



## LIMITED ELECTION OBSERVATION MISSION

Republic of Bulgaria —Presidential and Municipal Elections, 23 October 2011

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### STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

**Sofia, 24 October 2011** – Following an invitation from the Permanent Mission of the Republic of Bulgaria to the OSCE, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed a Limited Election Observation Mission (LEOM) for the 23 October presidential and municipal elections.

The assessment was made to determine whether the elections complied with OSCE commitments and other international standards for democratic elections, as well as with legislation of the Republic of Bulgaria. This statement of preliminary findings and conclusions is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, in particular the second round of the presidential and municipal elections, the tabulation and announcement of results, and the handling of possible post-election day complaints and appeals. OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process.

The OSCE/ODIHR did not conduct a comprehensive and systematic observation of election-day proceedings, but visited a limited number of polling stations around the country.

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### PRELIMINARY CONCLUSIONS

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The 23 October 2011 presidential and municipal elections in the Republic of Bulgaria provided voters with a wide choice of political options, represented by candidates registered in an inclusive manner. The campaign took place in an environment which showed respect for fundamental human rights. Nevertheless, pervasive allegations of vote-buying and the fact that virtually all campaign coverage in the media was paid for underscore the need for continued reform. Additional efforts are needed to further enhance the integrity of the election process and to increase public confidence.

The elections were held under a newly adopted Electoral Code, which consolidated the previous election legislation. The Code provides a sound basis for the conduct of democratic elections, although there is room for further improvement as some previous OSCE/ODIHR recommendations – including long-standing ones – remain unaddressed. The Electoral Code does not specify the full scope of observers' rights and responsibilities, despite previous OSCE/ODIHR and Venice Commission recommendations.

The elections were administered in an overall professional manner and with respect for legal deadlines by the election administration headed by the Central Election Commission (CEC), which under the new Electoral Code administers all types of elections. However, interlocutors expressed concerns about the political balance of election commissions and that the law does not guarantee opposition parties to be adequately represented in leadership positions. The meetings of the CEC were closed to the public and to election stakeholders, thus reducing transparency, although certain allowances were made for OSCE/ODIHR LEOM observers.

The CEC registered 18 presidential and vice-presidential teams for the election, in an inclusive process. The registration process for the around 50,000 candidates in the municipal elections was also overall inclusive. The high number of registered voters relative to the total population raises questions about the accuracy of the voter lists and points to the need for further improvement.

The campaign was quite active but overall low-key. In general, contestants were able to campaign freely and without impediment. However, persistent and widespread allegations of vote-buying undermined confidence in the election process, despite the authorities' efforts to combat such practices, as did several claims of pressure on candidates and voters. Anti-Roma protests following the death of a young man in Katunitsa were exploited by some parties.

The campaign finance provisions of the Electoral Code could provide for a solid campaign finance system. However, with some relevant issues not addressed by the Electoral Code and others not complied with, the existing regulations did not have full impact.

While pluralistic, Bulgaria's media scene is characterized by increasing concentration and a lack of transparency of ownership. Electoral Code provisions stipulate that almost all campaign coverage on public broadcasters must be paid for, resulting in a near absence of editorial coverage of the campaign in the public or private media. The predominance of paid campaign coverage impacted negatively on the level of information available to voters.

Provisions that the campaign shall be conducted in the Bulgarian language appear at odds with OSCE commitments and international standards as they disadvantage minority groups. The numerous allegations that minorities, especially Roma, were particularly susceptible to undue influence such as vote-buying and pressure, were a source of concern, as was the use of nationalistic and inflammatory language against minorities by some contestants.

The adjudication of election disputes lacked transparency, due to the fact that the CEC deliberated in closed meetings. Decisions on complaints were complicated by the fact that election commissions have to take all decisions with a two-third majority, which they sometimes could not garner, resulting in a 'refusal' to take a decision. A court ruling that decided that the CEC may not refuse to take decisions on appeals and could decide such cases by simple majority created uncertainty among stakeholders, as it appears to conflict with the Electoral Code.

