



Office for Democratic Institutions and Human Rights

REPUBLIC OF BULGARIA

PARLIAMENTARY ELECTIONS

5 July 2009

OSCE/ODIHR Limited Election Observation Mission
Final Report



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Final Report of the OSCE/ODIHR Limited Election Observation Mission¹

I. EXECUTIVE SUMMARY

Following an invitation from the Bulgarian Government to observe the 5 July 2009 parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Limited Election Observation Mission (LEOM). The OSCE/ODIHR LEOM consisted of a nine-member core team based in Sofia and eight long-term observers (LTOs), deployed throughout the country. The OSCE/ODIHR did not conduct a comprehensive and systematic observation of election day proceedings but visited a limited number of polling stations on election day. The OSCE/ODIHR LEOM and a delegation of the Parliamentary Assembly of the Council of Europe (PACE) issued a joint Preliminary Statement of Findings and Conclusions on 6 July. The elections were assessed for their compliance with OSCE commitments and other international standards for democratic elections, as well as with domestic legislation.

The 5 July 2009 parliamentary elections in the Republic of Bulgaria were generally conducted in accordance with OSCE commitments and Council of Europe standards. While effective checks and balances proved to be in place, concrete measures are required to address persistent problems so as to ensure the integrity of the election process and increase public confidence in future elections.

The parliamentary elections provided voters a broad choice in a visible and active election campaign demonstrating respect for fundamental freedoms. Nevertheless, late changes to the election system, concerns about the effectiveness of law enforcement and the judiciary, as well as pervasive and persistent allegations of vote-buying, negatively affected the election environment.

The Election Law is overall conducive to holding democratic elections; however, it was significantly amended without a wide consensus about two months before the parliamentary elections, which is not in accordance with international good practice. Furthermore, the introduction of the majoritarian element in the electoral system compromised the principle of the equality of the vote due to a significant variation in population sizes of the majoritarian constituencies.

Notwithstanding the adoption of legal provisions that criminalize vote-buying and some efforts by law enforcement agencies to tackle this problem, confidence in the ability of the authorities and the judicial system to eradicate this practice remained low. Throughout the campaign the issue of vote-buying formed the central part of the campaign discourse as media, civil society organizations and political parties uncovered and actively debated this crime.

The Central Election Commission (CEC) worked in a generally professional manner,

¹ This report is also available in Bulgarian. However, the English version remains the only official document.

although some of its decisions underscored weaknesses inherent in the work of a temporarily constituted body. Moreover, confidence in the CEC was significantly affected by what were perceived as politicized decisions related to its refusal to register the opposition Blue Coalition. The CEC conducted a voter education program.

The field of candidates who contested these elections offered voters a broad choice and distinct policy options. One of the expected objectives of the changes to the Election Law - increasing the participation of independent candidates - was not met partly because of stringent candidacy requirements. With the exception of the Blue Coalition registration case, party and candidate registration was overall inclusive.

The number of voters included in the final voter lists - over 6.8 million – was high in comparison with the estimated total population of 7.6 million. This led to concerns that inaccuracies could lead to potential abuse.

During the 21-day campaign parties and candidates engaged in an active and diverse program of campaign events and were able to impart their views freely. Anti-corruption topics dominated the campaign agenda, and some anti-minority rhetoric by some political forces was observed. The effect of regulations that theoretically could have provided for more transparency and accountability in campaign finances was undermined by the lack of enforcement provisions.

A wide range of views was also available through the media, especially through televised debates, talk shows and other campaign programmes, enabling voters to make an informed choice. However, public television offered only limited news coverage of contestants' campaign activities, due to its restrictive interpretation of ambiguous Election Law provisions. As a result, its news programmes covered the activities of public officials extensively. As many of these were also candidates, this gave them an unfair advantage over their opponents.

An interpretation of the clause of the Election Law granting immunity for registered candidates and their proxies resulted in the release of some individuals facing serious criminal charges from pre-trial detention. This interpretation was widely criticized as being different from the original intent of the law, which was to protect candidates from possibly politically motivated investigations. It was regarded by many as an attempt to avoid or defer potential court sentences.

The framework for election complaints and appeals includes expedited and timely deadlines but lacks some important elements, in particular a realistic possibility for contesting election results. It therefore does not fully provide for effective redress against administrative decisions. There appeared to be a lack of confidence among election stakeholders in the effectiveness and the impartiality of institutions deciding on complaints and appeals.

The representation of women in the National Assembly has decreased since the 2001 parliamentary elections. Women comprise 21 per cent of the new parliament. Women were well-represented in the election administration, including in decision making posts.

Bulgaria does not officially recognize national minority groups as such but has a substantial population of Turkish and Roma origin. The Constitution does not allow for the establishment of political parties along ethnic lines, and there is a legal requirement that

only the Bulgarian language may be used to campaign. This requirement, as well as the absence of official voter information in minority languages, may have limited the ability of some members of minority groups to understand the election rules and to participate effectively in the election process. Minority communities, especially Roma, remained vulnerable to potential intimidation, vote-buying attempts and so-called controlled voting.

The International Election Observation Mission did not conduct a comprehensive and systematic observation on election day, but visited a limited number of polling stations and District Election Commissions in several constituencies. The atmosphere on election day was calm, and voting appeared to proceed in an orderly manner. During election day doubts about the authenticity of absentee voting certificates emerged, and the ensuing CEC instruction was not conveyed and explained to the Precinct Election Commissions in a timely manner. The counting and tabulation process appeared to be professionally conducted and provided for a prompt announcement of the preliminary election results.

As of the date of issuing this report, the election process had not yet concluded, as there were pending appeals to the Constitutional Court challenging the results of the elections and the distribution of mandates.

OSCE/ODIHR stands ready to assist the Bulgarian authorities in implementing the recommendations contained in this report.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Bulgarian Government to observe the parliamentary elections and based on the findings and conclusions of the OSCE/ODIHR Needs Assessment Mission,² 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, consisted of a nine-member core team based in Sofia and eight long-term observers (LTOs) who were deployed throughout the country on 16 June. The mission members were drawn from 14 OSCE participating States. The OSCE/ODIHR LEOM visited a limited number of polling stations on election day but did not conduct a comprehensive and systematic observation of election day proceedings.

On 3 July, the Parliamentary Assembly of the Council of Europe (PACE) deployed a 12 member delegation of parliamentarians and support staff. The PACE delegation was headed by Prof. Tadeusz Iwinski. The OSCE/ODIHR LEOM and the PACE delegation formed an International Election Observation Mission (IEOM). The IEOM issued a joint Preliminary Statement of Findings and Conclusions on 6 July, assessing the elections for their compliance with OSCE commitments and other international standards for democratic elections, as well as with domestic legislation.

The OSCE/ODIHR wishes to thank the Ministry of Foreign Affairs, the Central Election Commission, other state and local authorities, political parties and civil society for their assistance and co-operation during the course of the mission.

² OSCE/ODIHR Needs Assessment Mission report, at www.osce.org/odihr-elections/14355.html.

III. BACKGROUND

On 28 April, the President of the Republic of Bulgaria called parliamentary elections for 5 July, one month after the 7 June elections to the European Parliament (EP). These were the first parliamentary elections after Bulgaria's accession to the European Union (EU) in 2007. Since Bulgaria's accession, a Co-operation and Verification Mechanism to "help Bulgaria remedy certain shortcomings in the areas of judicial reform, the fight against corruption and organized crime" has been established.³

The Constitution of Bulgaria stipulates that the parliament is elected for a term of four years. In 2001 the Constitutional Court determined that each elected parliament shall serve four full years starting from the day of its election. The term of the outgoing parliament thus expired on 25 June. There was an initiative by the National Movement for Stability and Prosperity (NDSV) to amend the Constitution so as to hold the national parliamentary elections simultaneously with the EP elections, but this was rejected by the parliament. The two campaigns were largely characterized as overlapping, and the results of the EP elections were regarded as a likely indication of the 5 July parliamentary election results.

