



Office for Democratic Institutions and Human Rights

## CZECH REPUBLIC

### PARLIAMENTARY ELECTIONS 14-15 JUNE 2002

### FINAL REPORT



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**CZECH REPUBLIC**  
**PARLIAMENTARY ELECTIONS**  
**14-15 June 2002**

**OSCE/ODIHR Election Observation Mission**  
**Final Report**

**I. EXECUTIVE SUMMARY**

The 14-15 June 2002 elections for the Chamber of Deputies of the Czech Republic met international standards and commitments for democratic elections.

The elections took place in a generally calm and low key political atmosphere, without undue tension or sharply divisive issues. Twenty-eight political formations registered and were able to campaign freely and actively. The elections were significant in part because the newly elected Chamber will select the next President and is likely to guide Czech accession to the European Union.

The election law and related legislation provide the essential bases for democratic elections. A number of substantial changes in the election system were instituted following the last elections to the Chamber of Deputies in 1998. The new election administration performed well and technical preparations for the election were carried out efficiently. Czech authorities adopted several good practices which went beyond legal requirements to provide for the integrity of the election process.

The new election system worked well in the Czech Republic because of the high level of public confidence in the integrity and impartiality of the election administration. At the same time, however, the increased efficiency of the electoral administration came at the cost of reducing its openness. A number of simple steps could be taken to greatly enhance the transparency of the election process and to serve as a further guard against any attempt at or suspicion for manipulation.

Although there were relatively few election-related complaints, the legal appeals process did not always provide timely and effective remedies for complainants. Under the election law, appeals on most types of issues can be addressed by the courts only after the elections are over. In one case, contradictory rulings by regional courts were not clarified through the appeals process, resulting in inconsistent application of the law. As a result of court backlogs, some election-related cases were not decided in a timely manner.

The public electronic media fulfilled their legal obligation of neutrality and to provide free air time to all parties, although public television could have been more creative in allowing effective access to smaller parties. The private media, taken as a whole, provided a wide range of predominantly neutral information to the public.

The law does not discriminate against women or minorities. The number of women in the

new Chamber increased slightly, but for the first time there will be no Roma member of the Chamber of Deputies.

A number of recommendations in this report set out ways in which the election process might be improved. The OSCE/ODIHR stands ready to work with the authorities to address these recommendations.

## **II. INTRODUCTION/ACKNOWLEDGEMENTS**

The OSCE/ODIHR Election Observation Mission (EOM) was established in response to an invitation from the Czech Ministry of Foreign Affairs. The EOM, headed by Peter Eicher (USA), began work on 16 May and remained in the Czech Republic through 19 June. Nine experts and long term observers from seven OSCE participating States were deployed in Prague, Brno and Plzen. The OSCE/ODIHR recognised that there was no need to deploy short term observers to monitor polling and other election day proceedings.

The OSCE/ODIHR expresses its appreciation to the Ministry of Foreign Affairs, the Ministry of Interior, the Czech Statistical Office, the State Election Commission and other authorities for their assistance and cooperation during the observation.

## **III. POLITICAL BACKGROUND**

The 14–15 June 2002 elections to the Chamber of Deputies were the fifth since the re-establishment of a democratic multi-party system in 1989/90. Previously, elections to the Czech National Council (the equivalent to the Chamber of Deputies before the dissolution of Czechoslovakia) were held in 1990 and 1992, and elections to the Chamber of Deputies in 1996 and 1998.

In the 1998 elections to the Chamber of Deputies, the Czech Social Democratic Party (CSSD) won 74 seats, followed by the Civic Democratic Party (ODS) with 63 seats. Other parties which gained parliamentary representation included the Communist Party of Bohemia and Moravia (KSCM, 24 seats), the Christian Democratic Union–Czechoslovak People’s Party (KDU–CSL, 20 seats) and the Freedom Union (US, 19 seats). After protracted negotiations to form a coalition government failed, the CSSD formed a minority government headed by its leader Milos Zeman, which was tolerated by the ODS under the terms of the so-called “Opposition Agreement.”

The 2002 elections to the Chamber of Deputies were considered especially significant because some key decisions will be taken during the new Chamber’s term. These include the election of a new President of the Republic in early 2003 (the president is elected by the Chamber of Deputies and the Senate) and conclusion of final negotiations on accession to the European Union.

In total, 27 parties and one coalition (the KDU-CSL together with the Freedom Union-Democratic Union) ran in the 14–15 June elections. Half of these presented candidate lists in

all 14 electoral regions. A total of 6,068 candidates stood in the elections. Parties running in the elections covered the whole political spectrum from the far Left to the extreme Right. Only one party, the Romani Civic Initiative (ROI), represented a national minority, while the Moravian Democratic Party is essentially a regional party.

#### IV. LEGAL FRAMEWORK

The conduct of the elections is regulated by the Constitution of 16 December 1992 and by the Law on Elections to the Parliament of the Czech Republic and on the Amendment of Certain Other Laws<sup>1</sup>. The election law refers to a number of other relevant acts, in particular the:

- Act on Elections to Municipal Assemblies 491/2001
- Act on Elections to Regional Assemblies 130/2000
- Act on the Operation of Radio and TV Broadcasting 231/2000
- Press Law 46/2000
- Civil Procedure 99/1963
- Criminal Code 140/1961

Additional provisions related to carrying out elections are found in various other pieces of legislation. It appeared that a number of small parties had difficulty in correctly following legal procedures and making proper use of electoral remedies. It is recommended, in order to increase transparency and facilitate access to and use of the extensive body of laws relating to elections, that the relevant legislation be assembled in one publication for the use of parties and the interested public.

