



Office for Democratic Institutions and Human Rights

**FORMER YUGOSLAV REPUBLIC OF
MACEDONIA
2009 PRESIDENTIAL AND MUNICIPAL ELECTIONS**

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

9 - 12 December 2008



**Warsaw
19 December 2008**

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I. INTRODUCTION

In anticipation of an invitation to observe the presidential and municipal elections in the former Yugoslav Republic of Macedonia, the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) from 9-12 December 2008. The NAM included Drew Hyslop, OSCE/ODIHR Election Adviser and Vadim Zhdanovich, External Election Expert.

The purpose of the OSCE/ODIHR NAM was to assess preparations for the presidential and municipal elections anticipated for late March 2009, in line with OSCE commitments, and to advise on the establishment of a possible OSCE/ODIHR Election Observation Mission (EOM).

The OSCE/ODIHR NAM held meetings in Skopje and Tetovo with representatives of governmental authorities, election administration, political parties, media outlets, civil society and the international community (see annex for list of meetings).

The OSCE/ODIHR is grateful to the authorities for their co-operation during the NAM. The OSCE/ODIHR would also like to thank the OSCE Spillover Monitor Mission to Skopje for the assistance offered during the visit.

II. EXECUTIVE SUMMARY

The 2009 presidential and municipal elections come less than one year after the 1 June 2008 early parliamentary elections that were marred by violence and irregularities. The OSCE/ODIHR concluded that "expectations of progress were not realized" and that, "as a whole the early parliamentary elections did not meet key OSCE commitments." The upcoming elections will also be the first time that municipal elections (municipal council and mayoral) are held concurrently with the presidential election.

The government has taken a number of steps to respond to the violence and irregularities noted during the 1 June parliamentary elections, including specific efforts to address recommendations made by the OSCE/ODIHR. Efforts include creation of an Action Plan for Elections, amendments to the Electoral Code, a draft amendment to the Constitution, and continued efforts to hold those responsible for violations accountable. More remains to be done to implement OSCE/ODIHR recommendations, however.

Municipal elections are expected to produce a more intense political contest than the presidential race. This is due to both the shift in power at the national level since the last municipal election, but also because of the more active role of a higher number of political parties, including those from the ethnic Albanian community, which is anticipated. For the larger political parties, internal party nominations for the municipal elections have already

begun. Few candidates have so far signified their intention to run in the presidential election. It is expected that the candidates from the major coalitions will not be decided upon until mid-to-late February.

Efforts are underway to provide a secure environment for the 2009 elections. The government expressed its view that the high level of violence and intimidation seen on 1 June 2008 was unlikely to be repeated. Nevertheless, such optimism was not universally shared by other interlocutors concerned that local elections could see intimidation, violence and further election related irregularities. According to the Ministry of the Interior, a security plan is being developed that will address issues of policing both during the campaign period and on election day. Training programs are also envisaged for the police services.

Elections are regulated by a comprehensive Electoral Code, adopted in March 2006 and amended on 29 October 2008. The recent amendments include more specific regulation of campaign financing, decreasing the threshold for voter turnout in the second round of presidential elections, and clarifying the role and responsibilities of different bodies in charge of adjudication of election complaints.

Elections are organized by a three-tiered election administration, including the State Election Commission, 84 Municipal Election Commissions and 2,976 Election Boards. The SEC was appointed by the Parliament on 4 December 2008, in line with the new amendments to the Electoral Code that mandate the president and two members to be nominated from the opposition, and with the deputy and three members nominated by governing parties.

While some political party representatives raised concerns about the unreasonably high number of voters in relation to the number of citizens recorded in the census, party representatives generally recognized the efforts of the Ministry of Justice to review the Voter List and make it more accessible to voters to check their details.

Citizens receive a majority of their information through television broadcasts, and there is a diverse range of private and public broadcast media. While political party representatives intend to use both local and national media outlets to campaign in the upcoming elections, most opposition parties complained that election coverage was not equitable in the past. Another concern related to the lack of transparency in the cost of paid political advertisement on television.

