



Office for Democratic Institutions and Human Rights

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

EARLY PARLIAMENTARY ELECTIONS
5 June 2011

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

5-7 April 2011



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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

In anticipation of an official invitation from the former Yugoslav Republic of Macedonia to observe the 5 June 2011 early parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) from 5 to 7 April 2011. The NAM included Nicola Schmidt, OSCE/ODIHR Senior Election Adviser, Richard Lappin, OSCE/ODIHR Election Adviser, and Marc Carillet, OSCE Parliamentary Assembly Deputy Director of Administration.

The purpose of the mission was to assess the pre-election environment and the preparations for the elections. Based on this assessment, the NAM should recommend whether to deploy an OSCE/ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held in Skopje with officials from the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Internal Affairs, the State Election Commission, the courts, as well as with representatives of political parties, the media, civil society and the international community. A list of meetings is included as an annex to this report.

The OSCE/ODIHR would like to thank the Ministry of Foreign Affairs and the OSCE Mission to Skopje for its assistance and co-operation in organizing the NAM. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM.

II. EXECUTIVE SUMMARY

Early parliamentary elections will be held on 5 June. Elections are viewed as a means to end a political stalemate caused by a boycott of parliament by several opposition parties. A total of 123 Members of Parliament (MPs) will be elected including, for the first time, 3 MPs from newly established out-of-country districts.

Extensive amendments to the Electoral Code were passed by a slim majority in parliament on 2 April with all opposition parties boycotting the vote. Although addressing some previous recommendations of the OSCE/ODIHR and the Venice Commission of the Council of Europe, questions were raised whether the late amendments were consistent with international good practices and whether they could be implemented in time for the elections. Further changes to the legislation, including to the boundaries of some electoral districts, are widely expected prior to elections.

The President of the State Election Commission (SEC) resigned on 23 February. In line with the Electoral Code, the opposition nominated a successor, however, at the time of the OSCE/ODIHR NAM, parliament had yet to vote on his appointment. Recent amendments to the Electoral Code allow for the Vice President of the SEC or a majority of SEC members to convene meetings in the absence of the President.

OSCE/ODIHR NAM interlocutors expressed concern about these developments and an increased politicization of the SEC.

All Municipal Election Commission (MEC) members will end their five-year mandate on 3 May and are to be replaced. The potential problems this could pose to the administration of the elections are alleviated somewhat by the anticipated retention of MEC secretaries.

Longstanding concerns about the accuracy of the voter lists persist, given that the total number of voters represents an unreasonably high proportion of the population. Voters and political parties may check the details of the voter lists. State authorities asserted that various safeguards during the voting process would prevent irregularities that may be possible due to inaccurate voter lists.

The political climate is tense and the election campaign is expected to be heated. Several OSCE/ODIHR NAM interlocutors voiced concerns about a possible increase in voter intimidation and election-related irregularities.

Recent amendments to campaign financing are significant and address some of the concerns raised in previous reports. Electoral contestants are now obliged to submit detailed financial reports during and after the campaign. Although the State Audit Office can now initiate misdemeanour proceedings in the event of irregularities, concerns remain about the verification of the data submitted.

Television is the primary media and the main source of information for citizens. Media outlets are widely perceived as being divided along partisan lines and their coverage as being heavily politicized. Several OSCE/ODIHR NAM interlocutors expressed reservations about the freezing of bank accounts of several media outlets as part of an ongoing investigation, considering the actions to be politically motivated and a threat to media pluralism.

The Electoral Code provides for access of domestic and international observers. The civic association MOST intends to observe election day with some 3,500 observers. All OSCE/ODIHR NAM interlocutors encouraged the deployment of a full OSCE/ODIHR Election Observation Mission and OSCE Parliamentary Assembly observers.

