



Office for Democratic Institutions and Human Rights

ROMANIA

PARLIAMENTARY ELECTIONS

6 DECEMBER 2020

ODIHR Special Election Assessment Mission
Final Report



Warsaw
23 April 2021

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY	1
II.	INTRODUCTION AND ACKNOWLEDGMENTS	3
III.	BACKGROUND AND POLITICAL CONTEXT.....	4
IV.	ELECTORAL SYSTEM AND LEGAL FRAMEWORK.....	5
V.	ELECTION ADMINISTRATION.....	6
VI.	VOTER REGISTRATION.....	8
VII.	CANDIDATE REGISTRATION	9
VIII.	CAMPAIGN ENVIRONMENT	10
IX.	CAMPAIGN FINANCE.....	11
X.	MEDIA	13
	A. MEDIA ENVIRONMENT	13
	B. LEGAL AND REGULATORY FRAMEWORK FOR THE MEDIA	14
	C. MEDIA COVERAGE OF THE CAMPAIGN.....	15
XI.	PARTICIPATION OF NATIONAL MINORITIES	16
XII.	COMPLAINTS AND APPEALS	17
XIII.	CITIZEN AND INTERNATIONAL OBSERVERS.....	17
XIV.	ELECTION DAY	18
XV.	RECOMMENDATIONS	18
	A. PRIORITY RECOMMENDATIONS	19
	B. OTHER RECOMMENDATIONS	19
	ANNEX – ELECTION RESULTS	21
	ABOUT ODIHR	25

ROMANIA
PARLIAMENTARY ELECTIONS
6 December 2020

ODIHR Special Election Assessment Mission Final Report¹

I. EXECUTIVE SUMMARY

Following an invitation from the Ministry of Foreign Affairs of Romania, based on the recommendation of a Needs Assessment Mission conducted from 14 to 18 September, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed a Special Election Assessment Mission (SEAM) to observe the 6 December 2020 parliamentary elections. The ODIHR SEAM assessed compliance of the election process with OSCE commitments and other international obligations and standards for democratic elections, and domestic legislation. The mission did not carry out systematic or comprehensive observation of election-day proceedings, in line with ODIHR's methodology for election assessment missions. Mission members did, however, visit a limited number of polling stations on election day.

In its Statement of Preliminary Findings and Conclusions issued on 7 December, the ODIHR SEAM concluded that the elections “were organised professionally despite challenges posed by the COVID-19 pandemic and the 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 anaemic 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 indicates the need for greater commitment to ensure adequate representation of both women and men. 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 last two years. The pre-election period was dominated by a dispute on which institution has the power to establish the election date. Although causing political and legal uncertainties, the dispute over the election date did not affect electoral preparations.

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 close to the election date contributed to legal uncertainty. In September 2020, the parliament amended a number of election-related laws, in a rushed manner and without public debate, contrary to international commitments and good practice. The changes were made to the rules for voting abroad, campaign finance regulations, candidate registration and the composition of the lower-level election administration. A number of previous ODIHR recommendations were not addressed, including those related to harmonization of the legislation, restriction on suffrage rights, transparency of the work of election administration, and campaign regulations.

The elections were managed by two administrative structures: the Permanent Electoral Authority (PEA) and a three-tiered arrangement of election bureaus established for each election headed by the Central Election Bureau (CEB). The CEB decisions were published on their website; however, contrary to good

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

practice its sessions were not open to the public, thus reducing transparency. The election administration met legal deadlines and managed technical aspects of the elections efficiently. However, some decisions, including those pertaining to COVID-19 pandemic adjustments, were adopted late.

Citizens aged 18 years or older on election day are eligible to vote, unless disenfranchised by a court decision on the grounds of criminal conviction or legal incapacity, at odds with international standards. Voter registration is passive and continuous. Citizens may verify their data in the electoral register in person or online and can request changes throughout the year. The electoral register included 18,191,396 citizens on the permanent voter list in Romania. Most ODIHR SEAM interlocutors expressed confidence in the accuracy of the voter list.

Citizens with the right to vote can stand for elections; candidates for the Chamber of Deputies and the Senate must be at least 23 and 33 years old, respectively, and can be nominated by parties, coalitions, 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. No specific procedures for verifying the authenticity of signatures is in place. In a generally inclusive manner, the CEB registered 41 candidate lists with a total of 7,136 candidates, 42 of which were independent.

Gender-disaggregated data for candidate lists was not publicly available but some civil society organizations indicated that women candidates made up some 30 per cent of the candidates on party lists. Women held 19.8 per cent of the seats in the outgoing parliament and received only 18 per cent of the seats in the incoming one. Only one parliamentary party informed the ODIHR SEAM of having internal policies to promote women candidates.

The official campaign period began on 6 November and ended 24 hours before election day. The campaign was extremely low-key, due to restrictive campaign legislation compounded by public health limitations on freedom of movement and indoor and outdoor gatherings. The campaign was more vibrant online and on social networks. Overall, candidates were able to convey their messages to the electorate and offer voters a range of choice. The president took part in the campaign while performing his official duties. He vocally supported the PNL, blurring the line between his official duties and the campaign, at odds with international standards and paragraph 5.4 of the 1990 OSCE Copenhagen Document.

The latest amendments to campaign and party finance laws led to a substantial growth of the annual amount of public funding, and extended the right for parties to use these subsidies for campaigning. Newly formed parties and candidates running independently do not benefit from state subsidies available to parties holding seats in the parliament and are not entitled to reimbursements for election expenses, if they do not reach the three per cent election threshold. Overall, the campaign finance framework does not ensure transparency and the effectiveness of oversight due to lack of interim reporting and limited powers of the PEA to conduct an actual financial audit and identify unreported income and expenditure.

The media environment is diverse but polarized along political lines. The ODIHR SEAM media monitoring showed that *TVRI*, the main channel of the national public broadcaster, offered free airtime and organised electoral debates among contestants, as required by law. However, it did not cover any election-related matters in its news, similar to other main television channels. In contrast, the media frequently covered state officials, some of whom were also running as candidates, while performing their official duties. The monitored media often failed to distinguish among various formats of coverage and did not mark some programmes as paid-for, blurring the line between editorial and paid coverage. Only a few debates featured the leaders of the main political parties or focused on specific policies. The National Audiovisual Council, the broadcast media regulatory body, acted transparently; however, it

failed to address most complaints in a timely manner. The absence of quantitative monitoring on national broadcast media weakened its capacity to effectively enforce existing media regulation.

Minority groups represent over 10 per cent of the population of the country. The largest groups are ethnic Hungarians and Roma, comprising some 6.5 per cent and 3.2 per cent of the population, respectively. Twenty groups are officially recognised as national minorities through their representation in the Council on National Minorities, a government consultative body. Fifty-seven candidates competed for seats reserved for national minorities in the new parliament; all member organizations in the Council met the special threshold and retained their preferential seats.

The law establishes an expeditious process with one to three calendar days for the resolution of appeals and petitions. The CEB received 124 complaints, mostly related to the composition of the Election Bureaus for Polling Stations, the display of electoral campaign material, the cancellation of elections in specific polling stations, and electoral fraud. Most complaints were discussed on merits, and the CEB's decisions were well-reasoned. CEB decisions were published on its website in a timely manner, but the sessions on adjudication of complaints were not open to the public, detracting from the transparency of the process.

Voters living abroad could vote by post or in person during an extended two-day period at 748 polling stations in 92 countries, a decrease from 2019 presidential election. In about 100 locations the polling stations could not be set up, mainly due to COVID-19 pandemic restrictions. The pandemic also created challenges for the recruitment of polling staff and postal ballot delivery.

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. Measures against COVID-19 were in place, and largely respected, but some polling stations were not sufficiently spacious to respect 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, which also featured scans of the original results protocols, enhancing the transparency of the process. Partial official tabulated results were only published by the CEB the day after. Turnout was 33.24 per cent.

