



Office for Democratic Institutions and Human Rights

REPUBLIC OF BULGARIA

PRESIDENTIAL ELECTION 22 and 29 October 2006

OSCE/ODIHR Election Assessment Mission Report



Warsaw
22 February 2007

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**REPUBLIC OF BULGARIA
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OSCE/ODIHR Election Assessment Mission Final Report

I. EXECUTIVE SUMMARY

In response to an invitation from the Ministry of Foreign Affairs of Bulgaria, the OSCE/ODIHR deployed an Election Assessment Mission (EAM) to the two rounds of the presidential elections in Bulgaria on 22 and 29 October 2006. The OSCE/ODIHR assessed the overall process in terms of its compliance with the 1990 Copenhagen Document and other election-related commitments, although the OSCE/ODIHR EAM did not undertake a systematic observation of election-day proceedings.

The October 2006 presidential elections confirmed the credibility of the election process in Bulgaria. Elections took place in a competitive environment, and the range of seven presidential candidates and their vice presidential running mates permitted voters a genuine choice. The OSCE/ODIHR EAM has identified a number of areas where the electoral process could be further strengthened.

The election campaign was low-key and calm overall, and did not appear to generate significant public interest. Candidates engaged in limited campaign activities, partly as a result of financial constraints. Voter turnout was relatively low.

The overall legal framework provides a solid basis for the conduct of democratic elections. However, some legal provisions in related electoral laws were not always consistent. The Presidential Election Law was amended only two months before the election date. While some amendments improved the process, others proved to be problematic. Given this situation, the legal framework would benefit from an overall review with the objective of harmonizing election-related legislation, possibly through developing a unified Electoral Code.

Multi-party election commissions at all levels, including the Central Election Commission (CEC), provided for accountability and transparency. In addition, the overall administration of the elections was professional and appeared to enjoy the confidence of the people. However, the tenure of the CEC is limited to only the duration of the presidential election. Consideration could be given to the establishment of a single standing CEC, appointed for staggered fixed terms to administer all elections, with a view to provide a greater degree of continuity and institutional capacity.

Election commissions and the respective State and local government bodies share responsibility for administering and organizing elections. Although this relationship appears to have worked satisfactorily in this election, the division of responsibilities remains at times obscure and the legal framework could more clearly differentiate between the respective roles of these institutions.

Although the voter registers were generally not contentious during these elections, limited and contradictory information as to the total number of eligible voters was provided before the first round. This was despite the fact that a 50 per cent voter turnout requirement had to be met to avoid a second round. At the same time, the process of issuing and accounting for absentee voter certificates was improved for this election, in order to minimize the potential for multiple voting.

Media coverage of the campaign was relatively restrained. The Presidential Election Law restricts campaign coverage in the public media to special campaign-related programs, and many private media showed little interest in covering the campaign. Candidates had to pay for appearances in all election-related programs on the public media, including candidate debates. This did not help create a level playing field, especially because of the differences in financial resources available to the candidates. It also limited the information available to the electorate. President Georgi Parvanov declined to participate in the two all-candidate debates before the first round, and refused to debate his opponent Volen Siderov in the week before the runoff.

Few complaints and appeals were filed with the election commissions or the courts. Most of these were rejected. The legal framework provides for the possibility of challenging only a limited range of CEC decisions to the Supreme Administrative Court.

Although the OSCE/ODIHR EAM did not undertake systematic and comprehensive observation of polling station procedures, it visited a limited number of polling stations and DEC's in various areas of Bulgaria on both election days. Overall, the voting process appeared to be professionally and efficiently organized and administered. However, counting procedures were less consistently followed, and some Precinct Election Commissions (PECs) were reported to have had difficulties differentiating between valid, invalid and spoiled ballots.

The OSCE/ODIHR EAM noted, especially during the first round, that the secrecy of the vote was not always ensured. This was due to the concurrent introduction of transparent ballot boxes and the elimination of ballot envelopes, with ballot papers sometimes unfolding when deposited in the ballot box. The CEC conducted a public information campaign on this issue following the first round, providing instructions to voters and election officials on how to avoid the problem.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Ministry of Foreign Affairs of Bulgaria to observe the 2006 presidential elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Assessment Mission (EAM) from 15 October to 1 November 2006. The OSCE/ODIHR EAM, headed by Mr. Ron Gould (Canada), consisted of six experts from six OSCE participating States. Based in Sofia, the OSCE/ODIHR EAM sent teams to Blagoevgrad, Burgas, Haskovo, Kardjali, Lom, Pleven, Plovdiv, Sliven and Vidin. The OSCE/ODIHR EAM met candidate representatives, government officials, election authorities, the media and civil society at both the national and regional levels.

In line with standard OSCE/ODIHR practice, the deployment of an OSCE/ODIHR EAM does not envisage any systematic or comprehensive observation of election day

procedures. Although OSCE/ODIHR EAM members visited polling stations on both election days, this was on a limited basis, and therefore not sufficient to draw conclusions on the overall voting process throughout Bulgaria. Also, due to the limited duration of its stay in Bulgaria, the OSCE/ODIHR EAM undertook no systematic media monitoring.

The OSCE/ODIHR expresses its appreciation to the Ministry of Foreign Affairs for the assistance afforded to the mission throughout its stay, as well as to the Central Election Commission and other election-administration bodies, all authorities, candidate headquarters and political parties, civil society organizations and individuals for the cooperation and assistance offered to the OSCE/ODIHR EAM.

III. BACKGROUND

The 22 and 29 October 2006 presidential elections were the fourth held by popular vote since the establishment of a multi-party system in Bulgaria. Previous presidential elections were held in 1991, 1996 and 2001. All these elections required a runoff to determine the new head of state. In 2001, Georgi Parvanov, then leader of the Bulgarian Socialist Party (BSP), won against incumbent President Petar Stoyanov, who was supported by the main center-right parties.

