



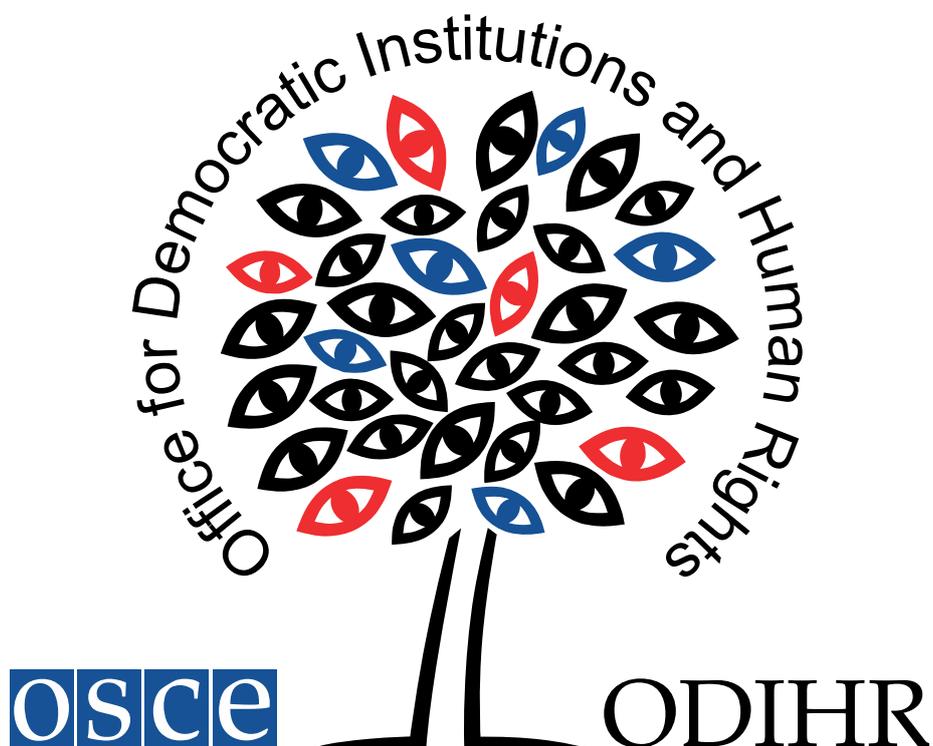
Office for Democratic Institutions and Human Rights

# BOSNIA AND HERZEGOVINA

## GENERAL ELECTIONS

2 October 2022

ODIHR Election Observation Mission  
Final Report



Warsaw  
2 February 2023

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**BOSNIA AND HERZEGOVINA**  
**GENERAL ELECTIONS**  
**2 October 2022**

**ODIHR Election Observation Mission Final Report<sup>1</sup>**

## **I. EXECUTIVE SUMMARY**

Following an invitation from the authorities of Bosnia and Herzegovina and based on the recommendation of a Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Observation Mission (EOM) for the 2 October 2022 general elections. The ODIHR EOM assessed the compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections, and national legislation. For election day, the ODIHR EOM was joined by delegations of the OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe, the European Parliament and the NATO Parliamentary Assembly to form an International Election Observation Mission (IEOM).

In its Statement of Preliminary Findings and Conclusions issued on 3 October, the IEOM concluded that the elections “were overall well organized and competitive. However, regrettably, the increasing segmentation along ethnic lines and the corresponding divergent views on the future of the country remain a concern for the functioning of democratic institutions. Universal and equal suffrage is still not guaranteed. Failed negotiations among political parties left the electoral legal framework without needed reforms; nevertheless, recently introduced amendments strengthened some aspects of the electoral process. Election preparations were managed in an overall efficient and transparent manner by upper-level election commissions. Political impasse, a general mistrust in public institutions and references to the country’s wartime past marked the electoral environment. Women’s active participation was undermined by insufficient efforts to overcome long-standing gender stereotypes. During the campaign, fundamental freedoms were respected. However, the lack of public debate and the use of divisive rhetoric, also reflected in the limited and biased media coverage, reduced voters’ opportunity to make an informed choice. Election day was overall orderly, but impacted by concerns regarding the secrecy of the vote and inconsistent application of procedural safeguards, mainly during the vote count.”

The legal framework is generally conducive to democratic elections. Nevertheless, ethnicity and residency-based restrictions on the right to stand as a candidate for certain contests challenge the principle of universal and equal suffrage and are contrary to OSCE commitments and other international standards. Equal suffrage was further challenged by the lack of a regular review of electoral constituency boundaries. Lack of uniformity between several laws at different levels and a number of additional shortcomings undermine the effectiveness of the legal framework. Many previous ODIHR recommendations remain unaddressed, including on increasing the transparency of election dispute resolution and the formation of Polling Station Commissions (PSCs).

Following failed discussions to introduce needed legal changes, on 27 July, after the elections were called, the High Representative, the head of the *ad hoc* international institution mandated to oversee the implementation of civilian aspects of the Dayton Peace Agreement, imposed several changes to the legislation related to holding of elections. While these amendments introduced important integrity safeguards to the election campaign and election organization and addressed some prior ODIHR recommendations, their late adoption inhibited effective implementation of the changes. On election day, following the close of polls, with the stated aim to improve the functionality of the institutions of the Federation of Bosnia and Herzegovina, the High Representative amended, *inter alia*, provisions governing the indirect elections to the House of Peoples of the Federation of Bosnia and Herzegovina

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<sup>1</sup> The English version of this report is the only official document. An unofficial translation is available in Bosnian, Croatian and Serbian.

from cantonal assemblies. These amendments challenged legal certainty, as the full impact of the cantonal assembly vote was not foreseeable to electoral contestants and voters.

The Central Election Commission (CEC) administered the elections efficiently, transparently and within the legal deadlines, despite delays caused by the late disbursement of the required funds and a critical lack of human resources. Prior to the elections, the upper-level commissions, in particular the CEC, enjoyed confidence of most stakeholders. Their trust in the PSCs remained low due to widespread accusations that some political parties continued the practice of so-called “trading PSC positions” to control polling stations on election day. The training provided for PSC members was overall comprehensive. The voter education activities conducted by the CEC were largely insufficient, in part due to a lack of human and financial resources.

There is general trust in the accuracy of the voter register. While the CEC undertook continuous efforts to remove outdated entries from the voter register, its efforts were hindered by the lack of effective mechanism of reporting and removing records of deceased citizens from local civil register databases. Restrictions on the right to vote for those with intellectual and psychosocial disabilities remain, contrary to international standards. Positively, the CEC established a new online registration platform for out-of-country voting, which streamlined the process and reduced the possibility of fraudulent registration and human error. The final number of registered voters was 3,368,666, including 69,966 voters registered abroad.

The right to stand as candidates for the state and entity presidencies remains limited to voters self-declared as Bosniaks, Croats, or Serbs, contrary to the decisions of the European Court of Human Rights. Candidates may be nominated by political parties and coalitions or stand independently. The CEC conducted candidate registration in an inclusive manner and registered 3,452 candidates, including some 40 per cent of women, for the state and entity-level elections. Voters had the possibility to sign in support of only one party or independent candidate per electoral contest; this limitation is not in line with international good practice.

The campaign was calm and competitive, including on social networks, and fundamental freedoms of association, peaceful assembly and expression were respected. Ethnically divisive rhetoric was frequent, in particular by the largest incumbent parties, and often overshadowing issues related to social welfare, economy and corruption. The July 2022 legal amendments extended the applicability of campaign regulations to social network platforms, introduced a legal definition of hate speech and prohibited misuse of administrative resources. While a welcome improvement, the timeframe of applicability of the latter provisions is insufficient to effectively address the issue. Instances of social welfare and development projects being announced in the campaign period and cases of pressure on public sector employees to participate in campaign events of incumbents raised concerns as to the level playing field and voters’ ability to cast their vote without fear of retribution.

While the number of women candidates was in line with the 40 per cent gender quota requirement, only between 17 and 28 per cent of the newly elected members of the state and entity parliaments are women. The authorities and political parties made insufficient efforts to promote women’s political participation and overcome long-standing gender-role stereotypes. Women were infrequently accorded a leading role or equal speaking time at most rallies observed by the ODIHR EOM and generally remained underrepresented in the media as candidates. Women candidates were often targets of insult and ridicule on social networks. The newly elected Serb member of the presidency and the chairperson of the Council of Ministers are women.

The regulatory system does not provide for adequate transparency of campaign finances and accountability for financial violations. Despite a previous ODIHR recommendation, contestants are not required to submit interim campaign finance reports to the CEC which is in charge of campaign finance

oversight. There are also no deadlines to audit the contestants' financial reports submitted after the election and publish the audit conclusions. While the CEC addressed some previous recommendations of ODIHR and the Council of Europe's Group of States against Corruption through regulations, the effectiveness of the control was challenged by CEC's limited financial and human resources. Available sanctions are not sufficiently dissuasive.

Media is largely divided along ethnic and political lines. This, combined with significantly limited campaign coverage, reduced voters' opportunity to make an informed choice. Recent defamation cases brought against journalists, cyber-attacks against prominent media outlets, and repeated instances of intimidation and harassment of journalists undermined the media's ability to operate in an environment free of political pressure and persecution. While a high number of media outlets organized debates, many candidates decided not to participate, which was a missed opportunity for voters to compare their programmes. Most of the media outlets monitored by the ODIHR EOM displayed partisan editorial policies. Despite a previous ODIHR recommendation, the Communication Regulatory Authority did not conduct media monitoring during the campaign and thus could not perform active supervision of the broadcast media.

Voters and contestants may challenge decisions of election commissions, including against election results, to the higher-level commissions and further appeal to the court. Despite prior ODIHR recommendations, the deadlines for submitting and adjudicating complaints remain short. Further, many of the complaints observed by the ODIHR EOM, were not adjudicated by the CEC in a timely manner. The lack of guarantees of due process and of transparency as well as insufficient resources at CEC's disposal negatively impacted the effectiveness of election dispute resolution.

Election day was largely peaceful. Party and citizen observers were present in most polling stations observed by the IEOM, contributing to transparency. While voting procedures were generally followed and assessed positively, the secrecy of the vote was often compromised due to the inadequate layout of the voting premises. Instances of unauthorized people keeping track of voters and people assisting multiple voters were observed in some polling stations. Half of the polling stations observed did not provide independent access for persons with disabilities. The vote count was negatively assessed in every fifth polling station observed, mainly due to a poor understanding of the procedures by the PSCs. Due to incorrect or missing voting results protocols, the CEC ordered a recount at some 20 per cent of the polling stations.

In response to allegations by several opposition parties of widespread irregularities on election day potentially affecting the integrity of the results, the CEC ordered a 'control count' of all votes cast in the presidential election in Republika Srpska. This process was held in an open and transparent manner, but several stakeholders questioned the impartiality of the CEC. While many technical errors and some indications of potential malpractices were discovered, these irregularities did not largely affect the results. Following multiple recounts in different municipalities, the CEC announced the final election results for all electoral races on 2 November, one day after the legal deadline.

This report offers recommendations to support efforts to bring elections in Bosnia and Herzegovina closer in line with OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations relate to revision of the electoral legal framework, safeguarding the effective and impartial work of the election administration from undue pressure, ensuring the conduct of campaign in an environment free from pressure on voters and misuse of administrative resources, protecting journalists from threats and intimidation, promoting women's active political participation, and guaranteeing the secrecy of the vote. ODIHR stands ready to assist the authorities to address the recommendations contained in this and previous reports.

## II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the authorities of Bosnia and Herzegovina to observe the 2 October 2022 general elections and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 24 August. The mission, led by Ambassador Peter Tejler, consisted of an 18-member core team based in Sarajevo and 24 long-term observers deployed on 31 August across the country. The ODIHR EOM maintained presence in the country until 20 October to follow post-election day developments.

For election day, the ODIHR EOM was joined by delegations from the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the European Parliament (EP) and the NATO Parliamentary Assembly (NATO PA) to form an International Election Observation Mission (IEOM). Pascal Allizard was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and Leader of the OSCE short-term observer mission. Irene Charalambides headed the OSCE PA delegation, Stefan Schennach headed the PACE delegation, Mimi Kodheli headed the NATO PA delegation, and Andreas Schieder headed the EP delegation. The IEOM deployed 482 observers from 46 OSCE participating States on election day, including 42 long-term and 282 short-term observers by ODIHR, as well as a 109-member delegation from the OSCE PA, a 23-member delegation from PACE, a 12-member delegation from the EP and a 14-member delegation from the NATO PA; 41 per cent of the IEOM observers were women. Opening was observed in 190 polling stations and voting in 1,785 polling stations across the country. Counting of votes was observed in 168 polling stations, and the tabulation of the voting results - in 103 Municipal Election Commissions (MECs).

The ODIHR EOM assessed compliance of the electoral process with OSCE commitments and other international obligations and standards for democratic elections and domestic legislation. This final report follows a Statement of Preliminary Findings and Conclusions that was released at a press conference on 3 October.<sup>2</sup>

The ODIHR EOM wishes to thank the authorities of Bosnia and Herzegovina for their invitation to observe the elections and the Central Election Commission (CEC) and the Ministry of Foreign Affairs for their assistance. It also expresses appreciation to other state institutions, the judiciary, political parties, media, civil society organizations, international community representatives and other interlocutors for their co-operation and for sharing their views.

## III. BACKGROUND AND POLITICAL CONTEXT

Bosnia and Herzegovina is composed of two entities: the Federation of Bosnia and Herzegovina and Republika Srpska. In addition, Brčko district has a special status as a local self-government unit under direct state sovereignty. The Constitution of Bosnia and Herzegovina (BiH Constitution) grants the status of ‘constituent peoples’ to Bosniaks, Croats and Serbs. Citizens who do not identify themselves with an ethnicity of a constituent people or who choose not to affiliate themselves with any group or ethnicity are declared as “others”.<sup>3</sup>

The complex state structure and legal and administrative framework originate from the 1995 General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement). At the state level, the executive powers are exercised by the tripartite presidency of one Bosniak, one Croat and one Serb member. Legislative powers are exercised by the Parliamentary Assembly of Bosnia and

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<sup>2</sup> See previous ODIHR [election reports on Bosnia and Herzegovina](#).

<sup>3</sup> The Law on the Protection of Rights of Members of National Minorities recognizes 18 national minorities; most of them are small in numbers. According to the last 2013 [census](#), 96,539 people (2.7 per cent of the population) declared themselves as “others”; the most numerous national minority is Roma, with 12,583 members.

