

## INTERNATIONAL ELECTION OBSERVATION

### Republic of Bulgaria —Early Parliamentary Elections, 12 May 2013

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#### STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

**Sofia, 13 May 2013** – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE).

Eoghan Murphy (Ireland) was appointed as Special Co-ordinator by the OSCE Chairperson-in-Office to lead the short-term OSCE observer mission. Andreas Gross (Switzerland) headed the PACE delegation. Roberto Battelli (Slovenia) headed the OSCE PA delegation. Miklos Haraszti (Hungary) is the Head of the OSCE/ODIHR Election Observation Mission (EOM), deployed from 15 April 2013.

The assessment was made to determine whether the election complied with OSCE commitments and Council of Europe standards for democratic elections, as well as with Bulgaria's international obligations and domestic legislation. This statement of preliminary findings and conclusions is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, including the count, the tabulation and announcement of results, and the handling of possible post-election day complaints and appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The OSCE PA will present its report to its Standing Committee at its Annual Session on June 29, 2013, in Istanbul. The PACE delegation will present its report in June 2013.

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#### PRELIMINARY CONCLUSIONS

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The 12 May early parliamentary elections in the Republic of Bulgaria were held in a competitive environment and fundamental freedoms of expression, association and assembly were respected. The administration of elections by commissions was well managed and the Central Election Commission generally worked in an open manner. However, cases of pre-election wiretapping and concerns over last-minute incidents related to ballot security weakened public confidence in the process. The electoral process was further negatively affected by pervasive allegations of vote-buying. Media provided voters with a variety of information. Nevertheless, a significant share of the campaign information had to be paid for, creating an unequal playing field for candidates. Election day took place in a calm and orderly manner and, overall, observers evaluated the process in polling stations positively.

The elections were regulated by a legal framework that generally provides a sound basis for the conduct of democratic elections when implemented properly. Some of the recommendations previously offered by the OSCE/ODIHR and the Council of Europe were adopted in the most recent amendments of the Electoral Code in February 2013, while others remain unaddressed. Legal provisions pertaining to campaign financing, if effectively implemented, could ensure a transparent campaign finance system. However, the lack of concrete oversight mechanisms leaves room for circumventing these regulations.

The elections were well administered by the Central Election Commission (CEC) and District Election Commissions, despite some shortcomings. The CEC approved the main procedural rules within the legal deadlines and generally worked in an open manner, although not always announcing the times of its sessions, and not always providing all relevant information in its written decisions, which could have improved transparency. Concerns were expressed about the independence of DEC and PECs and the OSCE/ODIHR EOM observed that 30 out of 31 of DEC chairpeople were nominees of the former ruling party. Logistical support provided by the government, regional and municipal administrations to the election commissions was timely and adequate. The transparency of the electoral process was improved through live web broadcasts of election commission sessions, a welcome confidence-building measure, as well as guaranteeing the right of observers to follow the entire electoral process.

Candidate registration was inclusive with 63 political parties contesting the elections. The requirements for the nomination of independent candidates were high compared to those for parties, and only two independent candidates were registered. Voter lists were available for public scrutiny and voters could verify and correct their data. Concerns were raised of possible misuse of voter lists due to a number of voters abroad who remain in the voter lists. This would be mitigated by PECs' proper application of procedures. The possibility to register voters on election day and the inclusion of some categories of voters in additional voter lists without removing them from the main list could give rise to potential misuse.

The campaign was competitive and, in general, non-violent. The caretaker government undertook several measures to hold genuine elections. Incidents of pre-election wiretapping linked to the previous government are currently under investigation; public confidence was weakened by concerns over the Ministry of Interior's possible ongoing involvement in the election process. The campaign at times was negative and populist; some parties used inflammatory and xenophobic rhetoric. Despite legal prohibitions, widespread allegations of vote-buying continued and also negatively affected the campaign environment. Provisions that the campaign should be conducted only in the Bulgarian language disadvantaged minority groups and are at odds with OSCE commitments and Council of Europe standards. A group of parties from opposite sides of the political spectrum came together to sponsor a parallel vote tabulation exercise, expressing their lack of trust in election procedures.