The OSCE/ODIHR deployed Election Observation Missions (EOMs) to the 1996 presidential and the 1997 and 2001 parliamentary elections, and an OSCE/ODIHR EAM to the 2005 parliamentary elections.¹ The 2005 OSCE/ODIHR EAM concluded that the elections “demonstrated the credibility of the election process in Bulgaria, but some issues of both an administrative and political nature did introduce a measure of uncertainty and decreased confidence in the process, and in some instances represented a departure from best electoral practice.”

IV. THE LEGAL FRAMEWORK

A. APPLICABLE LEGISLATION

General rules for the elections of the President and Vice President are included in the Constitution of the Republic of Bulgaria (adopted in 1991 and last amended in March 2006). The main legal text governing presidential elections is the Law on the Election of the President and Vice President of the Republic (hereinafter Presidential Election Law), which was adopted in 1991 and last amended in August 2006. In addition, many aspects of the presidential elections are regulated by the Law on the Election of People’s Representatives (the Parliamentary Election Law, last amended in August 2006). Various interlocutors shared concerns with the OSCE/ODIHR EAM that the presidential and parliamentary election laws lack consistency in certain respects.

Consideration could be given to the elaboration and adoption of an electoral code which would govern all elections in Bulgaria and which would contain general provisions for all types of elections and specific chapters pertaining to particular types of elections.

¹ Final reports for all OSCE/ODIHR Election Observation and Assessment Missions are available at www.osce.org/odihr-elections.

Other applicable legislation includes, *inter alia*, the Law on Political Parties (adopted in March 2005 and last amended in the Law on Administrative Offences and Penalties (last amended in August 2006), and the Criminal Code of Bulgaria (last amended in September 2006). Decisions and instructions of the Central Election Commission (CEC) regulate some technical aspects of the elections and provide guidance to lower-level election commissions.

Decisions and resolutions of the Council of Ministers (the Government) are also important in the election process since responsibility for the organization and technical preparation of the elections is vested in the executive authorities and implemented in cooperation with the election commissions. By its Decision No. 589 of 4 August 2006, the Council of Ministers delegated this task and the coordination of election preparations to the Ministry of State Administration and Administrative Reform.

The division of responsibilities between executive authorities and the election administration remains at times obscure and could benefit from more clearly defined legal regulation.

B. THE ELECTION SYSTEM

The President and Vice President of the Republic are elected in direct elections for a period of five years, with each presidential candidate and his or her running mate contesting the elections as a team. A President or Vice President may be reelected to the same office once. To be elected in the first round of voting, the respective presidential and vice presidential candidate needs to receive more than one half of all votes cast, and more than one half of all registered voters must participate in the election. If any of these conditions is not met, the two candidates and their respective vice presidential running mates which received the highest number of votes contest a second round, which must be held within one week of the first round. In a second round, the ticket which receives the higher number of voters is elected, regardless of voter turnout. The legitimacy of a presidential election may be contested before the Constitutional Court.

In order to be eligible to run for the office of President or Vice President, a person must be a natural-born Bulgarian citizen over 40 years of age and qualified to be elected to the National Assembly, and must have resided in the country for the five years preceding the election.

Candidates for President and Vice President may be nominated either by a political party or coalition, or by an initiative committee formed by at least 21 voters. In order to be registered as candidates, applicants need to collect support signatures of at least 15,000 voters. The Main Directorate "Civil Registration and Administrative Services" (GRAO) under the Ministry of Regional Development and Welfare is in charge of the verification of signatures. Candidates must also deposit the sum of 5,000 leva (around € 2,500), which is returned if they receive at least 1 per cent of all valid votes. Political parties nominating candidates are required to provide proof that they submitted financial reports to the National Audit Office for the preceding three years.

Although GRAO generally enjoys trust among political parties and other stakeholders, the process of verifying the authenticity of signatures could benefit from clearly defined legal regulation.

C. CAMPAIGN FINANCING

The Presidential Election Law contains general requirements with regards to limits on donations, overall campaign spending, and reporting on campaign revenues and expenditures by the candidates. The spending ceiling for each candidate's campaign is 2 million leva, while campaign contributions are limited to 10,000 leva for individuals and 30,000 leva for legal entities. Funding from abroad and from companies with more than 25 per cent foreign capital are prohibited, as are donations from legal entities in which the state or municipalities hold more than 50 per cent ownership. Candidates nominated by initiative committees appear to be in a more advantageous position than those nominated by parties or coalitions, since initiative committees are bound only by the general restrictions of the Presidential Election Law, but not by the provisions of the Law on Political Parties. Financial reports must be filed with the National Audit Office within a month of the elections.

Legal provisions regulating campaign funding should be made equal for all candidates regardless of who nominated them. Consideration should be given to prohibiting donations from legal entities which are partly owned by the State or municipalities, regardless of the percentage of their ownership, and anonymous donations. The recommendation of the OSCE/ODIHR EAM Final Report on the 2005 Parliamentary Elections to further specify campaign finance mechanisms in order to increase transparency and accountability remains valid.

D. PENAL PROVISIONS

In a positive development, vote-buying and multiple voting were criminalized through amendments to the Criminal Code adopted in September 2006, thus implementing a recommendation contained in the OSCE/ODIHR EAM Final Report on the 2005 Parliamentary Elections. Vote-buying is now punishable with imprisonment of up to three years or probation. Sanctions for multiple voting include probation and a fine of 500 to 2,000 leva.

A similar amendment was also made to the Presidential Election Law, envisaging administrative liability (a fine up to 300 leva) for those who have accepted money or goods in exchange for voting for a certain candidate. However, it is doubtful whether this provision can realistically be implemented.

