



Office for Democratic Institutions and Human Rights

FORMER YUGOSLAV REPUBLIC OF MACEDONIA

MUNICIPAL ELECTIONS
13 and 27 March, and 10 April 2005

OSCE/ODIHR Election Observation Mission Final Report



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TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY.....	1
II.	INTRODUCTION AND ACKNOWLEDGMENTS.....	2
III.	POLITICAL BACKGROUND.....	3
IV.	LEGAL FRAMEWORK.....	4
V.	ELECTION ADMINISTRATION.....	6
A.	ELECTION COMMISSIONS	6
B.	PROCEDURES AND TECHNICAL PREPARATIONS	7
VI.	VOTER REGISTRATION	9
VII.	ELECTORAL CAMPAIGN.....	9
A.	FIRST ROUND, 13 MARCH.....	9
B.	SECOND ROUND, 27 MARCH.....	10
C.	DELAYED SECOND ROUND, 10 APRIL.....	11
VIII.	MEDIA	12
A.	LEGAL FRAMEWORK	12
B.	MEDIA LANDSCAPE	13
C.	MEDIA MONITORING.....	13
IX.	COMPLAINTS AND APPEALS	15
A.	PRE-ELECTION COMPLAINTS AND APPEALS.....	15
B.	COMPLAINTS AND APPEALS AFTER THE FIRST ROUND	15
C.	COMPLAINTS AND APPEALS AFTER THE SECOND ROUND	16
X.	PARTICIPATION OF NATIONAL MINORITIES.....	17
XI.	PARTICIPATION OF WOMEN.....	18
XII.	DOMESTIC OBSERVERS.....	19
XIII.	ELECTION DAY	19
A.	FIRST ROUND, 13 MARCH.....	19
B.	SECOND ROUND, 27 MARCH.....	21
C.	DELAYED SECOND ROUND, 10 APRIL.....	22
XIV.	TABULATION AND ANNOUNCEMENT OF PRELIMINARY RESULTS.....	22
XV.	RECOMMENDATIONS.....	23
A.	LEGAL FRAMEWORK	23
B.	ELECTION ADMINISTRATION.....	24
C.	COMPLAINTS AND APPEALS.....	25
D.	PARTICIPATION OF WOMEN AND NATIONAL MINORITIES	26
E.	MEDIA.....	26
ANNEX 1.	RESULTS FOR MUNICIPAL COUNCILS AND MAYORS	27
ABOUT THE OSCE/ODIHR	28	

FORMER YUGOSLAV REPUBLIC OF MACEDONIA

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I. EXECUTIVE SUMMARY

In response to an invitation from the Ministry of Foreign Affairs of the Former Yugoslav Republic of Macedonia to observe the 13 March 2005 municipal elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) in early February 2005. The OSCE/ODIHR EOM assessed the municipal elections in line with the 1990 OSCE Copenhagen Document and other international standards for democratic elections. To observe the election day and subsequent second rounds and re-runs on 27 March and 10 April, the OSCE/ODIHR EOM joined efforts with the Congress of Local and Regional Authorities of the Council of Europe to form the International Election Observation Mission (IEOM).

While the 2005 municipal elections in the Former Yugoslav Republic of Macedonia were conducted in accordance with a number of OSCE commitments, they failed to meet key commitments, in particular those guaranteeing universal and equal suffrage and the secrecy of the ballot. Despite the fact that election days took place in a broadly calm environment and voting was conducted in a generally orderly manner in much of the country, serious irregularities were observed in a significant number of municipalities, which affected the integrity of the process.

Overall, candidates and political parties from across the political spectrum were registered on the ballot without undue impediments. They were able to present their views, and the media generally provided diverse information to voters. This resulted in a competitive election and most voters were able to make informed choices. However, serious violations of the law were observed on election days in a significant number of municipalities in the western and northwestern parts of the country, including Skopje, and the authorities failed to take adequate steps to safeguard the rule of law between rounds.

Prompt and vigorous action by the authorities is now needed to curtail any toleration for election-related offenses, and fully restore the rule of law and confidence in the election process. Until the serious deficiencies identified in this report are remedied, and a culture of impunity reversed, the integrity of future elections in the country will remain at risk.

The campaign atmosphere was generally calm, with a few isolated incidents. Allegations of intimidation, pressure and plans for election day fraud were indicative of a high level of mistrust among election stakeholders. Campaign activities subsided after the first round, when parties directed their attention at the political controversies and accusations of election irregularities. An intense dispute started in the immediate aftermath of the first round mayoral race in Skopje, when delayed official results differed from an unofficial parallel vote tabulation. The main ethnic

¹ This report is available also in Macedonian, but the English version remains the only official one.

Albanian opposition coalition called a boycott of the second round after its demand for re-runs was not met.

The electronic and print media generally provided voters with sufficient and diverse information. However, media monitoring prior to the first round indicated a degree of bias in favour of government interests on state channels *MTV1* and *MTV3*, with an improvement of *MTV1* coverage of the campaign prior to the second round.

The Law on Local Elections, amended in 2004, remained unclear in important respects. In particular, provisions regarding responsibilities of election commissions are vague, while provisions for appeals allow for restrictive and inconsistent treatment, at times leaving credible complaints without legal redress. Furthermore, rights of domestic non-partisan observers need to be enhanced. However, the extent to which possible improvements of the law can have a positive impact on the election process will, first and foremost, be determined by the political will exhibited by authorities and other election stakeholders responsible for implementing and upholding the law in an effective and non-partisan manner.

The election commissions were formed on a parity principle, by the two main ruling and the two main opposition parliamentary parties. Thus, major political parties were granted an exceptional degree of authority, but a commensurate display of responsible election administration by political party appointees was not always evident. The selection of judges to serve on election commissions based on political interests infringed upon the independence of the judges. The State Election Commission (SEC) operated in a generally collegial, efficient and consensual manner.

The appeals process failed to correct a number of egregious examples of electoral misconduct. Municipal Election Commissions (MECs), the first avenue for lodging complaints, in a number of instances failed to protect the rule of law. While the Supreme Court delivered judgements on election appeals within legal deadlines, a number of these appeared to be inconsistent. There was, overall, a reluctance to examine circumstances and the merits of complaints. Appeals resulted in partial re-runs on 27 March, 10 and 24 April, and 8 May, and led to a protracted process.

During all election days, voting took place in a generally calm environment and was conducted in an orderly manner in much of the country. Observed irregularities included cases of ballot box stuffing, stolen ballot papers, open, group and proxy voting, voters not properly checked for ink, voters not signing voter lists, tension inside and outside polling stations, and intimidation. In particular localities, women were effectively disenfranchised as a result of electoral irregularities.

The OSCE/ODIHR stands ready to co-operate with the authorities to address concerns raised in this report and follow-up on the recommendations offered below.

II. INTRODUCTION AND ACKNOWLEDGMENTS

The OSCE/ODIHR Election Observation Mission (EOM) was established in Skopje on 1 February and was headed by Mr. Julian Peel Yates (United Kingdom). It included a core team of

11 international experts and comprised 20 Long-term Observers (LTOs) from 14 OSCE participating States, who were deployed in Skopje and eight regional centres. Following the second round held on 27 March, and in anticipation of the delayed second round voting on the 10 April, the OSCE/ODIHR EOM was reduced and six LTOs remained in the country, deployed in three regional centres, including Skopje, Kumanovo and Tetovo.

The OSCE/ODIHR joined efforts with the Congress of Local and Regional Authorities of the Council of Europe to form the International Election Observation Mission (IEOM) for the election day observation during the various rounds. The Congress sent delegations to observe each round of voting, led by Mr. Keith Whitmore (United Kingdom).

On 13 March, the IEOM deployed some 360 observers from 39 OSCE participating States, including the 8-member delegation from the Congress of Local and Regional Authorities of the Council of Europe. On 13 March observers visited more than 1,500 polling stations of approximately 3,000 throughout the country.

On 27 March, the IEOM deployed some 260 observers from 31 OSCE participating States. Representatives of embassies of OSCE participating States in Skopje and of international organizations also contributed short-term observers to the IEOM. On 27 March, observers visited more than 1,300 polling stations.

Some 80 observers representing 24 OSCE participating States were contributed by respective embassies and international organizations to observe the delayed second round on 10 April.

