age-eligible citizens are added to the list based on their civil records maintained at registry offices at local, county and central levels. In spite of such liberal access to the voter registers, however, many thousands of citizens, particularly among the Roma minority, may be unable to vote because they have no birth certificate, have no permanent residence address, and have not applied for identity documents.<sup>29</sup>

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<sup>28</sup> Under the Council's rules of procedure, the subjects of Council reports are allowed 15 days to answer the details of the findings of the Committee.

<sup>29</sup> According to Romani CRISS, an NGO working on Romani social issues, in a two month period, their organisation identified close to 2,000 individuals in Bucharest without identity documents. They are concerned this number may be as high as 20,000.

## **B. DISTRIBUTION OF VOTER CARDS**

Greater success was achieved in the distribution of voter cards in time for these elections than at any time since it was introduced in 1995. The voter cards were deemed necessary when the paper identity document booklet that was stamped when a citizen voted was replaced with a plastic ID card that could not be stamped. The plan for distribution of the backlog of 2.2 million voter cards to citizens who had already received the new identity document deserves recognition. Having chosen this solution, it is important that the system can be sustainable over time. The new strategy put in place by the Ministry of the Interior that will allow the voter card to be produced simultaneously as each citizen applies for or renews identity card should bring a final resolution to problems encountered in the past.

## **C. OUT OF COUNTRY VOTING**

Out-of-country voting took place in 152 polling sites in 88 countries. Approximately 33,000 people cast votes abroad. Because of the difficulty to estimate the number of voters abroad, more ballots were sent abroad than necessary. The voters abroad cast ballots on election day. Only supplemental lists were used and the only identification the voter needed was a valid Romanian passport. The votes were tabulated at these locations and then faxed to the Central Election Commission where they were consolidated in a separate protocol. All votes from abroad were counted in the Bucharest constituency.

## **D. BALLOT FORMS**

The ballot format was problematic because of the large number of parties, formations and independent candidates and the amount of detail included. Ballots are prepared in booklets with no more than four choices on each page. The random order in which they were presented on the ballot made it difficult and time-consuming for voters to find their choice. In addition, the booklet format caused delays in the counting process as bureau members must not only find the voter's mark, but also open each page to ensure that over-voting had not occurred.

The 10% overage in the number of ballots provided to each polling station, the fact that ballots are stamped in advance, and the fact that ballots contain no security marks or sequential serial numbers, diminished the level of accountability normally associated with ballot security. Furthermore, the thinness of the ballot paper in some constituencies allowed the voter's mark to bleed through the page and mark other choices.

The document on which the results of the counting are recorded omits information necessary for the accurate reporting of polling activity. The form had no space to report the number of voters voting at home, the number of ballots in the mobile ballot boxes, or the number of replacement ballots, though the law provides for these instances.

## VII. ELECTION DAY

The EOM deployed 46 short-term observers (23 teams). The teams visited approximately 235 out of 15,240 polling stations in 17 out of 42 constituencies in Romania.<sup>30</sup> In addition to 169 standard polling stations, they visited nine train/bus stations, four military and eleven hospital polling stations.

Observers reported a good to very good general assessment in 94% of the polling stations visited. There was no significant difference between the general assessments of observers visiting polling stations in Bucharest and elsewhere. Furthermore, there were no substantial differences between the conduct of the poll in urban and rural areas. In only three polling stations, domestic observers reported that the poll had significant problems.

Although observers reported that polling officials understood the procedures in 98% of the polling stations visited, in 7% of the cases these procedures were not correctly followed. In 12% of the polling stations visited, voters' understanding of the procedures was reported as bad to very bad. This problem was more frequently noted in rural areas (21%) than urban areas (6%) and was also considered a greater problem outside Bucharest.

In one out of three polling stations visited, observers reported that domestic NGO observers were present. Representatives of LADO or Pro-Democratia were seen in 23% of polling stations and other NGO observer groups were present in 29% of polling stations. Some of these NGO members did not represent human rights organizations approved by the Central Election Bureau to observe the elections, but instead were deployed by a political party.

Family voting occurred in 28% of the cases and was more of a problem outside of Bucharest -- in rural areas 47% and urban areas 18%. If a man and woman entered the polling booth together, not only would the secrecy of the vote be compromised but one spouse could also influence the vote of the other.

In 5% of the sites visited, observers reported unusual tensions or disturbances involving dissatisfied voters, improper assistance provided to illiterate voters, campaign activities inside or in the immediate vicinity of the station, and restrictions on observers. In 12% of the polling stations visited, persons other than polling bureau members were seen assisting/directing the polling station bureau. Among those seen assisting or directing the activities of the polling station bureau were authorities from the administration, police or security forces and parties or candidates.

