



Office for Democratic Institutions and Human Rights

ROMANIA
PRESIDENTIAL AND PARLIAMENTARY
ELECTIONS

28 NOVEMBER 2004

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

20–24 September 2004



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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an invitation from the Permanent Mission of Romania to the OSCE to observe the presidential and parliamentary elections scheduled for 28 November 2004, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) to Romania from 20 to 24 September 2004. The NAM was led by Ambassador Stephen Nash (UK), and also included Stefan Krause, Election Expert, and Vadim Zhdanovich, ODIHR Election Adviser.

The purpose of the NAM was to make a preliminary assessment of the conditions and level of preparation for the elections, in line with OSCE commitments, and to advise on the establishment of an election observation mission (EOM).

The NAM held meetings in Bucharest with representatives of the Romanian authorities, the election administration, political parties, the media, civil society, and the international community (see Annex for list of meetings).

The ODIHR is grateful to the Ministry for Foreign Affairs of Romania for the assistance provided to the NAM during its visit.

II. EXECUTIVE SUMMARY

The 28 November 2004 presidential and parliamentary elections in Romania will elect the political leadership that is widely expected to lead Romania into the European Union in 2007. Interlocutors expect a vigorous campaign for both the presidential and parliamentary contests.

The upcoming elections will be held under two new election laws passed by Parliament in September 2004. Among other amendments, the new legislation introduces a permanent election administration. The new laws also contain some problematic provisions, e.g. on domestic observation and on the use of voter cards, which could affect transparency and the integrity of the vote.

The proportion of women members of parliament is widely expected to increase as some parties have nominated a high percentage of women candidates.

The national minority groups in Romania are Hungarian, Roma, Ukrainian, German, Russian, Turkish, Polish and other. The Constitution of Romania and the Election Law grant to legally constituted organizations of citizens belonging to national

minorities, in case these could not obtain in the election at least one deputy or senator's mandate, the "right" to a mandate, if they have obtained throughout the country a number of votes equal to at least five per cent out of the average number of votes validly expressed throughout the country for the election of one deputy.

The newly-established Permanent Election Authority is not yet fully staffed or operational. Its president and two vice presidents will become members of the Central Election Bureau (BEC) once this body has been formed. The BEC, with the County Election Bureaus operating in each of the 42 constituencies, will carry out the elections. While most interlocutors expressed general trust in the election administration, some pointed out that the mechanism for appointing chairpersons of Polling Boards could benefit the ruling Social Democratic Party. The voter lists, which are compiled on the basis of the permanent residency registers, have not been mentioned as a potential area of concern, but some interlocutors were concerned about the integrity of voting abroad.

Romania has a free and diverse media landscape in which the vast majority of media are privately-owned. Many interlocutors said that issues of media ownership, as well as tax debts of TV companies to the state budget, could affect media coverage of the election campaign.

The multi-party composition of Polling Boards, and the relatively large number of domestic observers to be deployed throughout the country, should ensure a substantial level of transparency, particularly on election day. However, all of the NAM's interlocutors uniformly expressed the view that ODIHR could provide a valuable contribution to enhancing confidence in the electoral process.

III. FINDINGS

A. POLITICAL CONTEXT

The 28 November 2004 presidential and parliamentary elections in Romania are widely seen as very important for the country's future, as many significant events and decisions are expected to take place during the next parliament's term. Most importantly, the next government is expected to lead Romania to full European Union accession in early 2007. Much of the present government's energy is directed towards EU accession negotiations, with a hope that these may be completed by the end of this year.

Following the extension of the presidential mandate from four to five years by the October 2003 constitutional referendum, these elections will be the last ones in the near term at which voters elect a president and a parliament at the same time. The current president, Ion Iliescu, may not seek reelection.

Voters will elect the two chambers of parliament, the Chamber of Deputies and the Senate, through a proportional representation system. The president is elected by popular vote, with a run-off if no candidate receives the required majority in the first

round. The number of parties and presidential candidates participating is not yet known as the elections have yet to be called officially.

