



Office for Democratic Institutions and Human Rights

**FORMER YUGOSLAV REPUBLIC OF
MACEDONIA**

PRESIDENTIAL ELECTIONS

31 October & 14 November 1999

FINAL REPORT



Warsaw
31 January 2000

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OSCE/ODIHR Final Report

I. Introduction

The OSCE/ODIHR Election Observation Mission (EOM) was established in the former Yugoslav Republic of Macedonia (fYROM) on 20 September 1999 for the Presidential election scheduled for 31 October. A second round of voting was held on 14 November, and a second round reruns on 7 December. Mr. Mark Stevens (UK) was appointed as Head of the EOM.

This report is based on the findings of 11 long-term observers and experts who were present until 4 November, and nine until 17 November. The report also incorporates the findings of 155 short-term observers for the first round of the election, representing 27 OSCE participating States. The Parliamentary Assembly of the Council of Europe also participated in the observation with an eight-member delegation. Observers reported from over 900 of the 2,973 polling stations in 81 of the 85 districts.

For the second round, 105 short-term observers, representing 25 OSCE participating States, monitored the process in 725 polling stations in 77 districts. For the observation of the 230 polling stations rerun for the second round, 85 short-term observers were deployed, and covered 220 of the 230 polling stations.

Throughout the duration of the observation, the OSCE Spillover Mission to Skopje provided significant assistance. On all three election days, the European Community Monitoring Mission (ECMM) also provided invaluable support. The diplomatic community in Skopje provided a large number of observers for the three rounds of voting.

II. Executive Summary

The 1999 elections for the President of the former Yugoslav Republic of Macedonia were held mostly in accordance with OSCE commitments. However, while these elections built on many of the positive aspects of the 1998 elections, the process in some parts of the country was marred with violations during the second round of voting and the subsequent reruns in 230 precincts.

The legal framework for the elections enjoyed broad political consensus, which contributes to a solid legislative base for the elections. Six candidates were able to compete in these elections. However, the relevant legal texts for the election contain ambiguities that should be addressed. Moreover, the law seeks to provide multi-party representation on election bodies based on the parliamentary strength and political affiliation of political parties. But, the law fails to take into account changes in the political line-up.

The State Election Commission issued a number of administrative instructions aimed at increasing confidence in the voting and counting processes. These instructions strengthened the process.

Media coverage was improved, with most media meeting their responsibility to treat all candidates equally. The electronic media generally provided a full and comprehensive coverage of the campaign. Time allocated to candidates was generally equal, but some bias in the quality of coverage, in particular by the public-service media, was noted. Most print media correctly limited comments to the editorial pages, but some did exhibit a bias in their reporting.

The observation mission noted some concerns regarding the political campaign, but in general found that the campaign was well conducted for both rounds and only minor incidents were reported. Candidates campaigned extensively throughout the country with large crowds in attendance.

For the first round, the electoral process was generally carried out according to the law. However, irregularities were noted in some polling stations. Whilst the second round election was also carried out according to the law in a vast majority of the country, in a large number of polling stations in the west of the country and around Skopje, serious violations were noted. Moreover, extremely high voter turnout figures in some districts and polling stations raised concerns. In the end, the State Election Commission and the Supreme Court invalidated the results in some 230 precincts and ordered reruns. Again, violations were committed during the rerun elections. But the losing candidate eventually accepted the outcome.

In conclusion, while the 1999 presidential elections in the former Yugoslav Republic of Macedonia were in general conducted in accordance with OSCE commitments, concerns that can undermine future electoral processes and bring political forces into conflict require urgent attention. These concerns are outlined in the recommendations of this report.

III. Legislative and Administrative Framework

A. Election Laws

Three laws regulate the conduct of the Presidential election: (1) the Law for the Election of the President; (2) the Law on Amendments to the Law on Presidential Election; and (3) the Parliamentary Election Law. In addition, some articles of the Constitution are also relevant, reiterating the method for determining results.

The election of the President is determined by the majority principle. To be successful in the first round of voting, the leading candidate must receive 50% plus one of votes from the total registered electorate of 1,610,340. If none of the candidates receives this required majority, then the two candidates receiving the most votes in the first round qualify for a second round of voting two weeks later. In the second round, the candidate receiving the most votes wins, so long as the voter turnout is at least 50% of the registered electorate plus one.

Article 14 of the Law for the Election of the President states that, if the voter turnout is not more than half of the registered electorate, then “the entire electoral procedure” must be repeated. The law does not clearly articulate what is meant by “entire electoral procedure”, whether candidates have to go back to the collection of signatures stage, or the original candidates from the first round can stand again. Also, the time-frame for such a re-run of the entire electoral procedure is not stated.

Candidates for the Presidential election must secure either 10,000 signatures of registered voters or gain the support of 30 Members of Parliament. To support a candidate, a voter must present him/herself at one of the 227 local offices of the Ministry of Justice and sign a petition. Candidates and parties are not allowed to canvass for signatures, and some complained of such unequal registration requirements. Nonetheless, most candidates secured the necessary signatures.

B. Election Administration

A three tier administrative structure is used for the presidential election as determined in the Parliamentary Election Law: (1) a central State Election Commission (SEC); (2) a District Election Commission (DEC) in each of the 85 districts; and (3) a Polling Election Board (PEB) for each of the 2,973 polling stations. For the Presidential election, the country is a single electoral constituency, so the 85 districts are merely administrative units.

1. The State Election Commission

The SEC has eight members with their deputies, a president, and a secretary with his deputy, all appointed by the Parliament as follows:

- The president and two members with their deputies are appointed from among the judges of the Supreme Court.

