



Office for Democratic Institutions and Human Rights

# REPUBLIC OF BULGARIA

## PRESIDENTIAL AND MUNICIPAL ELECTIONS

23 and 30 October 2011

OSCE/ODIHR Limited Election Observation Mission  
Final Report



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**REPUBLIC OF BULGARIA**  
**PRESIDENTIAL AND MUNICIPAL ELECTIONS**  
**23 and 30 October 2011**

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

**I. EXECUTIVE SUMMARY**

Following an invitation from the Permanent Mission of the Republic of Bulgaria to the OSCE, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on 28 September deployed a Limited Election Observation Mission (LEOM) for the 23 October 2011 presidential and municipal elections in Bulgaria. The mission remained in the country to follow the second round contests on 30 October. The OSCE/ODIHR LEOM assessed compliance of the election process with OSCE commitments and other international standards for democratic elections, as well as with domestic legislation.

The presidential and municipal elections provided voters with a wide choice of political options, and were generally characterized by a respect for fundamental rights and freedoms. Nevertheless, pervasive allegations of vote-buying and the fact that virtually all campaign coverage in the media had to be purchased underscored the need for continued reform. Certain challenges remained, exemplified in the processing and tabulation of results after the first round of voting. A certain lack of transparency in the Central Election Commission's (CEC) decision-making and the inability of the CEC to take timely decisions, if at all, on critical issues were of particular concern.

The elections were held under a new Electoral Code adopted in January 2011. The OSCE/ODIHR and the Venice Commission of the Council of Europe concluded in their Joint Opinion that the Electoral Code provides a sound legal basis for the conduct of democratic elections, but also noted that there is room for improvement. Penalties for vote-buying were increased in the Criminal Code and related provisions were included in the Electoral Code. However, allegations of vote-buying continued to be pervasive. The Prosecutor General publicly expressed concern over the lack of adequate legal mechanisms to investigate and prosecute vote-buying.

The elections were administered by a three-tiered structure consisting of the CEC, 264 Municipal Election Commissions (MECs) and some 12,000 Precinct Election Commissions (PECs). The CEC and MECs were generally well-organized and met legal deadlines, despite the extra burden of having to administer two types of elections. Under the Electoral Code, the CEC is now responsible for administering all types of elections and serves a five-year term. However, it lacks a permanent staff and its own budget, which limited its capacity and efficiency. Election commissions at all levels are appointed upon nominations from political parties, but there is no guarantee that opposition nominees are included in the leadership positions of election commissions, which resulted in concerns about perceived commission bias. As a rule, commission sessions were closed to the public, thus reducing transparency.

Eighteen presidential and vice-presidential teams were registered by the CEC, and over 50,000 candidates for the municipal elections were registered by MECs, in an overall inclusive manner. However, some challenges against the registration of local coalitions were only

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<sup>1</sup> The English version of this report is the only official document. An unofficial translation is available in Bulgarian.

resolved a few days before the first-round election day and without judicial oversight.

Voter lists are extracted from the national population register, and voters had an opportunity to check their records and request corrections. The high number of registered voters relative to the voting-age population of the country raises concerns and suggests the need for a thorough audit of the voter lists. Over 400,000 citizens who were recorded as having a current address abroad were removed from the voter lists for the municipal elections, in a process that lacked transparency and without recourse to effective and timely remedy.

The campaign took place in a calm environment and candidates were able to campaign freely. Most candidates told the OSCE/ODIHR LEOM that vote-buying was a major and widespread problem, but they were unable to provide concrete information or evidence substantiating their allegations. Some opposition parties also claimed that pressure had been put on some of their municipal candidates and supporters. The OSCE/ODIHR LEOM followed up on two cases involving candidates working in the public sector and found both of them credible.

The Electoral Code addresses campaign finance in a well-organized manner, establishing revenue and expenditure ceilings and reporting mechanisms, thus creating the potential to establish a unitary, standard approach for dealing with this issue. The National Audit Office (NAO) is in charge of enforcing campaign-finance regulations and has the authority to impose sanctions for breaches. However, the effectiveness of campaign-finance regulations was limited by the fact that not all contestants provided information on their campaign revenues and expenditures on an ongoing basis, with the NAO taking the position that it should not interfere in the electoral process by enforcing this requirement.

The legal framework governing the media provides for freedom of expression, although problematic provisions remain in the Criminal Code. Bulgaria has a pluralistic public sphere, but increasing media concentration and a lack of transparency of media ownership raised concern. The Electoral Code provides that virtually all campaign coverage on public broadcasters must be paid for, which resulted in a near-absence of editorial coverage of the campaign, both in public and commercial media, as the latter followed a similar pattern. The predominance of paid coverage, and the fact that it could not always clearly be identified as such, had a negative impact on the level of election-related information available to the public.

The Bulgarian Constitution does not recognize minorities but guarantees the right to ethnic self-determination. The Electoral Code stipulates that the campaign shall be conducted in the Bulgarian language, which appears at odds with OSCE commitments and international standards as it disadvantages citizens that identify themselves with a certain minority. Regrettably, some contestants used nationalistic and inflammatory language against minorities, in particular Roma. The numerous allegations that minorities, especially Roma, were particularly susceptible to undue influence such as vote-buying and pressure were a source of concern.

The Electoral Code grants domestic and international observers access to PECs and MECs on election day but remains silent regarding the possibility to attend CEC meetings at any time, or MEC sessions during the pre-election period. For these elections, 12 domestic NGOs accredited over 5,000 observers, without any impediment.

The Electoral Code generally provides for only one level of appeal on decisions of election commissions, with very short deadlines in case of registration of parties or candidates. The adjudication of election disputes lacked transparency, as the CEC deliberated in closed

meetings. The CEC fell behind in processing complaints and appeals, in some cases deciding past the three-day legal deadline. Decisions on complaints were complicated by the fact that election commissions must take all decisions with a two-third majority, which they sometimes could not garner, resulting in a 'refusal' to take a decision. A court decided shortly before the first-round election day that the CEC may not refuse to take decisions on appeals and could decide such cases by simple majority. This ruling created uncertainty among stakeholders, as it appeared to be at odds with the CEC's understanding of the Electoral Code and long-standing practice.

In polling stations visited by the OSCE/ODIHR LEOM, voting in both rounds proceeded in a calm and orderly manner, with PECs generally managing the process professionally and adhering to procedures. However, the first round was characterized by a slow processing of voters and frequent queues, which prompted the CEC to extend voting by one hour. Many stakeholders expressed grievances to the OSCE/ODIHR LEOM about problems encountered in particular during the first-round election day, including organizational flaws, problems with the 'prohibited voter lists', the presence of multiple representatives from the same party in polling stations, ballots printed on paper which made it possible to see the voter's choice, and voters queuing not being allowed to vote. Throughout both election days, there were allegations of vote-buying.

In both rounds, the vote count was carried out in a generally professional, transparent and orderly manner in most polling stations visited by the OSCE/ODIHR LEOM. However, procedures were not always followed, which resulted in problems during the reconciliation of ballots and the completion of results protocols. During the first round, the handover and tabulation process at most MECs visited by the OSCE/ODIHR LEOM was overall professional and efficient, although problems were noted in particular in Sofia, where the process was slow and disorganized and where the presence of unauthorized persons, including members of parliament, was noted. During the second round, the process at MECs appeared much improved.

Challenges to presidential election results could be made to the Constitutional Court, but only by a political party or candidate that participated in the election and only through an institution entitled to address the Constitutional Court. On 16 November, 71 members of parliament from several opposition parties asked the Constitutional Court to invalidate the presidential election. On 14 December, the Constitutional Court unanimously turned down the application. The election results in several municipalities were also challenged in court.

## II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Permanent Mission of the Republic of Bulgaria to the OSCE and based on the findings and conclusions of a Needs Assessment Mission undertaken from 18 to 21 July 2011,<sup>2</sup> the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on 28 September deployed a Limited Election Observation Mission (LEOM) for the 23 October presidential and municipal elections. The mission remained in the country to follow the second round contests on 30 October. The OSCE/ODIHR LEOM was headed by Vadim Zhdanovich and consisted of 11 experts based in Sofia and 10 long-term observers (LTOs) who were deployed around the country. Mission members were drawn from 15 OSCE

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<sup>2</sup> All referenced OSCE/ODIHR reports on Bulgaria can be found at:  
<http://www.osce.org/odihr/elections/bulgaria>.

participating States. In line with the OSCE/ODIHR's standard methodology for election observation without short-term observers, the mission did not carry out comprehensive or systematic observation of election-day proceedings, but mission members visited a limited number of polling stations and Municipal Election Commissions (MECs) in several municipalities during both rounds of voting.

The OSCE/ODIHR LEOM assessed compliance of the election process with OSCE commitments and other international standards for democratic elections, as well as domestic legislation. This final report follows two Statements of Preliminary Findings and Conclusions, which were released on 24 and 31 October 2011, respectively.

The OSCE/ODIHR LEOM wishes to thank the authorities of the Republic of Bulgaria for the invitation to observe the elections, and the Ministry of Foreign Affairs, the Central Election Commission (CEC), local authorities, as well as political parties, candidates and civil society organizations for their co-operation. The mission also wishes to express appreciation to diplomatic representations of OSCE participating States and international organizations in Bulgaria for their co-operation throughout the course of the mission.

### III. POLITICAL CONTEXT

On 15 July 2011, the Bulgarian parliament set the date of the presidential election for 23 October. President Georgi Parvanov subsequently issued a decree calling municipal elections for the same day, in line with the transitional provisions of the Electoral Code that provide for simultaneous presidential and municipal elections. The elections were held at the end of the second and final term of the incumbent president and of the four-year mandate of local governments. This was the first time since October 1991 that two elections were held simultaneously.

The last national elections held were the 2009 parliamentary elections. At that time, the OSCE/ODIHR and the Parliamentary Assembly of the Council of Europe (PACE) concluded that they were "generally in accordance with OSCE commitments and Council of Europe standards; however, further efforts are necessary to ensure the integrity of the election process and increase public confidence."

