



Office for Democratic Institutions and Human Rights

FINAL REPORT

Romanian Parliamentary and Presidential Elections 3rd and 17th November 1996

1. OBSERVATION MISSION

Following notification from the Permanent Mission to the OSCE that Romania welcomed the presence of international observers, a monitoring mission on behalf of the Office for Democratic Institutions and Human Rights was conducted in respect of the Parliamentary and Presidential Elections held on 3rd November 1996 and the subsequent Presidential second ballot held on 17th November 1996.

The head of the Mission and On-site Co-ordinator was Peter Hatch of the United Kingdom. The Co-ordinator was present from 6th October to 24th November. His staff included Bridgitte Mihok (Germany), Tony Welsh (UK) and Elsa Fenet (ODIHR, Warsaw) for the first round, and Mark Power-Stevens (ODIHR, Warsaw) for the second round for President. The contribution of Catinca Slavu, Mona Manolescu and Liana Gingasu as mission support staff was invaluable and greatly appreciated.

A successful monitoring exercise may be achieved only through the full co-operation of those involved in the electoral process. It is pleasing to report that this co-operation was forthcoming. Generally the international observers were greeted with warmth and courtesy and their role of displaying to the electorate that there is strong international support for peaceful, democratic elections in Romania was welcomed.

Due thanks are accorded to the Romanian Government, the Ministry of Foreign Affairs, to the President and Members of the Central Electoral Bureau, the Presidents, Vice-Presidents and Members of the Constituency and Polling Station Bureaux, officials at the various Ministries and central and local public administration bodies, the political party representatives, Ambassadors and staff at the various foreign Embassies, the Presidents and staff at the League for the Defence of Human Rights and Pro-Democracy, and representatives of various international and national non-governmental organisations.

In respect of the Parliamentary and Presidential elections held on 3rd November the observation mission was comprised of over 100 international observers with 51 short-term observers coming from OSCE participating States, together with a similar number of representatives from the local Embassies and international non-governmental organisations. For the second ballot on 17th November some 50 international observers, mainly

representatives from the local Embassies and from international non-governmental organisations, maintained a presence.

A total of 19 OSCE participating States were represented including: Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Hungary, Italy, Netherlands, Norway, Poland, Russian Federation, Spain, Sweden, Switzerland, Turkey, United Kingdom and the United States.

The technical and political aspects of the elections were observed before, during and after Election Days in order to evaluate the overall process. This involved contact with the President and Members of the Central Electoral Bureau, the Constituency Bureaux, the Ministry of Foreign Affairs, other central and local administration bodies, political party representatives, Embassies of the OSCE participating States, the media and international and national non-governmental organisations. By the kind courtesy of the Swiss Ambassador, meetings of Embassy representatives were held at the Swiss Embassy to discuss the activities of short-term observers from the OSCE participating.

A comprehensive briefing session for short-term observers was held on 31 October. A comprehensive briefing pack was prepared for each observer. Each pack contained 24 items including a Handbook covering the legal and administrative framework, the electoral process and election monitoring. Post-deployment briefing sessions were held on 5th November and on 19th November thus providing an opportunity for all short-term observers to share their experiences and to report their findings. A press conference was held on 6th November accompanied by the issue of a press release to all the media. A further press release was issued on 21st November after the second ballot for President.

The deployment plans for both the first and second ballots were designed to ensure a wide and representative coverage of the various parts of Romania and in this respect there was close co-operation with the other international monitoring bodies and with the national observer organisations.

For the first round of elections observers were present in 26 of the 42 constituencies visiting over 1,500 polling stations in both town and rural areas, and for the second ballot 24 constituencies were covered with over 400 polling stations visited. Detailed observation report forms were completed in respect of the polling and counting process observed at polling station bureaux. Observation continued at constituency bureau level with the procedure for delivery of reports and minutes, the checking of the minutes and the tabulation of the results being monitored at a number of such bureaux. The electoral procedures were then followed through to the Central Electoral Bureau.

2. THE LEGAL AND ADMINISTRATIVE FRAMEWORK

2.1 Electoral Laws

In July 1992 the parliament passed two laws, one governing parliamentary and one presidential elections. The new laws were valid indefinitely and contain provisions by which parliament may decide upon the conditions under which the elections are conducted. The laws established a democratic electoral system based on universal, equal, direct, secret and freely expressed suffrage. Although consideration was given to a review of the laws, the 1992 provisions for

election to the Chamber of Deputies and the Senate and for the election of the President of Romania were relatively unchanged. Thus, the electoral system continued to be ruled by the provisions of the 1992 laws modified by a number of Governmental Ordinances covering the date of elections, measures to be taken and assignment of duties, the timetable, participation of internal observers, funding and payment in respect of electoral administration, format of special lists and the model forms to be used by the electoral administration.