Based on the above findings, the OSCE/ODIHR NAM recommends an EOM be established to observe the early parliamentary elections, contingent upon the receipt of an official invitation from the former Yugoslav Republic of Macedonia. In addition to a core team of analysts, the mission recommends the secondment of 24 long-term observers to follow the campaign, media coverage, and election preparations and 300 short-term observers to follow election day procedures.

III. FINDINGS

A. BACKGROUND

On 30 March 2011, Prime Minister Nikola Gruevski announced that his party, the Internal Macedonian Revolutionary Organization – Democratic Party of Macedonian

National Unity (VMRO-DPMNE), would propose to parliament that early parliamentary elections be held on 5 June. The date for the elections was confirmed by the Speaker of the Parliament on 15 April, following parliament's decision to vote for its dissolution on 14 April. The 5 June elections will be the third electoral event to be held in the country since 2008, and the second successive early parliamentary elections.

The announcement ended a protracted political stalemate which started on 28 January when the Social Democratic Union of Macedonia (SDSM) and several other opposition parties¹ began a boycott of parliament in response to the freezing of bank accounts of several media outlets² and called for early elections. SDSM stated that they would only return to parliament and participate in early elections if a number of conditions were met, including: the unfreezing of bank accounts of media outlets; the adoption of a law to ensure equal allocation of state funds for advertising public services in the media; amendments to the electoral code; and the establishment of a parliamentary commission to verify the status of the voter lists.

On 20 February, VMRO-DPMNE accepted the opposition's request for early elections claiming it was necessary to end an impasse that was damaging the country's international reputation and hindering reform processes. A series of discussions between the government and opposition parties failed to yield an agreement on the conditions for elections. On 30 March, however, the SDSM announced that they had withdrawn their conditions and would participate in early elections on any date, although they would not return to parliament. VMRO-DPMNE immediately responded by declaring that they would propose 5 June as the date for the elections. Since this announcement, all parties have stated their intention to participate in the elections.

Voters will elect 123 Members of Parliament (MPs) to serve a four-year term in the unicameral parliament. 120 MPs are elected through proportional representation contests in six national districts, with 20 MPs elected from each district. In these elections, for the first time, an additional three *diaspora* MPs will be elected through majoritarian contests, with one MP elected from each of the three out-of-country districts of Europe and Africa, Northern and Southern America, and Australia and Asia.

The OSCE/ODIHR has previously observed 11 elections in the former Yugoslav Republic of Macedonia.³ The most recent OSCE/ODIHR Election Observation Mission (EOM) was deployed for the 22 March and 5 April 2009 presidential and municipal elections. The mission concluded in its final report that the elections "met most OSCE commitments and other international standards for democratic elections," although some problems were evident, such as widespread allegations of voter intimidation.

¹ With the exception of the Liberal Democratic Party (LDP) which remained in parliament and the Democratic Party of Albanians (DPA) which had been boycotting parliament since August 2009.

² The bank accounts of *A1 Television*, as well as three daily newspapers, *Vreme*, *Spic*, and *Koha e Re*, were frozen as part of a criminal investigation linked to the owner of *A1 Television*.

³ All reports are available on the OSCE/ODIHR website: www.osce.org/odihr/elections/fyrom.

B. LEGAL FRAMEWORK

The legal framework for parliamentary elections is consolidated under a comprehensive Electoral Code.⁴ Extensive amendments to the Electoral Code were passed by a slim majority in parliament on 2 April 2011 (68 of 120 MPs), with all opposition parties boycotting the vote.

In a Joint Opinion of June 2009, the OSCE/ODIHR and the Venice Commission of the Council of Europe (VC/CoE) concluded that the 2008 version of the Electoral Code “would benefit from further improvements.”⁵ While the latest amendments appear to address some of the recommendations offered by OSCE/ODIHR and VC/CoE, several gaps and ambiguities remain in the Electoral Code.