The political party scene in Bulgaria displays a degree of fluidity. The composition of the previous parliament changed significantly during its term through splinters and the establishment of new factions after the 2005 elections. The previous government was formed in August 2005 by the Coalition for Bulgaria (CB) – consisting of the Bulgarian Socialist Party (BSP) and several smaller parties – and by the National Movement for Stability and Prosperity (NDSV) and the Movement for Rights and Freedoms (MRF). The government served till the end of its parliamentary mandate and was headed by the BSP chairman, Prime Minister Sergei Stanishev.

Three new opposition formations contested the 5 July parliamentary elections: the Citizens for European Development for Bulgaria (GERB), the Blue Coalition, and the Order, Law and Justice party (RZS). The GERB obtained the majority of seats in the new parliament.

IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The primary legislation for the conduct of the parliamentary elections is 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 Law on Political Parties (last amended in January 2009), the Criminal Code (last amended in February 2009), organic laws on the courts, and Civil and Penal Procedure Codes. Furthermore, the CEC issues instructions and decisions to clarify points of law and assist officials administering elections.

The Election Law was amended about two months before the parliamentary elections without a broad consensus. The amendments included an important and controversial change to the electoral system, the introduction of single-mandate constituencies in addition to the existing multi-member constituencies. The late amendment of the law on such an

³ Interim Report from the Commission to the European Parliament and the Council, On Progress in Bulgaria under the Co-operation and Verification Mechanism, Brussels, 12 February 2009, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0069:FIN:EN:PDF>.

important issue is not in accordance with international good practices.⁴ A similar situation occurred before the 2005 and 2006 elections.⁵

The parliament of Bulgaria (National Assembly) is a unicameral body consisting of 240 Members of Parliament (MPs). As a result of the amendment of the Election Law in April 2009, these elections were held under a mixed electoral system. 209 MPs were elected by proportional representation in 31 regional constituencies; the number of MPs to be elected by proportional representation from each constituency was set by the CEC according to the population size of the constituency, with a minimum of three MPs per constituency.⁶ In addition, each of the 31 constituencies also elected one MP by simple majority (first-past-the-post system). On election day, each voter was offered two ballots, one for each race. Parties and coalitions that surpassed a countrywide four percent threshold were eligible to receive proportional representation mandates.⁷

The Election Law is generally conducive to holding democratic elections, although some unresolved issues remain. The significant variance in population sizes among the 31 constituencies for majoritarian representation is a major concern as it compromises the principle of the equality of votes guaranteed by the Constitution. An MP elected by majoritarian vote in the largest constituency represents almost four times as many persons as an MP elected in the smallest one. The delineation of constituencies must preserve the equality of voting rights by providing approximately the same ratio of voters to elected representatives for each district.⁸ This issue was challenged in the Constitutional Court by 70 Members of the outgoing parliament, but the challenge was rejected in an evenly split decision on 12 May.⁹

In the majoritarian races won by simple majority, a candidate could be potentially elected with an extremely narrow margin. However, the Election Law does not provide for recounts.¹⁰

⁴ “The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election, or should be written in the constitution or at a level higher than ordinary law.”, European Commission for Democracy through Law (Venice Commission), Code of Good Practice in Electoral Matters, Guidelines and Explanatory Report, CDL-AD(2002)23 rev., II 2.b.

⁵ OSCE/ODIHR Election Assessment Reports on Parliamentary elections, 25 June 2005 and on Presidential election, 22 and 29 October 2006. These reports can be found at www.osce.org/odihr-elections/14355.html.

⁶ For example, in the proportional list component of the system three MPs were elected from the smallest constituency (Vidin) and 12 MPs from the largest, Varna, as 104,378 voters were registered in Vidin constituency and 408,999 voters in Varna.

⁷ The allocation of mandates is made using the Hare-Niemeyer method, known as the largest remainder method.

⁸ According to the Venice Commission’s Code of Good Practice, I 2.b, “seats must be evenly distributed among the constituencies” based on certain criteria. According to I.2.b.iv, “The permissible departure from the norm should not be more than 10 per cent, and should certainly not exceed 15 per cent, except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity).”

⁹ Six of the 12 Constitutional Court judges concluded that the constitutional requirement of equality of vote was violated, whereas the other six contended that the equality of voting rights was not compromised and the choice of an electoral system was the competence of the legislative branch and should not be revised by the court.

¹⁰ The CEC stated that DEC’s can order recounts at the PEC level in some specific cases of procedural nature, such as when the numbers in protocols do not reconcile. Nonetheless, recounts are not mentioned in the Election Law.

One candidate was allowed to stand in one majoritarian and two proportional constituencies. However, the law does not specify what happens if a candidate is elected both in the majoritarian and the proportional race. The CEC explained to OSCE/ODIHR LEOM that the law should be interpreted as obliging the candidate to take up the majoritarian seat.¹¹

Furthermore, if candidates elected either in a majoritarian or in a proportional race are appointed ministers, their mandates are not terminated and by law they should be temporarily replaced by the next candidate on the party's proportional list.¹² If there are no more candidates left on the list, the seat remains vacant. As the law provides for by-elections only when a mandate is terminated,¹³ the seat of an independent majoritarian candidate who becomes a minister would automatically remain vacant.

In response to the widely held perception that vote-buying is a pervasive phenomenon, in the past four years the Criminal Code was amended to criminalize such practices. It also provides for sentences of up to six years imprisonment, fines of up to 20,000 BGN (about 10,200 EUR) and possible deprivation of the right to hold certain state and public positions.¹⁴ In addition, immunity is provided to individuals who inform the authorities about a person who engages in or organizes vote-buying.

Article 53 of the Election Law grants immunity to registered candidates and to their proxies. They can be neither arrested nor prosecuted during the election campaign, except for cases of established grave offences. The application of this provision became a contentious campaign topic. The Sofia City Court on 17 June decided to put on hold an ongoing case against eight businessmen accused of embezzling EU funds because one of them was running for elections.¹⁵ Similarly, on 16 June the Kyustendil regional court authorized the release of two candidates from pre-trial detention who were being prosecuted for alleged involvement in organized crime, among other charges. Another individual charged with embezzlement continued to enjoy immunity before 5 July parliamentary elections as he first contested the EP elections and then the national elections.

It is not clear whether Article 53 provides for the release from pre-trial detention; in some cases requests for release were refused by courts or prosecution.¹⁶ The initial intention of this provision appears to have been to shield candidates from politically-motivated investigations. However, several OSCE/ODIHR LEOM interlocutors, including the General Prosecutor, stated that it was being misused by some individuals to escape from, or defer potential sentences by becoming candidates or proxies.

¹¹ No formal, written decision on this issue was adopted by the CEC before election day.

¹² Election Law, Article 115, para. 2. The MP appointed as Minister retains his/her seat and may return to parliament when he/she ceases to be a Minister.

¹³ Article 115a para. 1 of the Election Law.

¹⁴ Criminal Code, Article 167.

¹⁵ As it is considered a single case, the immunity of one candidate resulted in the suspension of the case against all eight persons.

¹⁶ According to OSCE/ODIHR LEOM LTO reports and media information, the release from pre-trial detention of some high profile figures who were registered as candidates or candidate proxies was refused by courts or prosecution on several occasions.

V. ELECTION ADMINISTRATION

A. OVERVIEW

These elections were run by a three-tiered election administration, headed by the Central Election Commission (CEC). There were 31 District Election Commissions (DECs) and 11,589 Precinct Election Commissions (PECs). According to the Election Law, responsibility for the administration and organization of elections is shared between the Ministry of Administration and the CEC, in co-operation with regional and municipal executive bodies. The division of responsibilities between the various electoral commissions and executive bodies is not clearly defined in the law and sometimes caused confusion among officials carrying out election related tasks and members of the public seeking electoral information or remedies. The Ministry of Foreign Affairs was responsible for coordinating out-of-country voting at 274 additional electoral precincts in 59 countries.

The CEC is a temporary body appointed by the President prior to each election in consultation with the parties and coalitions represented in the National Assembly and European Parliament. For the parliamentary elections, the CEC was appointed by the President on 28 April. The CEC consists of 25 members and by law no party may have a majority. The chair and secretary must be from different parties. Several OSCE/ODIHR LEOM interlocutors expressed concern that the CEC was actually dominated by the ruling coalition. The CEC sessions were generally run efficiently, and all members could express their views.

