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**Office for Democratic Institutions and Human Rights**

**FORMER YUGOSLAV REPUBLIC OF MACEDONIA:**

**PRESIDENTIAL ELECTION  
14 & 28 APRIL 2004**

**OSCE/ODIHR Election Observation Mission  
Final Report**



**Warsaw  
13 July 2004**

## TABLE OF CONTENTS

|                     |   |           |
|---------------------|---|-----------|
| <b><u>I.</u></b>    | <b><u>EXECUTIVE SUMMARY</u></b> .....                     | <b>1</b>  |
| <b><u>II.</u></b>   | <b><u>INTRODUCTION AND ACKNOWLEDGMENTS</u></b> .....      | <b>3</b>  |
| <b><u>III.</u></b>  | <b><u>BACKGROUND</u></b> .....                            | <b>3</b>  |
| <b><u>IV.</u></b>   | <b><u>LEGISLATIVE FRAMEWORK</u></b> .....                 | <b>4</b>  |
| <b><u>V.</u></b>    | <b><u>ELECTION ADMINISTRATION</u></b> .....               | <b>6</b>  |
| <b><u>A.</u></b>    | <b><u>ELECTION BODIES</u></b> .....                       | <b>6</b>  |
| <b><u>B.</u></b>    | <b><u>ELECTION PROCEDURES</u></b> .....                   | <b>8</b>  |
| <b><u>VI.</u></b>   | <b><u>ELECTION CAMPAIGN</u></b> .....                     | <b>10</b> |
| <b><u>A.</u></b>    | <b><u>FIRST ROUND</u></b> .....                           | <b>10</b> |
| <b><u>B.</u></b>    | <b><u>SECOND ROUND</u></b> .....                          | <b>11</b> |
| <b><u>C.</u></b>    | <b><u>ADDITIONAL COMMENTS</u></b> .....                   | <b>12</b> |
| <b><u>VII.</u></b>  | <b><u>MEDIA</u></b> .....                                 | <b>13</b> |
| <b><u>A.</u></b>    | <b><u>REGULATORY FRAMEWORK</u></b> .....                  | <b>13</b> |
| <b><u>B.</u></b>    | <b><u>EOM MEDIA MONITORING</u></b> .....                  | <b>14</b> |
| <b><u>VIII.</u></b> | <b><u>COMPLAINTS AND APPEALS</u></b> .....                | <b>15</b> |
| <b><u>A.</u></b>    | <b><u>PRE-ELECTION COMPLAINTS</u></b> .....               | <b>15</b> |
| <b><u>B.</u></b>    | <b><u>FIRST ROUND OF VOTING</u></b> .....                 | <b>16</b> |
| <b><u>C.</u></b>    | <b><u>SECOND ROUND OF VOTING</u></b> .....                | <b>17</b> |
| <b><u>IX.</u></b>   | <b><u>PARTICIPATION OF WOMEN AND MINORITIES</u></b> ..... | <b>18</b> |
| <b><u>A.</u></b>    | <b><u>WOMEN'S PARTICIPATION</u></b> .....                 | <b>18</b> |
| <b><u>B.</u></b>    | <b><u>NATIONAL MINORITIES</u></b> .....                   | <b>19</b> |
| <b><u>X.</u></b>    | <b><u>DOMESTIC OBSERVERS</u></b> .....                    | <b>20</b> |
| <b><u>XI.</u></b>   | <b><u>OBSERVATION OF VOTING AND COUNTING</u></b> .....    | <b>20</b> |
| <b><u>A.</u></b>    | <b><u>FIRST ROUND</u></b> .....                           | <b>20</b> |
| <b><u>B.</u></b>    | <b><u>SECOND ROUND</u></b> .....                          | <b>21</b> |
| <b><u>XII.</u></b>  | <b><u>ELECTION RESULTS</u></b> .....                      | <b>23</b> |
| <b><u>A.</u></b>    | <b><u>FIRST ROUND</u></b> .....                           | <b>23</b> |
| <b><u>B.</u></b>    | <b><u>SECOND ROUND</u></b> .....                          | <b>23</b> |
| <b><u>XIII.</u></b> | <b><u>RECOMMENDATIONS</u></b> .....                       | <b>23</b> |
| <b><u>A.</u></b>    | <b><u>LEGISLATIVE FRAMEWORK</u></b> .....                 | <b>23</b> |
| <b><u>B.</u></b>    | <b><u>ELECTION ADMINISTRATION</u></b> .....               | <b>24</b> |
| <b><u>C.</u></b>    | <b><u>POLITICS AND CAMPAIGNING</u></b> .....              | <b>25</b> |
| <b><u>D.</u></b>    | <b><u>MEDIA</u></b> .....                                 | <b>25</b> |
| <b><u>E.</u></b>    | <b><u>COMPLAINTS AND APPEALS</u></b> .....                | <b>26</b> |
| <b><u>F.</u></b>    | <b><u>MINORITY PARTICIPATION</u></b> .....                | <b>26</b> |
| <b><u>G.</u></b>    | <b><u>GENDER ISSUES</u></b> .....                         | <b>26</b> |
|                     | <b><u>ANNEX A</u></b> .....                               | <b>27</b> |

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[ABOUT THE OSCE/ODIHR](#).....29

**FORMER YUGOSLAV REPUBLIC OF MACEDONIA:**

**PRESIDENTIAL ELECTION**

**14 & 28 APRIL 2004**

**OSCE/ODIHR Election Observation Mission  
Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

In response to an invitation by the Ministry of Foreign Affairs, the OSCE/Office for Democratic Institutions and Human Rights (ODIHR) deployed an election observation mission (EOM) to the Former Yugoslav Republic of Macedonia for the 14 and 28 April early Presidential Election. The OSCE/ODIHR assessed the Presidential election in terms of its compliance with commitments with the 1990 Copenhagen Document.

The 14 and 28 April 2004 Presidential Election was generally consistent with OSCE election-related commitments. However, election-day irregularities in some areas, particularly during the second round, cast a shadow over the process as a whole. The OSCE/ODIHR EOM observed incidents of proxy voting, ballot box stuffing and intimidation, which were much more evident in the second round. The tensions and irregularities that occurred during that round may have been aggravated by the requirement that votes must be cast by more than half of registered voters for the election to be successful.

Following the tragic death of former President Boris Trajkovski, Parliament enacted amendments to the Presidential Election Law enabling an election to be held on an accelerated basis within the short period (40 days) specified by the Constitution. The amendments provided an adequate timeline for electoral activities, but did not adequately address the issue of ballot production in minority languages. In addition, the underlying legislative framework (consisting of several laws) continues to display numerous inconsistencies.

Election administration, primarily the State Election Commission (SEC), operated in a generally constructive manner, particularly given the time constraints of the process. However, the SEC did not consistently issue regulations needed to clarify the legislative framework, for instance to replace unsuitable forms.

Excess names on the Voter List caused concern regarding opportunities for possible electoral malfeasance, as well as increased difficulty in reaching the necessary turnout of registered voters in the second round. This excess is considered to be substantial when

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<sup>1</sup> This report is also available in the Macedonian language. However, the English version remains the only official document.

viewed against the estimated actual population as revealed by the 2002 census. It has arisen because the issue of whether voting rights are linked to residence has not been resolved.

The election campaign was largely free of violence, and the candidates were able to communicate to the electorate without interference. The campaigning was very low-key, however, and the parties increasingly concentrated on the issue of the turnout threshold as the second round approached.

There was little attempt by the candidates to campaign across the main ethnic division, between ethnic Macedonians and ethnic Albanians. One of the ethnic Albanian-based parties supported one of the remaining, ethnic Macedonian candidates in the second round.

The media situation was generally good, with State-owned media channels providing relatively balanced coverage and the private media offering varied and generally fair programming. The Broadcasting Council monitored the broadcast media for compliance with the media rules for the election, but generally lacks enforcement authority.

