



Office for Democratic Institutions and Human Rights

FORMER YUGOSLAV REPUBLIC OF MACEDONIA

7 NOVEMBER 2004 REFERENDUM

OSCE/ODIHR Observation Mission Final Report



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I. EXECUTIVE SUMMARY

In response to an invitation from the Ministry of Foreign Affairs, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) observed the 7 November 2004 referendum in the Former Yugoslav Republic of Macedonia. The OSCE/ODIHR assessed the referendum in terms of its compliance with the 1990 OSCE Copenhagen Document and other election-related commitments.

The 7 November 2004 referendum was generally consistent with OSCE and Council of Europe standards for democratic electoral processes. In some limited cases, observers reported procedural or other irregularities, which did not appear to challenge the overall integrity of the process.

The referendum process was initiated when the World Macedonian Congress started a collection of signatures in January 2004. This activity resulted in the collection of more than 180,000 signatures, well above the number legally required to initiate a referendum. The referendum was then scheduled by the Parliament for 7 November 2004. Voters were asked whether they wanted to have 123 municipalities, as envisaged in the legislation on municipal districting adopted in 1996. While the question put to the electorate in the referendum was in direct reference to the 1996 law, the result would have immediate consequence for the implementation of a new Law on Territorial Organization adopted in August 2004.

The existing legislation requires that for a referendum to be successful, more than 50 per cent of the voters on the voter list should cast their ballots, and more than 50 per cent of ballots cast should be for a YES vote. The results of the referendum clearly indicated that the required voter turnout threshold was not met and that therefore the referendum did not succeed.

The legal framework for the referendum included the Constitution and the Law on Referendum and Civil Initiatives, combined with the Law on the Election of Members of Parliament. The Law on Referendum and Civil Initiatives was outdated, containing only basic provisions. Gaps in this Law were to be remedied by applying the provisions of the Law on the Election of Members of Parliament. However, this situation created difficulties in the interpretation and application of the laws, especially regarding the

¹ This report is also available in Macedonian, however, the English version remains the only official document.

provisions on the referendum campaign. Many of these difficulties were actually resolved by the State Election Commission.

The election administration for the referendum included three levels: the State Election Commission (SEC), Municipal Election Commissions (MECs) and Electoral Boards (EBs). The SEC and the MECs remained the same as during the April 2004 Presidential Election, while changes were introduced in the composition of EBs. In accordance with the Law on Referendum, EBs included only three members, instead of the five normally required for any other electoral process. This could have created serious difficulties, especially in large polling stations, but a decision by the SEC entitled the EBs (if they found it necessary), to task their designated deputies, normally envisaged to replace EB members in the event of their absence, with regular members' duties, except for EB voting and signature rights.

The election administration, and in particular the SEC, was efficient and operated in a consensual manner, despite the fact that the permanent Secretariat to the SEC, provided for by law, was not yet established, creating many unnecessary obstacles. The lack of funds and personnel prevented the SEC from regular publication of its decisions and their distribution to the MECs and the EBs.

Technical preparations for the referendum generally proceeded in a smooth and organized manner. The formation of EBs, the distribution of election materials and arrangements for referendum day were carried out without delay. No complaints were filed by political parties on any of these technical aspects of the referendum process.

The accuracy of the Voter List (VL) was again questioned by some interlocutors, who stated that the VL contained names of citizens who are residing abroad along with a significant number of deceased persons. Similar observations were made by the OSCE/ODIHR Election Observation Mission during the 2004 presidential election. The Law on Voters List does not provide a legal solution for automatically excluding such names from the VL. However, the Law gives political parties the possibility to acquire the VL from the Ministry of Justice for the purpose of checking for inaccuracies. According to information received, parties did not make use of this opportunity.

The SEC decided to print the ballot papers in all the languages of ethnic groups that comprise more than 20 per cent of the inhabitants of any given municipality. Unfortunately, the same approach to the use of language was not adopted for the forms utilized to report on referendum procedures, which were printed only in the Macedonian language.

The campaign on the referendum was officially referred to as "public propaganda" and it was open to participation by anyone who wanted to propagate FOR or AGAINST the referendum (or for NON-PARTICIPATION, since in reality there was no AGAINST campaign). In general, the campaign took place without major incident, and in a rather low-key manner. The visibility of campaign materials was modest and all parties seemed

to rely on door-to-door campaigning. Some parties also held rallies and roundtables across the country, in order to explain their positions to the voters and to make appeals for or against participation. The lack of clarity over the legal provisions regulating the campaign created uncertainty regarding the application of those provisions that concern campaign financing. Therefore, there was no legal possibility to require financial disclosure from any propaganda activists. Moreover, there were no provisions that addressed reimbursement from the State of referendum propaganda expenses.

Allegations about various forms of intimidation and pressure towards voters to convince them to either abstain or vote in favor of the referendum were widespread in the period leading up to the referendum. While these allegations were largely unverified, the mere fact that they were commonly reported promoted a certain environment of suspicion and mistrust.

A wide range of national electronic and print media provided voters with sufficient coverage about the referendum, including the propaganda activities, comments on the implications of the voting results and statements of different political parties. However, the media discourse during the campaign tended to focus on broader political issues rather than on concrete discussion of the referendum question and its potential consequences, thus strongly reducing the informative value of the referendum coverage.

The lack of direct enforcement authority of the Broadcasting Council, together with the general nature of the legal framework for the coverage of the referendum in the media, reduced the potential effectiveness of measures adopted by the Council against unbalanced and incorrect coverage of the referendum campaign.

Referendum day was conducted in a calm and orderly manner. International Observation Mission to the Referendum (IOMR) observers assessed the conduct of the polling process in 96 per cent of polling stations visited as 'good' or 'very good'. The evaluation of the general atmosphere was positive in the majority of observations. The problems most frequently reported were missing materials, or certain negligence in duly following the required legal procedures. Otherwise, the voting process was orderly in an overwhelming proportion of polling stations visited. Four observed cases of undue influence or intimidation were reported and observers indicated four cases of ballot stuffing.

Observers evaluated the vote count in a generally positive manner, with 89 per cent of observers describing it as 'good' or 'very good'. However, the understanding of the counting procedures by EB members was regarded as 'very bad' or 'bad' in 26 per cent of the cases, while the counting was described as 'not well organized' in 17 per cent of the polling stations observed. Other problems that were reported included difficulties in completing the required forms, and failure to publicly post the results of the count (found in 50 per cent of observations). In a limited number of instances, MECs were observed to have difficulties during the tabulation process. In most cases this was due to overcrowding and lack of sufficient understanding of procedures.

There was a strong perception that the secrecy of the vote was compromised by the fact that anyone going to vote was perceived as voting YES. This was compounded by the lack of a NO campaign and by the fact that the 50 per cent turnout requirement meant that those who wanted the referendum to fail promoted non-participation rather than campaigning for a NO vote.

