



Office for Democratic Institutions and Human Rights

# THE CZECH REPUBLIC

PARLIAMENTARY ELECTIONS  
20-21 October 2017

OSCE/ODIHR Election Assessment Mission Final Report



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**THE CZECH REPUBLIC**  
**PARLIAMENTARY ELECTIONS**  
**20-21 October 2017**

**OSCE/ODIHR Election Assessment Mission Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Government of the Czech Republic and based on the recommendation of a Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Assessment Mission (EAM) to observe the parliamentary elections held on 20-21 October 2017.

The elections of 200 Deputies of the lower chamber of parliament were competitive and pluralistic. Voters had a wide choice of candidates from an extensive spectrum of political parties. Contestants were able to campaign freely and all fundamental freedoms were largely respected. The elections took place in a context marked by a government crisis and ongoing police investigations against the former Minister of Finance and leader of the political movement ANO.

The recently amended legal framework generally provides a sound basis for the conduct of democratic elections. However, further improvements to the law are needed in order to extend voting rights to all voters with disabilities, allow candidates without party affiliation to stand and provide for election observation.

Technical preparations for the elections were made within the legal deadlines and all ODIHR EAM interlocutors expressed a high level of trust in the election administration. Meanwhile, the meetings of the highest election body, the State Election Commission, are not open to the public and the opposition, and some ODIHR EAM interlocutors raised concerns over transparency of certain aspects of the elections.

While confidence in the quality of the voter lists was high, the decentralized character of the voter register did not allow cross-checking against multiple registrations. The lack of public scrutiny of the voter lists, the possibility to add voters to the lists on election day without prior administrative or judicial control, the absence of obligation for voters to sign the voter lists when voting, as well as deficiencies in control of the absentee voting certificate system altogether undermine accountability of the voter registration system.

Candidate lists of 31 political parties and movements were registered in an inclusive manner. Although the elections resulted in a slight increase in the number of women in the parliament, they continue to be under-represented in public office. The legislation as well as the statutes of almost all parties do not include any special measures aimed at enhancing the political participation and representation of women.

The campaign lasted six months, was vibrant and contributed to an informed choice among voters. The fundamental freedoms of association and assembly were fully respected. Campaigning included traditional face-to-face interaction with voters, as well as the use of leaflets. Most parties also used online and social media. There were instances of intolerant rhetoric in campaign, and political parties expressed concerns about few cases of anonymous negative campaigning.

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

Recent legal amendments introduced new positive features to the system of political party and campaign finance. Numerous prior recommendations made by ODIHR and the Group of States against Corruption (GRECO) of the Council of Europe were addressed through the establishment of a new independent oversight authority and introduction of reinforced measures on transparency of campaign incomes and expenses, including those incurred by third parties. Although the law sets a range of sanctions for campaign finance violations, they are not deterrent enough and the new oversight body applied sanctions for violations before election days in an overly cautious manner.

The freedom of expression is generally respected. Criminalization of defamation and attempts by politicians to publicly intimidate journalists are at odds with international standards for freedom of opinion and expression. Most of ODIHR EAM interlocutors assessed positively the effort of the public television broadcaster to provide equitable coverage to all contestants; however, the flat format of this coverage weakened its potential impact. Some private broadcasters failed to provide equitable coverage to all political actors as required by law, but the broadcast media regulator was reluctant to react on the irregularities before election days.

The legislation does not establish a clear process for campaign and media-related complaints before election days, compromising the right to seek an effective legal remedy. The right to file complaints concerning election results is granted widely; however, the Supreme Administrative Court narrowed the admissibility of such complaints only to disputes related to winning candidates and rejected other complaints on electoral violations thus depriving those affected of an effective remedy.

The elections were held on two consecutive days. The ODIHR EAM observed voting, counting, and tabulation procedures in few places only. The proceedings observed were largely held in an orderly manner, although measures to secure electoral materials after the first day were not always taken. Barrier-free access of polling station premises visited by the ODIHR EAM was rare and special provisions for persons with disabilities were lacking. The transmission of counting results from polling stations through results-collection points was handled effectively, and election results by polling station and regions were posted online by the end of the second election day.

This report offers a number of recommendations to support efforts to bring elections in the Czech Republic further in line with OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations relate to strengthening administrative capacity of the office in charge of campaign finance control, enhancing transparency and accountability of voter registration, reinforcing complaints and appeals process, promoting participation of women as candidates. ODIHR stands ready to assist the authorities to improve the electoral process and to address the recommendations contained in this and previous reports.

## **II. INTRODUCTION AND ACKNOWLEDGEMENTS**

Following an invitation from the Government of the Czech Republic to observe the parliamentary elections and based on the recommendation of a Needs Assessment Mission conducted from 5 to 7 June, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Assessment Mission (EAM) from 4 to 27 October.<sup>2</sup> The ODIHR EAM was led by Matyas Eorsi and consisted of six experts from six OSCE participating States. The EAM was based in Prague and also made visits to Brno, Ostrava, and neighbouring municipalities.

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<sup>2</sup> See all [previous OSCE/ODIHR reports on the Czech Republic](#).

The electoral process was assessed for compliance with OSCE commitments, other international obligations and standards for democratic elections, and with national legislation. In line with the ODIHR's methodology, the EAM did not observe election day proceedings in a systematic or comprehensive manner, but visited a limited number of polling stations.

The ODIHR EAM wishes to thank the Ministry of Foreign Affairs and Ministry of Interior for their co-operation and assistance, as well as to express gratitude to representatives of other public institutions, political parties, media, civil society, and other interlocutors for sharing their views.

### III. BACKGROUND

The Czech Republic is a parliamentary republic with legislative powers vested in the bicameral parliament composed of Senate (upper chamber) and Chamber of Deputies (lower chamber). Executive powers are exercised by the government led by a prime minister who is appointed by the president. The president is the head of state, elected directly for a five-year term.

The last elections to the Chamber of Deputies (parliamentary elections) took place in October 2013 and resulted in a government led by the Czech Social Democratic Party (ČSSD) in coalition with the political movement ANO and the Christian Democratic Union - Czechoslovak People's Party (KDU-ČSL).<sup>3</sup> These parliamentary elections were called by President Miloš Zeman on 19 April 2017 and took place in a context of steady economic growth and high employment rates.

A government crisis in May resulted in Prime Minister Bohuslav Sobotka (ČSSD) dismissing Minister of Finance Andrej Babiš (ANO) from the government. Mr. Babiš, a billionaire who entered politics in 2013, was under investigations by the European Commission anti-fraud office OLAF and Czech police for the alleged misuse of European funds. President Zeman at first did not accept the Prime Minister's decision, and, following negotiations, Mr. Babiš nominated ANO deputies to replace him as Minister of Finance and Deputy Prime Minister. Mr. Sobotka kept the post of the Prime Minister, but resigned as the leader of ČSSD. The matter proceeded with the lifting of Mr. Babiš's parliamentary immunity at the beginning of September.

