

INTERIM REPORT
12 June – 23 June 2009

26 June 2009

I. EXECUTIVE SUMMARY

- The President of the Republic of Bulgaria called parliamentary elections for 5 July, one month after the 7 June European Parliament elections. The elections for the 240-seat National Assembly will be held according to a new mixed electoral system: 31 members of parliament will be elected by majoritarian system and 209 deputies by proportional representation.
- Amendments to the Election Law changing the electoral system were introduced shortly before the elections were called. Some parties have expressed concerns about the newly introduced majoritarian element of the electoral system. There are significant differences in the number of voters in the 31 single-mandate constituencies, which may challenge the principle of the equality of votes guaranteed by the Constitution.
- There are 4,288 candidates on the lists of 14 parties and four coalitions, as well as 357 candidates registered in the majoritarian constituencies, offering voters a broad choice.
- The Central Election Commission is a temporary body that generally operates in an open manner. Thus far the Central Election Commission has met all legal deadlines. However, confidence in its impartiality appears to have been significantly affected by its decisions regarding the registration of the opposition Blue Coalition.
- Political parties, coalitions and majoritarian candidates engage in a broad range of campaign activities. The immunity of candidates from prosecution and the release of some individuals from pre-trial detention to be candidates are part of the campaign discourse, as are possible electoral malpractices such as vote-buying and “controlled voting”.
- The media has started broadcasting campaign programmes and candidate debates. As of 14 June, the OSCE/ODIHR Limited Election Observation Mission began its media monitoring of four television stations and two newspapers.
- Election complaints have so far been resolved by the respective bodies in a timely manner.
- Voters in some minority communities remain vulnerable to pressure regarding their voting choices, as well as to possible election irregularities, such as vote-buying.
- The OSCE/ODIHR Limited Election Observation Mission opened its office in Sofia on 12 June and deployed eight long term observers on 16 June.

II. INTRODUCTION

On 28 April, the President of Bulgaria called for parliamentary elections to be held on 5 July 2009, one month after the 7 June elections to the European Parliament. Following an invitation from the Bulgarian Government and based on findings and conclusions of the Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established a Limited Election Observation Mission (LEOM) on 12 June. The OSCE/ODIHR LEOM, led by Ambassador Colin Munro, consists of a nine member core team based in Sofia and eight long-term observers (LTOs) who were deployed on 16 June throughout the country. The mission is drawn from 14 OSCE participating States. While the OSCE/ODIHR LEOM will visit a limited number of polling stations on election day, it will not conduct a comprehensive and systematic observation of election day proceedings.

III. POLITICAL CONTEXT

The Constitution of Bulgaria stipulates that the parliament is elected for a term of four years.¹ The term of the outgoing parliament expired on 25 June. Although there was an initiative by the National Movement for Stability and Prosperity (NDSV) to amend the Constitution so as to hold European Parliament and Bulgarian parliamentary elections on the same day, this was rejected by the parliament.

In the 7 June elections to the European Parliament, the party Citizens for European Development of Bulgaria (GERB), which was founded by the current Sofia Mayor in 2006, won 24.36 per cent of the vote. The ruling Coalition for Bulgaria, which is centred around the Bulgarian Socialist party (BSP), came second with 18.5 per cent. The other partner in Government, Movement for Rights and Freedoms (MRF), which enjoys large support from the ethnic Turkish community, came third with 14.14 per cent support. Other parties which gained seats in the European Parliament were *Ataka* with 11.96 per cent, NDSV with 7.96 per cent and the Blue Coalition with 7.95 per cent. Voter turnout for the parliamentary elections is anticipated to be higher than the 38.9 per cent in the European Parliament elections.

IV. LEGAL FRAMEWORK AND THE ELECTORAL SYSTEM

Parliamentary elections are based on the Law on Election of Members of Parliament (hereafter Election Law), adopted in 2001 and most recently amended in April 2009. The legal framework for elections also includes the 1991 Constitution (last amended in 2007), the 2005 Law on Political Parties (last amended in January 2009), the 1968 Criminal Code (last amended in February 2009), organic laws on the courts, and codes of procedures. Furthermore, the Central Election Commission (CEC) issues instructions and decisions to clarify some legal uncertainties and assist officials administering elections.

Amendments to the Election Law, including an important change in the electoral system, were adopted some two months before the 5 July elections. A similar situation occurred before the 2005 and 2006 elections. Many OSCE/ODIHR LEOM interlocutors have suggested that all election related laws should be consolidated into one code.

