

**THE FORMER YUGOSLAV REPUBLIC OF
MACEDONIA**

**EARLY PARLIAMENTARY ELECTIONS
1 June 2008**

**OSCE/ODIHR Election Observation Mission
Final Report**



**Warsaw
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OSCE/ODIHR Election Observation Mission Final Report

I. EXECUTIVE SUMMARY

The early parliamentary elections in the former Yugoslav Republic of Macedonia were held on 1 June 2008. Following an invitation on 14 April 2008 by the Ministry of Foreign Affairs, the OSCE/ODIHR established an Election Observation Mission on 30 April 2008 to assess the election process for compliance with the 1990 OSCE Copenhagen Document and other international standards, as well as with domestic legislation.

The 1 June early parliamentary elections offered voters a wide variety of choices during a vigorously fought electoral campaign. In most of the country the elections were procedurally well administered. However, expectations of progress were not realized because of a failure by some election stakeholders and relevant authorities to prevent violent acts in predominantly ethnic Albanian areas, including limited and selective enforcement of laws. Organized efforts to violently disrupt the process early on election day made it impossible for voters in many locations to freely express their will.

As a result, and after a thorough review of complaints was conducted by the State Election Commission (SEC), the elections were re-run in 187 polling stations on 15 June, and furthermore in 15 polling stations on 29 June. This gave those voters affected by serious irregularities on 1 June the opportunity to express their will in a more secure and generally calmer environment. This was ensured by a heavy police presence at and around polling stations. However, tensions and intimidation remained evident in the interim period preceding the re-runs. As a whole, the early 2008 parliamentary elections did not meet key OSCE commitments.

The Election Code provides a generally sound basis for the conduct of democratic elections. However, it contains some incomplete and inconsistent provisions, particularly with regard to the complaints and appeals process. Furthermore, legislation related to campaign financing does not require verification of campaign finance data submitted by election contestants. Steps to correct such provisions had been considered, but the process was interrupted by the early elections.

Election administration bodies faced significant challenges during the electoral process. The SEC worked efficiently, despite the shortened timeframe due to early elections and the subsequent re-runs. It also worked in a generally collegial and impartial manner despite pressures reportedly exerted on some of its members. When faced with difficult decisions, the SEC usually attempted to find a compromise solution. However, some of its decisions did not appear to be in line with the Election Code.

The Municipal Election Commissions (MECs) faced constraints on the efficiency of their work, in part due to the fact that civil and public servants that comprise the MECs were not released from their duties until late in the election process, and on occasion were posted outside of their own community. In some parts of the country both MECs and the

corresponding Election Boards (EBs) at polling station level, also comprised of civil servants, faced significant pressure on election day from both official and unofficial sources.

An intensive political competition was waged by the two large coalitions representing primarily the ethnic Macedonian communities, as well as the two main ethnic Albanian parties. The majority of smaller ethnic communities joined the ethnic Macedonian-led coalitions.

Media advertising, political announcements and public speeches were utilised during the campaign, offering voters multiple sources to learn about the programmes of candidates. Public broadcasters, however, were more in favour of the parties in government, and the Broadcast Council's warnings and sanctions during the campaign were ineffective.

The distinction between state and party structures was on occasion blurred, as exemplified by a publicity campaign launched by the authorities shortly prior to the official campaign advertising the success of government initiatives, as well as government programmes providing special services to citizens during the campaign period.

The ethnic Albanian parties engaged in strong rhetoric which sometimes led to violence. Numerous violent incidents in predominantly ethnic Albanian areas before and during the official campaign period produced an environment of intimidation. Failure to take effective preventive action was attributed by many interlocutors to senior police officials in the north and west of the country openly supporting one ethnic Albanian party. The fact that such acts remained unaddressed by the responsible local and national authorities contributed to a culture of impunity during the 1 June elections.

The Election Code supports a more balanced gender representation in the electoral process. Women represent 30 per cent of the new parliament. In addition, women were widely represented in election management bodies, especially at lower levels.

On election day, organized violence and intimidation disrupted voting in many predominantly ethnic Albanian areas, leaving one person dead and several injured. This contributed to a number of irregularities and instances of election fraud. The cumulative result of these events impacted on the freedom of voters to cast their ballots without intimidation, violence or fear of retribution. Although the Ministry of Interior displayed initial reluctance to hold the individuals involved in the election-day fraud accountable, it managed to control the security situation during the 15 June re-run elections and ensured a generally calmer environment.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation on 14 April 2008 by the Ministry of Foreign Affairs, the OSCE/ODIHR established an Election Observation Mission (EOM) in Skopje on 30 April 2008. The OSCE/ODIHR EOM was headed by the Ambassador Robert Barry and initially consisted of a 13-member core team based in Skopje. On 6 May, 20 long-term observers were deployed throughout the country.¹

¹ The OSCE/ODIHR published an interim report before election day, a statement of the preliminary findings the day after elections and a press statement the day after 15 June re-runs. All reports are available at: www.osce.org/odihr-elections/31282.html

The OSCE/ODIHR joined efforts with the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of Council of Europe (PACE) to form the International Election Observation Mission (IEOM) for election-day observation. Ms. Pia Christmas-Møller (Denmark), Vice-President of the OSCE Parliamentary Assembly and Head of the OSCE PA delegation, was appointed as Special Co-ordinator by the OSCE Chairman-in-Office to lead the OSCE short-term observers. Mr. Mevlüt Çavuşoğlu (Turkey) headed the PACE delegation.

On election day, the IEOM deployed observers from 42 OSCE participating States, including 214 OSCE/ODIHR observers, a 19-member delegation from the OSCE PA and a 13-member delegation from the PACE. The IEOM observed voting in 1,176 polling stations as well as counting in 112 polling stations (out of a total of 2,976 polling stations). The IEOM also observed the transfer of results to MECs and the tabulation of results in 73 MECs (out of a total of 84 MECs). During the 15 June re-runs, the IEOM was reconstituted, and deployed 39 observer teams comprising 72 OSCE/ODIHR short term observers, a 4 member delegation of the OSCE PA and a 2 member PACE delegation, which visited 160 polling stations (of 187 polling stations where re-runs took place).

The OSCE/ODIHR wishes to thank the Ministry of Foreign Affairs for the invitation to observe the elections, the State Election Commission for providing accreditation documents, and to other state and local authorities for their assistance and co-operation. The OSCE/ODIHR also wishes to express appreciation to the OSCE Spillover Monitor Mission to Skopje for their co-operation throughout the mission, and resident embassies of OSCE participating States and other international institutions.

III. BACKGROUND

In accordance with the procedure set out by the constitution, the parliament of the former Yugoslav Republic of Macedonia voted to dissolve itself on 12 April 2008 and the speaker of parliament called early elections for 1 June 2008. The Democratic Union for Integration (DUI), an opposition party, submitted the motion to hold new elections in an effort to break a stalemate in parliament. The government's lack of a qualified majority,² and the fact that the Democratic Party of Albanians (DPA) had earlier left the governing coalition, made passing legislation required under the Ohrid Framework Agreement (and cited as a pre-requisite to the start of the negotiations for accession to the European Union / EU) difficult. Another factor influencing the political situation was related to the former Yugoslav Republic of Macedonia's unsuccessful bid in April to join the North Atlantic Treaty Organization (NATO).

The proposal to hold an early election was supported by the main governing parties, the Internal Macedonian Revolutionary Organization - Democratic Party of Macedonian National Unity (VMRO-DPMNE) and the Democratic Party of Albanians (DPA). The decision was opposed by parliamentary opposition parties - the Social Democratic Union of Macedonia (SDSM) and the Liberal Democratic Party (LDP). The vote was also opposed by some

² According to the constitution all laws "that directly affect culture, use of language, education, personal documentation, and the use of symbols" have to be passed "by a majority vote of the Representatives attending, within which there must be a majority of the votes of the Representatives attending who belong to communities not in the majority population".

smaller partners in the ruling coalition - the New Social Democratic Party (NSDP) and the Liberal Party (LP), which along with the opposition contended that early elections would further delay reforms set as benchmarks by the EU for the start of accession negotiations.

In public statements, the government authorities pledged their commitment to meet international election commitments and standards, against a backdrop of calls by the international community which actively voiced its expectation that elections would be democratic, and free of violence and intimidation. On 8 May, under the auspices of the Washington-based National Democratic Institute, all political parties competing in the electoral race signed a code of conduct. The signatories committed themselves to “promote free and fair elections and a climate of democratic tolerance” and to “publicly condemn violence and intimidation”.³

Since 2002, parliamentary elections have been conducted through proportional representation contests in six districts (constituencies) containing approximately the same number of registered voters, with 20 Members of Parliament (MPs) elected from each district. The districts do not correspond with existing administrative/territorial units, but generally follow municipal boundaries. This approach has tended to enhance overall stability by focusing political competition on an intra-communal basis. In certain districts – especially predominately ethnic Albanian areas – intense rivalry between parties during elections has been evident.

