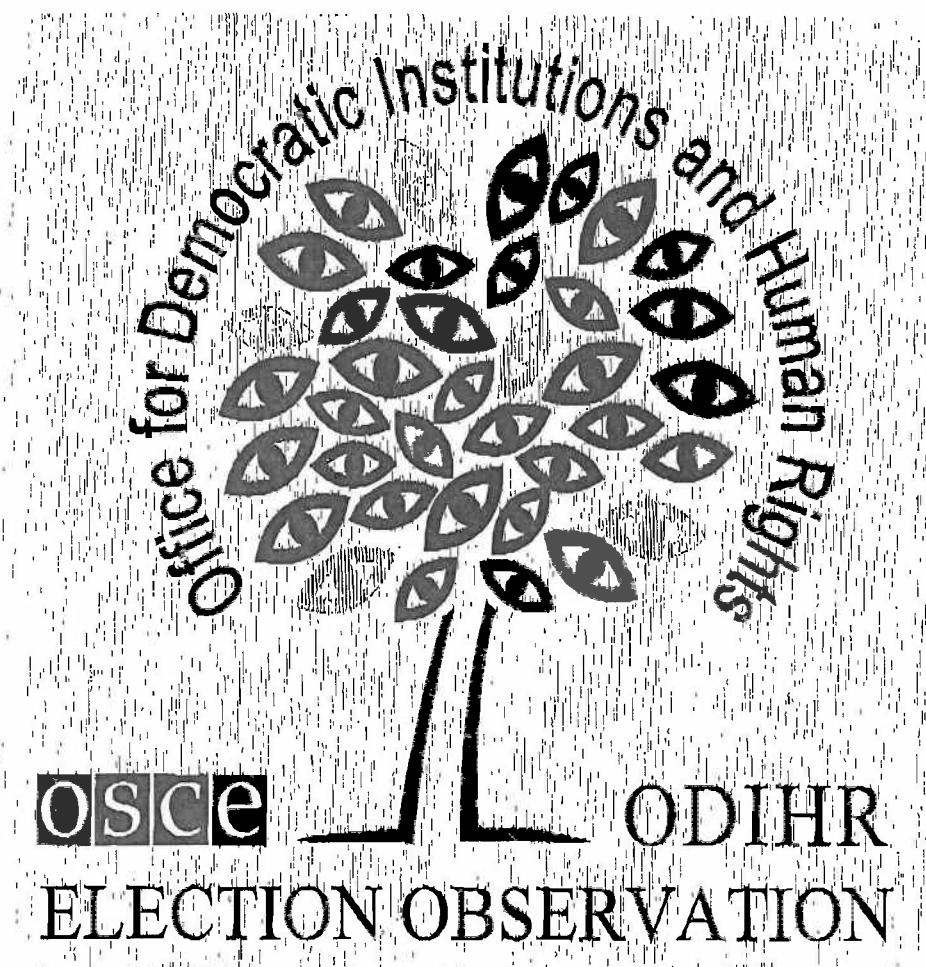




Office for Democratic Institutions and Human Rights

**PARLIAMENTARY ELECTIONS
IN THE FORMER YUGOSLAV REPUBLIC OF
MACEDONIA**

18 OCTOBER AND 1 NOVEMBER 1998



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1 Introduction

Upon receipt of an invitation from the Ministry of Foreign Affairs of The former Yugoslav Republic of Macedonia, the OSCE/ODIHR Election Observation Mission was established in Skopje on 17 September to observe the Parliamentary Election scheduled for 18 October 1998. A second round of voting was held on 1 November 1998.

Mr. Tekin Enerim, MP, of Turkey, was appointed by the OSCE Chairman-in-Office as his Representative for the observation of the first round of the election.

Mr. Mark Power-Stevens (UK) was appointed as Head of the ODIHR Election Observation Mission and was in country between 17 September and 4 November.

This report is based upon the findings of 14 long-term observers who remained in country until 4 November, and one long-term observer who remained until 12 November.

It also incorporates the observations of 179 Short Term Observers for the first round of the election, representing 23 OSCE participating States. Included among the 179, were 26 from the OSCE Parliamentary Assembly, an 11-member delegation from the Parliamentary Assembly of the Council of Europe, and a large number of observers from the diplomatic and international community in Skopje.

On the first election day, observers reported from nearly 1,400 polling stations in all 85 election districts.

For the second round of elections 92 short term observers, representing 18 OSCE participating States, observed the process, covering all 62 districts holding a second round.

Throughout the duration of the observation, the OSCE Spillover Mission to Skopje, headed by Ambassador Troni, provided great assistance. The friendly support of all staff at the Spillover Mission was greatly appreciated by the OSCE/ODIHR Election Observation Mission.

On the election weekend, the European Community Monitoring Mission (ECMM) also provided invaluable support. The diplomatic community in Skopje provided a large number of observers for both rounds and are to be thanked for their constructive and full support of the observation.

2 Summary of Conclusions

- The 1998 elections for the Parliament of The former Yugoslav Republic of Macedonia represent a significant improvement on past elections.
- An important aspect of this improvement is that the new election law enjoyed a wide political consensus when adopted by the Parliament. However, some parties expressed a number of concerns about certain aspects of the law, and some articles lacked clarity, leading to differing interpretations during the election period.
- The campaign was generally well conducted by the parties. A number of violent incidents were reported as were some violations of the campaign silence, but these appear to have been isolated cases.

