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## INTERNATIONAL ELECTION OBSERVATION MISSION Bosnia and Herzegovina – General Elections, 2 October 2022

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### STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

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#### PRELIMINARY CONCLUSIONS

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The elections were overall well organized and competitive. However, regrettably, the increasing segmentation along ethnic lines and the corresponding divergent views on the future of the country remain a concern for the functioning of democratic institutions. Universal and equal suffrage is still not guaranteed. Failed negotiations among political parties left the electoral legal framework without needed reforms, nevertheless, recently introduced amendments strengthened some aspects of the electoral process. Election preparations were managed in an overall efficient and transparent manner by upper-level election commissions. Political impasse, a general mistrust in public institutions and references to the country's wartime past marked the electoral environment. Women's active participation was undermined by insufficient efforts to overcome long-standing gender stereotypes. During the campaign, fundamental freedoms were respected. However, the lack of public debate and the use of divisive rhetoric, also reflected in the limited and biased media coverage, reduced voters' opportunity to make an informed choice. Election day was overall orderly, but impacted by concerns regarding the secrecy of the vote and inconsistent application of procedural safeguards, mainly during the vote count.

The electoral legal framework is generally conducive to democratic elections. Nevertheless, ethnicity and residency-based restrictions on the right to stand as a candidate for certain contests continue to challenge the principle of universal and equal suffrage and are contrary to OSCE commitments, Council of Europe and other international standards. Lack of uniformity between several laws at different levels and a number of additional shortcomings undermine the effectiveness of the legal framework.

Following failed discussions to introduce needed legal changes, on 27 July, after the elections were called, the High Representative, the head of an international institution mandated to oversee the implementation of civilian aspects of the Dayton Peace Agreement, used the powers vested in the position to impose laws and introduced some changes to the Election Law. Overall, the new provisions introduced important integrity safeguards. Nevertheless, the late introduction of the amendments did not allow for enforcement mechanisms to be fully established and certain provisions challenge legal certainty. Further, on election day, the High Representative imposed significant changes to the Constitution of the Federation of Bosnia and Herzegovina (FBiH) and the Election Law impacting *inter alia* the indirect elections by cantonal assemblies to the FBiH House of Peoples and its decision-making procedures. At the time of voting, the full impact of the cantonal assembly vote was not foreseeable to electoral contestants and voters.

The Central Election Commission (CEC) administered the elections efficiently, transparently and within the legal deadlines, despite delays caused by the late disbursement of the required funds and a critical lack of human resources. While upper level commissions, in particular the CEC, enjoyed stakeholders' confidence, their trust in Polling Station Commissions (PSCs) remained low due to widespread accusations that some political parties continue the practice of trading PSC positions to control polling stations on election day. The training provided for PSC members was overall comprehensive. The voter education activities conducted by the CEC were largely insufficient, in part due to lack of human and financial resources. Most election materials, including ballot papers, were not adapted for voters with visual, hearing or cognitive impairments.

There were 3,368,666 registered voters. There is general trust in the accuracy of the voter register and the CEC made continuous efforts to remove outdated entries from the database. However, these efforts were hindered by the absence of an effective mechanism to delete records of deceased citizens from local civil register databases. Various voting methods were available for voters abroad, internally displaced persons, homebound voters and those in retirement or detention facilities. Restrictions on the right to vote for those with intellectual and psychosocial disabilities remain, contrary to international standards.

The right to stand as candidates for the state and entity presidencies remains limited to voters self-declared as Bosniaks, Croats, or Serbs, contrary to the decisions of the European Court of Human Rights, including on the Sejdić and Finci case. In an inclusive process the CEC certified 90 political parties and 17 independent candidates. In total, 7,258 candidates were running for all races. Voters had the possibility to sign in support of only one political party or independent candidate per electoral contest; this limitation is not in line with international good practice.

The campaign was competitive, including on social networks, and fundamental freedoms of association, assembly and expression were respected. While the campaign overall was calm, some isolated incidents of violence and harassment have been reported. Ethnically divisive rhetoric was frequent, in particular by the largest incumbent parties, and was more prominent than issues related to social welfare, economy and corruption. The July 2022 legal amendments extended the applicability of campaign regulations to social network platforms, introduced a definition of hate speech and prohibited misuse of administrative resources. While a welcome improvement, the latter provisions appeared insufficient mainly due to the limited timeframe and scope of their applicability. Instances of social welfare and development projects being announced in the campaign period, and cases of pressure on public sector employees to participate in campaign events of incumbents, raised concerns as to the level playing field and voters' ability to cast their vote free of fear of retribution. Positively, the number of hate speech cases reported remained low.

Notwithstanding the legal provisions prescribing equal gender representation at all levels of public administration and elected bodies, women remain under-represented in political office. The gender requirements on candidate lists have so far not been fully effective, as the 40 per cent quota does not result in a similar allocation of seats for the less represented gender. Further, only some 7 per cent of the registered candidate lists exceeded the minimum 40 per cent ratio of women required by law and very few larger parties had women leading their lists for the state and entity level elections. With a few exceptions, women did not feature prominently in the campaign but were often targets of insult and ridicule on social networks.

The regulatory system does not provide for adequate transparency and accountability of campaign finances. The CEC is in charge of campaign finance oversight but the effectiveness of its review and audit procedures is undermined by its limited resources. Further, it is also impacted by the CEC's inability to monitor actual campaign spending and detect violations. In January 2022, the CEC renewed its rules on campaign finance reporting procedures to align some requirements with previous ODIHR and Council of Europe's Group of States against Corruption (GRECO) recommendations. Other recommendations remain unaddressed. Available sanctions are not sufficiently dissuasive, and most International Election Observation Mission (IEOM) interlocutors expressed low confidence in the efficiency of the campaign finance regulations.

Media is divided along ethnic and political lines, which combined with significantly limited coverage of the campaign reduced voters' opportunity to make an informed choice. Recent defamation cases brought against journalists, cyber-attacks targeting the infrastructure of prominent media outlets, disinformation and practices of intimidation and harassment of journalists, undermined the media's ability to operate in an environment free of political pressure and persecution. While a high number of

media outlets organized debates, many candidates decided not to participate, which was a missed opportunity for voters to compare their programmes. The ODIHR Election Observation Mission (EOM) media monitoring concluded that the majority of the monitored media outlets displayed partisan editorial policies. Despite a previous ODIHR recommendation, the media regulator, the Communication Regulatory Authority (CRA), did not conduct media monitoring during the campaign period and was thus unable to perform active supervision of the broadcast media.

The dispute resolution process does not fully guarantee effective legal redress and relevant ODIHR recommendations remain unaddressed. Restrictions on legal standing and short deadlines for complaint adjudication hinder its efficiency. The CEC received some 560 complaints before election day. Contrary to OSCE commitments, there is no guarantee for public hearings at any level of the electoral dispute resolution process. However, positively, most MECs and the CEC considered complaints in public sessions and held substantial discussions while reviewing the cases. Nevertheless, the CEC did not respect the 48 hours deadlines for adjudicating complaints, citing a lack of human resources. The Court of Bosnia and Herzegovina did not hold public hearings. Further, complaints and subsequent decisions of the election administration and the Court were not made public, undermining the transparency of the complaint adjudication process.

Election day was largely peaceful, with a few disruptive incidents in and around polling stations. While voting procedures were observed to be generally followed and conducted transparently, the secrecy of the vote was often compromised due to the positioning of voting screens or inadequate layout of the voting premises. Further, instances of unauthorized persons keeping track of voters and the same persons assisting multiple voters when voting, observed in some polling stations, contributed to observers' negative assessments in a number of observations. Family and group voting was frequent. The IEOM noted several cases when voters were denied the opportunity to vote with an assistant of their choice on the grounds that they did not have a medical certificate. Citizen observers were present in one in five of the observed polling stations. Approximately half of the polling stations observed did not provide independent access for persons with disabilities. The IEOM assessed counting procedures in many cases negatively, mainly due to inconsistently followed procedures, indicating a poor understanding of the procedures by PSCs.

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## **PRELIMINARY FINDINGS**

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### **Background**

Bosnia and Herzegovina (BiH) is composed of two entities: the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS). In addition, Brčko district has a special status as a local self-government unit under direct state sovereignty. The Constitution grants the status of constituent peoples to Bosniaks, Croats and Serbs. Citizens who do not identify with an ethnicity that has the status of a constituent people or who choose not to affiliate themselves with any group or ethnicity may declare themselves as "others".