Herzegovina which includes the directly elected House of Representatives (BiH HoR) and the indirectly elected House of Peoples (BiH HoP); both chambers need to approve all legislation by at least one-third of the members from each entity.<sup>4</sup> The High Representative, who heads the *ad hoc* international institution established by the Dayton Peace Agreement to oversee the implementation of the civilian aspects of the peace settlement, retains powers to enforce the law and impose legislation. In the upper chambers of the state and entity parliaments, the majority of a constituent people's representatives can block the adoption of laws and other parliamentary decisions if they consider that their vital national interests are affected.<sup>5</sup>

On 4 May 2022, the CEC called the general elections for 2 October for the state, entity and canton levels of governance.<sup>6</sup> The electoral process unfolded amid growing socio-economic concerns and against an overall disillusionment with the political establishment that failed to unblock the functioning of some key state and entity-level institutions in recent years and agree on much-needed constitutional and electoral reforms.<sup>7</sup> The country applied for European Union (EU) membership in 2016 and did not advance to candidate status ahead of these elections.<sup>8</sup> While most major political parties targeted their appeals to a single constituent people, others defined themselves as multi-ethnic "civic" parties.<sup>9</sup>

Despite provisions of the 2003 Law on Gender Equality which obliges state and entity authorities to adopt temporary special measures to achieve balanced representation of women and men at all levels of public administration as well as quota requirements in election legislation, women remained underrepresented in elected and appointed offices. Among outgoing authorities, women held 22 per cent of state-level Council of Minister's positions and constituted 26 per cent of members of the BiH HoR, 20 per cent - of the BiH HoP, 27 per cent - of House of Representatives of the Federation of Bosnia and Herzegovina (FBiH HoR), and 22 per cent - of National Assembly of Republika Srpska (RS NA). The outgoing president of Republika Srpska was a woman, as are only 4 per cent of municipality mayors.

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<sup>4</sup> In the Federation of Bosnia and Herzegovina, the legislative power is vested in two chambers, while in Republika Srpska, the legislative power is vested in the National Assembly of Republika Srpska.

<sup>5</sup> Furthermore, each member of the state Presidency could invoke vital interest of the entity from which he or she was elected and can refer the decision to the respective entity parliament.

<sup>6</sup> Elections at the canton level were observed only to the extent that they impacted the state and entity level elections.

<sup>7</sup> After the October 2018 elections, the Croat Democratic Union of Bosnia and Herzegovina (HDZ BiH) conditioned the formation of the government of the Federation of Bosnia and Herzegovina on the introduction of changes to the Election Law ensuring the election of "legitimate representatives" of constituent peoples on all constitutionally envisaged levels of administration. Thus, the government formed in March 2015 remained in power under a technical mandate through these elections. Four of the nine seats of the judges of the Constitutional Court of the Federation of Bosnia and Herzegovina remained vacant between 2019 and October 2022. In response to the July 2021 High Representative Valentin Inzko's imposition of an amendment to the Criminal Code of Bosnia and Herzegovina on the public denial or condoning of genocide, crimes against humanity and war crimes, the National Assembly of Republika Srpska qualified the High Representative's decision as "null and void" and opted to refrain from participating in decision-making processes in state-level institutions.

<sup>8</sup> In 2019, the EU adopted its [opinion](#) on the country's membership application, identifying 14 key priorities covering the areas of functionality of the state, the rule of law, fundamental rights and public administration. After these elections, on 12 October, the European Commission recommended granting candidate status to Bosnia and Herzegovina upon the condition that the country takes further steps to reinforce rule of law and functionality of state institutions. On 15 December, Bosnia and Herzegovina obtained EU candidate status.

<sup>9</sup> In the Federation of Bosnia and Herzegovina, the major parties were the Democratic Front (DF), HDZ BiH, People and Justice (NiP), Our Party (NS), Alliance for a Better Future of Bosnia and Herzegovina (SBB BiH), Party for Democratic Action (SDA) and Social Democratic Party (SDP BiH). The HDZ BiH and smaller parties joined under the umbrella organization Croatian National Assembly traditionally targeted the Croat electorate. The SDA largely targeted voters who identify as Bosniak. Some other main parties in the Federation of Bosnia and Herzegovina, such as DF, NS and SDP BiH, advanced a multi-ethnic approach. In Republika Srpska, the major parties were the Democratic People's Alliance (DNS), People's Democratic Movement (NDP), Party for Democratic Progress (PDP), Serb Democratic Party (SDS), the Alliance of Independent Social Democrats (SNSD), and the Socialist Party (SP). All of these traditionally targeted the Serb electorate. The ruling coalition at the state level formed after the 2018 elections consisted of DF, DNS, HDZ BiH, SBB BiH and SDA.

#### IV. LEGAL FRAMEWORK

Bosnia and Herzegovina is party to the major international and regional instruments related to holding democratic elections.<sup>10</sup> The electoral legal framework primarily consists of the BiH Constitution, as included in the Dayton Peace Agreement, the 2001 Election Law and the 2012 Law on the Financing of Political Parties; this legal corpus is supplemented by CEC regulations. In some aspects of the electoral process, several entity laws are also applicable.<sup>11</sup>

Certain constitutional and legal provisions continue to pose ethnicity and residency-based restrictions on the right to stand as a candidate, contrary to OSCE commitments and other international standards.<sup>12</sup> Only voters self-declared as Bosniaks, Croats or Serbs may stand as candidates for the state and entity presidencies and be indirectly elected to the BiH HoP, provided that they reside in the appropriate entity.<sup>13</sup> The European Court of Human Rights (ECtHR) has repeatedly deemed these restrictions incompatible with the ECHR.<sup>14</sup> Furthermore, in 2015, the Constitutional Court of Bosnia and Herzegovina (CC BiH) ruled that provisions of the Constitutions of the Federation of Bosnia and Herzegovina and of Republika Srpska concerning the election of entity presidents were discriminatory towards citizens not self-declaring as belonging to any of the three constituent peoples and, therefore, at odds with the BiH Constitution and the ECHR.<sup>15</sup> These rulings of the ECtHR and the CC BiH remain unimplemented.

Overall, the legal framework is conducive to holding of democratic elections. However, its effectiveness is undermined by a lack of uniformity between several laws at different levels and some shortcomings in the legislation.<sup>16</sup> Many long-standing ODIHR recommendations remain unaddressed, including on a comprehensive review of the legal framework and electoral constituency boundaries, increasing transparency of election dispute resolution and the formation of Polling Station Commissions (PSCs). In January and March 2022, negotiations among most major political parties, brokered by international mediators, failed to reach a political agreement to adopt much needed constitutional changes and amendments to the election-related legislation.

<sup>10</sup> This includes the 1948 [Universal Declaration of Human Rights](#) (UDHR), the 1965 [International Convention on the Elimination of All Forms of Racial Discrimination](#), the 1966 [International Covenant on Civil and Political Rights](#) (ICCPR), the 1979 [Convention on the Elimination of All Forms of Discrimination against Women](#), the 2003 [UN Convention against Corruption](#), 2006 [UN Convention on the Rights of Persons with Disabilities](#) (CRPD), 1950 [European Convention on Human Rights](#) (ECHR), and 1994 Council of Europe [Framework Convention on the Protection of National Minorities](#). The country is a member of the Council of Europe's Commission for Democracy through Law (Venice Commission) and the Group of States against Corruption (GRECO).

<sup>11</sup> Namely, the Constitutions of the Federation of Bosnia and Herzegovina (1994) and of Republika Srpska (1992); the FBiH, RS and Brčko District Laws on Political Associations (1990, 1996 and 2012) and the RS and Brčko District Laws on Financing of Political Parties (2008 and 2004).

<sup>12</sup> Paragraph 7.3 of the 1990 [OSCE Copenhagen Document](#) states that the participating States will “guarantee universal and equal suffrage to adult citizens”; Paragraph 7.5 obliges the participating States to “respect the right of citizens to seek political or public office [...] without discrimination”. See also Article 21.3 of the UDHR and Article 2 and Article 25 of the ICCPR.

<sup>13</sup> The BiH HoP has 15 delegates, with 5 Bosniak and 5 Croat members elected by the FBiH HoP and 5 Serb members elected by the RS NA.

<sup>14</sup> See ECtHR judgements in [Sejdić and Finci v. Bosnia and Herzegovina](#), [Zornić v. Bosnia and Herzegovina](#), [Pilav v. Bosnia and Herzegovina](#), [Šlaku v. Bosnia and Herzegovina](#), and [Pudarić v. Bosnia and Herzegovina](#).

<sup>15</sup> The CC BiH stated that the existing restrictions “no longer represent the only way to achieve their legitimate goals reflected in the preservation of peace” and “cannot have a reasonable and objective justification”. The Court also noted that the state Constitution should be amended in accordance with the respective ECtHR judgements.

<sup>16</sup> For example, state, entity and Brčko district laws differently define the categories of civil servants required to resign before standing as candidates for elections. The definition of executive officials differs in state and entity laws, leading to inconsistencies in implementation of legal provisions against the prohibition of misuse of administrative resources. Prohibition of the misuse of administrative resources or hate speech only apply for one-month official campaign period. The Election Law does not prescribe the grounds of annulment of voting results, if appealed.

After the elections were called, the High Representative imposed several amendments to the legislation and the Constitution of the Federation of Bosnia and Herzegovina related to holding of elections.<sup>17</sup> Amendments of 7 June to the Election Law and the Law on Financing the Institutions allocated funds required to organize the elections. Amendments of 27 July to the Election Law introduced, *inter alia*, a definition of hate speech, a prohibition on the misuse of administrative resources in the campaign and abuse of Polling Station Commissions (PSC) positions by contestants.<sup>18</sup> On election day, after the closure of polling stations, the High Representative imposed further changes to the Election Law and the Constitution of the Federation of Bosnia and Herzegovina, with a stated aim of unblocking the affected key entity institutions. The amendments increased the number of seats and provided guarantees for representation of “others” in the House of Peoples of the Federation of Bosnia and Herzegovina (FBiH HoP) and amended the body’s decision-making procedures concerning the appointment of the president of the Federation of Bosnia and Herzegovina and key judicial positions.

The July amendments introduced some important integrity safeguards to the electoral process and addressed some prior ODIHR recommendations. However, their late adoption did not allow all stakeholders to become fully familiar with the new provisions or for enforcement mechanisms to be fully established. Many ODIHR EOM interlocutors expressed dissatisfaction that, due to the ongoing political deadlock, the amendments were introduced by the High Representative, rather than by the parliament. Further, most ODIHR EOM interlocutors regretted that the parliament did not make any advancement in legislating the introduction of new voting technologies.

The amendments adopted on election day after the close of the polls challenged the principle of legal certainty as at the time of voting, the full impact of the amendments on the cantonal assembly vote was not foreseeable to electoral contestants and voters. The FBiH HoP, a body that enjoys significant legislative powers, is indirectly elected by the representatives of the constituent people and “others” on cantonal assemblies. The amendments increased the number of seats in each constituent people’s caucus from 17 to 23, and the caucus of “others” from 7 to 11; in addition, they prescribed that the latest (2013) census be used for the elections of delegates to the FBiH HoP. Each constituent people and now also “others” have one delegate from each canton which has at least one such a delegate in its cantonal assembly; if a canton does not have such delegate in its body, the required number of delegates are elected from other cantons. These changes, had they been known prior to candidate registration and the campaign, may have impacted political parties’ strategies and therefore the voter’s choice in the elections.<sup>19</sup> Inherently, the imposition of the amendments also did not allow for sufficient public consultations with relevant stakeholders.<sup>20</sup>

In the absence of a comprehensive review of the election-related legal framework, the CEC addressed various aspects of the electoral process through its regulations. While these efforts were overall positive,

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<sup>17</sup> The High Representative’s competencies to impose laws, the so-called “Bonn powers”, were not exercised between 2014 and 2021; since then, the High Representative has taken nine decisions using these powers.

<sup>18</sup> Prior to the imposition, public protests lasting several days took place in front of the Office of the High Representative. According to media reports, the High Representative originally envisaged to implement the CC BiH ruling on the “Ljubić case” by imposing changes that would deprive Bosniaks, Croats and Serbs of representation in the FBiH HoP if they numbered less than 3 per cent of the population in a given canton. In 2016, the CC BiH decided in the case brought by Božo Ljubić (HDZ BiH) that the provision in the FBiH Constitution, which obliges the 10 cantons to put forward at least one delegate to the FBiH HoP from each of the three constituent peoples, even if there are only a few residents of the Bosniak, Croat or Serb group in the canton, was inconsistent with the principle of equality enshrined in the BiH Constitution. The allocation of seats in the FBiH HoP after the 2018 elections was regulated by a CEC decision; some ODIHR EOM interlocutors considered that the “Ljubić case” was implemented by that CEC decision.

<sup>19</sup> See Section B.3. of the 2016 [Venice Commission Rule of Law Checklist](#).

<sup>20</sup> Paragraph 5.8 of the 1990 [OSCE Copenhagen Document](#) states that legislation shall be adopted at the end of a public procedure.

in some cases, the CEC used broad discretionary power in interpreting its mandate to implement the Election Law.<sup>21</sup>

*A comprehensive review of the legal framework should be undertaken to address all outstanding ODIHR recommendations, eliminate existing gaps and inconsistencies, and incorporate in the legislation judgments of the European Court of Human Rights and Constitutional Court of Bosnia and Herzegovina regarding ethnicity and residency-based restrictions on the right to stand as a candidate. In line with international good practice, the comprehensive review process should be open, inclusive and consultative and take place well before the next elections.*

## V. ELECTORAL SYSTEM

Under a complex institutional and electoral system, the general elections included six direct electoral contests on three levels. At the state level, voters elected the state presidency and the BiH HoR. At the entity level, voters from the Federation of Bosnia and Herzegovina voted for the FBiH HoR, while those registered in Republika Srpska cast their votes for the president and two vice-presidents of Republika Srpska and the RS NA. In the Federation of Bosnia and Herzegovina, voters elected ten cantonal assemblies. All mandates are allocated for four-year terms.

Members of the tripartite presidency of Bosnia and Herzegovina are elected by a simple majority, with voters in the Federation of Bosnia and Herzegovina choosing one candidate from either Bosniak or Croat candidates, and voters in Republika Srpska electing a Serb candidate. The president and vice-presidents of Republika Srpska are also elected by a simple majority.<sup>22</sup>

Most BiH HoR, FBiH HoR and RS NA members are elected through a preferential voting system in multi-member constituencies (MMCs) with compensatory seats.<sup>23</sup> The compensatory mandates are allocated to candidates from separate closed party lists to ensure the proportional representation of parties and coalitions.<sup>24</sup> Further, for the FBiH HoR and the RS NA, the Election Law guarantees a minimum representation of four seats per constituent people.

Following the general elections, four indirect elections are held for the upper houses of state and entity legislatures, as well as for the president and two vice-presidents of the Federation of Bosnia and Herzegovina. The ten cantonal assemblies elect the delegates to the FBiH HoP, while the RS NA elects the Council of Peoples of the Republika Srpska.<sup>25</sup> The president and two vice-presidents of the Federation of Bosnia and Herzegovina are jointly elected by the FBiH HoP and the FBiH HoR from candidates self-declared as Bosniaks, Croats or Serbs.

The Election Law requires the respective state and entity parliaments to review the number of mandates per MMC every four years. However, the delineation of the MMCs has not changed since 2001, except for the constituencies for the RS NA elections, which were last reviewed in 2012. There is a significantly

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<sup>21</sup> The CEC introduced additional criteria for ballot invalidation and preconditions for assisted voting.

<sup>22</sup> The candidate who receives the most votes is elected president, and the top candidates from the two other constituent peoples are elected vice-presidents.

<sup>23</sup> The BiH HoR is comprised of 42 members: 21 elected from 5 MMCs in the Federation of Bosnia and Herzegovina and 9 from 3 MMCs in Republika Srpska. Seven and five mandates, respectively, are assigned through a compensatory system. The FBiH HoR is composed of 98 members, with 73 elected from 12 MMCs, and 25 receiving compensatory seats. The RS NA comprises 83 members, with 63 elected from 9 MMCs, and 20 receiving compensatory seats.

<sup>24</sup> Mandates in the MMCs are allocated to political subjects receiving at least 3 per cent of the total number of valid votes in the corresponding MMC, while compensatory mandates are distributed among the parties receiving 3 per cent of the valid votes at the entity level.

<sup>25</sup> Delegates to the FBiH HoP are elected in proportion to the ethnic structure of the population.

unequal distribution of registered voters amongst the constituencies for state and entity parliamentary contests, with up to 68 per cent deviation from average, at odds with OSCE commitments and contrary to the principle of equality of the vote.<sup>26</sup>

*To ensure the equality of the vote, the boundaries of multi-member constituencies and their relevant number of mandates should be reviewed periodically and well in advance of the next elections, in line with the national legislation, international standards and good practice.*

## VI. ELECTION ADMINISTRATION

The election administration is comprised of the CEC, 143 MECs and 5,903 PSCs.<sup>27</sup> In addition, the CEC established the Main Counting Centre (MCC) to count postal, mobile and tendered ballots and assist in examining the election material after election day. By law, the CEC and MECs must reflect the ethnic composition of their respective constituencies and include at least 40 per cent of members of each gender. The seven CEC members include two Bosniaks, two Croats, two Serbs and one “other”. At odds with the legal provisions, only two CEC members are women.

The CEC is responsible for the overall conduct of elections, issues regulations, maintains the Central Voters Register, certifies contestants as ‘political subjects’ to participate in elections, and establishes the election results. Members of the CEC are appointed by the BiH HoR for seven-year terms.<sup>28</sup> In 2020, the appointment of four CEC members was challenged at the Court of Bosnia and Herzegovina, which ruled that the appointment process had been conducted in line with the legislation.<sup>29</sup>

The CEC administered the electoral preparations efficiently and in line with legal deadlines, despite initial delays caused by the late disbursement of funds required to organize the elections.<sup>30</sup> Moreover, a significant shortage of qualified staff impacted the operational capacity of most CEC departments, which according to the CEC led to, among other things, delays in complaints adjudication and the review of campaign finance reports. The CEC also lacked qualified cyber security and IT personnel, which affected the functionality of web applications used by the election administration and increased the vulnerability of its website.<sup>31</sup>

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<sup>26</sup> For the BiH HoR, 4 of the 8 MMCs as well as 6 of the 12 MMCs for the FBiH HoR and 3 out of 9 MMCs for the RS NA have more than a 15 per cent deviation from the average number of registered voters per mandate. See Paragraph 7.3 of the 1990 OSCE Copenhagen Document, which stipulates that the participating States will “guarantee universal and equal suffrage to adult citizens”. Paragraph I.2.2.iv of the 2002 Venice Commission’s [Code of Good Practice in Electoral Matters](#) (Code of Good Practice) recommends that the “permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances”.

<sup>27</sup> The 143 MECs included 29 City Election Commissions and the Election Commission of Brčko district. Twenty-one PSCs were formed to administer voting in embassies and consulates abroad.

<sup>28</sup> Candidates are nominated by the BiH HoR Commission for Selection and Nomination which is comprised of two members from the High Judicial and Prosecutorial Council, three from the Administrative Commission of the BiH HoR, and two from the incumbent CEC.

<sup>29</sup> The appeal was submitted by former CEC members and challenged the legality of the appointment of the four new CEC members on the grounds that in March 2020, the BiH HoR Commission for Selection and Nomination failed to present a list of nominees within the legal deadline, and the new CEC members were appointed directly by the BiH HoR. The Court rejected the complaint on 21 April 2022 and an appeal against the rejection on 24 August.

<sup>30</sup> By law, the funds should have been made available to the CEC no later than 19 May. As a result of a political deadlock to provide the requested BAM 12.26 million (some EUR 6.3 million; EUR 1 equals BAM 1.95, Bosnian Convertible Mark), the funds were released upon a decision of the High Representative on 7 June. The delay led to late hiring of temporary staff and the suspension and restarting of some procurement procedures.

<sup>31</sup> The CEC website became unavailable for several hours due to a distributed denial-of-service (DDoS) attack in the night from 14 to 15 September.

*Authorities should provide adequate and effective allocation of funds to ensure the functionality of the Central Election Commission as an institution, including in non-election years, and to cover all the costs associated with the organization of the elections. The Central Election Commission should be provided with the necessary resources to hire sufficient and qualified staff, including in its audit, legal and IT departments, and to develop its IT infrastructure.*

The CEC held regular sessions which were open to the public and broadcast online, contributing to transparency. Most decisions were taken unanimously and published online in a timely manner, with the exception of those related to complaints and appeals (see *Complaints and Appeals*). The CEC acted in a collegial manner and informed the public about its activities. While this contributed to public trust, after election day, several stakeholders again expressed mistrust towards both the institution and individual commissioners (see *Post-Election Day Developments*).

MECs are permanent bodies appointed for seven-year terms by municipal councils, with a mandate to administer the elections in the respective constituency. They are comprised of three, five or seven members, depending on the size of the respective municipality. The MECs visited by the ODIHR EOM were sufficiently resourced and professional. Most ODIHR EOM interlocutors did not raise any concerns about the independence of MECs and transparency of their activities.<sup>32</sup> Contrary to the Election Law and a previous ODIHR recommendation, most MECs did not announce formal sessions in advance but rather held informal work meetings. According to the CEC, 276 of the 571 members (some 48 per cent) of MEC members were women.

The PSCs manage the conduct of the elections at polling stations. MECs had to appoint the PSCs by 2 September based on nominations from electoral contestants. As many contestants failed to nominate candidates for about a half of the PSC seats, MECs filled the vacancies from reserve lists or upon public call, in line with the Election Law; however, sometimes after the legal deadline.<sup>33</sup> Some ODIHR EOM interlocutors attributed the lack of nominations to a general lack of interest by citizens in political affairs, a fear of legal repercussions if involved in malpractices, and low remuneration. Stakeholders' trust in the impartiality of the PSCs remained low due to their perceived political affiliation. A July 2022 legal amendment prohibited the abuse (so-called trading) of PSC positions by contestants, but the CEC lacked the time and resources to develop effective mechanisms to monitor the compliance with this provision. The IEOM received several consistent allegations concerning the matter.<sup>34</sup> The CEC adjudicated 17 cases related to false representation of political parties in the PSCs, all based on complaints filed by contestants or information provided by civil society organizations.<sup>35</sup>

*In order to ensure timely formation, impartiality and professionalism of Polling Station Commissions and increase stakeholders' trust, the authorities should review the system of appointment of these commissions. This could be achieved by limiting eligibility to nominate their members only to the parties represented in the state and entity parliaments, or those drawn from a permanent roster of trained people maintained by the Central Election Commission.*

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<sup>32</sup> An exception included the MEC Sarajevo Centar, where members accused each other of pursuing partisan interests, delaying some election preparations and raising concerns about the MEC's impartiality. In Livno, five opposition parties accused the MEC of having influenced the PSC appointment process in favour of SDA, HDZ BiH and HDZ 1990; a complaint by the Croat Republican Party was later dismissed by the MEC.

<sup>33</sup> There was a significant difference between urban areas (where about 70 per cent of all PSC members were nominated by contestants) and small, rural communities (where contestants nominated only 40 per cent of the members).

<sup>34</sup> Claims of attempts to manipulate the PSC appointment were reported to the IEOM by the MECs of Ugljevik and Zenica; and by PDP which filed a complaint with the CEC against the Doboj City Election Commission, where they alleged that SNSD members were representing other political subjects on the PSCs. Further allegations were recorded in Canton 10, Kalesija, Livno, Mostar, Sapna, Tomislavgrad and Tuzla in the Federation of Bosnia and Herzegovina, as well as in Banja Luka, Bileca, Gacko, Istočni Stari Grad, Kalinovik, Ljubinje, Mrkonjić Grad, Ribnik, Trebinje and Trnovo in Republika Srpska.

<sup>35</sup> In four cases, the parties and coalitions involved in "the trade" and the PSC members were sanctioned.

MECs organized mandatory training for PSC members. As some PSC members resigned shortly before election day, MECs had difficulties finding and training replacements within the short time available.<sup>36</sup> Most training sessions observed by the ODIHR EOM were comprehensive but often lacked an interactive component, and printed material was not always provided to the participants in a timely manner. These shortcomings decreased the efficiency of the training and potentially led to an inconsistent application of voting and counting procedures on election day.

*The Central Election Commission should continue enhancing the training of lower-level election commissions, with a particular focus on voting and counting procedures and completing voting results protocols.*

Voter education activities conducted by the CEC mainly consisted of television (TV) and radio spots on voter registration modalities for internally displaced people (IDPs), out-of-country voting and voting procedures, and were largely insufficient due to budget cuts.<sup>37</sup> Positively, the audio-visual spots were supported by sign language interpretation. However, most election materials were not adapted for voters with visual, hearing or cognitive impairments.

*The authorities, including the election administration, should develop a comprehensive long-term voter education and information programme for different target audiences in close consultation with organizations representing these groups. Voter education and information materials should be produced in line with accessibility standards.*

## VII. VOTER REGISTRATION

Citizens 18 years of age and older by election day have the right to vote unless convicted for serious crimes, including war crimes, or deprived of legal capacity by a court decision, including on the grounds of intellectual and psychosocial disability. The denial of the right to vote on the basis of intellectual and psychosocial disability is at odds with international standards.<sup>38</sup>

*To ensure equal suffrage in accordance with international standards, restrictions to the right to vote based on intellectual or psychosocial disability should be abolished.*

Voter registration is passive, continuous and centralized for in-country voters. Voters residing in Brčko district could vote either for elections of the Federation of Bosnia and Herzegovina or Republika Srpska, depending on their entity citizenship.<sup>39</sup> The CEC has the overall responsibility for the integrity and maintenance of the Central Voter Register (CVR). However, the accuracy of the CVR depends on accuracy of data provided by other institutions responsible for updating the civil register, on which the

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<sup>36</sup> Some ODIHR EOM political party interlocutors alleged that the high number of resignations was triggered by the complexity of tasks expected on election day, adding that some PSC members opted to work for a higher remuneration as observers for the contestants.

<sup>37</sup> According to the CEC, the budget for voter education had been reduced from about BAM 300,000 to BAM 24,000 for these elections. At the local level, the ODIHR EOM also observed isolated voter education initiatives by civil society organizations.

<sup>38</sup> See Articles 12 and 29 of the [CRPD](#). See also Paragraph 9.4 of the 2013 [CRPD Committee's Communication No. 4/2011](#) which states that "Article 29 does not provide for any reasonable restriction or exception for any group of persons with disabilities. Therefore, an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability".

<sup>39</sup> The ODIHR EOM was informed that some 12,640 did not choose their entity citizenship and therefore could not vote.

CVR is based.<sup>40</sup> The CEC made continuous efforts to remove outdated entries from the voter register. While the accuracy of the voter lists was not cited as a significant concern by ODIHR EOM interlocutors, the mechanism of reporting and removing records of deceased citizens from local civil register databases did not provide for timely exchange and correction of data, despite a previous ODIHR recommendation.<sup>41</sup>

Voters had a range of options for verifying their registration data and requesting corrections. According to a CEC regulation, voter lists had to be posted for public scrutiny between 3 June and 3 July. Voters could also verify their records online and at municipal Voter Registration Centres. In line with the law, upon request, contestants received copies of the voter lists for the constituencies in which they stood for elections. According to the CEC, the final number of registered voters was 3,368,666, with 2,109,344 voters in the Federation of Bosnia and Herzegovina and 1,259,322 voters in Republika Srpska.

The law provides for voting from abroad by mail or in person at embassies and consulates, depending on the voters' choice. Voters with dual citizenship have the right to vote only if Bosnia and Herzegovina is their country of residence. Citizens residing abroad may keep their permanent registration in the country. On 25 August, the CEC announced that 69,966 voters had registered to vote abroad through a new online platform that streamlined the registration process and reduced the possibility of fraudulent registration and human error.<sup>42</sup> The CEC denied 10,720 applications for out-of-country voting, primarily due to incomplete or incorrect data. On 16 September, the CEC referred to the prosecutors some 20 cases of alleged fraudulent attempts to register for out-of-country voting.

IDPs could vote in the municipality of their temporary residence, provided they resided there for at least six months, or in the municipality where they had been registered before being displaced. Voters registered for out-of-country voting who were in the country on election day and those whose records were entered into the CVR after 18 August as they turned 18 or their prison sentence terminated after that date, could vote by a tendered ballot at special polling stations designated in each municipality. Mobile voting was made available to homebound voters, including due to disability, and those in retirement or detention facilities.<sup>43</sup>

## VIII. CANDIDATE REGISTRATION

The right to stand is granted to citizens with voting rights, except for the elections of the state presidency and the president and vice-presidents of Republika Srpska, for which discriminatory ethnicity and residence requirements remain in place (see *Legal Framework*). Candidates for all elections may be nominated by political parties and coalitions or stand independently. A candidate may only run for office in one constituency at any level of authority and on one list. Some categories of state officials and civil servants, including members of the police, armed forces and diplomatic staff, may only stand as candidates if they resign or step down temporarily.

The CEC registered candidates in an inclusive manner. By law, the CEC is mandated to certify political parties and independent candidates as political subjects to participate in the elections. Certification

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<sup>40</sup> The civil register is maintained by the Agency for Identification Documents, Registers and Data Exchange under the Ministry of Civil Affairs.

<sup>41</sup> By law, only the police may remove the records of a citizen deceased in-country, upon receipt of a printed death certificate from the respective municipality; the responsibility to report the death of a citizen to the municipality lies mainly with the family of the deceased.

<sup>42</sup> Registration for out-of-country voting must be actively renewed for each election. By the 19 July legal deadline, 63,264 voters abroad registered to vote by mail and 6,702 at diplomatic representations.

<sup>43</sup> The CEC registered 14,222 voters for mobile voting in 141 municipalities.

requirements include a financial deposit and support signatures from voters.<sup>44</sup> Each voter could sign in support of only one contestant in every election. This provision may limit freedom of association and expression and is contrary to international good practice.<sup>45</sup>

*In order to enhance respect for freedom of association and expression, the legal framework should be amended to allow voters to sign in support of more than one electoral contestant in each election.*

By law, the CEC is required to verify the authenticity of support signatures. Following a CEC regulation of 4 May, the CEC conducted a sample verification of 10 per cent of the signatures submitted by each contestant. The verification of a sample rather than all signatures is at odds with international good practice.<sup>46</sup> By the legal deadline of 4 June, the CEC certified for all contests 90 parties and 17 independent candidates and rejected the certification of 1 party and 1 independent candidate who failed to fulfil the registration requirements. In a subsequent step, political parties formed 38 coalitions.

The CEC launched a new online registration platform which automatically verified whether the candidate lists complied with the 40 per cent gender quota and placement requirements.<sup>47</sup> Registered candidates on party lists may not withdraw; however, the CEC has the power to deregister candidates who fail to resign or step down temporarily from positions incompatible with being a candidate.<sup>48</sup>

Overall, the CEC registered 3,452 candidates for state and entity-level elections. There were 10 candidates, including 2 women, standing for the state presidency and 31 candidates, including 2 women, for the presidency of Republika Srpska. For 42 seats in the BiH HoR 752 candidates (39 per cent women) competed, as did 1,230 candidates (43 per cent women) for 98 seats in the FBiH HoR, and 1,429 candidates (43 per cent women) for 83 seats in the RS NA.

## IX. ELECTION CAMPAIGN

The official 30-day campaign period began on 2 September and ended on 1 October.<sup>49</sup> Campaign-related legal provisions, including those on the misuse of administrative resources and the prohibition on hate speech only apply during the official campaign period. Prior to this, only paid election campaigning in the electronic and print media is forbidden. Many contestants started campaigning several months earlier, which left possible irregularities largely unaddressed due to the non-applicability of relevant prohibitions in that period. The CEC imposed sanctions upon complaints and *ex officio* in 22 related cases of campaigning in the electronic and print media, mainly concerning paid advertisements on social networks.

<sup>44</sup> Contestants must submit 5,000 supporting signatures to stand for the state presidency and the BiH HoR, and 3,000 signatures - for the FBiH HoR, president of Republika Srpska and the RS NA. Parties or independent candidates already holding a mandate at the same or higher level of elected body or authority for which the candidacy is filed, are exempt from signature collection; this provision is not applicable to the state and entity presidential elections. Parties had to deposit BAM 25,000 for the state presidential and BiH HoR elections and BAM 18,000 for entity-level elections; independent candidates had to deposit half of these amounts. These deposits are returned to contestants who receive at least 3 per cent of valid votes in a parliamentary race or who win the presidential or vice-presidential contests or receive at least one-third of the total number of votes won by the elected candidate.

<sup>45</sup> According to Paragraph 96 of the ODIHR and Venice Commission 2020 [Guidelines on Political Party Regulation](#), “it should be possible to support the registration of more than one party, and legislation should not limit a citizen or other individual to signing a supporting list for only one party”.

<sup>46</sup> Section I.1.3 of the 2002 Venice Commission’s [Code of Good Practice](#) requires that “the signature verification procedure must [...] be applied to all the signatures rather than just a sample”.

<sup>47</sup> In all candidate lists, there have to be at least one candidate of the less represented gender among the first two candidates, two among the first five candidates, three among the first eight candidates, etc.

<sup>48</sup> The CEC deregistered one candidate for the FBiH HoR race, who failed to resign from a public position.

<sup>49</sup> The Election Law differentiates between “campaign period” and “election period”; the latter starts on the day when elections are announced and ends on the day when election results are validated.

The campaign environment was overall calm, with fundamental freedoms of association, peaceful assembly and expression respected, although cases of the use of intolerant speech were reported. Further, a few isolated incidents of violence and harassment occurred.<sup>50</sup> The campaign was competitive, particularly for presidential elections at both state and entity levels. Contestants conducted rallies and door-to-door meetings, placed billboards and posters, distributed flyers and actively reached out to the electorate through social networks.

In total, the ODIHR EOM long-term observers observed 56 campaign events. The largest parties in the Federation of Bosnia and Herzegovina, HDZ BiH and SDA, targeted their traditional electorates mainly along ethnic lines, stressing the need for security and protection. During the campaign, both parties frequently referred to past and current “wars”, divides, ethnicity based “dangers” and “attacks”.<sup>51</sup> DF, NiP, NS, and SDP BiH mainly addressed issues related to corruption, judicial reform, unemployment and emigration. In Republika Srpska, the campaign was highly polarized, with mutual personal accusations between the ruling SNSD and the opposition PDP and SDS.<sup>52</sup> On multiple occasions, representatives of the SNSD used inflammatory language.<sup>53</sup>

The July 2022 legal amendments prohibited the misuse of administrative resources, including the involvement during working hours of civil servants subordinated to a candidate, the misuse of public premises, communication and transportation services for campaign purposes, and campaigning by elected officials during activities organized by public institutions. While a welcome improvement, the prohibition only applies to the official one-month campaign period.

At the same time, a broad range of social welfare programmes were announced and implemented by incumbent governments shortly before the official campaign period, challenging the level playing field.<sup>54</sup> Many candidates also promoted public infrastructure projects as party achievements, including online.<sup>55</sup>

<sup>50</sup> The ODIHR EOM was aware of violent incidents in Goražde, Cazin (Una-Sana) and Kakanj (Zenica-Doboj).

<sup>51</sup> On 9 September, the leader of SDA and Bosniak presidential candidate for the state presidency Bakir Izetbegović stated: “A special war is led against Bosnia and Herzegovina and Bosniaks”. On 13 September, Borjana Krišto, the HDZ Croat presidential candidate stated: “Those who attacked our hearts [...] calculated that we are not ready to protect our families and homeland”. At a 26 September SDA meeting in Sarajevo, Sebića Izetbegović, a candidate for cantonal assembly, said that electoral victory by those who left SDA “will lead us into new death camps, detention camps, killing fields and mass graves”.

<sup>52</sup> A private media outlet informed the ODIHR EOM of having rejected to broadcast, without the CEC’s approval, an SNSD campaign spot alleging that voting for the PDP presidential candidate is equal to destroying Republika Srpska. On 22 September, in Trebinje, opposition candidates were portrayed as “puppets of foreign embassies”. On 26 September, Jelena Trivić, PDP-SDS presidential candidate in Republika Srpska, accused Mr. Dodik, SNSD presidential candidate, of being “an agent of the Croatian services and a protector of Croatian interests”.

<sup>53</sup> At a rally in Foča on 5 September, Mr. Dodik stated: “Our state is Republika Srpska, not Bosnia and Herzegovina”; on 27 September at a rally in Istočno Sarajevo, he stated, “If our Sarajevo is called East Sarajevo, then the other Sarajevo should be called ‘Middle East Sarajevo’ as it is full of Muslims”. Similar language was observed being used by SNSD candidates and party representatives in campaign rallies observed by the ODIHR EOM.

<sup>54</sup> On 30 August, the government of Herzegovina-Neretva Canton decided on financial and in-kind support for families with children. On 9 September, the same government secured BAM 400,000 for the areas affected by an earthquake in April 2022. On 22 September, the government of the Federation of Bosnia and Herzegovina announced an additional social allowance of one-time payment of BAM 100 for the unemployed. On 30 September, the government of Republika Srpska announced allocation of BAM 109.9 million for social programmes for the most vulnerable population during the month of September.

<sup>55</sup> Infrastructure projects were initiated or promoted throughout the campaign and during the campaign silence period. For example, on 1 October, Mr. Dodik and Željka Cvijanović, the president of Republika Srpska and Serb candidate for the state presidency, visited construction sites at a university campus in Banja Luka, promising to continue the works. On the same day, the HDZ BiH leadership visited the construction of an educational and training centre in the West Herzegovina Canton. Paragraph 5.1.3 of the ODIHR and Venice Commission's 2016 Joint [Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#) recommends that “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”.

In addition, the ODIHR EOM received credible information on pressuring public sector employees to participate in incumbents' campaign events or not engage in opposition activities.<sup>56</sup> In light of OSCE commitments, this raises concerns about voters' ability to cast their vote in a fair and free atmosphere without fear of retribution.<sup>57</sup>

*In order to address the issue of public officials and electoral contestants exerting pressure on voters, the relevant authorities should take prompt and effective steps to investigate such allegations and any misuse of administrative resources and proactively work to deter such practices.*

Political parties showed significantly divergent but generally insufficient approaches to developing and promoting women candidates.<sup>58</sup> Apart from two candidates for the Croat and Serb members of the state presidency and one candidate for the presidency of Republika Srpska, women candidates were infrequently accorded a leading role or equal speaking time at rallies observed by the ODIHR EOM, while women made up 40 per cent of attendees at the rallies observed. Long-standing stereotypes related to gender roles were reflected in the campaign.<sup>59</sup> Women candidates were often targets of insult and ridicule online.<sup>60</sup> Some women candidates were the targets of sexualized attacks on these portals. Several women candidates described their experience with online and intra-party harassment to the ODIHR EOM.

*To facilitate women's active participation in public and political life, comprehensive legal, institutional, and educational efforts challenging the existing gender stereotypes about the role of women and men in politics should be undertaken by the authorities at all levels. A thorough assessment should be conducted on the impact of the gender quota requirements on the election of women officeholders at all levels.*

Only 43 of the 613 candidate lists (some 7 per cent) exceeded the minimum number of women (40 per cent) required by law. Women headed 135 lists (22 per cent), although more than half of these were one-

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<sup>56</sup> Such allegations were received in a number of municipalities, for instance in Banja Luka, Doboje and Foča. Further, on 23 September, a hospital director in Banja Luka was sanctioned by the CEC with a fine of BAM 10,000 and his party SNSD – with a fine of BAM 5,000 for, among others, involving public employees in campaign activities during working hours. On 30 September, the Court overturned the CEC decision on the basis that the director's speech did not favour any political party but praised the government for its achievements.

<sup>57</sup> Paragraph 7.7 of the 1990 [OSCE Copenhagen Document](#) requires “political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution”.

<sup>58</sup> According to the 2019 UN Women – UNDP [Baseline Study on Barriers to Political Participation of Women in Bosnia and Herzegovina](#), those parties that place gender equality as one of the principles in internal party documents and have internal party structures for women “have no resources to recruit aspirant women in politics”. According to the [General Recommendation No. 23](#) to the CEDAW, State parties should ensure that “women have the right to participate fully in and be represented in public policy formulation in all sectors and at all levels”. Article 191c of the 1995 [Beijing Declaration and Platform for Action](#) provides that political parties “shall consider incorporating gender issues in their political agenda, taking measures to ensure that women can participate in the leadership of political parties on an equal basis with men”.

<sup>59</sup> The Election Law prohibits campaigning that presents men and women “in stereotype and offensive or humiliating ways”. While the ODIHR EOM did not observe candidates using offensive gender stereotypes in their campaigns, women candidates were often praised for their physical appearance and success as wives and mothers. Unlike men presidential candidates, women candidates were infrequently shown as the sole focus of campaign videos.

<sup>60</sup> Humiliating and offensive stereotypes of women in blogs and online portals were identified by the Mediacentar Sarajevo's [research](#). See also Paragraph 29 of the CEDAW [2019 Concluding observations on the sixth periodic report of Bosnia and Herzegovina](#).

person lists.<sup>61</sup> Several major parties had no women leading their lists.<sup>62</sup> The gender quota on candidate lists and placement requirements did not translate into a comparable number of elected women: only 19 per cent (8 of 42) of the newly elected members of the BiH HoR, 28 per cent (27 of 98) of the FBiH HoR and 25 per cent (21 of 83) of the RS NA are women, as is the Serb member of the state presidency.<sup>63</sup>

*Political parties should undertake effective measures to identify and overcome gender-biased barriers for women candidates, including by reviewing current intra-party practices that curb more effective representation of women within party structures and as candidates.*

With the exception of one prominent Roma SDP candidate for the BiH HoR, candidates belonging to national minorities did not feature prominently in the campaign. No discriminatory rhetoric against national minorities during the campaign was reported to or observed by the ODIHR EOM.

Most political parties did not include issues specifically affecting persons with disabilities in their programmes. Some 56 per cent of the campaign venues observed by the ODIHR EOM were not accessible for independent access.<sup>64</sup> Organizations representing persons with disabilities raised concerns to the IEOM that most political parties share the society's general lack of awareness of their rights and capabilities, as well as of Bosnia and Herzegovina's obligations under international human rights commitments.

Parties and candidates heavily relied on social networks to promote their campaign messages.<sup>65</sup> The applicability of campaign regulations to social networks, introduced by the 2022 legal amendments, contributed to a more careful approach to what most stakeholders, mainly senior party officials, posted online. Candidates used their social network accounts to announce events, show video spots of speeches and campaign rallies. The online content largely mirrored in-person campaign events among the candidates followed by the ODIHR EOM. Frequent visits to Bosnia and Herzegovina by foreign leaders and visits abroad by state and entity officials consistently drew significant social network engagement and divisive reactions.<sup>66</sup> Candidates frequently accused each other of being agents of a foreign power or of being subsidized by foreign governments. Media watchdog outlets and fact-checking platforms

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<sup>61</sup> In the BiH HoR contest, 5 lists (3 per cent) exceeded the 40 per cent quota for women; women headed 38 of 186 lists (21 per cent). In the FBiH HoR race, 23 lists (12 per cent) exceeded the 40 per cent quota for women; women headed 44 of 189 lists (23 per cent). In the RS NA election, 15 lists (6 per cent) exceeded the 40 per cent quota for women; women headed 53 of 238 lists (22 per cent).

<sup>62</sup> In the Federation of Bosnia and Herzegovina, no women headed DF, SDP BiH, People's European Alliance, HDZ 1990 and SBB BiH lists for the BiH HoR. In Republika Srpska, no women headed SNSD, SDS, DNS or Socialist Party-Petar Djokić lists for the elections to the RS NA or to the BiH HoR.

<sup>63</sup> The OSCE Ministerial Council Decision No. 7/09 on Women's Participation in Political and Public Life calls on participating States to "encourage all political actors to promote equal participation of women and men in political parties, with a view to achieving better gender-balanced representation in elected public offices at all levels of decision-making". It also calls to "take necessary steps to establish, where appropriate, effective national mechanisms for measuring women's equal participation and representation".

<sup>64</sup> No sign language interpreters were present at any rallies observed by the ODIHR EOM. Of the party and candidate accounts followed by the ODIHR EOM on social networks, approximately half of them subtitled campaign videos.

<sup>65</sup> During the official campaign period, the ODIHR EOM followed the daily online activities of 14 political parties, 17 state and entity-level candidates, and 7 influencers on *Facebook* and *Twitter*. SNSD and Mr. Dodik were the most active on social networks, posting 11-20 times per day on Mr. Dodik's *Twitter* and SNSD *Facebook* accounts.

<sup>66</sup> Among these were the 6 September visit to Sarajevo by the President of Türkiye, discussion of issues related to Bosnia and Herzegovina at the 12 September Brdo-Brijuni summit of Western Balkan heads of state, the 13 September visit of the President of Croatia to Jajce, the 15 September visit of the President of Serbia, and discussion during the 20 September meeting of Mr. Dodik and the President of the Russian Federation.

regularly reported on incidents of misinformation and disinformation and provided election-related media literacy education.<sup>67</sup>

## X. CAMPAIGN FINANCE

Campaign finance is primarily regulated by the Election Law, the laws of Bosnia and Herzegovina, Republika Srpska and Brčko district on political party financing, and complemented by CEC regulations. Overall, the regulatory framework is not fully coherent and consistent, which diminishes the effectiveness of the existing regulations and their implementation.<sup>68</sup> In January 2022, the CEC renewed the campaign finance reporting procedures and introduced regulations addressing some previous ODIHR and GRECO recommendations, including those on the mandatory use of dedicated bank accounts for campaign expenditures. However, key prior recommendations by ODIHR and GRECO, including those on reviewing the applicable provisions and strengthening the capacity of the CEC audit department, remain unaddressed.<sup>69</sup>

Political parties are entitled to annual public funding which can be used to finance the election campaigns.<sup>70</sup> The parties' regular activities may also be financed from their own funds and donations from individuals and legal entities.<sup>71</sup> The law prescribes bans on party incomes from certain sources, including donations from state and public entities, private enterprises with public procurement contracts exceeding BAM 10,000 in the current year, anonymous and most foreign sources. However, there was no effective mechanism in place for verifying compliance with these bans due to the limited capacity of the CEC.<sup>72</sup>

Political subjects may spend up to BAM 0.30 per registered voter in each electoral contest in which they participate. Many IEOM interlocutors perceived the cap for state and entity-level elections as too high, and some noted that expenditures of all contestants for state and entity-level elections remained far below the threshold.<sup>73</sup>

The CEC is mandated with the oversight of political party and campaign finance. By law, political parties have to submit annual financial reports to the CEC. In addition, all contestants must submit one pre-election report before their certification as political subjects and one post-election report within 30 days

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<sup>67</sup> The fact-checking platform *Raskrinkavanje* identified portals devising manipulative means to praise one political option. *Istinomjer* provided a fact-checking blog devoted to online, broadcast and print news. From the official start of the campaign, it registered 31 “untruths”, 1 “half-truths”, and 2 “unfounded” assertions. See also the May 2022 UNESCO and Mediacentar Sarajevo study on [Regulation of Harmful Content Online in Bosnia and Herzegovina](#), and the 2021 European Parliament study on [Mapping Fake News and Disinformation in the Western Balkans](#).

<sup>68</sup> For instance, foreign contributions and loans are authorized expressly by the Election Law but are not mentioned in the Law on Political Party Finance in the list of allowed sources of funding of political parties. Direct public funding for the election campaigns is provided in Republika Srpska and Brčko district: in Republika Srpska, all registered political subjects receive relevant funds, while in Brčko district - only political parties.

<sup>69</sup> See the 2020 GRECO [Addendum](#) to the Second Compliance Report on party funding.

<sup>70</sup> Political parties are entitled to annual funding from state, entity, cantonal and municipal budgets.

<sup>71</sup> An individual may donate up to BAM 10,000, a legal entity - up to BAM 50,000 and a party member - up to BAM 15,000, annually.

<sup>72</sup> According to Paragraph 268 of the ODIHR and Venice Commission 2020 [Guidelines on Political Party Regulation](#), “legislation shall include guidelines on how the violation of key legislation may be brought to the attention of the relevant supervisory bodies, what powers of investigation are granted to such bodies, and the range of applicable sanctions. Without such investigative powers, agencies are unlikely to have the ability to effectively implement their mandate. Adequate financing and resources are also necessary to ensure the proper functioning and operation of the oversight body”.

<sup>73</sup> According to 29 September [preliminary findings](#) of the Transparency International on campaign spending, political parties had collectively spent BAM 9.6 million on advertisements via billboards, media and *Facebook* as well as for rallies. The largest amounts were reportedly spent by SNSD (BAM 1.6 million) and SDA (BAM 1.5 million), followed by PDP and SDP spending BAM 600,000 each.

after the announcement of the final election results.<sup>74</sup> Contrary to international good practice and despite a previous ODIHR recommendation, there is no requirement for contestants to submit an interim financial report before election day.<sup>75</sup>

A January 2022 CEC regulation provides for publication by the CEC of the campaign finance reports within 30 days after the deadline for their submission. However, there is no deadline for the CEC to audit the campaign finance reports or publish the audit conclusions. Due to a lack of resources, the CEC could not monitor the actual campaign expenditures and largely relied on reports from citizens and civil society organizations to detect possible violations. In addition, the CEC informed the ODIHR EOM that the effectiveness and timeliness of its review, control and audit procedures were severely challenged by the limited financial and human resources of the CEC.

*The capacity of the Central Election Commission should be strengthened to effectively monitor and investigate campaign finance operations. The Central Election Commission should be legally obliged to audit all financial reports by political parties and candidates in a timely manner and promptly publish the results of such audits.*

The CEC may impose sanctions for irregularities and is obliged to report any suspicion of financial criminal offences to law enforcement agencies.<sup>76</sup> Moreover, the CEC may ban political parties from participating in the next elections or request the relevant court to deregister parties for failure to submit regular and campaign financial reports.<sup>77</sup> Nevertheless, monetary penalties for financial violations appear insufficiently dissuasive, at odds with international good practice and previous ODIHR and GRECO recommendations.<sup>78</sup> Representatives of smaller political parties raised concerns to the ODIHR EOM about sanctions not being proportionate to the profit gained by breaching the regulations, which may be of an advantage for the well-established parties.<sup>79</sup> Overall, many ODIHR EOM interlocutors, including political parties and candidates, expressed low confidence in the transparency of political party and campaign finances and accountability for financial violations.

*To increase the transparency of campaign finance and accountability for financial violations, the regulatory framework should prescribe proportionate and dissuasive sanctions for violations.*

## **XI. MEDIA**

### **A. MEDIA ENVIRONMENT**

The media environment is fragmented and largely divided along ethnic and political lines. Most IEOM interlocutors noted that the underdeveloped media market did not provide for the financial sustainability

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<sup>74</sup> The pre-election financial report is a precondition of certification as a political subject and covers incomes and expenditures during the last three months before the registration. The post-election statement includes campaign incomes (monetary and in-kind) and expenditures from the day of the registration until the announcement of election results. Failure to submit a post-election statement may lead to the revocation of the mandate.

<sup>75</sup> See Paragraph 261 of the ODIHR and Venice Commission 2020 Guidelines on Political Party Regulation.

<sup>76</sup> Between January and October 2022, the CEC forwarded information on suspected criminal violations by 18 political parties to the prosecutor's office.

<sup>77</sup> In 2021, the CEC imposed administrative sanctions on 53 political parties, mostly related to expenditures not made in accordance with the programme and statute of the party, and banned 14 parties from participating in the 2022 elections due to failure to submit previous financial reports.

<sup>78</sup> See Paragraphs 272-274 of the ODIHR and Venice Commission 2020 Guidelines on Political Party Regulation.

<sup>79</sup> While the maximum sanction prescribed by the Election Law for electoral offences is BAM 30,000, the monetary penalties for financial violations by political parties and candidates range from BAM 500 to BAM 10,000. Article 16 of the [CoE Recommendation Rec\(2003\)4 of the Committee of Ministers to the Member States on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns](#) stipulates that "States should require [...] electoral campaigns to be subject to effective, proportionate and dissuasive sanctions".

of most media outlets. The dominant advertising position of state-owned corporations, often managed by political party affiliates, results in direct or indirect political control over many media outlets. The legislation does not provide for transparency of media ownership, which is at odds with international good practice and a previous ODIHR recommendation.<sup>80</sup>

The public broadcasting service is provided by the Radio and Television of Bosnia and Herzegovina (BHRT) at the state level, as well as the Radio Television of the Federation of Bosnia and Herzegovina (FTV) and Radio Television of Republika Srpska (RTRS) at the entity level. The managing boards of public broadcasters are elected by the respective state or entity-level parliaments.<sup>81</sup> Funding is mainly provided through a broadcast tax collected by the entity broadcasters and shared with BHRT. In the last decade, the RTRS has not transferred the legally prescribed part of funds to the BHRT, resulting in a significant underfunding of the latter.<sup>82</sup> The current method of financing and the management appointment system does not guarantee stable funding and editorial independence of the public broadcasters.<sup>83</sup>

*To enhance the scope of the information available for voters and promote balanced and impartial reporting in the news and current affairs programmes, the public broadcasting service should be granted a stable system of funding.*

Many IEOM interlocutors raised concerns about the increased number of cyber-attacks targeting the infrastructure of major media outlets,<sup>84</sup> and verbal threats and attacks against journalists by politicians, mostly online.<sup>85</sup> These practices have been condemned by the OSCE Representative on Freedom of the Media (RFoM) and the European Commission over the last few years.<sup>86</sup> While several ODIHR EOM interlocutors assessed as a positive step the recent establishment of a focal point at the Prosecutor's Office of Sarajevo Canton to report media-related offences, its jurisdiction is limited to the Canton. During the

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<sup>80</sup> Paragraph 4.1 of the CoE [Recommendation CM/Rec \(2018\)1](#) of the Committee of Minister's Guidelines on media pluralism and transparency of media ownership calls for the member states to “promote a regime of transparency of media ownership that ensures the public availability and accessibility of accurate, up-to-date data concerning direct and beneficial ownership of the media”.

<sup>81</sup> Since 2012, the parliament of the Federation of Bosnia and Herzegovina has been unable to elect the members to the managing board of FTV. As a result, the FTV director works under an expired mandate.

<sup>82</sup> The BHRT informed the ODIHR EOM that the accumulated debt of the RTRS to the BHRT exceeded BAM 65 million. The dispute between BHRT and RTRS is being reviewed by the Banja Luka district court.

<sup>83</sup> As the European Commission [Bosnia and Herzegovina Report 2021](#) noted, “Political influence over public broadcasters persists, and their financial sustainability has not been secured. The law on the public broadcasting system remains unimplemented and entity-level legislation is still not harmonized with this Law”. In section C, the 2019 [European Commission Opinion](#) on Bosnia and Herzegovina’s application for membership to the EU identifies as a key priority “ensuring the financial sustainability of the public broadcasting system”. The [2022 European Commission report](#) (p.30) states that Bosnia and Herzegovina made no progress to guarantee freedom of expression, which, *inter alia*, requires ensuring the financial sustainability of the public broadcasting system. Paragraph 16 of the UN HRC [General Comment No. 34](#) to the ICCPR calls the member states to “ensure that public broadcasting services operate in an independent manner, [...] guarantee their independence and editorial freedom, [and] provide funding in a manner that does not undermine their independence”.

<sup>84</sup> The OSCE Mission to Bosnia and Herzegovina [expressed concerns](#) that on 21 July 2022, the *Facebook* page of [guka.com](#), a prominent website in Republika Srpska, and [on 2 September](#), the *Facebook* page of the leading newspaper *Dnevni Avaz* were targeted by hacker attacks. The Mostar-based broadcaster *Herceg-Bosna* informed the ODIHR EOM that following a cyber-attack on 1-2 September, their archives were partially destroyed.

<sup>85</sup> In particular, the media association *BH Novinari* informed the ODIHR EOM that in the first nine months of 2022, it provided assistance in 30 cases of attacks, threats and pressure on journalists and media outlets.

<sup>86</sup> The European Commission’s [Bosnia and Herzegovina Report 2021](#), in Section 2.2.1, noted that “high-level politicians have resorted to public attacks and disparaging remarks against journalists, analysts and media workers, particularly women. The authorities continue to downplay the issue and there is no data collection by public institutions on threats and attacks against journalists and media workers”. See also joint statements of the OSCE RFoM and of the Head of OSCE Mission to Bosnia and Herzegovina from [24 September 2021](#) and from [27 May 2021](#).

campaign, the ODIHR EOM noted several cases of intimidation and harassment, which remained without a thorough investigation, contributing to an atmosphere of impunity.<sup>87</sup>

*Authorities should reinforce effective protection of journalists from threats and intimidation. Considerations should be given to strengthen the capacity of the law enforcement bodies to ensure swift investigation of online and offline cases of pressure on journalists and media outlets.*

## B. LEGAL FRAMEWORK

The state and entity constitutions provide for freedom of expression. While defamation and libel are decriminalized, the legislation does not clearly define defamation nor impose an upper limit on financial compensation for defamation.<sup>88</sup> Many IEOM interlocutors saw the numerous recent defamation cases against journalists as a tool to discourage them from reporting about issues of public importance.<sup>89</sup>

*The legislation should be amended to provide a clear definition of defamation, review sanctions for defamation to ensure proportionate and reasonable remedy, and provide for safeguards against abusing defamation law.*

Although the legislation provides for minimum guarantees for access to information, according to ODIHR EOM media interlocutors, the 15-day legal deadline for the authorities to reply to information requests is unduly long, and authorities often provide insufficient or formalistic replies.<sup>90</sup>

*Authorities should proactively publish information of public interest, including related to elections, in the public domain. Access to such information should be easy, prompt, effective and practical, facilitating a wide range of inquiries. Information requests should be reviewed swiftly; any refusals should have clear justifications.*

Media coverage of the election campaign is regulated by the Election Law and complemented by a CEC regulation adopted in May 2022. All broadcast media must respect the principles of fairness and impartiality, while public media have to provide three minutes of free airtime to each political subject in the entire campaign period. In line with the legal provisions, political subjects could purchase 30 minutes

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<sup>87</sup> On 15 September, a BN TV crew was attacked by SNSD activists when filming illegally parked mobile billboards. On 12 September, an SDA candidate made offensive [remarks](#) on Facebook against a journalist in response to his satirical portrayal of another SDA candidate.