Recent amendments to the Electoral Code and to the Broadcast Law are expected to have a positive impact on the regulation of the upcoming elections. For the first time the Broadcast Council, which is responsible for monitoring television and radio coverage during the elections, will have the authority to levy fines against those who breach campaign regulations for equitable media coverage.

Civic association "MOST" plans to deploy 3,750 observers on election day. It also intends to conduct a parallel vote tabulation for the presidential election and the election of mayor and municipal council for the city of Skopje.

Holding both presidential and municipal elections concurrently will create a challenge for electoral bodies, which will have to prepare for up to five elections in one polling station. In these cases, the OSCE/ODIHR usually observes local elections only to the extent that

they impact on the conduct and organization of national races. However, recognizing that all OSCE/ODIHR NAM interlocutors underscored the importance of both the presidential and municipal elections and the significant impact that municipal elections may have on national level politics, the OSCE/ODIHR recommends that a standard Election Observation Mission (EOM) be established to observe both elections. The OSCE/ODIHR EOM will primarily focus on the presidential race but will take account of issues pertaining to municipal elections.

In anticipation of a timely invitation, the OSCE/ODIHR is preparing to establish an EOM in mid-February. In addition to the deployment of a core team of election experts, the OSCE/ODIHR is requesting OSCE participating States to second 24 long-term observers (LTOs) to be deployed throughout the country, and 300 short-term observers to observe election day procedures, including voting, counting of votes and tabulation of results.

III. FINDINGS

A. POLITICAL CONTEXT

The 2009 presidential and municipal elections will come less than one year after the 1 June 2008 early parliamentary elections that were marred by violence and irregularities. The OSCE/ODIHR concluded that, “expectations of progress were not realized” and that, “as a whole the 2008 early parliamentary elections did not meet key OSCE commitments.”

The 2008 election results gave a strengthened mandate to the governing coalition led by the Internal Macedonian Revolutionary Organization – Democratic Party of Macedonian National Unity (VMRO-DPMNE), who for the first time won an absolute majority of seats in parliament (63 of 120 seats). They formed a coalition with the Democratic Union for Integration (DUI), the ethnic Albanian party which received the most popular support.

Opposition parties the Social Democratic Union of Macedonia (SDSM) and the Democratic Party of Albanians (DPA) initially boycotted Parliament but have since returned. The SDSM boycott was in reaction to what it felt were politically motivated arrests and the DPA boycotted parliament until recognition of Kosovo was discussed in Parliament. During the boycott, DPA’s vice-president, Imer Selmani, split with two other MPs to form the party New Democracy (ND).

The government has taken a number of steps to respond to the violence and irregularities encountered (on 1 June 2008), including specific efforts to address recommendations made by the OSCE/ODIHR in its 2008 Election Observation Mission Final Report. To coordinate activities the government devised an Action Plan for elections and created a working group led by the Deputy Prime Minister for European Integration, along with the Minister of Justice, the Minister of Interior and the President of the State Election Commission (SEC). The OSCE/ODIHR NAM was informed that the working group has not convened since adopting the plan, and that there are no timelines or budget associated with its implementation. Other efforts include amendments to the Electoral Code, a draft amendment to the Constitution, and continued efforts to hold those responsible for violations accountable in a court of law. While the steps are seen as generally positive by most interlocutors, further work remains to implement OSCE/ODIHR recommendations.

The upcoming elections will take place in the context of the country's aspirations to join Euro-Atlantic structures. The conduct of democratic elections in line with OSCE commitments and national legislation continues to be a benchmark in this process. In response to the European Commission's 2008 Progress Report, the government has produced a Blueprint on the realization of the recommendations in the report, which includes a timeline of specific election preparations. According to the Deputy Prime Minister for European Integration, the Blueprint is discussed regularly at meetings of the government.

According to those interlocutors met by the OSCE/ODIHR NAM, municipal elections are expected to produce a more intense political contest than the presidential race. This is largely the result of the fact that the party in government at the national level is not currently the same as that represented with majority in most municipalities. Since the last municipal election in 2005 there has been a shift in power at the national level with VMRO-DPMNE coming from the opposition to win an absolute majority in Parliament. Twenty one of the 84 municipalities have VMRO-DPMNE mayors. In addition, there is likely to be more contestants among the ethnic Albanian community than in 2005; DPA informed the NAM that it intends to participate in the upcoming elections,¹ and ND is expected to contest in a number of municipalities as well.

