



Office for Democratic Institutions and Human Rights

ROMANIA

PARLIAMENTARY ELECTIONS 9 DECEMBER 2012

**OSCE/ODIHR Election Expert Team
Final Report**



**Warsaw
16 January 2013**

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY.....	1
II.	INTRODUCTION AND ACKNOWLEDGEMENTS.....	3
III.	POLITICAL BACKGROUND.....	4
IV.	ELECTORAL SYSTEM AND LEGAL FRAMEWORK.....	4
A.	Electoral System	4
B.	Legal Framework	5
V.	ELECTION ADMINISTRATION	6
VI.	VOTER REGISTRATION	8
VII.	CANDIDATE REGISTRATION	10
VIII.	ELECTION CAMPAIGN	11
IX.	POLITICAL FINANCE	12
X.	MEDIA	14
A.	Legal Framework for the Media	14
B.	Media Coverage of the Elections.....	16
XI.	COMPLAINTS AND APPEALS.....	17
XII.	PARTICIPATION OF NATIONAL MINORITIES	18
XIII.	CITIZEN AND INTERNATIONAL OBSERVERS.....	20
XIV.	ELECTION DAY.....	21
XV.	RECOMMENDATIONS.....	22
	ANNEX: OFFICIAL ELECTION RESULTS	26
	ABOUT THE OSCE/ODIHR	28

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I. EXECUTIVE SUMMARY

Following an invitation from the Government of Romania to the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), on 25 November 2012 the OSCE/ODIHR deployed an Election Expert Team (EET) for the 9 December parliamentary elections. The OSCE/ODIHR EET assessed several aspects of the electoral process, particularly the legal framework, election administration, media environment, and minority participation.

The 9 December parliamentary elections followed a 29 July referendum on the impeachment of the President. Although the referendum failed as the voter turnout fell short of the required threshold, the issue featured prominently in the electoral campaign. The campaign was highly polarized, but lacked serious debate on policy issues. With candidates running in single-member districts, candidates focused on door-to-door campaigning and small meetings with voters.

The parliament is bicameral with an undetermined number of deputies and senators. Candidates run in single-member districts and are elected either by obtaining an absolute majority of votes in their district or through mandate allocation designed to ensure proportional representation at the national and county levels. Additional allocation of mandates in proportion to the votes received by various parties and coalitions results in the total number of members of parliament changing from one election to another, depending on the results. The election system is complicated and leaves many voters uncertain of the relationship between their votes and the outcome.

Each type of election is governed by a different legal framework. For parliamentary elections, the primary legislation is the 2008 Law for the Election to the Chamber of Deputies and the Senate (Election Law). While the Election Law generally provided an adequate framework for democratic elections, many contradictions and vague provisions had to be addressed by emergency government ordinances and Central Election Bureau (CEB) decisions adopted in the election period.

According to interlocutors, the elections were administered professionally and efficiently by the three-tiered *ad hoc* election administration consisting of the CEB, the Constituency Election Bureaus (BECs), and the Polling Station Bureaus (BESVs), as well as by the Permanent Electoral Authority (PEA) that supports the election bureaus during elections and co-ordinates electoral reforms between elections. All interested electoral contestants were represented on the bureaus and no complaints about the composition of the CEB or BECs were filed. The CEB and BECs held regular sessions and all CEB decisions were promptly posted on its website. Sessions of the CEB, however, were not open to observers or the media, which runs contrary to OSCE commitments.

In total, 18,423,066 Romanian citizens were registered for the 9 December parliamentary elections. Romania's passive voter registration system is based on the civil registry. The right

to vote in parliamentary elections is given to all adult citizens, except those who have had their voting rights revoked by a court of law. The OSCE/ODIHR EET was informed that voter lists were available for public scrutiny in each locality, although the EET noted that few voters were aware of their right to review the lists. Citizens living abroad also enjoyed the right to vote in parliamentary elections without special registration.

Candidate registration was inclusive. A total of 2,457 candidates from 12 parties or electoral alliances and 18 national minority organizations, as well as 12 independent candidates were registered. The EET learned of a limited number of candidates rejected by BECs and all appeals regarding candidate registration were upheld by the courts. The requirement of both a deposit and supporting signatures for the registration of independent candidates is unduly excessive, thus not in line with the OSCE commitments.

During a low-key and largely peaceful campaign, many incidents of minor campaign violations were reported to the police and election administration. These included the destruction of posters and banners, the production of fake campaign materials, minor altercations between supporters, and the offering of gifts to voters. In a welcome development, additional measures were taken to prevent vote buying, including a special Government Ordinance, although interlocutors stated that this long-standing malpractice still continues.

The PEA monitors political finance and compliance with campaign finance regulations. Political parties submit reports on their regular finances and on campaign donations and expenditures. Before elections, the PEA only publishes the total amount received by each electoral contestant, but does not disclose the details of individual contributions. Reporting on campaign expenditures occurs 15 days after the elections, but the PEA currently lacks the capacity to fully audit these reports.

Romania has a diverse media landscape that is noticeably polarized and influenced by the political affiliations of the major broadcasters. As a consequence, there is a perceived general lack of impartial and analytical political reporting. Media coverage of the campaign by both public and private media is governed by multiple laws and regulations, the latter adopted anew for each election. The Audiovisual Council, which monitors broadcast media compliance with regulations and adjudicates complaints, was the subject of a controversial new Government Emergency Ordinance passed during the electoral period but still not in force.

The Election Law provides voters and electoral contestants with the opportunity to file complaints and appeals regarding voter lists, candidate registration, campaign violations, and compositions of electoral bureaus. Additionally, all CEB decisions are subject to appeal before the Court of Appeals. There are no provisions, however, for the expedited review of electoral disputes. The vast majority of complaints were filed with the police and BECs by political parties, related to minor campaign violations. Voters and election officials are aware of prosecutors' efforts to investigate and bring to court cases of electoral fraud from previous elections, which was said to have a deterrent effect.

The representation of national minorities in parliament is ensured through special registration procedures for national minority organizations and the application of a special minimal threshold necessary for obtaining one seat in the Chamber of Deputies. At odds with the

international standards, however, the Election Law favors national minority organizations already represented in parliament. OSCE/ODIHR EET interlocutors raised concerns about possible manipulation of voters in some Roma communities and the need for enhanced civic education targeting minorities.

The Election Law provides for the observation of elections by citizen observer groups and international observers. There are no provisions for partisan observation or the presence of candidate representatives in polling stations. In these elections, 25 international groups were accredited and 62 domestic organizations were certified by the PEA. Civil society organizations also monitored campaign expenditures and administered voter education programmes.

Voting generally proceeded in an orderly manner in the few polling stations visited by the OSCE/ODIHR EET. Election officials were professional and generally followed procedures. Counting was efficient, although some inconsistencies were noted. Access to the premises for collection of materials and the tabulation of results was not always granted to OSCE/ODIHR EET members, but was well organized where observed.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Government of Romania to observe the 9 December parliamentary elections and the Needs Assessment Mission conducted from 25 to 27 September, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on 25 November deployed an Election Expert Team (EET).¹ The original recommendation to deploy a Limited Election Observation Mission was not possible to implement due to budgetary constraints. The OSCE/ODIHR EET was headed by Konrad Olszewski and consisted of eight election experts drawn from as many OSCE participating States.

The EET did not include long-term or short-term observers and did not undertake a comprehensive and systematic observation of election day proceedings. Team members, however, visited a limited number of polling stations and followed the tabulation of results in some municipalities. The OSCE/ODIHR EET assessed several aspects of the electoral process, particularly the legal framework, election administration, media environment, and minority participation.

The OSCE/ODIHR EET wishes to thank the authorities of Romania for the invitation to observe the elections, the Permanent Election Authority (PEA) and the Central Election Bureau (CEB), the Ministry of Foreign Affairs (MFA), Ministry of Administration and Interior (MAI), other state and local authorities, political parties, and civil society for their assistance and co-operation. The mission also wishes to express appreciation to diplomatic representations of OSCE participating States and international organizations for their co-operation throughout the course of the EET's work.

¹ All previous OSCE/ODIHR reports with regard to Romania can be found at:
<http://www.osce.org/odihr/elections/romania>.

