



**OSCE Office for Democratic Institutions and Human Rights
Election Observation Mission
Parliamentary Elections, 2008
Former Yugoslav Republic of Macedonia**

**INTERIM REPORT
30 April – 19 May 2008**

I. EXECUTIVE SUMMARY

- On 1 June, a total of 1,540 candidates on 18 lists will contest the pre-term Parliamentary elections. A total of 120 members of Parliament, 20 in each of six electoral districts, will be elected under a system of proportional representation.
- Two coalitions, 16 political parties and two independent candidates submitted candidate lists for registration. All but two parties were approved by the State Election Commission (SEC) on 4 May.
- The pre-campaign period was marked by high levels of political activity, strong rhetoric and acts of violence. The issue of campaigning before the start of the official campaign was discussed by the SEC and the Broadcasting Council, but no conclusive decisions were taken.
- The official election campaign began on 11 May and an international NGO is promoting an electoral Code of Conduct signed by all political parties in the elections.
- Numerous attacks on party offices and other violent incidents have occurred since the calling of early elections. Incidents have been primarily in ethnic Albanian areas in the north and west of the country. Tensions remain high in some regions. The most significant incident occurred on 12 May, when an attack outside of Tetovo targeted the leader of DUI, the largest ethnic Albanian party represented in Parliament.
- The OSCE/ODIHR Election Observation Mission (EOM) began its media monitoring on 30 April. Initial monitoring indicates bias of the public broadcasters and some private TV channels in favour of parties of the governing coalition. The parliament was dissolved before it could approve election reporting rules for broadcasters. The Broadcasting Council has, however, issued regulations on its own and has issued warnings and sanctioned some broadcasters.
- The Election Code has not been amended since the 2006 Parliamentary elections. The legislation provides a generally sound and consistent basis for the holding elections. That said, the legal framework does contain contradictions and lacks clarity on some important issues such as complaints and appeals.
- The upcoming elections are administered by a three-tiered election administration, including the SEC, 84 Municipal Election Commissions and 2,976 Election Boards. The SEC has been open to all observers, but a small number of SEC decisions have been considered controversial. The practice of appointing members of election commissions from among civil and public servants is welcomed by most stakeholders.
- The OSCE/ODIHR EOM began its work on 30 April. Twenty long-term observers were deployed throughout the country on 6 May.

II. INTRODUCTION

The Parliament of the former Yugoslav Republic of Macedonia voted to dissolve itself on 12 April 2008 and early elections were called for 1 June 2008. Following an invitation from the Ministry of Foreign Affairs, the OSCE/ODIHR established an Election Observation Mission (EOM) on 30 April 2008. The EOM, headed by Ambassador Robert Barry consists of a 13 member core team based in Skopje and 20 long term observers based in nine locations throughout the country. 174 seconded and funded short term observers will observe voting on election day.

III. POLITICAL CONTEXT

The 1 June early Parliamentary elections in the former Yugoslav Republic of Macedonia will be the tenth vote observed by the OSCE/ODIHR.¹ The 2006 Parliamentary elections were assessed by OSCE/ODIHR as having largely met OSCE commitments, but “instances of violence and intimidation during the first half of the campaign, and a number of cases of serious irregularities on election day, cast a shadow”² over the process.

The government which formed after the 2006 election was headed by Nikola Gruevski and consisted of his party, the Internal Macedonian Revolutionary Organization (VMRO-DPMNE), the Democratic Party of Albanians (DPA) and the New Social Democratic Party (NSDP) as the main coalition partners. Although the coalition obtained a simple majority in Parliament, it failed to achieve the qualified majority needed to pass legislation relevant to ethnic communities.

The lack of a qualified majority, challenges in the process of EU and NATO integration and the unresolved situation with the country’s officially recognized name are the main factors cited as reasons for holding early elections. The proposal to dissolve Parliament, put forward by the Democratic Union for Integration (DUI), was supported by VMRO-DPMNE and DPA. It was opposed by opposition parties, the Social Democratic Union of Macedonia (SDSM) and the Liberal Democratic Party (LDP), as well as by coalition partners, NSDP and the Liberal Party (LP), who all claimed it would further delay the necessary reforms set as benchmarks by the EU for the start of accession negotiations.

