



INTERNATIONAL ELECTION OBSERVATION MISSION

Republic of Bulgaria - Early Parliamentary Elections, 5 October 2014

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Sofia, 6 October 2014 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Parliamentary Assembly of the Council of Europe (PACE).

Doris Fiala (Switzerland) headed the PACE delegation. Ambassador Audrey Glover (United Kingdom) is the Head of the OSCE/ODIHR Limited Election Observation Mission (LEOM), deployed from 9 September.

The assessment was made to determine whether the elections complied with OSCE commitments and Council of Europe standards, as well as with international obligations and domestic legislation. This statement of preliminary findings and conclusions is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, including the count, the tabulation and announcement of results, and the handling of possible post-election day complaints and appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The PACE delegation will present its report to the Standing Committee in Brussels on 18 November.

PRELIMINARY CONCLUSIONS

The 5 October parliamentary elections were held against a backdrop of economic and political crisis and in a climate of distrust of voters in politics and politicians. The election environment is characterized by electoral and political fatigue, this being the third election in 18 months. Once again, accusations of vote-buying and selling, controlled voting and other election irregularities, from all sides, marred the campaign and affected public confidence in the integrity of the process.

At the same time, the elections were held in a calm environment and fundamental freedoms of expression, association and assembly were respected. Instances of non-compliance with campaign regulations were noted. The Central Election Commission (CEC) banned a number of campaign materials, including campaign videos. Some political parties at times campaigned in municipal or state-owned premises, in violation of the law, or offered material benefits to voters. The campaign lacked substance and occasionally became negative and populist. Several parties used racist, xenophobic, and inflammatory rhetoric, especially against national minorities.

A new Electoral Code was adopted in March 2014 and subsequently amended in April. It was used for the first time in a parliamentary election and generally provides a sound basis for the conduct of democratic elections. However, it contains certain ambiguities and gaps which hamper the consistent application of the law and a number of previous OSCE/ODIHR and Council of Europe recommendations remain unaddressed. Certain provisions contravene OSCE commitments and international standards, including those with regards to the principles of universal and equal suffrage, certain limitations to campaign activities, transparency of campaign finance, and absence of the right of national minorities to campaign in their language.

Initially there was a sense of inclusiveness with a changed mechanism to appoint the CEC, more involvement of civil society organizations and the interim government advocating the need for good

elections. As well, most electoral contestants signed an integrity pact. The authorities pledged surveillance of those potentially involved in vote-buying and campaign materials contained warnings about vote-buying and selling. However, there was limited implementation of existing law. Despite some 300 reported irregularities, there were only 2 criminal prosecutions prior to election day. This contributed to a climate of impunity, mistrust and a lack of accountability.

The election administration overall conducted its work in a professional and transparent manner, contributing positively to the openness and inclusiveness of the electoral process. On occasions, CEC members did not vote on decisions, thus leaving the CEC without the required qualified majority. Some political parties applied to register their affiliates as citizen observers, and the lack of clear criteria for rejecting them resulted in inconsistent decision-making by the CEC. Overall there was confidence of stakeholders in the accuracy of the voter list, but a lack of prior registration for voters abroad undermined the integrity of the out-of-country voting.

Candidate registration was inclusive, giving voters a wide choice between 18 parties and 7 coalitions with 6,031 candidates, plus 3 independent candidates, who competed for the 240 seats in the parliament. The national percentage of female candidates was not publicized, and limited efforts were made to encourage and promote equal opportunity for full participation by women in the elections. However, women are represented, especially in the election administration. Out of 20 CEC members, 11 are female, including the chairperson, the 2 deputies and the secretary.

There was inadequate voter education about the newly introduced single-preference vote. There was also limited campaigning for preference voting by political parties and candidates, apparently intended so that voters do not interfere with the order of the candidates decided by the parties.

Reporting of campaign income through a public register increased the transparency of campaign financing. However, some parties did not report any campaign income although their campaigning was visible and campaign expenditures are not disclosed until after the elections. The fines for non-compliance with campaign finance regulations are too low compared to campaign expenditure permitted under the law to effectively discourage potential violations.

The media provided contestants with a platform to present their views through debates, talk shows and paid advertisement. Smaller parties and independent candidates denounced an uneven playing field when it came to access to media. Limited coverage of the election campaign in the news and in the editorial content of the print media, as well as lack of investigative and analytical reporting limited the information available to voters. The OSCE/ODIHR LEOM media monitoring indicates that the majority of the paid advertisements in the media were not clearly marked, thus misleading the voters on the nature of content. Campaign materials were often prepared by journalists employed by the media outlets, which undermines editorial independence of the media.