Although the media landscape during the campaign was pluralistic, media ownership lacks transparency and has become increasingly concentrated. Despite the public service broadcasters and some private media granting contestants free airtime on popular election-related programmes, a significant share of the campaign information had to be paid for, creating an unequal playing field for candidates. Paid campaign information was not always clearly labeled as such, potentially misleading voters about the source of election-related messages. The Electoral Code provides that virtually all campaign information on public broadcasters must be paid for, limiting the role of the public media to comprehensively inform voters on political options. The main party leaders decided not to participate in any televised debates, with a consequent lack of joint discussion on issues of public interest.

Election commissions established a digital public registry of appeals and decisions enhancing the transparency of the complaints and appeals process. Election commissions and the Supreme Administrative Court examined all appeals within the prescribed deadlines. Electoral contestants made use of the legal means available to address their complaints. The concerns raised by the OSCE/ODIHR and the Council of Europe's Venice Commission Joint Opinion about the limited categories of people and bodies permitted to challenge election results remain.

Women were politically active and were well represented in the electoral administration. Thirty three per cent of all candidates were women. More than half of CEC and DEC members were female, while some three-quarters of DEC chairpeople were women.

Election day took place in a calm and orderly manner. The opening and voting were mostly assessed positively, while the count was more problematic in a number of cases. With some exceptions due to DEC members being overcrowded and police called in to undertake crowd control, the tabulation overall was assessed positively. The large number of proxies and observers present enhanced the transparency. The CEC started posting preliminary results around midnight on election night, but not by polling station, which is not in line with good practice.

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## **PRELIMINARY FINDINGS**

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### **Background**

Following large-scale protests over socio-economic conditions and, in particular, increased household electricity expenses, the government resigned on 20 February. The protests led to the self-immolation of seven people and to a number of injured civilians and policemen. On 12 March, President Rosen Plevneliev dissolved the parliament, called early parliamentary elections and appointed a caretaker government.

The last parliamentary elections were held in July 2009, when Citizens for European Development of Bulgaria (GERB) won 116 of the 240 seats. The opposition consisted of the Coalition for Bulgaria headed by the Bulgarian Socialist Party (BSP) and the Movement for Rights and Freedoms (MRF) with 40 and 38 mandates, respectively. Other political forces represented in the parliament were the *Ataka* party with 21 seats, the Blue Coalition with 15 seats and the Order, Law and Justice Party (RZS) with 10 seats.

### **Legal Framework and Election System**

Parliamentary elections are regulated by a legal framework that generally provides a sound basis for the conduct of democratic elections when implemented properly. Some of the recommendations previously offered by the OSCE/ODIHR and the Council of Europe were addressed in the recent amendments of the Electoral Code in February 2013, including enhancing the transparency of the electoral process by providing live broadcasting of the electoral commissions' sessions, as well as guaranteeing the right of observers to follow the entire electoral process. However, a number of previous recommendations still remain unaddressed such as those regarding the equitability of media coverage of the campaign, the right of minorities to use their mother tongue during campaigning, and the system of electoral dispute resolution.<sup>1</sup>

The legislation restricts the right to vote and to stand for people serving a prison term, regardless of the severity of the crime committed, in breach of international standards. The Criminal Code includes vote-buying among other election-related offenses. The Electoral Code also stipulates that all campaign material include a statement that vote-buying and selling is a criminal offense. Legal provisions pertaining to political party and campaign finance could ensure a solid and transparent campaign finance system, if fully implemented.

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<sup>1</sup> All OSCE/ODIHR election observation and assessment mission reports on Bulgaria can be found at: <http://www.osce.org/odihr/elections/bulgaria>. See also the 2011 OSCE/ODIHR and Council of Europe's Commission for Democracy through Law (Venice Commission) Joint Opinion on the Electoral Code, available at: <http://www.osce.org/odihr/80841>.

The National Assembly is a unicameral body consisting of 240 members elected under a proportional list system from 31 multi-mandate constituencies. The number of mandates in each constituency ranges between 4 and 16, and is decided by the Central Election Commission (CEC).<sup>2</sup> Political parties and coalitions that receive a minimum of four per cent of valid votes at the national level and independent candidates who receive valid votes not less than the constituency electoral quota can participate in the allocation of mandates.<sup>3</sup>

The CEC allocated the number of mandates within each constituency based on the size of the population. The number of registered voters for one mandate ranged from 24,638 voters in Vidin district to 44,768 voters in Kardzhali district; 14 per cent less and 56 per cent more, respectively, than the country average. Significant deviation was also noted in district 23 in Sofia city (14 per cent less than average), in Razgrad and Kyustendil districts (19 and 20 per cent more than average). These disparities impacted the equality of the vote in certain districts.<sup>4</sup>

### Election Administration

The elections were administered by a three-level system of election commissions comprising the CEC, 31 District Election Commissions (DECs), one in each of the 31 multi-mandate constituencies, and some 11,400 Precinct Election Commissions (PECs).<sup>5</sup> The logistical support provided by the government, regional and municipal administrations to the election commissions was timely and adequate. The Ministry of Foreign Affairs was responsible for coordinating out-of-country voting at 227 polling stations in 56 countries.

