



EUROPEAN PARLIAMENT



INTERNATIONAL ELECTION OBSERVATION MISSION 2002 GENERAL ELECTIONS – BOSNIA AND HERZEGOVINA

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Sarajevo, 6 October 2002 – The International Election Observation Mission (IEOM) for the 5 October 2002 general elections is a joint undertaking of the Parliamentary Assembly of the Organization for Security and Co-operation in Europe, the European Parliament, the Parliamentary Assembly of the Council of Europe, and the OSCE Office for Democratic Institutions and Human Rights. The Council of Europe's Congress of Local and Regional Authorities of Europe also observed the cantonal and municipal elections.

This statement of preliminary findings and conclusions is issued before the completion of the counting process, the announcement of election results and before all complaints and appeals have been addressed by the electoral and judicial authorities.

PRELIMINARY CONCLUSIONS

The 5 October 2002 general elections in Bosnia and Herzegovina (BiH) were largely in line with international standards for democratic elections, when considering the country's unique constitutional framework. They also mark important progress toward the consolidation of democracy and rule of law under domestic control.

The elections were particularly significant from a political perspective because they were the first in which all State and entity offices were being elected for four-year terms. As such, the governments emerging from the vote will have a crucial role in determining the future of BiH's integration into European and trans-Atlantic structures.

These were essentially transitional elections. Although they were the first elections since the Dayton Peace Agreement to be administered and conducted by BiH authorities, they took place in a unique legal context in which ultimate authority still rests with the international community. In the months leading up to the elections and as in previous elections, the international community took a number of steps affecting key aspects of the elections which, while in line with their mandate to promote peace and in compliance with UN Security Council resolutions, were in some instances irregular by international election standards. Such measures will hopefully be unnecessary in future elections.

The elections were noteworthy for the following accomplishments:

- A broad and active campaign including 57 political parties, nine coalitions, and three independent candidates, providing voters a genuine choice;
- A campaign environment largely free of violence and with few reports of intimidation;
- General respect for the freedom of movement, association, and expression;

- Substantially more cross-entity politicking than during previous elections;
- A less overt role for nationalism than in previous elections, although it remained an underlying issue;
- Normalization of the electoral process through the adoption of a State-level Election Law and the creation of national bodies responsible for the elections;
- A national Election Commission which maintained high levels of trust among political parties and worked in a consensual manner;
- An Election Commission decision to include political party members on Polling Station Committees, increasing the transparency of the election administration; and
- An active broadcast and print media providing extensive and diverse election coverage.

Some shortcomings were apparent in the electoral process including:

- Failure of State and entity authorities to reach timely agreement on a number of important electoral issues and appointments, leading to the imposition of these measures by the former High Representative;
- Continued international membership on the Election Commission and other bodies, which diminished the perception of national control over the elections;
- Failure of the BiH, entity and municipal authorities to provide adequate financing for the elections;
- An expressed lack of confidence by many party officials in the fairness and impartiality of important aspects of the electoral process, including the complex electoral system, the complaints procedure, the composition of Polling Station Committees, and the counting process for absentee and out of country ballots;
- Delays by the Election Commission in adopting some regulations, affecting procedures at lower levels;
- A highly negative and often personalized campaign, with little meaningful debate on reform or other key issues; and
- Citizens who do not identify themselves as Bosniac, Serb, or Croat are effectively barred from the State Presidency and some other offices.

Voter turnout was 54%. Observers assessed the voting process positively for an overwhelming number of polling stations visited. The main problems noted were group voting, voters unable to find their names on voter registers, and unauthorized persons in polling stations. Intimidation of party observers was noted in a few isolated cases. Observers evaluated the vote count and aggregation of results at MECs in a less positive tone.

The final assessment of these elections will depend, in part, on the completion of counting and tabulation, the final announcement of results and the effectiveness of the complaints procedure. The OSCE/ODIHR Election Observation Mission will remain in country to observe the completion of these aspects of the electoral process.

The institutions represented in the IEOM are prepared to assist the authorities and civil society of Bosnia and Herzegovina in continuing to improve its electoral process.

PRELIMINARY FINDINGS

Background

The 5 October 2002 general elections will award four-year mandates for the Presidency of BiH, the House of Representatives of the Parliamentary Assembly of BiH, the House of Representatives of the Parliament of the Federation of BiH (Federation), the President and Vice Presidents of the Republika Srpska (RS), the National Assembly of the RS, and ten Cantonal Assemblies in the Federation, as well as a two-year mandate for the Municipal Council of Žepče.

