



# CZECH REPUBLIC

Election Observation Mission Report

NOVEMBER 2021

# Foreword

On the 8th and 9th October, the parliamentary elections were held in the Czech Republic. Two hundred members were elected for the Chamber of Deputies, the result determines the next Czech government and Prime Minister. The previous government had been led by Andrej Babiš, whose party ANO was the most popular in polls closely followed by the Czech Pirate Party.

The country is known for its rich history, scenic tourist destination and its local craft beer. However, Silba's visit to the country was on duty to conduct an Election Observation Mission (EOM). There had been some growing concerns of democratic backsliding undergoing during the COVID-19 pandemic, among them a new electoral law and an amendment on information access during crisis situations. It was the potential for abuse within these new legal frameworks that motivated us to visit the Czech Republic.

**Silba - Initiative for Dialogue and Democracy**

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# Czech Republic



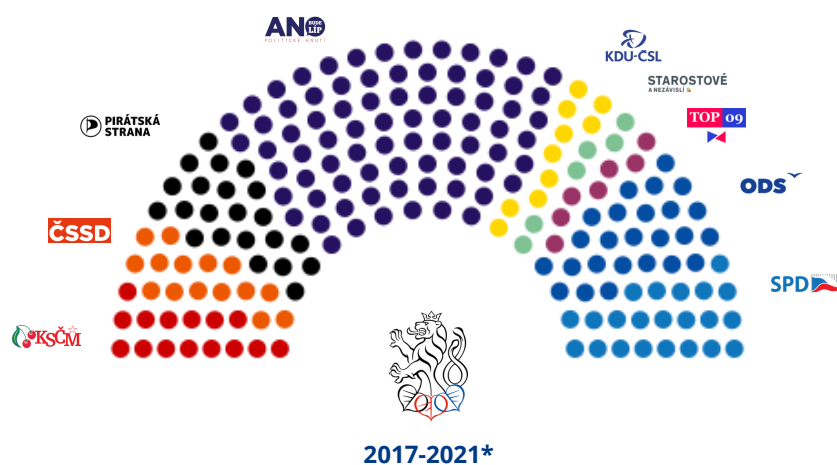
The central European country has a population of around **10,6 million people** and was a former Eastern Bloc state, until the communist government was overthrown in the 1989's Velvet Revolution. The then Czechoslovakia held democratic elections the subsequent year, and in 1993 it split into the Czech Republic and Slovakia.

The Czech Republic became a member of the **EU** in 2004 and of **NATO** in 1999.

According to Freedom House's **Global Freedom Score** the country is 'Free' scoring 91/100, but it has had a gradual undemocratic descent since 2017 when it scored 94/100.

The **parliamentary democracy** is bicameral, comprised by the Chamber of Deputies (lower house) and the Senate (upper house). There are 200 seats up for election for a **four-year term**, and after the recent changes in the electoral law any party needs at least 5% of the popular vote to enter the Chamber of Deputies.

The 2021 legislative election was held over two days on the **8th and 9th October**. Subsequently, a government is formed and led by the Prime Minister, appointed by the President of the republic. In order to take office the cabinet must get a vote of confidence in the Chamber of Deputies.



\* In 2017, 6 deputies - 2 from ODS and 4 from SPD - initially elected as members of their political parties left their parties and sat in the Chamber of Deputies as independent members. The illustration above shows the original result of the elections prior to the separation of the 6 deputies from their original parties.

# Parties & Coalitions



## ANO | Yes

The governing party of the previous government led by Andrej Babiš, held 78 seats in parliament. Considered a catch-all party without a clear left nor right-wing association. Started as an anti-establishment centrist movement, its agenda often follows the leader's stances which tend to lack ideological cohesion. It is worth noting that their initial Pro-EU position, which later shifted towards Euroscepticism.