Since the elections were called the government authorities have emphasized their commitment to ensuring a democratic election, free of violence and intimidation. The international community has mentioned this as a *de facto* criterion for the country’s membership in the EU and NATO. The OSCE/ODHR EOM notes, however, that the pre-campaign and early campaign period have been marred by acts of violence and strong rhetoric. Numerous attacks on party offices have been reported, and shooting incidents have occurred, most significantly one outside of Tetovo on 12 May which targeted the leader of DUI.

Since 2002 Parliamentary elections have been conducted through proportional representation contests in six districts (constituencies) containing approximately the same number of registered voters, with 20 MPs elected from each district. The districts do not correspond with existing administrative/territorial units, but generally follow municipal boundaries. This approach has tended to enhance overall stability by focusing political competition on an intra-communal basis.

¹ Previous OSCE/ODIHR Election reports can be found at: <http://www.osce.org/odihr-elections/14365.html>

² OSCE/ODIHR EOM 2006 Parliamentary Elections Final Report can be found at: http://www.osce.org/documents/odihr/2006/09/20610_en.pdf

IV. LEGAL FRAMEWORK

The legislative framework for elections is largely contained in the Election Code, which was enacted three months prior to the Parliamentary elections in July 2006. The legislation provides a generally sound and consistent basis for the holding elections, although it contains some incomplete or inconsistent provisions.

The Code has not been amended since its adoption. A set of proposals for amendments were submitted by the Ministry of Justice³ but were never ratified in Parliament. In 2008, the Ministry prepared additional amendments⁴ but these were not submitted to Parliament prior to its dissolution.

While the Election Code has not been changed, several other laws have been passed which affect the electoral process and in some instances conflict with the Code. The most serious conflict relates to legislation regulating appeals. Under the Election Code, appeals from decisions of the State Election Commission (SEC) are taken to the Supreme Court. The more recently passed Laws on Courts and Administrative Disputes, however, reassign jurisdiction over appeals from the election administration to a new Administrative Court.⁵

While there were differing opinions during consultations with the Ministry of Justice and the Supreme Court, the SEC concluded⁶ that the Supreme Court is competent to decide on appeals. Although without legal force, the vote of the SEC has considerable practical significance since appeals against SEC decisions are actually lodged with the SEC for transmittal to a higher body.

V. CANDIDATE LIST REGISTRATION

By the 2 May deadline, two coalitions, 16 political parties and two independent candidates had submitted candidate lists for SEC registration. One coalition, led by VMRO-DPMNE and consisting of 19 parties is running with the slogan, “Macedonia knows!”. The second coalition is the Sun-Coalition for Europe led by SDSM and which consists of eight parties. Its slogan is “The Sun is arriving”.

After reviewing all submitted documents, on 4 May, the SEC rejected the application of the All-Macedonian Workers’ Party due to its failure to complete the required ethnicity declaration for some of its candidates. Although the Internal Macedonian Revolutionary Organization -National Party (VMRO-NP) failed to submit its certificate of court registration as required in the law, the SEC decided to register them as the party appears on court records. However, VMRO-NP later failed to register its bank account for the campaign causing the SEC to exclude its candidate list.

The submission of a list by the Social Democratic Party of Macedonia (SDPM), a party not seated in Parliament, was an issue of concern during the candidate registration period. Their list contained names very similar to those of Social Democratic Union of Macedonia (SDSM) candidates. SDSM filed a written complaint to the SEC. While regarding SDPM’s candidate list as an attempt to confuse voters, the SEC concluded that the Election Code did not give sufficient grounds for its rejection. Further developments in the matter are described in the section devoted to complaints and appeals below.

³ On temporary residence and voting abroad, election campaign financing and electoral misdemeanors.

⁴ On judicial appeals, voter registration, campaign financing and misdemeanor procedures.

⁵ These laws were enacted later than the Election Code, and are organic laws (requiring 2/3rd majority support in Parliament).

⁶ By a vote of 4-2, with the President abstaining.

Some of the approved candidate lists include candidates who had been sentenced to prison for more than six months. This is in contravention of article 7 of the Electoral Code which has been upheld by the Constitutional Court.⁷ However, the SEC decided not to apply this provision.

A total of 1540 candidates on some 18 lists are running for 2008 Parliamentary Elections across the six electoral districts. The SEC held a lottery for position on the ballots in public on 9 May.

