



Office for Democratic Institutions and Human Rights

THE CZECH REPUBLIC

PRESIDENTIAL ELECTION

11-12 January 2013

OSCE/ODIHR Election Assessment Mission Final Report



**Warsaw
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I. EXECUTIVE SUMMARY

Following an invitation from the Permanent Mission of the Czech Republic to the OSCE to observe the 11-12 January 2013 presidential election and based on the recommendation of a Needs Assessment Mission conducted from 22 to 24 October, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Assessment Mission (EAM). The EAM did not remain in country to follow the second round of voting held on 25-26 January.

The election was competitive, contested by nine presidential candidates who offered voters a diverse and genuine choice. Three of the nine candidates were women. The election was professionally organized and enjoyed a high level of public confidence. This was the first election in which the president was elected through a popular vote, after constitutional amendments in February 2012.

The legal framework provides a generally sound basis for conducting a democratic presidential election. However, several important aspects remain to be addressed, including in the areas of candidate registration, campaign finance and the complaints and appeals process. The election was mainly governed by the Law on Election of the President (election law), which was adopted in July 2012, less than six months before the election, contrary to good electoral practice. It contains numerous references to laws governing other types of elections and a number of legal inconsistencies manifested themselves during the electoral process. While the law provides for the presence of international observers, it does not foresee observation by citizen observers, which challenges Paragraph 8 of the 1990 OSCE Copenhagen Document.

Candidates could be nominated by members of the parliament or by citizens' petitions supported by 50,000 signatures. Nominations were submitted to the Ministry of Interior (MoI), which scrutinized the signatures by reviewing random, statistically relevant samples. Certain procedures in the candidate registration process were insufficiently elaborated or not fully coherent, and the MoI's interpretation on how the samples should be verified was regarded as problematic by stakeholders. Several rejected nominees filed complaints before the Supreme Administrative Court. The court changed the MoI's interpretation of the measure of the election law and, as a result of the recalculation of valid signatures, one more candidate was registered.

Following the Supreme Administrative Court's decision, five petitions were filed with the Constitutional Court, four of which were dismissed as inadmissible. The fifth petition asked the court to postpone the election and also challenged the constitutionality of candidate registration provisions in the election law. This process took place concurrently with the official election campaign, causing uncertainty as to whether the election would take place as planned. The Constitutional Court rejected these demands on 4 and 7 January 2013, and the election took place as originally scheduled.

The election authorities enjoyed widespread confidence among election stakeholders. The possibility for political parties and candidates to nominate members of Polling Station Commissions (PSCs) was regarded as an important oversight mechanism. The composition of PSCs is not made public and there are no established selection criteria, which reduced the transparency of PSCs' composition.

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

There is no centralized voter register and voter lists are administered by municipal authorities, based on the central population register. This register is continuously updated by the MoI and by municipalities. However, there are no legal provisions on the frequency and the manner of updating during elections, which resulted in a variety of practices in different municipalities. Voters not on voter lists but who could prove they resided in a particular precinct could be added to the list on the election days.

The election was called on 3 October 2012, but prospective candidates had started campaigning in the spring. In the last weeks before the election, numerous public debates among candidates took place, organized by media and civil society groups. Few candidates referred to women's issues in their programs. During the campaign, no OSCE/ODIHR EAM interlocutor raised concerns over potential misuse of administrative resources.

Campaign finance issues drew significant public attention. While the election law provides that all resources received by candidates before their registration must be deposited in a campaign bank account, many OSCE/ODIHR EAM interlocutors, including some candidates, expressed doubts that all campaign transactions were actually registered. In addition, at least three candidates unduly benefited from the human and administrative resources of parties supporting them, which were not reported as campaign expenditures as required by law. Although candidates must publish a full campaign accounts report on their website and submit it to the Senate within 60 days of the official election results, the law does not provide for scrutiny of these reports or sanctions for failure to report.

The media environment is dynamic and offers a pluralistic range of views on political and social issues. While paid political advertising is allowed in newspapers and on the internet, it is prohibited on broadcast media. The supervisory body monitoring news coverage and election-related programs during the official campaign period, the Council for Radio and Television Broadcasting, publishes its monitoring results only several weeks after the elections. The Council and other interlocutors pointed out that the legal framework lacks provisions to define the Council's authority clearly and in sufficient detail, limiting its supervisory role.

While election law does not explicitly provide for judicial review of decisions made by administrative election authorities, appeals to regional courts are possible under the administrative law. No specific, election-related deadlines, however, pertain for such appeals.

According to the OSCE/ODIHR's standard methodology for EAM's, the mission did not conduct a systematic observation of election day procedures. The mission visited a limited number of polling stations on both election days. From this limited evaluation, the voting process was well organized, and procedures appeared to be followed in a generally uniform manner. The results protocols from almost all polling stations were posted online within three hours of polls closing.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

On 10 December 2012, the Permanent Mission of the Czech Republic to the OSCE invited the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the 11 and 12 January 2013 presidential election.

The OSCE/ODIHR undertook a Needs Assessment Mission (NAM) in the Czech Republic from 22 to 24 October 2012. Based on its recommendation, the OSCE/ODIHR deployed an Election Assessment Mission (EAM) from 2 to 18 January 2013. The second round of elections on 25 and 26 January 2013

contested by the top two candidates from the first round was not observed by the EAM. This was the third time the OSCE/ODIHR deployed a mission to the Czech Republic for national elections.²

The OSCE/ODIHR EAM was led by Cayetana de Zulueta and consisted of six election experts from five OSCE participating States. The EAM was based in Prague and experts visited several municipalities, including Benešov, Brno, Lány, Mrač, Trmice, Ústí nad Labem-Předlice and Velké Přílepy.

The OSCE/ODIHR wishes to thank the Ministry of Foreign Affairs (MFA), the State Election Commission (SEC), the Ministry of Interior (MoI), the Constitutional Court, the Supreme Administrative Court, the Czech Statistical Office (CSO), candidates, political parties, media and other interlocutors for taking time to meet with the EAM.

III. POLITICAL BACKGROUND

This presidential election was the first in which the president was elected by popular vote, pursuant to the 8 February 2012 constitutional amendments that abolished the indirect election of the president by the parliament. According to OSCE/ODIHR EAM interlocutors, this change was welcomed by the public, since indirect elections were perceived as being prone to corrupt practices and undue influence from business and lobby networks. Furthermore, some opined that the public legitimacy of a president elected by the parliament was too weak.