V. ELECTION MANAGEMENT AND ADMINISTRATION

A. ELECTION COMMISSIONS

Presidential elections are administered by a three-tiered election administration, including the Central Election Commission for the Election of President and Vice President (CEC), 31 District Election Commissions (DECs), one for each of the 31 parliamentary constituencies, and 11,665 Precinct Election Commissions (PECs), one for each polling station. In addition, a special DEC was set up within the Ministry of Foreign Affairs for voting abroad, and 144 PECs were established to administer election-day procedures in polling stations outside Bulgaria.

Overall, the election commissions at all levels appeared to enjoy the confidence of candidates and political parties. No interlocutors told the OSCE/ODIHR EAM that they lacked trust in the election administration, although some of them said they were underrepresented in these bodies. Representatives of candidates nominated by non-parliamentary parties in particular suggested that the law should be changed to give them representation on election commissions, although parties that have registered a candidate are permitted a party-designated observer on election commissions.

The CEC for Presidential and Vice-Presidential Elections is a temporary body appointed by the National Assembly no later than two months before each presidential election, with the sole purpose of administering this particular election. By contrast, the CECs for parliamentary and local elections are sitting bodies elected for the duration of the mandate of Parliament or the local authorities, respectively, with authority to conduct by-elections as necessary.

Many interlocutors, including the leadership of the CEC constituted for the 2006 presidential election, expressed opinions that this current practice is inefficient and does not allow for building institutional continuity and memory at the top of the election administration.

Consideration could be given to the establishment of a single standing CEC, appointed for staggered fixed terms to administer all elections, with a view to provide a greater degree of continuity and institutional capacity.

The CEC is composed of 21 members nominated by political parties and coalitions represented in the Parliament. The Presidential Election Law stipulates that the membership of the CEC shall reflect the basic ratio of party representation in the National Assembly and that no party may have a majority (Article 5.3). The chairperson, deputy chairpersons, and secretary must be nominated by different political parties or coalitions (Article 5.2). Analogous provisions apply to lower-level commissions. However, it remains unclear how such rules would apply for coalition governments, whereby the total number of the representatives of the coalition partners exceed the majority.

The CEC appeared to function in an efficient and professional manner, meeting regularly and adopting over 230 decisions. The CEC also set up a website which was well-maintained, and on which all CEC decisions were published in a timely manner, usually on the day of adoption.

The CEC has broad powers, including: registering candidates; issuing instructions to lower-level commissions; resolving certain types of election disputes; imposing administrative sanctions, including fines, for certain kinds of violations; supervising the conduct of the election campaign; announcing the result of elections; developing and disseminating regulations and procedural directives, etc.

DECs are formed in each district (region) and are appointed by the CEC upon the proposal of district governors and in consultation with party representatives for the respective election region, authorized by the national leadership of political parties and coalitions represented in the National Assembly. DECs have important duties including: appointment of PECs; supervision of the timely compilation and publication of voter registers;

supervision of the issuing of absentee voter certificates; controlling the election campaign coverage in local and regional media, etc.

PECs are appointed by the DEC, following proposals received from mayors of municipalities in consultation with the local leadership of political parties and coalitions represented in the National Assembly. Their main task is to conduct voting and counting on election day at the precinct level.

Concerns were raised by interlocutors to the OSCE/ODIHR EAM, related to the political balance of election commissions, including the CEC. The Presidential Election Law states that the composition of election commissions should reflect the “basic correlation between political parties and coalitions” in the Parliament. However, the OSCE/ODIHR EAM has been told that 17 of 21 CEC members, including the chairperson and the secretary, were nominated by the three governing parties, which would appear to be more than they are entitled to, given the number of mandates they hold in the Parliament. Unlike previous elections, the decree on the appointment of the CEC members did not specify which members were nominated by which parties.

Furthermore, although parliamentary parties and coalitions are entitled to representation in election administration bodies, the Presidential Election Law does not specifically grant parliamentary parties the right to be represented in each PEC. This ambiguity in the legal provisions opened space for different interpretations by some political parties and triggered a number of complaints to the CEC.

Legal ambiguities concerning representation on election commissions should be eliminated in order to ensure a consistent approach to the formation of PECs and a coherent understanding of the process by various stakeholders.

As in previous elections, election commissions at all levels continue to work *in camera*, i.e. their sessions are not open to observers or the media. In the case of DECs, this is at odds with Article 10m.8 of the Presidential Election Law, which stipulates that authorized representatives may attend DEC sessions. Although parties and candidate representatives did not voice any complaints, this approach reduces the transparency of the election administration’s operations.

The election legislation should be amended in order to enhance the transparency of election commissions’ work.

B. STATE ADMINISTRATION

The Presidential Election Law stipulates that the organization and technical preparation of the elections shall be carried out by the Council of Ministers and the district and municipal administrations, in cooperation with the election commissions (Article 2a). The CEC and the state administration, in particular the Ministry of State Administration and Administrative Reform, share responsibility for administering and organizing the presidential elections. The Ministry and its Regional Coordination Department, in cooperation with local and regional authorities, play a significant role and are responsible for a large part of the logistical arrangements and for procurement, while the CEC sets the framework and interprets the election legislation through decisions and instructions.

While this arrangement seems to have worked in a satisfactory manner in most elections, this is contingent on a sufficient level of planning and co-operation between the Council of Ministers and the Central Election Commission.

The Council of Ministers allocated a budget totaling 19,985,500 leva (around € 10.2 million) for these presidential elections. Of this sum, 13,264,000 leva (around € 6.8 million) were earmarked for the first round, and 6,721,500 leva (around € 3.4 million) for the second round. Most of this money was allocated to the state, regional and municipal administrations. The CEC told the OSCE/ODIHR EAM that its own, directly administered budget was only around 450,000 leva (around € 230,000). However, the CEC said that it had been consulted by the Government before the budget was adopted.

The recommendation from the OSCE/ODIHR EAM report on the 2005 parliamentary elections, that consideration should be given to enhance the independence of the election administration through the establishment of an independent budget, still remains valid.