VI. ELECTION ADMINISTRATION

The Election Code foresees a three-tiered election administration with the State Election Commission (SEC), 84 Municipal Election Commissions (MECs) and 2976 Election Boards (EBs). Since 2006 the SEC is a permanent body that oversees general preparations for the election. The SEC has seven members, who were appointed in 2006 for a period of five years. MECs are responsible for overseeing the election process in each municipality, and EBs are each responsible for a polling station prior to and on election day.

The Election Code provisions for an early election require the shortening of most electoral process deadlines by five days. This is the second Parliamentary election which SEC administers in its present composition and the OSCE/ODIHR EOM has observed that the SEC has developed experience enabling it to work efficiently, despite the shortened timeframe. The formal sessions and many working meetings of the SEC have been open to international and domestic non-partisan observers. Authorized representatives of the candidate list submitters so far have not attended SEC sessions, apart from the lottery for position on the ballot.

The chairmanship of the SEC has been an issue of political debate. According to the Election Code, the chairman is nominated by the main opposition party and the deputy by the party in power. Since the government changed after 2006, this balance has now been reversed and the current opposition has called for the SEC Chairman to resign. In response, the Chairman has pointed to the fact that he had been appointed for five years and this appointment was approved by all blocs in Parliament at the time.

The MECs and EBs have five members and five deputies appointed for five and four year terms respectively. Starting in 2006, members were randomly selected from civil servants and public service employees. As a transitional measure in 2006, however, the electoral framework allowed for two members of the EBs and their deputies to be nominated by political parties.⁸ That transitional period has expired and this year the selection of these members was carried out in accordance with guidelines for representation of different ethnic groups in each municipality and with at least 30 per cent of members coming from the lesser represented gender. The strict guidelines for selection of EB members meant that people on occasion had to be drafted from other locations than the EB member residence municipalities.⁹ Continued professionalization of the lower-level election management is generally well-regarded by the election stakeholders and there is an expectation that it will make for a better administered election.

To date, MECs have been open to OSCE/ODIHR EOM observers. However, many MECs have not been holding regular working meetings so far since members have not been relieved from their

⁷ Decision No. 125/2006-0-0 (21 November 2007)

⁸ One from governing parties and one from the opposition parties.

⁹ The most problematic case noted to date is in Debarca in the south-west, where 50 per cent of EB members will come from Skopje and have to return to Skopje to vote.

normal civil service duties. Moreover, some members are not residents of their areas of responsibility.

Voter Lists

The public inspection and revisions of voter lists took place between 22 April and 1 May. A notice of this inspection was publicised in Macedonian, Albanian and Turkish language papers and TV stations. Under current legislation the responsibility for updating and maintaining the voter lists lies with the Ministry of Justice which conducts biannual updates with information provided by the Ministry of Interior.

In all, just under 40,000 people checked their details during this period through the local offices of the Ministry of Justice, by internet or through a specially established phone line. This resulted in 715 changes being made to the lists, including 354 deceased persons being removed. In addition 67,191 voters who have identified themselves as temporarily working or residing abroad remain on the list in case they return to vote. As in 2006, these names are marked with an asterisk to indicate that special attention should be given to verify their identity should they appear on election day. OSCE/ODIHR EOM observers have been informed that it is unknown whether the lists are accurate since no detailed audit of the lists has ever been conducted. The voter lists contain a total number of 1,779,116 voters, a 2 per cent increase from 2006.

Voter Education

The SEC is planning to run a press and TV campaign starting from 21 May in Macedonian and Albanian languages. The messages will include voter mobilization, information on how to cast a vote and warnings against electoral fraud and intimidation.

Domestic Observation

One non-partisan domestic observer group, MOST, has registered observers with the SEC. MOST has engaged in election monitoring since 2002 and is planning to field some 3,500 observers for this election. They have established 19 field offices staffed with long term observers and are monitoring the work of the SEC. MOST is also planning to conduct a parallel vote tabulation on election night to cross check the accuracy of the results tabulation by the election administration.

VII. THE CAMPAIGN ENVIRONMENT

The period leading up to the official start of the campaign on 11 May was marked by high levels of political activity, strong rhetoric and acts of violence. The issue of campaigning before the official campaign start was discussed by SEC and the Broadcasting Council but no conclusive decisions were taken. Responding to “public requests”, the government on 16 May announced an order to stop all campaigns in support of its policies.¹⁰

The largest political parties were active in the run up to the official campaign period, holding party conventions, writing articles and airing political advertisements. The rhetoric was often strong; the OSCE/ODHR EOM notes that the leader of one political party has challenged the legitimacy of the election administration and law enforcement and indicated the party’s intention to take matters in their own hands. The NGO MOST held a press conference calling upon the SEC to take a decision

¹⁰ Government website <http://www.vlada.mk/soopstenija/Maj2008/s16-5-2008.htm>, 16 May 2008

regarding the purportedly pre-official campaign to start campaigning activity by the main political parties.