The Czech constitution establishes a bi-cameral Parliament composed of the *Senate*, which consists of 81 members elected from single-member constituencies, and the 200 member *Chamber of Deputies*, which is elected on the basis of a proportional system. The elections of 14-15 June were for only the Chamber of Deputies. The country is divided administratively into 14 regions, which coincide with 14 electoral regions. The 200 deputies are elected from 14 regional lists. Only parties which gain at least 5% of valid votes countrywide receive mandates. For coalitions of two parties this threshold is 10%, for three parties 15% and so on. Mandates are distributed according to the D'Hondt system in each of the regions.

The electoral regions are of varying population. The number of mandates in each region is not pre-determined, but calculated after the elections based on the national proportion of votes cast in the region. In these elections the smallest region was awarded five seats and the largest 25 seats.

Under the proportional system, voters choose a single candidate list from among the parties registered to run in their region. They may indicate two preferences for candidates on the list

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<sup>1</sup> Law 247/1995, hereafter referred to as the election law. Legal provisions quoted in this report are those of the election law if not otherwise indicated.

they select. Candidates who receive a number of preference votes which is at least 7% of valid votes for their party have priority in obtaining a mandate.

The election law was changed after 1998. An initial amendment aimed at making the system more majoritarian was overturned by the Constitutional Court in 2000. Subsequently a number of provisions were enacted without challenge, including *inter alia*: the number of electoral regions was increased from eight to 14, party representation in the electoral administration was reduced (*see below*), and the requirement to pay a financial contribution for registering a candidate list was changed and the amount to be paid significantly reduced. Voting abroad was also introduced. Some of these changes were in line with recommendations of the 1998 report of the OSCE/ODIHR.

The law makes no provision for international or domestic non-partisan observers during polling. Interlocutors explained that observation is not prohibited and thus is allowed; anyone may enter a polling station to observe voting. However, members of the election administration at polling station level were not always aware of this fact. For example, a Roma organization was told shortly before election day by a district office that it needed to register observers two weeks before the elections. In this instance, the issue was clarified by the Ministry of Interior following an inquiry by the EOM. In addition, special permission from the State Election Commission is needed for observers to attend vote counting. It would be preferable that a provision for domestic and international observers be positively spelled out in the election law.

One article of the election law (43 (6)) provides that the voting results from a constituency commission (polling station commission) may be excluded from the final tally if the constituency commission fails to deliver results within 24 hours or within another time limit determined by the Czech Statistical Office. Although the election administration assured the EOM this has not happened in practice and that every effort would be made to avoid such a circumstance, the provision could cause *de facto* disenfranchisement of people voting in a given constituency. Consideration could be given to amending the election law to ensure that in the event a constituency commission does not fulfill its duties, the voters in that constituency are not deprived of their right to have their votes counted.

## V. ELECTION ADMINISTRATION

As a result of amendments to the 1995 Election Law the structure of the electoral administration changed significantly since the last Parliamentary elections in 1998. The current administration includes a number of different bodies and institutions under the coordination of the Ministry of Interior (MoI).

The new structure provides for:

- A State Election Commission (SEC), charged with the overall coordination of the organization and conduct of the elections;
- The Ministry of Interior (MoI) is responsible for providing guidelines for the

organizational and technical aspects of the elections, dealing with complaints, issuing lists of political parties registered for elections and other duties;

- The Ministry of Foreign Affairs (MFA) is in charge of the organization of external voting, while Czech Embassies and Consulates handle voting abroad;
- The Czech Statistical Office (CSO) is responsible for processing the vote counts and tabulations, and for establishing computer programs to this end;
- District Offices at the Seat of a Region register candidates' lists;
- District Offices are in charge of organizing the elections at the district level and resolving complaints regarding the organizational and technical aspects of the process;
- Municipal Offices are tasked with providing the list of polling stations, polling staff, polling material;
- Mayors are responsible for ensuring the distribution of ballots to voters at least three days before the elections, convening the first meeting of the constituency commissions, appointing the minutes clerks and other members not nominated by political parties;
- Constituency Commissions, supported by local government organs, organize voting and counting at polling stations.

In addition, other Ministries participate in the process. The Ministry of Justice is in charge of voting in prisons, the Ministry of Health of voting in hospitals, Ministry of the Labour and Social Affairs of voting in rest homes, the Ministry of Defense of voting in military premises (including those abroad) and the Ministry of Finance of the election budget.

The highest body of the electoral structure is the SEC, composed of 10 members, chaired by the Minister of Interior and including representatives of other ministries, the Office of the President and the Czech Statistical Office. Decisions are taken by majority and require a quorum of five members.

The SEC coordinates and oversees the overall process. According to a Ministry of Interior regulation, SEC meetings are not open to the public. A press release is issued after each meeting at which decisions are made. To increase the transparency of the election administration, it would be advisable for the SEC to meet publicly.

Under this structure, elections are essentially run by governmental officials. Political parties are represented only at constituency commission level. The law requires a minimum number of constituency commission members according to the population of the constituency (at least four for the smallest constituency). All parties registering lists of candidates for the elections may name members of constituency commissions. In the event that parties do not nominate the required number of members, the mayor must appoint additional representatives.

