

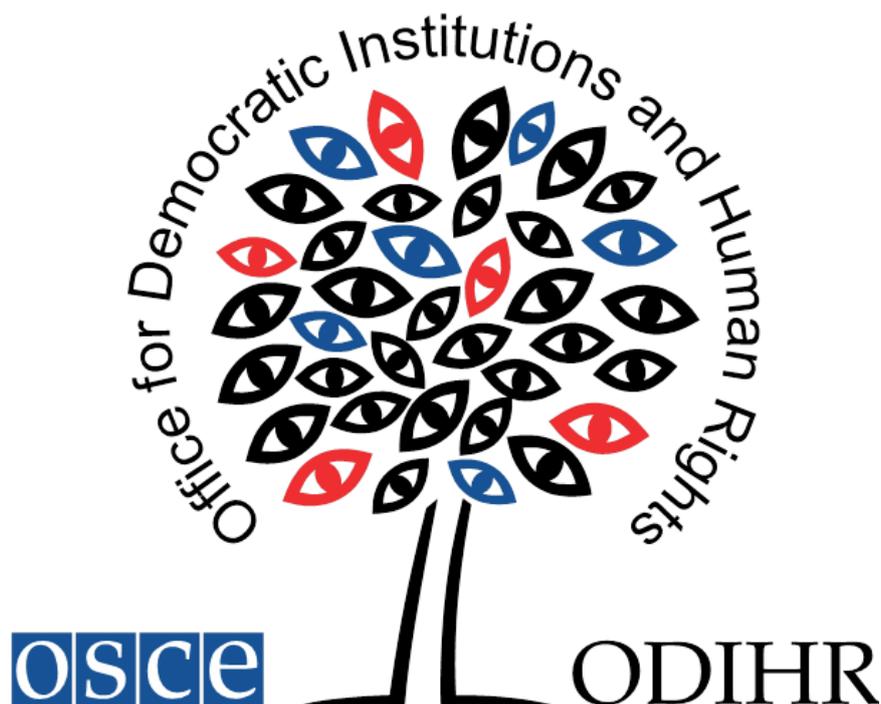


Office for Democratic Institutions and Human Rights

ROMANIA

PARLIAMENTARY ELECTIONS 6 DECEMBER 2020

ODIHR NEEDS ASSESSMENT MISSION REPORT 14-18 September 2020



Warsaw
14 October 2020

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	EXECUTIVE SUMMARY.....	1
III.	FINDINGS	3
A.	BACKGROUND AND POLITICAL CONTEXT	3
B.	LEGAL FRAMEWORK	4
C.	ELECTORAL SYSTEM	5
D.	ELECTION ADMINISTRATION	6
E.	VOTER REGISTRATION.....	7
F.	CANDIDATE REGISTRATION	8
G.	ELECTION CAMPAIGN.....	9
H.	CAMPAIGN FINANCE.....	9
I.	MEDIA.....	10
J.	COMPLAINTS AND APPEALS	11
K.	ELECTION OBSERVATION	11
IV.	CONCLUSIONS AND RECOMMENDATION	11
	ANNEX: LIST OF MEETINGS	13

ROMANIA
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ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an official invitation to observe parliamentary elections to be held on 6 December 2020, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) to Bucharest from 14 to 18 September. The ODIHR NAM included Vladimir Misev, ODIHR Senior Adviser on New Voting Technologies, and Kseniya Dashutsina, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the parliamentary elections. Based on this assessment, the NAM should recommend whether to deploy an ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions, as well as with representatives of political parties, media, civil society, and international organizations. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs for its assistance and co-operation in organizing the NAM. The ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and share their views.

II. EXECUTIVE SUMMARY

On 6 December, voters will elect 465 members of parliament through a closed list proportional system. Elections will be held in 43 multi-member constituencies related to 41 counties, the municipality of Bucharest, and a constituency for citizens living abroad.

Parliamentary elections are primarily regulated by the Constitution and number of election-related laws. The election legislation was most recently amended in September 2020. The changes were made to the rules for voting abroad, campaign finance regulations, candidate registration and the composition of the lower-level election administration. Most of the ODIHR NAM interlocutors expressed confidence in the legal framework, and noted that recent amendments largely replicated the 2019 changes introduced before the last presidential election. They also underlined the need for stability and predictability of the legislation, and for its harmonization, as previously recommended by ODIHR.

The elections will be managed by two administrative structures: the Permanent Electoral Authority (PEA) and a three-tiered structure of election bureaus established ahead of each election and led by the Central Election Bureau (CEB). The Ministry of Foreign Affairs (MFA), in co-operation with the PEA, will establish polling stations for voting abroad. To increase transparency, the PEA started to broadcast its sessions online. Most ODIHR NAM interlocutors expressed overall confidence in the work and the impartiality of the election administration. However, according to some ODIHR NAM interlocutors, performance of the election administration during local elections, including insufficiently timely decisions and lack of public outreach, diminished confidence in the election administration. Some ODIHR NAM interlocutors raised concerns regarding the challenges of opening polling stations abroad due to COVID-19 related limitations and ability to recruit enough trained staff to fill lower-level positions.