The parliament of Bulgaria (National Assembly) is a unicameral body consisting of 240 Members of Parliament (MPs) elected under a mixed electoral system. Under the previous electoral system, all MPs were elected from party and coalition lists in 31 constituencies by proportional representation. In the new system, 209 MPs continue to be elected by proportional representation in

¹ The Constitutional Court in 2001 elaborated that each elected parliament shall serve full four years since the day of its election.

the same manner. The number of MPs to be elected by proportional representation from each constituency is set by the CEC according to the population of the constituency, with a minimum of three MPs per constituency.² In addition, the amendments to the Election Law introduced a majoritarian system for the election of 31 MPs. Each of the 31 constituencies elects one MP by simple majority (first-past-the-post system). The constituencies are the same for both the proportional representation and majoritarian races. On election day, each voter receives two ballots, one for each race.

Those in support of the introduction of the majoritarian element regard it as a measure to enhance the accountability of MPs. However, some OSCE/ODIHR LEOM interlocutors have expressed concern that the significant variance in the number of voters in the newly introduced majoritarian single-mandate constituencies may challenge the principle of the equality of votes guaranteed by the Constitution.³ A challenge to the new provisions was brought to the Constitutional Court by 70 MPs but was rejected in a split decision on 12 May.

In response to the widely held belief that vote-buying is a pervasive phenomenon, amendments to the Penal Code adopted in 2006 and 2007 criminalize such practices. The law now imposes criminal liability on persons who offer or provide a material benefit in exchange for a citizen's vote, persons who organize vote-buying and persons who ask for, or accept such benefit. In addition, immunity is provided to individuals who inform the authorities about a person who engages or organizes vote-buying. Information about ongoing investigations in vote-buying cases during the European Parliament elections has appeared in public. However, it remains to be seen if these result in prosecutions.

Article 53 of the Election Law grants immunity to registered candidates and authorized representatives for the duration of the election campaign. This provision became a contentious campaign topic after the decision of the Sofia City Court on 17 June to put on hold an ongoing case against eight businessmen accused of embezzling European Union funds because one of them was running for elections.⁴ Similarly, the Kyustendil regional court on 16 June authorized the release of two candidates who were being prosecuted for alleged involvement in organized crime, among other charges. Another individual charged with embezzlement continues to enjoy immunity, after first contesting the European Parliament elections and now the national parliamentary elections.

In a welcome development, in line with previous OSCE/ODIHR recommendations, the Election Law has been improved so as to enhance transparency and accountability in campaign funding by putting limits on donations and overall campaign spending, and requiring reporting on campaign revenues and expenditures. There is also a requirement to declare the origin of donations, which may only be received from physical persons. The law also assigns authority to verify the accuracy of the income and expenditure reports to the Bulgarian National Audit Office.

V. REGISTRATION OF POLITICAL PARTIES, PARTY LISTS AND CANDIDATES

To be registered to compete in the elections, political parties and coalitions had to first submit an application, including 15,000 and 20,000 supporting signatures respectively, to the CEC by 10 June. The CEC deregistered one party and one coalition due to a lack of valid signatures, thus

² For example, in the proportional list component of the system three MPs are elected from the smallest constituency (Vidin) and 12 MPs from the largest, Varna.

³ 104,378 voters are registered in the smallest constituency and 408,999 voters in the largest.

⁴ As it is considered a single case, the immunity of one candidate resulted in a suspension of the case against all eight persons.

leaving a total of 14 registered parties and four coalitions.⁵ The District Election Commissions (DECs) then registered the candidate lists and the independent candidates. Independent candidates, who may only participate in the majoritarian races, must be supported by at least 10,000 voters with a permanent address in the constituency. The Civil Registration and Administrative Services Department of the Ministry of the Regional Development (GRAO) then verified the eligibility requirements of all candidates. On 19 June the CEC upheld GRAO's recommendations to remove nine registered candidates⁶ and on 20 June published the final list of contestants. The lists for the multi-mandate constituencies include 4,288 candidates, while the majoritarian constituencies include a total of 357 candidates, indicative of great interest in these elections. Only four independent candidates were registered.

VI. ELECTION ADMINISTRATION

Elections in Bulgaria are run by a three-tiered election administration, headed by the CEC. There are 31 DECs and some 11,403 Precinct Election Commissions (PECs), one for each polling station. According to the Election Law, the responsibility for the administration and organization of the election is shared between the Ministry of Administration and the CEC in co-operation with regional and municipal administrations.