## ODS | Civic Democratic Party

Led by Petr Fiala, held 25 seats in the Chamber of Deputies. Characterised as a liberal conservative party, Eurosceptic, in favour of lower taxes, less bureaucracy, and a free market economy. It is a vocal critic of the EU, demanding reform and refusing the Euro, although not wishing to leave the union.

## KDU-ČSL | Christian and Democratic Union - Czechoslovak People's Party

A Christian democratic party, socially conservative and pro-European. Its leader is Marian Jurečka, and it held 10 seats. It is a known proponent of the 'traditional family' and promoter of Christian values. There are two within the party, one conservative with its base in Moravia, and one liberal emerging in Bohemia.

## TOP 09

The acronym stands for 'Tradition, Responsibility, Prosperity', and the year of foundation. It is led by Markéta Pekarová Adamová, and held it 7 seats in parliament. The party aligns with Christian democracy ideals, liberalism, social and fiscal conservatism, and is considered one of the most Pro-EU in the Czech parliament. It was founded by dissenting politicians who left KDU-ČSL, citing internal changes towards more progressive policies.



### **Piráti | Pirate Party**

A liberal progressive party, led by Ivan Bartoš and it held 22 seats in parliament. It focusses mainly on transparency, anti-corruption, banking reform, environmental politics and e-Government. While being Pro-EU, it acknowledges the need for a more democratic and decentralised European Union. It is an advocate of homosexual marriage, and the legalisation of marijuana.

### **Starostové | Mayors and Independents**

A liberal centrist party which held 6 seats in parliament, and is led by Vít Rakušan. Its tenets are of subsidiarity, localism and decentralisation. The key points of the party are accountability, education, environmental and cultural protection, and anti-corruption. The party has garnered strong support in smaller cities.



### **SPD | Freedom and Direct Democracy**

Led by Tomio Okamura, held 22 seats in parliament. It is a nationalist right-wing populist party, with anti-immigration, anti-LGBT and anti-Islam stances. It is a promoter of direct democracy and intends to introduce a referendum to leave the EU. It has been accused of disseminating disinformation and inciting fear and hatred, as mentioned in the 2019 Czech Ministry of Interior's report.



### **KSČM | Communist Party of Bohemia and Moravia**

A successor of the Communist Party of Czechoslovakia dissolved in 1992. It held 15 seats in parliament and is led by Vojtěch Filip. While not a governing party, it supported the government of Andrej Babiš. It is a far-left marxist and anticapitalist party with a Eurosceptic stance. Divided in two wings, the first being liberal and progressive leaning towards social democracy, the second being stalinist with anti-democratic tendencies often with open non-democratic public statements.



## ČSSD | Czech Social Democratic Party

Led by Jan Hamáček, Minister of Interior of Andrej Babiš' government, it held 15 seats in parliament. The current President Miloš Zeman was a former chairman of the party. It is a social democratic party, leaning center-left. One of the oldest and main parties in Czech politics in the past three decades. Nonetheless, it has registered a loss of support since 2017.



## Svobodní, Triklóra, Soukromníci | Party of Free Citizens, Tricolour Citizen's Movement, Freeholder Party of the Czech Republic

On 27th March 2021 it was announced the three parties would be running together in a coalition led by Zuzana Majerová Zahradníková. The three right-wing parties converge in their socially conservative, nationalist, liberal and anti-EU ideology.



## Zelení | Greens

Led Michal Berg and Magdalena Davis. The center-left party's focus is on green policies, pro-Europeanism and social liberalism. The party polled the highest at 2%. However, it decreased in the last polls to less than 1%.



## Přísaha | Oath

The emergent centrist party led by Robert Šlachta and was founded in 2021. The party states that the fight against corruption is their main agenda. It is considered a catch-all populist party. The last polls estimated the party would get 3,8%, below the necessary threshold to reach parliamentary seats.

# Key Developments

## GOVERNMENT'S MEDDLING AND CRITICISM

The Prime Minister Andrej Babiš announced incorrectly the number of testing sites in the beginning of the pandemic in the Czech Republic in March 2020. The information was later corrected, but the government received criticism for its lack of transparency in the handling of the public health crisis.