All election commission members are nominated by parliamentary groups proportionally to their seats in the parliament. The CEC is the only permanent election administration body, while the DECs and PECs are appointed for every election.<sup>6</sup> Most of the DECs and PECs were formed within the legal deadline.<sup>7</sup> Thirteen out of 21 CEC members were female and some 54 per cent of all DEC members and 74 per cent of DEC chairpeople were women, reflecting their high level of participation in the election administration.

Coalition for Bulgaria, MRF and Movement Bulgaria for the Citizens appealed CEC decisions on filling managerial positions on some DECs.<sup>8</sup> None of these appeals were upheld by the Supreme Administrative Court (SAC). The CEC decisions on the composition of DECs did not provide information on the party affiliation of the appointed members, which did not contribute to transparency. According to the data collected by OSCE/ODIHR EOM long-term observers (LTOs), 30 out of 31 DEC chairpeople were nominated by GERB.<sup>9</sup> Coalition for Bulgaria, MRF and *Ataka*,

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<sup>2</sup> The decision defining the number of mandates per constituency was adopted on 15 March 2013.

<sup>3</sup> The electoral quota is the ration of the total number of valid votes divided by the number of mandates in the relevant constituency.

<sup>4</sup> The Code of Good Practice in Electoral Matters of the Venice Commission (2.2.iv), sets that the permissible departure from the norm should not be more than 10 per cent, and should certainly not exceed 15 per cent; see: [http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)023rev-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023rev-e.pdf).

<sup>5</sup> A precinct can have up to 1,000 voters.

<sup>6</sup> DECs comprise 13 members (in constituencies with less than 10 mandates) or 17 members (in constituencies with 10 and more mandates). The number of PEC members varies from five to nine, depending on the number of registered voters.

<sup>7</sup> A few PECs in DECs 9, 19, 25 and 31 were appointed later than the legal deadline either due to the failure of some political parties to present correct data on nominated PEC members or due to the late submission of nomination documents by the heads of corresponding institutions for polling stations in hospitals and prisons.

<sup>8</sup> The distribution of the three leading positions within the DECs was challenged. Article 28.3 of the Electoral Code provides for proportional distribution of leading positions in DECs according to representation of parliamentary groups in the parliament.

<sup>9</sup> DEC 1 (Blagoevgrad) and DEC 24 (Sofia) were not forthcoming in providing information on the party affiliation of the DEC members referring to personal data protection.

as well as several non-governmental organizations (NGOs) expressed concerns about the independence of DEC and PECs due to the alleged domination of GERB.<sup>10</sup> In addition, several interlocutors expressed concerns over the possibility that PECs might engage in election malpractice.

The CEC administered the elections in an effective manner, despite some shortcomings, approving the main procedural rules and templates of official documents within legal deadlines. The CEC worked in an open manner, though not always announcing the time of its sessions and the draft agenda in advance.<sup>11</sup> All CEC members were able to voice their opinions during the sessions. The Electoral Code does not grant media the possibility to be present at CEC and DEC sessions. However, its sessions were streamed online, contributing to the transparency. The CEC organized training sessions for DEC members, who in turn trained PEC members; those attended by the OSCE/ODIHR LTOs were mostly assessed positively.

The CEC provided a nationwide voter education campaign on public radio and television, focusing on voter list verification and voting procedures. OSCE/ODIHR EOM LTOs reported a lack of voter education materials in the regions. Transparency International conducted a voter education campaign against vote-buying.

### **Voter Registration**

Voter lists are extracted from the national population register maintained by the Civil Registration and Administrative Services Department of the Ministry of Regional Development (GRAO). The OSCE/ODIHR EOM observed voter lists posted for public scrutiny both in hard copy and on websites of municipalities in all districts; voters could verify and correct their data if needed. The GRAO informed the OSCE/ODIHR EOM that the voter list contained approximately 6,868,455 voters. Regrettably, although the information was available, the GRAO did not provide the OSCE/ODIHR EOM with disaggregated data on the number of voters per electoral constituency, diminishing transparency.