This report offers a number of recommendations to support efforts to bring elections in Romania closer in line with OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations relate to the legal framework, candidate registration, election campaign, campaign finance, the media, and rights of election observers. ODIHR stands ready to assist the authorities to further improve the electoral process and to address the recommendations contained in this and previous reports.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Ministry of Foreign Affairs of Romania, based on the recommendation of a Needs Assessment Mission conducted from 14 to 18 September, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established a Special Election Assessment Mission (SEAM) on 12 November.² The mission, led by Marianne Mikko,

² In its [Needs Assessment Mission report](#), ODIHR recommended a Limited Election Observation Mission (LEOM) that would include, in addition to a core team of analysts, 20 long-term observers. However, safety challenges and extraordinary circumstances caused by the COVID-19 pandemic resulted in a significant shortfall of seconded observers and made deployment of long-term observers seconded by the OSCE participating States infeasible. Subsequently, ODIHR decided to change the format of the observation activity from an LEOM to SEAM.

consisted of nine experts drawn from eight OSCE participating States. The ODIHR SEAM members remained in country until 13 December.

The ODIHR SEAM assessed compliance of the election process with OSCE commitments and other international obligations and standards for democratic elections as well as national legislation. 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. This final report follows a Statement of Preliminary Findings and Conclusions, which was released on 7 December 2020.³

The ODIHR SEAM wishes to thank the Ministry of Foreign Affairs (MFA) for its invitation to observe the elections, as well as the Permanent Electoral Authority (PEA) and the Central Election Bureau (CEB) for their assistance. It also expresses appreciation to other state institutions, the judiciary, political parties, media, national minority representatives, civil-society organizations, international community representatives, and other interlocutors for their co-operation and for sharing their views.

III. BACKGROUND AND POLITICAL CONTEXT

The 6 December parliamentary elections took place amid the COVID-19 pandemic, and were the fourth electoral contest in the last two years.⁴ Frequent election campaigns, coupled with the pandemic-related restrictions, contributed to a political fatigue among the political participants and voters.

The Social Democratic Party (PSD) held the majority of seats in both chambers in the outgoing parliament. After the 2016 parliamentary elections, PSD had formed a government with the Alliance of Liberals and Democrats (ALDE), while the National Liberal Party (PNL), Save Romania Union (USR), Democratic Alliance of Hungarians in Romania (UDMR), People's Movement Party (PMP) and citizens' organizations belonging to national minorities formed the opposition. The PSD-led government had three different prime ministers and experienced a high turnover in government positions.⁵ Even though several members of parliament (MPs) switched parties during the parliament's term, PSD always retained the largest number of seats.

During its tenure, the PSD-led government proposed legislative initiatives widely seen to be softening anti-corruption laws and weakening anti-corruption institutions, which sparked prolonged public protests. In October 2019, a successful no-confidence vote resulted in the formation of a PNL-led government. A few months later, the new government was felled by a PSD-led no-confidence vote after it proposed changes to electoral laws ahead of mayoral races in a move seen to boost PNL's chances. The PNL-led government was confirmed again in March 2020 and remained in power as a minority government.

The question as to which institution, the government or the parliament, has the right to establish the election date became a contentious issue. 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. On 14 October, the Constitutional Court confirmed the right of parliament to set the

³ See previous [ODIHR election reports on Romania](#).

⁴ The European Parliament elections (May 2019), the Presidential election (November 2019), local elections (September 2020) and parliamentary elections (December 2020). The September 2020 local elections resulted in a substantial increase of mayoral and county council seats for the party of the minority government, the National Liberal Party (PNL). The PSD emerged with the most mayoral seats during the September 2020 local elections.

⁵ One of these prime ministers was Viorica Dancila, Romania's first female prime minister.

election date; however, the president delayed the promulgation of the law. While the legal dispute did cause political and election-related uncertainties, it did not affect electoral preparations.

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The bicameral parliament is composed of 465 members, consisting of 136 Senate and 329 Chamber of Deputies seats, elected for four years by closed party lists. The number of MPs in parliament is determined by a quota system.⁶ To qualify for representation, parties must pass a national threshold of five per cent of valid votes cast or 20 per cent of valid votes in at least four constituencies. A higher threshold applies to coalitions; independent candidates must pass a threshold in the constituency where they run.⁷ Each recognized national minority has the right to compete in elections for one seat in the Chamber of Deputies that are not subject to the five per cent threshold.

MPs are elected in 43 constituencies, including 41 counties, the municipality of Bucharest and a constituency for citizens living abroad. The total number of citizens living abroad is estimated at more than five million, and these are represented by six mandates for the out-of-country constituency; four in a Chamber of Deputies district and two for a Senate district, potentially challenging the equality of the vote.⁸ Some ODIHR SEAM interlocutors stated that the six MP mandates that represent the out-of-country constituency do not reflect the high number of voters abroad, challenging the equality of the vote.

Parliamentary elections are primarily regulated by the 1991 Constitution, 2015 Law for the Election of the Chamber of Deputies and the Senate (Parliamentary Elections Law), 2003 Law on Political Parties, 2006 Law on Financial Activity of Political Parties and Electoral Campaigns (Political Finance Law), 2015 Law on Postal Voting, and the 2002 Law on Radio and Television Broadcasting (Broadcasting Law).⁹

The legislation is 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.¹⁰ Enactment of GEOs does not allow the Constitutional Court to exercise prior review of their constitutionality. Following the declaration of the state of emergency on 16 March, two GEOs were adopted, restricting a number of fundamental rights and freedoms, including freedom of movement, right to education, and access to justice. Upon a complaint from the Ombudsperson, the Constitutional Court annulled the GEOs and declared that provisions limiting or prejudicing the fundamental rights and freedoms should be adopted by a law, as an official act of Parliament, and not by a GEO.

The legal framework generally provides for the conduct of democratic elections. However, it is complex, interspersed across various instruments covering different elections with numerous amendments creating confusion in terms of the hierarchy and their force and contributing to legal uncertainty. In September 2020, the parliament adopted changes to a number of election-related laws,

⁶ One deputy of the lower house per 73,000 citizens and one senator per 168,000 citizens.

⁷ An additional three per cent for the first additional party in a coalition and one per cent for each party thereafter, up to a maximum of 10 per cent.

⁸ According to the [report](#) by the Department for Romanians Abroad in 2019, there were some 5.6 million Romanian citizens living abroad.

⁹ The legal framework also includes regulations of election management bodies on voter registration, campaign finance, and election-day procedures.

¹⁰ 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.

in a hasty manner and without public debate, contrary to international commitments and good practice.¹¹ These changes mostly replicated several amendments introduced ahead of the 2019 presidential election.

The 2020 amendments extended the period for application for postal voting by 30 days, out-of-country voting to two days, permitted people in queues to cast their ballots until midnight, and allowed voters to download their ballots to simplify mail-in voting.¹² The amendments also halved the number of signatures required for candidate registration, in line with a previous ODIHR recommendation, and offered the opportunity to submit them electronically. Other amendments stipulated that budgetary subsidies to political parties could be used to campaign and increased the representation of political parties in lower-level electoral administration.

A number of previous ODIHR recommendations remain to be addressed, including those related to harmonization of the legislation, restriction on suffrage rights, transparency of the work of election administration, and campaign regulations. According to most ODIHR SEAM interlocutors, the period after the 2020 parliamentary elections until the next presidential and European Parliament elections presents a window of opportunity for the enactment of unified election code.

The electoral legal framework should be reviewed to bring it further in line with OSCE commitments, international standards and good practices, well in advance of the next elections and within an inclusive consultation process. To prevent uncertainty generated by the concurrent election rules, consideration should be given to harmonize the provisions and deadlines in the election legislation.

