



## **ODIHR SPECIAL ELECTION ASSESSMENT MISSION Romania – Parliamentary Elections, 6 December 2020**

---

### **STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS**

---

The 6 December parliamentary elections were organised professionally despite challenges posed by the COVID-19 pandemic and late adoption of some important procedural regulations. The legal framework generally provides for the conduct of democratic elections, yet numerous amendments affected its quality and contributed to legal uncertainty. Elections were competitive and fundamental freedoms were respected, but public health limitations on freedom of movement combined with restrictive campaign rules led to an anemic campaign. Public media offered free and equitable access to contestants; however, an overall lack of election-related news coverage limited voters' exposure to different political platforms. The lack of effective mechanisms for promoting women's political participation indicate the need for greater commitment to ensure adequate representation of both genders. In the limited number of polling stations visited, procedures were followed, and voting took place in a generally calm and orderly manner.

The elections took place amid the COVID-19 pandemic, and were marked by political fatigue, being the fourth electoral contest in the country in the last year and a half. They were preceded by the 27 September local elections, seen as a test-run for these elections, and resulted in a substantial increase of mayoral and county council seats for the party of the minority government, the National Liberal Party (PNL), and weakened the dominance of the Social Democratic Party (PSD).

Following the 2016 parliamentary elections a majority government was formed by the PSD and the Alliance of Liberals and Democrats (ALDE), and while several members of parliament (MPs) later switched parties, PSD retained the largest number of seats. Its initiatives seen to be softening anti-corruption laws and weakening anti-corruption institutions sparked prolonged public protests, and a successful no-confidence vote against the PSD government in October 2019 resulted in a PNL-led government. In February 2020, a PSD-led no-confidence vote felled the government just a few months later, after the government proposed changes to electoral laws ahead of mayoral races in a move seen to boost its chances. The PNL-led government was confirmed again as a minority government and continued to manage the country through the COVID-19 pandemic.

The right to set election date became a contentious issue as to which institution, the government or the parliament, has the power to establish it. The government had appealed a law adopted by parliament on 27 July vesting itself with that authority, and while the appeal was pending, set the date for 6 December. The Constitutional Court ultimately confirmed the constitutionality of the law, but the president delayed its practical enforcement by slowing down its promulgation. Although causing initial uncertainty, the legal dispute over election date did not affect electoral preparations.

The bicameral parliament is composed of 465 seats, consisting of a Senate with 136 seats and a Chamber of Deputies with 329 seats, elected for four years by a proportional closed party list.<sup>1</sup> Elections took place in 43 multi-member constituencies, including 41 counties, the municipality of Bucharest and a constituency for citizens living abroad. Some ODIHR SEAM interlocutors stated that

---

<sup>1</sup> The number of MPs is determined by a quota system. One deputy per 73,000 citizens and one senator per 168,000 citizens.

the six mandates that represent the out-of-country constituency appear not to reflect the high number of votes abroad, potentially challenging the equality of the vote.<sup>2</sup>

The legal framework generally provides for the conduct of democratic elections. However, it is complex, interspersed across various instruments covering different elections, and numerous amendments affected its quality and contributed to legal uncertainty. The legislation is also affected by the Government Emergency Ordinances (GEOs), a mechanism frequently used by the government to amend laws, although the Constitution stipulates that it can only be used in exceptional cases.<sup>3</sup> In September 2020, parliament adopted changes to a number of election-related laws, in a rushed manner and without public debate, contrary to international commitments and good practice.<sup>4</sup> These changes mostly replicated several amendments introduced ahead of the 2019 presidential election.<sup>5</sup> A number of previous ODIHR recommendations remain to be addressed, including the need to eliminate inconsistencies generated by the concurrent application of several pieces of legislation.