- Three members with their deputies are proposed by political parties in opposition which received the largest number of votes at the previous election. The parties represented on this quota were the Social Democratic Union of Macedonia (SDSM), the Socialist Party of Macedonia (SPM) and the Party of Democratic Prosperity (PDP).
- Three members with their deputies are proposed by the ruling political parties. The parties represented on this quota were the Internal Macedonian Revolutionary Organisation (VMRO-DPMNE), the Democratic Alternative (DA) and the Democratic Party of Albanians (DPA).

The secretary is not a member of the SEC and is not allowed to vote.

According to Article 27 of the Parliamentary Election Law, The SEC shall:

- ensure adherence to the law in the preparation and carrying out of the elections;
- appoint the DECs;
- determine and announce the candidate lists for the election of deputies through the proportional system;
- print the ballots and candidate lists;
- inform the public about the voting process;
- decide on complaints;
- announce the election results.

2. District Election Commissions

DECs are composed of four members with their deputies, a president, and a secretary. The president and all members are appointed by the SEC, the secretary by the president of the DEC.

- The president of the DEC and his deputy are appointed from among judges of the Appeals Court.
- Two members with their deputies are proposed by political parties in opposition, which won at least 5% of the cast votes at the previous election. The parties represented on this quota were the SDSM, the SPM and the PDP.
- Two members with their deputies are proposed by the ruling parties. The parties represented on this quota were the VMRO-DPMNE, the DA, the DPA and the LDP.

According to Article 28 of the Parliamentary Election Law, the DEC will:

- ensure adherence to legal procedures in carrying out the elections in the district;
- appoint the members of PEBs and give instructions for their work;
- determine the candidate list for the district;
- undertake preparations for the elections according to directions from the SEC;
- distribute election materials to the PEBs;
- establish the voting results for the parliamentary election in the district within 24 hours after the polling stations close;
- determine the number of votes for the proportional system and submit to the SEC;
- decide on complaints against irregularities in the work of the PEBs.

3. Polling Election Boards

PEBs are composed of four members with their deputies, a president and his deputy, all with a right to vote in the district.

- The president with his deputy are appointed by the president of the DEC from among the citizens with a residence in the district.
- The members of the boards with their deputies are appointed by the DEC.
- Two members with deputies are proposed by political parties in opposition which won at least 5% of the votes at the previous election. Parties represented under this quota were the SDSM, the PDP and the LDP.¹
- Two members with their deputies are proposed by the ruling parties. The parties represented on this quota were the VMRO-DPMNE, the DA, and the DPA.

According to Article 29, the PEB should:

- manage voting in the precinct;
- ensure the secrecy of the vote;
- ensure a free and peaceful vote;
- establish the results at the polling station;
- submit results, protocols and electoral materials to the DEC.

C. Membership of Election Commissions and Boards

As participation in election commissions and boards depends on a party's showing during a previous election, proper multi-party representation is not always guaranteed. New parties formed in the intervening period and standing in the current election are denied representation on commissions and boards. Parties that may have strengthened their support since the previous election are also denied representation. Moreover, the allocation of commission and board membership based on a characterisation of "ruling" and "opposition" parties ignores new political line-ups, including the formation of election coalitions across opposition and government lines. Finally, this system cannot accommodate changes in party allegiance between pro-government and opposition, as was the case of the LDP.

Such a system of allocating membership in election commissions and boards based on a party's showing during previous parliamentary elections and their characterisation as "ruling" or "opposition" parties in the Parliament is particularly irrelevant during a presidential election.

¹ At the time of constituting the DECs, the LDP were in the government. However, at the time of constituting the PEBs, the LDP had left the governing coalition. This resulted in the anomaly of the LDP being in the DECs as a governing party, but in the PEBs as an opposition party. This was also the result of a decision to deny the SPM representation at the PEB level. Only the SDSM and PDP therefore qualified for representation at the PEB level as opposition parties. Given that the ethnic Albanian PDP have party structures in approximately 30% of the country, without the LDP in the opposition quota, there would have been a shortfall of opposition representatives at the PEB level.

D. Dismissal of the Former President of the SEC

During the period of the collection of signatures for candidates, the parliamentary Committee on Appointments dismissed the former President of the SEC, Ms. Inglizova, for an “invalid interpretation” of the law. She had ruled that participation on election commissions and boards was determined by a 5% threshold in the single member constituencies at the previous election, rather than the national list proportional elections. This ruling allowed the SPM to qualify for membership on the election commissions. The dismissal took place despite a law adopted one month earlier extending her term of office to 2002. The SPM was nonetheless allowed to remain on the commissions.

E. Voter Registers

According to Article 4 of the Parliamentary Election Law, “every citizen who has reached 18 years of age and has a mental capacity” is eligible to vote. There is no provision for citizens abroad to vote, unless they return to their place of registration in the country. Also, there is no provision for voting in another place other than one’s place of registration. A total of 1,610,040 were registered for the presidential election.

There was speculation that the electoral franchise would be extended to out-of-country voters for the presidential election. Some estimate the number of out-of-country voters as high as 500,000. However, the Ministry of Justice explained that this was impossible as the country does not have an extensive network of diplomatic representation overseas.

Since 1998, the total number of registered voters had increased by 37,362. Some opposition parties, and particularly some media, alleged that this increase was too high and that it was evidence of the government’s intention to commit fraud.

Responsibility for additions to the voter list rests with the Ministry of Justice. Unfortunately the Ministry allowed three days of damaging speculation in the media regarding the reasons for the increase on voter registers before coming forward with a credible explanation.

An electorate of 1.6 million voters for FYROM, or 76% of the total population of 2.1 million, is not abnormal. This percentage compares to Hungary (77.5%), Romania (76%) and Yugoslavia (71%) and is a little less than in Slovenia (79%) and Croatia (80%).

