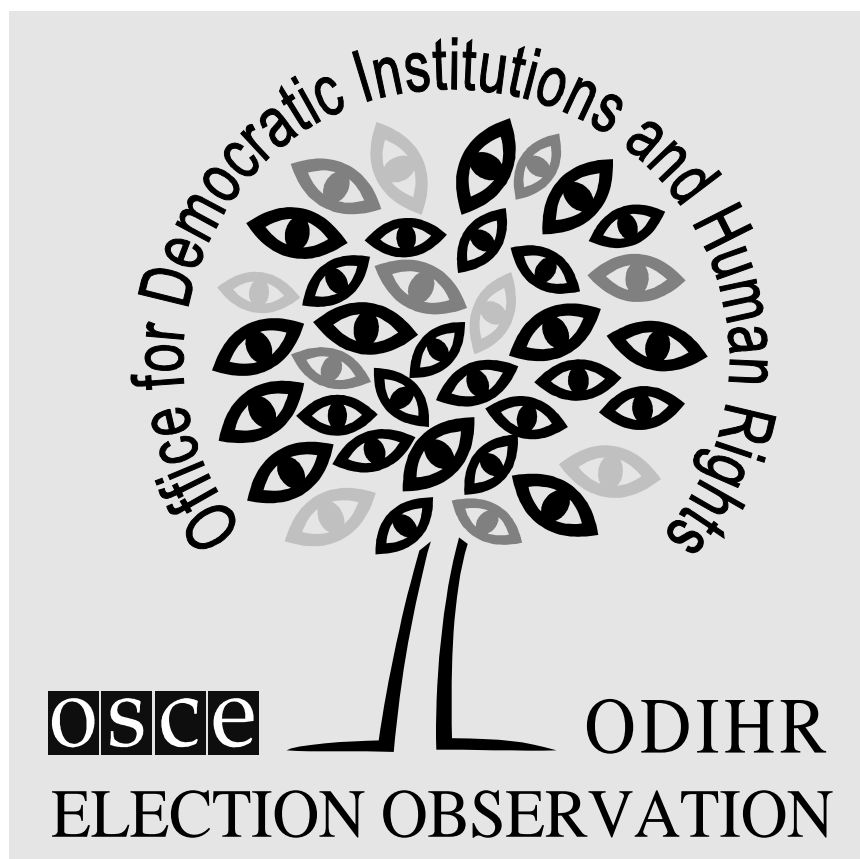




Office for Democratic Institutions and Human Rights

**THE SLOVAK REPUBLIC
PRESIDENTIAL ELECTIONS**

15 AND 29 MAY 1999



Warsaw
30 June 1999

Table of Contents

1. Introduction
2. Summary of conclusions
3. The legislative framework
 - The electoral system
 - Legal issues
4. The electoral administration
5. Voter and civic information
6. Voter registration
7. Candidate registration
8. The election campaign
9. The media
10. Observation on polling day
11. Observation of counting
12. Aggregation and verification of results
13. Recommendations

1. Introduction

The term of office of the former President of the Slovak Republic, Michal Kovač came to an end on 2 March 1998 and the office remained vacant from that date. Parliament attempted to elect a new President on five occasions but all were unsuccessful as no candidate could achieve the support of a three-fifths majority of the Parliament as required under the previous Constitutional arrangements. In January 1999, the Parliament amended the Constitution providing for direct presidential elections. The Presidential election law was adopted by the Parliament on 18 March 1999 and the Chairman of Parliament announced the election date the same day.

Upon an invitation from the Ministry of Foreign Affairs of the Slovak Republic to observe the elections, the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) sent a Needs Assessment Mission in mid-April and established an Election Observation Mission on 19 April.

Ms. Siri Skåre was appointed by the ODIHR as Head of the Election Observation Mission, upon secondment by the Norwegian Government and Mr. Paul O'Grady was appointed as the Deputy Head.

This report is based on the findings of seven core staff and five long-term observers who remained in country until 3 June. The report also incorporates the observations of 45 short-term observers from 17 OSCE participating States who observed at 452 polling stations during the first round and 30 short-term observers who observed at 356 polling stations during the second round. On both election days, observers visited polling stations in all 79 districts.

The Presidential elections took place over two rounds, with voting on 15 and 29 May 1999. Following each round, the ODIHR Election Observation Mission released preliminary statements.

The ODIHR Election Observation Mission would like to thank the Slovak Ministry of Foreign Affairs, the Slovak Ministry of the Interior and the Central Election Commission (CEC) for their strong support and co-operation.

2. Summary of Conclusions

- **The ODIHR Election Observation Mission found that the 1999 election for the President of the Slovak Republic was held in accordance with the country's electoral provisions. Officials administered the election process efficiently, and the voting and**

counting procedures on election day were carried out in accordance with OSCE commitments.