C. VOTER REGISTRATION

The Constitution provides that every Bulgarian citizen above the age of 18, with the exception of those placed under judicial interdiction or serving a prison sentence, enjoys suffrage in Bulgaria.

Disenfranchisement on the general grounds of a prison sentence, regardless of the gravity of an offence committed, appears to be counter to international standards and should be reviewed. Withdrawal of individual franchise must be based on judicial action, and, in the case of criminal conviction, must be proportionate to the nature of the offence.²

The Parliamentary and Presidential Election Laws seek to ensure suffrage rights of voters such as those living at their temporary, rather than permanent, residence, Bulgarian citizens living and working abroad, conscripts, students, patients in hospitals, as well as those serving on board vessels.

The Parliamentary Election Law defines the mechanisms under which voter registers are maintained in adequate detail. Further details were regulated by a number of CEC decisions, which were adopted and published in a timely manner.

GRAO is the principal agency in charge of compiling and maintaining the voters' database, based on data provided by municipal authorities. GRAO is also responsible for printing the voter lists. For the presidential elections, GRAO offered voters multiple means of checking their status on the voter list ahead of election day. In addition to checking publicly posted polling-station extracts, voters could also check their status over the Internet, by calling automated toll-free phone numbers, and through mobile phone messages. According to GRAO, the voter lists that are publicly displayed for the verification of voters' data contain the names and addresses of every voter on the list, as well as partial ID numbers. *Such practice appears to run counter to personal data protection and privacy standards, and could be reviewed.*

² See UNHRC Comments and ICCPR, id.; ECtHR, Labita and Iwanczuk cases; EComHR decisions; CDL Guidelines, 1, 1.d; ACEEEO, 20 (1) & (2.1)–(2.2).

Regrettably, both the authorities maintaining the voter registers and the CEC failed to provide sufficient information on the total number of eligible voters before the first round of voting. Three days before the first round, GRAO published information on its website that the number of voters included on the voter lists as of 11 October 2006 was 6,447,147. The CEC informed the OSCE/ODIHR EAM that it did not publish any information about the number of eligible voters before the first round because final data would only be available after the end of voting, and providing preliminary information would cause confusion. After the first round, the CEC announced that a total of 7,075,041 citizens had been eligible to vote, based on all civil registries.

The considerable discrepancy between the number of eligible voters and those included on the voter lists was mainly due to the removal from the lists of all voters who had left the country at any stage earlier than two months before election day and had not returned by the time the extracts were produced. For the 2006 presidential elections, the authorities introduced a system under which such voters were removed from the extracts of the voters list used at polling stations. According to the CEC, this was done to prevent double voting by persons who are abroad. If such persons returned to Bulgaria up to 24 hours before the opening of the polls, they could still be added to the voter list at their permanent place of residence.

The lack of clarity ahead of election day regarding the total number of voters, the non-disclosure of information on how the final number of eligible voters is arrived at, as well as lack of information as to whether this figure is subject to change after the polls, may lead to reduced trust in the accuracy of these figures, and therefore in the overall process. It would have been good practice to announce shortly before election day the number of eligible voters at that stage, with the proviso that the figure might change. This would have been all the more appropriate since the number of eligible voters has a direct bearing on whether the 50 per cent turnout requirement for a candidate to win in the first round is met or not.

The CEC should publish the total number of registered voters in advance of election day, as well as the methodology of arriving at this number.

The OSCE/ODIHR EAM Final Report for the 2005 parliamentary elections recommended that the legal framework should be improved in order to minimize possibilities of abuse of Absentee Voter Certificates (AVCs). This recommendation was met by the August 2006 amendments to the Presidential Election Law, which established a central register of AVCs and introduced a unified numbering system of these certificates. However, the certificates still appeared to lack adequate security features.

Consideration could be given to introducing visible security features on absentee voter certificates in order to further limit the possibilities of abuse.

A total of 8,320 absentee voter certificates were issued by municipal authorities before the first round. No certificates were issued between the two rounds, but persons who had used a certificate on 22 October could vote in the second round at their place of permanent residence, or at the polling station where they presented the certificate in the first round. Certificate holders who had not voted in the first round could use their certificate in any polling station in Bulgaria.

D. OUT-OF-COUNTRY VOTING

The Ministry of Foreign Affairs (MFA) is in charge of organizing the elections abroad. Under the Presidential Election Law, polling stations can be established abroad if at least 100 eligible voters submit a written request to this effect. However, the CEC decided that polling stations could also be established if at least 20 voters file a request and the head of the diplomatic or consular office supported the need for establishing a polling station.

According to MFA data, 144 polling stations were established in 49 countries. The country with the highest number of polling stations was Turkey (43), followed by the United States (11), Germany (10), and Spain and Russia (5 each). Out-of-country voting was also organized for Bulgarian troops stationed abroad. The biggest challenge for election authorities was to estimate the number of ballots needed for out-of-country voting and to ensure sufficient supplies for each polling station.

A total of 14,671 citizens submitted requests to vote abroad. However, the number of persons who actually voted abroad was significantly higher. According to official results published by the CEC, 47,009 persons voted abroad in the first round, and 70,670 in the runoff.

E. POLLING PROCEDURES AND ELECTION MATERIALS

The August 2006 amendments to the Presidential Election Law were made in an effort to harmonize election procedures for presidential elections with those applicable to parliamentary elections. It is noteworthy that these amendments were passed only two months before election day, which some interlocutors considered a very late date given the technical innovations introduced.

In general, amendments to election legislation should be adopted well in advance of an election, unless major deficiencies are identified at a late stage and need to be addressed urgently.

Among the key procedural changes was the introduction of an integral white ballot containing the names of all candidates (rather than separate ballots as before), similar to the one first introduced for the 2005 parliamentary elections.

