



INTERNATIONAL ELECTION OBSERVATION MISSION

Bosnia and Herzegovina - General Elections, 3 October 2010

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

The 3 October general elections were the second since the Dayton Agreement to be entirely administered by the authorities of Bosnia and Herzegovina. The manner in which these elections were conducted was generally in line with OSCE and Council of Europe commitments and international standards for democratic elections, although certain areas require further action. These general elections represented further progress for Bosnia and Herzegovina.

The elections, however, were once again conducted with ethnicity and residence-based limitations to active and passive suffrage rights, which resulted from the Dayton Agreement. While the European Court of Human Rights (ECHR) ruled in 2009 that such limitations are incompatible with the European Convention for the Protection of Human Rights and Fundamental Freedoms, consensus on how to amend the legislation could not be reached prior to these elections. As such, the extant legal framework continues to violate Protocol no. 12 of the European Convention of Human Rights and article 7.3 of the OSCE 1990 Copenhagen Document. Aside from these constitutional limitations, the electoral legislation provided a generally sound basis for the conduct of democratic elections.

Voters were provided with a broad choice of candidates from among the 3,900 registered by the Central Election Commission (CEC), representing a wide political spectrum as observed at state and entity level. The registration process was an inclusive one. Electoral stakeholders also expressed confidence in the voter registration process. Only 1,065 BiH citizens residing abroad took advantage of the newly created possibility to vote in person at foreign diplomatic representations of BiH, while 36,649 citizens registered to vote from abroad by mail.

Voters in the self-governing district of Brčko must first declare their choice for either the Federation of BiH or Republika Srpska (“voting option”) in order to vote. Thirty-five per cent did not do so by the 19 July deadline. No measures were adopted to address the underlying structural problem specific to the district.

The CEC enjoys general confidence among electoral stakeholders. The appointment process of Polling Station Committees (PSCs), however, was tainted by the practice of contestants nominating PSC members affiliated with another party or candidate, or contestants trading seats. In general, election commissions handled the limited number of election-related complaints professionally.

The election campaign was generally calm, although occasionally marked by nationalist rhetoric and inflammatory statements by certain electoral contestants. While contestants addressed economic, social and European integration topics, constitutional issues and underlying ethnic divisions remained omnipresent.

Public media complied with legal requirements for equal allocation of free airtime to contestants. The variety of views presented in the media provided voters with the opportunity to make informed choices. Populist rhetoric often detracted from issues of substance. The OSCE/ODIHR EOM media monitoring data of public media news revealed some biased reporting, as well as extensive coverage of government officials, some of whom were also candidates. Private media, especially print, presented different views and were inclined to favor particular political contestants. Smaller parties and candidates without links to government or media complained about systematic under-exposure in the media.

Some aspects of the electoral process could benefit from further improvement. Campaign finance reports are submitted only after the elections and may be publicly audited up to several years later. The complaints and appeals process, while providing plaintiffs with effective remedy, was not always timely and penalties imposed were lenient. "Voting power" differs significantly between electoral constituencies due to outdated boundaries. The announcement of official results may take up to 30 days from the closing of polls, which could affect public confidence in the process.

The legal requirements regarding gender balance on candidate lists were respected and 37.7 per cent of candidates in the electoral races observed were women. Nevertheless, women candidates received less coverage than males in electoral programs monitored by the OSCE/ODIHR EOM. In the election administration, the only female member of the CEC is also its chairperson. Women chair 42 out of 142 Municipal Election Commissions.

Election day took place in an orderly and calm atmosphere. Overall, the election administration managed a complex and taxing electoral process professionally. Voters cast four ballots in six simultaneous contests, which resulted in a protracted counting process. Voting was assessed as generally good by observers, however, instances of family and group voting were observed in about one fourth of polling stations visited. Cases of overcrowding, proxy voting, and other procedural irregularities were also noted by observers. With counting procedures being particularly complex, nine per cent of observers assessed the process as "bad" or "very bad" and procedural irregularities were frequently noted. The CEC committed itself to investigate any allegations of irregularities. Observers noted that political contestants deployed representatives to nearly all polling stations, while domestic non-party observers were present in only every tenth polling station visited.

PRELIMINARY FINDINGS

I. BACKGROUND

The Central Election Commission (CEC) of Bosnia and Herzegovina (BiH) on 5 May 2010 announced that general elections would be held on 3 October. This announcement fell within the legally prescribed deadline, prior to the termination of previous mandates. The 2010 general elections were the second after the 1992-95 war to be fully administered by the BiH authorities.