The CEC is a temporary body appointed by the President in consultation with the parties and coalitions represented in the National Assembly and European Parliament. The CEC consists of 25 members, several of them high level officials in other state agencies, and no party may have a majority in the Commission.⁷ Overall, the CEC operates in an open manner. The CEC website is updated on a daily basis. However, general confidence in the impartiality of the CEC appears to have been significantly affected by what has been characterized by the OSCE/ODIHR LEOM interlocutors as a series of politicized decisions taken in May 2009, regarding registration of the opposition Blue Coalition. When the CEC decision not to register the Blue Coalition was overruled by the Supreme Administrative Court, the Chair of the Court publicly declared that he had been pressured to deny the registration, including ostensibly by CEC members.

The 31 DECs were appointed by 19 May and by law mirror the composition of the CEC. DECs underwent short, interactive, and generally well-received training sessions conducted by teams of CEC members which traveled to the districts. DECs are responsible for appointing approximately 80,000 PEC members, based on proposals from the municipalities in consultation with parties and coalitions. There appears to be difficulty recruiting enough PEC members, *inter alia*, because of insufficient remuneration.

On 17 June, the Ministry of Foreign Affairs proposed to establish 258 PECs abroad, almost half of which are to be in Turkey. As of 23 June, 57,346 persons had applied for out-of-country voting. Voters who will be out of their constituency on election day were able to obtain absentee voting certificates (AVC) from their municipality until 20 June. These certificates allow an individual to vote at any polling station in the country. A number of security mechanisms are provided by the Election Law to prevent the misuse of AVCs, and the GRAO will check the voter lists for double voting within a month after election day. The CEC informed the OSCE/ODIHR LEOM that in total 41,473 AVCs were issued;⁸ some LEOM interlocutors have expressed concern that these might be abused on election day.

⁵ CEC decision No. HC-159 and No. HC-160 dated 15 June cancelled the registration of Bulgarian Agrarian National Alliance (BZNS) and International Macedonian Revolutionary Organization (VMRO).

⁶ Of the nine removed, five were removed for holding foreign citizenship and four were removed for not yet reaching the minimum age of 21.

⁷ The information on which parties nominated the CEC members is not publicly available.

⁸ In the 2005 parliamentary elections, 39,408 AVCs were issued.

Two CEC voter education clips have been broadcast nationally thus far. Both of these explain the procedures, including about electoral deadlines, voting procedures and mobile voting. As of 11 June, five domestic observer groups had been accredited by the CEC.

According to the GRAO website, there are 6,990,313 registered voters, subject to possible changes before election day. This number represents a considerable increase of 300,000 voters compared to the voter lists used in the recent elections to the European Parliament. The CEC stated that the voter lists for the European Parliament elections do not include those citizens currently residing outside the European Union, which is not the case for national elections.

VII. ELECTION CAMPAIGN

The official 21-day campaign period started on 14 June and finishes on election day; there is no silence period. Political parties have informed the OSCE/ODIHR LEOM of their intention to engage in various activities, such as paid advertising, distribution of campaign materials and placement of posters and billboards. All major parties appear to have a schedule of regional meetings with participation of candidates from the respective constituencies. A few larger scale rallies are expected closer to election day. Generally the campaign so far is characterized as rather subdued, with an expectation that it will intensify closer to election day. In an effort to combat the apparently widespread phenomenon of vote buying, all campaign materials are required to display prominently a warning that the buying and selling of votes is prohibited by law.

Among all campaign issues, corruption appears to dominate. Some political forces seem to be campaigning exclusively on their anti-corruption programs. While government parties stress their success in economic development and stability, their opponents point out that Bulgaria's financial aid from the European Union was cut in 2008 due to an inability to combat corruption effectively.

The immunity of candidates from prosecution and the release of some individuals from pre-trial detention to be candidates are part of the campaign discourse, as are possible electoral malpractices such as vote-buying and "controlled voting".

Civil society groups at the national level are actively taking part in the electoral process through various initiatives. Several initiatives to strengthen the integrity of the vote have been undertaken on the basis of the "Integrity Pact" that was signed in January 2009 by all major parties. The Integrity Pact included an agreement to avoid vote-buying.

