

INTERIM REPORT
27 August – 12 September 2018

14 September 2018

I. EXECUTIVE SUMMARY

On 30 July, the parliament, without the participation of the main opposition party, issued a decision to hold a consultative referendum on 30 September related to a bilateral agreement with the Republic of Greece, of which a key provision of the agreement calls for changing the constitutional name of the country to the “Republic of North Macedonia”.

The referendum question to be decided by voters will read, “Are you in favour of EU and NATO membership by accepting the Agreement between the Republic of Macedonia and the Republic of Greece?” The referendum will be considered valid if a majority of registered voters participate.

The referendum is primarily regulated by the 1991 Constitution, the 2005 Law on Referenda and Citizen Initiatives (Referendum Law), and the 2006 Electoral Code. The legal framework for the referendum lacks specificity on several key elements of the process, including campaign regulations. The SEC has introduced specific regulations to clarify the legal framework for this referendum.

The July 2018 amendments to the Electoral Code introduced a temporary State Election Commission (SEC) with a six-month mandate, all members are nominated by political parties. The SEC has been holding regular public sessions and has published all meeting minutes and most key decisions and information on its website in a timely manner.

Citizens at least 18 years of age have the right to vote, except for those declared legally incapacitated by a court decision. The voter list was finalized on 7 September and contains 1,806,336 eligible voters, of which 2,694 actively registered for out-of-country voting. Most ODIHR ROM interlocutors have not raised major concerns about the accuracy of the voter list, despite the importance of reaching the turnout threshold.

The official campaign period began on 30 July, the day of the calling of the referendum. However, most stakeholders announced that they would begin campaigning on 10 September. Government officials, foreign leaders and representatives of both EU and NATO have held public speeches on the benefits of integration.

Although there is not currently any active “Against” campaign, 28 civic associations and one political party, not currently represented in the parliament, are advocating for a boycott in order to prevent the referendum from reaching the required 50 per cent turnout threshold. The boycott campaign has been active mostly on social media, often using inflammatory language.

ODIHR ROM interlocutors informed the ROM that the atmosphere in which journalists operate has improved in recent years; however, no structural media reforms have been implemented so far. The legal framework regulating the conduct of the media during the referendum lacks clarity. On 3 September the ODIHR ROM commenced qualitative and quantitative media monitoring of 10 television channels.

II. INTRODUCTION

Following an invitation from the Ministry of Foreign Affairs, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established a Referendum Observation Mission (ROM) on 27 August to observe the 30 September referendum. The ODIHR ROM, headed by Ambassador Jan Petersen, consists of a core team of 13 experts based in Skopje and 20 long-term observers deployed throughout the country. Mission members are drawn from 18 participating States. Participating States have been requested to provide 250 short-term observers to observe early voting on 29 September and opening, voting, counting and tabulation on 30 September.

III. BACKGROUND AND POLITICAL CONTEXT

Following the parliamentary elections in December 2016, the incumbent Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO-DPMNE), won the largest number of seats but was unable to secure sufficient support to form a government, after the Democratic Union for Integration (DUI) and other ethnic Albanian parties aligned with the Social Democratic Union of Macedonia (SDSM). The president gave the mandate to form the government to the SDSM and DUI only at the end of a period of intense political turmoil. The new ruling coalition consolidated its position when it won control of the vast majority of municipalities in the 2017 local elections.¹

The country's accession to the European Union (EU) and North Atlantic Treaty Organization (NATO) has historically been blocked as a result of a lack of consensus among member states of these organizations due to a dispute regarding the name of the country. On 17 June 2018, following a year of intense negotiations, the country signed a bilateral agreement with Greece which, if approved, would change its constitutional name to the "Republic of North Macedonia".² The decision to hold a consultative referendum on approval of the agreement passed parliament on 30 July, with 68 votes for and none against.³ Representatives of the opposition were not present for the vote. In order for the referendum to be considered valid, a majority of registered voters must participate.