- The media gave a full and extensive coverage of the campaign. Analysis does show some bias in the news programming of some media, including the national broadcaster MRTV.
- Parties did raise some concerns regarding the voter registers and voter cards. Some related problems were noted on election days. It was felt that the election authorities could have been more receptive to hearing the concerns of parties. This might have decreased the combative nature of relations between the authorities and the opposition parties. However, following the first round there was a distinct decrease in debate on these issues, perhaps indicating that the problems were not as significant as initially claimed.
- The voting and counting processes were largely carried out according to the law. Some irregularities were reported, particularly in Districts 66 and 85. These districts were closely followed in the claims period and the second round of voting.
- Instances of Group Voting and Proxy Voting were widely observed in many areas and represented a concern that needs to be addressed.
- The publication of results by the State Election Commission and District Election Commissions was not well handled. Political parties, media and observers were frustrated in their efforts to get prompt results from the elections for the single member constituencies. The State information centre was very poor, and the SEC was not forthcoming in providing information or answers to queries. This situation improved for the simplified second round. However, a general lack of information and transparency from the district and state commissions was unfortunate.
- There was a discussion after the first round regarding the interpretation of a vital article in the law, determining the first round results. It is extremely unfortunate that the law lacked clarity and that uncertainty was evident between the two rounds of elections.
- In conclusion, it is important that a number of the problems in the management of the election are addressed, some articles of the law are clarified, and the problems experienced in the behaviour of some candidates and a laxity in the voting process in some districts, are dealt with. If these issues are resolved, then the 1998 election should represent an important step in the further development of the democratic institutions of The former Yugoslav Republic of Macedonia.

3 Legislative Framework

The Election System

The election for the 120-member national parliament is determined by a mixed electoral system. 85 members are elected from single mandate constituencies, using a majority method. 35 members are elected from national party lists, using a proportional system.

Single Mandate Constituencies

In each district voters cast a district-specific ballot for the candidate of their choice. According to Article 88 of the Election Law a candidate for the single mandate constituencies is successfully elected if they have fulfilled two criteria:

- 1 The number of votes secured by the winning candidate was not less than one-third of the total number of registered voters in the district; and,
- 2 The winning candidate secured an absolute majority of the votes cast in the district.

If these two criteria are fulfilled by the leading candidate then the said candidate is elected in the first round. If either or both of these criteria are not fulfilled then a second round is held two weeks later.

In the second round the leading two candidates compete, and neither is allowed to withdraw. In the second round the candidate securing the most votes is the winner. There are no voter turnout criteria. In the event of a tie, lots are drawn to determine the winner.

National Party Lists

Parties competing for the 35 seats at the national level put up lists of candidates, with a maximum of 35 for each list. Voters cast a separate ballot for the national party lists, voting for the party list of their choice.

In order to qualify for a proportional share of the 35 seats, a list must pass the 5% national threshold.

The proportional distribution is according to the D'Hondt method using division numbers 1,2,3,4 to determine the allocation of seats.

Issues

Article 88 of the Election Law

Following the first round of the election there was a disagreement between the Internal Macedonian Revolutionary Organisation – Democratic Party for Macedonian National Unity (VMRO-DPMNE) and the State Election Commission (SEC) regarding interpretation of Article 88, which determines whether the majority gained by the leading candidate in round one is sufficient or whether the election must go to a second round.

Article 88 of the Election Law states (English version – non-authoritative):

"The candidate who in the first voting round won the majority of the votes by the voters who have cast their vote in the electoral district shall be considered to be elected, provided that the number of votes he has won is not less than 1/3 of the total number of voters registered in the excerpt of the General Voters Register for the electoral district concerned."

There was agreement that a candidate must secure a number of votes not less than 1/3 of the number of registered voters in the district. But the second condition was contested. The SEC ruled that an absolute majority of the votes cast in the district

had to be attained. VMRO-DPMNE (opposition party) argued that a relative majority, that is merely more than the next placed candidate providing it was not less than the 1/3 of registered voters, was sufficient.

The issue was further complicated by an apparent lack of clarity among some Presidents of District Election Commissions (DECs). In two districts, 29 (Veles area) and 36 (Prilep) the DEC initially announced the VMRO candidate as successful in the first round on the basis of a relative majority. These decisions were contested and overturned. VMRO followed the normal legal procedure and appealed through the relevant district Appeals Court. The SEC interpretation was upheld by the Appeals Court.

One Skopje-based embassy carried out some research on the results from 1994, and found that the principle of absolute majority had been the criteria employed.

Based on the English language version it would appear that an absolute majority is needed. This type of double first round criteria would also be consistent with other electoral systems, for example in Hungary.

It can also be noted that the law is not explicit whether the majority refers to all cast votes or only valid cast votes.

Delineation of Election Districts

Based on a macro analysis of the map of electoral districts, it is clear that some are contrived to ensure the separation of ethnic communities.

District 61, known locally, as "The Snake" is a clear example. This district curls around the mountains in the north west of the country, joining ethnic Macedonian villages together in a mainly ethnic Albanian area. This serves two functions. Firstly, it creates an extra ethnic Macedonian district, and thus parliamentary seat. Secondly, it serves to prevent a clear electoral delineation of the country into a western ethnic Albanian area and a central and eastern ethnic Macedonian area.

A micro-analysis of the districts also shows some apparent gerrymandering, as the borders between two districts do not necessarily follow the main urban divisions, such as main streets, but instead separate or join communities. An example is the delineation of districts 45 and 46 in Struga Town.

This can have two effects. Firstly, as above it can create ethnic electoral divisions. Or secondly, it can lose an ethnic Albanian community in a larger ethnic Macedonian community.

Size of the Electorate in Districts

A further problem with some districts is that they are in excess of the legal maximum of 18,000 +/- 10%. i.e. 16,200 to 19,800.

Based on the figures available, 16 districts (12, 13, 17, 19, 35, 36, 37, 51, 52, 53, 57, 62, 65, 68, 69, 70) exceed the limit of 19,800, ranging from 19,850 to 20,091.

Ambiguity in the Election Law

Some aspects of the Election Law lack clarity, and are left open to differing interpretations.

Article 85 states that objections by members of the Polling Election Board (PEB) shall be recorded in the minutes, and that the minutes are valid if signed by the majority of board members.

The article does not state what happens in the event that minutes are not signed. Such a situation was observed in District 85.

This is further complicated by the fact that the same article states that only objections noted in the minutes may be invoked in the submission of a complaint.

This stipulation does not take account of no signatures being on the minutes, which in itself might represent a *de facto* complaint, or what happens should other issues come to the attention of PEB members after the signing of the minutes, which might have a bearing on the process.