<sup>88</sup> The laws of both entities broadly define defamation as harming someone's reputation by disseminating a false fact to a third party. Paragraph 17 of the [PACE resolution No. 1577 \(2007\)](#) calls on the member states to define the concept of defamation precisely in their legislation so as to "avoid an arbitrary application of the law and to ensure that civil law provides effective protection of the dignity of persons affected by defamation". On 31 October, Mr. Dodik [encouraged](#) introduction of criminal sanctions for defamation and libel in Republika Srpska.

<sup>89</sup> For example, in July 2021, the Sarajevo City Court ordered the website Žurnal to pay BAM 170,000 (some EUR 86,000) as compensation for defamation. In 2020, the Helpline for Journalists [registered](#) 289 active defamation cases; according to [safejournalists.net](#), some 80 per cent of such lawsuits were filed by political officials and directors of public institutions. Paragraph 47 of the [General Comment No. 34](#) to the ICCPR states that "States parties should place reasonable limits on the requirement for a defendant to reimburse the expenses of the successful party". Paragraph 2.4.2 of the CoE [Recommendation](#) CM/Rec (2016) 5 of the Committee of Ministers on Internet freedom calls the member states to make sure that defamation laws "do not impose excessive fines [...] of damages or legal costs".

<sup>90</sup> For example, Transparency International [informed](#) the ODIHR EOM that out of 578 information requests sent in 2021 to different public institutions, it received replies within the legal deadlines only in 321 cases. Paragraph 19 of the [General Comment No. 34](#) to the ICCPR states that "to give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information". See also the CoE [Convention](#) on Access to Official Documents (Tromsø Convention).

of paid airtime per week in the public and 60 minutes per week in private media, and most of the major contestants used this opportunity.<sup>91</sup>

The Communication Regulatory Authority (CRA) is the broadcast media regulator with a mandate to resolve media-related complaints and apply sanctions for violations.<sup>92</sup> Despite previous ODIHR recommendations, the CRA did not conduct media monitoring during the campaign, and was thus unable to supervise actively the broadcast media and only reacted to complaints. The legislation does not provide clear deadlines for resolving media-related complaints, limiting the right to an effective remedy.<sup>93</sup> The CRA informed the ODIHR EOM that it had reviewed 12 election-related complaints, issuing 1 warning to a TV station for not inviting a political party to debates, and dismissing the remaining 11 complaints.



### C. MEDIA MONITORING FINDINGS [Click Here to Read Media Monitoring Results](#)

According to the ODIHR EOM media monitoring results, the campaign coverage was significantly limited and provided the voters with only partial information, thus reducing their opportunity to make an informed choice.<sup>94</sup> In particular, the public TV BHT-1 and the private *Nova TV* allotted only 15 and 16 minutes, respectively, to all contestants combined in their primetime news coverages.

Both the public FTV and the private Hayat were critical of SNSD by allocating the party 48 and 34 per cent of the total coverage of political parties, respectively, mainly neutral or negative in tone. While FTV provided scarce, neutral coverage of the other main contestants, *Hayat* supported SDA by allotting the party some 21 per cent of its coverage, mainly positive and neutral in tone. The private N1, in its news and current affairs programmes, focused on the main political parties, covering them mainly in a neutral manner while occasionally criticizing the SDA and SNSD.<sup>95</sup>

The public RTRS displayed bias in favour of SNSD by allotting the party 44 per cent of the news coverage of all parties, predominantly positive in tone, and strongly criticizing PDP and SDS, giving them 22 and 11 per cent of coverage, respectively. With respect to the presidential candidates for Republika Srpska, both RTRS and BN devoted most of their coverage to SNSD's Mr. Dodik (53 and 62 per cent, respectively); in comparison, Ms. Trivić (PDP-SDS) received 45 and 37 per cent of the coverage. While RTRS covered Mr. Dodik mainly positively, the coverage of Ms. Trivić was largely negative. By contrast, on BN, the coverage of Mr. Dodik was largely negative, while Ms. Trivić was covered positively or neutrally. In the coverage of the candidates for the state presidency, RTRS displayed a clear support for the SNSD candidate Ms. Cvijanović and criticized the SDS candidate Mirko Šarović, while BN supported Mr. Šarović and criticized Ms. Cvijanović. The other monitored broadcasters had generally refrained from covering candidates for the state presidency.

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<sup>91</sup> On 1 October, SNSD complained to the CEC and the Communication Regulatory Authority (CRA) that during the last week of the campaign, on BN TV the total duration of paid political advertisements promoting Ms. Trivić exceeded the legally allowed 60 minutes per week. On 7 October, the CEC forwarded the case to the CRA without reviewing; the latter considered and dismissed the complaint on 28 November.

<sup>92</sup> The CRA is managed by a General Director, who is appointed and supervised by the CRA Council. The mandate of the current members of the Council expired in 2017 but the state parliament has not appointed new members.

<sup>93</sup> Paragraph 19 of the Explanatory Report to the 2002 Venice Commission's [Code of Good Practice](#) states that "quick rights of appeal must be available in order to remedy the situation before the elections".

<sup>94</sup> TV channels were monitored during the official campaign period from 2 to 30 September from 18:00 to 00:00. The sample included three public TV channels: BHT-1, FTV and RTRS, and four private TV: BN, *Hayat*, N1 and *Nova TV*. The ODIHR EOM also monitored the daily newspapers *Dnevni Avaz*, *Dnevni List*, *Nezavisne* and *Oslobodjenje*, and the websites klix.ba, mondo.ba and bljesak.info.

<sup>95</sup> N1 lost some 215,000 potential viewers when the state-owned audio-visual content provider BH-Telekom, having failed to agree on fees for broadcasting N1's content, excluded the TV channel from its network one day before the official campaign started. N1 and some opposition parties perceived the exclusion as politically biased.

Public broadcasters complied with their legal obligation to provide free airtime to contestants; however, it was allotted outside of primetime, significantly limiting the potential viewership. Public and some private broadcasters offered contestants a platform to present their views through debates. Yet, many contestants chose not to participate, further reducing the voters' ability to make an informed choice.

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

The coverage of women candidates in the media, especially those based in the Federation of Bosnia and Herzegovina, reflected women's limited role in the political scene. Although some 40 per cent of the candidates for the BiH HoR and the FBiH HoR were women, no monitored media based in the Federation of Bosnia and Herzegovina dedicated more than 19 per cent of coverage to women candidates in the newscasts. Women candidates received more coverage on broadcasters based in Republic Srpska. RTRS and BN provided 39 and 23 per cent of coverage to women candidates, respectively, mainly due to active presidential campaigns by Ms. Cvijanović and Ms. Trivić.

## XII. COMPLAINTS AND APPEALS

By law, complaints related to violations of electoral rights and procedural violations, including on the formation of MECs and violations such as early campaigning and hate speech, can be submitted directly to the CEC. MECs adjudicate complaints about violations of campaign rules in their respective jurisdictions. However, the division of competences between the CEC and MECs was not always clear for the election commissions, voters and contestants.<sup>96</sup> Appeals against MEC decisions may be filed with the CEC, and appeals against CEC decisions - with the Appellate Division of the Court of Bosnia and Herzegovina (hereinafter the Court).

Complaints must be filed with MECs or the CEC within 24 hours of the violation, decision, action or inaction, and MECs or the CEC have 48 hours to adjudicate the matter. Appeals must be filed within 48 hours with the CEC or the Court, with the CEC having 48 hours and the Court three days to adjudicate the case. Despite prior ODIHR recommendations, the deadlines for submitting and adjudicating complaints are very short, which is not in line with international good practice.<sup>97</sup> In cases observed by the ODIHR EOM, the CEC did not review any complaints in a timely manner and left some 90 complaints and notifications on violations unaddressed before election day.<sup>98</sup> The CEC cited a lack of human resources as cause for the delays.

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<sup>96</sup> The CEC informed the ODIHR EOM that, some two weeks before election day, it took over the competence from MECs to consider cases of misuse of administrative resources. Six complaints regarding the lottery procedures for the formation of the PSCs were forwarded to MECs by the CEC. The CEC received some 150 complaints or notifications of irregularities on election day, which were mostly referred to MECs. The CEC forwarded 10 complaints which fell under the CEC's jurisdiction to the Press Council of Bosnia and Herzegovina, a self-regulatory body that issues non-binding decisions concerning complaints about coverage of the campaign by print media.

<sup>97</sup> Section II.3.3.g of the 2002 Venice Commission's Code of Good Practice recommends that the time limits for lodging and deciding complaints must be "three to five days for each at first instance".

<sup>98</sup> 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".

*To allow adequate time for the filing and handling complaints, deadlines could be brought in line with international good practice. The Central Election Commission should consider all complaints and appeals in a timely manner and be properly prepared and resourced to do so.*

The possibility to file complaints and appeals is limited to voters and political subjects whose rights are violated. Public associations, including those observing the elections, have legal standing only on issues related to their accreditation. Positively, the CEC pro-actively reviewed *ex officio* most information on irregularities throughout the electoral period.

After the announcement of the preliminary election results, electoral contestants, groups of at least 50 voters, MECs and observers may request a recount of the votes cast in a specific polling station or a constituency. The CEC may annul the results of a polling station or constituency *ex officio* if it establishes that irregularities during the voting or counting process may have affected the results. The CEC decision establishing the election results can be appealed to the Court.

Positively, the CEC and some MECs considered complaints in public sessions involving substantial discussions. Nevertheless, complaints and subsequent decisions of the election commissions were not made public, diminishing transparency.<sup>99</sup> The Court did not conduct public hearings of the election disputes and did not make its decisions public.<sup>100</sup>

*To enhance transparency and accountability, the Central Election Commission and the courts should publish election-related complaints and decisions in a timely manner.*

Before election day, the CEC received some 560 complaints and 68 appeals against MEC decisions; among them, 403 related to out-of-country voting, 59 to early campaigning, 35 challenged the appointment of the PSC members or false representation of political subjects in the PSCs, 22 related to prohibited speech and 35 to misuse of administrative resources.<sup>101</sup> Of these complaints, nearly 90 were dismissed on technical grounds. Among other cases, the CEC dismissed seven cases of alleged misuse of administrative resources due to the absence of concurrent political messages.<sup>102</sup> In 15 cases, the CEC imposed fines for early campaigning, misuse of administrative resources and prohibited speech. In addition, acting *ex officio* upon notifications of irregularities, the CEC reviewed 60 cases related to campaign irregularities and false representation of parties in the PSCs and imposed fines in 22 cases.<sup>103</sup>

The Court reviewed some 360 appeals against the CEC decisions on complaints, including 273 related to registration for out-of-country voting, the latter were all rejected. Other appeals related to early campaigning, misuse of administrative resources, hate speech and false party affiliation in the PSCs; the Court overturned 10 CEC decisions.<sup>104</sup>

An election-related violation may be referred to the prosecutor if it contains elements of a criminal offence. Before election day, the prosecutors' offices received some 25 cases from the CEC, mostly related to violations of the secrecy of postal voting or vote buying. In addition, the CEC forwarded 20

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<sup>99</sup> The CEC published an overview of complaints two weeks before election day and updated it periodically. However, the CEC informed the ODIHR EOM that it could not launch the planned online database of complaints and appeals before election day due to the lack of human and financial resources.

<sup>100</sup> The law does not guarantee public hearings. The Court informed the ODIHR EOM that it only publishes decisions it deems them to be of public interest.

<sup>101</sup> In deciding appeals against the MEC decisions, the CEC overturned seven MEC decisions and imposed fines in three cases. Complaints related to early campaigning were mostly rejected on merits.

<sup>102</sup> The Court overturned a CEC decision on imposing fines on an SNSD candidate, arguing that the candidate's speech at the opening of a medical facility in Banja Luka did not contain any political messages.

<sup>103</sup> Before election day, the CEC received 95 notifications on irregularities, submitted mainly by Transparency International and *Pod lupom*.

<sup>104</sup> The Court rejected 44 appeals as inadmissible due to the lack of legal standing or submission after the legal deadline.

individual cases of alleged signature falsification from voters registering for out-of-country voting. Prosecutors at different levels noted to the ODIHR EOM a lack of clarity regarding their competences in cases pertaining to electoral criminal offences in the context of simultaneously held state, entity and canton-level elections.<sup>105</sup>

Overall, shortcomings in the legislation, lack of guarantees of due process and of transparency as well as insufficient resources at the CEC's disposal negatively impacted the effectiveness of the election dispute resolution. Many IEOM interlocutors also expressed a lack of trust in the capacity of election commissions, courts, and the prosecutors' offices to handle election disputes effectively and voiced concerns over the lack of independence of the judiciary.<sup>106</sup>

### XIII. ELECTION OBSERVATION

The Election Law provides for observation of all stages of the electoral process by observers nominated by civil society organizations, political subjects, and international organizations. The CEC accredits citizen and international observers, as well as observers from political subjects to observe the CEC, the MCC and polling stations abroad. MECs accredit contestants' observers to follow the process in their respective municipalities. The Election Law limits the number of citizen and contestant observers to one per organization at every polling station. The CEC allowed up to three observers from each contestant to be simultaneously present at the MCC, but did not extend this right to citizen observers.

For these elections, the CEC launched an online tool for the registration of observers.<sup>107</sup> In an inclusive process, the CEC accredited 2,648 citizen observers, 134 observers from political subjects and 938 international observers, while MECs accredited some 50,000 observers from political subjects.<sup>108</sup>

### XIV. ELECTION DAY

Election day was largely peaceful, with some disruptive incidents in and around polling stations.<sup>109</sup> The CEC received 61 complaints about alleged breaches of the campaign silence.<sup>110</sup> The CEC shared updates about the voting process throughout election day and started publishing results by polling station on election night on the CEC website, which enhanced transparency. Contestants' and citizen observers were present in 97 and 21 per cent of polling stations observed by the IEOM, respectively. In the polling stations observed by the IEOM, some 45 per cent of the PSC members were women and women chaired some 41 per cent of the commissions observed.

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<sup>105</sup> Both state and entity criminal codes contain election-related offences, potentially leading to uncertainties when a case includes acts related to different elections.

<sup>106</sup> Section 1.1.1 of the 2019 European Commission's Opinion on Bosnia and Herzegovina's application for membership to the EU states that "the independence of the judiciary is not sufficiently guaranteed to shield it from all forms of politicization and pressures".

<sup>107</sup> Nevertheless, the CEC informed the ODIHR EOM that, due to the short timeframe, its IT department faced difficulties delivering all functions and services planned in the newly launched online application.

<sup>108</sup> A civil society coalition *Pod lupom* conducted long-term observation and deployed some 2,000 short-term observers on election day. It maintained a [Map of Election Irregularities](#) and published a preliminary [report](#) of election day observations.

<sup>109</sup> The CEC registered several incidents, including physical attacks, citing 6 criminal offences and 14 disturbances of public order.