Citizens over 18 years are eligible to vote, with the exception of those disenfranchised by a court decision on grounds of legal incapacity or judicial sentence. The PEA has overall responsibility for management of the permanent and centralized electoral register. Voters can verify their records in person or online. According to the PEA, the number of voters is estimated at 19 million. The majority of ODIHR NAM stakeholders expressed confidence in the integrity of the voter registration process and expressed general trust in the accuracy of the voter lists.

Voters residing abroad can vote by post or in person at the consular and diplomatic representations or other designated locations determined by the MFA. While prior registration for voting abroad in-person is not required, which some ODIHR NAM interlocutors noted as a challenge for effective planning, the recent amendments that oblige voters abroad to register online to vote by post. The amendments extended the period for application for postal voting by 30 days and out-of-country voting to two days.

Citizens with the right to vote can stand for election. Following September 2020 amendments, number of required supporting signatures was halved and contestants can submit their documents electronically. Most ODIHR NAM interlocutors expressed confidence in the inclusiveness of the candidate registration process and welcomed the easing of candidate registration requirements and procedures. All parliamentary parties met by the ODIHR NAM stated their intention to nominate candidates. Most parties met by the ODIHR NAM do not have specific internal policies to promote women candidates.

The legislation provides a basis for equitable campaigning conditions for all contestants, and includes specific and extensive rules, including on the format and placement of printed material. The parties met by the ODIHR NAM mentioned that the restrictions caused by the COVID-19 pandemic forced them to shift their campaign strategies from traditional methods to campaigning online. Most ODIHR NAM interlocutors expect to campaign without hindrance and anticipate a low-key campaign, although some noted concerns of use of inflammatory language and intolerant rhetoric. Some ODIHR NAM interlocutors alleged that the misuse of state resources and vote buying is still attempted in economically deprived regions of the country, and that possible instances of intimidation may occur in isolated cases.

The majority of political parties that the ODIHR NAM met with expressed satisfaction with the party and campaign finance framework. However, a number of ODIHR NAM interlocutors noted the significant amount of public funds available to the parties during the campaign could contribute to an unlevel playing field between the contestants, particularly newly formed parties or candidates running independently. Some ODIHR NAM interlocutors noted the party and campaign funding lacks transparency.

The media landscape is diverse with many outlets operating in the country and offering a plurality of views. The legal framework obliges all media to ensure balanced, fair, and equitable coverage and provides for free access of candidates to the public broadcasters. The National Audiovisual Council (CNA) regulates and supervises media conduct during the campaign and is mandated to impose sanctions on outlets that violate the law or CNA regulations. Some ODIHR NAM interlocutors voiced concerns about increased media polarization and noted cases of alleged intimidation and violence against journalists.

Decisions of lower-level election bodies are appealed to the superior election bureau through the hierarchy. The law establishes an expeditious process with one to three calendar days allotted for appeals and decisions. Overall, ODIHR NAM interlocutors expressed confidence in the impartiality of the election administration and courts in resolving electoral disputes.

The law provides for observation of the voting and counting by citizen and international observers, but does not regulate observation of other stages of the electoral process. Sessions of the elections bodies at all levels are not open to election observers. Several civil society organizations are planning to conduct election day observation, however, some raised concerns about possible limitation to observation due to COVID-19 restrictions.

Most of the ODIHR NAM interlocutors welcomed an ODIHR election observation activity and viewed it as a means to promote confidence in the electoral process. In considering an observation activity, the ODIHR NAM has taken into account the various findings outlined in this report and the concerns expressed by stakeholders. These issues relate to the implementation of the recently amended legal framework, challenges in administering the elections in and out-of-country including those posed by the COVID-19 pandemic, concerns over potential irregularities in the conduct of the electoral campaign in particular regions of the country, transparency of the campaign finance, and the media coverage of the campaign. The ODIHR NAM interlocutors did not raise concerns regarding the conduct of election day proceedings.

Based on the findings of this report, the ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM) to assess the forthcoming parliamentary elections for its compliance with OSCE commitments, other international obligations, and domestic legislation. In addition to a core team of experts, the ODIHR NAM recommends that 20 long-term observers be seconded by participating States to follow the electoral process countrywide. While the mission would visit a limited number of polling stations on election day, comprehensive and systematic observation of election day proceedings is not envisaged. In line with ODIHR's standard methodology, the LEOM would include a media monitoring element. Given the number of concurrent election-related activities taking place across the OSCE region in 2020, the deployment of an LEOM to the 2020 parliamentary elections in Romania will be contingent upon availability of resources.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Romania has a semi-presidential political system, with executive powers shared by the president and a government headed by a prime minister.¹ Parliament, the supreme representative body and country's legislative authority, is composed of two chambers: a lower house, the Chamber of Deputies, and an upper house, the Senate.

