



Office for Democratic Institutions and Human Rights

# THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

## PRESIDENTIAL AND MUNICIPAL ELECTIONS 22 March and 5 April 2009

OSCE/ODIHR Election Observation Mission Final Report



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**THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA  
PRESIDENTIAL AND MUNICIPAL ELECTIONS  
22 March and 5 April 2009**

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

**I. EXECUTIVE SUMMARY**

Following an invitation from the Ministry of Foreign Affairs to observe the 2009 presidential and municipal elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) to the former Yugoslav Republic of Macedonia. For election day observation on 22 March, the OSCE/ODIHR EOM joined efforts with observer delegations of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the Congress of Local and Regional Authorities of the Council of Europe (the Congress) to form an International Election Observation Mission (IEOM). For election day observation of the second round on 5 April, the OSCE/ODIHR EOM joined efforts with an observer delegation of the PACE. These elections were assessed for their compliance with OSCE commitments and other international standards for democratic elections, as well as with domestic legislation.

The two rounds of presidential and municipal elections met most OSCE commitments and other international standards for democratic elections. The constructive role and discreet, but reassuring, presence of the police contributed to the conduct of peaceful election days. Other meaningful progress such as the responsible behavior of political parties and the discernable efforts to use measured rhetoric in the campaign was noted. Overall, these elections were administered in a professional and transparent manner. Some problems were evident, such as allegations of intimidation of voters in the pre-election periods.

The legal framework for presidential and municipal elections is consolidated under an Electoral Code adopted in 2006 and last amended in October 2008. The latest amendments addressed several recommendations put forward by the OSCE/ODIHR after the 2008 elections. The Electoral Code still contains provisions which are imprecise and lack detail; this is not compensated by adequate regulations. The resulting gaps leave room for conflicting interpretations or inconsistent application.

For these elections, the President was elected through a two round system, with a voter turnout requirement for the second round. The Constitution was also amended in January 2009 to lower the turnout requirement for the second round of presidential elections from 50 per cent of registered voters to 40 per cent. This requirement continues to leave a possibility for failed elections. The 85 mayors were elected in a two-round system with a voter turnout requirement for the first round, and municipal councils were elected through a system of proportional representation.

The elections were administered by a three-tiered election administration, comprising the SEC, 84 Municipal Election Commissions (MECs) and the Election Commission of the City of Skopje, and 2,976 Election Boards (EBs). The SEC Chairman and two members were nominated by the opposition, and the Deputy Chairman and three members by the governing parties. MEC

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<sup>1</sup> This report is also available in Macedonian and Albanian languages. However, the English version remains the only official document.

members and most EB members were randomly selected from among public employees. In a change from the last elections, EB composition reverted to a mixed professional-political model, with part of the membership appointed by political parties.

Overall, preparations for the 22 March elections proceeded smoothly and were implemented within the legal deadlines, although the SEC was hampered in its work by the lack of sufficient, qualified support staff. The SEC appeared to enjoy the confidence of most candidates and political parties. In the run-up to the first round of the elections, it operated transparently and in a spirit of consensus. Between the two rounds, however, the spirit of collegiality was occasionally replaced by party interests, and the SEC's work sometimes lacked transparency.

About 1.8 million citizens were eligible to vote in these elections, out of an estimated population of 2.04 million. These figures led to persistent doubts about the accuracy of the voter lists. Longstanding OSCE/ODIHR and Venice Commission recommendations that a thorough voter list audit be undertaken remain to be acted upon.

Seven presidential candidates, 364 mayoral candidates and 702 municipal councilor lists were registered in an inclusive process, giving the voters a broad choice. Although the procedure for collecting support signatures for candidacy is considered quite restrictive and onerous, in practice the system did not prevent the registration of a large diverse field of candidates.

The official 19-day campaign period before the first round was lively and highly visible, with political parties and presidential candidates engaging in a vigorous program of rallies. Prior to the official campaign, the absence of clear legal regulations led to some confusion as to what political activity was permissible. Campaign activities between the two rounds were low-key. Overall, local rather than national issues dominated the campaign.

Parties and candidates pledged to hold peaceful elections and to avoid the kinds of violent incidents which marred the 2008 elections. Their efforts were generally successful and only a few minor incidents were reported, although tensions were high in some municipalities. Several meetings of the leaders of the main political parties took place during the pre-election period, aimed at promoting a peaceful and co-operative approach to the elections. The police played a constructive role in ensuring a calm atmosphere, in particular on the two election days.

With only a few exceptions, presidential and municipal candidates campaigned almost exclusively among their own ethnic communities. Ethnically based voting patterns were especially visible during the second round, with extremely low turnout for the presidential election in predominantly ethnic-Albanian areas.

The most significant issue of concern in relation to the elections was the numerous, troubling, and credible allegations from all over the country of pressure on or intimidation of citizens. This seriously detracted from the overall quality of the election process. Public-sector employees appeared to be particularly vulnerable to threats that their jobs would be in danger if they did not support the governing party. Other allegations included threats that citizens would lose their pensions or social services if they did or did not support certain parties or candidates. The overwhelming majority of these allegations concerned actions by State officials and activists of the governing party. The Prime Minister made strong but late public statements against such practices that were not sufficient to bring to an end pressure and intimidation or to fully restore public confidence.

The country has a diverse range of broadcast and print media. The Government is the biggest single advertiser, which gives it substantial leverage over many media outlets. The main

regulatory body, the Broadcasting Council (BC), operated professionally and impartially. It issued rules for media coverage before and during the official campaign period; the former were criticized as too restrictive by some national media.

During the official campaign, media provided voters with a variety of political views. There was a number of debates among the presidential candidates. Public Macedonian Television (MTV) provided candidates with free airtime. Overall, the broadcast media, while in most cases not fully balanced, provided adequate coverage of election contestants. Print media provided a diversity of views; overall, their coverage of political actors was more critical than that of the broadcast media.

One woman was a candidate for president – a first for the country – but there were only 13 women among the 364 candidates for mayor, none of whom was elected. The legal requirement that at least one of every three places on candidate lists must be reserved for the “less represented gender”<sup>2</sup> resulted in women being elected to 27 per cent of positions on municipal councils. Political parties did not appear to make special efforts to win women’s votes, and women were noticeably less present than men at most political rallies. The legal requirement that each gender make up at least 30 per cent of election management bodies was met, except for membership on the SEC. Family voting continued to be a problem, despite voter education campaigns against it.

Legal requirements were met for “adequate and equitable”<sup>3</sup> representation in the election administration of ethnic communities in areas where they form at least 20 per cent of the population. In addition, there were 33 mayoral candidates from communities other than ethnic Macedonians or ethnic Albanians, most of them running for parties representing their own community. Four of them were elected. Tensions ran high in some campaigns, especially in municipalities where the main contenders belonged to the same ethnic community.

About 7,000 domestic non-party observers were accredited, adding an important element of transparency to the election process. The biggest domestic observation group was the citizens’ association MOST, which accredited over 4,500 observers.

The amended Electoral Code provides a more developed framework for complaints and appeals, although timelines remain short, and gaps and inconsistencies in decision-making were identified. In adjudicating complaints, the SEC interpreted narrowly its obligation to inspect election material and there were some inconsistencies in its decisions whether to inspect all election material. The SEC was also unable to adjudicate the first round of complaints within the legal deadlines, which delayed the announcement of final results for the first round and complicated the preparations for the second round. The Administrative Court upheld only one of the 100 lawsuits against SEC decisions for the two rounds, in sessions that were mostly closed to the public, despite a legal requirement to decide in public sessions.

A second round of the presidential election was held on 5 April since no candidate received the support of over 50 per cent of the total number of registered voters, which is a legal requirement to be elected in the first round. A second round of elections was also held for 44 of the 85 mayoral posts on 5 April. In addition to the second round voting, polling stations in eight municipalities conducted first round elections for Mayor and polling stations in 23 municipalities conducted municipal council elections on 5 April, either because results were annulled or

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<sup>2</sup> Electoral Code, Art 64 (5).

<sup>3</sup> Electoral Code, Art 21 (1).

because polling stations were unable to open due to inclement weather on 22 March. Further voting was held on 19 April and on 3 May.

Both the 22 March and 5 April election days were overall calm and peaceful. No instances of violence or major incidents were reported in either round, with tensions evident in only a few places. In both rounds, only limited instances of more serious electoral irregularities were noted. Overall, IEOM observers assessed the second round more positively than the first. They assessed the voting process as good or very good (95 per cent of polling stations visited for the first round, and 97 per cent for the second round) and described it as overall well organized, calm and orderly. For the first round, the assessment was more negative for polling stations in predominantly ethnic-Albanian municipalities than for the rest of the country; there were no such variations in the second round. Police presence was regarded as well organized and discreet.

The vote count was assessed less positively than voting in both rounds, with 15 per cent of the 116 observed counts in the first round assessed negatively and 9 per cent of the 61 observed counts in the second round assessed negatively. Main problems included basic procedures not being followed, including reconciliation of figures. One half of EBs in the first round and over one half of EBs in the second round where the count was observed did not post copies of the results protocols for public familiarization. The tabulation process at MECs was assessed overall positively in both rounds. Some issues with transparency were noted during the tabulation during both rounds, mainly with regards to observers' ability to observe the data entry of results. There was a high number of invalid ballots in the second round, representing 5.96 per cent of the total voter turnout. Turnout for the first round of the presidential election was 56.88 per cent; this dropped to 42.63 per cent for the second round.

This report offers recommendations for consideration by the authorities of the former Yugoslav Republic of Macedonia. The OSCE/ODIHR stands ready to further support the efforts of the authorities, political parties and civil society to address remaining challenges.

## **II. INTRODUCTION AND ACKNOWLEDGMENTS**

Following an invitation from the Ministry of Foreign Affairs of the former Yugoslav Republic of Macedonia to observe the 22 March 2009 presidential and municipal elections, the OSCE/ODIHR deployed an EOM on 13 February 2009. The OSCE/ODIHR EOM was headed by Mr. Peter Eicher and consisted of 16 experts and 23 long-term observers (LTOs) from 25 OSCE participating States, who were based in Skopje and ten regional centers.

