



Office for Democratic Institutions and Human Rights

## FORMER YUGOSLAV REPUBLIC OF MACEDONIA

7 NOVEMBER 2004 REFERENDUM

REPORT OF THE OSCE/ODIHR EXPERT VISIT  
13-16 September 2004



Warsaw  
28 September 2004

# TABLE OF CONTENTS

<b><u>I.</u></b>	<b><u>INTRODUCTION</u></b> .....	<b>1</b>
<b><u>II.</u></b>	<b><u>EXECUTIVE SUMMARY</u></b> .....	<b>1</b>
<b><u>III.</u></b>	<b><u>FINDINGS</u></b> .....	<b>2</b>
<b><u>A.</u></b>	<b><u>POLITICAL CONTEXT</u></b> .....	<b>2</b>
<b><u>B.</u></b>	<b><u>QUESTION TO BE DECIDED</u></b> .....	<b>3</b>
<b><u>C.</u></b>	<b><u>LEGAL FRAMEWORK</u></b> .....	<b>3</b>
<b><u>D.</u></b>	<b><u>ELECTION ADMINISTRATION</u></b> .....	<b>4</b>
<b><u>E.</u></b>	<b><u>DOMESTIC OBSERVERS</u></b> .....	<b>4</b>
<b><u>IV.</u></b>	<b><u>CONCLUSIONS AND RECOMMENDATIONS</u></b> .....	<b>4</b>

# **FORMER YUGOSLAV REPUBLIC OF MACEDONIA**

## **7 NOVEMBER 2004 REFERENDUM**

### **Report of the OSCE/ODIHR Expert Visit 13-16 September 2004**

#### **I. INTRODUCTION**

The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) sent an expert team to visit the Former Yugoslav Republic of Macedonia between 13-16 September. The team included Mr. Julian Peel Yates, former Head of the 2002 OSCE/ODIHR Election Observation Mission, and Ms. Holly Ruthrauff, OSCE/ODIHR Election Adviser. The purpose of the visit was to assess the conditions and level of preparation for the referendum scheduled to take place on 7 November 2004, and to advise on the possible involvement of OSCE/ODIHR.

The expert team held meetings in Skopje and Tetovo with representatives of the governmental authorities, election administration, political parties, civil society and international community (see annex for list of meetings).

OSCE/ODIHR is grateful to the Macedonian authorities and the OSCE Spillover Mission to Skopje for the assistance offered during the visit.

#### **II. EXECUTIVE SUMMARY**

On 3 September 2004 parliament adopted a decision to hold a referendum on 7 November. The referendum, initiated by the World Macedonian Congress (WMC) earlier this year, would effectively require repeal of the newly passed Law on Territorial Organization, City of Skopje and Financing on Units of Local Self-Government, and a return to the status quo ante of 123 municipalities. The new Law has reduced the numbers of municipalities to 84. The calling of the referendum has also forced the postponement of local elections, previously delayed and rescheduled for 21 November, and now required by law to take place by 31 March 2005.

A Law on Territorial Organization was part of the indispensable package of laws necessary to ensure the decentralization process, regarded as a crucial component of the Ohrid Framework Agreement (OFA) of 2001. Widespread concern has been expressed about the potential impact of the referendum on the Ohrid process, and on inter ethnic relations generally. Accordingly, the referendum is of potential seminal importance for the stability of the country as a whole.

All interlocutors with whom the team met expressed support for an OSCE/ODIHR presence during the referendum. The overwhelming view stated to the team was that

the referendum was likely to fail for want of meeting the 50 per cent threshold for turnout required by law.

The OSCE/ODIHR deployed an election observation mission for the early presidential election held on 14 and 28 April following the tragic death of President Boris Trajkovski. The EOM concluded that the election was generally consistent with OSCE election-related commitments, but serious irregularities in certain parts of the country on election day cast a shadow over the process as a whole. The previous 2002 parliamentary elections were characterized as having been conducted largely in accordance with OSCE commitments and international standards for democratic elections, but as in 2004 serious specific irregularities were noted in certain areas.

Subsequent to the visit of the expert team, the Chairman-in-Office has advised OSCE/ODIHR of the strong consensus amongst member states for 'robust' observation of the referendum, and an invitation to observe has been received from the Macedonian government.

Important elements of the international community in Skopje and elsewhere, including guarantors of the OFA, have publicly indicated their concerns over the referendum and their preference that the referendum question should fail to be passed, in the greater interests of the stability of the country and its future. Accordingly, the electorate is already aware of the publicly expressed wishes of substantial organizations representing many participating States concerning desired outcomes. Special care is accordingly required to ensure that the demonstrable impartiality and integrity of observation by OSCE/ODIHR is protected.

OSCE/ODIHR recommends that an Election Observation Mission be established to observe the referendum process, one month before election day, 7 November. In addition to a core team of experts, the mission should be composed of 20 long-term observers (10 teams of two persons each) to be deployed throughout the country from mid-October. OSCE/ODIHR also recommends the secondment of 200 short-term observers to follow election day procedures.

### **III. FINDINGS**

#### **A. POLITICAL CONTEXT**

The referendum initiative was launched by the WMC in January 2004. According to the WMC, it was begun in response to the large number (41) of local referenda held at the beginning of the year to oppose the new municipal boundaries envisaged in the draft Law on Territorial Organization. In the view of the WMC, these local referenda were disregarded by the authorities and the process of municipal boundary delimitation was not transparently conducted.

Signature collection for the referendum initiative took place in local offices of the Ministry of Justice across the country from 23 February to 23 August, 2004. Although initially the initiative appeared to receive only limited public endorsement, the support in July 2004 of some opposition parties, and in particular the leading

opposition party Internal Macedonian Revolutionary Organization - Democratic Party for Macedonian National Unity (VMRO-DPMNE), seemed dramatically to increase support for the referendum. Ultimately the initiator collected 180,454 signatures, well beyond the 150,000 required by law for a referendum to be called. The signatures were validated by the State Election Commission and submitted to the Speaker of Parliament, as required by law.

Political parties from across the spectrum expressed strong views on the referendum. Although the referendum nominally concerns the decentralization process, most political actors with whom the expert team met saw this also as an opportunity for political contest and a pre-election campaign for the local elections that should be held prior to March 2005. Political parties have not yet planned their campaigns for the referendum and it is expected that the campaign will be subdued, in part because the parties are saving their funds for the local elections.

The major political parties appear to be lining up in two camps – those supporting the referendum and those opposed. The governing parties, both ethnic Macedonian and Albanian, have indicated that they will campaign for ‘non-participation’, expressly wishing to avoid the term ‘boycott’. Significant parts, however, of the Social Democratic Union of Macedonia (SDSM) appear to intend to vote yes. Amongst the opposition, VMRO-DPMNE has come out strongly in support of the referendum, claiming that the new law on territorial organization gives away too much to the ethnic Albanians and is against the OFA. Somewhat surprisingly, the leader of the opposition Democratic Party of Albanians (DPA), Arben Xhaferi, has also called his supporters to vote in favour of the referendum question, although for entirely different reasons, including to demonstrate dissatisfaction with the way the OFA has been implemented and to measure his party’s public rating.

All parties expressed concern that the holding of the referendum could lead to a deterioration in ethnic relations.

## **B. QUESTION TO BE DECIDED**

The question to be put asks if voters wish there to be 123 municipalities. If successful, the referendum would return the previous system of municipal districting, with 123 municipalities as determined in 1996. This would effectively repeal the new Law on Territorial Organization passed by parliament on 11 August 2004 that has reduced numbers to 84 municipalities.

## **C. LEGAL FRAMEWORK**

The legal framework for the referendum includes the 1998 Law on Referendum (LR) and the 2002 Law on the Election of MPs (LEMP). The LR specifies that provisions of the Law on the Election of MPs should be applied for those issues not included in the law. There is general agreement that the LR is outdated and not consistent with the newer LEMP, but there is also agreement that it is too late in the process to change the law and that the provisions will be adequate to run the referendum.

According to the LR, a referendum will be adopted if more than 50 per cent of the voters on the voter list cast ballots (approximately 850,000 voters) and more than 50 per cent of ballots cast are for a yes vote.

The LR does not specify the period of the campaign, only that it should end 48 hours prior to the day of voting. Since the LEMP sets a 30 day campaign period, the campaign period will be the same for the referendum.

#### **D. ELECTION ADMINISTRATION**

According to the LR, the election administration for a referendum should include three levels – the State Election Commission (SEC), Election Commissions (EC) and Electoral Boards (EB). The second tier of administration refers to the previous LEMP that was based on a single-mandate district parliamentary system, which is no longer in existence. As a result, the SEC has decided that the 34 Municipal Election Commissions (MEC) should serve at this level of administration. In addition, the LR specifies that the EBs should include three members, even though the new election procedures adopted by the 2002 LEMP require more staff. The SEC, however, is confident that the three member EBs, together with their deputies, will be able to carry out the needed tasks. The SEC and MECs remain the same as during the presidential elections, although two members of the SEC have resigned because of government appointments and have not yet been replaced.

The secretariat of the SEC has not yet been established, although potential office space and staff have been identified. The secretariat may not be in place for the referendum, but should be operational for the local elections.

Adequate funding has been designated for the referendum. In addition, the electoral support organization IFES has again offered to provide limited technical assistance to the SEC.

#### **E. DOMESTIC OBSERVERS**

The local NGO MOST plans to conduct non-partisan observation of the referendum on voting day and during the campaign period. MOST hopes to deploy 3,500 observers for the referendum, which is the same number deployed by MOST for the April presidential election and would again allow for 60 per cent of the polling stations to be covered. As it has done previously, MOST also plans to conduct a “parallel vote tabulation” of the turnout. MOST is still seeking funding for its planned activities.

### **IV. CONCLUSIONS AND RECOMMENDATIONS**

Given the seminal importance of the referendum to the ongoing political process, and its potential impact on the stability of the country, OSCE/ODIHR recommends that an Election Observation Mission be established to observe the referendum process, one month before election day, 7 November. In addition to a core team of experts, the mission should be composed of 20 long-term observers (10 teams of two persons

each) to be deployed throughout the country from mid-October. OSCE/ODIHR recommends the deployment of 200 short-term observers (STOs) to follow election day procedures.

In view of the imperative to ensure the demonstrable impartiality of the observation in complex local circumstances, all participation of STOs should be by external secondment only.