The voting and counting were relatively orderly during the first round, but a somewhat careless attitude toward procedures – perhaps caused by the impression that the outcome was not in doubt – sometimes led to non-compliance with instructions. During the second round, however, observers reported a relatively high number (4 per cent) of instances in which evidence of ballot-stuffing was present, and a similar incidence (6 per cent) of identical signatures on the voter lists. There was also a high degree of intimidation in and around polling stations in certain areas – directed at voters, election officials and even observers. The counting process during the second round was evaluated as bad or very bad in 21 per cent of polling stations observed.

Complaints after the first round were summarily disposed of by the SEC on very rigid criteria, based on partisan voting by the members who had been selected by the ruling or opposition parties. In so acting, the SEC missed an opportunity to communicate a strong message that electoral malpractices would not be tolerated during the second round. Second-round complaints were disposed of by SEC in a similar manner, although after receiving criticism in the first round the voting pattern changed slightly; some evidence was reviewed; and a few complaints were found justified (but rejected anyway on the ground that they could not affect the result).

Restoring confidence in the election process will require prompt and vigorous action by the authorities, including holding accountable all those who violated the law. In addition, the institutional deficiencies identified in this report need to be seriously addressed in order to ensure that similar problems do not occur in future elections.

The OSCE/ODIHR stands ready is to co-operate with the authorities to address concerns raised in this report, and is willing to offer its services in order to enable them to follow-up on any of the recommendations outlined below.

## II. INTRODUCTION AND ACKNOWLEDGMENTS

The OSCE/ODIHR Election Observation Mission (EOM) for the 2004 Presidential Election was established in response to an invitation from the Ministry of Foreign Affairs. The EOM, headed by Ambassador Friedrich Bauer (Austria), commenced on 22 March 2004 and continued through 4 May. Some thirty experts and long-term observers from 18 OSCE participating States were deployed in Skopje and eight other cities.

On the two election days, the EOM was supplemented by short-term observers contributed by OSCE participating States and other affiliated States and international organizations. As a result, some 310 observers from 32 OSCE participating States were deployed during the first round, and 277 observers from 36 States for the second round.

On each of the two election days, OSCE/ODIHR observers visited some 1,400 polling stations out of 2,973 throughout the country. In addition, the observers attended the vote tabulation in most of the 34 municipal election commissions.

The OSCE/ODIHR expresses its appreciation to the Ministry of Foreign Affairs, the State Election Commission and other authorities and civil society organizations, as well as embassies and international organizations in the Former Yugoslav Republic of Macedonia, for their assistance and co-operation during the election observation mission. The OSCE/ODIHR would in particular like to thank the OSCE Spillover Mission to Skopje for its cooperation.

## III. BACKGROUND

An early election for the presidency was necessitated by the tragic death of the former President, Boris Trajkovski, in an airplane crash on 26 February 2004. The regular presidential election would have occurred in the autumn, but under the Constitution an election had to be held within 40 days of a vacancy in the office of the presidency. The current election is the fourth presidential election to be held since independence.

The existing Law on Presidential Elections did not address the situation of the presidency becoming vacant, and the election timeline contained in that law was not consistent with the constitutional requirement. Thus on 8 March Parliament enacted a Law on Amending and Supplementing the Law on Presidential Elections (“the Amendments”).

A decision by the Constitutional Court declaring the presidency to be vacant was published in the Official Gazette on 7 March, triggering the election process. On 8 March, the Acting President (Speaker of Parliament) announced that the election would be held on 14 April, with a second round scheduled for 28 April.

The election should also be viewed within the context of the 2001 Ohrid Framework Agreement (OFA), reached by the main political parties from the ethnic Macedonian and

ethnic Albanian communities, in order to return to a normal political process after the civil conflict which occurred that year. The presidential election was conducted just as another major element of the Ohrid Framework Agreement (OFA) process was about to be implemented, with the proposed reorganization and decentralization of power to the municipalities – to be followed by municipal elections expected in the autumn. The current Presidential election was therefore seen as an important indicator of attitudes towards OFA implementation, as well as political party strength prior to the anticipated municipal elections.

#### **IV. LEGISLATIVE FRAMEWORK**

Under the Constitution, the President is elected directly. Candidates qualify to stand for the Presidency by meeting certain criteria, including residence in-country for 10 of the 15 years prior to the election, and demonstrating their support through the submission of petitions signed by 30 parliamentarians or 10,000 registered voters.

To win the Presidency on the first round of voting, a candidate must receive the votes of a majority of the total number of registered voters. If the first round is unsuccessful, the two leading candidates go into a second round no more than two weeks later. The candidate who receives the most votes in the second round is elected, but only if a majority of registered voters cast votes. Otherwise the entire election process has to be repeated.

In addition to establishing a timeline for early Presidential elections, the Amendments to the Presidential Election Law identify the election administration structures to administer Presidential elections; provide for replacement of vacancies on existing election commissions; specified shortened periods for submitting nominations, inspecting voter lists, and campaigning; and create a streamlined system for complaints and appeals. The Amendments also provide for the content of ballot-papers and other electoral materials.

The previous Presidential Election Law remains in effect, except as modified by the Amendments. This law is very general in nature, however, and contains only basic provisions, many of which are drawn directly from the Constitution. Other aspects of election administration for Presidential elections are supposed to be applied in accordance with the Law on Election of Members of Parliament (“Parliamentary Election Law”), except when its provisions are inconsistent with the requirements of a presidential election. This situation creates considerable difficulty in interpretation and application of the laws.

The constitutional requirement that a majority of registered voters cast votes in the second round was particularly problematic. Not only does the turnout threshold in the second round create the possibility of failed elections, but could lead to an unlimited series of repeat elections. In addition, the necessity to achieve the turnout threshold could invite attempts to raise the recorded turnout by unacceptable means –including pressure on voters or even attempted manipulation of the vote.

### *Language of Ballots*

The Amendments to the Presidential Election Law enacted prior to this election include a provision, drawn from the Parliamentary Election Law, which addresses the language(s) in which electoral materials are printed. This provision did not address the implications of these rules for the ballot in an election in which there is no candidate who comes from a minority community whose language is officially recognized. As a result, in the second-round election, the names of the two remaining candidates were printed only in the Macedonian language. This is because, as widely expected, the second round candidates were both ethnic Macedonians.

The language provision in question also does not fully implement the Ohrid Framework Agreement (OFA) principles on languages, which were incorporated into the Constitution through Amendment Five (Article 7). In the absence of additional legislation, however, the State Election Commission did not provide for inclusion of the Albanian language on the second-round ballot.

### *Voting Rights and Residence*

The Constitution grants the right to vote to all eligible citizens, and does not refer to residence in-country as a condition. The Law on Voter Lists, however, provides that citizens' right to vote is implemented through inclusion in the voter list, which is limited to citizens with "residence on the territory" of the country, unless the citizen is "temporarily working or staying abroad".

Another law, on registration of residence, defines residence as "a place where a citizen has settled with intention to live in it permanently and in which place s/he has obtained an accommodation"; temporary residence is defined as "a place where a citizen temporarily resides". The same law also requires citizens to notify the authorities of changes of residence; this requirement extends to those who are "intending to stay abroad from three months to one year or to be on temporary job abroad more than one year". (The Law on Citizen Identification Cards also requires citizens to update their residential information.) In practice, few citizens who go abroad, including as emigrants, notify the Ministry of Interior concerning their change of residence.

At present, there is no system of absentee voting for citizens who are away from their areas of residence on election day, no matter whether they are in-country or abroad. Due to the large number of citizens abroad, it would be difficult to establish separate voter registers for them or develop a special system to permit them to vote. Establishing an absentee voting procedure would, however, enable these people to be identified, so that their names could be removed from the voter list at the places of their last registered residence in-country, increasing the integrity of the lists and reducing opportunities for election irregularities.