Many interlocutors said that they anticipated the ruling Social Democratic Party (PSD) and the “Justice and Truth” electoral alliance, formed by the Democratic Party (PD) and the National Liberal Party (PNL), to be approximately equal in strength: both are competing for the political centre, and are members of the Socialist International. Consequently, they expect the election campaign to be very vigorous, and that the presidential race will run to a second round.

Despite the significance of these elections and the expected close race between the main contestants, several interlocutors have indicated that they expect a rather low voter participation.

Since virtually all political parties support EU membership (and previously supported Romania’s entry into NATO), it is generally expected that the campaign will focus on social and economic issues. Many interlocutors indicated that the issue of corruption could be high on the agenda.

B. LEGAL FRAMEWORK

The legal framework for elections in Romania has changed since the last election cycle. Substantial amendments to the Constitution were adopted by referendum in October 2003. Before the local elections in June 2004, a new law on local elections was passed, and in September 2004, Parliament adopted by a wide consensus new laws governing presidential and parliamentary elections, replacing the 1992 laws.

During the NAM’s visit, the new election laws had yet to be signed by the President and the NAM had no access to an English translation of the new legislation. Nonetheless, it appears that the new laws introduce some improvements, such as the creation of a permanent election administration. At the same time, the NAM heard that shortcomings noted in previous elections remained unaddressed, and some potentially problematic new provisions were introduced. Some of these could affect the transparency and integrity of the elections: for example, the provision that permits only one domestic observer per polling station, abolishing of voter cards and establishing the special polling stations at train terminals and airports.

The Romanian Parliament consists of two chambers, the Chamber of Deputies and the Senate. Both chambers are elected for a four-year mandate by a proportional representation system, under which the country is divided into 42 constituencies (corresponding to 41 counties and the city of Bucharest). On average, one deputy is elected per 70,000 inhabitants, and one senator per 160,000 inhabitants. Thus, the new Parliament will include 314 deputies (plus deputies representing national minorities, see Section E) and 137 senators. To gain parliamentary representation, political parties must receive at least 5% of the national vote; alliances of two parties must receive 8%, three-party alliances, 9%, and alliances of four and more parties, 10%. Independent candidates can run (and many are expected to do so) if they gather support signatures of at least 5% of registered voters in their constituency; they must

pass the electoral threshold of their constituency (i.e. the number of votes needed to obtain one mandate) to be elected.

The President is elected by popular vote for a five-year mandate and can serve no more than two terms. Presidential candidates must collect at least 200,000 support signatures from eligible voters to register. In order to be elected in a first round of voting, a candidate must receive the votes of the majority of all registered voters. If no candidate is elected in the first round, the two top candidates contest a run-off, in which the candidate who receives the higher number of votes is elected.

Voter lists are compiled based on residency registers, and most interlocutors expressed their trust in this system. Voters generally have to vote at the polling station of their permanent place of residence. There is no absentee or postal voting, but voters may vote at special polling stations e.g. at train stations or airports, under certain conditions. In addition, citizens residing or traveling abroad can vote at Romanian embassies and consular offices.

A new law on political party financing, including campaign financing, will be in force at the time of the election. The NAM heard that this was still an area of concern, and that in the June 2004 local elections, all parties appeared to spend more than permissible under the law.

C. ELECTION ADMINISTRATION

Recent legal amendments have introduced substantial changes to the election administration, the most significant of which is the creation of a Permanent Electoral Authority (AEP). Previously, the bodies administering the elections (the Central Election Bureau, County Election Bureaus, and Polling Boards) were all established on a temporary basis once elections were called. These election bureaus continue to function during an election period, but will receive assistance from the AEP. There will be 16,000 Polling Boards throughout the country, and the NAM heard particular concern expressed about the potential for abuses in rural areas.

The AEP is responsible to Parliament and is headed by a president and two vice-presidents, who are nominated by the Romanian President, Prime Minister, and Parliament, respectively. This appointment mechanism has been criticized by some representatives of civil society as giving the ruling Social Democratic Party excessive influence, in particular given the small size of the AEP leadership. Once elections have been called and the Central Electoral Bureau (BEC) has been established, the president and vice-presidents of the AEP become *ex officio* members of the BEC. Of the AEP's 105 salaried positions, 65 are assigned to the central office, and 40 to the four regional centers; however, only about half of the central positions, and none of the positions in regional offices, have been filled as of now. Therefore, it is unclear what kind of logistical support the AEP will be able to provide to the BEC and the County Election Bureaus.