Ethnic divisions continued to be a determining factor in the country's political discourse. Partly due to residence and ethnicity-based limitations to suffrage, most political parties continued to orient themselves towards their own ethnic communities: the Alliance of Independent Social Democrats (SNSD), the Serb Democratic Party (SDS), the Party of Democratic Progress (PDP) and other parties competed for the Serb votes, while the Party of Democratic Action (SDA), the Party for BiH (SBiH), Alliance for Better Future (SBB) and other parties courted the Bosniak vote. On the Croat side, the Croatian Democratic Union of BiH (HDZ BiH), HDZ-1990, the Croatian Party of Right of BiH (HSP) and others competed mostly for these votes.

Some parties including a coalition of Our Party and New Socialist Party (NSP), the People's Party Work for Betterment (NSRZB), and the Liberal Democratic Party (LDS) pursued a more multi-ethnic approach. The main opposition Social Democratic Party (SDP) also purported this approach, although its support base has traditionally been mainly among Bosniaks.

II. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The framework for elections in BiH remains complex, reflecting the country's unique constitutional arrangements.¹ The constitution grants limited powers to state-level institutions, while vesting most of them in the two entities, the Federation of BiH (FBiH) and Republika Srpska (RS). In addition, Brčko district retains its special status as an autonomous self-governing unit.²

Legislative authority at the state level is vested in a bi-cameral parliamentary assembly, composed of a directly elected House of Representatives (HoR) and an indirectly elected House of Peoples. At entity level, FBiH has the same bi-cameral structure, whereas the RS has a National Assembly (NA) and an indirectly elected Council of Peoples. The Dayton Agreement also established the Office of the High Representative (OHR). In 1997, the OHR was granted powers to impose legislation and remove officials. The BiH constitution recognizes Bosniaks, Croats and Serbs as "constituent peoples", based on the principle of self-declaration. Remaining BiH citizens are defined as "others".

At the state level, BiH voters elected 42 members to the BiH HoR and a three-member (Bosniak, Croat and Serb) state presidency. At the entity level, FBiH voters elected 98 members to the FBiH HoR.³ In the RS, voters elected 83 members to the NA as well as an RS president and two vice-presidents (these three positions have to be filled by a Bosniak, a Croat and a Serb).

The 2001 Election Law of BiH⁴ forms the basis of the electoral legal framework. It has undergone substantive changes since its adoption and is further supplemented by detailed CEC regulations and other pertinent laws. The electoral legislation generally provides a sound basis for the conduct of democratic and fair elections, except for the ethnicity-based and residence-based constitutional limitations of both active and passive suffrage rights.

Citizens who do not identify themselves as Bosniak, Croat or Serb are effectively barred for standing for the BiH and RS presidencies. This restriction is discriminatory and runs counter to Protocol no. 12 of the European Convention of Human Rights (ECHR) and article 7.3 of the OSCE 1990 Copenhagen Document. On 22 December 2009, the European Court of Human Rights issued a legally-binding decision providing that ethnicity-based ineligibility is "...incompatible with the general principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms".⁵ The BiH HoR established a working group on this issue early in 2010, but it has been unable to come to a decision so far.

¹ The BiH constitution is formally an annex to the 1995 General Framework Agreement for Peace (Dayton Peace Agreement).

² See the "Final Award of the International Arbitral Tribunal", 18 August 1999. Brčko district was officially instituted in March 2000. The BiH constitution was amended accordingly in 2009.

³ Ten cantonal assembly elections were also held, which were only observed to the extent that they had an impact on the presidential and parliamentary elections.

⁴ Election Law of BiH, Official Gazette of BiH: 23/01, 7/02, 20/02, 25/02, 4/04, 20/04, 25/05, 77/05, 11/06, 24/06, 33/08, 37/08, 32/10.

⁵ Complaint lodged by two applicants of respectively Roma and Jewish origins: "Sejdić and Finci versus Bosnia and Herzegovina", 22 December 2009, ECHR. The ECHR explicitly referred to the resolutions of the Parliamentary Assembly of Council of Europe which urged BiH to amend its constitution and the election law before October 2010 (ECHR decision, applications no. 27996/06 and 34836/06, Para 21).