Later in the year, the government proposed an amendment which would enable withholding information from the public in moments of crisis. The rationale behind was that if certain information was to be made public it would affect the management of those crisis situations. The proposed amendment was received with criticism, critics claimed it would open a precedent and be a path to less transparency and less access to information.

The relationship of the government with the media and the disclosure of information, as well as government-media relations, has had its tense moments. In September 2019, during a joint press conference with Hungary's Prime Minister, Viktor Orbán, several Czech and European journalists were forbidden from attending.

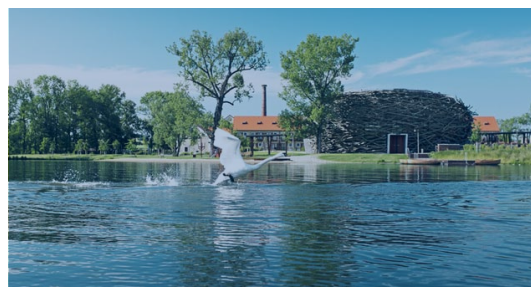
The International Press Institute (IPI) urged the need for press freedom, highlighting incidents like these were concerning as they seemed to be increasing in the Czech Republic.

A few months earlier, the head of the President's office declared it would cease all contact with various media outlets - among them was the public broadcaster Czech Television (CT) - based on the claim

that these were spreading false information. The same praxis was also applied by the office of the incumbent government. This biased distancing from particular media outlets has been considered discriminatory and endangering to press freedom.

Furthermore, while judiciary matters are independent, interferences led by political interest and influence have been observed.

Former Minister of Justice Jan Kněžínek resigned after a fraud investigation on PM Babiš was proposed. Kněžínek was succeeded by Marie Benešová. President Miloš Zeman had also voiced publicly his willingness to use the means at his disposal to have the fraud charges against Babiš dismissed.



## ANDREJ BABIŠ: STORK'S NEST AND PANDORA PAPERS

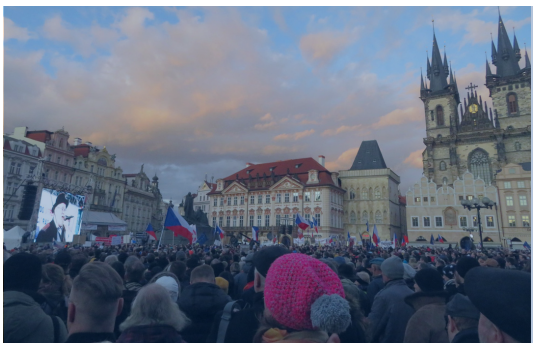
Four months prior to the legislative election, the Prosecutor's Office advised for criminal charges to be filed against PM Babiš. The charges were based on the attribution of EU subsidies to small companies over 10 years ago. The suspicion falls on the deliberate omission of the ownership of the resort Čapí hnízdo (Storks Nest, picture above) by Agrofert, owned by Andrej Babiš.



A report delivered to the public prosecutor stated that the ownership of the resort had been briefly transferred to Babiš' wife and children during the application for the subsidy. Later, an EU audit found conflicts of interest in Babiš' dealings with EU funds connected to his company Agrofert, and announced that funds received after February 2017 should be returned. The value of the funds is estimated to be around €11 million.

Despite this Babiš has claimed innocence and declared it to be an attempt to force him out of politics, stating the company had been awarded to trust funds, not being thus under his charge.

This matter is said to be one of the reasons of the large protests led by Million chvelik pro demokracii (A Million Moments for Democracy, pictures below) calling for the resignation of the Prime Minister and the President. The protests were reported as the largest in the country since the Velvet Revolution in 1989.



Stork's Nest affair has surfaced together with allegations of the kidnapping of Andrej Babiš Jr, held against his will in Crimea as a way to prevent him from testifying against his father.