Implementation of the agreement is considered by many to be a precondition for EU and NATO integration, and many ODIHR ROM interlocutors have suggested that the agreement will also impact broader regional political stability.⁴ Representatives of both the EU and NATO, including their leadership, plan to visit the country in the coming weeks to stress the benefits of integration to citizens. Following the referendum, constitutional amendments would require a two-thirds majority vote in parliament. Once the amendments are enacted, the agreement would then require adoption by the parliament of Greece.

¹ Out of 81 municipalities, SDSM won mayor seats in 57, VMRO-DPMNE in five, DUI in ten, Alliance for Albanians in three, Movement BESA in one, Democratic Party of Albanians in one, and Democratic Party of Turks in Macedonia in one.

² See the [complete text of the bilateral agreement](#).

³ Several complaints were filed to the Constitutional Court, one of which is to review the constitutionality of the decision to hold a consultative referendum. The Constitutional Court has no legal deadlines to issue its judgments, but indicated that they would try to decide before 30 September. The Court has declined to provide the ROM with copies of the complaints.

⁴ At its summit in July 2018, NATO extended an official invitation to the country to begin accession negotiations, [on the condition that the agreement with Greece is implemented](#). The EU has similarly indicated that the [beginning of accession talks is related to the resolution of the name dispute](#).

IV. LEGAL FRAMEWORK

The referendum is primarily regulated by the 1991 Constitution (last amended in 2011), the 2005 Law on Referenda and Citizen Initiatives (Referendum Law), and the 2006 Electoral Code (last amended in 2018).⁵ Although the Referendum Law sets out the basic rules for the referendum process, it lacks detail on certain substantive issues.⁶ The Referendum Law stipulates that provisions of the Electoral Code apply to the referendum if not otherwise specified. However, while the Electoral Code provisions on election administration and voter registration will apply, the SEC informed the ODIHR ROM that the campaign rules and campaign finance regulations are not applicable to the referendum.⁷

The SEC has adopted regulations to clarify certain aspects of the legal framework, including the definition and timeline of the referendum campaign, as well as procedures for out-of-country voting, dispute resolution, and voting day procedures.⁸

The Referendum Law requires that the issue being decided be “precisely formulated and unambiguous, so that the citizen may answer ‘for’ or ‘against’”. The question that will appear on the ballot reads, “Are you in favor of EU and NATO membership by accepting the agreement between the Republic of Macedonia and the Republic of Greece?” Some ODIHR ROM interlocutors expressed concerns over the compound nature of the question, the focus on both EU and NATO integration, and the lack of explicit reference to the change of the country’s constitutional name.

V. REFERENDUM ADMINISTRATION

The referendum will be administered by a three-level administration, comprising the State Election Commission (SEC), 80 Municipal Election Commissions (MECs), the City of Skopje Election Commission, and some 3,480 Election Boards (EBs). In addition, 33 EBs will be established in Diplomatic–Consular Offices (DCOs) for out-of-country voting, and one in the SEC to administer the voting of EB members deployed to these DCOs.

The July 2018 amendments to the Electoral Code introduced a temporary SEC with a six-month mandate that comprises seven members, three of whom are women.⁹ All members were nominated by parliamentary parties, four from the ruling coalition, including the vice president, and three from the opposition, including the president.¹⁰ In addition, the Electoral Code foresees the appointment of a deputy secretary general; however, this position has not yet been defined nor filled.

⁵ Additional legislation includes the Criminal Code, the Law on Public Assemblies, the Law on Prevention of Corruption, the Law on Administrative Disputes, the Law on Political Party Finance, the Law on Media, and the Law on Audio and Audiovisual Media.

⁶ For example, the legal provisions contain the deadline for campaigning, the entitlement of the authorized proposer to campaign on its own expense, and citizens’ right to submit complaints, but is silent on salient issues such as definition of the referendum campaign, the right and rules for other individuals and entities to campaign, and the possibility of the authorized proposer to file complaints. These issues are addressed in different SEC regulations.

⁷ The SEC explained to the ODIHR ROM that the notion of “electoral campaign” in the Electoral Code refers to candidates and political parties and therefore does not apply to referendum campaign activities.