This new system enjoys a high degree of public confidence and a perception of impartiality. Various interlocutors reported to the EOM that the previous system, under which party representatives served at all levels of the electoral administration, led to unnecessary bickering among the parties and general inefficiency of the commissions. A number of small parties expressed some unhappiness that the new system eliminated their participation except

at the polling station level. Under current procedures, the composition of constituency commissions is not systematically made public; it would be a good practice for information on commission composition to be made publicly available.

The SEC provided for systematic training of polling station staff. A very effective training video was produced and made available to polling staff.

Another key body in the process is the Czech Statistical Office (CSO). The main electoral function of the CSO is the tabulation of results at the central level, the only level at which tabulation takes place. The overall tabulation system is highly computerized. The CSO developed an excellent system under which the results for each polling station were displayed on a special Internet website ([www.volby.cz](http://www.volby.cz)) available to the public. The system worked extremely efficiently and rapidly as election results came in on June 15. This added an important element of transparency to the election, going well beyond what was required by law. The law, in fact, does not require the publication of detailed polling station results; the authorities should translate their existing approach of publishing detailed results from a good practice into a legal requirement.

The CSO operated through 495 offices based within authorized municipalities plus one located in the Ministry of Foreign Affairs for external voting. These offices received and verified the tabulation forms prepared by the constituency commissions. They would either approve the forms or send them back to the respective commissions for technical correction. When approved, the information on the forms was transmitted to the CSO by Intranet and the constituency would receive a confirmation slip. About 75% of the constituency commissions had computers available to prepare their protocols; this enabled them to deliver their results on floppy discs to CSO offices.

Registration of voters is administered by municipal offices through a permanent citizen registry and is updated constantly. Separate lists are compiled for buildings or blocks where people reside. Complaints against exclusion from the registry can be submitted to the municipal office, which should reply within 48 hours. In case of refusal, complaints may be submitted to the District Court. Voters could also register on election days directly at the polling stations upon submission of required identity documents. If a registered voter is unable to vote in the assigned constituency, he or she may apply for a voter pass which will enable him or her to vote at any polling station.

The list of registered voters has not been open for public inspection since 1994, but individual voters may check to ensure that they have been included. While this is not regarded as a best electoral practice, it was introduced as part of a law on personal data protection. It would be advisable and should be possible for the voters registers to be made public while continuing to safeguard personal data. This would improve transparency, help ensure accuracy, and serve as an added safeguard against any attempts at manipulation.

For the first time, Czech citizens abroad were able to vote in this election; this is a positive step that is in line with ODIHR recommendations following the 1998 elections. There were 108 Special Constituency Commissions at embassies and consulates abroad. Polling staff was appointed by Heads of Missions from the diplomatic staff, family members or other Czechs



living abroad. Political parties were not represented in the Special Constituency Commissions abroad; no complaints were received in this regard. Information for voters was provided through the Internet. A special web site containing lists of parties and links to parties' web sites was available.

Voting abroad could only be done in person, using the same procedure in use for voting within the Czech Republic. Holders of voter passes could also cast their votes in constituency commissions abroad, even if they had not previously registered with embassies. Special training was provided in 4 centers for polling staff abroad: Cairo, Hanoi, Washington and Prague. Different voting hours were established according to different time zones in order to process results simultaneously. All votes cast abroad were included in the tabulation for a single electoral region decided by lot; for these elections it was the region of Southern Moravia. Upon receipt of results the MFA transmitted them to the special CSO office established for this purpose in the Foreign Ministry.

The EOM did not observe voting abroad, but did monitor incoming results, which were posted promptly and in detail on the CSO website. However, only 3,763 Czechs abroad availed themselves of the opportunity to vote; the number of those who registered to vote at embassies was even smaller - people traveling outside the country on voting days cast their votes at embassies with voter passes. One explanation for the low turnout was the requirement that voters appear personally at embassies to vote<sup>2</sup>; this made it difficult for voters not physically near an embassy or consulate.

## VI. THE ELECTION CAMPAIGN

The official campaign period, during which all parties are entitled to free airtime on public Czech Television and Czech Radio, started 16 days before the opening of the polls and ended two days before the first day of elections. Also 16 days before the elections, mayors may allocate space for election posters under equal conditions for all parties running in the elections. As a practical matter, many parties began their campaigns long before the start of the "official" campaign period, which is permissible under the law.

Unlike in previous elections, there was no campaign silence period immediately before the elections and on the election days (although public television and radio, as required, stopped broadcasting campaign advertisements two days before the elections). The only limitations were a ban on campaigning in polling stations and in their immediate vicinity on the election days, and a prohibition on publishing opinion polls in the last three days before the elections and on election days before the polling stations closed.

The major parties kicked off their active campaigns about one month before the elections, but some had put up posters and billboards even earlier. Most of the smaller parties, in contrast,

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<sup>2</sup> In contrast, registering to vote abroad could be done by mail.

ran very short campaigns or largely refrained from campaigning at all outside the free airtime on the public broadcasting media. The main reasons for this approach were lack of finances and limited membership.