On 7 September, in line with the election law, the government called parliamentary elections for 6 December. However, prior to that, on 27 July, the parliament adopted a law which empowers it to establish the date of parliamentary elections. The president and the government challenged the constitutionality of the newly adopted law. On 29 September the Constitutional Court rejected the appeal and confirmed the constitutionality of the law.² On 2 October, an independent member of parliament (MP) submitted legislative proposal to postpone the holding of elections until March 2021 due to the worsening epidemiologic situation. Local elections were postponed due to the COVID-19 pandemic and held on 27 September. These were seen as a test-run for the

¹ The president is the head of the state and, among other duties, appoints the government and the prime minister, with approval of the parliament.

² On 3 June, in a similar case related to local elections the Constitutional Court decided that the parliament is entitled to regulate the extension of mayors' mandates, and to decide who approves the election calendar.

parliamentary elections by most ODIHR NAM interlocutors. Romania is in a state of alert, following the outbreak of the 2019 COVID-19 pandemic.³

Following the 2016 parliamentary elections, a majority government was formed by the Social Democratic Party (PSD) and the Alliance of Liberals and Democrats (ALDE).⁴ Some members of parliament (MPs) have since switched parties, and the number of seats for each party has fluctuated, but PSD has retained the largest number of seats. The PSD-led government introduced a number of reforms, some of which weakened the judiciary's independence and anticorruption tools and sparked large-scale anti-corruption protests which took place between 2017 and 2019.⁵ In October 2019, the National Liberal Party (PNL) led government was elected after a successful motion to censure.

In 2020, the PSD initiated two no-confidence votes in the parliament against the government. The 5 February motion passed but Prime Minister Ludovic Orban continued carrying out his functions on an interim basis and with limited powers due to the state of emergency introduced on 16 March.⁶ The 31 August no-confidence motion alleged that the government mismanaged the COVID-19 pandemic. It failed due to lack of support.⁷

ODIHR has observed nine elections in Romania since 1996, most recently for the 2019 presidential elections, when ODIHR deployed an Election Assessment Mission (EAM).⁸ The EAM concluded that “the election was competitive, pluralistic, and offered voters a genuine choice from a broad spectrum of political alternatives. Campaigning took place in an open atmosphere with respect for fundamental freedoms. The media offered limited election coverage, reflecting the lowkey campaign, but informed voters of the different political options. Though certain aspects of election related legislation could be improved, the election was effectively administered and generally enjoyed public confidence. Recent amendments to campaign finance legislation significantly increased public funding for parliamentary parties. Interim reporting of expenses is not required, and possible sanctioning tools are neither effective nor dissuasive.” The EAM final report, contains 23 recommendations, including 8 priority ones, for the authorities to improve electoral process and bring it closer in line with OSCE commitments.⁹

B. LEGAL FRAMEWORK

Parliamentary elections are primarily regulated by the 1991 Constitution, 2015 Law for the Election to the Chamber of Deputies and the Senate (Election Law), 2003 Law on Political Parties, 2006

³ After the state of emergency has been lifted, the government declared a state of alert and extended it for the third time on 15 September. A state of alert imposes a number of restrictions on freedoms of movement and assembly, requires compliance with certain precautionary measures and allows authorities to implement and amend restrictions on short notice.

⁴ When elected, out of 136 seats in the Senate, PSD had 67 members and ALDE 9 members, and in the Chamber of Deputies, out of 328 seats, PSD had 154 members and ALDE 20 members. The parliamentary opposition was originally composed of the National Liberal Party (PNL), Save Romania Union (USR), the Democratic Alliance of Hungarians in Romania (UDMR), the People's Movement Party (PMP) and a number of citizens' organizations representing national minorities.

⁵ See European Commission's [report on developments in Romania under the Cooperation and Verification Mechanism](#). See European's Commission's [2020 Rule of Law report on Romania](#).

⁶ MPs voted 261 to 139 in favor of the motion proposed. The no-confidence vote was triggered by a disputed bill backed by the government which would introduce changes to the election law, including two-round elections in mayoral races and how citizens abroad can cast their votes.

⁷ Out of 465 MPs, 226 registered for the session, short of the minimum of 233 required.

⁸ See [previous ODIHR election reports on Romania](#).

⁹ In paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves “to follow up promptly the ODIHR's election assessment and recommendations”

Law on Financial Activity of Political Parties and Electoral Campaigns (Political Finance Law), 2015 Law on Postal Voting, and the 2002 Law on Radio and Television Broadcasting (Broadcasting Law). The legal framework also includes government decisions and regulations of election management bodies on specific aspects of the electoral process, such as voter registration, political finance, and election day procedures.

The election-related legislation was modified in 2018 and 2019, and most recently in September 2020 when amendments were introduced to the Election Law, Political Finance Law, and the Law on Postal Voting. The changes largely replicated the amendments made ahead of the 2019 presidential election but were introduced in a hasty manner and without prior consultations.¹⁰ The amendments made changes in the out-of-country voting procedures and extended the period for application for postal voting by 30 days and out-of-country voting to two days, allowed people in queues to vote until midnight and provided voters an opportunity to download their ballots to facilitate the process of postal voting.¹¹ The amendments decreased the number of signatures required for candidate registration by half and introduced the possibility to submit them electronically. Other amendments provided that budget subsidies granted to political parties could to be used for campaigning, increased the number of political parties represented in the lower-level election administration, and extended the powers of the president of Permanent Electoral Authority (PEA) to decide on PEA structural and organizational matters.