2.2 Chamber of Deputies and The Senate

The parliament is comprised of two chambers, a Chamber of Deputies with 328 members and a Senate with 143 members. Deputies and Senators are elected for 4 years in constituencies on the basis of a list system and independent candidatures, according to the principles of proportional representation based on multi-member constituencies formed by the 42 Counties (Judets) including Bucharest and Ilfov Agricultural Sector. There is a "representational standard" for each constituency by which the number of seats is keyed to the size of its population. There is also provision for additional seats reserved for small national minorities.

For representation in parliament a minimum requirement of 3% of the validly expressed votes separately for each Chamber throughout the country must be achieved by the parties. Electoral coalitions are required to gather 1% extra for each member of the coalition up to 8%. A political party or formation may belong to a single electoral coalition only. Candidates can be put forward by parties or coalitions or they can stand as independents. Independents need an endorsement of at least 0.5% of the eligible votes in the constituencies they hope to represent.

Independent candidates may not stand on party lists and lists of independent candidates are not admitted. Candidates for the Chamber of Deputies must be at least 23 years of age and for the Senate at least 35 years of age and otherwise qualified to be elected.

2.3 Assignment of Mandates

The distribution and assignment of mandates for Deputies and Senators is carried out in two stages. The first stage is at constituency level having regard to the threshold requirement. The number of mandates allocated is dependent upon the electoral coefficient for the constituency separately for both Deputies and Senators, and this is determined by dividing the number of Deputies (and respectively, the number of Senators) to be elected for the constituency, into the number of validly expressed votes for the lists of candidates, political formations and their coalitions (which meet the threshold) and also the independent candidates. A number of mandates equal to the quotient between the total valid votes for the respective list (and independent candidate) and the electoral coefficient are then allotted to each list (and independent candidate). Mandates are allocated to candidates in the order they appear on the respective list.

In the second stage the remaining votes (i.e. those left over after the allocation of mandates, together with those inferior to the electoral coefficient and those obtained by parties etc. not meeting the threshold requirement) together with details of mandates which could not be assigned are communicated to the Central Electoral Bureau to be centrally assigned in accordance with the detailed provisions set out in the electoral law.

2.4 The President

For the election of President the constitution and electoral law provide for two ballots using a majority formula. In order to be elected President on the first ballot a majority of registered voters must participate in the election and the candidate must gather the majority of all votes cast. In the event of none of the candidates gathering such a majority a second ballot is held two weeks after the first ballot. In the second ballot the two candidates who received the most votes in the first ballot compete for the presidency and the candidate obtaining the largest number of votes is declared elected. The electoral proceedings are carried out on a constituency basis as provided for in the law on elections to the Chamber of Deputies and the Senate.

Candidates may be proposed by political parties or formations or may be independent. In putting forward their candidature they must have the support of at least 100,000 electors and an elector may support only one candidate. Two or more parties supporting the same candidate may not, in addition, endorse another candidate separately. Candidates must be at least 35 years old and meet the other requirements provided by the constitution. Persons having been previously twice elected as President may not stand in presidential elections.

2.5 The Electoral Campaign: Legal and Administrative Provisions for Media Coverage

For the purposes of political campaigning through the media of public radio and television, the electoral law distinguishes between parties represented in the outgoing parliament and those not represented. The former receive state funding whereas the latter meet their own expenses. Prior to the start of the campaign period a special parliamentary commission draws up a schedule of advertising air-time for the competing parties. Parties represented in the outgoing parliament receive twice as much air-time as parties not represented. The amount of air-time allotted to those parties represented in the outgoing parliament reflects their relative representation.

Once the deadline for the submission of candidacies has passed the special parliamentary commission is required to re-apportion air-time. In this second phase of the campaign competing parties must prove they have submitted lists in at least 10 constituencies to qualify for air-time on central radio and television.

2.6 Electoral Lists

All Romanian citizens aged 18 years of age or over, and not subject to disqualification under electoral law, are eligible to vote. Registration is compulsory and there are two kinds of lists.

A permanent electoral list is drawn up for each locality and includes all the citizens with the right to vote who have their domicile in the locality. An elector may be registered only in a single permanent electoral list.

In an effort to maximise enfranchisement, the law allows for persons voting outside their constituency by registering on special electoral lists at the polling sites.

2.7 Polling Stations

In the region of 16,000 polling stations were established including a number of special polling stations at military units, hospitals, maternity hospitals, sanatorium, homes for the aged, railway stations, bus terminals, ports, airports, student or pupil hostels and 173 at Embassies

etc. in various countries for those qualified electors outside Romania at the time of the elections.