The OSCE/ODIHR is grateful to the Ministry of Foreign Affairs, the State Election Commission, and other national and local authorities for their assistance and co-operation during the course of the observation. The OSCE/ODIHR also wishes to express appreciation to the OSCE Spillover Monitor Mission to Skopje and the Council of Europe's Office in Skopje, as well as other international organizations and embassies accredited in Skopje, for their support throughout the duration of the mission.

III. POLITICAL BACKGROUND

The municipal elections, originally scheduled for October 2004, were postponed due to a referendum which challenged the Law on Territorial Organization of August 2004. That law, and the elections themselves, are central to the process of decentralization, itself a crucial element in the implementation of the Ohrid Framework Agreement (OFA)². The law reduced the number of municipalities from 123 to 84, and the City of Skopje, and proved highly controversial in a number of respects. These included the extension of the City of Skopje boundaries to increase the city's ethnic Albanian population above 20 per cent and make the city officially bilingual.

The postponement of the municipal elections appeared to seriously jeopardize the implementation of the OFA. Since the 7 November 2004 referendum failed due to a low turnout of 27 per cent, well below the legally required 50 per cent, the municipal elections were re-scheduled for 13 March 2005.

² The Ohrid Framework Agreement was signed by the four main political parties in Parliament in 2001 to reestablish stability after the armed conflict that had taken place earlier that year.

The 2005 municipal elections had a particular significance due to the decentralization in local administration. Mayors will in future enjoy much greater powers in areas such as town planning, education and welfare. Politics prior to the elections remained divided primarily along ethnic community lines, and the contest was among parties competing for votes within their own communities.

The ruling coalition, “For Macedonia Together”, led by the Social Democratic Union of Macedonia (SDSM), faced a divided opposition. This followed a split in the Internal Macedonian Revolutionary Organization - Democratic Party for Macedonian National Unity (VMRO-DPMNE), in late 2004. A “United Opposition” bloc was formed by VMRO-DPMNE and several smaller parties to contest the municipal elections.

The breakaway VMRO – People’s Party (VMRO-NP), which was unofficially led by former VMRO-DPMNE leader and prime minister Ljubco Georgievski, had attracted more members of parliament than had VMRO-DPMNE. The municipal elections represented the first trial of strength between the two parties before the voters.

The SDSM’s ethnic Albanian coalition partner, the Democratic Union for Integration (DUI), was challenged by the “Coalition for Wellbeing”, made up of the Democratic Party of Albanians (DPA) and the Party of Democratic Prosperity (PDP). As a new party, formed only after the 2001 conflict, these elections were the first opportunity for the DUI to establish itself at the municipal level, having defeated the DPA in the 2002 parliamentary elections.

The races for Skopje and Tetovo were of particular importance as tests of strength between the largest ethnic Macedonian and ethnic Albanian parties, respectively. However, widely differing local conditions meant that there were a variety of different local political configurations among the contestants. There were a large number of independent candidates, who in a number of cases were supported by opposition parties. In the election for mayor of Skopje, the independent candidate Trifun Kostovski, was supported by most ethnic Macedonian opposition parties, including VMRO-DPMNE and VMRO-NP.

IV. LEGAL FRAMEWORK

The legal framework of the 2005 municipal elections included the 1991 Constitution, last amended after the adoption of OFA, the 2004 Law on Local Elections³ (the election law), the Law on Voter Lists, the regulations of the SEC, as well as other legislation.

Municipal councilors are elected by a proportional representation system with closed lists, without a turnout threshold, and allocation of seats was accomplished using the D’Hondt formula.⁴ A mayor is elected in the first round, if a candidate wins more than 50 per cent of the votes cast, provided that at least one third of the voters registered on the voter lists in that municipality turned out to vote. If there is no first round winner, in two weeks, a second round contest takes place between the two candidates with the highest numbers of votes obtained during the first round without a turnout threshold.

³ Official Gazette, N 45/2000. References to specific articles refer to the election law.

⁴ Known also as the “method of largest quotients”.

While the election law marks improvement, numerous aspects remain vague, despite previous OSCE/ODIHR recommendations. A number of provisions of the election law were harmonized with the legislation for parliamentary elections. These included the mandatory use of minority official languages in municipalities where at least 20 per cent of citizens speak an official language other than Macedonian. The law also requires that at least 30 per cent of the positions of the upper and lower parts of candidate lists for councilors should be filled by each gender.

The election law establishes a three-tiered system of election administration: the State Election Commission (SEC); 84 Municipal Election Commissions (MECs), one for each of the municipalities envisaged in the new Law on Territorial Organization of 2004; and 2,976 Electoral Boards (EBs), one for each polling station. An additional Election Commission (here referred to also as MEC) is formed for the conduct of the elections of the mayor and council of the City of Skopje, considered as an additional unit of self-government consisting of ten municipalities.

Whilst the election law fails to provide explicitly that the decisions and acts of a superior election commission are obligatory for the lower level commissions, it provides that the SEC should “supervise the legality and conduct of the elections”, Article 16. There is no specific provision to allow for SEC instructions to be challenged in the Supreme Court.

According to the election law, the SEC does not have a role in the complaints and appeals process.⁵ The MECs are therefore the first avenue for lodging complaints and appeals against irregularities or violations. Appeals against MEC decisions are filed to the competent Primary Court and subsequently the Court of Appeals.

Appeals against MEC decisions can be lodged directly with the Court of Appeals for cases regarding candidate registration, or to the Supreme Court, for decisions on annulling the vote at polling stations. However, the legal provision related to annulment of voting is narrow and it is unclear whether the conditions for annulment are exhaustive. Complaints for violations of the rights of candidates are made to the Primary Court and finally to the Court of Appeal.

The election law does not provide comprehensive incompatibility conditions for the appointment of the presidents of the MECs and the EBs. It only bars registered candidates and persons without registered permanent residence in the relevant municipality from the position of EB president. Membership in MECs and EBs is not explicitly prohibited for registered candidates.

The legal responsibilities of the election commissions are, at times, unclear and permit MECs to interpret them in a restrictive manner. The law contains shortcomings which permitted some questionable MEC decisions to remain uncorrected before election day, particularly with regard to candidate lists.

The election law fails to provide for:

- a transparent and coherent framework for campaign funding and its enforcement;

⁵ The SEC has an appellate function under the Law on Voters Lists, Section VI.

- a prohibition of the presence of unauthorized persons in polling stations during the voting process⁶; and
- rights of observers to inspect documents, attend meetings, monitor election activities at all times and obtain copies of protocols at all levels.

Article 65 requires that only recorded comments in polling station forms can be subject to evaluation in appeal proceedings, and invites restrictive implementation. This sustains a somewhat artificial appeals process, whereby credible complaints about serious violations remain unexposed, regardless of requirements contained in Articles 17.1, 17.13 and 17.15.

V. ELECTION ADMINISTRATION

A. ELECTION COMMISSIONS

The election commissions are formed on a parity principle, by the two main ruling and the two main opposition parliamentary parties.

The SEC remained unchanged after the 2004 referendum. It comprises a President appointed by the President of the Republic, and eight members appointed by the Parliament. The members include four Supreme Court judges, each agreed with one of the four leading political parties, and four members nominated by the same parties. The MECs are appointed by the SEC and have as President a local Primary Court judge and four members. The EBs are appointed by the relevant MECs and consist of a President and four members. Members of MECs and EBs are nominated by political parties. The majority of the MECs were newly appointed, due to the changes in the number of municipalities. Each member of an election commission, including the president, has a deputy appointed in line with the same rules, to replace him or her in case of absence.

The law grants exceptional privileges to the four leading political parties in the appointment of the election administration. Such a framework can lead to sound electoral practice only if there is a concomitant determination by those parties to ensure that their representatives discharge their duties scrupulously, impartially and in accordance with the law.

Whilst the election law provides for the members of electoral commissions to “perform their duties impartially, conscientiously and responsibly”, it was apparent that membership in the election commissions was often interpreted as an opportunity to protect party interests rather than respecting the obligation to secure a correct and lawful election. This was reflected especially in the decision making process, where party interests always prevailed, except on mere administrative and logistical issues.

The SEC sought the views of political parties during the process of appointing judges to serve as MEC presidents. While a high level of consensus was achieved, and the appointment of the MECs was completed within the legal deadline, previous OSCE/ODIHR concerns relating to the involvement of political interests in the process of selecting judges to serve on election commissions were not addressed.

⁶ This omission is frequently exploited. Article 56 refers only to the close of voting.