IV. LEGISLATIVE FRAMEWORK

The legislative framework for elections is largely contained in the Election Code, which was enacted prior to parliamentary elections in 2006. The legislation provides a generally sound and uniform basis for holding democratic elections, although it contains some incomplete or inconsistent provisions.

The Code has not been amended since its adoption. A set of proposed amendments was submitted by the Ministry of Justice (MoJ) in 2007⁴ but not passed into legislation. In 2008, the Ministry prepared additional amendments,⁵ but they were not submitted to parliament prior to its dissolution.

Several laws were passed since the 2006 enactment of the Election Code, which affect the electoral process, and are in some respects inconsistent with the Code. The most serious discrepancy relates to judicial appeals. Under the Code, appeals from certain decisions of the State Election Commission (SEC) are taken to the Supreme Court. The more recently adopted Laws on Courts and Administrative Disputes⁶ assign jurisdiction over electoral appeals to the new Administrative Court. This court has the authority to consider appeals from final administrative actions,⁷ including appeals from actions of the SEC.

³ Code of Conduct for Free and Fair Parliamentary Elections, signed 8 May 2008, Skopje.

⁴ On temporary residence and voting abroad, election campaign financing and electoral misdemeanors.

⁵ On judicial appeals, voter registration, campaign financing and misdemeanor procedures.

⁶ These laws are also organic laws, requiring 2/3rds majority support in Parliament (Constitutional Amendment No. 25).

⁷ Law on Administrative Disputes, Article 8.

The SEC requested advice from State institutions and received conflicting opinions from the MoJ and the Supreme Court. The SEC determined that it would transmit all appeals to the Supreme Court, a decision which State institutions and election stakeholders acquiesced to. The Court's narrow interpretation of its competence in election cases, however, excluded appeals not specifically authorized by the Code. This created gaps in the protection of rights of election contestants (see Pre-election Complaints and Appeals section).

Another legislative inconsistency resulted from the passage of the 2006 Law on Misdemeanors. According to the law, the SEC is not authorized to conduct proceedings against those who commit electoral misdemeanors.⁸ Because the SEC is still assigned to do so in the Election Code, it is uncertain whether other authorized bodies would assume this responsibility.

V. ELECTION ADMINISTRATION

A. ELECTION MANAGEMENT BODIES

The Election Code prescribes a three-tiered election administration with the SEC, 84 Municipal Election Commissions (MECs) and 2,976 Election Boards (EBs). Since 2006 the SEC has been a permanent body that oversees general preparations for the election, with seven members appointed for a five-year period. MECs are responsible for overseeing the election process in each municipality, and are also elected for a five-year term. The EBs are selected for a period of four years, with each responsible for a polling station prior to and on election day.

1. State Election Commission

The 2008 parliamentary elections were the second parliamentary elections administered by this composition of the SEC⁹ and the OSCE/ODIHR EOM observed that they worked efficiently, despite the shortened timeframe and the re-runs that took place. The Election Code provisions for an early election shorten most electoral process deadlines by five days.

The SEC also worked in a generally collegial and impartial manner, despite some pressure on its members. In the run-up to the 1 June early elections, the opposition parties called for the resignation of the SEC president, since he had been nominated by the now governing party VMRO-DPMNE.¹⁰ The SEC president maintained that he had been elected for a five-year term and that it would be irresponsible to resign shortly before an election. After the 1 June election, during the complaints period, pressure was also put on both SEC members who had been nominated by ethnic Albanian parties.

⁸ While the Code made the SEC responsible to "initiate and lead" misdemeanor proceedings (Election Code, Article 31.3), the Misdemeanour Law distinguishes between State bodies authorized to initiate proceedings and those ("misdemeanor bodies") which can also actually conduct (lead) them.

⁹ The SEC was elected in 2006 before the last parliamentary election and there have not been any changes in the SEC membership since the vote by the parliament on 17 April 2006.

¹⁰ The Election Code states that the chairman be nominated by the main opposition party and the deputy by the party in power. However, the Code also states that the SEC members are elected for a five-year term.

The SEC made an effort to gain consensus in almost all its decisions, which often resulted in lengthy debates. When faced with different interpretations of the Election Code, the SEC generally decided on a more compromising approach. In one instance this meant allowing previously convicted criminals to run on a candidate list (see Registration of Candidate Lists section).

The formal sessions and many working meetings of the SEC were open to international observers and domestic non-partisan observers. The authorized representatives of the candidate list submitters only attended SEC sessions for the lottery for position on the ballot and the post-election complaints hearing.

The SEC met regularly with the OSCE/ODIHR EOM and the co-operation of the SEC with the EOM was exemplary.

2. Municipal Election Commissions and Election Boards

The MECs and EBs have five members and five deputies. Starting in 2006, members were randomly selected from civil and public service employees. However, as a transitional measure, in 2006 only the president and two members of each EB were selected in this manner; the remaining two were nominated by political parties. Therefore, before the election this year, it was necessary to organize the selection of two new members and their deputies for all EBs (some additional 6,000 staff).

Guidelines were developed to ensure ethnic and gender representation in the lower level election administration bodies. In the municipalities where ethnic groups constituted more than 20 per cent of the total population, the ethnic group had to be represented with two members at the MEC level and one in each EB. The number of ethnic group representatives increased further when the proportion was above 50 per cent. In addition, 30 per cent of members in all election administration bodies had to come from the less represented gender.

These guidelines provide for a high degree of inclusiveness and it is noteworthy that they were met, as a high number of staff needed to be recruited from a limited pool (civil and public service employees). However, a number of municipalities lacked a sufficient number of public or civil servants from the required ethnic background and people had to be drafted from locations other than the municipalities where they lived.¹¹

The MECs began to meet regularly only two weeks prior to the election, mostly due to the fact that the members had not been released from their civil service duties to attend such meetings. The non-residence of some members in the respective municipalities was also observed to hinder communication when not all members spoke the language in which the meetings were conducted.

The majority of MECs and EBs were open to observers and some even sought an increased presence for re-runs held on 15 June. However, in areas where the OSCE/ODIHR EOM observed cases of election fraud (i.e.- Tetovo and Saraj), there were instances where observers were given only limited access or even prevented from entering polling stations.

¹¹ This resulted in 21 MECs having more than half their members drafted in from outside the municipality and 11 MECs having 8 or more members from outside.

The appointment of public and civil service employees to the lower level election management bodies was intended to follow a non-partisan model of election administration at these levels. However, as questions regarding the politicization of the public service still exist, stakeholders have expressed mixed views about the system. Additionally, training for these early elections was insufficient due to the shortened timeframe. A program of training on proxy and family voting with UNDP support was conducted in a limited fashion prior to this election, but OSCE/ODIHR EOM observers noted limited impact in the time available.

A number of EB members in areas of high political tension asked to be excused before the election, citing fear of possible election day violence. In Tetovo, for instance, 50 individuals (including ten EB presidents) asked to be excused for health reasons. In nearby Brvenica, 5 out of 18 EBs said they would refuse to work on election day unless police were permanently present in the polling station – although this is not provided for by the law. The fears of the EB members in polling stations where the re-runs were conducted intensified following the 1 June violence, with many asking again to be excused, some citing stress. The SEC responded by expressing their confidence in the improved security plans and stressing that this duty was part of their public service positions.

Although some EB members were observed on 1 June as active or passive participants in election violations, including ballot stuffing, the SEC decided that there was not sufficient time to replace them and train new members before the re-voting two weeks later. They did dismiss the chairpersons of the six MECs where the worst election irregularities had occurred.¹² This move caused confusion and resentment amongst some MEC members, who did not feel that the presidents were always responsible due to ‘pressures’ placed upon them. The OSCE/ODIHR EOM observers noted that the MECs did show more resolve to prevent electoral infringements during the re-runs, although the MECs stated that this was due to the increased presence of police and observers, which made the threats unrealizable.

B. VOTER EDUCATION

The SEC ran a press and television voter education campaign for nine days prior to the election in the Macedonian and Albanian languages. Messages included voter mobilization, information on how to cast a vote and warnings against electoral fraud and intimidation. In addition, two national NGOs also ran intensive voter education campaigns on television and distributed flyers. However, due to the lateness of the final decision on the re-voting and the SEC’s view that voter information should not be disseminated on the day of campaign silence, there was insufficient time to adequately inform affected voters that they must recast their ballots in certain polling stations. A drop in voter turnout by some 9 per cent during the 15 June re-runs (as compared to 1 June elections voter turnout) could partly be attributed to this factor.¹³

¹² This occurred in Saraj, Lipkovo, Tetovo, Brvenica, Bogovinje and Gostivar.