In the pre-campaign period a series of official government campaigns were also undertaken, advertising government policies aimed at promoting improved standards of living.¹¹ These campaigns were conducted with high visibility both in public spaces and the media. They met with public criticism, most notably from parties in the Parliamentary opposition.

From the date the election was announced, attacks on party offices and supporters were reported, mostly in the predominantly ethnic Albanian areas in the north and west of the country (Tetovo, Gostivar, Kumanovo). There have been some 13 reports of the ethnic Albanian DUI party offices being subject to attacks. There are also allegations of DUI party supporters being temporarily abducted and beaten by DPA activists.

The most serious violent incident occurred on 12 May, one the day after the official campaign start, when several gun shots were fired at vehicles accompanying the DUI chairman, Ali Ahmeti, injuring a passer-by. Two suspects are currently in custody. The prosecutor in Tetovo brought charges before the primary court and a criminal investigation has begun. This incident caused a vigorous and high profile reaction from the international community with calls for an immediate end to violence. These calls were also voiced by President Branko Crvenkovski.

On 17 May, the EU Special Representative and the US Ambassador met with the leaders of DPA and DUI in Skopje to warn against further violence. Nevertheless, similar incidents involving firearms have continued, including DPA reports of at least two instances of damage to its party offices and a reported threat against party members.

On 8 May all political parties competing in the electoral race signed a Code of Conduct under the auspices of the Washington based National Democratic Institute. The signatories committed themselves to “promote free and fair elections and a climate of democratic tolerance” and to “publicly condemn violence and intimidation”.¹²

VIII. THE CAMPAIGN

The official 20 day campaign started on 11 May and will run until midnight 30 May when the 24 hour campaign silence period starts. Initial days of the campaign have seen active campaigning by some candidate lists.

According to the law, mayors of the municipalities have to designate spaces for placement of the campaign material. Not all appear to have done so and, as a result, a number of incidents have been reported where DUI and DPA supporters have argued about the location of flags and banners. In Tetovo, OSCE/ODIHR EOM observers noted that DUI flags put up on 11 May, the first day of official campaign, were taken down by the next day. In Kumanovo the Mayor brokered an agreement about placement of flags and banners, but to date it does not appear to be adhered to.

¹¹ Among the issues addressed were public health, access to education, national pride and the protection of the Cyrillic script. While these campaigns did not constitute a breach of election legislation, they promoted the parties in government.

¹² Code of Conduct for Free and Fair Parliamentary Elections, signed 8 May 2008 Skopje.

IX. MEDIA

Coverage of the election campaign in the media is regulated by the Election Code and the Law on Broadcasting Activity. The Election Code calls on media to provide equal conditions and an equal approach in the presentation of the electoral programmes of the candidates. It also obliges Parliament to adopt guidelines for election coverage in the media during the official campaign. However, the parliament was dissolved before it could approve election reporting rules for broadcasters. The Broadcasting Council, acting on its own initiative, adopted its own guidelines on 18 April, but these do not have legal force.

Since 30 April, the OSCE/ODIHR EOM has been conducting quantitative and qualitative monitoring of six TV stations¹³ and six newspapers.¹⁴ The interim results covering the period between April 30 and 10 May indicate that while all the main political parties had access to media, there was a lack of balance in coverage of most monitored media outlets. Contrary to the legal obligations and its mandate as a public broadcaster, MTV-2, and to a lesser extent MTV-1, displayed a bias in favour of the governing parties VMRO-DPMNE and DPA, both in the amount of time devoted to cover their activities as well as in the tone of the coverage. Private TV Sitel showed a similar approach. By contrast, Kanal 5 and, to a lesser extent, A1 and Alsat-M showed a comparatively more balanced picture of the campaign although its coverage favoured the *Sun* coalition (led by the SDSM party) and DUI.