Complaints and appeals were generally handled satisfactorily and within the established timelines by the election commissions and the Supreme Administrative Court, resulting in timely and effective remedy for complainants. In a few cases, however, interpretation of the legal provisions was broad. Transparency and accountability was enhanced by regularly updated online public registers of complaints received by the election commissions. Contrary to international standards, the law does not provide contestants with an effective mechanism to appeal election results.

A test using electronic voting machines was carried out in 300 polling stations. The test was incomplete as it was restricted to voting and counting, without direct transmission of results to the tabulation centres. The machine voting results were not counted as official. The machines were presented publicly at a late stage and no audit of hardware and software was performed thus

limiting the transparency of the test. In addition, voters would have benefited from additional voter education about the voting machines.

In the limited number of polling stations and tabulation centers visited by international observers, election day was generally organized in a professional and efficient manner. The procedures were in general followed, but voters not always folded their ballots or their paper receipt when voting by machine. Several precinct election commissions had difficulties in counting the preference votes and in filling out the machine voting protocol. The transparency of the process was limited by the fact that the CEC and several tabulation centers denied access of observers to the results data input. Several PEC protocols had to be corrected as they contained errors in counting the preference votes. The preliminary turnout was reported as 48.1 per cent.

PRELIMINARY FINDINGS

Background

The last (early) parliamentary elections were in May 2013, when the Bulgarian Socialist Party (BSP)-led Coalition for Bulgaria (84 out of 240 seats in parliament) and the Movement for Rights and Freedoms (MRF) with 36 seats formed a minority government. The center-right party Citizens for European Development of Bulgaria (GERB) won 97 seats, and the far-right *Ataka* 23 seats.

Following political and economic crises, the government resigned on 23 July 2014. President Rosen Plevneliev dissolved the National Assembly (the parliament), set the date for early elections and appointed an interim government led by Georgi Bliznashki which committed itself to “organize free and fair elections”. This, together with more involvement of civil society organizations and signing of an integrity pact by the majority of electoral contestants, initially contributed to a sense of inclusiveness.

Legal Framework and Electoral System

The Constitution guarantees universal and equal suffrage by secret ballot, as well as the freedoms of assembly, association, expression, and media. Citizens above the age of 18 have the right to vote, except prisoners and individuals whose legal capacity is limited by a court decision. Citizens above the age of 21, eligible to vote and not holding another citizenship, can stand as candidates. Blanket prohibitions of voting rights for prisoners and citizens whose legal capacity is limited by a court decision, and denial of the right to be elected to dual citizens are not in line with OSCE commitments and jurisprudence of the European Court of Human Rights (ECtHR).¹

The legislative framework generally provides a sound basis for the conduct of democratic elections. It was substantially reformed in March 2014, when a new Electoral Code (the Code) was adopted.² Other relevant laws include the Law on Political Parties, the Law on Assemblies, and the Criminal Code. Legislation was supplemented by decisions of the Central Election Commission (CEC). Some provisions need further clarification including on the registration of citizen observers;

¹ Paragraph 24 of the 1990 OSCE Copenhagen Document provides that “Any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law”, see at <http://www.osce.org/odihr/elections/14304>. See also the judgments *Alajos Kiss v. Hungary* (<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-98800>); *Tanase v. Moldova* (<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-98428>) and other cases.

² The Council of Europe’s Commission for Democracy through Law (Venice Commission) Code of Good Practice in Electoral Matters (II.2.b) advises against fundamental changes in electoral laws less than one year before an election; see at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023rev-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023rev-e).

decisions of the election commissions taken without the necessary two-thirds majority; and certain limitations related to campaigning. A number of recommendations made by the OSCE/ODIHR and the Council of Europe's Commission for Democracy through Law (Venice Commission) remain unaddressed.³

The National Assembly consists of 240 members elected through a proportional system from 31 multi-mandate constituencies. The new Code introduced single preference voting. In case a voter does not use this option, the preference is counted for the first candidate on the list. The threshold to enter parliament for parties and coalitions is four per cent of valid votes at national level, while independent candidates have to pass the electoral quota.⁴

The CEC allocated the number of mandates per constituency according to the population size as established by the 2011 census. The number of citizens per seat in two constituencies deviates significantly from the national average.⁵ In addition, the number of registered voters shows that eight constituencies deviate by more than 10 per cent from the average.⁶ Such disproportion contradicts the principle of equal suffrage guaranteed by the Constitution as well as OSCE commitments and other international standards.⁷