¹³ Voter turnout during the 1 June parliamentary elections was 58 per cent. Voter turnout during the 15 June re-runs in 187 polling stations was almost 49 per cent, a 9 per cent decrease from 1 June. Cumulatively, the voter turnout of the two phases of the election process was 57 per cent.

C. VOTERS' LISTS

The responsibility for updating and maintaining voters' lists currently lies with the MoJ, which conducts biannual updates with information provided by the Ministry of Interior (MoI) from information given by other authorities. No detailed audit of the list has ever been conducted. The process for changing residence registration details is lengthy, evidently resulting in many people choosing not to inform the authorities when they move. As a result of internal migration and emigration, some areas have more names on the list than residents, which raises questions about the quality of the list.

Due to the early elections, the period for public inspection and revision of voters' lists was shortened by five days; it was held between 22 April and 1 May. A notice of this inspection was publicized in Macedonian, Albanian and Turkish language papers and TV stations. In all, just under 40,000 people checked their details during this period through the local offices of the MoJ, by internet or through a specially established phone line. This resulted in 715 changes being made to the lists, including 354 deceased persons being removed. In addition 67,191 voters who had identified themselves as temporarily working or residing abroad remained on the list in case they returned to vote, but their names were marked with an asterisk.

The voters' lists contained a total number of 1,779,116 voters, a 2 per cent increase from 2006. The lists remained unchanged for the re-runs. During election day, potential voters were not allowed to vote in 8 per cent of polling stations visited by the OSCE/ODIHR EOM as they were not on the voter list. During the re-runs the figure of refused voters increased to 14 per cent of the stations observed.

D. REGISTRATION OF CANDIDATE LISTS

By the 2 May deadline, 2 coalitions, 16 political parties and 2 independent candidates had submitted candidate lists for SEC registration. After reviewing all submitted documents, on 4 May, the SEC rejected the application of the All-Macedonian Workers' Party due to its failure to complete the required ethnicity declaration for some of its candidates. Although the Internal Macedonian Revolutionary Organization -National Party (VMRO-NP) failed to submit its certificate of court registration as required in the law, the SEC decided to register them as the party appeared on court records. However, VMRO-NP later failed to register its bank account for the campaign, causing the SEC to exclude its candidate list. A total of 1,540 candidates on 18 lists ran for 2008 parliamentary elections, across the six electoral districts. The SEC held a lottery, open to the public, for position on the ballots on 9 May.

The list submitted by the Social Democratic Party of Macedonia (SDPM), a party not seated in parliament, became an issue during the candidate registration and campaign period. Their list contained names very similar to those of leading Social Democratic Union of Macedonia (SDSM) candidates. SDSM filed a written complaint to the SEC. While regarding SDPM's candidate list as an attempt to confuse voters, the SEC concluded that the Election Code did not provide grounds for its rejection. (SDSM's appeal in the matter is described in the Pre-election Complaints and Appeals section).

The SEC also approved two lists with candidates who had been sentenced to prison for more than six months,¹⁴ in contravention of Article 7 of the Electoral Code.¹⁵ This provision had recently been upheld by the Constitutional Court,¹⁶ which concluded that the effect of such convictions affect candidacy rights, both during the sentence and thereafter. The Court president informed the OSCE/ODIHR EOM that this consequence would remain until the effects of the sentence expire or are removed according to law.¹⁷

VI. ELECTION CAMPAIGN

A. LEGAL FRAMEWORK FOR CAMPAIGNING

The Election Code provides for a 20-day official campaign period. There is no definition of campaigning in the Election Code, however, and no penalties for campaign violations are specifically mentioned. This issue was raised by interlocutors in the pre-campaign period when a number of activities promoting political parties were observed.

The Code specifically regulates campaign activity in the media, placement of posters and billboards and conduct of rallies. The Code requires equal access to all forms of campaigning by all campaign organizers.

According to the Election Code, mayors of municipalities have to designate spaces for placement of campaign material. Not all mayors did so before the election and, as a result, a number of incidents were reported early in the campaign period (mostly in ethnic Albanian areas where DUI and DPA supporters sometimes violently contested the location of campaign flags and banners). Throughout the entire campaign period, OSCE/ODIHR EOM observers reported only isolated instances of posters being torn down or covered.

B. CONDUCT OF THE CAMPAIGN

The official campaign period started on 11 May and ended at midnight on 30 May, followed by a 24-hour campaign silence period. The two main ethnic Macedonian coalitions - VMRO-DPMNE and the SDSM-led *Sun* coalition - as well as the two main ethnic Albanian parties - DPA and DUI - organized an active and visible campaign in most regions, extensively using posters, billboards and paid advertising. OSCE/ODIHR observers noted a passive campaign with little visibility by the other 14 candidate lists. Only one other party, the Party for European Future (PEI) ran paid TV advertising.

Numerous rallies were held by the four leading candidate lists throughout the campaign, with the largest events attended by tens of thousands of supporters. OSCE/ODIHR EOM observers

¹⁴ One of the candidates in question was a prominent politician, who had been sentenced to a term of four years following a conviction for misappropriating municipal funds. His sentence was later reduced by six months through a pardon.

¹⁵ Article 7.2 of the Electoral Code states that: "Every citizen...shall have the right to be elected as Member of Parliament ... provided that he/she ... has not been given a final court decision for imprisonment of at least 6 months."

¹⁶ Decision No. U 125/2006-0-0 (21 November 2007).

¹⁷ The rehabilitation provisions of the Criminal Code (Articles 103-105) provide for expiration of the consequences of criminal sentences as well as their expungement through judicial or other legal means, including passage of time, but neither had occurred in these two cases.

witnessed some 40 rallies and assessed these as generally well organized and conducted. For the most part, no direct confrontations were reported during the rallies. However, after a large DUI rally in Tetovo on 29 May, police arrested three DUI activists, inciting DUI supporters to block the Tetovo-Skopje highway and take a police officer hostage. The situation was diffused when police released the three detained DUI activists.

All contesting parties signed a code of conduct committing themselves to “promote free and fair elections and a climate of democratic tolerance” and to “publicly condemn violence and intimidation”.¹⁸ However, the tone of the campaign became increasingly harsh during the campaign period, with increasing levels of personal attacks and accusations. The competition between the two leading ethnically Albanian parties included strong rhetoric, which may have instigated violent activity which occurred.

C. SECURITY ENVIRONMENT

The security environment during the campaign period varied significantly between the predominantly ethnic Albanian areas and the rest of the country. While only a few incidents were reported in most of the country, numerous acts of violence or intimidation were reported in the predominantly ethnic Albanian areas. Police often did not respond to such incidents or attempt to prevent further incidents, creating an atmosphere of impunity.

According to the MoI, between 11 and 26 May it received information about attacks on 14 party headquarters and two municipal branch offices of political parties.¹⁹ At that point, no investigations had been made into these incidents. However, four investigations were undertaken concerning other security incidents. In a high profile incident on 12 May, the convoy of DUI leader, Ali Ahmeti, was shot at; the alleged perpetrators were detained and convicted.

In the period leading to the elections, the OSCE/ODIHR EOM received numerous reports from political parties and local citizens of further alleged incidents. In total, OSCE/ODIHR EOM received reports of 19 attacks on DUI offices, five abductions of DUI supporters, two attacks on homes of DUI supporters, one attack on a DPA office and six shooting incidents. Those reported by DUI did not appear to have always been passed to the authorities.

Additionally, there were numerous reports of vehicles driving through villages late at night carrying armed men, as well as rumours that Kosovo Albanians were illegally crossing the border to create problems on election day. Although such allegations were not confirmed, they increased tensions.

According to a large number of interlocutors of the OSCE/ODIHR EOM, including senior government officials, the security problem in predominantly ethnic Albanian areas stemmed from the politicization of the senior levels of the police. Interlocutors, including at the MoI, in particular cited an acting Deputy Minister of Interior Refet Elmazi (who had been dismissed but never replaced and thus continued to function) and a regional police commander Faik Dervishi with selective enforcement of the law. Both are reportedly well known as DPA activists.

¹⁸ Code of Conduct for Free and Fair Parliamentary Elections, signed 8 May 2008 Skopje.

¹⁹ DUI suffered ten attacks, DPA two, and VMRO-DPMNE and SDSM one each.

D. STATE AND PARTY ISSUES

The use of government resources for partisan activities played a prominent role in the public debate, especially early in the campaign. High visibility campaigns advertising the success of government policies before the start of the campaign stirred public criticism; after complaints from election stakeholders and the international community these campaigns were discontinued by the government.

