



Office for Democratic Institutions and Human Rights

BULGARIAN PRESIDENTIAL ELECTION

OCTOBER 27 AND NOVEMBER 3, 1996

FINAL REPORT

I. INTRODUCTION

The OSCE Office for Democratic Institutions and Human Rights received an invitation from the Bulgarian Ministry of Foreign Affairs dated September 20, 1996 inviting it to observe the Presidential Election.

The ODIHR issued its Note Verbale to participating States on 24th September inviting them to nominate Observers. Mr. Michael Meadowcroft was appointed as the ODIHR On-Site Co-ordinator.

Observers

Despite the fact that the ODIHR had requested eight long-term observers (LTO's) for this election, only one (LTO), Ulrich Büchsenschütz (Germany), was received. He arrived on 14 October and established a regional presence in Plovdiv.

In addition to Ulrich Büchsenschütz, the one LTO, nine countries provided nineteen short-term observers, two of which were parliamentarians. In addition six STO's were recruited in-country via British and Dutch NGOs or direct workers. 26 Observers are not enough to provide even reasonable coverage in a country with 12,500 polling stations, but ODIHR Mission had to utilise them as effectively as possible.

For the second round there was again an acute shortage of observers. Only two Observers were able to remain in-country, only one STO was able to return, and only a further two STO's were sent specially for the second round. Despite the very short time available - one week between the two rounds - the Mission began to seek further in-country STOs. Eventually fifteen such STO's were deployed.

Meetings

The ODIHR Co-ordinator established direct contact with Professor Baycho Panev, President of the Central Election Committee (CEC). He and his colleagues were very co-operative to the ODIHR Mission and in particular the Vice-Chair, Mrs Slatka Rousseva, who was designated as the Mission's immediate contact. There was a brief problem with regard to access to the central tabulation, which is detailed below (see Vote Count).

Mr. Zholvev of the Bulgarian Ministry for Foreign Affairs was the main contact person from the Ministry to the ODIHR. He was also very co-operative in helping to process accreditation papers for STOs. He also arranged a useful meeting with Volodia Neykov, the Secretary-General of the Ministry of Foreign Affairs.

The Swiss Ambassador, Gaudenz Ruf, as representative in Sofia of the OSCE Chairman-in-Office, was also very supportive.

Invitations were issued to all thirteen candidates to meet with the ODIHR. In the end seven availed themselves of the opportunity. Despite a number of direct contacts, a major candidate, Marazov of the *Forward with Bulgaria* coalition, did not seek a meeting.

Meetings were also held with two NGOs: the Bulgarian Association for Fair Elections and Civil Rights (BAFECR) and the Civic Initiative for Free and Democratic elections, as well as with Ivan Krastev of the Centre for Liberal Strategies.

II. THE ELECTORAL LAW

The law governing the presidential electoral process in Bulgaria is not consolidated into a single document but is contained in five different volumes:

- (a) two main sections of the Constitution of the Republic of Bulgaria;
- (b) the Law on the Election of the President and Vice-President of the Republic (which itself contains a number of clauses inserted at different dates subsequent to its original promulgation);
- (c) certain sections of the Law on the Election of Members of Parliament, Municipal Councillors and Mayors;
- (d) Central Election Committee Methodical Instructions to the Regional Election Committees for Applying the Law on Election of President and Vice-President of the Republic;
- (e) the cumulative decisions of the CEC.

There is clearly a need to have a consolidated version of the electoral law, ideally as a single Act, with sections dealing with the different applications to the three levels of elections. This need was mentioned in the Final Statement on the Second Round of Voting, and this reference was followed up with a letter to the Chair of the CEC on this and other issues relating to the law.

A former Prime Minister, Ms Reneta Indjova, was refused registration as a Presidential candidate, and wrote to the ODIHR Office in Warsaw. It was arranged that Ms Indjova should meet with ODIHR Co-ordinator.