While, in general, the SEC operated in an efficient, collegial and consensual manner, it tended to define its role and mandate restrictively, and failed to fully establish clear lines of accountability. The failure of the authorities to establish a permanent SEC Secretariat, as required by law⁷, and the lack of staff, appropriate office space, and equipment, seriously impeded the efficiency of the SEC performance. The large amount of routine work represented an excessive burden.⁸

The SEC did not publish its decisions regularly, despite previous OSCE/ODIHR recommendations. Nevertheless, the timely preparation of the minutes of SEC meetings was reestablished after the first round. Transparency was considerably enhanced when the SEC started to publish, on its web page, some of its instructions and other useful information about the election process.

The SEC has an obligation to train the MECs. The delayed approval of forms and other technical problems restricted the time for such training, which was reduced to one session. Only the Presidents of the MECs and their deputies attended. Another training session of the same format was organized between the first and the second round for the MECs where voting on 27 March was expected.

The MECs are responsible for the lawful conduct of the elections in their municipality. In addition to a variety of administrative and logistical tasks, MECs are responsible for candidate registration, for the appointment of the EBs for the polling stations within their jurisdiction, and the tabulation and announcement of the results. They also have a central role in resolving complaints concerning irregularities during the process of voting, counting and determination of the results.

The MECs appointed the EBs within the legal deadline. EBs were responsible for the free and peaceful conduct of the voting and counting in the polling stations on election day, and for the mobile voting for homebound voters the day before. The complexity of the local elections could have created serious difficulties for the EBs, especially in polling stations with 1,000 or more registered voters. The SEC addressed this issue on time, deciding to allow the EBs, if necessary, to task the designated deputies with regular members' duties, except for voting on decisions and signing official documents.

The MECs are responsible for the training of EBs. They organized training sessions with international support in 34 regional centres in Macedonian and Albanian languages. Attendance at the training was not compulsory or remunerated, and the overall effectiveness of the training was thereby diminished. No additional training for EBs took place between rounds.

B. PROCEDURES AND TECHNICAL PREPARATIONS

Throughout the country, technical preparations generally proceeded in a smooth and efficient manner. A total of 379 mayoral candidates and 445 candidate lists for councilors were registered on time. The distribution of election materials and arrangements for election day were carried out in a timely manner prior to all rounds.

⁷ The parliamentary election law.

⁸ For example, all polling station voter lists have to be signed by a SEC member.

The SEC appeared to work efficiently upon the adoption of instructions and clarifications of the legal provisions, respecting in general the legal deadlines. However, no instruction was prepared for the conduct of the tabulation process by the MECs, which is not regulated by the law. Thus, a lack of uniformity in the procedures was observed, mostly in the first two rounds. The organization of the computerized processing of the results also differed from one MEC to another, often failing adequately to ensure transparency. The SEC once again failed to provide for EB result protocols with a tabular format.⁹ Ballot papers, result protocols, and other electoral documents and public announcements were printed in all official languages in those municipalities where at least 20 per cent of citizens speak an official language other than Macedonian, in accordance with the law.

The SEC adopted a “Code of rules and procedures for observation of the 2005 local elections,” which failed to grant observers rights to fully observe the pre-election process and to receive certified copies of the result protocols on election day. However, the SEC promptly reacted to the attempts of some MECs to decide on complaints in closed sessions excluding observers, by issuing an instruction entitling both domestic and international observers to attend such sessions. Regrettably, the same right was refused to candidate representatives.

In many cases, the SEC took a narrow view of its legal powers and obligations¹⁰. It remained reluctant to remove MEC Chairpersons¹¹ who performed poorly during the first and the second rounds. This reluctance reportedly was due to the concern not to undermine the fragile balance of the political party interests in the appointment of judges as MEC presidents, even though these appointments should be non-partisan.

However, before the second round on 27 March, the SEC recommended to the MECs to replace EBs where the voting was annulled in the first round. This recommendation was followed in most cases. Many EBs, where the second round results were invalidated, were also replaced before the delayed second round held on 10 April.

After the first round, and as a result of the lengthy process of complaints and appeals, complete information about which contests would be run in the second round was only available on the afternoon of 22 March. This left little time for the election administration to prepare for the second round. Nevertheless, the SEC met the legal deadlines for the printing of ballot papers and the distribution of election materials to the MECs. However, similar time constraints after the second round resulted in a printing mistake in the Albanian language version of the ballot paper used for the voting on 10 April in Kumanovo, which could have caused confusion among voters.

⁹ The format of the EB results protocol comprises long texts, with relevant figures inserted in the text. In order to facilitate the vote count, the processing of EB results protocols, and enhance transparency and accountability, it is advisable to include all numeric data in a table, as part of the protocol.

¹⁰ For example, following the first round, the MEC Tetovo President publicly complained that he was seriously threatened by political parties in relation to the appeal process. At the same time, the DPA decided to replace its member and deputy on the MEC Tetovo, allegedly forcing resignations. The replacements were individuals currently on trial for past electoral violations and who had been investigated in the same criminal proceedings by the MEC President. The SEC approved these nominations, but received a complaint from the MEC Tetovo that they were not appropriate and that they were obstructing the work of the MEC. No further action was taken by the SEC on this case. Eventually, DPA recalled the controversial MEC member and his deputy, but only after the second round.

¹¹ The election law is silent in regard to replacement of members of election commissions by the appointing body. Nevertheless, the SEC acted on one occasion, see Section XI of this report.

Early voting for soldiers, persons in custody and internally displaced persons (IDPs) was conducted in some 40 specially organized polling stations, on the day before each round. The delivery of the election material to the special polling stations and the return of the envelopes with the votes to the MECs was complex and required the use of express mail.

VI. VOTER REGISTRATION

The responsibility for compilation of voter lists is vested with the Ministry of Justice (MoJ). The Law on Voter Lists provides that citizens with registered residence¹² in the respective municipality, at least 18 years old on election day, possessing a valid ID card, driving license or passport¹³, shall be registered in the voter list¹⁴. The updated extracts from the voter list were displayed for public inspection from 13 to 27 January in the local offices of the MoJ where the entries of some 38,000 voters were checked. These mostly related to the process of collecting signatures in support of candidates and lists. The final voter lists, as signed by the SEC, included 1,711,293 voters' names, an increase of 1,757 voters compared to the 2004 Referendum lists. No changes in the voter lists are allowed after the SEC has signed the voter lists.

As in previous elections, the integrity of the voter list was contested by most political parties, who claimed that it contained a considerable number of deceased persons and voters residing abroad. However, the OSCE/ODIHR EOM established that only one political party availed itself of the legal opportunity to acquire the voter lists from the MoJ.

The MoJ reported that some 55,000 voters with an address in the country, but residing abroad for more than 12 months, were still on the voter list, because there was no legal reason to remove them. Some 15,000 citizens residing out of the country for more than 12 months, but without a registered local address, were not included in the voter list. The presence in the voter list of a considerable number of voters known to be out of country on election day may permit electoral abuses such as proxy voting. However, citizens are not provided with a possibility to vote in diplomatic offices while abroad, or to add their names to the voter lists upon return to the country after the SEC has signed the voter lists. Therefore, removal of names of such citizens from the voter lists would have the potential effect of disenfranchisement.

VII. ELECTORAL CAMPAIGN

A. FIRST ROUND, 13 MARCH

The election campaign began officially on 21 February. Some of the main parties, coalitions and candidates had already held party "conventions" in the preceding days, which were broadly perceived as early campaign events. However, there were no official complaints on this matter.

¹² It appears that residence refers to permanent residence; temporary residence appears to be relevant only for foreign citizens.

¹³ In cases of temporary residence abroad and with registered residence in their home country.

¹⁴ If not incapacitated by a court.

The campaign varied across the country, from one municipality to another. In many areas, especially where the highest profile races were taking place, such as Tetovo and Skopje, there was active campaigning from the outset. In other areas campaign activities were slow to get started. Local party offices sometimes cited lack of funds as a reason for limited campaign activities. The degree of organization of local party structures was also highly variable.

For the most part, the main campaign events around the country were the rallies addressed by mainstream party leaders. With the exception of the Skopje contest, in which local issues were prominent, such issues barely featured in the campaign. Despite their intense rivalry, both VMRO-DPMNE and VMRO-NP concentrated their campaign rhetoric on the SDSM, avoiding verbal attacks on each other. In the contest between the ethnic Albanian parties, DUI claimed that significant improvements to the benefit of this community had been made during its time in government. The DPA asserted the contrary, and its leaders, in particular, adopted a nationalist stance including inflammatory statements.