II. INTRODUCTION AND ACKNOWLEDGMENTS

The 7 November 2004 referendum was observed by the International Observation Mission to the Referendum (IOMR) formed by the OSCE/ODIHR and the Council of Europe. The OSCE/ODIHR long-term Observation Mission to the Referendum was established in Skopje from 11 October to 12 November, comprising a core team of eight international experts as well as 12 long-term observers deployed in seven cities across the country. Ambassador Friedrich Bauer (Austria) headed the OSCE/ODIHR Observation Mission.

The Council of Europe 8-member delegation included the Parliamentary Assembly of the Council of Europe (PACE) and the Congress of Local and Regional Authorities of Europe. Mr. Zekeriya Akcam (Turkey) led the delegation from the Parliamentary Assembly of the Council of Europe. Mr. Sean O'Brien (Ireland) headed the delegation from the Congress of Local and Regional Authorities of Europe.

On referendum day, the IOMR deployed some 183 observers from 28 OSCE participating States, including the 8-member delegation from the Council of Europe. Representatives of embassies of OSCE participating States in Skopje and international organizations also contributed short-term observers to the IOMR. On referendum day, IOMR observers visited more than 800 polling stations out of the approximately 3,000 throughout the country.

The OSCE/ODIHR is grateful to the Ministry of Foreign Affairs, the State Election Commission, and other national and local authorities for their assistance and co-operation during the course of the observation. The OSCE/ODIHR also wishes to express appreciation to the OSCE Spillover Monitor Mission to Skopje and the Council of Europe Office in Skopje, as well as other international organizations and embassies accredited in Skopje for their support throughout the duration of the mission.

III. POLITICAL BACKGROUND OF THE REFERENDUM

In September 2004, after a successful collection of signatures, the Parliament adopted a decision to hold a referendum on 7 November. The initiative for the referendum had been launched in January 2004 by the World Macedonian Congress (WMC), a non-governmental organization widely known to represent the interests of the ethnic Macedonian diaspora, although active in the country. According to the WMC, this

initiative was undertaken due to the disregard by the authorities for the results of local referenda held at the beginning of 2004 to oppose the newly proposed municipal boundaries, prior to the formal adoption of the Law on Territorial Organization in August 2004. This Law introduces new municipal districts by merging some municipalities, thus reducing the overall number of administrative units.

The signature collection for the referendum initiative took place throughout the country, in the offices of the Ministry of Justice, between 23 February and 23 August 2004. At the end of the process, 180,454 signatures were collected, a number well above the 150,000 required by law for a referendum to be called. The signatures were validated by the State Election Commission (SEC) and submitted to the Speaker of Parliament in accordance with the legal provisions.

The question to be decided by the voters on 7 November was whether they wanted to have 123 municipalities, as envisaged in the system of municipal districting established in 1996. While the question put into the referendum directly referred to the 1996 law, a successful referendum would have had immediate consequence for the implementation of the new Law on Territorial Organization of August 2004, which would have been effectively repealed in the event of a successful referendum.

IV. LEGAL FRAMEWORK

The legal framework for the referendum included the Constitution and the 1998 Law on Referendum and Civil Initiatives (LRCI), combined with the Law on the Election of Members of Parliament (LEMP). However, the LRCI was outdated and very general in nature, as it contained only basic provisions. Aspects of the administration of the referendum not regulated in this law were supposed to be implemented in accordance with the LEMP. This situation created difficulties in interpretation and application of the laws, especially regarding the scope of application of provisions which referred to the referendum campaign.

Several other laws and provisions regulated the referendum: the Law on Voter Lists, the Law on Polling Stations, the Law on Registration of Residence, the Recommendations for Electronic Media Coverage of the 2004 Referendum, the State Election Commission Instructions, the Code for the Observers issued by the SEC and the Criminal Code, regulating crimes against elections and voting.

According to the LRCI, a legislative referendum may be announced for issues that need to be regulated by law (previous referendum) or for re-estimating a law that has been previously passed (additional referendum). The Parliament is obliged to announce a legislative referendum on issues that are under the authority of the Parliament when the proposal for a referendum is submitted by at least 150,000 voters. According to this, the referendum scheduled for 7 November was considered to be a legislative additional referendum. However, the referendum question concerned a law from 1996, and it was

phrased as follows: "Are you for the territorial organization (municipalities and the city of Skopje) established by the Law on territorial division of Republic of Macedonia and determination of the districts of the units for local self-government and the Law on the City of Skopje?".

Prior to the referendum, it became apparent that in case the YES vote prevailed, members of Parliament would face a dilemma with regard to the legal procedure to be adopted to reinstate the 1996 law. In the discussions on this issue, the legal experts agreed that the decision of the referendum had to be implemented, but there were different opinions on whether the Parliament would have to vote again for the 1996 law or whether this law would be automatically back in force upon the announcement of the Parliament. In addition, a vote by the Parliament would have required the application of a qualified majority which would have been very difficult to reach, due to the composition of the Parliament itself. Therefore, the general estimation on this issue prior to the referendum was that it would find its solution in the Constitutional Court, which caused general concern among interlocutors.

According to the existing legislation, the decision on a legislative referendum is to be considered adopted if more than 50 per cent of the voters on the voter list cast their ballots and more than 50 per cent of the ballots cast are for a YES vote. The decision reached on a legislative referendum is compulsory.

Under the Constitution, the right to vote is equal, universal and direct, and is exercised at free elections by secret ballot. The right to vote on a referendum is guaranteed to every citizen of the Former Yugoslav Republic of Macedonia at the age of 18 who is not deprived of working capability by a court and who has residence in the country. There is no possibility for absentee voting.

It remains unclear whether the right to vote can be restricted by the residence requirement. The Constitution grants the right to vote to all eligible citizens, and does not refer to residence in-country as a condition to exercise this right, nor do the LRCI and other electoral legislation, mentioning only citizenship and age limit. The Law on Voter Lists, however, provides that the citizens' right to vote is implemented through inclusion in the voter list, which is limited to citizens with "residence on the territory" of the country, unless the citizen is "temporarily working or staying abroad". In practice, few citizens who go abroad notify their change of residence to the Ministry of Interior, although they are obliged to do so in accordance with the Law on Registration and Residence if they intend to stay abroad from three months to one year or to be temporarily employed abroad for more than one year. At present, there is no system of absentee voting for citizens who are away from their respective area of residence on election day, no matter whether they are in-country or abroad.

V. ELECTION ADMINISTRATION

The election administration for a referendum includes three levels – the State Election Commission (SEC), Election Commissions (ECs) and Electoral Boards (EBs). The second tier of administration refers to the previous version of the LEMP that was based on a single-mandate district parliamentary system, which is no longer in existence. As a result, the SEC decided that the 34 Municipal Election Commissions (MECs), which were introduced for the 2002 parliamentary elections, should serve at this level of administration. In addition, the LRCI specifies that the EBs should include three members, even though the new election procedures adopted by the 2002 LEMP require more staff. The SEC and the MECs remained the same as during the April 2004 Presidential elections, although two members of the SEC resigned because of government appointments and were therefore replaced.

