

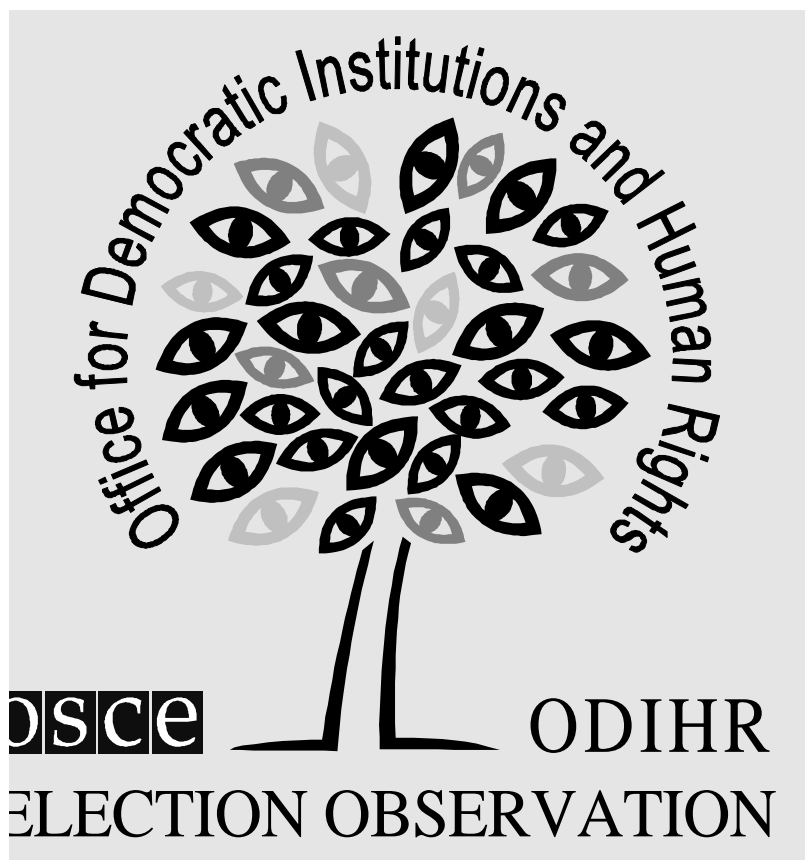


Office for Democratic Institutions and Human Rights

BOSNIA AND HERZEGOVINA

ELECTIONS 1998

12-13 SEPTEMBER



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1 Introduction

In accordance with Article 8.5 of the 1998 Provisional Election Commission (PEC) Rules and Regulations, the OSCE/ODIHR established an Observation Mission in Bosnia and Herzegovina (BiH) on 23 July 1998.

Senator Tana de Zulueta of Italy, Vice-President of the OSCE Parliamentary Assembly, was appointed as Representative of the Chairman-in-Office to the Observation Mission.

Mr. Mark Power-Stevens (UK) was appointed as Head of the ODIHR Election Observation Mission.

This report is based upon the findings of the 19-person long-term observation, which remained in BiH until 17 September, as well as the 4-person team which remained in BiH from 17 September until 18 October.

It also incorporates the observations of 250 short term observers, representing 33 States. Included among the 250 observers, was a 25-person delegation from the OSCE Parliamentary Assembly, including two members of the North Atlantic Assembly, a 20-member delegation from the Council of Europe Parliamentary Assembly and members of the diplomatic and international communities in Bosnia and Herzegovina.

2 Summary of Conclusions

- ◆ The election took place in the context of the conflict resolution process that BiH continues to undergo. In this light, the fact that the complex 1998 elections took place in an atmosphere generally free of violence and intimidation, is a testimony to the commitment of the national and international bodies responsible.
- ◆ Some serious problems emerged on the first election day, when it became apparent that a sizeable number of final voters registers across the country were either incomplete, inaccurate or had not been delivered at all. Many polling stations opened very late, and approximately 50 did not open at all on the first day, disrupting the initial voting process. Such mistakes should have been discovered in time to prevent disruption to the electoral process, particularly as this task has been undertaken before and shortcomings with voter registration have caused problems in past elections. Given that many voters have registered on other occasions, such a shortcoming can only erode confidence in the electoral process and create tension. Moreover, problems with the voters registers led to increased use of tendered ballots, which also had negative effects on the counting process.
- ◆ The campaign was generally well conducted, and compared to previous campaigns there was a more constructively competitive political environment. Media coverage was notably more balanced than previous years. Nevertheless, a number of serious campaign incidents did occur, largely as a result of bitter rivalry between some parties. It was also unfortunate that so little cross-entity campaigning was evident, reflecting in part the regrettable fact that the return of refugees to their pre-war homes is still progressing too slowly and highlighting the need to review the electoral framework to encourage campaigning across the ethnic divide.

- ◆ The environment in which the 1998 elections were held reflects the difficult situation prevailing since the war, including the fact that indicted war criminals remain at large. The special circumstances stemming from this unsettled situation, and the desire to implement the peace agreement, have resulted in the implementation of some extraordinary elements in the process, which would not be acceptable in normal electoral situations. Such measures included striking candidates off party lists for transgressions in which they had no personal role, the absence of an adequate appeals procedure, and providing assistance to parties on the basis of their political programme. In pursuing these and some other policies, there was an increased involvement of the electoral authorities in the political process, leading to a perceived politicisation of the election authorities.
- ◆ The slow processing of the results, whilst somewhat understandable given the vast number of tendered ballots and complexity of the categories of voters in Bosnia and Herzegovina, is still regrettable and served to diminish confidence in the process.
- ◆ The continuing lack of public access to the complete breakdown of results is contrary to good electoral practice. Such a lack of transparency can erode public confidence in the election results.
- ◆ The challenge for next year is to establish a permanent election law, a permanent election commission and an independent national judicial body in order to ensure the further democratisation of the institutions of BiH. OSCE and the international community should work with Bosnians on the above, in order to move towards a normalisation of the political process on as rapid a schedule as possible. It is imperative that in the move towards a normalisation of the political process more standard democratic procedures are adhered to, and a more neutral technical and judicial role is adopted by the electoral authorities.
- ◆ In conclusion, the observation mission feels that many aspects of the election represent an improvement on previous years, particularly in the conduct of the media and the quality and general conduct of the campaign. However, a number of the problems noted during these elections, such as the quality of final voters registers and the nature of some electoral procedures, need to be addressed.

3 Legislative Framework

Institutions to Be Elected

The following are the institutions elected on 12 & 13 September.

National Level	Presidency of Bosnia and Herzegovina House of Representatives of BiH
Entity Level RS	President + Vice-President of Republika Srpska National Assembly of Republika Srpska
Entity Level Fed	House of Representatives of Federation Cantonal Assemblies of the Federation
Local Level	Municipal Councils

Voting Rights

All voters of BiH cast a ballot for the national institutions, whilst voting for entity level institutions was according to the entity in which a voter's municipality of registration is based.

If a voter registered for a municipality in the Republika Srpska, be it on a regular, absentee or out of country basis, they voted for the two national institutions (Serb member of the BiH Presidency and the Serb parties for the BiH House of Representatives) as well as the two entity level institutions (RS President and Vice-President and the RS National Assembly).

If a voter registered for a municipality in the Federation, be it on a regular, absentee or out of country basis, they voted for the two national institutions (Bosniac or Croat member of the BiH Presidency and the Bosniac or Croat parties for the BiH House of Representatives) as well as the two entity level institutions (Federation House of Representatives and their respective Canton Assembly).

In addition, 11 municipal councils, not constituted in time for the 1997 municipal elections, held elections. Only persons registered for those municipalities, whether on a regular, absentee or out of country basis, were able to cast a vote.

Electoral Systems

- ⌘ *The Presidency of Bosnia and Herzegovina*
- ◆ *President and Vice-President of Republika Srpska*

These institutions were elected by a majority system.

The Bosniac and Croat members were elected by a single direct ballot by the voters registered to vote in the Federation. The Bosniac and Croat receiving the highest number of votes among the candidates of the "same constituent people" were elected.

The Serb member was elected by a single direct ballot of voters registered to vote in the Republika Srpska. The candidate receiving the highest number of votes was elected.

- ⌘ *House of Representatives of Bosnia and Herzegovina*
- ⌘ *House of Representatives of the Federation*
- ⌘ *National Assembly of Republika Srpska*
- ⌘ *Canton Assemblies of the Federation*
- ⌘ *Municipal Councils*

These institutions were elected by a system of proportional representation on the basis of political party or coalition lists and independent candidates.