2.8 Electoral Administration

Three kinds of bureaux are set up on an ad hoc basis for the elections, namely The Central Electoral Bureau, The Constituency Bureaux and Polling Station Electoral Bureaux. In line with one of the basic features of competitive elections, competing political interests are represented on the bureaux during the entire electoral process. Therefore, the bureaux consist of party representatives as well as non-partisan officials. All members must be and be seen to be impartial in the performance of their duties under electoral law.

There is provision for complaints, contestations and appeals from polling station level to constituency level through to the Central Electoral Bureau and the Supreme Court of Justice.

2.9 Administrative and Logistical Arrangements

The role of Ministries and other administration bodies was defined by Governmental Ordinance No. 580, published on 31st July 1996.

In order to co-ordinate and monitor the carrying out of the duties assigned by the electoral laws to the Government, the Ministries and to the other central public administration bodies, as well as the prefectures, a Central Technical Secretariat was set up by the Governmental Ordinance. In addition, a county technical secretariat and operative technical working group were set up for each county to ensure the implementation of the legal provisions and measures contained in the timetable and with a view to monitoring and effectively solving problems in the electoral constituency.

3. OBSERVATION REPORT

3.1 Introduction

This was the sixth election in Romania, since the fall of the Ceausescu dictatorship in 1989. The first was in May 1990 when the National Salvation Front won a landslide victory. Then in December 1991 voters endorsed a new Constitution establishing a multi-party Presidential Republic. The third was in February 1992 for the local elections of Mayors and County Councillors. The fourth was in respect of the Presidential and Parliamentary elections in September 1992, when the Democratic National Salvation Front (now The Party of Social Democracy in Romania - PDSR) gained a majority in the Senate and House of Deputies. The fifth was in respect of the local elections of Mayors, County and District Councillors in June 1996.

3.2 Political Parties, Political Formations and Other Coalitions

One of the main features of Romanian political life has been the high number of political parties. Following the December 1989 revolution, hundreds of parties were established. In 1992 the figure was over 250 and this development was helped by the low legal requirement of a minimum party membership of only 251. The introduction of the 3% threshold required for entering parliament brought about a significant change and with it a major selection process at the 1992 Parliamentary and Presidential elections with only seven groups of parties securing deputy and senator mandates.

Following the new law on political parties enacted in March 1996, political parties must now have a membership of 10,000 members domiciled in at least 15 counties but not less than 3,000 in each county, and must be registered with the Tribunal of the Municipality of Bucharest. Accordingly, the number of parties/alliances registering their electoral signs by the deadline of September was reduced to 57.

For the November elections certain alliances were formed and 11 main political parties, political formations and other coalitions emerged to contest the elections.

Following on the local election in June, PDSR (the ruling party) and The Romanian Democratic Convention - CDR - (a political alliance made up of six parties) were the two main political forces entering the election campaign. The Social Democratic Union (USD), consisting of the large Democratic Party (PD) and the smaller "historic" Social Democratic Party (PSDR) maintained its position as the third bloc, followed by The Democratic Alliance of the Hungarians in Romania (UDMR) - an alliance of two parties - representing the interests of Romania's ethnic-Hungarian minority.

3.3 Presidential Candidates

At the close of nominations 16 candidates were listed in the presidential race.

The two main contenders were the incumbent president Ion Iliescu (PDSR) and Emil Constantinescu (CDR) followed by Petre Roman (USD). The remaining 13 candidates received only minimal support.

Claims were lodged against most of the candidatures for a variety of reasons. However, the Constitutional Court considered the appeals to be groundless and rejected them all. There were 53 claims against the incumbent president's nomination for a further term in office.

The Constitution provides that persons having been previously elected twice may not stand in presidential elections. Ion Iliescu was elected president in May 1990. A new Constitution was adopted in 1991 and electoral laws came into force in 1992. Iliescu was elected president in 1992 under the new Constitution and electoral laws.

The main argument in favour of allowing Iliescu to run for another term was that the current form of the fundamental law of the country that came into effect in December 1991 could not be applied retrospectively and, as a consequence, Iliescu's first term was in fact that from 1992 to 1996. This was upheld by the Constitutional Court and Iliescu's nomination was allowed to stand.

In opposing Iliescu's nomination it was argued that his constitutional term in office began when the new Constitution was approved by the two Chambers of parliament and adopted by referendum in December 1991 and that his two year presidential term in 1991/1992 cannot be ignored.

This situation highlights the flawed overlapping of the electoral and constitutional processes and it is of concern that the Constitutional Court's decision was taken in the absence of the parties involved.