Active and passive suffrage rights are also limited by place of residence. RS voters can only vote for a Serb candidate for the BiH state presidency, while voters in the FBiH may only vote for either a Bosniak or Croat candidate. Likewise, a Serb registered in the FBiH or a Bosniak or Croat registered in the RS cannot run for the BiH state presidency.

The BiH HoR is to review constituency boundaries for the BiH HoR elections every four years in order to better reflect the equal proportionality of each vote.⁶ In 2010, the CEC proposed new delineations, but the BiH HoR failed to reach an agreement over the new proposal. As a result, the number of registered voters per BiH HoR member of parliament elected (“voting power”) differs significantly between constituencies, both in the FBiH and the RS.⁷ This problem is also significant for the RS and FBiH entity parliaments.

III. ELECTION ADMINISTRATION

The general elections were administered by a three-tiered structure consisting of the CEC, 142 Municipal Election Commissions (MECs), which include commissions for the cities of Banja Luka, Mostar and Brčko district, and 5,276 Polling Station Commissions (PSCs). The CEC and MEC are ethnically balanced⁸ and their members are appointed for seven-year terms.⁹ The chairperson of the seven-member CEC rotates every 21 months amongst the members. The OSCE Mission to BiH and the OHR hold advisory roles in the CEC, without voting rights. MECs appoint the PSCs for each election.

The CEC enjoyed the general confidence of electoral stakeholders and functioned efficiently in organizing the elections. It issued the necessary regulations in due time that were published on its website. CEC decisions on complaints and appeals were not published and were provided only upon request. The CEC held public sessions regularly and voted their decisions unanimously in most cases. No domestic observers and very few media attended sessions observed by the OSCE/ODIHR EOM.

MECs were experienced and generally well prepared for the elections. In the run up to the elections, however, several MECs stated that they lacked sufficient funds from municipal authorities that negatively affected their electoral preparations.

All contestants competing in a particular constituency had the right to nominate PSC members. MECs conducted lotteries allotting a maximum of one position per contestant. OSCE/ODIHR EOM interlocutors, including CEC and MEC representatives and many political party representatives noted the practice of contestants nominating PSC members affiliated with another party or candidate trading their seats with other contestants. Such a practice entails the risk of establishing politically unbalanced PSCs, however, only a few such cases could be verified by the

⁶ Article 9.11 of the BiH Election Law.

⁷ In one instance, such difference between constituencies 1 and 3 in RS for BiH HoR elections is more than 45 per cent. Paragraph 2.2 of the Code of Good Practice in Electoral Matters of the Council of Europe’s Venice Commission recommends that the admissible departure from the norm “should seldom exceed 10% and never 15%, except in really exceptional circumstances”.

⁸ A commission’s composition should reflect the ethnic composition of the municipality according to the last BiH census information as of 1991 (Articles 2.5.1 and 2.14.1 of the BiH Election Law).

⁹ CEC members are appointed by the Commission for Selection and Nomination and comprised of two members of the High Judicial and Prosecution Council, three from the administrative commission of the BiH HoR and two from members of the current CEC. The MECs members are nominated by the municipal councils and approved by the CEC.

OSCE/ODIHR EOM. In case of insufficient nominations, MECs appointed citizens with previous election experience.¹⁰ Overall, 23,700 PSC members were appointed by the 3 September deadline.

The MECs conducted training sessions for PSC members on polling and counting procedures that were well organized and attended, but varied in quality. As a positive development, the CEC prepared a PSC manual,¹¹ which was distributed at training sessions.

The CEC undertook a comprehensive project to improve and integrate its software platform, including databases for verification of candidates and candidate lists, and entry, tabulation and reporting of election results.¹² To increase transparency, the CEC decided to post information on invalid ballots and disaggregated preliminary results by polling stations on its website.

The CEC by-laws regulate out-of-country voting, absentee voting by internally displaced persons (IDPs), and voting by mobile ballot box and tendered ballots. The counting of such votes is done at the Main Counting Centre in Sarajevo. The process can legally take up to 20 days after election day.

