



Office for Democratic Institutions and Human Rights

THE CZECH REPUBLIC

PARLIAMENTARY ELECTIONS
8-9 October 2021

ODIHR Election Expert Team
Final Report



Warsaw
22 March 2021

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**THE CZECH REPUBLIC
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ODIHR Election Expert Team Final Report¹

I. EXECUTIVE SUMMARY

Following an invitation from the government of the Czech Republic, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Expert Team (EET) to observe the 8 and 9 October 2021 elections to the Chamber of Deputies (hereinafter parliamentary elections). The ODIHR EET assessed aspects of the electoral process related to the conduct of elections during the COVID-19 pandemic, the election campaign, the media landscape and campaign coverage, as well as the participation of women in elections.

The elections took place against the backdrop of a polarized political context, and many interlocutors perceived the elections as a plebiscite on Prime Minister Andrej Babiš, who was challenged by the newly created coalitions *SPOU* as well as Pirate Party and Mayors and Independents (STAN), composed of several mid-size parliamentary parties.

The Election Law has been amended on several occasions since the last parliamentary elections, including in 2021 with regards to electoral system and alternative voting methods, the latter in response to the COVID-19 pandemic. Most previous ODIHR recommendations remain unaddressed, including those related to the suffrage rights of persons with intellectual and psychosocial disabilities, mechanism of voter lists' compilation and verification, media ownership concentration, participation of women in elections, and the status of citizen and international observers. All ODIHR EET interlocutors regarded the legal framework as conducive to holding democratic elections.

Elections are administered by multiple bodies and institutions at national, regional and local levels. The State Election Commission is coordinating the overall organization of elections, and the Ministry of Interior together with a number of state institutions, local governments and election commissions are responsible for technical preparations and for managing the process. All ODIHR EET interlocutors expressed full confidence and trust in the professionalism and impartiality of the various state institutions dealing with the administration of elections.

Voting methods gave an ample opportunity for voters to cast their ballots either in their registered polling station during two days of elections, or at any other station by applying for an Absentee Voting Certificate, or at home by means of mobile ballot box, and at diplomatic missions abroad. Special measures, such as advance voting at drive-through locations and quarantined residence facilities, and mobile voting arrangements, were introduced for voters in quarantine or in self-isolation as a response to the COVID-19 pandemic. Some 8.2 million voters were eligible to cast their ballot.

The Constitution guarantees fundamental freedoms and contestants could freely reach out to citizens in an overall competitive, but polarized campaign. Members of government benefited from their official position during ten months of campaigning. Political parties used both conventional and online tools to address the voters. In a limited number of campaign events observed by the ODIHR EET, social distancing measures against the COVID-19 pandemic were not fully respected by participants. The tone of the campaign was often harsh, with charged language and personal attacks between candidates. ODIHR EET interlocutors from parties and civil society expressed concerns over a sizable impact of growing disinformation in the campaign.

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

Media landscape is vibrant and pluralistic, yet the concentrated ownership of the major media houses by local magnates is of concern in terms of their editorial independence. Many ODIHR EET interlocutors voiced concern about stifled critical reporting on the Prime Minister and his government, as also reflected in campaign coverage by some private media. Public broadcasters enjoy high trust in society as an influential and impartial source of news. However, the manner of appointment of the Czech Television's oversight body in 2020-2021 and subsequent activities against the television management are of concern in relation to oversight and independence of the public broadcaster.

Campaign coverage was extensive in both public and private media, including debates on TV, radio and online. It was complemented by generous free airtime allocated to all contestants on public radio and TV. Although some small parties challenged the lack of invitation of these parties to the main debates on the eve of voting, the programming gave all parties possibility to present their platforms and for voters to make an informed choice. Several instances of limited access to information and/or inflammatory language against journalists were noted during the campaign period in events with participation of the Prime Minister and office of the president, as well as during campaign events of some contesting parties.

Women remain underrepresented in public and political life. In the newly elected Chamber of Deputies, the number of women has increased from 23 to 25 per cent. Although the number of female candidates has also increased in these elections, the position of women on candidate lists continues to be low-ranked. In the absence of legislative requirements for an equitable representation of women, none of main contestants applied internal measures for advancing women in their candidate lists. Many ODIHR EET interlocutors raised concern that female candidates are often affected by sexist and misogynistic remarks, especially in social networks.

This report offers recommendations to support efforts to further align elections in the Czech Republic with OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations focus on enhancing transparency and accountability of voter registration, further introduction of safeguards for media pluralism and facilitation of effective participation of women in public and political life. ODIHR stands ready to assist the authorities to address the recommendations contained in this and previous reports.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the government of the Czech Republic and based on the findings and conclusions of the Needs Assessment Mission (NAM) conducted from 7 to 11 June 2021, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Expert Team (EET) to observe the 8 and 9 October parliamentary elections. The ODIHR EET consisted of four experts drawn from four OSCE participating States and stayed in the country from 23 September till 13 October.

