

Presidential elections in Romania: EPDE experts' mission conclusions

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The EPDE began its experts' mission on 29 October 2014 for the presidential election that took place in Romania on 2 November 2014. The mission was composed of 14 EPDE representatives – members of citizens' election observation organizations from Armenia, Azerbaijan, Belarus, Georgia, Germany, Moldova, Russia, and Ukraine – who observed the election day proceedings in approximately 100 polling

stations in all six districts of Bucharest. Furthermore, EPDE conducted several meetings with the representative of the Permanent Electoral Authority, political stakeholders, and representatives of the civil society. Due to the limited observation period, this statement mainly focuses on some aspects of the election campaign, electoral legislation, and the election day procedures and their implementations.

The presidential election in Romania was conducted in a competitive environment, with 14 candidates registered for the first round. The final days of the election campaign were overshadowed by corruption scandals that dominated the public debate and media coverage. Despite the efforts of civil society groups, a formal TV debate between the candidates did not take place due to the main election competitors' lack of willingness to participate. The voting process on election day took place in a calm atmosphere, and established procedures were largely followed. Widespread procedural shortcomings occurred during the counting process, but they did not influence the final results. A matter of concern on the part of the EPDE mission was the absence of sufficient safeguards against multiple voting, which created the potential for manipulation of votes.

In the final days leading up to the election, the electoral campaign was overshadowed by corruption scandals that were widely covered by the electronic media. The EPDE mission received information that some of the main candidates had effectively refused the proposition to organize a televised debate. Overall, there was a rather negative assessment among the civil society actors of the coverage of the election campaign by the state and private mass media and generally a low level of trust in the accuracy of opinion polls conducted by polling firms.

In general, the established election law provides an adequate framework for conducting democratic elections. However, two Urgent Ordinances issued by the government, head of which was one of the main candidates in the elections, came into force shortly before elections which is not in line with international standards on good electoral practice as established by the Venice Commission of the Council of Europe.

Urgent Ordinance no. 55/2014 (in effect since 2 September 2014) allowed all elected mayors, heads of county councils, and members of local and county councils to change their party affiliation by leaving the parties on whose ticket they were elected, in order to either join other parties or become independent. This declaration of party affiliation was to be made by approximately two weeks before the election day. In the opinion of the EPDE experts, this Ordinance has the potential to have a strong influence on the political balance of the public administration, which is responsible for organizing the elections on the regional and local level.

In addition, Urgent Ordinance 45/2014 (in effect since 27 June 2014) introduced the possibility for voters to cast their ballots at any polling station outside their residence town or commune. This new regulation provides insufficient safeguards against multiple voting, as it is not possible to cross-check the high number of changes of voting place in a reasonable time frame, due to the lack of efficient verifying control mechanisms (i.e. an electronic register).

Due to the high number of changes of voting place (in some polling stations, more than 40% voters applied for voting outside their home polling stations), many observers noted that polling stations had run out of declaration forms by the second half of the election day. In some polling stations, declaration forms were granted only to some voters arbitrarily selected by the PEC heads, while other voters were sent to another polling station. Furthermore, nervous interventions of members of the higher-level election commission and long queues were observed during the second half of the election day. Due to this fact, at least in one observed case, approximately 50 voters could not enter the polling station before closing in order to exercise their voting rights (PEC 1205).

Some regulations in the electoral law favor parties represented in the parliament. For instance, the law does not grant the right to independent candidates to appoint the members of the electoral commissions and significantly affects the rights of parties not having their faction in the parliament to appoint their representatives at the electoral commissions, thus depriving them the right to receive the copies of the voting protocols. This inability ultimately limits the rights of independent candidates and candidates from the majority of non-parliamentary parties to contest the results.

While the election law provides opportunities for civil society organizations to observe elections, political parties and independent candidates are not entitled to deploy observers. The electoral law does not sufficiently prescribe the rights of observers, and there are no clear provisions concerning the rights of media representatives and international observers. The law stipulates that observers must be located in places designated by the chairman of the commission, but does not guarantee the possibility to observe the entire voting process directly. Furthermore, observers do not have the right to obtain a copy of the voting protocol. All these elements of the electoral law limit the possibility of collecting information for appealing the results of the elections in case of serious violations; there is no clear regulation on submitting complaints by the observers and the processing the complaints in the courts.

On election day, the actions of EPDE observers at the polling stations — the ability to enter and move freely in the polling venue, to film and take pictures — depended on the good will of the PEC head or its other members. Some of the interpreters of the EPDE teams were not allowed into the polling stations for voting and vote counting. While in general the reception of EPDE observers at the polling stations was good or very good, in some cases their accreditations were not accepted and/or they were deprived of the ability to collect public information. Both observers and members of the election commissions were often instructed or even intimidated by the representatives of the local administration who were present at the polling stations.

In all observed cases, the procedures of vote counting were insufficiently implemented and the transparency of the process was not guaranteed. In one case, additional accreditation for the observation of vote counting was required by the PEC head. Filming and taking pictures were prohibited in most cases.

Overall, there was a limited interest among the civil society groups to exercise the civic control over the electoral process. In most visited polling stations, civic observers were absent. In some cases observers

allegedly representing non-governmental organizations were in the fact proxies of parties or candidates.

Recommendations:

- For the Romanian authorities:

1. Adopt a unified election code, which would eliminate contradictions in laws and regulations regarding elections.

2. Change the law regarding observer rights:

- Allow parties and candidates to send observers to the electoral commissions
- Ensure the right of observers to make photos and videos without hindrances, provided the secrecy of the vote is secured
- Ensure the right of observers to receive a copy of the voting results protocol.
- Oblige electoral commission members to provide the observers with all the necessary information on the voting proceedings and let them visually inspect the documents.

3. Allow independent candidates and non-parliamentary parties taking part in the elections to send representatives to electoral commissions of all levels and to participate in the draw on the seat distribution in the commissions on equal terms.

4. Define procedures for voting and counting more clearly, with particular attention given to the training of members of the electoral commissions.

5. Introduce sufficient control mechanisms to avoid multiple voting

6. Improve quality of material equipment in polling stations:

- Provide commissions with transparent boxes
- Improve ballot protection
- Place posters at the polling stations with information about the candidates.

- For the international donor organizations:

7. Encourage and support the Romanian citizens' election observation