## **V. ELECTION ADMINISTRATION**

### **A. ELECTION BODIES**

The Amendments to the Presidential Election Law establish a three-tiered system of election administration – the State Election Commission (SEC); 34 Municipal Election Commissions (MECs); and the Election Boards (EBs), of which there are 2,973. Except for their presidents, appointments to these bodies are controlled by the governing and opposition parties which won the most seats in the last parliamentary election.

The actual membership of the election bodies, especially commissions, remained largely the same as for the 2002 parliamentary elections. There was a significant change in the composition of the EBs in certain areas, however, as reflected below.

#### **1. State Election Commission**

The SEC consists of nine members – a president, four Supreme Court judges, each of whom is selected with the agreement of one of the leading ruling and opposition parties, and four members designated by the same parties. The membership of the SEC was largely unchanged from the most recent general elections (2002) – except for its president, who had recently been appointed by the acting State President.

From the outset, the SEC displayed a generally constructive and collegial working relationship, especially with respect to administrative issues. The SEC displayed a flexible attitude toward the participation of both domestic and international observers, extending the deadline for their accreditation in response to the tight deadlines necessitated by the election schedule. But the productivity of the SEC was sometimes hampered by routine regulations such as having every member sign all voter list extracts for both rounds of the election.

Political parties and civil society organizations raised questions over the service on the SEC of the member, designated by the SDSM party, who is the Vice-Minister for Justice; and of her deputy, who is the Secretary-General of Parliament. (No official complaint was filed.) In addition, previous OSCE/ODIHR concerns related to the method of selecting judges to serve on election commissions, by the political parties, have not been addressed.

It is a basic principle of election administration that it must be autonomous. But the autonomy of election administration does not require it to be entirely independent of government or other State bodies. The presence of officials from other agencies in election administration may become problematic, however, when there are incompatibilities between their responsibilities in the two areas. Several members of the SEC also held government positions that could have been considered to be incompatible with their membership on the Commission.

Another case regarding the autonomy of election administration concerned an attempt by one of the ethnic Albanian-based parties included in the SEC to remove its designated member when he did not follow the party's position regarding an independent candidacy which was rejected by the Commission (see complaints and appeals section). Although the party expelled the member, it was unsuccessful in removing him from the SEC since Parliament was not in session. In addition to the principle of autonomy of election administration, this incident also raises concern about the interpretation of a related provision of the national election laws.<sup>2</sup>

Although there is a provision in the legislation for the establishment of a permanent Secretariat to the SEC, this had still not been established or budgeted at the time of the presidential election. Thus the SEC was directly reliant on other government departments, as well as international sources, for many of its technical activities – including data entry and processing as well as logistical operations. In fact, international assistance to the SEC and other election bodies involved a number of agencies and several providers, and included not only direct logistical assistance, but also training of EB members and production of the election day procedures manual.

## **2. Municipal Election Commissions**

The MECs consist of five members – a president, two judges recommended by the leading ruling and opposition parties, and two members designated by the same parties. The MECs are established in areas where regional offices of government agencies have been located, and their number and jurisdiction does not correspond to the legal division of territory into municipalities (currently 123, but expected to drop to around 70 in connection with proposed territorial reorganization).

According to the Amendments to the Presidential Election Law, the MECs had a general responsibility for the legal conduct of the election within their jurisdiction, as well as for a variety of administrative and logistical tasks. Some of the most important tasks of the MECs were to appoint the EBs, register candidate representatives, deliver and receive electoral materials, and tabulate the results in their area. The MECs did not play a role in resolving complaints, and had no explicit power to inspect the materials returned to them by the EBs.

## **3. Election Boards**

The EBs consist of five members, a president and four members designed by the leading governing and opposition parties. The EBs must be established by ten days prior to the election and start their work four days prior to it. The precinct (voting district) boundaries were not changed since the 2002 elections.

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<sup>2</sup> See Parliamentary Election Law, Art. 30: “The president and members of the bodies in charge of conducting elections shall perform their duties impartially, conscientiously and responsibly in accordance with the responsibilities determined by this Law.”

With a requirement of almost 30,000 people countrywide to staff polling stations, there were many changes of personnel reported at the EBs. Difficulties in recruitment reportedly occurred due to lack of interest, an insufficient number of qualified law graduates (a legal guideline for presidency of an EB), and reluctance of some party nominees to go into areas of different ethnicity or political persuasion.

In certain areas, including Gostivar and Kicevo, only one party was represented on some EBs; this led to increased opportunities for malfeasance. Concern about economic retaliation against persons who represented certain parties on EBs, as well as the security of entering some areas, may also have contributed to the absence of EB members or candidate representatives from certain parties. The rejection of all complaints made after the first round, as well as the decision of one of the ethnic Albanian-based parties to withdraw from an active role in the elections, could also have had the effect of reducing balanced representation in EBs.

Training in election-day procedures was organized and supported by an international source prior to the first round but was of limited effectiveness due to the shortage of time and large number of inexperienced staff. Lack of understanding of ballot reconciliation was particularly widespread. 44 per cent of polling stations observed failed to count the unused ballots, and 25 per cent failed to determine how many voters obtained ballots by counting signatures (or fingerprints) on the voters list extract in the first round, and there was no improvement in the second round.

## **B. ELECTION PROCEDURES**

### **1. Instructions**

The SEC adopted useful instructions to clarify certain procedures. In particular, there were improvements in coordination with the Ministry of Interior regarding the deployment and conduct of police. But there was a lack of transparency in reconciliation of the balloting, and in tabulating results.

In particular, the lack of a numerical results protocol for the EBs led to difficulty in reconciling the balloting at many polling stations. The difficulties experienced by Election Boards (EBs) in completing the minutes form (Number 14) were due to its complicated textual nature; but despite this, the form was not changed or supplemented between rounds. The problem with the form was worse in predominately ethnically Albanian areas, since it was produced only in the Macedonian language.

Due to the absence of numerical protocols, results were transferred to a tabular format at the MECs to assist in entering the results into the database. However, this step invited *ad hoc* reconciliation of the vote tallies, and could not be readily monitored by candidate representatives or other observers.

During the first round, observers reported that MECs employed a variety of methods of checking the results from polling stations. Several MECs did not check at all (*e.g.*, in

Centar and Strumica), while others simply altered the results to reconcile them (*e.g.*, Stip, Tetovo, Resen, Kumanovo). In addition, the tabulation process often lacked transparency since the reconciliation as well as data entry sometimes occurred in a separate, closed room, or there was overcrowding in the main room.

The organization of tabulation at the MECs improved in the second round, but problems with Form 14 and lack of reconciliation persisted. Nearly all MECs reported that some EBs filled in results forms at the MEC. Some complaints submitted after that round involved different protocols being submitted to the MEC than were given to candidate representatives at polling stations.

Special voting took place the day before the general election in both rounds. Voting for military personnel and prisoners was generally well conducted, and few problems were reported. Regular, civilian EBs conducted these operations and there was no indication military personnel and prisoners were pressed to vote. Some 860 internally displaced persons (IDPs) were also allowed to vote in IDP centers in Kumanovo and Skopje. However, due to the lateness of this decision by the Government, the deadline for posting and checking the extracts of the voters list had passed. Around 50 per cent of the IDPs were not on the list, and had no chance to check whether they should vote at the center or at their previous residence.

## **2. Voter List**

The Voter List was updated by the Ministry of Justice prior to the election and approved by the SEC on 1 April. The list contained 1,695,103 names, an increase of 30,800 over the list used for the 2002 parliamentary elections.

Due to the condensed timeframe, the list was posted for public inspection for only 10 days, and no public information campaign was conducted. Of the 100,000 people who checked their names – mainly in connection with signing nomination petitions on behalf of presidential nominees – 6 per cent reported errors. Although these were amended, there remains the probability that many more errors remain for the people who did not have the motivation, time or the necessary information to check their details.