The Citizens for European Development of Bulgaria (*GERB*) won the 2009 parliamentary elections with 39.7 per cent of the vote and obtained 116 of 240 seats in the parliament. The Coalition for Bulgaria, led by the Bulgarian Socialist Party (*BSP*), won 17.7 per cent and 40 seats, ahead of the Movement for Rights and Freedoms (*DPS*) with 14.5 per cent and 38 seats. The *Ataka* party won 21 seats. The Blue Coalition formed around the Union of Democratic Forces (*SDS*) and Democrats for a Strong Bulgaria (*DSB*) with 15 seats and the Order, Law and Justice (*RZS*) party received 10 seats. Following these elections, GERB formed a minority government headed by its leader, Boyko Borisov.

In the last presidential election in 2006, President Parvanov was re-elected in the second round, with 74.9 per cent of the vote, against 24.1 per cent for the leader of *Ataka*, Volen Siderov. At that time, the OSCE/ODIHR concluded that this election "confirmed the credibility of the election process in Bulgaria" but also "identified a number of areas where the electoral process could be further strengthened." The 2007 municipal elections were not observed by the OSCE/ODIHR.

#### IV. LEGAL FRAMEWORK AND ELECTION SYSTEM

The legal framework for elections includes the Constitution, as interpreted by decisions of the Constitutional Court, the Electoral Code, the Law on Political Parties, the Criminal Code, the Administrative Procedure Code, and the Law on Meetings, Rallies and Manifestations. A new Electoral Code, which was adopted in January 2011, consolidated the laws for different types of elections. In their Joint Opinion on the Electoral Code, the OSCE/ODIHR and the Council of Europe's Venice Commission concluded that it provides a sound legal basis for the conduct of democratic elections, but also noted that there is room for improvement.<sup>3</sup>

Equal rights and non-discrimination are guaranteed by the Constitution. Bulgaria is also party to the Convention on the Elimination of All Forms of Discrimination against Women and has committed "to encourage and promote equal opportunity for full participation by women in all aspects of political life, in decision-making processes, and in international co-operation in general."<sup>4</sup>

In an effort to combat vote-buying, the Criminal Code was amended in 2009 to increase the penalties for buying, selling or organizing the buying or selling of votes. Despite these amendments, most prosecutions result in probation or a community service sentence.<sup>5</sup> The prosecutor general has publicly expressed concerns about not having sufficient legal tools to investigate and prosecute vote-buying.<sup>6</sup> This issue involves important public policy considerations that require weighing the need to prosecute crimes that threaten the political order against the potential danger of too much intrusion by the police into the political process. The pervasive allegations of vote-buying and the effect that this practice has in undermining public confidence in the election process should tip the balance in favor of providing more tools to prosecutors and police to investigate such crimes. To be an effective deterrent, penalties for such violations should be commensurate with the seriousness of the crime committed.

Provisions to combat vote-buying were also added to the Electoral Code. The authorities conducted public-information campaigns against vote-buying, and contestants were obliged by law to include warnings that buying and selling votes is a criminal offence in all campaign materials.

The Constitution provides for the president to be elected directly. The candidate who receives more than half of the valid votes cast is elected, provided that more than half of all registered voters have turned out. Otherwise, a second round is to be held one week later between the two candidates who received the highest number of votes. The Constitution and Electoral Code require that presidential and vice-presidential candidates have been permanently residing in

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<sup>3</sup> See OSCE/ODIHR and Venice Commission Joint Opinion on the Electoral Code of Bulgaria at: <http://www.osce.org/odihr/80841>.

<sup>4</sup> See also the Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, 1991, paragraphs 40-40.13.

<sup>5</sup> According to information from the prosecutor general's office, three individuals pled guilty to vote-buying prior to the first round of these elections, and all three were sentenced to probation and community service. Fifty-three complaints of vote-buying were in pre-trial procedure as of 2 November.

<sup>6</sup> Under the Criminal Procedure Code, police are not permitted to use "special intelligence methods" to investigate vote-buying.

Bulgaria for the five years preceding the election.<sup>7</sup> However, it was impossible for the CEC to verify compliance with this requirement. The lack of clarity on this issue created an unnecessary degree of uncertainty related to the qualifications of the candidates and left open the possibility of challenges against the validity of the election results on the basis of the residency requirement.

Mayors of municipalities and of settlements with more than 350 residents are also directly elected, with a second round if no candidate receives more than half of valid votes cast. Mayors of smaller settlements and of city districts (which exist in the three biggest cities, Sofia, Plovdiv and Varna) are elected by municipal councils, which in turn are elected under a proportional-representation system without a legal threshold. European Union nationals who are permanent residents have the right to vote in municipal elections and may run for municipal councilor, but not for mayor.<sup>8</sup>

The Joint Opinion had previously raised concerns about the restrictions on voting rights for people serving a prison term, regardless of the severity of the crime committed.<sup>9</sup> It also expressed concern about the lack of voting rights in local elections for foreign residents from non-EU countries. The Joint Opinion also highlighted the apparent conflict between the disqualification of people holding dual citizenship as candidates for any type of election and Article 3 of the First Protocol of the European Convention on Human Rights.<sup>10</sup> These issues remain to be addressed.

## V. ELECTION ADMINISTRATION

The 2011 presidential and municipal elections were administered by a three-tiered election administration consisting of the CEC, 264 MECs and some 11,968 Precinct Election Commissions (PECs), of which 161 were abroad.<sup>11</sup> According to the Electoral Code, state and municipal executive and administrative bodies share responsibilities with the CEC for the conduct of elections.<sup>12</sup>

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<sup>7</sup> Article 93(2) of the Constitution of the Republic of Bulgaria and Article 4(2) of the Electoral Code. The Constitutional Court in its Decision 3 of 8 February 2001 interpreted the five-year residency requirement to mean that the candidate must have resided in the country for at least 183 days per year for the 5 years preceding the election. Some contestants publicly questioned whether one of the candidates had met that requirement.

<sup>8</sup> European Council Directive 94/80/EC of 19 December 1994 guarantees EU citizens the right to vote and be elected in municipal elections outside of their home state, on the same terms as nationals of the state where the elections take place, except that a state may provide that only its own nationals be allowed to hold the position of mayor.

<sup>9</sup> The European Court of Human Rights in the case *Hirst v United Kingdom* (Application no. 74025/01, 6.10.2005) ruled that the blanket prohibition on voting by sentenced prisoners was disproportionate and incompatible with the right to participate in elections.

<sup>10</sup> “The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.” This provision is also at odds with Article 17.1 of the European Convention on Nationality and the evolving jurisprudence of the European Court of Human Rights on matters of dual citizenship. In its judgment in the case *Tanase v. Moldova* (application no. 7/08, 27 April 2010), the European Court of Human Rights considered that the exclusion of citizens holding dual citizenship from eligibility to vote and to be elected is a disproportionate measure and, thus, contrary to Article 3 of the First Protocol of the European Convention on Human Rights.

<sup>11</sup> PECs are referred to as Section Election Commissions in the Electoral Code.

<sup>12</sup> These include the Ministry of Foreign Affairs, Ministry of Interior, Ministry of Regional Development and Public Works, mayors and municipal administrations.



Under the Electoral Code, the CEC is now responsible for administering all types of elections and is serving a five-year term.<sup>13</sup> However, it is only active whenever elections are taking place. Nonetheless, establishing a CEC with a five-year term is a step forward, in line with a long-standing OSCE/ODIHR recommendation. Members of the CEC expressed the opinion to the OSCE/ODIHR LEOM that many of the CEC's problems were caused or exacerbated by the fact it is not a truly permanent body and does not have its own permanent staff or an independent budget.

The current CEC was appointed on 28 April 2011. It consists of 21 members,<sup>14</sup> appointed by the president upon nominations from political parties and coalitions which have a parliamentary group in the Bulgarian parliament or are represented in the European Parliament.<sup>15</sup> The CEC composition is to reflect the strength of the respective parties and coalitions in the parliament. No party or coalition may have a majority, and the chairperson and the secretary cannot be from the same party or coalition.

MEC and PEC members are appointed by the CEC and MECs, respectively, upon nominations from mayors submitted following consultation with the parliamentary parties and coalitions. The same criteria as for the CEC apply with regard to the political balance. Some independent candidates as well as new or small parties expressed their dissatisfaction over not being represented in election commissions. Several OSCE/ODIHR LEOM interlocutors expressed concern about perceived commission bias, based on the fact that opposition parties were rarely represented in leadership positions of the commissions. The OSCE/ODIHR LEOM was informed of two appeals lodged to the Supreme Administrative Court challenging the non-participation of opposition parties in the leadership of MECs.<sup>16</sup> Both appeals were dismissed, with the court stating that the Electoral Code does not guarantee such participation. The OSCE/ODIHR and Venice Commission Joint Opinion recommended that "opposition parties be included in these leadership positions at all levels of the election administration" in order to "dismiss perceptions of possible bias".<sup>17</sup>

In the context of simultaneous presidential and municipal elections, the number of MEC members was increased and varied from 15 to 41 (in Sofia).<sup>18</sup> The OSCE/ODIHR LEOM was told by the Sofia MEC that its large membership negatively impacted the organization of its work and decision-making process. The composition of MECs was gender-balanced, overall, and included members with legal background, which is recommended in the law.

CEC and MEC sessions were generally closed to the public.<sup>19</sup> The Electoral Code does not entitle observers and authorized representatives of political parties, coalitions or nomination committees to attend CEC meetings; MEC sessions during the pre-election period are open to authorized representatives of contestants, but the Code remains silent on whether observers can attend MEC sessions. However, OSCE/ODIHR LEOM observers were given special

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<sup>13</sup> Previously, a separate CEC for each type of election was established although, in practice, membership often overlapped.

<sup>14</sup> Of the 21 current CEC members, 13 are women and 19 have a legal background.

<sup>15</sup> Parties and coalitions which do not have a parliamentary group but are represented in the European Parliament are entitled to nominate one CEC member.

<sup>16</sup> In Dryanovo and Plovdiv municipalities.

<sup>17</sup> OSCE/ODIHR and Venice Commission Joint Opinion on the Electoral Code of Bulgaria, paragraph 28.

<sup>18</sup> The number of MEC members depends on the number of polling stations in a municipality.