Some of these changes were previously introduced in February by the government emergency ordinance (GEO) which was declared unconstitutional by the Constitutional Court on 12 March. The court ruled that election issues cannot be regulated by GEOs. Some ODIHR NAM interlocutors specifically criticized the practice of amending the laws through GEOs.

Most ODIHR NAM interlocutors expressed confidence in the legal framework, but noted that recent amendments were passed in a rushed manner and without public debate. Some ODIHR NAM interlocutors raised concerns that the extension of out-of-country voting to two days might be discriminatory to in-country voters who are allowed to vote only one day. Several ODIHR NAM interlocutors underlined the need for increased stability and predictability of the legislation, and its harmonization, as previously recommended by ODIHR.

C. ELECTORAL SYSTEM

The bicameral parliament is composed of 465 seats, consisting of a 136-seat Senate and a 329-seat Chamber of Deputies elected for four-year terms in a closed party-list proportional system.¹² Elections are to be held in 43 multi-member constituencies related to 41 counties, the municipality of Bucharest, and a constituency for citizens living abroad.¹³ Some ODIHR NAM interlocutors stated that the six MP mandates that represent the out-of-country constituency do not reflect the high number of voters abroad, challenging the equality of the vote.

To qualify for representation, parties must pass a national threshold of five per cent of valid votes or twenty per cent of valid votes in at least four constituencies. Coalitions must pass a higher threshold

¹⁰ Section II. 2.b. of the [2002 Venice Commission Code of Good Practice in Electoral Matters](#) (Code of Good Practice) recommends that “the fundamental elements of electoral law.... should not be open to amendment less than one year before an election.”

¹¹ Voters should apply security sticker on the ballot and insert it in the envelope sent in advance. These ballots should be delivered not later than three days prior to election day.

¹² The number of members of parliament is determined by a quota system: one deputy of the lower chamber per 73,000 citizens and one senator per 168,000 citizens.

¹³ Citizens abroad are represented by four seats in the Chamber of Deputies and two in the Senate. No official data is available on the number of citizens abroad, but estimates place the number around 3.5 million.

– an additional three per cent for the first additional party and one per cent for each party thereafter, up to a maximum of ten per cent. Independent candidates must pass the threshold of their constituency to be elected. Minority groups enjoy constitutionally guaranteed representation in parliament. Each recognized national minority has the right to participate in elections for one seat in the Chamber of Deputies, which is not subject to the five per cent threshold.¹⁴ Instead, organizations representing national minorities qualify for a seat if the number of votes received exceeds five per cent of the average number of votes needed to obtain one mandate.

D. ELECTION ADMINISTRATION

Elections are managed by two administrative structures: the Permanent Electoral Authority (PEA) and a three-tiered structure of election bureaus established for each election, headed by the Central Election Bureau (CEB). The mid-level comprises 41 Constituency Election Bureaus, one election bureau for the Municipality of Bucharest and one for citizens living abroad (BECs). Voting will be organized by some 18,800 Polling Station Election Bureaus (BESVs).

Voters residing abroad can vote by post or in person at consular and diplomatic representations or other designated locations determined by the MFA.¹⁵ The MFA is planning to organize voting in some 800 polling stations in 98 countries abroad. Postal votes sent back to Romania will be assigned to designated Election Bureaus for Postal Voting.¹⁶ According to September 2020 amendments voting will not be organized in countries where COVID-19 related restrictions exclude such a possibility.¹⁷ The MFA inquired with their diplomatic missions about the COVID-19 related restrictions to assess the conditions for conducting the vote. Prior registration for in-person voting abroad is not required, and a number of ODIHR NAM interlocutors stated that this could negatively impact the planning and delivery of election materials to the out-of-country polling stations.

The PEA is responsible for issuing decisions and instructions to supplement election laws, overseeing the electoral register, organizing voter education campaigns, supervising political and campaign finance, and ensuring logistical arrangements.¹⁸ The PEA is led by a president, appointed by a joint session of parliament, and supported by two vice-presidents. All three are appointed for an eight-year term and cannot be party members.¹⁹ According to the PEA, some 62 per cent of the permanent administration staff are women, with the three leadership positions occupied by men. Due to COVID-19 related restrictions and to increase transparency, the PEA started to broadcast its sessions online. The PEA plans to conduct voter information activities. For this election, the information campaign will focus on arrangements for out-of-country voting, encouraging voters abroad to vote by post to minimize health risks.

¹⁴ Nineteen groups are officially recognized as national minorities through their membership in the Council of National Minorities, a government consultative body. They are Albanians, Armenians, Bulgarians, Croats, Czechs, Germans, Greeks, Italians, Jews, Macedonians, Hungarians, Lipovan Russians, Poles, Roma, Ruthenians, Serbs, Slovaks, Turks, and Ukrainians. Czech and Slovak minorities are represented by the same organization. The Hungarian minority participates in elections at the national level. There is a maximum of 18 seats in the upcoming parliament made available for national minority representation.