The complex state structure and legal and administrative framework originate from the 1995 General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement).<sup>1</sup> The High Representative, who heads the international body established by the Dayton Peace Agreement to

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<sup>1</sup> At the state level, the executive powers are exercised by the tripartite presidency, composed of one Bosniak and one Croat member from the Federation of Bosnia and Herzegovina, and one Serb member from the Republika Srpska. Legislative powers are exercised by the Parliamentary Assembly of Bosnia and Herzegovina, which includes the House of Representatives (BiH HoR) and the House of Peoples (BiH HoP).

oversee the implementation of the civilian aspects of the peace settlement, retains extensive powers to impose legislation and enforce the law. Exercising these powers, the High Representative amended the electoral legislation three times in 2022, most recently in July and on election day.<sup>2</sup> In June, leading political parties reached an agreement aiming at ensuring the functioning of the state and advancement on the European path; however, this failed to result in the reaching of an agreement on the issues of election reform and the budget for elections.

Electoral contestants represent highly divergent visions of the country's future. While most major political parties target their appeals to a single constituent people, others have defined themselves as multi-ethnic "civic" parties.<sup>3</sup> The elections took place amid years of deadlock among incumbent political parties that established divisive, often inflammatory rhetoric as the standard of political discourse and have blocked the functioning of key state and entity-level institutions.<sup>4</sup> A government of the Federation of Bosnia and Herzegovina, based on the results of the 2018 elections, has still not been formed; the government formed in March 2015 remains in power under a technical mandate. Four of the nine judicial seats on the FBiH Constitutional Court remain vacant since 2019. Bosnia and Herzegovina applied for European Union (EU) membership in 2016 but has not yet received candidate status. In 2021, the European Commission assessed that the country still had much to accomplish in order to meet the obligations of EU membership, with limited progress noted in most key reform areas.<sup>5</sup>

While candidates repeatedly urged voters to consider these elections as a decisive moment in the country's history, many International Election Observation Mission (IEOM) interlocutors referred to a backdrop of overall disillusionment with the political establishment, inefficiency of public administration, pervasive corruption and exploitation of the public sector, the largest single employer in Bosnia and Herzegovina, for political gain. In late August 2022, the High Representative began a new round of meetings with political parties, the CEC and other stakeholders. On 17 September, the High Representative issued a statement reiterating that blocking of institutions cannot continue after the elections.

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<sup>2</sup> Prior to the imposition in July, public protests lasting several days took place in front of the Office of the High Representative (OHR). According to media reports, the High Representative originally envisaged to implement the ruling of the "Ljubić case" by imposing changes that would deprive Bosniaks, Croats and Serbs of their guaranteed canton appointed representative in the FBiH HoP if they numbered less than 3 per cent of the population in a given canton.

<sup>3</sup> In the Federation of Bosnia and Herzegovina, the major parties are the Democratic Front (DF), Croat Democratic Union of Bosnia and Herzegovina (HDZ BiH), Naša Stranka (NS), People and Justice (NiP), Our Party (NP), Alliance for a Better Future of Bosnia and Herzegovina (SBB), the Party for Democratic Action (SDA) and Social Democratic Party (SDP BiH). The HDZ BiH and smaller parties within the Croatian National Assembly umbrella traditionally target the Croat electorate. The SDA largely draws voters who identify as Bosniak. Some other main parties in the Federation of Bosnia and Herzegovina, such as DF, NS and SDP BiH, are seen to have a more multi-ethnic approach. In the Republika Srpska, the major parties are the Democratic People's Alliance (DNS), People's Democratic Movement (NDP), Party for Democratic Progress (PDP), Serb Democratic Party (SDS), the Alliance of Independent Social Democrats (SNSD), and the Socialist Party (SP). All of these traditionally target the Serb electorate.

<sup>4</sup> In response to the previous High Representative Valentin Inzko's imposition in July 2021 of an amendment to the Criminal Code of Bosnia and Herzegovina on the public denial or condoning of genocide, crimes against humanity and war crimes, the Republika Srpska National Assembly (RS NA) opted to refrain from participating in decision-making processes in state-level institutions.

<sup>5</sup> In 2019, the European Union adopted its [opinion](#) on the country's EU membership application, identifying 14 key priorities covering the areas of democracy and functionality of the state, rule of law, fundamental rights and public administration reforms. See also the 2021 European Commission Bosnia and Herzegovina [report](#) in connection with the EU enlargement policy.

## Legal Framework

The electoral legal framework is generally conducive to democratic elections.<sup>6</sup> However, certain legal provisions challenge the principles of universal and equal suffrage and non-discrimination, and its effectiveness is undermined by a lack of uniformity between several laws at different levels and a number of shortcomings in the legislation.<sup>7</sup>

On 27 July, the High Representative imposed changes to the Election Law, following failed discussions among major political parties to amend the election-related legislation and introduce constitutional changes. The amendments, *inter alia*, introduced a definition of hate speech; banned the misuse of administrative resources for executive office holders and elected officials; prohibited the trade of PSC positions among political parties; and increased fines for election-related violations. Overall, the changes introduced important integrity safeguards. Nevertheless, many IEOM interlocutors expressed dissatisfaction that they were introduced by a decision of the High Representative rather than passed in parliament with opportunity for proper public consultation.<sup>8</sup> Also, the late adoption of the amendments, after the elections had been called, did not allow all stakeholders to become fully familiar with the new provisions or for enforcement mechanisms to be fully established, and certain provisions challenge legal certainty (see *Election Administration, Campaign Environment and Complaints and Appeals* sections).

The current legislative framework continues to pose ethnicity and residency-based restrictions on the right to stand as a candidate, contrary to OSCE commitments, Council of Europe and other international standards and obligations.<sup>9</sup> Only voters self-declared as Bosniaks, Croats or Serbs may stand as candidates for the state and entity presidencies and be indirectly elected to the BiH House of Peoples (BiH HoP), provided that they reside in the appropriate entity.<sup>10</sup> The European Court of Human Rights (ECtHR) has repeatedly deemed these restrictions incompatible with the European Convention of Human Rights (ECHR).<sup>11</sup> In 2015, the Constitutional Court of Bosnia and Herzegovina (CC BiH) ruled that provisions of the FBiH and RS entity constitutions concerning the election of entity presidency members were discriminatory towards citizens not self-declaring as belonging to any of the three constituent peoples and, therefore, at odds with the state constitution.<sup>12</sup> These rulings of the ECtHR and the CC BiH remain unimplemented.

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<sup>6</sup> The legal framework primarily consists of the Constitution of Bosnia and Herzegovina, as included in the Dayton Agreement, the 2001 Election Law and the 2012 Law on the Financing of Political Parties, and is complemented by CEC regulations. In certain aspects of the electoral process, entity constitutions and laws are also applicable.

<sup>7</sup> For example, state, entity and Brčko district laws differently define the category of civil servants required to resign before standing for elections. The definition of “executive officials” differs in state and entity laws, undermining legal certainty while applying legal provisions on the prohibition of misuse of administrative resources. Provisions of the Election Law only define the duration of the campaign period with respect to the media and paid advertisement.

<sup>8</sup> Further, most ODIHR EOM interlocutors regret that the parliament did not make any advancement in legislating the introduction of new voting technologies. Paragraph 5.8 of the 1990 OSCE Copenhagen Document states that legislation shall be adopted at the end of a public procedure.

<sup>9</sup> Paragraph 7.3 of the 1990 [OSCE Copenhagen Document](#) states that the participating States will “guarantee universal and equal suffrage to adult citizens”; Paragraph 7.5 obliges the participating States to “respect the right of citizens to seek political or public office [...] without discrimination”. Article 21.3 of the [Universal Declaration of Human Rights](#) and Article 25 of the 1966 [International Covenant on Civil and Political Rights \(ICCPR\)](#) provide for “universal and equal suffrage”, while Article 2 of the [ICCPR](#) also expressly prohibits discrimination.

<sup>10</sup> The BiH HoP has 15 delegates, with 5 Bosniak and 5 Croat members elected by the FBiH HoP, 5 Serb members are elected by the RS NA.

<sup>11</sup> See ECtHR judgements in [Sejdić and Finci v. Bosnia and Herzegovina](#), [Zornić v. Bosnia and Herzegovina](#), [Pilav v. Bosnia and Herzegovina](#), [Šlaku v. Bosnia and Herzegovina](#), and [Pudarić v. Bosnia and Herzegovina](#).

<sup>12</sup> Article 3 of the [First Protocol](#) to the ECHR provides for the holding of free elections, while Article 14 of the ECHR and Article 1 of [Protocol No. 12](#) prohibit discrimination in the enjoyment of any right set forth in the ECHR and by law respectively.



