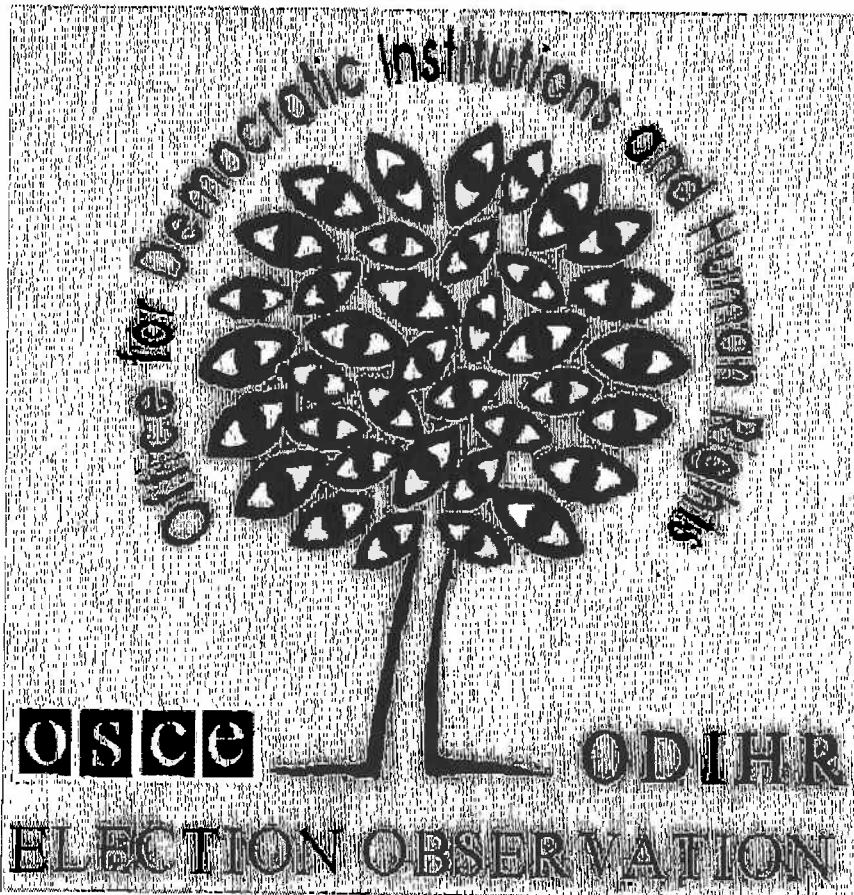




Office for Democratic Institutions and Human Rights

FINAL REPORT
OSCE/ODIHR INTERNATIONAL OBSERVER MISSION
BULGARIAN PARLIAMENTARY ELECTIONS
19 APRIL 1997



INTRODUCTION

The OSCE/ODIHR International Observer Mission was established on 10 March 1997 following an invitation to ODIHR from H.E. President Petar Stoyanov. ODIHR appointed Mr Simon Osborn (UK) as On-site Co-ordinator, Mr Mark Power-Stevens (UK) as Deputy Co-ordinator and Mr Eugenio Polizzi (Italy), ODIHR Acting Election Advisor, as Legal Officer to the observation mission.

Six long-term observers (LTO's) were nominated by OSCE participating States: Ms Marit Pettersen (Norway), Ms Christina Danielson (Sweden), Mr Paul Dixelius (Sweden), Mr Ulrich Buchsenschutz (Germany), Mr Andre Beyler (France) and Mr Jean Flammand (France). They were deployed throughout the country during the election, staffing the mission's three regional offices: Varna (Black Sea Coast and eastern Bulgaria), Russe (north eastern Bulgaria) and Plovdiv (southern Bulgaria). The mission's headquarters in Sofia covered the western part of the country.

A further 91 short-term observers (STO's) from 25 OSCE participating States were deployed by the mission on election day. These states included: Austria, Belgium, Canada, the Czech Republic, Denmark, France, Finland, Former Yugoslav Republic of Macedonia, Germany, Greece, Hungary, Italy, Ireland, Moldova, Netherlands, Norway, Poland, Romania, Russia, Sweden, Switzerland, Slovakia, Turkey, UK and USA. Short-term observers were deployed throughout the country on election day to observe: voting, counting and the aggregation of the results in all 31 electoral districts.

LEGAL FRAMEWORK

The 1991 "Law on the Election of Members of the National Assembly, Municipal Councillors and Mayors" is the principal act governing parliamentary elections in Bulgaria. This law has remained substantially unaltered with the exception of a few amendments made shortly after its adoption in 1991.

The legal framework also included - the Political Parties Law 1990 (as amended and notified in the State Gazette No. 87 1990, SG No. 89 1990, SG No. 59 1996), Articles 167-172 of the Penal Code, resolution number 71 of the Grand National Assembly (30 August 1990) and, of course, the Constitution (SG No. 56 1991). In addition Constitutional Court ruling number 21 (14 November 1996) had a substantial effect on the rules governing the allocation of air time. Furthermore, appeals on CEC resolutions were decided by the Supreme Administrative Court.