For the larger political parties, internal party nominations for the municipal elections have begun. Mayoral candidates and lists for municipal councils are expected to be finalized by early January. There is likely to be a different set of political coalitions at the local level than those nationally, with smaller parties occasionally deciding to run independent of bigger coalition partners in areas where they enjoy the most support.

Few candidates have yet signified their intention to run in the presidential election, and it is expected that the candidates from the major coalitions will not be decided upon until the party conventions in mid-to-late February. The incumbent President, Branko Cervenkovski has stated publicly his intention not to run for a second term, to return to lead the main opposition party, the Social Democratic Union of Macedonia (SDSM). Only Ljube Boskoski, the former VMRO-DPMNE Minister of Interior during the 1998-2002 government who has recently been acquitted on charges in the Hague after four years in detention, has stated his interest in running. It is nevertheless unclear whether he would be eligible, and, if so, whether he would run as an independent candidate or be affiliated with a party.

B. GOVERNMENT BODIES TO BE ELECTED

The upcoming election will be the first time that municipal elections are held concurrently with the presidential election. The president will be elected in a majoritarian, two-round system in a single country-wide constituency for a five year mandate. Should no candidate win 50 per cent of the vote in the first round, a second round will be held within two weeks. According to the Constitution, a voter turnout threshold of 50 per cent is required for the second round to be valid. A draft amendment has been tabled which would lower this threshold to 40 per cent. The OSCE/ODIHR has recommended in previous reports that the threshold for the second round be removed altogether.

¹ DPA boycotted the second round of elections in 2005, after their call for re-runs in 16 municipalities for alleged irregularities in the first round were not met. Only one municipality has a Mayor from DPA, as opposed to 15 from DUI.

The Electoral Code provides that municipal council and mayoral elections be held every four years in the second half of March. Municipal councils are elected using a proportional list system and mayors are elected in majoritarian, two-round contests in 84 municipalities and the city of Skopje. The Constitution provides that the city of Skopje is a particular unit of local self-government, thus in Skopje a voter elects a mayor and council of the city of Skopje, as well as for their individual municipality.

To be elected mayor in the first round, a candidate must receive more than 50 per cent of the votes, provided that at least one third of the voters on the municipal Voter List participated. Otherwise, a second round is held within two weeks between the two candidates who received the most votes. There is no turnout requirement for second rounds.

C. SECURITY SITUATION

Although the violence associated with the 1 June elections occurred in predominantly ethnic Albanian areas, the government made clear to the OSCE/ODIHR NAM that these challenges need to be addressed by the country as a whole.

Efforts are continuing to try and convict those responsible for election day irregularities and violence. According to the Ministry of the Interior (MoI), 56 cases (covering 211 individuals) have been passed to the courts. According to information provided by the OSCE Spillover Monitor Mission to Skopje, only four trials have been completed with a total of 12 individuals being sentenced for crimes. The Ministry of Justice (MoJ) assured the OSCE/ODIHR NAM that efforts are ongoing. In addition to court cases, the MoI has sanctioned 27 police officers and 11 of these will also face criminal charges. Sanctions have varied from fines to dismissal.

Efforts are also underway to provide a secure environment for the 2009 elections. According to the MoI, a security plan is being developed to make sure that the police are able to provide a secure environment for elections – during the campaign period and on election day. Continued training is also envisaged to ensure that the police understand their role in the election process.

The government expressed its view that the high level of violence and intimidation seen on 1 June 2008 was unlikely to be repeated. They cite a better prepared and organized police force, the removal of specific individuals in the police services who were allegedly responsible for the worst infractions, and a higher level of political will to ensure that a culture of impunity for those committing election related crimes does not continue in the police services. Nevertheless, such optimism was not universally shared by other interlocutors concerned that local elections could see intimidation, violence and further election related irregularities.