III. POLITICAL BACKGROUND

The 9 December parliamentary elections took place in the midst of a political dispute between President Traian Băsescu, supported by the center-right Right Romania Alliance (Alianța România Dreaptă, ARD), and Prime Minister Victor Ponta, heading the center-left Social-Liberal Union (Uniunea Social Liberală, USL).

After a change of the majority coalition and the appointment of Mr. Ponta of the Social Democratic Party (Partidul Social Democrat, PSD) as prime minister in May 2012, the parliament moved to impeach President Băsescu – a move that further polarized the political scene. While the parliament suspended President Băsescu on 6 July, the 29 July impeachment referendum failed due to voter turnout below the legal 50 per cent threshold. Meanwhile, the cohabitation resulted in personalized verbal attacks and disputes regarding constitutional prerogatives. The 9 December parliamentary elections were seen by some EET interlocutors as a step that could potentially help resolve the deadlock.

The USL electoral coalition comprised the PSD and the Center Right Alliance, including the National Liberal Party and the Conservative Party. This coalition held the majority in the outgoing parliament. The ARD was an alliance of opposition parties – the Democratic Liberal Party (Partidul Democrat-Liberal, PDL), the National Peasant Christian-Democratic Party, and the Civic Force.

Local elections, held on 10 June 2012, were the first test of the popularity of the newly composed coalitions. USL representatives were elected as council presidents in 36 of the 41 counties. A newly-established People's Party – Dan Diaconescu (Partidul Poporului – Dan Diaconescu, PPDD), led by a famous television presenter, came third and emerged as a significant political movement.

In addition to the well-established Democratic Union of Hungarians in Romania (Uniunea Democrată Maghiară din România, UDMR) that had 31 seats in the outgoing parliament, a new Hungarian Peoples Party of Transylvania (Erdélyi Magyar Néppárt, Partidul Popular Maghiar din Transilvania, EMNP) competed for the votes of the Hungarian minority.

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

A. ELECTORAL SYSTEM

The Romanian Parliament is bicameral with an undetermined number of deputies and senators elected for four-year terms. A total of 311 single-member districts for the lower house, the Chamber of Deputies, and 135 single-member districts for the upper house, the Senate, are established across 42 counties on the basis of a legally established quota.² Candidates run in single-member districts and are elected either by obtaining an absolute majority of votes or through mandate allocation designed to ensure proportional representation at the national and county levels.

² One deputy per 70,000 citizens and one senator per 160,000 citizens.

Mandates are first allocated to candidates who obtain an absolute majority of valid votes cast in their single-member districts. The remaining seats are distributed by the greatest remainder formula, first at the county level and then nationally among the parties or organizations that cross the national threshold: five per cent of valid votes cast nationwide or, alternatively, six deputy and three senate seats won by absolute majority. The additional allocation of mandates to ensure the proportional representation of each party or coalition results in the total number of mandates changing from one election to another. In these elections, an additional 97 deputy and 39 Senate mandates were allocated.³

The process of determining how many mandates a party receives at the county level and which candidate will be allocated the actual seat in each district is complicated and leaves many voters uncertain of the relationship between their votes and the outcome.

For each national minority party that does not meet the national threshold, the candidate with the largest number of votes nationwide obtains a seat in the lower house, if the number of votes received by the respective party exceeds 10 per cent of the nationwide natural threshold.⁴

For citizens living abroad, there were four single-member Chamber of Deputies districts and two single-member Senate districts. Up to three million citizens living abroad are represented by these six members of parliament, with constituencies geographically divided and not based on the number of citizens residing in various countries and regions.⁵

Efforts should be made to distribute mandates representing voters abroad based on the number of citizens with a view to ensuring the equality of the vote and right to equal representation.

B. LEGAL FRAMEWORK

Each type of election is governed by a different law. The legislation for parliamentary elections generally provided an adequate framework for democratic elections. However, despite previous OSCE/ODIHR recommendations and election stakeholder efforts, a consolidated election code that would regulate all types of elections has not been adopted. OSCE/ODIHR EET interlocutors noted that such a code would eliminate inconsistencies and gaps generated by the existence of several pieces of legislation, eliminate the need for passing Government Emergency Ordinances (GEOs) in election periods, and ease the administration of elections. Furthermore, the election law does not sufficiently govern the complaints and appeals process, the conduct of the campaign or its coverage in the media.

Parliamentary elections are primarily regulated by the 1991 Constitution, amended in 2003, and the 2008 Law for the Election to the Chamber of Deputies and the Senate (Election Law). Additional legislation includes the 2003 Law on Political Parties, the 2006 Law on Financial

³ In total, 412 mandates for the Chamber of Deputies and 176 mandates for the Senate were allocated.

⁴ The nationwide natural threshold is the total number of valid votes cast divided by the number of single-member districts for the Chamber of Deputies.

⁵ The MFA was unable to provide estimates of the diaspora populations per country, but the voter turnout was indicative of the varying numbers of citizens per district: the number of votes cast per single-member district for deputies ranged from 2,575 in the smallest to 40,152 in the largest and for Senate from 6,004 in one to 54,874 in the other.

Activity of Political Parties and Electoral Campaigns (Political Finance Law) supplemented by a 2007 government decision on its application, and the 2002 Law on Radio and Television Broadcasting (Broadcasting Law).

The legal framework also includes various government decisions and regulations of election management bodies that specify areas of the electoral process, such as voter registration, political finance, and election day procedures. For these elections, three GEOs were passed to amend the electoral law, changing voter identification requirements, delaying the use of voter identification cards required by law, defining who can vote abroad, and limiting the giving of electoral gifts.⁶ The continued practice of amending electoral laws shortly before elections is not in line with good practice.⁷

Additionally, many provisions of the Election Law, in particular provisions on voter registration, are contradictory or do not reflect current procedures.⁸ While some provisions were officially delayed or amended through the passage of the GEOs, the law was still unclear on the exact procedures for maintaining and updating the voter register.

The Election Law should be amended to include the actual procedures implemented in the elections; all amendments should be enacted well ahead of an election through a public procedure in accordance with good practice and OSCE commitments.

The CEB also took decisions interpreting and elaborating the law on a variety of issues including the formation of BECs, the definition of domicile for the purpose of polling station assignments, voter registration responsibilities, candidate deposits, campaign violations, ballot paper designs, voting procedures, and other organizational matters. The schedule of electoral activities and samples of key election-related materials were established by government decisions on 10 September.

V. ELECTION ADMINISTRATION

The elections were administered by a three-tiered *ad hoc* election administration consisting of the CEB, 43 Constituency Election Bureaus, including 1 for citizens residing abroad (Birou Electoral de Circumscripție, BECs), 6 electoral offices in the Bucharest municipality, and 18,762 Polling Station Bureaus, including 306 abroad (Birourile Electorale ale Sectiilor de Votare, BESVs). In addition, the PEA has a mandate to support the election bureaus during elections and co-ordinate electoral reforms between elections.

According to OSCE/ODIHR EET interlocutors, electoral bureaus at all levels performed their duties efficiently, within legal deadlines and functioned professionally addressing matters in a collegial manner. Both CEB and BECs held regular sessions, with BEC sessions open to observers and the media. Decisions were taken by majority vote. CEB meeting agendas and decisions were swiftly published on the internet, which effectively increased the transparency

⁶ GEOs Nr. 46/2012, Nr. 67/2012, and Nr. 70/2012, respectively.

⁷ Section II, Paragraph 2(b) of the VC/CoE Code of Good Practice in Electoral Matters, p. 10, “The fundamental elements of electoral law, ... should not be open to amendment less than a year before an election,”

⁸ Article 72 of the Election Law requiring the issuing of voter identification cards and Article 73 providing for management of the electoral register under the PEA.

of the process. The election administration appeared to enjoy the confidence of both the public and electoral contestants, in part due to judicial leadership in the bureaus. Positively, bureaus appeared to be gender-balanced, although no legal provisions exist in this regard.

The CEB is an *ad hoc* institution established for each election, composed of up to 21 members. The president of the High Court of Cassation and Justice draws lots to select the five judges who join the CEB and elect the CEB chairperson and deputy from amongst themselves. Also serving on the CEB are the president and 2 vice-presidents of the PEA, up to 12 representatives of political parties, and a representative of the parliamentary group representing national minorities. Each parliamentary party is entitled to a seat on the CEB, while the remaining seats are filled after candidate registration is finalized based on the number of candidates fielded by each non-parliamentary party. For these elections, the CEB was comprised of 10 women and 11 men.