The 1991 election law envisages municipal and parliamentary elections to be held consecutively. However, the adoption of a municipal election law in 1995 has superseded significant sections of the 1991 law. As a result the 1991 law contains numerous references to legal bodies that either do not exist, or whose functions have been superseded by other institutions. In spite of this, the 37th National Assembly failed to amend the 1991 law.

In February 1997, the Bulgarian Socialist Party declined to nominate a new government and the President entered discussions with the parliamentary parties with a view to holding early parliamentary elections. The parliamentary parties were joined by a new political formation - the Euroleft - and these parties agreed to a series of amendments to the 1991 law.

However, the inclusion of a clause to reduce the threshold of votes needed to win seats in the National Assembly from 4% to 3%, proposed in the National Assembly, which had not been agreed in the talks chaired by H.E. President Stoyanov, resulted in the President exercising his veto. Consequently, all the necessary changes to the law were not adopted prior to the dissolution of the National Assembly on 19 February. As a result it was then left to the Central Electoral Commission (CEC), nominated by the President, to implement and interpret what was recognised by common consent among the parliamentary parties to be an outdated election law.

Article 30 paragraph 2 of the 1991 law is a classic example of the problems facing the CEC. The 1991 law envisaged four tiers of administration for both parliamentary and municipal elections - a Central Electoral Commission, 31 District Electoral Commissions (DECs), Municipal Electoral Commissions based on the municipalities and below them the Section Electoral Commissions (SECs). The SECs have responsibility for the administration of polling day and the count, consequently the nomination appointment procedure and their composition are of critical importance for the credibility of the process. This article instructs Municipal Electoral Commissions to appoint the members of the Section Electoral Commissions. However, the MECs did not exist and were superfluous for holding National Assembly elections. So the CEC decided (resolution No. 6) to give the DECs authority to appoint SECs, as originally envisaged in the failed parliamentary amendments.

It was fortunate that none of the parties contesting the election, most of which had not been party to the political agreement brokered by the President, did not attempt to undermine the process by contesting CEC resolutions. It is a problem, however, that the body responsible for the administration of elections - the CEC - was forced into the situation where it had to both administer and interpret the law.

ELECTORAL ADMINISTRATION AND MANAGEMENT

In general, the electoral administration performed its duties efficiently and professionally. The twenty five member Central Electoral Commission, appointed by the President on 21 February (Presidential Degree No. 117), had overall responsibility for the implementation of the election law. Below the CEC were 31 District Electoral Commissions (DECs), with eleven members appointed by the CEC responsible for the appointment of the Section Electoral Commissions (SECs), the registration of candidate lists, monitoring the preparations of the SECs, appeals against the decisions of SECs, and overseeing the aggregation of the votes. Below the DECs were the 12,531 SECs, each one responsible for voting and counting on polling day.

At each level the election commissions were agreed through a series of talks brokered by either the local Mayor (for SECs) or the Regional Governor (for DEC). Members of the commissions were determined by a quota principle agreed in these discussions and were then appointed by a higher election commission. The Chairman, Deputy Chairman and Secretary were nominees of different parties and no party could have a majority of seats on any election commission. Decisions were taken by a two thirds majority.

In the past the CEC had, from time to time, been gridlocked when either of the two major parties - the UDF or the BSP - used their blocking minority vote (nine votes). Consequently, for this election, the President broke with tradition and nominated five Judges, proposed by the Supreme Council of Judges, and two presidential advisors in addition to an equal number of representatives for both the BSP and the UDF and a representative from each of the other parliamentary parties. Although the parties, particularly the BSP, who had only eight votes, complained about the composition of the CEC, few considered the decisions made by the CEC to be biased.

ODIHR met with 30 out of 31 DECs prior to election day, and was impressed by the competence of most of the DECs visited. Although no party had a majority of members on any DEC, the UDF and its coalition partners did have a majority of members on four DECs - DEC 12 (Montana), DEC 25 (Sofia City), DEC 24 (Sofia City) and DEC 23 (Sofia City). Furthermore, DEC 26 (Sofia region) claimed to have only two UDF nominees and four 'independent' judges. Although the composition of the DECs raised some complaints most parties remained confident that the DECs would act impartially. Furthermore it is worthwhile noting that of 30 DECs visited only two reported that the political parties had nominated advocates to attend their meetings, as they are allowed to do by law.

The SECs should have been appointed, according to the election law, 35 days before polling day, i.e. on the 14th of March. Coalitions contesting the election should have been registered 30 days before polling day i.e. 19:00, 19 March. Consequently some SECs had a majority of members who were nominated by one coalition - usually the UDF. Although this was not strictly a breach of the letter of the CEC's resolution, it was deemed to be in contravention to its spirit.