IV. VOTER REGISTRATION

The CEC maintains a Central Voter Register (CVR), based on the Citizens Identification Protection System (CIPS) of the Ministry of Civil Affairs, introduced in April 2006. There appears to be general public confidence in the voter registration system. Citizens could check and update their data in the CVR until 19 August 2010. After this deadline, the number of registered voters was 3,126,599. Citizens who applied for identification documents (IDs) after this date or who had IDs but were not on the CVR extract, were able to cast tendered ballots in special polling stations.¹³

For the first time, a total of 1,065 voters registered to cast their ballots abroad in BiH embassies or consular departments.¹⁴ An additional 36,649 voters abroad registered to vote by mail. Voters abroad needed to submit applications prior to 19 July. Some interlocutors, including CEC members, expressed dissatisfaction with the need for voters abroad to renew their registration for each election, presuming it to be a potential cause for low voter turnout abroad.

In the run-up to the elections, the CEC identified forged applications for voting by mail from abroad.¹⁵ Subsequently, the CEC investigated and discovered that a few hundred of ballots had been mailed to identical addresses abroad. In one of the cases, a criminal investigation was initiated following a complaint from a member of the SNSD party.¹⁶ The CEC will void those applications that are proven to be fraudulent and exclude them from the count.

Of the some 113,642 internally displaced persons (IDPs), 22,473 chose to vote in the municipalities of their 1991 residence, either in person or by absentee ballot. Other IDPs may vote in the municipalities of their current residence.

¹⁰ Thirty-three per cent of PSs had MEC-appointed members of PSCs.

¹¹ Through a project funded by the Council of Europe and the Swiss Embassy.

¹² This project was implemented in co-operation with the OSCE Mission in BiH and was funded by the USAID.

¹³ Tendered ballots are counted in the Main Counting Centre in Sarajevo after cross checking information in the CVR to avoid potential double voting.

¹⁴ A polling station abroad can be set-up if a minimum of 50 voters apply to vote in person in that area. If this number is not met, the voters may vote by postal ballot. Polling stations were established in Vienna, Oslo, Copenhagen, Berlin, Stuttgart, Munich and Frankfurt.

¹⁵ In Kopači (Goražde area), Drvar, Bosanski Brod and Pelagićevo.

¹⁶ See section on complaints and appeals.

Thirty-five per cent of Brčko residents (29,054) did not have the possibility to vote or to stand for election for entity and state races, including 3,696 first-time voters in general elections. This was due to the fact that they had not expressed an entity “voting option”,¹⁷ as legally required.¹⁸

V. CANDIDATE REGISTRATION

The CEC reported that 32 political parties, 10 coalitions and 7 independent candidates contested the general elections (excluding cantonal).¹⁹ All contestants were certified by the 21 May deadline in what was described by OSCE/ODIHR EOM interlocutors as an inclusive process. One political party and two independent candidates were denied registration due to incomplete applications and lack of support signatures.

A total of 3,900 candidates contested the general elections (excluding cantonal) on 562 separate candidate lists, offering a wide choice to voters. This included 19 candidates standing for the BiH state presidency (9 Bosniaks, 7 Croats and 3 Serbs). The CEC did not certify 324 candidates due to various reasons, including incomplete applications and failure to meet legal requirements.²⁰ No complaints were lodged with regard to the candidate registration process.

More than 93 per cent of certified candidates submitted the required statement of financial assets to the CEC by the legal deadline of 14 August.²¹ In violation of the law, the CEC did not sanction non-compliant candidates and instead extended the deadline until late September.

VI. ELECTION CAMPAIGN AND FINANCING

Although campaigning got underway some months before (through conventions, public meetings, and other party activities), it picked up noticeably after the official start date of 3 September. Activities included rallies, posting of billboards and posters, distribution of leaflets and door-to-door canvassing as well as television debates.

Candidates from the main political parties campaigned extensively throughout the country. While the contestants addressed economic, social and European integration topics, the constitutional issues and underlying ethnic divisions remained omnipresent.

The campaign atmosphere was free from tension with the exception of one serious incident.²² There was an increase in personal accusations between a few candidates as election day approached. Nationalist rhetoric was also noted. Some contestants made general allegations of abuse of administrative resources. There were persistent complaints by political parties and candidates about a lack of equitable access to the media (see media section).

Most contestants expressed concern over the regulations and lack of transparency of campaign financing. In their view, the regulations are overly restrictive with regard to donation limits and are discriminatory against parties not represented in BiH legislative bodies.

¹⁷ According to article 18.2 of the Election Law, voters in Brčko vote for electoral races of RS, FBiH and BiH according to their chosen entity citizenship.

¹⁸ For these elections, the CEC set an early deadline of 19 July 2010, 75 days prior to election day. In 2006, voters could express their voting option including on election day.