The CEB was in charge of overseeing the election process and ensuring the homogeneous application of the Election Law throughout the country, publishing the official lists of contestants, and adjudicating appeals of decisions of the lower-level bureaus. The CEB also tallied the final results at the central level, and determined which contestants passed the national threshold.

For these elections, 43 BECs were established; one per each county and one for citizens living abroad. BECs consist of three judges appointed from the local tribunal, one representative of the PEA and up to nine representatives of political parties, alliances, and national minority organizations running in the county. In Bucharest, six separate election offices, one for each of the city's administrative districts fulfilled some of the tasks normally performed by BECs. They were established under the auspices of the Bucharest BEC and were comprised of two judges from the Bucharest Tribunal, one representative of the PEA and up to seven representatives of the political contestants. Judges were generally reluctant to serve on BECs and Tribunal Presidents noted the strain put on the tribunals to manage the caseload of the judges working on the elections.

BECs oversaw the organization of the elections at the county level and the uniform application of the Election Law. They registered electoral contestants, aggregated results at the single-member district and county levels, and allocated parliamentary seats at the county level. While BECs are mandated to adjudicate complaints related to the campaign and those against the BESV's activities, the Election Law does not clearly define their jurisdiction and sanctioning authority over campaign violations.

Consideration should be given to further elaborating the jurisdiction and sanctioning authority of the BECs in the Election Law in relation to campaign violations.

The lowest tier, the BESVs, were chaired by a president and a deputy selected by drawing lots from a list of jurists and people of "good reputation" and included up to seven representatives of electoral contestants. As noted in previous OSCE/ODIHR reports, the problem of identifying sufficient jurists and defining "good reputation" remains. The Election Law also stipulates that, where there are insufficient jurists, prefects can propose people "having a good reputation" to be added to the lists of possible BESV presidents and deputies. Such a vague provision allows discretionary application by prefects. Each list was pre-screened by the PEA,

which has the authority to remove names of those unsuitable, including those who previously served in BESVs where there was suspicion or investigations of electoral fraud.

BESV presidents and deputies received training on voting and counting procedures shortly before election day. The OSCE/ODIHR EET heard criticism about the poor quality of the training and the lack of practical exercises, which interlocutors felt may have led to errors during the conduct of voting and counting.

Consideration could be given to establishing a pool of trained election staff to draw from for each election.

The PEA was established in 2004 to address the lack of continuity between electoral cycles and to build institutional memory. The PEA is mandated to provide technical support to the bureaus in the administration of elections, perform election-related tasks between elections, ensure the uniform application of electoral legislation, and contribute to the reform of the electoral legal framework.⁹ The PEA is led by a president, appointed by the parliament in a joint session, and two vice-presidents appointed by the President and the Prime Minister, respectively. They serve eight-year terms that can only be renewed once.

During the parliamentary elections, the PEA worked jointly with the *ad hoc* electoral bureaus at all levels. PEA representatives to the CEB and BECs were full members with voting rights. The PEA assisted bureaus in the drafting of their decisions, adopting resolutions and instructions, screening BESV chairperson candidates, monitoring electoral campaign expenditures, preparing training materials, granting accreditation to media representatives and international observers, and certifying civil society organizations intending to deploy observers.

While the PEA actively supported the administration of these elections in line with its mandate, it is not currently functioning at full capacity. For instance, the PEA only has eight territorial branches at the county level and provided technical support to only 28 of the 43 BECs. From 1 January 2013, the PEA will take control of the central electoral register, which will require fully-operational territorial branches in all counties. Moreover, the PEA intends to continue the electoral legal reform process, assuming responsibility for the registration of candidates, increase its monitoring of political finance, and conduct voter education programmes.

In addition to the extraordinary funds allocated for every electoral process, the parliament could ensure that regular and sufficient budgetary funds are allocated to the PEA so that it could both fulfill its current mandate and take on the additional responsibilities foreseen in the Election Law.

VI. VOTER REGISTRATION

All citizens over the age of 18 are eligible to vote, unless disenfranchised by a final court decision for reasons of legal incapacity (including for mental disability) or as part of an

⁹ See Articles 62-65 of the Election Law, as well as the Statute concerning the organization and functioning of the PEA adopted by the Standing Bureau of the Chamber of Deputies and of the Senate, Decision 2/19.03.2007.

outstanding conviction. Romania's passive voter registration system is based on the data contained in the civil registry managed by the MAI with inputs from the local civil status offices. The final number of registered voters for these elections was 18,423,066.

For each election, printed copies of the voter lists are extracted by the National Centre for Database Management of the People's Records from the civil registry and are sent to the mayors not later than 45 days before election day. Although it was argued by interlocutors that EU regulations on data protection prevent authorities from publicly displaying the lists, the lists are available in the mayors' office for scrutiny. Neither the Election Law nor a government ordinance specify the time period for public scrutiny of the lists. Voters seemed unaware of this provision. Complaints regarding voter lists are filed with the mayor and decisions can be appealed to the local court. If required, the civil registry is amended.

Local authorities and election bureaus could be encouraged to undertake public outreach campaigns to review the voter lists, especially for those voting for the first time and those who have changed domicile or residence between the elections.

Final copies of the voter lists are generated 10 days before election day and sent to the mayors' offices by the MAI not later than three days before election day. Printed lists are delivered to the BESVs via prefects and mayors. Once the voter lists are in the hands of the BESVs, last minute modifications are communicated to the BESVs by the mayors. Deceased voters may be marked by hand in the final printed version of the voter list at the polling station level. Inaccuracies detected in the voter lists on election day do not result in modification of the civic register.

OSCE/ODIHR EET interlocutors did not raise major concerns about the accuracy of the voter lists for these elections, although they frequently recognized complications in ensuring the removal of deceased voters from the lists. In these elections, voters were required to cast their ballots in specific polling stations assigned by domicile. Only BESV staff and voters who could prove domicile in the corresponding BESV territory could be included in supplementary voter lists on election day. As a result, the potential for multiple voting was drastically limited, allaying suspicion amongst electoral stakeholders. Stickers were placed on identity cards and old booklet ids were stamped as a safeguard against multiple voting.

Voters residing abroad could cast their ballots upon presentation of a Romanian passport that specified their domicile abroad or of a Romanian passport or identity card accompanied by a document issued by a foreign government proving their residency abroad. Passports were stamped and stickers were placed on identity cards. Still, a Romanian citizen residing in an EU country could potentially use both his/her passport and ID card to vote in two different polling stations abroad. Moreover, as voters residing abroad are registered in supplementary lists and are not deleted from voter lists in-country, attempts to vote both abroad and in Romania could not be effectively prevented.

Consideration should be given to implementing some form of active registration for voters abroad; alternatively, additional safeguards should be introduced to eliminate the possibility of voters residing abroad casting multiple ballots.

VII. CANDIDATE REGISTRATION

Candidate registration was open and inclusive. A total of 2,457 candidates from 12 parties or electoral alliances and 18 national minority organizations, as well as 12 independent candidates, were registered.¹⁰

According to the Constitution, each citizen with the right to vote can stand for election if s/he meets the minimum age requirements of 23 years for election to the Chamber of Deputies or 33 for election to the Senate. High-level public servants are only allowed to stand for election if they resign before registering as candidates. Candidates can be nominated by political parties, political and electoral alliances, coalitions, and organizations representing national minorities, or can run independently.

Political parties and their coalitions can only nominate one person in each single-member district. There is no requirement that the candidate be from the district s/he is running in or to have any connection to that district. No candidate can stand in more than one single-member district, except for candidates from organizations representing national minorities who can run in all districts. Prospective independent candidates need to collect supporting signatures of at least four per cent of voters in the voter lists in the single-member district where they wish to stand (or in a given country when running for a single-member district abroad), but no less than 2,000 signatures for the Chamber of Deputies and 4,000 signatures for the Senate. A voter can only give his/her signature in support of one prospective independent candidate for either chamber of the parliament.

The legal framework should be amended to allow voters to sign in support of more than one prospective electoral contestant to further promote pluralism.