In addition, the names of a large number of citizens who have emigrated remain on the Voter List. Only residents temporarily residing overseas have the right to vote, if they return to the country. Based on the 2002 census, generally considered to have been conducted in line with international standards, it is estimated that approximately 7-8 per cent of people on the Voter List may no longer be present in the country.

A number of civil society organizations and political parties expressed concern that the excess names on the Voter List could lead to electoral malfeasance. In addition, such a large excess makes it more difficult to achieve the vote and quorum requirements for presidential elections – in which a candidate must receive the votes of a majority of registered voters to win in the first round; and a majority of registered voters must cast votes in order for a second-round election to be valid.

### 3. Ballots

The SEC decided that ballots would bear only the names of the candidates, as in the 1999 presidential election, and no party names or symbols. This was agreed by all parties represented on the SEC, whose candidates were contesting the election. There appears to be an inconsistency, however, between this decision and the specification in the Amendments that the ballot-papers shall contain, *inter alia*, the “name and symbol (if any) of the list submitter.”

The SEC’s decision was based on the fact that the provision of the Amendments dealing with the ballot was based on a provision of the Parliamentary Election Law, and could not be readily applied to an election in which the candidates were nominated based on petitions signed by certain numbers of voters or parliamentarians. However, omission of party names and especially symbols may have hindered voting by citizens, especially illiterate ones.

### 4. Languages

In addition to the language(s) on the ballot, discussed previously, there were issues with respect to the language of other electoral materials. These included voter lists, lists of polling stations, electoral instructions and forms, and voting instructions and posters of the candidate lists. (The latter two items are required by law to be provided in the languages of all constitutionally-recognized minorities.) There were also problems with respect to the delivery of materials in the Albanian and other minority languages to areas in which those communities are concentrated.

Despite numerous informal complaints about these issues during the first round, they were not substantially addressed by the SEC prior to the second round. In particular, no posters were produced for polling stations for the second round showing the candidates’ names in the Latin script (used in the Albanian and other minority languages).

## VI. ELECTION CAMPAIGN

### A. FIRST ROUND

The SEC approved four candidates on 25 March. The first round candidates – two ethnic Macedonians and two ethnic Albanians – were associated with the four major political parties: **Mr. Branko Crvenkovski**, of the Social Democratic Union of Macedonia (SDSM); **Dr. Sasko Kedev** of the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian Unity (VMRO-DPMNE); **Mr. Zudi Xhelili** of the Democratic Party of Albanians (DPA); and **Mr. Gëzim Ostreni** of the Democratic Union for Integration (DUI). Mr. Crvenkovski was the serving Prime Minister, and the other three candidates are members of Parliament.

The conduct of the first-round campaign was generally positive. The short campaign period, 30 March to 12 April, did not have an appreciable negative impact on the overall ability of the candidates to convey their message to the public. The sporadic violence that characterized the 2002 campaign all but disappeared, and campaign rallies of all candidates generally proceeded without interference.

The EOM received some allegations of pressure or influence on voters in certain areas, although these were relatively few and did not become the subject of formal complaints. The allegations mainly included vote buying (which, with respect to Roma community voting, was substantiated) and threats to employment or other economic opportunities. In any event, all four parties concurred that the first-round campaign had been free of significant problems.

Despite the fact that three of the candidates focused on the need to be the president of all citizens, the campaign was conducted largely on an intra-ethnic basis, with little attempt by Mr. Crvenkovski or Dr. Kedev to appeal to ethnic Albanian voters or by Mr. Ostreni or Mr. Xhelili to attract ethnic Macedonian voters. Dr. Kedev did place a full page advertisement in the newspaper *Fakti* in the Albanian language, and Mr. Ostreni used the Macedonian language in some campaign events. However, neither Mr. Crvenkovski nor Dr. Kedev appeared for a debate held on the Albanian-language public television channel on 3 April, and a second debate on this channel was cancelled when both these candidates declined to appear.

On election night of the first round – after the closing of the polls and during the tabulation of results at the MECs – there were some incidents involving public discharge of firearms in urban areas. These incidents reportedly involved officials and supporters of the main ethnic Albanian parties. The most serious incident occurred in Tetovo, and the EOM was kept informed about it by various sources, including the European Union police unit “Proxima”. The amount of weapons fire was clearly of concern, but the available information characterized it as undirected and “celebratory” – a conclusion which appears to remain supported. Nonetheless, the incident may have involved criminal violations, and posed a danger to public safety. In addition, it might have intimidated voters or other participants in the election process.

## **B. SECOND ROUND**

The election campaign resumed on 17 April, after the announcement of the final first round results. Both candidates continued to hold rallies and meetings with citizens, but the campaign emphasis shifted somewhat towards mobilizing party organizations at the local level to achieve a sufficient voter turnout. The campaigns, however, again appeared to have low visibility at the local level.

Public discussion of the second round focused on the potential for high abstention, and on the extent to which ethnic Albanians would support either candidate. Mr. Ostreni and the DUI actively campaigned on behalf of Mr. Crvenkovski. The DPA, on the other hand, did not support a candidate and did not call on supporters to vote, although it maintained

its participation in election bodies. On election day, however, DPA supporters at some polling stations actively discouraged citizens from voting. Some politicians who were not candidates also called on voters to abstain or emphasized the right not to participate.

While the campaign in the first round was mostly conducted along ethnic lines, the two candidates in the second round made some attempts to appeal to ethnic Albanians directly. Mr. Crvenkovski's campaign placed its first advertisements in the Albanian-language newspapers, which the Kedev campaign had begun to do in the first round. Both candidates held some public events with ethnic Albanian voters.

The pre-election environment was fairly calm, as it was prior to the first round of voting, and there were few incidents of violence. One major exception was the attack on the VMRO-DPMNE party office in Tetovo prior to the second round, involving an explosive device placed on the roof. That party also made numerous allegations concerning intimidation or other coercion of voters, including by threats to their employment or benefits; but none of these have been confirmed by the authorities or made the subject of a formal complaint.

### **C. ADDITIONAL COMMENTS**

Major campaign themes during both rounds of the election included implementation of the Ohrid Framework Agreement, security and stability, Euro-Atlantic integration, the difficult economic situation, rule of law, and the relative leadership qualities of the candidates. Candidates largely avoided the use of inflammatory language, although Mr. Xhelili and other DPA officials used highly charged rhetoric against their opponents. None of the candidates openly called for division of the country or repudiation of the OFA.

Prior to the official start of the campaign, VMRO-DPMNE and some civil society organizations called upon candidate Crvenkovski to step down as Prime Minister while running in the elections, a step which is not required under the law. Some also complained publicly about the participation of government ministers in the SDSM campaign board. None of these claims were officially submitted as complaints, however.

While government officials are not excluded from involvement in political campaigns, extra vigilance is required so that officials do not employ the powers, resources, or facilities of the State to advance partisan interests. With respect to the formal participation of government ministers in the SDSM campaign organization, it is welcome that this step was taken openly and publicly announced by the party.

The EOM was nonetheless concerned about an apparently insufficient separation of politics from State responsibilities and facilities, and the conflicts-of-interest that this implied. In the case of one Minister with whom the EOM had several contacts, it was observed that the official appeared to be conducting campaign business within State facilities and also combining representational activities of an official and political nature.

Finally, the apparent level of SDSM and VMRO-DPMNE campaign expenditures seemed quite high. Campaign expenditures were required to be properly reported, and channelled through the special bank accounts established for campaign finance.

## **VII. MEDIA**

### **A. REGULATORY FRAMEWORK**

Media coverage of presidential candidates is regulated by provisions in the Law on Election of the Members of Parliament. Under that law, candidates are guaranteed equal access to the media. The law also requires Parliament to adopt regulations governing the media coverage of the campaign.

The Rules for Equal Access to Media Presentation, drafted by the Broadcasting Council and adopted by the Parliament on 18 March 2004, stipulated that public media were obliged to inform citizens about the election campaign and the electoral process. Public media were also required to provide free airtime to all candidates on the basis of fair, objective and transparent criteria. Private electronic media, if they decide to provide free airtime, must do so for all contestants on a fair basis.