- As a whole, the Slovak election legislation provides a satisfactory framework for the elections and the election law creates equal campaign conditions for all candidates. However, the electoral legislation is fragmented across a number of legislative acts and some provisions in the legal framework need further clarification. The role of the CEC should be strengthened and the election framework should also specify the conditions under which observer groups are permitted to monitor elections.
- The election law provides clear rules regarding campaigning in the public and privately owned electronic media. The coverage of the 1999 Presidential campaign by the public TV channels (STV 1 and STV 2) complied with the election law in giving all candidates an equal amount of airtime. However, not all media outlets complied with all the election provisions, including honouring the campaign silence period, and the regulatory body fined both public and private television stations for breaches of the law.

3. The Legislative Framework

3.1 General

Following the September 1998 Parliamentary election, the new ruling coalition started implementing its programme which included enacting legislation in preparation for the direct election of the President. Accordingly, the Constitution was changed on 14 January 1999 and the law for the election of the President was adopted on 18 March 1999¹. On 19 March, the Chairman of the National Council (hereafter Parliament) called for elections to be held on 15 May and, if a second round was required, on 29 May.

In addition to the Presidential Election Law, several other pieces of legislation, judicial rulings and administrative guidelines are relevant to the elections. The most significant are the following:

- The Constitution of the Slovak Republic as amended
- The 1991 Parliamentary Election Laws as amended² and the decision of the Constitutional Court of 18 March 1999
- The collected media laws, in particular the acts relating to the electronic media and the regulatory body
- The Registration of Citizens' Permanent Residence
- The Right of Petition (by citizens and legal persons)

¹ Act 46/99 on the Method of Election of the President of the Slovak Republic, the Public Vote, Removal of the President and on Amendments to other Laws.

² This Act has been amended six times between 1991 and 1999.

- Guidelines regulating the tasks of Municipalities and Local Bodies of State Administration for Election of the President
- Methodological Guidelines on Processing the Results of Voting

As a whole, the election legislation is a satisfactory framework enabling elections to be conducted satisfactorily. Nevertheless, as there are numerous Acts relevant to the 1999 Presidential elections, there is some confusion as to which Acts and articles are applicable in certain situations. There is a need for more coherence across the various legislation. One possible option for improving the election framework would be to integrate the various election laws and procedures in a single election code. This would also ensure that technical arrangements are the same for all types of election.

The ODIHR Election Observation Mission welcomes the inclusion of a number of the recommendations detailed in the final report on the 1998 Slovak Republic Parliamentary Elections in the electoral framework³. However, the law could be further strengthened in some areas. Consequently, the ODIHR Election Observation Mission has included a number of recommendations in this report.

3.2 The Electoral System

On Electing the President

Every Slovak citizen eligible to vote and aged 40 or above may stand as candidate for President if he or she is supported by 15 Parliamentary deputies or by a petition committee that has collected 15,000 signatures in support of his or her candidacy. The Presidential term of office is five years with the provision to run for a second term. Every Slovak citizen aged 18 or over and who is present within the territory of the Slovak Republic on election day is entitled to vote.

In order to be elected President in the first round, a candidate must secure a majority of valid votes, amounting to more than half of the number of eligible voters⁴. It is understood that the term 'eligible voters' means the total number of registered voters.

In the event that no candidate secures sufficient votes to win in the first round, a second round shall take place between the two first round candidates who received the highest number of valid votes. In the first round held on 15 May, none of the candidates secured sufficient votes for victory and a second round took place on 29 May⁵.

³ OSCE Office for Democratic Institutions and Human Rights Final Report on The Slovak Republic Parliamentary Elections (25 and 26 September 1999), published November 1998.

⁴ Article 101 of the Constitution of the Slovak Republic as amended.

⁵ Rudolf Schuster and Vladimír Mečiar were the two highest scoring candidates with Rudolf Schuster gaining 47.47% and Vladimír Mečiar 37.31%. Magda Vášáryová was the third placed candidate.

In the event of a withdrawal by either of these candidates, the candidate who secured the next highest number of votes is able to enter the second round. The process of replacing candidates who withdraw with candidates who received the next highest number of votes will continue with each withdrawal⁶.

For victory in the second round, a candidate must secure a simple majority of the valid votes cast.

On Removing the President

The Constitution provides for a possible removal of the President before the end of his or her term of office by Public Vote (Referendum) called by the Chairman of the National Council. The decision for the Public Vote is taken by the Parliament and requires a majority of at least three-fifths of all 150 deputies. The President shall be recalled if more than half of the registered voters have voted for his or her removal.