The directly elected president will have the same presidential powers as the predecessors. The opinions of OSCE/ODIHR EAM interlocutors about the scope of presidential powers varied. Citizens went to polls in an atmosphere of public disenchantment with politics. Petr Nečas' government, based on the coalition of Civic Democratic Party (ODS), TOP09 and Liberal Democrats (LIDEM), functioned in a politically unstable environment, facing frequent votes of non-confidence motioned by the opposition Czech Social Democratic Party (ČSSD), albeit unsuccessful. EAM interlocutors opined that numerous corruption cases led to state institutions being highly unpopular, but that the direct presidential election drew greater public interest and engagement in politics and elections.

On 1 January 2013, the outgoing president Václav Klaus announced a wide amnesty to commemorate the 20th anniversary of the Republic. The scope of the amnesty triggered substantial controversies, as it also covered corruption and fraud cases.³

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

A. ELECTORAL SYSTEM

The president is elected for a five-year term through a majoritarian, two-round system. In case no candidate receives more than half of all valid votes in the first round, a second round is held 14 days after the start of the first round, contested by the top two scoring candidates from the first round. The president cannot serve more than two consecutive mandates.

² For previous OSCE/ODIHR reports on the Czech Republic, see: <http://www.osce.org/odihr/elections/czech-republic>.

³ A total of 6,326 prisoners were released; see <http://www.vscr.cz/generalni-reditelstvi-19/informacni-servis/amnestie-1681/>.

According to the legislation, a presidential election is held within sixty days prior to the expiration of the incumbent president's mandate.⁴ The Speaker of the Senate, the upper house of the parliament, called the presidential election on 3 October 2012.

B. LEGAL FRAMEWORK

The legal framework provides a sound basis for the conduct of a democratic election, although several important issues remain to be addressed. It comprises the Constitution, adopted in December 1992 and amended last in February 2012,⁵ the Charter of Fundamental Rights and Freedoms, adopted in 1993, and the Law on the Election of the President (hereafter election law) adopted in July 2012. Other legislation related to elections includes the Code of Administrative Justice, the Criminal Code and a number of regulations adopted by the MoI and the CSO.

The majority of OSCE/ODIHR EAM interlocutors stated that the election law was adopted quickly, less than six months before the election. According to international good practice, fundamental elements of the electoral framework, in particular the electoral system should not be changed within one year of the election.⁶

The election law contains numerous references to laws governing other levels of election.⁷ The adoption of a unified electoral code has been discussed for more than ten years and the MoI informed the OSCE/ODIHR EAM that a draft bill was being prepared.⁸ The SEC announced at its 14 January session that the final draft was to be ready by March 2013, to be enacted by the end of 2013. The adoption of such code would be constructive, as it would help eliminate any conflicting provisions and would facilitate a comprehensive understanding of the legal framework for elections.

The authorities could consolidate the election legislation into an electoral code to make it more consistent, more transparent, and to avoid conflicting provisions. In line with international good practice, the new legislation should be passed at least a year before the next elections.

Any citizen who is at least 18 years old on the second day of the election has the right to vote and any citizen who reaches 18 by the second day of the second round is entitled to vote in that round. Citizens found incapable by a court of law or whose personal freedoms have been restricted due to the protection of public health are not entitled to vote.⁹ Citizens serving prison sentences are entitled to vote regardless of the nature of the crime or the duration of the sentence.

By the election law, the voting results from an individual precinct are to be disregarded if the Polling Station Commission (PSC) fails to deliver the results within 24 hours of closing or within any other deadline imposed by the CSO. While this has never happened according to election authorities, the application of this provision could cause voter disenfranchisement because of PSC error.

Consideration could be given to amending the legislation to ensure that voters are not deprived of their right to vote because of PSC's not fulfilling their duties.

⁴ Mr. Klaus's mandate expired on 7 March 2013.

⁵ The 2012 constitutional amendments were adopted in parliament by a majority of one single vote.

⁶ See the Council of Europe's European Commission for Democracy through Law (Venice Commission) Code of Good Practice in Electoral Matters, II.2.b, available at: [http://www.venice.coe.int/webforms/documents/CDL-EL\(2002\)005-e.aspx](http://www.venice.coe.int/webforms/documents/CDL-EL(2002)005-e.aspx).

⁷ Law on Elections to Parliament No. 247/1995, Law on Elections to Regional Councils No.130/200, and Law on Elections to Municipal Councils No. 128/2000.

⁸ The SEC, the CSO and political interlocutors expressed strong support for an Electoral Code to the EAM.

⁹ Article 10 of the Civil Code provides that the withdrawal of legal capacity is to be pronounced by a court.

V. ELECTION ADMINISTRATION

A. OVERVIEW

The election was administered in a decentralized manner. The election law details the responsibilities of the election administration authorities, which are 13 types of bodies and institutions at different levels of government. The technical and organizational aspects of the process are dealt with mainly by the MoI, which is the central administrative authority, and by mayors and municipal authorities at the local level. In general, women were well represented in the election administration bodies. All OSCE/ODIHR EAM interlocutors expressed full confidence in the professionalism and impartiality of the election administration.

The SEC is a 10-member permanent body chaired by the Minister of Interior. It included representatives of the CSO, presidency, and deputy ministers from the ministries of Foreign Affairs, Justice, Finance, Health, Defence and Labour and Social Affairs. Its role is to co-ordinate the preparation, organization, process and implementation of elections. The SEC was supported by a secretariat composed of ten technical advisers and MoI staff. Although not required by the law, its sessions, agendas and minutes were not public, limiting the transparency of its work. The OSCE/ODIHR EAM was informed that agendas and minutes could be provided upon request, and that SEC would consider the presence of a person or an institution requesting to observe, but there is no public information on when SEC sessions take place. The SEC held five meetings during the election period, and OSCE/ODIHR EAM attended the one which took place during its deployment.¹⁰

In order to enhance the transparency of its work, it is recommended that SEC sessions, and their agenda and minutes are made public.

The MoI and the CSO organized the election at the central level. The MoI oversees the organizational and technical aspects of the election; it registered candidates, ensured that the ballots were printed and dealt with administrative complaints that were not dealt with at the regional level. It also issued instructions and notifications to regional and municipal authorities on matters that were not covered by the regulations in place.¹¹ The CSO organized the processing and determination of election results. It provided software and training to PSCs and to 506 hand-over centres where the results from polling stations were collected and transmitted to the CSO's main office.¹²

The election authorities at the level of each of the 14 regions had the responsibility to disseminate information from the MoI to the municipalities. They are also to impose fines for any breaches in the publishing of opinion polls. Municipalities set up polling stations and appointed PSCs, administered voter lists, issued absentee voting cards (AVCs), informed voters of the time and place of voting, and distributed ballots to voters.