As stated above, Article 88 is not explicit whether the majority of votes required in round one is a majority of all votes cast or a majority of the valid votes cast.

Opening of Giro Accounts

Article 55 of the law requires campaign organisers to open a giro account designated for election campaigns no later than 45 days before the election day.

Some problems associated with this aspect of the registration procedure were evident (see Candidate Registration below).

Specific account for campaign expenditure can facilitate the check on party income and expenses. However, it is not clear whether such a bureaucratic procedure, which is prone to the laxity and pace of the bureaucratic processing of the application, should determine the eligibility of a prospective electoral contestant.

Inconsistency in Application of the Election Law

The proper legal procedure for dealing with complaints can lead to inconsistency in application of the election law, both in comparison between the election for single member constituencies and the election for national party lists, and even between the various single member constituencies.

This is because appeals relating to the single member constituencies are dealt with by the relevant District Election Commission in the first instance and then the relevant district Appeals Court in the second and final instance. Each DEC and each district Appeals Court makes their own independent ruling without having to refer to each other or to the SEC.

Appeals relating to the national party list election are dealt with by the SEC in the first instance and the Supreme Court in the second and final instance.

The decisions of the SEC and Supreme Court are not binding on the decisions of the DECs and the Appeals Courts.

The result of these 'dual' and even 'multiple' legal tracks is that there can be and were clear, yet legally proper, inconsistencies in application and interpretation of the election law across the country. The clearest case of this was the processing of decisions relating to candidate registration and the opening of giro accounts.

Overseas Voting

The Election Law makes no provision for registered voters outside of the country on election day to vote in a second country.

The official explanation for this is that the country does not have an adequate representative structure abroad to deal with this.

In explaining the number of uncollected voters cards, the Minister of Justice stated that over 100,000 of them belonged to persons outside of the country.

Some concerns were raised to the observation mission regarding the "disenfranchisement" of these voters. However, conversely, some concerns were expressed about the lack of general political confidence in the prospective administration of such voters.

Language Usage on Ballot Papers

Observers noted that in many rural Albanian areas voters had considerable problems understanding the ballot paper due to the fact that ballots are only produced in Macedonian language alphabet.

The use of languages of the minorities is, however, a complex and sensitive political and legal issue, with constitutional implications.

4 Election Administration

For the purpose of electing the Parliament a three-tier structure was established, with a central State Election Commission (SEC), a District Election Commission in each of the 85 electoral districts and a Polling Election Board established for each of the 2,973 polling stations.

According to Article 27 of the Election Law, the State Election Commission is mandated to:

- 1 ensure adherence to the law;
- 2 appoint the DEC's and give explanations on the conduct of the election;
- 3 determine and announce candidate lists for the election of deputies by the proportional principle;
- 4 organise the printing of ballots and candidate lists;
- 5 inform the public about the voting process;
- 6 decide on complaints;
- 7 announce the election results.

The SEC has a president plus eight members (all with deputies), and a secretary (with deputy). All are appointed by the parliament.

The president and two members (with deputies) are appointed from among the judges of the Supreme Court. Three members with deputies are proposed by political parties of the opposition, which have won the largest number of votes at the last

election. Three members with deputies are proposed by the ruling political parties. The secretary is not a member of the SEC and is not allowed to vote.

A **District Election Commission** is established for each of the 85 election districts. According to Article 28 of the Election Law, the DEC is mandated to:

- 1 ensure adherence to legal procedures in the elections for the election district;
- 2 appoint the members of the PEBs and give instructions for their work;
- 3 determine the candidate list for the election in the district;
- 4 undertake preparations for carrying out the elections according to the directions of the SEC;
- 5 hand over election materials to the PEBs;
- 6 establish the voting results for the election of the MP in the election district within 24 hours after the polling stations have closed;
- 7 determine the number of votes for the candidate lists, submit to the SEC;
- 8 decide on complaints against irregularities in the work of the PEBs.

DECs are composed of a president plus four members (with deputies), and a secretary. The president and members are appointed by the SEC. The secretary is appointed by the president of the DEC.

The president of the DEC his/her deputy are appointed from among judges of the relevant district Appeals Court. Two members with deputies are proposed by political parties of the opposition, which won at least 5% of the cast votes at the last election. Two members with deputies are proposed by the ruling parties.

For the purpose of deciding on complaints against the decisions of the DEC and SECs two **Judicial Bodies** are relevant.

Each district Appeals Court will rule on complaints relating to the work of each district. The Supreme Court will rule on complaints relating to the work of the SEC.

Given that the DEC is responsible for the single member majority elections in their district, different Appeals Courts will rule on the work of different DEC, without a common point of final instance. Likewise, the Supreme Court will rule on the work of the SEC in relation to the national party lists for the proportional election.

As a result, there is not necessarily consistency in rulings between districts, or consistency in ruling between the courts for the single member constituencies and the court for the national party lists.

Polling Election Boards were established for each of the 2,973 polling stations. According to Article 29, the PEB will:

- 1 directly manage the voting process in the polling station;
- 2 ensure the secrecy of the vote;
- 3 ensure a free and peaceful vote;
- 4 establish the results at the polling station;
- 5 submit results, protocols and electoral materials to the DEC.

PEBs are composed of a president with deputy + four members with deputies. The president with deputy are appointed by the president of the DEC from among the citizens with a residence in the district. The members of the boards with deputies are appointed by the DEC. Two members with deputies are proposed by political parties

of the opposition, which won at least 5% of the votes at the last election. Two members with deputies are proposed by the ruling parties.

The president, members and deputies of the PEBs may be only persons having the right to vote and a permanent residence in the election district.

Issues

Formation of Polling Election Boards and District Election Commissions

District Election Commissions and Polling Election Boards are multi-party in formation. The law allows for two representatives on each to be from the parties in power and two to be from the largest parties in opposition, securing over 5% in the last election in the relevant district.

This is a very positive aspect of the electoral process, as political parties, in addition to having observers in every polling station and DEC also have participating members on these commissions and boards.