In general, the campaign atmosphere appeared to be relatively calm on the surface, notwithstanding isolated incidents including reports of party rallies being disrupted. Opposition parties alleged that plans were afoot for intimidation, pressure and election day fraud. Such allegations and reported incidents were particularly widespread in western areas of the country. The allegations reflected the deep mutual mistrust among the parties, and an overall lack of confidence in the electoral process.

According to interlocutors, political parties violated the legal limits by spending more than 15 denars per registered voter while receiving illegal donations and funds. Although such claims could not be verified, reporting and enforcement mechanisms for campaign finance are noticeably weak, contributing to a permissive environment.

B. SECOND ROUND, 27 MARCH

Campaign activities subsided after the first round. Political attention focused largely on alleged irregularities in the first round, including electoral fraud. Most political debate concerned the high profile contests for Skopje and Tetovo. To the extent that there was campaigning at all, most parties across the country relied upon door-to-door campaigning rather than big rallies.

On the night of the first round, the domestic non-partisan election observation organization MOST conducted a parallel voting tabulation (PVT) for the City of Skopje election, based on a broad statistical sample of polling station results. The PVT data showed that Trifun Kostovski, the independent mayoral candidate, had achieved an outright victory in the first round, having won more than 50 per cent of the vote. However, the official results, announced after some delay¹⁵, showed that Kostovski had not achieved the 50 per cent turnout threshold, thus necessitating a second-round election. By contrast, the PVT data reported by MOST for the election of the council in the City of Skopje, practically coincided with the official results. The opposition accused the ruling parties of electoral fraud, in particular in three Skopje municipalities where widespread irregularities had been observed.

¹⁵ See Section XIV.

In western areas of the country, in particular in Tetovo, the DPA-PDP accused the governing parties of serious irregularities in the first-round vote. They demanded re-runs in 16 municipalities. The coalition held public protests in Tetovo and Gostivar against the alleged irregularities in the election process. When their demand for re-runs was not met, they called on their supporters to boycott the second round, expressing fears of further irregularities and violence.

The prime minister called a meeting of all the party leaders on 22 March to try to smooth over the post-first round controversies. The leader of the “United Opposition” bloc stayed away from the meeting, while the representative of the DPA-PDP coalition walked out, having re-stated the coalition’s demands. At a follow-up meeting the next day, only the leader of VMRO-NP attended among opposition representatives, and he promptly left the meeting.

The controversy in Skopje, and the DPA-PDP’s boycott, contributed to a profound lack of public confidence in the electoral process, which was also fuelled by the slowness of the election administration in announcing the result for the City of Skopje contest. Also contributing to the negative atmosphere were reports of intimidation of election officials, and isolated violent attacks on party activists, including one in the village of Morane, in the municipality of Studenicani, where a DPA member was assaulted and had to be hospitalized.

In a positive development, the Ministry of Interior (MoI) reacted swiftly to reported electoral violations and announced that 19 persons were under criminal investigation for offences committed on the first round election day. Following the second round on 27 March, seven more criminal investigations were commenced with other cases under consideration. These are particularly notable developments given the reluctance of the authorities to charge individuals with election-related criminal offences in the past.

C. DELAYED SECOND ROUND¹⁶, 10 APRIL

The two weeks between the second round and the delayed second round were marked by considerable and general fatigue, among party activists and public alike, due to the protracted election process. There was very little campaign activity, apart from efforts to encourage people to vote.

The atmosphere continued to be marked by mistrust and a lack of confidence in the process. Following the controversy over the Skopje mayoral race, and the generally poor performance of the ruling SDSM-led coalition “For Macedonia Together” in the Skopje municipalities, incumbent Risto Penov withdrew from the Skopje mayoral contest even though his name remained on the ballot in accordance with the law. However, the Kostovski camp expressed fears of further electoral irregularities.

¹⁶ As a result from appeals against irregularities following the first round vote, specific polling stations had to repeat the first round vote in a number of municipalities. In some of these, the repeat first round votes conducted on 27 March resulted in first round victories in the mayoral races. However, others, where a second round for the mayoral election had to be conducted, had their second rounds on 10 April. Such “delayed second rounds” took place in Skopje, Tetovo, Kumanovo, Cair, Suto Orizari, Konce, Studencani, Zelenikovo and Kicevo.

The DPA-PDP coalition continued its boycott, citing fears of irregularities and potential violence. While the boycott was largely observed in the majority of ethnic Albanian areas, in some municipalities where the coalition candidate was from the PDP, the boycott was not observed. Nevertheless, in most of these areas, there was no real contest in the second round races. In Ohrid, the opposition candidate from VMRO-NP¹⁷ also called for a boycott, due to dissatisfaction with the rejection of most of the opposition's complaints by the Supreme Court.

VIII. MEDIA

A. LEGAL FRAMEWORK

The legal framework for media coverage of the campaign included the relevant provisions of the election law, as well as the "Rules for Equal Access to Media Presentation in the 2005 Local Elections" (the Rules), adopted by Parliament upon the proposal of the Broadcasting Council¹⁸ (BC).

The election law requires equal conditions of access to the media for all candidates and political parties during an election campaign. Furthermore, the BC is obliged to propose rules defining the obligations for public broadcasters to provide free airtime, as well as regulations for all media concerning the coverage of the elections and paid political advertising. The Parliament adopted the Rules on 28 January, with a view to regulate media conduct during the campaign, and to protect the media from political interference. However, the Rules were considered overly restrictive by most media outlets, to the extent of impeding their freedom of expression.

The sanction foreseen in case of violation of the campaign silence appears to be particularly disproportionate. The BC is obliged to verify compliance with that provision, and in case of a breach, to inform the state Telecommunication Office that shall take a decision on the suspension of broadcasting activity for 48 hours. The BC decided, as in 2002, not to fully implement this rule, as it considered the 48 hour suspension an infringement of the freedom of information. The BC specified that such a sanction should be applied only in cases of explicit advertising, or when the violation, in spite of a previous warning, was repeated.

Respecting legal requirements, the BC monitored the media coverage of the elections by all countrywide and local broadcasters. This was a noteworthy effort. However, the membership in the BC, which included a representative of the City of Skopje mayor's cabinet, created a conflict of interest, and raised doubts about the impartiality of this body.

A number of media outlets received official warnings from the BC for not respecting the provisions for paid advertising and equal access. The state channel *MTV*,³ broadcasting in the Albanian language, received a warning following a complaint of the coalition DPA-PDP against alleged unbalanced coverage in favour of the DUI.

On 13 March, the campaign silence was occasionally broken by private broadcasters that reported statements by political parties on the ongoing voting process. Many of the media broadcast an interview with President Crvenkovski, whose health condition was announced as

¹⁷ For the second round he was supported also by the "United Opposition" bloc.

¹⁸ The Broadcasting Council has nine members, all appointed by Parliament.

critical the previous day. The BC decided to warn those media for breaching the campaign silence.

Shortly after 13 March, the BC issued the results of the monitoring conducted during the first round campaign. A significant number of public and private broadcasters were found to have breached the rules on equal access. However, the BC has no direct enforcement authority, which reduced the efficiency of its action. Nevertheless, the BC announced its intention to appeal to the Primary Court against the violators.

During election day on 27 March, some media were found to have breached the campaign silence. The SDSM submitted a complaint to the SEC and the BC protesting against the media coverage of a press conference held by the domestic non-partisan observer group MOST¹⁹ to report their findings during election day. It was alleged that this violated the campaign silence. The BC reacted according to the instructions for the implementation of the provision on campaign silence²⁰, warning the media to cease airing reports whose information is not confirmed by an official source.

B. MEDIA LANDSCAPE

The broadcasting and print media generally provided voters with sufficient and diverse information concerning the elections. Due to the nature of the local elections, the countrywide media could not ensure equal attention to all candidates and focused on the main cities, particularly the Skopje mayoral contest.

On the eve of the election campaign, the media landscape changed due to the disappearance from the market of two of the three Albanian language newspapers, the daily *Flaka* and the weekly *Lobi*. Both ceased their activities because of financial difficulties which they partly attributed to an alleged boycott of the advertising companies. As a result, besides the third channel of the public broadcaster *MTV3*, the daily *Fakti* remained the only printed media in Albanian language.

In the period between the two rounds, the OSCE/ODIHR EOM was informed that the owner of the premises of *Fakti* had evicted the newspaper and had kept its technical equipment. As a result, *Fakti* ceased publication temporarily on 21 March, creating a gap in the media landscape. It resumed its publication a few days after the second round of the elections.