For election day observation on 22 March, the OSCE/ODIHR EOM joined efforts with observer delegations of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the Congress of Local and Regional Authorities of the Council of Europe (the Congress) to form an International Election Observation Mission (IEOM). Ms. Pia Christmas-Møller headed the OSCE PA delegation and was appointed by the OSCE Chairperson-in-Office as Special Coordinator to lead the OSCE short-term observer mission. Ms. Marietta de Pourbaix-Lundin headed the PACE delegation, and Ms. Ludmila Sfirloaga led the Congress delegation. For the second round on 5 April, the PACE appointed a representative, Mr. Jørgen Poulsen, to be present in the country; the PACE also joined the OSCE/ODIHR in the preliminary statement issued following the second round of voting.

On the first-round election day, the IEOM deployed some 320 observers from 40 OSCE participating States, including 245 short-term observers deployed by the OSCE/ODIHR and seconded by OSCE participating States, who observed voting in 1,062 polling stations, and

counting in 116 polling stations. The IEOM also observed the tabulation process in 44 of the 85 MECs. For the second round, the OSCE/ODIHR EOM deployed 132 short-term observers, who observed voting in 778 polling stations, and counting in 61 polling stations, as well as the tabulation of results in 39 MECs.

The OSCE/ODIHR EOM assessed compliance of the election process with OSCE commitments and other international standards for democratic elections, as well as domestic legislation. This final report follows Statements of Preliminary Findings and Conclusions which were released at press conferences on 23 March and 6 April 2009.<sup>4</sup>

The OSCE/ODIHR EOM is grateful to the Ministry of Foreign Affairs, the State Election Commission, the authorities, political parties and civil society of the former Yugoslav Republic of Macedonia for their co-operation. The OSCE/ODIHR EOM also wishes to express its appreciation to the OSCE Spillover Monitor Mission to Skopje and to the diplomatic missions of OSCE participating States and international organizations resident in the country for their support.

### **III. POLITICAL CONTEXT**

The former Yugoslav Republic of Macedonia is a parliamentary republic, with legislative powers vested in the 120-member Parliament and executive powers exercised by the Government, led by the Prime Minister. The powers of the President include serving as Commander-in-Chief of the Armed Forces and President of the Security Council, submitting the name of the Prime Minister-designate to the Parliament for a vote, appointing ambassadors, nominating judges, and promulgating laws. Since the adoption of the Law on Territorial Organization of the Local Self-Government in 2004, mayors and municipal councils have gained new powers in such areas as town planning, education and welfare.

The presidential and municipal elections were called for 22 March 2009, in line with constitutional and legal provisions. Incumbent President Branko Crvenkovski announced that he would not seek reelection and would instead return to the leadership of his party, the Social Democratic Union of Macedonia (SDSM), although he was not precluded from running for a second term. In addition, the terms of the 84 mayors and municipal councils, and of the mayor and council of the City of Skopje (which comprises ten municipalities), expired at the end of March 2009.

The presidential and municipal elections took place less than a year after the 1 June 2008 parliamentary elections, which the OSCE/ODIHR in its Final Report concluded “as a whole [...] did not meet key OSCE commitments”, especially due to violence and irregularities. After those elections, the election coalition led by the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO–DPMNE) formed a governing coalition with the ethnic-Albanian Democratic Union for Integration (DUI) and the Party for European Future (PEI); the coalition holds a majority of 82 seats in the Parliament.

### **IV. THE LEGAL FRAMEWORK AND ELECTION SYSTEM**

The legal framework for both presidential and municipal elections is consolidated under a comprehensive Electoral Code adopted in 2006. In October 2008, Parliament adopted a number

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<sup>4</sup> The preliminary statements are available on the ODIHR website, [www.osce.org/odihhr](http://www.osce.org/odihhr).

of amendments to the Electoral Code and in January 2009 Parliament adopted an amendment to the Constitution. The constitutional amendment lowered the requirement for voter turnout in the second round of presidential elections from 50 to 40 per cent. While intended to ensure those elected into office represent a significant portion of the population, such requirements for the second round can lead to failed elections. The Electoral Code amendments included more specific provisions on campaign financing and clarifying the role and responsibilities of different bodies in charge of adjudicating election complaints. Other changes included reverting the composition of election administration bodies from purely professional back to a mixed professional and political basis. Some additional amendments were left to be implemented for future elections, such as transferring the responsibility for maintaining the voter list from the Ministry of Justice to the SEC, as well as allowing citizens residing abroad to vote in Embassies for presidential and parliamentary elections; both of which will enter into force on 1 September 2009.

The amendments adopted in October 2008 addressed several recommendations put forward by the OSCE/ODIHR after the 2008 early parliamentary elections as well as recommendations proposed by the OSCE/ODIHR and the Council of Europe (CoE) Venice Commission in a joint opinions on election legislation.<sup>5</sup> These changes include improved provisions on resolving election disputes, and improvements to campaign financing regulations.

There were also some OSCE/ODIHR recommendations which were not implemented or only partially implemented. For example, while the campaign financing regulations were improved, there continues to be a lack of adequate oversight of campaign financing and loopholes remain in the law which undercut the limits on campaign donations. The Electoral Code also still contains provisions which are imprecise and lack detail, and therefore leave room for conflicting interpretations or inconsistent application. The SEC adopted a number of instructions and recommendations prior to the 2009 elections. However, these did not fully clarify the gaps which exist within the Electoral Code.

## **A. ELECTORAL SYSTEM**

The President is elected directly for a term of five years and can only be reelected once. To win the election in the first round of voting, a presidential candidate must receive the votes of a majority of the total number of registered voters. If no candidate meets this requirement, the two leading candidates go into a second round within two weeks. The candidate who receives the most votes in the second round is elected, provided that at least 40 per cent of registered voters cast their votes. Otherwise, the entire election process has to be repeated.

A mayoral candidate is elected in the first round if he or she wins more than 50 per cent of the votes cast, provided that at least one third of the voters registered in that municipality voted. If there is no first-round winner, a second round takes place within two weeks between the two candidates who received the highest number of votes. The winner in the second round is the candidate who receives the majority of votes, with no voter turnout requirement. Municipal councilors are elected by a proportional representation system with closed lists, without a turnout requirement.

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<sup>5</sup> OSCE/ODIHR and CoE Venice Commission Joint Opinions can be found at [www.osce.org/odihr-elections/13441.html](http://www.osce.org/odihr-elections/13441.html).

## V. ELECTION ADMINISTRATION

### A. BACKGROUND

The 2009 presidential and municipal elections were administered by a three-tiered election administration, comprising the State Election Commission (SEC), 84 Municipal Election Commissions (MECs) and the Election Commission of the City of Skopje, and 2,976 Election Boards (EBs). On 4 December 2008, and as required by the 2008 amendments to the Electoral Code, a new SEC was appointed by the Parliament. The appointments occurred just over one month before the elections were called, which, in principle, is too short a period to expect an election commission to organize itself and to function effectively. This problem was alleviated somewhat by the fact that four of the seven members of the previous commission were reappointed. The appointments were also assessed positively among political parties, as the appointment allowed the opposition to fill the post of SEC Chairman.<sup>6</sup>

In the 2008 elections, MEC members and most EB members and deputies were randomly selected by computer from among the employees in the state, municipal and public administration. The Electoral Code amendments reverted the EB composition back to a mixed professional-political model, with one member (and a deputy) of each EB nominated by the political parties in opposition and one member (and a deputy) nominated by the parties in government. The remaining members of EB were randomly selected as previously. The inclusion of political party members appears to have increased the confidence of the major political parties in the election administration, and also alleviated the difficulties in recruiting the large number of EB members (totaling some 30,000, including deputies) solely from within the administration.

### B. ADMINISTRATION OF FIRST ROUND

Overall, preparations for the 22 March elections proceeded smoothly and were implemented within the legal deadlines, although the SEC was hampered in its work by the lack of sufficient, qualified support staff, an issue previously raised by the OSCE/ODIHR and the Venice Commission of the Council of Europe.<sup>7</sup> In the run-up to the first round of the elections, the SEC operated transparently and in a spirit of consensus, and appeared to enjoy the confidence of most candidates and political parties.

SEC sessions were open to international observers, domestic non-party observers, authorized representatives of list submitters,<sup>8</sup> and the media. However, the SEC often held working sessions which were not always announced, making it difficult for observers to attend. Although according to Article 2 of the SEC Internal Regulations (2006) the SEC may hold sessions which are not open to the public, this practice undermined somewhat the transparency of the SEC's work.

Although the SEC issued a number of instructions and guidelines, there was a notable lack of detailed election regulations to ensure clear and consistent practices, and to compensate for the vagueness of some provisions of the Electoral Code. The SEC adopted a Handbook for the Education of Electoral Bodies, but the Handbook did not elaborate on election procedures in

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<sup>6</sup> According to the Electoral Code, the opposition nominate the Chairman of the SEC and two members, and the governing parties nominate the Deputy Chairman and three members. The previous commission was elected before the 2006 parliamentary elections brought VMRO-DPMNE into government, creating a situation where the governing party rather than the opposition chaired the SEC.

<sup>7</sup> See reference in footnote 5.

<sup>8</sup> Art 60 (1) of the Electoral Code defines list submitters as "registered political parties individually, coalitions as well as a group of voters".

practical detail, and it did not include detailed instructions on the results reconciliation and tabulation procedures at the MEC level.

The SEC organized mandatory training for MECs and EBs, although it was delayed beyond the initial schedule. OSCE/ODIHR EOM observers who attended training sessions reported that in most cases, the training was not effective and did not keep the attention of many participants. In order to address deficiencies in the performance of some EBs and MECs in the first round, the SEC issued more practical recommendations for the work of MECs and EBs in the second round, and also conducted additional training.

The deficiencies in instructions and training for MECs and EBs were perhaps most evident in the difficulties some of them had in properly completing results protocols. The OSCE/ODIHR EOM presented the SEC with a number of copies of MEC and EB protocols with discrepancies from the figures published on the SEC website. The most drastic of these was in the municipality of Ohrid, where the MEC results protocol for the first round municipal council elections given to OSCE/ODIHR EOM observers (Form 21-D) put the number of invalid ballots at 11,492, while the SEC website put this number at 1,476 (the figure given on the SEC website reconciled with other figures from that municipality). The problem of insufficient training was compounded because many EB officials were new, as a result of the random selection process for members.