However, the law does not take into account the possibility for electoral coalitions across opposition and ruling party lines. This can effectively negate the scrutiny factor, as essentially the majority of members represent common interests.

Such a scenario was noticeable in some districts for this election, due to the Party for Democratic Prosperity (PDP) pre-electoral arrangement with the Party for Democratic Prosperity for Albanians/People's Democratic Party (PDP/NDP). As a result, in some ethnic-Albanian areas the polling station commission was dominated by the representatives of these parties, who shared a common goal of securing as many votes as possible.

This situation was exacerbated by the unease felt by some representatives of ethnic-Macedonian parties in areas, which are predominantly ethnic-Albanian in population. This could as easily be the same if the situation is reversed.

A second problem with the formation of DECs and PEBs, is the perceived political link of the presidents. This results from the fact that the President of the SEC is appointed by the Government, the president of the DECs are appointed by the SEC and the presidents of the PEBs are appointed by the relevant DEC. This gives a political 'spine', linking the leadership of the commissions and boards.

State Election Commission

The State Election Commission was not very easily contactable and did not serve as a convenient point of reference for media or observers keen to get information.

This is partly due to the President of the SEC being the sole representative, which was of course impracticable, and partly due to a lack of willingness to be open to questions.

Such a body, charged with such a sensitive duty, needs to be more 'user-friendly'.

5 Voter Registration & Voter Cards

The Eligible Electorate

Article 4 of the Election Law defines eligible voters as: "Every citizen of the Republic of Macedonia who has reached 18 years of age and has a mental capacity,"

Article 7 of the Law on Voter Registers adds that "citizens deprived of their business capacity by a final court decision shall not be recorded in the voter register."

The same Article also states that the register will include persons permanently domiciled in the country as well as persons "who temporarily reside or work abroad but who have a permanent domicile".

The official figure for registered voters is 1,572,976 million.

As mentioned earlier, there is no provision for Macedonian citizens abroad to vote, unless they return to their place of registration in the country.

In addition, there is no provision for voting in another place within the country other than one's place of registration.

Voter Registration

Details of all eligible citizens are recorded in the "Integral Voter Register" (Voter Register)

Each citizen registered in the voter register shall be provided with one voter card only. The agency responsible for administering the voter register is obliged to provide all registered citizens with the voter card. (Article 32 of Law on Voter Register)

The same agency is also obliged to analyse the register four times each year.

Citizens are also entitled to view the register and to update or amend their own details accordingly.

According to Article 38 of the Law on Voter Register, political parties are entitled to request verified photocopies of the official excerpt of the Voter Register for all districts as well as an official excerpt for every polling station. The parties will cover the associated expenses.

Voter Cards

In order to be able to vote, a person must be both on the Voter Register in their polling station, and have a valid voter card (see Issues below). In the polling station, on election day, a voter must produce either a valid passport or valid personal ID in order to validate their voter card.

If a voter is not on the register, or is without their voter card or does not have relevant accompanying ID, then, according to the law, they should not be allowed to vote.

Local offices of the Ministry of Justice were obliged to be open on the day of election as well as the day before the election for persons to collect their voter cards.

Issues

Party Access to Voter Registers

Party access to voter registers was an issue in the lead up to the election. Opposition parties demanded access to the registers in electronic format, to enable a computerised scrutiny of double registrants and other categories. The Ministry of Justice, responsible for the lists, offered access only according to the law, which is the printed version.

Later, following some revisions to the lists, opposition parties maintained that their access to the revised registers came too late to carry out any real scrutiny. The Ministry of Justice claimed that all parties, which requested the revised lists had access at the time the lists, were ready.

Delivery of Voter Cards

The issue of checking voter registers was very closely linked to the dissatisfaction of opposition parties regarding what they claim was targeted non-delivery of voter cards. For example, VMRO-DPMNE claimed that voter cards for their supporters had not been delivered, whereas some SDSM supporters had duplicate cards.

It was also claimed that delivery was less effective in ethnic-Albanian areas.

The observation mission requested proof of VMRO-DPMNE in every meeting between the beginning of September during the Needs Assessment Mission and up to the week before the first round of the election. No such proof of systematic provision of double cards was ever provided, only isolated instances of a card in the name of a deceased person or a married woman receiving a card in both her maiden name and married name.

Observers did note lower delivery rates in ethnic Albanian areas, but this may be somewhat accounted for by the number of ethnic Albanians working abroad or elsewhere in the country. There was also systematic non-collection by a small number of ethnic Albanians.

6 Voter Education

General Voter Education

The State Election Commission carried out a limited voter education campaign, which basically focused on two aspects of the process:

- 1 the fact that an election was taking place on 18 October; and,
- 2 the need to circle the number of the candidate / party of choice.

Earlier in the process voters were also informed of the need to collect their voter cards.

Family Voting

Given the high prevalence of family voting around the country it might be pertinent if voter education in the future included more education on what is a permissible voting procedure and what is not a permissible procedure.

This might help inform some persons who have voted as families for a number of elections now without any censure, and thus might be thinking it is common and acceptable practice.

Voters in Hospital

Based on the reports of long-term observers, who visited a number of hospitals on each advance day of voting, there was a complete lack of awareness among the hospital patients or staff of the possibility of voting in the hospital.

Complaints Procedure

In discussions with voters following the first round of the election, it became clear that neither voters nor parties were particularly aware of how to make a complaint or claim against the procedures.

This is an important consideration given that the law only allows for 48 hours to make the complaint. In discussions with a number of local candidates and party activists after the first round it was clear that they were unaware of how to lodge the complaint. In fact some attempted to lodge the complaint with the OSCE/ODIHR Election Observation Mission.

7 Candidate Registration

For the first round, the State Election Commission (SEC) received 17 party lists (from 24 parties) and one independent list for the 35 seats of the nation wide proportional contest and 29 parties and coalitions. Eight independent candidates registered, which represented a drastic decrease compared to 1994, where 295 independent candidates were registered.

Approximately 1.200 candidates participated in the first round of the parliamentary election.