CEC sessions remained closed to party proxies and media; there however seemed to be little interest from domestic observers, political parties or media in observing CEC or DEC sessions. This was explained to the OSCE/ODIHR LEOM as a result of a rather high level of confidence in the work of the CEC during previous elections. In a welcome improvement on previous elections, OSCE/ODIHR LEOM observers were permitted to attend CEC and DEC sessions, though the law remains silent on this issue.¹⁷

The CEC was generally well organized, met all legal deadlines and published its decisions on its website in a timely manner. However, in some cases its conclusions were not classified as decisions and thus not published. This prevented a possibility of appeals against such “conclusions” as no formal subject for a potential appeal was available.

General confidence in the impartiality of the CEC for these elections appeared to have been significantly affected by what was characterized by some OSCE/ODIHR LEOM interlocutors as a series of politicized decisions taken in May 2009, regarding the denial of registration of the opposition Blue Coalition. The CEC decision was later overruled by the Supreme Administrative Court. In what became a widely debated issue, the Chair of the Supreme Administrative Court publicly stated that he had come under pressure regarding this case, including by some CEC members. Another widely discussed issue was the fact that the CEC awarded a contract for the electronic tabulation of results to a company with a board member who also served in the capacity of adviser to the Prime Minister.

Late introduction of significant changes in the Election Law gave the CEC additional challenges to address in a short time, including administration of the new majoritarian elections, an electronic voting pilot project, and provision for mobile voting. Furthermore,

¹⁷ Party proxies are the only persons permitted to observe DEC sessions by law. The law is silent regarding the observation of CEC sessions.

temporary nature of the CEC and the lack of institutional continuity caused additional difficulties, as illustrated by the late amendments to important guidelines just prior to election day and indeed on election day itself.¹⁸ A lack of decisive communication between the CEC and lower level election commissions, as well as a lack of voter information on this matter, caused confusion as to whether a voter was required to take both ballots or was able to simply take one, especially since a voter was required to sign the voter list only once. The lack of clarity regarding ballot distribution could give rise to uncertainty in reconciling how many ballots were actually distributed to voters.¹⁹

The 31 DEC's were appointed by 19 May, and by law mirrored the composition of the CEC. DEC's were trained by the CEC and were generally well prepared to carry out their tasks. DEC's were responsible for appointing approximately 80,000 PEC members in consultation with the parties, coalitions and the mayors.²⁰ A complaint was filed in Dobrich DEC by the representatives of the Blue Coalition against the mayor of Toshevo municipality on the grounds that he had not convened representatives of all parties together for consultations on PEC appointments. The DEC ordered the mayor to comply with the regulations. This decision was appealed to the CEC, which confirmed the DEC's decision.

Based on a sample of PEC's in Plovdiv, Varna, Pazardzik and Stara Zagora, it was found that approximately 20 per cent of PEC leadership were formed entirely by the ruling coalition nominees, a subject of concern to some OSCE/ODIHR LEOM interlocutors who argued that this created a perception of possible bias. By law, PEC's must be appointed proportionally to the representation of political parties and coalitions in the CEC. However, there is no requirement to include opposition in the leadership positions.

DEC's were tasked with training PEC's. The OSCE/ODIHR LEOM observers noted that the training of PEC's was far from uniform, varied in quality and was often short in duration. In some cases only a small proportion of PEC members actually received training. For instance, only the leadership of PEC's was trained in Dobrich and Plovdiv. Furthermore, the methodological guidelines were not issued to all members of PEC's and in some cases only to the chairperson. Some DEC's, for instance in Pazardzhik, Pleven, Vratsa, Kardjali expressed concern that the PEC's in some cases might fail to follow all procedures and to complete result protocols correctly. This was related to the persistent problem of high PEC member turnover, caused in part by the lack of experienced members nominated by parties and insufficient remuneration.

B. CANDIDATE REGISTRATION

To be registered to compete in the elections, political parties and coalitions had to submit an application to the CEC by 10 June. Applications required 15,000 and 20,000 supporting signatures and a 50,000 BGN (about 25,500 EUR) and 100,000 BGN (about 51,000 EUR) deposit for parties and coalitions respectively. Deposits were returned if the political entity

¹⁸ These included guidelines for indicating acceptable ballot markings, the manner of folding of ballots, and a method of determining the authenticity of absentee voting certificates.

¹⁹ For instance, when a voter refuses a majoritarian ballot and there is one extra unused majoritarian ballot after the end of voting, the numbers could not be reconciled as there is no record in the protocol showing that the ballot was not used.

²⁰ According to the OSCE/ODIHR LEOM LTOs, mayors had the authority to allocate the Chair and Secretary positions of PEC's when the parties could not agree. However, the law simply states that the mayor proposes nominees to the DEC's in consultation with the parties and is silent on how the leadership positions are allocated.

garnered at least one percent of the vote. Each voter could sign the application of only one political entity. If the same signature was found on applications of two or more political parties or coalitions, the one which submitted its application first was deemed to have the valid signature. The CEC de-registered one party and one coalition due to a lack of valid signatures, thus leaving a total of 14 registered parties and four coalitions.²¹ The DEC's then registered the candidate lists of parties and coalitions and the independent candidates.²²

Independent candidates, who could only participate in the majoritarian races, were required to pay a deposit of 15,000 BGN (about 7,600 EUR) and support their applications with at least 10,000 signatures of voters with a permanent address in the particular constituency. This constituted a comparatively high barrier, as parties and coalitions could recruit supporters' signatures from anywhere in the country while independent candidates could do so only in the respective constituencies.²³ In the smallest constituency, Vidin, the number of required signatures constituted 9.6 per cent of the number of voters; in the biggest constituency Varna it was 2.4 per cent. These percentages are not in line with good practices.²⁴ Only four independent candidates registered to run for the majoritarian race. The low number of independent candidates was regarded by the OSCE/ODIHR LEOM interlocutors as evidence that introducing the majoritarian element in the election system had not achieved one of its expected objectives; encouraging participation by non-party and non-coalition candidates.

The lists for the multi-mandate constituencies included 4,288 candidates, while the majoritarian constituencies included a total of 357 candidates, offering voters a broad choice. Candidates could register for up to two proportional races and one majoritarian race.²⁵ With an exception of the CEC's refusal to register the opposition Blue Coalition, which was later overruled (see sub-section A above), the candidate registration was overall inclusive.

C. VOTER REGISTRATION

The Civil Registration and Administrative Services Department of the Ministry of the Regional Development (GRAO) is in charge of maintaining a national population register based on the data provided by municipal authorities. GRAO is also responsible for printing voter lists for each precinct that are compiled on the basis of permanent addresses.

By 25 May, municipalities had made preliminary voter lists available for voters' scrutiny in the respective precincts. The GRAO also made these lists available for verification through the internet, telephone, and SMS. According to GRAO, over 368,000 citizens checked their

²¹ CEC decision No. HC-159 and No. HC-160 dated 15 June cancelled the registration of Bulgarian Agrarian National Alliance (BZNS) and Internal Macedonian Revolutionary Organization (VMRO).

²² The Civil Registration and Administrative Services Department of the Ministry of the Regional Development (GRAO) verifies the eligibility requirements of all candidates and consequently nine registered candidates were removed. Of the nine removed, five were removed for holding foreign citizenship and four were removed for not yet reaching the minimum age of 21.

²³ Each party must collect 15,000 supporting signatures countrywide for the registration of the party. Once that is done, the majoritarian candidates of that party do not have to collect additional signatures from a particular constituency.

²⁴ "The law should not require collection of the signatures of more than 1 per cent of voters in the constituency concerned", Venice Commission, Code of Good Practice, I 1.3 ii.

²⁵ Nine candidates won seats in two proportional races and were obliged to choose within 24 hours of results being published which they would retain.

data using these methods. On 26 June, the final list was published, with 6,884,271 entries.²⁶ This number was high in comparison with an estimated population of 7.6 million²⁷ and seemed to point to an evident need to review the voter lists. According to officials, this high proportion was the result of a large number of citizens residing abroad. Concern was expressed that this situation might lead to abuse. Nevertheless, to safeguard against potential abuse of the voter lists, a new measure introduced for this election was the removal of the pre-printed personal ID number from the voter lists. This was an effort to reduce the potential that multiple votes could be cast by persons signing in lieu of voters who had not cast their ballots at the end of election day. As a result, personal data had to be written into the voter lists on election day in the presence of the voter.