The SEC launched a limited voter education program just ten days before the first round of the elections. This included three TV and three radio spots aimed at motivating voters to participate, explaining the voting process and warning against election violations. For the second round, the SEC repeated the same voter education program.

### **C. ADMINISTRATION OF SECOND ROUND**

During the period between the two rounds, the SEC did not operate as impartially as before the first round, and the spirit of collegiality and consensus was to an extent replaced by party interests. There were also some inconsistencies in the SEC's decisions on whether or not to inspect all election material when considering official complaints (see Section XVI, Election-Day Related Complaints and Appeals for details).

At times, the SEC's work also lacked transparency. For example, the SEC officially decided on the design and feature of the ballot papers for the second round only late on 30 March. However, OSCE/ODIHR EOM long-term observers reported that these ballots were already being printed on 28 March. The SEC did not adopt the minutes for 26 sessions it held following the deployment of the OSCE/ODIHR EOM, despite the requirement of Article 29 of the SEC Internal Regulations that the SEC at each session adopt the minutes of its previous session.

The SEC involved personnel from the government (Ministry of Justice) in its work for the receipt of MEC election materials after both rounds of voting, as well as during the consideration of and decisions on complaints lodged with the SEC. Although this was necessitated by the SEC's lack of adequate staff, the latter practice has the potential to erode the independence of the SEC in adjudicating complaints.

## **VI. VOTER REGISTRATION**

Until 1 September 2009, when the SEC will assume responsibility, the Ministry of Justice is responsible for maintaining and updating the voter lists. For the 2009 elections, voter lists were made available for public inspection from 20 January to 3 February 2009. A total of 195,323

citizens checked their data and 1,525 changes were made. The voter lists were closed on 18 February, with a total of 1,792,082 registered voters, out of a population estimated at 2.04 million.<sup>9</sup> These figures raised substantial public concern that the voter lists were inflated, since the numbers on the lists appeared to represent an unreasonably high portion of the population.

Doubts about the accuracy of the voter lists included the large number of citizens abroad whose names remain on the voter lists and whose entries on the voter lists could potentially be manipulated. Some 73,000 citizens registered as residing abroad were included on the voter lists, marked with an asterisk. However, many interlocutors told the OSCE/ODIHR EOM that they believe the real number of citizens abroad to be several times as high. Repeated OSCE/ODIHR and Venice Commission recommendations that a thorough voter list audit be undertaken remain to be acted upon.

An additional consideration with respect to the voter lists is that the thresholds for the presidential election and mayoral elections are based on the turnout of all registered voters, as opposed to the more common thresholds on number of votes cast. An inflated voter list increases the risk of an invalid election in the case of the presidential election (see Section IV on the Electoral System).

Two identical voter list excerpts were prepared for each polling station, one for the presidential and one for the municipal elections.

## VII. CANDIDATE REGISTRATION

Seven candidatures for president were submitted to and confirmed by the SEC: Imer Selmani (New Democracy), Mirushe Hoxha (Democratic Party of Albanians, DPA), Nano Ružin (Liberal Democratic Party), Gjorge Ivanov (VMRO–DPMNE), Ljube Boškoski (self-nominated), Agron Buxhaku (DUI) and Ljubomir Frčkoski (SDSM). Six of these candidates were supported by political parties, but only two of them are active members of the nominating parties. No candidates were refused registration.

For the municipal elections, MECs and the Election Commission of the City of Skopje received a total of 374 mayoral candidacies and 703 candidate lists for municipal councilors; of these, 364 and 702 were confirmed, respectively. In total, 13,709 candidates competed for 1,391 council seats in the 84 municipalities and the City of Skopje.

Prospective presidential candidates must present support signature of 10,000 registered voters or 30 Members of Parliament. A few prospective candidates dropped out of the race when they were unable to collect the required signatures. In municipal elections, independent candidates and lists put forward by groups of voters must also submit support signatures, the number of which varies according to the population of the municipality in question.

The process for collection of signatures in support of candidate lists<sup>10</sup> is quite restrictive and onerous, since citizens may sign for only one list per race and have to do so at a local or regional office of the Ministry of Justice. Several candidates or prospective candidates claimed to the OSCE/ODIHR EOM that the system disadvantaged opposition candidates, in part because many citizens were reportedly afraid to visit a government office to register their support for an

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<sup>9</sup> Data on the 2002 census and further estimates are available at:  
[www.stat.gov.mk/english/glavna\\_eng.asp?br=18](http://www.stat.gov.mk/english/glavna_eng.asp?br=18)

<sup>10</sup> According to the Electoral Code (Art 57 (1)), a list of candidates is submitted for municipal council elections and a list of candidate is submitted for presidential and mayoral elections.

opposition candidate. In practice, however, the system did not prevent the registration of a large and diverse slate of presidential and municipal candidates.

## VIII. THE ELECTION CAMPAIGN

The official 19-day election campaign for the first round began on 2 March and ran until midnight 20 March. The lack of clear provisions of what constitutes campaigning created some confusion about what political activity was permissible before the official start of the campaign. The OSCE/ODIHR EOM observed a number of instances of campaigning before 2 March, including the presentation of some presidential candidates' slogans, the holding of well-publicized party conventions, and the display of some posters. However, interlocutors generally did not consider this to be an issue of concern or a subject for complaint. The SEC and the BC considered taking action in connection with the party conventions and the media coverage they engendered, but decided not to, in part because they received no complaints.

After the start of the official campaign period on 2 March, political parties and presidential candidates engaged in a vigorous program of rallies. The OSCE/ODIHR EOM observed over 100 rallies before the first round, at which party leaders, presidential and mayoral candidates, and candidates for municipal councils frequently appeared together. A few instances of clashing rally schedules were resolved peacefully. Rallies proceeded without disruptions and were generally well attended. The campaign was highly visible throughout the country, including extensive use of commercial billboards and posters. Some municipalities were late in designating locations in which candidates could place posters (a requirement of the Electoral Code), and some designated inappropriate places. Although some posters were torn down or defaced, this did not appear to be a serious problem.

Second round campaign activities were generally lower-key, with fewer public events. Political parties and mayoral candidates concentrated on low-profile activities such as door-to-door campaigning or small neighborhood meetings. The governing party, VMRO-DPMNE, was to some extent an exception to this trend, as high-level officials and cabinet ministers visited various parts of the country to support party candidates for mayor, and new VMRO-DPMNE billboards appeared in the capital, featuring the Prime Minister with mayoral candidates.

At the national level, the issues of EU and NATO accession, as well as scenarios for resolution of the dispute with Greece over the country's name, dominated the campaign. Despite the high level of activity by presidential candidates before the first round, the focus of public interest centered more on local than on national issues. Municipal contests and issues continued to dominate the campaign agenda and even increased their profile in the second round.

A peaceful and democratic election process was widely regarded as a key requirement for the country's progress towards Euro-Atlantic integration, a goal supported by all major political parties and featuring highly in their national campaigns. Throughout the electoral process, candidates and parties repeatedly expressed their commitment to holding democratic elections and pledged to avoid the kinds of violent incidents that negatively affected the 2008 elections. National and local codes of conduct were signed, the most prominent being a code of conduct sponsored by the National Democratic Institute, which was accompanied by a large-scale campaign for democratic elections. However, a good election process frequently appeared to be equated with an environment free of violence, with far less focus on the other elements essential for a democratic election process.

Throughout its time in the former Yugoslav Republic of Macedonia, the OSCE/ODIHR EOM

received numerous, troubling allegations from all over the country of pressure on or intimidation of citizens in connection with the elections. The OSCE/ODIHR EOM followed up on these reports and found many to be credible. Even when the allegations could not be substantiated, it was often clear that people believed them, undermining “their right to cast their votes free of fear of retribution.”<sup>11</sup> This problem seriously undercut the quality of the election process.

The most common allegations concerned threats that public sector workers would lose their jobs if they did or did not support certain candidates. Public-sector employees appeared to be particularly vulnerable to such threats in light of the politicization of the civil service. Numerous public servants were reportedly asked to submit lists of other people who would support the governing party. In addition, there were reports of intimidation of potential supporters of opposition candidates, reported threats to owners of businesses that they would face tax audits if they supported the opposition, and threats that pensions or social benefits would be withdrawn if their recipients did not support the party in control at the local or national level. The overwhelming majority of these allegations were leveled at State officials and activists of the governing party. The Broadcasting Council informed the OSCE/ODIHR EOM that it came under government pressure to alter its findings, which it refused to do. A large number of candidates, senior Government officials, and NGOs confirmed to the OSCE/ODIHR EOM their conviction that intimidation was, indeed, a serious problem.

In the final days before election day on 22 March, the Prime Minister issued public statements and notified public officials that such activities would not be tolerated. However, the Government’s belated response was insufficient to create a climate free from intimidation or fears of retribution. Before the second round of the elections, the reports of intimidation increased in intensity, especially in connection with close mayoral contests in many parts of the country. Although the Prime Minister again publicly spoke out against pressure and intimidation, his efforts were not sufficient to bring it to an end or to restore public confidence.

Overall, election contestants made discernable efforts to use measured language in their campaigns; nevertheless, tensions were high in some municipalities with tightly contested races, especially between the two rounds. Examples included Struga, Ohrid, Demir Hisar, Makedonski Brod, Gostivar, Berovo, Petrovec and Šuto Orizari. There were incidents between the two rounds – including clashing demonstrators in the central square of Skopje over plans to construct a church, and a fight among students of different ethnic groups at a school in Struga – that featured prominently in the media and turned into confrontational issues for candidates and parties at the national level. After the second round of the elections, tensions remained high in Struga and Šuto Orizari, where the results of the mayoral elections were not readily accepted by the losing parties. In protest against the results in Šuto Orizari, hundreds of inhabitants of this predominantly ethnic-Roma municipality marched to the Parliament building on 8 April.

Presidential and municipal candidates campaigned almost exclusively among their own ethnic communities, and there were a few instances of nationalist or ethnically divisive campaign language. The only presidential candidate who made a discernable effort to campaign across ethnic lines was Imer Selmani (New Democracy).