As a result the DECs received numerous complaints from other political parties. Ten DECs told the mission that they had to resolve complaints regarding the appointment of SECs and in almost every case the DEC resolved the issue to the satisfaction of the aggrieved party. For example, the Stara Zagora DEC (No. 27) appointed an extra 32 BSP nominees to SECs in the City of Stara Zagora. In the three Sofia City DECs (Nos 23, 24 and 25) the composition of almost 16% of the SECs were changed to take account of unofficial complaints registered with them by the political parties.

On the day of the election the short-term observers reported to the mission that only 7% of SECs visited had a majority of members nominated by one coalition. Clearly the timetable outlined in the law was the root cause of this problem. It may be advisable in future to be more consistent with the quota principle, reducing the possibility of partisan majorities on the Commissions.

Although a point of controversy at the time, this episode does underline one of the strengths of the election management in Bulgaria - the ability of the election authorities to resolve administrative disputes without the need for redress through the courts. In only a few exceptional cases did the parties appeal to the Supreme Administrative Court, which upheld all except one decision of the CEC.

THE REGISTRATION OF VOTERS

The lists of voters were initially prepared by the Ministry of Regional Development and Construction. As the elections had been called at such short notice, the Department for Civic Registration at this Ministry had less than one month to compile a voters list from the civil codes register. The Department, following a review of the voters lists used for the Presidential election last November and of the civil codes list, decided to delete 106,000 names. These lists were then dispatched to the municipalities on time.

The total number of voters on the preliminary lists circulated to each municipality, through the offices of the newly appointed regional governors, was 6,747,054.

The lists for each SEC were then posted in a public place by the municipality for one month. Voters had the right to apply for entry or deletion of themselves or other voters during this period. On the evening of 17 March the municipality signed off the list to the Chairmen of all the SECs in the municipal area. More than 100,000 Bulgarian citizens had been added to the lists by this date.

By polling day the numbers of electors of the roll were estimated to be almost 77% of the population. Although Bulgaria is acknowledged to have an elderly population this figure is remarkably high. Throughout the period of the ODIHR observation numerous academics and the Minister for Regional Development asserted that there was a substantial number of 'phantom electors' registered on the voters lists. Although the figures tend to suggest that there was some validity to this assertion, none of the municipalities reported substantial reductions in the number of electors registered on the initial voters list. In fact the original lists presented to the SECs had grown substantially. This continues to be a matter of concern and a review of the civil codes system may need to be addressed in the future to improve the accuracy of the voters lists.

PARTY AND CANDIDATE REGISTRATION

A total of 39 parties and coalitions registered with the CEC to contest the election were allocated a ballot paper. To contest elections a party must be registered under the Political Parties Law with the Sofia District Court. A party may be registered and allowed to contest elections if it has more than 50 members in the whole country, according to the Political Parties Law. Of the 39 parties which decided to contest the election one withdrew prior to the closing date and three others did not register any lists of candidates with the DEC's, thus leaving a total of 35 parties with candidates. No party officially registered under the party law was refused the right to contest the election.

A total of 3,551 candidates were nominated validly by 35 political parties and coalitions. Ten non-party candidates were nominated validly by initiative groups with the DEC's by 19:00 on 19 March. Non-party candidates are required under the election law to demonstrate considerably more public support than their party nominated opponents - a non-party candidate must be nominated by an initiative group with the support of at least 2,000 eligible voters registered in that district whereas a party can be registered in court if it has at least 50 members and may put up candidates across the whole country. This anomaly between the party law and the election law clearly encouraged aspiring candidates to form political parties rather than stand as an 'independent' and partially explains the very substantial number of parties contesting elections in Bulgaria.

A number of the smaller political parties' nominees were refused registration by the DEC's - usually because the application for registration of their list of candidates arrived after the closing date (19:00, 19 March). For example, four parties appealed against the decision of the Shumen DEC and one against the Varna DEC on the grounds that their application had been sent before the closing date but the post office had failed to deliver it on time. Their appeals were rejected both by the CEC and by the Supreme Administrative Court.

It should be noted that CEC resolution number 11, issued on 28 February, clearly identified the time and date for final registration of candidates' list. All CEC resolutions were published in a bulletin of the BTA. However, it became clear to the mission that a number of smaller parties were unaware of this deadline, often because they had not seen the relevant CEC resolution (parties have no automatic right to observe the meetings of the CEC).

ALLOCATION OF COLOURED BALLOT PAPERS

Each party was allocated a coloured ballot paper by the CEC upon receipt of all relevant documents signifying their decision to contest the election.

Parties that had contested the Grand National Assembly elections of 1990 could claim the same ballot paper allocated to them in 1990. The rest were designated ballot papers on a first come first served basis. Thus the BSP received the red ballot, the UDF the blue one. The remaining full colour ballots - one green, the other orange - were allocated to the Citizens Union for the Republic (GOR) and the Green Party of Bulgaria (who later joined the Union for National Salvation coalition).

The rest of the parties were allocated multi-coloured and multi-striped ballots by the CEC. For example, the Forum "Preobrajenie" was allocated one with three green horizontal stripes, the Democratic Alternative for the Republic one with three green vertical stripes. Non-party candidates have plain white ballot papers similar to those used in the Presidential ballot.