Generally, the election campaign was calm and low-key. For the most part, the parties' approach to the campaign was conventional. The parliamentary parties, and some of the smaller ones, relied mainly on posters and billboards, public meetings, information stands in public spaces, and advertisements in the print media. Many parties also used the Internet to get their message across. In the closing days of the campaign, the ODS also used non-traditional methods, telephoning hundreds of thousands of households and playing a pre-recorded message by party leader Vaclav Klaus. The Coalition also called households but did not use pre-recorded messages. Rallies, meetings and other campaign activities met with limited public interest. Even in Prague and other major centers, meetings generally failed to attract large audiences.

The tone of the campaign was generally measured, and the rhetoric used by most parties did not go beyond acceptable limits. Only in the last days of the campaign did the tone of the big parties become more confrontational and sometime include personal attacks on other parties' leading politicians.

Some of the more radical small parties, however, ran campaigns that were more extremist. For example, the National Democratic Party (NDS) in its first campaign spots on public television showed footage of Roma in the background while talking about the need to fight crime, prostitution and drug abuse. This led to an initial protest by the Romani Civic Initiative (ROI) and to discussions between the NDS and the ROI. Interestingly, one week before the elections leaders of the NDS and ROI issued a joint statement calling for changes to economic and social policies in order to improve the situation and reach "national consensus." The ROI for the last days of the official campaign also offered its free airtime to the NDS. Indeed, on the last day party spots were broadcast on Czech Television, the NDS used a one-minute slot allotted to ROI, while ROI's two-minute slot was used to air a discussion between the chairmen of the two parties.

In protest of what they perceived as discrimination against them in the election law and in the media, 19 extra-parliamentary parties from the far Left to the extreme Right on 21 May announced the formation of a "Temporary Civic Government." The parties also announced that they would form a "Temporary Civic Parliament" after the elections. Several joint meetings of these parties in Prague, however, failed to attract more than 150–200 people at most.

There was no single overriding or divisive issue dominating the election campaign. On foreign policy, the differences were even less pronounced since most major parties favor EU accession. At the beginning of the campaign, the issue of the Benes decrees<sup>3</sup> and the position

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<sup>3</sup> The term "Benes decrees" usually refers to a number of decrees of President E. Benes of 1945 which stripped the citizenship and appropriated the property of around 2.5 million Germans and tens of thousands of Hungarians who were consequently expelled from Czechoslovakia. Virtually all Czech political parties are opposed to revoking the decrees or terminating their validity.

of the political parties on the subject were covered widely in the Czech media, but later in the campaign the issue received only scant attention.

## **VII. COMPLAINTS, APPEALS AND RELATED ISSUES**

The election law provides for only two types of complaints and appeals before the elections: (1) complaints to the election administration related to technical and organizational issues and (2) appeals to courts regarding the registration of candidate lists. For a system which largely relies on executive bodies for carrying out elections, in which political parties are represented only at the lowest levels of the election administration and in which no judicial body oversees the process, the checks and balances are weak. Since public trust in the election administration was high and very few concerns were raised, this did not impact on these elections. However, in a more polarized political environment the narrow limits on complaints and appeals before the elections could raise concerns. Introducing into the law the possibility of timely court appeals regarding broader electoral standards would provide a helpful corrective mechanism during the pre-election period, rather than delaying the resolution of possible controversies until after the elections.

### **A. THE PROCESS OF COMPLAINTS TO ADMINISTRATIVE BODIES**

Complaints regarding the “organization and technical aspects of the elections” can be raised with the following bodies: the Ministry of Interior against decisions of the district offices; the district offices against decisions of the municipal offices; and the municipal offices and the constituency commissions against their own decisions<sup>4</sup>. It appears that the few complaints raised with the electoral administration were handled swiftly and adequately by the relevant bodies.

However, the law gives no opportunity to raise broader issues, such as fairness or transparency, with the administrative bodies. The only broader standard contained in the election law (section 16 II) stipulates that the election campaign must be conducted with “honesty and integrity”, but no procedures and bodies are mentioned for enforcing this provision before the elections.

### **B. THE PROCESS OF APPEALS TO COURTS**

Under the election law, the only provision for appeals to courts before election day is against decisions related to the registration of a candidate list for the elections (section 86). This provision did not work effectively during these elections.

The most notable case concerned the requirement for parties to pay a non-refundable “contribution” in each region in which they wish to register a candidate list. This provision was included in a recent amendment to the election law, replacing an earlier requirement for a refundable election deposit, which had been found unconstitutional by the Constitutional

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<sup>4</sup> Complaints to constituency and municipal offices are implicit in the law – section 42 II g.

Court. The party “Action for the Abolition of the Senate and against Embezzlement of Pension Funds” declined to pay the contribution in most regions in which it sought to register candidate lists. As a result, several regional offices refused to register its lists. The party appealed those refusals to the competent regional courts. Four regional courts upheld the decisions of district offices, while three quashed them and obliged regional offices to register the party without payment of the contribution. The law foresees no further appeals process; consequently, the Supreme Court rejected an appeal by the party. The party also submitted a complaint to the Constitutional Court, which rejected the case as being inadmissible<sup>5</sup>. This resulted in the party being registered in some regions without paying but not in others. All other parties which registered candidate lists had paid the contribution. The unequal and inconsistent application of the law regarding a key condition for the registration of candidate lists raises concerns.

It is recommended that the appeals structure be improved to ensure uniformity of the process. For example, instead of eight regional courts being first and last instance courts for appeals against registration decisions<sup>6</sup>, the Supreme Court could be made the sole appellate court.