Ethnically based voting patterns were especially visible during the second round of the presidential election, when only ethnic-Macedonian candidates remained in the race. There were an unusually high number of invalid ballots cast (6.2 per cent of all ballots cast) for the second round, especially in ethnic Albanian areas. There was also a marked low participation among ethnic Albanians in the second round of presidential voting, despite the fact that the governing

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<sup>11</sup> Paragraph 7.7 of the OSCE Copenhagen Document.

ethnic-Macedonian party, VMRO–DPMNE, and its coalition partner, the ethnic-Albanian DUI, had reached an agreement for mutual support of their candidates at the local and national level in the second round. Examples of extremely low presidential election voter turnout in the second round include 1.6 per cent in Želino compared to 35.2 per cent for the second round mayoral vote held at the same time, and 2.51 per cent in Lipkovo compared to 40.2 per cent for the second round of the mayoral race.

Several meetings of the leaders of the main political parties took place during the pre-election period, organized by the Prime Minister, aimed at promoting a peaceful and co-operative approach to the elections. These gatherings seemed to contribute to the generally calm atmosphere before and during both election days. In another effort to promote a civil campaign atmosphere, presidential candidates before the first round took initiatives to bring their opponents together for joint meetings.

Efforts to ensure a calm and violence-free election atmosphere were generally successful. The Ministry of Interior registered a total of 77 cases of violations during both rounds of the election process, none of them of a serious nature.<sup>12</sup> In total, the Ministry of Interior raised 11 misdemeanor charges against individuals and initiated three criminal charges, for “misuse of official position and authority”, “misuse of voting rights” and “bribery during voting”.

Most OSCE/ODIHR EOM interlocutors emphasized that an appropriate role of the police and other law-enforcement agencies in preventing election-related violence would be crucial for the conduct of democratic elections. In February, the Ministry of Interior presented the principles of an overall security plan for the elections, which built directly on the experience of the 2008 elections. Based on these principles, the eight regional police offices, in coordination with the commanders of local police stations, elaborated plans which were then fed into an overall police deployment plan,<sup>13</sup> supported by a training program on the role of the police during elections.

The constructive role of the police in ensuring a calm atmosphere free of violence during the first and second round of the elections was noted by most OSCE/ODIHR EOM interlocutors, and the police’s presence during both election days was characterized by international observers as visible and reassuring, but not excessive. However, the OSCE/ODIHR EOM also received credible allegations of police taking an active role in the campaign in support of the governing party in some instances, for example in Štip, Delčevo, Demir Hisar and Makedonski Brod.

From the time of the announcement of the elections, the State Commission for Prevention of Corruption actively reminded state and local bodies to refrain from announcing new investments, signing contracts, hiring personnel, using public funds for new projects or making extraordinary payments during the election period, as prescribed by the Law on Preventing Corruption. The Commission notified the public prosecutor’s office regarding two cases of alleged vote buying

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<sup>12</sup> Incidents reported to the OSCE/ODIHR EOM included unknown persons breaking into a political party office in the Skopje municipality of Čair, damage to party flags outside a party office in Makedonska Kamenica, a fight between DPA and DUI activists in Tetovo, a scuffle between activists of independent presidential candidate Ljube Boškoski and VMRO–DPMNE supporters, minor damage to two DUI offices in the Gostivar area, alleged threats to New Democracy activists in Gostivar, and a reported altercation between members of two Roma political parties.

<sup>13</sup> The plan aimed at applying preventative measures, with a higher-profile presence of police in areas that had seen election-related problems in the past. All police – including plain-clothes officers – and police vehicles had to be clearly marked on election day. The Alpha Units, special forces specializing in fighting organized crime which had been active in many predominantly ethnic-Albanian parts of the country during the election irregularities of 2008, were restricted to the Skopje area, with one team dispatched to Kumanovo, ostensibly to respond to criminal activities. The plan also covered the escort and security of ballots and other election material, as well as the security of polling stations, and MEC and SEC premises.

and took action to look into a complaint submitted by the New Social Democratic Party (NSDP) claiming misuse of resources by the Government.

Prior to the announcement of the elections, the Government engaged in expensive and high-profile publicity campaigns in support of its policies and programs. Although these were discontinued when the elections were called, as required in Article 84-a of the Electoral Code, opposition parties and media representatives asserted that the public campaigns were so widespread and pervasive that they had a continuing effect on the electoral campaign and had made much of the media dependent on government advertising revenues.

Prosecutions of and court cases against persons charged with offences in connection with the 2008 election continued during the 2009 election period. As of 31 May the OSCE was informed that a total of 26 individuals has been convicted for offenses in connection with the 2008 elections. This was only a small proportion of the over 200 persons originally charged. Some interlocutors – including the leaders of two opposition parties – told the OSCE/ODIHR EOM that they believed that cases were being handled differently, depending on the political affiliation of the accused; the Government strongly denied this assertion. Interlocutors, including prosecutors, also pointed out that one of the major obstacles in processing some cases is that witnesses are afraid to testify or to uphold previous testimony.

#### **A. CAMPAIGN FINANCING**

Campaign financing is regulated by a more developed set of regulations in the amended Electoral Code. According to legislation, campaign organizers must open a separate bank account for election purposes, and all campaign expenses must be covered from funds deposited in this account. New provisions broaden the definition of donations, which now include providing services to organizers of an electoral campaign free of charge or at a discount. Eligible physical persons are allowed to donate the equivalent of EUR 5,000, while legal entities may donate up to EUR 20,000.

However, these limits do not apply for some donations in goods and services, for which Article 83.3 of the Electoral Code sets exceptions; these include providing goods and services at discount prices, which is especially important for discounts from broadcast and print media for political advertising. These exceptions effectively circumvent the limits on campaign donations and allow for unlimited donations from businesses and broadcasters. A campaign for a single election list may spend no more than MKD 180 (around EUR 3) per registered voter in an election unit.

At the end of the campaign period, organizers are required to submit a financial report to the SEC, the State Audit Office, the State Commission for the Prevention of Corruption, and municipal councils and the council of the City of Skopje. However, the form for reporting is prescribed by the Ministry of Finance and is the same one which is used for keeping the register of donations; it only includes a list of donations and donors, but not expenditures. In addition, the State Audit Office explained to the OSCE/ODIHR EOM that they do not automatically audit all candidates and parties after an election, but only focus on the larger parties and candidates financed from the state budget. This undermines the oversight of financing rules and the effectiveness of campaign finance regulations. There were no plans, for example, to audit the campaign finances of any of the presidential candidates.

Reimbursement of campaign expenses is available only to elected candidates and amounts to 15 MKD per vote received. This reimbursement is paid from the state or local budgets, based on a decision of Parliament, the municipal council or the council of the City of Skopje. However,

these institutions can decide not to reimburse candidates if the State Audit Office finds irregularities in their financial report. The rules which apply and the procedures to be followed if irregularities are found are not clearly set out in the Electoral Code, and none of the institutions that the OSCE/ODIHR EOM met could give a clear answer as to which would be the appropriate body to initiate such procedures.

## **IX. THE MEDIA**

### **A. BACKGROUND**

The former Yugoslav Republic of Macedonia has a diverse media landscape consisting of some 150 TV and radio stations and a number of print media, including ten daily newspapers. Television is the key media and the main source of information, delivered primarily by the five private nationwide TV stations and one public broadcaster.

The public broadcaster, Macedonian Radio-Television (MRTV), consists of three TV stations with nationwide territorial coverage (plus one satellite channel) and three national radio stations. MRTV is heavily dependent on State subsidies, mainly due to difficulties collecting subscription fees from the majority of citizens. Its longstanding financial deficit and dependence on subsidies jeopardize the independence of the public broadcaster.

National private TV channels dominate the advertising market, in which a large number of media compete for limited revenues. The Government's large-scale publicity campaigns for its policies have made it the biggest single advertiser in the country; this was identified by a number of interlocutors as a potential threat to media independence. These campaigns were not aired during the election period, as broadcasting of any advertisement paid from the state or municipal budgets was banned by the regulations during the elections.

The broadcast media regulatory body is the Broadcasting Council (BC), a nine-member board appointed by the Parliament. The BC had just six members throughout the election period because the Parliament failed to appoint three members in a timely fashion. Although this strained the BC's capabilities, it operated impartially and professionally.

### **B. LEGAL FRAMEWORK FOR THE MEDIA**

The Electoral Code and the Law on Broadcasting Activity form the basic legal framework governing coverage of elections and the campaign in the media. As provided by the Electoral Code, the BC on 16 January adopted a *Rulebook for equal access to the media presentation during the election campaign*, to regulate the details of election coverage in the media. While in previous elections Parliament was responsible for adopting such regulations, the BC was directly in charge of adopting the *Rulebook* for these elections. This appeared to be a more effective mechanism, as, for instance, prior to the 2008 early parliamentary elections, Parliament did not adopt media regulations before it was dissolved.

The BC *Rulebook* stipulated that broadcasters covering elections should do so in a fair, balanced and impartial manner, and should provide contestants with equal opportunities to access their programs. The *Rulebook* also regulated the coverage of candidates in informative programs, requiring media to provide coverage of the presidential candidates on an equal basis in such programs. National media coverage of candidates in the municipal elections was required to be proportional, based on the total number of mayoral candidates and council lists submitted by each party. Media coverage of Government activities was not allowed to favour any contestant's

campaign. Public media were required to inform the public about the election process and the activities of contestants. The *Rulebook* did not specifically regulate the issue of allocation of coverage of municipal election candidates by local and regional media, and it did not regulate how coverage in informative programs should be distributed among candidates in the second round. The BC told the OSCE/ODIHR EOM that in both cases media should respect the principle of equality.

Article 74 (2) of the Electoral Code gives the BC a mandate to monitor media coverage of the elections not only during the official campaign period, but from the day of the announcement of the elections until the end of voting on election day. However, the BC competencies to regulate the media during the pre-campaign period are not clear. The BC on 16 January issued guidelines for the pre-campaign period under which the media were restricted to airing election-related coverage in their news programs only. Other election-related coverage, including interviews with political leaders or potential or registered candidates, was not allowed. The BC guidelines aimed at preventing inequitable coverage of candidates in the pre-campaign period, which had been a problem in the past.