The Rules also contained requirements on paid political programs, establishing in great detail time limits for advertising in all electronic media. Print media were less regulated, being only required to report on the electoral contestants in a fair, balanced and impartial manner and to respect the pre-electoral silence.

The Broadcasting Council (BC) was authorized to monitor compliance by the electronic media with the rules on coverage of the election campaign. During the campaigns for both rounds of the election the BC monitored the operations of all public and private radio and TV stations legally registered in the country. At press conferences held after each of the two rounds the Council announced the main findings of its monitoring. The BC found that the majority of electronic media, during the campaign for both rounds, showed a satisfactory level of professionalism in providing the contenders with overall balanced treatment.

The BC particularly emphasised the responsible behaviour of the public national broadcaster, Macedonia Radio and Television (MRTV). However, according to the BC's monitoring results, local public broadcasters failed to achieve editorial independence and were subject to political influence.

With respect to violations of the media regulations, a number of deviations from the Rules were pointed out by the BC, especially with regard to the limit on the duration of paid political programs. Warnings were sent to broadcasters that violated the rules, but the BC's lack of direct enforcement authority reduced its capacity to act effectively and in a timely manner in response to unfair or illegal media actions during the campaign.



Breaches of electoral silence were noted as well. In this regard the BC expressed concern that closing a broadcast station for 48 hours, the remedy established under the Parliament Election Law, is overly restrictive. The BC expressed the view that such a sanction should be applied only in cases of explicit agitation or when the violation, in spite of a previous warning, is repeated.

## **B. EOM MEDIA MONITORING**

The EOM conducted media monitoring of the political and campaign content of selected print and electronic media. Four TV channels and five newspapers<sup>3</sup> were analyzed on a daily basis in order to assess the media coverage of presidential candidates and relevant political actors during the campaigns for the first and second round.

A large spectrum of electronic and print media provided comprehensive coverage of the elections offering information concerning the electoral process and campaign. Between the rounds the overall attention devoted to the candidates' activities decreased with the media coverage focused increasingly on the turnout issue, the potential for abstention and on whether the main Albanian parties would support the two Macedonian candidates.

The media environment was broadly professional during both rounds. No instances of explicit hate speech emerged during the course of the campaign, and the political rhetoric used by the contestants and the journalists in the media arena was generally within the boundaries of responsible democratic discourse.

The national public broadcaster fulfilled its legal requirements, providing all candidates with the opportunity to present themselves during special free-of-charge direct access programs broadcast on MTV1 and on MTV3 (Albanian language). The presidential campaign was covered during the main news programs of MTV and in a daily special election program, *Election Chronicle*, reporting on the candidates' campaign activities, rallies and press conferences.

The scheduled debates on the public channels were often cancelled because the candidates declined to participate. Instead, MTV1 broadcast roundtables with NGO representatives, intellectuals and political experts discussing the implications of the elections.

Overall the time devoted by MTV1 to the candidates contesting the elections was balanced and largely unbiased. Prior to the first round MTV3, the public channel which broadcasts in the language of the national minorities, tended to concentrate its attention

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<sup>3</sup> The following electronic media were monitored: the first channel of the public broadcaster TV MTV1 and the private TV A1 and TV Sitel. In addition the EOM analyzed the prime-time news in the Albanian language on MTV3. Among the print media, the dailies *Dnevnik*, *Fakti*, *Vest*, *Vreme* and *Utrinski Vesnik* were monitored.

on the two Albanian candidates, covering them in its main news program with 72 per cent of the campaign related time.

The private TV A1 and TV Sitel during the first round tended to concentrate the campaign coverage on the two candidates with the highest possibility of reaching the second round. In this sense TVA1 devoted 62 per cent of the campaign-related time in the news programs to Dr. Kedev and Mr. Crvenkovski and TV Sitel 76 per cent. Prior to the second round the two remaining candidates received a similar amount of airtime on these private channels.

In the private national TV channels coverage of the candidates' campaign activities were concentrated in special segments of their news programs. Outside the news bulletin few programs were especially devoted to the presidential candidates, including the debate that took place on TVA1 on 26 April.

The tone of coverage in these electronic media was predominantly neutral. Some negative comments were noticed in the case of coverage of Mr. Crvenkovski on TV Sitel.

Prior to the first round the analyzed print media devoted the bulk of their coverage along ethnic lines, with the then leading Albanian language newspaper *Fakti* devoting more extensive coverage to the ethnic Albanian candidates and with the Macedonian papers more concentrated on Dr. Kedev and Mr. Crvenkovski. During both election rounds the dailies *Vest* and *Fakti* provided Mr. Crvenkovski with notably more coverage than Dr. Kedev, but part of the space devoted to him consisted in negative comments.

The majority of space, as well as the majority of airtime, devoted to Mr. Crvenkovski covered him as a presidential candidate rather than as prime minister.

With respect to paid campaign material, the ethnic Macedonian candidates ran extensive paid campaigns in both print and electronic media with little attempt to make use of Albanian media outlets, especially during the first round. It is noteworthy that VMRO-DPMNE during both rounds engaged in negative campaigning targeting the prime minister. SDSM initially responded with an anti-Kedev advertisement, but then ceased negative advertising during the second round. In general, SDSM invested notably lesser resources in paid programs than VMRO-DPMNE during both rounds.

A Get-Out-the-Vote campaign launched by NGOs prior to the second round was given extensive coverage in the electronic and print media.

## **VIII. COMPLAINTS AND APPEALS**

### **A. PRE-ELECTION COMPLAINTS**

Only one formal complaint was submitted prior to election day, by former Interior Minister Ljube Boskovski, concerning the denial of his candidacy. The candidacy of this

independent nominee was rejected by the SEC based on the requirement that a candidate must have resided in the country for at least ten of the fifteen years prior to election day.

Reviewing the information provided by Mr. Boskovski, the SEC found that he had resided in Croatia for a number of years, and did not have the required period of residence in country. The SEC requested additional documentation from the nominee, who indicated that he would not be able to demonstrate the required period of residence. In requesting such documentation, the SEC applied the same approach – reviewing official documentation – as for other nominees.

Mr. Boskovski appealed to the Supreme Court, invoking a constitutional provision allowing residence in other republics of the former Socialist Federal Republic of Yugoslavia (SFRY) to count toward the requirement. The Supreme Court upheld the decision of the SEC, ruling that residence in a former republic of the SFRY after adoption of the Macedonian Constitution in 1991 could not be applied toward residency. Aside from its basis in Macedonian law, this decision was consistent with international law and practice regarding the status and succession of states emerging from the former SFRY.<sup>4</sup>

On 31 March, the Constitutional Court denied a further appeal by the nominee, indicating that the subject was not within its jurisdiction. The nominee then pursued further appeals, including to the full Supreme Court; Primary Court I, Skopje; and the European Court of Human Rights. Failing to secure judicial relief, the nominee embarked upon a political campaign to urge voters to abstain from voting in the election.

Another potential nominee, DPA President Arben Xhaferi, terminated his candidacy prior to submission. He stated that he had received indications that his residency for the required period of time would be questioned by the authorities.

Since Mr. Xhaferi withdrew prior to submitting a request for registration as a candidate, and did not file a complaint or appeal, his claim cannot be verified. The party then successfully nominated another candidate; but it withdrew from active participation in the second round election and did not encourage its voters to go to the polls.

## **B. FIRST ROUND OF VOTING**

Following the first-round election, the DPA filed 16 complaints and VMRO-DPMNE 11 complaints (consolidated to eight by the SEC) concerning alleged irregularities at 113 polling stations and at least one MEC. The fact that the judges appointed with the agreement of political parties uniformly voted the same way as the members designated

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<sup>4</sup> See, e.g., Opinion No. 8 of the Arbitration Commission of the Conference for Peace in Yugoslavia (“Carrington Commission”), 4 July 1992 (Process of dissolution of the SFRY previously recognized by the Commission had been completed by the date of the opinion), *reprinted in* European Journal of International Law, Vol. 14, No. 1, Archive; see also Opinion No. 11 of the Arbitration Commission.

by those parties again raised questions about the independence of the judiciary associated with the method of appointment of judges to occupy election administration posts.