Although state authorities emphasized that the changes were a result of a long process of consultations that started more than one year ago, questions were raised whether the late amendments were consistent with international good practices in electoral matters.⁶ LDP, the only opposition party present during the parliamentary debates, contended that it was not given a meaningful opportunity to be involved in the process as the governing parties allegedly did not provide the amendments to the Electoral Code in writing. Additionally, OSCE/ODIHR NAM interlocutors demonstrated a mixed understanding of the substance of the amended Electoral Code.

Electoral Code provisions for early elections shorten most deadlines by five days. According to some OSCE/ODIHR NAM interlocutors this could reduce the pre-electoral period to 45 days, raising questions about whether the necessary preparations, trainings, and information outreach to electoral stakeholders could be implemented in time. This is acutely relevant for out-of-country voting, for which the State Election Commission (SEC) has acknowledged that it faces significant logistical challenges.

In addition, changes to the boundaries of some electoral districts are widely expected to be passed by parliament prior to elections. Although these changes are designed to address an imbalance in the equality of the vote between electoral districts,⁷ several opposition parties remarked that the process was not consultative and that the redistricting is politically motivated to benefit the interests of the ruling parties.

C. ELECTION ADMINISTRATION

Early parliamentary elections will be administered by a three-tiered election administration comprising the SEC, 84 Municipal Election Commissions (MECs) and 2,976 Election Boards (EBs) including, for the first time, an estimated 50 EBs located in diplomatic and consular offices abroad.

⁴ The Electoral Code was passed in 2006 and amended in 2008 and 2011.

⁵ Joint Opinion on the Electoral Code of the Former Yugoslav Republic of Macedonia, Opinion No. 509/2008, CDL-AD(2009)032: <http://www.osce.org/odihr/elections/67524>.

⁶ Section II.2.b of the European Commission for Democracy Through Law (Venice Commission), *Code of Good Practice in Electoral Matters*, adopted 18-19 October 2002, recommends that “the fundamental elements of electoral law... should not be amended less than one year before an election.”

⁷ Electoral district six deviates by an estimated seven per cent. Article 4.3 of the Electoral Code provides for a maximum deviation of five per cent.

The SEC is responsible for the overall conduct of the elections and is composed of seven members, appointed by parliament. The President and two members are nominated by the opposition parties, and the Vice President and three members are nominated by the governing parties. On 23 February the SEC President resigned citing recent developments as harmful to the impartiality and credibility of his position. Although the opposition nominated a successor, at the time of the OSCE/ODIHR NAM, parliament had yet to vote on his appointment. Recent amendments to the Electoral Code allow for the Vice President of the SEC or a majority of SEC members to convene meetings in the absence of the President. As such, the SEC is currently exercising its duties without a President. OSCE/ODIHR NAM interlocutors expressed concern about these developments and what was perceived as an increased politicization of the SEC.

MECs are responsible for overseeing election preparations in each municipality. They are professional bodies which are randomly selected from public service employees. All MEC members will end their five-year mandate on 3 May and are to be replaced only one month before election day. The potential problems this could pose for the administration of the elections are alleviated somewhat by the anticipated retention of MEC secretaries.

Each EB is responsible for a polling station and is composed using a mixed professional-political model. Of the five members, one is nominated by the governing political parties and one by the opposition political parties. The remaining three members, including the President, are randomly selected from public service employees. An opposition proposal to increase the number of party members to four, with only the President being selected from the administration, was rejected. The opposition claimed that this change was necessary to counter the effects of a partisan civil service, while governing parties argued it could disrupt electoral processes if party-nominated members withdraw or refuse to sign results protocols.

The Electoral Code provides for equitable ethnic and gender representation in the lower-level election bodies. In municipalities where ethnic groups constitute more than 20 per cent of the population they should be represented on MECs and EBs. In addition, at least 30 per cent of members in all election bodies should come from each gender.