⁸ The SEC’s Rulebook on Preparation, Organization and Administration of Referendum at State Level (rulebook) acknowledges that the Referendum Law is not harmonized with the Electoral Code.

⁹ Since the 2015 Przino Agreement and subsequent modification of the Electoral Code, the SEC comprised six politically appointed members and three professional members, until their resignations in December 2017 amidst a corruption scandal.

¹⁰ Three of the new members have prior experience with the electoral administration, including as a former SEC president, as a Head of the Voter Register, and as a SEC staff member and MEC member.

The SEC has held regular public meetings as well as additional working meetings that are not open to observers or the public. The public meetings have been conducted in an efficient and collegial manner. To date the SEC has adopted a rulebook on the administration of the referendum, has announced official sessions, and adopted minutes of its previous sessions in a timely manner. The SEC has uploaded most of its decisions and key information on its website.¹¹

MECs are composed of five members (and five deputies) who serve a five-year term and are randomly selected from among public employees. MECs oversee the administration of the referendum in each municipality, appoint and train EBs, and manage other technical preparations. EBs comprise three members (and three deputies) who are randomly selected from among public employees and are responsible for management of the polling stations and conducting voting and counting procedures.¹² For the referendum, EBs will not include two temporary members nominated by parties, as provided for in the Electoral Code for ordinary elections.

The SEC is mandated to train members of the lower election management bodies. Due to a delay in finalizing the content of the training manual, the SEC will not adhere to its original training schedule. The SEC will train the MECs, which will, in turn, conduct training for the EBs. The SEC will conduct voter education related to referendum day procedures and how to locate their polling station.

VI. VOTER REGISTRATION

Under the Constitution, citizens at least 18 years of age have the right to vote, except for those declared legally incapacitated by a court decision. According to the Electoral Code, only persons with a registered address and valid identification card or biometric passport are included in the voter register.

Voter registration is passive for in-country voting. Voter lists are compiled by the SEC based on data from various civil and population registers. Public scrutiny of the lists took place from 9 to 23 August, when voters could check their data online and apply to the SEC regional offices with requests for addition, deletion or correction of their personal information.¹³ The SEC closed the voter list on 7 September and the final list includes 1,806,336 eligible voters.¹⁴ The Ministry of Foreign Affairs informed the SEC that 2,694 voters registered for out-of-country voting.¹⁵

Acting on a prior ODIHR recommendation, the authorities launched an operation to renew expired documents of persons confined in penitentiaries. This initiative resulted in the issuance of 260 new ID cards. In addition, the Ministry of Interior has pledged to expedite the renewal processes for all voters with expired documents and will keep their offices open over the weekend of the referendum to allow voters to collect new IDs.

Most ODIHR ROM interlocutors acknowledge outstanding issues related to the accuracy of the voter lists; however, most stakeholders have not raised the accuracy of the voter list as a major concern for the referendum, despite the relevance of the 50 per cent turnout threshold.

¹¹ According to Article 77 of the SEC's internal rules of proceedings, all acts adopted by the Commission should be published on its website. From the first seven SEC sessions, 4 decisions out of 13 have not yet been published, mostly on administrative matters.

¹² MEC and EB members were appointed for five- and four-year terms, respectively, in 2017.

¹³ A total of 5,641 voters came in person to check their personal information, which resulted in 94 new inclusions, 295 deletions and 74 corrections.

¹⁴ The final voter list for the 2017 municipal elections included 1,814,644 registered voters.

¹⁵ Voting will take place in 33 of 52 DCOs, as 5 received no request and 14 received fewer than 10 requests.