The system used for the proportional distribution was the Saint-Laguë method, according to which the total valid votes cast for each electoral subject are divided by

1, 3, 5, 7 etc. sequentially until the number of divisors used corresponds with the number of mandates for the respective legislative body.

The “resulting numbers” from the division are arranged in order from the highest number to the lowest. Mandates are then distributed in order, from the highest to the lowest, until all mandates for that institution have been distributed.

This system of proportional distribution is different from the one used in 1996 or 1997. The political result is that the distribution curve is somewhat flattened, resulting in a couple of extra seats for smaller parties at the expense of larger parties.

The political result of the system change is minimal, but in technical terms the change to this system is welcomed, and is in accordance with ODIHR recommendations in its final report following the 1997 Municipal Elections. It is regrettable however, that in discussions with persons at the PEC responsible for drafting the new regulations it appears they were completely unaware of the ODIHR recommendations from 1997.

Issues

◆ In-Kind Assistance to Political Parties

In a change to 1997, the OSCE did not give cash assistance to any parties but only material, in-kind assistance. It was stated to the Observation Mission that this was due to the abuse of the cash payments in 1997 by some parties and also because of a decreased budget for party support this year.

Of the \$1.5 million made available to support political parties in their campaign, \$750,000 was distributed equally among all competing parties, and \$750,000 was distributed proportionally among parties meeting certain criteria.

The financial assistance was used to establish, for example, 16 Political Party Service Centres (PPSC) around the country, which proved to be a very valuable resource for many parties. Parties could use them to hold press conferences or for their office facilities. Relevant information was also kept in the centres for parties and the public.

Parties qualified for the extra assistance depending upon an assessment of their support for “multi-ethnicity” (Article 7.140). Support for “multi-ethnicity” was primarily determined by a party’s support for Annex 7 of the Dayton Agreement (return of refugees) and support of the joint institutions of BiH. If a party qualified under these conditions then their proportional share was determined by their vote record in the 1997 municipal elections and their viability and size.

A total of 7 RS-based parties and 13 Federation-based parties qualified for the extra assistance, as well as one Federation-based independent candidate. Neither the SDA, SDS, nor HDZ qualified for extra support. In the RS the main beneficiaries of the new regulation were the three parties in the outgoing-RS government: Mr. Dodic’s Party of Independent Social-Democrats, the Socialist Party of RS and SNS-Biljana Plavsic. In the Federation the main beneficiaries were the Social Democratic Party of BiH, the Social Democrats and the New Croatian Initiative of President Zubak.

The concept of giving material assistance rather than cash was a very positive one. It avoided the mis-use of cash which occurred in 1997. However, there are three distinct problems associated with this policy.

Firstly, it necessitates some discriminatory decisions on behalf of the election authorities, as they essentially provide assistance to some registered parties and not others on the basis of the parties' political programmes. This can harm the parties' perception of the election authorities. It is common practice in many countries for assistance, be it cash or in-kind assistance, to be given on a proportional basis. However, regardless of the worthiness of the promotion of multi-ethnicity in BiH, it is unusual that such assistance, particularly appropriated by the election authorities, is dependent upon the political content of the parties' programmes. Even though the Bosnian context presents special circumstances, such practice is not in line with OSCE commitments on equal treatment of all political parties by the authorities.

A second point of concern is the lack of transparency in the giving of extra assistance. The breakdown of parties receiving extra assistance given above was never made public. Instead it was left to the individual parties to publicise, or not, the fact of receiving assistance. This of course led to rumour and speculation in the press and among the parties, which did not improve the pre-election environment.

In its 1997 Final Report on the Municipal Elections, ODIHR recommended increased transparency in the provision of assistance to parties. However, there was no more transparency in 1998 than in 1997, as the details of assistance and the identity of recipients remained unpublished. The OSCE claims this was necessary due to the impact this may have on individual parties.

A third concern on this issue is the fact that in questions from the media, the OSCE Mission Press Office appeared to misrepresent the basis of decision-making on the provision of assistance, claiming that the SDA had not been given assistance because it was a party with substantial financial resources. However, according to the Rules and Regulations this was not one of the initial criteria for deciding whether a party should receive assistance or not.

◆ Gender Requirement for Candidate Lists

Article 7.50 stated that every list of candidates had to contain a number of persons from the minority gender. If, for example, the candidate list had nine candidates, then three of those persons must be of the minority gender. The requirement ratio was basically one-third up to a maximum requirement of three.

The original Article stated that in cases where a political party has not fulfilled the requirements and received three mandates, one seat would remain vacant. Between four and eight mandates, then two would remain vacant. Nine or more mandates, then three would remain vacant.

The Article was later revised, when it became apparent that a number of parties and coalitions had failed to fulfil the requirement. The Article was changed to allow the parties to move candidates of the minority gender up their list, which previously they could only do in event that a person resigned or died. It was later changed further to allow minority gender persons to be added on the list of candidates, up to election day to ensure fulfilment of the requirement.

This Article was constantly revised as it became clear that the political fallout from seats remaining vacant was not desirable. In fact the Article was even discussed in the PEC on Saturday 12 September, the first election day, when it was suggested that in the event that a party still failed to meet the requirement, then the seats would not remain vacant but would be given to the party, coalition or voting alliance “with the next highest resulting number”. However, not all PEC members wanted to endorse such a politically sensitive and contentious proposal, and it was not accepted.

Whilst the promotion of women in politics is to be encouraged, particularly through the Democratisation work of the OSCE Mission, it is not clear that such a gender requirement should be part of the formal legal structure in view of its complex implementation in BiH.

If a policy has been decided and made part of the Rules and Regulations then it should be followed, and not changed because a number of parties have a problem meeting it. If a regulation is deemed necessary, then that necessity should not diminish in the face of political difficulties.

Further, it should not be necessary to still be discussing the election regulations on election day, particularly if those regulations relate to the distribution of mandates. Such a circumstance, whereby at the time when people are voting, the method of distributing votes and allocating seats is being discussed, is completely unacceptable.

Regulations should be given greater consideration at the time of original discussion, in order to more accurately determine their relevance, necessity, impact and political consequences. In addition it is imperative that all regulations are well defined in good time before election day, to ensure maximum understanding of the process by voters and electoral contestants.

◆ Striking Candidates From Party Lists

Under the Rules and Regulations political parties and coalitions are responsible for the actions of their members and supporters. If the Election Appeals Sub-Commission finds that a party member or supporter violated the rules and regulations it has the power to impose penalties and fines against the offending party.

Article 4.20 states that when imposing penalties the EASC shall have the authority to:

- 1) prohibit a political party or coalition from running in the elections;
- 2) decertify a political party or coalition already listed on the ballot; and
- 3) remove a candidate from a candidates list or an independent candidate from the ballot.

Between 6 August and 30 September 1998, 42 candidates were removed from party lists for a variety of offences during the registration, campaign and electoral periods (see Chapter 9 below for a discussion of some of these incidents)

The following parties were penalised:

Croat Democratic Union (HDZ)

20 candidates removed

Serb Radical Party (SRS)	11	
Coalition for Single and Unified BiH	4	
Serb Democratic Party (SDS)		4
Serb Coalition	2	
Serb People's Union – Biljana Plavsic (SNS)	1	

The concept of striking candidates from a party list prior to an election, as a “collective” punishment for the party is not generally applied by OSCE participating States and can be considered highly irregular. This procedure has, however, been used in some previous exceptional instances, such as in Cambodia during the UNTAC-run election.

In the Bosnian context it is argued that any other form of penalty, such as a fine, would not have a deterrent effect and thus would not serve to protect the integrity of the campaign and electoral process. This argument is based upon the premise that the elections are still taking place in a post-war crisis environment. This premise fails to fully recognise that the electoral process in Bosnia is very much part of the continuing democratisation and conflict resolution process.

The limited notice and restricted opportunities for alleged violators to participate in the complaint and appeal process are clearly special and extraordinary measures that are not consistent with good electoral practice. The election complaint and appeal procedures should be reviewed to permit a normalisation of the process, in accordance with more commonly accepted election practices.

◆ **Financial Disclosures of Candidates**

According to Article 7.37 every candidate must make a financial disclosure of their total current income and its sources, assets, and liabilities of the candidate and the candidate's immediate family.

The Article defines “candidate's family” as including the spouse, children and members of the household who are economically dependent.