D. VOTER LISTS

As of May 2010, full responsibility for the maintenance of the voter lists passed from the Ministry of Justice to the SEC. Despite efforts by the Ministry of Justice and Ministry of Internal Affairs to update the voter lists, the SEC announced that the number of eligible voters stands at some 1,835,000, an increase of some 43,000 since the 2009 elections. Many OSCE/ODIHR NAM interlocutors expressed longstanding concerns about the accuracy and credibility of the voter lists, given that the total number of voters represents an unreasonably high proportion of the population.⁸ The SEC informed the OSCE/ODIHR NAM that a lack of consistency in reporting deaths and emigration negatively affects the accuracy of the voter lists.

⁸ In 2009, the total population was estimated at 2.05 million. Data on the 2002 census and further estimates are available at: http://www.stat.gov.mk/english/glavna_eng.asp?br=18.

Voters are able to check their details by visiting regional offices of the SEC, through an internet-based search programme, or by e-mailing a dedicated office at the SEC. The recent amendments to the Electoral Code also provide for political parties to request amendments to the voter lists. State authorities asserted that the existence of various safeguards, including the inking of voter thumbs and the presence of party representatives and observers, prevents any irregularities that may be possible due to inaccurate voter lists. In the run-up to these elections, a bipartisan parliamentary commission was established to assess the voter lists, however, the commission did not convene due to the ongoing boycott of parliament by the opposition. The OSCE/ODIHR and VC/CoE have repeatedly recommended that a comprehensive voter list audit be undertaken.⁹

The number of voters eligible to vote in the out-of-country constituencies is still unknown and modalities for out-of-country voter registration have yet to be formulated. It is also uncertain whether those who register abroad will be cross-checked against the in-country voter lists.

E. CAMPAIGN PERIOD AND CAMPAIGN FINANCING

The political climate is tense and the election campaign is expected to be heated. SDSM accuses VMRO-DPMNE of misusing state resources to influence voters, while VMRO-DPMNE accuses SDSM of acting irresponsibly and damaging the country's reputation.

Several OSCE/ODIHR NAM interlocutors voiced concerns about a possible increase in voter intimidation and election-related irregularities. Voter intimidation was "the most serious problem identified" by the 2009 OSCE/ODIHR EOM and authorities were encouraged to take vigorous steps to remedy the situation.¹⁰ A working group was established by the government after the 2009 elections to address the issue and a number of conclusions were recently adopted to counter possible voter intimidation in the upcoming elections. However, more remains to be done to implement OSCE/ODIHR recommendations in this area. Although inter-ethnic tensions remain,¹¹ political frictions, including among ethnic Macedonians, were seen by many as a more likely source of disturbances.

Electoral contestants must open a special bank account through which all campaign donations and expenditures must pass in order to be registered for the elections. Recent amendments to campaign finance regulations are significant and address some of the concerns raised previously by OSCE/ODIHR and VC/CoE, as well as the Group of States against Corruption (GRECO) of the Council of Europe.¹² Electoral contestants are now obliged to submit detailed financial reports to several institutions. The reports must be submitted on the eleventh day of the campaign, the day after election day, and

⁹ See, for example, recommendation number 11 from the 2009 Final Report of the Election Observation Mission to the 22 March and 5 April presidential and municipal elections.

¹⁰ See recommendation number one from the 2009 Final Report of the Election Observation Mission to the 22 March and 5 April presidential and municipal elections.

¹¹ Including recent clashes at Skopje Fortress between ethnic Albanians and ethnic Macedonians.

¹² GRECO Evaluation Report on "the former Yugoslav Republic of Macedonia" – Transparency of Party Funding, 22-26 March 2010: http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282009%296_FyroMacedonia_Two_EN.pdf.

fifteen days after election day and will be published on the websites of the State Audit Office (SAO), the State Commission for Prevention of Corruption, and the SEC. If the SAO establishes irregularities in the reports they are required to initiate misdemeanour procedures. However, the ceiling on donations from legal entities has been changed from EUR 20,000 to 5 per cent of total income, ostensibly granting an advantage to larger entities. Several OSCE/ODIHR NAM interlocutors also noted that there appears to be no requirement for verification of the data submitted.