Election day appeared to proceed in a calm and orderly manner and in accordance with prescribed procedures. PECs visited by the OSCE/ODIHR LEOM generally managed the process professionally and were familiar with procedures. Processing of voters was often slow, resulting in queues and in an extension of voting hours. The vote count was carried out in a professional, transparent and orderly manner in almost all polling stations visited. The tabulation process at the MECs visited by the OSCE/ODIHR LEOM was overall professional and efficient, with a few procedural problems noted.

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## PRELIMINARY FINDINGS

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### Background

On 15 July 2011, the Bulgarian parliament set the presidential election date for 23 October. President Georgi Parvanov then issued a decree calling municipal elections for the same day. The elections were held at the end of the second and final term of the incumbent president and of the four-year mandate of local governments. This is the first time in 20 years that two elections were held simultaneously.

The last national elections were the 2009 parliamentary elections. OSCE/ODIHR and the Parliamentary Assembly of the Council of Europe concluded that they were “generally in accordance with OSCE commitments and Council of Europe standards; however, further efforts are necessary to ensure the integrity of the election process and increase public confidence.”<sup>1</sup> Following the elections, Citizens for the European Development of Bulgaria (*GERB*) formed a minority government headed by party leader Boyko Borisov. Other parties and coalitions that entered parliament included the Coalition for Bulgaria, led by the Bulgarian Socialist Party (*BSP*); the Movement for Rights and Freedoms (*DPS*); *Ataka*; the Blue Coalition comprising the Union of Democratic Forces (*SDS*) and Democrats for a Strong Bulgaria (*DSB*); and Order, Law and Justice (*RZS*).

In the last presidential election in 2006, President Parvanov was re-elected in the second round with 74.9 per cent of the vote, against 24.1 per cent for *Ataka* leader, Volen Siderov. OSCE/ODIHR concluded that this election “confirmed the credibility of the election process in Bulgaria” but also “identified a number of areas where the electoral process could be further strengthened.” The 2007 municipal elections were not observed by OSCE/ODIHR.

### Legal Framework and Election System

The legal framework for elections includes the Constitution, as interpreted by decisions of the Constitutional Court, the Electoral Code, the Law on Political Parties, the Criminal Code, the Law on Administrative Procedure, and the Law on Meetings, Rallies and Manifestations. A new Electoral Code, which was adopted earlier in 2011, consolidated the laws for different types of elections. In their Joint Opinion on the Electoral Code, OSCE/ODIHR and the Council of Europe’s Venice Commission concluded that it provides a sound legal basis for the conduct of democratic elections, but with room for improvement.<sup>2</sup> Some recommendations previously offered by OSCE/ODIHR remain to be addressed such as the use of minority languages during campaigning, provisions regulating campaigning in the media, the possibility for a recount of ballots, and defining the rights and responsibilities of observers.

To prevent vote-buying, the Criminal Code was recently amended to increase penalties for this. Relevant provisions were also added to the Electoral Code. The authorities conducted public-information campaigns against vote-buying, and parties were obliged by law to include warnings that it is a criminal offence in all campaign materials. However, the prosecutor general publicly expressed concerns about not having sufficient legal tools to investigate and prosecute vote-buying.<sup>3</sup>

The Constitution and Electoral Code require that presidential and vice-presidential candidates have been permanently residing in Bulgaria for the five years preceding the election.<sup>4</sup> However, there was no possibility for the Central Election Commission (CEC) to verify compliance with this requirement. The lack of clarity on this issue created an unnecessary degree of uncertainty.

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<sup>1</sup> All OSCE/ODIHR reports on Bulgaria can be found at: <http://www.osce.org/odihr/elections/bulgaria>.

<sup>2</sup> See OSCE/ODIHR and Venice Commission Joint Opinion on the Electoral Code of Bulgaria at: <http://www.osce.org/odihr/80841>.

<sup>3</sup> Under the Criminal Procedure Code, police are not permitted to use “special intelligence methods” to investigate vote-buying. The Deputy Prosecutor General and the Deputy Minister of Interior acknowledged that this issue involves public policy considerations that require weighing the need to prosecute serious crimes that threaten the political order against the potential danger of too much intrusion into the political process.