## VIII. RESULTS OF THE FIRST ROUND ELECTIONS

The distribution of mandates for the Chamber of Deputies and the Senate is carried out at the level of the constituency and at the national level. The Central Election Bureau determines for each Chamber the contestants that have met the threshold. At the level of the constituency, the seats are distributed to parties, formations, political alliances and

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<sup>30</sup> Compared to other OSCE/ODIHR election observation missions in recent years, this is a rather small number of observations and therefore percentages should be interpreted with caution.

independent candidates that met the electoral coefficient in the constituency. The remainders, as well as the unassigned mandates in each constituency are communicated to the Central Election Bureau. Then the Central Election Bureau, using the d'Hondt method, distributes the unassigned mandates in declining order to the parties and political formations in the constituencies.

While this system for the distribution of seats is highly proportional, it creates a few anomalies -- seats awarded to candidates of parties within a constituency in which the party does not win a matching level of support. For instance, in the distribution of seats at the national level, one party received a Senate Mandate in the Calarasi Constituency where it only received 200 votes. The same party also received a mandate in the Chamber of Deputies in the Suceava Constituency where it only received 392 votes.

Another characteristic of the system is that parties with a larger share of the national vote will be allocated the majority of seats at the Constituency level, whereas parties with a smaller percentage of their vote will be allocated seats at the national level. (See Appendix I) This anomaly generally makes it difficult for smaller parties to plan party lists and place their best people on lists in Constituencies where they are more likely to win a mandate.

The Government raised the threshold for seat distribution from 3 to 5 percent in an attempt to reduce the number of parliamentary parties and coalitions. The logic was that, by reducing the political fragmentation, the parliament would then be able to operate more efficiently and effectively. It appears that for these elections, that strategy has been successful. However, the higher threshold will also not prevent parties from splitting or coalitions from disbanding once they enter parliament.

The table in Appendix I illustrates the shifts between the 1996 and 2000 results for the parliamentary elections.

More than 30 minority associations, representing 18 different minority groups, ran for the Chamber of Deputies seats. All 18 minority groups won seats, up from 15 in the outgoing Chamber.

Women also increased their representation with significant gains in both houses -- 5.7% of the members of the Senate, up from 1.5% in the outgoing Senate, and in the Chamber, they increased from 7% to 10.4%. Women also hold 3 of the 18 seats allotted to national minorities.

Presidential candidate Ion Iliescu of the PDSR fell far short of the 44%-48% margin of victory predicted by pre-election polls. Instead, his share of the votes was 36.35%. Vadim Tudor of the Greater Romania Party, on the other hand, nearly doubled his vote share over pre-election polls which one week earlier had predicted between 11% and 15%. Of the 12 candidates competing in the election, 6 ultimately received less than 300,000 votes, the number of signatures required for registration.

## IX. THE SECOND ROUND PRESIDENTIAL ELECTION

The EOM maintained a presence in Bucharest for the second round presidential election held on 10 December 2000. The two-member team focused on election preparations, the pre-election campaign and media environment.

There are no legal provisions for adjusting bureau membership between the first and second rounds. This omission in the electoral law had the potential to preclude representatives of parties whose candidates are competing in the second round from having presence on election bureaus. To overcome this difficulty, the Central Election Bureau adopted Decision No. 77 allowing presidential candidates to have delegates present at electoral and polling station bureaus where they had no members appointed in the first round.<sup>31</sup> PRM apparently took advantage of this opportunity, but expressed concern that the involvement of delegates was limited to observation, without the right to participate in the work of the bureaus. Pro Democratia, one of the major domestic observation organizations for both 1<sup>st</sup> and 2<sup>nd</sup> rounds, also challenged the Decision.

The two-week period leading to the second round was marked by a campaign noteworthy for the absence of face-to-face debates between the two candidates, and the introduction of nationalist and xenophobic rhetoric that had not emerged during the first round campaign.

Tudor held a number of press conferences that were covered on television. At least on Pro-TV, his harsh criticism of the media and disdain for journalists became a focal point picked up in newspapers and broadcasts across the country. In addition, rhetoric by the candidate and members of his party drew attention to anti-minority sentiments and his intentions about mass arrests, public trials and confiscation of property. Virtually all major print media engaged heavily in negative campaigning against the PRM leader.

Most major parties and many candidates who failed to make it to the runoff either openly or indirectly called on their supporters to vote for Ion Iliescu and against Corneliu Vadim Tudor. A number of civic groups and organizations issued similar appeals. On 7 December, veterans of the 1989 revolution and students from Bucharest University held a March of Silence “against extremism, against dictatorship, for democracy, for tolerance, for Europe.” The march failed to attract a significant number of participants.

While pre-election polls were published regularly in the lead up to the first round, they were generally absent in the second round. Pollsters were criticized for inaccuracy in predicting the share of votes the two presidential candidates and their parties would receive in the first round. Only immediately before polling day were pollsters’ results published, generally predicting the actual outcome.

Ultimately, with 57.5% of the voters participating, Iliescu was declared the winner with 66.8% of the votes to Tudor’s 33.2%.

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<sup>31</sup> Published and signed under Nr. 793, 7 December 2000.