In line with previous OSCE/ODIHR and VC/CoE recommendations, the Electoral Code now provides for reimbursement of campaign expenses for non-elected candidates who receive at least 1.5 per cent of the total vote.

F. MEDIA

Television is the primary media and the main source of information for citizens. In addition to the three TV channels of the public broadcaster Macedonian Radio and Television (MRT), 5 commercial TV channels are broadcast nationally, with a further 10 stations broadcasting regionally and 49 locally. Some 80 radio stations and 12 daily newspapers also operate in the country. Media outlets are widely perceived as being divided along partisan lines and their coverage as being heavily politicized.

Several OSCE/ODIHR NAM interlocutors expressed reservations about the freezing of bank accounts of *AI Television* and three daily newspapers, *Vreme*, *Spic*, and *Koha e Re* as part of an ongoing investigation linked to the owner of *AI Television*, which was perceived to be politically motivated and a threat to media pluralism during the election campaign. The OSCE Representative on Freedom of the Media recently cautioned the state authorities that any investigation into suspected tax evasion or money laundering by the owners should not affect the broadcasting of *AI Television* or the publication of the three daily newspapers.¹³ *AI Television* and opposition political parties informed the OSCE/ODIHR NAM that they expect further restrictions to be placed on these media outlets prior to elections.

The Electoral Code provides that the Broadcasting Council (BC) adopt a rulebook on the conduct of broadcast media during the campaign period and, for the first time in these elections, during the period between the official announcement of elections and the start of the campaign period. In line with the rulebook, all broadcasters must provide equitable access to all electoral contestants. The Electoral Code further stipulates that the amount of paid political advertising on commercial media should be limited to 15 minutes per hour, with a maximum of 10 minutes for a single electoral contestant. A list of prices for advertising must be made publicly available before the campaign begins. Any discount that media give for advertising prices to electoral contestants is to be considered as a donation and must be reported accordingly.

The BC is responsible for monitoring television and radio coverage during the election and, if an irregularity is established, is required to initiate misdemeanour procedures against the broadcaster. The BC, as well as other OSCE/ODIHR NAM interlocutors,

¹³ Regular Report to the Permanent Council by Ms. Dunja Mijatović, the OSCE Representative on Freedom of the Media, 17 March 2011: <http://www.osce.org/fom/76158>.

expressed concerns about the dominant role of the government in advertising revenue and the possible impact this may have on media independence.

MRT is required to broadcast political presentations of all electoral contestants free of charge, as well as any voter information spots provided by the SEC. Most media outlets intend to run special programmes covering the elections, including candidate debates.

G. INTERNATIONAL AND DOMESTIC OBSERVERS

The Electoral Code provides access for both international and domestic observers. Prior to elections the SEC typically issues a separate regulation specifying the rights and responsibilities of observers, as well as the accreditation procedure. While observers have the right to obtain a copy of the tabulation section of the results protocol, there is no provision for them to receive a full copy. OSCE/ODIHR previously recommended that observers should be entitled to receive complete copies of results protocols.¹⁴

The civic association MOST stated their intention to deploy some 3,500 observers on election day, while the national chapter of Transparency International plans to monitor political party compliance with campaign finance regulations. Political parties also expressed their intention to deploy observers on election day.

IV. CONCLUSIONS AND RECOMMENDATIONS

All OSCE/ODIHR NAM interlocutors encouraged the deployment of a full OSCE/ODIHR Election Observation Mission (EOM) and OSCE Parliamentary Assembly observers. In addition, the majority of interlocutors requested that an increased number of observers be deployed as compared to previous EOMs.

While some of the OSCE/ODIHR recommendations have been implemented since the 2009 presidential election, there are a number of issues which warrant further attention. These relate primarily to the implementation and the efficacy of late changes to the legal framework, including campaign finance regulations, out-of-country voting, duties of the SEC, and revision of constituency boundaries, as well as longstanding concerns regarding the voter lists and media coverage. In addition, concerns regarding election day procedures and voter intimidation continue to be voiced.