C. MEDIA MONITORING

The OSCE/ODIHR EOM conducted media monitoring of selected print and electronic media, analysed on a daily basis, to assess the coverage of mayoral and municipal council candidates, as well as relevant political actors, during the campaigns for the first and second round. The following electronic media were monitored: the first channel of the public broadcaster *MTV1* and the private *TV A1*, *Kanal 5* and *Sitel TV*. In addition the OSCE/ODIHR EOM analyzed the prime

¹⁹ See Section XII.

²⁰ For implementation of Article 28 of the Law and Article 25 of the Rules: “(4) ... media should publish only credible information and they should use official sources. Those elements in the official sources' information that represent silence violation (for example revealing the identity of the political subjects and/or individuals involved in the event) are not to be published until the polling stations are closed, i.e. until 19:00”.

time news in Albanian language on *MTV3*. Among the print media, the dailies *Dnevnik*, *Fakti*, *Vest*, *Vreme* and *Utrinski Vesnik* were monitored.

During the first round campaign the state broadcaster *MTV* complied with the obligation to provide free airtime to all contestants. In addition, the public was offered dedicated information about elections and debates every day. Nevertheless, the OSCE/ODIHR EOM findings indicated extensive coverage of government interests on both *MTV1* and *MTV3*, which received some 45 per cent of the time of news programmes. Additionally, ruling party officials had the opportunity to address the audience with live statements outside the election context, which increased their advantage. The ‘For Macedonia Together’ coalition enjoyed some 25 per cent of the coverage on *MTV1* newscasts. The Albanian language broadcaster *MTV3* favoured the DUI, with the airtime devoted to the DPA amounting to less than one-half of DUI’s coverage, and the quality of reporting substantially favouring the DUI.

The private countrywide broadcasters monitored generally displayed a balanced approach and also organized televised debates. Among the private channels monitored by the EOM, *Sitel TV* did not fully respect the rules for equal access to the media, particularly regarding the coverage of campaign activities and paid political broadcasts. While the main political forces were covered by *Sitel TV* on different programmes, news reporting favoured the opposition and the Skopje mayoral candidate, Trifun Kostovski, supported by the opposition.

The monitored dailies extensively covered political and election campaign issues. Although some criticism towards the government and the ruling parties was present in most of the papers, the approach was generally balanced. While the position of the main dailies was well balanced, the newspaper *Vreme*, and to a minor extent *Vest*, openly campaigned against the Skopje mayoral candidate of the ruling coalition, Risto Penov. The Albanian language newspaper, *Fakti*, whilst being rather critical towards the Government and the ruling DUI, ensured a balanced coverage of the election contestants.

The public broadcaster *MRTV* provided free airtime to the contestants for the second round campaign, organising debates among those candidates whose participation in the second round of the elections was confirmed. *MTV1* also rebroadcast the special information programme dedicated to the elections, although in a shorter format.

The findings of the OSCE/ODIHR EOM media monitoring of the second round campaign indicated an improvement in the extensive coverage *MTV1* gave to the representatives of the state bodies, which was reduced to some 27 per cent of the total airtime. The major political entities were represented broadly equally. Concerning *MTV3*, the findings showed that the channel continued its biased coverage. The presence of government interests remained significant, with some 39 per cent of airtime of the newscasts. The ruling DUI was again favoured, receiving twice the amount of airtime than that of its opponent, the DPA-PDP.

IX. COMPLAINTS AND APPEALS

A. PRE-ELECTION COMPLAINTS AND APPEALS

The Court of Appeals decided upon 13 complaints concerning rejections of candidate lists for municipal councilors or of candidates for mayors. The Court of Appeals decided on all cases without public hearings. The Court restricted successful complaints exclusively to those cases where the MEC had rejected a candidate list under Article 29 of the election law. If the MEC had approved a candidate list, then regardless of irregularities or non-compliance with the election law, the Court of Appeals ruled that it could not be challenged.

B. COMPLAINTS AND APPEALS AFTER THE FIRST ROUND

Following serious irregularities in the first round, the OSCE/ODIHR EOM was concerned at the number of instances where the MECs were unable to protect the legality of the election process and remedy cases of electoral malpractice through the complaints and appeals process. The OSCE/ODIHR EOM witnessed instances where MECs failed to perform their duties impartially, conscientiously and in accordance with the law, and acted primarily in accordance with party interests. The SEC chose to refrain from guiding the MECs during the complaints and appeals process, based on its restricted role as described by the law.

The election law provides that the work of the MECs is public, in order to ensure transparency in decision making and complaints review. Immediately following the first round, and in marked contrast to the open and helpful attitude adopted by many MECs, attempts by OSCE/ODIHR observers to contact MEC presidents in some municipalities were frustrated.²¹ The SEC even had to issue a decision to all MECs specifying that OSCE/ODIHR observers were allowed to be present at MEC sessions during the consideration of complaints.

Approximately 200 complaints were submitted to MECs countrywide alleging irregularities, mainly from political parties and independent candidates. It is a matter of concern that the vast majority of complaints were rejected by the MECs, mostly on technical and procedural grounds. It was rare for the MECs to carry out an investigation into the substance or merits of a complaint, even where there was evidence of serious irregularities.

Some MECs performed highly competently during the appeals process and some acted decisively to challenge irregularities committed by EBs and discrepancies revealed by the EB minutes. However, there were many instances where MECs proved reluctant to question EBs, even when it was clear that fundamental safeguards and mandatory procedures had been ignored during the first round of voting. Even those MECs who showed greater willingness to annul voting and correct violations reached inconsistent decisions and failed to act on clear cases of misconduct.

The rule under Articles 57 and 65 that only comments registered in the EB minutes can be invoked in complaints and appeal proceedings was used by MECs and the Supreme Court to dismiss complaints, even where there was evidence that threats and intimidation were used against members of EBs and candidate representatives. This included one case where the

²¹ To a varying degree, MECs in Cair, Gazi Baba, Suto Orizari, Studenicani, Gostivar and Vrapciste adopted an uncooperative and obstructive attitude to EOM observers after the first round.

appellant, an EB president, submitted a complaint that he had been intimidated. In some instances, EB members and presidents were reportedly threatened into silence during voting and counting, generally also silencing any subsequent appeals.²² In such cases, a strict refusal to investigate complaints further, and to accept at face value the EB minutes, may result in a highly artificial process where serious violations are not addressed. While the rationale of Article 65 may be to maintain procedural standards, it raises serious concerns about the safeguard of the rule of law.

The Supreme Court received 77 appeals against MEC decisions and delivered 64 judgments on all these appeals within legal deadlines, one judgment sometimes incorporating several appeals. The appellate proceedings followed an ‘administrative’ procedure and were not public, excluding even the complainants. Consideration of these appeals was based on submitted documents, and was carried out by panels of five Supreme Court judges chosen at random. The Supreme Court provided copies of all decisions to the OSCE/ODIHR EOM.

Of 64 judgments, the Court granted relief in 17 cases, including those seeking to revoke a polling station annulment. Of the appeals that alleged irregularities during the voting process on 13 March, the Court ruled in favour of the complaint or upheld the MEC annulment in a total of 20 decisions. Given the poor quality of some MEC decisions, the significant number of appeals upheld by the Court is to be particularly welcomed. The Court upheld appeals where irregularities or objections were noted in the EB minutes, where there was evidence of ballot stuffing, high numbers of invalid ballots and votes cast on behalf of deceased persons.

However, a number of judgments by the Supreme Court appeared to be inconsistent, as some complaints presenting similar evidence were differently evaluated by the various panels of judges dealing with them. Similarly, the Court adopted different stances on evaluating the legally recognized causes that would justify the decision of a MEC to annul voting, Article 74. In most instances, the Supreme Court dismissed the appeal and upheld the rejection of the complaint by the MEC strictly adhering to Article 65. The Court was generally reluctant to closely examine circumstances on election day and the allegations that proved the basis for the complaint.

C. COMPLAINTS AND APPEALS AFTER THE SECOND ROUND

Following the second round, 174 complaints were made to the MECs by political parties and independent candidates under Article 81. After the rejection of most complaints by the MECs, 76 appeals were made to the Supreme Court. The Court delivered 57 decisions, deciding on all the appeals within the legal deadlines.