The candidacy was rejected on the grounds that her Vice-Presidential candidate was a serving and senior member of the military. He stated he was intending to resign from the military if the candidature had been accepted. While regulations concerning the candidature of serving members of the military should be clarified for the future, this case seemed to have been settled within the existing legislation, and the disqualification was upheld.

III. THE ELECTION ADMINISTRATION

Under the existing law the political composition of the electoral commissions - at all levels - reflects the state of the parties in the Parliament. The Central Election Commission, for instance has twenty-one members - 11 BSP, 6 UDF, 2 PU and two from smaller parties. The law permits the appointment of individuals outside of the existing parties in parliament by the appropriate authorities but the Mission only heard of one instance of this on a polling district ("Sectional") commission.

The appointment of Sectional Commissioners was done by the municipal authorities on the recommendation of the parties. In terms of their membership, the commissions were the creatures of the parliamentary parties rather than of the presidential candidates. In practice, however, it was difficult to discern a particular bias from any of the commissions that the Mission dealt with.

In order to avoid the majority party being able to dictate policies to the commissions, decisions required a two-thirds majority to be effective. The relatively high turnout appears to be within the context of voter trust in the integrity of the electoral administration. So far as one could judge, the Sectional Commissions generally worked in a co-operative and even consensual way. They were certainly highly efficient and competent. Nevertheless the differential treatment of candidates, referred to below, was in part at least a consequence of the composition of the Commissions and is not in accord with usual practice.

There was some *prima facie* evidence that the CEC did not take as independent and forceful view of its powers as one usually expects. For instance, accreditation of International Observers was carried out by the CEC only following the processing of the individual's details by the Ministry of Foreign Affairs which were then forwarded to the CEC. The accreditation was carried out very efficiently and no problems were experienced. Nevertheless, the potential for discrimination is always there in such cases.

The Electoral Register

The electoral register is compiled from the Bulgarian state's unified citizen number system. Consequently the state's information is used and there is no separate compilation of an electoral register. There is adequate provision for inspection and, if necessary, correction of the information, but the Mission expressed some concern at the potential dangers of this lack of separation between the state's functions and the citizen's democratic rights.

There is a discrepancy between the published number of electors on the register of approximately 6.8 million, whereas from demographic statistics the maximum possible is 6.4 million. This may, in part, be explained by the addition of the voters transferred to new areas before they are deleted from their old addresses. The rules requiring the marking of the voter's internal passport when voting are probably a sufficient safeguard against double voting, even if some double registration exists.

IV. PREPARATIONS FOR THE VOTE TABULATION PROCESS

The Bulgarian electoral law states that the vote tabulation above the polling station level is to be sub-contracted to a private company, the choice of which is to be determined by competition. This system has worked surprisingly well at every election after the first post-Communist one in 1990. Probably unique is the open availability of published books showing

all the detailed results for every polling station, plus the tabulations. The book also contains the data on computer disk.

For this election the CEC received a number of tenders and was unable to decide between the final two. (See below, para 7, re the consensus rules for decision making within the CEC and all other Commissions) In the event both companies were appointed but that from the Bulgarian Academy of Sciences refused to sign the contract offered by the CEC on the main ground that the timing of primary information remained in the hands of the CEC but the company was financially liable if it did not deliver the final result within the 48 hours laid down in the electoral law. A meeting was held with the two key people from the Academy, Professor Kamen Ivanov, and Associate Professor Vassiltsanov at which the history of the tabulation process and the current situation was discussed.

V. THE CAMPAIGN PERIOD

The only aspects of the Bulgarian Presidential election 1996 deemed worthy of adverse comment in the Final Statement were associated with the campaign period. These comments stem from the fact that the electoral law, as currently drafted, creates two classes of candidate: those with formal links with existing parties in parliament, and those without such links. Not only were the latter excluded from membership as of right on election commissions, but they were also treated very detrimentally in relation to participation in the formal debates on television and radio. The quoted reason for the distinction in law was the fear of having so many "minor" candidates that equal treatment would have been impractical. The Mission expressed the view that, in common with usual practice, this potential problem should be dealt with by having rules on the registration of candidates which include qualifications to be a candidate - a reasonable number of voters' signatures, for example, with perhaps a proportion having to come from a spread of regions - which inhibit those without a modicum of support.