While paid advertisements of government successes ended, government programs offering free medical checks in public spaces, the hiring of staff and the opening of rural health care centers continued throughout the campaign period. The State Commission for the Prevention of Corruption considered this practice to be inconsistent with the Law on the Prevention of Corruption, but the Minister of Health, himself a candidate and campaign manager for DPA, contended that these activities were part of the annual governmental plan and thus allowed. This was disputed by the president of the State Anti-Corruption Commission.

Another issue of contention was the seemingly partisan police response to election-related incidents. Examples include the detention of a private person filming a VMRO-DPMNE coalition rally in Stip on 20 May, and a statement by the Minister of Interior (and lead candidate for the VMRO-DPMNE coalition in district 6) that the ministry would press charges for slander against the leader of the SDSM, Radmila Sekerinska, for her statements about the ineffectiveness of the police force.

E. CAMPAIGN FINANCE

Campaign organizers must open a special campaign account, through which all campaign donations and expenditures must pass in order to be registered for an election.²⁰ There is a ceiling on total expenditures by a campaign, of 60 MKD (about 1 EUR) per registered voter.²¹ Campaigners are required to submit a financial report to the SEC, the State Audit Office and parliament within 30 days after the verification of the mandates for the new parliament. There is no requirement for verification of data, however, or for comparison with observed levels of spending. Anecdotal information suggests that expenditures by the main campaigners greatly exceeded the ceiling; in practice, there is currently no effective control on campaign financing.

Campaign finance reform has been identified as a benchmark for progress in the EU stabilization and accession process. Earlier in the year the MoJ developed additional draft amendments to the Election Code covering this issue, but they have not yet been submitted to parliament. The amendments would, *inter alia*: explicitly apply many of the restrictions and limitations contained in the Law on Financing Political Parties to campaign finance (such as on the size of individual donations and valuation of in-kind contributions); require campaigners to create a register of donations/expenditures; double the overall ceiling on expenditures; require a report halfway through the campaign, at the end of the campaign and after the election; require financial data regarding campaign advertising to be submitted by all media; and provide for copies of financial reports to be submitted also to the State Anti-Corruption Commission.

²⁰ Election Code, Article 71.

²¹ *Ibid.*, Article 84.

VII. MEDIA

A. MEDIA ENVIRONMENT

There is a diverse media environment throughout the country that includes some 54 TV stations, 67 radio stations and numerous press outlets.²² Television is regarded as the main source of information and three public²³ and five private²⁴ TV stations have nationwide coverage. While media are generally diverse, owners of the media often play a decisive role in defining the editorial policy, on occasion using media to defend their political or economical interests.

The Public Broadcaster (MRTV) was created as a result of the transformation of the state media in 1993. MRTV should be financed from the broadcast tax, but procedures for collection of these taxes have never been put in place, leaving it dependent on state funding. Decisions about the state funding to the MRTV are made in a sporadic manner, which undermines its professionalism and independence. On 5 June the employees of the Public Broadcaster went on strike, demanding payment of wages that they had not received for five months.

B. LEGAL FRAMEWORK

Coverage of the election campaign in the media is regulated by the Election Code and the Law on Broadcasting Activity. The Election Code obliges media to provide equal conditions and an equal approach in the presentation of the electoral programs of all candidates.²⁵ It also obliges parliament to adopt guidelines for election coverage in the media during the official campaign. However, the parliament was dissolved in April 2008 before it could approve election coverage rules for broadcasters. The Broadcasting Council, acting on its own initiative, adopted such guidelines on 18 April. However, these did not have legal force. The Law on Broadcasting Activity authorizes the Broadcasting Council to impose warnings and temporarily ban commercial advertisements in the broadcasting media as a sanction for violations of general broadcasting regulations.

The compliance of broadcast media with the law is overseen by the Broadcasting Council, the media licensing body. The body is composed of nine members proposed and approved by the parliament. In the run up to the election the mandates of three members expired, and the parliament had not nominated new members, causing the council to function with limited capacity.

The Law on Broadcasting Activity allows TV and radio stations to allocate up to 12 minutes per hour for any type of commercial advertisement during the pre-campaign period. During the official campaign period, the Broadcasting Council allowed media outlets to allocate an additional 12 minutes per hour for campaign advertising, provided that no political advertisement is aired during the regular 12 minute commercial advertisement slots.

²² Broadcasting Council, Skopje.

²³ MTV-1, MTV-2, Parliamentary Channel (MRT).

²⁴ A1, Kanal 5, Sitel, Alsat-M, Telma.

²⁵ Election Code, Article 75.

All broadcast media published political advertisement price lists. However, political parties and their coalitions received significant discounts, which were not made public, and the size of which were determined on an individual basis (reported to have varied from 10 to 90 per cent of the published price). This in practice created unequal conditions in access to paid advertising time for political parties and their coalitions. Although there is a requirement of equal treatment of all political parties by the media in their presentation of electoral programs, there is no explicit requirement that all candidates, coalitions and parties receive the same price for the same time period and audience share when they buy paid advertising time.

Prohibitions on defamation and libel still remain in the criminal code. While changes to the Code in 2006 changed the penalty from imprisonment to a fine, journalists during their professional work can still become subjects of criminal charges.

C. CAMPAIGN COVERAGE

As required by law, the public broadcaster allocated free airtime to all candidate list submitters. Most political parties and coalitions used this opportunity to present their views and election platforms. Free airtime was only available on the Macedonian language MTV-1, however, and one of the candidates who refused to speak Macedonian did not have his spot broadcast.

Both public TV channels MTV-1 and MTV-2 ran a special program which reflected on various campaign events of the election contestants. The public broadcaster also organized a total of 14 debates in the Macedonian and Albanian languages.²⁶ Neither the leaders of the two large coalitions nor the leaders of the two largest ethnic Albanian parties participated in any debates. This is despite repeated calls for a debate by the leader of the *Sun* coalition with the Prime Minister and president of VMRO-DPMNE.

The Broadcasting Council is obliged to monitor all broadcast media during the official campaign period. The body started media monitoring with the official start of the campaign, however the council did not include regional radio stations in its media monitoring, due to its poor financial situation.

Overall, during the campaign period, the Broadcasting Council issued a total of 45 warnings and some 132 non-binding recommendations²⁷ to 7 national and 29 regional TV stations. Most notably, MTV-2 received two warnings for its “pre-dominant political coverage of DPA in its informative programs”.²⁸ MTV-1 had received one warning for unbalanced coverage, while Public radio service and TV *Alsat-M* had received recommendations to correct unbalanced coverage. The Council’s actions, however, did not have any observable corrective effect on the broadcasters.

²⁶ MTV-1 organized four televised debates between political parties and coalitions running in five or six election districts. MTV-2, which broadcasts in Albanian language, organized televised debates between representatives of ethnic Albanian parties.

²⁷ As guidelines for election coverage in the media during the official campaign were not passed by Parliament, violations outside of those regulated by the general Law on Broadcasting Activity had no legal force, and thus were only considered non-binding recommendations.

²⁸ One was issued before and the other one after the official start of the campaign.

D. OSCE/ODIHR EOM MEDIA MONITORING

The OSCE/ODIHR EOM conducted media monitoring using quantitative and qualitative analysis of six TV channels²⁹ and six newspapers.³⁰ Monitoring started on April 30 and included the 20-day official campaign period and 24 hours of campaign silence. Overall, media outlets provided main political parties and coalitions with an opportunity to present their platforms and views through the prime time news. However, the lack of analytical reporting limited the role of media in informing voters about the electoral contest.

From 30 April until the commencement of the official campaign period, MTV-1 (which broadcasts in Macedonian) allocated some 26 per cent of mostly positive coverage to VMRO-DPMNE led coalition, while *Sun* coalition received some 20 per cent of mostly neutral coverage. This did not change with the official start of the campaign; coalition lead by VMRO-DPMNE received 24 per cent of mostly positive coverage, while *Sun* coalition received 19 percent of coverage, mostly neutral and positive in tone. In addition, MTV-1 devoted a significant amount of favorable coverage to activities of the authorities. Both Albanian parties – DPA and DUI were treated equally and each received around 8 per cent of coverage. MTV-1 ran a special election program which was balanced in coverage of the two main Macedonian coalitions; each of which received about 34 per cent of mostly positive coverage.

The public MTV-2, which broadcasts in Albanian, was more biased in its coverage and clearly favored DPA. Before the official start of the campaign, the channel allocated 21 per cent of mostly positive coverage to the activities of DPA, while DUI received 9 per cent, mostly negative in tone. Favorable treatment of DPA increased during the official campaign period. MTV-2 allocated 42 per cent of its coverage to the activities of DPA, mostly positive in tone, while DUI received some 19 per cent of mostly negative and neutral coverage. Similar trends were observed in its special election program.

