



THE ELECTIONS IN BOSNIA AND HERZEGOVINA

14 SEPTEMBER 1996

PRELIMINARY STATEMENT OF THE CO-ORDINATOR FOR INTERNATIONAL MONITORING (CIM)

In accordance with Article III, 2, (e) of Annex 3 of the General Framework Agreement for Peace signed at Dayton, and based on the decisions taken by the OSCE Ministerial Council in Budapest on December 7-8, 1995, the Chairman-in-Office of the OSCE, Swiss Foreign Minister Flavio Cotti, on 7 March 1996 appointed Mr. Eduard van Thijn of the Netherlands as the Co-ordinator for International Monitoring (CIM) of the elections in Bosnia and Herzegovina. The mandate given to Mr. van Thijn asked for an assessment of the entire election cycle.

The aim of the CIM's mission has been to arrive at a conclusion as to whether the election process has fulfilled the election related commitments of the OSCE Copenhagen Document 1990 (which were annexed to the Dayton Peace Accord) and the legal framework and regulations established to govern the election process in accordance with the Dayton Peace Accord.

Assisting the CIM in monitoring the election process has been a small staff which arrived in Sarajevo from late April onwards and twenty-five long term observers who were deployed in July.

Almost one thousand international observers provided a broad presence throughout the country on election day. Sixty-five observers were contributed by 24 OSCE participating states, 2 partner states for co-operation with OSCE, 2 non-OSCE participating states, intergovernmental organisations, NGOs and local embassies. They were deployed in teams of two, and recorded their findings from nearly 3000 polling stations. This is a substantial and wide ranging sample, which enables the CIM to make a comprehensive report on the election day proceedings. All international observers were permitted to undertake their duties with the assistance of the election authorities at all levels.

The detailed results of the observation are tabulated in the statistical report produced by the CIM Statistical Unit attached as Annex 1.

Context of the Election

The CIM recognises the unique complexity of this election in a post-war environment, in which the election process is intertwined with a conflict resolution process. Therefore it is difficult to assess the election process in Bosnia and Herzegovina, after four years of war, in accordance with the term “free and fair” as it is usually understood.

The criteria as expressed in the OSCE Copenhagen Commitments (attached as Annex 2) and the Dayton Peace Agreement remain the only relevant yardstick. Yet the election must also be considered in a conflict solving capacity. Whether the election leads to integration of disintegration will only become clear as immediate events unfold.

Within the context of the election in Bosnia and Herzegovina, several of the OSCE Copenhagen commitments were only partially met. In particular, commitment 7.6 which ensures the right to establish in full freedom political parties and provide them with the necessary legal guarantee to enable them to compete with each other on a basis of equal treatment before the law and by the authorities, commitment 7.7 which ensures political campaigning to be conducted in a fair and free atmosphere, and commitment 7.8 which ensures unimpeded access to the media, were not fully met.

The Dayton Peace Agreement outlines the following five basic conditions which were only fulfilled to varying degrees: a politically neutral environment; the right to vote in secret without fear or intimidation; freedom of expression and of the press; freedom of association (including political parties); and freedom of movement.

Technical Evaluation

It is unusual to conduct four simultaneous election on the same day, particularly under the logistical and security constraints that exist in Bosnia and Herzegovina.

However, observers reported that almost all polling stations throughout Bosnia and Herzegovina were run very well on 14 September. Observers reported that voting was conducted properly at 97% of polling stations.. Overall, the Polling Station Committees conducted their work in a professional and impartial manner. The CIM pays tribute to the dedication and impartiality of Polling Station staff.

The CIM also places on record his recognition of the achievement of the OSCE election administration in ensuring the training of these staff and the correct provision of materials to polling stations which required a very difficult logistical exercise. Full details of the observation concerning the evaluation of polling stations can be found in Annex 1.

The CIM wishes however to place on record three major areas of the election process in which significant problems occurred.

1. Registration

The CIM has already expressed his serious reservations regarding the voter registration list in his statement of August 9.

Problems with the registration process in the pre-election period resulted from manipulation of the voter registration process, which undoubtedly jeopardised the integrity of the list. In particular the pressure on displaced persons to vote in “strategic municipalities” should be considered as violation of the spirit of Dayton, and in some cases (as notably in Doboj) as unacceptable in any circumstances. However, the most severe effects of the manipulation were diffused with the postponement of municipal elections.

The establishment of a thoroughly revised and current voter register which instilled the necessary confidence that all qualified voters could vote once and only once would have greatly facilitated the integrity of the process.