A 2016 judgement of the CC BiH, mandating a review of the system for indirect elections for the FBiH House of Peoples (FBiH HoP) has not been implemented prior to the elections.<sup>13</sup> Some longstanding ODIHR recommendations remain unaddressed, including on a comprehensive review of the legal framework and electoral constituency boundaries, increasing transparency of electoral dispute resolution and the formation of Polling Station Commissions (PSCs). Prior to these elections, in the absence of amendments to the Election Law, the CEC addressed various aspects of the electoral process through the adoption of regulations. While overall positive, in some cases, the CEC used wide discretionary power in interpreting its mandate to implement the Election Law.<sup>14</sup>

On election day, with the stated aim of unblocking the political impasse and ensuring that institutions of the Federation of Bosnia and Herzegovina are formed following the elections, the High Representative imposed additional changes to the Election Law and the FBiH Constitution. The amendments, inter alia, increased the number of seats in the House of Peoples and introduced significant changes to the body's decision making procedures with respect to the appointment of the FBiH president and vice presidents as well as key judicial positions. At the time of voting, the full impact of the cantonal assembly vote was not foreseeable to electoral contestants and voters. The FBiH House of Peoples, although indirectly elected by the cantonal assemblies, enjoys significant legislative powers.

## **Electoral System**

Under a complex institutional and electoral system, six direct electoral contests held on three levels took place in these elections. At the state level, voters voted for the presidency and the BiH House of Representatives (BiH HoR). At the entity level, voters registered in the Federation of Bosnia and Herzegovina voted for the FBiH House of Representatives (FBiH HoR), while those registered in the Republika Srpska cast their votes for the president and two vice-presidents of the Republika Srpska, as well as the RS National Assembly (RS NA). In addition, voters in the Federation of Bosnia and Herzegovina elected ten cantonal assemblies. All mandates are allocated for four-year terms.

Members of the tripartite presidency of Bosnia and Herzegovina are elected by a simple majority with voters in the Federation of Bosnia and Herzegovina being able to choose one candidate from either the Bosniak or Croat candidates, and voters in the Republika Srpska selecting from among Serb candidates. The RS president and vice-presidents are also elected by a simple majority. Most BiH HoR, FBiH HoR and RS NA members are elected through a preferential voting system in multi-member constituencies (MMCs). For the state and entity-level parliamentary contests, compensatory mandates are allocated from closed party lists to ensure the proportional representation of parties or coalitions.<sup>15</sup> Further, for the FBiH HoR and the RS NA, the Election Law guarantees a minimum representation of four seats per constituent people.

After the general elections, four indirect elections will be held for the upper houses of parliaments of the state and both entities, as well as for the president and two vice-presidents of the Federation of

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<sup>13</sup> In 2016, the CC BiH decided in the case brought by Božo Ljubić (HDZ BiH) that the provision in the FBiH Constitution, which obliges the 10 cantons to put forward at least one delegate to the FBiH HoP from each of the three constituent peoples, even if there are only a few residents of the Bosniak, Croat or Serb group in the canton, was inconsistent with the principle of equality enshrined in the state-level Constitution. The allocation of seats in the FBiH HoP after the 2018 elections was regulated by a CEC decision, which can be applied for these elections.

<sup>14</sup> For example, the CEC broadened the rights of observers nominated by electoral contestants in the Main Counting Center; prescribed the use of dedicated campaign finance accounts for political subjects, introduced additional criteria to determine the ballot validity on election day and prescribed additional preconditions for assisted voting.

<sup>15</sup> Mandates in the MMCs are allocated to political subjects receiving at least 3 per cent of the total number of valid votes in the corresponding MMCs, while compensatory mandates are distributed among the parties receiving 3 per cent of the valid votes at the entity level.

Bosnia and Herzegovina.<sup>16</sup> The ten cantonal assemblies elect the delegates to the FBiH HoP, while the RS NA elects the RS Council of Peoples (RS CoP). The president and two vice-presidents of the Federation of Bosnia and Herzegovina are jointly elected by the FBiH HoP and the FBiH HoR from candidates self-declared as Bosniak, Croat or Serb.

There is a significantly inequitable distribution of registered voters amongst the MMCs for all parliamentary contests, with up to 68 per cent deviation, at odds with OSCE commitments and contrary to the principle of equality of the vote. Despite a legal requirement to review the number of mandates per MMC every four years, the delineation of MMCs has not changed since 2001, with the exception of the constituencies for the RS NA elections which were last reviewed in 2012.<sup>17</sup>

## **Election Administration**

Elections were administered by a three-tiered structure led by the Central Election Commission (CEC), comprising 143 Municipal Election Commissions (MECs) and 5,903 Polling Station Commissions (PSCs).<sup>18</sup> By law, the CEC and MECs must reflect the ethnic composition of their respective constituencies and include at least 40 per cent of members of each gender. At odds with the legal provisions, only two CEC members are women. The CEC, a permanent body, consists of seven members: two Bosniaks, two Croats, two Serbs and one “other”.

The CEC held regular sessions, which were open to the public and broadcast online. Most decisions were taken unanimously and published on the CEC website in a timely manner, except those related to the adjudication of complaints and appeals (see *Complaints and Appeals*).

Overall, the CEC administered the elections efficiently, transparently and within the legal deadlines, despite initial delays caused by the late disbursement of funds required to organize the elections.<sup>19</sup> All ODIHR EOM interlocutors noted enhanced independent decision-making within the current composition of the CEC, contributing to stakeholder trust in its work. Nevertheless, a shortage of qualified staff affected the operational capacity of several CEC departments and led to delays in complaints adjudication, the review of campaign finance reports, and jeopardized the functionality of some web applications operated by the election administration.<sup>20</sup>

MECs visited by the ODIHR EOM were sufficiently resourced, professional and thoroughly informed about the new provisions of the Election Law. At odds with the Election Law, most MECs did not

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<sup>16</sup> In the Federation of Bosnia and Herzegovina, the legislative power is vested in both chambers, while in the Republika Srpska, the legislative power is vested in the RS NA.

<sup>17</sup> In contravention of paragraph 7.3 of the [1990 OSCE Copenhagen Document](#), equality of the vote is not guaranteed, as there is a significantly inequitable distribution among MMCs. Four of the 8 MMCs for the BiH HoR, 6 of the 12 MMCs for the FBiH HoR and 3 out of 9 MMCs for the RS NA have more than a 15 per cent deviation from the average number of registered voters per mandate. Paragraph I.2.2.iv of the 2002 Venice Commission’s [Code of Good Practice in Electoral Matters](#) (Code of Good Practice) recommends that the “permissible departure from the norm should not be more than 10 per cent, and should certainly not exceed 15 per cent except in special circumstances”.

<sup>18</sup> Including 21 PSCs for out-of-country voting in embassies and consulates of Bosnia and Herzegovina abroad.

<sup>19</sup> By law, the funds should have been made available to the CEC no later than 15 days after the call for elections (4 May). Following a political deadlock to provide the requested budget of BAM 12.26 million (EUR 6.28 million, 1 EUR = 1.95 BAM, Bosnian Convertible Mark) the funds were only released upon the intervention of the High Representative on 7 June. The delay meant that temporary staff could not be hired or were hired late, significantly increasing the workload of the regular CEC staff. Also, some procurements had to be stopped and restarted later.

<sup>20</sup> The CEC informed the ODIHR EOM that its understaffed IT department had difficulties implementing the new online applications (see *Voter Registration* and *Candidate Registration*) on time and with sufficient quality. The CEC also lacked qualified cyber security personnel. As the CEC results transmission system was not connected to the internet, the CEC had assessed to the ODIHR EOM the risk associated with results tabulation as low.

announce their sessions in advance but rather held informal work meetings. Overall, MECs acted in a largely transparent and independent manner.<sup>21</sup> While no gender-disaggregated data on the composition of each MEC and PSC is published, according to the CEC, 294 of the 571 members (some 48 per cent) of MEC members were women, and based on ODIHR EOM observations gender representation on MECs largely met legal requirements.<sup>22</sup>

MECs had to appoint PSCs by 2 September based on nominations from political subjects. Overall, political subjects only nominated candidates for about half of the PSC seats.<sup>23</sup> To fill the vacant positions, many PSC members were appointed directly from reserve lists maintained by MECs, in some cases after the legal deadline.<sup>24</sup> Despite the July 2022 legal amendment prohibiting the trading of PSC positions between political subjects, the IEOM received several allegations of fictitious representation of political parties in PSCs.<sup>25</sup> In the week before election day, the CEC adjudicated 10 cases related to the false representation of political subjects on PSCs; some 20 cases were still pending.<sup>26</sup> Public trust in the impartiality of PSCs remained low due to their alleged political affiliation, and the CEC lacked time and resources to develop effective mechanisms to monitor and implement the new legal provisions.