<sup>19</sup> The Venice Commission Code of Good Practice in Electoral Matters states that "meetings of the central election commission should be open to everyone", CDL-AD (2002) 23 rev., p. 28.

permission to attend CEC and MEC sessions and to receive any information and document they requested, with a few exceptions.<sup>20</sup>

Election commissions at all levels must take all decisions by a majority of two-thirds of the members present. Decisions that achieve the required majority are issued in writing and, in the case of the CEC, posted on its website on the same day. MECs are required to post their decisions in an “accessible place” within the MEC building for at least three days. The CEC also took so-called ‘protocol decisions’, which were not published; the CEC told the OSCE/ODIHR LEOM that these decisions were related to organizational or procedural matters and had no impact on the rights and duties of voters or on the electoral process. A domestic non-governmental organization (NGO), the Institute for Public Environment Development (IPED), requested access to the CEC’s minutes. This was denied without the CEC’s taking a formal decision on the request. IPED filed a case with the Sofia Administrative Court on 14 October, based on the Law on Access to Public Information, in order to gain access to the minutes of the CEC’s meetings. The case was still pending when this report was finalized.

The CEC and MECs were generally well-organized and met legal deadlines related to the administration of the elections. Some MECs reported either a lack of funds or a lack of basic materials.<sup>21</sup> The adoption of the new Electoral Code a few months ahead of the elections and the conduct of simultaneous elections resulted in additional challenges which had to be addressed in a short timeframe. The CEC recognized that the communication with lower-levels election commissions was not as efficient as it could have been. On the second-round election day, OSCE/ODIHR LEOM observers noted that the PECs in most polling stations visited had not been informed of an important CEC decision relating to ballot validity, which had been adopted two days earlier.<sup>22</sup>

MECs were trained by the CEC and were tasked, in turn, with training PECs. The OSCE/ODIHR LEOM attended several of the mandatory training sessions at both levels and noted that they were far from uniform,<sup>23</sup> varied in quality and were often short in duration. Many OSCE/ODIHR LEOM interlocutors from the election administration expressed concern that due to the persistent problem of high turnover of PEC membership until the last moment, many members would not have been trained. Some MECs decided to conduct a second PEC training between the two rounds.<sup>24</sup> On 28 October, the CEC decided to raise the remuneration of PEC members by 10 Bulgarian *Leva* (BNG) to reduce the turnover in the second round.<sup>25</sup>

Polling stations are established by decision of the mayor, with the decision being subject to appeal before the government-appointed district governor. A polling station is established for a minimum of 30 and up to 1,000 voters.<sup>26</sup> The OSCE/ODIHR LEOM was informed by the Commission for Protection against Discrimination that in the Kyustendil and Pazardzhik municipalities, the mayors had decided to move polling stations serving Roma voters outside their neighborhoods, which raised concern about the impact on these voters. Some

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<sup>20</sup> MECs in Varna, Dobrich and Shumen refused to give OSCE/ODIHR LEOM LTOs access to complaints.

<sup>21</sup> In Pazardzhik, Dragoman, Bozhurishte, Ruse and Vidin municipalities.

<sup>22</sup> CEC Decision 1403, dated 28 October, stating that the length and thickness of the lines forming the “x” were not to be considered when deciding on the validity of a ballot.

<sup>23</sup> Some MECs invited all members of PECs to attend the training, whereas others invited only the chairpersons, deputy chairpersons and secretaries.

<sup>24</sup> The OSCE/ODIHR LEOM was informed that such additional training took place in Plovdiv, Ruse, Razgrad, Silistra and Veliko Tarnovo municipalities.

<sup>25</sup> CEC Decision 1394, referring to the relevant CEC proposal sent to the Minister of Finance.

<sup>26</sup> In health care facilities and social institutions, the minimum number of voters is reduced to 20.

interlocutors also alleged that some mayors may have chosen the location and determined the number of voters in individual polling stations based on partisan considerations.

According to the Electoral Code, a polling station is to be established for disabled voters on the ground floor of any polling site where polling stations are located on upper floors. However, many polling stations visited by the OSCE/ODIHR LEOM did not have ramps or other facilities for wheelchairs.

The Electoral Code provides for mobile voting if at least 10 voters with permanent disabilities that prevent them from exercising their voting right have requested it.<sup>27</sup> Mobile voting was conducted by 97 special PECs in as many municipalities. OSCE/ODIHR LEOM interlocutors explained that this low number was due to the early application deadline for mobile voting and lack of information about the provisions.

The Ministry of Foreign Affairs is responsible for the conduct of out-of-country voting. Voting abroad took place for the presidential election only in 161 polling stations located in 58 countries.<sup>28</sup> According to the Electoral Code, a polling station is to be established in any diplomatic representation, provided that at least 20 voters have declared their wish to vote there, no later than 25 days before election day. In order to establish a polling station outside such premises, and provided that the receiving State has given consent, at least 100 voters are to have indicated their wish to vote. On election day, any eligible voter abroad can be added to the voter list, upon presentation of an official identity document and a signed declaration that s/he has not already voted and will not vote again. A total of 50,499 and 47,883 citizens voted in the first and second rounds of the presidential election, respectively. The Ministry of Foreign Affairs reported that political parties did not nominate the required number of PEC members and that the ministry had to send some 130 staff to serve as PEC members, mainly to Turkey.

In the last week of September, the CEC launched a voter education campaign consisting of three video clips broadcast on national television and posted on the CEC website. The first two clips provided information related to deadlines and procedures for amending the voter lists and to the facilities offered to disabled voters, including mobile voting. The latter clip was released after the deadline to request mobile voting, which may partly explain the low number of requests received.<sup>29</sup> The third clip informed voters of election-day procedures. No additional voter education materials was noted at the district or municipal level, from either MECs or NGOs.

## VI. REGISTRATION OF CANDIDATES

For a presidential election, political parties, coalitions and nomination committees must register with the CEC.<sup>30</sup> A deposit of 10,000 BGN and a list of at least 7,000 supporting signatures are required for registration. A voter may sign in support of only one list, and the Civil Registration and Administrative Services Department (GRAO) of the Ministry of

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<sup>27</sup> Requests must be received no later than 30 days before election day. For these elections, requests for mobile voting had to be made by 22 September. Mobile voting requests had to be submitted by written application, accompanied by a copy of a certificate of disability issued by the Medical Expert Board.

<sup>28</sup> For the 2006 presidential election, 144 polling stations were established in 49 countries.

<sup>29</sup> In Silistra, the MEC held a press conference and informed voters about mobile voting, which resulted in having enough requests to conduct mobile voting.

<sup>30</sup> Coalitions are to be composed only of parties registered with the CEC for an election, and nomination committees should consist of at least 21 voters.

Regional Development and Public Works is tasked with checking the validity of the signatories' personal data. For this presidential election, the CEC registered 21 parties, 1 coalition and 6 nomination committees. One nomination committee was denied registration on the ground of irregularities in the signature list.<sup>31</sup> Eighteen parties, coalition and committees eventually submitted nominations for their presidential and vice-presidential candidates, all of whom were registered by the CEC, in an inclusive process.

For municipal elections, parties and coalitions must have registered with both the CEC and with MECs of those municipalities where they wished to stand. Local coalitions and nomination committees<sup>32</sup> could also be formed and were registered by the respective MEC. The CEC registered 73 parties and 1 coalition for the municipal elections, whereas MECs registered 506 local coalitions and 683 nomination committees.<sup>33</sup> In total, 51,928 candidates were registered for the municipal elections.<sup>34</sup> The registration of local coalitions led to a number of challenges, sometimes based on technical mistakes in the registration documents; some of these cases were only resolved a few days before election day.<sup>35</sup>

## VII. VOTER REGISTRATION

Although the CEC supervises the conduct of elections, it has virtually no responsibility with regard to the voter lists. Voter lists are extracted from the national population register maintained by GRAO, on the basis of the permanent address of voters. According to the latest census conducted in February 2011, Bulgaria's population is 7,364,570. The numbers of voters registered for the presidential election were 6,873,589 and 6,910,491 for the first and second rounds, respectively. For the municipal elections, the number of voters totaled 6,514,917.

The ratio between the number of inhabitants and the voting-age population raises concern.<sup>36</sup> This unusually high ratio can be partly explained by the fact that citizens remain registered at their permanent address,<sup>37</sup> even if they have been residing abroad for many years, unless they have registered a current address abroad.<sup>38</sup> The provision of the Electoral Code stating that citizens who had left Bulgaria more than two months prior to election day should be removed from the voter lists for the presidential election was not implemented.<sup>39</sup>

Voters could check their registration through the Internet, telephone and SMS.<sup>40</sup> Voter lists were also posted for public scrutiny in the vicinity of polling stations.<sup>41</sup> Requests for amending

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<sup>31</sup> Nomination committee for Atanas Marinov Yordanov.

<sup>32</sup> Consisting of three to seven eligible voters residing in the municipality. The number of required supporting signatures varies according to the size of the population.

<sup>33</sup> Data published by the Bulgarian National Audit Office.

<sup>34</sup> Of these, 1,927 were candidates for mayors of municipalities, 42,107 ran for municipal councilor, and 7,894 for mayor of settlements of more than 350 inhabitants.

<sup>35</sup> See Section XIII, Complaints and Appeals.

<sup>36</sup> According to the census data, 17 per cent of the population is under 18 years of age.

<sup>37</sup> Children born abroad are registered at the permanent address of their parents in Bulgaria.

<sup>38</sup> In such a case, a citizen present in Bulgaria on election day can be entered in the voter list for the presidential election only.

<sup>39</sup> The Ministry of Interior informed the OSCE/ODIHR LEOM that it would not forward this information to GRAO, since it does not have such information about citizens traveling to other EU member states and information about citizens traveling to any other country is incomplete.

<sup>40</sup> GRAO reported that 157,878 checks were made by these means.

<sup>41</sup> Forty days before election day.

voter lists could be made until seven days before election day by written application to the mayor.