V. ELECTION ADMINISTRATION

The elections were managed by the Permanent Electoral Authority (PEA) and a three-tiered structure of election bureaus established for each election headed by the Central Election Bureau (CEB). The mid-level comprised 41 County Election Bureaus (BECs), one election bureau for the Municipality of Bucharest and one election bureau to process polling stations abroad. Voting was administered by 18,802 Election Bureaus for Polling Stations (BESVs) in Romania and 748 polling stations in 92 countries abroad. Postal votes were assigned to three other designated Election Bureaus for Postal Voting in Romania.

The PEA is mandated to issue decisions and instructions to supplement election laws, draft proposals concerning electoral reform, maintain the permanent electoral register and database of polling staff, oversee campaign finance, and ensure logistical arrangements during elections. It is led by a president, appointed by a joint session of parliament, and supported by two vice-presidents, who are appointed by the president of the country and the prime minister, and has its own technical staff with non-partisan civil servants. Recent amendments increased the power of the PEA's president to issue decisions related to the structure of the PEA. Some ODIHR SEAM interlocutors raised concerns regarding past decisions on organizational matters taken within the PEA in 2019.¹³ The 2020 amendments clarified criteria to be used for such decisions.¹⁴

¹¹ Amendments were introduced to the Election Law, the Political Finance Law, and the 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 \(Code of Good Practice\)](#).

¹² Voters should apply a sticker on the ballot and insert it in the envelope sent in advance. These ballots should be delivered not later than three days prior to election day.

¹³ The Court of Accounts issued a report in July 2020, which identified non-compliance with the legal regulation regarding the occupancy of certain posts in PEA management corresponding to high-ranking officials.

¹⁴ The amendments enhanced capacity of the PEA to recruit staff and clarified criteria to be used for such matters.

The CEB, as well as mid-level commissions, are composed of judges selected by lot by the High Court of Cassation and Justice, PEA delegates, and members appointed by contestants. Ten out of 21 members of the CEB were women, including the president. The rules for composition of the CEB prioritize nominees from parliamentary parties. Independent candidates cannot put forward representatives for any level of the election administration. The recent amendments broadened the total number of members of constituency election bureaus to 12, and in BESVs to 8 members of political parties and national minority groups, easing conditions for non-parliamentary contestants to be represented. By law, the CEB is mandated to issue administrative acts such as resolutions, decisions and instructions, which are enacted prior to each election. While these rules mostly replicate those used for past elections, the practice may undermine stability and predictability of functioning of electoral administration.

To achieve higher stability of the legislation the standard operating procedures for the functioning of the election bureaus could be established on a permanent basis.

Overall, the election administration met legal deadlines and managed technical aspects of the elections efficiently. Most ODIHR SEAM interlocutors expressed confidence in the work and impartiality of the election administration, but raised some concerns related to the timeliness of decision-making, and lack of transparency and effective communication to the public, mostly pertaining to COVID-19 pandemic adjustments. Agendas and decisions of the CEB were published on their website in a timely manner. However, contrary to good practice and a previous ODIHR recommendation, sessions of the higher-level election bureaus were not open to the public, media and election observers, reducing transparency.¹⁵

To increase transparency, sessions of the election bureaus should be open to the public, media and election observers.

BESVs were composed of a president and a vice-president selected by lot from a roster managed by the PEA, and up to eight representatives of parliamentary political parties or election contestants. BESV members nominated by political actors could be replaced until one day before election day without providing specific justification, a practice which may undermine the independence and stability of these bodies.¹⁶ BESV members appointed by PEA needed specific grounds to be exempted from such duty. By 4 December, a total of 5,238 PEA-nominated BESV members had been replaced, which represents some 14 per cent of all PEA appointees. Substitutes for both types of members are not determined and thus not trained when the first appointment is made.

Training for the president and vice-presidents of BESVs was organised by the PEA. Due to COVID-19 related health concerns most sessions were conducted online. Political parties trained their nominees to BESVs. The lack of a unified training methodology and the large size of some training sessions online raised concerns about their effectiveness. While election law foresees the creation of an Electoral Expert Centre in charge of training of polling staff, the Centre is not established.

To enhance stability of the election administration, the tenure of the members could be better protected against arbitrary replacement during a reasonable time prior to election day.

¹⁵ Section II.3.1.81 of the 2002 [Code of Good Practice](#) of the Venice Commission 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”.

¹⁶ Guideline II.3.1.77 and paragraph 77 of the [Code of Good Practice](#) recommend that “bodies that appoint members to electoral commissions should not be free to recall them, as it casts doubt on their independence”.

Voter education organised by the PEA was conducted in a professional manner, with a number of materials targeting different audiences and voting procedures, mainly delivered online.¹⁷ No voter education efforts were undertaken to address the high number of invalid votes in postal voting that was recorded for presidential elections in 2019.¹⁸ According to the ODIHR SEAM interlocutors, voter awareness of new requirements for homebound voting could have benefited from more targeted voter information.

The PEA jointly with the Special Telecommunications Service, developed software applications related to voters' eligibility as well as results transmission and tabulation systems.¹⁹ Due to last minute changes in electoral procedures, the structure, methodology and audit of these applications were completed only shortly prior to election day, reducing transparency of the process and limiting the possibility of testing and external audit.

To enhance public confidence in the election process, any introduction of new technologies should be done well in advance of the elections and provide sufficient time for audit and certification of the technology.

Voters living abroad could vote by post or in person during an extended two-day period at 748 polling stations in 92 countries, a decrease from 2019 presidential election. Mainly due to COVID-19 pandemic restrictions, in about 100 locations abroad the polling stations could not be set up. The pandemic also created challenges for the recruitment of polling staff and postal ballot delivery. Voting premises abroad were kept under video surveillance throughout the two-day voting period and overnight, and tablets were used for recording the tallying of the ballots both in country and abroad.²⁰ No pre-registration was required in order to vote abroad, with proof of residence required, and the MFA published all eligible documents by country.

VI. VOTER REGISTRATION

Citizens aged 18 years or older on election day are eligible to vote, excluding those disenfranchised by a court decision on the grounds of a criminal conviction regardless of gravity of the crime or whose legal incapacity is declared by a court decision, at odds with international standards.²¹

In line with international obligations, restrictions on the suffrage rights should be removed.

¹⁷ Voter education materials were translated into Hungarian.

¹⁸ The percentage of invalid postal ballots in 2019 presidential election was 8.81 per cent for the first round and 11.38 per cent for the second round.

¹⁹ The Special Telecommunications Service is a public institution in charge of organizing and monitoring public telecommunications. The institution is part of the national defense system.

²⁰ 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.

²¹ 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](#), stating 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". See also [Hirst v. the United Kingdom](#) found that a blanket, automatic and indiscriminate disenfranchisement of prisoners, irrespective of the length of the sentence, the nature or gravity of the offences and individual circumstances, constituted a violation of Article 3 Protocol 1 of the ECHR.

Voter registration is passive and continuous. The PEA has overall responsibility for management of the electoral list, which is based on a compilation of data from various state institutions.²² Citizens may verify their data in person or online and can request changes throughout the year. The voter list included 18,191,396 citizens in country. In addition, it was completed by 35,808 accepted postal voting applications and 3,078 applications to vote at polling stations abroad.²³ 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. However, despite a previous ODIHR recommendation for extending the hours for mobile voting requests, the CEB decided on 27 October that applications for mobile voting could be submitted in a two-hour period the day before election day, effectively limiting the scope for the use of this option. In addition, voters infected with COVID-19 and those in self-isolation could also request a mobile ballot box.²⁴ On 27 November, the CEB issued a decision clarifying which documents were required to qualify for homebound voting in case of quarantine or self-isolation. Positively, the CEB extended an opportunity for all voters to request a mobile ballot box until 4 December, either in person or electronically. The decision simplified requirements and improved voters' access to this procedure; however, its late approval limited its impact.

The extended deadline for homebound voting should be maintained for future elections and regulated through the law.

VII. CANDIDATE REGISTRATION

Citizens with the right to vote can stand for elections. 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, organizations representing national minorities, or run independently. In a generally inclusive manner, the CEB registered 41 candidate lists with a total of 7,136 candidates, 42 of which were independent.