3.4 President's Nomination for Election to the Senate

Article 83(2) of the Constitution provides for the president to exercise his office until the new president takes the oath and Article 84 (1) stipulates that during his terms of office the president may not be a member of any political party.

The incumbent president's nomination for election as Senator was allowed to stand although it was questioned on the basis that it contravened Article 5 of the Law 68/1992, which prohibits independent candidatures on party electoral lists whereas he was included on the PDSR list.

Due consideration should be given to the relevant legal provisions in time for the next Parliamentary and Presidential elections.

3.5 Order of Candidates on Presidential Ballot Paper

Article 12(3) of the law for the election of president stipulates that the statutory provisions for the printing of ballot papers for the election of the Chamber of Deputies and the Senate shall apply correspondingly. Article 38(7) of the law for election to the Chamber of Deputies and the Senate stipulates " ... in the order resulted from the drawing of lots ... ". However, there is an anomaly in that a specimen ballot paper is annexed as a Schedule to the law for the election of President. In addition, there is a note to the effect that the order on the ballot paper shall be in accordance with the presentation of candidatures.

In respect of the first ballot the incumbent president was first on the ballot paper based on the presentation of candidatures. Although this was contested, the Central Electoral Bureau's decision to adopt the provisions contained in the Schedule annexed to the presidential law prevailed.

For the purpose of clarification a review of the relevant legal provisions is required.

3.6 Number of Deputy and Senator Mandates

Article 59(3) of the 1991 Constitution of Romania provides :

"The number of Deputies and Senators shall be established by the electoral law in proportion to the population of Romania".

Articles 3(2-6) of the election law together with a Schedule cover this provision. However, the Schedule referred to in Article 3(6) is based on population figures which applied at the time of the 1992 elections. The latest statistics show a fall in population and in accordance with Article 3(5) the number of inhabitants taken into account shall be that existing on July 1st of the preceding year, published in the Statistical Year Book of Romania.

Accordingly, the Central Electoral Bureau reduced the number of seats. However, on the basis of the omission to publish the latest figures and the non-acceptance of party representatives of the unpublished figures, the Bureau revoked its early decision. Thus the number of seats remained unchanged.

A review of the relevant legal provisions is required so as to avoid an anomalous situation at future elections.

3.7 The Electoral Campaign

3.7.1 Campaign Periods

September 4th marked the opening of the 60-day parliamentary electoral campaign in the battle to win over the 17.2 million electors. The presidential election campaign period for the first ballot was from 3rd to 31st October and for the second ballot was from 4th to 14th November.

3.7.2 The Media: Television Coverage

The media, particularly television, were the main source of information for the electors. Since 1992 several private channels have appeared to compete with Romanian National Television (TVR), thus providing competent and capable competition to the public broadcaster. However, TVR is still the only station covering the entire territory of the country, with access to private television in the provinces still somewhat limited. As the main news provider, TVR was criticised by the opposition and the independent press for its biased coverage in favour of the ruling party and the incumbent president. As a counter balance, certain private companies demonstrated their clear political preference for the opposition. Overall, coverage of the campaign was not well balanced in respect of all parties and candidates, and the prejudicial effect this can have is of concern.

It is also of concern that the conditions for presentation and fair play were not observed in a number of instances, including the broadcasting by Romanian TV of an advertisement clip produced by PDSR accusing the CDR presidential candidate of calling for the return of the former Romanian sovereign, King Michael. The clip showed the face of the CDR presidential candidate turning into that of the deposed king. In its turn the CDR produced a similar clip in which the image of the incumbent president changed into that of Ceausescu. Whereas CDR quickly withdrew its clip, PDSR continued with theirs.

The display in a televised debate of objects invoking the colours of the Romanian national flag by one of the presidential candidates was in direct contravention of the electoral campaign provisions.

Whilst recognising the legal and administrative framework regulating media coverage and the detailed provisions which provide for the supervision of the correct conduct of the campaign and for claims and appeals, the fairness of the campaign can be enhanced by the adoption of those provisions contained in local elections law including the distribution of air-time for both public and private media.

3.7.3 Telephone Survey of Public Opinion

There was considerable concern over the use of a telephone survey of public opinion conducted from the former Ministry of Chemistry building by the Centre for Public Opinion Surveys (CSOP). A large number of young people were employed to make "survey" telephone calls around the country. Each employee had a quota of questionnaires to fill in daily and the first question was "Who will you vote for". If the answer was "Ion Iliescu" no further questions ensued. However, if the respondent answered "Emil Constantinescu" or "Petre Roman" there were further questions of a disparaging nature.