For this election, 14,802 polling stations were set up in 6,253 municipalities. The legislation recommends that each polling station serves a maximum of 1,000 registered voters.¹³ The OSCE/ODIHR EAM noted cases where this number was higher, but this was not perceived by the MoI as an issue in terms of the flow of voters or overcrowding on the election days.

¹⁰ SEC met to draw lots on candidates' order, to discuss the candidate registration process, to decide on the time of polling in diplomatic missions in South America, and to announce the results of the two rounds of the election.

¹¹ The MoI issued a total of 21 decrees for this election, including a decree informing about OSCE/ODIHR observers' presence and rights, and about voter registration of prisoners released after the presidential amnesty.

¹² Hand-over centres received results from an average of 30 polling stations.

¹³ The average number of voters registered per polling station was 570.

PSC members are nominated by candidates or parties that have representation in the national or regional parliaments. Some candidates, however, made a limited use of this right.¹⁴ If the parties and candidates fail to provide sufficient nominations for PSC members, the mayors appoint additional members from among municipal workers or volunteers. The PSC appointment system is regarded as a confidence-building measure and an important oversight mechanism.

PSCs consist of a minimum of 5 members,¹⁵ and the election law does not set a maximum number. The composition of PSCs is not to be publicly announced or communicated to other election administration authorities and there is no established procedure or criteria that mayors are required to follow when appointing PSC members. This reduced the transparency of the selection of PSCs.

In order to increase the transparency of the work of the election administration, it is recommended that the selection criteria and composition of PSCs is made public.

Out-of-country voting was organized by the MFA in 102 diplomatic missions. The CSO set up a seven-member team in the premises of the MFA in Prague. They were responsible for collecting and transmitting the out-of-country results to the CSO's main office.

B. VOTER REGISTRATION

There is no centralized voter register and the voter lists are administered by municipal authorities. Permanent and special voter lists are created, and a voter can be registered in only one list. Permanent lists are based on the MoI's central register of citizens, which is continuously updated, both by the MoI and by the municipalities. No legal provision, however, regulates the frequency and the manner in which these updates should be made or how and when voter lists should be produced. As such, different practices were used by different municipalities in updating their voter lists.

A total of 8,435,422 citizens were registered to vote in the first round. Voters were included on the permanent list in the municipality of their permanent residence. Citizens whose names were not on the permanent voter list, but who could prove their right to vote in that precinct were added on the election days. The OSCE/ODIHR EAM observers noted several such instances on the election days.

Upon request, voters in detention centres, prisons or healthcare facilities are included on special voter lists in the municipality of the institution. Voters can also request an absentee voting certificate AVC from the municipal authority where they are permanently registered, and cast a vote at any polling station in country or abroad. Both permanent and special lists are closed two days before the opening of polls.

Out-of-country voters had to register on special voter lists at diplomatic missions 40 days before election.¹⁶ The lists were then sent to the MFA, which forwarded them to the MoI and to municipalities to ensure that voters were not included in more than one list. There were 7,188 voters initially registered in special lists at 102 diplomatic missions in 85 countries. Additional 1,700 voters voted abroad with AVCs.

¹⁴ For example, Mr. Schwarzenberg stated that his supporters were appointed in 10 per cent of polling stations; Mr. Franz stated that 100 of his supporters were members of PSCs.

¹⁵ Four in the case of election districts with less than 300 registered voters.

¹⁶ AVCs could also be requested from diplomatic missions where voters were registered.

The MoI informed the OSCE/ODIHR EAM that it does not have the means to identify duplicates in the voter lists as they are produced by the local authorities. It is the responsibility of the bodies compiling the lists to prevent double entries. EAM interlocutors stated that double voting could theoretically happen, but that it was very unlikely as municipalities make sure that they update their voter lists up until the last moment.

Consideration could be given to introducing standard procedures on the compilation and update of voter lists to avoid inconsistencies or multiple entries.

As a result of the presidential amnesty, a total of 6,326 convicts were released between 2 and 6 January 2013. The MoI issued an instruction to municipalities with prison facilities on 3 January to delete the released citizens' names from their special lists and to inform the municipalities of their permanent residence accordingly. According to OSCE/ODIHR EAM interlocutors, this instruction was not always followed.¹⁷

Voter lists are not made available to the public as this would conflict with the Law on Protection of Personal Data. Voters can check whether they are in the list by making a request at the municipal authority, which must respond within 48 hours.

While OSCE/ODIHR EAM interlocutors did not express concern with regard to the quality of voter lists, the authorities could look into possibilities of making the voter lists available for public scrutiny, while ensuring conformity with the Law on Protection of Personal Data, to increase transparency.

VI. CANDIDATE REGISTRATION

Candidates must be citizens who are at least 40 years old on the second day of the election and whose legal capacity has not been withdrawn. A candidate can be nominated by a group of at least 20 deputies, 10 senators, or any citizen who has reached voting age.¹⁸ In the latter case, the nomination has to be endorsed by a petition signed by at least 50,000 voters.

A total of 19 nominations were submitted to the MoI by the deadline of 6 November.¹⁹ Three candidates were nominated by members of parliament and 16 by citizens. Of the later, five failed to submit the number of signatures required. On 23 November, the MoI registered 8 candidates and rejected 11 nominations.²⁰

The verification of support signatures proved to be highly controversial and played into the election campaign. It also nearly led a postponement of the election just days prior. The law specifies the manner in which support signatures are to be verified. As a first step, the MoI confirms that a petition contains a minimum of 50,000 signatures; secondly, it checks if all entries are complete. Next, the MoI checks a randomly selected sample of 8,500 signatories against the Register of Inhabitants.

¹⁷ Individual cases were addressed by the municipalities on the election days on a case by case basis.

¹⁸ Candidates cannot be self-nominated.

¹⁹ The applicants had the opportunity to correct technical mistakes in their applications until 22 November, but without the possibility to add, remove or correct any entries in the signature lists.

²⁰ The eight candidates registered initially were: Jiří Dienstbier (supported by ČSSD; he also voluntarily gathered over 50,000 signatures), Vladimír Franz, Jan Fischer, Tatana Fischerová, Zuzana Roithová, Přemysl Sobotka (supported by ODS), Karel Schwarzenberg (supported by TOP 09), and Miloš Zeman. The candidates registered on the basis of support signatures were not affiliated with any political party, were affiliated with political parties with a limited number of members of parliament, or were not represented in the parliament.