Income is defined as “all monies, benefits, property, receipts, payments, and anything of value within Bosnia and Herzegovina and abroad”. Assets include “all monies, accounts, commercial paper, stocks, securities, bonds, property, personal property, occupancy rights and anything of value that exceeds the equivalent of 5,000 DM within Bosnia and Herzegovina and abroad”.

Such a requirement, particularly as it also relates to family members of a candidate, could be considered highly intrusive, but not without similar comparisons in other countries, where financial records might be open to public scrutiny.

This requirement was aimed at facilitating public scrutiny and accountability. The OSCE Mission itself did not carry out any checks of the financial records. All information given by candidates was put on computer and made available for scrutiny by voters and particularly by the press.

◆ **Drafting A New Election Law: The *Bosnianisation* of the Process**

It is important that the process for drafting a new election law is intensified, and that the International Community endeavours to include in the debate the opinions of Bosnian participants. It is also important that the organisation of a Permanent

Election Commission is speeded up. These developments would help lead to a normalisation of the electoral process, and enable the timely reconsideration of some of the problems outlined above.

While the development of a new law and administrative structure will need to address the specific concerns of BiH, such a process should not be undertaken in isolation, without drawing upon a broader range of comparative international electoral experience. The ODIHR encourages an examination of the electoral framework and urges the consideration of fundamental changes that are designed to promote a more multi-ethnic electoral system.

The move toward a national judicial body, while recognising the challenges inherent in this process, would permit the society to further regulate itself through adjudication on violations of the law.

The international community should remain engaged in the process but it is also important that the process of '*Bosnianisation*' seriously be undertaken, with internationals involved in the election striving to make their hands-on role eventually unnecessary. It is recognised that this is dependent upon many wider serious political and military issues and is not limited solely to the electoral environment.

◆ **The Design of the Ballot**

The design of the ballot paper chosen for the 1998 elections caused obvious confusion among many voters (see sections on Observation of Voting and Observation of Counting), who were not in general sufficiently familiar or at ease with the modern scannable design.

The basic criteria for a ballot should be to meet the needs of the voters and the principle of ensuring as many valid votes as possible.

4 Election Administration

For the purpose of administering the election, a three-tier system was established, with a Provisional Election Commission (PEC), based in Sarajevo, Local Election Commissions (LEC) in each municipality and Polling Station Commissions (PSC) for each polling site. Each PSC had an International Supervisor. The Election Appeals Sub-Commission (EASC), which was operational in both 1996 and 1997, retained its role as the judicial body responsible for adjudicating on violations of the Rules and Regulations.

The **Provisional Election Commission** was mandated to oversee the holding of elections and was responsible for passing the Rules and Regulations which govern the election process until the Permanent Law is adopted and in force and the Permanent Election Commission is established and fully functional.

The PEC has four international members, with the Head of the OSCE Mission to BiH as Chairman of the PEC. There are six national members, with two from each ethnic group – three of whom are non-party affiliated.

Each **Local Election Commission** had seven members. Each political party, coalition or independent candidate elected to the Municipal Council is entitled to

propose a list of up to three nominees for membership. The PEC grants ultimate approval of LEC membership.

A LEC is responsible for the conduct of the elections under the supervision of the OSCE and PEC and for ensuring the “efficiency and legitimacy of the election administration functions within their jurisdiction”. The LEC’s also work closely with the OSCE to update and verify the Final Voters Register, assist voters to obtain relevant documents, monitor violations and provide parties with information.

Polling Station Commissions are formed by appropriate LEC’s. Polling stations are established for an average of every 2,000 voters. 2,270 polling stations were formed for this election.

There were three main types of polling station: Regular Polling Stations, for voters who cast their vote for the municipality where they live, or go back to their 1991/92 municipality to vote; Absentee Polling Stations for voters who cast their vote for a different municipality from where they currently live; and Twin Polling Stations which comprise a mix of the first two categories. There were also polling stations in Croatia and FRY.

Eligible persons living outside of these countries could vote by mail, through the Counting Centre in Vienna.

There was also mobile voting for those unable to visit the polling station, such as disabled persons, people in prison and hospital.

There was an OSCE **International Supervisor** for each polling station in BiH, Federal Republic of Yugoslavia and Croatia. The role of the supervisor was to confer with and advise the Chairman of the PSC on the Rules and Regulations and administrative procedures, ultimately ensuring adherence to the Rules and Regulations.

A juridical body, the **Election Appeals Sub-Commission** (EASC), was established, to ensure compliance with the Rules and Regulations and to adjudicate complaints with regard to the electoral process and violations of the Rules and Regulations referred to it by the PEC. The powers of the EASC are delegated to it by the PEC.

The EASC has the authority to: prohibit a political party from running in the election; de-certify a political party already listed on the ballot; remove a candidate from a candidates list; and impose other appropriate penalties.

Decisions by the EASC are binding and cannot be appealed.

Issues

◆ Access to the Provisional Election Commission

The OSCE/ODIHR Election Observation Mission was informed by the Provisional Election Commission on 17 August, that it was denied access to the meetings of the PEC. A letter was sent on 17 August, to Ambassador Barry formally asking him to reconsider this, based on the Election Observation Mission’s understanding of the Rules and Regulations, the precedents of 1996 and 1997, and the need for the election authorities to be transparent and open in their work. Access to the meetings

was subsequently granted and a member of the core staff attended the 24 August and subsequent PEC meetings.

It is important, in the interest of establishing a positive role model, that the national election authorities are seen to be practising the same level of transparency and openness which it is encouraging others to practise.

◆ Election Appeals Sub-Commission

The EASC acted with more independence than during the 1997 electoral cycle, when a key decision was overturned by the former Head of OSCE Mission. This did not occur this year, but it is understood that an amount of discussion between the two bodies did take place before important decisions were taken.

It is clear however, that it is only the extraordinary political environment in BiH which could possibly justify the powers of the EASC, such as striking candidates off a list and the absence of any appeal mechanism. Such powers should not be part of a standard electoral system.

◆ International Supervisors

The OSCE Mission provided 100 percent supervision of the elections, as they had for the Municipal Elections in September 1997. As in 1997, observers noted that supervisors worked very hard, often under difficult circumstances.

In discussion with some supervisors a number of problems relating to their work became apparent. Firstly, it is important that the training they receive is clear, concise and consistent. Secondly, the channels of communication between regional and local offices and the supervisors is vital (see Section on Observation of Voting) and thus a more reliable form of communication should be found to ensure supervisors are supported in their work.

If supervisors are used for future elections, possibly in a more mobile or flexible format, it should be ensured that the recruitment policy is tightened up, to ensure that all have the level of experience and language abilities necessary to carry out the task in an optimal manner. It should also be ensured that their training is more concise and consistent.

5 Voter and Civic Education

The general trend of posters and TV spots made for the election were to firstly inform people that there was an election and encourage them to participate and secondly inform them how to take part. Some TV spots showed in detail the process for voting and how to fill out the new ballot.

The OSCE also produced a series of posters explaining the new ballot paper to voters. This poster was mass produced and was highly visible around the country. However, as discussed above, many voters unfortunately still had problems with the new ballot.

The OSCE also produced a newspaper, which included the platforms of political parties on a series of issues. This newspaper was widely circulated in public places.

A series of posters was produced by a Bosnian NGO, Gradanski Glas (Citizens of Action) from Republika Srpska, which was highly emotive and generally urged people not to vote for the main nationalist parties, holding such parties responsible for the war and its after effects.

6 Voter Registration

Voter registration for both the 1996 and 1997 elections in Bosnia proved an extremely problematic and sensitive issue. The OSCE Mission to BiH, responsible for the onerous task of compiling the final voters register, was in the past unwilling to publicise registration figures in any detail. In some respects this was understandable given the political context, although it led to suspicion and a lack of transparency not in line with the procedures that the OSCE seeks to uphold in its participating States.

For the 1998 elections a number of changes were made to the Rules and Regulations regarding registration, in an attempt to iron out the already identified lacunae and to prepare the hand over of responsibility for the voters' register to the Bosnian authorities.

A pre-registration phase began in May 1998 when existing municipalities were divided into "settlements" in order to "geo-index" the voters' register and ensure the exact location of voters (no addresses were required during the 1997 registration process) and to link settlements to polling stations. Voter registration cards were distributed via Local Election Commissions or in the Voter Registration Centres (VRC) to approximately 80% of voters who appeared on the 1997 Final Voters Register. In a number of cases these cards were marked with an "x", which meant that the voter required some alterations to their registration details.