Election Administration

The elections were administered by a three-level election administration: CEC, 31 District Election Commissions (DEC) and 11,726 Precinct Election Commissions (PEC).⁸ Additional 428 PECs were established for voters abroad and 96 PECs for homebound voting. Despite legal provisions facilitating participation of voters with disabilities, advocates for human rights of disabled persons questioned the accessibility of polling stations.⁹

Political parties represented in the national parliament or the European Parliament nominated members to all levels of the election administration. The CEC is a permanent body, and its members have five-year terms. The parliament elects the chairperson, two deputies and the secretary of the CEC, while the president, based on party nominations, appoints the remaining members. Out of 20 members of the CEC appointed in March 2014, the chairperson, the two

³ Such as recommendations to review the legal provisions on delineation of constituencies to ensure compliance with the principle of equal suffrage, and to create an effective mechanism for challenging election results by all electoral contestants. Previous OSCE/ODIHR reports on Bulgaria are available at: <http://www.osce.org/odihr/elections/bulgaria>. See also the Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Draft Election Code of Bulgaria, available at <http://www.osce.org/odihr/elections/116830>.

⁴ The electoral quota is the ratio of the total number of the valid votes cast in the relevant constituency divided by the number of mandates in the constituency.

⁵ The Venice Commission Code of Good Practice in Electoral Matters (2.2.iv) sets that "the permissible departure from the norm should not be more than 10% and should certainly not exceed 15%, except in special circumstances". According to census data the number of voters per one seat in Vidin is 18 per cent below the average, and in Kyustendil 11 per cent above it.

⁶ In the constituencies of Lovech, Sofia city (DEC 23), Sofia region and Shumen the deviation is more than 10 per cent, while in Kardzhali, Kyustendil, Razgrad and Vidin constituencies the deviation exceeds 15 per cent.

⁷ See Paragraph 7.3 of the 1990 OSCE Copenhagen Document providing that participating States will "guarantee universal and equal suffrage to adult citizens". The General Comment 25 by the UN Human Rights Committee on the International Covenant on Civil and Political Rights (ICCPR), Paragraph 21 states: "The principle of one person, one vote, must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another".

⁸ According to the information available to the OSCE/ODIHR LEOM, 297 polling stations were allotted more than the maximum of 1,000 voters established by the Code.

⁹ The Code provides that disabled voters can opt for mobile voting or vote at any polling station.

deputies, the secretary and 7 other members are women. DEC members and PECs should be appointed by the respective higher-level commission based on consensus between political parties.¹⁰

The CEC conducted trainings of DEC members, which in turn trained PECs. The training sessions observed by the OSCE/ODIHR LEOM were generally conducted professionally but at times poorly attended. The CEC sessions were public and streamed online, and its decisions were published promptly.

A decision not supported by a two-thirds majority of CEC or DEC members is presumed rejected, without legal reasoning. Such a “non-decision” can be appealed. The Supreme Administrative Court (SAC) returned such acts without review on substance to the CEC for a reasoned decision, resulting in the limited effectiveness of such appeals.

In general, the election administration conducted its work in a professional and transparent manner and met most legal deadlines.¹¹ The regional or municipal authorities conducted logistical preparations. The Information Services Company, a mostly government-owned enterprise, was contracted to tally the counting protocols and transmit this data to the CEC.¹² The CEC conducted voter education activities which appeared insufficient, taking into account the new Code, the planned testing of voting machines and changes in the rules regarding preference voting.¹³

New Voting Technologies

The new Code provides for the use of New Voting Technologies in a controlled environment, specifically and only by using Direct Recording Electronic Voting Machines.

Following a test during the May 2014 elections to the European Parliament, a second test using voting machines was carried out during these elections. The CEC provided the technical specifications of the equipment and selected the 300 locations for the test. The procurement of the touch-screen voting machines was carried out by the government. Only one provider met the technical requirements and made an offer within the prescribed seven-day period.

The test was restricted to voting and counting, without direct transmission of results to the tabulation centres. The PECs had to print the results from each voting machine and fill in the results by hand on a paper results protocol. The machine voting results were not counted as official.

The provider was responsible for the implementation of the test, including transportation of the voting machines to and from polling stations, training of DEC members and PECs (under the supervision of the CEC), and technical support to the commissions on election day. No audit of hardware and software was requested by the government or the CEC or performed by any third party authorized entity. Thus, such aspects as the integrity of the process and accuracy of the data were not assessed.