Following the last general elections in 2000, two large coalitions of political parties were formed that have governed at the State and entity levels. The parties allied in those coalitions chose to run separately in 2002. Fifty-seven political parties, nine coalitions and three independent candidates were certified. A significant positive development was the expansion of cross-entity campaigns: 27 Federation-based parties are running in the RS, while 12 RS-based parties are running in the Federation. However, it appears this campaigning is largely directed at minority returnee communities. Opinion polls suggest that no party will muster an absolute majority in the national or entity assemblies. An extended period of post-election coalition building may be needed to form governments in the entities and at State level.

Legislative Framework

The Election Law provides the essential basis for democratic elections. Although belatedly adopted in August 2001 as a replacement for provisional rules used for elections since 1996, it has greatly improved the framework for the elections and brought electoral legislation clearly under the domestic system of rule of law. The law establishes an unusually complex electoral framework. Many of the larger political parties complain that the system encourages smaller, and less viable, political parties.

One unfortunate peculiarity of the State structure is that citizens who do not identify themselves as one of the three “constituent peoples” of BiH are effectively barred from the BiH and RS presidencies; this is contrary to international standards for democratic elections. Furthermore, citizens voting for the BiH State presidency are limited in their electoral choice based on ethnicity and their place of residence: citizens voting for the RS may only vote for a Serb, while citizens voting for the Federation may only vote for a Bosniac or Croat. The restriction also applies to the candidates to the State Presidency: a Serb registered to vote in the Federation cannot run for the BiH presidency; and the same is true for Bosniacs and Croats registered in the RS.

Unlike other sovereign States, the pinnacle of the legislative framework in BiH is the General Framework Agreement for Peace in Bosnia and Herzegovina (Peace Agreement) of which the Constitution of BiH is an integral part. Moreover, the Peace Agreement is supplemented by United Nations Security Council resolutions and Peace Implementation Council decisions. This supra-national legal structure grants extraordinary powers to the international community, including authority over elections.

In April 2002, following unsuccessful attempts by entity authorities to implement a Constitutional Court decision, the former High Representative issued decisions changing the Election Law and imposing amendments to the constitutions of the two entities affecting the electoral structure. As in previous elections, decisions by the former High Representative and other international authorities barred several hundred persons from holding elected office, barred parties in which those persons hold central party positions from being certified for participation in the elections, and removed some elected officials from office. Some parties were forced to restructure their leaderships to ensure certification. Such decisions are within the mandate granted to the High Representative by the UN Security Council. In other circumstances, such measures would be irregular by international standards, in particular where effective means of redress against administrative decisions or the right to a fair and public hearing were not available.

Article 19.8 of the Election Law links the right of displaced persons to return freely to their homes – a key element of the peace process – to the right to vote. Persons illegally occupying a residence and subject to a restitution order should have no right to vote in their current place of domicile. However, lack of clarity in Article 19.8 and difficulties of enforcement led to the application of the rule to just 200 people out of the thousands of registered voters who may be illegal occupants, raising concerns about the equitable application of the law.

Until shortly before the election, relatively few formal complaints were filed with the Election Complaints and Appeals Council (ECAC) and still fewer were appealed to the newly appointed Appellate Division of the State Court. While this may reflect a well-run electoral process, according to political parties it also reflects a lack of confidence in the appeals procedure as an effective remedy for election complaints. In the final days before the elections, however, approximately 60 complaints were received by the ECAC, overwhelmingly concerning violations of campaign rules.

Election Administration

The Election Commission (EC) functioned efficiently and retained a high level of confidence amongst most political parties. Almost all EC decisions were taken by consensus. EC meetings were open and transparent. The four national members of the seven-member EC took the leading role in its work and decisions. The Municipal Election Commissions (MECs) also generally operated professionally, although some experienced a severe lack of funding from municipal authorities. A good training program was provided by the Association of Election Officials of BiH, under the supervision of the EC.

An Election Commission decision to include political party members on Polling Station Committees (PSCs) increased the transparency and inclusiveness of the election administration. At the same time, some problems arose in the formation of PSCs, in particular meeting the requirement for ethnic composition, technical expertise and that every political party may have no more than one representative on a PSC. By 20 September, the date by which the formation of PSCs was due to be completed, about a third of all MECs either had not reported to the Election Commission of BiH or did not make PSC appointments as per the regulations. Many political parties expressed dissatisfaction with their level of representation on the PSCs; this was not surprising given the large number of parties and limited number of PSC positions.