Further procedural changes included the elimination of envelopes, which were considered unnecessary with the introduction of the integral ballot, as well as the introduction of a double-stamping procedure, with one stamp being applied to the reverse side of the ballot before handing it to a voter, and a second one before the voter deposits the ballot in the ballot box. For the first time, transparent ballot boxes were used in Bulgarian elections.

The main election-day issue observed by OSCE/ODIHR EAM members and brought to the OSCE/ODIHR EAM's attention by numerous interlocutors was related to the secrecy of the vote. The specific problem was due to the concurrent introduction of transparent ballot boxes and elimination of envelopes, coupled with the use of ballots printed on relatively heavy paper. During the first round of the presidential elections the secrecy of the vote was compromised, at times, when folded ballots opened when deposited in the transparent ballot boxes. This issue was raised by the CEC, lower-level election commissions, media and voters. In response to these concerns, the CEC broadcast instructions to voters and election officials between rounds emphasizing the need to tightly fold the ballot papers in

order to ensure the secrecy of the vote. The problem appeared to be minimized during the second round, due in part to the smaller ballot size with only two candidates.

New procedures to guarantee the secrecy of vote should be introduced. For example, parliament may wish to consider the reintroduction of envelopes if transparent ballot boxes are retained. Alternatively, ballots could be pre-folded so as not to reveal the vote. This could be done at the printing house or by polling officials based on prior instructions and training.

VI. THE ELECTION CAMPAIGN

The election campaign was low-key and calm overall, and appeared to generate only narrow public interest. Most interlocutors attributed this to the general perception of a contest with a well known incumbent familiar to the electorate, and a field of contenders, most of whom were relatively unknown in advance of the election campaign. Most analysts and media also attributed the low voter turnout in both rounds to this perception.

Under the Presidential Election Law, the official campaign period began with the publication of all candidates' names in the Official Gazette, no later than 30 days before the first election day. The campaign for the first round ended at midnight on 20 October, while the campaign for the second round lasted from 23 October until midnight 27 October.

A total of seven candidate teams contested these presidential elections. The incumbent President and Vice President, Georgi Parvanov and Angel Marin, were nominated by an initiative committee and supported by the Bulgarian Socialist Party (BSP) and a number of smaller parties. The nationalist "Ataka" party nominated its leader Volen Siderov and Pavel Shopov as the vice presidential candidate. Four center-right parties supported former Constitutional Court Chief Judge Nedelcho Beronov and his running mate Yuliana Nikolova, who were nominated by an initiative committee after prolonged negotiation. Former Constitutional Court Judge Georgi Markov of the Order, Legality and Justice party and his running mate Maria Tsoneva-Ivanova also competed for the center-right vote, while the remaining candidates vied for the nationalist (Petar Beron/Stela Angelova-Bankova and Grigor Velev/Yordan Mutafchiev) or leftist vote (Lyuben Petrov/Neli Topalova).

One of the BSP's two partners in the governing coalition, the National Movement Simeon II, decided against fielding its own candidate or openly supporting any of the contestants.

Most candidates conducted their campaigns in the media, by use of posters, by holding meetings with voters in various parts of the country, and to a much lesser extent using billboards. Overall, however, these campaign activities remained relatively limited. While several contestants' staff told the OSCE/ODIHR EAM that constrained financial means impacted on their campaign strategy, none of them complained of systematic discrimination.

Political analysts and other interlocutors told the OSCE/ODIHR EAM that in their view, the modest campaign would result in campaign headquarters generally complying with legal regulations on campaign financing, including spending ceilings. However, some of them pointed out that "informal" channels of campaign funding might still exist, and they

also criticized the fact that the finance regulations do not cover in kind donations of materials and services.

The relevant legislation should be amended to include in kind donations of materials and services as part of official campaign revenues.

Campaign staff of several candidates complained to the OSCE/ODIHR EAM that President Parvanov used state resources, including official transportation and security, for his campaign. At the same time, President Parvanov's campaign informed the OSCE/ODIHR EAM that they were calculating the amount of official transportation and security services used in order to reimburse the budget. Some interlocutors also claimed that the distinction between the President's official duties and campaign activities was at times blurred, and that the President had in fact launched his re-election bid months before the official campaign started.

While it is reasonable that incumbent candidates holding high State office should be entitled to full-time security, expenditures such as transportation and related costs, in connection with activities that are clearly campaign-related should be openly declared and reimbursed to the State budget. Furthermore, the high public exposure of an incumbent who is a potential candidate for re-election, beyond the recognized advantages of incumbency, could be considered as an abuse of administrative resources.

VII. THE MEDIA

While the OSCE/ODIHR OSCE/ODIHR EAM did not undertake any systematic monitoring of campaign-related coverage in the media, it did follow and review some election-related aspects of the media environment.

According to the Council for Electronic Media (CEM), the supervisory body for broadcast media operating in Bulgaria, over 200 television and over 300 radio stations are registered in Bulgaria. Several of them have nationwide coverage, including public Bulgarian National Television (BNT) and Bulgarian National Radio (BNR), as well as private televisions bTV and Nova TV and private Darik Radio. In addition, a number of other broadcast media can be received in most major population centers by terrestrial antenna or through cable networks. Several print media with political content are available nationally. The two daily newspapers with the highest circulation are *Trud* and *24 chasa*.

The Constitution guarantees freedom of speech and press, as well as the right of citizens to seek, disseminate and obtain information. Censorship is prohibited by the Constitution. Under the Presidential Election Law, all contestants are entitled to equal treatment and airtime on the public media. Private broadcasters are required to provide equal conditions and to charge equal prices for paid campaign coverage.

The Presidential Election Law provides for only three types of programs in which the campaign is covered in the public media – special campaign chronicles, campaign spots, and debates. Before the first round, each candidate is entitled to a three-minute address at the beginning and the end of the official campaign period. In case of a second round, the two contenders are each entitled to a ten-minute address on public TV and radio, at the end of the campaign period. Campaign coverage in the public media outside the special programs is not permitted, including in regular news and current-affairs programs.

The August 2006 amendments to the Presidential Election Law enhanced transparency of the lottery for determining the order of campaign appearance of candidates on public TV and radio. Moreover, the time for participation of candidates in debates was made equal for all the candidates, while the previous provision favored candidates nominated by parliamentary parties.

One of the August 2006 amendments to the Presidential Election Law provided that contestants must pay for all appearances in special campaign programs aired by public TV and radio, except for debates before a possible runoff, which are free of charge. The rates for such appearances were set by Government Decree No. 224 of 25 August 2006. While prices for appearances on public radio and on regional public television were relatively low, the rates adopted for the public BNT were rather high and may have impacted on contestants' ability to address the electorate on national television.³ Although the rates were the same for all candidates, it is of concern that this provision did not facilitate a level playing field on publicly financed television for all contestants.

The practice of requiring candidates to pay for all campaign-related appearances in the public broadcasting media may not be fully consistent with Paragraph 7.8 of the 1990 OSCE Copenhagen Document and should be reviewed. Charging fees for all appearances in campaign programs on public television limits the electorate's access to information and candidates' abilities to convey their message. This is particularly regrettable in the case of a public broadcaster financed by public money and with a special obligation to provide information to citizens.

Broadcast and print media, on the whole, appeared to provide sufficient information on the candidates and their campaigns. However, some of the more popular broadcast media decided not to cover the election campaign, and only aired paid advertisements. Coupled with the limitations placed on the public media, this was a disadvantage to candidates with fewer resources. Overall, this may have limited voters' access to information on the contestants and the campaign.

Consideration should be given to allowing the public media to cover campaign activities during regular programs, on an equitable and non-discriminatory basis, including free-of-charge airtime.

Under the Presidential Election Law, public broadcasters are obliged to provide a 90-minute slot for debates each week during the campaign period before the first round, and one 60-minute slot before a possible runoff. In the event, BNT and BNR organized two debates before the first round. However, they were of limited use to voters since the incumbent chose not to participate in either of the two all-candidate debates. Mr. Siderov during the first debate used all his time to make a long statement and then walked out, and did not participate in the second debate. An additional debate between only Mr. Parvanov and Mr. Beronov was broadcast on private Nova TV before the first round. No debate was broadcast between the two rounds, as President Parvanov announced that he would not participate in any debate with Mr. Siderov before the runoff.

³ BNT charged the following rates for campaign-related programs: 135 leva/minute for participation in debates, 400 leva/minute for chronicles, 1,000 leva/minute for opening and closing addresses, and 600 (from midnight to 12:30 hrs.) or 1,800 leva (from 12:30 hrs. to midnight) per minute for campaign spots. These prices were valid for simultaneous transmissions on BNT's "Channel 1" and satellite "TV Bulgaria".

The media was involved in a controversy in early October concerning a well-known journalist from the widely watched private television station bTV, Mr. Ivo Indjev. Mr. Indjev claimed that he was forced to resign after reading, in a talk show which he hosted, an anonymous email claiming that the President owned an apartment in central Sofia which he was given by a businessman, and which he had not declared. Asked for an opinion on Mr. Indjev's case, the Ethics Commission for Electronic Media stated that Mr. Indjev had not violated the Ethics Code for journalists, which raises questions about the treatment of journalists for discharging their professional duties in the context of an election campaign.

VIII. PARTICIPATION OF NATIONAL MINORITIES

According to the 2001 census, ethnic Turks comprise 9.4 per cent of the population of Bulgaria, and Roma comprise 4.7 per cent⁴. Although the Constitution does not allow the formation of political parties based on nationality or ethnicity, there are some political parties that are widely perceived as representing the interests of certain national minorities.

For the 2006 presidential elections, none of the presidential or vice-presidential candidates represented an ethnic minority.

The Movements for Rights and Freedoms (MFR), which is widely perceived as representing the ethnic-Turkish minority and is part of the governing coalition, supported Mr. Parvanov's campaign. The Euroroma party, which claims to represent the interests of the Roma minority, backed the campaign of Mr. Parvanov in the Roma communities.

Campaign activities of parties and organizations of national minorities were isolated and focused mainly on a negative reaction towards one of the presidential candidates, Mr. Siderov. Mr. Siderov, considered by some to be an extreme nationalist, used inflammatory language and voiced xenophobic views against ethnic groups living in Bulgaria as part of his campaign rhetoric.

A group of NGOs, led by the Bulgarian Helsinki Committee, as well as some individuals, initiated a number of lawsuits against Mr. Siderov in connection with the 2005 parliamentary elections, based on hate speech provisions in the Anti-Discrimination Law. Mr. Siderov was convicted in one case, while the remaining cases are still pending.

The social issues that members of national minorities face, including perceived discrimination, affect their participation in public life and politics, including in elections. It appears that some citizens, especially Roma, are not always included in the civil registers and are therefore disenfranchised.

The authorities should address issues of civil registration of national minorities, especially Roma, as a priority, in order that they are sufficiently informed of their rights and responsibilities. This could address issues of potential disenfranchisement among the respective communities.

⁴ Experts informed the OSCE/ODIHR EAM that they believe the actual number of Roma in Bulgaria to be significantly higher.

Although several interlocutors referred to previous cases of large-scale vote buying occurring among national minority groups, the OSCE/ODIHR EAM did not encounter such practices or receive such reports for these elections. Interlocutors suggested that this may have been partly due to the introduction of the legal provision on the criminalization of vote-buying, and partly due to the broad perception that the presidential election was not a close contest.