Any voter with permanent and current addresses located in different municipalities could request to be registered in the voter list at the current address, no later than 14 days before election day. In order to vote at the location of his or her current address for municipal elections, the voter was to have resided at the current address for at least four months before election day. Some 90,888 voters applied to vote at their current address for the presidential election, and some 94,507 for the municipal elections,<sup>42</sup> such applications being valid for both rounds.

According to the Electoral Code, citizens who had a current address abroad during the four months prior to election day were deleted from the voter lists for the municipal elections. According to data provided by GRAO, some 444,749 voters were thus affected. The names of these voters were included in the list of voters who could not be entered on the voter lists on election day (so-called ‘prohibited voter lists’). Many cases were reported of such voters claiming they had never registered a current address abroad or they had returned to Bulgaria many years ago. The OSCE/ODIHR LEOM is aware of four candidates for mayor or municipal councilor who were de-registered for the same reason.<sup>43</sup>

Two of the three election-related complaints received by the Ombudsman were filed by voters who were on the ‘prohibited voter lists’ and not allowed to vote in the first round. On 27 October, the Ombudsman recommended that the CEC adopt rules which would inform the public of the ‘prohibited voter lists’ and requested the CEC to take a decision to restore, ahead of the second round, the voting right of the voters who were “illegitimately entered on the prohibited voter list”. On 28 October, the CEC discussed different ways to enable these voters to vote in the second round, but could not reach the required two-thirds majority to adopt a decision. CEC members argued that in any case, the CEC would not have been able to provide effective remedy given the limited time available, thus depriving voters of their suffrage right.

## VIII. CAMPAIGN ENVIRONMENT

Among the 18 candidates contesting the presidential election were former Minister of Regional Development and Public Works Rosen Plevneliev (*GERB*), former Foreign Minister Ivaylo Kalfin (*BSP*), and former European Commissioner Meglena Kuneva (nomination committee). *Ataka* nominated Volen Siderov, the Blue Coalition fielded former Agriculture Minister Rumen Hristov, and *RZS* its deputy chairperson Atanas Semov. The *DPS* and *DSB* (which for the presidential election did not join the Blue Coalition) did not nominate candidates, although the latter publicly stated their support for Mr. Hristov. The field of presidential and vice-presidential teams and the high number of candidates in the municipal elections provided voters with a broad choice. Two presidential and seven vice-presidential candidates were women. One presidential candidate was an ethnic Turk.

The campaign took place in a calm environment, with respect for fundamental human rights and freedoms. Candidates were able to campaign freely, as acknowledged by most candidates met by the OSCE/ODIHR LEOM. The official campaign period for the first round started on

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<sup>42</sup> According to information provided by GRAO on 14 October.

<sup>43</sup> By decisions of Sliven and Tundzha MECs, confirmed on 19 October by CEC Decisions 1247, 1248, 1253 and 1254.

23 September and ended at midnight on 22 October. For the second round of the presidential election, the official campaign lasted only two days, due to the late official announcement of the first-round results.<sup>44</sup> Nevertheless, the two presidential candidates contesting the second round, Rosen Plevneliev and Ivaylo Kalfin, resumed campaigning before that announcement.

Candidates and parties campaigned actively during the 29 days of the official first-round campaign, although interlocutors assessed the campaign as restrained compared with previous ones. Campaign activities between the two rounds were generally limited. In most places, the municipal elections appeared to generate more interest than the presidential race, with local party structures placing more emphasis on the local contests. The presidential campaign focused on the economy, infrastructure development, social policy issues, and healthcare reform, while municipal elections focused on specific local issues. Several candidates pointed out to the OSCE/ODIHR LEOM the general absence of verbal attacks among the candidates as a positive development over previous campaigns.

In addition to traditional campaigning means such as posters, billboards, tents and stalls, small-scale meetings and door-to-door canvassing, parties and candidates made increased use of the Internet, including social networks and blogs. Presidential candidates toured the country and held campaign meetings, but few parties and candidates held bigger rallies.

Most candidates and party representatives whom the OSCE/ODIHR LEOM met with said that vote-buying was a major and widespread problem, but were unable to provide concrete information or evidence substantiating their concerns. The Ministry of Interior and the Prosecutor General informed that investigations into a number of suspected cases of vote-buying had been opened in connections with both rounds of voting. In Nesebar, three people, including a *GERB* candidate for municipal councilor, were detained on charges of vote-buying between the two rounds. Regardless of the veracity of the allegations of vote-buying, their pervasiveness diminished trust in the fairness of the election process.

Some opposition parties and candidates also claimed that pressure had been put on some of their municipal candidates and supporters.<sup>45</sup> In the case of candidates, such pressure was reportedly already exerted during the registration period, in order to dissuade them from running. These allegations usually referred to threats of job loss or pressure through inspections of businesses owned by candidates or their relatives. The OSCE/ODIHR LEOM followed up on two cases in Sofia district in which public-sector employees were dismissed from their jobs after being nominated as mayoral candidates; both cases were assessed by OSCE/ODIHR observers as credible.

Most candidates and party representatives the OSCE/ODIHR LEOM met with complained that they had to pay for any kind of media coverage and about the high prices for such coverage, noting that this unbalanced the playing field. While several paid debates among presidential and mayoral candidates took place in the media, there were some arguments among candidates about the format of these debates. Several candidates complained to the OSCE/ODIHR LEOM that their adversaries who were considered to be the frontrunners refused to debate with them. The Electoral Code provides for one debate to be broadcast free of charge on public Bulgarian National Television and Bulgarian National Radio before the second round of a presidential

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<sup>44</sup> Under the Electoral Code, the official campaign period for the second round of the presidential election starts after the CEC determines the candidates participating in the runoff. There are no such rules for municipal runoffs.

<sup>45</sup> Such claims were received from the districts of Dobrich, Gabrovo, Ruse, Sofia, and Stara Zagora.

election, upon agreement between the candidates. However, such a debate did not materialize as Mr. Plevneliev declined to participate.

The campaign environment was negatively affected by several day-long anti-Roma protests, following the death of a young man in Katunitsa near Plovdiv. Most OSCE/ODIHR LEOM interlocutors opined that some political parties, mainly *Ataka*, had exploited the incident and protests for political ends and that there were attempts to turn what appeared to be a criminal act into an ethnic issue.

## IX. CAMPAIGN FINANCING

The Electoral Code addresses campaign finance in a well-organized manner and uses the same approach for all types of elections. This has the potential to establish a unitary, standard approach in dealing with the complexities of campaign finance and to efficiently identify necessities for improvement.

The Code sets a limit on the amount of individual donations at 10,000 BGN per individual donor per election and bans donations from legal entities. These measures reduce the potential for undue pressure from narrow interest groups and increase accountability. The Code also includes pre- and post-election disclosure requirements. Under the Code, the campaign expenditure ceiling for a presidential election is 2 million BGN, while for municipal campaigns it depends on the size of the respective constituency.

The Code clarifies the authority of the National Audit Office (NAO) to enforce regulations relating to campaign financing, such as to conduct audits of political party incomes and expenditures, to review supporting documentation and to receive information about the transactions effected through the specially designated campaign bank account. Candidates must open such an account within five days of registration and conduct all financial transactions through it. The Code also gives the NAO authority to impose administrative fines for “the breach of the requirements to financing of the election campaign”. These fines can range from 5,000 to 10,000 BGN. The NAO told the OSCE/ODIHR LEOM that they would impose administrative sanctions in a cumulative way, with separate sanctions for each breach.

The Code also attempts to address the issue of the use of possibly laundered or otherwise illicitly obtained money in campaign financing. All donations above 1,000 BGN must be accompanied by a statement of their origin. This way, the burden of proof is placed on the donor in case of an investigation. However, there is no especially designated institution that would check the statements of origin and initiate investigations. The NAO informed the OSCE/ODIHR LEOM that it perceives its role only as ensuring that the statements are submitted and subsequently published on the Internet. For this purpose, the NAO maintains a well-structured public register.

In accordance with the Electoral Code, this register must also include continuously disclosed pre-election information of political party donations and the names of parties’ contractual partners, such as advertising and PR agencies. This is an important measure if compliance of contestants with the campaign expenditure ceilings is to be assured. However, according to information received from the NAO and political parties, some parties and nomination committees sent this data for publication in the register, while others did not. Such lack of full compliance weakened the potential of this commendable accountability requirement.

The NAO told the OSCE/ODIHR LEOM that its role is to publish this data if parties send it but that it should in no other way interfere in this process. The NAO indicated, however, that it might decide to fine parties for failure to send this information if it concluded in a post-election check that despite having received donations, political parties and nominating committees have failed to report them before election day.

The Electoral Code also stipulates that all campaign materials should indicate their “issuer” and that publication and broadcasting of “unsigned items” is prohibited. This is an important provision that contributes to the transparency and accountability of campaign finances and also provides an important input for ascertaining whether candidates comply with the expenditure ceiling. Nonetheless, campaign materials reviewed by the OSCE/ODIHR LEOM did not include such information. The CEC did not appear to have a united opinion on how this norm should be implemented; some CEC members argued that the inclusion of candidates’ names and ballot numbers in campaign materials is sufficient and suggestive of who the “issuer” is.

In accordance with the Electoral Code, “all requirements to the financing of election campaigns [...] apply where the campaigns are financed by financial resources of a candidate or a member of a nominating committee”. This clearly suggests that candidates’ own resources are subject to the same limit of 10,000 BNG as any individual donation. However, the NAO informed the OSCE/ODIHR LEOM that the NAO and the CEC had agreed that the limit on individual donations is not applicable to the personal resources of a candidate, since they should not be considered a donation. This allows for a theoretical situation where all 2 million BNG of the permissible presidential campaign spending come from one source – a candidate’s own money. Representatives of political parties had a similar understanding on this issue. Such an interpretation undermines the meaningfulness of the cap on individual donations.

The Electoral Code stipulates that the election campaign starts 30 days prior to the election, five days after the deadline for submitting documents for the presidential candidate registration. The Code, however, does not address the situation where some candidates start campaigning early. This is significant if the campaign expenditure ceiling is to be observed. OSCE/ODIHR LEOM interlocutors pointed out instances of ostensible campaigning by some prospective candidates well before the start of the official campaign. However, the CEC did not appear to have a united opinion of how to treat such instances. In addition, the fact that there is no clear definition of what constitutes campaigning in the Electoral Code does not provide CEC with meaningful tools to address this problem and renders the campaign expenditure ceiling less relevant.