The ODIHR EET assessed aspects of the electoral process related to the conduct of elections during the COVID-19 pandemic, the election campaign, the media landscape, the campaign coverage in the media, as well as the participation of women in elections. Therefore, the report is limited in scope and does not offer an overall assessment of the electoral process. The specific areas under review were assessed for their compliance with OSCE commitments and other international obligations and standards for democratic elections, as well as with national legislation. In line with ODIHR methodology, the ODIHR EET did not undertake a comprehensive and systematic observation of the election day proceedings, but visited a limited number of polling stations and one voting results collection point. This final report should be read in conjunction with the 2021 ODIHR NAM report

and the previous 2017 ODIHR Election Assessment Mission report, which provide additional detail and recommendations on the electoral process in the Czech Republic.²

ODIHR wishes to thank the Ministry of Foreign Affairs (MFA), the Ministry of Interior (MoI) and other state institutions for their assistance and co-operation. The ODIHR EET also wishes to express gratitude to representatives of political parties, media and civil society for sharing their views.

III. BACKGROUND AND POLITICAL CONTEXT

The Czech Republic is a parliamentary republic, with a government led by the prime minister who is appointed by a directly elected head of state – the president. The bicameral parliament comprises the Senate (upper chamber), with 81 senators directly elected for a six-year term, and the Chamber of Deputies (lower chamber) with 200 members. Elections to the Chamber of Deputies (hereinafter parliamentary elections) were called by the President on 28 December 2020.

The last parliamentary elections took place in October 2017 and resulted in a fragmented political party landscape, with nine parties represented in the Chamber of Deputies. A minority government was led by the political movement ANO 2011 (ANO) in coalition with the Czech Social Democratic Party (ČSSD), supported by the Communist Party of Bohemia and Moravia (KSČM).³ In the 2018 elections, the ruling parties lost the majority in the Senate, while in the 2020 regional elections, ANO again emerged as the party with the most voter support.

The elections took place in a polarized political context, with many ODIHR EET interlocutors perceiving the vote as a plebiscite on the Prime Minister. The electoral environment was marked by a certain level of disillusionment among the electorate with the government's handling the COVID-19 pandemic, investigations against Prime Minister Babiš regarding the allegations of misuse of the EU funds by the companies indirectly controlled by him, a third, although unsuccessful, motion of no-confidence to the government brought by the opposition and several demonstrations throughout the country organized by the civil society groups.⁴

Although having limited constitutional powers, the country's president plays an important role in the electoral process, with his prerogative for designating the party in charge of forming the new government. In his public appearances, President Miloš Zeman repeatedly voiced his preference for giving such responsibility to Mr. Babiš and ANO, irrespective of the result and possible parliamentary majorities.

ODIHR has previously observed four elections in the Czech Republic. The last ODIHR Election Assessment Mission concluded that the 2017 parliamentary elections “were competitive and pluralistic. Voters had a wide choice of candidates from an extensive spectrum of political parties. Contestants were able to campaign freely and all fundamental freedoms were largely respected”.

² See all previous ODIHR [election-related reports on the Czech Republic](#).

³ After the 2017 parliamentary elections, the Chamber of Deputies included ANO (78 seats), Civic Democratic Party (ODS, 25 seats), Pirate Party (22 seats), Freedom and Direct Democracy (SPD, 22 seats), KSČM (15 seats), ČSSD (15 seats), Christian Democratic Union - Czechoslovak People's Party (KDU-ČSL, 10 seats), TOP 09 (7 seats), and Mayors and Independents Movement (STAN, 6 seats).

⁴ Mr. Babiš is a billionaire who entered politics in 2012 and is said to control a significant part of national media. Just a few days before elections, Mr. Babiš's businesses were again under the spotlight following international revelations about acquisition of a luxury property via offshore companies.

IV. ELECTION ADMINISTRATION

A. ELECTION MANAGEMENT BODIES

The elections were administered in a decentralized manner by multiple bodies and institutions at national, regional and local levels, including the State Election Commission (SEC), the MoI, the Central Statistical Office (CStO), the MFA, 14 Regional Offices, 6,254 municipalities and 14,886 Polling Station Commissions (PSC). All ODIHR EET interlocutors expressed full confidence and trust in the professionalism and impartiality of the institutions administering elections.

The SEC is a permanent body composed of ten members, including representatives from the Office of the president, ministries with responsibilities in electoral process, and the CStO, and is chaired by the Minister of Interior.⁵ The SEC co-ordinates the conduct of elections, and approves and publishes election results. Political parties, movements and coalitions have no representation in the SEC, and its meetings take place on an *ad hoc* basis, behind closed doors, despite a previous ODIHR recommendation. The law also does not provide for citizen and international election observation. The ODIHR EET was not able to observe any SEC meetings as well.

Consideration could be given to opening the SEC meetings to the public and political parties

The MoI oversees the technical aspects of elections, including distribution of voter registration data to municipalities and production of ballot papers and envelopes.⁶ For these elections, in order to facilitate the participation of persons with disabilities in elections, the MoI prepared several videos with subtitles and sign language and an information leaflet in an easy-to-read format. Positively, ballot paper envelopes sent to voters contained an information sheet with QR-codes linked to the websites with information adapted for voters with special needs.

Some ODIHR EET interlocutors raised concerns that the personnel of care institutions or public guardians rarely inform their wards on electoral matters, including due to lack of clear guidelines or practice to keep persons with disabilities informed about exercising their voting rights. According to several ODIHR EET interlocutors, physical accessibility of some polling stations remains an obstacle. The ODIHR EET, while visiting polling stations in old school buildings, noted that some had no accessibility ramps or lifts to provide access to voters in wheelchairs.

Considerations should be given to raising awareness and providing training for public authorities about the electoral rights of persons with disabilities and possible forms of facilitation of their rights.