### IV. LEGAL FRAMEWORK

Parliamentary elections are primarily regulated by the 1992 Constitution (last amended in 2013), the 1993 Charter of Fundamental Rights and Freedoms (last amended in 1998), and the 1995 Law on Parliamentary Elections (last amended in 2017). Other legislation applicable to parliamentary elections includes the Law on Elections to Regional Councils, the Law on Elections to Municipal Councils, the Law on Association in Political Parties and Movements (hereinafter Law on Political Parties), the Civil Procedure Code, the Administrative Procedure Code, the Criminal Code, and the Law on Constitutional Court. The legal framework is supplemented by the Ministry of Interior

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<sup>3</sup> The 2013 parliamentary elections resulted in seven parties and movements in the Chamber of Deputies: Czech Social Democratic Party (50 seats), ANO (47 seats), Communist Party of Bohemia and Moravia (33 seats), TOP09 (26 seats), Civic Democratic Party (16 seats), Christian Democratic Union (14 seats), Dawn – The National Coalition (14 seats).

(MoI) regulations.<sup>4</sup> The Czech Republic is a party to major international instruments related to democratic elections.<sup>5</sup>

The legal framework provides a sound basis for the conduct of democratic elections despite certain shortcomings. Legal amendments brought to the legislation in 2016 and 2017 were largely positively regarded by ODIHR EAM interlocutors and addressed some prior ODIHR recommendations, including new campaign finance oversight mechanisms. Amendments were also made with regard to the Law on the Conflict of Interest to prevent media ownership by public officials. However, in other aspects governing the conduct of elections, the framework remained unchanged, leaving a number of previous ODIHR recommendations unaddressed, including those related to the consolidation of electoral legislation, handling of voter lists, deadlines for election results-related complaints, authority and composition of media regulators.

The legislation on parliamentary elections is silent on some salient issues, such as the status of citizen and international observers, timelines for the resolution of campaign-related disputes, and deadlines for the establishment of the final election results. In addition, the lack of any special measures to promote women participation in public and political life falls short of international obligations to ensure *de facto* equality of opportunity for women candidates.<sup>6</sup> The Czech Republic ratified the CRPD but persons with disabilities do not fully enjoy electoral rights.

While inconsistency of legal provisions contained in different legal acts was partly remedied by the MoI clarifications, the lack of comprehensive statutory regulation affected legal certainty.<sup>7</sup> The adoption of a unified electoral code has been discussed for 15 years, and several interlocutors informed the ODIHR EAM that the adoption of the bill had been postponed until after these elections.

*As previously recommended, the legal framework for elections should be reviewed and harmonized. Consideration could be given to codifying electoral legislation. Any reform should be premised upon open consultation with all stakeholders.*

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<sup>4</sup> For example, the MoI issued instructions to regulate compilation of voter lists, including special voter lists, technical aspects of candidate registration process, process for archiving electoral materials, and payment for PSC members.

<sup>5</sup> Including the 1950 European Convention on Human Rights, 1966 International Covenant on Civil and Political Rights, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1995 EU Framework Convention for the Protection of National Minorities, 2003 UN Convention against Corruption (UNCAC), and 2006 Convention on the Rights of Persons with Disabilities (CRPD). The Czech Republic is also a member of the Council of Europe's Venice Commission and Group of States against Corruption (GRECO).

<sup>6</sup> Article 4 of CEDAW authorises temporary special measures to be introduced by states in order to achieve equality between men and women. See paragraphs 7-9 of the 2004 CEDAW Committee General Recommendation No. 25. See also CEDAW Committee Concluding observations on the sixth periodic report of the Czech Republic (14 March 2016), paragraph 22.

<sup>7</sup> For example, the lack of legal provisions on election observation prompted uncertainty among PSC members about the rights of observers to follow all stages of the electoral process (See *Election Day and Post-Election Developments*). The lack of clear competences in handling campaign-related and media-related disputes left corresponding complaints unresolved. (See *Media and Complaints and Appeals*).

## V. ELECTORAL SYSTEM

The 200 members of the Chamber of Deputies (MPs) are elected under a proportional system with regional open lists in 14 electoral constituencies.<sup>8</sup> Voters choose a candidate list from among registered parties and movements in a given constituency and may also mark up to four preferences for particular candidates on the list they choose. Candidates that receive at least 5 per cent of preferential votes have priority in obtaining a mandate, regardless of their position on the list.<sup>9</sup> Other mandates are awarded to candidates by list order.

To qualify for the allocation of seats, political parties have to pass a 5 per cent nationwide electoral threshold, while in case of a coalition, the threshold is raised by 5 per cent for each additional party in the coalition.<sup>10</sup> Some ODIHR EAM interlocutors asserted that the high thresholds discouraged the formation of political coalitions in the elections.<sup>11</sup> The provision on different electoral thresholds was subject of a Constitutional Court's review, which confirmed its constitutionality.<sup>12</sup>

The number of parliamentary seats per constituency is allocated after the elections according to each constituency's proportion of valid votes cast in the nationwide total.<sup>13</sup> Thus, the size of constituencies resulted in different numbers of distributed mandates, ranging from 5 to 20. In two small constituencies several parties that passed the 5 per cent nationwide threshold were not able to participate in the distribution of mandates due to the small number of seats allocated for these constituencies.<sup>14</sup>

## VI. ELECTION ADMINISTRATION

Parliamentary elections are administered by a highly decentralized and multi-tiered election administration. There are multiple bodies and institutions in charge of different stages of the electoral process, including State Election Commission (SEC), Ministry of Interior (MoI), Czech Statistical Office (CSO), Ministry of Foreign Affairs (MFA), 14 Regional Offices, 6,258 municipalities, and 14,865 Polling Station Commissions (PSC). All ODIHR EAM interlocutors expressed full confidence in the professionalism and impartiality of the election administration.

The highest election body is the SEC consisting of 10 members, including 3 women. Its members are appointed by the government and represent ministries with election-related responsibilities and the Office of the President. Election contestants have no representation at the SEC. The chair of the SEC is the Minister of Interior and, as it is not forbidden by law, the chairperson led one of the candidate lists. Such possibility may raise concerns about the impartiality of the election administration.

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<sup>8</sup> The 14 electoral constituencies coincide with the 14 administrative regions of the country.

<sup>9</sup> In these elections, 26 candidates were successful in winning an MP seat based on their preferential votes.

<sup>10</sup> The maximum threshold is set at 20 per cent for a coalition of four or more parties.

<sup>11</sup> Mayors and Independents Movement (STAN) cited impossibility of creating a coalition with the KDU-ČSL due to this threshold provision.

<sup>12</sup> The constitutionality of different thresholds was [reviewed by the Constitutional Court in 2001](#).

<sup>13</sup> The number of seats in each region are distributed among the contestants according to the D'Hondt formula.

<sup>14</sup> Among the nine contestants that passed the electoral threshold in these elections, only three parties gained a mandate in Karlovarský region, and five parties gained a mandate in Liberecký region due to a small number of seats distributed in these constituencies.

The SEC is a permanent electoral authority empowered to ensure overall coordination and supervision of election administration; however, the scope of its activities during the elections was rather limited. During the entire electoral period, the SEC held three meetings in total, including on the allocation of numbers for each contestant on the ballot papers and the announcement of final results of the elections.

Transparency of decision-making by the SEC was affected by lack of public access to the SEC meetings. The SEC does not have its own website and used the MoI website to announce its meetings and publish information of public interest.