In order to register, candidates are required to make a deposit of five minimum monthly gross salaries (3,500 RON) into a depository account held by the PEA.¹¹ Deposits are reimbursed to candidates if a party, alliance, or organization representing a national minority obtains at least two per cent of the valid votes nationwide. On the other hand, independent candidates' deposits are reimbursed only for those who obtain at least 20 per cent of the valid votes in their single-member district. The requirement of both a deposit and support signatures for independent candidates is excessive, limits the opportunity for participation, and is at odds with Paragraph 7.5 of the 1990 OSCE Copenhagen Document and other international standards.¹²

In order to promote greater participation in the political process by independent candidates, consideration should be given to requiring either a small registration deposit or the collection of a minimal number of supporting signatures, but not both.

¹⁰ The parties that put forward candidates were: USL, ARD, PPDD, the Greater Romania Party, UDMR, the People's Party, EMNP, the Romanian Ecologist Party, the Workers' Social Democratic Party, the Socialist Alliance Party, the People's Social Protection Party and the National Christian Democratic Party. Final candidate lists included 1 independent candidate for Senate and 11 for the Chamber of Deputies.

¹¹ The exchange rate is approximately 4.4 RON for 1 EUR.

¹² Paragraph 7.5 of the 1990 OSCE Copenhagen Document commits OSCE participating States to "respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination." See also Article 25(c) of the International Covenant on Civil and Political Rights (ICCPR).

All BEC decisions regarding the registration of candidates can be contested or appealed to the tribunal in the respective county. The OSCE/ODIHR EET was made aware of a limited number of rejections appealed by independent candidates who lacked sufficient supporting signatures and contestations of candidacies due to previous criminal activity or associations.¹³

Candidates have the possibility to withdraw up until the final announcement of the lists by the BECs. Political parties, alliances, and national minority organizations may withdraw and replace their candidates without the consent of the candidate within the legal deadline. There is no legal provision for amending the ballot papers in case of withdrawal or death of a candidate that occurred after ballot printing, as a result of which voters may vote for a deceased or withdrawn candidate.

With a view to better provide voters with the opportunity to make an informed choice, legislation could be amended to include a provision for notifying voters of candidates' withdrawals prior to election day.

VIII. ELECTION CAMPAIGN

The election campaign began on 9 November and was marked by a highly polarized political environment with a prominent focus on Prime Minister Ponta of the USL and President Băsescu of the PDL. The harsh rhetoric that began during the referendum intensified during the pre-election period. USL, led by the PSD, quite openly viewed the campaign as a continuation of the referendum on President Băsescu's impeachment and focused its campaign tactics to benefit from the protest electorate. On the other side, President Băsescu regularly interjected himself in the campaign, speaking on behalf of the opposition, and consequently became a regular subject of the campaign.

Overall, the campaign was nevertheless low-key and largely lacked a competitive nature. Multiple OSCE/ODIHR EET interlocutors noted a mutual understanding among major parties as to where to nominate individual candidates with a view to compete strategically. Indeed, there were only a few races where political opponents faced one another, as in Tirgu Jiu where the leaders of the PSD, Prime Minister Ponta, and of PPDD, Mr. Diaconescu, ran in the same district. Furthermore, the campaign lacked serious policy discourse, party platforms were not visible, and issues such as the economy and reforms were generally not addressed in campaign messages. Most candidates preferred to focus on local issues than to provide political or economy-related ideas or long-term national strategies.

Contestants were able to campaign freely and convey their messages to the electorate, however, the campaign lacked visibility. Candidates often avoided participating in televised debates or discussions of campaign issues with opponents. While some candidates used media outlets and social networks, the use of media was limited in the campaign. Door-to-door canvassing prevailed across the country as the major campaign method. Candidates also distributed campaign materials and held small gatherings to a limited extent, with large-scale rallies playing a minor role.

¹³ The Bucharest Tribunal rejected 7 complaints contesting candidate registration, and upheld 10 appeals of the decisions to reject candidate registration. The Dolj Tribunal received two complaints contesting candidate registration and both were rejected for lacking foundation.

The campaign was peaceful. Electoral contestants reported a limited number of incidents and campaign violations, including one violent incident,¹⁴ isolated instances of negative campaigning and fake campaign materials,¹⁵ and the alleged misuse of administrative resources.¹⁶ The government took additional measures to combat vote buying. In October, the GEO defined any gift exceeding 10 RON in value as a bribe (electoral bribery is a criminal offence), which was perceived as a generally positive preventive measure. In addition, the authorities banned image-recording devices in voting booths and ran a public campaign (including voter education television spots and polling station posters) against accepting gifts from candidates. At the same time, interlocutors noted that the real impact of these efforts was limited due to the long-standing malpractice of vote-buying. There were allegations that some local authorities distributed EU funds and aid programmes during the campaign under the name of their respective parties.

The Government Emergency Ordinance definitions of vote-buying and bribery should be codified in the electoral legislation and proactively enforced.

IX. POLITICAL FINANCE

Political finance is primarily regulated by the Political Finance Law and government decisions implementing the law.¹⁷ The PEA has the authority to monitor compliance with the political finance regulations, can initiate investigations at the request of any interested person or *ex officio*, issue fines, and refer matters for court action. Convictions for offences related to political financing can lead to the annulment of an individual's mandate and removal from office.

Political parties receive funding from the state budget. Approximately 38 million RON (75 per cent of the total state funds for political parties) is divided between parliamentary political parties in proportion to the number of votes obtained in the last elections. Public funding can be increased in proportion to the number of women elected to the parliament, but this does not appear to have stimulated their greater participation; according to final results, less than 7 per cent of Senators (12 of 176) and some 13 per cent of Deputies (55 out of 412) are women.

For elections, the Political Finance Law establishes campaign expenditure ceilings of 245,000 RON for each candidate for the Chamber of Deputies and 350,000 RON for the Senate.¹⁸ In addition, each political party can spend up to 35,000 RON per each candidate it fields. There

¹⁴ The OSCE/ODIHR EET received reports of a close relative of ARD candidate, Ms Boghicevici, being violently attacked and beaten on 7 December in Arad.

¹⁵ Reported by USL in Dolj and ARD in Arad.

¹⁶ ARD complained about the misuse of administrative resources in Arad.

¹⁷ Political Finance Law, see at <http://www.roaep.ro/en/getdocument.php?id=411>, was enforced by Government Decision "On approving the Methodological Norms for applying Law no. 334/2006 on Financing Activities of Political Parties and Electoral Campaigns", see at <http://www.roaep.ro/en/getdocument.php?id=412>.

¹⁸ 350 minimum gross salaries at the national level for each Deputy candidate, with a minimum gross salary set at 700 RON; See Article 30(2)(a) of Political Finance Law. 500 minimum gross salaries at the national level for each Senate candidate; see Article 30(2)(1) of Political Finance Law.

is also a ceiling on the amount an individual or a legal entity can donate to a campaign.¹⁹ Electoral contestants are required to declare all donations within five days of receipt. For these elections, the PEA published four press releases during the campaign informing voters of the total amounts of donations received by electoral contestants.²⁰ Detailed information on the sources of contributions, amounts of each contribution and expenditures per candidate, however, was not available for public scrutiny before election day; this is not considered good practice.²¹

To further enhance the transparency of political finance during an election campaign, consideration could be given to requiring the timely disclosure of all contributions received, their sources, amounts and types (cash or in-kind) and to make preliminary financial reports available to the public before election day, in accordance with good practice.

No later than 15 days after the elections, electoral contestants must submit detailed financial reports on incomes and expenditures to the PEA. Candidates are not installed until a detailed report has been submitted in accordance with the law. All reports are to be published in the Official Gazette and on the PEA website. Additionally, electoral contestants have to submit a declaration of adherence to the campaign expenditure ceilings to the PEA prior to their installment.

The PEA has 30 days to check these reports, but the scope of its review is limited to checking whether the declared expenditures match the declared donations without a thorough audit of actual expenditures. OSCE/ODIHR EET interlocutors attributed this to a lack of political will, the PEA's limited capacity to conduct audits of this nature, and a lack of co-operation with other specialized bodies that have responsibilities for financial oversight, such as the National Anticorruption Directorate and the National Integrity Agency.

Effectiveness of oversight over campaign finance could be strengthened by means of, for example, granting additional audit authority to the PEA, ensuring sufficient human and financial resources to perform this task, and encouraging its greater co-ordination with the Court of Accounts, National Anticorruption Directorate and the National Integrity Agency.