F. Voter Education

The SEC was legally obligated to provide basic voter education and met this obligation by providing TV advertisements outlining the date of the election and the process of voting. TV advertisements were produced in five languages (Macedonian, Albanian, Serbian, Vlach and Turkish), and broadcast on MTV1 & MTV2.

Posters were also produced indicating the date of the election and the identification forms required to vote. However, these posters were only in Macedonian language. Also, information posters inside polling stations were only in Macedonian, denying a large portion of the voting population in some parts of the country the possibility to understand their voting rights and obligations.

IV. Pre-Election Period

A. Election Campaign

For the first round, the electoral campaign officially started on 30 September and ran until 29 October. For the second round, though the election law does not state when the campaign should begin, it started after the closing of polling stations on 31 October and continued until 12 November. All campaign activities were prohibited during the 24 hours prior to the election days.

The campaign environment allowed for all candidates to publicly advocate their platform. The campaign was conducted in a traditional form, including through literature, posters, rallies, and advertisement on radio and television. Public meetings and rallies were generally well organised and well attended, an indication of the high interest Macedonian voters had in the presidential election.

The six candidates and their party leaders participated actively in the campaign and the tone remained constructive, even though candidates tended to become more aggressive towards the end of the campaign. All six candidates held a significant number of rallies throughout the country and most of them were peaceful. However, a limited number of minor incidents occurred. The tone of the campaign deteriorated during the week leading to the second round of the election. Regardless, the public remained interested in the campaign until the end.

The main campaign issues were the economy, unemployment, education, relations with neighbouring countries and accession to NATO and EU. The two ethnic Albanian candidates, Mr. Nexhipi (DPA) and Mr. Halili (PDP) mostly raised issues of concern to the ethnic Albanian community in the country, including the status of Tetovo University, the recognition of the Albanian language as an official language, the representation of ethnic Albanians in the state administration, and the independence of Kosovo.

In two incidents of violence, one local party office was damaged before the campaign started and another party office was partly destroyed in Studenicani. In addition, the EOM received allegations that party activists in Delcevo attempted to provoke a car accident to injure the local leader of an opposition party. This allegation could not be verified.

Moreover, party representatives and a number of citizens reported to the EOM that some directors of state and private enterprises were pressuring employees in an attempt to influence their choice of candidate. The EOM could not verify widespread allegations of this type.

B. Campaign Financing

According to Article 10(a) of the Law for the Election of the President, candidates could not spend more than 15 denars per registered voter, a total of 24,100,000 denars (\$423,184) for the 1.6 million voters. Candidates were obligated to open a special campaign account which was monitored by the SEC.

Campaign expenditures are reimbursable up to 15 denars per votes won in the first round. The two candidates in the second round are also entitled to receive 15 additional denars per vote won.

During the election campaign before the first round, the ruling party, VMRO-DPMNE, was observed using state resources, for instance to put up banners in central Skopje and Delcevo. Such use of state resources is prohibited.

V. Media

The EOM monitored the media for the period 11 October through 12 November, using quantitative and qualitative analysis. A quantitative analysis team consisting of five monitors and one co-ordinator was supervised by the EOM's media analyst. In addition, the EOM held meetings with directors, editors and journalists from the major media outlets to obtain general information about the media environment.

The EOM media monitoring team's detailed findings are presented in Annex 1 of this report.

A. Legal Framework

The media coverage of the 1999 presidential campaign was regulated by the election law and the "Rules" published by the Broadcasting Council, the media regulatory body. Unlike the 1998 elections, the parliament did not publish a "Decision" on media conduct during the campaign. The election law stipulated that all media were obligated to provide free coverage for all candidates on an equal basis. MRTV, the public broadcaster, was specifically required to provide equal coverage to all candidates, but the allocation of time was left to the discretion of the editorial board.

Although detailed regulations for the media were not passed through the parliament, the Broadcasting Council, used its "Rules" to set specific guidelines for the activities of the electronic media in the campaign period. Electronic and print media established their own internal guidelines for coverage of the campaign.

B. The Media and the Election Campaign

The campaign in the media was generally well conducted and, in general, the coverage was more objective compared to previous elections. With some exceptions, the media adhered to the laws and provided equal access and balanced coverage for all candidates. In the electronic media, A1, Telma, Channel 5, and TV Era provided

professional and objective coverage of the election. Most print media correctly limited comments to the editorial pages, but some did exhibit bias in their reporting. This is of particular concern for those newspapers, which have a majority of government funding and therefore a special responsibility to provide balanced coverage.

In the year between the 1998 Parliamentary elections and the 1999 Presidential elections, there was an expansion of the media spectrum in the country. The print media expanded with the addition of *Utrinski Vesnik*, an opposition-oriented newspaper, with a circulation of approximately 25,000. In the electronic media, two of the Skopje-based private television stations, Channel 5 and Telma, expanded their programming to include regular news programs.

The electronic and print media played an active role during the campaign, providing voters with sufficient information on the elections in order to make educated decisions on election day.

As was the case in 1998, ethnicity largely determined the focus of campaign reporting in electronic and print media. Macedonian-language broadcasters had a tendency to promote the Macedonian candidates and Albanian-language media focused on the two Albanian candidates.

C. Paid Advertising

Every candidate was provided an opportunity to purchase paid advertising space and time in all media, with the exception of *Nova Makedonija*. MRTV decided not to hold candidates responsible for party debts from 1998. However, *Nova Makedonija* declined to annul old debt, and provided advertising space only to the VMRO candidate.