The Regional Offices are responsible for the registration of candidate lists in the respective constituencies, provide logistical support to the CStO and train the PSCs. For these elections, approximately 44,000 PSC members received mandatory training on election day proceedings.⁷

The CStO is responsible for the tabulation of election results at regional and central levels. It administered 507 voting results collection points across the country, where the PSCs delivered the voting results protocols. The tabulation observed by the ODIHR EET at one collection point was well administered and transparent. The CStO displayed on its website the incoming voting results by polling stations in real time, including from stations abroad, in a transparent and professional manner.

⁵ The current SEC members include five women and five men.

⁶ The MoI does not collect and administer centralized data about the number of voters ahead of an election.

⁷ In two polling stations observed by the ODIHR EET, no proper reconciliation ahead of counting was implemented by the PSC members.

Municipalities are in charge of informing voters about the voting time and place, administering voter lists, distributing ballots to voters, setting up polling stations, and appointing the PSCs. Political parties, movements and coalitions running in elections were entitled to nominate one member and one substitute member to each PSC. If there was an insufficient number of party nominees, vacant positions within the PSCs were filled with municipal workers or volunteers appointed by mayors.

B. VOTING METHODS

The municipalities had to inform voters by 23 September where to go to the polls and mail them a set of ballot papers by 5 October except for voters without permanent residence or homeless people.⁸ According to the CStO information released after elections, there were 8,275,752 registered voters.

Citizens had several options to exercise their right to vote besides casting their ballots in-person at their respective polling stations. Voters could apply for an Absentee Voting Certificate (AVC) at the municipal authorities of their permanent residence to be able to vote at any polling station within or outside the country.⁹ If an AVC was not delivered to a voter, the latter would not be able to get a duplicate and vote. The MoI explained the lack of possibility to issue a duplicate due to absence of any centralised data on use of the AVCs and informed the ODIHR EET, that it had prepared draft amendments of the relevant legal provisions with the aim of strengthening the guarantees of universal suffrage.¹⁰

As previously recommended, considerations could be given to creating a central voter register with a view to integrate nationwide voter registration data, facilitate cross-checks of voter lists against multiple or faulty entries, and control the use of the absentee voting certificates.

In July 2021, in light of the COVID-19 pandemic, the parliament approved a government bill on special voting methods applied in case of sanitary emergency. As this was the case during these elections, special methods were available for voters in quarantine or isolation and for those sick with the COVID-19, and special rules were applied for the administration of elections and the determination of the results of elections. Despite changes of the voting procedures made late in the process, all ODIHR EET interlocutors expressed confidence in the legal framework and regarded it conducive to holding democratic elections.

Those voters who qualified for the special arrangements could cast their vote from their vehicles in drive-through polling stations two days prior to the first day of polling.¹¹ Another option of special voting introduced by the new law was mobile voting of eligible voters in the quarantine residence facilities the day preceding the first day of voting. A third option offered qualified voters to request respective Regional Offices to provide a mobile ballot box at home.¹² All the ballot boxes used for special voting due to the COVID-19 pandemic were stored until the end of the polling and were then counted by the special counting commissions at the Regional Offices.

⁸ Around 400,000 people without permanent residence are registered in town halls and receive ballots there.

⁹ The municipal offices had to issue the AVCs no earlier than 23 September. A voter could apply for an AVC in writing by 1 October, accompanied with an officially certified signature; electronically, via the data box, also by 1 October; and in person until 6 October. The AVCs are produced by the MoI and contain serial numbers and watermarks as security features.

¹⁰ OSCE participating States, in Paragraph 7.3 of the 1990 OSCE Copenhagen Document, committed to “guarantee universal and equal suffrage to adult citizens”. See also Section 1.2 of the 2002 Venice Commission [Code of Good Practice in Electoral Matters](#).

¹¹ In total, 1,601 voters in quarantine or isolation used the opportunity to vote at 82 drive-through polling stations.

¹² The mobile ballot option could only be requested by telephone no later than 20:00 the day before the first day of voting and was used by about 1,200 voters.

In line with the SEC guidelines, voters had to wear face masks, use hand disinfectants provided in polling stations, and follow social distancing protocol inside polling stations.¹³ In a few polling stations visited by the ODIHR EET, the COVID-19 related measures were generally adhered to.

Voters living abroad need to register at their respective embassy to be included in a special voter list.¹⁴ For these elections, 18,808 voters registered abroad and were removed from the voter list at their permanent address. The out-of-country votes are counted at the diplomatic missions abroad and allocated to 1 of the 14 constituencies pre-selected randomly. Several ODIHR EET interlocutors advocated for introduction of postal voting for those abroad and strengthening guarantees for secret voting at small polling stations.¹⁵

V. ELECTION CAMPAIGN

The campaign period starts from the official call of the elections and continues until the promulgation of election results. There is no campaign silence period, but it is not allowed to campaign on election days at the voting premises and in their immediate vicinity.¹⁶ The president has to announce the dates for holding elections no later than 90 days from the voting, but the law does not specify how early this announcement can be done. Many ODIHR EET interlocutors noted that this gap in the law and call of elections too far from election day benefits well-established parties and those holding public office.¹⁷ Some ODIHR EET interlocutors also noted that protracted campaign makes it difficult for smaller parties to plan and budget their campaign activities.¹⁸

Many ODIHR EET interlocutors informed that the campaign was very low key for several months, gaining momentum in August when billboards and stands displayed campaign materials in the streets, and paid advertisements appeared on the Internet and social networks, going into full swing three weeks before the vote.