¹⁹ Three coalitions, five parties and six independent candidates contested only the cantonal elections.

²⁰ For example, not being registered as a voter in the constituency where the candidate intended to run.

²¹ CEC verification of the candidate list was finished on 30 July 2010. Candidates had 15 days to submit their statement of financial assets (as provided by the article 15.7 of the BiH Election Law).

²² On the night of 19 September, in Orašje, gunshots were fired at the homes of two HDZ 1990 officials (one of them a federal minister and candidate for FBiH HoR) as well as the local offices of HDZ 1990.

The legislation does not require contestants to disclose their campaign finances, incomes and expenditures prior to election day.²³ The law stipulates that the submission of financial reports for the campaign is due 30 days after the official results of the elections. The CEC often publishes audit reports some time after elections,²⁴ even up to a few years when public interest has faded. Moreover, sanctions for any violations are lenient and seem to have little deterrent effect.²⁵ Civil society groups monitored the spending of major political parties by analyzing the amount spent on paid advertisements in major electronic and print media during the election campaign.²⁶

VII. MEDIA

The diverse and complex media landscape comprises some 200 broadcasters and 100 print media outlets, including three national public broadcasters, one operating on the state level and two on the entity level.

National public media complied with legal requirements on the equal allocation of free airtime to contestants.²⁷ Many broadcast debates provided contestants with a genuine opportunity to convey their messages to the voters, but some key candidates chose not to participate.²⁸ The variety of views reflected by public media provided voters with an opportunity to make informed choices. However, populist rhetoric took precedence over issues of substance.

Many public broadcast media covered daily campaign developments in special election programs (*Election Chronicles*) aired in the late evening, while news programs, available to a larger audience, offered only limited coverage of campaigns. News programs focused on the activities of state and government officials, many of whom were also candidates in the elections. The OSCE/ODIHR EOM media monitoring²⁹ identified favorable coverage of these officials in the news programs of RS national public TV channel, RTRS. News and current affairs programs on FBiH channel, FTV, offered critical coverage of public authorities with an inclination towards opposition views. State TV channel, BHT1, provided neutral coverage overall in its news on the activities of the authorities.

Private broadcast media differed significantly in the coverage of contestants, reflecting not only the intensity of campaign activities of parties in various parts of the country, but sometimes also supporting particular political options. This was the case with Sarajevo-based TV1, which launched its broadcasts as a news channel a few days prior to the start of the campaign and favored SBiH.

²³ Financing of political campaigns is regulated by the BiH Election Law (articles 15.7 and 15.8) and the BiH Law on Political Campaign Financing (article 11), the latter regulating the deadlines and procedures for political parties to submit financial reports. Its 2010 amendments have doubled the maximum contribution allowed for one physical person (to 15 average salaries: 12,000 BAM – some 6,000 EUR) and maintained the limit for contributions from legal entities (8 average salaries: 6,400 BAM - some 3,200 EUR). These limits apply also to contributions received from abroad.

²⁴ The CEC Audit Report on campaign financing for the 2008 municipal elections was published in June 2010.

²⁵ The maximum fine is 10,000 BAM (some 5,000 EUR), as per article 6.7.1 of the BiH Election Law.

²⁶ Transparency International monitored the pre-election campaign of 10 political parties in media. Based on the resultant data, the costs of campaigns are estimated and will be compared with the costs reported officially by the parties.

²⁷ The public broadcast media were obliged to provide contestants with a minimum of three minutes of free airtime.

²⁸ Three national public TV channels provided contestants with access to over 40 debates during the campaign period.

²⁹ OSCE/ODIHR EOM was monitoring prime time broadcasts of state-wide public TV BHT1, federation based public TV FTV and RS based public TV RTRS as well as four private channels OBN, NTV Hayat Sarajevo, TV1 and BN. News programs of private TV Pink BiH and contents of newspapers *Dnevni Avaz*, *Oslobodjenje*, *Nezavisne Novine*, *Dnevni List* and *Glas Srpske* were also monitored.

Private TV channel BN from RS offered extensive coverage of campaign developments in its news programs and election chronicles, focusing primarily on the activities of the main contestants in the RS. OBN, TV Hayat Sarajevo and TV Pink BiH dedicated considerably less time in covering elections compared with other channels. TV Hayat focused on a few key contestants in the FBiH, whereas the election program of TV Pink BiH presented activities of some 30 contesting subjects; of these, SBB received the largest share of coverage (13 per cent).