¹⁹ Up to 200 minimum gross salaries at the national level in one year or 400 minimum gross salaries in the fiscal year in which more than one election is taking place for individuals; Article 5(3) of the Political Finance Law. Up to 500 minimum gross salaries at the national level in one year or 1,000 minimum gross salaries in the fiscal year in which more than one elections is taking place for entities; Article 5 (4) of the Political Finance Law.

²⁰ Press releases published on 15, 23, 28 November and on 6 December are available at <http://www.roaep.ro/ro/getdocument.php?id=8127>. The latest figures disclosed were: USL (13,710,083 RON), UUR (4,000), CRLR (3,000), UDTTMR (7,000), UDMR (635,439), PDL (6,213,546), PPDD (4,128,527), Civic Force Party (743,303), PRM (108,510), FCER (12,000), UP (15,000), PNCTD (153,096), USR (2,500), PER (126,390), PPPS (5,543), PP (80,103), UER (20,830), ALAR (7,266), UBBR (1,200), PPMT (9,200), Pro Europe Roma Party (10,020), UDSCR (3,000), Italian's Association (3,000), FDGR (27,000), UAR (3,000), UCRR (20,500), independent candidate Piperea Gheorghe (67,000).

²¹ Existing Commitments for Democratic Elections in OSCE Participating States, part III paragraph 2(d): OSCE commitments and other principles for democratic elections, Election Campaign, Finance, and Media, Finance Disclosure and reporting, available at: <http://www.osce.org/odihr/elections/13957>.

X. MEDIA

A. LEGAL FRAMEWORK FOR THE MEDIA

Campaign coverage by broadcast media, both private and public, is subject to detailed and complex regulations, broadly outlined in the Election Law, the Broadcasting Law, and, to some extent, in the Law on the Public Radio and Television. Broadcast media was further regulated in Decision No. 738 of the National Audiovisual Council (Consiliul Național al Audiovizualului, CNA) from 1 November (media regulation). The CNA, a regulatory body for the broadcast media, passes new media regulations on campaign coverage before each election.

The Election Law provides for free coverage of electoral contestants by the public broadcasters and requires that private broadcasters apply the same tariff for paid campaign coverage of all electoral contestants. The OSCE/ODIHR EET heard from one PPDD candidate in Bucharest about the prohibitive prices for advertisement spots on some channels, referring specifically to Romania TV.²² Additionally, the election law requires that the airtime offered to electoral contestants by private broadcasters be proportional to that offered by the public broadcaster.²³ This regulation was questioned by some OSCE/ODIHR EET interlocutors and is unnecessarily restrictive on the editorial freedom of private broadcasters.

Regulation of coverage of electoral contestants by private broadcasters could be reviewed to better protect editorial freedom and the general public's interest in receiving a wide spectrum of information.

The Election Law also requires all electoral contestants that want free airtime on the public broadcaster to request it within 48 hours of the announcement of elections. While such a requirement provides time for the broadcaster to organize an election campaign schedule, it appears to be unreasonably tight for the contestants, especially given the fact that the law allows more time for submitting candidate nominations.

Consideration could be given to repealing the provision of Art. 38(2) of the Election Law so that all registered contestants are covered by the public broadcaster.

The media regulation further detailed election coverage by broadcast media, such as the obligation of private channels to announce their intention to cover the campaign and their schedules of election-related programmes, prior to the official start of the campaign. It also defined specific types of programmes – debates and promotional programmes – that were permitted in addition to the news. In these programmes, broadcasters were obliged to observe general principles of equity, balance, impartiality, objectivity, and fairness. The regulation restricted the presentation of candidates who hold public office to issues related to the exercise of their public duties, and prohibited broadcasters from airing interviews with candidates.

²² Political advertising prices on Romania TV were: for candidates 250-350 RON per spot (minimum 20 spots) and 8,000-12,500 RON per minute (election programs), for parties 4-15 RON/spot (minimum 200 spots).

²³ See Article 38(3) of the Election Law.

The Election Law could be amended to provide for precise and generally applicable guidelines for election coverage in the media. Such provisions could be based on existing legal requirements of equity, balance, and impartiality, while, at the same time, respecting editorial freedoms to control schedules, and determine the structure and format.

The CNA also heard complaints related to media campaign coverage. However, despite its effort to discuss all complaints in detail, the CNA only managed to adjudicate 12 out of 25 complaints received, with the rest, including those received on election day, pending well after the elections. Most of the complaints challenged the lack of political balance and sought responses to allegedly false statements concerning candidates. In response to the complaints and based on the findings of its own media monitoring,²⁴ the CNA issued warnings and small fines. In two cases, *Realitatea* TV was obliged to provide a response to the candidates. In three other cases, Romania TV was fined 20,000 RON and OTV was fined 20,000 and 30,000 RON for biased political coverage.

Authorities could consider enhancing the CNA's media monitoring methodology to increase its capacity to identify various forms of unbalanced coverage during the campaign, and providing the CNA with additional resources for this purpose.

On 27 November, without public debate, the government adopted an emergency ordinance aimed at regulating various media issues, including the CNA sanctioning mechanism. The GEO provided for the immediate suspension of sanctions issued by the CNA in case of an appeal. In context of the elections and as there was no provision for an expedited review of such appeals, this ordinance may have limited the right of complainants to timely legal remedy. Following public outcry, although not officially published or enforced, the GEO was sent to state institutions, including the CNA, for opinion.

The Broadcasting Law could be amended to regulate the role and powers of the CNA during election campaign period in more detail. Timeframes for the decision-making process could be made shorter so that sanctions could be issued and implemented in an expeditious manner ahead of election day.

While a political division of the CNA board was occasionally visible during observed sessions, the body endeavored to act professionally and engage in meaningful discussions based primarily on the governing legislation. Still, the political affiliation of the CNA members and the corresponding influence on its work was repeatedly brought to the attention of the EET by interlocutors.

The appointment of CNA members should be free from any political or economic interference to enhance its independence and credibility. The Broadcasting Law could minimize the number of political nominations and, instead, provide for more diverse membership, including independent experts and civil society representatives.

²⁴

The CNA conducted its own systematic media monitoring that included 15 television channels and 9 radio stations in Bucharest. A total of 374 television channels and 167 radio stations declared their intention to cover the election campaign in some way. In addition, there were local inspectors that monitored local media outlets. The CNA methodology, however, focused only on candidate speeches and appearances, omitting the content prepared by the broadcasters. In addition, it did not take into consideration the tone of the reporting.

B. MEDIA COVERAGE OF THE ELECTIONS

Romania enjoys a diverse media landscape, with a number of nationwide channels, including several news channels that provide a vibrant coverage of political matters.²⁵ Apart from the public *Televiziunea Română* (TVR),²⁶ popular television stations include Pro TV, Antena 1 and OTV (general TV channels), as well as *Antena 3*, *B1*, *Romania TV*, *Realitatea TV*, and *Digi 24 TV* (news channels). Newspapers with the largest circulation include *Adevarul*, *Jurnalul National*, *România Liberă*, *Evenimentul Zilei* and the biggest regional Craiova-based newspaper *Gazeta de Sud*.

Most OSCE/ODIHR EET interlocutors noted that while the role of the internet is increasing, citizens still rely mostly on television for their information on political issues. The polarization of the media environment and the increasing political affiliation of the major broadcasters were also highlighted. According to multiple interlocutors, more media prefer to become an instrument at the disposal of political parties, rather than play a critical and analytical watch-dog role towards public officials due to the troublesome financial situation in the media market during the last several years and their resulting vulnerability to political interests. Hence, the OSCE ODIHR EET was informed that the traditionally high level of trust towards media has significantly declined.