The number of voters on the voter lists represented a considerable increase of nearly 200,000 compared with the voter lists used in the recent EP elections, which did not include citizens residing outside the European Union.²⁸ For instance, in Kardjali district the number of registered voters increased from 148,852 for the EP elections to 221,710 for the 5 July elections. This was attributed to the fact that voters who resided outside the EU, i.e. mostly in Turkey in the case of Kardjali, but had a permanent address in Bulgaria, were included in the voter lists for 5 July parliamentary elections.²⁹

The Ministry of Foreign Affairs coordinated out-of-country voting, which was available to all Bulgarian citizens living abroad. Polling stations were established in Bulgarian diplomatic missions or other locations if demand sufficed.³⁰ According to the law, there is no obligation to register to vote and therefore no formal voter list for voters abroad is compiled. Thus, any citizen may vote at a PEC abroad upon presenting a Bulgarian passport or military identification. This was perceived by some interlocutors as a possible mechanism for multiple voting. Some 57,346 individuals pre-registered at embassies and were then deleted from the domestic voter lists.³¹

There were 156,180 Bulgarian citizens who voted abroad, over 57 per cent of whom voted from Turkey. On election day, several citizens filed complaints with various DEC's claiming that they were denied the right to vote as they had been listed as pre-registered to vote abroad without their knowledge and thus disenfranchised. The cases were referred by the respective DEC's to district prosecutors for review. GRAO conducted a complete verification process of the signed voter lists after the elections, which found 381 violations.³² In such cases, the only remedy available is prosecution of the alleged perpetrators; the CEC forwarded the list of alleged violators to the General Prosecutor on 20 August.

²⁶ This list did not include citizens who were removed such as those with judicial interdictions against them, convicted prisoners, and citizens who had registered for out-of-country voting.

²⁷ Information source – National Statistical Institute at: www.nsi.bg/ZActual_e/PopByAge08.html.

²⁸ As provided by the law on Election of Bulgarian Members of the European Parliament, Article 31, paragraph 2.

²⁹ Voter lists are compiled on the basis of permanent addresses. Every Bulgarian citizen is determined to have both a permanent address and current address, which in most cases is the same. Those living abroad are included in the voter lists based on their permanent address in Bulgaria.

³⁰ Polling stations could be opened outside diplomatic offices if at least 100 voters applied in writing to the Bulgarian mission no later than 20 days prior to election day or at the discretion of the head of the Bulgarian diplomatic mission.

³¹ These names were also added to a list of those prohibited from being added to domestic voter lists on election day.

³² There were 174 cases of double voting; 148 voters were not Bulgarian citizens; 33 were underage voters; and 26 persons did not have the right to vote based on court decisions.

Voters who intended to be away from their constituency on election day were able to obtain absentee voting certificates from their municipality until 20 June.³³ These certificates allowed an individual to vote at any polling station in the country using the additional voter lists after their names were removed from the final voter lists. A few security mechanisms were provided in new amendments to the Election Law to prevent the misuse of absentee voting certificates including a nationwide numbering system and the registration of data on issued certificates with GRAO. Furthermore, GRAO was to check the voter lists for double voting within a month after election day. Notwithstanding these efforts, the usage of absentee voting certificates during the election day raised some concerns (see Section XII on Election Day).

D. ELECTRONIC VOTING

An electronic voting pilot project was carried out in nine polling stations in one school in Sofia. Voters in polling stations with electronic voting could choose either the electronic system or the paper ballots. While the system put in place was generally user friendly, the percentage of voters who used the electronic voting option was low (12.5 per cent).

Each polling station was equipped with a stand-alone computer with an encrypted flash drive to provide secondary data storage, a touch screen monitor, a laser printer and two magnetic swipe cards and readers to engage and control the system. The magnetic swipe cards were used as an access key. One was held by a PEC member activating the system for the voter from outside the booth, and the other swipe card was used by the voter to initiate voting.

All key steps were prompted both in audio and visually on the monitor. The system displayed both ballots on the screen at once, which as a result required the voter to manually scroll on each to view the full ballot. Consequently, this did not accord equal visibility for candidates at the bottom of the ballot. The system did not allow a voter to submit a blank ballot; however, one option on the electronic ballot was “none of the above”, an option not available on the regular paper ballots.

After the voter made a double confirmation on the touch screen of his/her selections, a paper version was printed which the voter was prompted to take, fold and deposit in a separate ballot box designated for electronic voting. The Election Law does not specify whether the paper placed in the separate ballot box or the electronic ballot would be deemed as the official, legal ballot should a recount be necessary. Neither the systems manufacturer nor the CEC sought to attain certification for the software, nor was the application code made available for party and non-party observers.

E. VOTER EDUCATION

The CEC launched a voter education program well in advance of election day, including three TV spots explaining electoral deadlines, voting procedures, mobile voting and absentee voting in a clear and concise manner. One spot contained some misleading guidance, as the old system of folding ballots was shown even though ballots were pre-folded in another manner for this election. This caused some confusion on election day.

³³ The CEC informed the OSCE/ODIHR LEOM that in total 41,473 absentee voting certificates were issued. In the 2005 parliamentary elections, 39,408 absentee voting certificates were issued.

News reports also sporadically gave information on the voting format and procedures, and there were regular media updates from the CEC. While by law all campaign materials were to include a prominent warning that vote-buying was a crime, there was no official voter education on the issue, although there were efforts by civil society groups.

VI. ELECTION CAMPAIGN

The official 21-day campaign period started on 14 June and finished on election day. There was no silence period, and several parties and coalitions held large scale events on the eve of elections. Political parties and coalitions engaged in various campaign activities, such as paid advertising, distribution of campaign materials, placement of posters and billboards and door-to-door campaigning. The OSCE/ODIHR LEOM heard no concerns with regard to respect for fundamental freedoms during the campaign. The OSCE/ODIHR LEOM observed high campaign visibility across the country with an increase close to election day, especially in the eastern part of the country, for instance in Varna and Burgas.

All major parties and coalitions appeared to have a schedule of regional meetings and rallies, where often the party leadership at the national level and regional candidates of the respective constituencies participated. OSCE/ODIHR LEOM observed some 20 of these events, including bigger rallies in Plovdiv, Blagoevgrad and Varna, with attendance ranging from several hundred to several thousand participants. Generally campaign meetings and rallies did not draw large audiences. They proceeded calmly, and often included an element of entertainment.

Among all campaign issues, corruption appeared to dominate. While government parties, led by BSP, stressed their success in economic development and stability, their opponents pointed out that Bulgaria's financial aid from the EU was cut in 2008 due to the government's inability to combat corruption. Some political forces seemed to campaign exclusively on their anti-corruption programs.³⁴ The anti-corruption rhetoric of those in opposition sharpened after several media outlets broadcast footage³⁵ from an MRF campaign event, in which MRF leader Ahmed Dogan claimed a decisive role in the distribution of public money. This information was regarded as newsworthy by the media and thus was widely broadcast in news programs free of charge (see Section VII on the Media). MRF representatives told the OSCE/ODIHR LEOM that the statement by Mr. Dogan had been "taken out of context". They also claimed that their campaign offices in five towns had been vandalized as a result.

Electoral violations such as vote-buying and intimidation also dominated the campaign discourse and coverage in the media. The broad range of views aired and expressed about these issues appeared to focus the attention of those responsible for combating them and the publicity in general seemed to alleviate the negative effect of vote-buying and intimidation. The granting immunity for the duration of the campaign to individuals facing serious criminal charges was also a major topic during the campaign.

A. CAMPAIGN FINANCE

The Law on Political Parties, amended in January 2009, provides for a comprehensive set of rules concerning the financing of political parties. A state subsidy is allotted to the parties

³⁴ For example, RZS party.

³⁵ This video was apparently provided to them by the GERB.

and coalitions which have won seats in the parliamentary elections, in proportion to the number of valid votes received.³⁶ The state subsidy is also granted to parties not represented in the National Assembly that have received at least one percent of the valid votes in the previous parliamentary elections. The amount of the subsidy has been raised from two to five percent of the minimum wage per valid vote. Annual reports are required to be submitted by 31 March to the National Audit Office, and failure to comply with this obligation for two consecutive years could lead to dissolution of the party in question by a court.