VII. CAMPAIGN ENVIRONMENT AND CAMPAIGN FINANCE

The SEC announced that the official campaign period began on 30 July, the day of the announcement of the date for the referendum, but all stakeholders announced that they would begin campaigning on 10 September.¹⁶ The “For” campaign has so far focused primarily on EU and NATO integration, and has featured a high degree of international involvement, with foreign leaders and representatives of both EU and NATO visiting Skopje to promote the bilateral agreement and encourage turnout.¹⁷

The parliament, as the official proposer of the referendum, will lead the “For” campaign. The government has created a website dedicated to the referendum campaign with the message, “*Go out for a European Macedonia*”,¹⁸ and the prime minister and cabinet members have conducted informational meetings with voters across the country.¹⁹ In addition, SDSM has joined together with over 100 mostly civil society organizations to advocate for a “For” vote. Several of the organizations are conducting separate campaigns focusing on specific topics related to their individual mandates. While VMRO-DPMNE has declared its opposition to the name agreement, describing it as a “capitulation”, the party leaders emphasize their continued support for EU and NATO membership. The party announced on 11 September that voters should “vote their conscience”.²⁰

Although there is so far no active “Against” campaign, 28 civic associations and one political party, not currently represented in the parliament, are advocating for a boycott to prevent the referendum from reaching the required 50 per cent turnout threshold. The boycott campaign has been active mostly on social media and has often featured inflammatory language.

The government has allocated MKD 80 million (approx. EUR 1.3 million) to the parliament to spend on media advertisements during the referendum campaign. A co-ordination committee headed by the speaker, which includes all deputy speakers and leaders of parliamentary groups, will be responsible for making direct payments to TV stations for airtime. VMRO-DPMNE criticized this decision and rejected the government funding, stating that it was not in the interest of the citizens to use public financing.²¹ The 71 members who declared they would campaign for the “For” position can submit advertisements or propose individuals to join them in advocating for the referendum using the purchased time.

In addition, parties and other participants may self-finance their campaigns through private donations. However, the SEC rulebook requires only the parliament as the official proposer to file a campaign finance report, within 30 days of the referendum. Several stakeholders expressed concerns to the ODIHR ROM about the lack of transparency resulting from the limited regulation of campaign financing. Some stakeholders raised concerns to the ODIHR ROM about possible pressure on civil servants to vote and abuse of state resources in the government’s campaign.

¹⁶ This date coincides with the beginning of the parliamentary recess and also allows for 20 days of campaigning, as per Article 69-a(2) of the Electoral Code.

¹⁷ The Delegation of the European Union is [conducting outreach activities](#) under the slogan “*Imagine a future together*”. The NATO Secretary General said publicly, while [visiting the country on 6 September](#), “I know that some in the country think they can say ‘no’ on the referendum, but ‘yes’ to NATO and EU membership. There is no such alternative. The option that the Treaty can be rejected, while joining NATO, is an illusion”.

¹⁸ The government [referendum campaign website](#) includes a schedule of public events.

¹⁹ These meetings have been held in Berovo, Gostivar, Kriva Palanka, Kruševo, Kumanovo, Ohrid, Skopje, Strumica, and Tetovo.

²⁰ See an [English language summary](#) of the statement, which is [available in full](#) on the party’s Facebook page.

²¹ The 40 percent of funding allocated to the opposition will be returned to the government.

VIII. MEDIA

The media environment consists of numerous broadcasters that function, often with financial difficulties, in a relatively small market. Some broadcasters informed the ODIHR ROM that the atmosphere in which the media and journalists operate has somewhat improved in recent years, though media remain susceptible to political influence. The government has drafted amendments to the legal framework governing media which seek to improve the media environment, but no structural reforms have yet been implemented. Television remains by far the most important source of political information, followed by Internet sources.

The legal framework regulating the conduct of the media during the referendum campaign lacks clarity due to conflicting guidance from the relevant agencies.²² The SEC rulebook, issued on 1 August, distinguishes between the ‘authorised proposer’ (parliament) and all other entities, and mandates that special space for the campaign be provided by the media to the parliament. However, subsequent guidelines adopted by the Agency for Audio and Audiovisual Media Services (AVMS) foresee equal access to media for anyone engaged in campaigning for the referendum. These AVMS guidelines stipulate that radio and television stations may dedicate a total of 9 minutes per hour for advertisements concerning the referendum, in addition to the maximum 12 minutes foreseen for regular commercial ads.²³

Several TV channels publicly expressed dissatisfaction with the AVMS guidelines and have requested that they be allowed to sell campaign advertisements outside of the allocated 9-minute slots to maximise their commercial opportunities. The Association of Journalists of Macedonia also raised concern that the payment of political advertisements in the media with public funds will reinforce the influence of political parties on the media and their reporting on political processes.