*In order to safeguard the impartiality of the election administration consideration could be given to restricting elected officials and running candidates from directly serving on election commissions. Consideration could also be given to opening the SEC meetings to the public and political parties.*

Communication between the institutions responsible for the organization of the elections and reporting from the lower level election administration bodies was insufficient. In particular, the PSCs were not required to inform the SEC or MoI about the opening and closing of the polling stations, the voter turnout during the election days, the use of the Absentee Voting Certificates (AVCs), the situation with complaints and other enquiries of voters or political parties at the local level. The central election management bodies informed the ODIHR EAM before election days that they were not aware of the total number of voters in the country or the number of the AVCs printed and issued by municipalities. The information about the status of election observers was not properly communicated by the SEC to lower-level commissions creating confusion with regard to their access to polling stations.

*The role of the SEC in ensuring more efficient coordination among different institutions responsible for administration of elections and lower-level election commissions should be strengthened.*

The MoI was responsible for the technical aspects of the organization of elections, including distribution of voter registration data to municipalities, and production of ballot papers and envelopes. An individual ballot contained information related to one electoral contestant only and the MoI printed 14 different sets of ballot papers for each constituency and delivered 1 set of ballots to each voter.<sup>15</sup> Some political parties reported few mistakes, such as missing ballots in certain sets, poor quality of or printing errors in the ballots. The MoI took adequate measures to correct deficiencies revealed.

The CSO was responsible for the tabulation of election results at regional and central levels. A total of 507 result-collection points were established well in time throughout the country to receive PSC result protocols. The CSO effectively managed the preparation process having organized a countrywide simulation of election day procedures with all result-collection points concomitantly entering the test data into the system. The number of the PSCs assigned to each result-collection point varied from a few to a hundred. Effectiveness and accuracy of the counting process were enhanced by trainings and special software provided to the PSCs by the CSO. Special security measures were taken by the CSO to prevent potential cyber-attacks.

The Regional Offices registered candidate lists and provided technical support and training on election day procedures to the PSCs. Municipalities provided premises and equipment for the

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<sup>15</sup> The sets of the ballots were also available at all polling stations.



polling stations, administered voter lists, provided election-related information to citizens, and issued the AVCs.

The PSCs were established within the legal deadlines.<sup>16</sup> Municipalities as well as political parties contesting the elections have the right to nominate members to all PSCs, which should have at least five members. However, all the political parties that the ODIHR EAM met with affirmed that they did not have the capacity to nominate their PSC members all around the country. The law provides that the number of voters allocated to a polling station should be approximately 1,000. However, there were more than 100 polling stations with a considerably higher number of voters.

Except for basic information and training materials available on the authorities' websites there was no official civic education and voter information campaign organized by the authorities, including for persons with disabilities.

*Considerations should be given to conducting nationwide civic education and voter information campaigns to enhance public awareness and increase the participation of voters, including in formats accessible for persons with different types of disabilities.*

## VII. VOTER REGISTRATION

Citizens aged 18 years or older on the second day of the elections are eligible to vote. Those deprived of legal capacity, including persons with mental disabilities, are denied the right to vote and excluded from the voter lists.<sup>17</sup> This is at odds with the CRPD.<sup>18</sup>

*Consideration should be given to incorporating the provisions of the CRPD into national legislation and to removing restrictions on voting rights of persons with mental disabilities.*

Voter registration is passive and decentralized. Administration of the voter lists lies within the competencies of the municipal authorities. Voters are automatically included in the voter lists based on the permanent residence. Special voter lists are compiled based on the information provided by corresponding detention centres, prisons, or healthcare facilities. A total of 8,374,501 citizens were registered to vote, but this number was announced only after the elections and was based on the information provided by the PSCs.<sup>19</sup>

Municipalities update their voter registers using data from the population register that is maintained by the MoI. The population register was considered by all ODIHR EAM interlocutors as the most accurate source of information and municipalities fully relied on it.

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<sup>16</sup> The MFA, responsible for the out-of-country voting, opened 109 polling stations in 90 countries, including 2 polling stations in military bases in Afghanistan and Iraq for the Czech military staff.

<sup>17</sup> Legal incapability is to be established by court on a case-by-case basis, depending on specific circumstances.

<sup>18</sup> Article 29 of the CRPD requires states to “guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others”. According to paragraph 9.4 of the 2013 CRPD Committee’s Communication No. 4/2011 (*Zsolt Bujdosó and five others v. Hungary*): “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”.

<sup>19</sup> Municipal authorities are not requested by the SEC to provide any information about the number of their voters or make available voter registers for any cross-checking.

By law, voters are given the possibility to verify the accuracy of their personal data in the voter lists upon request; however, the preliminary voter lists are not published and there is no public scrutiny of voter registration. Those municipalities visited by the ODIHR EAM acknowledged that no requests for verification had been lodged and that no informational campaign had been conducted to raise voters' awareness of this tool. The verification process was reduced to identification and exclusion from the voter lists of those people who were denied the right to vote by a court decision. Nevertheless, all ODIHR EAM interlocutors expressed a high level of confidence in the inclusiveness and accuracy of the voter lists.

Voters with Absentee Voting Certificates (AVCs) are allowed to vote at any polling station in and outside the country. Any voter could apply in person, by post, or online for the AVC to the municipality in the area of their permanent residence. Although the AVCs are signed and stamped by the municipality, the data on number of issued and used AVCs is not collected and cross-checked at a central level. One day before the elections, the MoI announced that more than 5,000 AVCs were missing from different regions. To prevent misuse of the missing AVCs, the MoI sent to the PSCs their serial numbers and a short instruction on how to administer the AVCs. There were no reports on the misuse of AVCs at the polling stations observed by the ODIHR EAM; however, not all visited PSCs were aware about the list of missing AVCs and the MoI instructions.

*To ensure transparency and accountability of the voter registration process an efficient mechanism of voter lists compilation and verification should be developed. Considerations could be given to creating a central voter register with a view to integrate nationwide voter registration data, facilitate cross-checks of voter lists against multiple or faulty entries, and control the use of the AVCs.*

The voter lists are closed for changes two days before the voting starts and distributed by the municipalities to the PSCs.<sup>20</sup> Nevertheless, the law provides the possibility for voters to be added to the voter list at the polling station of their residence on election day. For this, no decision of a court or a higher-level election administration body is needed, but only an identity card of the voter or passport with a proof of residence. The law does not require the voters to sign against their names in the voter lists, which is an important safeguard of electoral integrity. Such arrangements leave room for duplicate registration and multiple voting.<sup>21</sup>

*Voter registration at polling stations on election days should be subject to judicial control.*

## **VIII. PARTY AND CANDIDATE REGISTRATION**

Every voter aged 21 years or older on the second day of the elections is eligible to stand for parliamentary elections. Candidate lists can be submitted by political parties, movements, and their coalitions. While those on the list do not have to be party members, the law does not provide the possibility for individual candidates to stand, which is against the OSCE commitments.<sup>22</sup>

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<sup>20</sup> The format of and the distribution process of voter lists varied from one municipality to another.