A. THE STATE ELECTION COMMISSION

The SEC consists of a Chairman, appointed by the President, and 8 members appointed by the Parliament. Four of them are Supreme Court judges agreed on a parity principle with the main partners of the majority and the opposition in the Parliament for a 5-year term of office. The other four members are appointed by the main parties: two are appointed upon nomination by the parties in the ruling coalition and the other two by nomination by the parties in the opposition.

In general, the SEC operated in an efficient and consensual manner, reaching reasonable compromises on almost all controversial issues, thus avoiding politically motivated confrontation. However, although provided for by law, a permanent Secretariat to the SEC, which could have facilitated its work, was not established, creating many unnecessary obstacles. Lack of funds and personnel prevented the SEC from regularly publishing its decisions and distributing them to the MECs and EBs. For the same reason, minutes of the SEC meetings were prepared and adopted with a substantial delay, causing unnecessary disputes or allowing for interpretations on issues already decided by the SEC. The creation of internal regulations for the work of the SEC is urgently needed, to provide the timely announcement of its meetings and their agenda and the publication of all SEC decisions.

While not so substantial as in previous elections, international support and assistance was provided to the SEC and other levels of the election administration for the referendum. International assistance included technical support for the training of EB members and the production of the referendum day procedures manual.

Following an internal split in the main opposition party Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO-DPMNE), an attempt was made by the official party leadership to recall for alleged passiveness a SEC member who was the party representative and apparently supported the new wing VMRO-Narodna. However, the request for the recall sent to the Parliament

was rejected by the votes of the ruling Social Democratic Union of Macedonia (SDSM) and VMRO-Narodna. This controversy raises concerns about the autonomy of the election administration and it requires a precise interpretation of the law or appropriate amendments to the election legislation that would limit possibilities for undue political interference in the election administration. Once appointed, commission members should be guaranteed all conditions to “perform their duties impartially, conscientiously and responsibly”² in accordance with the legal provisions.

It is worth underlining that the issues concerning the role of political parties in the selection of judges to serve in the SEC and MECs, raised in OSCE/ODIHR final reports on the 2002 Parliamentary and 2004 Presidential elections, have not been addressed yet.

B. MUNICIPAL ELECTION COMMISSIONS

For the purpose of conducting the referendum, the country was divided into 34 units, which do not correspond to the current administrative division of the country into municipalities. One MEC was established for each unit in areas where offices of government agencies have typically been located. The MECs consisted of a Chairman and four members. The Chairman, a Primary Court judge, was appointed by the SEC while the other members were appointed on the proposal of the ruling coalition and the opposition. The term of office is five years for the judges and four years for the party representatives. The composition of the MECs to a large extent remained unchanged after the presidential elections held in April 2004.

In accordance with the LRCI, MECs were responsible for the lawful conduct of the referendum in their electoral unit. They were in charge of the appointment of the EBs, the delivery and the receipt of the election material and the EB results protocols, as well as the tabulation of the results in their area and the delivery to the SEC of their results protocol together with all election materials. MECs were also obliged to adjudicate on complaints (about irregularities in the work of EBs) within 24 hours of receipt.

The SEC conducted only one training session for MECs which was poorly attended. It is regrettable that additional training for MEC members was not provided prior to the referendum, in particular on the procedures for tabulation of results.

C. ELECTION BOARDS

While for regular elections the EBs consist of a Chairperson and four members, the LRCI established that the EBs for a referendum would include a Chairperson and only two members. This could have created serious difficulties, especially in large polling stations with more than 1,000 potential voters. A timely SEC decision addressed this issue by entitling the EBs, if they found it necessary, to task their designated deputies, normally envisaged to replace EB members in the event of their absence, with regular member duties, except for voting and signature rights.

² See LEMP, Art. 30.

The process of appointing the EBs was conducted smoothly and within the legal deadlines (20 days before the referendum day). While no complaints were reported to the Observation Mission by political parties entitled to appoint members, the procedure for appointing the Chairpersons of the EBs remained unclear. It appeared that different approaches were used, such as agreements at the local level between the parties in the ruling coalition and the opposition to share the chairperson seats, or the direct appointment of the EB Chairpersons by the MEC Chairperson. Generally, equal representation of the main ethnic Macedonian political parties (SDSM and VMRO) was reported in all EBs observed on referendum day, which guaranteed the representation of the main competing political interests in the referendum.

Training sessions for EB members were held between 26 October and 3 November. In general, the training was poorly attended and rather minimal in substance. The majority of the MECs, like the EB members, showed little interest for the training and, in most cases, were not even present at the training sessions. Some interlocutors explained that the same commissions had very recently conducted a similar election exercise for the presidential elections and did not need further training.

However, the continuing need for comprehensive training is demonstrated by the fact that observers reported the same widespread deficiencies in the opening and counting procedures as were recorded during the presidential election. For instance, of the polling stations (PSs) observed by the IOMR: in 14 per cent, the number of the plastic ties locking the ballot box were not recorded in Form n4; in 23 per cent, Form n4 was not filled in before the opening of the PS; in 62 per cent, the unused ballots were not counted and packaged before the opening of the ballot box; in almost 30 per cent, the number of voters who obtained ballots was not determined by counting the number of signatures on the extract of the voters list; and in more than 11 per cent, the results protocols were not fully completed in ink.

VI. VOTER REGISTRATION

The Law on Voter Lists provides that resident citizens, 18 years and above with valid ID cards or passports, shall be registered in the Voter List (see Legal Framework). However, the current Voter List includes the names of a significant number of citizens who are residing abroad (non-residents), along with a significant number of deceased persons. The Law on Voter Lists does not provide a solution for excluding these voters from the excerpts received by the EBs on referendum day, increasing the possibility of electoral malfeasance. This issue was raised by the OSCE/ODIHR EOMs to the 2002 parliamentary elections and the 2004 Presidential election, when it was estimated that approximately 7-8 per cent of people on the Voter List may no longer be present in the country. As then, this had implications on the voter turnout threshold that was legally required for the referendum to be successful. It is worth noting that political parties have a possibility, legally recognized, to acquire the Voter List from the Ministry of Justice (in

hard copy or on CD) in order to check it. According to information received prior to the referendum, none of the political parties used this possibility.

The Voter List was updated by the Ministry of Justice (MoJ) and extracts were posted at the local offices of the MoJ for public inspection. The final Voter List was concluded by the MoJ on 19 October and it was confirmed by the SEC on 21 October. It contained 1,709,536 voters, thus establishing the necessary turnout for a successful referendum at 854,769 voters. The new total of the electorate presented an increase of some 14,433 voters over the Voter List used for the 2004 Presidential election. It appeared that few efforts were made to improve the accuracy of the Voter List, apart from checking the data of the 180,000 voters who had signed the petition for the referendum.