Another weakness in the legal appeals system that arose during these elections is that there are no deadlines for dealing with appeals concerning the registration of groups as parties. One such group raised its concerns with the Election Observation Mission. The group had tried to register as the “National Party”, but the registration was refused by the Ministry of Interior on 17 July 2001, on the basis that the rules of the party’s statute regarding internal decision making violated democratic principles required by law<sup>7</sup>. The group appealed against this decision to the Supreme Court on 27 July 2001. The Supreme Court did not rule on the case by the time of the elections, citing a backlog of cases. Since registration as a party is a pre-condition for registering candidate lists, the delay denied the chance for an effective remedy to the “National Party”, which was unable to run in the elections. It is recommended that deadlines be instituted for appeals to ensure such cases are handled in a timely manner before the election period.

After the elections, appeals can be made against the validity of the election of a candidate, if the appellant “believes that the provisions of the (election law) have been breached in a manner that may have affected the result of the voting for that candidate”<sup>8</sup>. This provision is limited in that it opens the possibility of appeals only for breaches of the election law, which does not include broad standards such as fairness, transparency and non-interference of state authorities in the election. Moreover, the law does not provide for legitimate appeals or remedies on such issues before the elections, but only afterwards if a case can be made that the issue affected the final result. It would be preferable for the election law to clearly spell out broader standards for conduct of the elections in order not to preclude legitimate appeals,

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<sup>5</sup> Three regional courts had dismissed the case for expiry of deadlines, while the fourth dismissed it on the merits. The Constitutional Court found that – having missed deadlines – the complainant had not properly exhausted available remedies. It argued that the fourth court should not have ruled on the merits, as the deadline had also expired in that case.

<sup>6</sup> As provided for in sections 86, 88; Section 200m I c 4 Civil Procedure.

<sup>7</sup> Act on Association in Political Parties and Movements, Sections 4, 8.

<sup>8</sup> Section 87 I and II.

and for any appeals on such issues to be decided in good time before the elections.

The Penal Code provides criminal sanctions for “frustrating elections or a referendum”<sup>9</sup>. It penalizes activities aimed at preventing the proper exercise of electoral rights, such as forging documents, manipulating results or frustrating in a serious manner the preparation of elections. During these elections, one case was reported in which 900 voters in one region received ballots of only one party list rather than all 28. The authorities responded promptly, the case was swiftly investigated, and prosecution of suspects has begun.

### C. CAMPAIGN AND PARTY FINANCING

The law foresees no limits on campaign expenditures. In 1998 parties agreed on a ceiling for campaign costs, but no such agreement was made this time.

Parties may receive three types of financial contributions from the state:

- A yearly contribution for each party that obtained at least 3% of the votes in the last election;<sup>10</sup>
- A yearly contribution for each mandate received;<sup>11</sup>
- A one-time contribution to each party which received at least 1.5% of the valid votes.<sup>12</sup>

Parties are required to submit an annual financial report to Parliament<sup>13</sup>. The requirements for reporting donations are detailed and the financial reports are available to the public. Penalties for improper or non-reporting are suspension or, eventually, dissolution of a party. The reports of all parties are reviewed at the same time, after the expiry of the reporting deadline. The review passes through several stages: reports are submitted to the parliamentary budget committee, which reviews them and submits them to the Chamber of Deputies with a suggestion on how to deal with them. Parliament, in a resolution, either accepts the reports or recommends to the government to file a motion with the Supreme Court to suspend or dissolve parties which submitted insufficient or no reports. Parliament does not notify the parties recommended for suspension or dissolution, but publishes the information on the Internet. Parties are only notified when the Supreme Court starts its proceedings.

Thirteen of the 28 parties registered for these elections were on the list of those facing suspension for financial reporting problems. Non-parliamentary parties complained to the Election Observation Mission that the current procedure results in their being publicly threatened with dissolution by a parliamentary resolution before they have ever been notified of possible faults – which may be only minor deficiencies – in their reporting, or given a chance to make corrections. These public reports of pending suspension proceedings can

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<sup>9</sup> Section 177.

<sup>10</sup> The amount is CZK 6,000,000/year (€ 200,000). For each additional 0.1% of votes, the party receives CZK 200,000 (€6,600). The total amount of this contribution is limited to CZK 10,000,000 (€333,000). Act on Association in Political Parties and Movements, Section 19a.

<sup>11</sup> The amount is CZK 900,000 (approximately € 30,000) per mandate. *Idem*.

<sup>12</sup> The amount is CZK 100 (approximately € 3) per vote. *Idem*.

<sup>13</sup> Act on Association in Political Parties and Movements, Section 18.

unnecessarily undermine the parties' public reputations. The budget committee asserts it does not notify parties because it cannot preclude the right of review of the Chamber of Deputies.

It is recommended that early on in this process parties be notified of possible deficiencies in their reporting and given a deadline to rectify them<sup>14</sup>. This could avoid a laborious and uncertain procedure and better protect the rights and reputations of parties.

## VIII. THE MEDIA AND THE ELECTIONS

### A. THE LEGAL FRAMEWORK

Several laws regulate the media coverage of elections. Overall, these have not changed significantly since the last elections for the Chamber of Deputies. The legal framework provides the basis for a free media and for broad dissemination of political party views, platforms and campaign messages.