<sup>4</sup> Article 93(2) of the Constitution of the Republic of Bulgaria and Article 4(2) of the Electoral Code. The Constitutional Court in its Decision 3 of 8 February 2001 interpreted the 5-year residency requirement to mean that the candidate must have resided in the country for at least 183 days per year for the 5 years preceding the election. Some contestants publicly questioned whether one of the candidates had met that requirement.

The Constitution provides for the president to be elected directly. The candidate who receives more than half of the valid votes cast is elected, provided that more than half of all registered voters have turned out. Otherwise, a second round is held one week later between the two candidates who received the highest number of votes. Mayors of municipalities and of settlements with more than 350 residents are also directly elected, with a second round if no candidate receives more than half of valid votes cast. Mayors of smaller settlements and of city districts are elected by municipal councils, which in turn are elected under a proportional-representation system without a legal threshold. European Union nationals who are permanent residents have the right to vote in municipal elections and may run for municipal councilor, but not for mayor.<sup>5</sup>

Equal rights and non-discrimination are guaranteed by the Constitution. Bulgaria is also party to the Convention on the Elimination of All Forms of Discrimination against Women and has committed “to encourage and promote equal opportunity for full participation by women in all aspects of political life, in decision-making processes, and in international co-operation in general.”<sup>6</sup>

### **Election Administration**

The elections were administered by the CEC, 264 Municipal Election Commissions (MECs) and some 11,807 Precinct Election Commissions (PECs).<sup>7</sup> The CEC, which was appointed in April 2011, is a permanent body but is only active when elections are taking place and does not have its own budget. However, establishing a five-year term for the CEC and having it administer all elections is a step forward, in line with a long-standing OSCE/ODIHR recommendation.

All election commissions should reflect the strength of parties and coalitions that have parliamentary groups.<sup>8</sup> Although the Electoral Code stipulates that no party or coalition may have a majority and that the chairperson and secretary may not belong to the same party or coalition, it does not guarantee that opposition parties will be adequately represented in leadership positions. Several OSCE/ODIHR LEOM interlocutors expressed concern about perceived commission bias.

Commission sessions were generally closed to the public before election day, except to representatives of parties, coalitions and nomination committees, who could attend MEC sessions. The CEC and some MECs also opened their sessions to OSCE/ODIHR LEOM members. Decisions of commissions were available on their respective websites and MEC decisions were posted in their premises for three days. Sessions attended by the OSCE/ODIHR LEOM were run efficiently and professionally, and all members could voice their opinions. Overall, preparations for the elections proceeded smoothly and were implemented within the legal deadlines. The CEC and the MECs visited were generally well-prepared for the elections.

The CEC launched a voter education campaign consisting of three video clips broadcast on national TV and posted on the CEC website, explaining deadlines and procedures for amending the voter lists, facilities offered to disabled voters, and voting procedures. However, the campaign was launched the last week of September after the deadline for requesting voting at home. The CEC provided training to MECs that were tasked to train PECs. OSCE/ODIHR LEOM observers generally assessed the

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<sup>5</sup> European Council Directive 94/80/EC of 19 December 1994 guarantees EU citizens the right to vote and be elected in municipal elections outside of their home state on the same terms as nationals of the state where the elections take place, except that a state may provide that only its own nationals be allowed to hold the position of mayor.

<sup>6</sup> Document of Moscow Meeting of the Conference on the Human Dimension of the CSCE, 1991.

<sup>7</sup> These are referred to as Section Election Commissions in the Electoral Code.

<sup>8</sup> In addition, parties and coalitions, which do not have a parliamentary group but are represented in the European Parliament are entitled to nominate one CEC member.

training as good, but noted that the methodology used was not uniform and that not always the same proportion of members of respective commissions attended.

### **Voter Registration**

Voter lists are extracted from the national population register, maintained by the Civil Registration and Administrative Services Department of the Ministry of Regional Development (*GRAO*) on the basis of voters' permanent addresses. The number of voters registered for the presidential election totaled 6,933,748, and 6,514,917 for the municipal elections.<sup>9</sup> According to the 2011 census, Bulgaria's population is 7,364,570. The ratio between the number of inhabitants and the voting-age population raises concern.<sup>10</sup> The Electoral Code provision that citizens who left the country more than two months before election day are to be removed from voter lists was not implemented.<sup>11</sup>

Voters could check their inclusion in the voter lists through the Internet, telephone and SMS.<sup>12</sup> The lists were also posted for public scrutiny in the vicinity of polling stations 40 days before election day. Requests for amending the voter lists had to be made in writing to the mayor, no later than seven days before election day.