In line with the Election Law, MECs organized mandatory training for PSC members. Most sessions observed by the ODIHR EOM were comprehensive and interactive. However, because of a lack of resources, the CEC did not provide printed material for participants during the training. Due to numerous resignations of PSC members shortly before election day, MECs had to find replacements and organize additional training. The CEC conducted largely insufficient voter education activities, consisting mainly of TV and radio spots on registration modalities for internally displaced persons and voters abroad, as well as on voting procedures. All audio-visual voter education material produced by the CEC was supported by sign language interpretation. However, most election materials, including ballot papers, were not adapted for voters with visual, hearing or cognitive impairments.

## **Voter Registration**

Citizens aged 18 years or older on election day are eligible to vote, except those convicted for serious crimes, including war crimes, or deprived of legal capacity, including on the grounds of intellectual and psychosocial disability. Restrictions on electoral rights on the basis of intellectual disability are contrary to international standards.<sup>27</sup>

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<sup>21</sup> In the MEC Sarajevo Centar, MEC members accused each other of pursuing partisan interests, thus delaying some election preparations and raising concerns about the MEC impartiality. In Livno, five opposition parties accused the MEC of having influenced the PSC appointment process in favor of SDA, HDZ BiH and HDZ 1990; a complaint filed by the Croat Republican Party (HRS) was ultimately dismissed by the CEC for missing the deadline.

<sup>22</sup> Among others, Paragraph 40.13 of the [1991 OSCE Moscow Document](#) commits participating States to “ensure the collection and analysis of data to assess adequately, monitor and improve the situation of women”.

<sup>23</sup> There was a significant difference between urban areas (where about 70 per cent of all PSC seats were nominated by contestants) and small, rural communities (with a ratio of about 40 per cent).

<sup>24</sup> ODIHR EOM interlocutors explained the lack of nominations with a general lack of interest in political affairs, a fear of legal repercussions if involved in election fraud and low remuneration.

<sup>25</sup> Claims of attempts to manipulate the PSC appointment were reported to the ODIHR EOM by the MECs of Ugljevik and Zenica, as well as by PDP that filed a complaint with the CEC against the Doboj City Election Commission, where they alleged that SNSD members were representing other political subjects on PSCs. Further allegations were recorded in Canton 10, Kalesija, Livno, Mostar, Sapna, Tomislavgrad, Tuzla (Federation of Bosnia and Herzegovina) and Banja Luka, Istočni Stari Grad, Mrkonjić Grad, Ribnik, Trebinje, Trnovo (Republika Srpska).

<sup>26</sup> Of these 10 cases, in 6 cases no proof of a violation was found; in 4 cases, the political parties and coalitions involved in the trade, as well as the PSC members, were sanctioned.

<sup>27</sup> See Articles 12 and 29 of the 2006 [UN Convention on the Rights of Persons with Disabilities](#) (CRPD). See also paragraph 9.4 of the 2013 [CRPD Committee’s Communication No. 4/2011](#), which states that Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities.



Voter registration is passive and continuous for in-country voters. While the CEC has the overall responsibility for the integrity and maintenance of the Central Voter Register (CVR), the accuracy of the CVR depends on the data provided by other institutions responsible for updating the civil register, on which the CVR is based.<sup>28</sup> There is a general trust in the accuracy of the CVR and the CEC made continuous efforts to remove outdated entries from the voter register. However, these efforts were hindered by the absence of an effective mechanism to remove records of deceased citizens from local civil register databases.<sup>29</sup>

By law, voters in Brčko district vote either for the elections of Federation of Bosnia and Herzegovina or the Republika Srpska, depending on their entity citizenship. Residents of Brčko district who had not chosen entity citizenship were not eligible to vote in any elections.<sup>30</sup>

Voter lists had to be posted for public scrutiny between 3 June and 3 July. Voters could also verify their records online and at municipal Voter Registration Centres. Corrections could be made until 18 August. On 25 August, the CEC announced the total number of registered voters as 3,368,666.

Internally displaced persons (IDPs) could vote for electoral contests taking place either in the municipality of their temporary residence, or in the municipality where they had been registered before being displaced. Mobile voting was available to homebound voters and those in retirement or detention facilities.<sup>31</sup> Voters registered for out-of-country voting who were in the country on election day and those whose records were entered in the CVR after 18 August could vote by tendered ballot at special PSs established in each municipality.

Out-of-country voters could vote in person at embassies and consulates or by mail, depending on the voters' choice. On 25 August, the CEC announced that 69,966 voters had registered to vote abroad through a newly established online platform that streamlined the registration process and reduced the possibility of human error and fraudulent registration.<sup>32</sup> On 16 September, the CEC referred to the prosecutor some 20 cases of alleged fraudulent attempts to register for out-of-country voting (see *Complaints and Appeals*).

## **Candidate Registration**

All citizens eligible to vote may stand as candidates, except for the elections of the state presidency and the president and vice-presidents of the Republika Srpska, for which discriminatory ethnicity and residence requirements remain in place (see *Legal Framework*). Candidates for all elections may be nominated by political parties and coalitions or stand independently. The candidate registration process started on 6 May, and ended on 12 August. Overall, the CEC conducted candidate registration in an inclusive and timely manner, and no IEOM interlocutors expressed concerns about the process.

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<sup>28</sup> The civil register is maintained by the Agency for Identification Documents, Registers and Data Exchange, under the Ministry of Civil Affairs.

<sup>29</sup> By law, only the police may remove the records of a deceased citizen, upon receipt of a printed death certificate from the respective municipality; the responsibility to report the death of a citizen to the municipality lies mainly with the family of the deceased. The CEC estimated that some 500 known records of deceased voters remain marked as such on the CVR; death certificates have been issued for these cases but not recorded in the civil register.

<sup>30</sup> According to estimates by the CEC, the number of affected voters is approximately 12,640. Article 25(b) of the [ICCPR](#) states that “every citizen shall have the right and the opportunity [...] to vote and to be elected [...]”. See also article 21 of the [Universal Declaration of Human Rights](#).

<sup>31</sup> The CEC registered 14,222 voters for mobile voting in 141 municipalities.

<sup>32</sup> Registration for out-of-country voting must be actively renewed for each election. By the 19 July legal deadline, 63,264 voters abroad registered to vote by mail and 6,702 at diplomatic representations. On 18 August, the CEC denied 10,720 applications for out-of-country voting registration, mostly due to incomplete or incorrect data.

By law, the CEC is mandated to certify eligibility to stand in the elections and register candidate lists. In order to register, political subjects had to submit a financial deposit and support signatures. A voter may sign in support of only one political party or independent candidate per contest, contrary to international good practice.<sup>33</sup> In line with legal provisions, the CEC only verified 10 per cent of the support signatures submitted for each contestant. Nevertheless, the verification of a sample rather than all signatures is at odds with international good practice.<sup>34</sup> In total, the CEC certified 90 parties and 17 independent candidates as “political subjects” to participate in the elections. In a subsequent step, 38 coalitions were formed by political parties.<sup>35</sup>

Candidate lists must have at least 40 per cent of candidates of each gender, with specific placement requirements.<sup>36</sup> While IEOM interlocutors generally welcomed the quota, many pointed to divergent approaches towards identifying and promoting women candidates within political parties. Also, these requirements have so far not been fully effective, as they do not translate in 40 per cent quota in the allocated seats for the less represented gender.<sup>37</sup> A new online registration platform launched by the CEC only accepted candidate lists that fulfilled the gender requirements. Overall, the CEC registered 7,258 candidates for all elections.<sup>38</sup> Ten candidates (including 2 women) ran for the state presidency and 31 candidates (including 2 women) for the presidency of the Republika Srpska. 752 candidates (39.36 per cent women) competed for 42 seats in the BiH HoR, 1,230 candidates (43.41 per cent women) for 98 seats in the FBiH HoR, and 1,429 candidates (42.76 per cent women) for 83 seats in the RS NA. In total, only 43 of the 613 candidate lists (some 7 per cent) exceeded the minimum number of women required by law. Women headed 135 lists (22 per cent); however, 53 per cent of these were one-person lists.

## **Campaign and Campaign Environment**

The official 30-day campaign period began on 2 September and ended on 1 October.<sup>39</sup> Campaign related legal provisions, including on the misuse of administrative resources and the prohibition of hate speech only apply during the official campaign period.<sup>40</sup> Prior to this, only paid election campaigning in electronic and print media is forbidden. While not explicitly prohibited, the ODIHR EOM was informed that a number of contestants started campaigning several months earlier, visiting local communities and

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<sup>33</sup> According to paragraph 96 of the [Venice Commission and ODIHR Guidelines on Political Party Regulation](#) (2020), “it should be possible to support the registration of more than one party, and legislation should not limit a citizen or other individual to signing a supporting list for only one party”.