IX. PARTICIPATION OF WOMEN

Although several women hold prominent positions in government and in political parties, the participation of women could further be enhanced in Bulgarian political life. This fact was to some degree reflected in the field of candidates contesting these elections. All seven presidential candidates were men. However, four of the seven vice-presidential candidates were women.

As in previous elections, women were generally well-represented at all levels of the election administration. Ten of the 21 CEC members were women, including the chairperson and one of the two spokespersons.

Women accounted for just over one half of all DEC members, including many in leading positions. Thus, 16 of the 31 chairpersons, deputy chairpersons and secretaries were women. There were significant variations among the 31 DECs, with membership on individual DECs ranging from ten women and three men to one woman and ten men. Women were also well-represented in the PECs of polling stations visited by OSCE/ODIHR EAM members during the two election days.

According to data published by sociological agencies, there was no significant difference between men and women with regards to voter turnout.

X. PARTICIPATION OF DISABLED, BLIND AND ILLITERATE VOTERS

According to the Parliamentary Election Law, disabled and blind voters may request assistance during voting by a person of their choice. Such persons may not be PEC members, and no person may assist more than two voters. When a voter is assisted, this fact and the details of the person assisting must be noted in the comment column of the voter list.

The Parliamentary Election Law provides that a polling station be available on the “ground floor” in order to facilitate the participation of disabled and infirm voters. However, many polling stations were located in buildings with stairs leading up to the ground floor. While ramps were provided in many such buildings, this was not always the case. Consequently, access for disabled and blind voters was not uniformly ensured and varied between polling stations and municipalities. However, the OSCE/ODIHR EAM was told that municipal authorities had done everything they could to ensure better access for disabled and infirm voters, within the limitations of their budget and the constraints posed by existing infrastructure.

Access to polling stations designated for people with disabilities should generally be improved and a sufficient budget for such improvements should be allocated. Procedures

for processing disabled voters who are registered in a different polling station in the same building provide safeguards against possible double voting but are time-consuming and cumbersome to implement in practice. Such voters are struck off the voter list in their regular polling station and added to the supplementary list in the polling station designated for disabled voters. A form to this effect is completed in two copies, one for each of the PECs involved. A PEC member from the designated polling station has to go to the other polling station in order to complete this process.

Bulgarian election legislation specifically excludes illiterate persons from the group of voters who may be assisted in voting. However, most interlocutors did not identify this as a major issue, saying that illiterate persons can generally recognize numbers. Members of certain national minorities appear to be disproportionately affected by illiteracy. According to unofficial statistics provided by the NGO “Human Rights Project”, the illiteracy rate among the Roma community is as high as 42 per cent.

XI. CANDIDATE PROXIES AND DOMESTIC NON-PARTISAN OBSERVERS

According to the election legislation, candidates are entitled to nominate proxies to follow the voting and counting on election day. The process of nominating and registering proxies appeared to be forthright and non-contentious, and no candidate representatives told the OSCE/ODIHR EAM of any administrative problems in this respect. However, not all candidates had proxies in every polling station, due to lack of funding and resources.

Several civil society organizations were formally accredited as domestic non-partisan election observers by the CEC. However, their visibility in the election process was low, since none of them released a report or a public statement on their findings.

The Civic Initiative for Free and Democratic Elections (GISDI) informed the OSCE/ODIHR EAM that they planned to deploy some 6,200 observers on election days. The Bulgarian Association for Free Elections and Civil Rights (BAFECR), formerly a countrywide network, deployed only a limited number of election-day observers in regions where it remains active.

A group of 13 NGOs, led by the organization “Etno-palitra” (Ethnic diversity), launched a Get-Out-The-Vote campaign, but only for the first round of the presidential elections. The campaign included TV and radio spots, posters and other material and targeted mainly students and other young voters.

XII. COMPLAINTS AND APPEALS

Resolution of electoral disputes during presidential elections is regulated both by the Presidential Election Law and by the Parliamentary Election Law, depending on the subject of a complaint or appeal. Venues for submitting electoral complaints include the electoral administration, courts and executive authorities.

Thus, district courts have the competence to handle complaints concerning voter lists. Formation of precincts by mayors of municipalities may be challenged to the Regional Governor. Decisions of PECs and DECAs may be contested to the immediate higher-level election administration in one instance only, with no second-instance appeal possible.

Given the fact that in many cases, resolution of electoral disputes is confined to the election commissions, whose sessions are closed, consideration should be given to enhancing transparency of the dispute resolution procedures and envisaging the right to public hearing⁵.

CEC decisions may be contested in the Supreme Administrative Court, but only on a limited number of issues. These include: CEC decisions on the registration of parties, coalitions or initiative committees for the nomination of candidates; registration of candidates; issues concerning election observers; the tender for the computerized tabulation of election results; and the lottery determining the order of candidates on the ballot. Although there appears to be general confidence in the process of resolving electoral disputes, the existing procedures appear to be at odds with Paragraph 5.10 of the 1990 OSCE Copenhagen Document, which requires “an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”, as well as internationally recognized good election practice.⁶

The relevant legal provisions should be amended so that any decision of the CEC may be appealed in a court of law.

Some 20 complaints were filed with the CEC on DEC decisions regarding the appointment of PECs. The most common claim was the apparent failure of the DEC to properly reflect the ratio of parties’ parliamentary representation in the composition of PECs. All such complaints were rejected as groundless or untimely, with one exception only, when three decisions of DEC No. 6 (Vratsa) were repealed because a political party participated in the consultations for appointments of PECs members in three municipalities, although it was not entitled to do so. As noted elsewhere in this report, the legal provisions on this issue are ambiguous and leave ample space for their interpretation. A limited number of complaints on minor campaign violations were considered by DEC and the CEC and subsequently rejected in most of the cases.