If the President is recalled, the Chairman of the National Council shall call fresh Presidential elections. If the President is not recalled, he or she is considered elected for a new term. In such a case, the President dissolves the Parliament and new Parliamentary elections are held.

In the situation where, following the public vote the President is not recalled, and thereby elected for a new term, it is not clear if this shall be considered a second term under the Constitutional provision that candidates may not stand for a third consecutive term.

3.3 Legal Issues

Conditions for Victory in the First Round

The condition for a successful first round victory is very hard to satisfy. An example to illustrate this, in the event of a 70% turnout, a candidate would have to gain over 71% of the votes cast to be elected in the first round. This provision virtually guarantees that a two round election will be required.

Withdrawal of Candidates

The election law does not stipulate a deadline for the withdrawal of candidates. If a second round candidate were to withdraw late in the process, the electoral authorities would face potentially serious technical and administrative problems. The CEC recognized this fact and as there was some speculation that one of the second round candidates might withdraw, the CEC allowed the

⁶ For instance, if the top two candidates both withdraw, the third and fourth highest scoring candidates would participate. If, after a series of withdrawals, only one candidate remains to contest the election in the second round, the entire electoral procedure has to be repeated.

printing of two alternative ballot papers in addition to the official ballot paper⁷. However, neither of the alternative ballot papers was required.

Although the problems arising from a candidate's withdrawal late in the process would be potentially more serious during the second round, late withdrawal by first round candidates also has the potential to create confusion among voters and an undue burden on the electoral authorities. To illustrate this, even though candidate Michal Kovač announced his withdrawal live on public television on 12 May, as the ballot papers had already been printed 5,425 votes were cast in his favour even though the electoral authorities had time to inform the voters. In accordance with the election provisions, these votes were counted as invalid votes.

Specifying a suitable deadline would lessen the potential for confusion, would provide a substitute candidate time to campaign and would give the media an opportunity to increase voter awareness.

Campaigning in the Electronic Media⁸

In its Final Report on the 1998 Parliamentary Elections, the ODIHR was critical of the restrictions placed on privately owned electronic media. The ODIHR welcomes the ruling of the Constitutional Court of 18 March 1999, which found these restrictions unconstitutional.

The 1999 Presidential Election Law creates equal campaign conditions for all candidates and provides clear rules regarding campaigning in the public and privately owned electronic media.

Observation of the Elections

The election framework does not specify the conditions under which observer groups are permitted to observe elections. Including such a provision would enhance the election law and bring the law in line with paragraph 8 of the OSCE Copenhagen Document.

Polling Station Procedures

Despite the competent administration of the election by the Polling Station Commissions (PSCs), the election provisions at polling station level should be further enhanced in some areas. Specifically:

- The election law does not entitle the PSC members to receive a copy of the completed protocol on the results of voting.

⁷ The official ballot paper containing the names of the first and second placed candidates from the second round Rudolf Schuster and Vladimír Mečiar. The two alternative ballot papers had as candidates: Rudolf Schuster and Magda Vášáryová (the third placed candidate from the first round) and Vladimír Mečiar and Magda Vášáryová.

⁸ Chapter 9 gives a fuller account of the ODIHR Election Observation Mission's findings regarding campaigning and the media.

- The protocol does not include information on the total number of ballots and envelopes received by the PSC, the number of used and unused ballots and envelopes or a record of the number of invalid votes and void ballots.
- All the figures in the Protocol are entered numerically only. It would be preferable for the results to appear in words also.

4. Electoral Administration

The Electoral administrative structure consists of a three-tiered hierarchy as follows:

- Central Election Commission (**CEC**)
- District Election Commissions (**DEC**) – one for each of the 79 Districts
- Polling Stations Commissions (**PSC**) – one for each of the 5,842 Polling Stations

The CEC is composed of members and substitutes nominated by those political parties and movements who have representation in the Parliament and by petition committees of nominated candidates (one member and one substitute for each candidate). For the 1999 Presidential elections, the CEC was composed of 13 members – six appointed by the parties represented in Parliament and seven representing the civic candidates nominated by petition committees. All six parties represented in the Parliament and all seven petition committees have the opportunity to nominate one member and one substitute to each of the DEC and PSCs. The first meeting of CEC must take place no later than 30 days before the election day and is convened by the Prime Minister of the Slovak Republic.

The Ministry of Interior has responsibility for the preparations, organization and technical arrangements required to conduct the elections. The Ministry established an administrative and expert department to support the work of the CEC. At DEC and PSC level, the commissions' work is supported by the District administration offices, municipal authorities and mayors⁹.

Election Commission 'Recorders' were appointed at all levels to provide organizational and administrative support and to provide expert counsel to the Commissions. However, the Recorders do not have the right to vote within the Commission.

The Statistical Bureau of the Slovak Republic is responsible for the computerised processing of the election results.