The campaign finance rules included in the Election Law have been amended so that they reflect the general rules on financing of political parties. These include an obligation to publish the list of donors, a ban on corporate donations, and requirements to account for the origin of donor contributions.³⁷ The law does not, however, specify how the donors' lists should be published, and only a few parties placed such lists on their websites, often lacking clear details. Only one party had published a statement of the origin of the donations that it had received. The law does not provide an enforcement mechanism for these provisions. Compliance with them is left at the discretion of political parties and the data provided by parties lacked uniformity and did not contribute to greater transparency in this area.

Unlike the regulations for general party finances, the Election Law sets a ceiling on donations intended for campaign purposes at 10,000 BGN (about 5,100 EUR). However, the law lacks clarity on how regular party donations and campaign contributions should be differentiated. The National Audit Office, tasked with verifying political parties' and coalitions' campaign finance reports, confirmed to the OSCE/ODIHR LEOM its intention to carry out a full financial audit, including cross checks of their contractual partners for the year 2009. However, the Election Law contains no provisions concerning the potential enforcement of audit conclusions, and the chairman of the National Audit Office acknowledged that there are no sanctions in cases of violations or illegal financing.

VII. MEDIA

A. BACKGROUND

Bulgaria has a pluralistic media environment, generally enabling freedom of expression and offering voters a wide range of political views. However, many outlets remain strongly influenced by their owners, and there are questions about broadcast media's independence from economic and political influence. Compounded with the absence of transparency regarding ownership, this limits the broadcast media's willingness to offer critical and investigative reporting, necessary to inform the electorate and enable voters to analyze and assess the qualities and programmes of electoral contestants.

Television is by far the most important source of information. Nationwide public service broadcasting consists of Bulgarian National Television (*BNTI*), 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 there are a number of other broadcast media that can be received in most major population centres by terrestrial

³⁶ Law on Political Parties, Article 25. Before the amendment it used to be in proportion to the number of MPs from each party or coalition.

³⁷ According to the latest amendments to the Election Law only physical persons can make donations.

antenna or through cable networks. Several print media with political content are available nationally, with the newspapers *Trud* and *24 Chasa* having the highest circulation.

The key regulatory body for the broadcast media is the Council for Electronic Media (CEM), which has responsibility for licensing and overseeing activities of the broadcast media. Established in 2001, it consists of nine members, of whom five are elected by the Parliament and four are appointed by the President.

B. LEGAL FRAMEWORK FOR THE MEDIA

The 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. Campaign coverage on public service broadcasters is limited to three types of programmes: special election chronicles, campaign clips and election debates.

While the law does not specifically state that public media may not cover the campaign in its news programmes, the law is ambiguous in this respect and was interpreted narrowly. As a result, *BNTI* offered only limited news coverage of the contestants' campaign activities but provided intensive coverage of the work of state officials. As many of these officials were also candidates, this coverage gave them an unfair advantage over their opponents.

There is no provision for free airtime, and contestants must pay for almost all campaign programmes on public broadcasters, including debates. Although the prices adopted by *BNTI* were equal for all, some political parties complained that the prices were rather high, especially when they had to pay for all election related coverage.³⁸

To supplement the provisions of the Election Law, the CEC adopted a decision 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. *BNTI* organized six debates, with half of the total time given to parties represented in parliament and the other half to non-parliamentary parties. Parties had to pay for participation in the debates. The weekly discussion programs *Panorama* and *Referendum* on Public TV were the only campaign-related programs available to contestants free of charge.

C. OSCE/ODIHR LEOM MEDIA MONITORING

The OSCE/ODIHR LEOM's media monitoring³⁹ was conducted from 14 June to 4 July and focused on four TV stations and two daily newspapers.⁴⁰

Regular discussion programs and talk shows on both public and private broadcasters

³⁸ The prices for paid political advertising on *BNTI* (1,227 EUR per minute for paid clips; 338 EUR per minute for special election chronicles; 83 EUR per minute for debates; and 614 EUR per minute for introductory and closing speeches) were lower than commercial rates for non-political advertisement (6,626 EUR per minute).

³⁹ Media monitoring included quantitative and qualitative analysis of the coverage, assessing both the amount of time and space allocated to each political party or coalition and the tone of the coverage. The coverage of other relevant subjects, such as the government and the president, was also analyzed.

⁴⁰ Media monitoring included *BNTI*, privately owned *bTV*, *Nova TV* and *Re TV* and the daily newspapers *24 Chasa* and *Trud*.

provided an opportunity for contestants to present their views. *BNTI* offered voters an opportunity to compare contestants' views through discussion programs, debates, special election chronicles and paid political advertising, provided equally to all registered contestants. The CEC, which in co-operation with the CEM deals with media-related complaints, reported receiving no official complaint on media coverage of the campaign.

During media monitoring of the three weeks preceding the elections, *BNTI* devoted 54 per cent of its political and election prime time news coverage to activities of state officials, including to the government (46 per cent) and the president (eight per cent). There was a notable tendency to cover the activities of ministers of the BSP positively, often pointing out achievements and successes. Appearances of government ministers in the media coverage of ceremonial events such as opening of new roads, an airport terminal or introducing new water purifying systems, indirectly benefited the BSP campaign. By comparison, the main opposition candidate was often shown in his official capacity as the mayor of Sofia, opening new kindergartens.⁴¹ Of the government's coverage, 68 per cent was positive and 11 per cent negative in tone. The negative coverage of the government was given mainly in the coverage of the activities of ministers from the MRF.

In the coverage of political parties and coalitions, *BNTI* gave most time to the MRF (14 per cent). This coverage was mainly negative, especially in connection with the speech of the party leader (see Section VI on Election Campaign). The second most-featured political contestant was the ruling Coalition for Bulgaria, that included BSP (six per cent, mainly neutral and positive coverage). By comparison, the opposition GERB and Blue Coalition respectively received three and two per cent of the coverage, which was mainly neutral or positive in tone.

While there are no restrictions on news coverage of the campaign by private broadcasters, those monitored by the OSCE/ODIHR LEOM exhibited similar patterns of low electoral campaign coverage in their news. However, the two most popular private national TV channels *bTV* and *Nova TV* offered their viewers more balanced news coverage than *BNTI*. While both of these allocated the bulk of their coverage to the authorities, it was much less than *BNTI*. The tone of the coverage was also more balanced. However, independent opinions regarding the authorities' performance were generally absent in the news programs of all monitored broadcast media.

The most popular private broadcaster *bTV* devoted 23 per cent of its political and election prime time news coverage to the government. 29 per cent of the government's coverage was positive and 15 per cent negative in tone. Similar to *BNTI*, the most-featured contestant was the MRF (18 per cent, mainly negative coverage), followed by the Coalition for Bulgaria (10 per cent, mainly positive coverage). By comparison, the opposition GERB and the Blue Coalition respectively received six and two per cent of the coverage, which was mainly neutral or positive in tone.

Similar to *BNTI* and *bTV*, *Nova TV* also provided extensive coverage of the MRF party leader's controversial campaign speech, subsequently criticized by most political parties or coalitions. MRF received 25 per cent of the channel's political and election prime time news coverage, which was mainly negative in tone. The next most-featured subject was the government, which received 24 per cent of the coverage, mainly neutral in tone. *Nova TV*

⁴¹ However, while *BNTI* allocated some 42 minutes of positive news coverage to Prime Minister Stanishev, Mayor of Sofia Borisov received about half of such coverage (some 18 minutes).

also gave substantial coverage to the release from pre-trial detention of individuals facing charges for serious crimes. The Sofia-based *Re TV* reaches its viewers via cable and satellite and its potential audience is smaller than that of the three national broadcasters. It showed its support for the Blue Coalition and also GERB, both in the amount of allocated time as well as the tone of the coverage.

Paid political advertising was used intensively by a number of contestants. Some of them, however, complained to the OSCE/ODIHR LEOM that the very high cost of paid political advertising on television limits their possibilities to campaign in the media.⁴² Coupled with the limitations placed on the public media, this was a disadvantage to contestants with fewer resources. Further, the OSCE/ODIHR LEOM was informed that in some cases, including in the regions, election contestants paid media to report stories that would portray them positively without an indication that these materials had been paid for.