## **X. RECOMMENDATIONS**

While Romania has demonstrated its commitment in promoting democratic elections, each election provides the opportunity for lawmakers and election officials to evaluate its successes and weaknesses. With this in mind, the OSCE/ODIHR offers the following recommendations for consideration:

### **A. LEGAL FRAMEWORK**

- The legislative bodies should review the election ordinances, consider their merits and determine whether they should be adopted as amendments to the law and publish a consolidated legal text.
- The law should establish a deadline for the adoption of amendments prior to the start of an election campaign.
- The “election campaign period” should be redefined to distinguish from the administrative calendar for preparations for elections.

### **B. ADMINISTRATIVE STRUCTURES**

- A permanent central election body should be established.
- This election body should assess the conduct of the 2000 elections and propose recommendations to the Parliament for reforms.
- This election body should have the responsibility to develop training materials, prepare forms for the registration of parties and candidates, and develop civic education programs.
- If signature lists supporting the nomination of candidates are deemed necessary, formal guidelines should be established defining uniform and consistent verification procedures.

### **C. TRANSPARENCY MECHANISMS**

- Parties and candidates participating in a second round presidential election must have full representation on all election bureaus.
- The rules regarding domestic observers should be liberalized in line with those already applied in local elections, to ensure that their presence is permitted at constituency level during the consolidation of returns.

### **D. PARTICIPATION OF WOMEN IN THE ELECTORAL PROCESS**

- Political parties should consider measures to encourage greater participation of women in elections. This should include greater transparency in candidate selection; specific measures to increase numbers of women candidates in higher positions on lists; and

increasing numbers of women in central and local committees. Parties should inform themselves on the important issues for women voters and develop policies which appeal to and meet the concerns of women. Training should be provided for aspiring women politicians in campaigning, lobbying and fundraising techniques.

- Training of polling station bureau officials should be undertaken to emphasize that family voting should not be permitted. Voter education programs should explain to women the importance of making a personal choice when casting their vote.

#### **E. NATIONAL MINORITIES**

- Effective action should be taken to ensure that currently disenfranchised Roma citizens are provided appropriate identification and residency documents to ensure their electoral rights.
- Greater efforts should be made to ensure that Roma citizens receive information about their voting rights.

#### **F. MEDIA AND THE CAMPAIGN**

- Stringent rules that inhibit debate and coverage of controversial issues should be reconsidered.
- Print media should be required to distinguish news coverage and editorial commentary from paid political advertising.
- Restrictions on the duration and timing of campaign messages should be lifted.

#### **G. CAMPAIGN FINANCING**

- Party funding and campaign financing laws should require full disclosure, regular reporting and an oversight body to monitor compliance.
- Although the laws set limits on party and campaign contribution, the law is silent on ceilings for campaign spending. This omission should be rectified.
- Rules regarding audits of party finances should be established to ensure fair and equitable treatment.

#### **H. PREPARATIONS AND CONDUCT OF THE POLLING**

- Lawmakers and appropriate authorities should explore strategies for limiting the use of supplemental voter lists.
- Procedures should be developed that would allow voters to receive the ballot for the jurisdiction in which they are registered, especially in the case of the military.

- The design of the ballot should be re-evaluated to simplify voting and counting processes.
- The form used for the reporting of results should be reviewed to ensure that space is provided for recording all relevant data regarding polling activity.

#### **I. FORMULA FOR ALLOCATION OF SEATS**

- The formula for the allocation of seats should be modified to reduce the anomalies in the distribution of mandates.
- The scaled threshold for alliances and political formations should be re-evaluated to eliminate overly restrictive ones.



APPENDIX I

Seat Allocations (1996 – 2000 Election Results)

Party/Coalition	1996: Seats Won		2000: Seats Won	
	Chamber of Deputies	Senate	Chamber of Deputies	Senate
Democratic Convention of Romania (1996)				
PNTCD (National Christian Democratic Peasant Party)	83	27		
PNL National Liberal Party (Ran Independently for 2000 Elections)	25	17	30	13
PNLCD National Liberal Party Democratic Convention (now merged with PNL)	5	4		
RAP, now renamed UFD (Union of Rightists Forces)	3	1		
PER (Romanian Ecological Party)	5	1		
FER (Ecologist Federation of Romania)	5	1		
PDSR 1996 (Democratic Social Party of Romania) (Formed Coalition with PSDR and PUR for 2000 Elections under new name of Social Democratic Pole of Romania retaining acronym PDSR)	91	41	155*	65*
Social Democratic Union (1996)				
PD (Democratic Party) (Ran Independently for 2000 Elections)	43	22	31	13
PSDR (Romanian Social Democratic Party) (Formed Coalition with PDSR for 2000 Elections*)	10	1	*	*
UDMR (Democratic Alliance of Hungarians in Romania)	25	11	27	12
PRM (Greater Romania Party)	19	8	84	37
PUNR (Romanian National Unity Party)	18	7		

\*PSDR won seats in 2000 through its coalition with PDSR. Their seats are included in the total number of seats shown for PDSR.

## APPENDIX II

### Gender Breakdown by Party of Candidate Lists and Elected Representatives

For the November 2000 elections, the candidate lists of seven of the major parties and electoral alliances were as follows:

