



ELECTION OBSERVATION MISSION
The former Yugoslav Republic of Macedonia
Municipal Elections, Second Round, 29 October 2017

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

The 29 October second round mayoral elections were competitive and the respect for fundamental freedoms contributed towards the conduct of democratic elections. The campaign was short and subdued, with parties vying for support from beyond their traditional base though occasionally using aggressive rhetoric. Isolated cases of misuse of administrative resources and vote-buying were reported. Media continued providing balanced coverage of contestants, but this was overshadowed by negative campaigning spots. Election day was overall professionally managed, although the performance of polling staff during counting could have been enhanced.

The legal framework provides for fundamental rights and freedoms and generally forms a sound basis for the conduct of democratic elections. Most provisions of the Electoral Code (EC) are applicable for the second round; however, the EC does not clearly regulate certain aspects, reducing coherence of the electoral legal framework.

The State Election Commission (SEC) improved the transparency of its work between rounds. It did not, however, adequately plan for additional trainings, voter education and financial support for 10 municipalities with blocked accounts. The work of the Municipal Election Commissions was largely assessed positively, however, at least one case of perceived political bias were noted.

The system for election day-related complaints is centralized. The SEC reviewed and rejected all 46 post first-round complaints. While not meeting the 48-hour legal deadline, all cases were decided in open sessions and decisions published online, contributing to transparency. However, the manner in which many complaints were handled challenged the rule of law and due process, contrary to OSCE commitments. The Administrative Court upheld all SEC decisions that were appealed.

Updating voter lists between rounds is not provided for in the law, effectively disenfranchising voters who turned 18 years old in this period. More than 900 voters in penal institutions were unable to exercise their suffrage rights in both rounds, as they lacked valid identification documents. The SEC adopted a decision, by which voters who were on voter lists, but whose identification documents expired, were not allowed to vote.

In total, 68 candidates from 8 parties, as well as 2 independents contested the second round; six candidates were women. The campaign became dynamic only a few days before the second round. Campaign strategies were re-designed, and methods modified to target undecided voters. Some parties expressed concerns on the Prime Minister pledging government support for municipalities with mayors from the governing coalition. This action undermined the separation of the state and party, contrary to OSCE commitments.

In the run-up to the second round, news coverage of the campaign was limited, but increased in the final week. On private media, paid advertising was dominated by the two larger parties, mostly negative in tone. The effectiveness of adjudicating media-related complaints ahead of the second round was undermined by the courts missing legal deadlines.

Election day was overall well managed. However, procedural irregularities observed during the counting process detracted from the positive assessment, and in more than half of polling stations

observed, results protocols were not displayed. Tabulation was assessed as efficient and transparent. Tensions outside of some polling stations due to the presence of party activists were observed in two municipalities; some cases of pressure on voters, as well as several cases of vote-buying, were referred to the authorities. Following the end of voting, the governing coalition endorsed the electoral process, while the main opposition party declared that it would not recognize the election results due to alleged widespread violations before and on election day.

PRELIMINARY FINDINGS

Background and Post-First Round Developments

The first round of elections took place on 15 October. Mayors were elected in two-round majoritarian contests, and councillors were elected under a single-round proportional system. Final first round results were announced by the State Election Commission (SEC) on 24 October, and showed close races in a number of mayoral contests.¹ Forty-six mayors were elected in the first round. Of these, 38 are from the Social Democratic Union of Macedonia (SDSM), 3 from the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonia National Unity (VMRO-DPMNE), 2 from the Democratic Union for Integration (DUI), 1 from the Democratic Party of Turks in Macedonia (DPTM) and 2 independents; among the elected, three were women.² Following the first round, in municipalities where the elections were declared final, a peaceful transition of power occurred.

Mayoral runoffs were called for 29 October in 35 municipalities, which included 70 candidates, including two independents.³ Of these, six were women. Ahead of the runoff, the Alliance for Albanians (AA) announced a new coalition with the Movement BESA (BESA), while the SDSM recommitted to support the DUI.

Post-First Round Complaints and Appeals

The legal framework establishes a centralized process for election day-related complaints, with the SEC adjudicating cases submitted only by electoral contestants concerning irregularities in voting, counting and tabulation processes. These SEC decisions could be appealed to the Administrative Court. Contestants have the right to submit complaints within 48 hours from the publication of preliminary results. However, the SEC announced a unified deadline, not considering the actual time when each Municipal Election Commission (MEC) published its results.⁴ This significantly shortened the timeframe for some complaints and undermined the right to seek an effective legal redress. In addition, unduly strict provisions require the SEC to annul polling station results in case of procedural irregularities, including minor ones.⁵

The SEC received 46 post first-round election day complaints, the vast majority lodged by the largest opposition coalition. Most concerned minor irregularities, while all requested the annulment

¹ In Shtip, the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonia National Unity (VMRO-DPMNE) candidate received (48 per cent) and the the Social Democratic Union of Macedonia (SDSM) (47 per cent); in Kisela Voda, the VMRO-DPMNE (45 per cent) and SDSM (49 per cent); in Gazi Baba, the VMRO-DPMNE (44 per cent) and SDSM (47 per cent).

² In total, 455 women were elected to the municipal councils, which represent 33 per cent. Council elections countrywide were predominantly won by the SDSM (41 per cent), VMRO-DPMNE (32 per cent), DUI (10 per cent), followed by BESA (5 per cent), AA (5 per cent), Democratic Party of Albanians (1 per cent), DPTM (1 per cent), other smaller parties and independent candidates (3 per cent each).

³ To win in a second round, a candidate simply needs to receive the most votes.

⁴ The SEC set the deadline at 02:00 on 18 October, based on the incorrect assumption that all MECs published preliminary results by 02:00 on 16 October. The last posting of results by MECs was at 22:00 on 17 October.

⁵ Other grounds include extra ballots in the box, voting in place of another voter and suspension of voting for more than three hours.

of polling stations results.⁶ The SEC rejected all complaints, with members deciding along political lines, in contravention of a requirement of impartiality.⁷ While many cases were substantively examined, thoroughness varied.⁸ In some cases, the grounds of rejection were unreasonable, and some lacked a clear and sound legal basis.⁹ Several cases were denied consideration on technical grounds, contrary to international good practice.¹⁰ The manner in which many complaints were handled challenged the rule of law and due process, contrary to OSCE commitments.¹¹ While not meeting the 48-hour deadline, the SEC decided all cases in open sessions and complaints and decisions were promptly uploaded to the SEC website, contributing to transparency.

Twenty-eight SEC decisions were appealed to the Administrative Court, almost all within the 24-hour deadline. As a general rule, public hearings are not held in the Administrative Court, limiting transparency in election dispute resolution. However, the court held open sessions to provide information about the cases, as required by the EC; decisions were made within the 48-hour deadline and promptly published.¹² All appeals were rejected, leaving substantiated cases without an effective remedy. Overall, the deadlines for the submission and handling of post-election complaints and appeals are unreasonably short, contrary to international good practice.¹³

Legal Framework

The legal framework provides for fundamental rights and freedoms, including the protection of minority rights, and generally forms a sound basis for the conduct of democratic elections. Most EC provisions are applicable for the second round; however, the EC does not clearly regulate certain aspects of the process, reducing coherence of the electoral legal framework. This includes an absence of provisions on the possibility to update voter lists, applications for homebound voting, the allocation of billboard and poster space and the accreditation of observers.

Election Administration

Second round contests were administered by the SEC, 35 MECs located in the municipalities where runoffs occurred, and 1,517 Election Boards (EBs). The SEC's secretariat identified EBs and MECs

⁶ Complaints concerned some 80 polling stations and pertained to elections in nine municipalities and the City of Skopje. The majority alleged giving voters extra or wrong ballots, small numbers of extra or missing ballots in the box, or protocol copies that were incomplete, unsigned, or the figures did not reconcile.