There was an extensive debate in the media community about these guidelines, with some national media contending they unduly limited the amount of information that could be provided to voters. Some local media, on the other hand, welcomed the guidelines as a shield against pressure by political parties demanding media coverage before the start of the campaign. The BC implemented the provisions effectively and impartially. It monitored the situation and issued warnings and filed lawsuits against some broadcasters who aired election related coverage; after this, media outlets generally adhered to the guidelines. However, the courts had still not issued final rulings on these pre-campaign cases by the time of the elections were over. The slow court action highlighted a weakness of the system: it could have hindered timely enforcement of the rules by the BC, and potentially left some media without the opportunity for timely remedy if the court ruled in their favor.

The Electoral Code limits the amount of paid political advertising which media are allowed to broadcast to 15 minutes per hour. The Law on Broadcasting Activity permits a maximum of 12 minutes. Public media are not allowed to offer paid political advertisement.

### **C. OSCE/ODIHR EOM MEDIA MONITORING**

From 16 February, the OSCE/ODIHR EOM conducted quantitative and qualitative analysis of the prime-time broadcasts of two public TV channels, MTV-1 and MTV-2, and of four national private TV channels – A1, Alsat-M, Kanal 5 and Sitel – as well as of the evening news programs of TV Alfa. Five daily newspapers, *Dnevnik*, *Koha*, *Lajm*, *Nova Makedonija* and *Vreme*, were also monitored. In addition, the OSCE/ODIHR EOM conducted limited monitoring of a number of local and regional TV channels to assess their coverage of the campaign.

In the two weeks preceding the start of the official campaign period (16 February–1 March) all monitored broadcast media provided the Government with the biggest share of news coverage, with at least one third of that time dedicated to political actors. VMRO–DPMNE and SDSM received significantly more coverage than other political parties in most media; more balanced coverage of parties was provided by TV A1 and TV Alsat-M. Public MTV-2, which broadcasts mainly in the Albanian language, focused its coverage on ethnic-Albanian parties. There is no legal requirement for equal or equitable allocation of airtime during the pre-campaign period, as the legal framework does not regulate media coverage of political actors outside the official campaign period.

During the official campaign period prior to the first round, broadcast and print media provided voters with a variety of political views and information, mainly in their news coverage of the campaign. Many national and local media also aired profiles of or interviews with presidential and mayoral candidates. Prior to the second round of elections, coverage was varied but less extensive than before the first round, reflecting the lower level of campaign activity during this period. Most monitored media made efforts to adhere to the broadcasting regulations.

Debates among the seven presidential candidates were aired by several television stations (TV Telma, TV Sitel and TV A1) and radio stations (Kanal 77 and public MR1) and gave voters a chance to compare the contestants prior to the 22 March election day. Between the two rounds, the two remaining presidential candidates participated in only one televised debate, organized by MTV-1. The presidential candidate of VMRO–DPMNE declined invitations to participate in other planned debates. Debates among the mayoral candidates for the City of Skopje and other municipalities were aired on national and local TV stations prior to both rounds of the elections; however, several other efforts failed when candidates declined to participate.

Prior to the first round of voting, the public broadcaster MTV provided each presidential candidate with 70 minutes of free airtime, and all mayoral candidates were given an opportunity to use three minutes of free airtime. Furthermore, the public broadcaster aired election programs focusing on the Skopje City mayoral candidates. Mayoral candidates running in predominantly ethnic-Albanian municipalities were provided additional time in discussion programs on MTV-2.

Both channels of MTV during the official campaign period frequently aired news about governmental projects and initiatives that depicted support for the Government. Of the total coverage of political actors and election contestants in the news programs of the public TV channels in the campaign period prior to the first round, about one third was dedicated to the Government. During the campaign period between the two rounds, MTV-1 devoted 26 per cent of its relevant coverage to the Government, 37 per cent to VMRO–DPMNE and 22 per cent to SDSM. MTV-2 devoted 28 per cent of its coverage to the Government, 26 per cent to DUI, 12 per cent to SDSM and 11 per cent each to VMRO–DPMNE and DPA.

Prior to the first round of voting, MTV-1 provided extensive coverage of the campaign but failed to provide equal coverage to all seven presidential candidates, with the candidates of DUI and DPA receiving considerably less coverage than the other candidates. This was, to an extent, the result of the varying levels of campaign activities of the different candidates. MTV-2's coverage of the presidential candidates in its informative programs was more balanced, although also not equal. Between the two rounds, MTV-1 gave equal amounts of coverage to the two remaining candidates, with the VMRO–DPMNE candidate being portrayed in a rather positive tone. MTV-2 provided only limited coverage of the two presidential candidates between the two rounds.

Among the private national TV channels, Alsat-M provided the most extensive coverage of the presidential and municipal elections before the first round. This broadcaster, as well as A1 and Kanal 5, provided generally balanced coverage of parties and candidates, both in terms of time and tone. TV Alfa provided varied coverage of the local elections, focusing on a number of municipalities in its informative programs. TV Alfa covered VMRO–DPMNE and SDSM and their presidential candidates more extensively than other parties. TV Sitel did the same. It also gave extensive coverage to the Government and showed a bias in favor of the governing party in the tone of its coverage, thus amplifying the advantage of incumbency.

Prior to the second round of voting on 5 April for president, mayors and a small number of municipal councils, all private TV channels gave the biggest portions of time to VMRO–DPMNE or SDSM, which fielded more contestants than other parties. However, the tendency to

focus on these two parties resulted in somewhat limited coverage of other contestants, in particular DUI. Overall, the distribution of informative programming among all parties and candidates was most balanced in TV Alsat-M and A1, although the latter showed a bias in favor of the PEI mayoral candidate running in Struga. Of all monitored private TV channels, TV Alsat-M provided the most extensive and analytical coverage of elections. Prior to the second round, the presidential candidate of SDSM received more coverage than his VMRO–DPMNE opponent in all monitored private TV channels, largely due to the less visible campaign of the VMRO–DPMNE candidate.

The monitored newspapers provided a diversity of views. Overall, the tone of newspaper coverage of political players was more critical than in the broadcast media. Prior to 22 March, *Dnevnik*, *Vreme* and *Nova Makedonija* focused their coverage on the presidential candidates considered to be frontrunners. The Albanian-language dailies *Koha* and *Lajm* gave more coverage to ethnic-Albanian parties, and while their portrayal of political actors differed, both dailies gave the New Democracy candidate almost half of their coverage of presidential candidates, with his portrayal being generally positive. Between the two rounds, coverage of *Dnevnik*, *Nova Makedonija* and *Vreme* focused mainly on parties which had more candidates in the runoffs – VMRO–DPMNE, SDSM and DUI. *Koha* and *Lajm* gave most of their coverage to DUI and DPA.

Only a few contestants used paid political advertisement extensively, with the VMRO–DPMNE campaign being most dominant in most of the monitored media. Between the two rounds, paid campaign spots in the media were rare; VMRO–DPMNE again used paid advertising more than other contestants.

The BC monitored the election-related coverage of a large number of national and local broadcast media during and prior to the campaign. The preliminary results of its monitoring of the national broadcast media were generally in line with the findings of the OSCE/ODIHR EOM.

## **X. PARTICIPATION OF WOMEN**

There was only one woman among the seven presidential candidates, Mirushe Hoxha of the DPA, who did not make it into the second round. This was, however, the first time a woman had run for President, marking a positive development in the country's politics and breaking down some previous gender barriers.

Among the 364 mayoral candidates, only 13 were women (3.6 per cent). None were elected, nor did any qualify for the second round of voting. This represents a step back for gender representation in comparison to the 2000 and 2005 municipal elections, which both saw three women elected as mayors.

Article 64.5 of the Electoral Code requires that in candidate lists “in every three places at least one will be reserved for the less represented gender”. This resulted in increased representation of women at the municipal council level, with women accounting for 27 per cent of elected councilors, compared to 22 per cent in 2005. However, several interlocutors reported allegations of pressure exerted on some elected women to resign; if they did resign they would be replaced by the next person on the candidate list, who is usually a man.

Political parties and candidates in general did not make special appeals to women voters or highlight issues of specific concern to women in their programs. Fewer women than men

attended campaign events. In some instances, particularly in ethnic-Albanian areas, campaign events were attended exclusively by men, including even some events for Mirushe Hoxha.

Women did not appear to hold many high-level, decision-making positions in political parties, although in the current Parliament, 39 of 120 members are women and a few women are members of the Council of Ministers – two ministers and two deputy ministers. Article 18 of the Law on Equal Opportunities for Women and Men requires political parties to adopt, every two years, “a plan for equal opportunities”, that specifies the methods and measures they will use to promote of equal participation of women and men in the bodies of the party and their candidate lists. It does not appear, however, that this requirement is implemented in practice.

According to Article 21.3 of the Electoral Code, “each gender shall be represented in election management bodies with at least 30 per cent”. This requirement was well respected at MEC and EB levels. On election day on 22 March, 44 per cent of polling stations visited by IEOM observers had a female EB president, and 56 per cent had a female deputy president. Overall, women accounted for 46 per cent of EB members in polling stations visited. However, political parties nominated only one woman as a member of the SEC. In appointing the proposed SEC members, Parliament did not respect the legal requirement for gender representation on the SEC.

Family voting continued to be a serious concern. Numerous initiatives by local and international organizations to heighten public awareness and conduct trainings specifically aimed at preventing family voting did not produce the desired results. In the first round of voting, the IEOM observed instances of family voting at 19 per cent of polling stations visited. Although there were significant regional variations (36 per cent in predominantly ethnic-Albanian municipalities and 13 per cent in the rest of the country), the figures in all parts of the country must be considered high. On 30 March, between the two rounds, the SEC issued strongly worded instructions and warnings to MECs and EBs, to prevent family voting. This approach appeared to have had a positive effect, since the instances of family voting observed by OSCE/ODIHR EOM observers during the second round were notably less than during the first round. Nevertheless the figures for the second round were about 12 per cent, which is still high.