<sup>34</sup> Paragraph I.1.3 of the 2002 Venice Commission’s [Code of Good Practice](#) requires that “the signature verification procedure must [...] be applied to all the signatures rather than just a sample; however, once the verification shows beyond doubt that the requisite number of signatures has been obtained, the remaining signatures need not be checked” (see paragraph 8 of the Explanatory Report).

<sup>35</sup> The CEC rejected the certification of one party and one independent candidate who failed to provide the required documents or sufficient support signatures; they did not file complaints against the rejection decisions.

<sup>36</sup> There had to be at least one candidate of the less represented gender among the first two candidates, two among the first five candidates, three among the first eight candidates, etc.

<sup>37</sup> Women currently constitute 26 per cent of BiH HoR members, 20 per cent of delegates to the BiH HoP, 27 per cent of FBiH HoR, and 22 per cent of RS NA members.

<sup>38</sup> Candidates on lists registered by the CEC may not withdraw; however, the CEC has the power to deregister candidates who fail to resign or step down temporarily from positions incompatible with being a candidate. The CEC deregistered one candidate for the FBiH HoR who failed to resign from a public position.

<sup>39</sup> The Election Law differentiates between “campaign period” and “election period”; the latter starts on the day when elections are announced and ends on the day when election results are validated.

<sup>40</sup> Following a 2020 Court of BiH decision, according to which campaign regulations in Chapter 7 of the Election Law apply only to the 30-day official campaign period, the CEC did not address irregularities before the official start of the campaign. Observation reports of [Transparency International](#) and the civil society organization [Pod lupom](#) identified numerous cases of alleged misuse of administrative resources in July and August 2022, before the start of the official campaign period.

using public events to present their candidates and programmes.<sup>41</sup> This left possible irregularities largely unaddressed, due to the non-applicability of relevant legal provisions in that period. The CEC imposed sanctions in 22 related cases of early campaigning, mostly concerning paid advertisements on social networks.

The campaign environment was overall calm, with fundamental freedoms of association, assembly and expression respected. Positively, the number of hate speech cases reported remained low. Nevertheless, some isolated incidents of violence and harassment have been reported.<sup>42</sup> The campaign was competitive, particularly in the presidential elections at the state level and in the Republika Srpska. Contestants conducted rallies and door-to-door meetings, distributed flyers and actively reached out to the electorate through social networks. In Republika Srpska, the campaign was polarized.<sup>43</sup> The largest incumbent parties targeted their traditional electorate, stressing the need for security, protection and continuity. In their campaigns, references to separatism, past and current “wars,” “dangers” and “attacks” were frequent.<sup>44</sup> Opposition contestants mainly addressed issues related to corruption, employment and emigration, claiming to offer a political alternative to voters.

The 2022 July legal amendments introduced a prohibition on the misuse of administrative resources for executive office holders and elected officials.<sup>45</sup> While a welcome improvement, the provisions appear insufficient to adequately address related irregularities, mainly because of their limited applicability

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<sup>41</sup> For example, on 18 and 19 August, the PDP presidential candidate in the Republika Srpska visited Kozarska Dubica and Čečava, accompanied by the SDS candidate for the state presidency, whose party hosted candidate presentation dinners in the local communities. On 27 July, in Čelinac (Republika Srpska), four SNSD candidates appeared on the stage of a concert organized by the municipality, gave speeches and urged the public to vote; one candidate indicated he was present to “gather energy for our future victory”. On 31 August, an SDA party forum in Ilijaš (Sarajevo canton) addressed voters and presented the party programme.

<sup>42</sup> On 7 September, a woman candidate in Goražde was physically assaulted; the CEC imposed a fine of BAM 16,000 on the perpetrator. The head of the PDP women’s forum in Lauš (Republika Srpska) told media of threats made against her family. According to media reports, Labour Party activists were physically harassed while canvassing in Cazin (Una-Sana canton) as were SDA activists in Kakanj (Zenica-Doboj canton).

<sup>43</sup> The private BN television informed the ODIHR EOM that on 26 September, it rejected to broadcast without the CEC’s approval an SNSD campaign spot alleging that voting for the PDP presidential candidate in the Republika Srpska is equal to destroying the entity. On 22 September in Trebinje at an SNSD rally observed by the ODIHR EOM, opposition candidates were portrayed as “puppets of foreign embassies”.

<sup>44</sup> In Republika Srpska, the ruling SNSD often used separatist messages and questioned the loyalty of opposition candidates to the entity. For example, at a rally observed by the ODIHR EOM in Foča on 5 September, the SNSD leader and Serb member of the BiH presidency Milorad Dodik stated “Our state is Republika Srpska, not Bosnia and Herzegovina” and on 14 September, he stated that “Christians and Muslims nowhere manage to live in a harmonious way.” In the Federation of Bosnia and Herzegovina, ODIHR long-term observers (LTOs) also noted messages on the country’s wartime past and fearmongering in some of the campaign events observed. On 9 September, the SDA leader Bakir Izetbegović stated that “A special war is led against Bosnia and Herzegovina and Bosniaks.” Speaking at a 26 September SDA meeting in Sarajevo canton, Sebija Izetbegović, a candidate for cantonal assembly, said that electoral victory by those who left SDA and now run as its opponents “will lead us into new death camps, detention camps, killing fields and mass graves”. On 27 September during a rally in Istočno Sarajevo, Mr. Dodik stated: “If our Sarajevo is called East Sarajevo, then the other Sarajevo should be called ‘Middle East Sarajevo’ as it is full of Muslims”. One of the leading slogans of the opposition PDP was “Republika Srpska must be defended.”

<sup>45</sup> The amendments introduced a prohibition of the involvement in the campaign of civil servants subordinated to executive office holders and elected officials during working hours, the use of public premises, communication services and means of transportation for campaign purposes, and election campaigning during the official activities or events organized by public institutions. On 23 September, a hospital director in Banja Luka was sanctioned by the CEC with a fine of BAM 10,000 and his party SNSD BAM 5,000, for involvement of public employees in campaign activities during working hours and using the hospital premises as a campaign background on a radio and TV spot.

timeframe and scope.<sup>46</sup> In the election period, a number of social welfare, development and public infrastructure projects were initiated by the incumbent presidents or governments.<sup>47</sup> The IEOM also received isolated reports on pressuring public sector employees to participate in campaign events of the incumbents or to not engage in opposition activities.<sup>48</sup> In light of OSCE commitments, Council of Europe and other international standards, this raises concerns as to the level playing field and voters' ability to cast their vote free of fear of retribution.<sup>49</sup>

Notwithstanding the legal provisions prescribing equal gender representation at all levels of public administration and elected bodies, women remain under-represented in public positions. More efforts are needed from the authorities and political parties to overcome longstanding stereotypes related to gender roles that remain an obstacle to women's political participation in Bosnia and Herzegovina. Women candidates were often targets of insult and ridicule on social networks.<sup>50</sup> Women did not feature prominently in the campaign with the exception of the two candidates for the Croat and Serb members of the BiH presidency and one candidate for the RS presidency.<sup>51</sup> Women made up approximately 40 per cent of attendees at rallies observed by the ODIHR EOM.<sup>52</sup>

Some 44 per cent of the campaign venues observed by the ODIHR EOM were accessible for independent access for persons with physical disabilities. Organizations representing persons with disabilities raised concerns to the IEOM that most political parties share the society's general lack of

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<sup>46</sup> The prohibition is only applicable to the official campaign period and the amendments do not address other key forms of misuse of public funding and do not set a limit of public expenditures for infrastructure and social programmes during the campaign period.

<sup>47</sup> In June 2022, the SNSD-led government of the Republika Srpska adopted a social allowance programme for youth, pensioners, war veterans and families, to be implemented between July and September. From 20 September, the Republika Srpska government provided one-off assistance worth BAM 750 to unemployed parents with four and more children. On 30 August, the Government of Herzegovina-Neretva canton adopted a law proposal on financial and in-kind support for families with children. On 9 September, the same government secured BAM 400,000 for the areas affected by an earthquake in April 2022. On 22 September, the FBiH Government (SDA) [announced](#) an additional social allowance of BAM 100 for the unemployed. Paragraph 5.1.3 of the 2016 ODIHR and Venice Commission's Joint [Guidelines](#) for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes stipulates that the "ordinary work of government must continue during an election period. However, to prevent the misuse of administrative resources [...], the legal framework should state that no major announcements linked to [...] a given party or candidate should occur during campaigns".