Given the fact that the election administration structure is in a transitional period, and that the AEP will not be fully functional by November, the training of election administrators becomes particularly significant. Some of the NAM's interlocutors are

concerned about the legal provision which allows the county prefect (a government appointee) to draw up the list of persons from which the presidents and vice-presidents of the Polling Boards are selected by the lottery. Although these appointees are not supposed to be party members, there are fears that they could formally resign their party membership just for the election period, therefore jeopardizing Polling Board neutrality.

Romania uses permanent voter lists which are based on the residency registers kept at registration offices in each municipality. Voter lists are updated annually on 1 March, and also within 15 days of calling an election. They are displayed publicly by the mayor's office, and citizens may request corrections. Voter registers for voting abroad will be compiled by embassies and consular offices. Interlocutors generally expressed their trust in the quality of the voter registers, although some of them were less confident about the voter lists which will be used abroad.

D. THE MEDIA

Romania boasts a wide and diverse range of media. In addition to public television and radio, many privately-owned print and broadcast media outlets operate in the country. The number, variety and range of these outlets provide voters with plentiful and diverse information enabling them to make an informed choice. At the same time, however, there is concern that political interests of media owners and the difficult economic situation of many outlets may have a bearing on individual broadcasters' political coverage, especially during the campaign period. Several media outlets are seen as close to certain political parties, especially the ruling Social Democrats, and at least one major television station is owned by the leader of a political party (Antena 1 is owned by Dan Voiculescu, chairman of the Humanist Party of Romania which is allied with the PSD). The fact that several broadcasting companies have high tax debts to the state budget could also make them vulnerable to editorial leverage. Reports during the past year of threats and physical attacks against journalists, especially those investigating links between corruption and politics, have raised additional concerns about the environment in which the independent media operate.

The output of the broadcast media is scrutinised by the National Audiovisual Council (CNA), an autonomous body responsible to Parliament. This involves daily monitoring. If necessary, the CNA can impose sanctions on outlets which violate the law or CNA regulations. Most interlocutors did not question the CNA's neutrality, although some media representatives thought that the Council was interpreting the rules in an overly strict manner. However, this seemed to apply not so much to political issues, but rather to instances of violence, nudity, etc..

Public television (TVR) has begun to assert a more independent role since its transformation from state to public service broadcaster. At the same time, the CNA has tried to reduce the direct influence of political parties on public radio and television. On 23 September, the Parliament's Culture Committees, in a joint sitting, voted against acceptance of TVR's annual report for 2003 while approving those of public Romanian Radio and of the CNA. Top TVR managers, in a meeting with the NAM, said that their attempts to be independent of political interference may have

been behind the rejection of their report; they claimed to be subject to significant political pressure during this pre-campaign period.

The new election law regulates, in detail, the rules for media coverage of the election campaign, which officially lasts for 30 days. Several representatives of the private media raised with the NAM their concern about a provision which does not permit them to charge contestants for broadcasting campaign spots, apart from production costs. While such a provision is intended to provide a more level playing field, it is possible that some private media will decide not to broadcast such spots at all, therefore limiting voters' access to election information.

E. PARTICIPATION OF NATIONAL MINORITIES AND WOMEN

A total of 19 national minorities are recognized by the Romanian authorities and are represented on the Council of National Minorities. The two biggest minority groups are the Hungarians (approximately 1.5 million i.e. around 7% of the total population), who live predominantly in Transylvania and form the majority in two counties, and the Roma (who “officially” number around 530,000, but who are claimed by some to total as many as more than one and a half million), who are dispersed throughout the country.

Each recognized national minority is entitled to one seat in the Chamber of Deputies which is not subject to the five per cent threshold. Instead, organizations representing national minorities qualify for a seat if the number of votes they receive equals 10% of the average number of votes needed to obtain one mandate, provided the organization is already represented in Parliament. Under the new election law, organizations not represented in Parliament need to fulfill certain stringent membership requirements in order to run in elections. This provision arguably creates unequal conditions for national minority organizations.