D. LEGAL FRAMEWORK

Elections in the former Yugoslav Republic of Macedonia are regulated by a comprehensive Electoral Code, passed in March 2006. On 29 October, Parliament adopted a number of amendments to the Electoral Code.²

² Published on 30 October 2008 in the Official Gazette.

While finalizing a new electoral framework only months before an expected election generally runs counter to best election practice, none of the major political party representatives raised this as a concern. Rather, most party representatives appeared satisfied that a compromise could be reached. The amendments were agreed in discussion with the four largest political parties/coalitions and were approved with a strong majority in Parliament (87 of 120 MPs). Only one smaller party, the Liberal Democratic Party (LDP), voted against the amendments.

The majority of the amendments were based on the draft amendments proposed by the MoJ in 2007. They include more specific regulations of campaign financing, lowering the threshold for voter turnout in the second round of presidential elections and clarifying the role and responsibilities of different bodies in charge of adjudicating election complaints. They also include amendments which will be implemented for future elections, such as allowing for the transfer of the Voter List from the MoJ to the State Election Commission (SEC) from 1 September 2009, as well as the provision for allowing citizens residing abroad to vote from the next election in 2012.

One of the more contentious issues related to the composition of the SEC. The adopted amendments call for a new national election commission to be formed within 30 days, with the president and two members elected by the opposition parties and the deputy and three members elected by those parties in government. Despite some difficulties, this was completed on 4 December and the new SEC has begun its work (see next section on Election Administration).

Under the amended legislation, the complaints and appeals process has been further clarified in relation to election day procedures. Unlike previous elections where the final appellate body was the Supreme Court, the authority has been transferred to the Administrative Court. This is in line with other legislation regulating the complaints and appeals process. In order to ensure that the Administrative Court is able to professionally discharge its new tasks, the MoJ is preparing a training program for its judges. Complaints and appeals in relation to the campaign appear to remain less clear, however, with some uncertainties regarding the role of the Basic Court in this process.³

E. ELECTION ADMINISTRATION

The Electoral Code establishes a three-tiered election administration for all elections, including the SEC, 84 Municipal Election Commissions (MECs) and 2,976 Election Boards (EBs).

As noted above, the SEC was appointed by Parliament on 4 December, in line with the recent amendments to the Electoral Code.⁴ Although the SEC was newly appointed, in practice all but two of the previous members continue to exercise their duties, including the previous president and deputy.

³ According to Article 73 of the Electoral Code the Basic Courts are responsible for rights of candidates during the campaign period.

⁴ While the legal provision requiring at least 20 per cent of the SEC to represent ethnicities not in the majority was met, the regulation requiring 30 per cent representation by the less represented gender was not. While many expressed disappointment in this and one party has raised the possibility of contesting the formation of the body in the administrative court, fears were expressed to the NAM that changing the composition of the court at a later date could have serious implications on the organization of the upcoming elections.

The SEC is responsible for the overall conduct of the elections. The permanent secretariat of the SEC supports the work of the commission. The secretariat has had 10 permanent staff since its establishment in 2005, but is anticipated to be expanded by an additional 12 permanent staff. The OSCE/ODIHR NAM was informed that the Ministry of Finance had approved the expenditure and that the SEC would soon be posting the vacancies to fill the posts through a competitive application process.

The MECs are fully professional bodies, which are randomly selected from among the employees in the state and municipal administration. The MEC is composed of a President, four members and their deputies, and appointed for a five-year period. EBs have a similar structure with a President, four members and their deputies and are appointed for four years. However, in a change from the last election, the composition of EBs will revert back to a mixed professional-political model. This is the same composition as in 2006, when one member of each EB was nominated by the political party in opposition and one member by the political parties in government. The remaining members are randomly selected by a computer from among civil servants. According to interlocutors met by the OSCE/ODIHR NAM, reverting to a mixed professional-political model was done to increase confidence of political parties in the process, but also to alleviate the difficulties in recruiting the large number of EB members (approximately 30,000, including deputies) from within the state and municipal administrations.

More significant training programs are being planned for EBs before the next election, including general training organized by the SEC as well as more specialized training on proxy and family voting.