In 16 cases the Supreme Court granted relief, in full or in part, or upheld the MEC decision which had accepted complaints of irregularities during the voting process. The Court ruled in favour of appeals, or upheld annulments by the MEC, in cases where identical signatures were used in the voters register, where the MEC itself had failed to respect legality and where the EB minutes had not been signed by a majority of the members. However, as before, the majority of the appeals were rejected because the appellant could not show that his complaint had been recorded in the EB minutes. The court refused to rule in favour of appeals in cases where candidate representatives had allegedly been intimidated into not making objections but nothing

²² MEC Presidents in Suto Orizari, Gazi Baba, Tetovo, and Ohrid allegedly were threatened or intimidated.

had been noted in the forms. There were also cases where a recorded objection was judged insufficient to annul the voting. In four cases, relief was granted because objections were noted in the EB minutes or shortly afterwards.

The appeals process failed to correct some egregious examples of electoral misconduct which had been reported by observers. In deciding whether irregularities at polling stations were minor or significant and whether the conditions for annulment were satisfied, different panels of the Court reached once again inconsistent conclusions.²³

X. PARTICIPATION OF NATIONAL MINORITIES

These municipal elections, as a part of the decentralization process, were a key element in the implementation of the OFA and as such, were of crucial importance for the ethnic Albanian community. Smaller minority communities, however, expressed concerns at being neglected.

There was much discontent among representatives of smaller minority communities, such as the Turks, at the merger under the new Law on Territorial Organization of some specific municipalities. In such municipalities they were relatively numerous, and merger into larger municipalities resulted in a loss of local influence and minority-language rights. Among others, the largest Turk minority party, the Democratic Party of Turks in Macedonia (DPT), opted to boycott the elections in the municipality of Vrapciste.

In many cases, the most significant parties of the smaller minority communities aligned themselves with the ruling coalition, while putting forward their own lists and mayoral candidates in some places. For example, in the municipalities of Plasnica and Centar Zupa, the Turkish community formed a significant majority, and the DPT ran its own mayoral candidates.

The marginalized conditions of the majority of the Roma population resulted in this community being especially targeted by vote-buying schemes, by both incumbents and opposition. Furthermore, Roma were vulnerable to threats of losing employment and social benefits. Lack of proper identification documents was another source of abuse, since political parties allegedly paid fees for obtaining IDs in exchange for votes.

In addition, there are a number of Roma residents without Macedonian citizenship. Such non-citizens, often qualified as *long-term habitual residents*, are individuals born in other parts of the former Yugoslavia, who after the break-up of the country found themselves without proper documents, and afterwards have not been able to acquire them²⁴.

In the municipality of Suto Orizari, one of the largest Roma communities in Europe, there were particularly widespread reports of pre-election irregularities. The two major candidates for mayor were accusing each other of manipulative actions, including bribery and forceful dispossession

²³ Following the second round on 27 March, different panels of the Supreme Court heard 15 appeals from MEC Ohrid. Practice in different legal jurisdictions would combine all such cases to be heard by a single panel to reduce the risk of inconsistency and injustice.

²⁴ Interview with UNHCR Representative, Ms. Walker, on 10 March 2005. Various estimates exist, and while the UNHCR has estimated this group to include some 1,000 people based on an informal survey and census data, the actual number may be higher.

of IDs, as well as intimidation and physical maltreatment of voters. The significant irregularities in Suto Orizari, especially in the first round voting, combined with the surprisingly high vote for the DUI and DPA-PDP in the council election, fuelled suspicion among Roma that the council contest had also been marred by irregularities.

After the first round, the voting results in four polling stations in Suto Orizari were invalidated due to irregularities. Repeated irregularities in further rounds resulted in new complaints and, in two polling stations, re-runs of the second round were conducted on 24 April. A new mayor was elected on 24 April. However, since he is currently serving a prison sentence, his mandate was withdrawn. Thus, new mayoral elections in Suto Orizari must be organized within 70 days of the withdrawal of the mandate.

XI. PARTICIPATION OF WOMEN

The amended election law introduced a gender quota for the candidate lists for councilors. In many areas, women's representation in the lists exceeded the 30 per cent quota, but in some cases, representation was below the statutory minimum. This was particularly the case with regard to the upper half of the lists. In one particular case, the MEC in Plasnica deliberately approved two candidate lists for councilors with no women candidates. The SEC decided to remove the whole MEC, although this action is not explicitly provided for in the law. However, the legal provisions, and their narrow interpretation by the local Court of Appeals in Bitola, did not allow the invalidation of the registration. This subsequently allowed for candidate lists without any women, in breach of the law.

The SEC issued an instruction to clarify and ensure adequate implementation of the gender quota, but in some cases the minimal numbers specified were less than 30 per cent.²⁵ The interpretation of the SEC was criticized by the Union of Women in Macedonia.

There were 18 women candidates for mayor out of a total of 379 candidates. Of these, three were elected. There was one woman member of the SEC, and representation on the MECs varied. A small number of municipalities had all-women MECs. Others, in particular in the western areas of the country, did not have a single woman member.

In the first round, observers reported that in 43 per cent of polling stations visited, there were no women on the EBs. On 27 March, an even higher percentage was reported, as observers noted that in 51 per cent of the polling stations there was not a single woman present on the EB. The observations revealed that EBs that included women were less likely to experience irregularities. This was clearly indicated by the 17 per cent first round and the 21 per cent second round overall negative assessment in polling stations, where no women were participating in the EBs, in contrast to 4 per cent (first round) and 5 per cent (second round) where at least one woman was a member of the EB. During all rounds, group voting and proxy voting remained quite widespread, in particular in western and north-western areas of the country, where women were effectively disenfranchised. This trend disproportionately affected women in minority communities.

²⁵ Due to rounding to the closest integer.

XII. DOMESTIC OBSERVERS

The SEC displayed a receptive approach to the accreditation of domestic and international observers, adopting a simple procedure for registration and demonstrating a flexible attitude toward the deadlines for accreditation, especially between the rounds. Two NGOs were rejected for failing to prove that they were working in the field of democratization and protection of human rights, as required by the law.

The SEC accredited more than 5,100 domestic non-partisan observers from 15 local NGOs, which contributed substantially to transparency and public confidence. IEOM observers reported, during the first round of voting, the presence of domestic observers in 63 per cent of the polling stations visited. In the second round their presence was reported in 59 per cent.

The nonpartisan domestic NGO “MOST” accredited the largest group of observers in all rounds of voting, deploying both static and mobile teams. MOST also organized a PVT for the two rounds of the election of mayor for the City of Skopje. It held three press conferences during each election day, providing information about the turnout and reporting on irregularities. In numerous cases, MOST decided to withdraw its observers from polling stations where intimidation took place. MOST observers were present in all MECs during the tabulation process.

On the second round election day, in reaction to a complaint by the SDSM that MOST was violating the SEC code of conduct for observers by publicly reporting on observed irregularities prior to the close of voting, the SEC issued a warning generally reminding MOST to follow the code of conduct. This reflected a sudden change of approach by the SEC, which had not challenged the right of domestic observers to report publicly during voting either in the first round or in previous elections. MOST continued to provide information about irregularities in its subsequent press conferences.

XIII. ELECTION DAY

A. FIRST ROUND, 13 MARCH

Election day took place in a generally calm environment and it was conducted in an orderly manner in most of the country. However, International Election Observation Mission (IEOM) observers reported serious irregularities in a number of municipalities²⁶, which undermined the universality and equality of the ballot. Among the irregularities witnessed by IEOM observers, there were cases of ballot box stuffing, stolen ballot papers, open, group and proxy voting, voters not properly checked for ink, voters not signing voter list extracts, tension inside and outside polling stations, and intimidation.

Observers observed the opening procedures in 114 polling stations. The opening procedures were assessed as ‘good’ or ‘very good’ in 84 per cent and ‘bad’ or ‘very bad’ in 16 per cent of the polling stations visited. Among the problems noted, 32 per cent of the observations reported

²⁶ For example, in Lipkovo, Tearce, Tetovo, Saraj, Suto Orizari, Studenicani, Dolneni, Plasnica, Aracinovo and Oslomej.

that the required “minutes” forms were not filled out and 3 per cent reported that ballot boxes were not properly sealed.

IEOM observers visited 1,431 polling stations to observe the voting process. The conduct of the voting was assessed as ‘good’ or ‘very good’ in 90 per cent and ‘bad’ or ‘very bad’ in a further 10 per cent of the polling stations visited.²⁷ A strong regional variation was revealed in the observers’ overall conclusions, with much more negative assessment of voting in western areas.