Newspapers offered their readers more diverse views, with coverage of activities of a broad range of parties and coalitions, as well as analytical reports and features. *24 Chasa* gave almost equal proportions of its election and political news coverage to the GERB and the Coalition for Bulgaria (16 and 15 per cent respectively), with an overwhelmingly positive and neutral tone. While *Trud* also allocated comparable coverage to the main two contestants, its coverage of the Coalition for Bulgaria contained more negative articles than that of the GERB.

VIII. COMPLAINTS AND APPEALS

According to the Election Law, complaints and appeals can be submitted to the district courts, to the executive authorities or to the electoral administration, depending on the subject matter.⁴³ Decisions of PECs and DEC members may be contested before the higher level election administration, with no possibility of second-instance appeal. Some DEC decisions may be appealed to the CEC as the only instance of appeal.⁴⁴ Some CEC decisions may be contested in the Supreme Administrative Court, but only on a limited number of issues.⁴⁵ The lack of possibility for judicial review for many decisions of the election management bodies appears at odds with Paragraph 5.10 of the 1990 OSCE Copenhagen Document, which states that “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”.

The CEC kept a register of its formal decisions and statistics on complaints and appeals and posted its decisions on its website within 24 hours of their adoption. However, the CEC did not adopt any written procedural rules concerning the review of complaints and appeals lodged with it. It was not clear which criteria the CEC used in order to decide what

⁴² The prices for paid political advertising on national TV channels were lower than commercial rates for non-political advertisement. *bTV*, for example, introduced a 15 per cent discount for paid political ads. Despite the discount, it still charged 5,476 EUR per minute for paid political ads in prime time.

⁴³ District Courts have the competence to handle complaints concerning the voter lists, and the establishment of precincts by the mayors may be challenged before the Regional Governor.

⁴⁴ Decisions on appointment of PEC members, on registration of party and coalition lists of candidates, on registration of majoritarian candidates, on registration of proxies and on the verification of signatures in support of independent candidates (Election Law, article 24).

⁴⁵ Decisions on the appointment or discharge of DEC members, on registration of political parties and coalitions, on terms and conditions for participation of observers and for conducting exit polls, and on the tender for the computerized tabulation system (Election Law, article 23).

constituted a complaint and the appropriate form for its decisions. The lack of a formal decision from the CEC could render a potential court appeal impossible. On at least two occasions observed by the OSCE/ODIHR LEOM, the CEC discussed a complaint without taking a formal decision.

The legal deadlines relating to complaints and appeals are very short, ranging from 24 hours⁴⁶ to three days, thus providing for timely remedy. These deadlines were respected in all reported cases. In the context of 5 July parliamentary elections, the CEC decided on some 23 complaints and appeals.⁴⁷ None of the DEC's decisions on registration of candidates were overruled by the CEC, whereas it cancelled, either partially or entirely, three decisions related to the composition of the PECs. Nine appeals against CEC decisions were filed with the Supreme Administrative Court. Apart from its decision on the registration of the Blue Coalition, the Supreme Administrative Court upheld the decisions of the CEC.⁴⁸

The OSCE/ODIHR LEOM observers in the regions reported some 145 complaints,⁴⁹ most of them filed on election day with the DEC's. These included cases of alleged use of falsified absentee voting certificates in Varna and Montana, vote-buying in Pleven, Vratsa, Lovech and Plovdiv and illegal campaigning in Varna and Plovdiv. A number of interlocutors in Sofia, Stara Zagora, Lovech, Plovdiv, Varna and Kardjali informed the OSCE/ODIHR LEOM that they were not fully confident that institutions dealing with complaints and appeals did so in an effective manner.

In order to enforce the provisions against vote-buying effectively and in a timely manner, the General Prosecutor's Office, the Department of Criminal Police of the Ministry of Interior, and the National Security Agency created a joint committee to coordinate their investigation and prosecutions for both the 7 June European Parliament and 5 July parliamentary elections. According to the information provided by the General Prosecutor's Office, there were 32 pre-trial proceedings in connection with the 5 July parliamentary elections, 26 of these related to vote-buying.⁵⁰ Despite these efforts, public confidence in the ability of the law enforcement agencies to combat vote-buying and other electoral malpractices appeared to be low.

According to the Article 112 of the Election Law, the only way to challenge the election results is to appeal to the Constitutional Court within 14 days after the announcement of the results by the CEC. However, according to the Article 150 of the Constitution, only a few institutions can initiate such a procedure, including one-fifth of the parliament.⁵¹ Given that the new Parliament would not have been formed by the prescribed deadline, there is no effective judicial procedure for challenging the election results. In a recent judgement, the European Court of Human Rights concluded that these provisions related to the challenge of election results did not provide for an effective remedy, due to the limited category of persons and bodies which may refer a case to the Constitutional Court. According to the Court, "a remedy can be considered effective only if the applicant is able to initiate the

⁴⁶ Appeals related to the registration of parties and coalitions.

⁴⁷ Out of these, five were related to the appointment of PEC members and 10 to the refusal or cancellation of the registration of parties or candidates.

⁴⁸ Out of these nine appeals, five were not examined by the court on procedural grounds.

⁴⁹ This number is a sample from the constituencies observed by the OSCE/ODIHR LEOM.

⁵⁰ As of 5 July, in four of these cases, the alleged crime was organizing a group to conduct vote-buying.

⁵¹ Others are the President, the Council of Ministers, the Supreme Court of Appeals, the Supreme Administrative Court and the General Prosecutor.

procedure directly”.⁵²

OSCE/ODIHR is aware of two appeals to the Constitutional Court challenging the results of voting in Turkey and the distribution of mandates. Since parties cannot appeal to the Constitutional Court, in both cases political parties, RZS and the Blue Coalition respectively sent a request to the General Prosecutor. The Prosecutor recommended that the Constitutional Court consider the appeals. At the time of publishing this report the Court had not considered those cases.

IX. PARTICIPATION OF WOMEN

OSCE participating States have committed “to encourage and promote equal opportunity for full participation by women in all aspects of political and public life, in decision-making processes and in international cooperation in general.”⁵³ Bulgaria has also committed to pursuing the United Nations Millennium Goals, to be achieved by the year 2015. As regards to political participation by women, under Goal 3 a concrete target of 40 per cent representation of women in the National Assembly has been set. Although there have been several attempts, no special law on equal opportunities for women and men has been passed in Bulgaria.

The representation of women in the National Assembly of Bulgaria has been decreasing since the 2001 parliamentary elections. There were 53 women in the outgoing parliament (22 per cent), a decrease by ten compared to the parliament elected in 2001. In the 5 July 2009 elections only 46 women (19 per cent) initially succeeded in entering parliament.⁵⁴ However, the number of women MPs subsequently increased due to changes after the nomination of members of the cabinet and their deputies. As of 3 August there were 52 women MPs (21 per cent) in the parliament.

Among the parties, GERB had 30 female candidates elected, constituting 26 per cent of the 116 newly elected GERB parliamentarians. For the Coalition for Bulgaria, six of the 40 elected candidates on the list were women. Two women were represented among the total of 38 elected MRF candidates. *Ataka* had three women out of 21 MPs. Blue Coalition and RZS had two women each out of 15 and 10 elected candidates respectively. In the majoritarian races, there were 8 successful women candidates among the 31 elected parliamentarians.

The newly elected Speaker is the first female Speaker in the history of Bulgaria. However, the new government of 17 ministers has only four female ministers; there were seven women in the previous, 22-member Cabinet.

Women were generally well represented at the election administration. Ten of 25 CEC members were women, including the chairperson and one of the three deputy chairs. Ten out of 41 DEC Chairpersons were women and 16 were deputies.

⁵² European Court of Human Rights, First Section, Case of Petkov and others v. Bulgaria, Strasbourg, 11 June 2009, p.16.

⁵³ Document of Moscow Meeting of the Conference on the Human Dimension of the CSCE, 1991.

⁵⁴ Based on the official results published by the CEC on 8 July 2009.