450 internationally supervised centres were open throughout BiH, FRY and Croatia for voters to alter their registration status from 1997 (i.e. from an out-of-country to an in-country voter, or from an absentee to a regular voter), to re-register or simply to register (as in the case of new 18 year olds). It transpired however, that a number of administrative problems were still prevalent, mainly in ensuring that people were registered for the correct polling station, particularly in areas with split municipalities and settlements. In addition over 50,000 refugees have returned to BiH so far this year according to the International Organisation for Migration (IOM), and they should have altered their status on the voters' register. As one OSCE election official pointed out, the changes to the processing of registration eliminated several key problems faced in previous years, but the setting up of a new system, with voters cards linked to settlements, created a number of new problems for the election administration.

Following the registration period which closed at the end of June, Provisional Voters' Registers were compiled and a claims and challenges period undertaken during the first week of August. Few alterations were made during this time but there were still a number of problem areas which needed clearing up prior to election day. The Final Voters Registers were not in fact printed until a couple of days prior to the elections and in some cases not until the day of the elections due to a number of

problems with the computer programming, the distribution of the ballots and the accuracy of the registers.

In fact, by election day some 20-30,000 voters had still not been notified of their correct polling place or were not sure if their registration had been accepted or not, and were thus not assigned to a polling station. These voters are included amongst the 180,000 voters who used a tendered ballot. These people will not be notified whether their vote was counted or not until the next time a registration process is undertaken.

It appears that the settlement policy was not accompanied by an adequate information campaign to notify each voter the exact location of the polling station he or she was supposed to vote at. According to the OSCE Mission to Bosnia and Herzegovina 60% of all voters who voted tendered ballot were those appearing at a polling station other than the one they were assigned to.

The Election Appeals Sub-Commission (EASC) only had to deal with a few registration related cases prior to elections compared with the thousands of appeals last year. It may well have to deal with a number of post electoral complaints from individuals and parties, confused and angry by the problems seemingly caused by a lack of organisation on behalf of the election administration.

Impact of Registration Problems on Election Days

Despite the huge resources aimed at ensuring the voters' registers accuracy for these elections, it was the largest single problem identified by all parties both prior to and since the first election day. The results of these administrative problems, apart from being humiliating for both voters and polling officials, are a decrease in confidence and general mistrust in the whole electoral process. They undermine the enormous efforts put into the democratization process in BiH and will be fuel for those anti-democratic forces still widely prevalent. It is unfortunate that such mistakes occurred at all, but in BiH they can have far reaching ripple effects. Polling stations in the hard-line areas of Caplina, Drvar, and Zvornik faced security concerns on 12 September as local residents were unable to vote because no FVR's were present, whilst former residents voting by absentee ballot had FVR's. Those voters' unable to vote threatened to burn down the absentee polling station in Caplina as they feared a conspiracy. The FVR's later arrived but the number of voters put-off or who did not return, cannot be accurately measured.

Some twenty Municipalities were affected by inconsistent, inaccurate or non-existent FVR's on the first election day¹. In addition to this some forty "twin" polling stations faced similar problems. Approximately fifty polling stations did not open on 12 September. Many others opened hours late. The reasons given by the election administration for these errors are four-fold:

First, the so-called "twin" station lists (particularly 800 + 900 series – absentee and absentee-in-person) were not merged by the central computer as should have occurred, resulting in some voters making their way back to former municipalities to find they had to vote by tendered ballot. The fact that the printing of the FVR was not undertaken until the final days prior to election day was the reason given for such mistakes.

¹ These include Kostanica, Banja-Luka, Travnik, Konjic, Jablanica, Lukovac and Dobo

Second, other computer programming errors failed to recognize last minute changes both to individual registration eligibility and settlement changes, causing erroneous FVR's to be issued to polling stations before the mistakes were recognized by local officials.

Third, some voters whose chosen voting option meant that they should have gone in-person to vote in their previous place of residence, once they knew they could vote by tendered ballot anywhere, chose the latter option due to weather concerns amongst other reasons. During the counting it has been noted that a significant number of these voters were issued with incorrect ballots i.e. RS residents given Federation ballots and visa-versa. Some of these voters should clearly not have been on the FVR of the polling stations they finally decided to cast their ballot on the election day and hence the cries of "foul" by local party officials were not justified.

Fourth, a number of clearly ineligible people attempted to vote, and disrupt the voting process (see Out of Country Voting).

The voter turnout figure based on an incorrect Final Voters Register cannot be accurate. Moreover the FVR still contains people who have died since August 1997 (estimated to be 3-4% of the total FVR) and a number of duplicates which could not be struck from the register arbitrarily. In addition, the number of returnees is still unknown, even by UNHCR, and newly eligible voters (i.e. those turned 18 in the last year) were not automatically registered but had to attend a VRC in person, and so the total number of registered voters in BiH cannot be accurately calculated.

Issues

- These are the fourth elections held under International supervision in BiH since 1996 (not including the June 1996 Mostar elections). In every ODIHR report it has been recommended that time be spent to ensure that the "just-in-time" policy with regard to the voters register be ceased and that time be spent to ensure that the FVR be made a truly public and transparent document. In 1996 and 1997 legitimate human rights concerns were raised against this, but this year it is very difficult for voters to understand the problems witnessed on 12 September and the subsequent delay in the release of election results.
- The "cleaning – up" of the voters register should now be taken to task. According to OSCE officials only in the fifteen or so municipalities where FVR's were grossly inaccurate will there need to be re-registration. This will be done at the local level during 1999. In addition however, the deceased persons and duplicates should be removed and an ongoing system introduced at the local level to ensure that people are removed and added in an ongoing process. An attempt should also be made to reduce the large number of spelling mistakes and typos currently on the FVR. It would also have been possible to add a box on the software used for checking tendered ballots, in order for those accepted voters to be notified that they are on the register and to explain to those refused the reason why their ballot was rejected.

7 Out of Country Voting

No observation of OCV was undertaken by ODIHR this year and so these comments are based on conversations and comments during ODIHR visits to FRY

and Croatia in August, during which meetings were held with the relevant authorities of those countries, as well as with the Helsinki Committee of Croatia and Serbia.

Federal Republic of Yugoslavia

Registered voters – 75,253

Voted – 29,308 (39%) of which 5,399 by tendered ballot

In FRY both the registration and voting process was overshadowed by events in Kosovo. The decision for Bosnian refugees to register or not, became a paradoxical question. If they registered, many would be voting for their former municipalities now in the Federation, and so viewed by local Serbian authorities as a wish to leave Serbia. For those who did not register, certain benefits and rights were refused (the Helsinki Committee told of several cases of registration slips being requested from people in order for them to register their children in schools or for car registration). Nevertheless over seventy thousand voters were registered, although the turnout was very low. No major incidents were reported on polling days.

Croatia

Registered voters – 73,470

Voted – 51,765 (70.5%) of which 10,732 by tendered ballot

Significantly fewer cases of systematic attempted fraud were detected this year although there have been credible allegations that the HDZ had written letters to thousands of Bosnian-born people residing in Croatia in an attempt to bolster their potential voters².

This was discovered after thousands of people turned up at VRC's in Croatia during the last week of registration with the aforementioned letters bearing the insignia of "the Union of Clubs and Associations of Croats from BiH", with an untraceable organisation and telephone number. This practise ceased following an OSCE appeal to the HDZ although allegedly a number of commercials appeared on Croatian television a couple of days prior to the elections appealing to all Croats who had ever lived in Bosnia to vote. This served to slow the voting process as those voters were allowed to vote by tendered ballot. No other significant problems were reported.

Vienna

By-mail registrants 152,900

By-mail voters 124,718 (81.6%)

Approximately 153,000 people were registered to vote by post this year, significantly lower than in previous years due to returns and people finding permanent residence abroad. Voting began on 10 August by post and some 120, 000 ballots were received by the closing date on 14 September.

Strongly worded allegations were made by the BiH Federation representative in Vienna against the bad organisation, as well as individuals from OSCE in local BiH press on 23 August. The allegations, although strongly refuted, spread to other sectors of the press and did not assist in confidence-building in the electoral

² The ethnic Bosnian-Croat population in BiH has gone down from 17 to 12% of the total population.

process. The OHR representative dealing with refugees stated in late August that it was “not difficult but impossible” to keep track of the whereabouts of refugees moving both in and out of country.

8 Candidate and Party Registration

The Provisional Election Commission (PEC) registered 83 parties, coalitions and independent candidates. A total of 5,998 candidates were approved by the PEC (around 400 were deemed ineligible).