The general atmosphere of the voting was assessed as negative in one out of ten polling stations visited. Unauthorized persons were noted in 4 per cent of polling stations, while in 1 per cent it was reported that persons without authorization were directing the work of EBs. Ballot box stuffing was observed in 27 instances, or 2 per cent of the polling stations visited.

Despite previous documented examples of electoral intimidation in several parts of the country, the police and the Ministry of Interior (MoI) followed a largely passive role of non-intervention in the face of intimidation against voters and election officials. In numerous instances in some municipalities, groups of young men and unauthorized persons were allowed to gather inside the corridors directly outside polling station rooms or at the entrance to the building.

IEOM observers observed the conduct of the counting process in 125 polling stations. They evaluated the vote count as ‘good’ or ‘very good’ in 82 per cent and ‘bad’ or ‘very bad’ in 18 per cent of the polling stations visited. The main problems reported during the count were more ballots found than voters who had voted, the presence of unauthorized persons, ballots in clumps inside the ballot boxes and tension or unrest in or around the polling stations. In 39 per cent of the cases observed a copy of the result protocol was not displayed at the polling station.

The early voting was observed by IEOM observers, who reported that this aspect of the process was generally well organized, although the turnout was low.²⁸ Contrary to the legal provisions and to the decision of the SEC, in most of the special polling stations observed, the vote was conducted by special EBs, appointed the day before.

IEOM observers also visited 69 MECs during the tabulation. Observers rated the overall conduct of the tabulation as ‘good’ or ‘very good’ in 92 per cent and ‘bad’ in 8 per cent of the observations. They reported that this process took place generally in line with the procedures in most places. However, in some instances the vote reconciliation was problematic.

²⁷ The irregularities reported included proxy voting in 4 per cent of the polling stations. Group voting was particularly widespread and was reported in 20 per cent of the observations. In 8 per cent of polling stations visited by the IEOM, voters were not signing the voter list extracts, while in 5 per cent of polling stations observed voters’ IDs were not checked, and ink was not applied to avoid double voting in 8 per cent of polling stations. These irregularities undermined important safeguards against ballot stuffing, proxy voting and other election violations. The secrecy of the ballot was not respected in 21 per cent of the polling stations visited.

²⁸ However, in the first round in the prison in Gazi Baba, 34 inmates originating from Gostivar were not allowed to vote because the MEC in Gostivar did not send enough ballots. The voter list extracts for the second round for the special polling stations in the prisons in Gazi Baba and Tetovo were inaccurate, which left some inmates disenfranchised.

B. SECOND ROUND, 27 MARCH

Whilst the second round election day was conducted in a generally orderly manner in most of the country, IEOM observers reported again serious irregularities in a number of municipalities.²⁹ Irregularities reported by IEOM observers included cases of stolen ballot papers, intimidation, ballot-box stuffing, group and proxy voting, identical signatures on the voter list extracts and other procedural errors and omissions.

IEOM observers visited 103 polling stations to observe the opening procedures. The opening procedures were assessed as 'good' or 'very good' in 75 per cent and 'bad' or 'very bad' in 25 per cent of the polling stations visited. Among the problems noted, in 28 per cent of the polling stations observed, voting materials were not available, while in more than half of the polling stations visited, the voting instructions poster was not displayed. In three out of ten polling stations the required "minutes" form was not filled in before opening.

The IEOM observed the voting procedures in 1,232 polling stations. The conduct of voting process was assessed as 'good' or 'very good' in 87 per cent and 'bad' or 'very bad' in 13 per cent of observations.³⁰ Again, a regional divide was revealed in the observers' overall conclusion, and observers provided more negative assessment in western parts of the country.

Serious irregularities included over 30 observed cases of ballot box stuffing and over 50 cases of proxy voting. Identical signatures on the voter list extract were reported in at least 100 cases. Ballot boxes were not properly sealed in 4 per cent of cases, in particular in the Tetovo and Strumica regions.

Many voting procedures were not properly followed: ink marking was never checked in 8 per cent of polling stations observed; ink was not applied in one out of ten of the polling stations observed; procedures to check the voters' identification were not conducted in 7 per cent; and, voters were not signing the voter list extract in 7 per cent.

Between the two rounds, the police informed the OSCE/ODIHR that unless members of the EBs specifically requested police intervention, the police were reluctant to intervene. The MoI asked the SEC to issue clear instructions, but the SEC responded that the law clearly provides that the police can prevent crimes outside polling stations without any request from the EB. On 27 March, the police maintained a rather passive role. Its performance remained inadequate in the most problematic locations.

IEOM observers went to 107 polling stations to observe the counting process. The vote count was evaluated by IEOM observers as 'good' or 'very good' in 76 per cent and 'bad' or 'very

²⁹ For example, in Gazi Baba, Butel, Lipkovo, Cucer Sandevo, Zelino, Jegunovce, Tearce, Tetovo, Studenicani, Dolneni, Aracinovo and Brvenica

³⁰ The secrecy of the ballot was not respected in 17 per cent of polling stations visited, while group voting was observed in 15 per cent. Instances of intimidation outside polling stations were reported in at least 20 cases, while inside polling stations they were witnessed in at least 10 observations. Tension or unrest outside of polling stations was reported in 4 per cent of observations, and campaign materials in 6 per cent. Inside polling stations tension or unrest was seen in 4 per cent and campaigning in 1 per cent of observations. The general atmosphere was described as 'bad' or 'very bad' in 8 per cent of the polling stations observed.

bad’ in 24 per cent of the counting observations.³¹ In two cases, IEOM observers were prevented from observing the count. Deliberate falsification of results protocols was reported in three observations, while significant procedural errors were noted in 33 cases.

IEOM observers were also present during the tabulation of the results at 73 MECs. Observers rated the overall conduct of the tabulation as ‘good’ or ‘very good’ in 98 per cent and ‘bad’ in 2 per cent of the observations. They reported that most procedures were adhered to.

C. DELAYED SECOND ROUND, 10 APRIL

On 10 April, the voting process was calm but observers noted a persistent problem of electoral malpractice in certain municipalities, including a departure from standard procedures and safeguards. Irregularities such as indications of ballot box stuffing, identical signatures on the voter list extracts, and proxy and group voting, were again noted in the municipalities of Saraj, Cair, Lipkovo, Cucer Sandevo and Tetovo. Procedures were not always adhered to, in particular in checking voter’s identification, signing voter list extracts and applying ink to the voters.

There was a marked improvement in the visibility and presence of the police in most areas, particularly in problematic ones, where the police were more proactive in preventing tense situations.

Counting was generally well-conducted in most municipalities, although in some cases there were procedural deficiencies. In particular, counting procedures were assessed as badly conducted in the municipalities of Tetovo, Saraj and Cair, where there were clear indications of ballot box stuffing, and the numbers of ballots used and signatures on the voter list extracts did not reconcile. Results were not posted publicly at all the polling stations observed.

No problems transporting material to MECs were witnessed. Procedures for the tabulation of results were generally properly followed without serious irregularities.

XIV. TABULATION AND ANNOUNCEMENT OF PRELIMINARY RESULTS

During each voting day the SEC organized two press conferences providing preliminary information about the voter turnout. The SEC reported countrywide turnout of 56.36 per cent on 13 March, 52.66 per cent on 27 March and 35.67 per cent on 10 April.

Following a SEC decision, a team of the State Office for Statistics conducted the computerized tabulation of the results. A local network connecting the computers located in all 85 MECs was linked with the computer center at the SEC, which appeared to work in an organized and efficient manner.

The majority of the MECs conducted the tabulation process without interruption and announced initial results for each round before midnight on election day or in the early hours on the next

³¹ The understanding of counting procedures as well as the organization of the count was assessed as ‘bad’ or ‘very bad’ in one out of four observations. Ballots in clumps inside ballot boxes were reported in 18 per cent, while results did not reconcile in also 18 per cent of the polling stations observed. In more than half of the polling stations visited, copies of the results minutes were not posted publicly.

day. However, in the first round the tabulation of the results and their announcement in some Skopje municipalities was delayed and took place in the late afternoon on 14 March. This in turn affected the work of the City of Skopje Election Commission, which was able to prepare its protocol on the results only on the morning of 15 March, and to announce them publicly in the afternoon. While the SEC succeeded in announcing the total initial results within the legal deadline of three days after election day, the lack of preliminary information concerning the results for the mayoral contest in the City of Skopje created suspicion, lack of confidence and tension.

After the delayed information coming from the MECs during the first round, the SEC instructed them to organize the computerized processing of the EB result protocols immediately after their approval. This, along with the fact that during the second and the delayed second rounds only mayoral elections were conducted, contributed to expediting the entire process, allowing the SEC to announce most of the preliminary results during the night.