Print media provided a wide range of views, although often biased in favor or against particular contestants. *Dnevni Avaz*, the largest circulation daily newspaper owned by the president of SBB, demonstrated a strong bias in favor of the SBB while criticizing other contestants. *Oslobodjenje* portrayed the SBB in a negative light. Two RS-based newspapers, *Glas Srpske* and *Nezavisne Novine*, clearly favored SNSD and RS officials. *Dnevni List* focused on the activities of Croat parties, in particular HDZ 1990 and HSP.

The Communications Regulatory Agency (CRA) is responsible for broadcast regulation and adjudication of media related complaints.³⁰ Fifteen election-related complaints were filed, three of those were rejected,³¹ the others were still pending by election day.³² The small number of official complaints contrasts with numerous verbal complaints made with regard to general media bias.

Voter education programs were produced by the CEC. They were aired extensively by public and private broadcasters but were limited to instructions on how to mark the different types of ballots. "Get-out-the-vote" campaign spots were produced by domestic and international organizations.³³

VIII. COMPLAINTS AND APPEALS

The legal framework for complaints and appeals is comprehensive and allows for the adjudication of appeals in an equitable and transparent manner. First instance complaints are heard either by MECs or the CEC, depending on the respective area of responsibility. First instance decisions can be appealed to the CEC and the Appellate Division of the Court of BiH.

In general, the CEC processed election-related complaints competently, but did not always respect legal deadlines. The additional CEC task of deciding on possible conflicts of interests of elected and appointed officials³⁴ was a burden on the work of the commission and its legal department, particularly in the run-up to the elections.

The legislation does not codify the right to public hearings on complaints and appeals. In addition, unlike the CEC, the MECs neither systematically log their complaints nor send copies of complaints or decisions to the CEC.³⁵ The CEC does not have a centralized database for all complaints lodged in BiH. Many of the complaints were of minor nature and both MECs and the CEC generally demonstrated professionalism in handling them.

³⁰ CRA can sanction through warnings, fines, temporary suspension of broadcasts and license withdrawal.

³¹ Two complaints were rejected as they referred to broadcasts outside of the campaign period, and one was rejected as being without grounds.

³² Article 45 of 2003 Communication Law, dealing with the CRA handling of complaints, does not set any particular deadlines and specifies that "agency makes efforts to solve the complaints within reasonable period of time".

³³ Including Transparency International, National Endowment for Democracy, Norwegian Ministry of Foreign Affairs, Centre for Civil Initiatives, Youth Information Agency, NATO, Democratic Youth Movement, CEC, the CURE Foundation for Gender Issues, and BH Gender Center.

³⁴ As mandated by the 2003 Law on Conflict of Interests in Government Institutions of BiH.

³⁵ CEC requests MECs to do so, but no instruction regulates this.

Before the beginning of the electoral campaign, 12 complaints were lodged with the CEC for violations of paid advertisement regulations.³⁶ The CEC fined three political party representatives, and the others were rejected as without grounds.

Since the beginning of the electoral campaign, 43 complaints have been lodged (30 to MECs and 13 to CEC). Twenty-three have been rejected by the MECs as being without grounds, two were upheld,³⁷ and the rest are pending. Thirteen complaints have been lodged with the CEC, mainly related to use of abusive language.³⁸ From those, the CEC issued two decisions fining candidates for hatred speech, and for having insulted participants in a TV debate and preventing journalists to do their work.³⁹ Eight were rejected for insufficient evidence and others are pending. In addition, 31 complaints were lodged with MECs regarding nomination of PSC's members. One was upheld⁴⁰ and 30 have been rejected as being without grounds, out of which 9 were appealed and upheld by the CEC.

Four criminal reports were filed regarding election-related offences: one in Brčko District for alleged illegal registration of RS entity voting options for local Bosniak residents and three related to alleged fraudulent voter registration for out-of-country postal voting.