Following the September 2020 amendments and in response to the COVID-19 pandemic, the number of required supporting signatures was halved and contestants were able to submit their documents electronically. Only the Save Romania Union-Freedom, Unity and Solidarity Party (USR-PLUS), reported submitting a significant number of signatures electronically. Some BECs, legally mandated to verify formal requirements of the supporting signatures and establish accepted candidatures, stated that no specific procedure exists for verifying the authenticity of signatures.²⁵

To ensure full implementation of legal requirements, consideration should be given to developing specific procedures for verifying supporting signatures of candidate lists.

According to the law candidate lists must be drawn up in such a way as to ensure the representation of both genders; however, this provision was open to different interpretations by the electoral boards and the courts during the election period.²⁶ Moreover, there is no clear sanction for non-compliance, or

²² Data is collected from the Directorate of Persons Record and Databases Management, the General Directorate for Passports, National Authority for Citizenship, and municipalities.

²³ A total of 740,367 Romanian citizens have a passport with a registered address abroad and are entitled to vote abroad. Should they also have a national ID, with an in-country address, they can choose to vote in Romania.

²⁴ 70,999 voters casted their ballots using this option.

²⁵ In February 2020, the Election Law was amended by GEO no. 26/2020 to allow for a verification of samples of the supporting signatures in connection to the voter list, but the new provision was annulled by the Constitutional Court together with others introduced by this GEO.

²⁶ While on October 30 an appeal against a decision of the Prahova Election Bureau was rejected for non-compliance with the requirement, another court in Vrancea allowed registration of candidate lists without any women.

provisions requiring placement of women on the lists and gender-disaggregated data was not publicly available. According to civil society organizations women candidates made up some 30 per cent.²⁷ This was only a 1.75 per cent increase from 2016, despite a campaign finance incentive to field women candidates introduced in 2017. Only one parliamentary party confirmed to the ODIHR SEAM that they had internal policies to promote women candidates.²⁸ Other parties' representatives stated that such policies were not necessary. Smaller parties stated that promoting women candidates could be prioritised at a later stage in the party's development. Women held only 19.8 per cent of the seats in the outgoing parliament, and received only 18 per cent of the seats in the incoming parliament.

Additional incentives could be considered for providing more favourable conditions for candidates of both genders to stand for elections. Political parties could consider ways to further increase gender balance and place women in electable positions on the candidate lists.

VIII. CAMPAIGN ENVIRONMENT

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 conduct of campaign.²⁹ The campaign was low-key, due to restrictive campaign legislation compounded by public health limitations on freedom of movement and indoor and outdoor gatherings.³⁰

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.³¹ Election contestants met by the ODIHR SEAM stated that campaign provisions are restrictive and further restrained by finance regulations.³² Most of them stated that candidate registration process is an opportunity to connect with voters, and citizens observers reported that parties campaigned during this period, when campaign regulations were not in effect.

Legislation should be amended to remove undue restrictions during the campaign period to sufficiently ensure freedom of contestants to campaign.

Although the campaign lacked visibility, candidates were able to convey their messages to the electorate and offer voters a range of choice. Political parties opined that in-person campaigning is the most persuasive, and therefore attempted to hold small meetings and conduct door-to-door canvassing to the

²⁷ The figure was provided by a civil society organization *Expert Forum*.

²⁸ PSD'S Internal statutes require that women make up at least 30 per cent of leadership positions within the party.

²⁹ During the campaign period, the number of municipalities and counties on lockdown ranged from 13 municipalities in 5 counties to 25 municipalities in 8 counties. A state of alert introduced by the government in May was extended throughout campaign period. 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.

³⁰ A on 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 campaign personnel. Street campaigning refers to the curbside distribution of campaign materials from tents.

³¹ Concerns about access to these panels in smaller towns and villages were voiced by some independent candidates, who encountered panels that were either locked or entirely covered with the posters of political parties, leaving no space for their materials.

³² The Political Finance Law sets limits related to campaign expenditure and the means of campaign that parties can use, which prompted contestants to start campaigning before the legal campaign period, when such limitations are not in place.

extent possible. While voters in urban areas were more hesitant to engage, those in rural areas were less wary, but harder to reach in significant numbers.

The campaign was more vibrant online, with most contestants turning to connect with voters through political advertising, web pages, social networks accounts and online events. Most political parties appeared to leverage their online presence effectively to present their party platforms and enable exposure and access to candidates. Several interlocutors voiced concerns about organised and continuous manipulative online content that could have impact on the election environment. PNL and USR-PLUS, as well as media representatives, described this content as distorted political news items targeting campaigns and mischaracterizing candidates' actions or statements.³³

Campaign themes 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.³⁴ Candidates and parties distinguished themselves from each other in terms of pandemic management, including positions as to whether schools and market should be closed, and accused each other for deteriorating conditions in hospitals and the overwhelmed public health system.

The president repeatedly took part in the campaign while performing his official duties and harshly criticized PSD in public statements, during live press conferences or public events, often blaming them for the mismanagement of the COVID-19 pandemic and the deteriorating conditions in hospitals.³⁵ He also vocally supported and defended the PNL, blurring the line between his official duties and the campaign, at odds with OSCE commitments.³⁶

To ensure equitable conditions for all contestants, consideration could be given for introducing additional legal and procedural safeguards to prevent public officials, including the president, from using the advantage of their office for campaigning purposes.

IX. CAMPAIGN FINANCE

The financing of election campaigns is regulated by the Political Finance Law, most recently amended in 2020.³⁷ Parliamentary political parties receive subsidies from the state budget which are allocated in proportion to the number of votes obtained in the last elections, with additional funds provided according to the number of mandates received by women.

³³ A journalistic [investigation](#) by media organization Press One into disinformation on *Facebook* targeting political campaigns and allegedly financed by campaign money was published the week of the elections.

³⁴ 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 despite years of promised reform. MPs challenged each other to decline special pensions, widely seen as an undeserved benefit for the political class. One PSD candidate resigned from the candidate list after a corruption investigation was made public.

³⁵ During a live press conference on 24 November marking the first year of the 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.

³⁶ Paragraph 5.4 of the [1990 OSCE Copenhagen Document](#) provides for “a clear separation between State and political parties”. See Guideline 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](#) states that “the legal framework should provide effective mechanisms for prohibiting public authorities from taking unfair advantages of their positions by holding official public events for electoral campaigning purposes, including charitable events, or events that favour or disfavour any political party or candidate”.

³⁷ It is further supplemented by the 2016 Government Decision for the approval of the Methodological Rules, and the Guide published by the PEA for these elections.

The recent amendments established that political parties could use state subsidies to finance election campaigns. The 2018 amendments have led to a substantial growth of the annual amount of public funding, which is now ranging from 0.01 per cent to 0.04 per cent of the national GDP.³⁸ 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 three per cent threshold in elections.³⁹ Reimbursement must be requested within no more than 30 days from elections and must be completed by the PEA within 90 days.

Campaigns can also be financed by contributions from party members, individual donations, candidates' personal incomes and loans from individuals or credit institutions. Contributions from certain categories of donors, such as foreign sources, labour unions and state institutions and enterprises, are prohibited. An expenditure ceiling exists for each candidate (60 minimum gross salaries) and the limit of additional expenditure by parties and coalitions is calculated by adding up the maximum values for each proposed candidate.⁴⁰ Campaign expenditures are reimbursed if a party receives three per cent of the votes nation-wide or in constituencies where the three per cent threshold was reached.

Political parties could contribute to the electoral campaign of their own candidates up to RON 22,300 each. All donations over RON 22,300 had to be received by bank transfer, whereas donations below this amount could be received in cash. While the law requires donations to be declared within three days from receipt and must be deposited in a separate bank account, it does not require the PEA, mandated with campaign finance oversight, to publicize this data.⁴¹ The PEA reports on total contributions for these elections only contained the names of contestants and the amount of donations received, without reference to sources of funding.⁴²

To further enhance transparency and accountability, the PEA could publish detailed campaign finance reports submitted by election contestants, as well as the results and conclusions of its investigations in a timely manner.