In the first round of the elections, the DA candidate, Vasil Tupurkovski purchased the most paid advertising space and time on the media monitored. Unlike the other six candidates, Tupurkovski's paid advertisements were shown across the spectrum of media, including the government-owned, opposition, and Albanian-language broadcasters.

D. Bias by the Public Media

There was a fairly wide-ranging change in senior MRTV personnel after the last election. Regrettably, each new government implements a range of political appointments, even at the level of editors and journalists. Following this, many media watchers expected a level of bias towards the new government.

The campaign coverage on MTV1 was correct regarding the presentation of campaign-related facts and events. However, MTV1 showed a distinct tendency to present the VMRO candidate in a more positive light than any other candidates.

Such bias by the public-service media is an abuse of public trust. There is a dire need as the country further consolidates its democratic institutions and tradition to differentiate between the concepts of public-service and government-service media.

VI. Observation of Voting and Vote Count: Round 1

A. Overall Findings

For the observation of the first round of voting on 31 October, the EOM deployed 155 international observers, covering 910 (31.00%) of the 2,973 polling stations in 81 of the 85 electoral districts. The Parliamentary Assembly of the Council of Europe also participated in the observation with an eight-member delegation.

Observers generally reported positively on the voting process throughout the country, with 94.00% of reports rating the process as good or very good. However, ratings for the Skopje and Tetovo areas, incorporating some of the ethnic-Albanian districts, were less favourable, with family and proxy voting reported.

The State Election Commission had issued a number of administrative instructions aimed at improving the quality of the election. On election day, the EOM noted that these instructions were largely adhered to and contributed to strengthen the electoral process.

The administrative instructions included:

- All ballot papers have a serial number, to prevent ballots being introduced from outside. Each polling station receives a designated batch of serial numbers, and any ballot containing a serial number not designated to that polling station will not be counted as valid. During the 1998 election, political parties and voters were concerned that PEB members could identify a voter's choice from the serial number of ballots. This year, PEBs were instructed to mix the ballots before the opening of polling station.
- As ballot boxes are transparent, there was some concern during last year's election that a voter's preference could be detected through the folded ballot paper. This year, ballot papers were printed on a higher quality paper, and the back of the ballot had a black box, covering the serial number as well as the space on which the voter marked their preference on the reverse side.
- During the 1998 election, the PEBs were instructed to determine the validity of ballots based on the marking of ballots in strict accordance with the law – a circle around the ordinal number of the preferred party or candidate. This year, PEBs were instructed to accept a ballot so long as the voter's preference was clear and all other legal requirements were met.

B. Proxy and Group Voting, Other Irregularities

As in 1998, the most significant problems identified by observers were proxy voting in 9.41% of polling stations observed and group voting in 14.9%. Observers saw instances of one person arriving with multiple voter cards or the ballot box containing ballots folded together, which had clearly been inserted at the same time as a bundle.

Many instances of proxy voting in ethnic-Albanian areas represented the male head of household voting for the women members of the family. In some instances the women were present. Again, this was claimed to be “normal local practice”. Nonetheless, such practice is unacceptable as it disenfranchises the women concerned as well as opening the system to widespread abuse.

A general lack of rigour in implementing electoral procedures in polling stations were also observed. This included omissions in checking both individual voter cards and identification documents, and not marking the register to indicate a person had voted. Some PEB presidents wrongly claimed that instructions did not require checking identification documents and voter cards.

The tendency for groups of party activists to gather outside polling stations on election day, even in the corridors directly outside polling stations, was again noticeable. This was a problem in 1998 as well. Observers reported the presence of groups of party activists in 3.85% of polling stations visited. Ultimately, the presence of party activists outside polling stations can be intimidating to voters and increases tension.

Following the first round of voting, the ethnic Albanian PDP complained of intimidation of their party representatives, observers and voters, as well as general irregularities in voting procedures. The PDP claimed these breaches of the law were committed by the DPA, the other main ethnic Albanian party and government coalition partner.

The EOM did not find the degree of intimidation claimed by the PDP. Irregularities noted by observers in ethnic-Albanian areas in the first round of voting were largely of more technical nature.

C. Participation of Parties in PEBs

Observers reported that political parties were well represented on PEBs. For example, the SDSM was represented on 87.40% of PEBs observed, the VMRO on 85.31%, the DA on 83.44%, the LDP on 65.10%, the DPA on 37.08%, and the PDP on 31.35%.

However, there were concerns relating to the political composition of PEBs, including those raised above in the Election Administration section of this report. A second concern was that in some ethnic-Albanian areas, ethnic-Macedonian parties gave up their seats on PEBs in favour of their “partner” ethnic-Albanian party. VMRO gave up a number of their seats to the DPA, and the SDSM gave up a smaller number of seats to the PDP.

This is partly explained by the fact that ethnic Macedonian parties do not have members in some areas largely inhabited by ethnic Albanians. Based on observer reports, this problem was most acute in the Tetovo area, such as in Districts 55 and 56.

D. The Vote Count

Observers reported very positively on the conduct of the vote count, with 94% of polling stations observed (66 out of 70 reports) rating the process as good or very good. The only complaint was that the count was sometimes conducted in a rather disorganised fashion.

However, two observer reports, whilst not reflecting the general experience, do highlight the problems experienced in some areas.

In Saraj (79/2346), observers reported that the polling station closed in the early afternoon (17:00) while voters outside claimed they had not been allowed to vote. Alarming, the final figures show a turnout of 630 of the 637 registered voters in this polling station. Observers from the same polling station also reported that 12 ballots were missing, and that the voter register indicated 27 unchecked names. After the observers returned to the polling station with the president of the DEC, the 27 unchecked names were marked.

In Lipkovo (21/1117), observers reported that the number of ballots counted was initially higher than the number of names checked on the voter register. However, the number of ballots cast was duly “reduced” by the PEB, to reflect the “real” number.