The SEC attributed rejection of the complaints to a number of statutory grounds, but largely did not explain its reasoning. The main basis of its decisions was a provision of the underlying Parliamentary Election Law, Art. 100, which provides that for certain types of violations, annulment of the results is required – but only if the number of votes in question would be sufficient to affect the result in the district (which in the case of a presidential election is the entire country). In applying this criterion the SEC considered the effect of each complaint individually, not cumulatively.

The SEC is actually under more general requirements according to the Amendments to “take care of the legality in the preparation and conduct of the elections ...”, and “decide upon complaints”. The SEC also invoked the latter ground, but only in rejecting complaints due to lack of evidence, and not as a basis for reviewing complaints. With respect to evidence, the SEC did not actually review any evidence available to it (including the electoral materials returned to the MECs from the polling stations), or give any indication what evidence would have been sufficient. The SEC also rejected numerous complaints due to failure by the parties to record their objections at the polling stations or MECs, although allegations had often been made that objections had been prevented.

The Supreme Court confirmed the rejection of all the complaints upon which appeals were received. The Court accepted the SEC’s basis for decision and similarly refrained from reviewing evidence.

### **C. SECOND ROUND OF VOTING**

After the second-round election, the VMRO-DPMNE party submitted 184 complaints involving alleged irregularities at 180 polling stations. Many of the complaints were very similar and might have been combined into classes for purpose of consideration by the SEC. In 35 instances, for example, the party claimed that its representatives had been forced to leave by groups of armed men who then stuffed the ballot boxes. However, the necessary objections were filed only several hours later, at the relevant MECs, and in the interim the party did not report these circumstances to the SEC or other authorities, including the police.

In 40 instances objections were not made by authorized representatives of the party. In addition, some complaints were based on incorrect allegations that the minutes of the EBs had not been properly signed.

Proceeding to consider the allegations concerning each polling station separately, the SEC decided all complaints by 3 May – about half a day after the statutory deadline. The SEC rejected all the complaints, despite finding the complaint justified in six instances. (These cases were rejected anyway, on the basis of Art. 100, since the final results could be not have been affected by the number of votes involved.)

Similarly to the first round, the SEC generally did not examine the evidence contained in polling station materials, which had been transferred to the MECs in ballot boxes, and then on to the SEC. Such evidence – including the minutes, voter list extract, ballots and other materials – were examined in 13 cases, however.

Unlike after the first round, some decisions were not made along strictly partisan lines. This time 44 (out of 180) complaints were decided by different majorities than the 5-4 votes during the first round. In particular, the judges did not always cast their votes in support of the position of the party which had designated them.

Following its decisions, the SEC organized the complaints into 19 cases, for consideration by the Supreme Court. The Court reached its decisions in these cases on 6 May. Based on decisions of its election councils, the Court accepted the complaints in three cases, involving five polling stations. Similarly to the first round, the decisions of the Court were not published, but communicated only to the parties of interest (the submitter and the SEC).

Another issue related to the appeals process in the Supreme Court was also identified by the previous OSCE/ODIHR EOM during the 2002 elections and has not been addressed. The form of appeal followed by the Court, the so-called “administrative review”, is a relatively non-transparent proceeding from which the public is excluded and the decisions are only communicated directly to the parties to the case (in this case, the SEC and the submitter of the appeal). This also detracts from public understanding and confidence in the outcome.

## **IX. PARTICIPATION OF WOMEN AND MINORITIES**

### **A. WOMEN’S PARTICIPATION**

No women were nominated as presidential candidates, and gender issues were mostly absent during the campaign. The EOM also noted that attendance by women at candidate rallies was generally low. Mr. Ostreni addressed a large group of women supporters in Skopje, where he called for greater participation of ethnic Albanian women in political activities and for an increased role for them in all spheres of society.

Regarding election administration, there is one woman on the SEC (out of 9 members), and representation on MECs varies from 10 to 50 per cent, with urban areas tending to have a greater concentration of women MEC members than rural areas. Based on EOM observations in the first round, 59 per cent of Election Boards visited had women members, but the number was lower (44 per cent) in ethnic Albanian areas.

The Union of Women's Organizations in the Republic of Macedonia participated as a domestic observer organization, with 45 observers in 15 municipalities. The

organization's monitoring focused particularly on family voting and other discrimination against women's voting rights.

Following the 2002 parliamentary elections, for which there was a legal requirement to have 30 per cent representation of women on the candidate lists, women now hold 21 seats in parliament (18 per cent), in contrast with the nine women elected to the previous assembly (7 per cent).

## **B. NATIONAL MINORITIES**

As in previous presidential elections, there were candidates from the large ethnic Albanian minority. While, given the established patterns of ethnic voting in the country, neither Mr. Ostreni nor Mr. Xhelili expected to proceed to the second round, their political parties (DUI and DPA, respectively) had other reasons to participate in the election. These included offering support to the ethnic Macedonian parties with which they are in coalition in return for concessions, and to consolidate support ahead of the upcoming municipal elections. DUI also indicated that it was important for the country that ethnic Albanians play an active role in choosing the president.

No candidates from other national minorities were nominated, but several parties representing various minorities aligned themselves with one candidate or another. The candidates also made efforts to reach out to non-Albanian minorities. These minorities, particularly the Roma, Turks and Vlachs, were also represented on some MECs and EBs.

The primary issue affecting the participation of ethnic minorities was the disproportionate impact of election day irregularities on the ability of members of some minority groups, particularly ethnic Albanian and Roma communities, to express their will through voting. The ethnic Albanian community suffered the majority of observed electoral irregularities in the second round, probably due to the perception that Albanian votes held the key to meeting the 50 per cent threshold.

Roma were the other minority group most affected by election irregularities. Prior to both rounds of voting, there were persistent allegations of vote buying and pressure on Roma voters in the towns of Stip and Strumica. Roma leaders reported to the EOM that the major parties had engaged in such practices in the eastern part of the country in the past.

A Roma NGO claimed that many Roma voters are missing from the Voter List, but no complaints were filed by voters. Such a situation could be compounded by the relative lack of education, identity documents, and permanent housing in the Roma community.

During the first round election, members of the Roma community in Suto Orijari, north Skopje, complained to domestic observers that their votes had been cast for them. Evidence of ballot stuffing at this large polling center was directly witnessed by OSCE/ODIHR observers. During the second round of voting there was some improvement in the conduct of the election in this area – perhaps related in part to the

focus by international and domestic observers there during the first round – but similar problems reportedly occurred in other voting centers in Roma areas.

## **X. DOMESTIC OBSERVERS**

Over 4,000 domestic nonpartisan observers from eight different organizations were accredited. The widespread deployment of domestic observers increased the transparency of the electoral process. Observers at polling stations in certain areas where malfeasance occurred were often intimidated, however, and sometimes unwilling to report fully what they had observed.

During the first round of voting, EOM observers reported the presence of domestic nonpartisan observers in 55 per cent of polling stations observed. Candidate representatives, who could be registered up until election day, were observed in 92 per cent of polling stations visited. During the second round elections, OSCE/ODIHR observers again reported that over half of all polling stations were covered by static domestic observer teams, but it was reported that the number of polling stations in which candidate representatives were present dropped to 82 per cent (possibly due to lack of participation by one of the ethnic Albanian-based parties).

The largest domestic monitoring effort was conducted by the umbrella organization, MOST, which deployed 3,320 observers during the first round and some 3,200 observers during the second round. During both rounds MOST also conducted accurate parallel vote tabulations. MOST also gave four press conferences on the election days, drawing attention to the turnout, as well as to polling stations where irregularities had been witnessed. During the first round, this led to a debate at the SEC concerning whether MOST's public statements violated election silence; during the second round MOST seemed to take a more cautious approach.