This system, originally intended to differentiate one party from another, was the source of considerable dispute. No Party was satisfied with the system, those with multi-coloured ballots claimed that it was confusing and that the parties with the full

colour ballot papers were given an unfair advantage. Moreover, the sheer cost of printing over 200,000,000 multi-coloured ballot papers was exorbitant and even the major parties expressed a desire to reform the system.

THE CAMPAIGN

The election campaign began formally on 20 March and ended at midnight on 17 April, 24 hours before polling day itself. The campaign, although robust at times, was conducted in a generally tolerant atmosphere free from intimidation or open manipulation.

The signatories to the political settlement made in February agreed to avoid any campaigning that might exacerbate tension. Given the serious political instability within the country only weeks before these accords were signed, they brought a sense of political stability. However, not all parties were satisfied with the framework governing these elections. The division of parties into two different categories - "A" and "B" - caused considerable discontent, particularly among the 30 parties and coalitions in category B (see section on Media below).

The election law stipulates that parties elected to the 1990 Grand National Assembly seven years ago with over 50,000 votes would receive state funds whereas those with less than 50,000 could apply for an interest free loan from the state on the condition that they had a bank guarantee. The amount of state funds made available per candidate was negligible amounting to only 30,000 leva (US \$ 20) (Council of Ministers resolution number 319, 20 March 1997). The UDF made a point of its decision not to take money from the state budget.

However, the parties clearly did spend considerable amounts of money during the campaign which often excited speculation among their competitors as to where the money had come from. There was an obvious lack of transparency which enabled competitors to turn this into a campaign issue.

The major parties, most notably the UDF, donated large amounts of money either through social and charitable organisations or municipalities to the poor and needy. On 12 April *Democratsia* - the UDF's in house newspaper informed readers that the party had donated over 150,000,000 leva (US \$ 100,000) to organisations in northern Bulgaria alone. The substantial and highly publicised donations given throughout the campaign by some of the major parties, although undoubtedly welcomed by their recipients, remain outside the legal framework under which only direct payment to individuals were deemed illegal. However, many unsubstantiated allegations were regularly made that individuals and parties were making direct donations to voters.

The major complaint at a district and section level concerned the role of the elected mayors. The law requires the mayor to play the role of arbiter in reaching a consensus between the parties when the DEC appoint the SECs. Furthermore, the law clearly restricts them from actively campaigning during the election campaign, even though they themselves have been elected on a party political ticket.

In many cases complaints about the mayor epitomised the political divisions of the

district - in UDF municipalities the BSP would complain, in BSP ones the UDF would complain. Although the mission was unable to verify these complaints, observers observed the newly appointed District Governor of Plovdiv, Mr Anton Andonov, urging voters at the final UDF rally in the city to vote for the UDF.

THE MEDIA

State owned media retains its dominant role as a provider of news. For example, Bulgarian National Televisions (BNTV) Channel 1 is the only station that can be received throughout the whole country. However the state sector's market share continues to be undermined by new private competitors. Darik Radio, for example, claims near parity with Bulgarian National Radio (BNR). Furthermore in common with the private media, the state owned media derives much of its income from advertising rather than from the state budget, and like most of the private media, has suffered the consequences of the current economic downturn and the concomitant loss of advertising revenues. Regardless of this fact only the private broadcast media could charge parties for advertising time during the election period.

However, the media in general, and the state owned sector in particular, command considerable public confidence. According to Gallup net public confidence in BNTV was as high as 53% and BNR scored 44% (Gallup March 1997). Despite these levels of popular confidence BNTV and BNR remain highly regulated whereas their private competitors are hardly subject to any regulation whatsoever.

Campaign coverage on BNTV and BNR were subject to regulations issued by the CEC (Nos. 103, 135 and 182). These regulations proved to be some of the most controversial, and yet went unchallenged in the courts.

In previous elections, media time was divided between parties represented in parliament and those outside. The former would be given advantages in terms of scheduling and coverage over the latter. This division was broadly defined by resolution number 71 of the Grand national Assembly (30 August 1991). However, in November 1996, the Constitutional Court was requested to rule on the Constitutionality of the new Radio and Television Act.

In its ruling (No. 21, dated 14 November 1996) the Court declared that Article 67 para. 3 which envisaged that parliamentary parties would be given 5 minutes of free air time was unconstitutional because it gave special privileges to one set of citizens (parties represented in parliament) over others (non parliamentary parties). Moreover the court expressed the view that this privilege "presupposes the use of the national mass media which are not funded by the political parties represented in parliament but by the earnings of every Bulgarian tax payer".

This section of the court's ruling, although disputed by some constitutional experts, was believed to have implications for the allocation of media time during the election. Consequently, a new definition was derived during the talks between the parties in February. The criteria, defined in the agreement signed by those parties, specified that parties represented in parliament and those with a certain standing in the opinion polls of three chosen pollsters would be given preferential access to state owned electronic media over the rest. Thus CEC resolutions 103 and 135 rest on the political agreement

as well the relevant legislation, and the ruling of the Grand National Assembly.