There were discernable differences in campaign coverage by private broadcasters monitored by the OSCE/ODIHR EOM. During the official campaign, *A1* and *Kanal 5* offered their viewers a balanced coverage of the major political parties. TV *Sitel*, however, was clearly biased in favor of the VMRO- DPMNE led coalition, which received some 34 per cent of mostly positive coverage. By contrast, *Sun* coalition received some 20 per cent of mostly negative and sometimes neutral coverage. TV *Alsat-M* focused mostly on the activities of ethnic Albanian parties, slightly favoring DUI. During the official campaign period DUI received 27 per cent, while DPA received 25 per cent.

The print media monitored by OSCE/ODIHR EOM presented a variety of views. While *Vreme*, *Dnevnik* and *Utrinski Vesnik*, were providing more coverage favoring the *Sun* coalition, *Vecer* was clearly in favor of the coalition led by VMRO-DPMNE, and heavily criticized the *Sun* coalition. A similar trend was observed in Albanian language media, with *Koha* favoring DPA and *Lajm* favoring DUI.

²⁹ MTV-1, MTV-2, A1, Kanal 5, Sitel, Alsat-M.

³⁰ Dnevnik, Utrinski Vesnik, Vreme, Vecer, Koha, Lajm.

VIII. PRE-ELECTION COMPLAINTS AND APPEALS

Election contestants had only limited access to effective remedies and recourse to appeal for alleged violations prior to election day, partially due to legislative inconsistencies but also due to a narrow interpretation of the competencies of the complaint and appeal bodies. Judges of the Primary and Appeals Courts continued to be largely unfamiliar with their role with regard to campaign violations, and the Supreme Court limited appeals from election administration decisions to those which were explicitly authorized in the Election Code.

With respect to campaign violations, the means of legal recourse appeared to be limited and not fully described in current law. The only relevant provision of the Election Code enabling candidates whose rights are infringed – “by violating and disturbing the opponents’ campaign” – allows them to seek redress in the relevant primary court (with right of appeal to the Court of Appeals).³¹ The type of action that could be submitted under this provision is undefined, as are the classes of potential defendants (including rival candidates or campaigns organizers, private persons, and perhaps municipal or state officials). While the words “preventing and disturbing the … campaign” are the same as the description in the Code of a misdemeanor,³² the basic article does not indicate whether the form of action would be civil or criminal in nature.

Several Primary and Appeals Courts contacted by the OSCE/ODIHR EOM took different approaches toward their role in the complaints and appeals process. Some denied that they had any jurisdiction at all over election cases; others indicated that misdemeanor proceedings could be brought (resulting in fines and possibly even compensation for victims); while still others were open to considering civil actions seeking declaration that campaign rights had been violated. No lawsuits were, however, brought against campaign violations.

The scope of judicial appeals available to election contestants diminished from previous elections. While the Supreme Court formerly had general jurisdiction to decide on administrative appeals,³³ this jurisdiction has been transferred to the Administrative Court. Lacking general administrative jurisdiction, the Supreme Court exercised its competence exclusively over appeals specifically authorized under the Election Code. For example, in the case of an appeal of by the SDSM-led *Sun* coalition against registration of the candidate list of the SDPM (which included lead candidates with names very similar to leading SDSM candidates), the Supreme Court dismissed the appeal action on the grounds that there was no explicit right to such an appeal in the Election Code.

After information appeared in the press indicating that some of the SDPM candidates had not consented to be nominated, the Skopje Public Prosecutor requested police to obtain information from them. No such information was received before election day. Subsequently the Skopje Prosecutor concluded that the candidates in question had agreed to their candidacy.

³¹ Election Code, Article 73.

³² Election Code, Article 181.

³³ Law on Courts (1995) [superseded 2006], Article 34.3.

IX. PARTICIPATION OF WOMEN

Women played a prominent role in this election, both as candidates and in election administration. In line with the Election Code, every third place on the candidate lists had to be occupied by a woman. Political parties met this requirement, and of a total of 1,540 candidates, 35 per cent (or 462 candidates) were women. In the 2008 early parliamentary elections, 37 women were elected to the parliament, among which 7 were ethnic Albanian and one was Vlach. This represents 30.8 per cent of the total of 120 parliamentarians. This met the goal of 30 per cent of the lesser represented gender participating in parliament, a target set by the Stability Pact for South-Eastern Europe in 1999.

Of the seven member SEC, two were women, but women were proportionally more represented in all lower levels of election administration. As regards to the MECs, women's representation varied from 30 per cent in some MECs to 70 per cent in others. Some 44 per cent of all MECs were chaired by women and in 50 per cent of EBs a woman was a deputy; in 9 per cent of all EBs (267) there were no women members.

Family voting was one of the election day irregularities widely witnessed by observers. Family voting is generally understood as a male member of a household directing women of the family during voting, or in fact voting for them. This phenomenon continues to undermine the right of women to cast their ballots in privacy and has the effect of disenfranchising women. There was a notable ethnic imbalance with observers reporting family voting in 34 per cent of polling stations observed in the predominantly ethnic Albanian areas and 12 per cent in other areas. In many cases presidents of the EBs made little effort to stop men from entering the polling booths with the female members of their families. It was also frequently noted that the response to serious concerns regarding family voting was treated dismissively, as the practice was deemed "traditional" among many in the ethnic Albanian community. Lack of training and intimidation were mentioned to OSCE/ODIHR observers as reasons for family voting. A program designed to educate election bodies on this topic was not fully implemented before the election.

Gender issues did not feature in any of the political party manifestos or candidates' campaign programmes. None of the candidates were observed to specifically target women voters with gender-specific messages. The voter education messages broadcast prior to the election were aimed at general voter participation and did not address issues of family voting.

The media coverage of candidates did not reflect the gender balance of the candidate lists. The prime time news coverage given to women candidates ranged from 6 per cent on the public MTV-2 broadcasting in Albanian, to 31 per cent of coverage on private *Kanal 5*, which broadcasts in Macedonian.

X. PARTICIPATION OF ETHNIC COMMUNITIES

The electoral and broader political process tends to focus on the issues of concern to the two biggest ethnic communities – Macedonian and Albanian – and relations between them. However, members of other communities are also trying to play a more influential role in an effort to broaden a national dialogue beyond the bi-ethnic debate. Making up over 10 per cent of the overall population, the country's other officially recognized ethnic communities –

Turks, Serbs, Roma, Vlachs and Bosniaks – were represented in the previous parliament, but have nonetheless struggled to play a more important role in the country's politics.

During these elections, ethnic communities were all represented by several ethnically based political parties, many of them joining the pre-election coalition of VMRO-DPMNE, and in one case the SDSM-led *Sun* coalition. It is notable that the VMRO-DPMNE led coalition included five Roma-based political parties, bringing together all relevant political parties of Roma for the first time. In addition, there was a modest number of six candidates from the mainstream parties' own lists belonging to other ethnic communities. VMRO-DPMNE, working closely with several of the ethnically based parties, managed to attract these parties *inter alia*, by striking pre-election agreements on several issues of importance to them.³⁴ This will present challenges to both the government and parliament in the upcoming mandate.

In total, in addition to the 29 ethnic Albanian candidates, 9 candidates representing the Turkish, Serbian, Roma, Vlach and Bosniak communities won seats in the new parliament.

XI. DOMESTIC OBSERVERS

There was considerable participation of domestic election observers during election day on 1 June, with eleven non-partisan domestic observer groups registering a total of 5,592 observers. The largest single observer group was MOST with 4,100 registered observers. Domestic observers were present in 70 per cent of the observed polling stations, of which MOST was present in 65 per cent. OSCE/ODIHR EOM statistical analysis shows a positive influence of domestic observers on the quality of the electoral process. If an observer from MOST was present in a polling station, the overall assessment was more positive (6 per cent negative) than when a representative of MOST was not present (11 per cent negative reports). This positive influence was recorded especially in the predominantly ethnic Albanian areas.

MOST issued three press statements on election day, reporting 80 incidents. They also announced that they observed a further 55 incidents which they were unable to publicize out of the necessity to protect their observers. Due to security concerns on election day, MOST withdrew 86 observers from Tetovo, Gostivar and the greater Skopje area. In addition, 11 of their observers were forcibly ejected from polling stations in the Tetovo area.

MOST also conducted a parallel vote tabulation (PVT) on election night covering 30 per cent of all polling stations, to cross check the accuracy of the results tabulation. Although generally accurate, the high level of observed irregularities and the subsequent annulment of the results undermined the accuracy of PVT results for election districts 1, 2 and 6.