The second-largest domestic observer group, Confidence, fielded some 400 observers, and also issued statements during the second day of voting concerning incidents of electoral malfeasance.

A variety of other domestic NGOs, including the Macedonian affiliates of the Helsinki Committee for Human Rights and Transparency International, also participated directly or indirectly in election observation. In addition, some specialist observer groups, including the Prilep Handicapped Centre, Alliance for Youth in Tetovo and the Union of Women's Organizations, monitored the electoral rights of handicapped, ethnic minority and women voters respectively.

## **XI. OBSERVATION OF VOTING AND COUNTING**

### **A. FIRST ROUND**

Voting was conducted in a generally peaceful manner throughout the country. Voter turnout was reported as approximately 55 per cent of registered voters, which was markedly lower than in any other recent national election.

While election day procedures were assessed positively in the vast majority of polling stations observed, procedural errors were noted during the closing of polling stations, and some significant problems emerged during the vote count and tabulation process at both polling station and MEC levels.

Opening procedures were judged to be good or very good in 92 per cent of all polling stations observed. Still, 33 per cent of polling stations opened late for a variety of reasons (although generally opened within 30 minutes), and one polling station failed to open at all due to a local dispute. Voters boycotted several polling stations in protest over the reported failure of local administration to provide desired infrastructure.

The voting process was assessed as good or very good in 95 per cent of the polling stations observed. However, there were incidents of proxy voting in 26 polling stations, and strong indications of ballot stuffing were observed in 11 polling stations. In two polling stations observers directly witnessed an election board member falsifying signatures on the extract of the Voter List. Significantly, in 6 per cent of polling stations observed, voters did not sign or mark the voter list in any way.

Group voting was also observed in 13 per cent of polling stations, rising to 20 per cent in ethnically Albanian areas. Although group voting, which was observed generally among families, is a serious breach of secrecy of the ballot, it must be pointed out that this figure is lower than in previous elections.

Counting and tabulation procedures were not rated so highly. Procedural errors occurred in many polling stations that inhibited some of the important safeguards of the electoral process.

In 14 per cent of polling stations observed the results did not reconcile. However, in less than half of these cases, did the election board recount the ballots as required by law. In some cases, signatures were added to the voters list to rectify the problem. The lack of a clear, tabulated results protocol impeded the Election Boards in their ability to fulfill the procedures, and 12 per cent of EBs observed had difficulty in filling out the minutes (Form 14). In 40 per cent of polling stations observed, the results were not posted at the polling station.

Similarly, there were problems in some of the MECs observed. In several MECs results were systematically changed to reconcile them, and to allow entry into the computerized data system. In another two MECs, the results forms were checked and entered in a separate room, which observers and candidate representatives were not allowed to enter.

## **B. SECOND ROUND**



The overall assessment of the opening process was positive (good or very good in 89 per cent of polling stations observed). The voting process was also generally assessed as positive with voting rated as good or very good in 92 per cent of polling stations observed. In some areas of the country, largely in the south and east, observers noticed an improvement between the two election rounds. However, in other areas the process was seriously marred by ballot box stuffing, proxy voting and intimidation.

Strong indications of ballot box stuffing – substantially larger number of ballots issued than signatures in the voter list or stacks of ballots folded together in the ballot box – were reported in a significant number (4 per cent) of all polling stations observed. Multiple instances of ballot stuffing were reported in MEC areas Debar, Gostivar, Kicevo, Gazi Baba, Struga, Kumanovo, Centar, Cair, Kisela Voda, Struga and Tetovo. Isolated incidents were reported in MEC areas Prilep and Veles.

Proxy voting was reported in 2 per cent of polling stations observed. There were reports of identical signatures on the voters list – also a potential indication of ballot stuffing or proxy voting – in 6 per cent of polling stations observed. In 4 per cent of polling stations observed, voters never signed the voter list and in a further 4 per cent voters did not always sign the list. Election board members did not check identification of voters in 4 per cent of polling stations observed, and ink was not always applied to voters' thumbs in 6 per cent. Thus, important safeguards against ballot stuffing, proxy voting and other election fraud were undermined. The secrecy of the ballot was not respected in 6 per cent of polling stations observed.

Also of concern was the degree of intimidation reported in and around polling stations. At some polling stations, voters were actively discouraged from voting. In others, intimidation was directed against members of election boards, domestic observers and candidate representatives. In one particularly serious incident in Tetovo, a group of armed men, including a member of Parliament and other prominent DPA members, damaged a ballot box in polling station 2050 in Sinicani and were later detained by police in polling station 1926 in Tetovo, where they were preventing people from voting. There were also reports of armed groups in the Skopje area, and fights were reported in three polling stations. International observers were prevented from observing in a few polling stations.

The closing and counting process was observed in 117 polling stations. In 21 per cent of these, the process was reported as bad or very bad. This figure was up from 8 per cent in the first round. Problems were partly due to a lack of understanding of the procedures, especially concerning ballot reconciliation. In 39 per cent of observed polling stations the number of signatures on the list was not used to determine the number of voters that had voted.

Key safeguards were disregarded during the counting process. In 23 per cent of polling stations observed, ballots were not shown to all election board members, candidate representatives and observers. In 59 per cent, a copy of minutes Form 14 was not posted at the polling station. In 17 per cent of observed polling stations, election boards

experienced problems in completing the minutes and in 10 per cent of cases the EB members did not sign the minutes form. Observers reported deliberate falsification of results in 7 per cent of polling stations. Significantly, in 7 per cent of polling stations in which the close and count was observed, observers were prevented from fully carrying out their work.

With regard to the MECs, there was a marked improvement on the process observed in the first round. In 27 of the 29 MECs visited, the tabulation was reported as good or very good.

## **XII. ELECTION RESULTS**

### **A. FIRST ROUND**

On 17 April, the SEC officially announced the final results of the first round presidential election: Branko Crvenkovski, 385,347 votes (42.47 per cent); Sasko Kedev, 309,132 votes (34.07 per cent); Gëzim Ostreni, 134,208 votes (14.79 per cent); Zudi Xhelili, 78,714 votes (8.67 per cent). The SEC also indicated that the overall number of votes cast (including invalid ballots) was 55.18 per cent of the number of registered voters.

Since no candidate received the necessary support from over 50 per cent of registered voters, the SEC certified the two leaders, Mr. Crvenkovski and Dr. Kedev, as candidates for the second round election.

### **B. SECOND ROUND**

On 7 May, the SEC officially announced the final results of the second round election: Crvenkovski, 550,317 votes (60.5 per cent); Kedev, 329,179 votes (36.2 per cent). The overall number of votes cast was determined to be 909,289, or 53.64 per cent of the number of registered voters, and the number of invalid ballots was determined to be 29,793 (1.76 per cent).

Excluded from the final results were the tallies from five polling stations in which the results were overturned by the Supreme Court on appeal. (The results at those stations were: Crvenkovski, 3,205; Kedev, 92; invalid, 19 – totalling 3,316 ballots.)