The voting machines were only presented to the public on 29 September. The CEC posted a voter education video on its website on 1 October. The video did not address the issue that the ballot used on the screen of the voting machine does not show all contestants on one page and that the voter has

¹⁰ The CEC itself had to select the members of 21 DEC members and 202 PECs in Stara Zagora, because political parties failed to agree on their composition.

¹¹ The list of out-of-country polling stations was finalized five days after the deadline, following complaints against polling stations in some locations.

¹² The Ministry of Transport, Information Technology and Communications owns 99.5 per cent of the company.

¹³ General Comment 25 on the ICCPR, Paragraph 11 reads: “Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community”.

to turn the page to find the rest of the options. These efforts appeared insufficient to create public awareness about the use of the voting machines.

Voter Registration

Voter registration is passive. The CEC is required to maintain an updated list of people with voting rights based on the data from the National Population Register maintained by the Directorate General of Civil Registration and Administrative Services at the Ministry of Regional Development (GRAO). Voters are registered according to their permanent address and are able to verify their data online. The final voter list included 6,901,072 voters.

Voters could amend their registration records between 25 August and 27 September. They could also apply for inclusion in the voter list based on a temporary address. Records of voters removed from the voter list were compiled on a 'Removed Persons List' which was published for further scrutiny. Voters with disabilities could apply for homebound voting. Voters not on the voter list on election day could be added to a Supplementary Voter List in the polling station of their permanent address, which is contrary to good practice.¹⁴

Voters abroad were able to register for out-of country voting. Based on these requests, 167 out-of-country polling stations were established; in addition, 261 stations were established in locations where there were over 100 voters in any election during previous five years. Voters abroad could also vote without prior registration, and the only mechanism against possible multiple voting was a self-declaration by voters that they would not vote a second time. This is an insufficient safeguard against possible multiple voting. Several OSCE/ODIHR LEOM interlocutors questioned the integrity of the out-of-country voting.

Candidate Registration

The CEC registered 18 political parties and 7 coalitions in an inclusive manner based on a deposit of BGN 2,500 and the supporting signatures of at least 2,500 voters.¹⁵ Three parties were denied registration due to insufficient signatures. Parties and coalitions registered their lists of candidates with the DEC.¹⁶ The DEC registered independent candidates based on a deposit of BGN 100 and supporting signatures from no less than one per cent but no more than 1,000 voters from the constituency.

A voter can sign in support of the registration of only one candidate or party/coalition.¹⁷ This is an unnecessary restriction and, in addition, may affect voters' privacy as authorities have the possibility to check their political affiliation.

A total of 6,031 candidates on lists and 3 independent candidates were running for 240 seats, an average of 25 contestants per seat.¹⁸ The national percentage of female candidates was not publicized. The 1991 OSCE Moscow Document provides that a participating State should "encourage and promote equal opportunity for full participation by women in all aspects of political

¹⁴ According to the Venice Commission Code of Good Practice in Electoral Matters (1.2.iv), the registration should not take place at the polling station on election day without an administrative procedure subject to judicial control or a judicial procedure.

¹⁵ The exchange rate for BGN 1 is EUR 0.51.

¹⁶ A candidate can stand for a party or coalition in one or two constituencies.

¹⁷ The 2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation state that "in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party"; see at <http://www.osce.org/odihr/77812>.

¹⁸ The number of candidates per seat varies from 21 in Burgas to 30 in Kyustendil and Pernik.

life” and to “ensure the collection and analysis of data to assess adequately, and monitor and improve the situation of women”.¹⁹ Only a few parties could provide the OSCE/ODIHR LEOM with specific information on the gender breakdown of their candidate lists.

Campaign Environment

The official campaign started on 5 September and was low-key throughout. Fundamental freedoms were respected. Contestants campaigned through face-to-face events, leaflets, billboards, media, social networks, and a limited number of larger public events. Their messages focused on economy, public infrastructure, energy sector, health care, poverty and unemployment. A number of political parties used municipal or state-owned premises for campaigning, in violation of the Code.²⁰ Other parties provided gifts to supporters.²¹ Some smaller parties informed the OSCE/ODIHR LEOM about other contestants pasting posters over theirs.

The campaign took place in a climate of disappointment and mistrust of politics and political parties and was characterized by a general fatigue with politics. At times the campaign of some parties became negative and populist, especially against the Turkish minority and the set-up of polling stations in Turkey.²² Several contestants used racist, xenophobic, inflammatory and sometimes anti-Roma rhetoric. Political parties cancelled their campaign events on 3 October because of a national day of mourning, declared after a tragic explosion in a factory.