Commendably, the SEC published on its website the preliminary results per municipality of all elections after the receipt of copies of the MEC protocols, thus increasing the transparency of the tabulation process. CDs containing all relevant information including the results per polling station were available to the party representatives, members of the SEC, and to the OSCE/ODIHR EOM.

XV. RECOMMENDATIONS

The following recommendations are offered for consideration by the authorities with a view to support their stated goal of conducting elections in line with OSCE Commitments, Council of Europe and other international standards for democratic elections. Notably, a number of these recommendations have already been offered in previous OSCE/ODIHR final reports

The extent to which any improvements in the law can have a positive impact on the election process will, first and foremost, be determined by the political will exhibited by authorities and other election stakeholders responsible for implementing and upholding the law in an effective and non-partisan manner.

Specifically, political parties, which enjoy broad privileges under the current electoral framework, must recognize the full consequences that electoral malfeasance poses to the integrity of an electoral process, and demonstrate a concerted commitment to bring such practices to an end. Party officials should be held accountable for encouraging or conducting illegal activities that undermine the credibility of the elections. Ballot-box stuffing, tampering with polling station protocols or intimidating citizens and election officials are unacceptable.

A. LEGAL FRAMEWORK

1. A unified electoral code could be adopted to harmonize and consolidate all relevant laws that apply to different types of elections and referenda, within one code.

2. Consideration should be given to amend the legal framework for voter registration in regard to citizens residing abroad. While all available options to enfranchise citizens should be considered, it is equally important to reduce significantly the possibilities for abuse.
3. In order to enhance the uniformity of decision making on appeals, consideration should be given to make the SEC the second instance for all complaints and appeals in local elections.
4. The election law should be amended to ensure that the SEC has a clear mandate with powers and rules of procedures, as well as supervisory responsibilities over all election bodies.
5. The law should specify that in cases of serious misconduct of members of elections commissions, established by a final court decision, the appointing body should replace the perpetrator without delay.
6. The rights and duties of domestic non-partisan observers should be provided by law to guarantee explicitly their right to observe the entire election process, to attend all meetings and to receive certified copies of the result protocols.
7. The provisions on campaign financing contained in the election law should be modified in several respects to improve accountability and transparency. The deadline by which the financial report must be submitted should be brought forward from the current three months after the 'end of the elections.' Any failure to comply should be subject to financial sanctions.
8. Only 'valid votes' should be taken into consideration in determining the outcome of an election, since invalid votes fail to express political choices. Consideration should also be given to eliminate the turnout requirement for mayoral elections.

B. ELECTION ADMINISTRATION

9. Political parties should have no function in the nomination or appointment of judges in the election bodies, because the selection of judges by political parties results in undermining the independence of the judiciary.
10. As established by law, the necessary specific funds and technical support should finally be provided to secure appropriate premises and personnel for the work of the SEC and for the establishment of the Secretariat of the SEC.
11. Mechanisms should be considered to safeguard the independence of election officials, once appointed, and protect them from political interference or intimidation.
12. Measures should be taken to ensure proportionate sanctions of election officials responsible for detected violations of procedures and irregularities. Election officials found guilty of irregularities should be held accountable, and should not be reappointed for future elections. Sanctions for election officials should reflect the fact that violation of the law has been conducted by a person in his or her official capacity.

13. The SEC should be obliged by law to conduct voter education. Training for MECs and EBs should be improved and it should involve all members of the election bodies. Attendance should be made a legal obligation, including through the remuneration of expenses incurred by participants.
14. The election law should establish incompatibility between the office of a member of an election commission and a registered candidate.
15. Internal regulations for the work of SEC should be elaborated and published, providing for the timely publication of SEC decisions and documents in the Official Gazette, in newspapers and the CEC website.
16. Detailed regulations for the tabulation process and transparent computerized data processing should be provided by appropriate amendments to the election legislation or by instructions of the SEC.
17. Appropriate amendments to the legislation or SEC instructions should provide for the possibility for voters who have made a mistake to void their ballot and be provided with a second ballot paper.
18. The Minutes and Forms prepared and submitted by the EBs should be modified. Numerical data in the result protocol should be presented in a tabular format to simplify the procedure for filling the protocols, and only one original form should be distributed to the EB. Copies for party representatives should be in another format to avoid confusion.
19. Each EB should have a stamp with the number and the name of the relevant municipality to be used for certifying documents issued by the EB, including the result protocols and their copies. Result protocols with signatures produced in block letters should be considered invalid.
20. Training of the police on rights and obligations during the elections should continue.
21. In its current form, the early voting by military, persons serving prison sentences or in custody, and by IDPs, should be eliminated.

C. COMPLAINTS AND APPEALS

22. The rule requiring that only complaints recorded in the EB minutes can be used in complaints and appeals should be revised.
23. The law should be clarified to ensure that appeals may be made against MEC decisions, not only for cases when the MEC has rejected a candidate list, but also when it has been approved but outstanding questions remain.
24. The effectiveness of re-runs in individual polling stations as a means of addressing election irregularities could be assessed, with a view to significantly reduce any unnecessary protraction of the election process.

25. Consideration should be given to reforms in the Supreme Court complaints procedure under election law. The civil procedure and election laws should be amended to allow the Supreme Court, at its discretion, to receive oral evidence from parties to the appeal including the complainant or his representative. The Supreme Court should develop guidelines covering in what circumstances it would decide to hear oral evidence; the hearings should be in public; where the court has heard oral evidence, the decision should be announced in public.
26. The Supreme Court should also develop guidelines to ensure consistency in its decision-making on election-related appeals.

D. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES

27. The representation of women in election administration at all levels should be significantly enhanced.
28. Group voting, proxy voting and other practices that may inhibit the ability of women to exercise their right to vote should be strongly discouraged.
29. The authorities should establish the actual number of the non-citizens, as well as the number of the Roma citizens lacking identification documents, so that adequate measures can be taken to ensure they possess relevant documents.
30. Well-prepared and focused voter and civic education programmes for Roma and other smaller communities should be carried out throughout the country, through the involvement of local NGOs.

E. MEDIA

31. Consideration should be given to providing the Broadcasting Council greater enforcement authority, and improving its ability to act in an effective and timely manner regarding unfair or illegal media behavior during the campaign.
32. Graduated penalties should be available to be applied against media that commit relatively minor violations of electoral regulations, including those concerning election silence.
33. The State broadcaster, *MRTV*, and other state media should be reorganized as independent public service entities, to fulfil their obligations of public service by providing fair and balanced coverage, especially during the election period.

ANNEX 1. RESULTS³² FOR MUNICIPAL COUNCILS AND MAYORS³³

Following the complaints and appeals process after the first round, voting results were invalidated in 41 polling stations in 13 municipalities, and in the City of Skopje. Therefore, in some 57 municipalities a second round for the mayoral election was called for 27 March, with re-runs of the election for councilors in three of them. In nine other municipalities³⁴ and in the City of Skopje, only re-runs were announced for 27 March.

List and candidate submitter³⁵	Votes for Councilors	Councilors elected	Mayors elected
SDSM and coalition	330895	436	36
VMRO-DPMNE and coalition	255781	323	21
DUI	148947	213	15
VMRO-Peoples Party	117047	136	3
DPA-PDP	110662	130	2
Group of voters	44341	64	7
Democratic Alternative	40000	20	
League for Democracy	16832	7	
National Democratic Party	11837	6	
.....	
Union of Roma in Macedonia	3451	6	1
.....	

³² CEC results announced on 13 April.

³³ The outcome of the mayoral elections may be subject to changes after possible re-runs decided by the MECs or the Supreme Court as a result of the complaints and appeal process following the 10 April vote.

³⁴ See footnote 20; the tenth municipality where polling stations had to be rerun was Brvenica. In Brvenica, a second re-run of the first round mayoral election and of the election for councilors was conducted in one polling station

³⁵ Among the remaining 19 parties contesting the proportional race, 15 collected 56 seats whilst 4 did not win any seat. Specifically, the Union of Roma in Macedonia is included in this table due to fact, that it has one elected Mayor.

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (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 Document).

The 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 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, and gender equality. The ODIHR implements a number of targeted assistance programmes annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

Within the field of **tolerance** and **non-discrimination**, the ODIHR provides support to the participating States in implementing their OSCE commitments and in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The 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 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. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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/odihhr).