83,884 voters were included in the voter lists for voting abroad. Concerns were raised of possible misuse of voter lists due to a number of voters abroad who remain in the voter lists. This would be mitigated by PECs' proper application of procedures. CEC and DEC members, candidates and observers were allowed to vote at any polling station with an absentee voting certificate. On election day, voters omitted from the voter list were added to the main voter list upon presentation of an identity document.

The law stipulates that voters should be included in only one voter list and should therefore be removed from the voter list of their permanent address, if the place of voting is changed. However, five different categories of voters may vote at a polling station different than their permanent address without being excluded from the voter list of their permanent address.<sup>12</sup> Despite a number of security mechanisms provided by the Electoral Code, the possibility to register voters on election day and the inclusion of some categories of voters in additional voter lists without removing them

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<sup>10</sup> The Council of Europe's Venice Commission and the OSCE/ODIHR noted in their Joint Opinion that the Electoral Code should ensure a better balance of political parties in the appointment of chairpeople at all levels of election commissions.

<sup>11</sup> The Electoral Code obliges the CEC to provide a draft of the session agenda beforehand.

<sup>12</sup> Fulltime pupils, students, voters with disabilities are entitled to vote at a polling station of their choice, while PEC members and police officers may vote at the polling station they are assigned to.

from the main list could give rise to potential misuse, as previously stated by the OSCE/ODIHR and the Council of Europe's Venice Commission Joint Opinion.<sup>13</sup>

### Candidate Registration

Candidate lists can be submitted by political parties and coalitions registered with the CEC.<sup>14</sup> Independent candidates can be put forward by nominating committees in the constituencies. Registration of political parties, coalitions and their lists of candidates was inclusive. A total of 71 political parties applied for registration. Of the 63 political parties registered by the CEC, 29 contested the elections individually and 25 parties formed 7 coalitions.<sup>15</sup>

The Electoral Code stipulates that the nomination of independent candidates must be supported by signatures of no less than 3 per cent of the voters but no more than 5,000 voters from within the relevant constituency and a deposit of 10,000 BGN. The high number of support signatures required from independent candidates compared to those of parties, as previously noted by the OSCE/ODIHR and the Council of Europe's Venice Commission, raised concern regarding the equality of the right of different categories of candidate to stand.<sup>16</sup> Only two independent candidates were registered compared with some 8,100 candidates registered countrywide by parties and coalitions. Thirty-three per cent of all candidates were women.

### The Campaign Environment and Campaign Finance

The official campaign started on 12 April and was non-violent in general, competitive, and fundamental freedoms were respected. The caretaker government undertook several measures to hold genuine elections.<sup>17</sup> In addition, the president established a Civil Board for Free and Transparent Elections, in which civil society representatives met on weekly basis with government and electoral administration representatives. Interlocutors noted that undue involvement of the Ministry of Interior (MoI) in the electoral process contributed to a lack of public trust in state institutions and political leadership.<sup>18</sup>

A turning point in the campaign was marked by two separate wiretapping incidents that overshadowed socio-economic topics. The leader of the BSP, Sergei Stanishev, submitted documents to the Prosecutor General, which alleged an unlawful scheme for wiretapping journalists and state officials conducted by the MoI. The Prosecutor General announced that there was evidence to charge several MoI officials, including the former minister of interior Tsvetan Tsvetanov, who was serving as the head of GERB's campaign headquarters. Parties demanded

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<sup>13</sup> All these voters are to sign a written oath stating that they have not voted and will not do so a second time. Pupils and students have their grade books stamped after voting. The GRAO is in charge of identifying cases of illegal voting according to procedures established by the CEC.

<sup>14</sup> A deposit of 10,000 Bulgarian Leva (BGN; around Euro 5,100) and at least 7,000 supporting signatures are required to be registered.

<sup>15</sup> The remaining nine parties did not register candidate lists at DEC's.

<sup>16</sup> According to the Code of Good Practice in Electoral Matters of the Venice Commission (1.3.ii) the law should not require collection of the signatures of more than one per cent of voters in the constituency concerned for an individual candidate or a party list of candidates.

<sup>17</sup> The Prime Minister informed that as a confidence-building measure the caretaker government rotated 3,500 police officers for election day.