The CEC banned one racist campaign poster of Bulgarian National Union-New Democracy (BNS-ND) and four campaign videos of BNS-ND, MRF, *Ataka* and The Greens on the basis of the violation of “good morals”.²³ In response, BNS-ND supporters forced their way in the CEC for two days and reportedly threatened the staff of the CEC.²⁴ Police are investigating the case.

All OSCE/ODIHR LEOM interlocutors stated that the long-standing issue of vote-buying/selling and controlled voting is a widespread phenomenon involving almost all parties.²⁵ While Roma communities remain most vulnerable to potential electoral irregularities, interlocutors noted that the issue of vote-buying is not limited to a specific group but especially affects low-income voters.

¹⁹ Paragraphs 40.8 and 40.13; see at <http://www.osce.org/odihr/elections/14310>.

²⁰ Article 182.1 of the Code provides that “the election campaign shall not be allowed at state or municipal agencies and institutions”. GERB, BSP, MRF, *Ataka* and Bulgaria without Censorship (BWC) campaigned in a number of hospitals, community centers and schools. The GERB website shows more than 10 inauguration events in kindergartens, schools, playgrounds and bus stops.

²¹ Candidates from Reformist Block (RB) and Alternative for Bulgarian Renaissance were offering voters free tickets for the 1 October football match between PFC Ludogorets Razgrad and Real Madrid while campaigning.

²² On 1 October the BWC symbolically blocked three check-points at the Bulgarian border to Turkey “in order to stop the import of voters from Turkey”. The coalition Patriotic Front filed a complaint to the SAC against opening polling stations in Turkey and other countries, while their representatives picketed the SAC chanting “CEC are Turkish buffoons”.

²³ The grounds for the bans were featuring of children (*Ataka*, BNS-ND and MRF), “gestures and statements undermining public decency” (*Ataka*), and “containing a direct appeal for the authorization of drugs” (cannabis) (The Greens). The CEC cited article 183.4 of the Code which prohibits “to use campaign materials ... which are contrary to good morals and damaging the honor and reputation of the candidates”, as well as Article 5.1 of the Political Parties Act, Article 11.4 of the Law on Child Protection, and Article 28 and 70 of the Law on Control of Narcotic Substances and Precursors, which are not specifically related to election campaigns.

²⁴ On 12 September, BNS-ND during a rally also threatened and insulted the Bulgarian Helsinki Committee staff because of their human rights activities. The police was present during the incident but did not intervene.

²⁵ Some OSCE/ODIHR LEOM interlocutors mentioned new forms of vote-buying, e.g. moneylenders who promise lower interest rates to their debtors for casting the vote for a specific party. Also, the registration of numerous “party-affiliated observers” on behalf of civil society organizations was seen as “legal form of vote-buying”.

In general political parties did not inform voters about the single-preference voting option, or left it to the candidates to decide whether to openly campaign for themselves.²⁶ In some cases this seemed to be a deliberate activity of the parties to leave the voters uninformed so they would not interfere with the order of the candidates decided by parties.

Campaign Finance

Legislation provides some transparency for campaign finance. A contestant cannot receive more than BGN 10,000 from one person. Campaign expenditure by a political party or a coalition is limited to BGN 3 million; for an independent candidate to BGN 0.2 million. Final reports on campaign funding and expenses are submitted for audits to the National Audit Office (NAO) within 30 days after election day. The NAO, however, does not have a deadline for completion of these audits.

The sanctions for non-compliance with campaign finance regulations are not sufficiently discouraging, as the fines are low compared to campaign spending.²⁷ Transparency of spending in particular is limited as there are no reporting requirements on expenditures prior to election day.

Parliamentary parties and coalitions are entitled to public funding in proportion to the number of valid votes received previously. The same applies for parties which received at least one per cent of valid votes nationwide in the last parliamentary elections, but not for coalitions. Contestants not entitled to public funding receive funds for media advertisements.²⁸

Most parties and coalitions provided information about donations and party member contributions to the NAO during the campaign. A number of contestants not entitled to public funding have not reported any campaign incomes, although their campaigning was visible.²⁹

The Media

The media provided contestants with a platform to present their views through debates, talk shows and paid advertisement. However, limited coverage of the election campaign in the broadcast news and editorial content of the print media, as well as lack of political investigative and analytical reporting has limited the information available to voters. Independent candidates and smaller parties informed the OSCE/ODIHR LEOM about their inequitable access to media in comparison to larger contestants. The LEOM media monitoring shows that 80 per cent of the political advertisements on broadcast media and 87 per cent in print media were purchased by the eight parties that receive public funding.³⁰

The Code details the coverage of the campaign by the public broadcasters Bulgarian National Television (BNT) and Bulgarian National Radio (BNR). They are required to cover the contestants equitably and objectively, organize free debates between contestants and provide them with 40 seconds of free time at the beginning and the end of the campaign. OSCE/ODIHR LEOM media

²⁶ For example, some candidates of the RB, The Greens and BSP ran individual campaigns, while GERB and MRF decided not to use the preference vote for individual campaigns.