<sup>21</sup> Section I.1.1.2.iv. of the 2002 Venice Commission Code of Good Practice in electoral matters recommends that “there should be an administrative procedure – subject to judicial control – or a judicial procedure enabling electors not on the register to have their names included. In any event, polling stations should not be permitted to register voters on election day itself”.

<sup>22</sup> Paragraph 7.5 of the 1990 OSCE Copenhagen Document commits participating States to “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination”. According to the SEC, 15 per cent of nominated candidates in these elections were not members of the nominating party.

*The legal framework should be amended to allow citizens to stand individually in parliamentary elections.*

The deadline for nominating candidate lists was 15 August. In total, 141 registered political parties and movements could nominate their candidate lists to each of the 14 electoral constituencies. To partially cover the costs for the elections, each contestant had to pay a non-refundable contribution to the state budget of CZK 19,000 (EUR 740) for each region where the contestant runs.<sup>23</sup> Nomination documents were submitted to the Regional Offices by party proxies in person or through the ‘data box’ facility.<sup>24</sup> No major problems were reported, but several Regional Offices informed the ODIHR EAM that the quality of nomination documents submitted could be improved. According to the MoI, all legal deadlines related to candidate registration were respected.

A total of 31 political parties and movements nominated candidates, of which 21 nominated candidates in all 14 constituencies. No coalitions were formed for these elections. Registration of candidate lists was made in an inclusive manner throughout the country. The number of registered contestants differed from region to region and the MoI informed the ODIHR EAM that all lists included a total of 7,524 candidates, of whom 2,154 (28.6 per cent) were women. According to NGOs, there were only seven Roma candidates in these elections.<sup>25</sup>

Women continue to be under-represented in public office with 44 women out of 200 MPs (22 per cent) elected in the new Chamber of Deputies and 16 out of 81 Senators (19.8 per cent). There are 2 women among 15 judges of the Constitutional Court and 12 out of 35 judges of the Supreme Administrative Court, are women. Only 4 out of 15 ministerial posts were assigned to women. The law and statutes of almost all contestants do not provide any special measures aimed at enhancing the participation and representation of women.<sup>26</sup> Most ODIHR EAM interlocutors opposed introduction of affirmative measures or quotas aimed at enhancing participation of women in politics and appeared unaware of the Czech Republic’s international commitments on promoting gender equality in political and public life.<sup>27</sup>

*Greater efforts should be made to include women on candidate lists, especially in winnable positions. Temporary special measures, including state subsidy premiums for political parties and other mechanisms, should be developed to promote women participation in elections.*

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<sup>23</sup> EUR 1 is approximately CZK 25.7 (Czech Kronas).

<sup>24</sup> An electronic document delivery system was launched by the MoI and the Czech Post in 2009 to facilitate the communication within public administration and between public administration, business enterprises, and citizens.

<sup>25</sup> According to the NGO *Romea*, these candidates included one for ČSSD, four for Green Party (including one woman), one for Order of Nation - Patriotic Union, and one for Coalition for Republic - Republican Party of Czechoslovakia (SPR-RSČ).

<sup>26</sup> Notable exceptions are the Green Party and the ČSSD party.

<sup>27</sup> CEDAW Committee reiterates its recommendation in its [concluding observations on the sixth periodic report of the Czech Republic](#) (14.03.2016, CEDAW/C/CZE/CO/6, paragraph 23), that the Czech Republic “take effective measures, including ... a) Amend its electoral law to implement the “zipper” system for election candidates; (b) Set specific goals, targets and time frames to increase the representation of women, including Roma women, in legislative assemblies, the Government and the public administration, in particular at the senior levels”.

## IX. ELECTION CAMPAIGN

The 2016 legal amendments introduced legal definition of election campaign and defined the campaign period. For the first time, a natural or legal person was allowed to register as a third party and independently conduct a campaign in favour of a certain contestant or against them. The law stipulates honesty and integrity in conduct of the election campaign and prohibits the publication of any untruthful information with regard to candidates, parties, movements, or coalitions. This rule was largely respected throughout the campaign. All printed and broadcast campaign materials must be labelled with imprint data on submitter and issuer. Municipal authorities are deciding on the conditions of the display of campaign materials on municipal property against payment.

The lengthy campaign of almost six months provided voters with the opportunity to receive information from a wide political spectrum.<sup>28</sup> There is no election campaign silence period and some political parties were actively campaigning on election days.<sup>29</sup> The main topics of the campaign related to migration, economy and social issues, health care system, and relations with and further integration within the EU. The participation of minorities and persons with disabilities in politics was not subject of any public discussion. The campaign was substantially impacted by the removal of Mr. Babiš's parliamentary immunity and criminal investigations against him, which overshadowed the campaign topics in the public debate.

The freedom of peaceful assembly was fully guaranteed. Parties were using traditional forms of campaigning, including displaying of posters, distribution of flyers and campaign newspapers, and conduct of small-scale outdoor activities. To convey campaign messages most political parties intensively used their websites and paid-for advertising in online and social media.<sup>30</sup> Recent prohibition on placing advertisement along highways was not always respected<sup>31</sup> and cases of anonymous billboards featuring negative campaigning were reported.<sup>32</sup>

A vibrant civil society offered a wide range of useful campaign oversight and voter education services. More than one million interested voters used services of websites for detecting their political preferences and favourable political parties.<sup>33</sup> One civil society group offered an online analysis of politicians' campaign speeches and debate contributions.<sup>34</sup> Another group was uploading photos of unlabelled campaign materials online and notified the Office for the Oversight of Financing of Political Parties and Movements (the Office for Oversight) about these.<sup>35</sup>

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<sup>28</sup> The campaign period started on 2 May and finished on 24 October after the promulgation of the final results.

<sup>29</sup> The ČSSD, for example, treated voters with non-alcoholic beverages on 20 October, in Brno.

<sup>30</sup> ANO, Pirate Party, and TOP09 were among the most active parties, with communities of about 100,000 followers on Facebook. SPD movement, through its leader's page, had more than 250,000 Facebook followers.

<sup>31</sup> Political parties informed the OSCE/ODIHR EAM that the KDU-ČSL had campaign billboards along highways.

<sup>32</sup> Both, STAN and the KSČM, encountered negative campaigning.

<sup>33</sup> See, for example, [kohovolit.cz](http://kohovolit.cz).

<sup>34</sup> See at <http://demagog.cz/>.

<sup>35</sup> Photos were provided by the alliance of NGOs State Reconstruction at <https://fervolby.cz/>.

## X. CAMPAIGN FINANCE

### A. FUNDING SOURCES AND CAMPAIGN EXPENDITURE

The campaign finance system relies on a coherent regulatory framework applicable from 1 January 2017. The Laws on Political Parties and on Parliamentary Elections were substantially amended in 2016, addressing the majority of previous ODIHR and GRECO recommendations related to campaign finance.<sup>36</sup>

The amendments provide for a new independent oversight authority – the Office for Oversight; improved reports on campaign finance, accessible online; individual bank accounts for contestants and third parties also accessible online (so-called ‘transparent accounts’); new rules on donations; and a gradual system of sanctions against campaign finance infringements.

