

## OSCE/ODIHR Submission of Information about an OSCE Participating State under Consideration in the Universal Periodic Review Process

**Participating State:** Romania

**UPR Working Group Session and Date of Review:** 43<sup>rd</sup> Session, February 2023

### Background

1. Romania has been a participating State (pS) in the Organization for Security and Co-operation in Europe (OSCE) since 1973, and has thus undertaken and recently reaffirmed a wide range of political commitments in the “human dimension” of security as outlined in relevant OSCE Documents.<sup>1</sup>
2. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE pSs, including Romania, to assist them in implementing their human dimension commitments. ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti.
3. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in Romania and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms in Romania.

### Election-related activities

4. In the reporting period, ODIHR observed the following elections upon invitation from Romania. Some observations and recommendations mentioned in more than one report are mentioned only once due to word-limit considerations.

#### *Parliamentary elections, 6 December 2020*

5. Following an invitation from the authorities of Romania, ODIHR has deployed a Special Election Assessment Mission (SEAM) to the 6 December 2020 parliamentary elections. This is in accordance with ODIHR's mandate, and based on the findings and conclusions of the Needs Assessment Mission (NAM) that took place from 14 to 18 September.
6. In its NAM report, ODIHR recommended to deploy a Limited Election Observation Mission (LEOM) that would include, in addition to a core team of analysts, 20 long-term observers. However, safety challenges posed by the COVID-19 pandemic resulted in a significant shortfall of seconded observers and made deployment of long-term observers seconded by the OSCE pSs infeasible. Subsequently, ODIHR has decided to change the format of the observation activity from an LEOM to a Special Election Assessment Mission (SEAM).

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<sup>1</sup> OSCE/ODIHR, *Compendium of OSCE Human Dimension Commitments: Volume 1, Thematic Compilation (third edition)*, and *Volume 2, Chronological Compilation (third edition)*, 2011; OSCE *Astana Commemorative Declaration: Toward a Security Community*, 3 December 2010.

7. The ODIHR SEAM final report concluded that the elections “*were organised professionally despite challenges posed by the COVID19 pandemic and the late adoption of some important procedural regulations. The legal framework generally provides for the conduct of democratic elections, yet numerous amendments affected its quality and contributed to legal uncertainty. Elections were competitive and fundamental freedoms were respected, but public health limitations on freedom of movement combined with restrictive campaign rules led to an anaemic campaign. Public media offered free and equitable access to contestants; however, an overall lack of election-related news coverage limited voters’ exposure to different political platforms. The lack of effective mechanisms for promoting women’s political participation indicates the need for greater commitment to ensure adequate representation of both women and men. In the limited number of polling stations visited, procedures were followed, and voting took place in a generally calm and orderly manner*”. The final report of the SEAM made 22 recommendations of which the following selection is of particular importance:

- The electoral legal framework should be reviewed to bring it further in line with OSCE commitments, international standards and good practices, well in advance of the next elections and within an inclusive consultation process. To prevent uncertainty generated by the concurrent election rules, consideration should be given to harmonize the provisions and deadlines in the election legislation.
- Additional incentives could be considered for providing more favourable conditions for candidates of both genders to stand for elections. Political parties could consider ways to further increase gender balance and place women in electable positions on the candidate lists.
- Legislation should be amended to remove undue restrictions during the campaign period to sufficiently ensure freedom of contestants to campaign.
- To ensure effective campaign finance oversight, the legislation would benefit from further improvement to address the identified gaps. The mandate of the Permanent Electoral Authority can be enhanced to effectively identify and address campaign finance violations.
- To enhance transparency, legislation should include explicit provisions on the right of observers to access all stages of the electoral process.

*Presidential election, 10-24 November 2019*

8. Following an invitation from the Government of Romania, ODIHR deployed an Election Assessment Mission (EAM) to observe the 10 and 24 November 2019 presidential election. The EAM assessed compliance of the electoral process with OSCE commitments and other international obligations and standards for democratic elections as well as with domestic legislation.