For the presidential election only, 161 polling stations were established abroad, in 58 countries. On election day, any eligible voter could vote abroad, upon presentation of an official identity document and a signed declaration of not having voted already.

### **Candidate Registration**

For the presidential election, parties, coalitions and nomination committees had to register with the CEC. A deposit of 10,000 Bulgarian *leva* (some 5,100 EUR) and a list of at least 7,000 supporting signatures were required. One nomination committee was rejected in its registration due to irregularities in support signatures. Eighteen parties, coalitions and nomination committees nominated presidential and vice-presidential candidates, all of whom were registered by the CEC in an inclusive process.

For the municipal elections, parties and coalitions had to register both with the CEC and at the MEC level. Local coalitions and nomination committees could also be registered by respective MECs. The CEC registered 73 parties and 1 coalition and a total of 51,928 candidates were registered by MECs. The candidate registration for municipal elections was overall inclusive, despite some pending complaints which delayed the finalization of candidate lists until shortly before election day.

### **The Election Campaign**

The field of 18 registered presidential and vice-presidential teams and the high number of candidates in the municipal elections provided voters with a wide degree of choice. Two presidential and seven vice-presidential candidates were women.

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<sup>9</sup> Most recent information provided by the CEC and *GRAO* on 17 October.

<sup>10</sup> According to the census data, 17 per cent of the population is under 18 years of age. The ratio between the number of registered voters and the population can be partly explained by the fact that citizens remain registered at their permanent address although they have been residing abroad for many years, unless they have registered a residency address abroad through the embassy or consulate.

<sup>11</sup> The Ministry of Interior informed the OSCE/ODIHR LEOM that it would not provide *GRAO* with this information, since they do not have information about citizens traveling to other EU member states and information about citizens traveling to any other country is incomplete.

<sup>12</sup> As of 17 October, 157,788 such checks were made, the majority through the Internet.

The campaign took place in an environment which showed respect for fundamental human rights. Candidates and parties campaigned actively during the 29 days of the official campaign. Overall, the campaign environment remained calm and low-key. In most places, the municipal elections appeared to generate more interest than the presidential race. The presidential campaign was focused on the economy, social policy issues, and healthcare reform, while municipal elections focused on specific local issues.

In addition to traditional campaigning, parties and candidates made use of the Internet, including social networks and blogs. Small-scale meetings were frequent. Candidates were able to campaign freely and without undue restriction, as acknowledged by most candidates met by the OSCE/ODIHR LEOM.

Most candidates and party representatives whom the OSCE/ODIHR LEOM met said vote-buying was a major and widespread problem, but were unable to provide concrete information or evidence substantiating their concerns. The Ministry of Interior informed that investigations into a number of suspected cases of vote-buying had been opened. Regardless of the veracity of the allegations of vote-buying, their pervasiveness diminished trust in the fairness of the election process. Some opposition parties and candidates also claimed that pressure had been put on some of their municipal candidates and supporters.<sup>13</sup> These allegations usually referred to threats of job loss or pressure through inspections of businesses owned by candidates or their relatives. The OSCE/ODIHR LEOM followed up on two cases in Sofia district in which public-sector employees were dismissed from their jobs after being nominated as mayoral candidates; both cases were assessed as credible.

The campaign environment was negatively affected by anti-Roma protests following the death of a young man in Katunitsa near Plovdiv. Most OSCE/ODIHR LEOM interlocutors said that some political parties, mainly *Ataka*, had exploited the incident and protests for political purposes and that attempts had been made to turn what appeared to be a criminal act into an ethnic issue.

### **Campaign Financing**

The newly adopted Electoral Code addresses campaign finance in a well-structured and encompassing manner; the same approach is used for all types of elections. Measures such as a limit on the amount of individual donations, bans on donations from legal entities, donors' obligations to report the source of donated funds, and a campaign expenditure ceiling could result in a solid campaign finance system. However, transparency of campaign finance was limited because relevant provisions were not fully implemented.