The political finance system promotes political pluralism as public financing is provided for parliamentary and non-parliamentary parties and movements. In 2016, the parties and movements received CZK 507 million as state support, which is the main source of income for many of them.<sup>37</sup> The legal framework for the parliamentary elections provides for a mixed campaign finance system with four different types of state contributions. Parties, which qualify, are entitled to a state contribution for election expenses<sup>38</sup> and regular state contributions per mandates received.<sup>39</sup> The parties and movements also receive, as an indirect subsidy, free broadcasting time on the Czech Television and Radio. Any party and movement can establish one political institute, which is also eligible for public funding.

Besides state subsidies, parties’ funding sources include membership fees, monetary and in-kind contributions, and loans. The use of donations from the state and municipalities or their enterprises, charitable organizations, foreign legal entities and non-citizens is prohibited. The law does not provide any limits on overall income for a party, but places limitations on donors.<sup>40</sup> Some of the ODIHR EAM interlocutors expressed concern that the high limit for private donations set for financing election campaigns may not guarantee a level playing field for all contestants.

The introduction of the campaign expenditure ceiling in 2016 was seen as a positive step by all parties that the ODIHR EAM met with. Campaign expenditures of a party during the period from 2 May to 24 October should not exceed CZK 90 million. This amount also includes expenditures incurred by any other person on behalf of a party or movement, as well as all in-kind contributions, including work of volunteers, accounted for in market value.<sup>41</sup> The spending limit of registered third parties is relatively high, with CZK 1.8 million. There is no explicit prohibition in the electoral law regarding the use of state resources for campaigning, but limitations are implied by the prohibition for state institutions and municipalities to provide any free benefits to political parties and movements.

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<sup>36</sup> See the 2016 [GRECO Fourth Interim Compliance report on the Czech Republic](#).

<sup>37</sup> See the [data](#) of the Ministry of Finance.

<sup>38</sup> For parliamentary elections, if a party receives at least 1.5 per cent of the total number of valid votes, it is entitled to claim back CZK 100 per vote obtained.

<sup>39</sup> A party or a movement is entitled to CZK 6 million annually if it gained 3 per cent of the votes in the last election to the Chamber of Deputies, and an additional CZK 200,000 annually for every next 0.1 per cent of votes. It is also entitled to CZK 900,000 per year for every mandate of a deputy or senator.

<sup>40</sup> The sum of donations per year for one donor cannot exceed CZK 3 million.

<sup>41</sup> Except when the volunteer is a member of the party, candidate, or candidate’s family member.

## B. DISCLOSURE AND REPORTING

The parties and movements as well as third parties are subject to public disclosure of campaign income and expenses in real time through their ‘transparent accounts’, which allow to identify the nature of the transactions and the contractors. These online publications positively contributed to campaign finance transparency and public trust. Transparency-focussed civil society groups actively monitored campaign finance and informed voters. Some ODIHR EAM interlocutors opined that other party accounts could be also made transparent, but that this could contradict data protection laws.<sup>42</sup>

Contestants have 90 days after the announcement of the final election results to submit a report on campaign financing.<sup>43</sup> Positively, the report should include data on monetary and in-kind donations, including information on their market value, campaign expenses, financial debts. The reporting requirements for the registered third parties are easier, as they need to report only election-related expenses, but the deadline for the publication of reports on their websites is only 10 days after elections. The law does not determine any deadline for the verification of the campaign finance reports and there is no requirement for their audits.

*Establishing earlier reporting on campaign financing and clear deadlines for auditing the financial reports could be considered to ensure timely disclosure and effective supervision of campaign finance.*

## C. OVERSIGHT AND SANCTIONS

The Office for Oversight, consisting of a chairperson and four members, all men, has a competence to exercise the oversight of campaign finance and issue non-binding opinions on the application of the law.<sup>44</sup> Its decisions to impose sanctions for violations of campaign finance rules are subject to review by the administrative court. The Office for Oversight may refer cases of alleged gross campaign finance violations to the law enforcement agencies such as police, public prosecutor office, or Financial Analytical Office.<sup>45</sup>

The Office for Oversight informed the ODIHR EAM that it has to process and analyse large quantities of data submitted by contestants and third parties and is in need of developing specific databases and expanding its currently limited access to relevant state registries.

Before the election days, the Office for Oversight perceived its role as limited and avoided interference into campaign activities. The Office for Oversight received around 100 complaints before election days mostly related to unlabelled campaign materials or their illegal placement. As a result of an overly cautious approach, the Office for Oversight published only one decision before election days regarding not labelling a promotional leaflet<sup>46</sup> and considered complaints on illegal display of posters to be outside of its competence.

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<sup>42</sup> The Law on Political Parties also requires a political party to have separate accounts for labour-related relationships and separate accounts for other incomes, e.g. membership fees. Some parties, for example Green Party and Pirate Party, made all their accounts publicly accessible.

<sup>43</sup> Paragraph 200 of the 2010 ODIHR and Venice Commission Guidelines on Political Party Regulation recommends that “reports on campaign financing should be turned in to the proper authorities within a period of no more than 30 days after the elections”.

<sup>44</sup> The members of the Office for Oversight are supported by the Office’s Secretariat, including six specialists in charge of monitoring campaign finance.

<sup>45</sup> [The Financial Analytical Office](#) engages in monitoring of illegal transactions and money-laundering.

<sup>46</sup> A fine of CZK 19,000 was imposed. One more decision was published on 31 October for campaigning without prior registration with a CZK 23,000 fine.

After the election days, the Office for Oversight informed the ODIHR EAM that administrative procedures were initiated with regards to 35 complaints, although the precondition to finish administrative procedures could be the submission of the final reports on the campaign financing.

Nevertheless, the majority of ODIHR EAM interlocutors expressed confidence in the Office for Oversight and agreed that its investigative capacity could be expanded to make monitoring of campaign finance more effective. At the same time, according to some ODIHR EAM interlocutors, the Office for Oversight was understaffed and planned cuts of the 2018 annual budget could put at a risk the Office's envisaged expansion of administrative capacities.<sup>47</sup>

The electoral laws foresee a wide range of sanctions for the infringements of rules on campaign finance.<sup>48</sup> Proportional sanctions are applied for exceeding the limit of campaign expenditures, resulting in fines amounting to 150 per cent of the exceeded amount. The maximum fine for not reporting on campaign finances or not submitting accounting records is low and not a sufficient deterrent.

*The role of the Office for Oversight could be further strengthened by increasing its administrative capacity. The mechanism of sanctions should be further developed to make them deterrent, linking, for example, the outcome of the review of the campaign finance reports with the state funding.*

## **XI. MEDIA**

### **A. MEDIA ENVIRONMENT AND LEGAL FRAMEWORK**

A vibrant media environment offers a diverse range of views. Television (TV) remains the main source of information, with the public *Czech TV (ČT)* and private *TV Nova* and *Prima TV* dominating the market in terms of audience. The majority of print media established online versions of their products, which could explain the decline of paid printed media circulation. With some 88 per cent of the population accessing the web, the relevance of online media as a source of news has significantly increased.<sup>49</sup>

The entrance of local tycoons into the Czech media market has led to the majority of the Czech media being currently owned by billionaires.<sup>50</sup> Some legal restrictions on broadcast media cross-ownership concentration are in place, but no specific threshold is established.<sup>51</sup> Ownership of the

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<sup>47</sup> The 2017 budget was CZK 39.5 million, while the 2018 budget accounted for only CZK 34.7 million.

