

**INTERIM REPORT No.1
25 August – 10 September 2006**

I. EXECUTIVE SUMMARY

- The 1 October general elections in Bosnia and Herzegovina (BiH) will involve six simultaneous contests. BiH voters will elect a three-member Presidency and 42 Members to the State House of Representatives. Voters in the Federation (FBiH) will choose 98 Members to their entity-level House of Representatives and ten cantonal assemblies. Voters in Republika Srpska (RS) will choose one President, two Vice-Presidents and 83 Members to their entity-level National Assembly. The EOM will comment upon the canton-level elections only to the extent that they impact on the other electoral races.
- For the first time, the BiH authorities will be administering the elections independently, without international membership on the CEC, as in the past.
- A total of 56 political subjects¹ have been certified by the CEC to stand in the elections. Election law provisions on gender balance have been respected and some 36 per cent of candidates standing are women.
- The campaign has been characterized by sharp nationalist rhetoric on the part of certain main parties, which has the potential of increasing pre-electoral tension and making post-election coalition building difficult.
- The media have started to broadcast campaign programmes and candidate debates and free airtime is being distributed in line with legal requirements. On 1 September, the EOM commenced its monitoring of the media's campaign coverage, including six national-level television stations and five daily newspapers.
- As in past elections, the current election law limits certain suffrage rights on the basis of ethnicity.
- The system of voter registration has been changed to a passive one, presenting certain advantages for voter participation.
- The elections will be conducted by a three-tiered election administration, including the Central Election Commission (CEC), 142 Municipal Election Commissions (MECs) and some 4,421 Polling Station Commissions (PSCs). The CEC is working in an open manner and has met all legally prescribed deadlines.

¹ Political subjects are understood as political parties, coalitions, independent candidates or lists of independent candidates.

II. INTRODUCTION

The CEC announced on 4 May that general elections will be held on 1 October 2006. Following an invitation from the Ministry of Foreign Affairs, the OSCE/ODIHR has established an Election Observation Mission (EOM) on 25 August. The OSCE/ODIHR EOM, headed by Ambassador Lubomir Kopaj (Slovakia), consists of a 14-member core team based in Sarajevo and 17 long-term observers based in nine locations throughout the country. Core team members and LTOs are drawn from 19 OSCE participating States. 220 short-term observers have been requested from participating States to observe voting, counting, and tabulation on election day.

III. ELECTORAL FRAMEWORK

Bosnia and Herzegovina (BiH), as a state, is comprised of two entities: the Federation of BiH (FBiH) and the Republika Srpska (RS). In addition, there is one autonomous district (Brčko). Three “constituent peoples” (Bosniak, Croat and Serb) are recognised by the Constitution.

Six distinct contests will be taking place simultaneously during these general elections. All BiH voters will elect a three-member State Presidency (one Serb member chosen from the RS and one Bosniak and one Croat member elected from the FBiH) and 42 deputies to the State House of Representatives. In addition, FBiH voters will elect 98 deputies to their entity-level House of Representatives and RS voters will elect 83 deputies to their entity-level National Assembly.² Voters in the RS will also choose one President and two Vice-Presidents (one from each constituent people). Although cantonal elections will also be taking place in the FBiH, the OSCE/ODIHR EOM will only observe them to the extent that they impact on the presidential and parliamentary elections.

The legal framework is unique in that the BiH Constitution is an annex to the 1995 *General Framework Agreement for Peace* (Dayton Agreement). The Dayton Agreement granted considerable powers to the international community and established the Office of the High Representative. Since 1997, the High Representative (HR) has been granted powers to impose decisions and remove officials. The present HR has not yet used this prerogative.

The upcoming elections are governed by a comprehensive *Election Law of BiH*. This law has undergone numerous amendments since its initial adoption in 2001, most recently in April 2006. The most important changes have included a new passive voter registration system, tighter deadlines for election complaints and appeals, a shortened official campaign period and lower campaign funding limits.³ Other national legislation also impacts on the electoral process.