The Code clarifies the authority of the National Audit Office (NAO) to enforce regulations and impose administrative fines. It includes provisions for pre-election reporting of political party and nomination committee donors and contractual partners, such as public relations agencies. However, in practice only some contestants reported this information. The NAO contended that its role was to publish information received, but not to ensure its correctness. In addition, although the Electoral Code clearly requests that all campaign materials need to include information on their issuer and unsigned materials are prohibited, campaign materials did not contain such information. The CEC did not appear to have a united opinion on this. Some CEC interlocutors contended that it is sufficient if the campaign material contains the name of a candidate.

The Electoral Code contains a provision that all regulations, including those setting the limit on individual donations at 10,000 *leva* (some 5,100 EUR) also apply to funds donated by candidates and

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<sup>13</sup> Such claims were received from the districts of Dobrich, Gabrovo, Ruse, Sofia, and Stara Zagora.

members of parties and nomination committees. However, the NAO held that the limit on individual donations is not applicable to candidates' own funds; thus all 2 million *leva* (1.02 million EUR) of the permissible presidential campaign spending could come from a candidate's own funds.

## The Media

The Constitution and media legislation guarantee the fundamental freedom of expression. However, the Criminal Code retains provisions on criminalizing defamation, provides higher protection to public officials acting within the scope of their duties, and contains provisions aimed at combating the incitement to hatred.<sup>14</sup> All of these could unduly restrict freedom of expression.

While Bulgaria has a pluralistic media scene, media professionals have raised concerns that recent changes in the ownership of leading media outlets might reduce pluralism. They also noted a lack of transparency of media ownership. The current economic crisis led to foreign investors withdrawing from the market and to increased concentration of ownership by a small number of holdings. OSCE/ODIHR LEOM interlocutors informed that political and business connections of media owners or editors contribute to self-imposed censorship and less investigative journalism. In a positive step, parliament passed amendments to the Compulsory Deposition of Printed and Other Publications Act in 2010 that mandate periodicals to disclose their actual owners. However, Bulgaria still lacks a public register of broadcast media owners.

The Electoral Code does not provide for free airtime but rather that all campaign broadcasts on public Bulgarian National Television (BNT) and Bulgarian National Radio (BNR) are to be paid for by parties, coalitions and nomination committees, according to a predetermined tariff.<sup>15</sup> This undermined the responsibility of the public broadcasters to ensure a fair, balanced and thorough coverage of elections in their programs.<sup>16</sup> The OSCE/ODIHR LEOM media monitoring results showed that only 13 of the 18 presidential candidates received any prime-time coverage on BNT.<sup>17</sup> Most candidates and party representatives complained to the OSCE/ODIHR LEOM about an uneven playing field created by the fact that they had to pay for any kind of media coverage, in particular in light of the high prices media charged. Several candidates also complained that they were excluded from debates in the media.

The absence of campaign coverage in news and other editorial programs on BNT meant that citizens lacked information on the campaign and journalists the opportunity to report critically on the campaign. In addition, the dominance of institutional coverage within the news, as observed on all monitored broadcast media, gave the ruling party an unfair advantage.<sup>18</sup>

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<sup>14</sup> See press release by the OSCE Representative on Freedom of the Media, available at <http://www.osce.org/fom/77125>.

<sup>15</sup> There are no provisions in the Electoral Code for free airtime for the first round of a presidential election and for municipal elections. The Electoral Code explicitly provides for free airtime only for the closing addresses and debate appearances of presidential candidates during a possible second round.

<sup>16</sup> See Council of Europe's Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns, available at <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1207243&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EBDB021&BackColorLogged=F5D383>.

<sup>17</sup> On 30 September, the OSCE/ODIHR LEOM started quantitative and qualitative monitoring of the prime-time program of the TV stations *BNT*, *bTV* and *Nova* and of the content of the newspapers *Trud*, *24 Chasa*, *Telegraph*, *Standart* and *Sega*. Almost 50 per cent of the paid coverage of the campaign was purchased by three candidates: Ivaylo Kalfin (20 per cent), Rosen Plevneliev (13 per cent) and Volen Siderov (14 per cent).