Based on the above findings, the OSCE/ODIHR recommends an EOM be established to observe the early parliamentary elections, contingent upon the receipt of an official invitation from the former Yugoslav Republic of Macedonia. In addition to a core team of analysts, the mission recommends the secondment of 24 long-term observers to follow the campaign, media coverage, and election preparations and 300 short-term observers to follow election day procedures.

¹⁴ See recommendation number 30 from the 2009 Final Report of the Election Observation Mission to the 22 March and 5 April presidential and municipal elections.

ANNEX: LIST OF MEETINGS

Government Officials

Svetlana Geleva, Head of Sector for Political and Multilateral Relations, Ministry of Foreign Affairs
Olgica Vasileva, Head of Department for CoE, OSCE and European Multilateral Cooperation, Ministry of Foreign Affairs
Zagorka Tnokovska, Head of Sector for State Administrative Electoral Systems and Administrative Competences, Ministry of Justice
Tihomir Ignjatovski, Head of Sector for Free Legal Aid, Ministry of Justice
Ajet Neziri, Head of Sector for Police and Criminal Acts, Ministry of Internal Affairs
Ljupco Staleski, Police Adviser, Ministry of Internal Affairs
Ljupka Siljanoska, State Counsellor for Strategic Planning and Support of the Integration Process, Secretariat for European Affairs
Vlatko Ilievski, State Adviser, Office of the Prime Minister

Election Administration

Subhi Jakupi, Acting President of State Election Commission
Sasho Srcev, Member of State Election Commission
Jovan Josifovski, Member of State Election Commission
Vlatko Sajkoski, Member of State Election Commission
Biljana Stojanovska, General Secretary of State Election Commission
Rasim Mustafa, Deputy General Secretary of State Election Commission

Administrative Court

Rozalija Kockovska, President of the Administrative Court

Political Parties

Spiro Ristovski, VMRO-DPMNE
Aleksandar Mihajlovski, VMRO-DPMNE
Branko Crvenkovski, Social Democratic Union of Macedonia (SDSM)
Nikola Kolevski, Social Democratic Union of Macedonia (SDSM)
Viktor Cvetkovski, Social Democratic Union of Macedonia (SDSM)
Maja Ilievska, Social Democratic Union of Macedonia (SDSM)
Abdilaqim Ademi, Democratic Union for Integration (DUI)
Imer Aliu, Democratic Party of Albanians (DPA)
Metin Izeti, Democratic Party of Albanians (DPA)
Arjanit Hoxha, New Democracy (ND)
Visar Ramadani, New Democracy (ND)
Ivan Stoilković, Democratic Party of Serbs in Macedonia (DPSM)
Kenan Hasipi, Democratic Party of Turks in Macedonia (DPTM)

Broadcasting Council

Zoran Stefanovski, President
Emilija Janevska, Head of Programming
Borce Manevski, Head of Sector for European and International Cooperation and Public Relations

Media

Eftim Gashtov, Director, MRT
Petar Karanakov, Director, MRT
Petar Dzalev, Editor-in-Chief, MRT
Mladen Cadikovski, Editor-in-Chief, A1 Television
Lidija Bogatinova, Editor-in-Chief, Channel 5 TV
Muhamed Zeqiri, Editor-in-Chief, ALSAT-M TV

Civil Society

Darko Aleksov, Executive Director, MOST
Slagjana Taseva, President, Transparency International Macedonia

International Community

H.E. Ambassador Natalya Drozd, Acting Head of the OSCE Mission to Skopje
H.E. Ambassador Peter Sorensen, Head of European Union Delegation
Brian Aggeler, Deputy Chief of Mission, Embassy of the United States of America
Colonel Yordan Yordanov, Chief NATO Headquarters – Skopje
Other representatives of Embassies and Consulates