According to the Rules and Regulations, each political party and independent candidate had to submit an application for registration or confirmation of a previous registration to the PEC in Sarajevo or to any OSCE office within Bosnia and Herzegovina.

In order to qualify for registration, a political party had to provide a number of signatures to the OSCE (for the institutions of BiH, the Federation of BiH and Republika Sprska: 10,000 signatures; for a Canton: 1,500 signatures and for a Municipality: 200 signatures). The number of signatures required for independent candidates was lower. However, parties that had registered for any previous elections did not need to provide signatures to the PEC or the OSCE.

For the first time, each political party also gave a registration fee of 1,000 KM and each independent candidate gave 500 KM. This fee will be refunded to parties or candidates which won at least one mandate in the elections. This mechanism is surely a good innovation of the 1998 Rules and Regulations in order to rationalise the number of candidates wishing to run in the elections.

Two or more registered parties choosing to form a coalition had to submit an application for registration under one name to the PEC or an OSCE office. A coalition is then considered as a single political organization. A total of nine coalitions registered for the 1998 elections.

Registered political parties, coalitions or independent candidates also had the possibility to form a voting alliance in order to be able to combine their vote totals. However, a political party, coalition or candidate can participate in only one voting alliance for each election type. Ten voting alliances were formed for the September elections.

Following registration, a party had to submit a separate list of candidates to the PEC or an OSCE office for each electoral type in which the party planned to present candidates.

In case of rejection of registration, all parties, independent candidates and coalitions could bring an appeal to the EASC within three days of the date of notification of the PEC's decision.

9 Campaign

The pre-electoral campaign officially started on 29 July and ran for 45 days. In reality, most political parties started their campaign activities in mid-August mainly

for financial reasons. Campaigning was prohibited in the 24 hours prior to the opening of the polling stations and on election days.

The campaign generally proceeded in an orderly manner, but a number of unfortunate incidents took place throughout the country. The campaign kept a low profile in some parts of the country, especially in areas where one nationalist party dominated (e.g. Western Herzegovina). An obvious lack of interest from the voters was often reported, mainly due to the number of elections in recent years.

However, the political parties were involved in a more constructive dialogue compared to the previous electoral campaigns.

According to the Rules and Regulations, every party and independent candidate had to submit to the PEC a statement of the party or candidate's political platform, stating the views of the party on the issues of the return of refugees, economy, minority rights, reconstruction and development, education and social services. Following this, a committee (composed of OHR, OSCE, PEC, NGO representatives) evaluated the political platforms. Parties whose platforms contain inflammatory or hate language were not accepted for registration.

As part of its in-kind assistance program (see below and the section on the Electoral Framework), the OSCE published the platforms of all political parties standing in the elections. Four newspapers were issued on: refugee returns, minority rights, economy and social affairs and each party had to provide the OSCE with their political program on these four issues.

Most party platforms highlighted the importance of the return of refugees, the economy, security and raised concerns regarding mass departure of young Bosnians.

According to the OSCE Democratisation Department, the parties were asked to write their platform in order to inform the voters but also as an exercise for political parties. Nevertheless, some parties, such as SDS, stated to the Observation Mission that they merely reiterated what they knew the OSCE wanted to hear. Such parties made overtly contradictory statements during the electoral campaign.

The Elections Appeals Sub-Commission (EASC) imposed a number of penalties on parties found to have violated the campaign rules, striking-off a total of more than thirty candidates from party lists.

Financing of the Election Campaign

Because of limited funds, the OSCE did not provide direct financial assistance to political parties standing in the elections as it did for the 1996 and 1997 elections. For the 1998 elections, the OSCE has provided in-kind assistance to political parties and independent candidates (see Legislation framework; in-kind assistance, p.6).

All parties could publish free of charge their platform and had access to Political Party Service Centers (PPSC) throughout the country. These PPSC have been used by a large number of small parties, mainly to hold weekly press conferences.

At the time of registration a political evaluation of each party's programme was carried out. Twenty-one parties, deemed to be "multiethnic" in orientation, qualified for extra in-kind assistance. Through this material assistance, parties could get

pamphlets, posters or any other kind of election material printed. However, the OSCE refused to make public which parties were selected and the exact amount spent for each party. The SDA complained to the OSCE for not 'qualifying' from the extra in-kind assistance, since they claimed their platform fulfilled the criteria mentioned in the Rules and Regulations. The OSCE responded that the party did not qualify due to the "robust financial resources of the SDA". However, the Rules and Regulations do not mention party finances as one of the criteria for deciding qualification for extra in-kind assistance.

According to the Rules and Regulations, the use of public funds by any coalition, party and candidate for campaign purposes was prohibited. In addition, each candidate had to disclose their income and assets (see Section on Electoral Framework). The financial disclosure forms were made available to the public four weeks before the elections. Financial disclosures were also made available to the media, which published some of them in the weeks prior to the elections.

Issues

- In Velika Kladusa, DNZ supporters were attacked during the pre-electoral campaign, their party office was damaged and party members were harassed. Moreover, the local police failed to provide adequate security for the DNZ and its supporters. By a decision of 25 August, the EASC recognized that SDA supporters were linked to this intimidation and two SDA local candidates were struck off the candidate list.
- The EASC found that the HDZ had intimidated and threatened some of its party members wishing to join the newly formed New Croatian Initiative (NHI). HDZ was also found responsible for having HVO military officers involved in some of their rallies or for sending HVO soldiers to NHI public meetings to intimidate the participants. For these acts, 18 HDZ candidates were removed from the lists
- This procedure of striking candidates off the lists was highly criticized by some party representatives who underlined that it was inadequate and created a negative atmosphere during the electoral campaign. However, other parties have been actively requesting the EASC and the OSCE to use this mechanism in a more consistent manner.
- During the campaign period, very little cross-entity campaigning was observed. This reflects a political framework where candidates need not campaign across the ethnic divide in order to secure a mandate. It also reflects the lack of freedom of campaigning in the country. Some political parties from the Federation (i.e. SDA, HDZ and SDP) held a few rallies in Republika Sprska, which represents an improvement compared to last year's elections. However, it has to be mentioned that the electoral system in force for the national common institutions did not encourage the parties to campaign across the two entities of Bosnia and Herzegovina.

10 Media

ODIHR representatives monitored the media in Bosnia and Herzegovina for seven weeks for the period July 27 through September 14, 1998.

Meetings were held with media development representatives from OSCE and OHR; journalists in the RS and the Federation; state-controlled media representatives in the RS and Federation; international and local NGOs involved in media monitoring and training programs; other media-related groups.

Issues identified: All legal cases that impacted the pre-election media environment were followed. This included attending weekly Media Experts Commission meetings.

Quantitative Electronic and Print Media Monitoring: ODIHR hired four local media analysts to monitor major media outlets in Sarajevo (2), Mostar, and Banja Luka. The media monitoring methodology was the same used on previous ODIHR election observation missions (including BiH 1997, Montenegro/Federal Republic of Yugoslavia, Ukraine, etc).

Background to the Media in BiH

The war put a stop to integrated media in Bosnia and Herzegovina and practically destroyed its established structure. Bosnian media remain divided into three separate entity-level media systems in the Republika Srpska, and the Bosniac- and Croat-controlled regions of the Federation.

The most basic problem with media is the lack of a clear, unbiased and balanced reporting. Although the number of media in BiH has continued to grow rapidly in the Federation and Republika Srpska, this growth has not resulted in any significant improvement in the quality of performance.

State television has an overwhelming influence in both entities. According to a recent poll, the most important source of information for the vast majority of Bosnians is television. The most influential electronic media include: 1) RTVBiH – Sarajevo-based television received throughout most of the Federation and limited areas of RS; 2) SRT – Banja-Luka based television received throughout the Republika Srpska; and 3) HRT – Croatian state television broadcast from Zagreb received throughout almost 75% of the Federation and the RS. Although there is a broader spectrum of opinion in the print media than the electronic media, circulation levels are very low, and the influence of print media is limited.

The Media and the Election Campaign

ODIHR concluded in its statement that the campaign was generally well conducted and media coverage was notably more balanced than previous years. With relatively few exceptions, electronic and print media adhered to the media guidelines and provided equal access and balanced coverage for all political parties. The quality of political information in the media had improved and voters were able to make electoral choices based on information provided by media sources. Each media covered the campaign debates between HDZ and NHI; SLOGA and the SRS-SDS Coalition; and the increased influence of the SDPBiH.