The PEA can initiate investigations and issue fines. Within 15 days from election day, political parties and candidates have to submit a detailed report of their campaign income and expenditure to the PEA, which is published within 60 days from the publication of election results. Sanctions for abuse of public resources can only be applied for irregularities identified after the PEA conducts its audit after the elections. The PEA has limited auditing powers over campaign income and expenditure, and mostly verifies the financial documents submitted by the contestants.⁴³

³⁸ In 2019, political parties received some EUR 52 million from public funding.

³⁹ Paragraph 242 of the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#) recommends that “in order to promote political pluralism, some funding should also be extended beyond those parties represented in parliament, to include all parties putting forth candidates for an election and enjoying a minimum level of citizen support”.

⁴⁰ In December 2020, the minimum gross salary amounted to RON 2,230. EUR 1 equals RON 4.8. The Council of Europe's Group of States Against Corruption (GRECO) in its [2017 Addendum to the Second Compliance Report of Romania of the Third Evaluation Round](#), found the amount of donations disproportionately high.

⁴¹ Paragraph 265 of the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#) recommends that “records as well as the oversight body's findings and conclusions should be available for public review for an extended period of time to allow for proper public scrutiny”.

⁴² By 27 November 2020, total contributions of RON 103,289,869 were declared without reference to the source or type of contribution.

⁴³ The PEA performs verifications in terms of compliance with the law, deadlines, or rules of reporting, but has no power to conduct an actual financial audit over the amounts.

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.

To ensure effective campaign finance oversight, the legislation would benefit from further improvement to address the identified gaps. The mandate of the Permanent Electoral Authority can be enhanced to effectively identify and address campaign finance violations.

X. MEDIA

A. MEDIA ENVIRONMENT

The media environment is diverse and polarized along political lines.⁴⁴ Revenues from advertising impact the independence of media, which increasingly rely on public institutions' advertising and subsidies, or depend on owners with political interests. This affects their editorial freedom and, according to some ODIHR SEAM interlocutors, leads to self-censorship. While in recent years there has been an increase of media projects partially or fully funded by donors or users' donations to safeguard media freedom and boost independent journalism, nevertheless their audience reach is limited. A number of media owners have been investigated for corruption.⁴⁵

Television remains the primary source of information, followed by internet sources, namely online media and social networks platforms.⁴⁶ Most newspapers have transformed into primarily online platforms, and radio stations play only a marginal role as a source of information. The television is dominated by *PRO TV*, *Antena 1* and *Kanal D* private broadcasters.⁴⁷

The public broadcasters are the *Romanian Television (TVR)* and *Radio Romania (SRR)*. *TVR* has six nationwide television channels and five local stations; however, it has limited audience ratings. The *SRR* runs the popular nationwide radio news station *Radio Romania Actualitati*. The Board of Directors of *TVR* and *SSR* are appointed for four years by a simple majority vote of the parliament. After the funding mechanism of the public media abolished licensing fees in 2016, the public broadcaster became primarily funded from the state budget as annually approved by the parliament and become financially less independent.⁴⁸ Several ODIHR SEAM interlocutors raised concerns about *TVR*'s lack of independence.

To enhance financial independence of the public broadcaster and limit dependence on the state budget as the primary source of funding, a more sustainable and efficient funding mechanism could be considered.

⁴⁴ As of August 2020, the National Audiovisual Council issued 1,613 licenses to 467 broadcast media companies.

⁴⁵ See [Press freedom Index 2020](#) published by Reporters without Borders states that attitudes towards journalism and free speech that prevails within the state and the political class continues to encourage censorship and self-censorship, and editorial policies are subordinated to owner interests. Moreover, the report states that authorities have also pressured journalists to reveal their sources or to refrain from being critical.

⁴⁶ According to [Media influence matrix Romania Report 2019 – CEU](#), television is the first source of media content consumption for 92 per cent of the population, followed by internet with 42 per cent.

⁴⁷ According to research agency [ARMA](#), for November 2020, the television channels with highest audience rates were *PRO TV* and *Antena 1*, which each enjoyed between 16 and 18 per cent of total audience ratings; the main public TV channel *TVRI* had only 2.5 per cent.

⁴⁸ The public broadcaster is funded through a budget approved annually by the government.

B. LEGAL AND REGULATORY FRAMEWORK FOR THE MEDIA

The legislation provides a sound framework for freedom of the media. The Constitution guarantees freedom of expression and prohibits censorship; defamation was decriminalized in 2006. Incitement to hatred or discrimination is prohibited. In March 2020, temporary restrictions on freedom of information were introduced following a state of emergency decree due to the COVID-19 outbreak.⁴⁹ Many ODIHR SEAM interlocutors stated that EU's General Data Protection Regulation is often invoked as a ground for denying access to information, or to threaten and prosecute journalists in connection with their investigative reporting.⁵⁰

Broadcast media are supervised by the National Audiovisual Council (CNA), which is responsible for issuing licenses, monitoring the media, and promoting media literacy and market fairness. The 11 members of the managing board are appointed by the parliament for a six-year term and are legally obliged to be politically independent.⁵¹ The law does not provide criteria for the professional background or expertise of the CNA members. The parliament may dismiss the CNA president by rejecting the annual activity report, which might undermine the independence of the regulatory body.

To enhance the autonomy and independence of the regulatory body, the provisions that allow the parliament to dismiss the National Audiovisual Council (CNA) president by rejecting the CNA annual report should be amended and clearer professional criteria for selection of the CNA members could be considered.

The broadcast media's coverage of the election campaign is regulated by the election law and regulations issued by the CNA for each election.⁵² Online and print media are not bound by such regulation. Provisions for broadcast media require an equitable, balanced, and fair coverage of the contestants. Broadcasters were obliged to inform CNA about their intention to cover the election campaign and indicate formats and schedule of their coverage prior to its start.⁵³ The law foresees coverage of the election campaign in three different formats, including informative programmes, electoral promotion programmes and electoral debates, but lacks a clear definition of these.⁵⁴

The CNA's oversight was conducted mainly through the verification of weekly reports submitted by broadcasters indicating which contestants they covered. The CNA also ran a limited qualitative media monitoring with random checks.⁵⁵ While this allowed the CNA to detect some violations, the absence

⁴⁹ The OSCE RFoM in its [statement of 30 March 2020](#) expressed concerns about the provisions of the Romanian coronavirus response decree that granted the government special powers to curb freedom of information in the country.

⁵⁰ See "[The State of Romanian mass-media 2020](#)" report by the Center for Independent Journalism (CIJ). According to Freedom House's [Nations in Transit](#), the rating of independent media is 3.75 out of 7 in 2020. In Reporters Without Borders's [World Press Freedom Index](#), out of 179 countries Romania dropped in its rating since 2018 by 4 points and is now ranked 48.

⁵¹ The senate, the Chamber of Deputies, and the government propose three members each, while the president proposes two members.

⁵² On 21 October, the CNA published a regulation for these elections.

⁵³ According to the CNA, 310 national and local broadcasters declared their intention to cover the election campaign and 27 national broadcasters actually did so, including 19 national TV channels and 8 national radio stations.

⁵⁴ While electoral promotion programmes on private media were paid-for, the regulation did not require broadcasters to clearly label them as such. Some broadcasters claimed that there was no clarity regarding the definition of "information programmes" and "electoral debates", and were labelling any TV programme discussing elections as 'electoral debate', even when candidates were not featured, contrary to the legal definition of this format.

⁵⁵ According to the CNA, six national television channels and a number of local television channels were monitored.

of quantitative monitoring of national broadcast media weakened the CNA's capacity to effectively enforce requirements for equitable electoral coverage.⁵⁶

The National Audiovisual Council could consider enhancing its media monitoring methodology and allocate additional resources to include a quantitative media monitoring.