<sup>48</sup> The sanctions vary from CZK 10,000 for not labelling the campaign materials to CZK 500,000 for failing to keep accounting records. The sanction for not providing campaign finance report is CZK 100,000.

<sup>49</sup> As of June 2017, according to the [InternetWorldStats](http://www.internetworldstats.com).

<sup>50</sup> The most evident figure is Mr. Babiš, who simultaneously bought the MAFRA media group and entered politics in 2013. This reinforced the widespread impression that purchasing media by some businessmen was driven by an intention to keep a strong political influence. Following the purchase, some prominent journalists resigned from major newspapers of the MAFRA media group.

<sup>51</sup> According to the Paragraph 40 of the 2011 CCPR General Comment No. 34 to the ICCPR "States parties should take appropriate action, consistent with the Covenant, to prevent undue media dominance or concentration by privately controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views". See also 1999 Council of Europe's Committee of Ministers Recommendation No R (99)1 On Measures to Promote Media Pluralism, according to which: "Member States should consider the introduction of legislation designed to prevent or counteract concentrations that might endanger media pluralism at the national, regional or local levels. Member States should examine the possibility of defining thresholds ... to limit the influence which a single commercial company or group may have in one or more media sectors".

online and print media is unregulated. The law requires broadcast media to record information concerning their ownership in the commercial register, which is open for the public, while print media are dispensed with disclosing their ownership structure. Media companies are not obliged to publish these data on their webpages, which is at odds with international good practices.<sup>52</sup>

All ODIHR EAM media interlocutors expressed concerns about the increasing political influence over the media, undermining editorial independence. Some interlocutors informed the ODIHR EAM about politicians' growing tendency to intimidate journalists in public, which could further explain the unsettling decline of investigative journalism.<sup>53</sup> According to international standards, officials should not abuse their status by speaking in a derogatory or inflammatory way about journalists.<sup>54</sup> These developments and concentration of media ownership have also raised alarm among international media watchdogs.

Positively, the Law on the Conflict of Interest was amended in January 2017 to prohibit companies with more than 25 per cent of their shares belonging to public officials to participate in public tenders and to prevent public officials from owning any broadcast and print media.<sup>55</sup>

*Authorities should consider amending the legal framework to limit media ownership concentration and media cross-ownership by extending it to print and online media in order to safeguard media pluralism. Media companies should be required to publish accurate data on their ownership to strengthen transparency.*

The Constitution refers to the Charter of Fundamental Rights and Freedoms, which ensures freedom of expression and the right of access to information and prohibits censorship. Defamation is still defined as a criminal offense, which is at odds with international standards for freedom of opinion and expression.<sup>56</sup> However, prosecutions are rare and ODIHR EAM media interlocutors did not express concern on this matter.

*Criminal provisions for defamation should be repealed in favour of civil remedies designed to restore the reputation harmed.*

The Law on Radio and Television Broadcasting requires all broadcasters to grant balanced and objective coverage to any party or movement in their news and political programmes throughout the year.<sup>57</sup> Paid political advertising is allowed only in print and online media.

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<sup>52</sup> See Paragraph 10 of Parliamentary Assembly of Council of Europe's [Resolution 2056 \(2015\)](#) "Increasing transparency of media ownership".

<sup>53</sup> On 10 October, during a visit to the Council of Europe, President Zeman asked members of his entourage to chase away a cameraman from the public broadcaster ČT, claiming that otherwise "he would kill him"; on 20 October, he held up a fake replica gun inscribed with the words "for journalists" during a press conference.

<sup>54</sup> According to the Paragraph 23 of the 2011 CCPR General Comment No. 34 to the ICCPR "States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression". See also 2014 [OSCE Safety of Journalists Guidebook](#) (p.29), which states "Elected politicians and all who hold high office are called on to demonstrate their unequivocal commitment to respecting press freedom and the safety of journalists. Politicians and officials should not abuse their status by speaking in a derogatory or inflammatory way about journalists or the media".

<sup>55</sup> As a consequence, Mr. Babiš transferred the ownership of his media to a trust fund.

<sup>56</sup> According to the Paragraph 47 of the 2011 CCPR General Comment No. 34 to the ICCPR "States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty".

<sup>57</sup> The Czech Television Law and the Czech Radio Law additionally regulate the public broadcasters.



Four regulatory bodies are active in the media scene. The Czech Television Board, the Czech Radio Board, and the Czech News Agency Council are responsible for the appointment and dismissal of the respective managing directors, the approval of the budget and final accounts, and the decisions concerning complaints directed towards the media management. The Council for Radio and Television Broadcasting (CRTB) is in charge of supervising compliance with the regulation of broadcasting and it is responsible for overseeing the broadcast media coverage of the campaign. All members of the regulatory bodies (about one fifth of them are women) are selected by the parliament and therefore were perceived by many ODIHR EAM media interlocutors to be under political influence. Attempts to depoliticize such institutions have repeatedly failed in the past.

*The independence of the regulatory bodies from political influence could be enhanced by amending the appointment procedures of their members with a view to limiting possibilities for partisan influence on their decision-making by incumbent majorities in the Chamber of Deputies.*

The CRTB conducts media monitoring of the public and private broadcasters' coverage of the political campaign throughout the year. It can issue warnings or impose sanctions, depending on the seriousness of the violation identified. However, a systematic analysis of election campaign coverage takes place only after the elections, and before election days the CRTB reacts exclusively upon complaints. This practice limits effectiveness of the media monitoring during the elections. The ODIHR EAM also observed that complainants addressed improper institutions, showing lack of clarity concerning the body competent for dealing with complaints on the media coverage of the campaign.<sup>58</sup>

## **B. COVERAGE OF THE ELECTION CAMPAIGN**

Traditional and online public and private media largely included election matters in their agenda and covered the campaign through a variety of formats, such as news programmes, political debates, and talk shows. ODIHR EAM media interlocutors assessed positively the effort of the public TV to fulfil its role by providing equitable coverage to all contestants. However, the flat format of this coverage weakened its potential impact. Private media broadcasters failed to guarantee balanced coverage to all political actors as required by the Law on Radio and Television Broadcasting.

In line with the electoral law and their respective internal instructions, *ČT* and *Czech Radio* devoted free airtime slots to all electoral contestants in order to provide them with a minimum media visibility. Almost all contestants provided *ČT* with pre-recorded clips, which were broadcast twice a day from 4 to 19 October on public channels in an order established by lottery. *ČT* broadcast all the clips as received from the contestants. However, *ČT* informed the CRTB and filed a complaint to the Public Prosecutor to denounce a contestant for submitting content considered unethical.<sup>59</sup> The case was not resolved before the elections. A final debate among the leaders of 10

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<sup>58</sup> For example, on 16 October, the Anti-Islamic Block party filed a complaint against *ČT* to the Public Prosecutor, claiming that the limited number of parties invited to the final debate would undermine the equal competition among all electoral contestants.