F. VOTER LIST

According to the MoJ, there were 1,779,116 voters on the Voter List provided to them by the MoI for the June 2008 early parliamentary elections. The MoJ announced it has already begun preparing the update of the Voter List to ensure its accuracy for the upcoming elections. The MoJ will continue to be responsible for the maintenance of the Voter List until 1 September 2009, when the competency passes to the SEC.

While some political party representatives told the OSCE/ODIHR NAM that the number of voters was unreasonably high given the number of citizens recorded in the census (1.78 million on the list versus a population estimated at 2.04 million in 2006⁵), party representatives generally recognized the efforts of the MoJ to review the Voter List and make it more accessible to voters who wished to check their details. During the last election voters were able to check details through visiting local offices of the MoJ, through the internet or through a dedicated phone line. Nearly 40,000 people checked their details through these avenues.

G. MEDIA

Citizens receive a majority of their information through television broadcasts, and there is a diverse range of broadcast media with five countrywide commercial television channels and three countrywide public broadcast channels. In addition, according to the Broadcast

⁵ Information on the 2002 census and further estimates can be found at:
http://www.stat.gov.mk/english/glavna_eng.asp?br=18

Council, there are 35 commercial local television stations and 10 regional stations that air in the Skopje area.

Political parties expressed their intention to use both local and national media outlets to spread their campaign messages in the upcoming elections. Most political party representatives complained, however, that election coverage was not equitable in the past and that the media situation, including ownership of broadcasters, continues to be highly politicized.

The public broadcaster, Macedonia Radio and Television (MRT), expressed its intention to provide equal amounts of free airtime and political coverage to all presidential and municipal candidates. Such activities are challenged by serious funding shortfalls, as MRT remains unable to collect the broadcasting tax from more than a small percentage of the population.

One issue raised in the past related to the cost of paid television time by political parties. While the broadcasters are obligated by law to make their rates for advertising time public, the agreements signed with political parties usually involve discounts that are not public and have been reported to be as high as 90 per cent. Despite amendments to campaign finance regulations, no regulations address this specific practice, which was assessed previously as impacting upon political parties' equal access to media.

Amendments to the Electoral Code (October 2008) as well as to the Broadcast Law (August 2008) are expected to have a positive impact on the regulation of the media coverage during the upcoming elections. For the first time the Broadcast Council, who is responsible for monitoring television and radio coverage during the elections, will have the authority to levy fines against those who breach campaign regulations for equitable media coverage.

It remains unclear whether the Broadcast Council will be fully staffed for the upcoming elections. Delays in appointing members caused the Council to have to operate with only six members in the June 2008 election. The nomination of the final three members from "the Association of Journalists of Macedonia" and "the Macedonian Academy of Arts and Sciences" is currently in Parliament. If they occur in time, these appointments are expected to further improve the Council's professionalism.

The Broadcast Council continues to be concerned about early campaigning. In a positive step, the Electoral Code now requires the Council to monitor the media from the date of the announcement of the elections rather than only the 20-day campaign period. Although not mandated in Electoral Code to issue penalties outside of the campaign period, the Council can regulate such activity through its competencies as outlined in the Broadcast Law.

H. INTERNATIONAL AND DOMESTIC OBSERVERS

The Electoral Code enables both international and domestic observation. The SEC generally issues a "Code on the Rules for Observing the Elections and the Election Procedure for Domestic and Foreign Observers", which specifies the rights and responsibilities of all observers, as well as the procedure for accreditation.

The OSCE/ODIHR NAM met with representatives of the civic association “MOST” which plans to deploy 3,750 observers on election day through its network of 19 regional offices. MOST also intends to conduct parallel vote tabulation for the presidential election and the election of mayor and municipal council for the city of Skopje. Political parties also indicated their intention to train and deploy observers around the country on election day.

All interlocutors with whom the OSCE/ODIHR NAM met expressed their support for the OSCE/ODIHR to observe the elections. Most party representatives expressed support for a larger number of observers than previously deployed, to increase confidence in the election process – particularly as relates to the local elections which are expected to be contested more intensely.