PDSR's involvement in this survey was revealed and the exercise continued despite protests from the opposition and journalists.

It is considered that an exercise of this nature designed to influence the electors is not an acceptable practice.

3.7.4 Income and Expenditure

Control of income and expenditure on campaign activities by parties and political formations is covered by Article 45 of the law for election to the Chamber of Deputies and Senate. However, there is inadequate provision as regards financial transparency.

The maintaining of records of campaign income and expenditure, the submission of returns and the availability of such returns for open inspection in respect of all candidatures would greatly enhance the transparency of the electoral process.

3.8 The Electoral Lists

Registration of voters is central to the work of local and parliamentary democracy so it is of concern that confusion surrounds the actual number of qualified electors in Romania.

At previous elections there have been wide and inexplicable variations in the electorate figures. For these elections there was a huge discrepancy of around 2 million in respect of figures reported by the Central Technical Secretariat for the Central Statistics Department and from the police. Following an investigation the Central Electoral Bureau announced on 21st October that 17.2 million was the correct figure.

Observation findings at polling stations confirmed the need to improve registration practices and procedures. The permanent electoral lists compiled for the July local elections and updated were used, however, up-dating proved to be haphazard with many omissions and errors.

While the special lists are a well intended effort to create an inclusive process by endeavouring to maximise enfranchisement, the extensive use of these lists for both absent voting purposes and permanent list omissions, with upwards of 100 persons being registered at many polling stations, is of concern.

A review of the fragmented arrangements for compiling the voters lists is urgently required. There is a need for detailed regulations covering voter registration and a permanent central body with overall responsibility and control for compiling and subsequently computerising the voters lists.

Draft lists should be produced and published and there should be adequate provision and time for claims for inclusion and objections to inclusion. In respect of the special lists consideration should be given to alternative absent voting arrangements.

In order to enhance the transparency of the electoral process the marked copies of the polling station lists should be available for public inspection for a defined period after the election.

3.9 Voters Means of Identification

It was proposed to implement the provisions of the law in respect of the Voters Card at the elections - a provision not implemented in 1992 nor at the June 1996 local elections. The

Voters Card would be the means of identification for all voters in Romania and would be stamped at the time of issue of ballot papers at polling stations, whereas electors IDs were the means of identification at previous elections and these were stamped accordingly.

A deadline of 15th October was set for the issue of all Voters Cards, however it soon became clear that the exercise could not be concluded before polling day. Thus there was the potential chaotic situation of Cards being issued at polling stations on polling day.

In its report on the Romanian Local Elections (2nd and 16th June 1996), the ODIHR expressed concern about the proposed Voters Cards in that although it was intended to serve as a control mechanism to prevent multiple voting, the type and style was such that it could easily be reproduced. Given the absent voting provisions (i.e. registration on special lists and voting at localities other than a person's place of domicile) and the need to ensure against possible abuse of this facility the ODIHR recommended that due consideration should be given to the means of identification to be used at elections.

Following its formation the Central Electoral Bureau gave further thought to the use of the Voters Card and in doing so took note of this concern. A decision was taken to recommend reverting to the use of the voter's ID as the means of identification in view of the anticipated difficulties. On 8th October the Standing Bureau of the Senate decided to eliminate the Voters Card from the election process.

The fact that the Voters Card was still an issue to be resolved is of concern. If Voters Cards are to be issued and used as the means of identification at future elections they must be of the type and style similar to IDs so as to avoid potential irregularities. Consideration should be given to whether there is a valid reason for the introduction of such a document when the voter's ID would seem to suffice.

3.10 Civic and Voter Education

A voter education programme explaining the technical aspects of how to vote was regularly featured on television and this initiative is to be welcomed.

To their credit the two main national observer organisations, Pro Democracy and The League for the Defence of Human Rights (LADO), contributed to the voter education programme. Pro Democracy produced and distributed as part of their caravan exercise a number of civic education leaflets throughout Romania. Funds for leaflet production were provided by the Westminster Foundation for Democracy (from the United Kingdom). LADO also produced civic education leaflets in order to encourage voter participation.

In order to further the development of the democratic process much more civic and voter education needs to be done in towns, and particularly in the rural areas, through the media, appropriate organisations and through the education system.

3.11 Presidents and Deputy Presidents of Polling Stations

The presidents and deputies of the polling station electoral bureaux are, as a rule, magistrates or jurists or, if not available, persons of "blameless reputation" often emanating from the teaching profession. None may belong to any party or political formation nor may they receive other accreditation. Designation of presidents and deputies is undertaken by the presidents of

the County Tribunal or of the Tribunal of the Municipality of Bucharest by the drawing of lots from lists supplied by the prefects.