Campaign rallies were held, particularly in major cities, at least by major candidates, and were reasonably attended. There was not, however, much evidence of less formal street campaigning, or door-to-door activity. Full colour posters, including pictures of the candidates, were fly-posted everywhere possible. These are relatively expensive, even in Bulgaria, and it is hard to see how any major candidate could have avoided spending more than the legal limit (2 million leva - approximately \$10,000 at the time it was fixed) on this item of expenditure alone. Apart from the ubiquitous posters, candidates appeared to rely on the mass media.

The Media

In September 1996 the Bulgarian Helsinki Committee reported that a number of journalists in the state media had been under pressure and that there had been some dismissals and suspensions. Unfortunately the Mission did not have enough resources to make a comprehensive assessment of the media coverage. What treatment of the election campaign it did see appeared to be carried out reasonably fairly, or in accordance with the law, such as the televised "debates" which provided for candidates to be treated differently, with the "major" candidates having up to an half hour each during the formal dates and the minor candidates having two minutes. Each candidate was given the same period of time for direct broadcasting. The newspapers, though largely recognised as partisan, gave reasonable coverage to the campaign. On election night for the first round neither of the state television channels broadcast any analysis or commentary on the election results. BAFECR has done a

detailed media monitoring report. This is currently being translated into English. A copy will be forwarded as soon as available.

Primary Election and Nominations

Reference should be made to the nation-wide open primary election held on 1st June 1996 to nominate a candidate from the united "Opposition". The history of this remarkable and unusual event is contained in the International Republican Institute's *IRI Report on Bulgarian Primary Election, June 1, 1996*, a copy of which has been lodged with the ODIHR.

In the run up to the Presidential election it was apparently increasingly clear that the incumbent President, Zhelyu Zhelev, whose nominating party, the People's Union, was a junior opposition coalition partner, did not command the full support of the opposition. The parties had no acceptable way of dealing with the situation through internal mechanisms and the possibility of a primary election was therefore considered, and appears to have worked efficiently:

- (a) the participation of over 850,000 voters - 12.6% of the electorate, despite only a quarter of the usual polling stations being used - gave the nominee legitimacy;
- (b) the existence of the details of this substantial number of names and addresses of electors sufficiently interested to vote in the primary election is a formidable campaigning tool;
- (c) the contrast with the "closed" methods of the governing coalition was electorally beneficial;
- (d) the clear verdict of the voters in favour of Petar Stoyanov - by almost two to one - settled the issue of the candidature once and for all;
- (e) the complete acceptance of the outcome of the primary by all the components of the opposition coalition provided the nominated candidate with a ready made campaigning organisation and an impetus for the later campaign.

There are those within NGOs and other civic organisations concerned with the development of civil society in Bulgaria who see the extension of the primary idea to parliamentary elections as a means of opening up the political structures which, it is argued, have become somewhat internalised.

The Bulgarian Socialist Party's original candidate Georgy Pirinski was disqualified from standing by the Constitutional Court which held that he was not a native born Bulgarian as required by Article 93 (2) of the Constitution.

The Constitutional Court also ruled that Article 93 (3), which appears to require a turnout of at least 50% for the first round of voting to be legitimate, did not mean that, and that if a candidate polled above 50% of the votes cast, even if the turnout was below 50% the result would stand. In the event the turnout was 63%.

VI. POLLING DAY

Observers were unanimous in their view that the organisation of polling day was exemplary. Six elections had been held before this Presidential poll and many of the members of the

Sectional (i.e. Polling Station) Commissions had been in office for all these preceding ballots. In virtually every case the commissions got down to their appointed tasks professionally. There were the inevitable isolated incidents reported, and investigated by Observers wherever possible, but no Observer believed that polling day should be regarded as other than providing the means of enabling all electors to express their choice without pressure. The system of voting - placing the ballot paper of one's choice in an official envelope, similar to that used in France and elsewhere - ensured that each elector had to cast his or her vote in secret, as the ballot papers were placed inside the booths.