VII. Observation of Voting and Vote Count: Round 2

A. Overall Findings

Observers generally reported positively, with 85% rating the process as satisfactory, good or very good, and only 4.28% as bad or very bad. The basic procedures followed much the same pattern as for the first round.

However there were two anomalies to these generally positive statistics. First, the bad and very bad ratings were almost exclusively in the ethnic-Albanian areas, resulting in a rather negative process in those areas. Second, 10.64% of the observation reports did not rate the process because they did not observe any voter at the time of the visit to a polling station. Whilst circumstantial, observers reported that there was a tendency for voters to stop coming in polling stations during the time of their visit. More alarming, voters went into a neighbouring polling station when observers were present.

The most significant problems observed were again voters not presenting a voter card and identification documents, and instances of proxy and family voting.

The vast majority of negative observer reports were due to high instances of proxy and family voting. These negative reports were predominantly from ethnic-Albanian areas, such as Lipkovo (21), Cegrane (52), Kamenjane (55), Aracinovo (64) and Studenicani (66). The final results from these areas were also of grave concern.

An observer report from Studenicani is indicative of the type of problems experienced in these districts. The local head of the DPA visited polling stations in the area on election day, urging people to vote for the VMRO candidate. In polling station 66/2353, the DPA head shouted at the PEB chairman, accusing him of a low voter turnout, 20% at 16.00. Later, four VMRO members entered the same polling station and remained there to “supervise the voting”. As observers left, a large number of voters entered the polling station. In other polling stations in the area, widespread and repeated instances of family and proxy voting were observed. Political party representatives on the PEBs sometimes appeared unsure of the party they were supposedly representing.

In Delcevo (District 2) in the east of the country, the Chief-of-Police was also the local branch President of VMRO. The EOM received reports that this individual had intimidated local SDSM officials. The President of the relevant DEC was unwilling to act on this matter and appeared to be intimidated himself.

B. PDP Representation on PEBs

After the first round, the PDP announced that their party representatives would not participate on PEBs in the second round, claiming that the irregularities committed by the DPA in the first round were so damaging to the process that the PDP did not wish to be part of the process any more. In addition, the PDP candidate received the lowest number of votes in the first round and the party started to experience serious internal problems. This created the possibility of having DPA members as the sole political representatives in some polling stations.

Based on observer reports, in general, other parties continued during the second round their participation in PEBs. The EOM received only three reports (from Districts 55 and 56) that the DPA was the sole political party represented on PEBs. However, in a further nine polling stations, it appears that only representatives of the ruling parties were represented, again predominantly in the Tetovo area precincts.

C. The Vote Count

The rating of the counting process was noticeably more negative than the first round, with 19.6% of observer reports (10 out of 51) finding the process bad or very bad. Eight out of the 10 negative reports were from the ethnic Albanian areas.

This negative assessment reflected problems encountered in some areas during the voting procedures. In addition, following proxy and family voting, the recorded figures for cast ballots and voters marked in registers as having voted were often not in accordance. Further, voter turnout figures were often suspiciously high.

D. Second Round Results

The EOM became suspicious of the second round results because of the high voter turnout figures in some districts where observers had noted low presence of voters, combined with reports of proxy and multiple voting.

District (No.)	Reg. Voters	Votes cast	% Turnout
Lipkovo (21)	17,945	17,346	96.66%
Struga (44)	17,285	16,473	95.30%
Negotino (52)	20,819	17,666	84.86%
Kamenjane (55)	19,447	18,897	97.17%
Tetovo (56)	21,051	20,346	96.65%
Xhepciste (59)	20,712	20,039	96.75%
Zelino (60)	18,802	16,971	90.26%
Arachinovo (64)	18,067	15,599	86.34%
Studenicani (66)	19,068	16,126	84.57%

The EOM's concerns were accentuated by a detailed analysis of these districts, with many polling stations with large numbers of registered voters (between 600 – 1,000) reporting 99% or 100% turnouts. One polling station in Lipkovo (21/1117) reported a turnout of 102%. While these problems were limited to some parts of the country, nonetheless, they were serious.

In order to ensure confidence in the electoral process, the EOM met with the President of the SEC immediately after the second round to urge a careful scrutiny of the above figures.

Ultimately, a number of complaints were submitted to the SEC and later the Supreme Court, resulting in a re-run of the process in 230 (7%) of the country's 2,973 polling stations across 24 of the 85 districts.

E. Unclaimed Voter Cards

Voter cards were produced for this election for all eligible registered voters. Some 150,000 voter cards however remained unclaimed, the same number as in 1998. The Ministry of Justice confirmed that these cards mostly belonged to voters who were out of country or were not interested in voting.

While these uncollected cards were not initially an issue, two important developments raised suspicion. Following the second round of voting, there was a break-in at the Ministry of Justice office in Tetovo, and thousands of uncollected cards were stolen. This gave rise to some alarm and speculation of fraudulent voting in the west of the country.

Also, during the Supreme Court's consideration of complaints after the second round, the Ministry of Justice provided the Court information on the number of unclaimed voter cards in each district. Based on this information, the Supreme Court was able to

determine for each district the actual number of eligible voters issued a voter card - and thus able to vote- and deduce that the turnout figures in some districts were not possible.

F. The Legal Process Following the Second Round

Following the second round, the SDSM filed some 300 complaints with the SEC. These complaints were mostly based on the alleged problems experienced by SDSM representatives in polling stations: intimidation of their PEB members, forcing them to leave the PEBs;² irregularities in the voting process, including proxy voting and final results minutes not tallying correctly.