¹⁵ As of 22 September, 12,201 voters abroad registered to vote by post and 3,939 at a polling station.

¹⁶ Those registered could either send their ballots to the assigned in-country election bureau or either send or deliver in-person to the diplomatic or consular office in their respective country of residence. An Election Bureau for Postal Voting will be created for each 10,000 citizens.

¹⁷ The MFA is promoting voting by post through online voter advertisements.

¹⁸ The Government Decision 745/2020 from 7 September established electoral calendar.

¹⁹ One vice-president is appointed by the President of Romania and the other by the prime minister. The current president was appointed in February 2019.

The CEB for the forthcoming elections was established on 11 September.²⁰ It oversees the electoral process, adjudicates appeals of lower-level decisions and tallies final results. It is composed of up to 18 members; five judges from the High Court of Cassation and Justice, the PEA president and 2 vice-presidents, and up to 10 representatives from parliamentary parties or election contestants.²¹ Each parliamentary party is entitled to a seat on the CEB and has priority at the allocation, including at lower-levels of the election administration, with the remaining seats filled after candidate registration. According to the law, the CEB and the lower-level election administration meetings are not open to media or election observers, but their decisions are publicly available.

BECs administer county-level activities, including training of the BESV presidents and adjudicating appeals of activities at polling stations and during the voting process. They are composed of three judges appointed from the local court, one PEA representative, and up to eight representatives of parliamentary political parties or election contestants.²² Recent amendments provided for broader representation of eligible parliamentary parties to be represented in lower-level election administration.²³

BESVs comprise a president and a vice-president, and up to eight representatives of parliamentary political parties or election contestants. BESV presidents and deputies are selected from a roster of electoral experts established as a pool of qualified and trained professionals. Out-of-country BESVs are composed of a president appointed by the chief of the diplomatic representation and from two to six representatives of parliamentary political parties or electoral contestants.²⁴

Most ODIHR NAM interlocutors expressed overall confidence in the work and the impartiality of the election administration at all levels, but some raised concerns about CEB's lack of institutional memory and accountability of the decision-making due to its temporary nature. Some concerns were raised regarding challenges of opening polling station abroad due to COVID-19 limitations and ability to recruit enough trained staff to fill lower-levels positions. According to some ODIHR NAM interlocutors, performance of election administration during local elections, including insufficiently timely decisions and lack of public outreach, diminished confidence in election administration. Many ODIHR NAM interlocutors underlined the need for robust voter information on election-day procedures and related COVID-19 regulations.²⁵

E. VOTER REGISTRATION

Citizens aged 18 years or older on election day are eligible to vote, unless disenfranchised by a court decision as part of a judicial sentence or for reasons of legal incapacity, including based on

²⁰ Due to concurrent election periods, the CEBs for local and parliamentary elections overlapped. Some ODIHR NAM interlocutors voiced concerns over inconsistent decisions taken on same or similar issues by the two CEBs.

²¹ The judges are randomly selected, and from amongst themselves they elect the CEB chairperson and deputy. The High Court of Cassation judges voiced their concerns to ODIHR NAM that their work in CEBs and BECs often affects their ability to perform their concurrent main functions at the court.

²² Bucharest Court of Law judges serve on the BEC of the constituency for citizens abroad.

²³ The amendments allow parties that did not participate in the last parliamentary elections but have at least 7 senators or 10 deputies by the beginning of the campaign to be represented in election commissions.

²⁴ Depending on the number of voters and based on the request from the chief of the respective diplomatic representation.

²⁵ The Ministry of Internal Affairs together with Ministry of Health adopted the public health and safety rules for 27 September local elections which will be replicated for the parliamentary elections. These include a limit on number of people present in the polling station, and the need to use personal protective equipment.

disability, which is at odds with international standards.²⁶ Further, the legislation specifies some types of offences to trigger the automatic deprivation of voting rights, leaving the decision on other types of offences to the discretion of the courts on a case-by-case basis.

According to the PEA, the number of voters is some 19 million. The voter registration system is passive and continuous. The PEA has overall responsibility for management of the permanent and centralized electoral register, which is based on a compilation of data from various state authorities.²⁷ Citizens may verify their data in the electoral register in person or online and can request changes throughout the year.

Based on residency records, voters are included into permanent voter lists and assigned to a polling station. Supplementary voter lists can be compiled in the polling station for citizens voting outside their place of registered residence.²⁸ The law provides for the use of a mobile ballot box for homebound voters and voters in inpatient and detention facilities.²⁹ Applications for mobile voting are limited to a two-hour period the day before election day. The majority of ODIHR interlocutors expressed confidence in the integrity of the voter registration process and general trust in the accuracy of the voter lists.

F. CANDIDATE REGISTRATION

Citizens with the right to vote can stand for election. Candidates for the Chamber of Deputies and Senate must be at least 23 and 33 years old, respectively. Candidates can be nominated by parties, coalitions, and organizations representing national minorities, or run independently.³⁰ One voter can sign in support of more than one nominee.