In order to guarantee level playing field and to ensure equal opportunities to all contestants, consideration could be given to determine a set timeframe for the duration of the election campaign, detached from the date of the announcement of elections.

The law stipulates honesty and integrity in the conduct of the election campaign and prohibits publication of untruthful information with regard to candidates, parties, movements, or coalitions. Besides the contestants, natural or legal persons may also register as a third party and independently campaign in favour or against any candidacy. Each printed and broadcast campaign material must be labelled with data on who ordered and who produced it. Municipal authorities have to designate locations where contestants may post their campaign materials free of charge and on an equal basis.

The Constitution guarantees fundamental freedoms, and contestants could freely reach out to citizens in an overall competitive, but polarized campaign. The most recurrent topics were the economic

¹³ The MoI issued a directive on the provision of resources for hygiene and anti-epidemic measures in the elections.
¹⁴ Voters residing abroad could vote at 110 embassies and 1 special polling station for UN soldiers. According to the MFA, there are some 500,000 Czech citizens living abroad.

¹⁵ In 2021, 50 senators prepared a bill to introduce postal voting for voting abroad, which did not find the necessary support of the government and the Chamber of Deputies.

¹⁶ Publishing of opinion polls is prohibited within the last three days before the voting.

¹⁷ The President called these elections on 28 December 2020, and the election campaign formally lasted for more than nine months.

¹⁸ The campaign expenditure ceiling is limited to CZK 90 million per contestant (some EUR 3.6 million) regardless of the duration of the election campaign. EUR 1 is approximately CZK 25.5 (Czech Koruna).

situation, the social welfare, the fight against corruption and illegal immigration. The geostrategic orientation of the country also featured in the campaign, including its position inside the EU, the cooperation with the Visegrád group and its relation with China and Russia.¹⁹ Notably, the COVID-19 pandemic did not have an important echo in the campaign discussions.

Political parties used both conventional and online tools to address voters. With some exceptions, contestants refrained from organizing large events, and most public outreach was done through small format meetings, including distribution of printed materials. There were no specific COVID-19 related measures impeding the conduct of the campaign. In the events observed by the ODIHR EET, social distancing was not maintained, and most participants were not wearing face masks.

According to ODIHR EET party interlocutors, posters and billboards were mostly displayed inside and around the public transportation hubs in urban areas, while in smaller towns, parties preferably used the free spaces allocated by the municipalities and had more direct interaction with voters, including door-to-door canvassing. The ODIHR EET was not aware whether contestants reached out to persons with disabilities, either through easy-to-read or other adapted materials.

The Prime Minister and his party ANO were mainly challenged by the newly created conservative-right coalition *SPOLU* (Together) and the liberal coalition of Pirate Party and STAN.²⁰ The tone of the campaign was harsh, with charged language and personal attacks between candidates, at times bordering on insult, particularly between the Prime Minister and the leader of the Pirate Party.²¹ The campaign was prominent in social networks, especially through *Facebook*, *YouTube* and *Instagram*, including the use of paid advertisements. Many ODIHR EET interlocutors from parties and civil society pointed out the considerable negative impact of disinformation on the campaign. According to many ODIHR EET interlocutors, fake news and misleading messages, in particular about illegal immigration, were extensively spread through social networks and emails. The prominent targets of disinformation were the Pirate Party, and to a lesser extent ANO and the *SPOLU* coalition. While it was not possible to identify the sources of disinformation, some political actors synchronized their campaign narratives to the disinformation contents thus amplifying their effect.²²

Members of the government benefited from their official position along the lengthy campaign. This amplified the advantage of incumbency, especially in media, and some civil society interlocutors of the ODIHR EET described this as ‘privatization of the public interest’.²³ ANO representatives met by the ODIHR EET acknowledged that their candidates had no need to hold an intense campaign

¹⁹ The Visegrád Group is a cultural and political alliance of the four Central European EU member states: Czech Republic, Hungary, Poland and Slovakia.

²⁰ Coalition *SPOLU* was composed of ODS, KDU-CSL and TOP09. A third coalition which contested in these elections consisted of *Tricolor*, Free Citizens and Freeholders (TSS).

²¹ For example, on 4 June, Ivan Bartoš, leader of the Pirate Party, used the party’s *Facebook* [account](#) to call Mr. Babiš liar and incompetent for posting a message on *Twitter* accusing the Pirate Party of plans to take people’s houses and give them to illegal immigrants. On 16 July, the Pirate Party filed a lawsuit at the regional court in Prague against Mr. Babiš for spreading lies and disinformation. On 1 September, during the TV [debate](#) at CNN Prima News, after the leader of ANO interrupted his opponents, Mr. Bartoš made offensive comments about Mr. Babiš and then about Marian Jurečka, the representative of the *SPOLU* coalition. In the last days of the campaign, ANO published a [video](#) portraying the Pirate Party as a horde of people waving placards reading “Refugees Welcome!”, “Tax People’s Flats!” and “Lower Pensions!”

²² For instance, some ODIHR EET interlocutors claimed clear correlation between the intensity of disinformation against the Pirate Party and their decline in the opinion polls.