## **XIII. RECOMMENDATIONS**

### **A. LEGISLATIVE FRAMEWORK**

- The constitutional requirement that more than 50 per cent of registered voters cast votes in the second round of a presidential election should be removed, so as to avoid the possibility of a failed election. Consideration should also be given to

- amending the requirement that, to achieve victory in the first round, a candidate must receive the votes of more than 50 per cent of all registered voters.
- The method of selection of judges to participate in election administration should be modified to remove political parties from playing a role in their selection.
  - The relevant election laws should be amended to make clear that the State Election Commission (SEC) and other election commissions have a supervisory responsibility over the actions of subordinate election bodies.
  - Relevant legislation should be amended so that the provisions on language – including with respect to voter lists, public election notices, electoral instructions and forms, and voting instructions and posters of candidates – in addition to ballot-papers – are brought into conformity with the relevant constitutional rules and principles of the Ohrid Framework Agreement.
  - The issue related to whether voting rights are linked to residence should be resolved, and subsequent appropriate measures should be taken to clarify the status of resident or non-resident voters on the voter list.
  - Consideration should be given to enacting a legislative amendment on the subject of the incompatibility of service in election administration by persons occupying other official positions which could be inconsistent with their electoral responsibilities or which could give them a direct interest in the outcome.
  - The SEC should be mandated by law to conduct proceedings related to substantiated cases of electoral malfeasance by election officials or other participants in the election process, and to refer such cases to the authorities for disciplinary or prosecutorial action. The SEC should also be clearly authorized to impose sanctions, including disciplinary action and civil penalties, on election officials who are found to have been involved in malfeasance.
  - The election laws should be harmonized and if possible consolidated in a unified code.

## **B. ELECTION ADMINISTRATION**

- Election administration should be established on a permanent basis, through the formation of a permanent secretariat, which should be organized autonomously. Only once such an organization is created can the necessary international support for capacity-building be channelled effectively.
- The SEC should design new forms, in particular the minutes (Form 14), which should be redesigned as a numerical protocol. In addition, the SEC should be permitted to review and comment upon draft legislation related to elections.

- Geographic areas (including specific polling stations) where problems have occurred over successive elections should be identified, and a variety of measures should be considered, including replacing officials whose performance has been unsatisfactory and if possible sending supervisors to those areas, to improve election conduct.
- The provision requiring that the number of ballot papers delivered be precisely the same as the number of voters included in the voter list extract should be reviewed so as to allow for the possibility of spoiled ballots.
- For presidential elections, consideration should be given to authorizing the Municipal Election Commissions (MECs) to open the electoral material received from EBs and possibly to resolve objections made at the EB or MEC level. This could enable the MECs to resolve discrepancies in protocols, and also reduce the burden on the SEC of resolving complaints.
- Domestic non-partisan election observers could be permitted to write comments in the polling station minutes. This could assist party members and candidate representatives at the EB to substantiate justified complaints.
- The work of the SEC should be facilitated through the elimination of unnecessary routines, such as having the members sign all voter list extracts and participate personally in the transfer of electoral material with the MECs.

#### **C. POLITICS AND CAMPAIGNING**

- Political parties should do more to restrain their supporters from being involved in electoral malfeasance. In particular, party officials should make clear that any form of ballot-box stuffing or intimidation is considered totally unacceptable.
- The parties should ensure that their reports on campaign expenditure are accurate and complete. Such reports should include an itemization of indirect assistance and in-kind contributions by supporters.

#### **D. MEDIA**

- Consideration should be given to providing the Broadcasting Council greater enforcement authority, and improving its ability to act in an effective and timely manner regarding unfair or illegal media activities during the campaign.
- Graduated penalties (*i.e.*, less than a 48-hour licensing suspension) should be made available for application against media which commit relatively minor violations of electoral regulations, including concerning election silence.

- The State broadcaster, MRTV, and other State media should be reorganized as independent public service entities.

**E. COMPLAINTS AND APPEALS**

- The SEC should be mandated to address complaints which would not necessarily require the annulment of results at a polling station, and/or change the results of the election in a constituency. A legislative amendment to this effect should also provide greater clarity on what evidence is required to support a complaint, and the range of remedies available. It should also be made clear that repetition of an election at a polling station would not always be necessary after the results there have been annulled.
- The transparency of complaint and appeal procedures, in both election administration and the courts, should be increased. The basis of decisions should be laid out more clearly; the record of decisions should be made more widely available; and to the extent feasible the public or its representatives (*e.g.*, the press or domestic observers) should be granted access to proceedings.

**F. MINORITY PARTICIPATION**

- Serious attention should be given to issues raised in the report that relate to the suffrage rights of ethnic minorities, including more inclusive language provisions and more effective measures to limit the possibility of manipulation of votes.
- Particular attention should also be given to addressing the problems of Roma voters through such measures as encouraging voter registration, conducting civic education and voter information, and training EB members.

**G. GENDER ISSUES**

- The representation of women in election administration at all levels should be increased.
- Steps should be taken to discourage family voting and other practices that may inhibit the ability of women to exercise their right to vote.

## ANNEX A

### POLLING STATIONS WHERE EVIDENCE OF BALLOT-BOX STUFFING WAS OBSERVED

#### Evidence of Ballot Stuffing Observed during First Round

|       | PS number | MEC       |
|-------|-----------|-----------|
| 1     | 2510      | Gazi Baba |
| 2     | 1995      | Tetovo    |
| 3     | 1532      | Probistip |
| 4     | 2815      | Centar    |
| 5     | 2958      | Cair      |
| 6     | 2962      | Cair      |
| 7     | 2957      | Cair      |
| 8     | 827       | Gostivar  |
| 9     | 278       | Plasnica  |
| 10    | 590       | Štip      |
| 11    | 1953      | Tetovo    |
| Total | 11        | 9         |

#### Evidence of Ballot Stuffing Observed during Second Round

|    | PS number | MEC         |
|----|-----------|-------------|
| 1  | 2201      | Veles       |
| 2  | 2096      | Tetovo      |
| 3  | 2042      | Tetovo      |
| 4  | 2043      | Tetovo      |
| 5  | 1112      | Kumanovo    |
| 6  | 1108      | Kumanovo    |
| 7  | 2354      | Kisela Voda |
| 8  | 2353      | Kisela Voda |
| 9  | 2351      | Kisela Voda |
| 10 | 2892      | Centar      |
| 11 | 2890      | Centar      |
| 12 | 2134      | Tetovo      |
| 13 | 2029      | Tetovo      |
| 14 | 2036      | Tetovo      |
| 15 | 2043      | Tetovo      |
| 16 | 1903      | Struga      |
| 17 | 2443      | Karpoš      |
| 18 | 2333      | Gazi Baba   |
| 19 | 1124      | Kumanovo    |
| 20 | 1117      | Kumanovo    |
| 21 | 1119      | Kumanovo    |
| 22 | 1112      | Kumanovo    |
| 23 | 1120      | Kumanovo    |
| 24 | 1124      | Kumanovo    |
| 25 | 1005      | Kumanovo    |

|       |         |             |
|-------|---------|-------------|
| 26    | 1111    | Kumanovo    |
| 27    | 1233    | Negotino    |
| 28    | 2354    | Kisela Voda |
| 29    | 1926    | Tetovo      |
| 30    | unknown | unknown     |
| 31    | 2090    | Tetovo      |
| 32    | 2009    | Tetovo      |
| 33    | 1995    | Tetovo      |
| 34    | 1997    | Tetovo      |
| 35    | 1926    | Tetovo      |
| 36    | 2174    | Veles       |
| 37    | 2050    | Tetovo      |
| 38    | 1924    | Tetovo      |
| 39    | 2453    | Karpoš      |
| 40    | 1078    | Kumanovo    |
| 41    | 1085    | Kumanovo    |
| 42    | 815     | Gostivar    |
| 43    | 1475    | Kruševo     |
| 44    | 2892    | Centar      |
| 45    | 2669    | Kisela Voda |
| 46    | 2415    | Kisela Voda |
| 47    | 2416    | Kisela Voda |
| 48    | 1234    | Negotino    |
| 49    | 276     | Kicevo      |
| 50    | 277     | Kicevo      |
| 51    | 278     | Kicevo      |
| 52    | 1079    | Kumanovo    |
| 53    | 2339    | Gazi Baba   |
| 54    | 2336    | Gazi Baba   |
| 55    | 2050    | Tetovo      |
| 56    | 278     | Kicevo      |
| Total | 55      | 12          |

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 100 staff.

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

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

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

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website ([www.osce.org/odihhr](http://www.osce.org/odihhr)).