In addition, the CEC is empowered to issue by-laws and has further regulated certain aspects of the election process like the certification of candidates / parties, voting by mail, by confined voters (homebound, prisoners, pre-trial detention, etc.), the security and counting of ballots, and the handling of complaints by election commissions.

² Voters in Brčko can opt to vote as either FBiH or RS voters. Some 12,000 voters have yet to decide.

³ Certain MECs have criticized the ongoing absence of an official consolidated text of the election law.

One important aspect of the election law is that it codifies ethnicity-based and residence-based restrictions to suffrage. Citizens who do not identify themselves with one of the three “constituent peoples” are effectively barred from standing for the State and RS presidencies.⁴ In addition, both voter suffrage and the right to stand for office are limited by ethnicity/place of residence (e.g., a Bosniak or Croat registered in the RS or a Serb registered in the FBiH cannot run for the State Presidency). Although enshrined in the BiH Constitution, these provisions are at odds with international standards and have been noted in past OSCE/ODIHR reports.

The first instance for election complaints is either a MEC or the CEC, depending on the nature of the complaint. Any decisions of the CEC may be appealed to the Appellate Division of the BiH Court. According to the CEC, approximately 10 cases regarding the certification of political entities were challenged to the Appellate Division. One particular appeal centred on the suffrage rights of a Bosniak nominated by the Party for BiH (SBiH) party as a candidate from the RS to the BiH Presidency. On the basis of the above legal provisions, the candidate’s appeal was denied. The SBiH has informed the EOM of its intention to carry the appeal further to the European Court of Human Rights in Strasbourg. To date, the Appellate Court has upheld all CEC decisions.

It is noteworthy that there is no codified right to a public hearing under current provisions. However, public hearings may be granted by adjudicating authorities, at their discretion.

IV. ELECTION ADMINISTRATION

A three-tiered election administration will be conducting the upcoming general elections. The CEC is the highest level, overseeing 142 MECs; one in each municipality and one each in the cities of Banja Luka and Mostar and in Brčko District. Some 4,421 PSCs will be formed during this election, which are responsible for the polling and counting.

The seven-member CEC is ethnically balanced. Its chairperson is internally elected and the chairmanship rotates every 15 months during the CEC’s five year tenure. Until 30 June 2005, the CEC included three international members. These have now been replaced by one member from each of the ‘constituent peoples’.⁵ As a result, these elections will be the first to be exclusively administered by national authorities.⁶

A working relationship has been established between the EOM and the CEC. The EOM is regularly present at CEC sessions, which operate in an open manner, and has so far received prompt responses to its requests for information and clarification of legal issues. All CEC by-laws and main decisions have been posted on a well maintained website, increasing transparency.⁷

⁴ In FBiH, the presidency is indirectly elected by the FBiH House of Representatives.

⁵ Thus, the full composition includes two Bosniaks, two Croats, two Serbs, and one ‘other’.

⁶ On the basis of a Memorandum of Understanding between the CEC, the OHR, and the OSCE Mission, the latter appoint up to two advisers each to the CEC. The advisers enjoy the rights of regular CEC members, except the right to vote.

⁷ <http://www.izbori.ba>

MECs are permanent structures appointed to five-year terms. 499 MEC members⁸ selected by municipal authorities have been trained by the CEC. LTOs have visited nearly half of all MECs and have also observed all MEC training sessions so far. Their general impression was that MECs are organized, respect deadlines and have actively participated in the training sessions observed.

Regarding the appointment of PSCs, all political entities competing in a particular electoral unit have the right to nominate no more than one candidate to each of those PSCs. The distribution of PSC places was done by lottery at the MEC level. Technical errors during the first lottery led the CEC to order a second one.⁹ Nevertheless, the appointment of PSCs was completed by the 1 September deadline. Certain smaller parties could not nominate enough members to fill all PSC positions they received. This obliged the relevant MECs to fill the places with citizens resident in that PSC area who have previous election experience. Only two related appeals to this process were noted.