Some allegations were addressed to the SEC for delaying its confirmation of the Voter List until 21 October, after the prescribed deadline of 17 October. The late confirmation by the SEC of the Voter List can be explained by some inconsistencies in the deadlines within the Law on Voter Lists when applied to referenda – Art. 17 provides for the confirmation of the Voter List by the SEC 20 days before the referendum (18 October), while Art. 19(1), in connection with Articles 19(3), 22, 24(1), establishes another set of deadlines that allowed the SEC until 23 October to confirm the Voter List.

VII. TECHNICAL PREPARATIONS AND REFERENDUM PROCEDURES

Throughout the country, technical preparations generally proceeded in a smooth and efficient manner. The formation of EBs, the distribution of election materials and arrangements for referendum day were carried out without delay. No complaints were filed by political parties on any of these technical aspects of the referendum process.

A. INSTRUCTIONS

The SEC acted efficiently in the adoption of instructions clarifying specific procedures, and in the elaboration of the forms to be used on referendum day. In particular, special instructions were approved by the SEC with a clear description of the role of the police for securing the polling stations during the night prior to referendum day and for maintaining order on referendum day. They provided for “transparent and functional” police proceedings and for a well defined procedure for the involvement of the police in restoring order in polling stations during voting and the count.

However, the EB Results Protocol (Form n5) again did not provide for a tabulated format to present the numerical data, which resulted in problems with the ballot reconciliation in what was a simple counting exercise; in 11 per cent of the polling stations where the count was observed, the EBs had difficulties completing the results protocols. The SEC failed to issue detailed instructions for the tabulation process at the MEC level, which could have ensured uniformity and transparency in the tabulation procedure by providing clear rules to be followed when EB results protocols did not reconcile, including the right

of the MEC to proceed with a recount when necessary. While in general the tabulation process was undertaken in an organized way, attention was paid primarily to the results protocols. In more than 16 per cent of the cases, when the delivery by EBs of election material to the relevant MECs was observed, no thorough check of all election material was reported.

The SEC elaborated a Code on the Rules and Procedures for Observing the Conduct of the Referendum for Domestic and Foreign Observers, in accordance with the election legislation. However, the Code mostly included a list of responsibilities and failed to provide for the right of the observers. In particular it did not establish the right of observers to start their observation before referendum day and to attend meetings of election bodies in the pre-election period and to request and receive certified copies of the results protocols.

B. EARLY VOTING

Early voting by the military, by persons serving prison sentences or in custody, and for internally displaced persons (IDPs) took place on 6 November, in 39 specially organized polling stations. Out of a total of 1,211 officially registered IDPs³, 732 living in boarding-houses for IDPs in Skopje and Kumanovo were included in the Voter List extracts in two special polling stations, organized in those boarding-houses. The remaining IDPs were apparently included in the Voter List extracts for the polling stations in their last place of residence. In practice, this did not enable them to exercise their right to vote, unless they traveled to their former place of residence, which for many was virtually impossible.

The OSCE/ODIHR Observation Mission carried out sporadic observation of early voting which showed that it took place without major difficulties, although voter turnout was generally low. In all cases observed by the Mission, early voting was conducted by specially appointed EBs instead of the EBs of the closest regular polling stations, as provided for by law. Apparently, the practice to appoint a special EB to conduct early voting had been used already during the 2002 Parliamentary elections. While not officially established by the SEC during the referendum, this practice was somehow encouraged by the instructions issued by the SEC, which required that the EBs that had conducted early voting should be present at their respective MEC at 19:00 on 7 November to count the votes and fill in the results protocols for the special polling stations. This, in practice, excluded the possibility for participation of regular EBs in the conduct of early voting, because it would have been virtually impossible for them to be at the MEC the evening of 7 November, while the regular voting was still taking place. It should be mentioned that the conduct of the voting for special groups by specially appointed EBs makes the early voting unnecessary.

An additional problem, related to military voting, was caused by the fact that the newly conscripted soldiers received a leave of several days just before the referendum. The SEC

³ The information regarding the number of officially registered IDPs was provided by the Ministry of Justice.

urgently issued an instruction to the EBs to allow soldiers to vote according to their civil residence instead of in the barracks, where their names had been included in the special extracts of the Voter List. However, the International Observation Mission to the Referendum (IOMR) received some reports of soldiers who were refused the right to vote with a military ID in regular polling stations.⁴

C. BALLOTS

The decision of SEC to print the ballots papers for each separate municipality in all the languages of ethnic groups that comprised more than 20 per cent of the inhabitants of the municipality (according to the 2002 Census), is to be commended. In 39 municipalities the ballot papers were in Macedonian and Albanian, in three municipalities they were in Macedonian and Turkish, in another three municipalities in Macedonian, Albanian and Turkish and in one municipality they were in Macedonian and Roma languages.

The final sample of all different versions of the ballot paper was approved by the SEC on 27 October, thus allowing enough time for printing the ballots at the selected printing house. The ballot stubs contained serial numbers and indications of the relevant MEC and administrative municipality. Each EB was supplied with a number of ballots that equaled the exact number of voters on the extract of the Voter List for that polling station, diminished by the number of ballot papers to be used by military, prisoners or IDPs. As noted during previous elections, there was no possibility for spoiled ballots.

D. USE OF LANGUAGES

Following a decision by the SEC, posters with voting instructions were printed in the languages of all seven ethnic groups mentioned in the Preamble of the Constitution, to be displayed in all polling stations. However, in more than 10 per cent of the polling stations observed by the IOMR on referendum day, the voting instruction poster was not displayed. Unfortunately, the same inclusive approach to the use of language was not adopted for the forms used to report on referendum procedures, which were printed only in the Macedonian language.

VIII. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES

Participation of women in this referendum was not a high profile issue, neither for women's organizations, nor for the initiators of the referendum. As there were no candidates, women's participation was reduced to referendum propaganda and election administration. As for the campaign, several prominent women politicians were present in the media throughout the propaganda period and active at public rallies. Moreover, a few well respected women professors of law also participated actively in the public debates on referendum issues.

⁴ The regular IDs of soldiers in compulsory military service are kept by the commanders of their units for the whole period of the service. Instead, soldiers receive military IDs.

Regarding the participation of women in the election administration, there was one woman in the SEC (out of nine members), and representation in the MECs varied, with urban areas tending to have a greater concentration of women than rural areas. The participation of women in the leadership positions of MECs was 32 per cent in total – considering that there were 29 per cent female MEC Chairpersons and 35 per cent female Deputy Chairpersons. On referendum day, observers reported that 36 per cent of the members of EBs visited were women.

Smaller ethnic communities were also involved in the referendum, but not in a highly visible manner. In general, smaller minorities tended to be concerned with the fact that they feel neglected due to the focus on the issues between ethnic Macedonians and ethnic Albanians. They advocate an improvement in the situation of all minorities, and they express general concern regarding the possible emergence of a bi-national state. There are a few representatives from minorities in the Parliament – three ethnic Turks, two ethnic Bosniaks, two ethnic Serbs and one Roma deputy.