The CNA held regular board meetings open to the public to discuss violations and complaints. However, the law and the media regulations do not envisage specific deadlines for handling of complaints, and CNA failed to address most complaints in a timely manner.⁵⁷ Unclear regulations for coverage of the election campaign, combined with insufficient oversight of broadcast media coverage and delays in dealing with complaints, weakened CNA's capacity to fulfil its regulatory role.

The National Audiovisual Council could clarify provisions regulating election campaign coverage and strengthen its oversight by setting internal deadlines to review complaints and redress violations in a timely manner.



C. MEDIA COVERAGE OF THE CAMPAIGN

[Click Here to Read Media Monitoring Results](#)

The ODIHR SEAM media monitoring confirmed that *TVRI* offered free airtime and organised electoral debates among contestants, as required by law.⁵⁸ However, *TVRI* did not cover any election-related matters in its newscasts and stated that the law allowed it only to cover public officials while carrying out their duties. This restrictive interpretation of the law by the public broadcaster conflicts with its role to inform the public about relevant public affairs matters.⁵⁹

Some television channels with larger audiences, such as *PRO TV*, decided not to cover the elections while *Antena 3* and *Digi24* offered only limited or no electoral coverage in their news. However, all television channels covered state officials, including those running as candidates, while performing their official duties.⁶⁰ The government received 52 per cent of the news coverage of political actors on *PRO TV*, 40 per cent of such coverage on *Antena 3* and 33 per cent on *DIGI24*. Most monitored television channels also gave extensive news coverage to the president, along with live broadcasts of his press conferences, which at times resulted in a clear advantage for the PNL.⁶¹ *Antena 3* in its current affairs and electoral programmes focused on the two major political parties, devoting 34 per cent of its coverage to PSD and 23 per cent to PNL. The latter received some negative coverage as well. *Digi24* allotted between 13 and 20 per cent each of its coverage to six different political parties.

⁵⁶ Most violations were related to television hosts being biased during electoral debates and current affairs programmes, or guests invited in television programmes without being presented to the viewers as candidates. All violations resulted in public warnings by the CNA. The Audiovisual Law provides for various sanctions, including warnings, fines ranging from 2,500 RON to 50,000 RON. Broadcasters should also air three video or audio messages on the sanction received from CNA.

⁵⁷ Out of 23 complaints received, only 6 were reviewed during the election campaign. The PSD complaint filed on 25 November 2020 related to the speech of the president calling on voters to remove PSD government from power was not reviewed by the CNA prior to election day.

⁵⁸ The ODIHR SEAM conducted a quantitative and qualitative media monitoring of the primetime (18:00-24:00) programmes of four national television channels (*TVRI*, *PRO TV*, *Antenna 3* and *Digi24*) from 16 November 2020 to 3 December 2020.

⁵⁹ Out of the total coverage of political actors in its news programmes (1 hour and 52 minutes), *TVRI* allocated 49 per cent to president and 27 per cent to PNL-led government. Among parties, PLN received 9 per cent, PSD 13 per cent and USR-PLUS 2 per cent.

⁶⁰ All members of the government covered in the news were also candidates for PNL.

⁶¹ For instance, on 24 November, three out four television channels monitored (*TVRI*, *Digi24* and *Antena 3*) covered live a press conference of the president lasting (from 13 to 15 minutes), during which the president repeatedly attacked PSD.

The ODIHR SEAM media monitoring showed that media (in particular *Antena 3* and *Digi24*) often failed to clearly distinguish between various formats of their coverage and did not mark their ‘electoral promotional programmes’ as paid-for, blurring the line between editorial and paid coverage. Only few debates featured the leaders of the main political parties or focused on specific policies, such as the debate organised by *Digi24* in the final campaign week. In debates, with exception of the *Digi24* and *TVR1*, discussion over policies was often overshadowed by personal accusations among contestants, including on the handling of the COVID-19 pandemic which coupled with absence of news electoral coverage, weakened the opportunity for voters to make an informed choice.

As legally required, the monitored broadcast media aired voter information spots produced by the PEA. In addition, they also produced their own spots urging to vote, some of them with political messages.⁶² Women candidates received limited coverage during the monitored period; out of 31 candidates’ appearances on the electoral programmes on TVR1, only three featured women candidates. *Antena 3* and *Digi24* offered 13 per cent and 11 per cent, respectively, of their total candidates’ coverage to women candidates.

XI. PARTICIPATION OF NATIONAL MINORITIES

Minority groups represent over 10 per cent of the population of the country, with ethnic Hungarians and Roma, being the largest groups, comprising some 6.5 per cent and 3.2 per cent of the population, respectively.⁶³ Twenty groups are officially recognised as national minorities through their representation in the Council on National Minorities, a government consultative body.⁶⁴ Membership in the Council affords each group constitutionally guaranteed representation in parliament through preferential seats in the Chamber of Deputies.⁶⁵ Council membership, national minority status, and access to preferential seats are linked to one another, despite recommendations calling for this to be reviewed.⁶⁶

For 18 national minority seats in the parliament, a total of 57 candidates competed.⁶⁷ No other organizations representing national minorities attempted to compete, which would have required fulfilling six conditions to obtain the status of ‘public utility’, collecting a number of signatures equal to 15 per cent of the population of their minority, and for larger communities, drawing these signatures from across 15 counties, with minimum thresholds. While some of these conditions are contrary to the

⁶² *Antena 3* spots were clearly negative towards the government, calling to vote to end its mismanagement of the pandemic. *Digi24*, instead, produced some thematic spots calling voters to vote and make the right choice, in order to launch some long-awaited reforms.

⁶³ The last official census was conducted in 2011. The Council of Europe [currently estimates](#) the Roma minority from 6 to 9 per cent of the population, or between 1-1.8 million.

⁶⁴ Those in the Council are Albanians, Armenians, Bulgarians, Croats, Czechs, Germans, Greeks, Italians, Jews, Macedonians, Hungarians, Lipovan, Russians, Poles, Roma, Ruthenians, Serbs, Slovaks, Turks, and Ukrainians. After the 2020 Parliamentary elections, the Tatars re-entered the Council.

⁶⁵ The lowered threshold for these seats is set at 5 per cent of the average number of votes needed to obtain a mandate at the national level. For the 2020 elections this threshold was under 800 votes.

⁶⁶ See [Fourth Opinion on Romania](#) of the Council of Europe Advisory Committee on the Framework Convention on National Minorities. In 2016, candidate lists submitted by the Tatars were rejected by the CEB due to an internal dispute within their organization, and the Tatars forfeited their preferential seat in parliament, their seat in the Council, and their national minority status. In 2020, they were able to submit candidate lists, reclaim their seat and re-enter the Council following a decision by the CEB recognizing their national minority status.

⁶⁷ All member organizations in the Council met the special threshold and retained their preferential seats. No women were elected.

international standards and OSCE commitments, the organizations represented in the Council are exempted of these conditions and receive public funding for national minorities.⁶⁸

Legislation could be amended to foster a level playing field among national minority organizations both in and outside the Council on National Minorities to compete for preferential seats.

XII. COMPLAINTS AND APPEALS

Any citizen with the voting rights can file a complaint. The complaints and appeal system is handled by the election administration and courts. Complaints about the decisions and inactions of election administration bodies are submitted to the superior level and appealed according to the hierarchy of the election bureaus. The Constitutional Court has competence to oversee constitutionality of the legal provisions, and the Ombudsperson can challenge the constitutionality of legal provisions.

The law establishes an expeditious process with one to three calendar days for the resolution of electoral petitions and appeals. The CEB decisions can be appealed either to the Court of Appeal or to High Court of Cassation and Justice, depending on the nature of the complaint.⁶⁹ 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. Decisions of Court of Appeal can be challenged to High Court of Cassation and Justice.

The CEB received 124 complaints, which mostly related to the composition of the BESVs, display of electoral campaign material, the cancelation of elections in specific polling stations, or electoral fraud. 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, but CEB sessions on adjudication of complaints were not open to the public, detracting from the transparency of the dispute resolution process.