A vivid example is the *Intact* media group that controls the most popular TV channels, including market-dominant news channel *Antena 3*, which is owned by Mr. Dan Voiculescu (founder of the Conservative Party, part of the USL coalition). Other channels such as *B1* and OTV were also seen by OSCE/ODIHR EET interlocutors as affiliated with different political entities. In addition, Mr. Diaconescu hosted political programmes on OTV in contravention of Art. 7(3) of the CNA media regulation stipulating that “*during the electoral campaign, broadcasters cannot broadcast programmes produced or moderated by candidates.*” The new *Digi 24* channel tried to pursue a more independent editorial line and was highlighted by many as a positive example.²⁷

TVR’s leadership was forced to resign in July 2012 following the parliament’s rejection of the public broadcaster’s annual activity report. The rejection and the subsequent appointment of a new management were seen by many interlocutors as an attempt to increase political control over the highly indebted broadcaster. The channel declared its aspiration to cover the campaign in a neutral and informative manner, and to comply with all legal requirements, including allocation of free time and organizing election debates and fora for the election campaign. According to OSCE/ODIHR EET interlocutors, TVR generally adhered to its

²⁵ Based on the data provided by the CNA, there are 241 television and 595 radio terrestrial channels, 3 television and 112 radio satellite stations, as well as 6 TV channels and 398 radio stations transmitting through cable.

²⁶ TVR is comprised of seven national and five regional channels. Operations of two TVR channels (*TV Cultural* and *TVR Info*) were ceased in August 2012 and management announced significant employee cuts in an attempt to restructure broadcaster’s activity as its accounts were frozen in May due to debts of approximately 69 million EUR. While the decision of tax authorities was later lifted, government had to approve a supplementary financial transfer to overcome channel’s operational difficulties. In November, TVR reformatted previous *TVR Info* into *TVR News*, a news channel launched in partnership with Euronews.

²⁷ *Digi 24* is a part of media holding owned by RCS & RDS, a company that controls a significant portion of the country’s cable network.

obligations, although the coverage of election-related events appeared overly cautious, avoiding controversial reports to ensure impartiality.

In line with good practice, the Law on the Public Radio and Television could provide for public participation in the selection of candidates to manage the public broadcaster, which could be achieved through public hearings and public consultations on candidates.

The lack of political discourse was reflected in the media coverage of the campaign. There were almost no programmes devoted to more serious, policy-based analysis or expert commentaries. The dominant feature was the exchange of personal attacks and criticism among candidates, a tendency often supported by broadcasters themselves to attract higher viewer ratings. Media representatives also confirmed the reluctance of candidates to participate in televised debates. In general, most interlocutors noted that although the media provided a variety of information to voters, it could fall short of what was needed for voters to make a truly informed choice.

XI. COMPLAINTS AND APPEALS

The system of complaints and appeals offers contestants and voters an effective opportunity for legal remedy. However, while election-related matters are addressed expeditiously by election bureaus and the courts, the legislation lacks explicit timelines for election dispute resolution.

Complaints about the decisions and (in)actions of election administration bodies are filed with the superior level election bureaus and appealed up through the hierarchy of the election administration. Jurisdiction over any decision and (in)action of an election bureau that is not explicitly granted by the Election Law to another court is with the Administrative Division of the Court of Appeals. All decisions, actions, and failures to act by the CEB, as an administrative body, can be appealed to the Administrative Division of the Court of Appeals in Bucharest. However, neither the Election Law nor the court procedure rules provide for an expedited review of election-related matters, contrary to international good practice.²⁸

To ensure that voters and electoral contestants have a true opportunity for legal remedy during elections, the law could clearly specify the time permitted for review of complaints and appeals.

Complaints regarding voter lists are filed with mayors, who have three days to take a decision. This decision can be appealed within five days to the local court, which then has three days to adjudicate the appeal. No cases of appeals to the local courts were brought to the attention of the OSCE/ODIHR EET. All BEC decisions regarding the registration of candidates can be contested or appealed to the tribunal of the respective county. In these elections, each tribunal heard a limited number of appeals and/or contestations (*see candidate registration section, above*).

²⁸ Paragraph 3.3 (g) of the Code of Good Practice in Electoral Matters of the Venice Commission “The time-limits for lodging and deciding appeals must be short (three to five days for each at first instance).” See [http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)023-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023-e.pdf).

Complaints regarding campaign violations, including destruction of campaign posters, the distribution of fake campaign materials, the improper posting of campaign materials, and minor altercations between supporters can be filed with BECs or the police. The Election Law does not provide clear jurisdiction between the two, nor does it give BECs clear authority to sanction those committing campaign violations. According to the MAI, 1,662 incidents, including 450 criminal offenses, were reported to the police and a total of 477 misdemeanors sanctions imposed.

Consideration should be given to amending the legislation to provide for clear jurisdiction over non-criminal campaign violations and elaborate possible sanctions.

Election offenses of a criminal nature are defined in the Election Law. Violations are investigated under the supervision of the prosecutor in a corresponding jurisdiction upon reports or referral to the police, or upon the initiative of the prosecutor based on public reports. The investigation of election offenses may be taken over by higher-level prosecutors if the offense occurred in multiple jurisdictions or where the investigation requires more resources than are available to the lower-level prosecutor. Although election offenses are punishable with up to five years in prison, the vast majority of cases are settled through the issuing of a fine by the prosecutor. While no investigations were opened with the High Court Prosecutor in the pre-election period,²⁹ the ongoing investigation of incidents from the local elections and the referendum received much media coverage and is reported to have served as a deterrent on voters and election officials.

XII. PARTICIPATION OF NATIONAL MINORITIES

Twenty groups are officially recognized as national minorities, based on the definition in the Election Law.³⁰ The largest groups are ethnic Hungarians and Roma, comprising some 6.5 per cent and 3.2 per cent of the population, respectively.³¹ The Hungarian minority forms a majority of voters in two counties: Harghita and Covasna. The geographical distribution of Roma is relatively uniform, with larger concentrations in the counties of Mures, Calarsasi, and Zalau.³²

The Constitution guarantees equal rights and freedoms to all citizens, without privilege or discrimination. Romania has adopted comprehensive legislation against discrimination; racial,

²⁹ The Prosecutor associated with the Local Court in Arad opened an investigation into the beating of an ARD supporter and candidate family member.

³⁰ The Election Law defines national minorities as groups represented 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, Tatars, Turks, and Ukrainians. Czechs and Slovaks are represented by the same organization. The draft Law on the Statute of the National Minorities living in Romania, which has been under discussion in the legislature for a number of years, contains the list of the same twenty national minority groups.

³¹ According to the preliminary results of the 2011 population census. It is widely assumed that the actual number of Roma is significantly higher; estimations vary from 800,000 to 1.8 million.

³² See preliminary results of the 2011 population census, available at:
<http://www.insse.ro/cms/files%5Cstatistici%5Ccomunicate%5Calte%5C2012%5CComunicat%20DATE%20PROVIZORII%20RPL%202011e.pdf>.

ethnic, national, linguistic or religious hatred as the motivation for criminal acts constitutes an aggravating circumstance in criminal sentencing.

Minority groups enjoy constitutionally guaranteed representation in the parliament under the terms of the Election Law.³³ While providing an alternate threshold for minority organizations not successful in crossing the national threshold, the Election Law also allows for preferential treatment of organizations representing national minorities in the Council of National Minorities. This contradicts OSCE commitments, which underline the importance of pluralism with regard to political organizations and the obligation to provide necessary legal guarantees to enable competition on a basis of equal treatment before the law and by the authorities.³⁴

Organizations of citizens belonging to national minorities, other than those represented in the parliament, are required to obtain the status of “public utility” and collect signatures from 15 per cent of people who identified themselves as belonging to that ethnicity in the last census in order to be able to submit candidate nominations.³⁵ The status of public utility is granted by the government on the recommendation of a competent public authority, if legal requirements are met.³⁶ The failure of national minority organizations to obtain this status resulted in the rejection of candidate registrations for six organizations.³⁷

Legislation should be amended to ensure fair competition without unduly favoring the organizations represented on the Council of National Minorities or in the parliament.

Two organizations representing ethnic Hungarians competed in these elections: the UDMR and the EMNP. UDMR crossed the national threshold, gaining 18 seats in the Chamber of Deputies and 9 in the Senate, including 1 female Senator.³⁸ The Pro-Europe Roma Party, representing the Romani in the Council of National Minorities, and the Social Democratic Party (PSD) signed an agreement of mutual support for the 9 December parliamentary elections. Two candidates of Romani origin secured seats in the parliament on the PSD ticket.³⁹ Among the 18 candidates put forward by organizations of citizens belonging to

³³ See Article 62(2) of the Election Law.