The elections were managed by two administrative structures: the Permanent Electoral Authority (PEA), and a three-tiered structure of election bureaus established for each election headed by the Central Election Bureau (CEB).<sup>6</sup> The PEA is a permanent body which deals with voter registration, voter education, party and campaign finance, and ensures logistical arrangements during elections. It is led by a president, appointed by a joint session of parliament, and supported by two vice-presidents, and has its own technical apparatus staffed with non-partisan civil servants.

The CEB, as well as second-level commissions, is composed of judges, PEA delegates and members appointed by contestants.<sup>7</sup> Ten out of 21 members of the CEB were women, including the president. Decisions of the CEB were published on their web-site, however, contrary to good practice and a previous ODIHR recommendation, sessions of the higher-level election bureaus were not open to the public, reducing transparency.<sup>8</sup>

Overall, the election administration met legal deadlines and managed technical aspects of the elections efficiently. Most ODIHR SEAM interlocutors expressed confidence in the election administration, however, raised some concerns related to the timeliness of its decision-making, mostly pertaining to

---

<sup>2</sup> Citizens abroad are represented by four seats in the Chamber of Deputies and two in the Senate. No official data is available on the number of citizens abroad, but estimates place the number around 3.5 million.

<sup>3</sup> Two GEOs were passed for these elections, relating to the extension of expired identification documents through December 2020, and allowing public authorities to receive documents with electronic signature.

<sup>4</sup> Amendments were introduced to the 2015 Law for the Election to the Chamber of Deputies and the Senate (Election Law), the 2006 Law on Financial Activity of Political Parties and Electoral Campaigns (Political Finance Law), and the 2015 Law on Postal Voting. Paragraph 5.8 of the [1990 OSCE Copenhagen Document](#) states that “legislation, adopted at the end of a public procedure, and regulations will be published, that being the condition for their applicability. Those texts will be accessible to everyone”. See Section II.2.b of the [2002 Venice Commission Code of Good Practice in Electoral Matters \(Code of Good Practice\)](#).

<sup>5</sup> The amendments extended the period for application for postal voting by 30 days and out-of-country voting to two days; allowed people in queues to vote until midnight; provided voters an opportunity to download their ballots to facilitate the process of postal voting; decreased the number of signatures required for candidate registration by half and introduced the possibility to submit them electronically. Other amendments provided that budget subsidies granted to political parties could be used for campaigning, increased the number of political parties represented in the lower-level election administration, and extended the powers of the president of the PEA to decide on PEA structural and organizational matters.

<sup>6</sup> The mid-level Election Bureau structure is composed of 41 County Election Bureaus, one election bureau for the Municipality of Bucharest and one election bureau to process out-of-country voting.

<sup>7</sup> The current rules for composition of the CEB prioritize nominees from parliamentary parties, limiting access for non-parliamentary political alliances which nominated candidates. Independent candidates cannot put forward representatives for any level of the election administration.

<sup>8</sup> Section II.3.1.81 of the 2002 [Code of Good Practice](#) states that “[t]he meetings of the central electoral commission should be open to everyone, including the media [...]. Any computer rooms, telephone links, faxes, scanners, etc. should be open to inspection”.

COVID-19 pandemic adjustments, and the extended powers of the PEA president to decide on structural and organizational matters within the PEA.<sup>9</sup>

Voting was administered by 18,802 Election Bureaus (EBs), which comprised of a president and a vice-president, and up to eight representatives of parliamentary political parties or election contestants. Politically nominated members could be replaced until the day before election day, which could have affected the performance of the EBs. The COVID-19 pandemic caused additional challenges in acquiring a sufficient number of nominees for EBs. The PEA organized most of its training sessions online due to COVID-19 related health concerns. Training of politically nominated EB members was conducted by political parties. The lack of unified training methodology, and the limited scope of training sessions held in large groups online over a short period of time, raised concerns of their effectiveness.

Citizens aged 18 years or older on election day are eligible to vote, unless disenfranchised by a court decision on the grounds of a criminal conviction or for reasons of legal incapacity, at odds with international standards.<sup>10</sup> Voter registration is passive and continuous. The PEA has overall responsibility for management of the permanent electoral register, which is based on a compilation of data from various state authorities.<sup>11</sup> The electoral register included 18,970,649 voters. Most ODIHR SEAM interlocutors expressed confidence in the accuracy of voter lists.