If incorrect information is found in less than three per cent of the sample, the number of invalid signatures found is deducted from the total submitted; the candidate is registered if the number of signatures remains above 50,000. If more than three per cent are found invalid, a second random sample of 8,500 signatures is examined. If the MoI finds incorrect information in less than three per cent of cases, the sum of invalid signatures from both verifications is deducted from the total number of signatures; the candidate is registered if the number of signatures remains above 50,000.

If the number of incorrect signatures in the second sample is above three per cent, the sum of percentages from the two examinations is subtracted from the total submitted; the candidate is registered if the remaining number of signatures is above 50,000.²¹

Many OSCE/ODIHR EAM interlocutors opined that this last step was highly controversial and mathematically illogical. Following the decision of the MoI to deny the registration of 11 candidates on the basis that they had not produced the required number of signatures, 9 of them filed complaints with the Supreme Administrative Court. The court rejected five because their registration application contained less than 50,000 signatures and one because the complaint was filed after the deadline.

The three other complaints were filed by Jana Bobošíková, Vladimír Dlouhý and Tomio Okamura on 28 November 2012. Their main arguments were related to the short deadlines to appeal to the court, the mathematical method applied to count the valid signatures through selecting samples and the methodology of application and summation of the error rates. On 13 December, the Supreme Administrative Court decided that the short time limit of two working days to appeal was not unusual in election related matters. It also considered that the method of verifying the signatures through considering only randomly chosen samples was legitimate.²² Finally, the court considered that the legal provision related to the methodology for applying error rates leaves room for interpretation; it decided to use the average of the error rates rather than their sum, as the average is more logical and more advantageous for candidates. This recalculation meant that Ms. Bobošíková reached the 50,000 signature requirement and the MoI subsequently registered her as a candidate.

Following the resolutions of the Supreme Administrative Court, five petitions were filed with the Constitutional Court, four of them being dismissed as inadmissible because the complainants had not collected the 50,000 supporting signatures. The petition filed by Mr. Okamura contained two parts: firstly, he asked the court to postpone the election and, secondly, he challenged the constitutionality of the 50,000 signature requirement, of the method used for the verification of signatures and of the two-day deadline to appeal the MoI's decision.

On 4 January, the Constitutional Court rejected the request to postpone the election stating that the court is allowed to postpone the adjudication of any decision only if the possible harm to the complainant would be disproportionately higher in case the complaint is refused, compared to the possible harm to the public in case the complaint was granted. According to the General Secretary of the Constitutional Court, the court was put in a situation where it had to strike a balance between the state's stability and the candidate's rights.

On 7 January, the Constitutional Court judged that the number of required signatures is adequate and non-restrictive to the complainant's right to stand, and that the requirement of wide public support is acceptable to prove the seriousness of a potential candidate. On the methodology for the verification of signatures and the deadline to submit the complaint to the Supreme Administrative Court, the court

²¹ Article 25(5) of the election law states that "the MoI shall deduct from the total number of citizens signed on the petition such number of signatures which corresponds to the percentage of incorrect information in both samples."

agreed with the resolution of the Supreme Administrative Court. In its final remarks, the court invited legislators to change the law by setting an obligation for signature verification and suggested that the number of signatures required could be reviewed.

The MoI informed the OSCE/ODIHR EAM that the court cases on the candidate registration process did not affect its work. All legal deadlines related to candidate registration were observed by the election administration and the administrative courts. However, in order to comply with the election calendar, ballots were printed and distributed to voters while several cases on candidate registration were pending review by the Constitutional Court.²³

Several candidates explained to the OSCE/ODIHR EAM that the collection of signatures was a long and costly process, and some suggested alternative methods of collecting signatures.

The legal framework for the candidate registration process could be reviewed as indicated by the Constitutional Court, particularly with regard to the verification of signatures. Such review should address any doubts about the fairness and consistency of the registration process.

Three of the nine candidates were women. Few of the candidates referred to questions regarding the participation and rights of women in their campaign programs. For instance, Ms. Fischerová and Mr. Dienstbier expressed their support for the introduction of a gender quota requiring a minimum representation of each sex in state institutions and stood for the importance of equal opportunities for women and men. Ms. Roithová campaigned for women's rights and protection of family values. Ms. Bobošíková underlined the support her Sovereignty Party provides to women in politics, for example by having women in a majority on the candidates' lists for different elections.

Civil society was engaged in a number of initiatives to promote female candidates. NGO *Forum 50%* facilitated the process of their registration of female candidates through their website, posting the forms for submitting signatures and providing links to the websites of respective candidates.

VII. ELECTION CAMPAIGN AND CAMPAIGN FINANCE

A. CAMPAIGN ENVIRONMENT

The official election campaign period started 16 days before election day and finished 48 hours before the opening of polls. The nine registered candidates represented a wide political spectrum and diversity of programmatic platforms, providing voters with a genuine choice.

The election law stipulates that any campaigning occurring after the announcement of the election is considered as electoral campaign. The elections were announced on the 3 October, but campaigning activities had already started already in spring of 2012, when the signature collection by some of the candidates was accompanied by billboards and rallies.

The campaign reached momentum in autumn when candidates toured the country and met voters in rallies of various types: open-air gatherings, concerts and informal meetings. These activities were accompanied by billboard campaigns, posters and direct mailing. All candidates used internet tools for campaigning, including new social media and YouTube channels. Since paid advertisement on broadcasting media is not permitted, candidates used print media and broadcast their campaign spots

²³ Ballots were sent for printing on 14 December 2012. The last relevant Constitutional Court decision was reached on 7 January.

in cinemas or on internet. The intensity of the electoral campaign varied significantly, with those of Messrs. Fischer, Schwarzenberg and Zeman being the most visible.

The main topics of the campaign were the possible increase of presidential powers, the presidential right to amnesty, and the role of president as a broker between the state and society. In the last weeks before the election, the focus of candidates shifted from campaign activities to candidate debates. These were organized by media and civil society groups. Candidates were often asked about their connection to different corruption cases, and the ways in which they would ensure the transparency of governance.²⁴ Issues of transparency of campaign financing and candidates' attitude to the European Union policies were also raised during these debates.

Mr. Schwarzenberg, as then Minister of Foreign Affairs, did not renounce or suspend his position during the election campaign. This raised mild criticism in the media about the time he could dedicate to his work during the electoral period. However, none of the OSCE/ODIHR EAM interlocutors raised concerns that there was a potential for misuse of administrative resources by the candidate.