The SEC experienced many problems in deliberating on the complaints, with the discussion often breaking down into a fierce party-based dispute. Partially as a result of this political stalemate and partially due to the short deadline of 48 hours for the national electoral body to decide on complaints, the SEC was unable to deal adequately with the number of complaints.

The opposition claimed that the SEC President was unwilling to consider seriously most of their complaints. However, the SEC President indicated that he would follow the letter of the law strictly in addressing the complaints, but his interpretation of the law proved to be more narrow than the Supreme Court's in terms of the evidence required for consideration.

The SEC decided to re-run the election in 31 polling stations, and dismissed the remainder of the complaints. The SDSM subsequently submitted the remaining complaints to the Supreme Court, which in a total of 23 separate decisions, ruled that a further 199 polling stations should be re-run.

VIII. The Second Round Re-Runs

The re-runs in the 230 polling stations took place on 5 December. Observers visited virtually all of the re-run polling stations. The quality of the process varied greatly, but in general observers reported negatively, with some reports of very serious violations. There were also reports of two violent incidents involving party activists in Lipkovo and Struga, at least one of which resulted in SDSM members being hospitalised.

In 11.30% of reports, observers rated the process as being bad or very bad. As during the second round of voting, there was a significant number of non-responses of observers (14.45%) due to the absence of voters at the time of observation. Observers noted that voters stopped entering polling stations whilst they were present, sometimes on the instruction of the PEB, other times due to mobile phone communication between party activists outside and inside polling stations. Some observers also commented that when they visited a polling location inside a large building with multiple polling stations, voters were ushered instead into one of the other polling stations to avoid observers.

² SDSM highlighted the following districts: 21, 42, 43, 44, 52, 53, 55, 56, 60 and 66

The statistics from observer reports highlight the procedural weaknesses observed. Observers reported in a significant number of instances (22.80%) that voters failed to present both a voter card and identification document. Proxy voting (18.06%) and family voting (32.51%) were also highly evident. In 20.54% of instances, there were groups of party activists present around polling stations.

In some of the re-run polling stations, observer reported the most serious irregularities ever witnessed in an election observation in the country since 1998. For example:

- There were serious problems in the district of Struga (44). In Labunista, after the withdrawal of SDSM, VMRO-DPMNE activists entered the polling station and observers witnessed blatant ballot stuffing.
- In Studenicani (66), observers witnessed the VMRO-DPMNE representative filling out multiple ballot papers and placing them in the box. The responsible person requested that observers leave the polling station, but they declined. The observers were later intimidated by the DPA representative into leaving.
- In Aracinovo (64) and Dolno Palciste (Tetovo – 56), observers saw voters being given extra voter cards by party activists, after casting their ballots, enabling them to vote for a second time in a neighbouring polling station.

At around 14.00 on rerun election day, SDSM members on PEBs started to withdraw from polling stations, following instructions by mobile phone. Observers noted that, in the vast majority of the rerun polling stations the SDSM members of PEBs and SDSM observers had left by mid-afternoon. The SDSM claimed that their members withdrew as a result of violent incidents against them and intimidation. This withdrawal added confusion, and deprived the electoral process of the presence of opposition representatives, vital for transparency. Whilst it is clear that in some instances SDSM representatives had grounds to be concerned for their safety, this was not the case in all polling stations.

The overall poor quality of the vote count (17% bad or very bad) was due to discrepancies in the number of ballots in the box and number of voters marked on the registers as having voted. Observers also noted that, often (18.37%), the numbers of unused ballots and those participating in the poll were not determined by the PEB, illustrating the messy conduct of the count in some instances.

However, in some of the re-run areas, such as Debar, observers reported an improvement in the process. In many other polling stations, PEBs were making a genuine effort to improve on the second round. These noted improvements in some areas highlight the deliberate nature of the irregularities in other areas, not only deriving from “customary” or “traditional” practice.

Following the re-runs, the SDSM submitted complaints in 224 of the 230 polling stations, but withdrew those the next day. The SEC was thus able to announce that the election process was completed and that the results were final and binding.

The final result was:

Boris Trajkovski	VMRO	582,208
Tito Petkovski	SDSM	513,614

IX. Recommendations

A Legislative Framework

Clarify articles of the parliamentary election law that are relevant for the presidential election

Ensure that deadlines for the consideration of appeals are sufficient

Clarify admissibility of evidence for electoral complaints

- 1 There should be a clearer separation of the Parliamentary Election Law and Presidential Election Law. In the current laws, it is not clear which articles of the parliamentary election law are applicable during a presidential election. Also, due to the different nature of the two types of elections, the wording of many of the applicable articles is not entirely relevant. A full and separate Presidential Election Law would be more appropriate.
- 2 Article 72.3 of the Parliamentary Election Law allows for complaints regarding the conduct of voting and counting up to five hours after the close of polling. This is a good mechanism in cases where PEB members or observers feel intimidated. However, the admissibility of such complaints was not consistently applied by the SEC. Therefore, the applicability of this article needs to be re-affirmed.
- 2 The current deadline of 48 hours for the consideration of complaints and appeals by the SEC and Supreme Court has proved inadequate under the weight of a substantial number of complaints. A deadline of 72 or 96 hours might be more appropriate.
- 3 Articles in the law on election complaints need to be re-considered, clarifying the admissibility of evidence. For example, at present the PEB minutes and complaints submitted within five hours of the close of polling are considered. Yet, the Supreme Court admitted evidence submitted by the Ministry of Justice within the deadline, but the SEC did not.
- 4 Article 97 of the Parliamentary Election Law lists violations which can result in the annulment of voting, including violations of the secrecy of the vote. Whilst it is imperative that the secrecy of the vote is not violated, it is not clear

that all such reported instance should result in the annulment of voting. The article could be clarified.