## **X. THE MEDIA**

### **A. LEGAL FRAMEWORK FOR FREEDOM OF EXPRESSION**

The legal framework governing the media provides for freedom of expression.<sup>46</sup> However, the Criminal Code still criminalizes defamation and provides a higher threshold of protection to public officials within the scope of their duties.<sup>47</sup> Although imprisonment for defamation was abolished in 1999, the Criminal Code provides for high fines and public censure. Furthermore,

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<sup>46</sup> The legal framework consists of the Constitution, the Radio and Television Law, the Criminal Code, and the Law on Protection against Discrimination. It is supplemented by the Ethical Code of Bulgarian Media. Coverage of the election campaign is regulated by the Electoral Code.

<sup>47</sup> Criminal Code, Article 148.



the OSCE Representative on Freedom of the Media expressed serious concern regarding amendments to the Criminal Code adopted by parliament in April 2011.<sup>48</sup> The legislator argued that the amendments were carried out in accordance with Article 3 of the “Framework Decision 2008/913/JHA of the Council of the European Union on combating certain forms and expressions of racism and xenophobia by means of criminal law.”<sup>49</sup> However, the scope of sanctions in the Criminal Code is broader than what the Framework Decision provides for (1 to 3 years of imprisonment).<sup>50</sup> Bulgarian media law experts assess the harsher sanctions as not proportional to the objectives pursued by the law and raised concerns that the provisions could be abused to unduly restrict freedom of expression.

## B. MEDIA ENVIRONMENT

Bulgaria has a pluralistic public sphere. However, the current economic crisis, which resulted in a shrinking advertising market, led to foreign investors withdrawing from the media market.<sup>51</sup> Media professionals have raised concerns that recent changes in the ownership of leading media outlets resulted in an increased concentration of ownership in the hands of a small number of businesspeople, which might reduce pluralism in the traditional media. Journalists informed the OSCE/ODIHR LEOM that foreign investment is regarded as bolstering editorial independence, by protecting media outlets from external political or financial pressure.<sup>52</sup> Furthermore, political and business connections of media owners or editors are considered to contribute to self-imposed censorship and to less investigative journalism. On 14 October 2011, the OSCE Representative on Freedom of the Media called upon governments and businesses in South Eastern Europe to refrain from politicizing the media and urged journalists to enhance their co-operation and professional standards.<sup>53</sup>

In a positive step, parliament passed amendments to the Compulsory Deposition of Printed and Other Publications Act in 2010 that mandate to disclose the actual owners of print media. However, Bulgaria still lacks a public register of broadcast media owners, which limits transparency. The increased concentration of ownership and limited transparency underscore the importance of public-service broadcasting as an internally pluralistic source of information. Access to the Internet, which increasingly serves as a platform for a broader public debate, is unrestricted.

## C. COVERAGE OF THE ELECTION CAMPAIGN



The Electoral Code stipulates that all campaign broadcasts on the public-service broadcasters, Bulgarian National Television (*BNT*) and Bulgarian National Radio (*BNR*), are to be paid for by parties, coalitions and nomination committees, according to a predetermined tariff.<sup>54</sup> Since

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<sup>48</sup> Press release available at <http://www.osce.org/fom/77125>.

<sup>49</sup> Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:328:0055:0058:EN:PDF>.

<sup>50</sup> The Criminal Code provides for prison sentences of one to four years for a person convicted of instigating hatred, discrimination or violence based on race, ethnicity, nationality, religion, sexual orientation, marital or social status, or disability.

<sup>51</sup> In December 2010, the German publishing group Westdeutsche Allgemeine Zeitung (WAZ) sold its Bulgarian holdings to a Bulgarian media group, withdrawing from the Bulgarian market after 13 years.

<sup>52</sup> However, media experts expressed the view that foreign investors, due to their strict focus on business interests, did not fulfill expectations in boosting quality journalism.

<sup>53</sup> Press release available at <http://www.osce.org/fom/83935>.

<sup>54</sup> There are no provisions in the Electoral Code for free airtime for the first round of a presidential election and for municipal elections. The Electoral Code explicitly provides for free airtime only for the closing addresses and debate appearances of presidential candidates during a possible second round.

Article 139 of the Electoral Code prohibits election campaign coverage outside the formats defined by the Code,<sup>55</sup> the law *per se* excludes campaign coverage from newscasts. This undermines the responsibility of the public broadcasters to ensure a fair, balanced and thorough coverage of elections in their news and current affairs programs.<sup>56</sup> Media experts and journalists noted a *de facto* absence of journalism on the public broadcasters during the campaign period since journalists, while obliged to produce paid formats for candidates, were not able to ask critical questions or report on the campaign in other editorial programs. Furthermore, OSCE/ODIHR LEOM media monitoring results showed that only 13 of the 18 presidential candidates received any prime-time coverage on *BNT*.<sup>57</sup> In addition, almost 50 per cent of the paid coverage of the first-round campaign was purchased by three candidates: Ivaylo Kalfin (20 per cent), Rosen Plevneliev (13 per cent) and Volen Siderov (14 per cent).<sup>58</sup>

Commercial broadcasters are not explicitly bound by the same strict rules as the public broadcasters, but their pattern of covering the election campaign was similar to that of *BNT*.<sup>59</sup> The leading commercial TV station *bTV* informed the OSCE/ODIHR LEOM that they covered the start of the campaign of each presidential candidate within the news for free and that the participation of the three candidates in the debate broadcast on 15 October was not paid for. The other commercial TV station with nation-wide coverage, *Nova*, informed the OSCE/ODIHR LEOM that they covered the beginning of the campaign of what they considered the eight “leading” candidates in their news for free.<sup>60</sup> An initiative by the Council for Electronic Media (CEM), which licenses broadcast media and oversees the implementation of the Law on Radio and Television, to sign a memorandum among commercial broadcasters on fair and impartial campaign coverage failed. The broadcasters argued that these obligations are part of their internal self-regulation.

Journalists working for newspapers reported that they covered some newsworthy election-related issues, but that coverage of candidates’ campaign activities was paid for. In the monitored newspapers, the dominance of the two ‘leading’ candidates was even more pronounced: two-thirds of the paid election campaign coverage, including interviews, was devoted to Ivaylo Kalfin, who received 40 per cent of the coverage, and to Rosen Plevneliev, who received 34 per cent of the coverage.

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<sup>55</sup> Article 139.1 of the Electoral Code defines the formats as spots, news briefs, debates and other formats determined by agreement by the directors general of *BNT* and *BNR* and representatives of parties, coalitions and nomination committees.

<sup>56</sup> See Council of Europe’s Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns, available at <https://wcd.coe.int/ViewDoc.jsp?id=1207243&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>.

<sup>57</sup> On 30 September, the OSCE/ODIHR LEOM started quantitative and qualitative monitoring of the prime-time program of the TV stations *BNT*, *bTV* and *Nova* and of the content of the newspapers *Trud*, *24 chasa*, *Telegraph*, *Standart* and *Sega*.

<sup>58</sup> However, paid campaign coverage between the two rounds was very limited. In the three monitored TV stations combined, it was 19:41 minutes for Mr. Kalfin and 8:38 minutes for Mr. Plevneliev.

<sup>59</sup> Although the Electoral Code does not define the formats of election coverage for commercial TV stations, some interlocutors expressed the view that the provision that electronic media may allot time on identical terms and at identical rates (Article 148.1) implies that all campaign coverage has to be paid for.

<sup>60</sup> On *bTV*, one half of the paid airtime was purchased by the candidate pair Ivaylo Kalfin and Stefan Danailov, with significant coverage devoted to Stefan Danailov (27 per cent). The candidates Meglena Kuneva and Atanas Semov purchased 19 per cent paid airtime each, while Rosen Plevneliev purchased only 8 per cent. On *Nova*, Ivaylo Kalfin/Stefan Danailov purchased 25 per cent of the total paid airtime, while 21 per cent were purchased by Rosen Plevneliev. Meglena Kuneva purchased 18 per cent of the paid airtime coverage on that broadcaster.

The dominance of paid campaign coverage in electronic and print media, and in particular on the public broadcasters, resulted in a limited pluralism of views and the *de facto* absence of a critical debate in the media. This impacted negatively on the level of information available to voters. Furthermore, OSCE/ODIHR LEOM media monitoring showed that on all monitored broadcasters and in newspapers, paid coverage was not clearly identifiable as such. In particular, paid coverage in the format of ‘chronicles’ on *BNT* or as reportages in newspapers might have misled the audience about the nature of the content. In addition, the dominance of institutional coverage within the news, as observed on all monitored broadcasters, gave the ruling party an unfair advantage.<sup>61</sup>

The CEC did not regularly review media monitoring reports by the CEM but only reacted if complaints were brought before it.<sup>62</sup> Furthermore, the CEM, due to its limited resources, did not conduct a comprehensive monitoring of the campaign coverage in the media. CEM monitoring results were not publicly available during the campaign period; the first results were published on 8 November.

## XI. PARTICIPATION OF MINORITIES

The Bulgarian Constitution does not recognize the existence of minorities, but it grants the right to ethnic self-identification and guarantees equality of the citizens regardless of ethnic self-identification, race or national origin. The formation of political parties “on an ethnic, racial or religious basis” is prohibited.<sup>63</sup> Bulgaria ratified the Council of Europe Framework Convention for Protection of National Minorities (Framework Convention) in May 1999.

According to the 2011 census, 84.8 per cent of Bulgaria’s population are ethnic Bulgarians, while 8.8 per cent are ethnic Turks and 4.9 per cent are Roma.<sup>64</sup> Smaller minorities include Russians, Armenians, Vlachs, Aromanians, Karakachans, Ukrainians, Macedonians, Greeks, Jews and Romanians.