Before the second round, some of the unsuccessful candidates, public figures, political parties, associations and media expressed supported one of the two remaining candidates.²⁵ The candidates' stances on the post-World War II decrees regarding the confiscation of property and deportation of ethnic Germans and Hungarians from Czechoslovakia appeared to be the main and most controversial topic of the final debates.²⁶

B. CAMPAIGN FINANCE

The election law stipulates that an election campaign bank account should be opened on the day of the candidate's registration and that all resources received before registration are to be deposited in the campaign account.²⁷ Most of the candidates opened so-called 'transparent accounts' that allowed the MoI and those visiting the candidates' websites to scrutinize their campaign finances.²⁸

As some candidates had already started campaigning as early as spring 2012, many OSCE/ODIHR EAM interlocutors, including candidates, expressed doubts that all candidates reported fully on the donations received and on the expenses incurred before and during the candidate registration process. Furthermore, some EAM interlocutors pointed out that candidates affiliated with political parties reduced the costs of campaigning by relying on human and administrative resources from their parties' structures.

²⁴ See section on Media.

²⁵ Among others: Ms. Fischerová, Ms. Roithová and Mr. Sobotka endorsed Mr. Schwarzenberg, while Mr. Dienstbier stated he would not vote for Mr. Zeman. The latter enjoyed the open support of Livia Klausova, the wife of out-going president, among others. ODS and Christian and Democratic Union (KDU-ČSL) proclaimed their support to the TOP 09 leader, while ČSSD, the Communist Party of Bohemia and Moravia (KSČM) and the Council of Pensioners supported Mr. Zeman.

²⁶ The post-war decrees issued by the Czechoslovak president Edvard Beneš between 1940 and 1945.

²⁷ The election law puts the ceiling for campaign expenditures at CZK 40 million (about EUR 1.6 million) for candidates who participate in the first round, and CZK 50 million (about EUR 2 million) for candidates who participate in both rounds.

²⁸ The websites of Ms. Bobošíková and of Ms. Roithová did not have links to such accounts. Ms. Bobošíková presented monthly summaries of financial operations on her website; the information available as of 14 January 2013 was the summary of operations for December 2012. Ms. Roithová provided a systematically updated copy of the election account statement.

Legal provisions obliging contestants to report (or disclose) their donations and expenditures could be further strengthened to also include an obligation to report in-kind contributions by different organizations, including political parties.

Within 60 days of the announcement of official results, a report on campaign accounting has to be published on the candidates' websites and provided to the Mandate and Immunity Committee of the Senate. This committee is a depository body for the campaign financing reports, and has no mandate to scrutinize their accuracy.²⁹ There are no other institutions responsible for checking the accuracy of the reports, and no sanctions for incomplete reporting or failure to report.³⁰

In order to improve the transparency and accuracy of reporting on campaign financing, the law could be amended to introduce meaningful control and oversight mechanisms, as well as effective, proportionate and dissuasive sanctions for potential infringements.

Campaign financing issues were a substantial part of the election campaign debate. Media, civil society watchdogs and candidates themselves drew public attention to the possibility of incomplete reporting, poorly documented donations, and substantial discounts offered by media houses and public relations agencies to some candidates.

The Czech branch of Transparency International and the NGO *Naši Politici* (Our Politicians) implemented a joint project that monitored the financial transparency of candidates' campaigns, focusing on accessibility and transparency of electoral accounts. Based on a developed methodology, these organizations ran an online index ranking of the transparency of candidates' campaign.³¹

The election law limits the right to file complaints on the infringements of campaign financing measure solely to candidates, giving the jurisdiction to rule on such complaints to the Municipal Court of Prague; its decisions can be appealed to the Supreme Administrative Court.

Legislators may consider providing the possibility for ordinary citizens to file complaints on campaign financing infringements, within the defined requirements of the law to increase accountability of campaign finance measures.

VIII. MEDIA

A. GENERAL OVERVIEW

The media environment is dynamic and offers a pluralistic and diverse range of views on political and social issues. Despite the growing significance of the internet, television remains the primary source

²⁹ The Head of the Committee informed the OSCE/ODIHR EAM that he would review the submitted reports, checking, for example, if candidates exceeded the ceiling for expenditures and if they published the final accounting reports on their websites; however, the results of this basic control would be confined solely to a debate within the Committee.

³⁰ The Government debated on the Draft Law on Oversight of Economic Management of Political Parties and Political Movements on 19 September 2012 and on 9 January 2013. One of the proposals was to establish an independent state oversight body for the political parties financing. A number of OSCE/ODIHR EAM interlocutors pointed out that in the time of economic crisis, it may not be justifiable to create yet another state institution; some stated that the Controlling Office (*Nejvyšší kontrolní úřad*) could take the oversight role.

³¹ See *Transparentní Prezidentské Volby, 2013*, at: <http://www.nasipolitici.cz/cs/volby/volby-prezidenta-2013>.

of information, followed by daily newspapers.³² Television and radio broadcasting is supervised by regulatory bodies, while print media and the internet are mostly self-regulated.

The main three television broadcasters operating at the national level are private channel *TV Nova*, public service broadcaster *Česká Televize* (with four national channels *CT 1*, *CT 2*, *CT Sport* and the news station *CT 24*), and private channel *TV Prima*. While in 2012 *Nova TV* had the biggest audience share, during the period preceding the election the public broadcaster's main channel *CT 1* had a larger viewership.³³ Since June 2012, television broadcasting is fully digitalized, thus providing viewers with a wider choice, including two new, nationwide channels (*TV Barrandov* and *TV Petka*).

While there is a relatively high rate of newspaper readership, the circulation of paid, printed dailies is declining as the traditional media offer their news content online. According to several OSCE/ODIHR EAM interlocutors, the continuous decrease in readership of quality dailies has impacted on the range and quality of information. The daily newspaper with the largest distribution is the tabloid *Blesk*, followed by centre-right orientated *MF Dnes*, regional newspapers *Deník* and centre-left oriented *Právo*. The majority of traditional media has online editions, which are the main internet source of information for the public. The impact of new social media, such as Facebook and Twitter, is acknowledged by EAM interlocutors but remains difficult to estimate.

Apart from the public television and radio broadcasters, all media are privately owned, with foreign investment companies controlling a majority of them. Notably, the media legislation restricts cross-ownership of media and other related businesses.

B. LEGAL FRAMEWORK FOR THE MEDIA

The Constitution refers to the Charter of Fundamental Rights and Freedoms that grants freedom of expression and the right to information, and prohibits censorship. The legal framework regulating the activities of media during the presidential election campaign comprises a number of laws, including the election law, the Act on Radio and Television Broadcasting, Electronic Communications Act, Czech Television Act, and Czech Radio Act. Broadcasters are to provide balanced and objective information.³⁴ In addition, on 12 November 2012, the public television adopted a set of internal rules for pre-campaign and campaign broadcasting during the election, providing detailed instructions for journalists to grant balanced and equal coverage of candidates.