Regrettably, the Supreme Administrative Court (SAC) did not meet with the OSCE/ODIHR EAM, despite repeated written and verbal requests. According to the CEC, five complaints or appeals were filed with the SAC during the election process. The SAC considered two complaints challenging the CEC rejection of applications for candidacies and upheld the CEC decisions in question.⁷ Another two appeals contesting CEC decisions on the appointment of DEC were dismissed by the SAC as procedurally inadmissible, without consideration of their merit. In one case, the SAC granted an appeal, concerning a CEC decision on the rejection of registration of observers from a political party, and repealed the relevant CEC decision.

⁵ See, e.g., Art. 10 of the Universal Declaration of Human Rights; Paragraph 13.9 of the OSCE 1989 Vienna Document, and Opinion no. 190/2002 of the Venice Commission “Code of Good Practice in Electoral Matters” of 30 October 2002.

⁶ See also CDL Guidelines, II, 3.3; ODIHR, Election Dispute Report and Legal Review Guidelines, XIV; ACEEEO, 4(6), 5(2.6), 18.

⁷ One complaint was on the CEC rejection to register a candidate from “Era-3” party, which failed to provide financial reports for 2003 and 2004 as required by the law and also had some other irregularities in its application documents. Another complaint was from the Bulgarian Communist Party, which failed to collect the required 15,000 of support signatures for its leader Vladimir Spasov and claimed that the signature requirement itself was illegal.

XIII. ELECTION DAY – FIRST AND SECOND ROUNDS

A. VOTING AND COUNTING

The OSCE/ODIHR EAM did not make a systematic assessment of the election day proceedings, but OSCE/ODIHR EAM experts did visit a number of polling stations during voting and counting for both the first round and second round. In general, the election was reported to be conducted in a calm environment, and election officials were seen to have administered the process in a professional and orderly fashion. The police were generally seen to act in an appropriate manner, facilitating the process on election day.

OSCE/ODIHR EAM experts noted that while voting procedures were generally followed by PEC members, procedures for the count were followed less consistently. Several DEC members informed the OSCE/ODIHR EAM that some PECs had difficulty differentiating between invalid and spoiled ballots during the first round. The DEC members sent additional instructions to all PECs for the second round in order to avoid similar problems. In some cases, OSCE/ODIHR EAM experts noted an inconsistent understanding of what constitutes a valid or invalid ballot. Although the OSCE/ODIHR EAM was told that a significant number of PEC members had to be replaced between the two rounds due to resignations, no systematic PEC training was provided before the runoff.

It would be a good practice for the authorities to introduce consistent training for all PEC members, with particular emphasis on counting procedures. A clear, concise manual for PEC members could also be considered, in addition to the Methodological Instructions for PECs adopted by the CEC.

In some cases, election officials did not appear to be sufficiently well-informed about the status of different groups of voters in the voter lists. In particular, voters who had been deleted from the voter lists because they had been out of the country still had the right to vote if they appeared in their place of registration. Similarly, students had the right to vote outside their place of registration if they showed a student identification card, which was stamped by the election officials as a safeguard against voting in more than one place.

In an exceptional case, OSCE/ODIHR EAM experts during the second round in Vidin municipality were informed that PEC members had been paid to stuff the ballot boxes. In seven out of eight polling stations in the location in question, turnout was unreasonably high and results clearly favored one side.

Voter turnout was low in both rounds, with only 40.4 per cent in the first round on 22 October, well below the 50 per cent threshold required to avoid a second round, and 39.0 per cent in the second round.⁸

B. TABULATION OF VOTES

In the DEC members visited by OSCE/ODIHR EAM experts, the organization of the tabulation of votes was conducted in a professional and secure environment, with all DEC members actively supervising the process. The protocols were first checked for correctness and

⁸ Turnout figures have been calculated on the basis of CEC Decision Nr. 232, 31 October 2006.

reconciliation by a DEC member and subsequently processed electronically, including a second redundant check, and transmitted to the CEC as preliminary results.

OSCE/ODIHR EAM experts observed during their visits that there were a number of technical mistakes noted on the PEC protocols, resulting from a lack of understanding by some PECs of specific questions. This was also confirmed in meetings with DEC officials. The protocols were corrected in the presence of three PEC members, who signed each change on the original protocols; however, these changes were not recorded elsewhere, including in the electronic tabulation.

All changes on the protocols should be accounted for electronically and made public in order to further strengthen the transparency and accountability of the process.

ANNEX: ELECTION RESULTS

	First Round	Second Round
Total number of voters	7,075,041	
Number of voters who turned out to vote	2,856,734	2,757,441
<i>Turnout in percent</i>	40.38%	38.97%
Number of valid votes	2,779,373	2,699,875
Number of invalid votes	77,361	57,566
<i>Invalid votes in percent of votes cast</i>	2.71%	2.09%

Candidates	First Round		Second Round	
	Votes	Percent	Votes	Percent
Nedelcho Beronov – Yuliana Nikolova	271,078	9.75%		
Lyuben Petrov – Neli Topalova	13,854	0.50%		
Georgi Parvanov – Angel Marin	1,780,119	64.05%	2,050,488	75.95%
Grigor Velev – Yordan Mutafchiev	19,857	0.71%		
Petar Beron – Stela Angelova-Bankova	21,812	0.79%		
Volen Siderov – Pavel Shopov	597,175	21.49%	649,387	24.05%
Georgi Markov – Maria Tsoneva-Ivanova	75,478	2.71%		
Total	2,779,373	100.00%	2,699,875	100.00%

[Source: Central Election Commission, Decision Nr. 232, 31 October 2006]

— NB: Turnout figures and the percentage of invalid votes have been calculated on the basis of the figures contained in CEC Decision Nr. 232. —

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the 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 Document).

The 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 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It coordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The ODIHR implements a number of targeted assistance programmes annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

Within the field of **tolerance** and **non-discrimination**, the ODIHR provides support to the participating States in implementing their OSCE commitments and in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The 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.

The 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. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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/odihhr).