MOST was the only domestic observer group registered to observe the 15 June re-run elections that were conducted in 187 polling stations. To address possible security concerns, MOST deployed monitors in the teams of two, a change from 1 June elections when individual observers were deployed. The lower number of polling stations allowed MOST to have stationary teams in 130 polling stations and in 15 MECs. During the re-runs OSCE/ODIHR observers noted the presence of MOST observers in 86 per cent of polling stations.

³⁴ Possible creation of an Agency for Minority Rights, adoption of a Law on communities and amendments to the electoral code to ensure reserved seats for the country's smaller ethnic communities.

XII. ELECTION DAY OBSERVATION

A. SECURITY SITUATION

Election day on 1 June was marred by violent incidents and intimidation in predominantly ethnic Albanian areas.³⁵ Although the security situation stabilized throughout the course of the day in these areas, early morning incidents left one person fatally wounded and several others injured.

The fatality occurred during an incident in the village of Aracinovo, just outside the capital Skopje, where police engaged with criminals in a shooting incident. The OSCE/ODIHR EOM received reports that criminal groups had moved into Aracinovo the night before election day. By the morning hours armed men were observed walking openly in the streets and the entrance to Aracinovo was blocked. According to the MoI, heavily armed individuals opened machine and automatic rifle fire on police that entered the village. The police returned fire, and as a result, one individual was fatally injured, two persons were wounded and eleven suspected participants were arrested by police.

While no other serious casualties occurred, many additional instances of violence and intimidation were reported during election day. IEOM observers reported 19 instances of intimidation, of which 14 cases occurred in predominantly ethnic Albanian areas. Many of these were against EB members such as in Berovo (PS 2890) where the EB president was assaulted. Tension or unrest was seen in 3 per cent of all observations - 7 per cent in ethnic Albanian areas and 1 per cent of observations in other areas. During the count, intimidation was seen on 7 occasions and tension and unrest was reported in 16 per cent of observations.

In Gorna Bawica polling stations (0515,0516) closed one hour after the voting officially started as ballot boxes were stolen by armed persons and all EB members were ejected from the polling station. Two other polling stations in Gostivar (0507, 0508) had to be closed at 10.25 as the voting was disrupted by unknown persons who stuffed ballot boxes, stole election material and intimidated EB members. In Saraj one polling station (2431) did not open on time because the EB members realized that half of the ballots had disappeared overnight. Voting was also closed in Cucer Sandevo municipality (outside Skopje) in the morning, after approximately 30 unknown persons entered the polling station, intimidated EB members and stole the election material.

On two occasions IEOM observers were rescued from polling stations by police (Poroj north of Tetovo and Aracinovo, north east of Skopje) when the security situation did not allow for their safe exit from the area. Two SEC members who had visited the area in an attempt to investigate election day fraud in Poroj also needed to be extracted by police.

In a number of areas the IEOM observers noticed a lack of police in the vicinity of polling stations during the voting (22 per cent). The absence of police was even more noticeable during the vote count; in 39 per cent of observed counts police did not secure and close off the polling station.

³⁵ Specifically in the municipalities of Tetovo, Gostivar, Vrapciste, Brvenica, Bogovinje, Tearce, Zajas, Debar, Cair, Saraj, Cucer-Sandevo and Aracinovo.

B. VOTING

1. Early voting

Early voting was conducted on 31 May, one day before the election, for prison inmates and internally displaced persons. On the same day, mobile voting was conducted for homebound and hospital patients. The IEOM observed 54 occasions of early voting, which was generally well administered. Most were small groups; only in four instances was the number of voters higher than 50. IEOM observers noted that in five cases the EB did not provide adequate conditions for the secrecy of the early voting process, and in 24 per cent of observations the rules for the voting process were not fully respected. Nevertheless, the assessment of the early voting was generally overall positive.

2. Election day voting

On election day IEOM observers visited over 1,100 polling stations. Voting was evaluated as bad or very bad in 8 per cent of all observations, indicating serious irregularities. There was a considerable difference between the ethnic Macedonian and the predominantly ethnic Albanian areas of the country. In the predominantly ethnic Albanian areas, the assessment of voting was significantly worse with 20 per cent of observed voting assessed as bad or very bad; in the other areas voting was assessed as bad or very bad in 2 per cent of cases. The variation among the areas was also notable in the proportion of family voting. Family voting was observed in a total of 18 per cent of polling stations – in the predominantly ethnic Albanian areas 34 per cent, in other areas 10 per cent.

IEOM observers reported 30 cases in which indications of ballot box stuffing was evident, all but two of which took place in predominantly ethnic Albanian areas. According to the accounts of IEOM observers, some EB members took part in ballot stuffing. In one case in Lipkovo, when IEOM observers arrived at the polling station around midday, seals of ballot boxes were broken and approximately 90 per cent of voters had reportedly voted. Reports of identical signatures on the voters lists were received from 3 per cent of the polling stations observed (34 cases), almost all from the predominantly ethnic Albanian areas.

IEOM observers recorded a high presence of unauthorized persons in polling stations: in the predominantly ethnic Albanian areas in 16 per cent of observations, in others 6 per cent. For example, in polling station 1013 (Lipkovo) activists from DPA were observed interfering in the process and instructing EB members and voters. IEOM observations indicate a strong correlation between the presence of unauthorized persons and the overall assessment of the polling station. Polling stations with unauthorized people present overall received a more negative assessment.³⁶ In 12 polling stations a person without authorization was directing or interfering with the process in the presence of IEOM observers.

C. COUNTING

The IEOM observed counting in 111 polling stations; the count was assessed as bad or very bad in 15 per cent. The significant difference between predominantly ethnic Albanian areas

³⁶ If an unauthorized person was present, the overall assessment was negative (bad to very bad) in 27 per cent of polling stations, if no unauthorized person was present the number drops to 5 per cent.

and other areas continued during the count, with 30 per cent of counts assessed as bad or very bad in ethnic Albanian areas, as opposed to 8 per cent in other areas.

In 12 observed cases the results failed to reconcile. In Bogovinje (PS 2129), for instance, the DPA authorized representative was seen tampering with the voters list and tearing off ballots to ensure that the numbers matched. Some polling stations closed early, before observers arrived, so the count could not be witnessed. In one such instance, in Upper Svilare (2455) on the outskirts of Skopje, the results were not posted at the polling stations and the EB could not be found by IEOM observers arriving for the count. The EB eventually arrived at the MEC two hours later with results that showed a 93 per cent turnout, almost all in favor of DPA.

D. TABULATION

The IEOM observed results tabulation in 73 of 84 MECs. Generally tabulation was orderly and transparent with authorized representatives and MOST observers present. Only two MECs were assessed as bad or very bad³⁷ although tension or unrest was observed in 7 MECs and the tabulation was assessed as not well organized in 10 MECs. The data of all polling station result protocols were not entered into a computer database in 6 MECs. Additionally, in all cases where data-entry took place in a different room, only IEOM observers were allowed to view the process.

The only reports of seemingly deliberate fraudulent activity were from Tetovo MEC, where many problems had occurred in polling stations during the day. At least five EBs arrived with only partly completed results protocols; the MEC helped the EBs complete the documentation so that they reconciled without a review of materials. In Tetovo, IEOM observers were repeatedly told not to ask questions and to sit where they could not see the process. IEOM observers there noted five polling stations showing 90 to 100 per cent turnout and EBs arriving with unsigned protocols that were accepted by the MEC. In Gostivar, by contrast, IEOM observers witnessed arguments when the MEC refused to tabulate the results of some polling stations. The OSCE/ODIHR EOM received information from members of two MECs (Tetovo and Saraj) that they had been intimidated by high ranking officials or by other MEC members into accepting incomplete or falsified protocols.

The SEC announced that voter turnout for the 15 June early parliamentary elections was 58 per cent. Of 2,741 polling station results tabulated on the SEC database, 75 showed abnormally high turnout figures – many in areas where there were reported incidents of violence or ballot stuffing. Two polling stations in Poroj, from where IEOM observers had to be extracted by police, showed for instance 99 to 100 per cent turnout with almost all votes cast for DPA.

XIII. POST-ELECTION DEVELOPMENTS

A. POLITICAL DEVELOPMENTS

Violence, including the use of firearms, during election day was strongly condemned by President Branko Crvenkovski and the international community. Although the preliminary results indicated that VMRO-DPMNE had won a clear victory, party president, Nicola

³⁷

Tetovo and Saraj.

Gruevski, announced that his party would start coalition talks only after democratic elections are conducted throughout the whole country. As current Prime Minister he also assured that re-voting would take place in all areas affected by the violent incidents.