The OSCE/ODIHR Observation Mission met with representatives of most of the political parties that represent the interests of smaller ethnic communities. The position of these political parties with regard to the referendum presented some nuances. Most parties are members of the governmental coalition and as such they took the same stand as the Government, opposing the referendum. At the same time they expressed a certain degree of discontent regarding the way the new Law on Territorial Organization was passed, without broad consultation. Ultimately, however, most of these political parties invited their members and supporters to abstain from voting.

IX. THE REFERENDUM CAMPAIGN

The campaign on the referendum, officially referred to as “public propaganda,” began on 7 October. In general, the campaign took place without major incident, and in a rather low-key manner. The visibility of campaign materials was modest, with the exception of posters in the main cities and leaflets distributed during the last days of the campaign period, in particular by supporters of the referendum. Some political parties held rallies and roundtables across the country, in order to explain their positions to the voters and to make appeals for or against participation. All parties seemed to rely strongly on door-to-door campaigning, which lessened the visibility of their campaign activities.

The scope of application of provisions which refer to referendum campaign from the LEMP remained unclear. The SEC established that the rules for the election campaign would not apply to the referendum, proclaiming that there would be “referendum public propaganda” during which anyone was allowed to propagate FOR or AGAINST. This created uncertainty regarding the application of those existing legal provisions that regulate campaign finance. As a result, there was no legal possibility to require financial disclosure from any propaganda activists. Moreover, there were no rules on

reimbursement from the State of referendum propaganda expenses, as is provided for by the LEMP in the case of regular election campaigns.

In addition, the absence of a clear regulatory framework for the campaign, and the decision to consider that any institution and individual could participate in it, promoted the intervention of many subjects and parts of the community who customarily would not participate in campaigning. For instance, public comments by religious communities raised concerns among some interlocutors, and they may have contributed to the polarization on the referendum between ethnic communities. The statements of some representatives of the international community before and during the referendum campaign were also controversial, with some considering them as interference in the internal affairs of the country, and others stating that they were simply benign comments on the future of the country.

The government coalition partners, the Social Democratic Union of Macedonia (SDSM) and the Democratic Union for Integration (DUI), together with the Liberal Democratic Party (LDP), announced that they would call on their supporters and members to abstain from voting. The requirement for a 50 per cent turnout prompted those who wanted the referendum to fail to conduct a campaign centered around non-participation rather than an appeal to vote NO. In general, the campaign against the referendum conducted by the governing parties appeared low-key and not very visible, at least in the first weeks of the campaign.

Amongst the opposition parties, the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Union (VMRO-DPMNE) came out strongly in favor of the referendum, claiming that a YES vote was not against the Ohrid Framework Agreement⁵ or decentralization, nor against Euro-Atlantic integration, but only against the manner in which the new Law on Territorial Organization was negotiated and adopted. In the course of the campaign, the still unofficial internal split of this party, which had led to the formation of a wing under the name of VMRO-Narodna, led by former Prime Minister Ljubco Georgievski, was cited as one of the reasons for possible agreements between this new wing and the governing coalition. According to these speculations, VMRO-Narodna would have invited its potential supporters to abstain from voting, thus debilitating the overall effort in favor of the referendum undertaken by VMRO-DPMNE.

The main opposition ethnic Albanian party, the Democratic Party of Albanians (DPA), announced that it would boycott the referendum, although initially its leadership had asserted that it would call on voters to vote YES in order to demonstrate dissatisfaction with the implementation of the Ohrid Framework Agreement.

⁵ The 2001 Ohrid Framework Agreement was reached by the main political parties from the ethnic Macedonian and ethnic Albanian communities, in order to return to a normal political process after the civil conflict that occurred that year.

NGOs and smaller parties were also involved in the referendum. In particular, the WMC, as the initiator of the referendum, was actively campaigning for a YES vote, as did the Liberal Party and the Third Way coalition.

It must be noted that there was practically no campaigning for a NO vote, because all those opposing the referendum called upon the electorate to abstain or boycott it, thus depriving the electorate of a fuller discussion on the specific referendum issue of territorial organization. This might have also had a direct influence on the voter turnout recorded on referendum day. It affected the overall atmosphere in which voting took place, since it created the perception that the secrecy of the vote was difficult to maintain since all those who decided to go to the polls were seen as voting in favor of the referendum.

The observation mission received reports of allegations about various forms of intimidation and pressure towards voters to convince them to either abstain or vote in favor of the referendum. In particular, it was alleged that pressure would be exerted on employees of State-owned enterprises, civil servants and people on social welfare. These allegations were largely unverified, but they were widespread, and promoted a certain environment of suspicion and mistrust in the period preceding the referendum day.

The recognition on 4 November by the United States government of the constitutional name of the country dominated public discussion immediately prior to the referendum day, after the official campaign silence period had begun.⁶

X. THE MEDIA AND THE REFERENDUM

A. THE LEGAL FRAMEWORK AND MEDIA LANDSCAPE

The media coverage of the referendum campaign was governed by a variety of provisions, including articles of the LRCI and of the Broadcasting Law, which were supplemented by a set of guidelines for broadcasters contained in the Recommendations for Electronic Media Coverage of the 2004 Referendum.

The Recommendations for Electronic Media Coverage of the 2004 Referendum were adopted by the Broadcasting Council on October 7 as an attempt to overcome the legal gaps in the existing legislation for the referendum and to try to ensure a level playing field between individuals or organizations campaigning for and against the referendum. Under these Recommendations, the electronic media should cover different positions on the referendum in a balanced way. Special obligations were established for the public media, as well as for publishing the results of opinion polls and for paid propaganda.

⁶ Since the dissolution of the former Yugoslavia, the constitutional name of the country has been the subject of international controversy.

Print media, on the other hand, were not subject to legal restrictions during the referendum campaign, apart from the 48-hour moratorium on campaigning prior to referendum day.

Difficulties in the interpretation and application of legal provisions referring to the referendum campaign in the media were brought to the attention of the Observation Mission by a number of interlocutors. In particular, the lack of registration requirements for potential campaigners and the consequent possibility for any individual or institution to campaign, proved to be problematic for the broadcasters with regard to determining the balanced amount of coverage they had to provide in order to be in line with the Recommendations.

The Broadcasting Council (BC) monitored the media coverage of the referendum of all national broadcasters and of 17 local electronic media selected as a sample based on their performance during previous elections and according to their area of broadcasting. Besides the geographically limited sample, the BC started its daily monitoring late, two weeks after the official start of the campaign on 23 October, alleging that the researching exercise was exceptionally complex.

Based on the findings of its media monitoring, the BC sent warnings to broadcasters who provided unbalanced coverage of the referendum and violated the rules on airing results of opinion polls and paid propaganda. A general remark was sent to all electronic media to ask them to avoid hate speech.

However, the lack of direct enforcement authority of the BC, already highlighted in previous OSCE/ODIHR reports, together with the general nature of the legal framework for the coverage of the referendum in the media, reduced the potential effectiveness of measures adopted by the BC regarding unbalanced and incorrect coverage of the referendum campaign.