The District Election Commissions and the Polling Station Commissions must have at least five members. Should the number of members appointed to a commission fail to reach this number, additional members are appointed from eligible voters by the Head of the District Authority (for DEC) or by the Mayor of the Municipality (for PSC).

⁹ There are 2,887 municipalities in the Slovak Republic.

Role and Responsibilities of Electoral Bodies

In accordance with the electoral provisions:

- The CEC ensures the supervision of lower level commissions, decides on complaints against procedures taken by the DEC's, discusses information provided by the Ministry of Interior and recommends proposals for the implementation of regulations.
- Each DEC is charged with the lawful administration of elections within its district and decides on complaints against procedures taken by PSCs in the district area.
- Each PSC is responsible for the polling and counting activities at its respective polling station.

The Judiciary

The Supreme Court and the Constitutional Court are the highest courts in the Slovak Republic. Final appeals lie with the Supreme Court against electoral procedures and with the Constitutional Court against decisions in matters related to constitutionality and legitimacy of the election results.

Functioning and Decisions of the CEC

The CEC was able to take decisions in a professional way and mostly in a spirit of good co-operation. However, the CEC is not endowed with a strong mandate and the Ministry of the Interior makes most of the important organizational decisions.

In a number of cases, the CEC decided that it could not make decisions on complaints and issues which were raised, as the electoral framework grants it only limited competencies. As the CEC did not have many decisions to make, it only met infrequently.

The most significant decisions of the CEC are as follows:

- On 12 May, the CEC decided formally to accredit as observers the ODIHR Election Observation Mission and *Obsčianske OKO*, a domestic observer group. The decision to reject the application of the NGO 'umbrella' group *FORUM* was taken by a narrow majority. This decision was vigorously opposed by the minority opinion. For the second round of voting, the CEC decided to accept the application of the *Slovenský mlážnícky snem* (Slovak Youth Assembly), a component organization of the *FORUM* umbrella group. This decision was welcomed by the ODIHR and the participation by the Slovak Youth Assembly increased the transparency of the process.
- Following the decision of Michal Kovač to withdraw from the Presidential election, the CEC decided that the withdrawal of a candidate should not affect the composition of the election

commissions and that representatives of such candidates may continue their membership in the respective commissions.

- Regarding a complaint raised by the Deputy Chairman of the CEC concerning alleged campaigning outside the official campaign period, it was concluded that the competencies of CEC are very restricted in this regard and such complaints should be re-directed by CEC Recorder to the competent body.
- Despite the lack of clarity in the election law on the announcement of partial results, the CEC took a positive decision in this regard which permitted announcement of partial results¹⁰.

Issues

Powers and Competencies of the CEC

In addition to the Ministry of Interior and the CEC, other bodies which have responsibilities in the election process include: The Ministry of Finance, The Ministry of Culture, The Council of the Slovak Republic for TV and Radio Broadcasting, the Supreme Court, the Constitutional Court, District Courts and Municipal Authorities. The powers of the CEC are restricted and in some areas it is unclear how far their competencies extend. Furthermore, because the electoral framework is fragmented it is often unclear which body has the authority to rule on complaints, appeals and make legal clarifications. An example of this is complaints regarding candidates' activities outside the official campaign period, where it is not clear which body has the competence to rule on this issue.

Similarly the CEC does not have the power to issue binding instructions and thereby ensure uniform application of the election procedures by the lower level commissions.

Some provisions in the legal framework require further clarification and the role of the CEC should be strengthened to enable it to issue such clarifications. However, if the CEC is to have enhanced powers, consideration should be given to the establishment of a permanent membership. This might require the need to introduce certain formal requirements for membership such as legal training.

Appointments to Election Commissions

The deadline for appointment of the CEC members is 35 days prior to the election (10 April) and the CEC must have its first meeting 30 days prior to the election (15 April¹¹). This means that the CEC is obliged to meet before the deadline on acceptance or rejection of nominations by the Chairman of the National Council, in this case, 16 April. It is possible therefore that CEC members could vote on CEC decisions before the candidate they represent has been formally accepted or rejected.

¹⁰ Articles 15 (15) and 15 (17) are applicable.

¹¹ In fact, the CEC first met on 14 April, within the deadline.

The election commissions had a multi-party composition, which is an important safeguard against irregularities and promotes transparency. Representatives from both the ruling coalition parties and the opposition were present in most commissions. However, there should be clearer guidelines on appointment by the head of the district offices and Mayors of Municipalities when making appointments to commissions where the number of members falls below five.