The law provides for the use of a mobile ballot box for homebound voters and voters in inpatient and detention facilities. Voters infected with COVID-19, their family members and those in self-isolation could request a mobile ballot box. Some ODIHR SEAM interlocutors initially raised concerns about the procedure and the short deadline to request homebound voting. Positively, on 27 November, the CEB clarified which documents were required to qualify for homebound voting in case of quarantine or self-isolation, and directed EBs to address the health authorities to request such documents upon receipt of requests from voters. It also introduced an opportunity for all voters to request a mobile ballot box until 4 December, either in person or electronically. The CEB decision simplified requirements and improved voters' access to this procedure, however, its late approval limited its impact.

Voters living abroad could vote by post or in person over the course of two days at 748 polling stations in 92 countries. Due to COVID-19 pandemic restrictions, there were nearly 100 fewer polling stations abroad in comparison with last year's presidential election. While 39,244 citizens applied for postal voting abroad, no previous registration was required for voting in person. Recruitment of polling staff, and postal ballot delivery, due to the COVID-19 pandemic posed additional challenges.<sup>12</sup> Postal votes sent back to Romania were assigned to three designated EBs.<sup>13</sup> According to the PEA, voting premises abroad were kept under electronic surveillance throughout the two-day extended voting period, and tablets were used for recording the tallying of the ballots both in country and abroad.<sup>14</sup>

---

<sup>9</sup> The Court of Accounts issued a report in July 2020, which offered critical assessment of the PEA's human resources management based on recent appointments without sufficient experience for the positions.

<sup>10</sup> See Articles 12 and 29 of the [2006 UN Convention on the Rights of Persons with Disabilities](#) (CRPD). See also paragraph 9.4 of the [2013 CRPD Committee's Communication No. 4/2011](#), which states that "Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities. Therefore, an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability, within the meaning of article 2 of the Convention".

<sup>11</sup> Data is collected from such sources as the Directorate of Persons Record and Databases Management, the General Directorate for Passports, National Authority for Citizenship and municipal authorities.

<sup>12</sup> Some 40 per cent of postal ballots were not delivered by the 3 December deadline.

<sup>13</sup> Those registered could either send their ballots to the assigned in-country election bureau or deliver them to the diplomatic or consular office in their respective country of residence.

<sup>14</sup> The results transmission system follows the same procedure as in-country polling stations with the originals being kept by the embassies and sent back to the relevant public bodies in country after the elections.

Citizens with the right to vote can stand for elections but candidates for the Chamber of Deputies and Senate must be at least 23 and 33 years old, respectively, and can be nominated by parties, coalitions, and organizations representing national minorities, or run independently. Following the September 2020 amendments, the number of required supporting signatures was halved and contestants were able to submit their documents electronically. The CEB registered 41 candidate lists with a total of 7,136 candidates, 42 of which were independent, in a generally inclusive manner.

Gender-disaggregated data for the candidate lists was not publicly available. A research carried out by a civil society organization indicates that women candidates made up some 29.5 per cent of candidates on party lists. This was only a 1.75 per cent increase from 2016, despite a legal incentive to field woman candidates introduced in 2017. While the law provides that candidate lists should include both genders, it does not set an enforcement mechanism for non-compliance, and there was no consistent interpretation of the provision.<sup>15</sup> Six registered lists did not comply with this criterion and had no women represented on their lists.<sup>16</sup> Women were generally underrepresented in elected office, and parliamentary parties met by the ODIHR SEAM stated that they had no internal policies to promote women candidates.<sup>17</sup>