⁷ The session was dominated by four members; the two VMRO-DPMNE-nominated members advocated for the approval of their party's complaints, the two SDSM-nominated members called to dismiss those complaints.

⁸ In some cases, the SEC summoned lower-level commission members for questioning, examined election materials and conducted recounts.

⁹ Grounds for rejection included the absence or presence of a remark in the protocol about the irregularity, the fact that the SEC had instructed, on request, a MEC on how to address a similar irregularity, as well as the lack of serious nature of the violation.

¹⁰ Section II.3.3 (96) of the 2002 Council of Europe's Commission for Democracy through Law (Venice Commission) [Code of Good Practice in Electoral Matters \(Code of Good Practice\)](#) states that "it is necessary to eliminate formalism, and so avoid decisions of inadmissibility, especially in politically sensitive cases." For example, a complaint proving that the figures for votes of two parties were switched in the electronic system was denied consideration and the error was not corrected.

¹¹ Paragraph 5.10 of the [1990 OSCE Copenhagen Document](#) states that "Everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity". See also paragraph 18.2 of the [1991 OSCE Moscow Document](#).

¹² The cases were decided by panels of randomly selected judges. Four judges under pending indictment for misconduct in adjudicating a 2013 municipal elections case were among the selected judges.

¹³ The SEC adjudicated all post-election complaints in a 23-hour long session, and under the time pressure, significantly sped up its examination in the second half of the session. Section II.3.3 (95) of the Code of Good Practice states that "time limits must...be long enough to make an appeal possible, to guarantee the exercise of rights of defense and a reflected decision. A time limit of three to five days at first instance (both for lodging appeals and making rulings) seems reasonable...It is, however, permissible to grant a little more time to [the highest court] for their rulings".

that needed additional training on how to fill in results protocols.¹⁴ However, the trainings provided by the SEC were not implemented nationwide and those observed by the OSCE/ODIHR EOM were assessed as insufficient. In addition, as in the first round, the SEC did not detail procedures for MECs in correcting mistakes in the protocols and its instructions for lower-level commissions lacked clarity.¹⁵ Positively, six MECs organised trainings for EB staff on their own initiative.

During counting for both rounds, the validity of ballots was determined according to a SEC decision. In contradiction with the EC, it required EBs to invalidate certain ballots on which the intent of the voter was clear.¹⁶ This, in addition to a lack of provisions for spoiled and blank ballots, contributed to a significant number of invalid ballots.¹⁷

The costs of administering the elections are borne by municipal governments, except when the municipality's account is blocked by a court decision. In such cases, funding is supplied by the state budget, based on costs of previous elections. However, the SEC did not transfer funds in a timely manner, leaving 10 MECs in financial difficulties. Seven MECs informed the OSCE/ODIHR EOM that they financed the elections from their members' personal funds.¹⁸

The SEC improved its transparency between rounds by announcing sessions and their agendas in advance and posting some decisions of recent sessions online. However, the SEC continued to make some decision in closed meetings.¹⁹ The work of MECs was largely assessed positively by the OSCE/ODIHR EOM; however, at least one case of perceived political bias was noted in the run up to the second round. Voter education spots increased in the last week ahead of the elections; however, the SEC's overall outreach efforts were minimal.

Voter Registration

There are no legal provisions for updating voter lists between rounds, effectively disenfranchising voters who were excluded from voter lists for having expired identification documents (ID) and who turned 18 years old in that period, at odds with OSCE commitments.²⁰ The SEC informed the OSCE/ODIHR EOM that more than 900 voters in penitentiary institutions were not included on lists as they did not have valid ID and were not able to vote in either round. In addition, as there are no provisions to accommodate voters in hospitals, long-term care facilities and retirement homes, those voters were also disenfranchised.

On 25 October, the SEC adopted a decision by which voters who were on voter lists but whose IDs had expired between rounds were unable to vote.²¹ The SEC urged these voters to renew their documents before the second round.