Further problems with the registration of voters became clear on the day of elections. Thousands of people found themselves unable to vote because they were not entered on the final Voters’ List. This problem was made worse by the fact that the election regulations stated that the primary indicator for finding a voter on the register would be the ID number, but the Voters’s List itself was actually printed in order of date of birth.

2. Absentee Polling Stations

Throughout Bosnia and Herzegovina observers reported large crowds seeking to vote at absentee polling stations. While the security arrangement in ordinary polling stations were generally satisfactory, significant problems of crowd control and voter safety occurred at some absentee stations and polling had to be suspended for a period or extended. The total number of absentee polling stations was clearly insufficient. In addition, there were a number of cases where not enough ballot papers and materials were available in absentee stations.

3. Freedom of Movement

Freedom of movement, and in particular access to polling by voters returning to vote in the area where they lived in 1991 or 1992 before the conflict and from which they have been displaced, has been a major issue of concern. This freedom of movement is a crucial and essential factor given the conflict solving nature of these elections. Article 8 of the Election Rules and Regulations states that: “Every effort will be made by OSCE and the other international organisations concerned to facilitate the return of citizens to the municipality where they were registered in 1991 to vote in person”.

On election day, despite elaborate planning, Article 8 was not followed in practice. The climate had not been established in which these voters could cross the IEBL without fear of intimidation or their personal safety. It was decided that the safety of voters crossing the IEBL could only be ensured by their travelling in buses along 19 designated routes regularly patrolled by security forces. Voters choosing not to ride in these buses were informed that their safety could not be guaranteed.

Only a limited number of voters crossed the IEBL on the day. The question must be raised as to why this was the case. While it is difficult to establish the exact reasons, the primary factor appears to have been an increase in the fear of voters since they took the decision to vote in this way (rather than as absentee voters) when registering in July. Other possible factors could include a lessening of interest after the postponement of the municipal elections, lack of information about the transportation arrangements, and the realisation that voters would not

be allowed to visit the homes in which they resided before the conflict. The small number of voters that crossed the IEBL is an indicator that the Dayton principle of freedom of movement has not been met, and thus points to a disintegrative trend.

Issues Prior to Polling Day

Out-of-Country Voting

The out-of-country voting required significant logistical preparations, which were not assisted by the various delays in their commencement. The out-of-country voting was observed in 23 countries by 65 observers.

The effort was co-ordinated by Michael Meadowcroft. His report to the CIM shows that there were some problems, the most significant of which were the issue of wrong ballots, confusion surrounding Form II and the postponement of municipal voting, lack of information on the balloting process and about the candidates and competing parties, postal delays, and errors in the packing and delivery of envelopes.

These problems were particularly evident in the Federal Republic of Yugoslavia. However, despite these problems, the overall conclusion of the observers is that the out-of-country voting worked reasonably well and was free of any significant manipulations.

The Campaign

The observation findings during the campaign reflect an inconsistent and geographically divergent picture of the environment in which the campaign and political debate have taken place. In some areas events took place which seriously impeded the right to campaign: examples of employment related intimidation, organised violence towards party activists, and disruption of party meetings were all substantiated. In other areas, a meaningful campaign took place in which parties were able to convey their message to the electorate in a relatively peaceful environment, particularly in the last two weeks of the campaign. In most areas, considerable improvements became evident in the run up to the elections. In particular, rallies took place in a more open atmosphere.

The CIM was very concerned that the theme of the election campaign on the part of some parties and candidates ran contrary to the spirit of Dayton. The systematic delivery of secessionist messages during the campaign in the RS was one of the strongest elements of the campaign of the SDS, and of other parties in the RS, during the pre-electoral period. In fact, these statements form a heavy mortgage on the functioning of the governing structures of Bosnia and Herzegovina, and may therefore threaten the constitutional arrangements in Dayton and the spirit of 7.9 of the Copenhagen Commitments. The Election Appeals Sub-Commission has reviewed several cases, including SDS Statements during the election campaign.

It is clear that the participation of certain parties throughout the campaign, especially the SDS, has not been made in the spirit of Dayton. The CIM requests the Head of the OSCE Mission, as Chairman of the PEC, to verify before certification that all necessary (legal) steps have been taken to ensure that the sovereignty and territorial integrity of Bosnia and Herzegovina is upheld.