<sup>18</sup> On 10 April, the MoI requested the CEC to provide the Ministry with data of registered candidates and members of the DEC's and PEC's. The CEC rejected the request on the grounds that the Electoral Code does not contain such provisions and stated that it cannot disclose personal data. On 29 April, in Elhovo municipality OSCE/ODIHR EOM LTOs were having a meeting with BSP representatives in the party office when uniformed police officers interrupted the meeting to inquire about the party's forthcoming rally. In Plovdiv the police requested some candidates to sign a protocol in which they committed to not engage in vote-buying and to campaign only in the Bulgarian language.

Tsvetanov's resignation to safeguard the electoral process. The Electoral Code grants immunity to candidates and therefore the procedure of bringing charges has been postponed. Concurrently, several media outlets published a conversation between GERB's leader and former Prime Minister Boyko Borisov and the Sofia City Prosecutor, which disclosed a scheme for pressuring the media and revealed confidential details about ongoing investigations. The authenticity of the conversation was not denied by anyone and the Sofia City Prosecutor resigned.

Contestants mostly campaigned through media, social networks, door-to-door canvassing in smaller areas and some held bigger public events in cities. The content of the campaign initially focused on poverty, unemployment, the fight against corruption and organized crime. The campaign at times became negative and populist with the personalities of party leaders taking primacy over campaign topics. Several political parties based their platforms on ethnic exclusion using inflammatory and xenophobic rhetoric.<sup>19</sup>

Almost all interlocutors stated that the long-standing issue of vote-buying is widespread. Interlocutors also claimed that almost all political parties were involved in vote-buying, reducing confidence in the electoral process. While the Roma population is considered to be the most vulnerable group regarding potential electoral malfeasance, interlocutors noted that the issue of vote-buying extended across ethnic groups and increasingly was tolerated by different strata of society. Some political parties were campaigning through charitable activities by distributing money and goods.<sup>20</sup> The Prosecutor General informed the OSCE/ODIHR EOM that up to 26 investigations of vote-buying had been opened.

A group of opposition political parties from opposite sides of the political spectrum came together to jointly contract a foreign company to conduct a parallel vote tabulation exercise on election day. They noted that they considered this necessary due to their lack of trust in the election administration and, in particular, the counting and tabulation of results.<sup>21</sup>

Only 13 out of 45 parties and coalitions registered by the CEC provided information on their private sources of funding to the National Audit Office (NAO), which were posted on the NAO's website. Some parties complained that the distribution of the state subsidies is disproportionate and favours larger parties.<sup>22</sup> The contestants are obliged within 30 days of the election to submit a report on incomes and expenses to the NAO. However, the lack of concrete oversight mechanisms leaves room for circumventing these regulations.

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<sup>19</sup> The National Front for Salvation of Bulgaria (NFSB) proposed the creation of isolated villages for the Roma population in its political platform. The VMRO party blamed the Roma community for the misuse of the social benefits system due to demographic increase among Roma families. *Ataka* continued to use the term "gypsy crime" which suggests the link between ethnicity and criminality. This is at odds with principles enshrined in the Copenhagen Document, the Framework Convention for the Protection of National Minorities, and the International Convention on the Elimination of All Forms of Racial Discrimination, as well as OSCE Ministerial Council Decision No.8/09.

<sup>20</sup> *Ataka* party was distributing money and goods to socially deprived families, while GERB, BSP and other smaller parties and coalitions were making in kind donations to hospitals, libraries, schools and churches.

<sup>21</sup> BSP, MRF, Democrats for Strong Bulgaria, Movement Bulgaria for the Citizens and *Ataka* joined in this initiative. GERB expressed interest in this initiative, but the other parties refused their involvement.

<sup>22</sup> The Code of Good Practice in Electoral Matters of the Venice Commission (3.5.111) states that in the field of public funding of parties or campaigns the principle of equality of opportunity applies (strict or proportional equality). According to the annual financial reports for 2012, published on the NAO website, GERB (39.7 per cent of votes in 2009 elections) received a state subsidy of BGN 23,925,000, and the National Movement for Stability and Progress (3 per cent of votes in 2009 elections) received state subsidy in total amount of BGN 1,554,000. Specifically, GERB received 14.24 BGN per valid vote while the National Movement for Stability and Progress received 12.19 BGN per valid vote.

## The Media

The media landscape was pluralistic during the campaign, although characterized by a growing concentration of media ownership in the hands of a restricted circle of businesspeople. In this respect, many interlocutors raised concerns about the independence of media from undue economic and political pressure. Furthermore, there is a lack of transparency in media ownership and in media funding. A number of concerns were also raised regarding the ineffective media self-regulatory mechanism and the ongoing breaches of professional journalistic standards.