According to the Law on Broadcasting Activity, the Broadcasting Council can impose warnings or temporarily ban commercial advertisements. On 21 April, the Council issued a warning to Public MTV-2 criticizing the lack of balance in its news programs which, according to the Council, focused predominantly on DPA. Media monitoring shows this trend to have continued, despite the warning.

On 7 May, A1, Kanal 5 and Sitel broadcast 16 minutes of coverage from the convention of the VMRO-DPMNE coalition as a paid advertisement, thus violating the limits of airtime¹⁵ allowed for advertisement purposes. On 13 May, the Broadcasting Council issued a warning to Sitel, and temporarily banned A1 and Kanal 5 from allocating airtime for political advertisement. However, the channels may decide themselves when these sanctions will be carried out. On 16 May the Broadcasting Council issued warnings to three other private broadcasters for exceeding the limits of political advertisement granted by law and guidelines of the Council.

X. COMPLAINTS AND APPEALS

The SDSM-led *Sun* coalition filed an appeal to the Supreme Court regarding registration of the SDPM candidate list that included candidates with names similar to SDSM leaders, but the Court rejected the appeal on 7 May. The Supreme Court President subsequently informed the OSCE/ODIHR EOM that recourse for those wishing to appeal approval of a candidate list by the SEC would be to petition other authorities, including the Public Prosecutor. After public information emerged that some of the candidates on the SDPM list had not agreed to their names

¹³ MTV-1 (public), A1, Kanal 5, Sitel, MTV-2 (public), Alsat-M

¹⁴ Dnevnik, Utrinski Vesnik, Vreme, Večer, Koha, Lajm

¹⁵ According to the Law on Broadcasting Activity during non-campaign period TV and radio stations can allocate up to 12 minutes per clock hour for any commercial advertisement. During official campaign, broadcasters are allowed to allocate additional 12 minutes per hour for exclusively campaign purposes, given that no single party has an advertisement longer than 8 minutes and no political advertisement is aired during 12 minute commercial advertisement slots.

being submitted, the Skopje Prosecutor requested the police to collect evidence.¹⁶ If warranted, charges could be brought for the crimes of forgery and submission of forged documents.

With respect to campaign violations, the means of legal recourse appear limited and not fully circumscribed in current legislation. The only relevant provision in the Election Code enables candidates whose rights are violated – “by violating and disturbing the opponents’ campaign” – to sue in the relevant primary court (with right of appeal to the Court of Appeals). The type of action that could be submitted under this provision is undefined, as are the classes of potential defendants (including candidates or campaign organizers, private persons, or perhaps municipal or State officials). While the words “preventing and disturbing the ... campaign” are the same as the description in the Code of a misdemeanour (Article 181), the basic article does not indicate whether the form of action would be civil or criminal in nature.

OSCE/ODIHR EOM has observed that judges of the primary courts are largely unfamiliar with the role in responding violations of campaign rights, and take a variety of approaches.

XI. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES

In accordance with the Election Code, the composition of the election administration bodies has to meet certain gender and ethnic balance criteria. The Election Code stipulates that in municipalities where at least 20 per cent of the population belongs to “other ethnic communities”, the composition of the electoral bodies must be based on the principle of “adequate and equitable representation”, and the use of minority languages is mandatory in election administration bodies. This requirement extends to ballots and all official election-related material and documents. The principle of adequate and equitable ethnic representation in the election administration bodies is generally respected. The Election Code also requires that each gender should hold at least 30 per cent of positions in election administration bodies.

Furthermore, provisions of the Election Code establish a gender quota for the candidate lists, requiring that at least one of every three places on a candidate list is filled by a woman candidate. This provision was respected by most submitters of candidate lists. The number of women candidates is 544 out of 1540, or some 35% of all candidates.

XII. OSCE/ODIHR EOM ACTIVITIES

The Head of the OSCE/ODIHR EOM has been received by President Branko Crvenkovski, Prime Minister Nikola Gruevski and the leaders of all main political parties. Regular and cooperative working meetings have been held with the SEC. The first meeting with representatives of the embassies of the OSCE participating States was held on 6 May.

The OSCE/ODIHR has requested the OSCE participating States to nominate 250 short-term observers. The OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE) will also send observer delegations. On 7 May, the OSCE Chairman-in-Office designated OSCE PA Vice-President, Ms. Pia Christmas-Møller, as Special Co-ordinator to lead the OSCE short-term observers.

¹⁶ The Liberal Democratic Party, a member of the coalition, also requested the prosecutor to conduct an investigation.