<sup>110</sup> The campaign silence period applies on election day and the day before. Most complaints were related to new posts on social networks and SMS campaign messages sent to voters on election day. The CEC imposed fines on three political subjects for violating the silence period.

## A. OPENING AND VOTING

The IEOM assessed the opening procedures positively in 172 of the 190 polling stations observed. Polling stations opened on time or slightly delayed in all but 12 cases observed.<sup>111</sup> The IEOM noted several procedural omissions during the opening: serial numbers of ballot box seals were not recorded in the respective forms in 29 cases, the total number of ballots received was not recorded in 25 cases, and ballot boxes were not sealed properly in 17 cases.

The voting process was assessed positively in 95 per cent of the 1,785 polling stations observed, with no significant differences noted by observers between the Federation of Bosnia and Herzegovina and Republika Srpska. The IEOM noted campaign materials in the vicinity of 3 per cent of the polling stations observed, contrary to the Election Law. Procedures, including voter identification, were largely respected, and transparency was assessed positively in almost all observations. The negative assessments were mainly caused by concerns about the secrecy of the ballot and cases of interference by unauthorized people in the voting process, which were not effectively addressed. The secrecy of the vote was potentially compromised due to positioning of voting screens and inadequate layout of the voting premises in 25 and 14 per cent of the IEOM observations, respectively.<sup>112</sup> Further, voters did not always mark their ballots in secrecy in one of four observations.

In line with a previous ODIHR recommendation, the CEC eliminated the requirement of loudly announcing the voters' names during identification. However, the IEOM observed such practice in 21 polling stations. Despite a previous ODIHR recommendation, keeping track of voters is not explicitly prohibited for people not belonging to the PSC and the IEOM noted tracking of voters in 12 per cent of observations.<sup>113</sup> These practices compromised the secrecy of the vote and may have resulted in voters feeling pressure. Unauthorized people, most frequently contestant observers, were seen by the IEOM interfering in the election process or attempting to influence voters in some 3 per cent of observations. Overcrowding was reported in 6 per cent of the polling stations observed.

*The authorities should take effective measures to protect the voters' right to a free and secret choice. The importance of ballot secrecy, protecting a voter's identity, and ensuring voters can vote in a free atmosphere should be emphasized during the training of election commissions and in voter education materials. The polling station layout should be reviewed, and overcrowding should be addressed to ensure the secrecy of the vote and protection against undue influence on voters.*

Ballot boxes were not sealed properly in 6 per cent, and other procedural problems were observed in 6 per cent of visited polling stations. On election day, the IEOM observed some serious electoral violations, including proxy voting in 75 cases, indications of vote buying in 2 cases, indications of voting with pre-marked ballots in 6 cases, voters taking photos of their ballots in 16 cases as well as 10 cases of intimidation of voters or PSC members. Group and family voting was observed in 6 per cent of visited polling stations.

To prevent family and group voting, the CEC introduced a requirement for a medical certificate or equivalent document as a precondition for assisted voting, except for cases where the disability was 'obvious'. The IEOM noted an inconsistent application of this rule. On the one hand, the IEOM observed

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<sup>111</sup> The CEC informed the ODIHR EOM that one polling station in Hozici (Novi Grad municipality, Republika Srpska), where pre-marked ballots were found, and the PSC members were detained, did not open for voting. The CEC appointed a new PSC and ordered repeat elections for 9 October.

<sup>112</sup> To prevent photographing of ballots, the CEC ordered to position the open side of the voting screens towards the PSC members and observers, prescribing sufficient distance between the screens and the audience.

<sup>113</sup> Keeping track of voters was more prevalent in rural areas compared with urban areas (16 and 10 per cent, respectively), and in Republika Srpska compared with the Federation of Bosnia and Herzegovina (17 and 10 per cent, respectively).

several instances where eligible voters were denied the opportunity to vote with an assistant of their choice. On the other hand, in some 2 per cent of the polling stations observed, the same person assisted more than one voter, contrary to the Election Law.

The Election Law does not require the voting premises to be accessible for voters with physical disabilities; voters who are unable to enter the polling station are allowed to vote outside. Inconsistent with international standards, some 51 per cent of the polling stations observed did not provide independent access for persons with physical disabilities, and in 19 per cent, the layout was unsuitable for such voters.<sup>114</sup> While not required by the law, no assistive tools were made available for voters with visual or cognitive impairments.

*The election administration should consider additional measures, in close co-operation with organizations representing persons with disabilities, to ensure that voters with disabilities, including those with visual impairments, can vote independently or with a proper assistance. Efforts should be undertaken to ensure that polling station premises and layout are suitable for independent access.*

## **B. COUNTING AND TABULATION**

Polling stations generally closed on time. The IEOM assessed counting negatively in 36 out of 168 polling stations observed, primarily due to procedural irregularities caused by PSC members' insufficient understanding of the procedures. These high numbers of negative assessments are of concern and may indicate that the training provided to PSC members was inefficient. Also of concern was the 23 cases observed of unauthorized people, mostly contestant observers, interfering with the work of the PSCs.

Stamps and voter lists were not sealed or packed away before the counting started in 70 and 83 cases observed, respectively. Ballot validity was not always determined by all PSC members in 47 cases observed by the IEOM.<sup>115</sup> In 22 and 23 cases, respectively, the determination of the validity of the ballots was not always done reasonably or consistently. In 34 cases, the materials were not properly packed and sealed after counting the votes for each contest. The PSCs had difficulties completing results protocols in 61 cases.<sup>116</sup> The number of irregularities observed was similar in both entities.

The IEOM observed the tabulation of the results in 103 MECs. Upon receiving the PSC voting results protocols, MECs were entering the data in the electronic results management system. The IEOM assessed the process as overall well organized, but in 14 MECs, the conditions were not fully adequate for the reception of material and data entry, primarily due to insufficient space.

MECs identified inconsistencies in a high number of PSC protocols where data entry could not be performed. On 3 and 4 October, the CEC approved requests from 56 MECs to inspect the election material from 437 polling stations or clarify arithmetic inconsistencies, including by a recount of votes. On 4 October, after the legal deadline for MECs to complete data entry, the CEC announced that voting results from 1,166 polling stations were not yet entered to the electronic results management system and instructed 91 MECs to conclude the process by the following day. This extended deadline was not met by 11 MECs, due to a higher workload with additional inspection of materials. The data entry only concluded on 7 October.

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<sup>114</sup> Article 29 of the CRPD calls the States Parties to "guarantee to persons with disabilities political rights [...], including the right and opportunity for persons with disabilities to vote and be elected, *inter alia*, by [...] ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use".

<sup>115</sup> Including 26 cases of 104 observations in the Federation of Bosnia and Herzegovina and 21 cases of 62 observations in Republika Srpska.

<sup>116</sup> Including 43 of 104 observations in the Federation of Bosnia and Herzegovina and 18 cases of 62 observations in Republika Srpska.

PSC members, observers and voters can record “substantiated objections” on irregularities related to the voting process in the PSC logbook. Based on such objections, contestants could file complaints to MECs or to the CEC. The CEC received 143 election day-related complaints, including those alleging irregularities during voting, counting, assisted voting, restrictions of observers’ rights and falsification of voting results. The majority of those complaints were forwarded to MECs. The chief prosecutor’s office received 27 cases mostly related to irregularities in the voter lists, restrictions of observers’ rights, voting on behalf of other people, physical attacks and misuse of provisions for assisted voting.

## XV. POST-ELECTION DAY DEVELOPMENTS

On election night, both Mr. Dodik and Ms. Trivić declared victory in the presidential race in Republika Srpska.<sup>117</sup> Several opposition parties, including SDS, PDP and For Justice and Order, questioned the integrity of the preliminary presidential election results in Republika Srpska, alleging widespread irregularities on election day, including alleged cases of falsification of voting results, illegal assisted voting, restrictions of observers’ rights, and intentional invalidation of ballots by PSC members. On 6 October, the PDP and SDS officially requested the CEC to recount all votes in the presidential election in Republika Srpska.<sup>118</sup> The opposition in Republika Srpska organized demonstrations in Banja Luka on 6 and 9 October against the perceived electoral fraud.<sup>119</sup>

On 10 October, citing complaints about election day irregularities and underperformance of several MECs during the data entry, the CEC took the decision to conduct a ‘control count’<sup>120</sup> of all votes cast in the presidential election in Republika Srpska, with the stated aim to accurately determine the election results.<sup>121</sup> SNSD representatives repeatedly questioned the legitimacy of the CEC decision on ‘control count’, alleging that it was politically motivated.<sup>122</sup> Unacceptably, there were public verbal attacks against some CEC members; several CEC members raised concerns about the gender-based nature of these attacks. Throughout the election period and following the holding of the elections, several political leaders repeatedly pronounced, not citing legal grounds that they would move to dismiss CEC members once the state-level authorities are formed.<sup>123</sup>

*Authorities should ensure that members of the election administration are not recalled for arbitrary reasons and that they are able to conduct their duties without fear of retribution or intimidation, including based on gender, and should promptly investigate and respond to such cases.*

The ‘control count’ was performed between 13 and 26 October by the MCC in Sarajevo, in the presence of observers and media representatives.<sup>124</sup> Despite the increased workload, the MCC conducted the process in a professional and transparent manner. During the ‘control count’, the CEC identified many

<sup>117</sup> According to the preliminary results, Mr. Dodik won some 29,000 votes more than Ms. Trivić.

<sup>118</sup> In total, the CEC received 75 requests for recounts before announcing the preliminary election results and dismissed them all as premature, in line with the Election Law.

<sup>119</sup> Reportedly, the initial protest rallies gathered some 15,000 people.

<sup>120</sup> A control count differs from a recount. By law, recounts of votes cast in a specific polling station or a constituency can only be requested after the announcement of the preliminary results, by electoral contestants, groups of at least 50 voters, MECs and observers. During a control count, no cross-checking of results is conducted either by the MCC or the CEC, but new results protocols are filled out.

<sup>121</sup> Further, the CEC ordered ‘control counts’ of votes in other electoral races in 208 polling stations, for example, when the number of ballots found in a ballot box did not equal the sum of all relevant invalid and valid votes.

<sup>122</sup> SNSD submitted criminal complaints against several CEC members on 11 and 19 October, arguing that the control count denied the party’s right to a fair legal procedure and alleging that the CEC members had abused their office.

<sup>123</sup> Paragraph 77 of the 2002 Venice Commission Code of Good Practice states that “bodies that appoint members to electoral commissions should not be free to recall them, as it casts doubt on their independence. Discretionary recall is unacceptable, but recall for disciplinary reasons is permissible - provided that the grounds for this are clearly and restrictively specified in law”.

<sup>124</sup> The ODIHR EOM conducted a limited observation of the control count.

technical errors indicating the PSC members' poor understanding of the voting and counting procedures and some indications of potential malpractices.<sup>125</sup>

As the result of the 'control count', Mr. Dodik lost some 2,400 votes, Ms. Trivić gained some 500; 3 more candidates lost more than 200 votes each compared with the preliminary results, but the CEC did not publish an overview of discrepancies identified. According to the analysis of the ODIHR EOM based on the two sets of preliminary results published by the CEC prior to and after the control count, discrepancies in the number of votes amounting to more than 1 per cent of all ballots cast for the relevant presidential race were noted in 11 municipalities.<sup>126</sup>

The CEC announced the preliminary election results on 22 October, except for the presidential contest in Republika Srpska.<sup>127</sup> On 25 October, SNSD organized a large rally in Banja Luka against the delayed announcement of the election results.<sup>128</sup> The CEC published the preliminary result of the presidential race in Republika Srpska on 27 October, confirming Mr. Dodik's victory.

Between 25 to 28 October, the CEC considered 126 requests for recount of votes cast at the polling station or municipal levels, or, in some cases, of ballots marked for specific parties. The CEC accepted 29 requests and rejected 60 as inadmissible due to the submitters' lack of legal standing; the rest were rejected on merits. Further, in 11 cases rejected as inadmissible, the CEC ordered an *ex officio* recount of the votes in question. The Court of Bosnia and Herzegovina reviewed on appeal seven CEC decisions on requests for recounts and rejected all of them on merits.<sup>129</sup>

On 11 October, Željko Komšić, the Croat member of the state presidency, requested a constitutional review of the 2 October legal amendments, arguing, *inter alia*, that the imposed changes contradict earlier decisions of the CC BiH and challenge legal certainty and the equality of the vote.<sup>130</sup> Mr. Komšić also requested a temporary suspension of the allocation of mandates to the FBiH HoP as an interim measure. The CC BiH did not rule on the appeals prior to the CEC decision on defining the results of the indirect elections to the FBiH HoR. On 1 and 2 December, the CC BiH dismissed the request for the adoption of interim measure and postponed the decision on merits. On 20 January 2023, following a two-day session, the CC BiH further postponed the decision on constitutionality of the amendments.

Following the recounts, the CEC announced the final election results for all electoral races on 2 November, one day after the legal deadline. On 4 November, the CEC adopted a regulation on allocation of mandates in the FBiH HoP (indirect elections), based on Election Law provisions amended by the High Representative on election day.

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<sup>125</sup> On 24 and 25 October, the CEC submitted reports to the Prosecutor's Office of Bosnia and Herzegovina concerning 73 falsified (not authentic) ballots found at 2 polling stations in Bratunac, 1 polling station in Šekovići (Republika Srpska) and 2 polling stations in Brčko District.

<sup>126</sup> Discrepancies in the number of votes amounting to more than 1 per cent of all ballots cast for the relevant presidential race were noted in a considerable number of polling stations in Doboj, Laktaši, Prijedor, and Zvornik, and in few polling stations in Brčko, Gradiška, Istočna Ilidža, Kotor Varoš, Nevesinje, Srebrenica and Vukosavlje.

<sup>127</sup> Thirteen appeals were submitted to the Court of Bosnia and Herzegovina against the CEC decisions establishing the preliminary results, and all were rejected as unfounded.

<sup>128</sup> The media estimated the number of participants in the demonstration as some 30,000.

<sup>129</sup> The rejected requests included requests by PDP and SDS to annul the presidential election results in Republika Srpska and repeat the election; these were rejected as unfounded.

<sup>130</sup> On 24 October, approximately 5,000 people protested in Sarajevo, urging the High Representative to abrogate the latest amendments. On 26 October, Šefik Džaferović, the outgoing Bosniak member of the state presidency, submitted another appeal at the CC BiH, arguing that the 2 October legal amendments challenge the principle of legal certainty.