VIII. THE MEDIA

Bulgaria has a pluralistic media environment including public and private broadcasters and a diverse print media, which allows for a broad range of political views. While freedom of expression exists, the OSCE Representative on Freedom of the Media has requested that perpetrators of three violent attacks against journalists that occurred in the last two and a half years be brought to justice.⁹

Television is by far the most important source of information. Nationwide public service broadcasting consists of Bulgarian National Television (*BNT1*), satellite channel TV Bulgaria and Bulgarian National Radio (*BNR*). The most popular electronic media with nationwide coverage are private TV channels *bTV* and *Nova*, and the most popular newspapers are *Trud* and *24 Chasa*.

⁹ The OSCE Representative on Freedom of the Media, Regular Report to the OSCE Permanent Council, 27 November 2008, at www.osce.org/documents/rfm/2008/11/35149_en.pdf.

Election Law regulates the media during the election campaign. It stipulates that paid broadcast time and newspaper space for campaigning purposes must be provided to all contestants on an equal basis. There is no provision for free airtime. In addition, campaign coverage on public service broadcasters is limited to three types of campaign programmes – special election chronicles, campaign clips and election debates. This means that regular news and current affairs programmes cannot cover issues related to the elections during the campaign period. However, coverage of the activities of officials and ministers not directly campaigning appears to be permitted. Furthermore, contestants must pay for all campaign programmes on public service broadcasters, including debates.

To supplement these provisions, the CEC adopted a decision on 12 May to regulate further the campaign in the media. The order of appearance in the campaign programmes and debates of all registered political entities was determined by a lottery held at the CEC on 11 June. There will be a total of six debates on public TV and three on public radio, with half of the total time given to parties represented in parliament and the other half to non-parliamentary parties. In addition to these debates, the regular discussion program *Panorama* and *Referendum* on Public TV, as well as similar programs on private TV channels, will provide an opportunity for contestants to present their views to voters.

The media have started to broadcast campaign programmes and candidate debates. On 14 June, the OSCE/ODIHR LEOM commenced its media monitoring of the campaign coverage, including four television stations and two daily newspapers.¹⁰

IX. COMPLAINTS AND APPEALS

According to the Election Law, complaints and appeals can be submitted to the courts, to the executive authorities (regional governors) or to the electoral administration, depending on the subject matter. The legal deadlines relating to the complaint and appeal process are very short, ranging from 24 hours to 3 days, thus providing for timely remedy. These deadlines were respected in all reported cases.

The CEC did not adopt any written procedural rules concerning the complaints and appeals process. It nevertheless keeps a register and statistics on complaints and appeals, and posts its decisions on its website within 24 hours of their adoption. As of 20 June, the CEC had received and decided on some 15 appeals against DEC decisions: five related to the composition of PECs, the remaining ten concerning the refusal to register candidates. None of the DEC's decisions on registration were overruled by the CEC, whereas it cancelled either partially or entirely three DEC decisions related to the composition of the PECs. Apart from its decision on the registration of the Blue Coalition (see section Election Administration), the Supreme Administrative Court upheld the decisions of the CEC in two cases, while in four cases it refused to examine appeals, considering that the appellants did not qualify for an appeal.

X. PARTICIPATION OF NATIONAL MINORITIES

According to the 2001 census, ethnic Turks comprise 9.4 per cent of the population of Bulgaria, and Roma comprise 4.7 per cent. The Turkish minority is generally represented by the MRF party, a partner in the current and previous governments. Roma are not associated with any single political party and are considered as the most vulnerable group when it comes to possible election irregularities, especially in connection with the apparently widespread practice of vote-buying. OSCE/ODIHR LEOM interlocutors expressed concern that the current public discussion of vote-

¹⁰ Public service broadcaster: *BNT1*, and privately owned television channels *bTV*, *Nova TV* and *Re:TV*. The two newspapers are *Trud*, and *24 Chasa*.

buying often portrays Roma as the source of this problem, thus reinforcing existing stereotypes. Other forms of influence on Roma vote are alleged to be threats to exclude them from social benefits or other services, and direct pressure and intimidation. Some OSCE/ODIHR LEOM interlocutors stated that some forms of pressure are also directed to ethnic Turkish voters.

XI. OSCE/ODIHR LEOM ACTIVITIES

The OSCE/ODIHR LEOM opened its office in Sofia on 12 June 2009. The Head of the OSCE/ODIHR LEOM has met the representatives of the Ministry of Foreign Affairs, the Central Election Commission and the Ministry of Administration, as well as representatives from a variety of political parties and civil society. Since its opening, the OSCE/ODIHR LEOM has had active contacts with the media and has held an introductory meeting with the diplomatic community.