³⁴ See Paragraphs 3, 7.5, 7.6 of the 1990 OSCE Copenhagen Document. Also, the Venice Commission stated in its Opinion on the Draft Law on the Statute of National Minorities Living in Romania that “the conditions for registration may not be of such a severity that they disproportionately favour groups which are represented in Parliament to the disadvantage of (new) groups which wish to participate in public life”, see CDL-AD(2005)026.

³⁵ See Article 9(3) of the Election Law.

³⁶ The law governing the obtaining the status of public utility is GEO 26/30 January 2000. No organization was granted the status of public utility in 2012. The Department of Interethnic Relations (DIR) rejected five requests, and the National Agency for Roma (ANR) two requests. The representatives of the DIR acknowledge the difficulty of obtaining the status of public utility.

³⁷ The registration of candidates were rejected for the following organizations because they did not have a public utility status: The Democratic Union of Croats in Romania, the Vox Mentis Foundation, Masaryk Youth Organization, Democratic Union of Turk-Muslim Roma in Romania, League of Italian Communities, Tartar Democratic Union (Decisions 11/11.10.2012, 12/11.10.2012, 13/11.10.2012, 28/18.10.2012, 38/29.10.2012, and 41/31.10.2012).

³⁸ 89 of the 452 UDMR candidates (19.6 per cent) were women. In the outgoing parliament, 2 of the 31 MPs were women.

³⁹ Mr. Madalin Voicu, parliamentarian in the Chamber of Deputies since 1996, and Mr. Damian Dragachi, first-term senator.

national minorities, there was only one woman, where in the outgoing parliament two female deputies represented minority organizations.⁴⁰

A number of OSCE/ODIHR EET interlocutors raised concerns about possible election irregularities in some Roma communities.⁴¹ This perceived vulnerability was largely seen as due to social exclusion, poverty, and lower education levels amongst the Roma population. Although the authorities have taken measures to address the continuous problem of lack of proper identification or documentation in some Roma communities, an unknown number of Roma voters still do not possess documentation. People living in informal settlements, including some Roma communities, are treated as homeless and given temporary identification that has the name of the voter and the city of residence. Homeless voters are supposed to vote in one designated polling station in each district. The OSCE/ODIHR EET was informed that in at least one locality in the country, homeless voters are spread throughout all BESVs, potentially causing confusion.

A large-scale civic education programme targeting selected minority communities and aimed at increasing the understanding of electoral processes could be developed and conducted in close co-operation with relevant civil society organizations, including those representing Roma.

XIII. CITIZEN AND INTERNATIONAL OBSERVERS

The Election Law provides for the observation of elections by non-partisan civil society observers and international observers. There are no provisions for partisan observation or the presence of independent candidate representatives in polling stations. According to the law, accredited international and citizen observers can observe all operations of electoral bureaus at all levels, however CEB sessions were not open to observers and observers were not granted access to the tabulation process at all BECs.

International observers can be accredited if they represent international organizations in the field of democracy and human rights. Upon the invitation of the Ministry of Foreign Affairs, international observers are accredited by the PEA. For these elections, 25 different international organizations and diplomatic missions were accredited.⁴² In an effort to observe election day proceedings, the OSCE Parliamentary Assembly deployed 17 observers.

According to the Election Law, domestic civil society organizations need to be certified by the PEA to be eligible to observe. To obtain this status, the organization must have been registered at least six months prior to elections, and its main activities must be in field of human rights and democratization. Once certified by the PEA, domestic organizations can apply for accreditations for their observers with the BEC in each county. Leaders of these organizations must not be members of political parties or national minority organizations. Each individual observer is also obliged to sign a declaration that s/he is not a member of any

⁴⁰ Representing the Albania's League Association. In the outgoing parliament, the Association of Macedonians in Romania was represented by a female deputy. The number of women elected for the reserved minority seats has fluctuated from zero to three during the seven legislative terms since 1990.

⁴¹ Such as vote-buying with money, gifts or in exchange of forgiven loans, as well as incidents of direct pressure or threats.

⁴² See <http://www.roaep.ro/en/section.php?id=67>.

political party. Still political parties and domestic observers openly stated that party representatives are frequently accredited to observe through civil society organizations.

In line with previous OSCE/ODIHR recommendation and with a view to further increase transparency, the Election Law should be amended to allow for observation by representatives of political parties and independent candidates.

For these elections, 62 domestic organizations were certified by the PEA, thus obtaining the right to accredit their observers with BECs.⁴³ The Association Pro Democracy (APD) deployed approximately 1,000 volunteer observers, mounting the largest citizen observation effort for these elections. Civil society organizations also monitored campaign expenditures and the media coverage of the campaign, reviewed the Election Law, analyzed the integrity of candidates and political parties, organized debates, and administered voter education programmes.⁴⁴

XIV. ELECTION DAY

Voting proceeded smoothly in the limited number of polling stations visited by the OSCE/ODIHR EET. BESV members were generally aware of procedures and managed the process in a collegial manner. Domestic observers were present in almost every polling station visited; at times, observers were participating in the process, directing voters or, in isolated cases, even handling ballots. The OSCE/ODIHR EET noted unauthorized persons in polling stations and BESV members were not clearly identified.

To ensure a clear division of roles and prevent the presence of unauthorized persons, BESV members could be clearly identified with badges and only BESV members, accredited observers, candidates, and the media be allowed to remain in the polling station.

Voters appeared to be aware of their rights and identification requirements. The OSCE/ODIHR EET did observe incidents of voters being directed to other polling stations and voters requiring assistance. Polling stations were rarely accessible for disabled voters and assistance to visually impaired voters differed. Supplementary voter lists were rarely used as voters were assigned to specific polling stations for these elections. As a result, there were few concerns raised over potential multiple voting or the effectiveness of safeguards, such as stickers placed on voters' IDs after voting. Despite previous OSCE/ODIHR recommendations, no arrangements were made for hospitalized or imprisoned voters to vote if they are outside the territory of their polling station.

Further voter education campaigns could be organized to inform visually and physically impaired voters of the rights to be assisted.

⁴³ See <http://www.roaep.ro/ro/section.php?id=atasamentescrutin&ids=121&idc=14>.

⁴⁴ Transparency International conducted an assessment of the Election Law and ran a website on candidate and political party platforms relating to transparency and integrity. Expert Forum was active in following campaign finance and analyzing the existing legal framework. Alliance for Clean Romania investigated the integrity of candidates by gathering information on the candidates' previous associations with security forces, communist party membership, incidents of hate speech, migration between parties, business affiliations, tax debts, and on-going criminal investigations. APD produced voter education materials, organized candidate debates, and managed a call center to receive questions and complaints from the voters.

The counting process was completed efficiently, although the OSCE/ODIHR EET noted that not all forms provided were used consistently and all pages of booklet-shaped ballots for elections to the Chamber of Deputies were not always checked.⁴⁵ The collection of materials and the tabulation at the county level was well organized in those BECs where the OSCE/ODIHR EET was granted access. The EET members were, however, denied access to some BECs and the CEB.

Legislation should explicitly provide for observer access to the tabulation at all levels.

The OSCE/ODIHR EET was only made aware of a few election-day complaints by observers at polling stations and of no complaints from regular voters. There are no standard complaint forms available to voters at the any level of the election administration.

To ease the accessibility of the complaints process the election administration could consider the adoption of a standard complaint form that voters and observers could use to file a complaint with bureaus at all levels.

Following election day, the CEB heard a total of 60 complaints from candidates and political parties requesting recounts or annulments of the results due to fraud or challenging the allocation of seats. All 60 were rejected as unfounded, improperly filed or because corrections to the results protocols had already been made at the BEC level. The Election Law does not explicitly provide for the appeal of CEB decisions regarding results to a court of law.

While de jure falling under the jurisdiction of the Court of Appeals, procedures for appealing CEB decisions regarding election results could be elaborated in the Election Law.

XV. RECOMMENDATIONS

These recommendations as contained throughout the text are offered with a view to enhance the conduct of elections in Romania and bring them fully in line with OSCE commitments and other international standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. OSCE/ODIHR stands ready to assist the authorities of Romania to further improve the electoral process and in following up on recommendations contained in this and previous reports.

ELECTORAL SYSTEM AND LEGAL FRAMEWORK

1. Efforts should be made to distribute mandates representing voters abroad based on the number of citizens with a view to ensuring the equality of the vote and right to equal representation.