Consequently, CEC resolution 103 defined the media time available to two types of political parties and resolution 135 named the parties in each category. Category A parties and coalitions included: the UDF, the BSP led Democratic Left, the Bulgarian Business Block (BBB), the Union for National Salvation (UNS) led by the Movement for Rights and Freedom, and the Euroleft. All the rest fell into category B. What angered the category B parties most was that all category A parties had been the ones creating these criteria.

The Euroleft was the only non parliamentary party but it had been included because it had between 2.5-4% support in polls recorded by Gallup, MBMD and the National Public Opinion Centre (the level of support varied whether an agency asked the question unprompted or with the prompt card for interviewees) during February 1997. It was interesting to note that this party was also allocated a seat on the CEC.

The CEC resolutions, the political agreement and all the formal contracts between the parties and BNTV and BNR defined the allocation of media time: all parties received 5 minutes each for opening and closing statements (all on one night, lasting 3 hours), campaign chronicles of no more than 1 minute each for each party on each weekday, and 90 minute campaign debates on BNTV and 120 minute ones on BNR with a pre-determined agenda.

It was the allocation of debating time and the scheduling of campaign chronicles which emphasised the difference between category A and B. The five category A parties had three TV debates, the thirty category B parties were allotted two. Campaign chronicles for category A were scheduled immediately after BNTV's main evening news on Channel 1, category B parties were scheduled to follow the late night news on Channel 2. At no time did category B parties engage in debate with category A ones.

Clearly when 35 parties and coalitions are contesting a ballot the amount of time available is scarce. Equally the highly privileged position formerly allotted to the parliamentary parties was reduced, while still acknowledging different categories among the extremely large number of registered parties running candidates in the election. However the category B parties contested this on the grounds that the criteria deciding which parties would be in which category was set only by those who would, and could, satisfy the criteria to be in category A.

Clearly the allotment of time on the state owned channels during an election, which neither satisfied the state broadcasters nor the category B parties at this election, will need to be addressed by the new National Assembly.

However, national TV and Radio were not the only source of information for the public. The campaign and debates were covered exhaustively in the written press and all parties had the opportunity to advertise on the private radio and TV stations, and all category A parties and some category B ones availed themselves of this opportunity.

The regulations governing the private media and the written press are far less stringent than those governing the state owned electronic media. CEC resolution number 15 effectively repeated the relevant sections of the election law which said that parties, coalitions and candidates have the right to reply to defamatory articles if their appeal was upheld by the CEC and that the price of any paid advertisement must be offered to all parties on an equal basis and must be clearly marked.

The latter regulation was not always observed by the regional and local press. For example the campaign manager for one political party told the mission how they had paid for a sympathetic article on one of their leaders in the local press. This was not unique to only one party but seemed fairly widespread in many ways. It can be explained by the very low pay of most journalists and the desire for most papers to generate as much income as possible. However, with the exception of the national press, very few of these adverts were clearly marked out for their readers.

The Bulgarian Association for Fair Elections and Civil Rights (BAFECR) conducted a quantitative analysis of the media coverage, which they made available to the mission. Their findings confirmed that the national state electronic media continued to play a dominant role in the election coverage, although their analysis revealed that the quantity of coverage on BNTV and BNR had fallen in comparison to coverage of the Presidential election of last November. In contrast, coverage in the national printed press had almost doubled.

According to BAFECR's conclusions all major news outlets concentrated on the campaign of the category A parties to the detriment of those in category B. However, the coverage on BNTV and BNR was fairly evenly split between the category A parties. It was also clear that both BNTV and BNR were effectively restricted from cross-examining the programmes and policy pronouncements of all parties as a result of their obligations under the legal framework.

The national press and private media clearly had the opportunity to provide greater analysis and comment on the campaigns of the major parties and that was clearly reflected in the larger coverage given to each specific party or coalition in BAFECR's quantitative analysis. For example, the coverage of UDF's campaign in the printed press had a net positive rating of 39 points, the Euroleft had a net positive rating of 32 points, in comparison the Democratic Left (BSP led coalition) had a net positive rating of 2 points.

Although BAFECR's analysis revealed a clear 'bias' in coverage towards the UDF and the Euroleft, it was impossible to evaluate what impact this had on the voters. For example, although the UNS had a net negative rating of 13 points in newspaper coverage of the campaign, the coalition gained support throughout the campaign and ended up with 7.6% of the votes cast (the earliest set of polls published on 4 April in 24 Hours indicated support for the UNS between 3% and 6%).

In general, the coverage by the media throughout the election campaign conformed broadly to the legal guidelines. Although the original regulatory framework laid down by the Grand National Assembly never anticipated the number of competing parties, the impact of the ruling of the Constitutional Court created a legal vacuum that had to be addressed. The political agreements and resolutions of the CEC were an attempt to fill this vacuum.

However, they were clearly a source of discontent, not only for the state broadcasters who believed them to be too rigorous and out of step with the market they now compete in, but also by the so called category B parties who felt unfairly discriminated against. It will be up to the new legislative assembly to act to create a new legal framework for media coverage.