The *DPS* is generally perceived as representing the interests of the ethnic Turkish minority and other Muslim communities. For the municipal elections, the party also fielded a number of candidates from other minorities, as well as ethnic Bulgarian candidates. The *DPS* did not nominate its own presidential candidate, maintaining that society would not be ready for an ethnic Turkish presidential candidate. Nonetheless, one of the 18 presidential candidates, Sali Shaban Ibryam of the National Movement “Unity”, identified himself as an ethnic Turk. For the second round of the presidential election, *DPS* leader Ahmed Dogan publicly endorsed the BSP candidate, Ivaylo Kalfin, who received 96.6 per cent of the valid votes cast in Turkey on 30 October.<sup>65</sup>

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<sup>61</sup> Most of the coverage of political actors in the news (81 per cent) was coverage during institutional events, while only 19 per cent was coverage of election-related topics.

<sup>62</sup> The CEC discussed several complaints on breaches of the electoral silence period; several statements of administrative offence were issued, based on Article 133.5 of the Electoral Code.

<sup>63</sup> Constitution of the Republic of Bulgaria, Article 11.4. In its Decision No. 4 of 1992 on the registration of the *DPS*, the Constitutional Court decided that the prohibition only refers to cases where the membership is expressly limited to those belonging to a single racial, ethnic or religious group, irrespective of whether it is in a majority or in a minority.

<sup>64</sup> It is widely assumed that the actual number of Roma is significantly higher; most estimates put it at 700,000–800,000.

<sup>65</sup> According to election results published on the CEC website.

Five small political parties or movements representing Roma interests were registered for the municipal elections, fielding altogether up to 2,000 candidates in at least 140 municipalities. Several mainstream parties also included representatives of minorities among their candidates. However, they were mostly in low positions on their candidate lists for municipal councils. According to the information available to the OSCE/ODIHR LEOM, altogether some 65 Roma councilors and mayors were elected in the municipal elections, 35 of them from the Roma parties and 30 more on the lists of mainstream parties. This is a significant decrease from the 2007 municipal elections, where close to 200 Roma representatives were elected.

Women belonging to minorities frequently face combined disadvantages, which may also affect their possibilities to participate in political life and achieve decision-making positions. The number of female candidates representing minorities in these elections was low, and a very limited number of them were elected.

The Electoral Code stipulates that the election campaign shall be conducted in the Bulgarian language. *DPS* leader Ahmed Dogan repeatedly addressed supporters in Turkish while campaigning, stating that he was willing to be sanctioned. *GERB* and *Ataka* filed complaints against the *DPS* mayoral candidate in Omurtag for using Turkish during a campaign event, but the Omurtag MEC did not impose a sanction because it could not garner the two-third majority to make a decision. A similar complaint was filed by *VMRO* (Bulgarian National Movement) over the use of Turkish at a campaign event of the Unified People's Party in Razgrad. Many OSCE/ODIHR LEOM interlocutors raised concerns that the prohibition to use other languages than Bulgarian in electoral campaign *de facto* prevents parts of the electorate belonging to minorities from effectively participating in public affairs.<sup>66</sup>

The OSCE/ODIHR LEOM received a number of allegations from different parts of the country of undue influence on minority voters, including vote-buying, pressure and intimidation. Some of the reported allegations of pressure exercised on ethnic Turkish voters indicated involvement of the *DPS*. While the allegations could not be substantiated beyond doubt, the OSCE/ODIHR LEOM assessed a number of them as credible. At the same time, various interlocutors expressed concern that Roma are frequently linked to vote-buying in the public discourse, presenting them as the source of the problem.

Regrettably, some politicians used intolerant and inflammatory rhetoric against minorities, in particular Roma, in their campaign.<sup>67</sup> The term “gypsy crime”, used by *Ataka*, suggests a link between the ethnic origin and criminality, thus enforcing negative stereotypes and provoking ethnic tensions, especially in the aftermath of the events in Katunitsa and the anti-Roma protests that followed.

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<sup>66</sup> General Comment 25 adopted by the United Nations Human Right Committee in 1996 states that “information and materials about voting should be available in minority languages.” Paragraph 32.5 of the 1990 OSCE Copenhagen Document states that “persons belonging to national minorities have the right [...] to disseminate, have access to and exchange information in their mother tongue”. Paragraph 35 of the 1990 OSCE Copenhagen Document states that “The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs (...)”

<sup>67</sup> This is at odds with principles enshrined in the Copenhagen Document, the Framework Convention for the Protection of National Minorities, and the International Convention on the Elimination of All Forms of Racial Discrimination, as well as OSCE Ministerial Council Decision No.8/09. These documents encourage a spirit of tolerance and intercultural dialog, of promoting understanding and tolerance, and combating prejudices that lead to racial discrimination.

## XII. DOMESTIC AND INTERNATIONAL OBSERVERS

While the Electoral Code defines who can be an observer,<sup>68</sup> it does not specify their full scope of rights and responsibilities. The code grants access for observers to all stages of election-day proceedings at MECs and PECs; however, it is silent regarding the possibility for domestic and international observers to attend any CEC meetings or MEC sessions during the pre-election period.

The twelve domestic NGOs which observed these elections accredited a total of 5,136 observers, without any impediment. Apart from deploying some 615 observers, Transparency International invited all candidates to sign an ‘Integrity Pact’ which included a pledge by the candidate not to engage in vote-buying or other fraudulent activities. The Civil Initiative for Free and Democratic Elections (GISDI) deployed more than 3,000 observers for each of the two rounds. GISDI reported to the OSCE/ODIHR LEOM that they had encountered some problems, with some MECs not accepting their observers’ accreditations and some PECs retaining accreditations and not returning them to observers, thus impacting negatively on their ability to observe the second round.

## XIII. COMPLAINTS AND APPEALS

The Electoral Code generally provides for one level of appeal from a decision of an election commission. MEC decisions are appealable to the CEC, with no possibility of further appeal. CEC decisions are appealable directly to the Supreme Administrative Court. CEC decisions related to the refusal to register a political party, coalition, nomination committee or candidate for an election must be appealed within 24 hours. Most other appeals must be made within three days. The OSCE/ODIHR and Venice Commission Joint Opinion highlighted the short deadlines for appeals of election commission decisions on the registration of parties, coalitions, and their candidates. At least one candidate for mayor of Varna was denied registration by an MEC decision and then missed the 24-hour deadline to appeal the decision to the CEC.

Several decisions on the registration of municipal candidates were appealed from MECs to the CEC. Some of those appeals were not ultimately decided until a few days before election day. Thus, CEC Decision 1258 on the registration of a candidate for mayor of Belogradchik was issued less than four days before election day, and Decision 1274 on the registration of a list of municipal council candidates in Avren, less than three days before. The basis for some of the challenges was related to technical issues in the documentation submitted with the candidate registration. These challenges did not appear to comply with the intent of the Electoral Code or to further the right of citizens to seek public office.<sup>69</sup> Four candidates for mayor were also removed from the ballot less than four days before election day because they were determined

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<sup>68</sup> Representatives of the European Parliament, of foreign parliaments, of the OSCE, of foreign parties and movements, as well as persons designated by the parties and coalitions running in the elections, persons invited through the Ministry of Foreign Affairs, and authorized members of Bulgarian non-governmental organizations.

<sup>69</sup> See “Existing Commitments for Democratic Elections in OSCE Participating States”, Commentary to paragraph 6.2: “Other requirements [for registering candidacies] should be scrutinized carefully to determine whether they are truly necessary, unduly burdensome, or potentially discriminatory.”

not to be eligible to stand for election.<sup>70</sup> It is of concern that the CEC was still deciding complaints related to municipal candidate registration less than one week before election day and that these candidates could not challenge their de-registration in court. OSCE commitments and the Venice Commission's Code of Good Practices in Electoral Matters require both a right to judicial appeal and a timely decision.<sup>71</sup>

Matters that are brought to a commission for decision but do not garner the required two-thirds majority are considered by the Electoral Code to be a 'refusal' to take a decision. Two such refusals were appealed to the Sofia administrative court, which ruled that it is unlawful for the CEC to refuse to take a decision on an appeal from an MEC decision and that, when deciding such appeals, the CEC may take the decision by a simple majority. These court decisions conflict with long-standing practice in Bulgaria<sup>72</sup> and created some confusion about the appropriate procedures that apply to commission proceedings.

The concern about the limited right of appeal from CEC decisions, which was also raised in the Joint Opinion, was partially addressed by a Constitutional Court ruling in May 2011.<sup>73</sup> The Court clarified that, where rights to appeal were not specifically defined in the Electoral Code, the general right to judicial review guaranteed by the Constitution would apply and could be exercised through application of the Administrative Procedure Code.

The multitude of election-day responsibilities, combined with a lack of professional staff and resources, caused the CEC to fall behind in processing complaints and appeals. This resulted in the CEC taking decisions after the required three-day legal deadline. The CEC received 495 complaints on the first election day and took 26 decisions on those complaints. On the second election day, there were 133 complaints and 3 decisions.<sup>74</sup> The lack of transparency in the complaints and appeals process made it impossible for the public to know how many complaints the CEC received, the date and time of receipt, the subject matter, and the ultimate disposition of the complaints.<sup>75</sup> It was also impossible for the complainant to know how, or even if, his or her complaint was considered by the CEC.

Domestic observer organizations submitted complaints directly to the CEC, based on their observations of the process.<sup>76</sup> Those complaints were considered only on an informal basis.<sup>77</sup>

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<sup>70</sup> These candidates were deregistered by CEC Decisions 1247 and 1248 (Sliven municipality), 1253 and 1254 (Tundzha municipality). The candidates were determined to have a current address abroad, according to a database maintained by the Ministry of Interior. Although the candidates all challenged their deregistration, they were not permitted to offer evidence that they met the residency requirement.

<sup>71</sup> See the OSCE 1990 Copenhagen Document, paragraph 5.10; and the Venice Commission's Code of Good Practice in Electoral Matters, Section II, 3.3 a and paragraph 92.

<sup>72</sup> The CEC spokespersons and other interlocutors told the OSCE/ODIHR LEOM that no election commission has taken a decision by a simple majority in the 20-year history of multi-party elections in Bulgaria.

<sup>73</sup> Constitutional Court Decision 4 of 4 May 2011.