²⁷ Violations of reporting requirements are punishable by fines from BGN 1,000 to 3,000; violations of financing prohibitions including exceeding the expenditure limit are punishable by fines from BGN 3,000 to 10,000.

²⁸ The new Code establishes these 'media packages' at BGN 40,000 for parties/coalitions, and BGN 5,000 for independent candidates.

²⁹ For example, as of 4 October, BNS-ND and Movement 21 have not reported any campaign income.

³⁰ The OSCE/ODIHR LEOM monitored between 11 September and 3 October the prime time coverage of four television (BNT, *BTV*, *Nova* and *TV7*) and two radio (BNR and *Darik*) stations, as well as four daily newspapers (*Telegraf*, *24 Chasa*, *Standart*, and *Kapital*). The LEOM also reviewed 30 editions of regional newspapers.

monitoring results indicate that both broadcasters complied with their legal obligations. BNT has also created a number of current affairs programs providing contestants with a free platform to present their views. Election coverage by private broadcasters is largely unregulated.

Broadcast and print outlets can sell their time/space for campaign advertisements for prices which are to be equal and published beforehand. The OSCE/ODIHR LEOM media monitoring shows that 44 per cent of the time devoted to contestants by private broadcasters was paid for. There were two types of paid advertisements: direct advertisement (27 per cent) and informational coverage of campaign activities (73 per cent). The latter was often indistinguishable from the editorial content and was often prepared by journalists employed by the respective outlet. This undermines editorial independence of the media and is not in line with the Radio and Television Act.³¹ While the Code requires paid advertisements to be clearly marked as such, no sanctions are foreseen in case of violations. Most outlets monitored did not clearly label their paid coverage, thereby potentially misleading the audience about the nature of the reporting.

The Council for Electronic Media (CEM), the regulatory body for the broadcast media, is tasked to observe the compliance of the media with the Code. It has no authority to sanction media but has to present any violation to the CEC. The CEM conducts media monitoring during the campaign period. Based on the result of this monitoring, the CEM concluded that the majority of outlets did not identify paid advertisements as legally required and called on the media to clearly and explicitly mark the paid content. The CEM alerted the CEC on irregularities related to paid political advertisement, however, its report is published and sent to the CEC only after election day.

The OSCE/ODIHR LEOM media monitoring showed that media provided limited coverage of the campaign activities in their editorial content. Unpaid campaign time was limited to public television and radio, while in private media almost everything had to be paid for. The BNT and BNR have only devoted 21 minutes (one per cent of the total campaign-related coverage) in their prime time news casts to all contestants. Both informed the LEOM that they decided to limit the news coverage of the campaign to avoid potential undue advantages to any contestant.³² The private broadcasters monitored allocated a combined total of 156 minutes (or about 8 per cent of all campaign-related coverage) of news coverage to all contestants for the whole campaign period.

The print outlets also provided limited coverage of the campaign. Paid campaign advertisements, that were not clearly marked as such, were frequent in *24 Chasa* (85 per cent) and *Standart* (82 per cent). *Telegraf* and *Kapital* chose not to publish paid advertisements, yet *Telegraf* clearly favoured MRF and GERB and displayed bias against RB and to a lesser extent *Ataka*. *Kapital*, while focusing on economic topics, provided a more extensive and balanced coverage of contestants.

Participation of National Minorities

According to the 2011 census, ethnic Turks are the largest minority group with 8.8 per cent of the population, followed by Roma with 4.9 per cent.³³ Other minorities include Russians, Armenians, Vlach (Aromani), Karakachani, ethnic Macedonians, Ukrainians, Greeks, Romanians, Jews and others, all together below one per cent of the population.

³¹ Article 11.2 of the Radio and Television Act prohibits the journalists from receiving any instructions or directions for the conduct of their work outside of their media management bodies.

³² For example, the BNR has temporarily suspended a current affairs program until after election day.

³³ The census results reflect the answers of the 91 per cent of the population who answered the optional question on ethnic group; see at http://www.nsi.bg/census2011/PDOCS2/Census2011final_en.pdf. Unofficial estimates put the number of Roma significantly higher, at some 800,000 or 10 per cent.