The CEB registers candidate lists at the national level. Following September 2020 amendments, the number of required supporting signatures was halved and contestants can submit their documents electronically. Contestants are required to submit signatures of at least 0.5 per cent of the total number of voters.³¹ BECs register candidate lists of parties, alliances and independent candidates standing in one or several constituencies; contestants require at least 0.5 per cent of the total number of voters permanently registered in the constituency where they intend to run. According to the PEA the law does not define a mechanism for signature verification, and they are only verified for

²⁶ See Articles 12 and 29 of the [2006 UN Convention on the Rights of Persons with Disabilities](#) (CRPD). See also paragraph 9.4 of the [2013 CRPD Committee's Communication No. 4/2011](#), which states that "Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities. Therefore, an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability, within the meaning of article 2 of the Convention".

²⁷ Data is collected from such sources as the Directorate of Persons Record and Databases Management, the General Directorate for Passports, National Authority for Citizenship and municipal authorities.

²⁸ These include eligible voters whose data were omitted from the voter list, voters with domicile outside the respective administration unit, voters with domicile abroad voting in the country or abroad in a different polling station than the assigned one, voters with reduced mobility, and polling station and security personnel on duty. To prevent multiple voting, the automated Information System for Monitoring Turnout and Preventing Illegal Voting (SIMPV), administered by the PEA with the support of the Special Telecommunications Service (STS) and the National Institute of Statistics (NIS) will be used in all PSs.

²⁹ According to PEA, voters in to COVID-19 quarantine will vote by mobile ballot box.

³⁰ Organizations representing national minorities that are part of the Council of National Minorities and that have obtained a seat in either house of parliament may nominate candidates without further pre-conditions. If another organization representing a national minority wants to a nominate candidate(s), it should obtain a status of 'public utility' and provide a list of persons constituting at least 15 per cent of the citizens who declared themselves as belonging to the respective minority.

³¹ On 21 September, PEA published the rules for collection and submission of supporting signatures.

compliance with technical requirements.³² The CEB and BECs must decide on the registration of contestants within 48 hours of receiving registration documents.³³ Most parties met by the ODIHR NAM do not have specific internal policies to promote women candidates.

Most of the ODIHR NAM interlocutors expressed confidence in the inclusiveness of the candidate registration process and welcomed the easing of candidate registration requirements and procedures. All parliamentary party met by the ODIHR NAM stated their intention to nominate candidates.

G. ELECTION CAMPAIGN

The campaign period will start on 6 November and end at 7:00 on 5 December. The legislation provides a basis for equitable campaigning conditions for all contestants and includes specific and extensive rules, including on the format and placement of printed material. According to the law, the BECs are responsible for oversight of fair conduct of the campaign. The use of billboards is prohibited as is distributing many types of campaign material. According to ODIHR NAM interlocutors, due to these restrictions, most of the campaign activities are taking place outside of the officially regulated campaign period, which leaves these activities without effective oversight.

Most parties met by the ODIHR NAM expect to campaign without hindrance. The campaign is expected to primarily focus on topics such as public health, economy, corruption, and trust in the judiciary. The parties met by the ODIHR NAM mentioned that the restrictions caused by the pandemic forced them to change their campaign strategies with minimum resources allocated to traditional campaign methods such as rallies, door-to-door campaigning and distribution of posters and materials, and the focus shifting to campaigning online. Campaigning on social networks and in the online media is not regulated by the law. Amid other measures related to preventing the spread of COVID-19, public gatherings of more than 100 persons outdoors and 50 indoors are prohibited.

Most interlocutors anticipated a low-key campaign, although some noted concerns of use of inflammatory language and intolerant rhetoric. Some ODIHR NAM interlocutors alleged that the misuse of state resources and vote buying is still attempted in economically deprived regions of the country, and possible instances of intimidation may occur in isolated cases.

H. CAMPAIGN FINANCE

The financing of election campaigns is regulated by the Political Finance Law. Political parties are entitled to public funding, proportionate to the number of mandates won at the last national and local elections, with additional funds provided according to the number of mandates received by women.³⁴

Parties may receive donations from individuals and legal entities up to an annual limit set at 200 and 500 minimum gross salaries respectively.³⁵ Parties can also apply for loans from individuals (up to 200 minimum gross salaries) and from financial institutions (up to 500 minimum gross salaries).

³² Sections I.1.3.iii and I.1.3.iv of the [2002 Venice Commission Code of Good Practice in Electoral Matters](#) (Code of Good Practice) state that “Checking of signatures must be governed by clear rules, particularly concerning deadlines;” and “The checking process must in principle cover all signatures; however, once it has been established beyond doubt that the requisite number of signatures has been collected, the remaining signatures need not be checked”.

³³ Electoral authorities coordinate with several government agencies on candidate registration, including the National Integrity Agency, which focuses on reviewing candidate declarations on assets/interests.

³⁴ The total amount of state funding allocated to the political parties in 2020 was increased due to increase of the state budget by a GEO 135/2020. In 2019, political parties received some EUR 52 million from public funding.

³⁵ Currently, the national minimum gross salary set at 2,230 RON (approximately EUR 458).