Parties can be registered as individual parties or as a formal coalition of two or more parties. In this election, five electoral coalitions registered. Name and list of candidates must be submitted to the SEC at the latest 35 days prior to the election day.

Issues

'DPA' Denied Party Registration

- The Democratic Party of Albanians (DPA) was declined registration by the court on technical grounds some months prior to the election. As a consequence, the Party of Democratic Prosperity for Albanians (PDPA) and the People's Democratic Party (NDP), which formed the DPA, were named on the ballot papers even though the parties never used the two acronyms during the campaign.

PRUP Candidates Denied Registration Due to Girobank Details

- The Republican Party for People's Unity (PRUP) complained to the competent institutions regarding the rejection of the registration of some of their candidates,

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In Districts 51, 52, 53, 54 (Gostivar) and 59 (Tetovo). Officially, the candidacies of five candidates of the party, including the President of the party, were rejected on the grounds that the candidates failed to meet the deadlines for opening a giro account for campaign funds.

The PRUP claimed that they respected the deadline but faced bureaucratic obstacles from the authorities. They also claimed that the rule was inconsistently applied, i.e. some of their candidates were accepted despite filing the same forms as their rejected candidates, and other parties, failing to meet the deadline, were still registered by the DEC.

This issue is not entirely clear, as most of these candidates joined PRUP late, from PDP or PDPA after not being selected to stand by their original party. They therefore did join the party fairly late, which might account for some late registration details.

In addition, due to the need for each DEC to make an individual decision and for the relevant district Appeals court to be responsible this is a good example of the possibility for inconsistency in application of the law.

- Other small opposition parties also claimed that they faced the same problems. For instance, two DEC's rejected the candidacy of four of MAAK-KP candidates for submitting incomplete documentation and then refused to accept the additional ones in the next 48 hours, as stated in the law.

8 The Election Campaign

As far as the first round of the election was concerned, the pre-electoral campaign officially started on 8 September and ran until 16 October. In reality, most political parties started their campaign activities in mid-September mainly for financial reasons.

For the second round, the election law does not state when the campaign should begin. But it is assumed that the campaign ran after closing of polling stations (at 19.00 on 18 October 1998) and until 30 October. Campaigning was prohibited 24 hours prior to the election days (until 16 October and 30 October at midnight).

The ruling party, SDSM, was running in most districts independently. However, SDSM made an electoral agreement in 14 constituencies with the Socialist Party (SPM). In five electoral districts, SDSM did not put up a candidate in favour of the SPM, while the SPM supported SDSM in nine other constituencies. The SPM was in formal coalition with the newly formed multi-ethnic Movement for Cultural Tolerance and Citizen Co-operation of Macedonia (formed by the Democratic Party of Turks, the Party for Full Emancipation of Roma, the Progressive Democratic Party of Roma and the Bosniak Party). The coalition's aim was to pass the 5% threshold and to highlight the existence and the rights of minority groups in the country.

The two major Albanian parties, DPA (PDPA-NDP) and PDP, formed a pre-electoral coalition, which led to an obvious lack of campaigning in the Albanian region of the country and to a decrease of tension compared to the 1994 electoral campaign. According to them, the coalition was made to limit nationalistic feelings among ethnic Albanians, but did not enjoy a large political consensus among the parties' members.

Among the major opposition parties, VMRO-DPMNE formed a long-term coalition with the Democratic Alternative and represented the major opponent to the ruling

party in the election. LDP, a centre-right party, was in coalition with the small Democratic Party of Macedonia.

Pre-election campaign was conducted in a traditional form, through campaign literature, posters, public meetings, advertisement on radio and television, etc. Rallies were in general very well organised and well attended which showed the high interest Macedonian voters had in the election. Generally speaking, the tone of campaign was constructive, even though the parties tended to become more aggressive towards the end of the campaign period for the first round, and all parties actively participated throughout the country.

For the second round, political parties entered the campaign very slowly, which remained rather low-key throughout the two weeks prior to 1 November. However, it was noticed that the campaign atmosphere strongly deteriorated between the two rounds. The two main opponents, VMRO-DPMNE and SDSM, carried out a very aggressive campaign, especially in areas such as Stip. Very few rallies were held and most candidates favoured smaller meetings with Macedonian voters where they could enter into a discussion with their candidates. Moreover, people's interest did not seem to decrease after the first round of election.

The main campaign issues raised by the parties during the campaign were economy, unemployment, privatisation and education. Ethnic Albanian parties mostly raised issues related to the ethnic Albanian community (22%) in The former Yugoslav Republic of Macedonia, such as the use of the Albanian language, university level education, and the employment of ethnic Albanians in the state administration.

Financing of the Election Campaign

All participants in the election had to open a giro account for election campaigns no later than 45 days before the election day (1 September). The parties had to put all funds for the campaign on this bank account. A financial report on the election campaign, containing all data on the expenses incurred, must be issued before three months after the election (see above discussion of issues).

For the single member constituency elections political parties could not spend more than 15 denars per registered voter in the electoral district (approximately \$5,000 per party per district). For the national list election, the limit is 15 denars per registered voter on the general register (approximately \$436,000).

Issues

VMRO-DPMNE Petition for "Fair and Democratic Elections"

- Some 15 parties also signed a petition prepared by VMRO-DPMNE to hold "A Fair and Democratic Election", asking the election authorities to use ink stain to avoid duplicate votes. The SEC categorically refused, stating that this mechanism was unnecessary and would represent an "insult" to Macedonian voters.

Attempts to Exert Undue Influence on Voters

- During the first round, one candidate in Shuto Orizari tried to influence voters in different ways. The candidate offered goods to the people in exchange for their voting card or threatened them in order to make them vote for his party. Throughout the whole weekend (17 and 18 October), rumours were spread that

the same candidate was intimidating voters. Some reported to the mission that they had been threatened and had to give away their voting card.

- Cases of company bosses and heads of local authorities using their position to exert undue pressure on voters were also widely reported to the observation mission.