The Constitution provides for the right of self-identification, but prohibits the formation of political parties along “ethnic, racial or religious lines”, which is not in line with international obligations and good practice.³⁴ As well, in contravention of international standards, the Code restricts campaigning to the Bulgarian language only.³⁵ The MRF leader criticized the ban in the opening of the MRF electoral campaign. Several candidates stated that they would not hesitate to address their electorates in their mother tongue, should that be necessary to be understood. The OSCE/ODIHR LEOM is aware of two occasions of using the Turkish language, which led to complaints.³⁶

The MRF is commonly perceived to represent the interests of the Turkish community and had ethnic Turkish candidates on its list. There were ethnic Turkish candidates also on other lists. Political representation of Roma remains extremely low at all levels.³⁷ According to the information available to the OSCE/ODIHR LEOM, political parties had 12 Roma candidates, 5 of them women, who were however generally placed on lower positions on the candidate lists.³⁸

Extensive economic and social exclusion affects a large number of Roma and renders members of their communities particularly vulnerable to electoral malpractice. Several OSCE/ODIHR LEOM interlocutors raised concern that the public debate on vote-buying tends to portray Roma as the source of the problem, thus enforcing intolerance and stereotypical perception of Roma.³⁹

Complaints and Appeals

Complaints and ‘signals’ about electoral violations may be submitted to any election commission.⁴⁰ Appeals against decisions, actions and inactions of election commissions are submitted to the higher-level commission, while CEC decisions are appealable to the SAC. Contrary to international standards, the law does not provide contestants with an effective mechanism to appeal election results.⁴¹

³⁴ Freedom of association includes the freedom to establish political parties based on communal identities; see Article 7 of the Framework Convention on National Minorities (FCNM) at <http://conventions.coe.int/treaty/en/Treaties/Html/157.htm>; see Article 2 of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, which states: “persons belonging to minorities have the right to establish and maintain their own associations”; see also the OSCE/ODIHR and OSCE High Commissioner on National Minorities Handbook on Observing and Promoting the Participation of National Minorities in Electoral Processes: “a state should respect the rights of national minorities to establish associations, including political parties, based on minority or communal identities”; see also Venice Commission Code of Good Practice in Electoral Matters (2.4.a).

³⁵ This contravenes international standards on the right to use minority languages and the right to have access to election-related information in minority languages. See Article 9.1 of FCNM and Article 27 of ICCPR. Paragraph 32.5 of the 1990 OSCE Copenhagen Document states that persons belonging to national minorities have the right “to disseminate, have access to and exchange information in their mother tongue”.

³⁶ In one case, GERB candidates complained to DEC 28 that an MRF candidate and the mayor of Omurtag used Turkish language at a campaign event. The DEC decision urging the candidate to respect the Code was upheld by the CEC. In the second case, a complaint was filed against three MRF representatives (MEP, regional party chairperson and a candidate) for using the Turkish language at a campaign event in Dolni Chiflik. The CEC sent the materials to the regional governor to impose an administrative sanction in this case.

³⁷ No candidate of Roma origin was elected to the last parliament, but one replaced an MRF MP who resigned.

³⁸ Some Roma candidates were actively advocating for the preference vote, but at the same time expressed concerns that there is not enough awareness and understanding of that option among the electorate.

³⁹ Some Roma candidates chose raising awareness against vote-buying as one of their campaign topics.

⁴⁰ Individuals and organizations can ‘signal’ potential irregularities to election commissions.

⁴¹ The election results can be appealed to the Constitutional Court only by the President, the Council of Ministers, the Supreme Court of Cassation, the SAC, the Prosecutor General or at least one-fifth of MPs. The ECtHR found this remedy to be ineffective within the meaning of Article 13 of the European Convention on Human Rights in *Petkov and others v. Bulgaria* (<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-93027>).

The CEC and DEC^s generally provided reasoned decisions on complaints and appeals within the established timelines.⁴² The 24-hour deadline for the CEC to deal with media-related complaints proved challenging. Transparency and accountability were facilitated by regularly updated online registers of ‘signals’ and complaints received by the CEC and DEC^s. The CEC registered some 140 ‘signals’ and complaints by election day, and DEC^s registered some 135. Most were related to campaign violations, media campaign violations, registration of citizen observers, and the establishment of polling stations. Inadequate legal regulation of these issues contributed to the number of complaints and appeals, particularly with regard to observer registration and campaign violations.