IX. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES

Women remain significantly under-represented in elected bodies at various levels. There are no female ministers in the BiH cabinet of ministers, only one female minister in the FBiH and two in the RS from a combined total of 34 ministers in both of the entity governments.⁴¹

The Gender Equality Law stipulates equal participation for women in all spheres of public life, including in the legislature and executive bodies. Although the law has to be harmonized with all other legal acts, efficient mechanisms for its implementation and enforcement are still not fully in place.⁴²

The legal requirements regarding gender balance on the candidate lists were respected and 37.7 per cent of the candidates in the electoral races observed by the OSCE/ODIHR EOM were women.⁴³ Two women and seventeen men were competing for the BiH state presidency and one woman and eighteen men for the RS presidency. In the electoral programs monitored by OSCE/ODIHR EOM monitoring unit, only some 10 per cent of the air time was devoted to female candidates.

The CEC has one female member, who is its chairperson. Women occupy 198 of the 515 positions in the MECs, chairing 42 of them.⁴⁴

³⁶ Article 16.14 Para 3 of the BiH Election Law.

³⁷ MEC issued a decision ordering the removal of misplaced billboards.

³⁸ Article 7 of the BiH Election Law.

³⁹ Violation of BiH Election Law article 7.3 Para 1.

⁴⁰ Involving a PSC nominee who was councilor at the same time.

⁴¹ In the outgoing parliaments women represented 14.3 per cent (BiH HoR), 18.3 per cent (RS House of Peoples) and 21.4 per cent (FBiH HoR) of the MPs (Gender Center FBiH, http://www.fgenderc.com.ba/bh/godisnji_izvjestaji.html).

⁴² The Gender Equality Law was adopted in March 2003. Article 32 stipulates that “all state and entity laws, as well as other corresponding regulations, will be harmonized with the provisions of this Law, no later than six months after the enforcement of this Law.”

⁴³ 63 women (12.3 per cent) and 450 men were leading the candidate lists.

⁴⁴ A 28.5 per cent increase from 2006, when only 30 MECs had female chairpersons. Article 2.14 of BiH Election Law stipulates that “the composition of an election commission shall in general reflect the equal representation of both genders”.

There are 17 officially recognized national minorities in BiH.⁴⁵ Most of these minorities are very small and only the number of Roma is larger.⁴⁶ Among the 3,900 candidates running for office in the electoral races observed, there was one minority candidate, 139 “others” and 28 “undeclared”. It was brought to the attention of the OSCE/ODIHR EOM that despite some efforts to provide Roma with personal documents, the number of Roma voters without identification documents (IDs) is still unknown.⁴⁷

X. DOMESTIC AND INTERNATIONAL OBSERVERS

The 2010 general elections were primarily observed by political party observers. A total of 53,738 such observers were certified by MECs. In addition, 106 political party observers were certified by the CEC to observe its work and the procedures in the Main Counting Centre in Sarajevo.⁴⁸

The number of domestic observers from civil society was limited. A total of 779 observers were registered, representing 20 non-governmental organizations (NGOs). This figure is five times less than in 2006. The difference appears to be caused by decreased funding, and some NGO representatives opined that the lower number of domestic observers affects the transparency of the process, especially during the counting of votes.

The total number of accredited international observers was 531, including representatives of election commissions from abroad, and resident embassies and consulates.

XI. ELECTION DAY

Election day took place in an orderly and calm atmosphere. One hundred and eight complaints were filed on election day regarding violations of electoral rules. Some complaints were submitted to the CEC for alleged violations of campaign silence rules. Observers noted that political contestants deployed representatives to nearly all polling stations, while domestic non-party observers were present in only every tenth polling station visited.

The opening of polling stations was assessed by observers as “good” or “very good” in 92 per cent of the cases. Not all procedures were fully respected. While most polling stations opened on time, minor delays were observed due to protracted opening procedures, mainly caused by the counting of blank ballots and entering data in the protocols.⁴⁹

Observers assessed the voting process as “good” or “very good” in 95 per cent of polling stations visited. Breaches of voting secrecy were observed in 17 per cent of the polling stations visited,⁵⁰ including voters not folding their ballots before casting them. Procedural problems were observed in 15 per cent, including ballot boxes not being properly sealed or ballot box seal numbers not being

⁴⁵ The State Law on the Protection of the Rights of Persons Belonging to National Minorities, 2003, and amended in 2005 lists Albanians, Montenegrins, Czechs, Italians, Jews, Hungarians, Macedonians, Germans, Poles, Roma, Romanians, Russians, Rusins, Slovaks, Slovenians, Turks and Ukrainians.