<sup>59</sup> The clip of Block against Islamization showed fake Muslim people knocking down an elderly woman on purpose in the middle of the street before running away, which is potentially at odds with Article 356 of the Criminal Code penalising instigation of hatred against ethnic groups.

parties selected in accordance with the results of opinion polls was broadcast by ČT1 and ČT24 on 19 October.<sup>60</sup>

Private media also contributed to diverse campaign coverage. Following a decision of *TV Nova* to host a debate between leaders of only ANO and the ČSSD on the eve of the elections, the Pirate Party and Civic Democratic Party filed complaints to the CRTB with the request to assure balanced coverage to all contestants as prescribed by law. The CRTB claimed that it is not entitled to enforce a preventive measure, but only act following a breach of the law, and rejected both complaints. The Pirate Party unsuccessfully appealed to a municipal court asking to order *TV Nova* to involve all contestants in the debate. The CRTB's reluctance to timely react to irregularities undermines the effectiveness of its role and reinforces the widespread perception of its partisan composition. Before the elections, the CRTB received 17 complaints regarding the public and private broadcasters' conduct during the campaign, but decisions were not published. The ODIHR EAM could not verify if the CRTB handled them appropriately.

## XII. COMPLAINTS AND APPEALS

Decisions on technical and organizational aspects of elections can be challenged by citizens with the administrative body in charge of these aspects and can be appealed to the next level of administrative authority and further to regional administrative court. Requests for amendments of the voter lists can be made to the resident municipality, which should reply within two days. The decision of a municipality may be further appealed to the regional court, which should issue a decision within three days. Complaints related to registration of candidate lists should be lodged within 2 days with the regional court, which should take a final decision within 15 days.<sup>61</sup>

The legislation does not establish a clear process for campaign-related complaints before election days. The lack of clear rules on competences prompted the reluctance of different authorities to handle these complaints.<sup>62</sup> Although the amended Law on Parliamentary Elections authorized the Office for Oversight to apply sanctions for infringements of campaign rules and its decisions are subject to judicial review, the Office for Oversight perceived its role before election days as limited leaving a large number of complaints without due consideration.<sup>63</sup> This, as well as the absence of timeframe for handling campaign-related complaints compromised the right to seek an effective remedy.<sup>64</sup>

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<sup>60</sup> Originally scheduled at 20.00, the final debate was postponed to 21.30 after *TV Nova* announced its intention to invite Mr. Babiš (ANO) and Lubomír Zaorálek (ČSSD) for a debate in the same time slot. Eventually, the final debate on public channels started without leaders of ANO and the ČSSD because they were late.

<sup>61</sup> Section II.3.3.g of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that "Time-limits for lodging and deciding appeals must be short (three to five days for each at first instance)".

<sup>62</sup> The Office for Oversight considered complaints on illegal display of posters to be outside of its competence (See *Campaign Finance*). The CRTB did not efficiently react to the media related violations (See *Media*).

<sup>63</sup> The Office for Oversight received about 100 complaints before election days, but it did not intend to deal with them before receiving the financial reports from the contestants (See *Campaign Finance*).

<sup>64</sup> According to Article 2(3) of the ICCPR, "Each State Party undertakes ... to ensure that any person whose rights or freedoms ... are violated shall have an effective remedy". See also Article 13 of the ECHR. Section II.3.3.c of the 2002 Venice Commission Code of Good Practice in Electoral Matters refers to effective system of appeal and recommends that "The appeal procedure and, in particular, the powers and responsibilities of the various bodies should be clearly regulated by law". Section 92 further explains that "effective system of appeal... also applies to decisions taken before the elections, including ... on compliance with the rules governing the electoral campaign and access to the media or to party funding".

*To enhance the election dispute resolution process, the law should establish a framework for campaign and media-related complaints, including short and reasonable deadlines, clear procedures, and competences.*

In accordance with good electoral practice, standing in post-electoral complaints is granted widely: any voter or contestant registered in the respective constituency can file a motion with the Supreme Administrative Court (SAC) within seven days following the announcement of election results.<sup>65</sup> However, the interpretation of the law by the SAC narrowed the admissibility of such complaints only to motions on invalidation of the election results related to winning candidates leaving other complaints on electoral violations without a remedy. The SAC received about 70 complaints after the announcement of election results, of which only 1 was satisfied.<sup>66</sup> In this case, the SAC found that incorrect count of preferential votes led to the election of a wrong candidate and ordered to change the results in question. The other complaints alleging incorrect count of preferential votes were rejected as the mistakes in count did not influence the election of candidates in question.

The vast majority of complaints (more than 40) were rejected by the SAC without examination on the merits due to either late submission or complainants' failure to correct procedural omissions within the legal deadline. Complaints submitted by legal persons and by voters not residing in the constituencies in question were declared inadmissible due to the lack of legal standing.

The issue of validity of election results can be also challenged to the Constitutional Court, if the constitutionality of an aspect of the elections is of concern. In this case, no time limit for considering such complaint by the Constitutional Court is defined by the law.

### **XIII. ELECTION DAYS AND POST-ELECTION DEVELOPMENTS**

In accordance with the ODIHR methodology, the ODIHR EAM did not conduct a comprehensive and systematic observation of election day proceedings. Mission members visited polling stations and election result-collection points in 24 municipalities.

Polls were open on 20 October between 14.00 and 22.00 and on 21 October between 08.00 and 14.00. All visited PSCs had at least five members and women were well represented among those, including in leadership positions. PSC members did not have any visible official identification badges, which could potentially increase transparency of the process and visibility of the election officials. The voting process appeared to be well-organized at most polling stations observed. While in few cases some of voting and counting procedures were not strictly followed, the secrecy of voting was ensured at all polling stations visited by the ODIHR EAM. At the same time, most of the polling stations visited lacked barrier-free access for persons with physical disabilities. In addition, the text on ballot papers was printed in a very small font, but there were no special arrangements in place for voters with visual impairment.

*Voting should be conducted in adequate barrier-free premises and special measures should be envisaged to facilitate persons with different types of disabilities for voting without assistance. Training of election officials should emphasize the importance of an adequate and accessible layout of polling stations and highlight special needs of persons with disabilities.*

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<sup>65</sup> The Supreme Administrative Court has 20 days to consider the complaint.

<sup>66</sup> The applicants alleged, among other issues, incorrect counts of preferential votes, violations of campaign rules by creating a "hidden pre-electoral coalition", and procedural irregularities in the activities of the PCSs.

Despite a previous ODIHR recommendation, the law does not provide for international and citizen election observation and for the rights of observers.<sup>67</sup> While observation was possible, the SEC did not provide any guidance on accreditation rules for observers.<sup>68</sup> Several PSCs observed by the ODIHR EAM demonstrated lack of understanding and information about the role and rights of international observers, which occasionally led to restriction of their activities.

*In line with OSCE commitments, the legal framework should include provisions on access of citizen and international observers to all stages of the electoral process and their rights and obligations.*

The PSCs applied different practices during the closing procedures on the first election day. Stamped envelopes, voter lists, and ballot boxes were sealed between the two election days only at some of the visited polling stations. Despite a previous ODIHR recommendation, there was no official protocol to account for the interruption between the two election days.