The SAC decided on some 45 appeals within the deadlines. Most appeals concerned observer registration and establishment of polling stations. Applicants were able to present their cases, procedures were not formalistic and the decisions were reasoned. However, some decisions did not effectively protect electoral rights.⁴³

The Criminal Code prohibits vote-buying and vote-selling. The Ministry of Internal Affairs (MoI), the Prosecutor’s Office, and the National Security Agency set up an inter-agency task force to counter electoral crimes at the national and regional levels. The MoI introduced a hotline for reporting election-related irregularities. As of 4 October, it has received some 320 ‘signals’ and opened 53 election-related pre-trial proceedings. However, there were only two prosecutions before election day. Insufficient law enforcement to counter illegal practices was noted by almost all OSCE/ODIHR LEOM interlocutors as the reason of their lack of trust in the work of the institutions.

Citizen and International Observers

The Code provides for citizen and international observation, as well as for the presence of contestants’ proxies and representatives at polling stations. The CEC registered 35 citizen observer organizations with 23,456 observers.

The lack of clear criteria for rejecting the registration of observers resulted in inconsistent decision-making. Initially the CEC did not explore the political affiliations of an observer organization. After civil society organizations expressed concerns, the CEC started to examine such ties and denied registration to nine organizations and to some observers of already registered organizations. The denials were argued with the prohibition of remuneration to citizen observers by parties and the intended role of observers to provide independent oversight of the electoral process. The SAC agreed that citizen observers should be non-partisan and that partisan observers should register as proxies of the contestants. The CEC’s efforts to avoid registration of partisan citizen observers were welcomed by several OSCE/ODIHR LEOM interlocutors, but other interlocutors accused the CEC of being politically biased.

⁴² Some DEC decisions did not contain references to their legal basis. CEC reasoning was sometimes limited to quoting legal provisions without an explanation how they apply to the facts at hand.

⁴³ The SAC declared inadmissible a complaint by a registered citizen observer organization against CEC instructions for PECs abroad, as the organization “lacked legal interest” in the claim. In another case, the SAC upheld the denial of registration of an independent candidate in Sofia despite evidence of DEC’s non-compliance with the legal requirement to give candidates an opportunity to remedy shortcomings in their applications.

Election Day

The international observers followed opening, voting and counting in a limited number of polling stations. In the stations visited, election day was generally organized in a professional and efficient manner.

The polling stations were well set-up, but many did not provide access for disabled persons. The candidate lists were not always easily readable due to small fonts. The PEC members seemed well trained and in general followed the procedures. However, some of them did not seem aware about the purpose of the serial number of ballots. Voters did not always fold their ballots or their paper receipt when voting by machine.

The instructions for voting machines were visibly posted, and the equipment was well placed. Voters cast their votes swiftly, but public awareness on the test seemed inadequate as many voters expressed to the PECs their concern about voting twice.

During the counting, several PECs seemed to have difficulties in counting the preference votes and in filling out the machine voting protocol. The percentage of invalid ballots was very high in a number of polling stations visited.

The international observers also visited a limited number of District Tabulation Centres (DTCs). The process was generally conducted in an orderly and efficient manner. Transparency was limited by the fact that several observers had to stay within a designated area which was too far to allow them to see the data input. DTC data entry had to reconcile numerous PEC protocols, as they contained errors in counting the preference votes.

According to the CEC all polling stations opened on time, and the preliminary turnout was 48.1 per cent. Polls were declared closed at 20:00. The CEC operated efficiently on election day, and addressed DEC and PEC requests promptly. It received 190 'signals' and 31 complaints that were logged and published before the close of the vote. Counting protocols were published on the CEC website. The CEC denied access of international observers to its data processing office.

*The English version of this report is the only official document.
An unofficial translation is available in Bulgarian.*

MISSION INFORMATION & ACKNOWLEDGEMENTS

Sofia, 6 October 2014 – The OSCE/ODIHR LEOM opened in Sofia on 9 September. It includes 13 experts in the capital and 10 long-term observers deployed throughout Bulgaria. In line with OSCE/ODIHR's standard methodology for LEOMs, the mission focused on the longer-term electoral process without the additional deployment of short-term observers that would have provided the basis for a quantitative assessment of election day. The observers visited a limited number of polling stations around the country on election day, although observation was not conducted in a comprehensive manner.

On election day, 41 observers from 25 countries were deployed, including 14 parliamentarians and staff from the Parliamentary Assembly of the Council of Europe (PACE), and 27 long-term observers and experts from the OSCE/ODIHR.

The observers wish to thank the Ministry of Foreign Affairs for the invitation to observe the elections, and the Central Election Commission for its co-operation and for providing accreditation documents. The observers also wish to express appreciation to other state institutions, political parties, civil society organizations and the international community representatives for their co-operation.

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