The official campaign period began on 6 November and ended 24 hours before election day. COVID-19 infection rates surged in November, with a number of municipalities around the country placed on lockdown, further reducing freedom of movement and affecting the campaign.<sup>18</sup> The state of alert introduced by the government in May was extended throughout campaign period.<sup>19</sup> The campaign was extremely low-key, due to a restrictive campaign legislation compounded by public health limitations on freedom of movement and indoor and outdoor gatherings.<sup>20</sup> The law does not allow placing billboards, and campaign posters of a certain size and format are only allowed to be displayed on panels provided by the authorities. Concerns about access to these panels were voiced by some independent candidates. Many candidates opted to campaign before the official campaign period, notably during the collection of signatures for registration. In the official campaign period, contestants conducted in-person door-to-door campaigning, and held small meetings, but reported that members of the public were hesitant to engage.

Campaigning was more vibrant in traditional and social media, with most contestants turning to Facebook and Instagram to connect with voters through political advertising, web-pages, social media accounts and online events. Some political parties voiced their concerns to the ODIHR SEAM over attempts to target them by manipulated online content purporting to be news.

The campaign initially centred around economic recovery, the preservation of social benefits, or anti-corruption, but the worsening public health situation soon dominated the debate, punctuated by accusations of corruption.<sup>21</sup> Top political figures distinguished themselves from each other in terms of

---

<sup>15</sup> In one case, a list was rejected for non-compliance with the requirement, and in one other instance courts ruled it to be a non-binding requirement and allowed registration of candidate lists without any women.

<sup>16</sup> See Expert Forum [report](#) on participation of women in elections.

<sup>17</sup> In the outgoing parliament women held only 19 per cent of seats, and 3 of the 18 ministerial posts in the outgoing government.

<sup>18</sup> During the campaign, the number of municipalities and counties on lockdown ranged from 25 municipalities in 8 counties to 13 municipalities in 5 counties.

<sup>19</sup> On 14 November, the government extended the state of alert for the seventh time for another thirty days. A state of alert imposes a number of restrictions on freedoms of movement and assembly, requires compliance with certain precautionary measures and allows authorities to implement and amend restrictions on short notice.

<sup>20</sup> A 3 November public health order limited indoor campaign gatherings to 20 people, outdoor gatherings to 50 people, and street campaigning to no more than 6.

<sup>21</sup> On 14 November, a fire in an intensive care unit for COVID-19 patients at a hospital in Piatra-Neamt killed eleven people and sparked public outcry about the lack of fire code compliance, and the overall state of hospitals. MPs challenged each other to decline special pensions, widely seen as an undeserved benefit for the political class.



pandemic management, including in positions on school and market closures, and deteriorating conditions in hospitals. The president took part in the campaign by regularly criticizing PSD and defending the PNL in public statements, while performing his official duties during the campaign period, at times blurring the line between his official duties and the campaign, at odds with international standards.<sup>22</sup>

The latest amendments to campaign and party finance laws have led to a substantial growth of the annual amount of public funding, and extended the right for parties to use these subsidies for campaigning provided they open a separate bank account. However, newly formed parties and candidates running independently do not benefit from state subsidies available to parties holding the seats in the parliament and are not entitled to reimbursements for election expenses if they do not reach the 3 per cent threshold in elections, disadvantaging new parties and independent candidates, and potentially affecting the level playing field.

The PEA is mandated with oversight of campaign and party finance, and can initiate investigations and issue fines. Within 15 days after election day, parties and candidates have to submit a detailed report of their campaign revenues and expenditure to the PEA, which are published within 60 days from the publication of election results. While parties have the obligation to disclose their contributions within three days of their receipt, the law does not provide for the publication of interim reports by the PEA. Sanctions for abuse of public resources can only be applied for irregularities identified after the PEA conducts its audit after the elections. Overall, the campaign finance regulatory framework does not ensure transparency of campaign finance and the effectiveness of oversight due to lack of interim reporting and limited powers of the PEA to identify unreported income and expenditure.