The *Charter of Fundamental Rights and Freedoms* (Article 17.3) prohibits censorship.<sup>15</sup> The *Election Law* (Article 16.3) requires each of the publicly funded broadcasters (Czech television and Czech radio) to offer a total of 14 hours of free airtime between the 16th day and 48 hours before the elections, divided equally among all parties registered with the SEC. The specific times and dates for each party's free time is decided by lot. Responsibility for the content of the party spots lies solely with the parties; the public media are not allowed to interfere in any way.

The *Broadcasting Act*, passed in 2001 as a general law for electronic media, obliges the media to provide objective and balanced information and forbids preferential treatment of any political party (Article 31-2.3). Article 48-1d expressly prohibits advertising in the private or public electronic media by political parties and independent candidates. The penalty for violation of these obligations is from 5,000 to 2.5 million Czech crowns. The private electronic media are only allowed to cover election related issues in the framework of their usual reporting (debates, interviews, etc.) and to cover the campaign in their news and current affairs programs.

In contrast, the print media are allowed to offer paid political advertisements without any restrictions, provided the same conditions are applied to all parties without discrimination.

The Council of the Czech Republic for Radio and Television Broadcasting is the regulatory and oversight body for all electronic media. It consists of 13 members appointed and removed by the Prime Minister based on proposals made by the Parliament. In addition, the operations of public Czech television are further controlled by the Council of Czech

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<sup>14</sup> This could be done, for example, in a non-binding recommendation by the budget committee.

<sup>15</sup> The Charter is an integral component of the constitutional order of the Czech Republic.

Television, composed of 15 members appointed by the Parliament. The Council for Radio and Television Broadcasting did not receive any formal complaints regarding the coverage of parties during the campaign. The Council of Czech Television received two formal complaints, one from a candidate asserting that she was disadvantaged by the format of a political discussion program from which she was excluded, and a complaint from a private citizen about the general style of election-related broadcasting. Decisions on both complaints were still pending at the time of the elections.

## **B. THE MEDIA LANDSCAPE**

The electronic media includes four national television channels: *Czech Television* (the public broadcaster, it consists of two TV channels); *TV Nova* (the most popular private channel); and *TV Prima* (another privately owned broadcaster). Together, these stations draw 96% of the national television audience. Other electronic media in the Czech Republic include publicly-funded Czech Radio and many private television and radio stations broadcasting at the national and local levels.

The major print media – based on readership and influence – are: *Mlada Fronta DNES*, a politically centrist newspaper with a daily circulation of 300,000; *Blesk*, a tabloid with daily circulation around 340,000; *Pravo*, a left-of-center daily with circulation of about 200,000; *Lidove Noviny*, a right-of-center daily with circulation of some 95,000; and four weeklies – *Sunday's Blesk*; *Reflex*, oriented toward middle-aged readers; *Tyden*, oriented primarily towards political stories; and *Respekt*, an analytical weekly. The majority of the Czech print media – including a network of local papers, the *Bohemia Dailies* – is foreign-owned (primarily German). The exceptions are *Pravo* and *Respekt*.

## **C. MEDIA MONITORING**

The EOM conducted qualitative and quantitative analyses of four television channels (Czech Television 1 and 2, TV Nova and TV Prima) between 17 May and 13 June. It also monitored the major daily and weekly print media listed above. Television monitoring focused on the main newscasts as well as on the current affairs programs including political talk shows and special editions of election related programs. In particular, the EOM monitored the extent to which the publicly funded television adhered to its legal obligation to provide balanced coverage and free time to all registered political parties. The basic monitoring criteria included time and space given to the parties and candidates, and whether they were portrayed in a neutral and balanced manner.

EOM monitoring confirmed the general view that the election campaign was rather low key. Television provided only a limited presentation of the political parties' views. Given the restrictions on paid political advertisement, the bulk of the coverage of political contestants was on the prime time news and current affairs programs, including special election-related talk shows and debates.

Although the plurality of prime time news and political programming (35.6%) on public television was devoted to the government, it was overwhelmingly neutral in content. Among the political parties, the ruling Czech Social Democratic Party (CSSD) received 9.4% of

coverage, again mainly neutral in tone. By comparison, the largest opposition party, the Civic Democratic Party (ODS) accounted for 20.5% of coverage; while the tone generally remained neutral, there were a number of negative references. The Coalition drew about 10% of news and political programming and the Communist Party (KSCM) drew 5.8%, in both cases largely neutral in tone and content. In addition, Czech Television produced special editions of a regular political program, *Without Immunity – Elections 2002*. The program was criticized by small parties because in each edition participation was limited to the four parliamentary formations and just two non-parliamentary parties (drawn by lot). Other political parties could have their representatives in the audience and speak only if asked by the moderator. While this did disadvantage the small parties comparatively, it was one of very few programs enabling the smaller parties to introduce themselves.

Czech Television and Czech Radio fulfilled their legal obligation to grant free time to all registered political parties from May 29 to June 11. A total of 14 hours were allocated evenly to the parties for their messages, in increments of 1-2 minutes. These political advertisements were broadcast in different ways on public television and public radio. Public television aired the spots each day (except Sunday) beginning in mid-afternoon, when viewership is at its lowest level, for a straight 75 minutes. This seemed to be an unnecessarily formalistic application of law that did not effectively enable the contestants to disseminate their messages to the public. Public radio, in comparison, met its obligations in a far more effective and appropriate way by allocating the spots throughout the day from early morning to late evening.