<sup>48</sup> On 2 September, in Banja Luka, medical doctors were reportedly released from their second shift in order to be able to attend an SNSD convention. The leader of the HRS informed the ODIHR EOM that one of his family members was suspended from a position at a public school after he formed an opposition party.

<sup>49</sup> Paragraph 7.7 of the [1990 OSCE Copenhagen Document](#) requires "political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution". According to paragraph I.2.3 of the 2002 Venice Commission's [Code of Good Practice](#), "the principle of equality of opportunity implies a neutral attitude by state authorities, in particular with regard to the election campaign".

<sup>50</sup> The Election Law prohibits campaigning in a manner that presents men and women "in stereotype and offensive or humiliating ways". While the ODIHR EOM did not observe candidates using offensive and negative gender stereotypes in campaign materials, women candidates were often praised in candidate presentations for their physical beauty and success as wives and mothers. Humiliating and offensive stereotypes of women featured in anonymous blogs and *ad hoc* online portals purporting to be news sites that were identified in the Mediacentar Sarajevo's [research](#). Some women candidates were the targets of sexualized attacks on these portals. Several women candidates described their personal experience with online and intra-party harassment to ODIHR EOM observers.

<sup>51</sup> Few women other than Željka Cvijanović (SNSD), Borjana Krišto (HDZ BiH), and Jelena Trivić (PDP) were featured as speakers at rallies observed by the ODIHR EOM.

<sup>52</sup> In total, ODIHR EOM LTOs observed 56 campaign events.

awareness of their rights and capabilities, as well as of Bosnia and Herzegovina's obligations under international human rights commitments.<sup>53</sup>

Candidates belonging to national minorities also did not feature prominently in the campaign. However, no discriminatory rhetoric against national minorities during the campaign was reported or observed by the ODIHR EOM.

During the official campaign period, the ODIHR EOM followed the online activities of 14 political parties, 17 state and entity-level candidates, and 7 influencers on Facebook and Twitter. Political party representatives and media researchers informed the ODIHR EOM that the applicability of campaign regulations to social networks, introduced by the recent amendments, generally contributed to a more careful approach to what candidates post online. The overall tone was moderate but contentious. On the social network pages monitored by the ODIHR EOM, most content consisted of photographs, brief descriptions of meetings with voters, video spots and speeches. Frequent visits to, and remarks about, Bosnia and Herzegovina by foreign leaders, as well as visits abroad by state and entity officials consistently drew large social network engagement and often divisive reactions. Media watchdog outlets, such as fact-checking platforms, regularly reported on incidents of misinformation and disinformation, and provided election-related media literacy education.<sup>54</sup>

## Campaign Finance

Campaign finance is primarily regulated by the Election Law, the Law on Political Party Financing, the laws on political parties of the Republika Srpska and Brčko district, and complemented by CEC regulations. In January 2022, the CEC renewed the rules on campaign finance reporting procedures, addressing some ODIHR and Council of Europe's Group of States against Corruption (GRECO) recommendations, including those on the mandatory use of dedicated bank accounts for campaign expenditures. Other previous ODIHR and GRECO recommendations, however, remain unaddressed, for example, those related to reviewing and consolidating the legislation on party and campaign funding. Overall, the lack of a coherent and consistent regulatory framework diminishes the effectiveness of the existing regulations and their implementation.

Political parties and election campaigns are primarily financed from public funding, contestants' own funds, party membership fees and donations by individuals and legal entities.<sup>55</sup> Direct public funding for the election campaigns is only provided in the Republika Srpska and Brčko district. Public administration bodies, public institutions and enterprises, religious and publicly funded organizations, anonymous sources, foreign political and legal entities and private enterprises with public procurement contracts exceeding BAM 10,000 in the current year are not allowed to donate to political subjects. Political subjects may spend up to BAM 0.30 per registered voter in each electoral contest. Many IEOM political party interlocutors stated the cap for state and entity levels was too high, and expenditures of most contestants remained far below the threshold.

The CEC is mandated with political party and campaign finance oversight. The effectiveness of its review, control and audit procedures is challenged by its limited resources. Further, it is also impacted

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<sup>53</sup> Although not required by law, no sign language interpreters were present at any rallies observed by the ODIHR EOM. Of the party and candidate accounts followed by the ODIHR EOM on social networks, approximately half of them subtitled campaign videos.

<sup>54</sup> The fact-checking platform *Raskrinkavanje* identified portals that devise manipulative means to praise one political option and attack its opponents. *Istinomjer* provided a fact-checking live blog devoted to election-related social networks, online, broadcast and print news. From the start of the official campaign to 24 September, it identified 20 "untruths", one "half-truth" and one "unfounded assertion" by major candidates.

<sup>55</sup> Political subjects are entitled to annual funding from state, entity, cantonal and municipal budgets. An individual may donate up to BAM 10,000, a legal entity up to BAM 50,000 and a party member up to BAM 15,000 annually.



by the CEC's inability to monitor actual campaign spending and detect violations. Contestants are required to submit one pre-election report prior to their registration for the elections, and one post-election report within 30 days after the announcement of the final election results. Despite prior ODIHR recommendations, there are no provisions for interim reporting. By law, the CEC is only obliged to publish the second campaign finance report on its website within 30 days of receipt. The CEC informed the ODIHR EOM that its audit department has been severely understaffed; this causes delays in review process of all political party and campaign finance reports.

The CEC may impose sanctions for irregularities and is obliged to report any suspicion of criminal offences to law enforcement agencies.<sup>56</sup> Monetary penalties for financial violations appear insufficiently effective, proportional and dissuasive, at odds with previous ODIHR and GRECO recommendations.<sup>57</sup> Overall, the campaign finance regulatory system does not provide for adequate transparency and accountability.

## Media

The significantly limited campaign coverage on most media outlets, combined with the division along ethnic lines and political partisanship provided the voters with only partial information on the main contestants, thus limiting their opportunity to make an informed choice. Many IEOM interlocutors alleged direct and indirect political control over the major media outlets, noting that the underdeveloped advertisement market, dominated mainly by state-owned corporations, does not provide for financial sustainability and leads to political influence over the media. The media legislation, at odds with international good practice and previous ODIHR recommendations, does not provide for transparency of media ownership.<sup>58</sup>

While defamation and libel are decriminalized, the legislation does not impose an upper limit on financial compensation for defamation. Many IEOM interlocutors see the recent defamation cases brought against journalists as a tool to discourage them from reporting about issues of public importance.<sup>59</sup> A number of recent cyber-attacks targeted the infrastructure of prominent media outlets.<sup>60</sup> Widespread practices of intimidation and harassment of journalists, mostly online, undermined the media's ability to operate in an environment free of political pressure and persecution,

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<sup>56</sup> Since January 2022, the CEC audit department has forwarded information on suspected violations by 18 political parties to the prosecutor's office.

<sup>57</sup> The maximum penalty for most financial violations by political parties is BAM 10,000; the sanctions prescribed by the Election Law for other electoral offences are some BAM 30,000.

<sup>58</sup> Paragraph 4.1 of the CoE [Recommendation](#) CM/Rec (2018)1 of the Committee of Minister's Guidelines on media pluralism and transparency of media ownership calls the member states to "promote a regime of transparency of media ownership that ensures the public availability and accessibility of accurate, up-to-date data concerning direct and beneficial ownership of the media".

<sup>59</sup> For example, in July 2021, the online website *Žurnal* was ordered by the Sarajevo City court to pay BAM 170,000 as compensation for defamation. In 2020, the Helpline for Journalists [registered](#) 289 active defamation cases; according to a [study](#) by safejournalists.net, some 80 per cent of such lawsuits were filed by political officials and directors of public institutions. Paragraph 2.4.2 of the CoE [Recommendation](#) CM/Rec (2016) 5 of the Committee of Ministers on Internet freedom calls the member states to make sure that defamation laws "do not impose excessive fines or disproportionate awards of damages or legal costs".

<sup>60</sup> The OSCE Mission to Bosnia and Herzegovina [condemned](#) that on 21 July 2022, the Facebook page of 6uka.com, a prominent website in the Republika Srpska, and [on 2 September](#) the Facebook page of the newspaper *Dnevni Avaz* were targeted by hacker attacks. According to [media news](#), cyberattacks on the broadcaster *Herceg Bosna* on 1 and 2 September resulted in the destruction of their archives.

and were condemned by the OSCE Representative on Freedom of the Media (RFoM) over the last years.<sup>61</sup> Such instances were also noted by the ODIHR EOM in the campaign period.<sup>62</sup>

The public broadcasting service is provided by two entity-based public broadcasters and the Radio and Television of Bosnia and Herzegovina (BHRT) at the state level.<sup>63</sup> As currently implemented, the system of financing through broadcast fees has left the BHRT significantly underfunded.<sup>64</sup> Broadcast media are required to respect the principles of balance, fairness and impartiality in covering the election campaign. During the campaign, public broadcasters complied with the obligation to provide three minutes of free airtime to each political subject. However, such time was provided outside of prime time, significantly limiting the potential viewership. While public and some private broadcasters offered political subjects a platform to present their views through debates, many contestants chose not to participate, further limiting the voters' opportunity to make an informed choice.