The election coverage of the public service broadcasters, the Bulgarian National Television (BNT) and the Bulgarian National Radio (BNR), is over-regulated by the Electoral Code. The Electoral Code defines the formats for campaign coverage, which should be equitable and paid for according to the rates determined by the Council of Ministers.<sup>23</sup> Although the Electoral Code does not provide for free airtime, the public service broadcaster granted electoral contestants free airtime on popular election-related programmes, thus allowing voters to have access to non-sponsored coverage.

The private and print media are largely unregulated. The Electoral Code establishes equality and transparency requirements for paid campaign information by obliging all media houses to offer campaign information under non-discriminatory contractual conditions to all contestants. The contracts and rates had to be published on the Internet page of each media outlet. However, several private media houses did not post their contracts within the established deadlines.

The OSCE/ODIHR EOM media monitoring results showed that, on average, more than 45 per cent of the overall airtime during prime-time coverage on monitored public television and radio was paid for.<sup>24</sup> This regime was detrimental to parties not disposing of large financial resources and who did not benefit from state funding, as well as to the editorial freedom of the public media.<sup>25</sup> The current regulatory framework for campaign coverage limits to a certain extent the possibility for public radio and television to fulfil its public service ethos to comprehensively inform voters on political options.

The Electoral Code does not require paid advertising to be labelled explicitly as promotional material, potentially misleading voters about the source of election-related messages. In a positive effort to foster transparency, the Council for Electronic Media (CEM), the CEC and the Association of Bulgarian Broadcasters (ABBRO) signed an agreement whereby ABBRO members committed to label paid election advertisement. Nevertheless, sponsored content was often not clearly recognizable as such on some TV and radio channels.<sup>26</sup> In addition, some newspaper articles were clearly of a promotional nature although they were not labeled as such.

The wiretapping scandal dominated media electoral campaign coverage (27 per cent of the overall prime time editorial coverage on radio and TV) at the expenses of discussions of parties' platforms. GERB was the party receiving the largest coverage, albeit in the negative context driven by the scandal (32 per cent of airtime of which was negative). There was virtually no coverage of parties' campaign activities in newscasts on the main public and private audiovisual media.<sup>27</sup> Nevertheless,

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<sup>23</sup> In March 2013, the Council adopted a decision introducing higher rates than those used during the 2011 presidential election.

<sup>24</sup> On 19 April 2013, the OSCE/ODIHR EOM started a quantitative and qualitative monitoring of the prime-time broadcasts of four television stations (BNT 1, bTV, Nova TV and TV7), two radio stations (*Horizont* and *Darik Radio*) as well as of the content of three newspapers (*24 chasa*, *Telegraf*, *Standart*).

<sup>25</sup> Around 60 per cent of the total prime time broadcast was purchased by the parliamentary parties.

<sup>26</sup> A format for paid coverage was systematized under one format - *Parlamentarni Izbori 2013*. Nevertheless, this was sometimes not clearly labeled as paid coverage.

<sup>27</sup> Although there were often news reports on projected election results and experts' analysis on election scenarios.

non-paid election-related programmes partially allowed voters to have access to editorial-driven campaign coverage. This was dominated by the two main political forces, GERB and Coalition for Bulgaria, which respectively got an average of 25 and 15 per cent of the overall prime-time broadcast. However, both public and private media undertook an effort to provide free access to a broad range of parties. The main party leaders decided not to participate in any televised debates, with a consequent lack of joint discussion on issues of public interest.<sup>28</sup>

### **Participation of Minorities**

According to the 2011 census, 84.8 per cent of Bulgaria's population are ethnic Bulgarians, while 8.8 and 4.9 per cent are ethnic Turks and Roma, respectively.<sup>29</sup> Other minorities are below one per cent of the population. The Electoral Code stipulates that the election campaign is to be conducted only in the Bulgarian language, which is not in line with the 1990 OSCE Copenhagen Document and the Council of Europe standards.<sup>30</sup>

On 8 April, 15 Roma organizations withdrew their membership from the National Council for Cooperation on Ethnic and Integration Issues, protesting the marginalization of the Roma community in social and political life.<sup>31</sup> Interlocutors informed the OSCE/ODIHR EOM that most political parties and coalitions did not field Roma candidates in electable positions. Traditionally, MRF is perceived as the political party representing the interests of the Turkish minority. However, a new political party, People's Party Freedom and Dignity (PPFD), was established in December 2012 appealing for the votes of the same community.<sup>32</sup>

### **Complaints and Appeals**

Throughout the campaign electoral contestants made use of the legal means available to them to address their complaints. In line with amendments to the Electoral Code in February 2013, election commissions established a digital public registry of appeals and decisions. The Electoral Code also provides that the SAC examines appeals on CEC decisions in a public session.<sup>33</sup> Election commissions and the SAC examined all appeals within the prescribed deadlines.