B. MEDIA MONITORING

A wide range of national electronic and print media provided voters with sufficient coverage about the referendum, including the propaganda activities, comments on the implications of the voting results and statements of different political parties. The international community's views on the consequences of the outcome were extensively covered, sometimes accompanied by negative comments on its interference in the process. Coverage in the local media was conducted on a much smaller scale.

In general, the media discourse during the campaign tended to focus on broader political issues rather than on concrete discussion of the referendum question and its potential consequences, thus strongly reducing the informative value of the referendum coverage.

On 12 October, the OSCE/ODIHR Observation Mission began monitoring the political and campaign content of a selection of national print and electronic media, in order to assess the media coverage of the referendum during the campaign. Qualitative and

quantitative analysis of the first channel of the public broadcaster *MTVI* and of the private *TV AI* and *TV Sitel* were conducted on a daily basis. In addition the Mission analyzed the prime-time news in Albanian language on *MTV3*.

The Observation Mission also monitored the print media, conducting a qualitative analysis of the dailies *Dnevnik*, *Utrinski Vesnik*, *Vest*, *Vreme*, *Fakti* and *Flaka*.

The media monitoring results indicated that while some media outlets provided a balanced picture of the two positions on the referendum, others tended to be one-sided in terms of amount of coverage as well as in terms of editorial comments.

Among the national broadcasters monitored by the Observation Mission, the State channel *MTVI* during its newscast maintained a balanced coverage of the two positions. In fact, out of the total time dedicated to cover the referendum, 49 per cent and 51 per cent were given respectively to the presentation of FOR and AGAINST positions.

The third channel of the national TV, *MTV3*, in its main Albanian language news, failed to be as balanced and provided negligible coverage of the referendum supporters.

As far as the national private broadcasters, *TV AI* devoted balanced coverage of the two positions during its news programs with 54 per cent of the referendum coverage devoted to the AGAINST position and 46 per cent to the FOR position. The other monitored commercial channel, *TV Sitel*, covered supporters of the referendum with three times more coverage than those of the opponents in its news bulletins (respectively 76 per cent and 24 per cent), demonstrating an unbalanced approach.

Referendum debates were broadcast on *MTVI*, *TV AI* and *TV Sitel* allowing voters to compare the campaigners' views. However, during these debates representatives of both camps tended to focus on broader political arguments rather than on concrete discussion of the referendum question.

The qualitative analysis of national dailies indicated that the monitored newspapers offered different viewpoints on the referendum. For instance, *Vreme* showed a pro-referendum position in its editorial line, while the two monitored newspapers in Albanian language – *Flaka* and *Fakti* - were inclined towards a no position both in terms of poor amount of coverage of the supporters' propaganda activities and in terms of editorial comments. Among the other newspapers monitored, *Dnevnik* and *Utrinski Vesnik* maintained a balanced coverage of activities and statements of both sides, showing a pro-referendum position in their columns and editorials, while *Vest* generally covered the referendum issue with a lower level of interest.

Advertising time and space were bought by the United Opposition for the Referendum, the ruling coalition, the Citizens Movement of Macedonia and, to a minor extent, by other organizations. While the supporters' advertisements were explicitly connected with the question to be decided on 7 November, some of the commercials used by those who

campaigned against the referendum referred more generally to integration in Europe, in line with a peculiar referendum campaign in which there was not a NO campaign as such.

The uncertainty due to the difficulties in the interpretation of the legal framework for the referendum was reflected also in issues related to the 48-hour election silence. On 6 November, during the silence period, the Coordinative Body for the Referendum held a press conference to point out that the public appearance of the State President during the celebration for the recognition of the constitutional name by the US was a violation of the campaign silence, since Mr. Crvenkovski was an active subject in the campaign. Both events – the press conference and the celebration – were covered by some of the media, thus giving visibility to subjects involved in the campaign during the silence. In this regard the BC, which was entitled to monitor media violations of the campaign silence, decided that the recognition of the constitutional name of the country and the consequent celebration created a dilemma for the media, considering that the event was newsworthy and at the same time it was potentially an occasion for campaigning. The conclusion of the BC on this issue was extremely cautious: after consideration of the media coverage on a case by case basis, the BC finally assessed that some of the coverage of the event could be interpreted as a violation of the campaign silence.

XI. COMPLAINTS AND APPEALS

The protection of voting rights was guaranteed by the fact that each citizen could submit a complaint to the Municipal Election Commission (MEC) about irregularities in the voting procedure and about the work of the Election Board (EB). The decision of the MEC on such complaints could be appealed to the Appellate Court. Complaints regarding the work of MECs were decided by the State Election Commission (SEC), and appealed to the Supreme Court. However, there was some uncertainty over the implementation of this process because of the incompatibility of two deadlines. The deadline for submitting all materials from the MEC to the SEC was 24 hours from the end of voting, but the deadline for submitting complaints to the MEC was 72 hours. It was not clear how the MEC would adjudicate on the complaints as all material would be at the SEC already. Finally it was decided that the MECs would retrieve the material from the SEC if needed.

It is worth noting that, although the Constitution guarantees a public process before the court, in case of election and referendum related appeals, the public was excluded from the entire decision-making process. According to information provided by one Appellate Court President, such decisions were not officially published, but only delivered back to the submitter of the appeal and the electoral body responsible for the decision which had been appealed.

Several electoral malpractices are mentioned in the relevant legislation along with the Criminal Code. They include: preventing elections and voting; violation of the voting right; violation of the voter's freedom of choice; misuse of the voting right; bribery at elections and voting; violation of the confidentiality of voting; destruction of electoral

documents; and electoral deceit. However, according to information from relevant interlocutors, until now there has never been a penal or court procedure conducted against possible violators of the legal provisions on elections and no sanctions, or even fines, have been rendered to administration officials involved in election irregularities.

The Constitutional Court rejected a citizen initiative dated 3 September for starting a procedure to evaluate the constitutionality of the Parliament's decision on proclaiming the referendum. This initiative had two legal bases. The first claimed that the parliamentary decision had not been enacted with the number of votes needed in the Parliament; according to the submitter, the Referendum was not only to be decided upon, but to be voted on, with the application of the so called "Badinter majority".⁷ The second legal basis for the initiative related to the issue that the referendum question would implement laws that could not be reinstated. The justification offered by the Constitutional Court to reject this initiative was that it did not represent an act worthy of the Court's protection since the announcement of the referendum had been consistent with the Constitution and other legal acts.

On 24 September, two MPs presented to the Parliament a request for authentic explanation on the legitimacy of the organizer of the campaign. According to the procedure for such cases, the Parliament's Legal and Legislative Commission, after receiving the request, promptly submitted it to the Government in order to get its official opinion. The MoJ informed the OSCE/ODIHR Observation Mission that it had prepared this opinion, forwarding it to the Government. The Government was then responsible for submitting the opinion back to the Parliament's Legal and Legislative Commission. This opinion did not reach the Commission prior to referendum day.