X. PARTICIPATION OF MINORITIES

According to the 2001 census, ethnic Turks comprise 9.4 per cent of the Bulgarian population and Roma comprise 4.7 per cent. However, the actual number of Roma is believed to be significantly higher.⁵⁵

The Bulgarian Constitution does not recognize the existence of national minorities and there is no list of officially recognized national minorities. According to the interpretation of the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities (Framework Convention), the groups represented on the National Council for Cooperation on Ethnic and Demographic Issues at the Council of Ministers of Bulgaria are those regarded by the authorities as formally qualifying for the protection granted by the Framework Convention. These groups are Turks, Roma, Armenians, Vlasi (Aromani), Karakachani and Jews.

Bulgaria ratified the Council of Europe Framework Convention in May 1999. The Convention contains a number of provisions related to the political rights of national minorities, including those related to the right of freedom of expression and right of freedom of association.⁵⁶ The Bulgarian Constitution prohibits “political parties on ethnic, racial or religious lines”. According to the Advisory Committee on the Framework Convention, legislation prohibiting the formation of political parties on ethnic or religious basis can lead to unwarranted limitations on the rights of freedom of peaceful association and freedom of association as enshrined in Article 7 of the Framework Convention.⁵⁷

According to the Election Law (Article 55.2), the election campaign shall be conducted only in the official language, i.e. Bulgarian. In addition, there were no official voter information or election materials provided in minority languages for these elections. Several international and regional instruments as well as guidelines refer to the right to use minority languages in the electoral process and to have access to election related information in minority languages.⁵⁸

The Turkish minority is widely perceived as being represented by MRF, a partner in the outgoing government and in previous governments. The party attracted significant support from Bulgarian citizens residing in Turkey. Some 98.6 per cent of the 89,490 who voted in Turkey supported MRF. There were reported allegations that some forms of pressure were directed at ethnic Turkish voters, including by MRF. In an unwelcome development, election campaigning by some parties contained anti-Turkish rhetoric, exploiting existing stereotypes and fears present among the population at large. For example, in Blagoevgrad

⁵⁵ According to the information provided by experts, civil society organizations, and by representatives of governmental agencies, the estimated Roma population is between 700,000 – 800,000, two times bigger than the official estimate.

⁵⁶ Notably under the Articles 3, 4, 5, 7, 8, 9 and 10.

⁵⁷ Advisory Committee on Framework Convention for the Protection of National Minorities, Opinion on Bulgaria, Article 7, adopted on 27 May 2004.

⁵⁸ General Comment 25 adopted by the United Nations Human Right Committee in 1996 states that “information and materials about voting should be available in minority languages.” The Framework Convention (Art. 9, paragraph 1), and the Venice Commission Code of Good Practice in Electoral Matters (paragraph I.3). Paragraph 32.5 of the 1990 OSCE Copenhagen Document states that “persons belonging to national minorities have the right [...] to disseminate, have access to and exchange information in their mother tongue”. Paragraph 35 of the 1990 OSCE Copenhagen Document states that “The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs (...).”

area the candidate on the list of the political party *Ataka* warned the public of the danger of “Turkization” of Bulgaria in his address in a campaigning event.⁵⁹

Roma are not perceived to be associated with any single political party, their votes being contested by many. Of some 20 Roma candidates running for office on at least three different lists in the 5 July elections, one was elected to parliament (Coalition for Bulgaria). Several OSCE/ODIHR LEOM interlocutors criticized the practice of placing Roma candidates on the candidate lists in positions too low for them to have a genuine opportunity of being elected.

Roma are considered the most vulnerable group when it comes to possible election irregularities, especially in connection with the allegedly widespread practice of vote-buying, and incidents of direct pressure, threats, or so-called controlled voting. This vulnerability is largely due to social exclusion, poverty and lower level of education among much of the Roma population. Some interlocutors expressed concern that Roma are often portrayed as the source of problem with regard to vote-buying, thus reinforcing existing stereotypes. Some Romani civil society organizations and activists carried out voter education campaign for Roma population in Sofia, Montana, Blagoevgrad, Vratza, Veliko Tarnovo and other regions.

XI. DOMESTIC OBSERVERS

While the Election Law defines who can be an observer,⁶⁰ it does not specify their full scope of rights and responsibilities. The CEC should determine the terms and conditions for observers’ participation in the election process. The law grants access for observers to all stages of election day proceedings at PECs and DEC. However, the law is silent regarding the possibility to observe DEC and CEC sessions during the pre-election period.

The law provides for only one party proxy and representative from each candidate list or majoritarian candidate to be present in a polling station at any given time. However, political parties made extensive use of a recently amended provision, which allowed for registration, without a deadline, of a great number of proxies for each list and majoritarian candidate for each polling station. Several days before election day, the representatives of candidates and party lists registered large numbers of proxies and party representatives.

A large number of proxies were registered in Varna, Burgas, Blagoevgrad and Pleven. This activity seemed to burden the work of DEC as they were required to register and issue certificates for each proxy. In the region of Varna and Dobrich, a number of interlocutors, including the DEC members, stated that proxy registration was used as a means of vote-buying, as the registered proxies, at least in some cases, qualified for financial compensation. In addition, despite the activity and visibility of proxy registration, this did not appear to translate into a significant presence of proxies in polling stations on election day.

Civil society groups took an active part in the electoral process. Several initiatives were

⁵⁹ Rally held in Marikostinovo, Blagoevgrad on 3 July 2009.

⁶⁰ Representatives of foreign parliaments, the OSCE, foreign parties and movements, as well as persons designated by the parties and coalitions running in the elections, persons invited through the Ministry of Foreign Affairs, and authorized representatives of Bulgarian non-governmental organizations.

undertaken on the basis of the “Integrity Pact” that was signed in January 2009 by civil society organizations and political parties, aiming to strengthen integrity of the vote. In a separate initiative, on 21 June all major political parties (apart from BSP and MRF) and more than 50 civil society groups signed an agreement to avoid vote-buying and negative campaigning. A non-governmental organization coalition led by the Bulgarian branch of Transparency International directed public attention to the problem of vote-buying in their assessment of this practice during the 7 June elections to the European Parliament.

XII. ELECTION DAY

The IEOM did not conduct comprehensive and systematic observation on election day, but visited a limited number of polling stations and DECAs in several constituencies. The atmosphere on election day was calm, and voting appeared to proceed in an orderly manner. The CEC reported voter turnout at just over 60 per cent, a significant increase compared with the 7 June European Parliament elections (39 per cent).

There were queues at many polling stations visited. These seemed to have been caused in part by the fact that there was frequently only one voting booth per polling station. PEC members in polling stations visited generally seemed familiar with the procedures and managed the process professionally. However, in the municipality of Dupnitsa, unauthorized individuals appeared to be interfering in the voting process in polling stations visited.

On election day, PECs faced difficulties in determining the authenticity of absentee voting certificates.⁶¹ Several hours after the polls opened, and after reports that fraudulent absentee voting certificates were being used in some areas - including an investigative report by the Bulgarian National Television showing how to copy and vote with fake certificates - the CEC adopted a decision on the verification of absentee voting certificates. Not all PECs became aware of this important decision in a timely manner. The Ministry of Interior reported on election day that it had initiated proceedings against four individuals for possible involvement in vote-buying. Allegations of vote-buying continued to circulate throughout the day.

The concern of some DECAs that the quality of the PEC results protocols would require many technical interventions and possible ballot recounts did not materialize. Any necessary revision of PEC protocols was carried out by a few PEC members when the protocols were being delivered to the DEC. There were apparently only a few recounts. In a limited observation, the IEOM observers noted that some protocols contained minor errors and were promptly corrected. The protocols did not require reconciliation of the number of ballots issued at the start of the day with those unused at the end of the day, to ensure that all had been accounted for. Therefore, the reconciliation of ballots appears to have focused primarily on valid ballots, a point acknowledged by the CEC Secretary. These kinds of checks and balances can increase confidence in the administration of election day procedures.

While the rate of invalid ballots in the proportional ballots was 2.24 per cent, in the majoritarian races it was above 5 per cent. This rate was skewed by districts like Haskovo,

⁶¹ By law, absentee voting certificates were issued by municipalities prior to election day at the request of a voter, with no justification required. A voter with an absentee voting certificate could vote in any polling station in the country.

which had 14.4 per cent invalid ballots and Dobrich at 10.9 per cent. A cause of this may have been the requirement in some PECs for voters to take both ballots when some voters were simply not interested in voting in the majoritarian races. As mentioned in the Election Administration section above, there was no standard guidance provided to PECs on this matter.