In the outgoing Parliament, 18 national minorities were represented by one deputy each. The Democratic Union of Hungarians in Romania passed the five per cent threshold in 2000 and formed a parliamentary group, although some doubt is being expressed as to whether they will achieve this again this time. While most minorities generally exhibit a voting activity comparable to the national average, turnout among the Roma community is estimated to be lower. In addition, there are estimates that as many as 20% of the Roma population does not have identity documents and are therefore not able to vote.

The participation of women in Romanian politics appears to be increasing at all levels. Following the June 2004 local elections, the share of women councillors has increased from an average 6% on local and county councils in 2000 to 11% in local councils, and 14.9% in county councils. The proportion of women mayors has increased from 3% to 3.8%.

Under the new parliamentary election law, and in line with European Union recommendations, candidate lists for both chambers of Parliament must ensure the representation of both genders. For the upcoming parliamentary elections, some parties have introduced gender quotas. For example, both the Social Democratic Party

and the Democratic Party told the NAM that their lists will include some 30% of women in eligible positions. Since these figures are considerably higher than the 10–15% of women candidates on the lists of major parties in 2000, the share of women in Parliament can be expected to increase substantially from the 10.4% (Chamber of Deputies) and 7% (Senate) elected in 2000.

As regards presidential candidates, one of the two women who had announced their intention to run, withdrew in late September. Thus, it remained unclear at the time of writing whether more women would contest the presidential election than in 2000, when only one of the 12 candidates was a woman.

IV. CONCLUSIONS AND RECOMMENDATIONS

Virtually all of the NAM's interlocutors stressed the importance of the 28 November presidential and parliamentary elections, the last ones before Romania's anticipated entry into the European Union in 2007. Many said that they foresaw a vigorous campaign. In this context, interlocutors stressed the importance of media freedom, and of ensuring a minimum of media bias; also, corruption was a recurring concern, with implications for potential abuses in campaign financing. Organizationally, these elections will be the first ones held under the new election laws and with assistance from a permanent election administration, which is in the process of being established.

All of the NAM's interlocutors, including representatives of the international community, welcomed the prospect of observation by the ODIHR. Many, including in particular representatives of political parties and civil society, stressed that international observation remains necessary to ensure transparency and to promote public confidence in the elections. Several interlocutors were of the view that the climate for elections had deteriorated since 2000, referring to the October 2003 referendum on the Constitution and the June 2004 local elections as examples of this.

The multi-party composition of Polling Boards, and the relatively large number of domestic observers to be deployed throughout the country, should ensure a substantial level of transparency, particularly on election day. However, all of the NAM's interlocutors uniformly expressed the view that ODIHR could provide a valuable contribution to enhancing confidence in the electoral process.

Given the NAM's findings, the ODIHR is preparing to undertake an Election Assessment Mission, consisting of six election experts to be deployed for approximately two weeks.

ANNEX

LIST OF MEETINGS

Government

Mr. Bogdan Aurescu, State Secretary, Ministry of Foreign Affairs
Mr. Răzvan Rusu, General Director, General Directorate for Enlarged Europe, Ministry of Foreign Affairs
Ms. Andreea Chiriac, Deputy Director, OSCE, Council of Europe and Human Rights Directorate, Ministry of Foreign Affairs
Ms. Anca Ilinoiu, General Director, Policy Planning Department, Ministry of Foreign Affairs
Mr. Cornel Feruță, Director, Western Balkans and Regional Cooperation Department, Ministry of Foreign Affairs
Ms. Carmen Ștefan, Head of Administrative Program Department, Ministry of Administration and Interior
Ms. Aurelia Ilie, Director General, Department for European Integration and International Relations, Ministry of Administration and Interior
Ms. Elena Ciocan, Deputy Director General, Department for European Integration and International Relations, Ministry of Administration and Interior
Dr Cristian Jura, State Secretary, Director, Department for Inter-ethnic Relations
Mr. Ilie Dincă, Deputy Director, Department for Inter-ethnic Relations

Parliament

Mr. Aristide Roibu, Chairman, Commission of Judicial Affairs, Appointments, Discipline, Immunities and Validation, Senate of Romania