Although there was no paid advertising allowed on private TV stations and no requirement for free air time for the parties, the private broadcasters generally seemed to be more active in covering certain aspects of the campaign and did so with more colorful coverage than public television. Both TV Nova and TV Prima conducted regular weekly discussion programs including two parties' representatives. However, during the entire election period, only the four major electoral formations were included in the program. More generally, private TV reflected the campaign period in much the same way as public TV, devoting most time to the government: 28.5% on TV Nova and 24.1% on TV Prima, both predominantly neutral in tone. Both private channels devoted most time to ODS among the political parties, followed by Coalition and CSSD. In general, all parties were portrayed rather positively, except CSSD on TV Nova.

The print media provided a wider and more diverse coverage of political views and served as a more comprehensive source of information. Parties took full advantage of paid political advertising to present their manifestos in several newspapers. In contrast to the electronic media, the papers provided much more information about the smaller parties; the spectrum of serious press coverage included 25 of the 28 registered political parties. Coverage of ODS was dominant in almost all the major publications except *Pravo*. Most parties were generally presented in a neutral or negative manner, with slight positive coverage of the government and the ruling CSSD in *Pravo*. All the weeklies presented a similar picture of the campaign, generally with coverage of the ODS being most dominant. A special edition of *Tyden* introduced all the parties running in the elections.

One incident of note during the campaign was the appearance of a large advertisement in



*Pravo* offering of 1 million Czech crowns (approximately € 30,000) for information about sexual or corruption scandals concerning any politician. This offer by the magazine *Hustler*, together with a published letter defaming one of the Coalition leaders, were the most notable instances of negative campaigning.

In general, the tone and content of campaign coverage in both electronic and print media were reasonably balanced. However, both the electronic media and print media devoted the bulk of their campaign coverage to the four largest parties; this pattern of coverage drew repeated criticism from the smaller parties.

## IX. PARTICIPATION OF WOMEN AND MINORITIES

There were 31 women among the 200 members of the outgoing Chamber of Deputies, or 15.5%. In the Senate, there are currently ten female Senators (12.3%). No minister in government of Prime Minister Milos Zeman was a woman. At the local level, the share of women hardly differs from national politics: in the Regional Assemblies, 13.9% of members are women, and at the local level, their share is 20.5%. Women head several important state institutions, including the Supreme Court, the State Attorney's Office, and the Czech Statistical Office. Women are also heavily involved in the election administration at all levels except the State Election Commission. None of the SEC members are women, although some women are substitute members.

For the 2002 elections to the Chamber of Deputies, parties fielded a total of 1,631 women candidates, or 26.5% of all candidates. Among the parliamentary parties, the percentage varied from 15% for the Coalition to 25% for the CSSD. However, while a number of women headed regional party lists (3 out of 14 for the Coalition, 2 of 14 for the CSSD and ODS, and 1 of 14 for the KSCM), many female candidates were placed in lower positions on their parties' lists, from which they could not realistically expect to be elected.

Ultimately, 34 women were elected to the Chamber of Deputies, increasing their share slightly to 17%. Of these, 12 belong to the KSCM, 10 to the CSSD, eight to the ODS, and four were elected from the lists of the Coalition.

Under Czech legislation, national minorities enjoy the same rights and freedoms as the majority population and may not be discriminated against. They may freely develop their culture, use their language, and form parties and associations. According to the election law, notices on the locations of polling stations and the time of voting must be announced in minority languages in municipalities where a Committee for National Minorities has been established (i.e., in municipalities where at least 10% of the population identified itself as belonging to national minorities in the last census). In addition, the Act on Rights of Members of National Minorities of 2001 states that "members of national minorities living traditionally and for a long time on the territory of the Czech Republic" also have the right to receive "other information for voters" in their languages. The Ministry of Interior published information on the manner of voting in five languages: Czech, Slovak, Polish, German and Romanes. Election-related information was also published in minority languages at the district and local level where minorities live. Apart from these provisions, the election law

and other election-related legislation does not specifically refer to national minorities. There are no provisions guaranteeing representation of minorities, such as set-aside seats or quota systems.

The 1 March 2001 census lists 17 nationalities apart from Czechs, as well as “others.” According to the census, non-Czechs account for 9.7% of the population, based on self-identification. The biggest group are the Moravians (3.7%; Moravians are not officially recognized as a national minority and therefore not represented on the Council for National Minorities), followed by Slovaks (1.9%), Polish (0.5%), German (0.4%) and Ukrainian and Vietnamese (0.2% each). Other minorities account for less than 0.1% of the population each. There is, however, widespread agreement that the official figure for Roma is substantially smaller than the actual Roma population in the Czech Republic. Officially, 11,859 people identified themselves as Roma in the census, but estimates put the figure closer to 200,000.

Studies indicate that while most national minorities are well integrated and the level of their political participation and their voting behavior do not differ significantly from that of the majority population, the situation is different among Roma. Roma are generally less integrated and face prejudice and sometimes discrimination. The education level among Roma is generally lower than average, and they face more social problems. At the same time, they tend to be less active in society and especially in politics, and voter turnout among Roma also tends to be substantially below the national average. Civic and voter education programs targeting the Roma would be desirable and could help address the situation.