<sup>18</sup> Most of the coverage (81 per cent) of political actors was coverage during institutional events, while only 19 per cent was coverage of election-related topics.

Commercial broadcasters and newspapers are not bound by the same strict rules as BNT and BNR, but their approach to covering the election campaign was similar. The leading commercial TV station, *bTV*, informed the OSCE/ODIHR LEOM that they covered the start of the campaign of each presidential candidate within the news for free and that the participation of the three candidates in the debate broadcast on 15 October was not paid for.<sup>19</sup> Journalists working for newspapers reported that they covered some newsworthy election-related issues, but that coverage of candidates' campaign activities was paid for. The OSCE/ODIHR LEOM media monitoring showed that on all monitored broadcasters and in newspapers, the paid coverage was not clearly recognizable as such. In particular paid coverage in the format of 'chronicles' on BNT or as reportages in newspapers might have misled the audience about the nature of the content. The *de facto* dominance of paid campaign coverage impacted negatively on the level of information available to voters.

### Participation of Minorities

The Constitution makes no reference to minorities but grants the right to ethnic self-identification. It prohibits the formation of political parties "on an ethnic, racial or religious basis".<sup>20</sup> According to the 2011 census, the biggest minority groups are the ethnic Turks (8.8 per cent) and the Roma (4.9 per cent).<sup>21</sup>

The *DPS* is generally perceived as representing the interests of the ethnic Turkish minority. For the municipal elections, the party also fielded a number of candidates from other minorities, as well as ethnic Bulgarian candidates. The *DPS* did not nominate its own presidential candidate, maintaining that society is not ready for an ethnic Turkish presidential candidate. However, one presidential candidate identified himself as an ethnic Turk. Five small political parties or movements representing Roma interests were registered for the municipal elections, fielding altogether up to 2,000 candidates in at least 140 municipalities. Several mainstream parties included candidates from minorities on their municipal council lists, but mostly in low positions. The number of women candidates from minorities was low.

The Electoral Code stipulates that the election campaign is to be conducted in Bulgarian. Notwithstanding this provision, *DPS* leader Ahmed Dogan repeatedly addressed supporters in Turkish while campaigning.<sup>22</sup> *GERB* and *Ataka* filed complaints against the *DPS* mayoral candidate in Omurtag for campaigning in Turkish, but the Omurtag MEC did not impose a sanction because it could not garner the required two-third majority to make a decision. A similar complaint was filed by *VMRO* – Bulgarian National Movement over the use of Turkish at a campaign event of the Unified People's Party in Razgrad.

The OSCE/ODIHR LEOM received a number of allegations from different parts of the country of undue influence on minority voters, including vote-buying, pressure and intimidation. While they could not be substantiated, several of them were assessed as credible. At the same time, various interlocutors expressed concern that in public discourse, Roma are frequently linked to vote-buying

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<sup>19</sup> *Nova TV* covered the beginning of the campaign of the eight 'leading' candidates in its news.

<sup>20</sup> In its Decision No. 4 of 1992 on the registration of the *DPS*, the Constitutional Court decided that the prohibition only refers to cases where the membership is expressly limited to those belonging to a single racial, ethnic or religious group, irrespective of whether it is in a majority or in a minority.

<sup>21</sup> It is widely assumed that the actual number of Roma is significantly higher; most estimates put it at 700,000–800,000, some 10 per cent of the population.

<sup>22</sup> General Comment 25 adopted by the United Nations Human Right Committee in 1996 states that "information and materials about voting should be available in minority languages." Paragraph 32.5 of the 1990 OSCE Copenhagen Document states that "persons belonging to national minorities have the right [...] to disseminate, have access to and exchange information in their mother tongue".

and presented as the source of the problem. Some politicians used intolerant and inflammatory rhetoric against minorities, in particular Roma, in their campaign.

### Complaints and Appeals

Monitoring of the complaints and appeals process is difficult because of the lack of transparency in election commissions' proceedings. The OSCE/ODIHR and Venice Commission Joint Opinion highlighted the short deadlines for appeals of election commission decisions. At least one candidate for the mayor of Varna was denied registration by an MEC decision and then missed the 24-hour deadline to appeal the decision to the CEC.