²³ For example, on 2 October, Prime Minister Babiš and Minister of Transport and Finance Karel Havlíček participated in the opening of the last Section of the renovated segment of highway Prague-Brno. On 4 October, Mr. Babiš sent a letter labelled as campaign material to every household in the Czech Republic asking for support to ANO, but signing it as “your Prime Minister”.

activity because they were constantly in the focus due to their official responsibilities. Extensive use of public office blurred the line between public function and campaign activity, at odds with the 1990 OSCE Copenhagen Document.²⁴

To prevent the misuse of office and state resources, additional legal safeguards should be considered to regulate the campaign activity of candidates holding public positions, including the introduction of dissuasive and timely sanctions.

A vibrant sector of non-partisan civil society organizations played a very important role strengthening the transparency of the process, by monitoring the accountability of the campaign finance, fact-checking content in social networks, and tracking disinformation schemes. Some civil society organizations were politically involved, actively campaigning as third parties on behalf or against certain contestants.²⁵

VI. MEDIA

A. MEDIA LANDSCAPE

The media landscape is vibrant and pluralistic, yet the ownership of the major media houses by a handful of local magnates casts a shadow over their editorial independence.²⁶ It gives reason for concern as the media linked to these houses reach over 50 per cent of all media weekly audiences.²⁷ While actual proof of owners' interference is limited, almost all ODIHR EET shared a widespread perception that the media ownership concentration stifled critical reporting on Mr. Babiš and his government.

There are no specific thresholds for media cross-ownership.²⁸ Some limits exist on the number of broadcasting licences a physical or legal person can own, yet this rule is not extended to print media. When examining the sales or mergers of the media houses, the Office of Protection of Competition analyses the economic impact of new ownership structures, but no regulator evaluates their impact on media plurality.²⁹ The Law on Conflict of Interest, which aims to prevent political affiliations of

²⁴ Article 5.4 of the [1990 OSCE Copenhagen Document](#) states that there must be “a clear separation between the State and political parties; in particular, political parties will not be merged with the State”.

²⁵ Despite legal requirement, the civil society organization Million Moments for Democracy, which was actively campaigning against Mr. Babiš and promoting the vote for the coalitions *SPOLU* or Pirates and STAN, did not register as a third party with the Office for the Oversight of Financing of Political Parties and Movements.

²⁶ Paragraph 40 of the 2011 [ICCPR General Comment No.34](#) requires that “States parties should take appropriate action [...] to prevent undue media dominance or concentration by privately controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views”.

²⁷ According to some [Czech media researchers](#), four media groups owned by business magnates dominate the media market. These groups individually reach between 28.1 and 68.3 per cent of the audience weekly, with the largest share belonging to media house *MAFRA*, which is part of a conglomerate owned by Mr. Babiš. Among other titles, it publishes a leading daily newspaper *Mladá Fronta Dnes*.

²⁸ Section I of the [Council of Europe's Committee of Ministers Recommendation No R \(99\)1 on Measures To Promote Media Pluralism](#) invites Member States to “consider the introduction of legislation designed to prevent or counteract concentrations that might endanger media pluralism at the national, regional or local levels [and] examine the possibility of defining thresholds [...] to limit the influence which a single commercial company or group may have in one or more media sectors”.

²⁹ For example, the 2015 *Penta* investment group's buying of regional paper *Deník* (73 local versions) *de facto* monopolized regional daily press.

owners of the media, continues to generate controversy over the possibility to circumvent it.³⁰ Positively, information about ownership is available free of charge on commercial register.

To safeguard media pluralism authorities should consider introducing a threshold for media ownership and cross-ownership, and extending these regulations to all types of media.

The negative effect of ownership concentration is partially offset by smaller outlets, both digital and print, which produce more in-depth and investigative journalism. However, their reach and impact, apart from offspring of local online giant *Seznam*, is limited, and they are not financially stable. High Internet usage by Czech citizens increases the role of online media as a source for political information, although so far television (TV) remains the most popular.³¹

The TV market is dominated by public *Česká televize (ČT)* and the private *TV Nova* and *TV Prima*.³² According to many ODIHR EET interlocutors, the public broadcasters enjoy high trust in Czech society as an influential and impartial source of news. However, the events surrounding the appointment of the new members of the ČT council in 2020-2021 raised concerns of intentions of that time ruling coalition to politicize oversight and erode broadcasters' independence.³³ Various activities of some new members of the council against the ČT director general were perceived by some ODIHR EET interlocutors as aimed at removing him from the position and subsequently taming the news coverage and investigative programmes.³⁴

The independence of public broadcasters should be respected, with effective safeguards in place for allowing dismissal of management only on well-founded grounds and for appointing public broadcasters' oversight bodies in a manner independent of political interference.

B. LEGAL FRAMEWORK

Freedom of expression is enshrined in the fundamental law and generally respected. Contrary to international standards, defamation remains a criminal offence, and criminal sanctions are regularly

³⁰ After the Law of Conflict of Interest entered into force in 2017, Mr. Babiš placed his *Agrofert* holding, including media companies, into two trust funds. In 2020, the European Commission concluded that Mr. Babiš was controlling the trusts. Upon the complaint of *Transparency International*, in September 2021, the Černošice Municipal Authority ruled that the Prime Minister was in conflict of interest due to media ownership. Mr. Babiš was fined CZK 250,000, the maximum for the offence. Mr. Babiš stated he would appeal.

³¹ Source: [Reuters Institute, Digital News Report 2021](#).