There were reports of a number of alleged irregularities, including: omissions on some of the lists of the details of some potential polling station members; lots not being drawn; biased selection, and persons with known political affiliations being selected.

The complete independence and impartiality of polling station bureau presidents and deputies is essential to the proper conduct of the electoral process and it is of concern that the procedure for the selection and inclusion on lists of such persons, and the process of drawing lots and designation is not conducted in an open and transparent way and resulted in a number of contestations.

3.12 National Observers

In Romania competing political interests are represented during the entire electoral process. These partisan representatives play an essential role in safeguarding that process and generally there was good representation on the polling station and constituency electoral bureaux. However, non-partisan monitors in the form of national observer organisations also play an important role in establishing and enhancing public confidence. Their existence and presence at all levels of the process provides for greater transparency.

The 1992 electoral law provided for a limited presence of national (internal) observers at the 1992 parliamentary and presidential elections. Observer groups at the 1992 elections voiced their concern over the restriction placed on the participation of national observer organisations, however, in considering the provisions for participation at the 1996 elections these concerns went unheeded. The 1992 law was amended by Governmental Ordinance thus re-introducing the same restrictions.

Article 93(2) of law 68/1992 provides :

"The persons designated as internal observers cannot be members of a party or of a political formation. Their accreditation shall be made for a single polling station. The Central Electoral Bureau may accredit to a polling station only one internal observer. (...) if several persons are authorised for one and the same polling station, the accreditation shall be decided by lots".

Accreditation as internal observers can only be granted to electors authorised by non-governmental organisations whose single aim is to defend human rights, and lawfully constituted by the opening date of the electoral campaign.

In addition to the two main internal observer organisations, LADO and Pro Democracy, four other organisations were registered before the Ministry of Justice, namely Gaddo, Arolid, Lirdoct and Societatea Timisoara. In recounting the experience of 1992 the two main organisations questioned the authenticity of the late comers and were apprehensive about a repeat of "ghost organisations" putting forward many thousands of names in order to disrupt the activities of legitimate organisations, and, in turn, a reduction in their presence at polling stations.

Pro Democracy and LADO's fears were heightened by a number of reports which included unclear membership, offices located in apartment blocks, non-provision of the full details on

lists required by the Central Electoral Bureau, addresses and telephone numbers, where provided, turning out to be state institutions or the homes of people who had not agreed to become observers, lists submitted by the organisations in an identical format, forged signatures and membership of the ruling party.

The Central Electoral Bureau invited representatives of the internal observation organisations, and the media, to a series of meetings. Participation and the arrangements for allocation to specific polling stations were discussed and contestations were heard and adjudicated upon. One of the Central Electoral Bureau's decisions was to refuse participation of Gaddo, Arolid and Lirdoct in the county of Caras Severin.

Having been constrained by the provisions of the electoral law the Central Electoral Bureau had the unenviable task of determining the allocation of over 14,000 national observers from the six organisations. For a solution the Bureau sought the advice and assistance of the International Foundation for Electoral Systems (IFES), an American organisation already present in Romania in a consultancy capacity. A computerised lottery system was devised on a proportional basis with provision for principal and secondary placements and for reserves in the event of principals failing to be present.

The solution was far from ideal but in the given circumstances it could be argued that it was the best that could be achieved. A major concern was the number of persons who had not been selected for the polling stations of their choice and were required to travel some distance, particularly in rural areas, to other polling stations and consequently did not take up their accreditation.

The law is unclear as regards the extent of a national monitoring exercise and whether this activity may be carried out, not only at polling station level (although even this was questioned at a late stage by the Central Electoral Bureau as regards the counting process at polling stations) but at constituency and Central Electoral Bureau level. Article 65(3) infers that national observers (as "accredited persons") shall also have the right to a presence at constituency level, however, presence was confined to polling station level only.

It is regrettable, therefore, that the electoral law places severe restrictions on national observer participation contrary to the election related commitments in the Copenhagen Document of 1990. Such restrictions resulted in a reduced presence at polling station level and no presence at constituency level. If the conditions for transparency are to be met fully, the vote should be visible and verifiable from the level of the polling station through to the stage of tabulation of results and awarding of mandates. Permanent provisions in the electoral laws for full participation by national observer organisations is therefore required and should include permission to mount parallel vote counting exercises.