After both rounds, official complaints named family voting as an irregularity. However, none of the SEC decisions on complaints specifically acknowledged family voting as a reason for annulment of results, although article 151 of the Electoral Code requires the SEC to annul voting where “the secrecy of voting has been violated”, or “a person or persons have voted for other person”.

## **XI. PARTICIPATION OF NATIONAL MINORITIES**

The Electoral Code requires that members of ethnic communities be included in election management bodies in all areas in which they form at least 20 per cent of the population. Election materials must also be produced in minority languages in such areas. These legal requirements for “adequate and equitable” representation of ethnic communities were met in the composition of MECs. In all 32 municipalities with a local minority population of 20 per cent or more, either the MEC president or the deputy president were members of the respective group.

There has, however, been some concern expressed among communities that form just under 20 per cent of the local population. The OSCE/ODIHR EOM was informed that in past electoral cycles, many of these communities were represented in EBs as well, being selected randomly for the positions. Reverting back to a mixed composition of EBs (professional/political), they had less opportunity to receive positions randomly and as such were less represented.

At the national level, the vast majority of political parties representing smaller ethnic communities were in coalition with the ruling VMRO–DPMNE and supported that party’s presidential candidate. At the municipal level, with the ongoing decentralization and the strengthening of municipalities’ competencies, parties representing smaller ethnic communities have more incentive to run independently or form coalitions different from those at the national level. Thus, a complex patchwork of coalitions and tradeoffs emerged. Increasingly, supporting larger coalitions was linked to promised action on local issues.

Among the political parties of ethnic communities, the Democratic Party of Turks in Macedonia (DPTM) had its own mayoral and council candidates in three municipalities (Gostivar, Plasnica, Centar Župa), while the Democratic Party of Serbs in Macedonia (DPSM) ran its own candidates in two municipalities (Staro Nagoričane, Čučer Sandevo) and was supported by VMRO–DPMNE. Fijat Canoski, the leader of PEI, which represents a small community of Macedonian-speaking Muslims, ran as mayoral candidate in Struga. Parties representing the Roma community had two mayoral candidates in the Skopje municipality of Šuto Orizari. In the first round, some 33 mayoral candidates represented communities other than ethnic Macedonians or ethnic Albanians. Two-thirds of these belonged to parties representing their own ethnic groups, five were running as candidates of one of the majority parties, and six ran as independent candidates. Two mayoral candidates representing smaller ethnic communities won in the first round; another seven advanced to the second round, of whom two were elected. Thus, a total of four mayors representing smaller ethnic communities (Turk, Roma, Serb communities) were elected in these elections.

Tensions ran high in some campaigns, especially in municipalities where the main contenders belonged to the same ethnic community (Plasnica and Šuto Orizari). In both municipalities, irregularities were observed during the voting process and during count and tabulation.

In both rounds, there were persisting reports of intimidation and attempts to buy votes from members of socially disenfranchised communities, in particular Roma.

## **XII. DOMESTIC OBSERVERS**

For the first round of the elections, 11 non-party domestic observer groups accredited a total of 6,981 observers with the SEC. The biggest domestic observation effort was undertaken by the citizens’ association MOST, which accredited 4,520 observers for the first round and slightly more for the second. MOST also conducted a parallel vote tabulation for the presidential election and the City of Skopje mayoral and council elections. Daja, a Roma women’s organization, accredited 212 observers throughout the country, with a focus on municipalities with a significant Roma population.

Domestic non-party observers were present in 77 per cent of polling stations visited by IEOM observers during the first round and 76 per cent in the second round. In addition, political parties and candidates fielded authorized representatives, who were present in 96 per cent of polling stations visited by IEOM observers on 22 March and in 93 per cent of polling stations visited in the second round.

### **XIII. COMPLAINTS AND APPEALS**

Generally, the law provides short deadlines for the resolution of complaints and appeals regarding the protection of the rights of candidates and voters (from four to 48 hours, depending on the stage of the appeal). Decisions related to complaints and lawsuits are published on the website of the SEC or the Administrative Court.

If a prospective candidate is denied registration, he or she may submit a lawsuit to the Administrative Court against the decision of the SEC, MEC or Election Commission of the City of Skopje which rejected the candidacy. No formal complaints were lodged regarding the registration of presidential candidates. The Administrative Court dealt with 12 lawsuits regarding candidate registration for the municipal elections. It upheld four and rejected six, while two were withdrawn by the plaintiffs. Five of the six rejected lawsuits were dismissed on procedural grounds, which could indicate that some candidates were not fully aware of all procedural requirements.

Complaints by candidates and parties regarding their rights during the official campaign period should be submitted to first-instance courts, whose decisions can be appealed to the Court of Appeals. The procedure for protection of candidates' rights provided by Article 73 of the Electoral Code remains unclear despite the latest amendments. Although the Code specifies that the Courts of First Instance (sometimes referred to as Basic Courts or Primary Courts) should deal with such cases, both First Instance Courts in Skopje initially told the OSCE/ODIHR EOM that the protection of candidates' rights was not within their competence. The OSCE/ODIHR EOM was not aware of any cases in which candidates filed a complaint to the Courts of First Instance during the campaign period.

The SEC resolves complaints from candidates and voters regarding election procedures, including during voting, counting and tabulation of results. SEC decisions can be appealed to the Administrative Court. The Electoral Code requires the SEC to adopt an Instruction for the Resolution of Complaints and Appeals and to decide upon complaints based on inspection of election material and other evidence. The adopted instruction, however, sharply limited the obligation to inspect election material, restricting it to cases where the complainant had recorded an objection in the official protocol of an electoral body.

The SEC initiated two misdemeanor procedures against smaller parties in January, before the Skopje Court of First Instance I, for campaigning before the official campaign period; one of these was resolved in April with a ruling in favor of the SEC. The BC initiated a number of procedures against various broadcasters for breach of the Electoral Code and other rules, most of them before the Skopje Court of First Instance I. In April, one of the pre-election cases was resolved in favor of the BC. The majority of court hearings on cases initiated by the SEC or the BC were rescheduled several times, and none were resolved before the first election day. Such delays in court action on time-sensitive election cases undermine both the enforcement of election rules and the right of election participants to an effective remedy.

### **XIV. VOTING, COUNTING TABULATION AND ANNOUNCEMENT OF RESULTS**

#### **A. ELECTION DAY – FIRST ROUND**

Election day on 22 March was overall calm and peaceful, without the kind of incidents which marred the 2008 early parliamentary elections. Only limited instances of more serious electoral irregularities were noted. A snowstorm shortly before election day threatened to prevent voting

from taking place in parts of the country. Although the Government took emergency measures to open roads and deliver election materials, 134 polling stations could not open, affecting 12,556 voters.

The IEOM observed early voting only in the first round, which were held in prisons, centers for internally displaced persons and for homebound voters on the day before election day, assessing it generally positively. The main issues reported were the frequent lack of secrecy for homebound voters and that election material was not always secured properly for the night. It is problematic that the numbers of homebound voters are not recorded in the EB results protocols, thus this data is not available at any level.

The opening of polling stations during both rounds was assessed in positive terms by most observers, although some problems were noted with regard to the sealing of ballot boxes and the recording of the serial numbers of ballot box seals.

IEOM observers assessed the voting process as good or very good in 95 per cent of polling stations visited and described it as overall well organized, calm and orderly. The assessment differed between predominantly ethnic-Albanian municipalities (7 per cent negative) and the rest of the country (3 per cent negative). Tensions were evident in only a few places. Police presence was generally well organized and discreet.

Despite the positive overall assessment, IEOM observers noted a number of procedural irregularities during the voting process on 22 March. Family voting, as noted above, was observed as a widespread problem. Other problems observed included: proxy voting (33 cases, or 3 per cent), the same person “assisting” numerous voters (41 cases, or 4 per cent), attempts to influence voters (46 cases, or 4 per cent), intimidation of election officials and voters (8 cases, or 1 per cent), series of seemingly identical signatures on the voter lists (19 cases, or 2 per cent) and multiple voting (7 cases, or 1 per cent). In 5 per cent of polling stations visited, the ballot boxes were not properly sealed, in part because some seals did not appear to work properly. IEOM observers reported three cases of ballot box stuffing. Despite concerns raised by many interlocutors before election day, there were few reports of voters taking pictures of marked ballots with mobile phones.

The vote counting, however, was assessed negatively in 15 per cent of polling stations visited. Basic procedures were frequently not followed, including reconciliation of figures or checking of security seal serial numbers before the ballot boxes were opened. One in five IEOM observers reported significant procedural errors. Seven cases of serious irregularities, including one case of deliberate falsification, were reported. Many EBs had problems completing the results protocols, and in one out of six counts observed, the figures in the protocols did not reconcile. One half of EBs where the count was observed did not post copies of the results protocols for public familiarization, as required by the Electoral Code.

## **B. ELECTION DAY – SECOND ROUND**

As during the first round of voting, election day on 5 April was overall calm, orderly and peaceful, and very few instances of more serious problems were noted. In most respects, the assessment of OSCE/ODIHR and PACE observers was more positive than during the first round. Domestic observers expressed concern regarding a reported increase in homebound voting for the second round.

The voting process was assessed as good or very good in 97 per cent of polling stations visited – an improvement over the first round. OSCE/ODIHR EOM and PACE observers described the

voting process as overall well organized, calm and orderly. Unlike in the first round, there were no significant regional variations in the overall assessment. Tensions were evident in a few places, especially where mayoral contests were close. The police were again well organized and discreet. Despite the positive overall assessment, a number of procedural violations were noted as in the first round, albeit generally on a reduced scale.

The vote count was assessed positively in most of the 61 polling stations where it was observed, with only four counts assessed as bad and one as very bad. Although this overall assessment was better than in the first round, a number of problems were noted, again mainly related to adherence to procedures and the accuracy of the count. As in the first round, observers reported that basic reconciliation procedures were often not followed, in particular before the opening of the ballot boxes. There were three observations of more serious irregularities. In more than one half of polling stations where the count was observed, the EBs again failed to post copies of the results protocols at the polling station.