The counting and tabulation process appeared to be professionally conducted and provided for a prompt announcement of the preliminary election results. Although some procedural errors were observed during the count, these did not appear to have an impact on the delivery of the result. IEOM observers were granted full access to the tabulation process at the DEC, but it is not clear whether party proxies enjoyed similar access.

XIII. RECOMMENDATIONS

The following recommendations are offered for consideration by the authorities, political parties and civil society of Bulgaria, in further support of their efforts to improve the conduct of elections. These recommendations should be read in conjunction with previous ones formulated after the 2001 and 2006 parliamentary elections.⁶² OSCE/ODIHR stands ready to assist the Bulgarian authorities in implementing these recommendations.

A. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

1. If the majoritarian component of the electoral system is retained, the Election Law should be revised to ensure that it is consistently reflected throughout the law:
 - The possibility for recounting votes could be considered. For instance, a very narrow margin of victory in a majoritarian race could trigger an automatic recount;
 - Consideration should be given to reduce the high number of supporting signatures for independent candidates, with a view to encouraging their participation. These requirements should be consistent with the requirements for majoritarian candidates running on party or coalition tickets;
 - The law could be clearer regarding the procedure to be followed if a candidate is elected in both the majoritarian and proportional races. The law could also set out a procedure for replacing a parliamentarian elected as an independent candidate from a majoritarian constituency who is subsequently appointed to a ministerial post.
2. The size of the majoritarian constituencies should be reviewed to ensure that each elected MP represents a similar number of constituents so that the principle of equal suffrage is respected.
3. Amendments to the Election Law or other election related legislation on significant issues such as the choice of an electoral system should not be adopted close to the election period without a wide consensus. There should be sufficient time for election contestants and administrators to become fully familiar with changes to the legislation.

⁶² The OSCE/ODIHR reports for 2001 and 2006 elections can be found at:
www.osce.org/odihr-elections/14355.html.

4. Consideration could be given to reviewing the election legislation to eliminate any inconsistencies in different legal acts regulating elections.
5. Additional safeguards should be considered to minimize the potential for abuse of absentee voting certificates and to prevent possible duplication of absentee voting certificates.
6. Article 60 of the Election Law should be amended to avoid ambiguity and the potential for restrictive interpretation. Public media should be allowed to cover campaign activities of political parties and candidates during regular news programs, on an equitable and non-discriminatory basis. Introduction of free-of-charge airtime could be considered.

B. ELECTION ADMINISTRATION

7. As previously recommended in 2006, further consideration could be given to establish a permanent, professional CEC with an independent budget. A permanent CEC would be able to further clarify the role of the election administration vis-à-vis the state authorities, strengthen continuity and consistency, and allow more time for technical and organizational preparations of elections.
8. To better reflect the spirit of the current election legislation, consideration could be given to providing that the positions of Secretary and Chair of election commissions be appointees from the ruling and opposition parties, rather than simply from two different parties, which may in fact be partners in the ruling coalition.
9. Out-of-country procedures should be further regulated to include safeguards against possible multiple voting.
10. Substantial issues related to the security and legality of the process should be regulated by the Election Law, rather than by instructions of an *ad hoc* administrative body. The law should clearly specify what constitutes a valid ballot.
11. Ballot reconciliation should be comprehensive, including all ballots received and used on election day. Consistent instructions should be provided regarding whether voters may refuse one of the two ballots.
12. To enhance the overall transparency of the process, provisions on observers and party proxies should allow for observation of the entire election process, including sessions of all election commissions, and access to all election-related material.
13. Training for election commission members could be extended and strengthened.
14. More than one voting booth could be made available in polling stations in order to reduce queues.
15. All polling officials, observers, and proxies should be provided official mandatory identification displayed visibly.

C. VOTER REGISTRATION

16. An audit and revision of voter lists should be considered in order to address questions related to the high number of electors on the voters lists compared to the size of the population.

D. CAMPAIGN FINANCE

17. A mechanism for enforcement of campaign finance provisions by an independent body should be created, including issuing sanctions for violations.
18. In order to make campaign finance regulations enforceable, a clear distinction between political party and campaign finances could be established, with an aim to enforce limits on donations intended for campaign purposes. There should be clear rules prescribing publication of donor lists and the origin of campaign donations.

E. MEDIA

19. Charging fees for all appearances in campaign programs on public television may limit the public's access to information and candidates' ability to convey their messages. As public broadcasters are financed by public money, they have a special obligation to provide diverse information to citizens. The practice of requiring candidates to pay for almost all campaign-related appearances on public media should therefore be reviewed.
20. Independence of the broadcast media could be further strengthened, including by the development of impartial editorial practices, especially in news programmes. Reporting could provide for greater objectivity and diversity, especially when covering activities of the authorities.
21. The Election Law could be amended to provide for the requirement for the Council for Electronic Media (CEM), in co-operation with the CEC, to monitor the implementation of media-related provisions of the Election and Broadcasting Laws and take prompt and effective action against violations, including identification of any inequitable and preferential news coverage of candidates and parties.

F. COMPLAINTS AND APPEALS

22. Provisions in the Election Law for challenging election results should provide for effective remedies, in accordance with international standards.
23. As previously recommended, it should be possible to appeal against any decision of the CEC in a court of law.
24. The CEC should adopt comprehensive rules of procedure related to the review of complaints and appeals, including criteria for categorizing complaints.

G. PARTICIPATION OF MINORITIES

25. Persons belonging to minorities should be allowed to use their mother tongue in the

- electoral campaign in order to promote their effective participation in public affairs. Consideration could be given to providing voter information and other official election materials in minority languages, which would enhance the understanding of the electoral process for all communities.
26. A large-scale civic education programme targeting minority communities could be envisaged and conducted in close co-operation with relevant civil society organizations, including those representing Roma.
 27. Efforts to engage actively with Roma communities in policy-making concerning them could be increased. Further efforts should be made to promote effective participation of Roma in public and political life in line with the OSCE Ministerial Council Decision No. 6/08 on “Enhancing OSCE Efforts to Implement the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area”.

ANNEX 1 – FINAL RESULTS ⁶³

FINAL RESULTS (includes out-of-country voting)

Voters in the main and additional voter lists	7,129,965
Voters voted according to the signatures in the voter lists	4,345,450
Number of candidate list ballots found	4,323,050
Number of electronic votes cast for candidate lists	531
Total candidate list ballots	4,323,581
Total invalid candidate list ballots	97,387
Total valid candidate list ballots	4,226,194

**DOMESTIC
 TURNOUT: 60.20%**

Actual distribution of Votes by Candidate List			PROPORTIONAL SEAT ALLOCATION	
Party / Coalition / Initiative Committee	Votes Received	Share		
GERB	1,678,641	39.71%	90.11307389	90
Coalition for Bulgaria (CB) (including BSP)	748,147	17.70%	40.16214658	40
MRF	610,521	14.46%	32.7740857	33
Ataka	395,733	9.36%	21.24380202	21
Blue Coalition	285,662	6.76%	15.33495304	15
RZS	174,582	4.13%	9.371938768	10
Lider	137,795	3.26%	TOTAL	209
NDSV	127,470	3.01%		
PP GREEN	21,841	0.51%	MAJORITARIAN	
For the Home - DGI-NL	11,524	0.27%	GERB	26
Bulgarian Left Coalition	8,762	0.21%	MRF	5
Union of Patriotic Forces	6,368	0.15%	TOTAL	31
Social Democrats	5,004	0.12%		
Bulgarian National Union	3,813	0.09%	TOTAL SEAT ALLOCATION	
Other Bulgaria	3,455	0.08%		
Alternative Liberal Party and Peace (Plamen)	2,828	0.07%	GERB	116
Group of Bulgarian patriots	2,175	0.05%	CB	40
National Movement for the Salvation of the Fatherland	1,874	0.04%	MRF	38
			Ataka	21
			Blue Coalition	15
			RZS	10
			TOTAL	240

⁶³

Source: Website of the Central Election Commission, <http://rezultati.cik2009.bg>.

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).