⁴⁶ According to the 1991 census, 17 national minorities total all-together 0.8 per cent of the population while “others” composed 2.4 per cent. According to the census, the Roma population was some 9,000 persons. It is a widely shared view that their actual number is higher (estimations vary between 30,000 and 100,000).

⁴⁷ For example, in the first half of 2009 a non-governmental organization (NGO) *Vaša Prava* carried out the European Commission and the UNHCR funded project called “Prevention of Statelessness and Obtaining Personal Documents for Vulnerable Roma”.

⁴⁸ In July 2010, the CEC in co-operation with the Council of Europe conducted training of trainers for political party observers.

⁴⁹ Observers noted 16 polling stations opened more than 15 minutes late in the 142 polling stations visited.

⁵⁰ A main candidate in one of presidential races marked his ballot in front of television cameras.

recorded. Family or group voting was observed in 24 per cent of the polling stations visited, especially in rural areas. Overcrowding was observed in 9 per cent of cases, proxy voting in 5 per cent, and the same individual assisting several voters in 3 per cent. The transparency of the process was assessed as “good” or “very good” in 95 per cent of the cases.

The counting process was assessed as “good” or “very good” in 91 per cent of reports. Although numerous procedural errors were observed during the count, these did not appear to have an impact on the overall assessment of the process. In 31 per cent of cases, PSCs had difficulty in completing the results protocol and in 17 per cent of cases, the results did not reconcile. In violation to the law, copies of results protocols were not provided to the observers in about 66 per cent of the cases and results were not publicly posted in 30 per cent of PSs.

Based on initial observations, the MEC tabulation of results seemed well organized and transparent, with MEC members having a good understanding of procedures. The new data entry system for tabulation of results seemed to function well, enabling the CEC to receive and announce results during election night. Observers noted some cases of errors in protocols that were sent back to PSCs or changed in case of minor mistakes.

The CEC posted the results and the number of invalid ballots by polling station on its website. It also committed itself to investigate any allegations of polling irregularities. It expressed its concern over the relatively high number of invalid ballots cast and announced it will check polling station results in response to any complaints or on its own initiative, as provided by the law. At the time of this report, the percentage of invalid ballots for the BiH presidency was 6.88 per cent in FBiH and 9.53 per cent in the RS. Preliminary voter turnout was 56.28 per cent.

The English version of this report is the only official document. Unofficial translations are provided in Bosnian, Croatian and Serbian.

MISSION INFORMATION & ACKNOWLEDGEMENTS

Sarajevo, 4 October 2010 – The 2010 general elections are assessed for their compliance with OSCE and Council of Europe commitments for democratic elections, as well as with the legislation of Bosnia and Herzegovina. This statement is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, including the tabulation and announcement of results and the handling of possible complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. This statement will be reported to the Standing Committee of the OSCE Parliamentary Assembly (PA) at its fall meeting in Palermo. The delegation of the Parliamentary Assembly of the Council of Europe (PACE) will present its report at the next plenary session of the Assembly in Strasbourg.

The OSCE/ODIHR Election Observation Mission opened in Sarajevo on 26 August 2010 with 15 experts in the capital and 20 long-term observers deployed throughout Bosnia and Herzegovina. On election day, about 307 short-term observers were deployed in an International Election Observation Mission (IEOM), including 237 OSCE/ODIHR short-term observers, a 39-member delegation from the OSCE PA, a 26-member delegation from the PACE and a 5-member delegation from the NATO PA. In total, there were observers from 39 OSCE participating States. The IEOM observed voting in some 1,347 polling stations out of a total of 5,276, counting in 118 polling stations and tabulation in a number of MECs.

Mr. Roberto Battelli (Slovenia), Head of the OSCE PA delegation, was appointed by the OSCE Chairperson-in-Office as Special Coordinator to lead the short-term OSCE observer mission. Mr. Tiny Kox (the Netherlands) headed the delegation of the PACE and Mr. Wladyslaw Sidorowicz (Poland) headed the delegation of the NATO PA. Ambassador Daan Everts (the Netherlands) is the Head of the OSCE/ODIHR Election Observation Mission.

The IEOM wishes to thank the authorities of Bosnia and Herzegovina for the invitations to observe the elections, the Central Election Commission for its co-operation and for providing accreditation documents, and the Ministry of

Foreign Affairs and other authorities for their assistance and co-operation. The IEOM also wishes to express appreciation to the OSCE Mission in Bosnia and Herzegovina and other international institutions for their co-operation and support.

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