The law prohibits paid political advertising in electronic media, both public and private, and allows it in print media and on internet. Opinion polls may not be published between the third day before election and the end of voting.

The Council for Radio and Television Broadcasting (CRTB) is tasked to monitor whether television and radio broadcasters adhere to the legislation, as well as to issue and extend broadcasting licenses. The Council consists of 13 members, appointed for a six-year term by the prime minister based on proposals made by the Chamber of Deputies, the lower house of the parliament. The CRTB monitored

³² According to Internet World Stats, as of June 2012 there were 7,426,376 internet users (representing 73 per cent of the population); see: <http://www.internetworldstats.com/stats4.htm#europe>.

³³ According to data from the Association of Television Organisations, the share of *CT 1* from 31 December to 6 January reached 25.16 per cent during prime time, compared to 24.59 per cent for *TV Nova*; see at: <http://www.ato.cz/vysledky/tydenni-data/share/15>.

³⁴ Section 31.2-3 of the Act on Radio and Television Broadcasting is only generally indicating that “a broadcaster shall provide objective and balanced information necessary for opinions to be freely formed” and it “shall ensure that principles of objectivity and balance are complied with in news and political programme units and that, in particular, no one-side advantage is given to any political party or movement”.

the news coverage and election-related programs of public and private broadcasters during the official campaign period.³⁵ However, the CRTB publishes the monitoring results only several weeks after the election. In case of an offense, the CRTB issues a warning. If the same offense is repeated, it imposes a penalty. However, the CRTB explained to the OSCE/ODIHR EAM that they do not react to irregularities immediately, in order not to be accused of censorship and this may undermine the effectiveness of the enforcement mechanisms in place.

The CRTB and other OSCE/ODIHR EAM interlocutors pointed out that the effectiveness of the Council as a supervisory body is limited by the legal framework, which lacks provisions to define the Council's authority clearly and in sufficient detail.

The efficacy of the existing legislation could be enhanced by introducing specific regulations for broadcasting media during pre-campaign and campaign periods. Such regulations would clearly define the scope of CRTB's authority, and provide effective means for it to react (in a timely manner) to infringements of legislation.

The body governing public service television is the Council of Czech Television, composed of 15 counsellors appointed for six years, while the Council of Czech Radio supervises public service radio, with nine counsellors also appointed for six years. Finally, there is the Council of Czech Press Agency with seven counsellors appointed for five years. The Chamber of the Deputies appoints the members of these bodies; their composition reflects the political balance in parliament. Some OSCE/ODIHR EAM interlocutors noted that the inclusion of members of professional interest groups and academia could help protect the media councils from the political influence that they sometimes face.

In order to reduce potential political influence on the decision making process of media councils and to increase their independence, the authorities could consider engaging in a wider discussion with media stakeholders on possible amendments to the councils' membership appointment procedure.

C. MEDIA COVERAGE OF THE ELECTIONS

The media played a significant role in the campaign. All candidates were given ample access to public television and radio to present their campaigns and there were no issues raised on the equality of access. Voters had access to a variety of views and information about the candidates in a number of media outlets, including print, broadcasting and online media.

In accordance with the law, the public broadcasters allotted five hours of free television and radio airtime during the campaign period, which was reported to be equally divided among the nine candidates. In addition, three debates were organized and broadcast by public *CT 24*, each hosting three candidates selected by lot. A final debate with all the candidates was organized on 10 January, less than 24 hours before the opening of the polls, and broadcasted by public *CT 1* and *CT 24*. Similarly, public radio organized two debates hosting five and four candidates, respectively, and a final debate with all candidates on 9 January.

Private print and broadcasting media also covered candidates comprehensively. *TV Nova* organised five debates hosting all candidates.³⁶ The order of participation was decided in accordance with the results of opinion polls. The last debate, held on 9 January, hosted Messrs. Fischer and Zeman as leading candidates.

³⁵ The CRBT contracted an external agency to conduct quantitative and qualitative analysis.

³⁶ These debates started before the official registration of candidates (when there were 11 announced candidates) and the first one had three participants.

TV Prima decided to organize only one debate on 4 January but also hosted two leading candidates based on the results of opinion polls, thus providing uneven coverage of contestants. This resulted in remonstrations from other candidates and political analysts. On 6 January, an official complaint was submitted to CRTB in relation to this debate. The CRTB chairperson stated in an interview with the newspaper *Lidove Noviny* that the CRTB would need to wait for an analytical report before addressing the complaint, which would be released only after the election results would be announced.

Some OSCE/ODIHR EAM interlocutors pointed out the lack of gender sensitive language in the media, which in general failed to use the feminine suffixes for such words as citizen (*obcanka*), or candidate (*kandidatka*).

The CRTB stated it received six complaints before the first round, all from private citizens. The Council informed the OSCE/ODIHR EAM that this number was much smaller than during the 2012 elections, when complaints were submitted mainly by political parties.

On 11 January, the daily newspapers *Lidove noviny*, *Hospodarske noviny* and *5+2dny*, as well as the weekly *Respekt*, openly endorsed Mr. Schwarzenberg, an innovative step for Czech media that surprised political stakeholders.

In one of the debates between the two rounds, Mr. Zeman made off-colour remarks suggesting ‘rape as an evolutionary advantage’, which drew media criticism. The Czech Women’s Lobby issued an open letter to Mr. Zeman, calling on him to apologize for the statement.³⁷ Mr. Zeman communicated through the media that he did not mean to offend women, but at the same time he would not apologize for his statement as he meant it as humour.

IX. COMPLAINTS AND APPEALS

Complaints regarding the organizational and technical aspects of the electoral process are to be filed with the administrative authority responsible for the challenged decision or action, and can be appealed to the next level of administrative authority. The MoI did not issue any procedural guidelines on the handling of election-related complaints by the administrative authorities.

The election law does not explicitly provide for judicial review of decisions made by election authorities in their capacity as administrative bodies. At the same time, the administrative law does allow the possibility of appeals to regional courts.³⁸ No specific, election-related deadlines, however, pertain for such appeals.

The legal framework should be amended to stipulate reasonable minimum timelines for the adjudication of election-related complaints.

Specific administrative offences are dealt with by the regional authorities, which can impose fines. The OSCE/ODIHR EAM was not informed of any complaints received by the administrative authorities in the course of the election process.

The election law stipulates that the election campaign “must be honest and fair” and that “no false information on individual candidates may be published”. Nevertheless, there is no judicial remedy for

³⁷ See at: <http://www.czlobby.cz/tiskove-zpravy/205-7/otevreny-dopis-milosi-zemanovi>.