The World Macedonian Congress (WMC) submitted a complaint to the SEC requesting to be considered as one of the legitimate organizers of the referendum campaign, according to the applicable provisions in the Law on Elections of Members of Parliament (LEMP). This would have enabled the WMC to have representatives in the Electoral Boards as well as authorized representatives on referendum day and to receive reimbursement of funds spent for the referendum campaign. The SEC decided that the provisions from the LEMP were to be applied in connection with the conduct and the way of voting on the referendum, unless otherwise determined by LRCI, meaning that there was no campaign as such for the referendum, but rather public propaganda. Therefore, there were no organizers of the campaign, since everyone could conduct propaganda in favor or against the issue of the referendum. The WMC appealed to the Supreme Court against the decision of the SEC.

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The so-called Badinter mechanism (named after the French legal expert Robert Badinter) is a double-majority vote which aims at protecting the ethnic minority from being outvoted by the ethnic majority. Under this system, all decisions that affect a certain minority group must not only be approved by the majority of all MPs, but also by the majority of all ethnic minority MPs.

Prior to referendum day the WMC also presented several letters of protest to the SEC. They referred to the SEC overstepping the legal timeframe for confirming the finalized Voter List, as well as the arrangements made for voting by those serving military service or attending military training on referendum day and voting by IDPs. All letters received a written answer from the SEC.

As an official representative of the initiator of the referendum, the Chairman of the WMC, Mr. Todor Petrov, submitted a complaint to the SEC on 7 November 2004 in which he objected to the overall conduct of the referendum. In his complaint, Mr. Petrov mainly criticized the subjects involved in the pre-referendum propaganda, along with the electoral administration. Major criticism was directed towards the Government which, according to Petrov, falsified the referendum and contributed to the unfair and undemocratic atmosphere during the voting process, breaking the law by not obeying the 48-hour silence period, intimidation of voters, and further alleged irregularities during the propaganda period and voting day. The SEC responded that, according to the LRCI, each citizen had the right to submit a complaint on referendum irregularities to the MEC within 72 hours, and a complaint to the SEC only regarding the irregularities committed in the work of MECs. Therefore, the SEC declared that it was not competent to decide upon Petrov's complaint. No appeal against the decision of the SEC was presented to the relevant authority within the legal timeframe available.

XII. DOMESTIC OBSERVERS

Over 10,000 domestic observers representing seven different organizations were accredited by the SEC. The domestic non-partisan organization MOST monitored the referendum with 3,701 observers. MOST provided a thorough training for all of its observers, covering more than 60 per cent of all polling stations across the territory of the country. Some of the findings reported by MOST included polling stations not opening or opening with delay, prematurely closed polling stations, interruptions of the voting procedure as well as dislocation of the polling stations. On referendum day at 22:00, MOST announced the results of a parallel vote tabulation exercise. These results unofficially projected a 26.3 per cent turnout, with 95 per cent YES votes and 5 per cent NO votes, with possible error margin of ± 1 per cent.

The largest observer effort was conducted by the WMC, which officially accredited 6,111 observers. Since political parties were unable to monitor the referendum day process, they seemed to look for other means to accredit their observers, for instance through an NGO. This may have explained the large number of observers accredited by the WMC.

On referendum day, domestic observers were noted in all polling stations visited. However, there was obvious confusion among the observers accredited by the WMC, whose presence was not very visible; the OMR received widespread reports of these observers presenting themselves as representatives of opposition political parties, confirming the initial impression that the accreditation for domestic observers had been

used to bypass the absence of provisions to allow monitoring by authorized representatives of political parties.

XIII. REFERENDUM DAY

Referendum day was conducted in a calm and orderly manner. Despite repeated concerns expressed prior to referendum day that some polling stations may not open, the large majority of polling stations were open, according to schedule, on referendum day. In a limited number of cases, observers reported that some polling stations opened with delay, sometimes of a few hours, and in very isolated cases, failed to open at all. In other limited cases, polling stations closed down earlier than the official closing time of 19:00 hours, claiming that they were not expecting any additional voters.

Of the 834 polling stations visited, IOMR observers assessed the conduct of the polling process in 96 per cent as 'good' or 'very good'. The evaluation of the general atmosphere was also positive in the majority of observations. The problems most frequently reported were missing materials, such as forms to be used by EBs, or certain negligence in duly following the required legal procedures. Other problems included family voting in 4 per cent of observations, and proxy voting reported in 1 per cent of observations.

Otherwise, the voting process was orderly in an overwhelming proportion of polling stations visited. Unusual tension was noted in 1 per cent of polling stations visited and campaign material was seen within 100 meters in 3 per cent of those visited. Four observed cases of undue influence or intimidation were reported, and observers indicated four cases of ballot stuffing.

IOMR observers evaluated the vote count in a generally positive manner, with 89 per cent of observers describing it as 'good' or 'very good'. Four per cent of the observers reported serious irregularities during the count, and there were no reported cases of intimidation of EB members during the count. The understanding of the counting procedures by EB members was regarded as 'very bad' or 'bad' in 26 per cent of the cases, while the counting was described as 'not well organized' in 17 per cent of the polling stations observed. Unauthorized persons present during the count were reported in only two observed cases, while observers reported no cases of persons without authorization directing the work of the EBs. Other reported problems included difficulties in completing the required forms, and the failure to publicly post the results of the count which was described in 50 per cent of observations. These deficiencies reiterate the continuing need for a thorough training of EBs. Such training should reinforce the understanding of counting and packing procedures and should underline the importance of a transparent process, which starts precisely with the publication of results at polling station level.

In a limited number of instances, MECs were observed to have difficulties during the tabulation process. Observers assessed the conduct of tabulation as 'bad' or 'very bad' in

15 per cent of observed cases. In most cases this was due to overcrowding and lack of sufficient understanding of the tabulation procedures.

XIV. COMPUTERIZED TABULATION AND ANNOUNCEMENT OF PRELIMINARY RESULTS

On referendum day, the SEC organized two press conferences providing information about the voter turnout, which was very incomplete. On both occasions, the SEC released information based on reports received from a partial number of EBs, even less than 50 per cent. According to some interlocutors, some polling stations failed to report on the turnout because they were very distant from the municipality centers.

A computerized tabulation of the results was conducted by a team of the Statistical Office, funded by the referendum budget. A local network of 34 computers located at each MEC was linked with a computer center at the SEC. Special lines were provided to secure a continuous flow of data from MEC computers to the SEC computer center. The Statistical Office was responsible for the preparation of the software and the training of the operators working on MEC computers. During the tabulation, the MECs prepared extracts based on approved EB results protocols which were then handed to the member of the Statistical Office team in charge of data processing. The computerized tabulation at the SEC Computer Center was well organized and efficiently performed. Apparently the flow of data coming from the computers at the MECs was continuous and at 11:45 pm the SEC was able to announce preliminary results, based on result protocols for 2,837 polling stations with 97.24 per cent of the electorate. The SEC provided complete preliminary results at 12:00 pm on 8 November.