B Election Administration

Parties and candidates should have representatives on all election commissions and boards by virtue of competing in an election

PEB members need comprehensive training

The legal obligation for PEB members to carry out their duties according to the law must be enforced

- 1 Political parties and candidates should have representation on all election commissions and boards by virtue of their valid registration for an election. Representation should not only be based on the performance of parties at a previous election.
- 2 Representation on election commissions and boards should not be governed by the two criteria of “parties in government” and “parties in opposition”.
- 3 If the criteria for representation continues to include a reference to the 5% threshold at a previous election, the law should explicitly state to which part of the mixed parliamentary election system the 5% refers.
- 4 With regards to the multi-party formation and functions of Polling Election Boards, a number of important factors need to be addressed:
 - i) All participants in the election need to have the right to nominate representatives to each Polling Election Board, ensuring true multiparty representation in each polling station.
 - ii) Article 19 of the Parliamentary Election Law should be reconsidered, allowing parties to nominate representatives to a PEB even when the person in question is not a resident of the election district. Given the demographic composition of the country and the settlement pattern of the two main communities, this is the only way to facilitate ethnic-Macedonian representation in all ethnic-Albanian areas, and vice-versa.
 - iii) Political parties must seek to nominate capable and responsible persons for PEB duties (Article 19, B3ii). Their nomination should be timely in order to allow a full and comprehensive training by the SEC.
 - iv) The SEC must be able to issue direct and binding instructions to PEBs, without reference to or the possibility of an effective ‘veto’ by the relevant DEC. This will help ensure greater uniformity, based on best practice, at the polling station level.

- v) The relevance of the legal responsibility for PEB members to carry out their duties in accordance with the law, as expressed in general terms in Article 108 of the Parliamentary Election Law, needs to be more clearly articulated. If a person is found to have breached the law, there should be a graded series of sanctions. In addition, persons found guilty should be prevented from taking up such a position, or other public position, in the future.

C. Voter Education and Registration

Full details on all uncollected voter cards must be made public

There should be a thorough voter education campaign, in Macedonian and Albanian, targeting the illegality of proxy and family voting

- 1 Full details of uncollected voter cards must be made public by the Ministry of Justice. Such details should include the number per election district and the names of the persons concerned.
- 2 A full voter education campaign must be initiated, targeting the issues of illegality of family and proxy voting. This campaign needs to be in at least two languages (Macedonian and Albanian). Posters in both languages should also be produced for placement in polling stations, indicating the illegality of such practices, and the legal punishment applicable.

D. Media and Campaign

Media legislation needs to be developed to cover print media and the special responsibility of publicly-funded media

- 1 Legislation on the media coverage of the campaign needs to be clarified and developed, particularly with regards to the print media and publicly-funded media.
 - i) The legal framework for the presidential election only regulates the campaign coverage in the electronic media. This lead to a vacuum of legal guidance for the print media, with each newspaper developing its own internal guidelines and thus an inconsistent approach.
 - ii) If the legislation governing the elections remains as vague as at present, and thus requiring a parliamentary “decision” on the conduct of the media, then it must be ensured that the parliament actually passes such a “decision”. Further the “decision” must be applicable for

- the election in question, as the requirements of the presidential and parliamentary elections are not the same.
- iii) Publicly-funded media has a special responsibility to be equal and fair in its coverage, but has consistently failed to meet its responsibilities. It might be pertinent to develop specific rules for publicly-funded media, to define their role more clearly.
 - iv) Any change to the media legislation needs to include a right of reply and correction.

E Voting and Counting Procedures

The practice of proxy and family voting, as well as party activists gathering at polling sites, need to be addressed

Appropriate and relevant sanctions need to be imposed to secure the integrity of the vote

- 1 The administrative procedures issued as instructions for the 1999 presidential election should be incorporated into the law to ensure their implementation for future elections. These included:
 - ordering the mixing of ballots;
 - ensuring ballots are not transparent by having black boxes on the reverse or better quality paper;
 - requiring a ballot to be counted as valid so long as the voter's preference is clear
- 2 There should be legally prescribed and relevant sanctions against persons attempting to vote on behalf of others, or persons attempting to violate the secrecy of the vote by voting with another person. Article 108 of the Parliamentary Election Law is too vague.
- 3 There is a need to prevent groups of party activists from being present at polling sites. There are two mechanisms for addressing this problem:
 - i) Political parties need to be made aware of, and meet, their responsibility in controlling their activists.
 - ii) Law enforcement agencies could be used to police polling sites, if requested by the PEB or DEC, ensuring voters are free to enter polling stations unhindered. However, once the law enforcement personnel have carried out the job they should not remain inside the polling stations unless called again.

ANNEXES

Annex 1 - The Media

Electronic Media

The EOM monitored seven television stations (MTV1, MTV2, A1, Sitel, Telma, Channel 5, TV Era).

MTV Channel 1: During both rounds, MTV Channel 1 (MTV1) carried extensive coverage of the campaign. The internal guidelines of the television station dictated that every rally of each candidate would be covered during the “Election Chronicle” program. Unlike other private national television stations, MTV1 provided reporting from every rally in all the regions of the country. MTV1 made a commendable effort to inform the public about the campaign. In addition to daily coverage of campaign events (sometimes lasting until past midnight), MTV1 scheduled a series of debate programs that were attended by all candidates and served as an excellent forum during which candidates discussed issues relevant to the elections.

During the first round, the EOM noted that MTV1 had a tendency to favour the VMRO candidate. Although the quantitative analysis shows that the time allocated in the electoral programs was fairly distributed and neutral in tone, VMRO candidate Boris Trajkovski was given noticeably higher quality coverage during his campaign. Footage from his rallies was typically broadcast during the prime time news programs when other candidates received only voice coverage.