In their post-election statements, the two ethnic Albanian parties repeatedly accused each other of having stolen votes and having used violence. DPA leader Menduh Thaci repeatedly asked for the resignation of his rival Ali Ahmeti,³⁸ who, in return, appealed for isolation of DPA and its leader.³⁹ On 5 June DUI peacefully protested against electoral violence. DPA applied strong rhetoric, and in its statement announced that the ‘political butchery’ that DUI ‘survived’ during 1 June elections would continue during the re-runs on 15 June and DUI would be soundly defeated.⁴⁰

The MoI informed the OSCE/ODIHR EOM that 164 criminal charges were brought against perpetrators of election day violations, but less than 25 people had been taken into custody as a result of these efforts as of 14 June. This included a high party official from DUI, who was arrested on 13 June.

B. POST ELECTION COMPLAINTS AND APPEALS

Five political parties and coalitions that contested the early 1 June parliamentary elections brought complaints to the SEC, covering 376 polling stations. The SEC reviewed these complaints over the course of two days in the presence of OSCE/ODIHR EOM observers, authorized representatives of the candidate list submitters, and these were broadcast live on television.

When investigating complaints after the 1 June election, the SEC established set criteria by which they would open ballot boxes to review materials. Criteria included establishing whether authorized representatives or election boards had written detailed complaints in the protocols and observing whether detailed complaints had been made to the MEC. In addition to reviewing complaints, the SEC also verified whether the election materials included unsigned or altered protocols, considered additional information from election officials and looked at results from polling stations with suspiciously high turnout.

As a result of this review the SEC annulled results from 197 polling stations. Of these, 38 annulments were made *ex officio*, based on the fact that voting had been suspended or election day observations made by members of the SEC. The remaining were annulled because of improper activity, including: incorrect or unsigned protocols, voters lists showing evidence of proxy voting, or the number of ballots not equaling the number of voters who had voted. Of the 100 polling stations where election materials were reviewed, the SEC found sufficient evidence for annulment in 94 cases.

The thorough review of the election materials and decisions taken thereof marked a notable change in how the SEC had previously addressed post election complaints and appeals, and

³⁸ Menduh Thaci: “Ahmeti entered the politics with shooting. It is difficult for such a subject to understand the power of democracy that should be reached with votes, not with weapons” (Top Channel TV, 5 June).

³⁹ DUI press statement 5 June 2008.

⁴⁰ DPA spokesman Adriatik Imeri at a press conference on 11 June.

election day irregularities; the SEC had never before reviewed materials during the complaints and appeals process.

Three parties used their right to appeal these decisions to the Supreme Court. DUI appealed for four polling station results to be annulled, DPA for a further 110 polling station annulments and the reversal of 76 of the annulled results, and Secret Macedonian Revolutionary Organization (TMRO) for their complaint against the whole of electoral districts 4 and 5. The Supreme Court split into four panels to adjudicate the appeals. Three panels upheld the bulk of the SEC decisions, only overturning one, but the fourth panel reversed 11 SEC decisions to annul voting results. While they stated that they had reviewed the materials and found no evidence that would substantiate the SEC's ruling, the panel fully examined the material from only one polling station. Unlike the complaints process at the SEC, the appeals process in the Supreme Court was not open to public scrutiny. Nonetheless, the Supreme Court for the first time made their decisions available on their web site.

C. RE-RUNS

According to the Election Code, if the results in a polling station are annulled and those results could influence the overall seat distribution in parliament, re-runs have to be conducted 14 days after the election.

The 15 June re-runs of 1 June parliamentary elections were conducted in a total of 187 polling stations, serving 161,874 voters. The re-runs affected 19 MECs,⁴¹ predominantly in ethnic Albanian parts of the country. The re-runs affected 6 per cent of the total of 2,976 polling stations and 9 per cent of all voters. According to the Minister of Interior, half of the country's 10,000 strong police force was deployed to ensure a violence-free environment.⁴²

IEOM observers reported heavy police presence around polling stations, with multiple teams of different police units in each location. This proved effective in preventing the violent incidents which took place on 1 June. However the police at some polling stations did not discourage large numbers of political party activists from clustering around them and creating an intimidating atmosphere for voters and election officials. Tension or unrest was noticed outside 17 and inside 12 polling stations, and the observers also reported 13 cases of intimidation.

Overall, the IEOM observers evaluated voting as good and very good in 91 per cent of cases. This result was more positive compared to 20 per cent negative reports from the same area on 1 June. Nevertheless, that 9 per cent of observations were negative indicates that there were a number of problems and irregularities in the election process. For instance, election materials in two polling stations in Tetovo had been stolen before the polls opened.⁴³ Procedural errors noted included EBs not checking for ink on the voter's finger on arrival at the polling station (in 17 per cent of observed cases) and EBs not marking voters with ink after they received their ballots (in 10 percent of observed cases).

⁴¹ Chair, Saraj, Studenichani, Arachinovo, Lipkovo, Butel, Kumanovo, Chucher Sandevo, Gostivar, Debar, Tetovo, Vrapchishte, Bogovinje, Tearce, Brvenica, Zelino, Zajas, Jegunovce, and Oslomej.

⁴² 16 July 2008 meeting with Minister of Interior Gordana Jankulovska.

⁴³ The ballot papers were stolen for the polling station No. 1985, 1986, 1987 from the office of the school headmaster in Recica. Voting did not start in those polling stations and the EBs delivered the rest of the materials to the MEC.

IEOM observers reported family voting in 47 per cent of the polling stations where re-runs were held. When asked to elaborate on their observations, the IEOM observers explained that on many occasions men entered the polling station with a group of women and directed them through the voting process. According to the reports from the observers, persons were 'assisting' numerous voters in 18 per cent of polling stations. The presence of unauthorized persons, mostly party activists, in the polling station was again considerable (23 per cent).

The IEOM received reports from 32 observed counts, with eight of these evaluated as bad or very bad. There was a considerable presence of unauthorized persons (ten cases), intimidation of observers and EB members on two occasions and in nine cases the results figures failed to reconcile. According to tabulated figures in eight polling stations the turnout was more than 80 per cent.

The performance of MECs was evaluated in overall positive terms - two reports were negative, six good and four very good. Although the MECs reported that they were threatened, they stated that these threats had had no impact due to the high number of international observers. During the re-run, IEOM observers witnessed such attempted intimidation in Saraj municipality.

XIV. POST RE-RUN DEVELOPMEMENTS

Following the re-runs, only DPA and DUI submitted complaints. DUI submitted 8 complaints covering 31 polling stations in ED 1 and ED 6. DPA submitted 16 complaints covering 148 polling stations in ED 1, ED 2 and ED 6. However, at the start of the hearing DPA dropped all 24 complaints in ED 2 since any losses there could have given one of their seats to the *Sun* coalition.

The hearing was again conducted in a transparent manner, with authorized representatives and observers present along with live TV coverage. The SEC again established criteria for examination of the materials at the outset: there had to be a basis for complaints in remarks on the protocols or reports of the MEC, and the complaints had to have substantiating information.

After opening materials from 13 polling stations on the basis of complaints, the SEC annulled seven results. One polling station was also annulled on the basis that the protocol was unsigned. The four polling stations where voting had not taken place due to missing materials were also cancelled *ex officio*. Ten annulled polling stations were in Election District 6 and affected one mandate. Two were in ED 1 and did not initially affect a mandate.

DPA filed 13 appeals to the Supreme Court covering results from all 110 polling stations, claiming that they had submitted complaints to EBs and MECs that had not been upheld. DUI filed four appeals covering six polling station results, asking for reversal of annulments. The Supreme Court upheld all SEC decisions this time, annulling a further three polling stations, based on DPA appeals. When combined with the initial two annulments in ED 1, these further annulments were enough to alter a mandate and thus needed to be re-run. This gave a total of 15 polling stations to be re-run in Electoral Districts 1 and 6 on 29 June.

The 29 June re-run was not observed by OSCE/ODIHR EOM and did not change the seat distribution in the parliament.

The SEC reviewed four complaints regarding the second re-runs held on 29 June that were submitted by the Party for Democratic Prosperity (PDP). After review, the SEC rejected all complaints.

The OSCE/ODIHR EOM was informed that as of 26 June 40 cases of electoral violations involving 150 persons had been placed before the Public Prosecutor. Of those arrested in relation to these cases, 30 had been detained and the remaining 120 released pending court appearance. Of those released, one was a senior DUI official who was arrested shortly before 15 June re-runs and was freed to take up his mandate in Parliament. This was subsequent to the retraction of statements by seven police officers who had made witness statements against him. In total, 13 police officers had been arrested and ten had subsequently been charged with offences relating to the elections and their police responsibilities.⁴⁴

According to the MoI, the obstruction of the electoral process by individuals resulted in criminal charges against 171 persons. As of 2 July, 61 individuals were in detention and 48 cases had been resolved. The MoI also reported that 13 police officers had been suspended pending investigation for election related offences. A senior MoI official said that the process would be slow since witnesses were fearful and the prosecutors were having difficulty sorting out charges.