3.13 Romanians Abroad

In accordance with Article 20(1), polling stations were organised at Romanian diplomatic missions and consular offices to allow their members and families to vote as well as other Romanian citizens travelling or living abroad on Election Day. Approximately 230,000 Romanians abroad in over 50 countries qualified to vote with as many as 70,000 in Israel and about 25,000 in the USA. Additional polling stations were required and arrangements had to be made to set these up close to, but not at, the diplomatic missions and consular offices. Article 20(1) stipulates that these polling stations shall be part of the constituency of the

Municipality of Bucharest, but there was concern over the allocation of such a large number of additional votes to one constituency which in turn could raise the question of increasing the number of mandates for that constituency. Following consideration by the Central Electoral Bureau, it was proposed to distribute the "party" votes to constituencies as determined by the political parties/coalitions. Although not in accordance with the law, the revised arrangement was considered to be fair and equitable and was supported by the parties.

The means of identification to be used by Romanian citizens abroad on polling day was subject to review during the election period, so as to avoid the possibility of electors voting with their passports outside Romania and then returning (or vice versa) and voting with their ID's in Romania.

A review of the legal provisions in respect of Romanian citizens voting abroad is required.

3.14 Voting by the Military

Difficulty was encountered by a number of observers in gaining access to polling stations at Military Units at the June 1996 local elections. Accordingly, clarification as regards facility of access was sought, and it is of concern that access remains restricted in that it is permitted under the conditions which the commanding officer has fixed which conditions take into account safeguarding the military secrets.

Clarification was also sought as to the means of identification to be produced by the military conscripts when attending to vote and it is of concern that both Military ID and, where appropriate, the civilian ID may be used.

3.15 Polling and Counting Procedures

Polling hours were from 0600 hours to 2100 hours, however, where necessary, the hours were extended in accordance with the provisions of the law.

There was provision for electors who required assistance to vote and a special ballot box which was taken by designated members of the Bureau to electors not able to attend the polling station in person by reason of illness or invalidity.

Sorting and counting of the votes took place at the close of poll. The first stage was to cancel the unused ballot papers and this was followed by the opening of the ballot box. A lack of clear guidelines meant that the sorting and counting practices were not consistent, and the requirement that the president should open each ballot paper and read aloud the list (or name of the candidate) for whom the elector had voted and show the ballot paper to those present tended to be disregarded in view of the time this would take. In order to avoid the high number of wrongly voided ballot papers at previous elections, presidents of polling bureaux had received instructions concerning ballot papers which should be disallowed or allowed so long as the voter's intention was clear.

On completion of the enumeration of the votes, minutes recording all the relevant figures were completed by the president. The president and members of the bureau appended their signatures to the minutes. In the event of a member of the bureau not being satisfied with the proceedings he or she may refuse to sign the minutes and this had to be recorded by the president. Copies of the minutes were made available to members of the bureau.

3.16 Incidents and Infractions

On polling day observers recorded many isolated incidents of non-compliance with the electoral law. In most cases these arose out of poor organisation, inefficiency or a lack of understanding of the electoral provisions and correct procedures and as such could not be regarded as deliberate in an attempt to influence the outcome of the elections.

It is of concern that infractions of a more serious, though still isolated, nature also occurred. Such infractions included the non-stamping of ID's, voting with Voters Cards, voting by proxy, undue presence of mayors and vice-mayors in certain rural polling stations, the putting up of campaign posters on the eve of the election and on polling day, and the figure 'one' (1) which appeared in the thousands column against Ion Iliescu's entry in the minutes issued to a number of polling stations in Bucharest.

3.17 Tabulation of Results

The checking of the polling station minutes, tabulation and consolidation of the results took place at each of the 42 constituency bureaux with the full involvement of party representatives on the bureaux and with the assistance of teams of statisticians and computer operators from the National Commission for Statistics.

The procedure involved a series of checks and balances in order to provide confidence in the tabulation process.

In respect of the first ballot considerable delays were experienced by presidents of polling stations when attending constituency bureaux with their minutes etc. This was particularly so in Bucharest due to the sheer size of the constituency, with 1,300 polling stations.

The tabulation exercise for the first ballot took an appreciable time and it was not until Thursday 7 November, some 4 days after the election, that the full and final results could be published by the Central Electoral Bureau.

It is of concern that delays in publishing results, at present inevitable in view of the current electoral technical procedures, may lead to the outcome being questioned by the electorate and the participating parties, alliances and candidates.

With the much simpler second ballot for president the result was known the following day.

3.18 The Results: First Ballot

In respect of the presidential ballot Ion Iliescu (PDSR) secured 32.5% of the votes, followed by Emil Constantinescu (CDR) with 28.21% and Petre Roman (USD) with 20.54%, with each of the remaining candidates receiving 6% or less.