According to the ODIHR EOM media monitoring of the campaign period, the national public television BHT-1 allotted only 15 minutes, while the private *Nova* television provided only 16 minutes of prime-time news coverage for all contestants combined.<sup>65</sup> Both the public FTV and the private *Hayat* were visibly critical of SNSD by allocating the party 48 and 34 per cent of the coverage of political parties, mainly negative in tone. While FTV provided scarce, neutral coverage of the other main contestants, *Hayat* was supporting SDA by allotting the party some 21 per cent of such coverage, mainly positive and neutral in tone. N1 focused on the main political parties, covering them mainly in a neutral manner, while occasionally criticizing the ruling SDA and SNSD.<sup>66</sup>

The public RTRS displayed a clear bias in favour of the SNSD by allotting the party 44 per cent of the coverage of political parties, predominantly positive in tone, and strongly criticizing PDP and SDS which received 22 and 11 per cent of such coverage respectively, mainly negative in tone. In their coverage of the presidential candidates for the Republika Srpska, both RTRS and BN devoted most of the coverage to Mr. Dodik, 53 and 62 per cent of the coverage respectively, while Ms. Trivić received 45 and 37 per cent of such coverage. However, the tone differed: while RTRS covered Mr. Dodik mainly positively, the coverage of Ms. Trivić was almost exclusively negative. By contrast, on BN, the coverage of Mr. Dodik was largely negative, while Ms. Trivić was covered in a positive or neutral manner.

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<sup>61</sup> See joint statements of the OSCE RFoM and of the Head of OSCE Mission to Bosnia and Herzegovina from [27 May 2021 and 24 September 2021](#).

<sup>62</sup> For example, on 15 September, a BN Television crew was attacked by SNSD activists when filming illegally parked mobile billboards. On 12 September, an SDA candidate made offensive [remarks](#) on Facebook against a journalist, in response to his satirical portrayal of another SDA candidate.

<sup>63</sup> The public broadcasting system consists of the BHRT at the national level and two entity-based broadcasters: the Radio Television of the Federation of Bosnia and Herzegovina (FTV) and the Radio Television of Republika Srpska (RTRS).

<sup>64</sup> Public broadcasters are funded through a broadcast tax collected by the entity-based broadcasters. Despite its legal obligations, the RTRS is not transferring such funds to BHRT, which resulted in accumulated debts of over BAM 63,000,000. The financial dispute between BHRT and RTRS is currently pending at the Banja Luka District Court.

<sup>65</sup> TV channels were monitored from 18:00 to 00:00. The sample included three public television channels: BHT-1, FTV and RTRS, and four private televisions BN, *Hayat*, N1 and *Nova*. The ODIHR EOM also monitored the daily newspapers *Oslobodjenje*, *Dnevni Avaz*, *Dnevni List* and *Nezavisne*, and websites klix.ba, mondo.rs and bljesak.info.

<sup>66</sup> N1 had lost some 215,000 potential viewers when the state-owned audio-visual content provider BH-Telekom excluded it from its network one day before the campaign started. BH-Telekom explained to the ODIHR EOM that it does not consider the fee N1 was requesting for inclusion on its network commercially feasible, and it has offered N1 to broadcast their programmes without paying a fee; N1 and opposition political parties perceived the decision to be politically biased.

The print and online media monitored by the ODIHR EOM provided a more diverse coverage of the campaign; however, most displayed partisan editorial policies. In particular, *Dnevni Avaz* clearly supported SBB and criticized SDA. *Blijesak* and *Dnevni List* largely focused on the activities of SDA and HDZ BiH. Both *Mondo* and *Nezavisne* largely focused on the main parties in Republika Srpska covering them mainly in a positive and neutral manner, although SNSD received significantly more coverage than other contestants. *Oslobodjenje* gave mainly neutral coverage to all the main political parties of the Federation of Bosnia and Herzegovina and was critical of SNSD. Similarly, *Klix* mainly covered the main political parties of the Federation of Bosnia and Herzegovina in a positive and neutral manner, yet provided a visible advantage to SDA and NiP.

The Communication Regulatory Authority (CRA) is the broadcast media regulator with a mandate to resolve media-related complaints and apply sanctions for violations. The law does not provide clear deadlines for the resolution of media-related complaints, limiting the right to effective remedy.<sup>67</sup> The CRA informed the ODIHR EOM that, during the campaign period, it received nine complaints. It has dismissed five cases and did not adjudicate the remaining four prior to the elections. Despite a previous ODIHR recommendation, the CRA did not conduct media monitoring during the campaign and thus was unable to perform active supervision of the broadcast media.

## Complaints and Appeals

The dispute resolution process, as currently implemented, does not fully guarantee effective legal redress. Deadlines for submitting and adjudicating complaints remain too short, despite prior ODIHR recommendations.<sup>68</sup> The possibility to file complaints and appeals is limited to voters and political subjects whose rights were violated, and public associations including those observing the elections have no legal standing. This limits access to legal remedies and the effectiveness of the election dispute resolution mechanism, contrary to OSCE commitments and international standards.<sup>69</sup> The CEC acts as the first instance for most cases.<sup>70</sup> Although the election commissions may also act on possible irregularities *ex officio* upon receiving notifications from any natural and legal entity, the law does not prescribe timeframes for such proceedings.

Under the Election Law, there is no guarantee for public hearings at any level of the electoral dispute resolution process, at odds with the OSCE commitments.<sup>71</sup> Positively, most MECs and the CEC considered complaints in public sessions.<sup>72</sup> However, the complaints and subsequent decisions of the

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<sup>67</sup> Paragraph 19 of the Explanatory Report to the 2002 Venice Commission's [Code of Good Practice](#) states that "quick rights of appeal must be available in order to remedy the situation before the elections".

<sup>68</sup> Complaints must be filed with the MECs or the CEC within 24 hours, with MECs or CEC having 48 hours to adjudicate the matter. Appeals must be filed within 48 hours with the CEC or the Court, with the CEC having 48 hours, and the Court 3 days to adjudicate the case. Paragraph II.3.3.g of the Venice Commission's [Code of Good Practice](#) recommends that the time limits for lodging and deciding complaints must be "three to five days for each at first instance".

<sup>69</sup> Paragraph 5.10 of the [1990 OSCE Copenhagen Document](#) states that everyone shall have an effective means of redress against administrative decisions to guarantee respect for fundamental rights and ensure legal integrity. Paragraph II.3.3.f of the Venice Commission's [Code of Good Practice in Electoral Matters](#) provides that "all candidates and all voters registered in the constituency concerned must be entitled to appeal [...]".

<sup>70</sup> Violations of the law regarding electoral rights, the election process, early campaigning and hate speech, *inter alia*, are dealt with by the CEC; while the MECs are adjudicating complaints related to campaign rules in their respective jurisdictions.

<sup>71</sup> Paragraph 12 of the [1990 OSCE Copenhagen Document](#) provides that "proceedings may only be held in camera in the circumstances prescribed by law and consistent with obligations under international law and international commitments".

<sup>72</sup> The division of competences between the CEC and MECs were not sufficiently clear in all cases; the CEC informed the ODIHR EOM that it took over the competence from MECs to consider the cases related to the prohibition of the use of administrative resources some two weeks before election day.

election administration and the Court of Bosnia and Herzegovina were not made public, diminishing the transparency of election dispute resolution.<sup>73</sup> In the majority of cases, the CEC did not respect the 48-hour deadline for adjudicating complaints, citing a lack of human resources. The Court of Bosnia and Herzegovina informed the ODIHR EOM that it does not hold public hearings in election-related cases and its sessions are not public.

Prior to the election day, the CEC received some 560 complaints and 38 appeals against MEC decisions; of them, 403 related to out-of-country voting, 59 to early campaigning, some 35 challenged the appointment of the PSC members and false representation of political subjects at the polling stations, and 40 cases related to prohibited speech and the misuse of administrative resources. Of these, nearly 90 were dismissed on technical grounds. In 10 cases, the CEC imposed fines for early campaigning, the misuse of administrative resources and prohibited speech. In addition, acting *ex officio* upon notifications of irregularities, the CEC reviewed 60 cases related to campaign irregularities and imposed fines in 16 cases.<sup>74</sup> The CEC and most MECs observed by the ODIHR EOM held substantial discussions on most complaints and appeals in public sessions, although parties to the complaints were not given the opportunity to be heard. The Court reviewed some 350 appeals against the CEC decisions on complaints and upheld all but 7 CEC decisions; 44 appeals were rejected as inadmissible due to the lack of legal standing and missed deadlines.