## XVI. RECOMMENDATIONS

These recommendations as contained throughout the text are offered with a view to further enhance the conduct of elections in Bosnia and Herzegovina and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past ODIHR recommendations that have not yet been addressed. ODIHR stands ready to assist the authorities of Bosnia and Herzegovina to further improve the electoral process and to address the recommendations contained in this and previous reports.<sup>131</sup>

### A. PRIORITY RECOMMENDATIONS

1. A comprehensive review of the legal framework should be undertaken to address all outstanding ODIHR recommendations, eliminate existing gaps and inconsistencies, and incorporate in the legislation judgments of the European Court of Human Rights and Constitutional Court of Bosnia and Herzegovina regarding ethnicity and residency-based restrictions on the right to stand as a candidate. In line with international good practice, the comprehensive review process should be open, inclusive and consultative and take place well before the next elections.
2. Authorities should provide adequate and effective allocation of funds to ensure the functionality of the Central Election Commission as an institution, including in non-election years, and to cover all the costs associated with the organization of the elections. The Central Election Commission should be provided with the necessary resources to hire sufficient and qualified staff, including in its audit, legal and IT departments, and to develop its IT infrastructure.
3. In order to ensure timely formation, impartiality and professionalism of Polling Station Commissions and increase stakeholders' trust, the authorities should review the system of appointment of these commissions. This could be achieved by limiting eligibility to nominate their members only to the parties represented in the state and entity parliaments, or those drawn from a permanent roster of trained people maintained by the Central Election Commission.
4. Authorities should ensure that members of the election administration are not recalled for arbitrary reasons and that they are able to conduct their duties without fear of retribution or intimidation, including based on gender, and should promptly investigate and respond to such cases.
5. In order to address the issue of public officials and electoral contestants exerting pressure on voters, the relevant authorities should take prompt and effective steps to investigate such allegations and any misuse of administrative resources and proactively work to deter such practices.
6. To facilitate women's active participation in public and political life, comprehensive legal, institutional, and educational efforts challenging the existing gender stereotypes about the role of women and men in politics should be undertaken by the authorities at all levels. A thorough

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<sup>131</sup> In paragraph 25 of the 1999 [OSCE Istanbul Document](#), OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations". The follow-up of prior recommendations is assessed by the ODIHR EOM as follows: recommendations 6, 11, 12, 13, 16, 27, 28, 29 and 30 from the [final report of the 2014 general elections](#) (2014 Final Report) are fully implemented. Recommendations 3, 15 and 25 from the 2014 Final report and recommendations 5 and 22 from the [final report of the 2018 general elections](#) (2018 Final Report) are mostly implemented. Recommendations 4, 7, 8, 9, 17, 21 and 24 from the 2014 Final report and recommendations 2, 3, 4, 6, 7, 9, 14, 16, 17, 20 and 21 from the 2018 Final report are partially implemented. See also the ODIHR [Electoral Recommendations Database](#).

assessment should be conducted on the impact of the gender quota requirements on the election of women officeholders at all levels.

7. Authorities should reinforce effective protection of journalists from threats and intimidation. Considerations should be given to strengthen the capacity of the law enforcement bodies to ensure swift investigation of online and offline cases of pressure on journalists and media outlets.
8. The authorities should take effective measures to protect the voters' right to a free and secret choice. The importance of ballot secrecy, protecting a voter's identity, and ensuring voters can vote in a free atmosphere should be emphasized during the training of election commissions and in voter education materials. The polling station layout should be reviewed, and overcrowding should be addressed to ensure the secrecy of the vote and protection against undue influence on voters.

## **B. OTHER RECOMMENDATIONS**

### **Electoral System**

9. To ensure the equality of the vote, the boundaries of multi-member constituencies and their relevant number of mandates should be reviewed periodically and well in advance of the next elections, in line with the national legislation, international standards and good practice.

### **Election Administration**

10. The Central Election Commission should continue enhancing the training of lower-level election commissions, with a particular focus on voting and counting procedures and completing voting results protocols.
11. The authorities, including the election administration, should develop a comprehensive long-term voter education and information programme for different target audiences in close consultation with organizations representing these groups. Voter education and information materials should be produced in line with accessibility standards.
12. The election administration should consider additional measures, in close co-operation with organizations representing persons with disabilities, to ensure that voters with disabilities, including those with visual impairments, can vote independently or with a proper assistance. Efforts should be undertaken to ensure that polling station premises and layout are suitable for independent access.

### **Voter Registration**

13. To ensure equal suffrage in accordance with international standards, restrictions to the right to vote based on intellectual or psychosocial disability should be abolished.

### **Candidate Registration**

14. In order to enhance respect for freedom of association and expression, the legal framework should be amended to allow voters to sign in support of more than one electoral contestant in each election.

## **Campaign**

15. Political parties should undertake effective measures to identify and overcome gender-biased barriers for women candidates, including by reviewing current intra-party practices that curb more effective representation of women within party structures and as candidates.

## **Campaign Finance**

16. The capacity of the Central Election Commission should be strengthened to effectively monitor and investigate campaign finance operations. The Central Election Commission should be legally obliged to audit all financial reports by political parties and candidates in a timely manner and promptly publish the results of such audits.
17. To increase the transparency of campaign finance and accountability for financial violations, the regulatory framework should prescribe proportionate and dissuasive sanctions for violations.

## **Media**

18. To enhance the scope of the information available for voters and promote balanced and impartial reporting in the news and current affairs programmes, the public broadcasting service should be granted a stable system of funding.
19. The legislation should be amended to provide a clear definition of defamation, review sanctions for defamation to ensure proportionate and reasonable remedy, and provide for safeguards against abusing defamation law.
20. Authorities should proactively publish information of public interest, including related to elections, in the public domain. Access to such information should be easy, prompt, effective and practical, facilitating a wide range of inquiries. Information requests should be reviewed swiftly; any refusals should have clear justifications.

## **Complaints and Appeals**

21. To allow adequate time for the filing and handling complaints, deadlines could be brought in line with international good practice. The Central Election Commission should consider all complaints and appeals in a timely manner and be properly prepared and resourced to do so.
22. To enhance transparency and accountability, the Central Election Commission and the courts should publish election-related complaints and decisions in a timely manner.

**ANNEX I: FINAL ELECTION RESULTS<sup>132</sup>**

**Presidency of Bosnia and Herzegovina**

	the Federation of Bosnia and Herzegovina	Republika Srpska
Eligible voters	2,109,344	1,259,322
Voters who voted	1,056,149 (50.07%)	677,057 (53.8%)
Blank ballots	43,655 (4.13%)	24,716 (3.65%)
Invalid ballots	29,081 (2.75%)	17,821 (2.63%)

**Bosniak Member of the Presidency**

Candidate	Party affiliation	Number of votes	Percentage
Denis Bećirović	United for a Free Bosnia and Herzegovina	330,238	57.37
Bakir Izetbegović	Party of Democratic Action	214,412	37.25
Mirsad Hadžikadić	Platform for Progress	30,968	5.38

**Croat Member of the Presidency**

Candidate	Party affiliation	Number of votes	Percentage
Željko Komšić	Democratic Front	227,540	55.8
Borjana Krišto	Croat Democratic Union of Bosnia and Herzegovina	180,255	44.2

**Serb Member of the Presidency**

Candidate name	Party affiliation	Number of votes	Percentage
Željka Cvijanović	Alliance of Independent Social Democrats - Milorad Dodik	327,720	51.65
Mirko Šarović	Serb Democratic Party	224,912	35.45
Vojin Mijatović	United For A Free Bosnia and Herzegovina	38,655	6.09
Nenad Nešić	Democratic People's Alliance	34,955	5.51
Borislav Bijelić	Life Party (ZIVOT)	8,278	1.30

<sup>132</sup> Data according to the final results published by the [CEC](#).

**House of Representatives of Bosnia and Herzegovina**

	the Federation of Bosnia and Herzegovina	Republika Srpska
Voters who voted	1,056,149 (50.07%)	677,057 (53.8%)
Blank ballots	52,627 (4.98%)	35,329 (5.22%)
Invalid ballots	36,535 (3.46%)	20,790 (3.07%)

Political party/coalition	Number of votes	Per cent	Direct seats	Compensatory seats	Total number
<b>From the Federation of Bosnia and Herzegovina</b>					
Party of Democratic Action	243,415	25.17	7	1	8
HDZ BIH, HSS, HSP BIH, HKDU, HSPAS, HDU, HSPHB, HRAST	137,340	14.20	3	1	4
Social Democratic Party of Bosnia and Herzegovina	129,500	13.39	5	0	5
Željko Komšić - For a Civic State	101,715	10.52	2	1	3
People and Justice	79,555	8.23	1	2	3
Our Party	49,481	5.12	1	1	2
NES – For New Generations	47,157	4.88	1	1	2
Other 21 political parties/coalitions with less than 3 per cent votes for each	172,591		0	0	0
<b>From Republika Srpska</b>					
Alliance of Independent Social Democrats - Milorad Dodik	255,515	41.15	6	0	6
Serb Democratic Party	112,250	18.08	2	0	2
Party of Democratic Progress	73,023	11.76	1	1	2
For Justice and Order – List of Nebojša Vukanović	32,982	5.31	0	1	1
Democratic Alliance DEMOS	30,591	4.93	0	1	1
Party of Democratic Action	30,132	4.85	0	1	1
United Srpska	24,313	3.92	0	1	1
Socialist Party Petar Đokić-SNP	23,018	3.71	0	0	0
Democratic People's Alliance	21,644	3.49	0	0	0
Other 13 political parties/coalitions with less than 3 per cent votes for each	17,508				

**House of Representatives of the Federation of Bosnia and Herzegovina**

Voters who voted	1,055,976 (50.06%)
Blank ballots	44,428 (4.21%)
Invalid ballots	35,593 (3.37%)

Political party/coalition	Number of votes	Per cent	Direct seats	Compensatory seats	Total number
Party of Democratic Action (SDA)	238,116	24.40	21	5	26
Social Democratic Party of BiH (SDP BiH)	131,328	13.46	11	4	15
HDZ BIH, HSSSR, HSS, HSP BIH, HKDU, HSPAS, HDU, HSPHB,	130,566	13.38	12	3	15
Željko Komšić – For a Civic State - DF/GS	107,736	11.04	10	2	12
TRUST! (People and Justice (NiP) – Pensioners’ Party of BiH (SPU BiH))	67,191	6.88	3	4	7
Our Party (Naša Stranka)	50,820	5.21	2	4	6
NES-For A European BiH	42,324	4.34	4	1	5
Party for BiH (SBiH)	36,465	3.74	2	2	4
Other 18 political parties/coalitions with less than 3 per cent votes for each	171,409				

**President of Republika Srpska**

Voters who voted	676,762 (53.74%)
Blank ballots	21,524 (3.18%)
Invalid ballots	17,415 (2.57%)

Candidate name	Party affiliation	Number of votes	Percentage
Milorad Dodik	Alliance of Independent Social Democrats - Milorad Dodik	300,180	47.06
Jelena Trivić	Party of Democratic Progress	273,245	42.84
Other 31 candidates with less than 3 per cent votes for each		64,398	

**National Assembly of Republika Srpska**

Voters who voted	676,982 (53.76%)
Blank ballots	15,133
Invalid ballots	22,241

Political party/coalition	Number of votes	Per cent	Direct seats	Compensatory seats	Total number of seats
Alliance of Independent Social Democrats Milorad Dodik	221,549	34.64	29	27	2
Serb Democratic Party	95,640	14.95	13	13	0
Party of Democratic Progress	65,861	10.30	8	6	2
Socialist Party Petar Đokić – People’s Democratic Movement (NDP) - 4 for New Policy (SNP)	37,881	5.92	5	5	0
Movement for the State	36,652	5.73	5	3	2
Democratic Alliance DEMOS	34,869	5.46	5	3	2
United Srpska	32,696	5.11	4	3	1
For Justice and Order – List of Nebojša Vukanović	31,551	4.93	4	2	2
Democratic People’s Alliance	28,503	4.46	4	0	4
People’s Party of Srpska Darko Banjac – Movement Of Successful Srpska – First Serb Democratic Party	20,898	3.27	3	1	2
Socialist Party of Srpska Goran Selak	19,893	3.11	3	0	3
Other 20 political parties/coalitions with less than 3 per cent votes for each	13,588				

## ANNEX II: LIST OF OBSERVERS IN THE INTERNATIONAL ELECTION OBSERVATION MISSION

### OSCE Parliamentary Assembly

Pascal Allizard	France	Special Co-ordinator
Irene Charalambides	Cyprus	Head of delegation
Ferran Costa	Andorra	MP
Roger Padreny	Andorra	MP
Axel Kassegger	Austria	MP
Nico Marchetti	Austria	MP
David Stogmuller	Austria	MP
Selma Yildirim	Austria	MP
Guillaume Defosse	Belgium	MP
Denis Ducarme	Belgium	MP
Soetkin Hoessen	Belgium	MP
Davor Bernardic	Croatia	MP
Hrvoje Simic	Croatia	MP
Kyriakos Hadjiyianni	Cyprus	MP
Jan Bauer	Czech Republic	MP
Jana Pastuchova	Czech Republic	MP
Lucie Potuckova	Czech Republic	MP
Jan Richter	Czech Republic	MP
Jan Zaloudik	Czech Republic	MP
Heljo Pikhof	Estonia	MP
Sven Sester	Estonia	MP
Tom Erik Packalen	Finland	MP
Thibaut Francois	France	MP
Nikoloz Samkharadze	Georgia	MP
Malte Kaufmann	Germany	MP
Boris Mijatovic	Germany	MP
Christian Petry	Germany	MP
Georgios Arvanitidis	Greece	MP
Anastasia Gkara	Greece	MP
Theodoros Karaoglou	Greece	MP
Dimitrios Markopoulos	Greece	MP
Georgios Varemenos	Greece	MP
Attila Tilki	Hungary	MP
Luigi Augussori	Italy	MP
Mauro Del Barba	Italy	MP
Gianluca Ferrara	Italy	MP
Paolo Grimoldi	Italy	MP
Niccolo Invidia	Italy	MP
Francesco Mollame	Italy	MP
Emanuele Scagliusi	Italy	MP
Vito Vattuone	Italy	MP
Amangaliy Berdalin	Kazakhstan	MP
Alexander Muscat	Malta	MP
Farah Karimi	Netherlands	MP
Igor Janushev	North Macedonia	MP
Halil Snopche	North Macedonia	MP
Dime Velkovski	North Macedonia	MP
Mahmoud Farahmand	Norway	MP
Aleksander Stokkebo	Norway	MP
Rafal Adamczyk	Poland	MP
Barbara Bartus	Poland	MP
Radoslaw Fogiel	Poland	MP
Kazimierz Kleina	Poland	MP

Joanna Lichocka	Poland	MP
Agnieszka Pomaska	Poland	MP
Dariusz Rosati	Poland	MP
Jacek Wlosowicz	Poland	MP
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## ABOUT ODIHR

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

ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 150 staff.

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

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

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

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

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

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

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