<sup>74</sup> On 23 October, 113 complaints were made by phone to the CEC office, and 382 were submitted in writing. On 30 October, there were 9 phone complaints and 124 in writing. These numbers do not include the phone calls taken directly by CEC members on their personal mobile phones; those informal 'complaints' were not entered into a registry. This information was given to the OSCE/ODIHR LEOM by a CEC member, but is not generally available to the public or media.

<sup>75</sup> Contrast with the Law on Ombudsman of the Republic of Bulgaria, Article 21; "The Ombudsman shall maintain a public register on the received oral and written complaints and signals and their disposition.

<sup>76</sup> For instance, Transparency International reported having sent 10 complaints by fax to the CEC on 23 October, and GISDI reported sending ten by email.

<sup>77</sup> The CEC considers complaints from NGOs on an informal basis and takes no formal decisions on them. There is no requirement in the Electoral Code that such complaints be considered.

The Electoral Code is not clear about the full rights of election observers<sup>78</sup> and about who is considered an “interested party” entitled to file complaints or appeals with the commissions.

#### XIV. ELECTION DAY

The OSCE/ODIHR LEOM did not conduct comprehensive and systematic observation on election day, but mission members visited a limited number of polling stations and MECs in several municipalities.

The atmosphere on the first-round election day was calm and voting appeared to proceed in an orderly manner. In the polling stations visited by the OSCE/ODIHR LEOM, PEC members generally managed the process professionally and were familiar with procedures. In many polling stations visited, the OSCE/ODIHR LEOM noted queues of voters, which seem to have been caused by the slow processing of voters, especially in polling stations where there was only one polling booth. Some PECs processed each voter twice, separately for each election, which also caused delays. As a result, the CEC decided to extend voting by one hour. This decision was published 20 minutes before polling stations were due to close. There is no explicit legal authority for the CEC to extend voting hours, nor to suspend voting as might be required by conditions in specific polling stations.

In almost all polling stations visited during the first-round vote, counting was carried out in a professional, transparent and orderly manner, and procedures were adhered to, although the process was quite protracted. The delivery of materials and the tabulation process at the MECs visited were generally professional and efficient, except in Sofia.

The processing of PECs protocols for Sofia city was particularly slow and disorganized; most of the 4,355 protocols had to be processed twice because of mistakes.<sup>79</sup> There, protocols were not delivered to MECs. Bags containing sensitive materials were left unattended and there were instances of people other than election commission members handling them. These included two members of parliament (MPs) from *GERB*, one of whom was photographed carrying a bag with sensitive election material outside the hall where the Sofia MEC was receiving election materials. In a draft decision of 28 October, the CEC concluded that the two MPs were not authorized to be present at the MEC and had no right to handle election materials. However, the CEC could not garner the required two-thirds majority to adopt a formal decision establishing that the two MPs were guilty of an administrative violation. In a similar case involving a complaint against a *BSP* MP, the CEC also failed to reach the two-thirds majority required for taking a decision.

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<sup>78</sup> Paragraph 8 of the OSCE 1990 Copenhagen Document states that “the participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place [...]” During the 1994 OSCE Budapest Summit, the OSCE participating States also agreed that “ODIHR will play an enhanced role in election monitoring, before, during and after elections.” 1994 Budapest Summit Document, section VIII, paragraph 12, available at [www.osce.org/mc/39554](http://www.osce.org/mc/39554). See also paragraph 27 of the OSCE Istanbul Declaration, Charter of European Security, where participating States committed themselves to enhance the ability of NGOs to make their full contribution for the development of civil society, human rights and fundamental freedoms.

<sup>79</sup> As stated by in a press release issued by the MEC.

Due to the late completion of the tabulation process at the Sofia MEC, the results for the first round of the presidential election were announced by CEC on the evening of 26 October, one day after the legal deadline.<sup>80</sup>

The transparency of the municipal elections tabulation process was affected by delays in the announcement of results and publication of results protocols, which were posted on the CEC website only on 29 October. Most interlocutors explained the difficulties PECs encountered in completing protocols as being the result of the simultaneous conduct of two elections, the implementation of new election legislation, as well as insufficient training and the late replacement of PEC members.

The number of invalid ballots in the first round was considerably higher than in previous elections; it varied between 5.3 percent for the municipal mayoral elections and 6.4 percent for the presidential election.<sup>81</sup> In the second round of the presidential election, the share of invalid ballots dropped to 3.1 per cent.

Many stakeholders expressed grievances to the OSCE/ODIHR LEOM about problems encountered during the first-round election day. Issues they raised included organizational flaws, problems with the ‘prohibited voter lists’, the presence of multiple representatives from the same party in polling stations, ballots printed on paper which made it possible to see the voter’s choice, and voters queuing not permitted to vote. Throughout election day, there were allegations of vote-buying. In a few polling stations visited, the OSCE/ODIHR LEOM noted groups of unauthorized people, at times instructing voters whom to vote for.

For the second round, voting, the vote count and the processing of PEC protocols were conducted professionally and in an efficient manner in those polling stations and MECs visited by the OSCE/ODIHR LEOM. The number of mistakes in the protocols was considerably reduced in the second round. The final results for presidential election were announced by a CEC decision on 1 November and key data of the protocols by municipality and by polling station were posted on its website on the same day.<sup>82</sup> The extracts of protocols of MECs and PECs for municipal elections were posted on the CEC website on 2 November.<sup>83</sup>

## XV. POST-ELECTION ELECTION DISPUTES

Challenges to presidential election results can be lodged with the Constitutional Court. However, challenges can only be brought by political parties or candidates that participated in the election and only through an institution entitled to address the Constitutional Court.<sup>84</sup> The Joint Opinion highlighted that the lack of a direct appeal to the Court in order to challenge a presidential election is inconsistent with the European Court of Human Rights decision in

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<sup>80</sup> CEC Decision 1359, published on 27 October at 02:53. Under the Electoral Code, the CEC has to declare the results within 48 hours after the closing of the polls.

<sup>81</sup> For the 2006 presidential election, the rates were 2.7 and 2.1 percent for first and second round respectively. New rules for marking ballots require that they are marked with an “x” written with a blue ballpoint pen for them to be valid.

<sup>82</sup> CEC Decisions 1457 and 1458.

<sup>83</sup> CEC Decision 1460.

<sup>84</sup> See Article 150 of the Constitution of the Republic of Bulgaria: “The Constitutional Court shall act on an initiative from not fewer than one-fifth of all Members of the National Assembly, the President, the Council of Ministers, the Supreme Court of Cassation, the Supreme Administrative Court or the Prosecutor General.”



*Petkov v. Bulgaria.*<sup>85</sup> The Joint Opinion also raised concerns about the limited right to appeal in all elections.<sup>86</sup> OSCE commitments and the Code of Good Practice in Electoral Matters require that the right to challenge election results be available to voters as well as political parties and candidates.<sup>87</sup>

Seventy-one members of parliament from *BSP*, *DPS* and *Ataka* challenged the presidential election results before the Constitutional Court on 16 November.<sup>88</sup> The complaint alleged that people were disenfranchised during the first round of elections because: delays in the process and that the delays were foreseeable and preventable; the use of the ‘prohibited’ voters lists disenfranchised voters in violation of the constitution; a conflict of interest existed between the minister of interior in his official capacity and in his capacity as a political activist (i.e. as head of the *GERB* campaign headquarters); the secrecy of the ballot was compromised because of the double-stamp requirement combined with the see-through ballot paper; the extension of the voting day was illegal and was applied inconsistently throughout the country; the delay in announcing the first round election results only allowed for a 48 hour campaign period before the second round. All of these factors were alleged to have contributed to an illegitimate outcome.<sup>89</sup>

Challenges to municipal election results are made to the Administrative Court for the relevant district. The district court decision can be further appealed to the Supreme Administrative Court. The Electoral Code provides for specific timelines for the filing of the challenge, its consideration and decision in the lower court, and for further appeal to the Supreme Administrative Court. The entire process is required to be completed within three months, which appears to be an unreasonably long period of time to finalize election results.<sup>90</sup> While the practice of the courts has been to decide all election challenges in an expedited manner, some regional administrative courts were still holding hearings in December (e.g. Sofia and Pleven) with further appeals to the Supreme Administrative Court to be expected.

Ninety-seven challenges to municipal election results were decided by the Supreme Administrative Court in 2007. Following these elections more than 350 challenges to municipal election results were filed. At least one district administrative court has ruled that election results for municipal mayor can only be challenged following the determination of the final outcome, after the first round if one candidate receives a majority of the vote or otherwise only following the second round run-off between the top two vote-getters. As a result, a candidate who was in third place and therefore eliminated after the first round was not allowed to challenge the results that determined his elimination.

At least one administrative court has undertaken a full recount of ballots for mayor of a municipality.<sup>91</sup> Other administrative courts<sup>92</sup> have explicitly rejected the possibility of a

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<sup>85</sup> Application Nos. 77568/01, 178/02, and 505/02, decided on 11 June 2009.

<sup>86</sup> Some 143 voters complained that they had been denied the right to vote in a municipal election. The Administrative Court in Montana dismissed the challenge holding that the Electoral Code did not recognize a right of voters to challenge election results. See administrative case no. 599/2011.

<sup>87</sup> Venice Commission Code of Good Practice in Electoral Matters, Section II, 3.3 f and paragraph 92.

<sup>88</sup> Constitutional Court of the Republic of Bulgaria case No 11/2011.

<sup>89</sup> On 14 December, the Constitutional Court unanimously turned down the challenge.

<sup>90</sup> This lengthy timeline for election appeals was mentioned in the OSCE/ODIHR and Venice Commission Joint Opinion, paragraph 60.

<sup>91</sup> The Kardzhali Administrative Court.

recount of ballots. The Electoral Code contains no provisions for an administrative recount of ballots and provides no guidance for courts in the procedures to be used in deciding challenges to election results. Some of these issues can be expected to be further clarified through the appellate decisions of the Supreme Administrative Court, but the election process would clearly benefit from more clarity in the Electoral Code.