³² ČT operates seven channels, including a 24-hour news channel and a dedicated outlet for the elderly people. Public radio *Český rozhlas* operates 12 stations, some of them accessible only online, including a dedicated channel for analytical journalism.

³³ Candidates for members of councils of public broadcasters are proposed by civil society organizations without any required media expertise. They are approved by parliament and are supposed to act politically independently. The councillors can be dismissed altogether if the parliament does not approve relevant council's annual reports twice in a row. In 2020, news leaked that a representative of the ruling ANO party was instructing MPs to vote for candidates who are ideologically close.

³⁴ Directors of public broadcasters are approved or dismissed by their oversight councils that also approve their budgets. Dismissal of the ČT director general requires the votes of 10 out of 15 councillors. After the elections started, one of the new ČT council members brought up allegations against the ČT director general claiming various conflicts of interest. After local and [international](#) media advocacy organisations voiced [concerns](#), opposition stalled the appointment of the missing members leaving the ČT council with only nine members. According to Paragraph 16 of [ICCPR General Comment 34](#), "State parties should ensure that public broadcasting services operate in an independent manner. In this regard, States parties should guarantee their independence and editorial freedom. They should provide funding in a manner that does not undermine their independence".

applied, although seldom in political cases.³⁵ In 2018, several MPs tabled the draft amendments to the Penal Code in the lower house of parliament to repeal the criminal sanctions for defamation. While the government supported such changes, the draft bill did not reach the first reading by the outgoing parliament.³⁶

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

Overall, free access to public information is ensured as mandated by law, yet notable exceptions have been recorded. In May 2021, the Office of the president accused four media outlets, including referring to two programmes of ČT, of spreading disinformation and announced that it would not provide information to them. One of the outlets, daily *Deník N*, challenged the decision in court as a violation of constitutional right to receive information from the state institutions.

Several laws regulate the media coverage of the campaign, including laws on parliamentary elections, on radio and TV broadcasting, on public broadcasters. All broadcasters are required to provide a balanced and neutral coverage of any party or movement within their news and political programmes. Public broadcasters supplemented those rules with internal guidelines on campaign coverage and published these on their websites well in advance of election days. Paid advertising is allowed only in print and online media, but the law envisages generous 14 hours of free airtime for all contestants on public TV and radio.

The Council for Radio and Television Broadcasting (CRTB) is the oversight body for audio-visual media. The CRTB also monitored the fairness of coverage in TV debates in these elections, but the findings are published only after elections so as not to interfere in the process. Media-related complaints can also be submitted to councils of public broadcasters and to the courts. The ODIHR EET was aware of dozens of complaints filed to the CRTB by citizens and a party alleging a biased coverage, as well as several complaints submitted to ČT council, Czech Radio council and courts, but all were reviewed only after elections. As a result, in a case of serious violations, there would not be a prompt remedy to rectify the imbalance of the coverage.

C. CAMPAIGN COVERAGE IN THE MEDIA

The newspapers, radio, online outlets, as well as public and private TV extensively covered the campaign in their regular news editions and programmes, as well as by organizing electoral debates.³⁷ Such programming helped the voters to make an informed choice. Many ODIHR EET interlocutors regarded the media coverage of the campaign as mostly fair towards the contestants, with certain bias in favour of Mr. Babiš exhibited by the media affiliated with him.

ČT had set a threshold of 7 per cent support level in opinion polls combined with a representation in regional councils for parties to receive an invitation to the main debates, thus limiting the number of participants. Other parties were given sufficient opportunity to appear in other programmes and use

³⁵ According to the Ministry of Justice, during 2016 – 2020, 247 people have been prosecuted and 75 convicted for defamation. In 2017, President Zeman initiated a criminal case against Brno municipal councillor Svatopluk Bartík, who had posted on *Facebook* unproven claims about Mr. Zeman's health (later Mr. Bartík deleted the post). Mr. Zeman was also seeking civil damages. In February 2019, the Public Prosecutor's Office in Brno closed this criminal case without charge. In April 2021, the Court of Appeal confirmed the lower court's decision in the civil case that Mr. Bartík had to apologize and pay Mr. Zeman CZK 250,000 (about EUR 10,000).

³⁶ According to Paragraph 47 of the [2011 CCPR General Comment No.34 to the ICCPR](#), "States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty".

³⁷ According to the ODIHR methodology, the ODIHR EET did not conduct a comprehensive media monitoring.

free airtime, so that the public was able to hear their views. Two small parties challenged ČT decision not to invite them to the debates together with the main contenders.³⁸ To increase the interest of the audience in the debates, ČT developed an artificial intelligence anchor that was questioning the candidates on a basis of its analysis of programmes, biographies and other public data.

Several international and media advocacy organisations have previously expressed concerns regarding threats and hostile rhetoric about journalists and media outlets, especially in cases emanating from high-ranking politicians and public officials.³⁹ Such instances were also observed in these elections. The Prime Minister refused to be interviewed by media outlets which he considered unsympathetic or hostile, and they were expelled from several ANO campaign events.⁴⁰ The ODIHR EET was also informed of similar attitudes to journalists by the leader of SPD and actions of SPD supporters on social networks.⁴¹

Public officials and other political figures shall refrain from using derogatory or inflammatory language against journalists due to fulfilment of their professional duties.