5. Voter and Civic Information

The Municipal authorities sent a notice to all voters detailing when, where and how to vote. As the Presidential elections were the first to be held by direct election and included a number of changes from previous voting procedures, the notice also included the following information:

- That the elections will take place over one not two days.
- That the ballot papers must be marked with an 'X' in the candidate box rather than circling the names of candidates and parties, as had been the previous practice
- That these elections might take place over two rounds

On election days, the polling stations displayed information on how to vote and ballot papers contained a brief explanation on how to mark the ballot.

In addition, *Obsčianske OKO* (a Slovak non-governmental organization) was active in the area of voter information, distributing pamphlets which were also reproduced in some of the national daily newspapers. *Obsčianske OKO* also produced voter information videos, which were broadcast in public media prior to election days.

The high voter turnout over the two rounds and the relatively low level of invalid ballot papers indicates that the level the level of voter information was sufficient.

6. Voter Registration

Every Slovak citizen aged 18 or over and who is present in the territory of the Slovak Republic on election day is entitled to vote. Persons deprived of civil capacity by irrevocable court order cannot be entered in the Register. Voters are entered in the Permanent Voters Register according to their place of permanent residence, but those who are absent from their place of permanent residence on election day can vote with a 'voters' card' which is issued by the municipal authority. This card enables the voter to vote at any polling station in the Slovak Republic. Applications for voter cards must be made in advance and the municipality must record the issue of each card.

The Municipalities are charged with keeping and maintaining the Permanent Voters Register. In Bratislava and Kosice the police are responsible for maintaining a register of residence from

which the election registers are compiled. There are plans for a centralized, national register of voters from 1 January 2000.

In advance of the elections, every elector has the right to check whether he or she is registered. The municipality shall prepare voter lists for each polling station in the municipal area and shall prepare voter lists for Special Polling Stations in co-operation with the head of the respective facility or institution. Members of security forces and armed forces, who are collectively accommodated, shall be registered in the voter list in the municipality where their unit is located. The municipality of permanent residence will delete the entries of voters who are registered in Special Polling Stations or who vote where their military unit is based.

On election day, the PSC can add additional names to the voter list providing they fall into one of the following categories:

- persons in possession of a voter card
- persons who can prove residence within the election ward by producing their ID card
- persons who are in possession of a court order authorizing his or her inclusion in the voter list
- persons who are permanently resident outside the Slovak Republic but return to the country to vote. Such voters must prove permanent residence outside the Slovak Republic and produce a valid passport. The passport will be marked by the PSC to indicate that the person has voted.

The law does not require voter lists to be posted and open to public inspection. However, voters were able to check their entry on the voter list at the municipal offices. In some cases, in addition to their own entry, voters were also able to check the entries of others, but this was inconsistent throughout the country.

Issues

Following the first round of the election, concerns were raised by domestic observer groups regarding the potential misuse of voter cards. The specific concern was that voters could apply for a voters card, vote using the card and then return to the polling station in the ward in which they are resident and re-register using their ID card to prove permanent residence. The ODIHR Election Observation Mission welcomes the steps taken by the CEC and the Ministry of Interior to address these concerns during the second round by recommending that municipal authorities should inform PSCs which voters had received voter cards. During the second round, the ODIHR Election Observation Mission did not receive any complaints on the actual misuse of voter cards.

Domestic observer groups also questioned the accuracy of the voter lists, specifically, that a number of deceased persons and persons under 18 were included. However, the ODIHR Election Observation Mission received no reports of any attempts to exploit these inaccuracies. Nevertheless, if the law entitled interested parties to check the accuracy of voter lists before the

elections, the voter registration process would be more transparent and the potential number of inaccuracies would be minimised.

7. Candidate Registration

Candidates should be proposed by at least 15 deputies of the National Council of the Slovak Republic or by eligible voters on the basis of a petition signed by at least 15,000 citizens. The proposal should be given to the Chairman of the National Council no later than 21 days after the calling of the election (9 April 1999). Within seven days the Chairman shall review the signatures on the petitions in support of candidate nominations to check that each entry contains the correct information and is in accordance with the relevant laws¹². The Chairman of the National Council must advise the candidates of their rejection or acceptance within seven days. If a nomination is rejected, the candidate may appeal to the Supreme Court within three days after the delivery of notice from the Chairman of the National Council. The Court shall decide on the candidate's appeal within five days and notify him or her accordingly.

A total of 11 candidates submitted nominations. Ten of these were accepted. One nomination, that of Dr Julius Kubik was rejected on 14 April on the basis of an insufficient number of correctly completed signatures in support of his nomination¹³. The decision to reject his nomination was appealed to the Supreme Court, which on 21 April, ruled that the rejection of Dr Kubik should stand.