## **XVI. RECOMMENDATIONS**

The following recommendations are offered for consideration by the authorities, political parties and civil society of the Republic of Bulgaria, in further support of their efforts to conduct elections fully in line with OSCE commitments and other standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. OSCE/ODIHR stands ready to assist the authorities of the Republic of Bulgaria to further improve the electoral process and in following up on the recommendations contained in this and previous reports.

### **A. PRIORITY RECOMMENDATIONS**

1. While the establishment of a CEC with a five-year mandate, which administers all types of elections, is a welcome step, consideration should be given to providing the CEC with a permanent full-time staff and an independent budget. This would contribute to building capacity and institutional memory and would allow the CEC to develop and propose required improvements and amendments well ahead of an election.
2. The Electoral Code should provide for the inclusion of opposition party nominees in the leadership positions at all levels of the election administration, in order to reduce perceptions of political bias.
3. Sessions of election commissions at all levels should be open to the public during the entire electoral period. The Electoral Code should clearly specify that authorized representatives of participants in an election, domestic and international observers, and media representatives are entitled to attend election commission sessions.
4. The Electoral Code should clearly state that in cases where an election commission fails to adopt a decision because it could not garner the required two-third majority, such failure should be considered a rejection of the draft decision, rather than a 'refusal' to adopt the decision. Such rejections should be published and be open to appeal, under the same rules applicable for adopted decisions.
5. As previously recommended in 2009, consideration should be given to review the process of voter registration through a comprehensive audit, in order to address questions related to the high number of voters on the voter lists compared to the size of the population. The responsibilities of relevant institutions dealing with the maintenance and update of voter lists should be clarified.

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<sup>92</sup> Shumen Administrative Court, Decision 108 of 11 November 2011, Plovdiv Administrative Court Decision 2928/2011 and Veliko Tarnovo Administrative Court, protocol decision of 7 November 2011 in case 1076/2011.

6. Individuals that identify themselves as belonging to minorities should be allowed to use their mother tongue in the election campaign in order to promote their effective participation in public affairs. Consideration could also be given to providing voter information and other official election materials in minority languages, which would enhance the understanding of the electoral process for all communities.
7. The legal framework for the media should guarantee editorial freedom to cover the campaign, in particular on the public broadcasters. Furthermore, it should include the obligation for fair, balanced and impartial coverage in news and current affairs programs on all electronic media, in line with international good practices. It could be taken into consideration to introduce clear guidance regarding what constitutes equitable coverage of candidates/political parties in news programs, in order to protect journalists from external pressure.
8. Consideration could be given to extending the deadline for appealing decisions refusing the registration of political parties, coalitions, nomination committees and candidates from one to three days. All appeals must be final well in advance of election day. The de-registration of candidates should also be decided well before election day and there must be a meaningful opportunity to appeal to a court.
9. The adjudication of election-related complaints and appeals by election commissions should be fully transparent and open to stakeholders and the public. Rules for appeals of election commission decisions should be codified, taking into account the latest decisions of the Constitutional Court and the Supreme Administrative Court. Appeals should guarantee the right to judicial review of decisions related to the right to vote, the right to stand as a candidate, the validity of candidatures, voter registration, compliance with the rules governing the electoral campaign, and access to the media or party funding.
10. A control mechanism for individual donors' statements regarding the origin of funds donated to campaign should be ensured. The authority could be given to the National Audit Office to conduct a review of these declarations, cross-checking them with the data of, for instance, the National Revenue Agency. If found necessary, further investigation could be conducted by the police.

## **B. OTHER RECOMMENDATIONS**

### **LEGAL FRAMEWORK**

11. The issue of whether presidential candidates meet the five-year residency requirement should be determined well before election day and this issue should not form the basis for post-election challenges.
12. Bulgarian citizens with dual citizenship should have the right to stand in elections.
13. In the case of citizens serving prison sentences, the right to vote should only be limited for those convicted by a court of a serious crime.
14. Consideration could be given to allowing permanent residents from non-EU member states to vote in municipal elections.

15. Consideration could be given to clarifying the rights of voters to complain of electoral violations. Consideration could also be given to clarify in the Electoral Code the rights of voters to challenge election results.
16. Consideration could be given to changing the Code of Criminal Procedure in a way which would allow the public prosecutor to request the use of special investigation methods for investigating cases of suspected vote-buying.

#### **ELECTION ADMINISTRATION**

17. A comprehensive and uniform training program for all PEC members should be developed, with a particular emphasis on counting procedures and the completion of results protocols. A clear, concise manual could also be provided, in addition to the Methodological Instructions adopted by the CEC.
18. A pool of experienced and competent candidates for PEC membership could be established after an election and serve as a reference for nominations by political parties for future elections.
19. Voter education could be more timely and extensively conducted through diverse channels, including MECs, and possibly in collaboration with relevant NGOs.

#### **VOTER REGISTRATION**

20. If the so-called 'prohibited voter list' is maintained, voters included in it should be informed of this in due time and should have the opportunity to challenge the decision.

#### **CAMPAIGN FINANCING**

21. The CEC could consider issuing a regulation that outlines the manner in which the information about the producer of campaign material is included in such materials.
22. Consideration could be given to amending the Electoral Code to include a definition of what activities constitute campaigning. This would allow the CEC to efficiently address the issue of campaigning before the official campaign start.
23. Consideration could be given to providing state-funded reimbursement of campaign expenditures of independent candidates who receive substantial support. This would encourage broader participation of independent candidates and would balance the present state financing system that advantages political party nominees.
24. It should be ensured that all political parties and nomination committees submit information on their donors and contractual partners to the public register maintained by the National Audit Office on an ongoing basis. The National Audit Office should have the authority to request this information if failure to submit it is suspected and to fine the respective party for the failure to comply with the law.

#### **MEDIA**

25. The legal framework should include free airtime provisions on public broadcasters for contestants running in an election.

26. Consideration could be given to regulating the coverage of the election campaign in the broadcast media in detail in the Law on Radio and Television, with basic provisions remaining in the Electoral Code. The implementing body for the Law on Radio and Television, the Council for Electronic Media (CEM) could be tasked with overseeing the provisions, based on quantitative and qualitative media monitoring, and with power to provide remedies during the campaign period in a timely manner.
27. In order to disclose potential political and business interests and undue concentration in media ownership, a public register of broadcast media owners could be introduced.

#### **PARTICIPATION OF MINORITIES**

28. Efforts to engage actively with Roma communities in policy-making could be increased. Further efforts should be made to promote effective participation of Roma in public and political life, in line with the OSCE Ministerial Council Decisions No. 6/08 on “Enhancing OSCE Efforts to Implement the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area” and No. 8/09 on “Enhancing OSCE Efforts to Ensure Roma and Sinti Sustainable Integration”.

#### **DOMESTIC AND INTERNATIONAL OBSERVERS**

29. In line with the commitments contained in the 1990 OSCE Copenhagen Document, the Electoral Code should explicitly provide for unrestricted observation of the entire electoral process, at all levels, by domestic and international observers.
30. The rights of domestic observers could be clarified to specifically affirm their right to file complaints with election commissions.

#### **ELECTION DAY**

31. PEC protocols could be simplified and include intermediate control formulas. Ballot reconciliation should be comprehensive, including all ballots received, used and unused. Blank ballots should be reported separately.
32. Amendments to the Electoral Code could be considered to allow for the recount of ballots at the level of polling station or electoral district.

**ANNEX – FINAL RESULTS OF THE PRESIDENTIAL ELECTION**

<b>Election Results (including voting abroad)</b>	<b>First Round</b>	<b>Second Round</b>
Total number of voters in the voter list	6,873,589	6,910,491
Number of voters entered in the last page of the voter list	11,647	17,555
Number of voters in the supplementary voter list	10,980	9,702
Number of ballots cast	3,593,886	3,334,169
Turnout (within Bulgaria)	51.83%	48.04%
Total number of invalid ballots	229,844 (6.4%)	104,837 (3.1 %)
Total number of valid ballots	3,364,078	3,229,329

<b>Presidential/Vice-Presidential Candidates</b>	<b>Nominating Organization</b>	<b>First Round</b>		<b>Second Round</b>	
		<b>Votes</b>	<b>%</b>	<b>Votes</b>	<b>%</b>
Meglana Kuneva Lyubomir Hristov	Nomination Committee	470,808	14.00		
Rosen Plevneliev Margarita Popova	<i>GERB</i>	1,349,380	40.11	1,698,136	52.58
Sali Shaban Ibryam Valentina Gotseva	National Movement “Unity”	41,837	1.24		
Rumen Hristov Emanuil Yordanov	Union of Rightist Forces	65,761	1.95		
Mariya Kapon Nikolay Kisiov	Unified People’s Party	30,665	0.91		
Stefan Solakov Galina Vasileva	National Front for the Salvation of Bulgaria	84,205	2.50		
Ivaylo Kalfin Stefan Danailov	<i>BSP</i>	974,300	28.96	1,531,193	47.42
Volen Siderov Pavel Shopov	<i>Ataka</i>	122,466	3.64		
Aleksey Petrov Nikolay Georgiev	Nomination Committee	31,613	0.94		
Nikolay Nenchev Zheko Ivanov	Bulgarian Agrarian People’s Union	9,827	0.29		
Atanas Semov Polya Stancheva	<i>RZS</i>	61,797	1.84		
Pavel Chernev Aneliya Dimitrova	Party for the Common People	8,081	0.24		
Dimitar Kutsarov Kameliya Todorova	Nomination Committee	6,989	0.21		
Krasimir Karakachanov Daniela Simidchieva- Dimitrova	VMRO – Bulgarian National Movement	33,236	0.99		
Andrey Chorbanov Angel Mirchev	Bulgarian Democratic Public	6,340	0.19		
Nikolay Vasilev Vladimir Savov	Nomination Committee	5,633	0.17		
Svetoslav Vitkov Ventsislav Mitsov	Nomination Committee	54,125	1.61		
Ventsislav Yosifov Emiliyan Dimitrov	Nomination Committee	7,021	0.21		

[Source: Website of the Central Election Commission, <http://www.cik.bg/>]

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is 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 Summit Document). This is referred to as the OSCE human dimension.

The OSCE/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 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights and fundamental freedoms** consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked people, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance and non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/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.

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/odihr](http://www.osce.org/odihr)).