In 2019, the public prosecutor decided to not pursue criminal charges, however this decision was overturned by the Chief Prosecutor which meant that the public prosecutor would have to decide once again whether to file or not charges.

Five days ahead of the 2021 Czech Republic's legislative election, a new set of documents came to light revealing Andrej Babiš' purchase of a €15 million chateau in the French Riviera through offshore companies.

While purchases through offshore companies are not illegal *per se*, it is unclear why Babiš chose to do so as experts state there were no tax benefits from it.

However, ANO's leader has failed to disclose both the property and the companies to the Czech Ministry of Justice. These revelations made in the Pandora Papers seem to be conflicting with ANO's agenda of fighting corruption and increase in transparency and tax.

The controversies around Babiš' private life and business dealings have been in the spotlight throughout his term as Prime Minister. Regardless, the opinion polls have not shown it to have an affect on the estimated result of ANO in the legislative election of 2021.

## THE MISSION

During the two days of the election, 8th and 9th October, 27 Silba volunteers observed a total of 113 different polling stations in 9 of Prague's 22 districts, with a focus on observing adherence to Czech electoral law as well as compliance with international norms.

Prior to the EOM, Silba's volunteers completed a comprehensive OSCE course. On the days leading up to the election the observers were educated in local politics and the current political situation, culture, history, and electoral law in a series of workshops and lectures.

Following the EOM's procedure, Silba sought accreditation as an international election observer with the Czech State Election Commission, through the Ministry of Interior. We experienced a very uncooperative level of service, before being denied on the grounds that the commission had decided to only allow 13 organisations to observe the election, of which only one was an international organisation: OSCE/ODHIR.

Nevertheless, Silba decided to continue the mission as polling stations are public spaces in the Czech electoral law. We note, however, that the mission was hampered by the inability to witness the opening and closing of polling stations as well as the counting of ballots.

## CZECH ELECTORAL LAW

In the early 1990s, when the Czech Republic had its first democratically elected parliament write the electoral law it seemed to not consider electoral

transparency as a matter of interest to anyone outside political parties or the media. So the electoral law only allowed these two groups to observe the elections. After joining the OSCE, the electoral commission had to grant the organisation a special permission. However this arrangement was never added to the Czech electoral law.

This makes it difficult or impossible for civil society to directly observe the electoral process of the Czech Republic, having polling station officials (PSO) as the primary safeguard against electoral misconduct. PSOs are of different political backgrounds or outsider volunteers, as well as a few members of the constituency election commissions. While this is not inherently a weak safeguard, it relies on the political parties to safeguard their own interests in fair elections, thus Silba is concerned by this being the only safeguard.

The Czech electoral law lacks some provisions for the observers it allows to participate, since it does not mention their rights or duties.

**27 observers**  
**113 polling**  
**stations**  
**9 of Prague's**  
**districts**

As the Czech electoral law has no provision for mail-in voting, so citizens are required to go to polling stations on their home districts. It is possible for voters to request a non-local voting permit, and vote anywhere in the country or even abroad provided that voters can go to a polling station physically to vote.

This excludes all voters who have to work on election day, or are unable to go a polling station. Those who are unable to be physically present at a polling station have to be visited by an official carrying a mobile ballot box.

#### **ELECTION DAY**

On election day Silba deployed 11 teams of 2 observers throughout 9 of Prague's central districts. During the two days of the election, the teams observed 113 polling stations. These observations were limited to what could be observed after the opening procedure was completed, as well as before the closing procedure started. In rare cases our observers were allowed to observe the sealing of the polling stations. However, observers were hampered by the lack of accreditation and in a few cases denied from observing the polling stations.

In general, the observers did not observe any severe electoral misconduct in the polling stations, with the most serious cases being the misconduct of individual voters ignoring instructions from PSOs.

Observers found, nevertheless, a large variance in PSOs' behaviour. Our interpretation for this behaviour is due to the lack of standardisation of training across districts, as well as poor measures to ensure that PSOs are trained as intended.