In line with new amendments to the election law, the active system of voter registration has been changed to a passive one. The Central Voter Register (CVR) is maintained by voter registration centres, at municipality level and by the CEC centrally. It is based on the CIPS (Citizens Identification Protection System) state civil register and every citizen in the system who is entitled to vote is automatically included in the CVR.¹⁰

The CVR was closed by a CEC decision on 17 August, but people applying after this date and before 15 September will be included in a supplement to the CVR. In order to avoid the possible disenfranchisement of voters who have not yet registered with CIPS, the CEC has decided to include all voters who apply for a CIPS ID after 15 September to be issued with a temporary ID. They will vote by tendered ballot.¹¹ The new registration system presents certain advantages in that it could facilitate voter participation.

Based on CEC figures from 24 August, a total of 2,736,886 voters¹² have been registered for this election. This process took place within the legally prescribed deadline. The new passive voter registration system increased the overall number of voters by 15 per cent.

However, the new registration system does not apply to certain special categories of voters. Refugees and voters living temporarily abroad must have submitted an application to the CEC before 18 July. Voters defined as displaced persons (DPs) can vote in either the polling station of their physical residence or in their pre-war (1991) municipality.¹³

⁸ 34 per cent are women.

⁹ Initially, due to a technical error, there was a possibility of double entries.

¹⁰ The CIPS system is implemented by the Ministry of Civil Affairs (MCA). All 18 year-old citizens are obliged to register and to obtain a new ID card. A CIPS ID card is voluntary between the ages of 16-18. The MCA has reported that over 2,900,000 new IDs have been issued since the start of the exercise in 2003.

¹¹ Voting by tendered ballot involves placing one's ballot inside an envelope at special polling stations (one in each municipality), which notes one's personal details. These are then forwarded to a Main Counting Centre in Sarajevo. The details of the specific voter are checked at this point and if found to be valid, the vote is cast.

¹² This figure includes 26,251 absentee voters and 32,317 voting by post.

¹³ DPs who have opted to vote in their 1991 municipality may either vote in person or *in absentia* (in person at special polling stations). DPs who failed to choose are automatically assigned to the electoral unit in which they last voted (or their 1991 constituency, if they have not previously voted).

V. CANDIDATE CERTIFICATION

The certification process was completed within the legally prescribed deadlines. Following the complaints and appeals process, a total of 56 political subjects have been certified to stand in the elections.¹⁴ Among them, a total of 36 parties, 8 coalitions, and 12 independent candidates will compete at state and entity level.¹⁵

7,245 candidates have been certified to run in the elections on 773 separate candidate lists. The order on the ballots was determined by a general lottery and no complaints have been noted in this regard. Provisions in the election law regarding gender balance in candidate lists were adhered to and some 36 per cent of all candidates are women.

VI. THE PRE-CAMPAIGN ENVIRONMENT

In BiH, the political spectrum is largely divided along ethnic lines, and political parties are set to compete with one another in their own ethnic communities in key contests. Thus, the Alliance of Independent Social Democrats (SNSD), the Serb Democratic Party (SDS) and the Party of Democratic Progress (PDP) will compete for the Serb vote, while the Party of Democratic Action (SDA) and the Party for BiH (SBiH) will compete for Bosniak votes. The Croat political scene has become more fragmented this year with a new HDZ-1990 breaking away from the Croatian Democratic Union of BiH (HDZ BiH). In contrast, the Social Democratic Party (SDP) has tried to present a multi-ethnic image. However, its traditional support base is among Bosniak voters.

The election campaign officially began on 1 September. Although campaigning got underway some months before (conventions, public meetings, and other ongoing party activities), it picked up noticeably after 1 September. Rallies and meetings involving party leaders, billboard posters, and regular media appearances have been noted throughout the country. On at least one occasion, municipal authorities overstepped their legal mandate by posting campaign materials on public buildings.

Most political parties have focused their campaign on ethnically-oriented issues. The campaign has also been characterized by extensive nationalist rhetoric among the main Serb and Bosniak political parties. SNSD leader, Milorad Dodik, has repeatedly spoken publicly about the possibility of a referendum on RS independence. Responses from Bosniak political leaders included a statement by SDA leader, Sulejman Tihić, that if Serbs are not content within BiH they could leave. Some RS politicians have linked the status of the RS with ongoing talks on the status of Kosovo. In addition, some Croat politicians have mooted a separate Croat entity.