For the Chamber of Deputies a total of 328 mandates were validated (plus 15 reserved for minorities). For the Senate 143 mandates were validated. In the Senate CDR obtained 53 seats, PDSR 41 seats, USD 23 seats, UDMR 11 seats, Great Romania Party (PRM) 8 seats and the Party of Romanian National Unity (PUNR) 7 seats. In the Chamber of Deputies CDR obtained 122 seats, PDSR 91 seats, USD 53 seats, UDMR 25 seats, PRM 19 seats and PUNR 18 seats. Thus the governing coalition of the CDR and USD will have a majority of 53.14% in the Senate and 51.02% in the Chamber.

With other parties and political alliances failing to pass the 3% threshold, there are now only 6 parties/alliances in parliament.

In respect of the awarding of mandates, it is interesting to note that 224 Deputy mandates were awarded at the first stage and 103 through the second, redistribution, stage. For the Senate only 58 mandates were awarded at the first stage whereas 85 were awarded by redistribution at Central Electoral Bureau level.

Furthermore, the complicated and far from transparent computation procedure resulted in a UDMR candidate for the Senate securing a mandate in Giurgiu with a total of around 300 votes and in Tulcea the UDMR gained a Deputy mandate with 2,000 votes. In the circumstances thought should be given to the current proportional representation system and whether or not modification or change may be desirable.

It is important to note that voter participation was over 76%. The number of voided ballots was over 400,000 , representing over 3% of the total votes cast. Although this is an improvement on previous elections, the figure is still regarded as too high and could be significantly reduced by the simplification of the balloting process.

3.19 The Presidential Run-Off

The campaign for the second round was characterised by a series of ‘head-to-head’ live television debates between the two candidates. In the second ballot, Emil Constantinescu secured 54.41% of the votes and Ion Iliescu 45.59%. Voter turnout was similar to the first ballot with 75.90% of the electorate exercising their right to vote. The comparative simplicity of the ballot meant that only 0.78% of the votes cast were voided.

4. SUMMARY OF FINDINGS AND CONCLUSIONS

4.1 The ODIHR recognises the difficulties associated with organising elections, and given the complexity and sheer size of the operation in Romania there were understandably administrative and procedural problems. But generally speaking, the elections administration did remarkably well in organising and conducting the elections and in the main only minor irregularities were reported by the observers. There was a discernible improvement in election administration since the elections in 1992. However, the absence of a permanent and professionally staffed Central Electoral Bureau is regarded as a major weakness of the Romanian electoral system. Organisation may only be improved further and the democratic process strengthened by the establishment of a permanent independent body to oversee the electoral process. Given the ad hoc approach to organising the elections, the unwieldy nature of the process itself and the lack of clear guidelines in the form of instruction manuals, there were shortcomings resulting in a lack of consistency and uniformity of practice.

4.2 Consideration should be given to simplifying and improving the ballot paper format, reducing considerably the number of papers required and in a form (and possible colour) that may be easily understood by voters. This would have the effect of greatly reducing the number of voided ballot papers, and assist in speeding up the count.

4.3 Although there were some difficulties of administration the simpler ballot in the second round led to an improvement in organisation. Whilst the problems encountered during the first

round remain of concern and will need to be addressed in time for the next elections, the electoral administration is to be congratulated on the overall efficiency of the process for the second ballot, particularly in view of the short time available for preparation following the finalisation of all the activities associated with first ballot.

4.4 The electoral laws provide the necessary framework for participation in the elections and for their administration and conduct. However, there is a need to review some provisions of the laws. There is an absence of rules and regulations expanding on the law, defining and clarifying the various aspects of the electoral process. A review of the electoral process is required with a view to simplifying the technical procedures so as to speed up the process and to ensure greater transparency. The dedication of all those who formed part of the bureaux has to be admired, but the long hours required to conduct the polling, the counting and the presentation of minutes and reports is an intolerable burden on polling station bureau members, particularly the presidents, and does nothing to attract and retain persons of the right calibre and experience which is so vital to the democratic process.

4.5 Consideration should be given to the period allowed by Article 25(3) for the presentation of election petitions to the Central Electoral Bureau. The period of up to 48 hours after poll closure is not sufficient as the electoral process is continuing after this time.

4.6 Incomplete and inaccurate permanent lists were a major area of concern, as was a reduced presence of national observers at polling stations and their total absence at constituency bureaux. However, the presence of political party representatives on the respective bureaux together with a general presence of national and international observers served to further enhance public confidence in the electoral process.

4.7 In general the election was held in an atmosphere of calm, peace and normality with electors being free to express their views, and it is important to note the high turnout at both ballots with around 76% of the registered electors exercising their right to vote.

The OSCE / ODIHR International Observer Mission concludes that the final results reflect the will of the voters.