⁴⁵ Ballots were in a booklet form with the number of pages varying based on the number of candidates.

2. The Election Law should be amended to include the actual procedures implemented in the elections; all amendments should be enacted well ahead of an election through a public procedure in accordance with good practice and OSCE commitments.

ELECTION ADMINISTRATION

3. Consideration should be given to further elaborating the jurisdiction and sanctioning authority of the BECs in the Election Law in relation to campaign violations.
4. Consideration could be given to establishing a pool of trained election staff to draw from for each election.
5. In addition to the extraordinary funds allocated for every electoral process, the parliament could ensure that regular and sufficient budgetary funds are allocated to the PEA so that it could both fulfill its current mandate and take on the additional responsibilities foreseen in the Election Law.

VOTER REGISTRATION

6. Local authorities and election bureaus could be encouraged to undertake public outreach campaigns to review the voter lists, especially for those voting for the first time and those who have changed domicile or residence between the elections.
7. Consideration should be given to implementing some form of active registration for voters abroad; alternatively, additional safeguards should be introduced to eliminate the possibility of voters residing abroad casting multiple ballots.

CANDIDATE REGISTRATION

8. The legal framework should be amended to allow voters to sign in support of more than one prospective electoral contestant to further promote pluralism.
9. In order to promote greater participation in the political process by independent candidates, consideration should be given to requiring either a small registration deposit or the collection of a minimal number of supporting signatures, but not both.
10. With a view to better provide voters with the opportunity to make an informed choice, legislation could be amended to include a provision for notifying voters of candidates' withdrawals prior to election day.

ELECTION CAMPAIGN

11. The Government Emergency Ordinance definitions of vote-buying and bribery should be codified in the electoral legislation and proactively enforced.

POLITICAL FINANCE

12. To further enhance the transparency of political finance during an election campaign, consideration could be given to requiring the timely disclosure of all contributions

received, their sources, amounts and types (cash or in-kind) and to make preliminary financial reports available to the public before election day, in accordance with good practice.

13. Effectiveness of oversight over campaign finance could be strengthened by means of, for example, granting additional audit authority to the PEA, ensuring sufficient human and financial resources to perform this task, and encouraging its greater co-ordination with the Court of Accounts, National Anticorruption Directorate and the National Integrity Agency.

MEDIA

14. Regulation of coverage of electoral contestants by private broadcasters could be reviewed to better protect editorial freedom and the general public's interest in receiving a wide spectrum of information.
15. Consideration could be given to repealing the provision of Art. 38(2) of the Election Law so that all registered contestants are covered by the public broadcaster.
16. The Election Law could be amended to provide for precise and generally applicable guidelines for election coverage in the media. Such provisions could be based on existing legal requirements of equity, balance, and impartiality, while, at the same time, respecting editorial freedoms to control schedules, and determine the structure and format.
17. Authorities could consider enhancing the CNA's media monitoring methodology to increase its capacity to identify various forms of unbalanced coverage during the campaign, and providing the CNA with additional resources for this purpose.
18. The Broadcasting Law could be amended to regulate the role and powers of the CNA during election campaign period in more detail. Timeframes for the decision-making process could be made shorter so that sanctions could be issued and implemented in an expeditious manner ahead of election day.
19. The appointment of CNA members should be free from any political or economic interference to enhance its independence and credibility. The Broadcasting Law could minimize the number of political nominations and, instead, provide for more diverse membership, including independent experts and civil society representatives.
20. In line with good practice, the Law on the Public Radio and Television could provide for public participation in the selection of candidates to manage the public broadcaster, which could be achieved through public hearings and public consultations on candidates.

COMPLAINTS AND APPEALS

21. To ensure that voters and electoral contestants have a true opportunity for legal remedy during elections, the law could clearly specify the time permitted for review of complaints and appeals.

22. Consideration should be given to amending the legislation to provide for clear jurisdiction over non-criminal campaign violations and elaborate possible sanctions.

PARTICIPATION OF NATIONAL MINORITIES

23. Legislation should be amended to ensure fair competition without unduly favoring the organizations represented on the Council of National Minorities or in the parliament.
24. A large-scale civic education programme targeting selected minority communities and aimed at increasing the understanding of electoral processes could be developed and conducted in close co-operation with relevant civil society organizations, including those representing Roma.

CITIZEN AND INTERNATIONAL OBSERVERS

25. In line with previous OSCE/ODIHR recommendation and with a view to further increase transparency, the Election Law should be amended to allow for observation by representatives of political parties and independent candidates.

ELECTION DAY

26. To ensure a clear division of roles and prevent the presence of unauthorized persons, BESV members could be clearly identified with badges and only BESV members, accredited observers, candidates, and the media be allowed to remain in the polling station.
27. Further voter education campaigns could be organized to inform visually and physically impaired voters of the rights to be assisted.
28. Legislation should explicitly provide for observer access to the tabulation at all levels.
29. To ease the accessibility of the complaints process the election administration could consider the adoption of a standard complaint form that voters and observers could use to file a complaint with bureaus at all levels.
30. While de jure falling under the jurisdiction of the Court of Appeals, procedures for appealing CEB decisions regarding election results could be elaborated in the Election Law.

ANNEX: OFFICIAL ELECTION RESULTS

Elections for the Romanian Parliament Final Results⁴⁶

Elections for the Chamber of Deputies		
Number of Registered Voters	18,423,066	
Number of Voters Who Voted	7,694,180	41.76%
Number of Voters on Supplementary Voter lists	187,383	2.44%
Number of Ballots Cast Through Mobile Voting	53,707	0.70%
Number of Valid Ballots	7,409,626	96.30%
Number of Invalid Ballots	212,289	2.76%
Number of Blank Ballots	71,364	.98%

Party/Coalition/National Minority Organization	Votes	Seats
Social-Liberal Union (USL)	4,344,288	273
Right Romania Alliance (ARD)	1,223,189	56
People's Party – Dan Diaconescu (PPDD)	1,036,730	47
Democratic Union of Hungarians in Romania (UDMR)	380,656	18
National Minority Organizations that received at least 10% of the natural threshold:		
Forumul Democrat al Germanilor din România (Germans)	4394	1
Uniunea Bulgară din Banat – România (Bulgarians)	1296	1
Uniunea Democratică a Slovacilor și Cehilor din România (Slovaks and Czechs)	1055	1
Uniunea Polonezilor din România “Dom Polski” (Poles)	988	1
Uniunea Croaților din România (Croats)	810	1
Comunitatea Rușilor Lipoveni din România (Russian Lipovans)	801	1
Uniunea Democratică a Tătarilor Turco-Musulmani din România (Tartar Turk-Muslims)	796	1
Asociația Partida Romilor PRO EUROPA (Roma)	589	1
Uniunea Sârbilor din România (Serbians)	544	1
Uniunea Ucrainenilor din România (Ukrainians)	311	1
Asociația Macedonenilor din România (Macedonians)	237	1
Uniunea Elenă din România (Greeks)	206	1
Asociația Liga Albanezilor din România (Albanians)	195	1
Uniunea Democrată Turcă din România (Turks)	168	1
Uniunea Culturală a Rutenilor din România (Ruthenians)	150	1
Federația Comunităților Evreiești din România (Jews)	140	1
Uniunea Armenilor din România (Armenians)	132	1
Asociația Italienilor din România Ro.As.It (Italians)	125	1
Total Number of Seats in the Chamber of Deputies		412

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Data aggregated according to final results published on the CEB website: <http://www.becparlamentare2012.ro>.

Elections for the Senate		
Number of Registered Voters	18,423,066	
Number of Voters Who Voted	7,694,180	41.76%
Number of Voters on Supplementary Voter lists	187,383	2.44%
Number of Ballots Cast Through Mobile Voting	53,707	0.70%
Number of Valid Ballots	7,416,628	96.39%
Number of Invalid Ballots	185,980	2.42%
Number of Blank Ballots	90,968	1.18%

Party/Coalition/National Minority Organization	Votes	Seats
Social-Liberal Union (USL)	4,457,526	122
Right Romania Alliance (ARD)	1,239,318	24
People's Party – Dan Diaconescu (PPDD)	1,086,822	21
Democratic Union of Hungarians in Romania (UDMR)	388,528	9
Total Number of Seats in the Senate		176

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 (www.osce.org/odihr).