IV. CONCLUSIONS AND RECOMMENDATIONS

For the first time in the former Yugoslav Republic of Macedonia, presidential and local elections will be conducted at the same time. This creates a challenge for electoral bodies, which will have to prepare for up to five elections in one polling station. When national and local elections are held simultaneously, the OSCE/ODIHR generally observes local elections only to the extent that they impact on the conduct and organization of national races. In this particular case, however, all OSCE/ODIHR NAM interlocutors underscored the importance of both the presidential and the municipal elections. They expressed their expectations that municipal elections would be intensely contested and have a significant impact on national level politics. Furthermore, all interlocutors clearly indicated their interest in having a full observation of the presidential and the municipal elections to help ensure confidence in both processes.

Mindful of the above, the OSCE/ODIHR recommends that a standard Election Observation Mission (EOM) be established to observe both elections. The OSCE/ODIHR EOM will primarily focus on the presidential race but will take account of issues pertaining to municipal elections. In anticipation of a timely invitation, the OSCE/ODIHR is preparing to establish an EOM in mid-February. In addition to the deployment of a core team of election experts, the OSCE/ODIHR is requesting OSCE participating States to second 24 long-term observers (LTOs) to be deployed throughout the country, and 300 short-term observers to observe election day procedures, including voting, counting of votes and tabulation of results.

ANNEX

List of Meetings Skopje 9-12 December 2008

GOVERNMENT AUTHORITIES

Ministry of Foreign Affairs

Mr. Zoran Dabik, State Councillor for Multilateral Relations

Mrs. Svetlana Geleva, Head of Sector for Multilateral Relations

Secretariat for European Affairs

Mr. Ivica Bocevski, Deputy Prime Minister for European Integration

Ministry of Justice

Mr. Mihajlo Manevski, Minister of Justice

Ms. Gorica Atanasova, Head of Unit

Ministry of Interior

Ms. Gordana Jankulovska, Minister of Interior

State Election Commission

Mr. Aleksandar Novakoski, President

Broadcast Council

Mr. Zoran Stefanovski, President

Mr. Pance Naumov, Member

Mr. Ilir Ajdini, Member

Ms. Andriana Skerlev Cakar, Head of Professional Staff

Ms. Emilija Janevska, Head of Programming

POLITICAL PARTIES

Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian Unity (VMRO-DPMNE)

Mr. Martin Protoger, Secretary General of VMRO-DPMNE

Social Democratic Union of Macedonia (SDSM)

Mr. Zoran Zaev, Acting President of SDSM

Mr. Damjan Mancevski, Chief of Cabinet of the Acting President of SDSM

Democratic Union for Integration (DUI)

Mr. Agron Buxhaku, Secretary for Foreign Affairs

Democratic Party of Albanians (DPA)

Mr. Ilijaz Halimi, Deputy President

Liberal Democratic Party

Mr. Andrej Zhernovski, Vice President

Democratic Party of Turks

Mr. Kenan Hasipi, President

Union of Roma

Mr. Amdi Bajram, President

CIVIL SOCIETY

MOST

Mr. Darko Aleksov, President

MEDIA

Macedonia Radio and Television

Mr. Nazif Bushi, Deputy Executive Director

Mr. Todor Malezanski, Head of Legal Department

INTERNATIONAL COMMUNITY

Office of the European Union Special Representative

Ambassador Erwan Fouéré, European Union Special Representative

Ms. Niamh Walsh, Political Advisor

US Embassy

HE Mr. Philip Reeker, Ambassador

Mr. David Burger, Political-Economic Chief

French Embassy

Ms. Isabelle Guisnel, Premier Conseiller

National Democratic Institute for International Affairs

Mr. Chris Henshaw, Country Director

United Nations Development Program

Dr. Vahram Abadjian, Chief Technical Adviser, "One Voter One Ballot" Project

OSCE Spillover Mission

Ambassador Natalya Drozd, Deputy Head of the OSCE Spillover Mission

Mr. Michael Frankland, Chief, Political/Reporting Unit

Mr. Andrew Burrridge, CBM/Field Station Co-Coordinator

Mr. Domenico Albonetti, Political Adviser

Ms. Sarah Broughton, Mission Spokesperson