Some of the candidates supported by civic associations complained that the condition to collect the signatures of 15 deputies or 15,000 citizens in support of a candidate nomination creates unequal registration conditions. As a consequence, candidates supported by the signatures of 15 deputies have an advantage as they do not have to create the necessary organizational structure to gather the signatures of 15,000 citizens and are able to decide later than 'civic-candidates' if they wish to submit a nomination. Nevertheless, ten of the 11 candidates managed to gather the requisite number of signatures and the ODIHR notes that two of the three candidates supported by political parties chose to gather 15,000 signatures in addition to the signatures of 15 deputies.

8. The Election Campaign

Legal Provisions

The election law creates equal campaign conditions for all candidates and it contains a clear definition of which activities constitute election campaigning. The official campaign period for the first round began 15 days before election day, on 30 April and finished 48 hours before the opening of polling. It is prohibited to conduct campaigning outside the times specified in the law.

¹² Act 85/1990 Coll. On the right of Petition as amended by Act 242/1998 Coll.

¹³ Dr Kubik submitted 16,286 signatures of which 10,286 were accepted as valid.

The law on the election of the President contains no provision for State funding for candidates' campaign activities. However, candidates do receive a quantity of free airtime in public TV (see Chapter 9 on the media). Candidates campaign expenditure is limited to SK 4,000,000 (approximately US\$ 100,000) and the candidates must provide details of donations which exceed SK10,000 from individuals and SK100,000 from legal entities. A presidential candidate may not receive a gift or other supplies free of charge from the State, state bodies or municipal bodies and can only receive gifts and donations from individuals, legal entities and political parties resident or registered in the Slovak Republic. The candidates are obliged to submit their campaign accounts to the Ministry of Finance within 30 days from the election days. If candidates exceed the campaign expenditure limit, the Ministry of Finance shall impose a penalty amounting to ten times the amount by which the limit was exceeded. The Ministry of Finance shall impose a penalty of up to SK 2,000,000 on a candidate or legal entity that does not fulfill their reporting duty.

Campaigning for the second round began after the announcement of the first round results by the CEC. Campaigning during the second round of the election was governed under the same regulations and was prohibited during the 48 hours before the opening of polling.

The 1999 Election Campaign

The election campaign was conducted in a calm and peaceful atmosphere. No major incidents occurred during the campaign period, and none of the candidates have complained of interference in organizing campaign activities or intimidation of their supporters. The campaigns of most of the candidates were 'low key' with only a minority of candidates organizing a few large-scale public campaign events. It appeared that candidates chose to use the media as their main vehicle to campaign.

Issues

A number of candidates complained that the official 13-day campaign period was too brief for the voters to be sufficiently well informed about the candidates. One candidate displayed billboard posters to highlight his dissatisfaction with the length of the official campaign period. These posters were displayed long before the start of official campaign period (which began on 30th April). This act could itself be interpreted as a form of election campaigning.

Some candidates made public appearances before the start of the official campaign period, both before and after submitting their nomination papers. To protest against the length of the official campaign period, one candidate announced publicly that his campaign would begin one day early (on 29 April).

Even though the law contains a comprehensive definition of election campaigning, it is virtually impossible to enforce as it is unclear which body has competence to rule on violations in this area and what penalties exist where the law is breached. Moreover, as a citizen who is planning to run for the Presidency is not a candidate in a legal sense until the Chairman of the National

Council has approved his or her nomination, it is unclear if public appearances before this date can be considered campaigning.

Some candidates complained that the SK 4,000,000 limit for campaign expenditure is too low and limited their ability to mount an active campaign.

9 The Media

The election law provides clear rules for the public and privately owned electronic media in its coverage of the candidates campaign activities. The law also creates equal campaign conditions for all candidates in the public and privately owned electronic media.

The main legal provisions are as follows:

- Each candidate shall have equal access to the mass media during campaigning and publicly owned TV and radio shall grant up to ten hours combined total coverage for the candidates during the first round and two hours during the second round.
- Equal access and pricing terms for all candidates wishing to place advertisements in private radio and television channels and in other mass media.
- Broadcasters are required to ensure that news and public affairs programmes are balanced and impartial.
- The legal framework does not make any provisions relating to the coverage of candidates' campaigns in the print media, other than the requirements that print media respect the 48-hour campaign silence period and offer candidates equal access.

Regulatory Bodies

As part of its mandate, the Council of the Slovak Republic for Radio and TV Broadcasting (hereafter Broadcast Council) is elected and dismissed by Parliament¹⁴. It has the responsibility to supervise that all broadcasters comply with the media-related electoral provisions and the authority to rule on complaints brought by citizens against the electronic media. Where the Broadcast Council rules a violation has taken place, it is entitled to impose fines of up to SK 5,000,000 on the broadcaster. The Broadcast Council may impose other sanctions including compelling broadcasters to transmit notices to the effect that the station has committed a violation of the law, suspend the transmission of a programme for up to one month and in extreme circumstances, revoke the station's license. The decisions of the Broadcast Council can be appealed to the Supreme Court.