The most common of failings by PSOs observed on election day was the consistent failure to verify voter identification by not asking voters to remove their masks. Despite this voter fraud is very rare, and even more rarely accomplishes anything.

While it is not a serious failing for the integrity of the election, it illustrates how PSOs are uniformly misinformed about the requirements placed on them by the electoral law.

Polling stations were mandated to ensure that unused ballots were recycled as much as possible, but voters would seldom throw them in the designated recycling bins. One voter confided in one of our observer teams that several bars would give a free beer to those bringing their unused ballots as proof they had voted for someone else. Whilst this constitutes a very mild form of vote buying, it is not one to cause much concern, as the Czech Republic is generally wealthy enough that such offer is not a serious economic factor. Additionally voters can get an extra set of ballots issued at the polling station, so bringing an unused ballot is not proof.

**no provision for mail-in voting,  
voting permits can be requested to  
vote outside the home district,  
those unable to go to a polling  
station can be visited by officials**

Thus, observers often found themselves having to argue with the presidents of polling stations about the details of their work, e.g. how closely they can observe, inspect materials, or who they can talk to. Additionally, observers found themselves under PSO's wishes and interests when they were at polling stations.

### **ELECTION CHARACTERISTICS**

The election also features a particular characteristic as it is split in two days, starting on Friday afternoon and ending Saturday afternoon. As polling stations are closed during the night, the law states that ballot boxes must be sealed and entrances to the polling station be secured, but there is no additional requirement for protection.

The requirements state that the president of the polling station inspects the seals on the entrances and ballot boxes before voting resumes. However, the law does not make any provision on how to proceed in case they have been tampered with. This represents a critical vulnerability in the electoral law, as a scrupulous group could exploit it for strategic gain.

**a little over 8  
million  
registered  
voters  
22 parties  
running  
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million ballots in  
circulation**

At best it allows such groups to strategically spoil the election by breaking in and breaking the seals, putting the integrity of the election at risk. At worst it represents an opportunity for strategic ballot stuffing, allowing the flipping of particularly contentious constituencies.

The enormous amount of ballots that are in circulation can also hamper the security of the election. When voters are invited to vote they receive ballots via mail, with one ballot per party running, including the full list of candidates in the constituency.

To ensure the voter's right to vote, the polling stations keep a number of ballot papers to issue to voters when they show up - this means that there are many more ballots in circulation than there are voters. In an election with a little over 8 million registered voters with 22 parties running, there would be more than 180 million ballots in circulation. This issue is only partially reduced by parties running together in coalitions, thus being on the same ballot. To prevent abuse of these ballots, the law makes voters put their ballot of choice into a particularly designed envelope which is then placed in the ballot box.

### **CONDUCT, VULNERABILITIES & PROCEDURES**

Silba has seen no evidence of serious electoral misconduct in Prague, but rather many practices not legislated that help improve security. Such as the PSOs adding writing to the seals to make tampering harder - as well as counting the number of special envelopes in use - and police patrolling around the polling stations to enhance security. However, we still find these practices insufficient in the face of the much simpler and safer option of having an amendment in the Czech electoral law of having the election over a single day, and ballots being issued only at polling stations.

necessarily proof of anything.

The large amount of ballots and special envelopes led PSOs to improvising solutions to this technical issue. In many places, the solution involved keeping a running count on how many envelopes were issued to then check against the number in the box. Since the ballots and envelopes are not serial numbered, it is impossible for PSOs to know whether there has been ballot stuffing or simple misconduct. Therefore, making it impossible to separate legal from illegal votes.

Since the law barely has provisions for observers, while polling stations are considered public places, PSOs had to improvise once again. In most cases, PSOs welcomed observers, providing a pleasant experience.

Occasionally observers would have to wait to be admitted as the president of the polling station would call the municipal government or higher-ups. On a few occasions, our observers were met with hostility and ordered to leave, with one instance leading to the police escorting the observers from the polling station. When questioned for the grounds of the expulsion there were many, from COVID concerns to lack of accreditation to arguments that the polling stations are only public places for Czechs.