Delays by the EC in adopting some regulations negatively affected preparations for the elections. For example, this led to incomplete training of some PSC members. In addition, the late passage of regulations regarding some election day MEC activities, including vote aggregation and the composition of tendered ballot PSCs, hindered preparations for these elements of the process.

The State, entity and municipal authorities failed to appropriate sufficient funding for the elections, leaving the international community to cover 70% of the costs. The international community also continued to provide support to the electoral process through the provision of salaries for 21 key EC staff and some logistical support.

A total of 1,262 candidates or potential candidates, approximately 14% of total applications, were denied registration. The vast majority of these were due to the failure of parties to ensure candidates met the necessary administrative requirements, namely being registered as a voter in the constituency of their candidacy.

Voter registration closed on 20 June. Final voter lists were established on 1 July. As a result of complaints from political parties, updating continued in some municipalities until shortly before election day. Final voter registration figures showed a small increase in in-country voters and a large decrease in out-of-country voters.

The Campaign

The election campaign took place in a generally open, peaceful and free environment. There were relatively few explicit instances of hate speech or incitement to violence, but three led to formal complaints and sanctions by the EC. Although there were a few serious security incidents in the country during the campaign period, none appear to have been directly related to the elections.

The campaign was highly personalized and negative in nature, with sharp verbal and press attacks on candidates. There was a lack of meaningful debate on substantive issues, including reform. Public interest in the campaign, especially amongst young people, appeared to be low. Election posters blanketed the country, but rallies were often poorly attended.

Overall, political parties and candidates reported no serious impediments to their campaigns. A few cases of political intimidation or obstructionism were reported, including a climate of subtle intimidation in some communities. Campaign posters were vandalized in several regions, in some instances on a large scale.

Nationalism played less of an overt role than in previous elections, but remained an underlying issue. Ethnicity continued to be a campaign issue in some areas and nationalist politics remain entrenched at the local level. Many parties used nationalist or ethnic symbols, slogans or music.

International authorities were actively involved in the election campaign. For example, the High Representative undertook a vigorous campaign to encourage citizens “to vote, and to vote for reform”. This was consistent with his position that he would not support particular parties or candidates. The notably more neutral posture of the High Representative and other international

authorities toward political parties and candidates in these elections compared to previous elections was welcomed by nearly all political parties.

The Media

A large spectrum of electronic and print media provided extensive coverage of the elections. The media environment was generally more professional than in previous elections. The national broadcast service TVBH provided increased cross-entity electoral coverage, setting a positive trend.

There was only one instance of physical intimidation of journalists reported, although many media representatives reported experiencing indirect pressure by political parties and authorities, as well as tax audits in the RS.

Electoral coverage by public and private broadcasters was generally in conformity with strict regulations guaranteeing airtime and equitable and fair coverage to all parties. This was widely regarded as an improvement over previous elections. Parties and candidates were not allowed to buy airtime. The formats chosen to cover candidates were often dull or unimaginative, and may have reduced public interest in the campaign.

Print media, which are subject to fewer restrictions than broadcast media, covered the campaign in a more lively, critical and aggressive fashion. The print media were, in general, highly partisan.

The Communications Regulatory Agency (CRA), heard approximately 20 complaints by election day. These mainly concerned the alleged failure of some broadcasters to allot equitable time to all candidates or to report political party announcements. Approximately half reached a friendly settlement.

The 24-hour campaign moratorium was violated. On 4 and 5 October, the *Ekonomski blok HDU za blojita*k sent mobile phone text messages to voters, soliciting support. While the EOM received no reports about BiH media violating the moratorium, some foreign newspapers available in BiH, including Croatia's *Vijesnik*, *Vecernji List*, and *Novi List*, Serbia's *Danas*, and Montenegro's *Vijesti* published political commentaries on the BiH elections.

Participation of Minorities

Minority groups, which do not constitute one of the three Constituent Peoples, but are "Others", have played a marginal role in the elections. Only 169 certified candidates (2.24 per cent of all certified candidates) are "Others". Many Roma, the largest minority group, have registered in the Tuzla, Travnik and Mostar regions, but indicated very little attention from political parties. There is no Roma-based political party. A small number of Roma candidates have been reported. Two Roma leaders indicated their communities would spoil ballots in protest of their marginalization.

The small Jewish community has slated several candidates with five Bosniak-based political parties for Federation and Canton races. A small number are active at the PSC level.