Consideration should be given to increase the transparency of the dispute-resolution process by providing public access to the Central Election Bureau sessions.

XIII. CITIZEN AND INTERNATIONAL OBSERVERS

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 election bodies is not stipulated by the law. This includes election day preparations, such as establishing the composition of the board or sealing the voting premises.

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 40 civil society organizations, 3 international organizations, and 9 diplomatic missions. Accredited organizations also deployed some

⁶⁸ An organization representing the Roma minority would face the additional geographical distribution requirement for signatures in the election law. Such broad geographical requirements for national minorities living compactly to stand for public office may run counter to paragraph 7.5 of the [1990 Copenhagen Document](#), in which participating States committed to “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination”. In the case of [Sejdic and Finci v. Bosnia and Herzegovina](#), the European Court of Human Rights ruled that restrictions to the right to stand for public office “should be interpreted and applied carefully to ensure that persons belonging to national minorities are not unreasonably or disproportionately barred”.

⁶⁹ The CEB decisions can be appealed to the High Court of Cassation and Justice on issues related to the setting up of the CEB, formation of coalitions, and against CEB decisions to cancel elections.

observers for out-of-country voting. The largest citizen observation efforts, including observation of election administration, campaign and campaign finance, and fielding of short-term observers, were carried out by *FiecareVot*.⁷⁰

To enhance transparency, legislation should include explicit provisions on the right of observers to access all stages of the electoral process.

XIV. ELECTION DAY

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. Measures against COVID-19 were in place, and largely respected, but some polling stations were not sufficiently spacious to observe social distancing. Obstacles to an unassisted access for voters with disabilities were observed in some visited polling stations.⁷¹

While 35,808 applications for postal voting were accepted, only 21,329 citizens managed to cast a ballot. Of these, 18,285 voters chose to send the ballot to three in-country postal voting bureaus.⁷² A total of 14,479 ballots were not delivered on time due to delivery problems. Positively, PEA promptly informed those citizens whose ballots were not received that they could still vote in any polling station abroad.

The CEB reported disaggregated turnout data throughout the day and began publishing results by polling station. The CEB website with partial results also featured scans of the original results protocols, enhancing transparency of the process. Partial official tabulated results were published by CEB the day after. The final turnout was 33.24 per cent.

XV. RECOMMENDATIONS

These recommendations, as contained throughout the text, are offered with a view to enhance the conduct of elections in the Romania and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with prior ODIHR recommendations, which remain to be addressed.⁷³ ODIHR stands ready to assist the authorities of Romania to further improve the electoral process and to address the recommendations contained in this and previous reports.

⁷⁰ *FiecareVot* fielded 274 observers. In total, 40 domestic associations were accredited to observe the elections, among which one dedicated to rights of persons with disabilities (*Asociația agile pentru persoanele cu dizabilități*) or others covering specific Romanian cities.

⁷¹ See [Recommendation CM/Rec\(2011\)14](#) of the Council of Europe Committee of Ministers on the Participation of Persons with Disabilities in Political and Public Life. See also Article 29 of the [Convention on the Rights of Persons with Disabilities](#) (CRPD).

⁷² 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. For this purpose, out of 748 polling stations, 134 polling stations were designated by the constituency electoral bureau for Romanian citizens domiciled or residing [abroad to fulfil the attributions provided by law for the electoral bureaus for postal voting](#).

⁷³ In paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”. The follow-up of prior recommendations is assessed by ODIHR as follows: recommendation 5 from the final report on the 2019 presidential election is fully implemented, recommendations 4 and 15 from the final report on the 2019 presidential election are partially implemented. The remaining recommendations were assessed as not implemented. See also the ODIHR [electoral recommendations database](#).

A. PRIORITY RECOMMENDATIONS

1. The electoral legal framework should be reviewed to bring it further in line with OSCE commitments, international standards and good practices, well in advance of the next elections and within an inclusive consultation process. To prevent uncertainty generated by the concurrent election rules, consideration should be given to harmonize the provisions and deadlines in the election legislation.
2. Additional incentives could be considered for providing more favourable conditions for candidates of both genders to stand for elections. Political parties could consider ways to further increase gender balance and place women in electable positions on the candidate lists.
3. The extended deadline for homebound voting should be maintained for future elections and regulated through the law.
4. Legislation should be amended to remove undue restrictions during the campaign period to sufficiently ensure freedom of contestants to campaign.
5. To ensure effective campaign finance oversight, the legislation would benefit from further improvement to address the identified gaps. The mandate of the Permanent Electoral Authority can be enhanced to effectively identify and address campaign finance violations.
6. To further enhance transparency and accountability, the PEA could publish detailed campaign finance reports submitted by election contestants, as well as the results and conclusions of its investigations in a timely manner.
7. To enhance transparency, legislation should include explicit provisions on the right of observers to access all stages of the electoral process.

B. OTHER RECOMMENDATIONS

Election System and Legal Framework

8. To achieve higher stability of the legislation the standard operating procedures for the functioning of the election bureaus could be established on a permanent basis.
9. The principle of equality of the vote should be upheld, in accordance with the Constitution, OSCE commitments, other international obligations and standards and good international practice. A recalculation of the allocation of seats before every election, as established by the law, should be consistently implemented.

Election Administration

10. To achieve higher stability and predictability of electoral administration, internal decision-making rules of election bureaus could be established on a permanent basis for each election.
11. To increase transparency, sessions of the election bureaus should be open to the public, media and election observers.
12. To enhance stability of the election administration, the tenure of the members could be better protected against arbitrary replacement during a reasonable time prior to election day.

13. To enhance public confidence in the election process, any introduction of new technologies should be done well in advance of the elections and provide sufficient time for audit and certification of the technology.

Voter Registration

14. In line with international obligations, restrictions on the suffrage rights should be removed.
15. To provide to citizens with clear information about their eligibility to vote, the legislation should determine a specific deadline by which voter lists are finalised for upcoming elections.

Candidate Registration

16. To ensure full implementation of legal requirements, consideration should be given to developing specific procedures for verifying supporting signatures of candidate lists.

Campaign

17. To ensure equitable conditions for all contestants, consideration could be given for authorities to introducing additional legal and procedural safeguards to prevent public officials, including the president, from using the advantage of their office for campaigning purposes.

Media

18. To enhance financial independence of the public broadcaster and limit dependence on the state budget as the primary source of funding, a more sustainable and efficient funding mechanism could be considered.
19. To enhance the autonomy and independence of the regulatory body, the provisions that allow the parliament to dismiss the National Audiovisual Council (CNA) president by rejecting the CNA annual report should be amended and clearer professional criteria for selection of the CNA members could be considered.
20. The National Audiovisual Council could consider enhancing its media monitoring methodology and allocate additional resources to include a quantitative media monitoring

Participation of National Minorities

21. Legislation could be amended to foster a level playing field among national minority organizations both in and outside the Council on National Minorities to compete for preferential seats.

Complaints and Appeals

22. Consideration should be given to increase the transparency of the dispute-resolution process by providing public access to the Central Election Bureau sessions.