¹⁴ The composition of EBs and MECs largely remained the same for the second round.

¹⁵ For example, nationwide results in the first round showed a discrepancy of 922 between ballots cast and voters who voted in mayoral elections and a discrepancy of 310 in municipal council elections.

¹⁶ The EC states that a ballot is valid if the candidate's ordinal number is circled or it is marked in an "unambiguous" way. However, the SEC's decision and the EBs' training material state that any mark other than "a complete circle" renders the ballot invalid.

¹⁷ In the first round, 4.2 per cent of all ballots cast were determined as invalid; in one municipality, invalid ballots reached eight per cent; in a dozen, they were above five per cent. In seven municipalities, the number of invalid votes were so high that no candidate received 50 per cent of all votes cast, requiring a second round.

¹⁸ On 25 October, the SEC decided to transfer MKD 538,000 (approximately EUR 8,500) to cover transportation costs of lower-level commissions.

¹⁹ For example, on 23 October, the SEC decided against changes to the EB composition. The same decision was voted again in an open session on 24 October.

²⁰ Paragraph 7.3 of the 1990 OSCE Copenhagen Document commits participating States to "guarantee universal and equal suffrage to adult citizens".

²¹ As per the EC, voters must present a national ID or passport; it does not explicitly mention validity.

Campaign Environment and Campaign Finance

The official campaign period for the second round started on 16 October and ended on 27 October at midnight.²² The generally peaceful atmosphere exhibited during the first round continued for the second round. Electoral contestants campaigned freely and without restrictions. The OSCE/ODIHR EOM noted many allegations of voter pressure, intimidation and vote-buying by different parties; a few were credible.²³ Some criminal complaints were filed with the Public Prosecutor's Office.²⁴

The campaign became dynamic only a few days prior to the runoffs. Campaign strategies were redesigned centrally, but unlike before, candidates were given more autonomy locally. Overall, campaigns focused on direct communication and face to face interaction with voters. Candidates continued using official Facebook pages for campaigning; however it was to a lesser extent compared to the first round. Some candidates focused on communities where turnout was particularly low during the first round. Campaign rhetoric was more intense and occasionally aggressive in ethnic Albanian areas, as compared to the municipalities with SDSM and VMRO-DPMNE candidates.²⁵ OSCE/ODIHR EOM interlocutors noted that the second round was more competitive, with parties vying for support from outside their traditional base. Women candidates who met with the OSCE/ODIHR EOM did not express concern on the lack of equal opportunity to campaign.

During the second round campaign, there were only a few large-scale rallies with parties' national leadership often present. The Prime Minister, at times in his official capacity, addressed the electorate at SDSM rallies, and used Twitter to send campaign messages.²⁶ He promoted inclusivity, local development and European Union and NATO integration. Some parties expressed concerns on the Prime Minister pledging government support for municipalities with an SDSM or DUI mayor.²⁷ These actions undermined the separation of the state and party, contrary to OSCE commitments.²⁸

The ceiling for campaign expenditures was the same as for the first round. Two interim reports were required by contestants before the first round although there were no sanctions against those who failed to submit them on time. A third interim campaign finance report was due on 28 October, and

²² The EC does not specifically regulate the start of campaign in the second round, however it is assumed that it commences after the first round election day.

²³ For example, in Struga, three persons were arrested and charged with vote-selling and vote-buying. In Kavadarci, one person, close to one party, pressured two employees to collect 50 voters. After they refused, they were fired. In Zrnovci, a VMRO-DPMNE activist was summoned for interrogation by police regarding the criminal offence of violating the voters' freedom of choice. In Cheshinovo-Obleshevo eight members, and in Zrnovci, five VMRO-DPMNE members were interrogated by the police on reported vote-buying allegations.

²⁴ On 29 October, the SEC found a case about road construction in Kisela Voda in violation of Article 8a of the EC and forwarded to the Public Prosecutor's Office.