Following the failure to pass constitutional changes in April, opponents of the amendments, including the SBiH and the HDZ-1990, have continued to stress their opposition to the changes, which most leading parties supported. Individual smaller parties have focused on issues such as the economy and education. The campaign atmosphere has also been influenced by ongoing discussions of war crimes from the 1992-95 conflict. Continuing

¹⁴ This figure includes parties and candidates competing in the FBiH cantonal elections.

¹⁵ These figures have been provided by the CEC.

tension between ethnic groups has been a concern and two grenade attacks on religious buildings have been noted in the past week.

Civil society is engaged in various aspects of the election process, including raising voter awareness, getting out the vote, monitoring political party programmes, and domestic observation.

VII. THE MEDIA

BiH has a pluralistic media environment with 146 radio stations, 46 TV companies, and numerous press outlets in Bosnian, Serbian and Croatian generally available across the country. Television is by far the most important form of media in the context of these elections. The BiH public service broadcasting system consists of public radio and television channels at both state and entity level. No broadcaster has a complete nationwide outreach, but the three public broadcasters (BHT, FTV, and RTRS) together with certain privately-owned TV stations (OBN, TV Pink BiH and Mreza Plus) each manage to reach over 70 percent of the population.

The election law includes provisions governing the conduct of media during an election campaign;¹⁶ *inter alia* providing for both free and paid broadcast time for campaigning on equal terms to all contestants during the 30 days of the campaign. Further, according to the law, the electronic media are required to observe ‘principles of balance, fairness and impartiality’; when reporting on the activities of state officials, broadcast media should not mention their candidacy or party affiliation or give them a privileged position over their opponents.

Compliance with these provisions of the election law is overseen by two regulatory bodies: the Communications Regulatory Agency (CRA) and the CEC. While the CEC deals only with complaints regarding allocation of free airtime for direct address,¹⁷ the CRA has jurisdiction over all other broadcasting media violations during the elections.¹⁸ Sanctions may range from a warning, to financial penalties, or to the closure of an outlet. Complaints regarding campaign coverage in the print media are to be dealt with by the BiH Press Council. However, this body has not been granted any legal powers or enforcement mechanisms in this area.

To supplement the election law requirements, the CEC has adopted by-laws further specifying the details of free time for direct address, including time allocation, duration and geographical territories. Using a lottery system, individual broadcasters determined the order of appearance of all registered political entities. Taking into account the number of political entities in the race, each public broadcaster has allocated a total of only three (BHT and FTV) or five minutes (RTRS) of free airtime.

Since the official start of the campaign on 1 September, the EOM has been monitoring six national TV stations and five daily newspapers.¹⁹ In addition, the EOM will analyze the main news broadcasts of certain regional TV channels. The public broadcasters monitored

¹⁶ These provisions are found in a newly amended Chapter 16 of the election law.

¹⁷ Article 16.14 of the electoral law.

¹⁸ The CRA is the key regulatory body for the broadcast media.

¹⁹ Television: Publicly-funded *BHT*, *FTV* and *RTRS*, Private *OBN*, *Pink TV BiH* and *Mreza Plus*.
Newspapers: *Dnevni Avaz*, *Oslobodjenje*, *Nezavisne Novine*, *Dnevni List* and *Glas Srpske*.

by the EOM have, thus far, adhered to their legal requirements and granted free time to contestants, including allocation of time for regular debates. These debates provide an important forum for exchanging views, allowing voters to form opinions of the candidates.

VIII. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODIHR EOM in Sarajevo officially opened on 25 August with a statement to the press. The Head of Mission has held initial meetings and established regular contact with the Ministry of Foreign Affairs, the Central Election Commission, the diplomatic community, the main political parties and civil society. Core-team members and long-term observers have conducted meetings with election commissions, political parties, civil society and the media at the central and regional levels. LTOs were briefed by the core team and have been deployed to their areas of responsibility.