Given our own reading of the electoral law and our lack of accreditation, we expected to be expelled from every single polling station. We were happy and disappointed at how many places we were allowed to observe. On one hand, it shows that the PSOs of the Czech Republic are confident and willing to be as transparent as the law allows them to be. On the other hand, it shows that they are left to deal with difficult questions to which there are no legal provisions or guidance. Throughout both election days police were observed

## **due to out lack of accreditation and provisions for international observers we expected to be expelled from every polling station**

in and around polling stations, however they did not interfere with the voting or observers unless requested by PSOs.

In general, the polling stations were designed according to the specifications in the Czech electoral law and were manned sufficiently to sustain the two-day voting process. However, a number of shortcomings made themselves frequently evident and compromised to varying degrees the voters right to privacy and secrecy during the voting. One of these cases was those of disabled people. The majority of polling stations were entirely or partially inaccessible to physically disabled people, and since mail-in voting is not allowed these people had to request the ballot box to be carried by two random PSOs. Then the voter would place their ballot of choice into the envelope without any secrecy afforded to them, unless the PSOs turned around while this happened.

According to the electoral law, voters must show a government issued photo ID, which is then checked against a permanent voter roll for the district as well as a temporary voter roll of those unable to vote in their home districts.

# the secrecy of the vote was possibly compromised as votes were casted behind small or transparent screens

The names of those who have voted are then marked. These rolls are not, however, shielded from irrelevant parties and it is technically possible to observe who has already been in to vote. This constitutes a minor issue, the polling stations should at the very least get guidelines for protecting the privacy of voters.

Inside the polling stations, the secrecy of the vote was also often compromised since voters only had a small screen to hide behind when placing their chosen ballot in the envelope - in cases where voters had not pre-marked their ballots they had to do so behind this screen. Depending on the district, these screens were either transparent or quite small and ensured secrecy very poorly. The issue was exacerbated by these screens often facing away from the door of the polling station, so any voter queuing would be able to look voters over the shoulder, possibly compromising the secrecy of the vote.

On the first day, observers noted that several ballot boxes were poorly sealed, with clear gaps between the lid and the box itself and some boxes missing seals. This problem seemed to be largely

rectified by day two of the election by adding further seals during the closing procedure. Once again PSOs improvised in the closing procedure by writing on the edges of the seal so that half of the word was on the seal and half on the box, making it almost impossible to tamper with without being noticed.

## FINAL REMARKS

Our final assessment is that the integrity of the election for the Chamber of Deputies was not compromised, and we have seen no indications that it might have been. We have, nevertheless, noted several shortcomings in the Czech electoral law, which we believe should be corrected. Silba recommends that the Chamber of Deputies uses this term to re-examine the election law, in order to implement policies that are proven effective in other countries, as well as adding redundancies to the electoral integrity that would help guarantee the security of future elections. Concretely, we recommend the following:

- Introduce a vote by mail-in.
- Create legal provisions for non-partisan national and international election observers.
- Create legal provisions for the rights and duties of election observers.
- Shorten the election to a single day to increase security.
- Change the way ballots are issued: (a) Issue a single ballot to voters; (b) Issue these ballots only at polling stations; (c) Create a serial number system for tracking the number of ballots in circulation; (d) Create a serial number that lets PSOs track the number of envelopes used.
- Enhance training of PSOs to include more cases like using mobile ballot box or handling of unauthorised personnel in the polling station.

# Election Results

## POLLING PREDICTIONS

Most polls conducted from January to June placed the Pirates & Mayors coalition with several points ahead of ANO. However, subsequent polling during the summer showed an increase in ANO's support - analysts suggest this was the result of the country's recovery from the pandemic and the handling of the pre-election campaign.

It is worth noting the hostility the Pirate Party had received in the media, some owned by ANO's leader, for leaning too much to the left or even having too many manifesto policies.