³⁸ Regional courts are the first instance of administrative justice.

alleged breaches of these provisions. According to the president of the Supreme Administrative Court, the only remedy is to challenge the validity of the election, which can only be submitted after the completion of the election process.

According to media reports, the NGO *Růžový panter* submitted a complaint to the Supreme Administrative Court, alleging breaches of the “honest and fair” campaign by Mr. Zeman and containing numerous allegations of untrue statements made by him.³⁹ The complaint, submitted on 5 February 2013 and supported by the signatures of 8,520 citizens,⁴⁰ requested the Court to cancel the election results. On 18 February, the Court rejected the complaint, stating that even though there were breaches, they were not of an extent to influence the election results.⁴¹

The authorities could consider introducing a specific judicial review of decisions of administrative bodies governing the election process. Consideration could also be given to introduce a judicial remedy during the election campaign in case of alleged breaches of the “honest and fair” campaign standards. Finally, stipulations introducing specific judicial review in the election legislation, could include clear and short timeframes for their review.

Complaints related to voter registration can be filed with the regional courts, which are to issue decisions within three days. Complaints related to the registration of candidates can be filed with the Supreme Administrative Court, within two days after the decision of the MoI to approve or reject the candidate’s registration. In such instances, the court is to issue its decision within 15 days.

A registered voter can file a motion with the Supreme Administrative Court to declare the election invalid. The motion must be filed within seven days of the announcement of the final election results by the SEC. The plaintiff must demonstrate that the law has been breached in a way that might have affected the election results and the court will assess whether the violation had a direct and real impact on the results. The court is to issue its decision within 20 days after the petition was submitted.

X. PARTICIPATION OF NATIONAL MINORITIES

In a 2011 census, 8.4 per cent of the population declared a nationality different than Czech.⁴² While the census identified 5,199 Roma, unofficial estimates that are accepted by the authorities put this figure at some 200,000. Roma are the most vulnerable minority in the country; all OSCE/ODIHR EAM interlocutors, including representatives of the Roma community, stated that vote buying was not an issue in the presidential election.

OSCE/ODIHR EAM interlocutors working on minority issues praised Messrs. Fischer, Schwarzenberg and Zeman, who in their political carriers supported minority-sensitive policies and institutions. Also, Mr. Fischer spoke in his program about reinstating the Human Rights Ministry that was abolished in 2010 by the outgoing government. On the other hand, Ms. Bobošíková ran a billboard campaign in areas inhabited by the Roma with the slogan, “socially inadaptable [groups]

³⁹ More information at: <http://www.ruzovypanter.cz/prezident2013>.

⁴⁰ Signatures are not required to submit a complaint.

⁴¹ The text of the decision can be found at:

http://www.nssoud.cz/files/SOUDNI_VYKON/2013/0038_0Vol_13_20130220130901_prevedeno.pdf.

⁴² According to CSO, citizens include 5.2 per cent Moravians, 1.4 per cent Slovaks, 0.5 per cent Ukrainians, 0.4 per cent Poles, 0.3 per cent Vietnamese, 0.2 per cent Germans and Russians each, 0.1 per cent Hungarians and Silesians each, and 0.05 per cent of Roma. The data does not cover those that declared double citizenship.

will not dictate to us". A manifesto under the same slogan was also published on her Sovereignty Party's website.⁴³

The election law requires municipalities to also publish electoral information in the language of any minority representing more than 10 per cent of its citizens. This was applied in 30 municipalities with the Polish minority, 3 with the Ukrainian, 2 with the Slovak, and 1 with the German minority.

XI. CITIZEN AND INTERNATIONAL ELECTION OBSERVATION

The election law allows for international observers during voting and counting in polling stations.⁴⁴ Although the law does not provide for observation of tabulation of election results, the OSCE/ODIHR EAM was granted access by the MoI and the CSO to all stages of the election day proceedings.

The law, however, is silent on citizen observation. This was not raised as an issue of concern by OSCE/ODIHR EAM interlocutors due to the high level of trust in the election administration and the possibility for political parties and candidates to nominate members of PSCs. However, the lack of possibility for political parties and candidates, as well as civil society organizations, to observe elections is at odds with international commitments.⁴⁵

The election legislation should be amended to create the legislative basis for the implementation of paragraph 8 of the 1990 OSCE Copenhagen Document, and provide for access of domestic and international observers to all stages of the election process.

XII. VOTING, COUNTING AND TABULATION OF RESULTS

In accordance with the OSCE/ODIHR methodology, the OSCE/ODIHR EAM did not conduct a comprehensive and systematic observation of election day proceedings. However, mission members visited polling stations and election results hand-over centres in 13 municipalities.

Polls were open on 11 January between 14:00 and 22:00, and on 12 January between 08:00 and 14:00. The voting process appeared to be well-organized in all polling stations visited, and procedures were applied in a generally uniform manner.

There was a separate ballot paper printed for each of the candidates. Voters received the ballots three days before the first election day at the latest; ballots were also available in polling stations. After their identification, voters were given a stamped envelope and entered the polling booth where they inserted the ballot of their choice into the envelope to be cast into the ballot box.

The training material for PSCs indicated that sensitive electoral material should be sealed for the night between the two election days. By law, the doors of the polling station premises are locked and sealed. However, there is no official protocol to account for the interruption between the two election days

⁴³ See at: <http://www.suverenita.cz/clanky/tiskove-zpravy/neprizpusobivi-nam-nebudou-diktovat>.

⁴⁴ The possibility for observation by international observers was introduced for the first time in the election law and is not included in other election legislation, such as the Law on Elections to Parliament.

⁴⁵ Paragraph 8 of the 1990 Copenhagen Document states: "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. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law."

and there are no official instructions detailing how to secure the sensitive election materials overnight. While no interlocutors expressed any concerns to the OSCE/ODIHR EAM on this matter, the lack of detailed regulation could lead to inadequate security measures in some polling stations.

The adoption of consistent procedures on election night safeguards, including sealing sensitive election material and the issuance of a storage security protocol should be considered.

The polling stations visited by the OSCE/ODIHR EAM were generally only accessible by steep stairs with no ramps or elevators, making access difficult for disabled or elderly voters. The law, however, provides for homebound voting, with a phone call or a request on election day by a relative or a neighbour being sufficient for a team of two PSC members to be sent to the address of the voter in need of assistance.

At the end of the second day of voting, PSC members counted the number of signatures of voters who have voted on both permanent and special voter lists and reconciled it with the total number of stamped envelopes issued, before the ballot boxes were unsealed and ballots taken out of the envelopes and counted. A results protocol was signed by all PSC members and delivered by two members to a hand-over centre. Hand-over centres were managed by CSO employees.