The Ministry of Culture monitored the mass print media during the election campaign. However, they do not have the power to impose sanctions if a violation of the election law has taken place. According to the Ministry, the Courts are the only body competent to rule on complaints against the print media.

¹⁴ The activities and powers of the Broadcast Council are set out in Act 468/1991 as amended.

Media Monitoring

The ODIHR Election Observation Mission monitored the broadcasts of two main TV stations, the public channel *STV1* and the privately owned *TV Markiza* between 16:00 hrs and 00:00 hrs daily from 24 April to 30 May. The four main national daily newspapers: *Nový Čas*; *Pravda*; *Slovenska Republica* and *SME* were also monitored over the same period. In summary, it can be concluded that voters had access to a wide range of media and could form their own opinion from information provided by a broad spectrum of media both at local and national level.

Public Television Coverage

The coverage of the Presidential campaign by the public TV channels complied with the election law, in giving all candidates an equal amount of airtime. However, the following events were noted by the ODIHR Election Observation Mission:

- On 6 May, during the main evening news, *STV* incorrectly reported that one of the candidates, Juraj Švec, had withdrawn from the Presidential contest. Although *STV* apologised for its mistake and transmitted a correction the following evening, Professor Švec was not satisfied and filed a complaint with the Broadcast Council.
- On 27 May during the campaign silence period, Prime Minister Mikulas Dzurinda addressed voters on *STV* to encourage the electorate to vote. Whilst he did not mention any of the candidates by name, parts of the address had a partisan tone. On 2 June, *STV* was fined SK1,000,000 by the Broadcast Council for violating of the campaign silence period, in breach of the election law.

During regular news reporting and outside the official publicity programmes, roundtable programmes and the broadcasting of voter information, *STV1* devoted very little airtime to the election campaign.

Private Television Coverage

During the first official campaign period *TV Markiza* did not comply with the election law, as it did not give a balanced coverage of all the candidates. In its news broadcasts it gave candidates Vášaryová, Kovač and in particular Schuster a greater amount of coverage than other candidates. This coverage was overwhelmingly positive or neutral whereas the coverage for candidate Mečiar had a mainly negative content. The Broadcast Council recognized that several violations had taken place and sanctioned the TV station on a number occasions. During the second election campaign period, *Markiza's* news broadcasts provided a more balanced coverage of the two candidates. However, the Broadcast Council once again fined the TV station, in this case for breaking the law by favouring candidate Schuster during the programme '*Na Slovensko je to tak*' ('That's how it is in Slovakia').

Print Media

In the Slovak Republic, newspapers have a high degree of editorial freedom. However, they are bound by the same legal requirement as the electronic media to keep the 48-hour campaign silence period before the election days. News items in some of the main national daily newspapers on the second round election day might be interpreted as a violation of the campaign silence¹⁵.

Complaints and Appeals

The Broadcast Council ruled on a large number of complaints brought against the publicly and privately owned radio and TV stations. It took decisions impartially and in a timely manner. However, some of the decisions and fines imposed on broadcasters by the Broadcast Council have been appealed to the Supreme Court. At the time of writing, the Supreme Court has yet to make a decision on these appeals.

10. Observation on Polling Day

The ODIHR Election Observation Mission found that on both election days the election administration conducted polling in accordance with the Slovak electoral provisions. Election Officials administered the process efficiently. The ODIHR Election Observation Mission welcomes the high turnout during both rounds for the first direct elections of the President (First Round: 73.89 %, Second Round: 75.45%).

The ODIHR Election Observation Mission deployed 57 observers for the first round and 42 for the second. During both rounds, observers visited polling stations in all 79 districts, visiting 452 polling stations during the first round and 356 during the second. The following is a summary of the main findings:

- The observers' general assessment of voting was positive and they commended the PSCs for the good organization of the voting and counting.
- All PSCs had a multiparty composition, which is an important safeguard against irregularities. Over both rounds, in the sample of polling stations visited by ODIHR observers, PSCs had six members on average.
- For the second round, it was encouraging to note that most Commission members chose to continue to take part in the work of election commissions on all levels although their candidates were no longer on the ballot.

¹⁵ Both *SME* and *Slovenska Republica* carried front-page items which had a clear partisan message.