9. The EAM final report<sup>2</sup> concluded that “*The presidential election was competitive, pluralistic, and offered voters a genuine choice from a broad spectrum of political alternatives. Campaigning took place in an open atmosphere with respect for fundamental freedoms. The media offered limited election coverage, reflecting the low-key campaign,*

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<sup>2</sup> EAM Final Report

*but informed voters of the different political options. Though certain aspects of election related legislation could be improved, the election was effectively administered and generally enjoyed public confidence. Recent amendments to campaign finance legislation significantly increased public funding for parliamentary parties. Interim reporting of expenses is not required, and possible sanctioning tools are neither effective nor dissuasive”.*

10. The following key recommendations were presented:

- As previously recommended, consideration should be given to enacting an election code applicable to all types of elections through an inclusive process following consultations with relevant stakeholders in order to eliminate inconsistencies generated by the concurrent application of several pieces of legislation;
- In line with international obligations, restrictions on the suffrage rights of persons with mental disabilities should be removed. Authorities should introduce provisions to ensure that the deprivation of the right to vote for people with a judicial sentence are based on clear criteria respecting proportionality;
- Consideration should be given to develop specific procedures for verifying support signatures which should be made public sufficiently ahead of the signature collection process. Consideration could also be given to extending the period for verifying nomination documents;
- In order to increase transparency, sessions of the election administration bodies should be open to the public. Decisions and minutes of their sessions should be published in a timely and consistent manner;
- Consideration should be given to introduce the possibility of a judicial review of CEB decisions by a court of law with adjudication timeframe within the electoral period;
- Consideration should be given to revise the sanctions for campaign finance violations in order to render them effective, proportionate and dissuasive;
- To prevent undue limitations on the editorial freedom of the media in news and informative programmes, consideration should be given to amending the provision of Article 40.2 of the PEL that requires private broadcasters to provide candidates with airtime proportional to what is allotted by the public broadcasters.

### **Tolerance and non-discrimination issues**

11. OSCE pSs have made a number of commitments to promote tolerance and non-discrimination and specifically to combat hate crime, and ODIHR supports states in their implementation of those commitments.<sup>3</sup>In this context, ODIHR produces an annual report

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<sup>3</sup> OSCE participating States have committed to strongly condemn racial and ethnic hatred, xenophobia, discrimination, anti-Semitism and intolerance against Muslims, Christians and other religions, and have committed to address these phenomena in all their forms (Copenhagen Document, 1990). Since 2003, the OSCE participating States have established a normative framework of OSCE Ministerial Council (MC) decisions to reflect their commitments to address these phenomena: MC Decisions 4/03, 12/04, 10/05, 13/06, 10/07 and 9/09. Additionally, a number of OSCE human dimension commitments recognize the vital importance of participating States’ realization of their binding human rights obligations under international treaties, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

on hate crime<sup>4</sup> to highlight the prevalence of hate crimes and good practices that pSs and civil society have adopted to tackle them. ODIHR also helps pSs design and draft legislation that effectively addresses hate crimes; provides training that builds the capacity of pSs' criminal justice systems and the law-enforcement officials, prosecutors and judges that staff them; raises awareness of hate crimes among governmental officials, civil society and international organizations; and supports the efforts of civil society to monitor and report hate crimes.

12. In respect of the 2020 Hate Crime Report<sup>5</sup> and ODIHR's key observations,<sup>6</sup> ODIHR observes that Romania has not reported statistics on hate crimes to ODIHR since 2018. In addition, ODIHR observes that Romania would benefit from raising the awareness and building the capacity of criminal justice officials in relation to hate crimes.
13. With regard to support for hate crime victims, ODIHR observes that support to hate crime victims is provided as part of the general victim support system in Romania. While hate crime victims are not explicitly defined in legislation, when identified by police they are automatically presumed to be vulnerable. The referral system relies on informal co-operation between CSOs and law enforcement.<sup>7</sup>
14. ODIHR's 2020 publication "*OSCE Human Dimension Commitments and State Responses to the COVID-19 Pandemic*"<sup>8</sup> reported that intolerance and discrimination was significantly directed towards people of, or perceived to be of, Asian descent in the early phase of the pandemic. Examples include discrimination of persons of East Asian descent in access to shops, restaurants, hotels and public transportation, or obstacles in access to healthcare, education and housing, including in Romania. Roma communities were also frequently accused of violating public order and pandemic-related measures, as well as spreading Covid-19 and heavy-handed law enforcement raids, meant to monitor the implementation of restrictive pandemic-related policies, disproportionately affected minority communities, including instances of police violence, including in Romania.
15. ODIHR's recommendations to Romania on this basis of this publication include:
  - Respond swiftly to hate crimes, including those motivated by gender or sex, to record and investigate them so that the perpetrators can be brought to justice and adequate penalties imposed. Support victims as they report their experiences, and ensure the availability of all necessary psychological, social and legal support for victims, including through close co-operation with civil society. Relevant authorities should also publicly condemn any such acts and ensure that perpetrators are brought to justice;
  - Consider, providing the possibility to report hate crimes online and allowing third-party reporting to police by civil society groups and equality bodies;

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<sup>4</sup> <http://hatecrime.osce.org>.