The concern about the limited right to appeal CEC decisions, which was also raised by the OSCE/ODIHR and the Council of Europe's Venice Commission,<sup>34</sup> was partially addressed by a Constitutional Court ruling in May 2011.<sup>35</sup> The Court clarified that, where rights to appeal were not

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<sup>28</sup> The only major party leader that has attended a multi-party debate was Volen Siderov on the programme Referendum on BNT on 7 May.

<sup>29</sup> It is widely assumed that the actual number of Roma is significantly higher; most estimates put it between 700,000 – 800,000, that is approximately 10 per cent of the population.

<sup>30</sup> Paragraph 32.5 of the 1990 OSCE Copenhagen Document states that "persons belonging to national minorities have the right [...] to disseminate, have access to and exchange information in their mother tongue". Paragraph 35 of the 1990 OSCE Copenhagen Document states that "The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs (...)." See also the Council of Europe Framework Convention for Protection of National Minorities ratified by Bulgaria in 1999. General Comment 25 adopted by the United Nations Human Right Committee in 1996 also states that "information and materials about voting should be available in minority languages."

<sup>31</sup> The organizations asked for establishment of new institutional set up for effective implementation of the National Roma Integration Strategy adopted by the parliament in March 2012. Several human rights activists, including representatives of Roma NGOs, sent an open letter to the president and other state institutions calling to take a stand against hate speech targeting ethnic groups during the campaign.

<sup>32</sup> On 27 April in Tsar Kaloyan municipality, there was a violent incident between supporters of MRF and PPFD during posting of election materials.

<sup>33</sup> Both the applicant and the CEC are summoned and the general public is able to attend court sessions.

<sup>34</sup> See the OSCE/ODIHR and the Venice Commission Joint Opinion on the Electoral Code, available at <http://www.osce.org/odihr/80841>.

<sup>35</sup> Constitutional Court Decision 4, 4 May, 2011.

specifically defined in the Electoral Code, the general right to judicial review guaranteed by the Constitution would apply and could be exercised through application of the Administrative Procedure Code. However, an appeal challenged through the general administrative procedure may not provide for effective remedy before the announcement of the election results due to the lengthy time limits involved.<sup>36</sup>

The concerns raised by the OSCE/ODIHR and the Venice Commission Joint Opinion on the lack of written procedural rules concerning the review of complaints and appeals lodged with election administrations remains. This led to an inconsistent approach when considering complaints and to diverse formats of decisions taken.<sup>37</sup>

Parliamentary election results can be challenged before the Constitutional Court only by candidates, political parties and coalitions participating in the election, and only through an institution entitled to address the Constitutional Court.<sup>38</sup> This limits effective judicial procedure for challenging the election results.<sup>39</sup>

### **Citizen and International Observers**

The Electoral Code provides for citizen and international election observation. The February 2013 amendments to the Electoral Code introduced detailed provisions on the scope of rights and responsibilities of observers and party proxies, which was a long-standing OSCE/ODIHR and Venice Commission recommendation. Observers are granted access to all stages of the electoral process and may attend sessions of election commissions at all levels. Observers and proxies are also entitled to receive copies of protocols at polling stations.

The Electoral Code entitles PECs to expel observers or party proxies from polling stations on election day if they wear insignias other than those officially established by the CEC. The CEC did not draw a distinction between insignia that have a campaign element and those that do not.

As of 11 May, 19 citizen organizations with some 14,000 observers and 6 international organizations with 284 observers were registered.

### **Election Day**

Election day took place in a calm and orderly manner. As of morning after election day, the CEC

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<sup>36</sup> Four political parties which were not registered on the grounds that they did not produce 7,000 valid signatures requested a refund of their deposit. The CEC denied the request reasoning that parties entitled to a refund are those which gain one per cent of valid votes nationwide. All four parties appealed to the SAC which reasoned that a CEC decision on the issue of electoral deposit is not appealable and therefore does not fall under the SAC's jurisdiction. All four appeals were transferred to the Administrative Court of Sofia, whose rulings were swift and upheld the CEC decisions.