During its meeting on 9 November, the SEC approved the preliminary complete results by MECs. Only one polling station (No. 1421) without a reconciled results protocol (three more votes than the total of valid and invalid ballots) was reported by the Statistical Office. It proceeded with a recount of the invalid and AGAINST ballots and a decision was taken to correct the data. The representative of VMRO-DPMNE voted against this decision and against the preliminary complete results based on it. After that decision, the following results of the referendum were included in the SEC Results Protocol:

Total number of voters on the Voter List	1,709,536
Number of Voters who voted	454,347 (26.58%)
Invalid ballots	5,023 (1.11%)
Votes FOR	427,112 (94.01%)
Votes AGAINST	22,212 (4.89%)

The SEC Results Protocol was signed by the Chairman and seven members (one Supreme Court judge did not attend due to health reasons).

The SEC approved these preliminary results and announced them as official results in a 17 November decision.

XV. RECOMMENDATIONS

A. THE LEGAL FRAMEWORK

1. The Law on Referendum and Civil Initiatives should be amended to introduce detailed provisions on the conduct of referenda or to indicate clear references to specific articles of other applicable legislation.
2. Provisions on public referendum propaganda should be introduced in the relevant legislation on the referendum, due to the specific nature of pre-referendum campaign or propaganda activities, and in consideration of the fact that provisions of other electoral legislation cannot be applied.
3. The role of the Parliament after the conduct of a compulsory referendum, especially an additional legislative referendum, should be clearly established in the Law on Referendum and Civil Initiatives, to avoid diverging legal interpretations.
4. The relationship between voting right and residence should be resolved. Subsequent appropriate measures, such as the introduction of absentee voting, should be considered to bring the status of resident or non-resident voters on the Voter List in conformity with the constitutional provision which grants voting rights to each citizen of age.
5. Relevant laws on elections and referenda should be harmonized and, if possible, consolidated in a unified code.
6. Rights and duties of domestic non-partisan election observers should be clarified in the relevant legislation, to guarantee their right to observe the entire election process, including the right to attend all meetings of election bodies and to receive results protocols.
7. The method of selection of judges who participate in the election administration should be modified to ensure greater transparency of the role played by political parties in their selection.
8. The relevant laws should be amended to clearly state that the State Election Commission (SEC) and other election commissions have a supervisory responsibility over the actions of subordinate election bodies.

9. The SEC should be mandated by law to conduct proceedings related to substantiated cases of electoral malfeasance by election officials or other participants in the election process, and to refer such cases to the authorities for disciplinary or prosecutorial action. The SEC should also be clearly authorized to impose sanctions, including disciplinary action and civil penalties, on election officials who are found to have been involved in malfeasance.
10. Consideration should be given to the collection and public display by the SEC, e.g. on its web page, of election or referendum results by polling station for the whole country. This would enhance the transparency of the result tabulation process.
11. Consideration should be given to amending the legislation to introduce the incompatibility of service in the election administration of those persons occupying other official positions which could be inconsistent with their electoral responsibilities or which could give them a direct interest in the outcome of the electoral process.
12. Relevant legislation could be amended so that the provisions on the use of language (including with respect to Voter List, public election notices, electoral instructions and forms, and voting instructions and posters of candidates) are clearly stated by law and brought into conformity with the relevant constitutional provisions and principles of the Ohrid Framework Agreement.

B. COMPLAINTS AND APPEALS

13. The transparency of complaint and appeal procedures, in election administration and the courts, should be increased. The decisions should be made more widely available and interested parties (e.g., the media and/or domestic observers) should be granted access to proceedings, whenever feasible.
14. The relevant election bodies should be entitled to address complaints which would not necessarily require the annulment of results at a polling station, and/or change the results of the election in a constituency. This would provide greater clarity on what evidence is required to support a complaint.

C. ELECTION ADMINISTRATION

15. Serious efforts should be made to improve the conditions for transparent and efficient activities of the election administration. For this purpose, specific funds and technical support, including premises and personnel for the normal work of the SEC and for the establishment of the autonomous Secretariat of the SEC should be urgently allocated from the budget, as established in the law.
16. The SEC should elaborate and publish internal regulations, providing for:

- timely publication of SEC decisions and documents in the Official Gazette and/or in newspapers, printed in the official languages;
 - preparation of protocols from meetings and their approval by vote before the beginning of each meeting; and
 - publication of a regular (e.g. weekly) SEC bulletin containing information and clarifications on election related issues and activities.
17. The EBs should implement those provisions in the law that require the public posting of polling station result protocols immediately after they are finalized in the polling stations.
18. The SEC should elaborate detailed instructions for the tabulation procedure at the MEC level, providing for:
- a thorough check of all election material and protocols delivered by each EB;
 - clear rules to be followed when EB results protocols do not reconcile, including the right of the MEC to proceed with a recount when necessary; and
 - a transparent computerized data processing from the EB results protocols.
19. The level of knowledge of the procedures by members of the election administration should not be taken for granted. Training for MECs and EBs should be seriously undertaken on the occasion of each electoral event. Attendance of all members of MECs and EBs should be made compulsory by law, even through the remuneration of expenses incurred by those who participate. The trainings should cover all procedures and concentrate in particular on counting, packing of electoral materials and tabulation of results.
20. The SEC should be obliged by law to conduct voter education.
21. Measures should be taken to ensure proportionate sanctions of election officials responsible for detected violations of procedures and irregularities. Consideration should be given to a possible replacement of election officials with unsatisfactory performance. EB members found guilty of irregularities and malfeasances should be held accountable, and should not be reappointed for future elections.
22. Appropriate amendments to the legislation or SEC instructions should provide for the possibility for voters who have made a mistake to void their ballot and be provided with a second ballot paper.
23. Numerical data in the results protocol form should be presented in a table format to simplify the work of all electoral bodies and to ease the procedure for filling out the protocols.
24. Early voting in its current form by military personnel, persons serving prison sentence or in custody and by IDPs is meaningless and should be eliminated. No voting should be organized in military units. Voting by the military should be

organized (when possible) in normal polling stations nearest to the relevant unit or barracks.

D. PARTICIPATION OF WOMEN

25. Efforts should be made to increase the representation of women in election administration at all levels.

E. CAMPAIGN AND THE MEDIA

26. Detailed legislation should be introduced to specify all aspects of campaigning during a referendum, in particular with regard to the issue of financing and public disclosure of funds and expenses.
27. Consideration should be given to providing the Broadcasting Council greater enforcement authority, and improving its ability to act in an effective manner regarding unfair or illegal media activities during the campaign.
28. As the relevant legal framework for the media during the referendum remained unclear and difficulties in interpretation and implementation of the provisions related to media coverage were noticed, the scope of application of the provisions in the Law on Election of Members of Parliament related to the campaign in the media during a referendum should be clarified.

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (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 Document).

The 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 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It coordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, gender equality, and trafficking in human beings. The ODIHR implements a number of targeted assistance programs annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

The 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. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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/odihhr).