OBSERVATION ON POLLING DAY, 19 APRIL 1997

The administration of voting on polling day met the OSCE standards. The election was administered efficiently and without any serious infractions. The mission deployed 102 observers on polling day to observe voting in all 31 electoral districts. Each two-person observation team was asked to fill out an Observation of Voting form for each polling station visited. A total of 557 polling stations were visited on 19 April. Observers recorded that in 89% the voting was conducted correctly, 7% recorded that the voting was not quite correct, and 1% reported that they had observed some minor technical irregularities. According to all observers the SECs were very well organised and well prepared.

There were no reports of agitation outside polling station or campaigning inside them. Voters were allowed to exercise their right to vote free from pressure or intimidation and no observers reported any attempt to breach the secrecy of the ballot or any evidence of multiple voting.

After voters cast their ballot, an official marked the voters passport or relevant ID. In 95% of SECs visited, observers reported that this had happened and in only 4% of stations visited did observers note that ballot papers were missing. In every case observers drew this to the attention of the Chairman of the SEC and the ballot papers were replenished. In one such case in Sofia DEC 24, the OSCE/ODIHR international observers was commended by the CEC.

Observers met with representatives of the political parties who were either appointed as advocates or as observers in less than half of the polling stations visited. In over two thirds (67%) of the stations they met them and only 3% of them reported any irregularities to the international observers, none of which proved serious.

Observers were also asked to find out how many additional voters had voted on polling day. The observer report forms revealed that the average percentage of additional voters on polling day was 2% of those who had voted or an increase of just over 1% on the original list. Thus it was of considerable concern to the mission when substantial numbers of additional voters seemed to have been registered in the protocols supplied to the DEC (see Provisions for and Notation of Additional and Certificate Electors below). However, if the calculations of the CEC are correct then

the actual number of additional voters was approximately 2% of the total number of voters.

In general observers were extremely impressed with the level of organisation and competence of members of the SEC and the conduct of voting throughout polling day. It was quite clear that they were experienced and voting proceeded calmly and in full accordance with the law.

OBSERVATION OF COUNTING

Observer teams were requested to observe the counting of votes at one of the SECs in their area of deployment and to then follow the results up to the DEC. 41 observer teams responded and returned an Observation of Counting form to the mission. Although the overall impression reported by observer teams was very positive with 76% reporting that the counting was conducted strictly in accordance with the guidelines and law, one fifth of the observer teams were less satisfied and felt that the count observed was not quite correctly conducted. Only 2% reported minor technical irregularities.

Although all SECs were particularly careful when counting the votes for each party, observers noted that SECs did not always follow the procedures laid down in the CEC's Methodological Instructions. For example, a SEC in Kurdjali did not count the number of voters who had voted using a certificate, as also did one in Lovech. The same Lovech SEC did not count the number of people on the original voters lists or the number of additional voters. A SEC in Pazardjik did the same, although none of these instances had an effect on the outcome of the election.

Otherwise observers reported that the count in most polling stations was conducted efficiently and in accordance with the procedures and law.

AGGREGATION AND VERIFICATION OF THE RESULTS

Following the count the SECs packed the ballot papers and other materials, filled out their protocol (which has two carbon copies attached), and proceeded to the DEC. Observers were asked to follow them and observe the aggregation of the results at the DEC. Observers attended 24 out of 31 DEC. Only Blagoevgrad DEC refused to allow international observers to attend and watch the aggregation of the results.

Each SEC must present its results to the DEC; if all the 'mandatory columns' of the protocol are completed the SEC members (at least 3 including the Chairman and Secretary) then proceed to the computer operators who input the data into the computer system. Every hour these results were faxed through to the CEC computer centre, and were then issued on a regular basis throughout the night. Thus by midnight the CEC had released 50% of the results and by morning almost 97% (10:28, 20 April).

The contract for the computerised aggregation was put out to tender by the CEC and was won by the Mathematical Institute. The decision to award the contract to the Mathematical Institute (CEC resolution 127), which has undertaken this work in previous elections, was immediately challenged in the Supreme Administrative Court by two of the losing companies - Izbori Consult and Elkolt Ltd - on the grounds that the CEC decision was a breach of the election law.

However, neither company attended the hearing and the SAC decided to leave without deliberation the complaints and suspended proceedings, arguing that the complaint was inadmissible procedurally as the process of tenders for this contract was not subject to election law.

The software used for the computer aggregation was demonstrated publicly by the Mathematical Institute who also made considerable effort to explain the system in detail to ODIHR. Each figure written on the SEC's protocol was read out to the computer operator by the Chairman of the SEC. Another member of the SEC watched the screen to make sure the data inputted corresponded to the figures that were read out.

Once the data had been typed in, the computer ran and immediately checked on the figures - both basic and ancillary verification checks. If the computer revealed that one of the basic verification checks did not add up then the SEC consulted with the DEC and if necessary returned to the polling station and either recount or rewrite the protocol. Any changes to the protocol were witnessed by all members of the SEC.