An election-related violation may be referred to the prosecutor if it contains elements of a criminal offence. In the pre-election period, the prosecutors' offices received some 25 cases. In addition, 20 individual cases related to falsified signatures from voters registering for out-of-country voting forwarded by the CEC. A few prosecutors at different levels noted to the ODIHR EOM a lack of clarity regarding their competences pertaining to electoral criminal offences in the context of general elections.<sup>75</sup> Many IEOM interlocutors expressed a lack of trust in the capacity of election commissions, courts and the prosecutor's offices to handle election-related disputes efficiently and voiced concerns over the independence of the judiciary.<sup>76</sup>

### **Citizen and International Observers**

The Election Law provides for observation of all stages of the election process at every level of the election administration by observers nominated by civil society organizations, political subjects, and international organizations. In line with the Election Law, the number of citizen observers and contestants observers was limited to one per organization at every polling station.<sup>77</sup> For these elections, the CEC launched an online application for observer registration, however, the application could not effectively facilitate the process due to functionality issues.<sup>78</sup> In an inclusive process, the CEC accredited 3,586 citizen and international observers, while MECs accredited some 50,000 observers

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<sup>73</sup> The CEC informed the ODIHR EOM that it could not launch the planned online database of complaints and appeals before election day due to the lack of human and financial resources. The CEC published an overview on complaints some two weeks before election day.

<sup>74</sup> In total, the CEC received some 95 information notifications on irregularities, mostly submitted by Transparency International and *Pod lupom*.

<sup>75</sup> Both state and entity criminal codes contain election-related offences potentially leading to uncertainties when a case contains acts related to different elections.

<sup>76</sup> The 2019 [European Commission Opinion](#) on Bosnia and Herzegovina's application for membership to the EU, in section 1.1.1 points to the challenges with the independence of judicial institutions in Bosnia and Herzegovina and states that "the independence of the judiciary is not sufficiently guaranteed to shield it from all forms of politicization and pressures".

<sup>77</sup> In line with a CEC instruction, up to three observers appointed by each contestant could be simultaneously present at the Main Counting Center; this provision was not extended to citizen observers.

<sup>78</sup> The CEC informed the ODIHR EOM that, due to the short timeframe, its IT department faced difficulties delivering all functions and services planned in the newly launched online application.

appointed by political subjects. The civil society coalition *Pod lupom* conducted long-term observation and deployed some 2,200 short-term observers on election day.

## **Election Day**

Election day was largely peaceful, with several disruptive incidents in and around polling stations.<sup>79</sup> While the campaign silence period appeared to be generally respected by most contestants, on election day, IEOM observers observed campaign material in the vicinity of some 3 per cent of the polling stations. The CEC shared updates about the voting process throughout election day and published results by polling station on election night on the CEC website, which enhanced transparency. In total, 46 per cent of the members of PSCs observed by the IEOM were women, including 41 per cent of the chairpersons. The preliminary voter turnout was announced as 50 per cent by the CEC.

The IEOM observed the opening in 190 polling stations. Polling stations opened on time or with a slight delay in all but 12 stations observed. The IEOM assessed the opening of polls positively in 172 polling stations observed. Nevertheless, several procedural omissions were noted, including no recording of the serial numbers of ballot box seals (29 cases), not entering the total number of ballots received (25 cases) and not showing the ballot box being empty to those present (10 cases).

Observers positively assessed the voting process in 95 per cent of the 1,785 observations, and procedures, including voter identification, were largely respected. The significant number of negative assessments was largely due to issues of secrecy of the vote, and important safeguards against interference not being respected. IEOM observers noted that the secrecy of the vote was not ensured due to the positioning of voting screens (13 per cent) or inadequate layout of the voting premises (15 per cent). In 24 per cent of the observations, one or more voters did not mark their ballots in secrecy. Overcrowding was reported in 6 per cent of the observations.

In 12 per cent of the observed polling stations, persons other than the designated PSC member were keeping track of who voted, which is of concern. In a few cases (21 observations), PSCs were loudly announcing the name of voters who voted. Unauthorized persons, mainly contestant observers, were seen by IEOM observers to be interfering in the electoral process or attempting to influence the voters whom to vote for in some 3 per cent of the observations. In addition, IEOM observers also reported 10 cases of intimidation of voters or PSC members. Prior to the elections, civil society IEOM interlocutors raised concerns about vote buying practices. On election day, indications of vote buying were directly observed in 2 cases, indications of carousel voting in 6 cases and voters taking photos of their ballots in 16 cases. Ballot boxes were not properly sealed in 6 per cent and other procedural problems were observed in 6 per cent of observations.

To reduce family and group voting, prior to the elections, the CEC adopted a regulation, which prescribes the submission of a medical certificate or equivalent document to be eligible for assisted voting, with the exception of cases where the disability is “obvious”. IEOM observers noted an inconsistent application of this regulation and observed several instances where voters were denied the opportunity to vote with an assistant of their choice. On the other hand, in some 2 per cent of the polling stations observed, IEOM observers reported that the same person provided assistance to more than one voter, contrary to the law. Group and family voting was observed in 6 per cent of the polling stations visited. Some 51 per cent of the polling stations did not provide independent access for persons with physical disabilities and in 19 per cent, the layout was not suitable for such voters.

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<sup>79</sup> The media reported a number of incidents of physical attacks and disturbances of the peace inside and outside polling stations.



The contestant observers were present in some 97 per cent of the observations, mainly representing SDA, SDP BiH, SDS and SNSD and citizen observers in 21 per cent.

The IEOM assessed counting negatively in 36 of the 168 polling stations observed, mostly due to procedural irregularities, which indicates the PSC members' insufficient understanding of the procedures. PSCs had difficulties to complete results protocols in 61 cases. The IEOM observed that stamps and voter lists were not sealed and packed away before the counting began in 70 and 83 cases, respectively. Contestant observers were present in almost all polling stations observed during counting and citizen observers in 28. In 23 cases, unauthorized persons, mostly contestant observers, were interfering with the work of the PSC. The IEOM was able to observe the counting without restrictions in all observed polling stations. The initial stages of tabulation, where observed, were largely assessed positively. Nevertheless, some procedural omissions were observed, including PSC protocols not always being checked for consistency.

The CEC received 68 complaints and information on irregularities, mostly related to assisted voting, presence of unauthorized persons in polling stations and undue influence on voters' choice. The CEC forwarded most cases to the MECs and three cases were sent to the prosecutors' offices.

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

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## **MISSION INFORMATION & ACKNOWLEDGEMENTS**

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Sarajevo, 3 October 2022 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the European Parliament (EP) and the NATO Parliamentary Assembly (NATO PA). The assessment was made to determine whether the elections complied with OSCE commitments and other international obligations and standards for democratic elections and with national legislation.

Mr. Pascal Allizard was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and Leader of the OSCE short-term observer mission. Ms. Irene Charalambides headed the OSCE PA delegation, Mr. Stefan Schennach headed the PACE delegation, Mr. Andreas Schieder headed the EP delegation and Ms. Mimi Kodheli headed the NATO PA delegation. Ambassador Peter Tejler is the Head of the ODIHR EOM, deployed from 23 August.

This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some months after the completion of the electoral process. The OSCE PA will present its report at its next meeting. The PACE will present its report at the meeting of its Standing Committee in Reykjavik on 25 November 2022. The EP will present the report at a DSEE meeting. The NATO PA will present the report at the Standing Committee in Madrid.

The ODIHR EOM includes 18 experts in the capital and 24 long-term observers deployed throughout the country. On election day, 332 observers from 48 countries were deployed, including 24 long-term and 285 short-term observers deployed by ODIHR, as well as a 83-member delegation from the OSCE PA, a 23-member delegation from the PACE, a 12-member delegation from the European Parliament and a 17-member delegation from the NATO Parliamentary Assembly. Opening was observed in 168 polling stations and voting was observed in 1,786 polling stations across the country. Counting was observed in 179 polling stations, and the tabulation in 111 MECs.

The observers wish to thank the authorities for their invitation to observe the elections, and the Central Electoral Commission and the Ministry of Foreign Affairs of Bosnia and Herzegovina for the assistance. They also express their appreciation to other state institutions, political parties and civil society organizations and the international community representatives for their co-operation.

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