VII. THE VOTE COUNT

Counting took place in each polling station and Observers reported in every case that it was carried out efficiently and effectively. Following the count, the President of the Sectional Election Commission ensured that one copy of the results protocol was displayed locally, and took the main copy of the protocol, plus all the documents, to the relevant Regional Election Commission where he or she often had a long wait for the Regional Commissioners to receive and sign for the Sectional papers etc. The tabulation at regional level - carried out by a private company (see para 3 above) - was in order to provide a check on the later figures entered centrally from the individual protocols. It also provided an early indication of the final result. In one case, Varna, Observers were denied access to the Regional Commission but otherwise Observers were able to visit and generally reported favourably on the efficiency of the operation, although there were differences in efficiency: Shumen completing its work by 1130 p.m. on election night whereas Plovdiv took until 1000 am on the following morning.

The ODIHR Co-ordinator wrote a letter to the CEC President requesting to observe the tabulation regionally and centrally, suggesting for the latter that an ODIHR representative should attend at the central level. When, on the day before polling day, the Mission telephoned the CEC to arrange for the Co-ordinator's visit it was told firmly that the central tabulation was a purely technical exercise and that the CEC had determined that no observer should be admitted.

A formal letter was immediately written and despatched to Professor Panev, acknowledging that it was, indeed, a technical operation - hence the suggestion that only one senior member of the Mission should be present. The ODIHR conditions for effective observation require access to all levels of the election administration, and the ODIHR Co-ordinator made clear that if there was to be no access at this vital, national, level there would certainly have to be a reference to this in the Final Statement. The CEC responded that it would be possible to visit the central level during the afternoon, but reiterated the belief that the electoral law did not permit the observation of the national tabulation as a right

This invitation was accepted and the visit undertaken. The CEC President invited ODIHR Co-ordinator to return "at any time", including during the actual tabulation itself. This he did at both rounds. As representative of OSCE / ODIHR, the Co-ordinator was the only Observer permitted to enter the CEC.

The processes established for the national computer tabulation were excellent, with Commissioners working in pairs - one of the Government nominees and one of the Opposition nominees - receiving the protocols from the Regional Commissions. Thorough checks and balances against falsification or to spot errors in inputting had been established and the whole

operation was very impressive. The Co-ordinator was happy to report that he had confidence in the results published by the CEC.

VIII. FINAL STATEMENTS

De-briefing of Observers took place the following morning (Tuesday), and the draft Final Statement was immediately written and faxed to the ODIHR for comment. For the Second Round, given the unanimous reports of a well organised First Round polling day, it was decided to bring the debriefing and Final Statement press conference forward by one day. The whole operation therefore took place on Monday, 4 November, including sending the draft Final Statement to Warsaw.

IX. CONCLUSION

The OSCE / ODIHR Election Observation Mission was satisfied that the results of the election accurately reflects the wishes of the Bulgarian electorate. The final result was accepted by the defeated candidate. The mission states its belief that the conduct of the electoral process and its transparency, has further assisted the development and entrenchment of democratic processes in Bulgaria.

If the election process can be carried out as effectively in future elections, with reference to the ODIHR recommendations listed below, the integrity of the OSCE commitments should be assured.

X. RECOMMENDATIONS

- ❑ Those Presidential candidates nominated by registered political organisations which have representation in Parliament enjoy more favourable treatment than their counterparts without formal parliamentary links. This situation needs to be addressed.
- ❑ There is clearly a need to have a consolidated version of the electoral law, ideally as a single Act, with sections dealing with the different applications to the three levels of elections.
- ❑ The ODIHR conditions for meaningful election observation require guaranteed access to all levels of the election administration, including regional and central. While this issue was resolved satisfactorily for this election, this access for observers needs to be institutionalised in Bulgaria.