VII. ELECTORAL PARTICIPATION OF WOMEN

The Constitution and the Charter of Fundamental Rights and Freedoms, which form part of the constitutional order of the Czech Republic, do not specifically address equality between women and men; however, fundamental rights and freedoms are guaranteed for all.⁴² There is no specific law aimed at promotion of gender equality, but the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is included in the constitutional order of the country.

Women remain underrepresented in public and political life. In the newly elected Chamber of Deputies, the number of women elected has increased from 45 (22.5 per cent) to 50 (25 per cent).⁴³ In the outgoing government, only 4 of 15 cabinet ministers were women. Although the total share of women standing as candidates for these elections was 31.7 per cent, positions of women on the

³⁸ The Greens Party, which was not included in the main TV debates, petitioned the court, but the decision was expected only after the elections. *Tricolor* complained to the CRTB for being not admitted to the TV debates, but ČT included representatives of *Tricolor* in the main debate as it had approached 7 per cent support in opinion polls.

³⁹ See, for example, UN HRC [Concluding observations on the fourth periodic report of Czechia](#) (6 December 2019, CCPR/C/CZE/CO/4), Paragraphs 36 and 40.

⁴⁰ Besides campaign events, on 29 September, *Seznam Zprávy*, *Investigace.cz*, as well as *Le Monde*, *Die Zeit* and *MDR* were not admitted to the joint press conference of Mr. Babiš and the visiting Hungarian Prime Minister Viktor Orbán on pre-text of COVID-19 restrictions and lack of space. Shortly afterwards, Mr. Babiš's bodyguards pushed away journalists from *investigace.cz* and BBC who were trying to ask Mr. Babiš questions about his involvement in the *Pandora Papers*. The Chief of Police justified actions of protection officers with their primary task to protect the official from potential harm.

⁴¹ The 2014 [OSCE Safety of Journalists Guidebook](#) (p.29) states "Elected politicians and all who hold high office are called on to demonstrate their unequivocal commitment to respecting press freedom and the safety of journalists".

⁴² The Anti-Discrimination Law further elaborates on definitions on discrimination and acceptable forms of different treatment.

⁴³ In the Senate, the number of women is 12 of 81 senators (14.8 per cent).

candidate lists continued to be low, and women rarely led the candidate lists.⁴⁴ Thirteen women were elected in these elections by preferential votes.⁴⁵

Despite previous ODIHR recommendation, no temporary special measures or any other mechanisms have been introduced to promote participation of women in elections.⁴⁶ None of the eight contestants leading the polls applied any internal party quotas to achieve balanced representation of women and men in their candidate lists.⁴⁷

The Government Gender Equality Strategy 2021-2030 acknowledges that the current soft measures aimed at increasing the participation of women in politics are proving ineffective.⁴⁸ The CEDAW Committee, among other international treaty bodies, has repeatedly recommended temporary special measures to be adopted, including that the Election Law be amended to implement the “zipper” system for election candidates.⁴⁹ Several ODIHR EET interlocutors opined that besides any temporary measures, women’s full and effective participation in public and political life should be fostered by means of comprehensive legal, institutional, and educational initiatives.

Several ODIHR EET interlocutors listed practical and structural obstacles that hinder stronger representation of women in political and public life. Among the issues mentioned were the shortage of public childcare and affordable private childcare options for children under three years of age. When combined with parental leave and big gender pay gap, this situation makes it harder for parents to have a more equitable division of childcare and household work. This creates structural barriers to women’s labour force participation and negatively affects gender equality more broadly. Further, persisting gender stereotypes with regards to the role of women in the family were identified as contributing factors that diminish women’s motivation to strive for public and political office.

Comprehensive efforts by the state and political parties should be made to promote women’s effective participation and decision-making in public and political life. Special measures to increase number of women in elected positions should be considered. Among others, a system linking public funding of parties to a requirement for making a gender audit could be established, with an aim to review current intra-party practices that curb equitable representation of women within party structures.

Various ODIHR EET interlocutors noted that at times media coverage of women candidates focused on issues of private life rather than substantial political discussions. Further, visibility of women candidates in public debates was very low. Among the eight leading candidates participating in the “super debate” in ČT on 6 October, there was only one woman.⁵⁰ Concerns were raised by many ODIHR EET interlocutors that female candidates were often affected by sexist and misogynistic

⁴⁴ While all contestants could nominate 14 candidate lists (one per constituency), the SPD, *Přísaha* and ANO had 5 women in leading positions each; KSČM had 4 women leading their lists, Pirates and STAN as well as the ČSSD had 2 women in leading positions each, and *SPOLU* coalition had only 1 woman leading a candidate list. A notable exception to the pattern was the Greens Party, with nine women heading the candidate lists.

⁴⁵ Ten women were elected from STAN; one from ANO; one from TOP09 and one from KDU-CSL. Notably, in order to support election of women, a civic initiative “Circle a woman” advocated voters to make a preferential vote in favour of a female candidate.

⁴⁶ In 2015, there was an attempt to amend the Election Law to introduce minimum 40 per cent quota for each gender in candidate lists, but the draft amendment was discussed and rejected by the government.

⁴⁷ The ČSSD abolished the internal quota in 2019. The Greens Party apply internal gender quota for the candidate lists, but received less than 1 per cent of the votes.

⁴⁸ See the Government [Gender Equality Strategy 2021-2030](#), Paragraph. 4.1.1.