The CSO checked protocols for any inconsistencies; if errors were identified, protocols were returned to PSCs, which had to return to the polling station and resolve the discrepancy, and conduct a recount if necessary. The CSO certified correct PSC protocols, and transmitted their content via a secure connection to the CSO head office. At the same time, the information was uploaded onto a special election website that automatically aggregated the results.⁴⁶ The CSO reported no hacking or denial-of-service attacks.

Polling at diplomatic missions finished on the second day of voting before 14:00 Czech time. Counting started synchronously, even if that happened to be the middle of the night for particular diplomatic missions. Results were then sent via a secure link to the MFA where CSO officials received the election results. The MFA did not report any problems on election day.

By 17:00 on the second election day, the results from over 99 per cent of all polling stations were available online. By 18:30, all results were available. The CSO also provided political parties and candidates with a separate high-speed internet connection to access the results online. CSO informed OSCE/ODIHR EAM that the office did not have any technical difficulties.

The turnout was announced at 61.3 per cent in the country, and 62.0 per cent abroad. The SEC declared the official results of the first round on 14 January 2013. Messrs. Schwarzenberg and Zeman qualified for the second round. The OSCE/ODIHR EAM did not remain in the country to assess the second round of voting held from 25 to 26 January.

XIII. RECOMMENDATIONS

The following recommendations are offered for consideration by state authorities, political parties and civil society of the Czech Republic, in further support of efforts to conduct elections fully in line with OSCE commitments and other standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. The OSCE/ODIHR stands ready to assist the authorities of the Czech Republic to further improve the

⁴⁶ See at: <http://www.volby.cz>.

electoral process and in following-up on the recommendations contained in this and previous reports.

A. PRIORITY RECOMMENDATIONS

- 1. The legal framework for the candidate registration process could be reviewed as indicated by the Constitutional Court, particularly with regard to the verification of signatures. Such review should address any doubts about the fairness and consistency of the registration process.*
- 2. Consideration could be given to introducing standard procedures on the compilation and update of voter lists to avoid inconsistencies or multiple entries.*
- 3. In order to improve the transparency and accuracy of reporting on campaign financing, the law could be amended to introduce meaningful control and oversight mechanisms, as well as timely sanctions for potential infringements.*
- 4. The authorities could consider introducing a specific judicial review of decisions of administrative bodies governing the election process. Consideration could also be given to introduce a judicial remedy during the election campaign in case of alleged breaches of the “honest and fair” campaign standards. Finally, stipulations introducing specific judicial review in the election legislation could include clear and short timeframes for their review.*

B. OTHER RECOMMENDATIONS

Legal Framework

- 5. The authorities could consolidate the election legislation into an electoral code to make it more consistent, more transparent, and to avoid conflicting provisions. In line with international good practice, the new legislation should be passed at least a year before the next elections.*
- 6. Consideration could be given to amending the legislation to ensure that voters are not deprived of their right to vote because of PSC’s not fulfilling their duties.*
- 7. The legal framework should be amended to stipulate reasonable minimum timelines for the adjudication of election-related complaints.*

Election Administration

- 8. In order to enhance the transparency of its work, it is recommended that SEC sessions, and their agenda and minutes are made public.*
- 9. In order to increase the transparency of the work of the election administration, it is recommended that the composition of PSCs is made public.*

Voter Registration

- 10. While OSCE/ODIHR EAM interlocutors did not express concern with regard to the quality of voter lists, the authorities could look into possibilities of making the voter lists available for public scrutiny, while ensuring conformity with the Law on Protection of Personal Data, to increase transparency.*

Campaign Finance

11. *Legal provisions obliging contestants to report (or disclose) their donations and expenditures could be further strengthened to also include an obligation to report in-kind contributions by different organizations, including political parties.*
12. *In order to improve the transparency and accuracy of reporting on campaign financing, the law could be amended to introduce meaningful control and oversight mechanisms, as well as effective, proportionate and dissuasive sanctions for potential infringements.*
13. *Legislators may consider providing the possibility for ordinary citizens to file complaints on campaign financing infringements, within the defined requirements of the law to increase accountability of campaign finance measures.*

Media

14. *The efficacy of the existing legislation could be enhanced by introducing specific regulations for broadcasting media during pre-campaign and campaign periods. Such regulations would clearly define the scope of CRTB's authority, and provide effective means for it to react (in a timely manner) to infringements of legislation.*
15. *In order to reduce potential political influence on the decision making process of media councils and to increase their independence, the authorities could consider engaging in a wider discussion with media stakeholders on possible amendments to the councils' membership appointment procedure.*

Election Observation

16. *The election legislation should be amended to create the legislative basis for the implementation of paragraph 8 of the 1990 OSCE Copenhagen Document, and provide for access of domestic and international observers to all stages of the election process.*

Voting, Counting and Tabulation of Results

17. *The adoption of consistent procedures on election night safeguards, including sealing sensitive election material and the issuance of a storage security protocol should be considered*

ANNEX: RESULTS

Results of the first round, 11 – 12 January 2013

	Candidate name	Nominated by	Party affiliation	Valid votes obtained	Percentage of valid votes
1	Miloš Zeman	Citizens	SPOZ	1,245,848	24.21
2	Karel Schwarzenberg	Deputies	TOP09	1,204,195	23.40
3	Jan Fischer	Citizens	No affiliation	841,437	16.35
4	Jiří Dienstbier	Senators	ČSSD	829,297	16.12
5	Vladimír Franz	Citizens	No affiliation	351,916	6.84
6	Zuzana Roithová	Citizens	KDU - ČSL	255,045	4.95
7	Tatana Fischerová	Citizens	KH	166,211	3.23
8	Přemysl Sobotka	Deputies	ODS	126,846	2.46
9	Jana Bobošíková	Citizens	SBB	123,171	2.39

Number of voters registered	Number of voters who voted	Turn out	Percentage of invalid ballots
8,435,522	5,171,666	61.31	0.47

Results of the second round, 25 - 26 January 2013

Candidate name	Valid votes obtained	Percentage of valid votes
Miloš Zeman	2,717,405	54.80
Karel Schwarzenberg	2,241,171	45.20

Number of voters registered	Number of voters who voted	Turn out	Percentage of invalid ballots
8,434,941	4,986,040	59.11	0.50

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/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.

The OSCE/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.

The OSCE/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 standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

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

The OSCE/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**, the OSCE/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. The OSCE/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.

The OSCE/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: <http://www.osce.org/odihr>.