<sup>5</sup> 2020 Hate Crime Report - Romania

<sup>6</sup> Findings on the information available to ODIHR on hate crimes in a particular participating State in relation to OSCE commitments are presented as Key Observations. There are, in total, 13 Key Observations linked to OSCE participating States' commitments in the area of addressing hate crime, <https://hatecrime.osce.org/our-methodology>. This methodology has been in place since the 2020 Hate Crime Report.

<sup>7</sup> <https://hatecrime.osce.org/national-frameworks-romania#victimSupport>

<sup>8</sup> Organization for Security and Co-operation in Europe, *OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic*, Warsaw, 17 July 2020, <https://www.osce.org/odihr/17554>

- Assess and improve relevant mechanisms for hate crime recording and data collection, including gender disaggregated data and assess the existing current victim support systems;
- Ensure that the consequences of the current pandemic, including the economic crisis, do not affect states' capacities to provide support to victims of hate including through appropriate funding to non-state actors and civil society organizations;
- Build law enforcement and justice sector capacities to recognize and effectively investigate hate crimes and to ensure that specialized training, focused on hate crime victims and their needs, is provided for officials and civil society organizations within the victim support structures. Enact policies, through inter-agency co-operation, to address hate crimes in a comprehensive manner;

### Roma and Sinti issues

16. ODIHR has a specific mandate to assist pSs in implementing the OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area<sup>9</sup> and three subsequent OSCE Ministerial Council decisions.<sup>10</sup> ODIHR issued the First Status Report on the implementation of this Action Plan in 2008<sup>11</sup> and the Second Status Report in 2013<sup>12</sup>. Both reports explored the efforts of pSs as well as challenges in meeting their commitments in the areas of public policy, non-discrimination, socio-economic issues, education, and public and political participation, and the rights of Roma and Sinti in crisis and post-crisis situations.<sup>13</sup> The Third Status Report was issued in 2018 and assessed the progress OSCE pSs have made in implementing their commitments towards enhancing the participation of Roma and Sinti in public and political life.<sup>14</sup>
17. ODIHR noted that the outbreak of the COVID pandemic was accompanied by a sharp surge in racism in many OSCE pSs, including in Romania. ODIHR recommends elaborating effective policies addressing the vulnerability that Roma already faced long prior to this health crisis, including educational and other measures.<sup>15</sup>
18. According to ODIHR reports, vote-buying is still attempted in economically deprived regions of the country with minority, especially Roma.<sup>16</sup> In this respect, ODIHR strongly recommends developing educational initiatives aimed at preventing manipulation and

<sup>9</sup> OSCE Ministerial Council, Decision No. 3/03, “[Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area](#)” (OSCE Action Plan), Maastricht, 1-2 December 2003.

<sup>10</sup> [OSCE Ministerial Council Decisions](#) No. 6/08 adopted in Helsinki on 5 December 2008, No. 8/09 adopted in Athens on 2 December 2009 and No. 4/13 adopted in Kyiv on 6 December 2013.

<sup>11</sup> “[Implementation of the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area](#)”, 24 September 2008, OSCE/ODIHR.

<sup>12</sup> “[Implementation of the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area, Status Report 2013](#)”, 24 October 2013, OSCE/ODIHR.

<sup>13</sup> *Ibid.*

<sup>14</sup> [Third Status Report: Implementation of the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area](#), 11 December 2018, OSCE/ODIHR.

<sup>15</sup> [OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic](#), 2020, ps. 143 and 145

<sup>16</sup> *Op. cit.*, ODIHR Third Status Report, p. 25.

vote-buying amongst Roma communities.<sup>17</sup>

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<sup>17</sup> *Ibid*, p. 55.