The OSCE Media Experts Commission (MEC) strictly enforced equality of access during the campaign. Media monitors were plentiful during the election campaign. In addition to the OSCE's extensive media monitoring effort, other international

organizations watching the media included the Office of the High Representative, SFOR, and the United Nations.

Much attention and expense was paid to ensuring that media in BiH refrained from using inflammatory language or broadcasting positions in opposition to the Dayton Agreement. Many Bosnian journalists, who went so far as to accuse the international community of censorship, resented this strict enforcement. One very honest journalist in Banja Luka complained that inflammatory language sold newspapers, and therefore the OSCE media guidelines were taking away much-needed business. In response to such claims, ODIHR representatives analyzed the OSCE media guidelines against other media laws in Eastern Europe and Scandinavia and determined that the BiH media restrictions, whilst overtly stringent, were somewhat in line with similar laws in other countries.

Another complaint was that the media coverage was extremely boring. Much of the information provided in the media was so controlled that it did not allow for or encourage any healthy editorial comment or debate. The OSCE attempted to schedule Presidential debates throughout the country, but the debates were largely unsuccessful due to non-attendance by the major political figures. Politicians realized that at this point in the development of political dialogue in Bosnia, an honest exchange of divergent political views would not increase the number of their voters.

The media was able to operate more freely and critically as compared to previous election campaigns in Bosnia and Herzegovina. However, the tendency remained to report on the largest political parties within each respective entity. This led to a situation where, with few exceptions, media in BiH did not broadcast or exchange campaign information across entities. Additionally, few journalists travelled across inter-ethnic boundary lines to report on other regions of the country.

Although print and electronic media were responsible for providing equal access to all political parties under the PEC media guidelines, the majority of coverage in any media was dominated by the parties of power in that entity. For example, in one of the Federation's largest newspaper, *Oslobodjenje*, the government coalition (KCDBiH) and SDA received 20% of total campaign coverage, whereas SRS and SDS combined only received 4% of coverage. Similarly, in the largest RS newspaper, *Glas Srpski*, the ruling party SNS received 32% of coverage, and SDA received no coverage.

There was a notable increase of critical reporting during the campaign, however, there were two instances of action taken by the government that caused distrust and cast a shadow on the freedom of the press during the campaign. Both incidents occurred in the Republika Srpska.

Media Monitoring Results

ODIHR representatives monitored eleven print and electronic media outlets to determine equality of access and quality of coverage during the campaign. However, radio was not monitored due to limited resources. Comprehensive results detailing total coverage per political party or coalition are listed below for the five largest media as an example of trends throughout the country, particularly the tendency towards entity-unique reporting:

	KCDBiH	SDP BiH	SLOGA	SRS/SDS	HDZ	NHI
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RTVBiH	25%	23%	2%	0%	4%	16%
Oslobodjenje	20%	16%	1%	4%	16%	11%
Dnevni Avaz	31%	9%	1%	9%	20%	9%
SRT	1%	1%	34%	23%	4%	4%
Glas Srpski	0%	0%	59%	8%	1%	1%

Electronic Media

This year's electronic media coverage represented a significant improvement upon last year's campaign in the media. In general, most political parties were given access to the largest electronic media. The difference in quality of broadcasting between RTVBiH and SRT was significant, however, and RTVBiH continued to be the most pluralistic.

- Radio Television BiH (RTVBiH). RTVBiH should be commended for its neutral coverage of the campaign both in news programs and election-related programming. Throughout the duration of the campaign, hardly any mention was made of government officials, even in their "civil" capacity. Statistics show that a minimal percentage of time (12%) during the prime-time news was dedicated to stories about the ruling party. Interestingly, the Social Democratic Party (SDP BiH) received the most coverage (23%). This might reflect the international community's overt promotion of SDP BiH

RTVBiH's "Izborni Xhronika" special election program succeeded in giving equal access to political parties. The Croatian Democratic Union (HDZ) and the ruling coalition party (KCDBiH) received the largest allocation of time during the election program (14%). The second largest allocation of time (13%) went to the Social Democratic Party (SDP BiH), but six other political parties received also received a fair amount of time (over 5%). One criticism of the election program is that statistics show that SNS and SRS each only received 1% of broadcast time, but this low figure is most likely due to the parties' realization that broadcasting on RTVBiH would not help them reach their potential electorate.

- Srpska Radio Television (SRT). A stark contrast to RTVBiH, SRT focused overwhelmingly on the SNS and SLOGA coalition, which was also promoted by the international community, during its news programs. The prime-time news programs were used as a means to publicize government officials who were also campaigning. Each evening the SRT prime-time news opened with news stories about President and Prime Minister's attendance at factory openings or meetings with foreign diplomats, stories that were not newsworthy enough to take top billing on the prime-time news.

The SLOGA coalition in total received almost half (48%) of the broadcast time during the prime-time news, broken down as follows: SNSD (16%), SNS (18%), and SPRS (14%). The SRS and SDS received a total of 23% of broadcast time.

Print Media

Political parties were afforded equal access to print media within their own entities. Although the largest newspapers are still aligned with a specific political party, there was a wide representation of political parties in the print media.

The role of print media in the campaign was marginalized, however, because of small readership and because most people choose their print media based on their political orientation. For example, an SDA-supporter will most often only read *Dnevni Avaz* or *Ljiljan* and will not purchase other print media for alternative perspectives.

This is most clearly illustrated by the impact of a special edition of *Dani* magazine that was printed just before election weekend. *Dani* is an independent newspaper printed in Sarajevo that is highly critical of the government. The special issue was intended to paint President Izetbegovic and his policies in a very negative light and affect voters' opinions on election day. Even though the stories were strikingly critical, the overall impact on voters was very minimal. Reason being that the Bosnians who read *Dani* are already critical of the government and those who support the government would in general never purchase or read an issue of *Dani*.

- *Oslobodjenje* is the oldest Sarajevo-based newspaper and has a circulation of approximately 15,000. *Oslobodjenje* covered the campaign extensively, and gave fairly equal coverage to many political parties. The largest coverage was given to the main political parties in the Federation, including SDA (8%), SDP BiH (16%), HDZ (16%), NHI (11%), and the ruling coalition (12%). As evidence to the fact that a certain bias is still perceptible in fairly neutral print media, 32% of the space for HDZ and 43% of the space for SDS was negative coverage.
- *Dnevni Avaz* is a privately owned newspaper with a circulation of approximately 30,000, mainly in the Federation. The newspaper has a tendency to support the SDA, but has also been recognized in the past year as improving its journalistic standards considerably. However, SDA (15%) and the ruling KCDBiH coalition (16%) received the largest amount of coverage, of which no space was negative coverage. *Dnevni Avaz* devoted much of its campaign-related space to reports about the on-going political battle for Croat votes between the HDZ and NHI. Both NHI (9%) and HDZ (20%) received a surprising amount of space, but almost half of HDZ's space was negative coverage (35%). Although the Serbian parties received little space in *Dnevni Avaz* (SRS – 2% and SDS – 7%), the majority of space was negative coverage of both parties.
- *Glas Srpski* has the largest circulation in the Republika Srpska and is closely aligned with the ruling SNS party. Unlike its counterparts in the Federation, *Glas Srpski* showed a much greater tendency towards favoring space allocation for the ruling party and its coalition members. SNS (32%), SPRS (28%), and SNSD (27%) received the vast majority of space during the election campaign. SRS (3%) and SDS (5%) were given a very limited amount of space. Additionally, the largest political parties from the Federation received no coverage: SDA (0%), KCDBiH (0%), SDPBiH (0%).

Media Experts Commission (MEC)

The Media Experts Commission took a strong hand in promoting more positive and equal political dialogue in the media. In comparison with previous years, this year the MEC was a strong and effective enforcement body for the media guidelines and took decisive action on violations at crucial moments during the campaign that resulted in greater access for all political parties.

One of the reasons the MEC was more effective was that it was given the additional power to refer media violations to the Election Appeals Sub-commission. As a direct result of referrals by the MEC, many candidates were struck off party lists during the campaign due to flagrant media violations. While striking candidates in this manner is not a recommended electoral practice, it was effective in producing compliance with the media guidelines.

Another element to the commission's success was the membership. Unlike previous years, this year's MEC included journalists from both the Federation and the Republika Srpska who were able to provide the Commission with important and relevant viewpoints on media in Bosnia. One criticism of the MEC was that its members representing the international community (OSCE, OHR, United Nations, and SFOR) were able to maneuver the debate at MEC meetings so that their decisions were approved. Although the comments of the Bosnian members were respected, opinions usually did not change final decisions. This is a problem inherent within many OSCE governing institutions, including the Media Access Support Teams, and should be addressed in future elections.