9 Media

The observation mission co-operated closely with the European Institute for the Media (EIM), which carried out a substantive quantitative analysis of the media coverage of the campaign.

Part of the observation methodology also included meetings with journalists and editors of newspapers and TV channels, in order to get their perspective on the media in the country.

Electronic media are obliged to provide unprejudiced and equal coverage of the political parties in their programming.

The basic conclusions, drawn from observation reports and the EIM post-election report, are as follows:

- There is a substantial number of national and local media in the country.
- The media gave a full and extensive coverage of the campaign, enabling voters access to a wide variety of political coverage and special election programming.
- Parties were also able to take out paid advertising, and those with the financial resources took full advantage of this possibility.
- Media analysts point to the lack of well-qualified journalists and a lack of rounded articles. There is still a tendency to merely reproduce what has been said, more in the style of a news agency.
- Media tends to be ethnic-specific, with the Macedonian language media concentrating on the ethnic Macedonian parties and the Albanian language media concentrating on the ethnic Albanian parties. The same is also true of other minority language media such as Turkish or Roma.
- Some electronic media, such as A1 and Telma, were thorough and objective in their coverage.
- Other Media, such as Sitel and Channel 5 tended to be influenced by the political orientation of their management and/or owners, favouring SPM and VMRO-DPMNE respectively.
- State TV, which as the national broadcaster has special responsibilities towards objectivity, gave preferential coverage in its news programming to the SDSM.
- Local media, which is numerous and influential, was in some instances fair in its coverage, and in other instances "unashamedly partisan".

- A state information agency (MIA) opened prior to the election, but was not too influential in its operations and tended to be more favourable to the SDSM.
- In the print media, there was a tendency to favour one party at the expense of others, particularly in the case of Nova Makedonia, which heavily favoured SDSM.
- The print media was also ethnic-specific.

Issues

VMRO-DPMNE Paid Political Programme

As part of their campaign for the second round, VMRO-DPMNE made a 15-minute video covering the election campaign bus tour of their leader and the leader of the DA. The party submitted this to MTV as a paid political programme. MTV refused to broadcast the 'spot', claiming it was not in accordance with the station's guidelines for paid political programmes.

In a meeting with the observation mission, the Director of MTV claimed the paid political programmes could only cover party rallies and meetings, and could not be more documentary in nature or reportage, as this might confuse viewers as to whether the 'spot' was a party 'spot' or a programme put together by the TV station. The Director stated that this regulation, which he claims was agreed by the leaders of the main political parties, was brought into effect after parties "mis-used" the paid political programmes in 1994, causing confusion among voters.

The observation mission viewed the VMRO-DPMNE video. It did cover more than just a rally or a meeting, including footage of a press conference, a voice-over of the parties 100-day programme for after the election and general coverage of the bus tour, as well as rally coverage.

However, the MTV guidelines are somewhat ambiguous and a ruling such as that made by the Director is subjective in nature and employs a narrow, though not necessarily invalid, interpretation of the guidelines.

The Proliferation of Media-Related Laws and Guidelines

There are numerous laws, rules, decisions, guidelines and recommendations which regulate media coverage of the election, such as:

- * The Election Law;
- * Rules for Electronic Media Behaviour During the 1998 Parliamentary Elections;
- * Decision on the Rules for Equal Media Coverage for the 1998 Parliamentary Elections;
- * Recommendations for Electronic Media Behaviour During the 1998 Elections;
- * Guidelines for Analysis of Radio and TV Broadcasts.

This proliferation of media-related laws and guidelines opens the possibility for different interpretations of media responsibility.

Pressure on the Media from Opposition Parties

In a meeting with senior MTV executives, it was claimed that in the period between the two rounds the opposition parties VMRO-DPMNE and DA, exerted some implicit pressure on the TV station and its journalists. It is claimed that references were made to a "clean up" of the station if the opposition came to power. These references were made during the discussion concerning the VMRO-DPMNE paid political programme refusal, and also in general press conferences.

Ministers Campaigning on TV

The media laws do not allow government ministers to use their appearances on TV in order to explain government policy to use this time to campaign on behalf of their party.

VMRO-DPMNE claimed that Mr. Spasov, Minister of Justice, used an appearance on MTV in which he was explaining some legal issues relating to the election, to verbally attack their party. Based on reports of the appearance it would appear that the minister did mis-use the TV appearance.

10 Observation of Voting: Round 1

Background

101 teams, comprising 179 international observers, covered all 85 election districts and reported from over 1,300 polling stations.

Overall Findings

The overall impression of the voting process in round one was positive. 76.41 per cent of reports rated the process as good or very good. Only 4.77 per cent rated the process as bad or very bad.

The exceptions to this general trend were Districts 66 and 85. These are discussed separately below, as they do not represent the general positive national trend.

Proxy, Group and Open Voting

382 forms out of 1,314 (29.07%) reported instances of group voting.

78 out of 1,314 (5.92%) reported instances of proxy voting.

116 out of 1,314 (8.85%) reported instances of open voting.

The main concerns of observers relate to the practices of proxy, open and particularly group voting. It was raised in the de-briefing by observers that the practice of group voting was particularly problematic, and represents a particular problem for women voters.

Observers reported that in some instances, particularly in rural areas in the west of the country, the male head of household would often vote on behalf of female members, who were present but did not actively participate in the process.

Some observers reported that proxy voting was carried out often by the male head of household without the female members being present.

Presence of Political Party Observers and PEB and DEC Members

One of the strengths of the election law is the allowance for political party participation as observers and PEB and DEC members. The political parties in this election took up this responsibility. Observers reported that in over 90% of visited polling stations political party observers were present.

Observers also reported that generally PEBs contained a good range of ruling and opposition parties. Some exceptions were noted in the west of the country due to an electoral coalition. This is discussed further below.

Issues

Campaign Silence

There were numerous claims made that candidates and party supporters had broken the campaign silence. The observation mission received many reports from rival parties of candidates outside polling stations on election day, of party buses driving around with party posters on. However, observers were not able to verify these claims and no significant claims were made to the election authorities.