²⁵ In municipalities where smaller ethnic communities' votes are decisive, candidates reached out to voters of such ethnic groups.

²⁶ The OSCE/ODIHR EOM observed such events in Chair, Gazi Baba, Gostivar, Karbinci, Shuto Orizari, Staro Nagorichane, Struga and Vinica. In addition, on 27 October, on a Twitter account dedicated to his official capacity as the Prime Minister and as SDSM leader, he promised lowering of water prices by 10 per cent to all households in Shtip after the elections. Also, the SDSM candidate in Shtip reported to law enforcement about allegations that the VMRO-DPMNE mayor has initiated road construction in the election period, in contravention of the EC and Criminal Code.

²⁷ A number of concerns were raised by AA and BESA candidates.

²⁸ Paragraph 5.4 of the 1990 OSCE Copenhagen Document calls for "a clear separation between the State and political parties; in particular, political parties will not be merged with the State". The OSCE/ODIHR and Venice Commission [Joint Guidelines For Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#) provides that "in order to prevent the misuse of administrative resources to imbalance the level playing field during electoral competitions, the legal framework should state that no major announcements linked to or aimed at creating a favourable perception towards a given party or candidate should occur during campaigns."

only five contestants complied with this requirement, reducing transparency of the process.²⁹ Most submitted reports were published on the SEC website upon receipt.

Media

In the run-up to the second round, the OSCE/ODIHR EOM monitored media mainly focused on the outcomes of the first round with limited reporting on second round campaigning.³⁰ News coverage devoted to the contestants increased only in the final week of the campaign. As required by the EC, the public broadcaster provided contestants with free-of-charge air time during prime time; five candidates used this opportunity. As in the first round, the OSCE/ODIHR EOM media monitoring indicated that the public broadcaster covered all contestants in a balanced way and neutral in tone. It devoted, among others, 25 per cent of news coverage to the SDSM, 24 per cent to VMRO-DPMNE, 20 per cent to DUI, 15 per cent to BESA and 9 per cent to AA.

Private channels devoted 40 per cent of news coverage to the SDSM, 35 per cent to VMRO-DPMNE, 9 per cent to DUI, 9 per cent to AA, 4 per cent to BESA and 2 per cent to DPA.³¹ A high number of paid advertising spots, negative in tone, were largely used by the VMRO-DPMNE, and at times by the SDSM.

Debates were organized by various broadcast media among mayoral candidates in their respective municipalities. In total, eight debates were hosted by the public channel, MTV1, and the private channel, *Kanal 5*, between SDSM and VMRO-DPMNE candidates; no debates took place featuring ethnic Albanian and independent candidates.

The Agency for Audio and Audio-visual Media Services (AVMS) initiated two misdemeanour proceedings against some broadcasters during the second round. The cases concerned violations of the EC provisions on paid political advertising limits and unbalanced reporting. The Basic Court issued decisions in two cases from the first round, imposing fines lower than prescribed by the EC. Both were appealed by the AVMS on grounds that the fines were insufficient.³² The court still has to decide on this appeal. The effectiveness of adjudicating media-related complaints ahead of second round was undermined by courts missing legal deadlines.

Citizen and International Observers

All accredited citizen observer groups continued their observation activities, including deploying observers for the runoffs.³³ Despite the absence of legal provisions for the second round, the SEC allowed the submission of new lists of observers for already accredited organizations.

Election Day

Early voting and election day were overall well managed. However, procedural irregularities observed during the counting process detracted from the positive assessment. The OSCE/ODIHR EOM is aware of five cases initiated by the police on voters taking photos of their ballots; two cases

²⁹ The VMRO-DPMNE informed the SEC that it sent its report by post.

³⁰ The OSCE/ODIHR EOM conducted media monitoring from 21 September to 15 October; and from 16 to 29 October. It included the quantitative and qualitative monitoring of six TV channels: MTV1, MTV2, *Sitel*, *Kanal 5*, *Telma*, *Alsat-M* and four daily newspapers: *Nova Makedonija*, *Sloboden Pecat*, *Vecer* and *Koha*.