ANNEX – ELECTION RESULTS

CHAMBER OF DEPUTIES				
	Total number of voters in the voters list	18,964,642		
	Total number of cast votes	6,059,113		
	Invalid ballots	108,862		
	Blank ballots	46,953		
	Candidature	Votes	Per cent	Seats
1	Partidul Social Democrat Social Democratic Party	1,705,786	28.9	110
2	Partidul Național Liberal National Liberal Party	1,486,402	25.18	93
3	AlianțaUSR Plus USR Plus Alliance	906,965	15.37	55
4	Alianța Pentru Unirea Românilor Alliance for the Union of Romanians	535,831	9.08	33
5	Uniunea Democrată Maghiară din România The Hungarian Democratic Union of Romania	339,030	5.74	21
6	Partidul Mișcarea Populară People's Movement Party	284,502	4.82	
7	Partidul PRO România PRO Romania Party	241,272	4.09	
8	Partidul Ecologist Român The Romanian Ecologist Party	65,808	1.12	
9	Partidul Puterii Umaniste (Social-Liberal) Humanist Power Party (Social-Liberal)	59,465	1.01	
10	Partidul România Mare Greater Romania Party	32,655	0.55	
11	Alianța Renașterea Națională National Renaissance Alliance	21,662	0.37	
12	Partidul Verde The Green Party	20,615	0.35	
13	Partidul Socialist Român The Romanian Socialist Party	19,695	0.33	
14	Nicolae Valeriu-Ciolan	16,343	0.28	
15	Asociația Partida Romilor “Pro-Europa” Association Roma Party "Pro-Europe"	14,525	0.25	1
16	Partidul Noua Românie New Romania Party	14,093	0.24	
17	Asociația Liga Albanezilor din România Association Albanian League of Romania	9,031	0.15	1
18	Forumul Democrat al Germanilor din România Democratic Forum of Germans in Romania	7,582	0.13	1
19	Asociația Mecedonenilor di România Association Macedonians of Romania	7,144	0.12	1
20	Uniunea Elenă din România The Hellenic Union of Romania	6,096	0.1	1
21	Uniunea Ucrainenilor din România	5,458	0.09	1

	Union of Ukrainians in Romania			
22	Uniunea Democratică a Slovacilor și Cehilor din România Democratic Union of Slovaks and Czechs in Romania	5,386	0.09	1
23	Comunitatea Rușilor Lipoveni din România The Lipovan Russian Community in Romania	5,146	0.09	1
24	Uniunea Bulgară Lipoveni din România Bulgarian Lipoveni Union of Romania	4,853	0.08	1
25	Uniunea Sârbilor din România Union of Serbs in Romania	4,692	0.08	1
26	Radu Darius-Constantin	4,435	0.08	
27	Asociața Italianilor din România – RO.AS.IT. Association of Italians in Romania - RO.AS.IT.	4,170	0.07	1
28	Uniunea Armenilor din România Union of Armenians in Romania	3,820	0.06	1
29	Uniunea Culturală a Rutenilor din România The Cultural Union of Ruthenians in Romania	3,779	0.06	1
30	Uniunea Polonezilor din România Union of Poles in Romania	3,751	0.06	1
31	Baciu Virgil	3,572	0.06	
32	Partidul Noua Dreaptă The New Right Party	3,552	0.06	
33	Uniunea Democrată Turcă din România Turkish Democratic Union of Romania	3,540	0.06	1
34	Federația Comunităților Evreiești din România Federation of Jewish Communities in Romania	3,509	0.06	1
35	Uniunea Croaților din România Union of Croats in Romania	3,345	0.06	1
36	Uniunea Democrată a Tătarilor Turco-Musulmani din România Democratic Union of Turkish-Muslim Tatars in Romania	2,862	0.05	1
37	Papici Marcela Anamaria	2,790	0.05	
38	Partidul Național Țărănesc Maniu-Mihalache Maniu-Mihalache National Peasant Party	2,727	0.05	
39	Apostolache Mihai Cristian	2,583	0.04	
40	Cioanca Nicolae-Ilie	2,147	0.04	
41	Alternativa Dreaptă The Right Alternative	2,005	0.03	
42	Partidul Social Democrat Al Muncitorilor Social Democratic Workers' Party	1,912	0.03	
43	Albu Erwin-Vlad	1,895	0.03	
44	Partidul Națiunea Română The Romanian Nation Party	1,755	0.03	
45	Martin Corina	1,684	0.03	
46	Tabarac Adrian	1,479	0.03	
47	Petrea Ionel	1,305	0.02	
48	Zainea Cornel	1,271	0.02	
49	Zamfir-Ignat Ștefan-Costin	1,218	0.02	
50	Șerban Daniela	1,035	0.02	
51	Bendorfean Traian	994	0.02	
52	Vecerdea Marius-Daniel	948	0.02	

53	Oprea Gabriel	825	0.01	
54	Jalba Tiberiu-Mihai-Antoni	748	0.01	
55	Duță Maria-Mihaela	742	0.01	
56	Rațiu Ovidiu-Ioan	740	0.01	
57	Holicov Monica	730	0.01	
58	Naș Sorin-Valeriu	693	0.01	
59	Bogdan Dumitru	668	0.01	
60	Andrian Tiberiu	662	0.01	
61	Costea Vlad	658	0.01	
62	Duma Victor-Sebastian	606	0.01	
63	David Felicia	599	0.01	
64	Matei Sergiu-Lucian	590	0.01	
65	Partidul Re:Start România Re: Start Romania Party	537	0.01	
66	Mirtoșeriu Ciprian Olimpiu	507	0.01	
67	Roșu Gică	495	0.01	
68	Trăscăian Petru-Vasile	401	0.01	
69	Stochiță Aurel-Cătălin	375	0.01	
70	Caralicea Gheorghe	371	0.01	
71	Calu Neculai	354	0.01	
72	Rădulescu Virgil-Florin	339	0.01	
73	Geonea Ionela-Alina	326	0.01	
74	Bulat Florin	316	0.01	
75	Ichim Costică-Romică	293	0.00	
76	Blocul Unității Naționale National Unity Block	293	0.00	
77	Partidul Comuniștilor Communist Party	213	0.00	
78	Ivan Andrei	195	0.00	
79	Zmaranda Florin	165	0.00	
80	Partidul Forța Națională National Force Party	148	0.00	
81	Cristea George	135	0.00	
82	Pescaru Nicușor	115	0.00	

SENATE				
	Total number of voters in the voters list	18,964,642		
	Total number of cast votes	6,059,113		
	Invalid ballots	99,051		
	Blank ballots	50,345		
	Candidature	Votes	Per cent	Seats
1	Partidul Social Democrat Social Democratic Party	1,732,289	29.32	47
2	Partidul Național Liberal National Liberal Party	1,511,227	25.58	41
3	Alianța USR Plus USR Plus Alliance	936,864	15.86	25
4	Alianța Pentru Unirea Românilor Alliance for the Union of Romanians	541,938	9.17	14
5	Uniunea Democrată Maghiară din România	348,262	5.89	9

	The Hungarian Democratic Union of Romania			
6	Partidul Mișcarea Populară People's Movement Party	291,485	4.93	
7	Partidul PRO România PRO Romania Party	244,227	4.13	
8	Partidul Ecologist Român The Romanian Ecologist Party	78,656	1.33	
9	Partidul Puterii Umaniste (Social-Liberal) Humanist Power Party (Social-Liberal)	70,536	1.19	
10	Partidul România Mare Greater Romania Party	38,475	0.65	
11	Alianța Renașterea Națională National Renaissance Alliance	23,773	0.4	
12	Partidul Socialist Român The Romanian Socialist Party	23,094	0.39	
13	Partidul Verde The Green Party	23,085	0.39	
14	Partidul Noua Românie New Romania Party	19,520	0.33	
15	Voloșeniuc Ștefan	7,440	0.13	
16	Partidul Noua Dreaptă The New Right Party	4,347	0.07	
17	Partidul Social Democrat Al Muncitorilor Social Democratic Workers' Party	3,855	0.07	
18	Partidul Național Țărănesc Maniu-Mihalache Maniu-Mihalache National Peasant Party	2,803	0.05	
19	Alternativa Dreaptă The Right Alternative	2,233	0.04	
20	Partidul Națiunea Română Romanian Nation Party	2,061	0.03	
21	Partidul Comunistilor Communist Party	763	0.01	
22	Partidul Re:Start România Re:Start Romania Party	753	0.01	
23	Blocul Unității Naționale National Unity Block	410	0.01	
24	Partidul Forța Națională National Force Party	268	0.00	

ABOUT ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is 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, the ODIHR helps participating States to improve their electoral framework.

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

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