- Special Polling Stations were established in prisons, health-care and social-care institutions. Observers reported that in general, such polling stations were well organized and that the secrecy of the vote was generally maintained. In prisons, inmates were asked in advance if they wanted to vote and no coercion on prisoners to vote was reported by observers.
- During the second round, domestic observers from the two accredited observer groups were present in approximately only 2% of the polling stations observed by ODIHR Observers.
- For the second round, the CEC allowed the printing of two alternative ballot papers in addition to the official ballot paper (see page 6). Observers reported that all polling stations received the correct ballot papers from the municipal authorities

However, observers also noted:

- Family or group voting (more than one person in the voting booth at the same time) was reported in almost 15% of the polling stations observed. This figure is lower than for the 1998 Parliamentary Elections where it was reported in 20% of observations. But, as group voting is not in accordance with the Slovak election legislation, steps should be taken to address this issue.
- In a small number of cases during both rounds, campaign material was observed close to polling stations, on occasions prominently displayed. However, very little active campaigning was reported and no intimidation of voters was observed.
- The law stipulates that ballot boxes should be sealed, and observers found in all cases that ballot boxes were sealed. However, there was no standard method of complying with this provision with some being sealed with a padlock and some with tape.
- In the ODIHR sample of observed polling stations approximately 4.5% of all the voters on the voter lists were added to the voter lists on the election days. Of these, 80% voted using voter cards, with relatively small numbers of voters using a passport or ID card only. During the second round, all PSCs had been given information by the municipal authorities as to which voters had received voter cards. However, the procedure for informing PSCs of these details was not uniform. In some cases these names appeared on the voter list but were crossed through, in others, they had been deleted from the voter list and the PSC had been given a separate list. There were no reports by observer groups of people misusing voter cards to vote at more than one polling station.

11. Observation of Counting

The counting of ballots took place in the polling stations immediately after the close of polling. The Election Observation Mission has no reports of PSC members refusing to sign the protocols in either round. Although some of the procedures could be improved and the amount of data

recorded in the minutes be expanded, the counting process was completed efficiently, transparently and quickly.

Observers reported the following:

- Observers' general assessment of the counting process was positive and they reported the count was very well organized.
- The packing of unused ballots was variable. In some cases unused ballots were packed and sealed before ballot boxes were opened, as the law requires. However, in some cases this was not done.
- The law gives clear instructions to determine the validity of ballots and PSCs followed the law very closely¹⁶. On average less than 1% of ballots were deemed invalid. However, ODIHR observers felt that the law was too strict with the result that even where the intention of the voter was clear, in some cases ballots were declared invalid.

12. Aggregation and Verification of Results

The process for scrutinizing and aggregating results at district and national level was technically correct and no complaints were received in this regard. The CEC received the minutes on the results of voting from the DEC's promptly, and the aggregation of results was completed quickly. This enabled the CEC to announce the official results for both rounds at 12:00 hrs on the day after the election day.

The ODIHR Election Observation Mission welcomes the decision of the CEC to announce partial results even though the election law is not clear in this regard. Aggregated Municipal results are available to the public and the results from individual polling stations are made available to political parties and independent candidates upon request.

13 Recommendations

Based on the observation of the entire election process, the ODIHR Election Observation Mission offers the following recommendations:

Electoral Framework and Electoral Authorities

- There is a need for more coherence across the election-related legislation. One possible option for improving the election framework would be to integrate the various election laws

¹⁶ The election law (Article 21.4) stipulates that a ballot shall be marked with an 'X' mark in the box placed before the surname of the candidate. Other completions of the ballot paper shall not be taken into consideration.

and procedures in a single election code. This would also ensure that technical arrangements are the same for all types of election.

- The law should include a provision for observers to monitor the elections in line with paragraph 8 of the Copenhagen document.
- Specify in the election law the official bodies that will monitor compliance with all aspects of the election legislation, their enforcement powers and the appeal procedures.
- Consideration should be given to the creation of a permanent CEC which would have a stronger mandate. This might require the need to introduce certain formal qualifications for membership.
- There should be clearer guidelines on appointments to commissions by the head of the district offices and Mayors of Municipalities.
- The election law would be enhanced by specifying a suitable deadline for candidate withdrawal.
- The length of the official campaign period should be reconsidered and lengthened, for example, by allowing candidates to begin their campaign once their candidacy has been approved by the Chairman of the National Council.
- Nomination procedures should be the same for all candidates.

Voter Registration

- Registration procedures and facilities should be readily accessible to the electorate. The voter list should be accessible to all voters well in advance of the election. This would increase transparency and enable complaints to be made concerning incorrect inclusions or omissions.

Election day procedures

- Ballot boxes should be sealed in a uniform manner.
- Steps should be taken to avoid 'group voting' and ensure the secrecy of the ballot.
- Polling station protocols should include information on the voters added to the voter list on election day as well as a recording of issued, used and unused envelopes and the number of void votes.
- Each PSC member should be entitled to receive a copy of the Protocol.

Announcement and publication of results

- The results at polling station level should be made publicly available.
- The law should be clearer on the publication of partial results based upon polling station protocols.