District 85

The night before the election there were reports that a candidate and his supporters were going around District 85 promising voters bags of flour in return for either their vote or their voter card. Observers spent the evening in this district, met with the mayor and rival party members.

It appeared that there was certainly an atmosphere in the centre of the district, but it was not possible at the time to verify the claims, though some people 'delivered' by the rival party did claim this was going on.

Ensuring the Secrecy of Ballot Serial Numbers:

Having ballot serial numbers is seen as a safeguard against unofficial or fraudulent ballots being introduced into the process at polling station level. However, the weakness of the concept in the election was the lack of safeguards against PEB members or party observers being able to see the serial number as it is given to the voter.

Observers felt that this could be misused by party representatives and might make some voters feel vulnerable, as the secrecy of the vote could be undermined.

Spoiled Ballots

Each polling station is given the same number of ballots as it has registered voters. There is therefore no allowance for spoiled ballots, in the case that a voter makes a mistake whilst marking the ballot.

11 Observation of the Count: Round 1

Overall Findings

Observers' assessments of the count were slightly more mixed. Observers felt that the process was slightly more ragged than for the voting, but was still largely carried out correctly.

81.17% of reports rated the counting process as good or very good. 5.88% rated the count process as bad or very bad.

The main point of concern among observers related to the somewhat disorderly conduct of the count in some instances.

Invalid Ballots

The law places the burden of validity on the voter, in that it stresses that it is the responsibility of the voter to ensure that their preference is clear and expressed in accordance with the law, i.e. by circling the ordinal number.

A number of observers noted that in their observed counts some ballots were not counted because the voter had circled the party name and not the number, or had circled both. In such cases the voter's preference was obviously clear but not strictly in accordance with the law.

12 Complaints and Re-Runs

District 34

The first round voting process was re-run in Alinci (Polling Station 222, District 34), after a man destroyed a ballot box after his request to vote for a second time was correctly refused. Although the number of voters was only 78, in this district VMRO-DPMNE only needed some 52 votes for an outright first round victory.

In light of this the situation for the re-run remained tense and observers paid special attention to the polling station. It transpired that VMRO-DPMNE failed by some 4 votes to get the number of required votes for the first round victory, necessitating a second round vote.

District 85

Complaints against the process in District 85 were eventually rejected. However, exact details were not available until just before the second round, increasing uncertainty in that district.

The exact events in the district remain somewhat unclear. The observation mission investigated and it seems that candidates were applying undue pressure against voters, with the promise of sacks of flour in return for their votes.

The district Appeals Court ruled that no complaints were noted on the PEB minutes. However, observers noted some minutes were not signed by any PEB member, never mind a majority.

The district is a predominantly Roma area, and the education level of voters is somewhat lower and their socio-economic conditions are very difficult. Such voters

are highly vulnerable and the law should ensure their protection from unscrupulous candidates.

The observation mission also visited some of the more remote villages of the district between the two rounds. It appears many villages in this area are somewhat neglected by the authorities with regards general voter education and in particular with regards their citizenship status; which has obvious implications for their voting status.

13 Observation of Voting and Counting: Round 2

In simple terms, the second round of voting closely mirrored the first round. There was an increase in tension in some areas, largely due to the fact that the second round was a head-to-head. But in general terms the issues prevalent for the first round remained so for the second round.

Observers gave a similar rating to the process, with some 82% rating the process as good or very good and just 5.2% rating it as bad or very bad.

Issues

Group / Family Voting and Proxy Voting

Observers were again very concerned about the high number of instances of group voting, particularly as this practice opens the door for a number of associated illegal procedures, including effective proxy voting and the virtual disenfranchisement of many women voters.

Proxy voting was also reported in District 66 in particular, where some persons were observed voting with multiple voter cards, and not 'just' female family members. It was also observed that persons were collecting the voter cards of persons who had not used them thus far in the day and bringing the cards to the polling station and voting with them.

Groups in Front of Polling Stations

It was widely observed across the country that groups of party activists, often SDSM, but not exclusively, congregated in front of polling places, particularly in front of large buildings housing multiple polling stations.

It was felt that this essentially represented an intimidation of voters, particularly as in many instances these persons would 'check' the voter cards of voters and escort them to their correct polling station. Voters were very aware of who these persons were and which party they represented.

Polling station officials stated that the practice should not be occurring but had no way of addressing it. They also stated that the DEC's were not able to address the problem.

Completion of Polling Station Reports

Should a PEB member want to register a complaint about the process in the polling station, that complaint has to be noted in the polling station report, otherwise no later claim can be made.

However, it was felt that some PEB members felt intimidated because they had to stand in front of their 'colleagues' and register a complaint about their work. In one instance it was observed that a PEB member eventually decided to register a complaint due to this very atmosphere in the polling station.

It is important that another mechanism exists, to allow valid complaints to be made, perhaps within a number of hours of the completion of the process.

Transportation of Polling Materials to DEC after the Count

Following the completion of the count the PEB president and one member were responsible for transporting the ballots and minutes and other materials to the DEC. No organised transport was provided.

This opens the possibility for disruption to the process, particularly in instances where groups stand outside the polling stations, as reported above.

Polling Station Premises

Many observers felt that the premises for some polling places were inadequate, and, even given the limited resources in some areas, could be improved upon. Some polling stations were extremely cramped and this had a direct impact on the quality of the process.

Kocani

During the second election day VMRO-DPMNE contacted the observation mission and reported that their activists had been attacked by SDSM activists. A long-term observer investigated and observed a further attack on the VMRO-DPMNE premises by armed (with sticks and possibly guns) persons. The same persons were later seen outside a number of polling stations in Kocani and were identified as SDSM activists. They all had radios and were able to co-ordinate their efforts to avoid capture by the police.

VMRO-DPMNE also complained that the police were not pursuing their complaint, and the LTO corroborated this in as much as the police were not interested in his questions on the matter and did not appear to be actively pursuing the persons who were still in the vicinity.