Observers were asked to check if their DEC had rejected any SEC protocols. Most of them had, usually because the basic verifications checks indicated that the figures did not add up. According to observers the DEC's rejected over a quarter (26%) of SEC protocols up to and during the visit of observers to the DEC's, one third (33%) of these were rejected because the protocol did not match the basic verification checks. Just over one in five (22%) of those rejected were because the SEC had failed to fill in the mandatory columns. A further third were rejected for other reasons.

The members of the SECs - in many cases all members would attend the DEC or wait outside - would then either amend the figures or would return to the polling station. Although almost three quarters of SEC protocols were approved by the DEC's, observers were impressed by the diligence of DEC members and the care they took checking that the basic verification checks were correct.

The data in the computer were added to the database once the DEC was satisfied that the figures had been verified and all basic verification checks had proved positive. Once this was done the triplicate of the computer receipt was signed by the DEC Chairman, the SEC Chairman and the computer operator (each keeping one copy) and the data was then entered in the database. Observers stayed and observed the inputting of data until they were satisfied with procedures. They reported that many DEC's were well organised and efficiently run.

PROVISIONS FOR AND NOTATION OF ADDITIONAL AND CERTIFICATE ELECTORS

According to Citizens, who are not on the original list submitted to the SEC by the municipality may still vote if they can produce their internal passport with proof of residence. Their names are added below the line drawn under the original list of voters submitted to the SEC by the municipality. These electors are registered as 'additional voters' or 'below the line voters'. The number of 'additional voters' were written on line 2 of the protocol.

In addition, some citizens have the right to a 'certificate to vote elsewhere' which they may take to any polling station. However, the number of voters in this category is strictly limited to those directly involved in the election either as observers or working on the election. There is no general right to vote for absentee voters on polling day (although Hospitals, other institutions for the mentally ill, and Bulgarian flagged ships with more than 30 patients/ crew can be registered as a polling site).

The preliminary results issued by the CEC at 10:28 on 20 April revealed that the total number of registered electors had increased by almost 450,000 to 7,312,137. At first glance this seemed to indicate that more than 450,000 people had been registered as 'additional voters' on polling day. This very high figure created concern among domestic non-partisan election observers and some of the political parties. On 21 and 22 April, the Civic Initiative for Free and Democratic Elections and a number of the smaller, so called category B parties, complained to the mission that the number of 'additional voters' was improbably high and suspiciously concentrated in urban districts, which had voted overwhelmingly for the UDF.

According to the CEC, 507 SECs added the number of 'additional voters' to the number of people registered on the original list rather than just writing in the number of additional voters in line 2 of the protocol, thereby inflating the number of registered voters by 350-400,000. The ODIHR visited one municipality in Sofia - Lozenetz - and checked all the protocols against the official voters lists. In every case where the number of 'additional voters' written on the protocol was higher than the number of people registered on the original list the SEC had added the number of 'additional voters' to the number of people registered on the original list.

For example in SEC number 23-09-014 the protocol had a total of 685 people registered on the original voters list, the number of 'additional voters' written on the protocol was 687. However in reality only 2 people were added to the voters list on polling day in this SEC. This evidence seemed to validate the CEC's claim and satisfied the ODIHR observers.

Furthermore, the CEC had discovered that 90 SECs not only added line 1 and 2 of their protocol together but also added the sum of these two lines to the next one down thereby inflating the numbers of voters who voted with a 'certificate to vote elsewhere'. In 188 other SECs the number of voters who cast their votes with a certificate to vote elsewhere was over 25 - a surprisingly high figure given that most SECs had only seven members and would have been visited by only a few observers. These mistakes also seemed to indicate that a clerical error had been made.

Finally, a number of SECs did not take account of the number of people who had been deleted from their original voters list. These clerical errors account for almost all of the inflated figures for the number of registered voters that were issued at 10:28 on 20 April.

Unfortunately, this episode did cast a shadow over an election which was, by and large, run with considerable efficiency. Clearly further checks will need to be made by the CEC into these errors and procedures may require some changes prior to the next election, for example: rewriting the instructions on line 2 of the protocol, assessing the standard of training for SEC members particularly in the urban areas, and the reinstatement of the additional checks to the computer system.

It has to be noted also that this issue was specially addressed and analysed in detail in the CEC Bulletin with the complete election results published at the end of May 1997.

FINAL AGGREGATION AND VERIFICATION

On Sunday 20 April, each DEC had to bring their protocols, copies of computer receipts, copies of SEC protocols and numerous print outs supplied by the computer operators to the CEC in Sofia. All of these were checked by members of the CEC, working in shifts, in Sofia. Once the CEC members were satisfied that the DECs had brought all relevant documentation, the SEC protocols were taken upstairs to the CEC computer centre. The ODIHR mission observed this process.

Once the DEC documentation had been checked, the disk containing the SEC results for that DEC was loaded onto the CEC computers and the computer operators then typed over the numbers in each column. If at any stage the data on the disk (the written figures) did not match the data inputted by the CEC computer centre operators (the numbers) then the screen gave a warning, enabling operators to double check the data inputted by them.