Gender Issues

The Election Law contains a gender requirement. Approximately one-third of each political party candidates list must be of the minority gender, equally spaced on the list. Although this has greatly increased the numbers of women candidates, women in general do not hold positions of power in political parties. Women leaders assert that the open-list voting system militates against the election of women. Within the election administration, the President of the EC is a woman, there are substantial numbers of women on MECs and PSCs, and 60% of the EC Secretariat are women.

Domestic Observers

The election law provides domestic observers with full access to all aspects of the electoral process. Two domestic non-partisan election observer groups, the Center for Civic Initiatives and Elections 2002 deployed some 6,000 poll-watchers on election day. Both groups coordinated consortiums of NGOs in their monitoring effort. In a welcome development, both groups received assistance from similar organizations in the Federal Republic of Yugoslavia and Croatia.

Election Day & Vote Count

The low level of public interest in the elections during the campaign seemed to have affected voter turnout on the day of election. Voter turnout was only 54%.

From 1,300 visits paid to some 1,100 polling stations, in only 3% of cases observers assessed the conduct of the polling process as “poor”. The main problems noted were group voting in 38% of observations, voters unable to find their names on the voter registers in 60% of observed polling stations, and unauthorized persons in polling stations in 13% of observations. Otherwise, the voting process was orderly in an overwhelming proportion of polling stations visited. Unusual tension in polling stations was noted in only 3% of the visits, dissatisfied voters were noted in 1% of the visits, and campaign activity was noted in only 2 polling stations. However, campaign material was seen within 50 meters of polling stations in 6% of the visits, but campaign activity was limited to 1%. Remarkably, very few cases were reported of undue influence on voters or polling station committee members. The few reported cases of intimidation against party observers seemed concentrated in the western Herzegovina region of the Federation .

In terms of measures to safeguard the integrity of the polling process, voters presented proper photo IDs in 97% of observations, each voter signed the voter register in 99% of cases, voters marked their ballots in secret in 95%, and proxy voting was limited to 2% of observations.

Domestic observers, both political party and non-partisan, were noted during 94% of visits to polling stations. Of these, 42% were non-partisan civil society representatives.

Observers evaluated the vote count somewhat less positively (14% “poor” rating), with unauthorized persons present reported as the main problem (28% of counts observed). The aggregation of results at MEC level was also evaluated less positively (26% “poor” rating), with

procedures not followed properly. After the vote count at polling stations, domestic non-partisan and political party observer presence at the MEC level seemed to have diminished considerably.

*This statement is available in the English, Bosnian, Croatian, and Serbian languages.
However, the English text is the only official version.*

MISSION INFORMATION & ACKNOWLEDGMENTS

Mr. Pieter De Crem (MP, Belgium) was appointed Special Coordinator of the OSCE Chairman-in-Office for the short-term Election Observation Mission. Baroness Hooper, Member of the Parliamentary Assembly of the Council of Europe (PACE), led the PACE delegation. Mrs. Doris Pack, Chairperson of the Delegation for Relations with South-East Europe of the European Parliament (EP), led the EP delegation. Mr. Peter Eicher headed the OSCE/ODIHR Election Observation Mission.

The OSCE/ODIHR Election Observation Mission (EOM) was established in Sarajevo on 3 September and shortly thereafter started monitoring the electoral process, with 18 long-term observers throughout the country.

On election day, the International Election Observation Mission deployed some 450 observers from 37 OSCE participating States, including 23 parliamentarians from the OSCE Parliamentary Assembly, 3 from the European Parliament and 16 from PACE. The 6-member Congress of Local and Regional Authorities of Europe (CLRAE) delegation focused on the cantonal and municipal elections. In addition, representatives of OSCE participating State embassies in Sarajevo and of international organizations contributed short-term observers to the IEOM. On election day, observers paid some 1,300 visits to about 1,100 polling stations out of the approximately 3,900 throughout the country.

The OSCE/ODIHR will issue a comprehensive report on these elections approximately one month after the completion of the process.

The IEOM wishes to thank the Ministry of Foreign Affairs, the Election Commission, and other national and local authorities for their assistance and co-operation during the course of the observation. The IEOM also wishes to express appreciation to the OSCE Mission to Bosnia and Herzegovina, the Office of the High Representative and the Council of Europe Office in Sarajevo, as well as other international organizations and embassies accredited in Sarajevo for their support throughout the duration of the mission.

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