The media environment is diverse but polarized along political lines. Limited revenues from advertising impact the financial viability of many media outlets, which increasingly depend on public institutions' advertising and subsidies. Television remains the primary source of information for most citizens, followed by online media and social media platforms. The National Audiovisual Council (CNA), the broadcast media regulatory body responsible for overseeing broadcasters' compliance with media regulation for the election campaign, held frequent and regular board meetings open to the public to discuss violations and complaints.<sup>23</sup> While there are no set legal deadlines to deal with complaints, the CNA did not address all complaints within the campaign period in a timely manner. The CNA's media oversight was conducted mainly through the verification of weekly reports submitted by broadcasters indicating which contestants they covered in their programmes.<sup>24</sup> In addition, it conducted a limited qualitative media monitoring and random checks. While this allowed the CNA to detect some violations, the absence of a quantitative monitoring on national broadcast media weakened its capacity to effectively enforce legal requirements for an equitable electoral coverage.

The ODIHR SEAM media monitoring showed that *TVRI*, the main TV channel of the national public broadcaster *Romanian Television (TVR)*, which enjoys a limited audience, offered free airtime and

---

<sup>22</sup> During a live press conference on 24 November marking the first year of his presidency, the president stated that the PSD was responsible for the COVID-19 situation in the country, called its government during the last parliament corrupt and incompetent, and called on voters to remove them from power on 6 December, prompting the PSD to file an official complaint. He again criticized PSD during the opening of the Bacau highway on 2 December, and during the plenary session of the Superior Council of Magistracy on 3 December. Paragraph 5.4 of the [1990 OSCE Copenhagen Document](#) provides for "a clear separation between State and political parties". See Section II. B. 1.1 of the [2016 ODIHR and Venice Commission's Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#).

<sup>23</sup> As of 4 December 2020, the CNA issued 18 sanctions for breaches related to the campaign coverage. PSD complaint filed on 25 November was not reviewed by the CNA prior to election day.

<sup>24</sup> On 21 October, the CNA published Decision Nr. 603 outlining the media regulation for this election campaign, which requires broadcasters to inform the CNA about their intention to cover the election campaign.

organised electoral debates among contestants, as required by law.<sup>25</sup> Some TV channels with larger audiences, such as *PRO TV*, did not cover the electoral race at all. Most broadcasters offered limited or no electoral coverage in their news. However, they covered state officials, including members of the government performing their official duties. Most monitored TV channels offered extensive news coverage to the president, with live broadcast of his press conferences, which at times resulted in a clear advantage for the PNL. In its current affairs and electoral coverage, *Antenna 3* covered PNL often in a negative tone.

The ODIHR SEAM media monitoring showed that media often failed to clearly distinguish between various formats of their coverage. Moreover, the law allows contestants to pay for ‘electoral promotion programmes’ but does not require broadcasters to clearly label them as paid for. These practices blurred the line between editorial and paid coverage. Only few debates featured the leaders of main political parties or were focusing on specific policies, such as the debate organised by *DIGI24* in the last week of the campaign. In most debates, with an exception of the *DIGI24* and *TVRI*, the discussion over policies was overshadowed by mutual accusations among contestants, including on the topic of handling the pandemic. The latter coupled with almost a total absence of electoral coverage in the news weakened the opportunity for voters to make an informed choice.

The system of complaints and appeals offers contestants and voters an effective legal remedy. The law establishes an expeditious process with one to three calendar days for the resolution of appeals and petitions. Decisions of lower-level election bodies are appealed to superior commission, with the CEB’s decision that can be challenged either to the Court of Appeal or to the High Court of Cassation and Justice, depending on the nature of the complaint. The CEB sessions on adjudication of complaints were not open to the public, detracting from the transparency of the electoral dispute resolution process. Complaints against the PEA are filed with the Court of Appeal in most cases; the court may expedite urgent cases but no mandatory timeframe is set.<sup>26</sup> The CEB received 56 complaints, mostly related to the composition of the EBs and display of electoral campaign material. Most of the complaints were discussed on merits, and the CEB’s decisions were well-reasoned. Decisions were published on the CEB website in a timely manner.