On 3 September the ODIHR ROM commenced qualitative and quantitative media monitoring of 10 television channels for their coverage of referendum process.²⁴

IX. COMPLAINTS AND APPEALS

Citizens and authorized representatives of the proposer are allowed to file complaints to the SEC within 24 hours related to irregularities in voting day procedures and tabulation and to appeal SEC decisions within 48 hours to the Supreme Court.²⁵

The SEC informed the ODIHR ROM that an electronic system for case and complaint management, as required by the Electoral Code, will be used for the management of referendum complaints. So far the SEC has not received any complaints.

The SEC handles complaints relating to the composition of electoral bodies and voter registration. The State Audit Office (SAO) and the State Commission for Preventing Corruption (SCPC) are

²² Recent amendments to the Electoral Code (passed on 25 July) introduce the SEC competence to regulate and introduce sanctions on electronic media, which has raised concerns among civil society; however, these amendments will not be in force until after the referendum.

²³ These 9 minutes are divided into two equal shares – 4 minutes and 30 seconds each – one for entities campaigning in favour of the question, and the other for entities campaigning against the question or advocating for its boycott.

²⁴ Monitoring focuses on prime time (18:00 - 24:00) programmes aired by public TV channels *MRT1*, *MRT2*, *Sobraniski Kanal* and private TV channels *Alfa*, *Alsat-M*, *Kanal 5*, *Sitel*, *Telma*, *TV 21* and *TV 24 Vesti*.

²⁵ This appellate route is different from the Electoral Code, under which the Administrative Court is the highest instance of election dispute resolution.

responsible for complaints related to campaign finance and misuse of administrative resources, respectively.²⁶ Decisions of these agencies on these matters may be appealed to the Administrative Court. Complaints on campaign violations that are considered criminal or civil matters shall be filed with the basic courts. MECs have no jurisdiction over complaints for the referendum.

Under the Electoral Code, appeals against SEC decisions related to voter registration are heard by the Administrative Court, however, according to the SEC regulation this competence is shifted to the Supreme Court.²⁷

X. CITIZEN AND INTERNATIONAL OBSERVERS

The Electoral Code and the SEC regulations provide for observation of the referendum by international and citizen observers. Only domestic organizations that were established at least one year prior to the referendum and whose statute includes the principle of human rights protection are allowed to accredit observers.²⁸ Under the legal framework, only the “proposer” of the referendum, in this case the parliament, is allowed to appoint one special representative to observe the work of the referendum administration in each commission and polling station.

Two large citizen observer organizations have already started their observation. MOST has long-term observers present in each municipality, observing the administrative preparations and the campaign. On referendum day, MOST will have 1,500 observers, including some mobile teams, and will run a Parallel Vote Tabulation exercise with a sample of 33 per cent of the total number of polling stations. CIVIL-Center for Freedom will observe the referendum with 250 to 300 accredited observers.

XI. ODIHR ROM ACTIVITIES

The ODIHR ROM commenced its work in Skopje on 27 August. The Head of Mission met with the President, Prime Minister, Speaker of Parliament, Minister of Foreign Affairs, representatives of political parties, the SEC, the Constitutional Court, media, civil society organizations, the OSCE Mission to Skopje, and the resident international community. The ROM established contacts with electoral stakeholders at all levels. The Parliamentary Assembly of Council of Europe (PACE) intends to deploy an observer delegation for referendum day observation.

***The English version of this report is the only official document.
Unofficial translations are available in Macedonian and Albanian.***

²⁶ The SCPC is currently not functioning as all of the members have resigned and have not yet been replaced.

²⁷ The SEC regulation does not specify the legal ground for this change of competence. The Referendum Law does not provide for jurisdiction of the Supreme Court on voter registration complaints.

²⁸ On 24 August 2018, the SEC adopted a specific Code of Conduct for observation of the referendum.