Once this process had been completed, the Mathematical Institute began checking where there was a genuine difference between the data inputted by their operators in the CEC and the DECs and advised the CEC, if possible, how any mistake had occurred and if it could affect the outcome of the elections. A decision on each mistake was then made by the CEC. In general the mission was extremely impressed with the level of organisation and the very efficient management of the whole aggregation process.

On Friday 25 April the final results of the election were officially announced by the CEC (resolution No. 265). However it was quite clear by lunchtime on Sunday 20 April which parties had cleared the 4% threshold and the early exit polls announced by BAFECR at 21:00 on the evening of 19 April also proved correct within the margin of error. Thus voters knew, within a very short space of time after the close of polls, which parties were elected and approximately how many seats each had won. All five category A parties cleared the threshold and no other party was close to securing a mandate. Consequently no party challenged the outcome of the election.

Only the unseen administrative mistakes over the numbers of additional voters marred what was a well managed and administered election which met the OSCE election related commitments.

CONCLUSIONS

Administratively these elections easily conformed to the OSCE standards despite the administrative errors made in the compilation of protocols by some election commissions, which, although unfortunate, did not affect the outcome of the election. Furthermore, the campaign, although robust at times, was conducted in a tolerant atmosphere.

However, the original legal framework laid down in the 1991 election law, the 1991 party law and the 1991 resolution of the Grand National Assembly never anticipated the development of the current political system or the number of parties that would contest elections. This legal framework is, by common consent, outdated. Furthermore, the ruling of the constitutional court on the Radio and Television Act left a legal vacuum that had to be addressed. Belatedly the political parties were forced to reach a political agreement but legislation still remained unamended.

Thus the CEC, responsible for the management of the elections and implementation of the law, was forced to interpret the law in the light of these political agreements. Clearly this was not an ideal situation.

Furthermore, the division of parties into A and B categories continued to be a point of controversy, particularly as the criteria for selecting parties was created by those parties which would benefit from them. Although there had to be some practical way of allotting access to state television and radio, it was a system that neither satisfied the parties nor the broadcasters, particularly as the latter compete in the same market place with their private sector rivals and also relied on advertising revenue. Finally the lack of transparency in the funding of the parties and the manner in which these funds were expended still remain broadly outside the legal framework.

In conclusion, a full scale review of the election law and related legislation needs to take place prior to the next set of National Assembly elections to bring the legal framework up to date with the new political realities that exist in Bulgaria.

RECOMMENDATIONS

Following the National Assembly elections of 19 April 1997 the mission would wish to suggest the following recommendations based on its observations:

Election Law-

The 1991 Law on the Election of Members of the National Assembly, Municipal Councillors and Mayors needs to be reviewed, reformed and brought up to date. In particular the sections relating to the election of mayors and municipalities should be amended as well as sections relating to the appointment of District Election Commissions.

Political Parties Law-

The 1991 Political Parties Law should also be included in any review of the legal framework. In particular the review of the Political Parties Law should take account of the anomalies regarding the threshold for nomination of non party candidates and the extremely liberal threshold of only 50 members required to register a political party and contest elections.

Voters Lists-

The compilation of voters lists requires further attention. In particular municipalities should be encouraged, either through legislation or otherwise, to regularly update the lists in cases where citizens have either left the district or are deceased.

Nomination of Candidates-

Clear guidelines should be issued by the CEC to all registered parties regarding the nomination of candidates. In particular, parties should be made aware of the deadlines for the nomination of candidates and parties contesting the election should either have observer status at meetings of the CEC or should receive copies of the CEC's resolutions.

Coloured Ballot Paper System-

The coloured ballot paper system should be reviewed: not only is it extremely expensive but it no longer commands the confidence of the political parties. The system could either be brought into line with the system of white ballots for Presidential elections and for non party candidates in National Assembly elections or a single ballot system could be considered.

Campaign Finance-

There is a clear need to review the regulation regarding campaign finance, particularly as one major party eschewed their allotment of state funds, and most category A parties made substantial donations, through social and charitable organisations and municipalities, to the poor and needy during the election campaign. Furthermore, consideration should be given during such a review for the need to improve the accountability of campaign donations, particularly as they were a source of considerable speculation during the campaign.

Access to Media-

Clearly the original regulatory framework regarding the access to the media has been superseded by events and is in need of reform. Any review of the system of allotting media time should take account of the concerns of the broadcasters as well as the political parties. Given the growth of the private sector some consideration should be given to the regulations governing both state and private broadcasters. Furthermore, the criteria for dividing parties into two unequal categories should be reviewed in the light of any reform to the election law and the political parties law, particularly if the effect of this reform would dramatically reduce the number of contestants.

Administration of the Electoral Process-

The administration of the electoral process was overall assessed very positively. However, the failure of some SECs to fill out their protocols according to procedures does require attention. A review of training, particular of urban SECs, should take