National minorities enjoy constitutionally guaranteed representation in parliament through preferential seats in the Chamber of Deputies if they hold membership in the Council on National Minorities.<sup>27</sup> Fifty-seven candidates competed for the eighteen national minority seats in the new parliament.<sup>28</sup> Only the Hungarian minority contested the elections at the national level. The Democratic Alliance of Hungarians in Romania (UDMR) raised concerns about quarantine and homebound voting in certain regions of the country potentially affecting the turnout of their electorate.

Observers have the right to be present during voting and tallying, but despite a long-standing ODIHR recommendation, observation of other stages of the electoral process or the activities of higher-level bodies is not stipulated by the law. Access to information and the right to observe is further limited by the non-public nature of election administration sessions. In an inclusive process, the PEA accredited forty civil society organizations, three international organizations, and nine diplomatic missions. Accredited organizations also deployed some observers for out-of-country voting. The largest citizen observation efforts, including observation of election administration, campaign and campaign finance,

---

<sup>25</sup> The ODIHR SEAM conducted a quantitative and qualitative media monitoring of the primetime (18:00-24:00) programmes of four national TV channels (*TVRI*, *PRO TV*, *Antenna 3* and *DIGI24*) from 16 November 2020 to 6 December 2020.

<sup>26</sup> Voter lists complaints are decided within three days.

<sup>27</sup> Nineteen ethnic groups are officially recognized as national minorities through their membership in the Council of National Minorities, a governmental consultative body. Only ethnic groups represented in the Council can compete for the preferential parliamentary seats afforded to national minorities. Accession of minorities to the Council has not taken place since 2000.

<sup>28</sup> All of these candidates were fielded from the organizations with seats already in the Council.

and fielding of short-term observers, were carried out by *FiecareVot*, a well-established coalition of citizen observer organizations.

The ODIHR SEAM did not undertake systematic or comprehensive observation of election-day proceedings. In the limited number of polling stations visited, the voting process was smooth, and procedures were followed. Preventive measures against COVID-19 were in place, and largely respected, but some polling stations were not sufficiently spacious to observe social distancing. Obstacles to unassisted access for voters with disabilities were observed in some of the polling stations visited. The CEB reported disaggregated turnout data throughout the day and began publishing results by polling station; the website with results also featured scans of the original results protocols, enhancing transparency of the process. Turnout was reported at 33.3 per cent.

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

---

#### MISSION INFORMATION & ACKNOWLEDGEMENTS

---

Bucharest, 7 December 2020 – This Statement of Preliminary Findings and Conclusions is an assessment made to determine whether the elections complied with OSCE commitments, international obligations and standards for democratic elections, and with national legislation.

ODIHR has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process.

The ODIHR SEAM, headed by Marianne Mikko, was deployed from 12 December and consists of a core team of nine international experts based in Bucharest. The ODIHR SEAM did not carry out systematic or comprehensive observation of the voting, counting and tabulation proceedings on election day, in line with ODIHR's methodology for election assessment missions. Mission members did, however, visit a limited number of polling stations on election day.

The ODIHR SEAM wishes to thank the authorities of the Romania for their invitation to observe the elections, and the Permanent Electoral Authority and the Ministry of Foreign Affairs for the assistance. They also express their appreciation to other state institutions, political parties, media and civil society organizations, and international community representatives for their co-operation.

For further information, please contact:

- Marianne Mikko, Head of the ODIHR SEAM, in Bucharest (+40-755-776 177);
- Katya Andrusz, ODIHR Spokesperson (+48-609-522 266), or Kseniya Dashutsina, ODIHR Election Adviser, in Warsaw (+48-603-793 786);

**ODIHR SEAM Address:**

Hilton Garden Inn Hotel, 6-7 Floor  
12, Doamnei Str., 030055, Bucharest, Romania  
Tel.: +40 (0314) 032209; email: [office@odihr.ro](mailto:office@odihr.ro)