³¹ Overall, monitored private electronic media demonstrated a rather neutral tone towards candidates in news coverage.

³² While the EC prescribes fine of EUR 8,000 and EUR 4,000 for such violations, only fines of EUR 4,500 and EUR 2,250, respectively, were imposed.

³³ The SEC accredited six citizen observer groups: MOST, CIVIL, the OHRID Institute for Economic Strategies and International Affairs, SINERGIJA, the Macedonian Centre for Culture and Development, the Centre for Understanding and Constitutional Cooperation.

on vote-buying were referred to the authorities.³⁴ A robust police presence around polling locations in some municipalities was noted. Partisan and citizen observers were present in 92 and 54 per cent, respectively, of polling stations observed. In 53 per cent of observations, EBs were chaired by women, and the majority of EB members were female.

Early voting on 28 October was positively assessed in all 9 prisons and in 40 of 44 observations of homebound voting. Observers' negative assessments were attributed to compromised vote secrecy and the absence of the ballot box.

On election day, opening was positively assessed in 44 of 45 polling stations observed. The integrity of the process was not affected by a number of observed minor procedural irregularities. In five cases, protocols were not filled in, and in one municipality, the number of registered voters printed on protocols was incorrect; the SEC was required to correct the error.

Voting was positively assessed in 97 per cent of polling stations observed. However, tensions outside some polling stations due to the presence of party activists were observed in two municipalities.³⁵ Observed procedural irregularities included family voting (6 per cent), compromised vote secrecy (2 per cent), and partisan observers overstepping their mandate (2 per cent). The SEC advised three MECs on how to address various irregularities.

Polling stations closed on time and most EBs followed closing procedures. However, counting was negatively assessed in 8 of 44 observations. In 14 cases, EBs did not properly determine the number of voters who voted, and in 9 cases, they did not count unused ballots. More than half of EBs observed did not display result protocols, undermining transparency.

The tabulation of results was efficient and transparent in all 35 MECs observed. The centralized result management system operated properly in all but one MEC. In 16 MECs, a number of EB results protocols with numerical errors were corrected, indicating insufficient training on how to complete them. In six MECs, official complaints were filed.

The SEC started publishing preliminary results by polling station online shortly after the closing of the polls. Voter turnout was announced at 51.92 per cent. While the SDSM and DUI endorsed the electoral process, the VMRO-DPMNE declared that it would not recognize the election results due to alleged widespread violations before and on election day.

MISSION INFORMATION AND ACKNOWLEDGEMENTS

Skopje, 30 October 2017 – This Statement of Preliminary Findings and Conclusions is the result of the observation by the Election Observation Mission (EOM) deployed by the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR). The assessment was made to determine whether the elections complied with OSCE commitments, other international obligations and standards for democratic elections, and with national legislation.

Ambassador Audrey Glover is the Head of the OSCE/ODIHR EOM, deployed from 13 September.

The OSCE/ODIHR has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the handling of possible post-

³⁴ In total, 28 cases were received by the Ministry of Interior on various violations. The OSCE/ODIHR EOM observed two instances of voters taking photos of their ballots.

³⁵ The SEC received two complaints on pressure of voters at polling stations in Gazi Baba and Shuto Orizari. The Ombudsman received two similar complaints from a polling station in Shtip.

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 electoral process.

For the second round, the OSCE/ODIHR EOM included 17 experts in the capital and 17 long-term observers and 88 short-term observers deployed throughout the country. On election day, 126 observers were deployed, drawn from 25 OSCE participating States.

The observers wish to thank the authorities of the host country for the invitation to observe the elections, and the State Election Commission for its assistance. They also wish to express their appreciation to other state institutions, political parties and civil society organizations and the international community representatives for co-operation.

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*The English version of this Statement is the only official document.
An unofficial translation is available in Macedonian and Albanian languages.*