An expenditure ceiling exists for each candidate (60 minimum gross salaries) and the limit of additional expenditure by parties and coalitions is calculated by adding up the maximum values for each proposed candidate.³⁶

The PEA is mandated with oversight functions and can initiate investigations and issue fines. Within 15 days after election day, parties and candidates must submit a detailed report of their campaign expenditure to the PEA which must be examined within 30 days. The report must be published online and in the official gazette within 60 days from the publication of results. No interim report is required. The review is limited to verifying whether the declared expenditures match the donations and no thorough auditing and investigation of expenditures is undertaken.³⁷ The PEA can impose monetary sanctions in its decisions, which can be challenged to the courts.

The majority of ODIHR NAM interlocutors from the political parties expressed satisfaction with the party and campaign finance framework. However, a number of ODIHR NAM interlocutors noted that the significant amount of public funds available to the parties during the campaign could contribute to an unlevel playing field between the contestants, particularly newly formed parties or candidates running independently. Some ODIHR NAM interlocutors noted that further measures for improving the overall transparency and effective oversight of the party and campaign funding could be introduced.

I. MEDIA

The media landscape is diverse with many outlets operating in the country and offering a plurality of views. In addition to Public Television and Radio, there are many privately-owned print and broadcast media outlets, as well as an increasing number of online media. According to most ODIHR NAM interlocutors, the media are influenced by political and economic forces through direct or indirect ownership.

Media coverage during the election campaign is regulated by the election law, the Broadcasting Law and the National Audiovisual Council (CNA) regulations. The legal framework provides a sound framework for freedom of the media, and obliges all media to ensure balanced, fair, and equitable coverage and provides for free access of candidates to the public broadcasters. The public broadcaster intends to organize different formats of campaign-related programmes, including interviews and debates among candidates, as well as a voter information campaign in co-operation with the PEA.³⁸ Electoral contestants can purchase advertisement time in the private broadcasters on equal conditions, which should be clearly labeled as such.

The CNA is the media regulatory body that supervises the broadcast media and is mandated to impose sanctions on outlets that violate the law or CNA regulations.³⁹ The CNA is obliged by law to regulate campaign in the media starting from ten days after the government decision announcing

³⁶ The Council of Europe's Group of States Against Corruption (GRECO) in its [2017 Addendum to the Second Compliance Report of Romania of the Third Evaluation Round](#), found the amount of donations disproportionately high.

³⁷ Controls over the state subsidies and reimbursements are also completed by the Court of Auditors.

³⁸ The public broadcaster is not planning to produce news covering election campaign, due to challenges posed by the COVID-19 pandemic.

³⁹ The CNA has 11 members. The Senate and the Chamber of Deputies and the government each nominate 3 members and 2 are nominated by the president. The CNA, in its current composition, was elected in 2018.

the election comes into force.⁴⁰ The CNA informed the ODIHR NAM that they are planning to conduct qualitative and quantitative monitoring of a number of television and radio channels and to issue weekly media monitoring reports. They also plan to hold and broadcast sessions online.

Several ODIHR NAM interlocutors underlined increasing the media polarization and noted cases of alleged intimidation and violence against journalists. Some of them stated that EU's General Data Protection Regulation (GDPR) is often invoked as a ground for denying access to information, or to threaten and prosecute journalists in connection with their investigative reporting.⁴¹

J. COMPLAINTS AND APPEALS

Decisions of lower-level election bodies are appealed to the superior election bureau through the hierarchy. CEB decisions on formation of election coalitions for candidate support and on the formation of election bodies can be contested before the High Court of Cassation. The law establishes an expeditious process with one to three calendar days allotted for appeals and decisions.

Voter list complaints are filed with the county administrative offices or local PEA office, and can be appealed to the local court. Campaign violation cases can be filed with BECs or the police. Decisions on candidate registration, final decisions on campaign violations, and the final election results can all be contested before the Constitutional Court. The Ombudsperson has the right to challenge constitutionality of legal provisions. Overall, ODIHR NAM interlocutors expressed confidence in the impartiality of the election administration and courts in resolving electoral disputes.

K. ELECTION OBSERVATION

The law provides for observation of the voting and counting by citizen and international observers, but does not regulate observation of other stages of the electoral process. International observers are accredited by the PEA on request of the MFA, while the media and citizen observers are accredited by the BECs. By law, sessions of the elections bodies at all levels are not open to observers. Several civil society organizations are planning to conduct election day observation, however, some raised concerns about possible limitation to observation due to COVID-19 restrictions. While the public health and safety rules pose a limit on the number of persons allowed in the polling stations, the PEA assured ODIHR NAM of its commitment to establish conditions for election observation.

IV. CONCLUSIONS AND RECOMMENDATION

Most of the ODIHR NAM interlocutors welcomed an ODIHR election observation activity and viewed it as a means to promote confidence in the electoral process. In considering an observation activity, the ODIHR NAM has taken into account the various findings outlined in this report and the concerns expressed by stakeholders. These issues relate to the implementation of the recently amended legal framework, challenges in administering the elections in and out-of-country including

⁴⁰ Broadcasters have to inform the CNA of their intention to cover the election campaign and submit their schedules for electoral programmes by the set deadline. The CNA interlocutors voiced concerns about the lack of methodology and training to monitor online streamed audiovisual content, as required by the [EU Directive 2018/1808 on Audiovisual Media Services](#).