### **C. TABULATION – FIRST ROUND**

The IEOM observed the tabulation of results in 44 municipalities, retaining a presence throughout election night in most of them. Proceedings at the MEC level were assessed as good or very good in 86 per cent of MECs observed. In most cases, the process was well organized, and EB results protocols were generally checked upon receipt. In a few MECs, however, the process was assessed as disorganized.

IEOM observers reported some issues with the transparency of proceedings at MECs. In particular, frequently only IEOM observers – not domestic observers or political party representatives – were allowed to observe the electronic entry of data. In Šuto Orizari, IEOM observers reported that the MEC was manipulating figures to make them reconcile. In Demir Hisar, IEOM observers were asked by the MEC chair to leave the premises.

### **D. TABULATION – SECOND ROUND**

For the second round, OSCE/ODIHR and PACE observers followed part of the tabulation process at 39 of the 84 MECs, evaluating it positively in all but one MEC. The MEC in question, in Tetovo, was assessed less positively due to the slow pace of proceedings, which was a consequence of the MEC trying to avoid the problems which had occurred during the first round and which had resulted in a recount of the municipal council vote of 19 polling stations.

As in the first round, some issues with transparency were noted during the tabulation, mainly in regard to observers' ability to observe the data entry of results. However, no OSCE/ODIHR or PACE observers evaluated the overall transparency of the process negatively. Most observers also evaluated the performance of MECs in positive terms.

### **E. ANNOUNCEMENT OF RESULTS**

The SEC started announcing preliminary results on election night of 22 March and posted them on its website, but did not post them by polling station, as it had previously indicated it would.<sup>14</sup> Final results from the first round were announced on 3 April.

As no presidential candidate received the required majority of votes of all registered voters in the first round of voting on 22 March, Gjorge Ivanov (VMRO–DPMNE) and Ljubomir Frčkoski

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<sup>14</sup> Polling station level results were published on the SEC website on 24 March at 00:30 hrs.

(SDSM), who had won the highest number of votes, contested a second round on 5 April. During the second round, the SEC started announcing and posting on its website preliminary results for the presidential and municipal elections on election night, down to polling station level. The SEC announced the preliminary results on 6 April, and final results on 13 April.

According to the SEC, 42.63 per cent of registered voters turned out to vote, with Gjorge Ivanov winning 63.14 per cent of the valid votes cast and Ljubomir Frčkoski 36.86 per cent. The 42.63 per cent turnout included a significant number of invalid ballots (5.96 per cent of votes cast, up from 3.18 per cent in the first round).<sup>15</sup> As the turnout exceeded the 40 per cent voter turnout requirement, the SEC adopted a decision announcing Gjorge Ivanov president-elect.

As mandates for municipal elections can be affected by a smaller number of votes, issues that did not impact upon the presidential election (such as annulment of polling stations and bad weather) forced additional voting to be organized in some 124 polling stations after 22 March. In total, eight mayoral races and mandates in 23 municipal council races held elections on 5 April. Five municipalities then held second round elections for Mayor on 19 April and due to an annulment one polling station held a re-run election on 3 May. By the end of June 2009, final results of the municipal elections had not yet been posted on the SEC website.

## **XV. ELECTION-DAY RELATED COMPLAINTS AND APPEALS**

The SEC received a total of five complaints by voters regarding their right to vote, four during the first round of voting and one during the second round. The SEC resolved all five cases within the legal deadline.

However, the SEC did not handle within legal deadlines the 82 complaints it received from list submitters regarding the first round of voting, which delayed the announcement of the final results for the first round and complicated preparations for the second round. After the second round of the elections, the SEC resolved all 96 complaints received within the deadlines and in a more organized manner.

The SEC upheld just eight of the 82 complaints received in connection with first round voting; one by DUI, three by VMRO–DPMNE and four by SDSM. Of these eight, six resulted in annulment of polling station results for municipal elections. Another complaint the SEC upheld involved the recount of municipal council ballots of 19 polling stations in Tetovo, where illegal corrections had been made to the EB protocols. As a result of the SEC recounts, the allocation of mandates in the Tetovo municipal council changed.

The SEC upheld only two of the 96 complaints received in the second round, one by DUI and one by PEI. The SEC annulled one polling station in Aračinovo, due to two extra ballots in the ballot box for the mayoral election. However, when the Administrative Court conducted another recount following a lawsuit submitted by the New Democracy Party, it found no discrepancy between the number of ballots and of voters who voted, and so it reversed this SEC decision.

All formal SEC sessions on complaints were open to the public, and authorized representatives of list submitters were able to present their cases. The SEC did not inspect all election material from the polling stations listed in complaints, and instead based its decisions primarily on EB protocols. In a few cases, the SEC requested that the complete election material be brought to

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<sup>15</sup> The invalid ballots did not impact the turnout requirement, as the total number of valid ballots was above the 40 per cent turnout requirement.

Skopje and inspected, including the ballots. As noted above, it appears that the SEC interpreted very narrowly its legal obligation to resolve complaints based on the inspection of election material (Art. 31.2.35 of the Electoral Code). In most cases the SEC ruled that it would not accept a complaint unless it had been entered into the EB results protocol, as per its own instruction, although there is no legal requirement for this.

There were some inconsistencies in the SEC's decisions whether to inspect all election material. For example, three polling stations in Dolneni municipality were annulled for the first round, after the SEC recounted the ballots cast in these polling stations for the mayoral election and established that the number of ballots cast exceeded the number of signatures on the voter lists. However, when the SEC reviewed the results protocols for the municipal council election from the same polling stations, it voted – along party lines – against conducting a recount and against annulment, although exactly the same discrepancies as for the mayoral election had been established.

The SEC rejected a first-round complaint from the Party for the Complete Emancipation of Roma, whose logo on the council ballot in four municipalities had mistakenly been replaced with the logo of another Roma party, claiming that the printing house had made a mistake. However, according to the Electoral Code the SEC is responsible for confirming the final layout of ballots.

The Administrative Court's sessions on election-related lawsuits were not open to the public, except during the announcement of the content of lawsuits, despite a requirement in the Electoral Code to decide in public sessions. The inspection of election material, deliberations and decision making on lawsuits did not take place in public. The Court received 52 lawsuits against SEC decisions for the first round and 48 for the second round. The Court rejected all lawsuits in the first round and 47 in the second round; it upheld only the lawsuit filed by New Democracy regarding Aračinovo. The Administrative Court published its decisions on its website.

## **XVI. RECOMMENDATIONS**

The following recommendations are offered for consideration by the authorities, political parties and civil society of the former Yugoslav Republic of Macedonia, in further support of their efforts to conduct elections fully in line with OSCE commitments and other standards for democratic elections. A number of these recommendations have already been offered in previous OSCE/ODIHR final reports but remain to be addressed. In particular, recommendations from the OSCE/ODIHR final report for the 2008 early parliamentary elections which have not yet been implemented could be considered, in addition to new recommendations made in this report. The OSCE/ODIHR stands ready to provide assistance to further improve the electoral process.

### **A. COUNTERING PRESSURE ON OR INTIMIDATION OF VOTERS**

1. The authorities should consider taking vigorous steps to counter any forms of pressure on or intimidation of voters, which was the most serious problem identified by the OSCE/ODIHR EOM in connection with the 2009 elections. In particular, senior public officials, including especially cabinet ministers and heads of public agencies, institutions, and companies, could make clear public statements and issue written instructions before and during the campaign period that no pressure on public employees will be tolerated and that no employee or citizen should fear for their employment, pension or social services as a result of supporting or not supporting any political party or candidate. Furthermore, cases of intimidation of citizens registered by the police and other law-enforcement bodies should be thoroughly investigated and prosecuted.

2. Steps could be taken to depoliticize public employment and professionalize the civil service to protect civil servants against political pressure. These measures should apply to civil servants, and all other public employees and employees of public agencies and companies. It would be advisable that this protection is also reflected in the contract of employment of public servants and, possibly, in a specific charter of ethics for public servants.

**B. LEGAL FRAMEWORK**

3. The Electoral Code and relevant sub-legal acts such as SEC instructions would benefit from a thorough review and amendments to harmonize provisions and to avoid gaps and inconsistencies within the legislation and with its practical application. Ideally, such a review would include an open process of public consultations. Some examples of existing gaps or inconsistencies include.<sup>16</sup>

- The Electoral Code does not make clear exactly what political activity is and is not permissible before the start of the official campaign period;
- The Electoral Code does not clarify whether parties and candidates need to provide a list of their authorized representatives to MECs and, if so, what the deadline is and what sanctions, if any, apply for failure to provide such a list;
- The Electoral Code does not state what happens if a candidate decides to withdraw from an election between the two rounds of voting;
- Article 37 of the Electoral Code is in conflict with the Article 148.1 regarding competences for deciding upon complaints; and
- Article 63.2 of the Electoral Code does not specify the procedure for the collection of support signatures during the candidate registration process at Ministry of Justice local offices.

4. The 40 per cent turnout requirement for the second round of a presidential election could be reconsidered and removed since it creates the potential for failed elections. If considered beneficial to the credibility of the electoral process, such a turnout requirement is recommended only for the first round.

5. The Electoral Code could clarify the authority and mandate of the Broadcasting Council to regulate media coverage of political activity between the date elections are announced and the start of the official campaign period. This authority and mandate should be in line with other legislation, such as the Law on Broadcasting Activity.

6. The Electoral Code's provisions on campaign financing could be amended to ensure genuine oversight of financing rules and to establish effective limits on donations and expenditures, as well as to clarify reporting and auditing procedures. This especially includes the following:

- Articles 83 and 84 of the Electoral Code could be reconsidered, with a view to abolishing exceptions for limits on campaign donations, which appear to undermine the intention of the law;
- The procedure for denial of reimbursement to candidates, based on the Article 87 of the Electoral Code, could be clarified;

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<sup>16</sup> See also headings on separate subjects, below, for additional recommendations on improvements to the Electoral Code.