During the second phase of monitoring, MTV1’s election coverage was neutral. However, MTV1 clearly used its news programs to promote the achievements of the government without broadcasting reports that were critical of the government.

The campaign coverage on MTV1 was correct regarding the presentation of campaign-related facts and events. However, MTV1 showed a distinct tendency to present the VMRO candidate in a more positive light than any other candidates.

Paid advertising in the first round was purchased by the VMRO, DA, and SDSM candidates. In the second round, the vast majority of paid advertising was purchased by the VMRO candidate, with limited advertising by the SDSM candidate.

The two national private television stations, Sitel and A1, broadcast across approximately 70% of the population. Unlike MTV1, the two national television stations limited their coverage of the campaign to events in Skopje.

A1 Television: In both the election coverage and news programs, time on A1 was allocated fairly among candidates. Journalists from A1 refrained from any comments, negative or positive, about any of the candidates. In the news, no reports on candidate rallies or meetings were given; such events were broadcast only as paid political

programs. In the news, the election-related material contained excerpts of press conferences and other election-related news.

Although A1 did not broadcast each of the regional campaign rallies, the station actively participated in the elections through hosting a series of debate programs and roundtables with journalists and intellectuals.

Sitel: The EOM noted that election coverage on TV Sitel was more objective than it had been during the 1998 parliamentary elections. Sitel's coverage of campaign rallies and press conferences was balanced. In first round campaign coverage, Sitel broadcast a free-of-charge interview with only one candidate, Stojan Andov, because the other candidates had time conflicts.

However, during both the first and second rounds, the program host of the political program "Profile" made a practice of regularly criticising government officials and commenting negatively on the general legal situation in the country. Sitel was very careful to avoid mentioning presidential candidates by name and instead kept commentary to the government as a whole. During the second round, there were some important changes in Sitel's coverage of the campaign. Media monitoring showed a clear anti-government bias in Sitel's reporting, both in news programs and more openly in the "Profile" program. Additionally, Sitel was criticised by the SEC for broadcasting inaccurate reports from SEC meetings and press conferences.

On 14 November during the second round, Sitel completely lost power for approximately four and a half hours. The station claimed interference by the government. The government claimed a technical malfunction in the power supply.

Local Macedonian-language Electronic Media

The two Skopje-based Macedonian-language television stations monitored, **Telma** and **Channel 5**, both showed a fair and professional coverage of the campaign. Both channels are received throughout 70% of the Skopje metropolitan area.

Due to limited resources, Telma and Channel 5 television only covered campaign events taking place in Skopje. However, each of the channels participated actively in the campaign through providing both free-of-charge time and debates for the candidates. All candidates participated in free-of-charge time and debate programs on both media to promote their issues during the campaign.

Albanian-language Electronic Media

MTV Channel 2 (MTV2) conducted a much more low-key approach to the campaign than did MTV1. The Observation Mission monitored the Albanian-language programming on Channel 2 and found its campaign coverage largely balanced and neutral. However, during the first round, a slight bias in programming towards the DPA candidate was apparent. They received the most coverage and the largest amount of direct speech time during news programs. In the second round, the coverage was largely balanced.

TV Era's coverage of the campaign was also neutral and professional. Although the Albanian candidates had more time on TV Era, this time was free-of-charge time that was equally offered to the Macedonian candidates.

Print Media

The EOM monitored five newspapers for five weeks. They included three Macedonian-language newspapers (*Nova Makedonija*, *Utrinski Vesnik*, *Dnevnik*) and two Albanian-language newspapers (*Flaka* and *Fakti*).

Nova Makedonija: During both monitoring periods, *Nova Makedonija* reported on the election campaign in a special section of the newspaper. Within these reports, usually from rallies or press conferences, journalists reported in a neutral and balanced manner with each candidate receiving an equal amount of space.

The political bias of *Nova Makedonija* became clear in its editorials and other reports not related specifically to the election campaign. One of the most disappointing examples was the November 7th edition of the newspaper with a front-page headline that read “Will the atheist Petkovski only be the President of the Orthodox citizens?” A story, also on the front page, questioned whether the SDSM candidate had an illegitimate child. The newspaper, with a majority of government funding, had a special responsibility to provide balanced coverage.

Dnevnik: The coverage in *Dnevnik*, an independent Macedonian-language newspaper, was objective and balanced throughout the campaign.

Utrinski Vesnik: During the first monitoring period, *Utrinski Vesnik* reported on the campaign in a generally objective manner. A slight tendency towards the opposition candidate (SDSM) was noted. However, this tendency became much stronger during the second monitoring period, during which *Utrinski Vesnik* showed a clear bias towards the SDSM candidate. Their reports from campaign rallies and press conferences, highlighted the newspaper's support for the SDSM candidate.

Flaka: Similar to *Nova Makedonija*, the majority of *Flaka's* funding comes from the government. For this reason, *Flaka* shares the responsibility of a public service newspaper to report on the elections in a balanced manner. One of the most serious campaign violations in the media was the October 29 edition of *Flaka*. On the day before campaign silence, a picture of the DPA candidate covered almost 80% of the front page of the *Flaka* newspaper, with at least 15 pictures inside the newspaper and a special interview with the DPA candidate. In the second monitoring period, *Flaka's* coverage was less active and fairly balanced.

Fakti: *Fakti* reported accurately on the election campaign. During the first round, *Fakti* made an effort to include the activities of the Macedonian candidates as well as Albanian candidates. In the second round, *Fakti* showed a bias toward the VMRO candidate, both inside the campaign reporting section and in editorials.