Only one party, the Romani Civic Initiative (ROI), clearly represented a national minority. However, ROI ran only in one election region (Moravia-Silesia), which effectively eliminated all chances for success. In the end, ROI received just 523 votes (0.01%). Apart from ROI, very few parties nominated Roma candidates. Many parties had not a single Roma candidate on their lists, while others said they did not collect information on their candidates’ ethnic background. The Party for Life Security and the party Choice for the Future each said they had two Roma candidates, while the Czech National Social Party had one. However, none of these parties received enough votes to be represented in the Parliament. Consequently, for the first time since 1990 there will not be a single Roma in the Chamber of Deputies.

## **X. ELECTION DAY PROCEDURES AND RESULTS**

### **A. PROCEDURES**

The EOM did not include short term observers and therefore did not undertake a systematic observation of polling procedures.

Polling took place on two days: on 14 June from 14:00 to 22:00 and on 15 June from 8:00 to 14:00. Voting over two days can be a valuable way to increase voter participation and help avoid fatigue among polling staff. However, the practice implies an increased responsibility for ballot security overnight between the first and second day of polling. No problems were reported to the EOM in this regard. As an additional security measure and a good practice, it would be advisable for the Czech authorities to consider requiring that each polling station

commission complete a protocol at the end of the first day of voting indicating the number of people who voted, the number of voting envelopes used and the number remaining, and to check these figures when reopening the polling stations in the morning.

Voters received their ballot papers by mail at home not later than three days prior to polling. They were supposed to bring the ballot papers with them to the polling station and insert the selected ballot in an official envelope provided by the polling station commission. Additional ballot papers were available for voters who forgot or neglected to bring theirs from home. Facilities for disabled people were provided, as were mobile ballot boxes for persons who could not travel to a polling station.

Although detailed results for each constituency were made readily available via Internet, it would be good practice and would provide another measure of transparency for each constituency commission to be required to post its results outside the polling place upon completion of counting. All members of constituency commissions should be given a signed copy of the polling station protocol; observers should also be entitled by law to receive a copy.

## **B. RESULTS**

There were 8,264,484 voters registered for the 14–15 June elections. Of these, 4,793,706 turned out to vote. This turnout of 58.0% was significantly lower than the 74.0% turnout in the 1998 elections to the Chamber of Deputies.

Only four formations managed to pass the 5% threshold. The CSSD came out on top with 30.2% of the vote, or 70 seats, followed by the ODS with 24.5% (58 seats), the KSCM (18.5% and 41 seats) and the Coalition (14.3%, or 31 seats). Two more parties, the Association of Independents and the Green Party, garnered more than 1.5% of the vote and will thus receive 100 Czech crowns (€ 3.3) for each vote they received.

Compared to 1998, voters made more use of preference votes. In 1998, only two candidates entered parliament due to preference votes. This time, the number of elected candidates receiving more than 7% of the votes cast for their parties as preference votes increased to 46. However, many of them were either heading their respective list or in a position which would have guaranteed their election even without preference votes. Ultimately, 15 candidates owed their election to the Chamber of Deputies to the fact that they collected a sufficiently high number of preference votes. Of these, 14 were candidates of the Coalition and one of the ODS.

Within the Coalition, it was the Christian Democrats (KDU–CSL) which benefited from the preference votes. If seats had been allocated according to the order in which the candidates had been placed on the candidate lists, the Freedom Union would have received 17 seats, and the Christian Democrats 13. The final seat would have gone to an independent nominated by KDU–CSL. However, as a result of preference voting, the Christian Democrats will have 21 seats in the new Chamber, and the Freedom Union, eight. In addition, there will be two non-party members, one nominated by each of the two parties.

## XI. RECOMMENDATIONS

While these elections to the Chamber of Deputies met international standards and commitments for democratic elections, the ODIHR recommends that the Czech authorities consider several steps that could further strengthen the election process. These have been mentioned in the text of this report. The key recommendations are:

- The transparency of the election process could be further strengthened by a number of simple measures. Meetings of the State Election Commission should be open to the public. Means should be found – consistent with the need for protection of personal data – to open the voters registers for public scrutiny. Consideration should be given to amending the law to reflect the current good practice of publishing detailed results from polling stations. Legal provisions should be made for domestic and international observers.
- Modifications to the legal appeals process should be considered in order to ensure consistent application of election legislation. The law should set out broad standards for the conduct of the election – such as transparency, fairness and prohibitions on interference by State authorities. There should be a provision which allows for judicial remedies before election day in case of alleged violations of those standards, and a provision setting deadlines for court action to ensure cases are decided before election day.
- Public television should examine ways of improving access for smaller parties, especially non-parliamentary parties; some good examples could be drawn from the practices of public radio.

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's main 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 Document).

The ODIHR, based in Warsaw, Poland, was created in 1990 as the Office for Free Elections under the Charter of Paris. In 1992, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 80 staff.

The ODIHR is the lead agency in Europe in the field of **election** observation. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following six thematic areas: rule of law, civil society, freedom of movement, gender equality, trafficking in human beings and freedom of religion. The ODIHR implements more than 100 targeted assistance programs, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR **monitors** participating States' compliance with OSCE human dimension commitments. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

The 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. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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

More information is available on the ODIHR [website](#), which also contains a comprehensive library of reports and other documents, including all previous election reports and election law analyses published by the ODIHR.