One of the most important MEC rulings involved the Zagreb-based HRT channel. HRT is received throughout Bosnia and reaches more Bosnians than SRT or RTVBiH. Additionally, HRT has an enormous impact on the Bosnian Croat population. Media monitoring data proved that HRT broadcasts into Bosnia were extremely biased towards the HDZ. The MEC claimed legal jurisdiction over HRT because it is re-broadcast directly on the territory of BiH by Erotel, a Bosnian company. After repeated warnings, a period of compliance, and final violations, the MEC referred the case to the EASC, which struck 4 HDZ candidates off the party list.

Although the legal justification for censuring Zagreb state television was complicated and the action seemed at times to exceed the authority of the OSCE, HRT for the first time was forced to open its coverage to all political parties and provide a broader perspective on the elections. This improvement in HRT programming was one of the most notable changes in electronic media coverage during the campaign.

A second decision with major consequences was reached by the MEC following the elections. During the blackout period prior to election day, Serbian state television (RTS) broadcast an interview with Nikola Poplasen, the RS Presidential candidate from the SRS. This broadcast was in direct violation with the media guidelines³. Amidst possible political backlash because of Poplasen's early lead in the polls, the MEC retained its authority and referred the violation to the EASC, which removed six SRS candidates from the party list.

At the conclusion of the elections, the Independent Media Commission (IMC) will be taking over responsibility for licensing, registration and media violations. MEC decisions during the election campaign will be supported in the long-term by licensing and registration decisions of the IMC. Enforcement will continue into the post-election period.

Issues

³ PEC Rules & Regulations, Article 10.25 and OSCE Blackout Advisory

- ◆ Just before the campaign started, the Republika Srpska Government voted to dismiss the editors and general managers of sixteen radio and television stations in Republika Srpska. The RS Government quoted the RS Law on Public Information⁴ as legal justification for the action, claiming the media had failed to provide the government with timely and accurate information in relation to their activities. The action caused mixed reactions, as some of the more independent journalists supported the decision by the government, but others (mainly SRS and SDS representatives) condemned the dismissals. The action taken just before the campaign could be viewed as obstructive to a positive campaign environment.
- ◆ A second action taken by the Republika Srpska Ministry of Information was to suspend the work of the SRNA news agency. SRNA news agency is closely associated with the SDS party, and is widely recognized as producing news biased against the RS government. The suspension took place on August 13, in the midst of the campaign. The Minister of Information cited reasons of unprofessional reporting by SRNA and replaced its editor-in-chief with the former Minister of Religion. Again, even though it was a fairly minor event, this action taken in the middle of the election campaign served to decrease confidence in the freedom of the media.

11 Observation of Voting

Background

250 international observers covered 133 of the municipalities of BiH. Observers submitted 2,337 observation report forms over the two days.

Overall Findings

A generally well administered process was clouded by the problems experienced with the Voter Registers, the subsequent late or non-opening of some polling stations, the pursuant high number of tendered ballots, and confusion and anger of some voters.

As stated above, with the exception of the situation with the Final Voter Register observers made a positive appraisal of the voting process.

Out of 2,344 observation reports, 1,610 reports (68.69%) rated the voting process as being good or very good. Only 99 reports (4.22%) rated the process as Bad or Very Bad.

Performance of Officials

Other positive indicators include a positive rating for the performance of polling station commission members and international supervisors

Out of 2,344 observation reports, 1,723 reports (73.51%) rated the performance of polling officials as good or very good. Only 95 reports (4.05%) rated their performance as bad or very bad.

⁴ RS Law on Information, Article 5 and 10, regarding registration

1,746 of the 2,344 observation reports (74.48%) rated the performance of the international supervisor as good or very good. Only 115 reports (4.91%) rated their performance as bad or very bad.

However, during the de-briefing of observers it was generally felt that despite some valiant efforts by many supervisors the quality remained somewhat mixed, as in previous years, again raising questions over the recruitment process.

Many observers also reported at the de-briefing that supervisors asked the observers questions on the process. Many observers questioned the adequacy of the training of supervisors. In discussions, some supervisors also stated that the quality of the training was somewhat mixed.

Voting Process

As stated above, with the notable exception of the failure of some polling stations to open or opening late and the quality of the FVR in some municipalities, the voting process received a positive rating from observers.

There were reports, as in previous years, of proxy voting and group voting. Out of 2,344 report forms, 142 (6.06%) observed proxy voting and 612 (26.11%) observed group voting. During the de-briefing however no observers had a serious problem with this, stating it was more benign, occurring in largely rural areas or between elderly family members. However, according to the Rules and Regulations, it is supposed to be prevented and should be in future elections.

The active role played by the political parties was encouraging. In 78.54% of observation reports, between 2 and 10 political parties were present in the polling stations.

The Ballot Paper

Observers responded less positively to the question regarding the voters' understanding of the voting process. Out of 2,344 reports only 1,191 (50.81%) rated voters understanding as good or very good.

753 reports (32.12%) rated their understanding as fair, whilst 205 reports (8.75%) rated understanding as bad or very bad.

In the de-briefing observers were categorically in agreement that the problem lay in the new ballot design. Observers felt that not only was it an inappropriate design for the average Bosnian voter to feel comfortable with, but it was not appropriate for the level of infrastructure in BiH, with the associated problems of poor lighting in many areas.

In addition, there was a serious design flaw on absentee ballots. These ballots were printed on both sides, so that even when folded, part of the ballot remained visible. This seriously compromised the secrecy of those ballots.

Issues

◆ The Final Voters Registers

It very quickly became apparent on the morning of Saturday 12 September that in a number of areas across the country something had gone seriously wrong with the Final Voters Registers (FVR), as many polling stations failed to open on time (according to OSCE Mission to Bosnia and Herzegovina the FVR was not ready at poll opening on Day 1 at 91 polling stations), whilst some others opened with an 'incorrect' FVR.

According to the OSCE Mission a number of technical errors occurred, including, but not restricted to:

- Final Voters Registers printed on 10 September were seriously flawed. These were either recalled, so that no FVR was available for the opening at 07.00 on 12 September, or were delivered, so that a flawed FVR was used. The municipalities of Novi Grad, Prijedor, Doboj, Osmaci, Travnik, Olovo, Vlasenica, Bugojno, Jablanica, Konjic, Novo Sarajevo, Srbinje, Kostajnica and Milici, were particularly affected.
- A significant number of absentee voters were included in the registers for regular polling stations.
- Some people who changed their place of residence between 1997 and 1998 were still registered in their 1997 place of residence.

According to the OSCE Mission, two percent of polling stations failed to open at all on Saturday 12 September. This statistic was used to try to minimise the situation. However, 2% of polling stations failing to open means that between 35,000 – 45,000 people were unable to cast their vote on that day. In addition, many polling stations opened hours late, seriously disrupting voting plans of thousands more voters, particularly many who travelled long distances only to find closed polling stations.

The OSCE Mission estimates that less than 5% of all polling stations were affected. However, during the election day estimates were closer to 9 or 10%. Whatever the statistic such a situation is unacceptable. Given the preparation time, all polling stations should open as is customary. Voters were understandably angry and even close to violence in some areas (observers had stones thrown at them outside a polling station in the Tuzla region once frustrated voters identified them as 'OSCE'), demanding that the election officials rectify the problem.

Based on observers' oral reports, there was serious confusion on the ground, as polling officials and voters were unclear what to do. The communication of instructions and explanations from the centre to the regions and from the regions to the field was apparently not sufficient or clear or consistent. Subsequently, polling officials adopted a number of different approaches to the problems, with regards extending opening or not extending opening, and with regards the handling of people wanting to vote but were not on the register.

OSCE Mission officials also stated that the future benefits of a territorial based allocation of voters outweighed the potential problems associated with compiling such a register. However, given the sheer weight of problems it is not clear that this is the case.

The observation mission feels it is to the credit of the OSCE Mission that the situation was significantly addressed by the morning of Sunday 13 September, but this in no way diminishes the seriousness of the situation on Saturday 12 September.

◆ **Voting by Tendered Ballot**

The OSCE Mission points to a number of reasons why there was a dramatic increase in the number of tendered ballots in this election, including refugees returning after the registration period and thus not on the FVR, voters attending the wrong polling station sometimes because of the complexity of the new settlement registration, and because of the problems with the FVR outlined above.