The latest polls placed ČSSD with around 3.5%, a decrease from the 7.3% of 2017's election. KSČM, ANO's coalition partner,

**ČSSD and KSČM failed to reach the 5% threshold to win any seats in the Chamber of Deputies for the first time in Czech election history**



was also expected to lose seats in parliament prompting Babiš' party to look for other partners to make a government. Additionally, ANO and SPD have both rejected a partnership with each other. As a result, it was suggested that Babiš might form a coalition with ODS, of the SPOLU coalition, which its leader has rejected. It was also expected that the two coalitions SPOLU and Pirates & Mayors would try to form a coalition government.

## OVERALL RESULTS

In the 2021 Czech election, the liberal-conservative three-party SPOLU coalition won 27.8% of the vote, while Pirates and Mayors, another opposition group, won 15.6%. Together, the two alliances have won 108 seats in the 200-member Chamber of Deputies. The previously governing ANO party, led by the populist Andrej Babiš, finished in second place, with 27.1% of the vote. The results came as a surprise as polls prior to the election showed ANO as the front runner, predicting Andrej Babiš continuing his position as Prime Minister.

Meanwhile, traditional left-wing parties ČSSD and KSČM failed to reach the 5% threshold to win any seats in the Chamber of Deputies for the first time since the dissolution of Czechoslovakia in 1993.

The 2021 election had the closest results of a legislative election in the history of Czech Republic, and despite the coalition SPOLU winning most votes, they gained only 71 seats to ANO's 72 seats. SPOLU was, thus, dependent on making a coalition with the opposition block PIR-STAN to form a government.

On 2nd November, they agreed on the composition of the new government with SPOLU leader Petr Fiala as the new Prime Minister. Additionally, SPOLU would have 10 ministers, while PIR-STAN would have 6 ministers.

Future ministries held by SPOLU include Finance, Labour and Social Affairs, Defence, Transportation, Health, Agriculture, Justice, Environment, Culture, and Science. PIR-STAN holds the ministry for the Interior, Industry, Education, Local Development, Foreign Affairs, Legislature and European Union.

ODS and STAN approved the coalition agreement on the 4th November, followed by KDU-ČSL and TOP 09 approving the agreement on the following day – the same day that President Zeman announced his approval of Fiala as the new Prime Minister. The leadership of the Pirate Party approved the agreement on the 7th of November.

Andrej Babiš conceded and accepted the results of the vote on the 9th October.

However, accusing the opposition of having created a 'smear campaign' leading up to the election. The same day, President Zeman asked Fiala to form a government with the constituent meeting concluding November 10th and Babiš' government resigned the day after.

**the result meant  
"an absolute  
change of the  
politics in the  
Czech Republic.  
It stabilises the  
country's  
position in the  
West camp."**

#### **A LOSS FOR COMMUNISM AND POPULISM**

Following the 2021 election, there will no longer be a communist party represented in the parliament, which will be a first in Czech political history. After failing to enter parliament for the first time since the Czech Republic was formed in 1993, the leaders of the communist party ČSSD.



# Acknowledgements

To all who have contributed to the making of this report, from EOM coordinators and observers; to International Department and Communication members, a very special thank you.

Albert Henriques  
Albert Havblik  
Bene C.  
Catarina Malheiro  
Esther Ackerman  
Filippa Katona Winther  
Hana Szlachtová  
Ida Joelle  
Justina Macijauskaite  
Karen K.  
Kristian Siig Jacobsen  
Laura J.  
Mariana B.  
Maria Andersen  
Mads H.  
Michael Sams Eschelsen  
Michelle Heegaard  
Mathias F.  
Niels G.  
Niels Søndergaard  
Oliver B.  
Oliver L.  
Oliver Schøsler  
Rowa Raad Al-Suhaili  
Sebastian J.  
Snorre Anker Erngaard  
Tim R.  
Tue Kristensen