Election Administration

Mr. Octavian Opreș, President, Permanent Electoral Authority
Mr. Ionel Fleșariu, Vice President, Permanent Electoral Authority
Mr. George Poede, Permanent Electoral Authority

Other Public Authorities

Mr. Ralu Filip, President, National Audiovisual Council (CNA)
Mr. Radu Teodorescu, Member, CNA
Mr. Dan Grigore, Member, CNA
Ms. Ileana Dănălache, Spokesperson, CNA

Political Parties

Mr. Dan Nica, Election Campaign Director, Social Democratic Party (PSD)
Mr. Dan Mihalache, Executive Secretary, PSD
Mr. Titus Corlățean, Spokesman, PSD
Mr. Corneliu Vadim Tudor, President, Greater Romania Party (PRM)

Mr. Constantin-Dorel Onaca, Vice President, PRM
Mr. Traian Băsescu, President, Democratic Party (PD)
Mr. Vasile Blaga, Vice President, PD
Mr. Adrian Videanu, Vice President, PD
Mr. Mihai Stănișoară, Executive Secretary, PD
Mr. Călin Popescu Tăriceanu, Vice President, National Liberal Party (PNL)
Mr. Gheorghe Flutur, Vice President, PNL
Mr. Paul Păcuraru, Vice President, PNL
Mr. Cristian David, International Secretary, PNL
Mr. Béla Marko, President, Democratic Alliance of Hungarians in Romania (UDMR)
Mr. Márton Árpád, Member of Chamber of Deputies, UDMR

Non-Governmental Organizations

Mr. Cristian Pîrvulescu, President, Pro Democrația Association
Mr. Adrian Sorescu, Executive Director, Pro Democrația Association
Mr. Nicolae Ștefănescu-Drăgănești, Member of Directing Council, League for the Defence of Human Rights (LADO)
Ms. Laurenția Mariana Mereuță, Executive Director and Legal Adviser, LADO
Ms. Roxana Ciutacu, Executive Assistant, LADO

Media

Mr. Valentin Nicolau, President – General Manager, Romanian Television (TVR)
Mr. Titi Dincă, Director, Programme Division, TVR
Ms. Elena Spanily, Director, International Relations, TVR
Mr. Paul Șoloc, Editor-in-Chief, TVR
Mr. Cristian Nițulescu, Editor-in-Chief, TVR
Mr. Ion Stavre, Coordinator of Election Programs, TVR
Mr. Sorin Oancea, Vice President, Antena 1 TV
Mr. Vlad Petreanu, Editor-in-Chief of News Programs, Antena 1 TV
Mr. Cristian Burci, President, Prima TV
Mr. Cristian Tudor Popescu, President, Romanian Press Club
Mr. Gabriel Stănescu, “Gardianul” newspaper
Mr. Victor Roncea, “Ziua” newspaper
Mr. Dan Preda, Member of the Council of Honor, Romanian Press Club

International Diplomatic Community

Mr. George Panaiotov, Charge d’Affaires ad interim, Embassy of the Republic of Bulgaria
Mr. Asen Tutekov, Second Secretary, Embassy of the Republic of Bulgaria
Mr. Onno Simons, Charge d’ Affaires, Delegation of the European Commission to Romania
Mr. François Delahousse, First Councilor, Embassy of the French Republic
Mr. Norman Walter, Minister-Counsellor, Embassy of the Federal Republic of Germany
Mr. Botond Zakonyi, Embassy of Hungary
Ms. Nienke Trooster, Deputy Head of Mission, Royal Netherlands Embassy

Mr. Vitali Treapitin, Counsellor, Embassy of the Russian Federation
Mr. Alexander Kylikovsky, First Secretary, Embassy of Ukraine
Mr. Robert S. Gilchrist, Political Counselor, Embassy of the United States of America
Mr. Francois Delahouse, First Counsellor, Embassy of France

International Non-Governmental Organizations

Mr. Nicholas Demeter, Political Party Program Director, National Democratic Institute for International Affairs (NDI)
Ms. Dana Diaconu, Director of Civil Society Program, NDI