As a consequence of these problems, 188,675 people voted by tendered ballot (see also sections on Observation of the Count, and Aggregation and Verification of Votes). Of these 112,846 were accepted and 75,829 were rejected.

Of the 75,829 rejected tendered ballots, 54,476 were rejected due to not being on the FVR; 5,830 voted more than once by tendered ballot; and, 4,457 contained incomplete information for verification purposes.

The fact that such large number of voters had to vote by tendered ballot is extremely unfortunate because of the very sensitive nature of tendered ballots and a general lack of confidence in the tendered ballot by voters in BiH. The proliferation of tendered ballots also had implications for the speed of the count, which was paramount in the OSCE Mission's pre-election plans, as indicated by the new ballot design.

Unfortunately, as these problems became evident on election day many of the affected polling officials did not seem clear on what to do. Some polling stations remained open late, whilst others did not. Some polling stations accepted each and every person, immediately allowing tendered ballot voting, whilst others told people to go and look for their proper polling station, only accepting people later in the day.

Inconsistency of application of the regulations is not good for an election process. Whilst recognising the need for an *ad hoc* solution to many of the problems which only became evident at the last minute, it is important that instructions are clear and consistent and in accordance with the existing Rules and Regulations.

◆ **Verification of Tendered Ballots**

ODIHR remained in Bosnia to follow the verification of tendered ballots and to wait for the final results and electoral claims.

Observers reported that the verification of tendered ballots was carried out, given the complexity of the process and the large numbers concerned, with speed. However, ODIHR's request for a geographic breakdown of the tendered ballots has so far not been granted. Given the sensitivity of these ballots, there is a need to be as transparent as possible.

One concern expressed by observers, however, was that tendered ballots were checked only once and solely by local staff.

In addition, checking of the process was minimal, and the degree of verification was therefore greater in the polling station than for these very sensitive ballots at the verification centres.

The confusion and delay that accompanied the handling of the tendered ballots is even more surprising in the light of the statement of the OSCE Mission to Bosnia and Herzegovina that 150,000 tendered ballots were expected. This estimation was very close to the final number. It has to be mentioned that the ODIHR Election Observation Mission was never informed by OSCE Mission to Bosnia and Herzegovina about this high number of tendered ballots anticipated.

12 Observation of the Count

Observers reported that the counting procedures were generally well handled. 74.34% of reports rated the count as good or very good.

In light of the number of tendered ballots handled by the polling stations it is very positive that observers reported correct handling of ballots in general. In fact 100% of observers reported that during the count tendered ballots were sorted and packed correctly.

Issues

◆ Invalid Votes

Approximately 10 % of votes cast were invalid. This is a very high figure.

The OSCE Mission claimed after the election that half of these were due to a political motive to leave the ballot blank. It is not clear how this conclusion was reached, and this was not the experience of observers, who reported genuine confusion among many voters.

13 Aggregation and Verification of Results

The final election results were published by the OSCE Mission to BiH on Friday 25 September, 12 days after the election.

Some anomalies were evident as the counting progressed. It appeared that some 'sample' ballots, used to separate and aid the counting of the real ballots had been given to voters by mistake by some polling station officials in some instances, despite being marked "Not Usable". These ballots were accepted if the voter's intention was clear.

A very small number of tendered ballots had not been placed in an envelope, but instead had the voter's information written on the back of the ballot.

Some Local Election Commissions, such as Teocak, expressed concern regarding the vote and registration in their areas. But all claims have now been dealt with and adjudicated on by the EASC. In addition, many LEC's which expressed a desire to

attend the verification process could have been present but failed to do so in the end.

Issues

◆ Verification of Results

The decision not to release preliminary or intermediary results, as was previously announced publicly, is another example of the lack of transparency too often witnessed in the electoral process in BiH.

As of the time of writing this report, neither ODIHR observers, political parties, voters nor other interested 'parties' had been given access to a breakdown of the election results, either by polling station or by municipality. OSCE officials cited security reasons and stated that the breakdown could be available before the end of October. Other officials asked for a written request, or suggested that ODIHR could have a special viewing.

Such a lack of access in an appropriate timeframe has been commented on in previous Final Reports on BiH, and must be commented on again. It is imperative, for reasons of transparency and general confidence in the results, that results at polling station and higher levels are made available for political parties, the public and observers quickly after an election. This is good electoral practice and is the common procedure in OSCE countries. It should be possible in BiH.

◆ Politicisation of Electoral Environment

It is recognised that the counting of votes is complex, particularly when it includes the need to verify 188,675 tendered ballots, and given the out of country votes and absentee votes.

Unfortunately, however, any time lag leads to conjecture and rumour. Such rumour cannot be avoided, but by taking 12 days to issue results such an unsure environment is only exacerbated. There needs to be a more acceptable balance between the need for proper procedure and the need for speed in determining results. One answer is to issue intermediary results as promised this year, although they were not actually given.

It is important to point out at this juncture that such political conjecture is particularly fostered by the election authorities being so involved in the political process. The provision of assistance to parties on the basis of political programmes as discussed above can be perceived as being partisan.

Likewise, an OSCE Mission Weekly Report stated that the head of the OSCE Mission visited President Plavsic and PM Dodik in Banja Luka to discuss their need to campaign more as a coalition. This can also be perceived as partisan, which is highly unfortunate for an organisation charged with administering the electoral process.

14 Recommendations

- The OSCE Mission needs to increase the degree of transparency in its electoral operations. This relates to access to PEC meetings for relevant and appropriate bodies, an open policy regarding assistance to parties if given, and access to election results down to polling station level for observers, parties and the public.
- Election results have to be made available more speedily. There needs to be a more acceptable balance between the need for proper procedure and the need for speed in determining results. One answer is to issue intermediary results as scheduled for this year but not implemented.
- There is a clear need to work immediately on the Final Voter Registers, rectifying the errors which have occurred and preparing well in advance a sound document which can then be used as the basis for future elections. This will increase the confidence of the public, parties and international observers alike. This problem will be easier to solve once the political circumstance will permit a comprehensive census.
- There is also an obvious need to re-address the issue of software and printing facilities for the voter registers, if, as the OSCE claims, these two functions were the root of the problems experienced this year.
- It is hoped that there will not be a need for tendered ballots for future elections. However, if a need still exists, their usage should be only in exceptional cases. Moreover it is of concern that the rejection of tendered ballots is not notified to the voter. This, among other things, prevents the voter to take adequate action to regularise his/her position in the FVR if the cause of the rejection is an error in the registration procedures.
- All regulations pertaining to the election, be they rules and regulations, laws, or administrative procedures, need to be determined well before election day, and communicated clearly and consistently to all concerned. If there is a need to issue last minute decisions, it should be assured that all polling station officials are aware of this decision, to ensure consistency of application of election procedures. Sporadic or isolated radio messages from the regional office to polling stations, over the general radio network, are not adequate.
- It is vital that the drafting of a new election law and constitution of a Permanent Election Commission are completed. With regards to the law the international community needs to work more coherently together on the draft, and Bosnians need to be involved in this process as well.
- The development of a more locally controlled electoral process, which has been undertaken to a certain degree by an increase in the number of Bosnian staff in increasingly key positions in the OSCE Mission, should be continued.
- The level of political activity of high OSCE Mission officials, who are also central election figures, needs to be re-considered - at least during the electoral period -

as it serves at least to create a problem of perceived partiality or conflict of interest.

- The 'special circumstances' of Bosnia and Herzegovina, which are cited as the reason for a number of extraordinary procedures, such as striking candidates off party lists, a lack of appeals against decisions of the EASC, and the degree of control over the media, cannot be maintained indefinitely. The OSCE Mission needs to carefully keep in mind the need to normalise as many aspects of the process as quickly as is feasible.
- However, it must be stressed that the responsibility of the international community for supporting the organisation of the next municipal elections remains.
- In conversations with many OSCE Mission staff it was clear that they were both unaware of the role of the OSCE/ODIHR Election Observation Mission and the production of a final report with recommendations. A number of key recommendations from previous reports were not implemented. Their implementation would have alleviated or eliminated some of the problems that arose in this election. In addition, the lack of awareness of previous reports is unfortunate as the whole purpose of the observation mission is to make a constructive contribution to the development of the democratic institutions of Bosnia and Herzegovina by presenting an objective assessment of the situation over the whole election period and suggesting recommendations for improving further the process. In light of this, it is recommended that this report and recommendations are made more available to relevant personnel in the OSCE Mission, and that the role of the observation mission, should it be undertaken in future elections, is made more explicit to Mission staff.