⁴¹ According to Freedom House's [Nations in Transit](#), the rating of independent media is 3.75 out of 7 in 2020. In Reporters Without Borders's [World Press Freedom Index](#), out of 179 countries Romania dropped in its rating since 2018 by 4 points and is now ranked 48.

those posed by the COVID-19 pandemic, concerns over potential irregularities in the conduct of the electoral campaign in particular regions of the country, transparency of the campaign finance, and the media coverage of the campaign. The ODIHR NAM interlocutors did not raise concerns regarding the conduct of election day proceedings.

Based on the findings of this report, the ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM) to assess the forthcoming parliamentary elections for its compliance with OSCE commitments, other international obligations, and domestic legislation. In addition to a core team of experts, the ODIHR NAM recommends that 20 long-term observers be seconded by participating States to follow the electoral process countrywide. While the mission would visit a limited number of polling stations on election day, comprehensive and systematic observation of election day proceedings is not envisaged. In line with ODIHR's standard methodology, the LEOM would include a media monitoring element. Given the number of concurrent election-related activities taking place across the OSCE region in 2020, the deployment of an LEOM to the 2020 parliamentary elections in Romania will be contingent upon availability of resources.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs

Iulian Ivan, Special Envoy for Electoral Processes

Dragos Hotea, Director, Department for Human Rights, Protection of Minorities and the Council of Europe

Andreea Mocanu, Focal Point for Election Observation Activities

High Court of Cassation and Justice

Adrian Ghiculesco, Judge

Rodica Zaharia, Judge

Alina Macavei, Judge

Simona Cirnaru, Judge

National Anticorruption Directorate

Paul Dumitriu, Prosecutor

Anca Jurma, Prosecutor, Counsellor of the chief prosecutor

Ombudsman

Zsolt Molnar, Deputy Ombudsman

Laura Chitan, Counsellor

Monica Acatrinei, Counsellor

Permanent Electoral Authority

Constantin-Florin Mitulețu-Buică, President

Cristian Leahu, Head of Legal Department

Sorin Gabriel Lazăr, Head of International Co-operation and Public Relations Department

Constantin Rada, General Director of Department for Control of Political Parties Finance and Electoral Campaign

Protescu Mircea, Head of Electoral Organizational Support Department

Denisa Marcu, Director for European Affairs and Parliament Liaison

National Integrity Agency

Florin Ionel Moise, Vice-President

Silviu Ioan Popa, General Secretary

Political Parties

Social Democratic Party (PSD)

Angel Tîlvar, Member of Parliament

Maria Comănescu, Assistant to Member of Parliament

National Liberal Party (PNL)

Cezar Preda, Member of Parliament

Victor Paul Dobre, Member of Parliament

Daniel Fenechiu, Member of Parliament

Viorel Riceard Badea, Member of Parliament

Save Romania Union (USR)

Radu Mihai Mihail, Member of Parliament

George-Nicolae Marussi, Member of Parliament

Cristian Iaz, Counsellor

Democratic Alliance of Hungarians in Romania (UDMR)

Dora Szilagyi, Parliamentary Counsellor

Eniko Laczkiko, State Secretary of the Department for Interethnic Relations

Popular Movement Party (PMP)

Dorel-Constantin Onaca, General Secretary

Cristian Toma, Chief Counsellor

Gabriel Rădulescu, Deputy in the Chamber of Deputies

Parliamentary Group PRO EUROPA

Gabriela-Maria Podașcă, Member of Parliament

Mircea-Titus Dobre, Deputy

Media

Carla Tompea, Programme Director, Public Broadcaster

Mădălina Rădulescu, Director of News Programmes, Public Broadcaster

Ion Stavre, Desk-officer (elections), Public Broadcaster

Elena Spanily, Director of International Relations Department, Public Broadcaster

Ioana Anghel, Counsellor, National Audiovisual Council

Elena Șincă, Department of Regulations, National Audiovisual Council

Ana Poenariu, Investigative journalist, RISE Project

Civil Society

Ionut Codreanu, Programme Co-ordinator, ActiveWatch

Elena Calistru, President, Funky Citizens

Septimius Parvu, Election Expert, Expert Forum

Maria Krause, Election Expert, Expert Forum

Georgiana Ciuta, Project Manager, Transparency International

Irina Lonean, Project Co-ordinator, Transparency International

Council of National Minorities

Alin Valentin Stalenoî, Community of Russian Lipovans in Romania

Christine Manta-Klemens, Democratic Forum of Germans

Andi Grosaru, Association of Italians

Eduard Kupferberg, Federation of Jewish Communities in Romania

Radu Săvulescu, Association League of Albanians

Eniko Laczkiko, Democratic Alliance of Hungarians

Dóra Szilágyi, Democratic Alliance of Hungarians

Radu Alexandru Râșca, Union of Polish in Romania “Dom Polski”

Adriana Petraru, Department for Interethnic Relations