⁴⁹ See Paragraph 23 (a) of the 2016 [Concluding observations on the sixth periodic report](#) of the CEDAW Committee, the 2018 [Follow-up Letter on Concluding Observations](#) of the CEDAW Committee, as well as Paragraph 19 of the 2019 UN HRC [Concluding observations on the fourth periodic report of Czechia](#).

⁵⁰ The chairperson of the *Tricolor* party who is also the leader of the TSS coalition.

remarks, body-shaming and hostile comments in social networks.⁵¹ According to the information available to the ODIHR EET, there were only two Romani women competing in these elections.⁵²

VIII. RECOMMENDATIONS

These recommendations, as contained throughout the text, are offered with a view to enhance the conduct of elections in the Czech Republic and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections.⁵³ These recommendations should be read in conjunction with prior ODIHR recommendations, which remain to be addressed. ODIHR stands ready to assist the authorities to further improve the electoral process and to address the recommendations contained in this and previous reports.

A. PRIORITY RECOMMENDATIONS

1. As previously recommended, considerations could be given to creating a central voter register with a view to integrate nationwide voter registration data, facilitate cross-checks of voter lists against multiple or faulty entries, and control the use of the absentee voting certificates.
2. To safeguard media pluralism authorities should consider introducing a threshold for media ownership and cross-ownership, and extending these regulations to all types of media.
3. Comprehensive efforts by the state and political parties should be made to promote women's effective participation and decision-making in public and political life. Special measures to increase number of women in elected positions should be considered. Among others, a system linking public funding of parties to a requirement for making a gender audit could be established, with an aim to review current intra-party practices that curb equitable representation of women within party structures.

B. OTHER RECOMMENDATIONS

Election Administration

4. Consideration could be given to opening the SEC meetings to the public and political parties.
5. Considerations should be given to raising awareness and providing training for public authorities about the electoral rights of persons with disabilities and possible forms of facilitation of their rights.

⁵¹ Several ODIHR EET interlocutors acknowledged having been either themselves verbally harassed, or being aware of female colleagues or friends falling victims of such conduct, most often by private messages but also public remarks on social networks.

⁵² Out of six candidates of Romani origin, one woman stood on the candidate list of the Greens party (No.7 in Prague), and the other - on the list of the SDP (No.16 in Ustesky region). The UN HRC expressed concern in its [Concluding observations on the fourth periodic report on Czechia](#) of the underrepresentation of Roma in political life, recommending in Paragraph 15 (a) to "take effective measures to increase the representation of the Roma community at State bodies at both the national and local levels, including in Parliament, if necessary through appropriate temporary special measures".

⁵³ According to Paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations". The follow-up of prior recommendations is assessed by the ODIHR EET as follows: recommendations 4, 8 and 18 from [the final report on the 2017 parliamentary elections](#) are partially implemented. See also the [ODIHR Electoral Recommendations Database](#).

Election Campaign

6. To prevent the misuse of office and state resources, additional legal safeguards should be considered to regulate the campaign activity of candidates holding public positions, including the introduction of dissuasive and timely sanctions.
7. In order to guarantee level playing field and to ensure equal opportunities to all contestants, consideration could be given to determine a set timeframe for the duration of the election campaign, detached from the date of the announcement of the elections.

Media

8. The independence of public broadcasters should be respected, with effective safeguards in place for allowing dismissal of management only on well-founded grounds and for appointing public broadcasters' oversight bodies in a manner independent of political interference.
9. Criminal sanctions for defamation should be repealed in favour of proportionate civil sanctions.
10. Public officials and other political figures shall refrain from using derogatory or inflammatory language against journalists due to their fulfilment of their professional duties.

ANNEX: FINAL RESULTS

CONTESTANT	VALID VOTES	PERCENTAGE	MANDATES
1. Greens Party	53,343	0.99	-
2. Swiss Democracy	16,823	0.31	-
3. Free Bloc	71,587	1.33	-
4. Freedom and Direct Democracy	513,910	9.56	20
5. Czech Social Democratic Party	250,397	4.65	-
6. Vote Right Bloc www.cibulka.net	586	0.01	-
7. Alliance of National Forces	5,167	0.09	-
8. <i>Tricolor</i> , Free Citizens, Freeholders (TSS)	148,463	2.76	-
9. Alliance for the Future	11,531	0.21	-
10. The Springs Movement	8,599	0.15	-
11. The Left	639	0.01	-
12. The Oath of Robert Šlachta (<i>PŘÍSAHA</i>)	251,562	4.68	-
13. <i>SPOLU</i>	1,493,905	27.79	71
14. Seniors21	3,698	0.06	-
15. Urza.cz: We don't want your votes	6,775	0.12	-
16. Czech Crown	8,635	0.16	-
17. Pirates and STAN	839,776	15.62	37
18. Communist Party of Bohemia and Moravia	193,817	3.60	-
19. Moravian Land Movement	1,648	0.03	-
20. ANO 2011	1,458,140	27.12	72
21. We will open the Czech Republic to normal life	21,804	0.40	-
22. Moravians	14,285	0.26	-

Number of voters registered	Number of voters who voted	Turnout, per cent
8,275,752	5,414,637	65.43

Source: Data of the Czech Statistical Office.⁵⁴

⁵⁴ More detailed election results can be accessed on the [CStO website](#).

ABOUT ODIHR

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

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

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

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

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

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

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

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

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