<sup>37</sup> On a complaint regarding campaign material posted in areas not designated by the local administration, DEC's followed differing procedures in considering the same matter. DEC 27 (Stara Zagora) repealed the complaint, reasoning that the evidence submitted by the complainant was not conclusive (pictures were not clear enough), while DEC's 2 (Burgas) and 5 (Vidin) examined the photos submitted, in addition to telephoning officials or going to the site themselves. After collecting the evidence, both DEC's ruled in favour of the complainant and ordered the removal of the material.

<sup>38</sup> These include one-fifth of the members of the parliament, the President, the Council of Ministers, the Supreme Court of Appeals, the SAC and the General Prosecutor.

<sup>39</sup> The Code of Good Practice in Electoral Matters of the Venice Commission [3.3(a,f,g)] sets that the appeal body in electoral matters should be either an electoral commission or a court. All candidates and all voters registered in the constituency must be entitled to appeal. A reasonable quorum maybe imposed for appeals by voters on the results of elections.

has not announced any voter turnout data. Preliminary results were posted from around midnight on election night, but not by polling station, which is not in line with good practice.

The opening procedures were assessed positively in 50 out of 59 polling stations observed. A total of 658 polling stations were observed during voting. Observers evaluated the process positively in 97 per cent of observations. In 5 per cent of polling stations visited, large crowds were waiting outside to vote. In 4 per cent of observed polling stations, ballot boxes were not properly sealed. Party proxies were present in 94 per cent polling stations visited by observers and citizen observers were present in 22 per cent of observations.

The count was observed in 56 polling stations, 10 of which were assessed negatively. Party proxies were present in all polling stations observed. In some 20 counts observed, the sequence of counting procedures was not followed as prescribed by the law with safeguards being circumvented, such as packing unused and spoiled ballot papers before opening the ballot boxes. In 11 counts, polling station commission members were not showing all the ballots to those present. This practice, combined with 9 cases of unreasonable or inconsistent determination of the validity of the ballot, potentially cast a shadow over the impartiality of some election commissions. Unauthorised people interfered with or directed the counting process in 6 cases. The undue involvement of such people is of concern as it undermined the principle of an independent election administration.

Difficulties in completing the results protocol were observed in 8 polling stations while in 4 cases the protocol had been pre-signed. In 10 cases, international observers were restricted in their observations.

The tabulation of election results was observed in all 31 DEC. The overall assessment was positive in 27 cases out of 31. Problems were observed in DEC 21 (Sliven), 24 (Sofia region), 25 (Sofia) and 29 (Haskovo). In three of these four cases, transparency was undermined due to overcrowding, which limited the ability of those present to observe the process. In Sliven, the atmosphere became tense due to the slow processing of protocols, and police were called to reestablish order.

On the eve of the elections, following inspections by the National Agency for State Security, 350,000 ballots were seized at the official printing house on 11 May. The Prosecutor General stated that the printing house had already sent out all required ballots to the electoral districts by 8 May. An investigation has been opened. The Prosecutor General declined to make any further comments in order to avoid interfering in the electoral process. The CEC issued a statement reassuring voters that the confiscated ballots would not be misused and were under guard. This incident further damaged confidence in the process.

***The English version of this report is the only official document.  
An unofficial translation is available in Bulgarian.***

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**MISSION INFORMATION & ACKNOWLEDGEMENTS**

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Sofia, 13 May 2013 – The OSCE/ODIHR EOM opened in Sofia on 15 April. It includes 10 experts in the capital and 12 long-term observers deployed throughout Bulgaria.

On election day, 158 observers from 39 countries were deployed, including 105 long-term and short-term observers deployed by the OSCE/ODIHR, as well as 29 parliamentarians and staff from the OSCE PA and 24 from the PACE. Voting was observed in 658 polling stations across the country. Counting was observed in 56 polling stations. The tabulation process was observed in 31 DECes.

The observers wish to thank the authorities of the Republic of Bulgaria for the invitations to observe the elections, the Central Election Commission for its co-operation and for providing accreditation documents, and the Ministry of Foreign Affairs and other authorities for their assistance and co-operation. The observers also wish to express appreciation to the embassies and international organizations accredited in Bulgaria for their co-operation and support.

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