A government coalition was formed in late July.⁴⁵ The coalition was formed by VMRO-DPMNE, with DUI and PEI.

XV. RECOMMENDATIONS

A. LEGAL FRAMEWORK

1. Conflicts between the Election Code and the new Laws on the Courts and on Administrative Disputes concerning appeals of SEC decisions should be resolved. Amendments could include clarifying which body appeals should be sent to, as well as to identify which specific actions by election bodies constitute final administrative acts that can be appealed. Due to the narrow reading of the Supreme Court of its competencies during the 2008 early parliamentary election, it is recommended that the Administrative Court be given this authority.
2. Inconsistencies between the Election Code and Law on Misdemeanors should be resolved, so that the SEC can exercise the power to initiate proceedings against persons who commit the electoral misdemeanors listed in the Code.
3. Article 73 of the Election Code, providing for campaign violations to be litigated in the Primary Courts (with right of appeal to the Appeals Court) should be elaborated to specify

⁴⁴ Ljupco Todorovski, Director of Police, Ministry of Interior 26 June 2008.

⁴⁵ The parliament voted to confirm Nikola Gruevski government on 26 July 2008.

the subject of the complaint,⁴⁶ potential defendants, form(s) of action (civil, misdemeanor and/or criminal), and possible remedies. Prior to elections, appropriate information and training in this regard should be made available for judges, and also communicated to legal professionals, civil society and the public.

4. The campaign finance provisions in the Electoral Code should be expanded – in line with the legislative proposals of the MoJ – to ensure that all the restrictions on general political party financing, including reporting of non-monetary contributions (of goods and services) are made applicable; an interim finance report is required during the campaign (also covering any campaigning prior to the campaign period); and positive auditing of campaign finance reports is performed by the relevant State bodies.
5. Article 7 of the Electoral Code providing for a ban on candidates who have been convicted to a prison sentence of more than six months should be reviewed to determine undue or discriminatory limitations on passive suffrage rights.
6. Other remaining ambiguities and inconsistencies in the Election Code should be resolved, including:
 - a) Article 151.1-2 provides that repeat elections must be held in polling stations where the voting has been suspended for more than three hours, except if the total number of voters registered there could affect the results in an election district. But Article 104.6 states that elections must be repeated at a polling station whenever the voting has been suspended for that period of time.
 - b) Article 151.1 provides that the SEC, a MEC or the Skopje City EC can annul the results of voting at a polling station. But this power is not included in the competencies of the MEC in Article 37, which provides only that a MEC should “intervene” in case of legal violations by an EB.
 - c) Article 148.1 authorizes list submitters to complain about violations during voting, summarization of the vote and determination of results; but paragraph 2 thereof indicates that such complaints must be submitted within 48 hours of the close of voting. Summarization of the vote by the MECs and determination of results by the SEC could end after that time.
7. If the Supreme Court continues to consider election related appeals, the sessions should be held in public.

B. ELECTION ADMINISTRATION

8. Immediate attention should be given to recruiting all the required expert staff for the SEC so that the commission can function as a fully independent body. This should include legal staff to handle complaints and instigate investigations into any election day violations.

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Including providing a right to a candidate list submitter to complain about actions taken as regards to other candidate list submitters.

9. Whilst it is commended that members of election administration are chosen randomly by computer, it is recommended that the post of president of MECs are appointed from among the randomly selected members by the SEC or elected by the MEC members after their random selection.
10. Civil and public service employment regulations should be amended to allow MEC members to be released from normal work duties for a sufficient time prior to the election to effectively complete their tasks. Those coming from outside of the area of residence should be allowed adequate travel time and reimbursements for incurred expenses.
11. The SEC should better define MEC procedures for handing the tabulation on election day, including: how to handle un-reconciled polling station results; how and when to order a recount; and more clearly explaining the right of all observers and authorized representatives to have full access to the entire process including data entry.
12. Further training programmes should be developed. MEC training should be implemented between election cycles and could include such topics as: handling the tabulation and checking protocols, logistics and finance, communication with EBs and handling election day complaints and emergencies. EB training could cover election day procedures, completion of protocols, rights of observers and authorised representatives as well as the already proposed training on proxy and family voting. Training for police on election day should continue, and should be supplemented by addressing in more detail the role of the officer outside of the polling station – especially as this relates to addressing crowding around the station and securing the polling station before the count process. Specialised trainers employed to develop and deliver training would help ensure its effectiveness.
13. Voter information and education could be improved. At a local level there should be more information on polling station locations and boundaries. Nationally, the SEC should have a larger budget to allow them to better inform voters about the election and address key issues. This will be particularly important to help re-build voter confidence.
14. Whilst it is commendable that the political contestants authorize their representatives and inform the relevant election management bodies of their identity, there needs to be some method of identifying political party and candidate representatives in the polling stations. The MEC could consider issuing badges with the specific polling station number on it to each authorized representative; persons without a badge should not be permitted inside.

C. VOTER REGISTER

15. A thorough review and audit of the voter register should be undertaken.
16. The process for changing residence registration details could be reviewed with a view to shortening and simplifying the procedure.
17. Election precincts for respective polling stations should be reviewed at regular intervals, and precincts which contain a number of voters below a minimal agreed upon threshold of voters should be amalgamated into other stations.

D. ELECTION CAMPAIGN

18. The definition of campaign silence should be elaborated to also include posters and leaflets. However, the practice that no voter information or any other announcements by the election administration are permissible during the campaign period should be discontinued.
19. All printed election material should contain verifiable information about who has ordered and produced the campaign items. All broadcast campaign advertisements should also be clearly marked as such, with information stating who provided the funding for the spot.
20. More effort should be given by authorities to investigate and prosecute incidents of election-related violence and violations during the campaign period. This includes investigating those issues raised by the State Anti-corruption Commission. Furthermore, efforts should be made to ensure that such follow-up is not perceived as politicized or partial to any one group or party.
21. The role and functioning of party and state structures cannot be blurred. More efforts should be undertaken in this regard in relation to issues identified during the election campaign.

E. ELECTION DAY AND VOTING PROCEDURES

22. The provision for double stamping ballots should be reviewed, as the second stamp can lead to a situation where the secrecy of the vote is violated.
23. The practice of printing exactly the same number of ballots as voters and then opening the packs to remove ballots for early and mobile voting should be changed. This has led to lack of security of the ballots and election boards not being able to reconcile the ballots due to not knowing how many ballots were removed. Instead each polling station could be given an additional number of ballots to allow for spoiled ballots, and MECs could be given a separate book of ballots, with a special serial number to be used for early voting.
24. Efforts to hold offenders of election day violations accountable should continue. It should be assured that those election administration officials who are convicted of offenses not be re-assigned to EBs and MECs in future elections.

F. MEDIA

25. To ensure equal access to media, as required by law, the same tariffs should be charged to all contestants for equivalent broadcast times. This is different than the current practice of having equivalent base fees then negotiating discounts which are not made public.
26. Detailed campaign coverage rules should be incorporated in the Law on Broadcasting Activity and the Election Code, rather than having the parliament adopt new rules for each election.
27. Procedures should be established to enable the Broadcasting Council to sanction broadcasters for breaches of the media regulations during the campaign period in a

timely and effective manner. Procedures should allow for speedy address of the complaints in order to give the complainants a prompt remedy.

28. Steps should be taken to ensure that broadcasting tax is collected and institutions, which are financed by the broadcast tax, receive the income in a timely manner.

ANNEX 1 – FINAL RESULTS⁴⁷

According to the final results of the electoral process, 63 mandates were won by the VMRO-DPMNE coalition, 27 by the *Sun* coalition, 18 by the Democratic Union for Integration (DUI), 11 by the Democratic Party of the Albanians (DPA) and 1 by the Party for European Future (PEI). In late July a government coalition was formed by the VMRO-DPMNE coalition, with DUI and PEI.

Voter turnout:

- **1 June parliamentary elections 57.99 per cent**
- **15 June re-runs in 187 polling stations - 48.9 per cent**
- **Cumulative voter turnout of all election phases 57.06 per cent**

Party	Results after 1 June 2008			Results after 15 June 2008		
	Number of votes	%	Seats	Number of votes	%	Seats
VMRO-DPMNE lead coalition	482 842	46.%	64	481 602	47%	63
<i>Sun</i> coalition	233 371	22%	28	233 362	23%	27
DUI	111 407	11%	13	125 997	12%	18
DPA	105 293	10%	13	83 678	8%	11
PEI	14 502	1%	1	14 473	1%	1

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State Election Comission, final results:
http://www.sec.mk:90/english/index.php?option=com_content&view=article&id=64&Itemid=74

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

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

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

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

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

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).