14 Aggregation and Verification of Results

Following the first round of the election, the issuance of results for the single member districts was extremely slow and chaotic. In fact, the observation mission, together with many other international institutions and the Macedonian press failed to get a copy of the official results.

The political parties were able to piece together information from their representatives on DEC's. However, a single, centrally produced results overview was never made available.

This was not a satisfactory situation. Most importantly, if the media were unable to secure such information then the voters were not privy to the information, which is unacceptable.

The SEC closed down the press information centre on the Thursday after the first round, and was not forthcoming in press conferences, referring enquiries to the DEC's who are strictly responsible according to the law. But this strict legal interpretation is not sufficient. The interests of the process are paramount and would clearly have been better served if the SEC had taken a leading role in the publication of official results.

The SEC is a public institution, serving the interests of the public and the parties. It should therefore act in accordance with the interests of the public and parties and provide as much information as it can and as quickly as it can. This would have served to increase transparency and confidence in the process and the electoral authorities.

For the second round, which was far simpler in terms of voting, counting and tabulating, the results were issued within 48 hours.

District 66

The observation mission raised serious concerns in its press statement regarding the voting and counting processes in District 66. Observers noted widespread proxy voting, coercion of voters, unrealistically high turnout figures and the fact that the figures did not add up in the count.

It was later observed at the DEC level that the reported figures from a number of polling stations, such as 2349, did not add up at all. As a response, the President of the DEC stopped the work of the DEC and the DEC effectively stopped functioning.

The observation mission wrote a letter to the SEC urging them to pursue enquiries into the process in the District, and also pointing out that many PEBs and the DEC itself in the district did not function according to the law. This is partly explained by the lack of effective opposition scrutiny due to the election coalition of the PDP and DPA.

15 Re-runs

There were re-runs in 8 Election Districts:

- District 2

Re-runs in 4 polling stations due to a violation of the secrecy of voting plus an undue police presence.

- District 4

Re-runs in 2 polling stations, following a complaint against SDSM activist's violence against VMRO members.

- District 14

Re-runs in 3 polling stations due to violation of the secrecy of voting.

- District 41

Re-runs in 7 polling stations due to complaints regarding proxy voting and voter cards.

- District 47

Re-runs in 1 polling station due to complaints regarding proxy voting and voter cards.

- District 61

Re-run in 1 polling station due to more votes being cast than voters on register.

- District 66

Re-run on 22 November after a number of irregularities.

- District 34 also re-ran the second round of voting throughout the district after the re-run first round in one polling station failed to secure a first round victory in that District (by just 5 votes).

Observation of the Re-runs

Observation of the process indicated that voting took place in an orderly manner, with turnout for the most part significantly lower than on earlier occasions. The integrity of the process was also ensured by the presence of DEC members in polling stations.

The exception to this was District 66, where serious concerns were again expressed by observers, including clear instances of fraud, proxy voting, multiple voting and tampering with ballot papers.

Observers were also prevented from being able to fully observe the process, and in one instance were physically assaulted by a PEB member.

Observers noted that polling stations were visited by party members and large groups of supporters, which represented an intimidatory practice.

The general feeling of observers was that the entire election boards in Morane and Gorno Kolicani were not able or willing to undertake a proper and legitimate election.

16 Recommendations

- 1 The election law needs to be strengthened by clarifying some articles to avoid different interpretations. This is particularly relevant to Article 88. It has now been clarified that the law envisages an absolute majority as being necessary for a first round victory. The law should now be amended to make this more explicit in the text.
- 2 Article 83, on valid and invalid ballots, needs to be amended to allow votes, in cases where other relevant criteria have been met, as long as the voter's preference is clear.
- 3 It is important that there is consistency in application of the law. To ensure this there should be a common court of final appeal and the State Election Commission should be able to take a leading role in clarifying any article of the law questioned by parties. It is not advisable that District Election

Commissions are able to come to different interpretations or that different District Appeals Courts can make contradictory rulings.

- 4 The State Election Commission needs an effective Information section, which is able to co-ordinate information relating to the results and claims processes.

The SEC should also employ an administrative person able to take responsibility for dealing with international organisations and other relevant organisations at the time of an election to prevent the President of the SEC from having to take on such an administrative burden.

- 5 The Ministry of Justice must ensure that all undelivered voter cards are now delivered in good time for the next election.

All administrative anomalies arising from this election must be rectified in good time for the next election.

- 6 A more comprehensive voter education campaign should be undertaken, aiming to increase awareness of the public that persons in hospital can vote. A campaign to inform voters that group / family voting is not permissible should also be undertaken.

Voter education should also be utilised to ensure that voters in all parts of all districts in the country are made aware of the election and their rights and responsibilities.

- 7 The numerous laws, regulations and guidelines pertaining to media coverage need to be consolidated into a more concise text.

- 8 Polling Election Boards must be trained to strictly enforce the prohibition on family and proxy voting.

- 9 The composition of DEC's and PEB's must take account of election coalitions, which might otherwise serve to negate the concept of opposition scrutiny.

- 10 PEB's must be given a number of extra ballots above the number of persons registered at the polling station, to allow for spoiled ballots.

- 11 The complaints procedure for PEB members should be amended, avoiding the limitation of members only being able to register a complaint in the polling station at the time of the voting or the count. However, this "extension" must not interfere in the timing of the DEC's requirement to issue results.

- 12 Vulnerable voters need to be guaranteed protection from candidates attempting to use their position as employers to pressure them in their choice of vote. Voters also need to be free from candidates attempting to exert undue influence on voters through inducements. Punishments exist in the law

and any candidate found to be in violation of the law should be accordingly punished.

- 13 There needs to be an increase in polling station security in order to prevent groups of party activists standing in front of polling station buildings.
- 14 A system for the collection of election materials from polling stations at the end of the count should be in place to ensure the security of the materials.
- 15 The law should be reviewed with a view to providing mechanisms for the removal of those appointed to Commissions or Boards who are demonstrably unable or unwilling to fulfil their duties. The review should seek to resolve the discrepancy in the fifteen and fourteen-day periods prescribed in Articles 20 and 97.