- The Electoral Code or regulations could specify the content and format of the financial reports to be submitted by contestants; in particular, the current form prescribed by the Ministry of Finance does not currently require contestants to submit information on expenditures, which undermines the transparency and usefulness of such reporting;
- The auditing procedure could be enhanced, to ensure some oversight of the finances of all candidates who participate in an election; and
- Article 86 of the Electoral Code, which provides for reimbursement of campaign expenses for elected candidates only, could be reconsidered and possibly replaced by a system under which all candidates who win a certain percentage of votes are entitled to reimbursement. Such a percentage could be high enough to ensure that candidates have a degree of popular support, but low enough to provide more incentives a broader range of candidates, particularly women and members of smaller ethnic communities, who sometimes face difficulties in raising the funds required to mount a strong campaign.

### **C. ELECTION ADMINISTRATION**

7. The authorities could consider ways to provide qualified professional staff, resources and premises for the SEC. In addition to the need for regular professional staff, the SEC needs sufficient personnel and resources to implement its new responsibilities in regard to the voter lists and out of country voting.
8. The effective administration of elections would benefit greatly from the adoption of comprehensive regulations to guide the election process and to compensate for any gaps or inconsistencies in the Electoral Code. In particular, regulations ideally would include clear, practical and detailed instructions concerning EB procedures for opening, voting, counting, filling in the results protocols, and particularly reconciliation of the numbers on the protocols. In addition, regulations could provide practical and detailed instructions for the election day work of the MECs, including handover, verification and reconciliation of results protocols, instructions for recounts, and clear instructions for the computerization of EB results. The SEC Handbook, likewise, would be much improved if it were structured in clear and straightforward language and did not simply repeat provisions of the Electoral Code.
9. Training of MECs and EBs could be improved. In particular, more focus could be put on counting procedures, the completion of results protocols, and the tabulation process at MEC level. Consideration could be given to making training of MECs and EBs more interactive.
10. Voter education could be increased in volume, timeliness and quality. Voter education could be aimed at particular concerns identified in recent elections, including intimidation and coercion, the secrecy of the ballot, the rights of the voters and family voting.

### **D. VOTER REGISTRATION**

11. A thorough audit and revision of the voter lists is long overdue. This could result in much improved lists, by removing duplicate entries and entries of deceased persons and addressing other remaining deficiencies, including the problem of citizens outside the country whose names are not marked as such on the voter lists. A crucial step to build broad public confidence in the quality of the lists would be for the procedures to be used

during the revision to be discussed and broadly agreed in a public process among election stakeholders, including especially political parties.

#### **E. CANDIDATE REGISTRATION**

12. The restriction that citizens may sign for only one candidate for each election could be reconsidered. The process would be more open and inclusive if citizens could sign for as many candidates as they choose to support. Such a provision might also increase voter confidence in the secrecy of their vote, since signing for a candidate would not necessarily be seen as supporting only that candidate.
13. The requirement that signature collection is performed at the local or regional office of the Ministry of Justice could be reconsidered, in light of assertions by a number of candidates that citizens may consider it intimidating to appear before a government official to sign in support of an opposition candidate. One alternative would be to allow candidates and parties to organize the signature collection themselves. In this case, the SEC should be tasked with verifying the signatures, possibly using a random sample.

#### **F. ELECTION CAMPAIGN**

14. Political parties and candidates, especially presidential candidates, could make greater efforts to explain their policies and reach out to voters of ethnic communities other than their own.
15. The campaign process would be improved if municipalities rigorously implement their obligation to designate places for the posting of campaign posters in a timely manner and in designated places that are sufficiently large, visible and suitable for posters.

#### **G. MEDIA**

16. If political coverage by broadcast media is to be regulated during the pre-campaign period to ensure equitable coverage of contestants, the regulations should not prevent the media from providing normal coverage of political developments.
17. Shorter deadlines could be established for courts to rule on lawsuits brought against broadcasters by the BC during the campaign and pre-campaign period, both to ensure that the BC can enforce the regulations in a timely fashion, and to allow broadcasters the opportunity for a speedy and effective remedy if their rights have been violated.
18. To continue to function effectively, the BC will need to receive continued, adequate support and financing from the government and to retain its substantive independence. The parliament should fulfill its responsibility to ensure that all members of the BC are appointed in a timely fashion.

#### **H. VOTING, COUNTING, TABULATION AND ANNOUNCEMENT OF RESULTS**

19. The number of homebound voters casting ballots should be included in the EB and MEC results protocols and could also be made available at the national level, in order to increase transparency and provide additional safeguards against possible electoral malpractice. The secrecy of the ballot for homebound voters should be ensured by EBs.

20. Consideration could be given to amending the law to allow for replacement of ballots which voters spoiled accidentally. If so, regulations for such cases should be established.
21. The Electoral Code could be amended to state that in cases where the serial numbers of ballot box security seal established before the vote count do not match those recorded when the ballot box was sealed, voting at such polling stations should be annulled automatically and the election be repeated. Consideration could also be given to obliging the SEC to investigate such cases *ex officio*.
22. Further efforts to prevent irregularities such as family voting, proxy voting, one person assisting more than two voters, and the use of mobile phones or cameras for taking pictures of marked ballots. The Electoral Code and/or SEC regulations should clearly stipulate the sanctions applicable, both for voters and EB members, future training for EB members should include addressing such irregularities in further detail, and public awareness raising campaigns should be continued.

#### **I. COMPLAINTS AND APPEALS**

23. The complaints and lawsuits process can be further enhanced, to avoid gaps and inconsistencies in decision making, as follows:
  - The Electoral Code could specify whether the general Law on Administrative Procedure – which in places contradicts the Electoral Code – applies in the decision-making process on election-related complaints; efforts could be made to harmonize such legislation;
  - The Electoral Code could set a deadline for the SEC to propose officially the annulment of an election;
  - The Electoral Code or regulations could clarify whether complaints can be submitted by fax (under the Electoral Code they cannot be submitted by post). This is particularly important in regard to the protection of voters' rights on election day;
  - The Electoral Code could specify the circumstances in which the SEC is obliged to inspect election material when reviewing complaints, to encourage a more investigative approach by the SEC. If the intention of the law is that election material should be inspected only if there is an objection registered in the EB or the MEC results protocol, this should be clearly stated in the Electoral Code; and
  - The Electoral Code could clearly state who is allowed to submit lawsuits against SEC decisions and the relevant timeframes.
24. The Electoral Code or other legislation could set clear and short timeframes for the resolution by the courts of misdemeanor procedures on election-related cases instituted by the SEC, in order to ensure the timely enforcement of election rules and the right of election participants to an effective remedy.

#### **J. PARTICIPATION OF WOMEN**

25. Further efforts by election management bodies, political parties and civil society organizations will be necessary in order to end the practice of family voting.
26. Consideration could be given to amending Article 64.5 of the Electoral Code, to provide that if a woman elected from a candidate list for municipal council resigns, she is replaced by the next woman on the list.

27. To enhance the participation of women within the structure of political parties, authorities could enforce Article 18 of the Law on Equal Opportunities for Women and Men, which requires political parties to adopt, every two years, “a plan for equal opportunities,” that specifies the methods and measures they will use to promote of equal participation of women and men in the bodies of the party and their candidate lists.

**K. PARTICIPATION OF NATIONAL MINORITIES**

28. The ballot papers printed for units of local self-government where at least 20 per cent of the citizens speak an official language other than Macedonian and which contain all information in Macedonian and the languages of such communities could be redesigned so that ordinal numbers of candidates (or candidate lists) are only included once, rather than separately for each language. This would simplify the ballot layout, increase the secrecy of the vote, and might reduce invalid ballots.
29. Persistent allegations of vote buying, especially in Roma settlements, should be addressed by the relevant authorities, both through voter education and prosecutions.

**L. ELECTION OBSERVATION**

30. The Electoral Code or election regulations should state clearly that domestic and international observers are entitled to receive copies of the entire EB and MEC results protocols, rather than just the tabulation parts.
31. The SEC and MECs should enforce the requirement for EBs to post publicly copies of counting protocol, immediately following the completion of the count.

## ANNEX: ELECTION RESULTS

### PRESIDENTIAL ELECTION

Entry in SEC Results Protocol	Number	
	Round 1	Round 2
Total number of voters on voter list	1,792,082	1,792,082
Number of polling station which reported results	2,845	2,975
Percentage of polling station which reported results	95.60%	99.97%
Number of voters who voted	1,019,268	764,029
Percentage of voters who voted (relative to all registered voters)	56.88%	42.63%
Percentage of voters who voted (relative to number of voters registered in polling station that reported)	56.88%	42.63%
Number of valid ballot papers	986,882	718,450
Number of invalid ballots	32,386	45,589
Number of unused ballot papers	772,814	1,028,043

Candidate	Round 1		Round 2	
	Votes Received	Percentage of Valid Votes	Votes Received	Percentage of Valid Votes
Imer Selmani	147,547	14.95%		
Mirushe Hoxha	30,225	3.06%		
Nano Ružin	40,042	4.06%		
Gjorge Ivanov	345,850	35.04%	453,616	63.14%
Ljube Boškoski	146,878	14.88%		
Agron Buxhaku	73,629	7.46%		
Ljubomir Frčkoski	202,691	20.54%	264,828	36.86%

[Source: SEC website (<http://www.sec.mk:90/2009>)]

### MAYORAL ELECTIONS (UNOFFICIAL)

Party/Coalition	Mayoral Elections Won
VMRO–DPMNE	56
DUI	14
SDSM	6
DPA	1
New Democracy	1
Democratic Party of Turks in Macedonia	1
Union of Roma	1
Radical Party of Serbs in Macedonia	1
Coalition SDSM, LDP, NSDP	1
Coalition DUI and Movement for National Unity of Turks	1
Independent Candidates	2

**MUNICIPAL COUNCIL ELECTIONS (UNOFFICIAL)**

<b>Party/Coalition</b>	<b>Total Number of Council Seats Won</b>
VMRO–DPMNE	460
SDSM	282
DUI	179
New Democracy	61
DPA	52
VMRO–People’s Party	42
LDP	29
NSDP	20
Coalition SDSM, LDP	18
Party of United Democrats of Macedonia	18
Democratic Party of Turks of Macedonia	16
Coalition VMRO–DP, TMRO–VEP	12
PEI	10
Other Candidate Lists	192

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/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 Summit Document). This is referred to as the OSCE human dimension.

The OSCE/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 130 staff.

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

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

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

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/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 OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

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

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