*Clear procedures should be developed for safeguarding sensitive materials between election days to ensure accountability of the electoral process.*

All polling stations visited by the ODIHR EAM on the second day of the voting closed in time and counting there was conducted orderly. However, a few inconsistencies were observed during the reconciliation of the number of voters who were issued a ballot with the number of envelopes found in the ballot box. Special software provided by the CSO guided the PSCs and made the counting process more transparent and clear for all stakeholders. Protocols signed by the PSCs were delivered to result-collection points in paper and in electronic format, which facilitated tabulation.

Work of the CSO staff at the result-collection points proved to be well-organized and effective with no queues of the PSC representatives. Tabulation and transmission of the results was very effective and fast. By the end of the second election day, all election results by polling station and by region were available at the CSO website. Security measures taken by the CSO allowed to ensure internal connectivity and integrity of the transmitted data. However, external servers of the CSO were affected by a denial-of-service attack. The CSO took all necessary measures to eliminate the problem and continued providing information about the election results online within an hour after the attack. The official election results were published by the SEC on 24 October.<sup>69</sup>

#### **XIV. RECOMMENDATIONS**

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

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<sup>67</sup> Paragraph 8 of the 1990 OSCE Copenhagen Document provides that “the participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place”.

<sup>68</sup> The SEC accredited a total of 114 observers from five international organizations. No citizen observer organizations applied for accreditation. The SEC issued also accreditations to 30 media organizations.

<sup>69</sup> Later, on 22 November, the election results were insignificantly amended in accordance with the decision of the SAC on invalidation and reallocation of several votes.

Czech Republic to further improve the electoral process and to address the recommendations contained in this and previous reports.<sup>70</sup>

#### **A. PRIORITY RECOMMENDATIONS**

1. The role of the Office for Oversight could be further strengthened by increasing its administrative capacity. The mechanism of sanctions should be further developed to make them deterrent, linking, for example, the outcome of the review of the campaign finance reports with the state funding.
2. To ensure transparency and accountability of the voter registration process an efficient mechanism of voter lists compilation and verification should be developed. Considerations could be given to creating a central voter register with a view to integrate nationwide voter registration data, facilitate cross-checks of voter lists against multiple or faulty entries, and control the use of the AVCs.
3. Greater efforts should be made to include women on candidate lists, especially in winnable positions. Temporary special measures, including state subsidy premiums for political parties and other mechanisms, should be developed to promote women participation in elections.
4. Authorities should consider amending the legal framework to limit media ownership concentration and media cross-ownership by extending it to print and online media in order to safeguard media pluralism. Media companies should be required to publish accurate data on their ownership to strengthen transparency.

#### **B. OTHER RECOMMENDATIONS**

##### **Legal Framework**

5. As previously recommended, the legal framework for elections should be reviewed and harmonized. Consideration could be given to codifying electoral legislation. Any reform should be premised upon open consultation with all stakeholders.

##### **Election Administration**

6. The role of the SEC in ensuring more efficient coordination among different institutions responsible for administration of elections and lower-level election commissions should be strengthened.
7. In order to safeguard the impartiality of the election administration consideration could be given to restricting elected officials and running candidates from directly serving on election commissions. Consideration could also be given to opening the SEC meetings to the public and political parties.
8. Considerations should be given to conducting nationwide civic education and voter information campaigns to enhance public awareness and increase the participation of voters, including in formats accessible for persons with different types of disabilities.

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<sup>70</sup> 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”.

### **Voter Registration**

9. Consideration should be given to incorporating the provisions of the CRPD into national legislation and to removing restrictions on voting rights of persons with mental disabilities.
10. Voter registration at polling stations on election days should be subject to judicial control.

### **Candidate Registration**

11. The legal framework should be amended to allow citizens to stand individually in parliamentary elections.

### **Campaign Finance**

12. Establishing earlier reporting on campaign financing and clear deadlines for auditing the financial reports could be considered to ensure timely disclosure and effective supervision of campaign finance.

### **Media**

13. Criminal provisions for defamation should be repealed in favour of civil remedies designed to restore the reputation harmed.
14. The independence of the regulatory bodies from political influence could be enhanced by amending the appointment procedures of their members with a view to limiting possibilities for partisan influence on their decision-making by incumbent majorities in the Chamber of Deputies.

### **Complaints and Appeals**

15. To enhance the election dispute resolution process, the law should establish a framework for campaign and media-related complaints, including short and reasonable deadlines, clear procedures, and competences.

### **Election Days**

16. Clear procedures should be developed for safeguarding sensitive materials between election days to ensure accountability of the electoral process.
17. In line with OSCE commitments, the legal framework should include provisions on access of citizen and international observers to all stages of the electoral process and their rights and obligations.
18. Voting should be conducted in adequate barrier-free premises and special measures should be envisaged to facilitate persons with different types of disabilities for voting without assistance. Training of election officials should emphasize the importance of an adequate and accessible layout of polling stations and highlight special needs of persons with disabilities.

**ANNEX: FINAL RESULTS**

<b>Political Party</b>	<b>Valid votes obtained</b>	<b>Percentage</b>	<b>Mandates</b>
1 Civic Democratic Party	572,94	11.32	25
2 Order of Nation - Patriotic Union	8,73	0.17	-
3 Path of Responsible Society	3,75	0.07	-
4 Czech Social Democratic Party	368,34	7.27	15
5 Vote Right Block	49	0.00	-
6 Joyful Czechia	3,85	0.07	-
7 Mayors and Independents	262,15	5.18	6
8 Communist Party of Bohemia and Moravia	393,10	7.76	15
9 Green Party	74,33	1.46	-
10 Reasonables	36,52	0.72	-
11 Society against Developer Construction in Prokop Valley	43	0.00	-
12 Party of Free Citizens	79,22	1.56	-
13 Block against Islamization - Defence of Homeland	5,07	0.10	-
14 Civic Democratic Alliance	8,03	0.15	-
15 Pirate Party	546,39	10.79	22
16 Citizens 2011 - Justice for People	35	0.00	-
17 Union of Pride, Activity, Patriotism, Empathy and Humanity 2017	43	0.00	-
18 Czech National Front	11	0.00	-
19 Referendum on the European Union	4,27	0.08	-
20 TOP09	268,81	5.31	7
21 ANO	1,500,11	29.64	78
22 Good Choice 2016	3,72	0.07	-
23 Coalition for Republic - Republican Party of Czechoslovakia	9,85	0.19	-

24 Christian and Democratic Union – Czechoslovak People's Party	293,64	5.80	10
25 Czech National Social Party	1,57	0.03	-
26 Realists	35,99	0.71	-
27 Athletes for Society	10,59	0.20	-
28 Workers' Party of Social Justice	10,40	0.20	-
29 Freedom and Direct Democracy - Tomio Okamura	538,57	10.64	22
30 Party of Civic Rights	18,55	0.36	-
31 Nation Together	30	0.00	-

<b>Number of voters registered</b>	<b>Number of voters who voted</b>	<b>Turnout, %</b>
8,374,501	5,094,633	60.8

Source: Data of the Czech Statistical Office.



## ABOUT THE OSCE/ODIHR

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

ODIHR, based in Warsaw (Poland), was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

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

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

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

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

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

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

More information is available on the ODIHR website ([www.osce.org/odihhr](http://www.osce.org/odihhr)).