The CIM is concerned that essentially separate campaigns with very different messages and debates took place in the two entities. Although the amount of active campaigning that took place across the Inter Entity Boundary Line was very limited, those parties that did campaign across the IEBL for a multi-ethnic, open and democratic society deserve our admiration.

The Media

The OSCE Copenhagen commitments call for unimpeded access to the media on a non-discriminatory basis. A democratic election process is founded upon the electorate being able to make informed choices.

The media should be evaluated by its degree of independence in informing the electorate about the candidates and the issues. Concern arises from the fact that the official media were influenced by the existing power structures. This problem was most serious in Republika Srpska and the Croat controlled parts of the Federation. The existence of independent networks in some areas allowed to some extent for an alternative to the official, authority-influenced media.

As a result of obstruction on the part of authorities, TViN did not have a significant impact on the campaign: it only went on the air one week before polling day. However, Free Elections Radio Network (FERN) sponsored by the Swiss government did contribute to the campaign debate after initial difficulties with broadcasting in the Republika Srpska.

Despite serious concerns regarding access to the media, television and radio became somewhat more accessible to parties and independent candidates during the latter stages of the campaign. However, the establishment of an independent regulatory body, with the ability to impose sanctions, is of crucial importance for future elections to be meaningful.

Count and Appeals Process

The CIM continues to monitor the counting process and the hearing of all complaints and appeals, which are both essential and integral parts of the complete election process. The CIM will elaborate on his observations in his final report.

Conclusion

This is a preliminary report. It indicates that the elections technically went well, subject to the satisfactory completion of the count and the appeals process. However, the general climate in which the elections took place was in some cases below the minimum standards of the OSCE Copenhagen Commitments.

The CIM believes that these elections are at best a first step out of the period of deep and violent conflict towards the aspiration of a democratic future for Bosnia and Herzegovina. The process of establishing freedom and democracy in Bosnia and Herzegovina, and political institutions that can uphold these principles, will be a long and arduous process. Nonetheless, a large number of citizens of Bosnia and Herzegovina turned out on September 14 to cast a ballot for their future, and many did so under very difficult circumstances.

Even in the context of a conflict resolution election, the CIM notes his concern that significant elements of the climate of the pre-election period may point towards disintegration and an unsatisfactory resolution of the conflict. The problems associated with the campaign, freedom of movement and other issues referred to above should not be understated. But given these

shortcomings, there was no pattern of recurring infractions or organisational incompetence that seriously compromised election day.

The CIM emphasises that these elections, although characterised by imperfections, took place in such a way that they provide a first and cautious step for the democratic functioning of the governing structures of Bosnia and Herzegovina. A true and continuing commitment to the democratic process will need to be made in order for Bosnia and Herzegovina to face the difficult times and decisions that still lie ahead.

It is the view of the CIM that the international community, having started its support for this process, should face up to the longer term responsibility of helping to see it through. In this context, the CIM would like to draw attention to OSCE Commitment 7.9 which requires that candidates who obtain the necessary number of votes required by law are duly installed in the office.

The CIM anticipates that this statement will be fully considered before the municipal elections take place. Until the problems affecting the integrity of the elections have been addressed and solved, these elections should not be held.

In conclusion, the CIM expresses his strong hope that the democratic institutions elected on September 14 will take root and grow, and that the next elections in two years time will take place under much more favourable conditions.

Distributed at the request
of the Representative
of the Chairman-in-Office

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ANNEX 2

TO THE PRELIMINARY STATEMENT OF THE CO-ORDINATOR FOR INTERNATIONAL MONITORING

Document of the Second Meeting of the Conference on the Human Dimension of the Conference on Security and Co-operation in Europe, Copenhagen, 1990.

Paragraphs 7 and 8:

- 7) To ensure that the will of the people serves as the basis of the authority of government, the participating states will
 - 7.1) - hold free elections at reasonable intervals, as established by law;
 - 7.2) - permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote;
 - 7.3) - guarantee universal and equal suffrage to adult citizens;
 - 7.4) - ensure that votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public;
 - 7.5) - respect the right of citizens to seek political or public office, individually or as representatives of political parties or organisations, without discrimination;
 - 7.6) - respect the right of individuals and groups to establish, in full freedom, their own political parties and organisations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities;
 - 7.7) - ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution;
 - 7.8) - provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process;
 - 7.9) - ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.

The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organisations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law. They will also endeavour to facilitate similar access for election proceedings held below the national level. Such observers will undertake not to interfere in the in the electoral proceedings.