The concern about the limited right of appeal from CEC decisions, which was also raised in the Joint Opinion, was partially addressed by a Constitutional Court ruling in May 2011.<sup>23</sup> The Court clarified that, where rights to appeal were not specifically defined in the Electoral Code, the general right to judicial review guaranteed by the Constitution would apply and could be exercised through application of the Administrative Procedure Code.

Matters that are brought to a commission for decision but do not garner the required two-thirds majority are considered by the Electoral Code to be a 'refusal' to take a decision. Two such refusals were appealed to the administrative courts, which ruled that it is unlawful for the CEC to refuse to take a decision on an appeal from an MEC decision and that, when deciding such appeals, the CEC may take the decision by a simple majority. These court decisions conflict with long-standing practice in Bulgaria<sup>24</sup> and created some confusion about the appropriate procedures that apply to commission proceedings. It is of concern that the CEC was still deciding complaints related to municipal candidate registration less than one week before election day.

The concerns raised by the OSCE/ODIHR and Venice Commission Joint Opinion about the limited categories of persons and bodies permitted to challenge election results and the lengthy time limits for deciding challenges to local election results remain.

### Domestic and International Observers

While the Electoral Code defines who can be an observer,<sup>25</sup> it does not specify the full scope of their rights and responsibilities, despite previous OSCE/ODIHR and Venice Commission recommendations. The CEC adopted a decision, which was limited to regulating the rights of observers and representatives of contestants on election day. Non-party observers and party representatives have access to all stages of election-day proceedings at PECs and MECs. The twelve domestic NGOs which observed the elections accredited a total of 5,136 observers, without any impediment.

### Election Day

The OSCE/ODIHR LEOM did not conduct comprehensive and systematic observation on election day, but mission members visited a limited number of polling stations and MECs in several municipalities.

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<sup>23</sup> Constitutional Court Decision 4 of 4 May 2011.

<sup>24</sup> The CEC spokespersons and other interlocutors told the OSCE/ODIHR LEOM that no election commission has taken a decision by a simple majority in the 20-year history of multi-party elections in Bulgaria.

<sup>25</sup> Representatives of the European Parliament, of foreign parliaments, of OSCE, of foreign parties and movements, as well as persons designated by the parties and coalitions running in the elections, persons invited through the Ministry of Foreign Affairs, and authorized members of Bulgarian non-governmental organizations.

The atmosphere on election day was calm. Voting appeared to proceed in an orderly manner. In the polling stations visited by the OSCE/ODIHR LEOM, PEC members generally managed the process professionally and were familiar with procedures. In many polling stations visited, the OSCE/ODIHR LEOM noted queues of voters, which seem to have been caused by slow processing of voters, especially in the polling stations where there was only one polling booth. Some PECs processed each voter twice, separately for each election, which also caused delays. As a result, the CEC decided to extend voting by one hour. Authorized representatives of the contestants were present in all polling stations visited. The CEC announced that voter turnout at 17:00 was 39.7 per cent for the presidential election and 41 per cent for the municipal elections.

The Ministry of Interior reported that it has received 233 reports of possible election-related violations and had started 18 criminal investigations. Throughout election day, there were allegations of vote-buying. In a few polling stations visited, the OSCE/ODIHR LEOM noted groups of unauthorized people, at times instructing voters who to vote for.

In almost all polling stations visited during the vote count, it was carried out in a professional, transparent and orderly manner, and procedures were adhered to. The number of invalid ballots was low, and ballot validity caused only few disputes. In the municipality of Boboshevo, a pilot project was conducted during which all ballots cast for the municipal elections were counted in a counting center. The tabulation process at the MECs visited by the OSCE/ODIHR LEOM was overall professional and efficient, with a few procedural problems noted. The CEC started posting preliminary election results on its website on election night, down to municipality level but not by polling station.

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

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#### **MISSION INFORMATION & ACKNOWLEDGEMENTS**

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The OSCE/ODIHR Limited Election Observation Mission (LEOM) was deployed on 28 September, consisting of 11 experts in the capital and 10 long-term observers deployed throughout Bulgaria. Mr. Vadim Zhdanovich is the Head of the OSCE/ODIHR Limited Election Observation Mission.

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

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