



Former Yugoslav Republic of Macedonia Presidential Election – Second Round 28 April 2004

OSCE/ODIHR ELECTION OBSERVATION MISSION

Statement of Preliminary Findings and Conclusions

Skopje, 29 April 2004 – The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) Election Observation Mission (EOM) for the 14 April 2004 Presidential Election in the Former Yugoslav Republic of Macedonia was established in response to an invitation from the Ministry for Foreign Affairs. The EOM has observed the election process to assess its compliance with the 1990 OSCE Copenhagen Document, national legislation and other election-related commitments.

This statement should be considered in conjunction with the Statement of Preliminary Findings and Conclusions issued on 15 April, after the first round of voting. The OSCE/ODIHR will also issue a comprehensive Final Report approximately one month after the completion of the electoral process.

PRELIMINARY CONCLUSIONS

The 28 April second round election for the President of the Former Yugoslav Republic of Macedonia was generally consistent with OSCE election related commitments, but election day was marred by serious irregularities in certain parts of the country. The campaign prior to the second round was again conducted in a calm and orderly manner, and electoral procedures were carried out properly and efficiently in most parts of the country. However, on election day, problems that occurred during the first round of voting, such as proxy voting, ballot box stuffing and intimidation, were even more evident.

The requirement that a majority of voters cast their votes in order to validate the second round of voting may have contributed to the increased tensions and irregularities that were observed. While the reported voter turnout apparently exceeded the necessary threshold, this should in no way diminish the responsibility of the State Election Commission (SEC) to review the irregularities that have been reported and respond to all complaints.

In view of the special circumstances under which this early election was conducted, the following achievements should be noted:

- The campaign for the second-round election continued to be largely devoid of violence, and the campaigning was once again conducted in an overall calm and orderly manner;
- Both candidates in the second round took steps to reach out to ethnic Albanian voters through public meetings, campaign materials in the Albanian language, and appearances in Albanian-language media;
- The second-round campaign continued to be competitive, and once again media coverage was generally fair and unbiased; and
- Domestic non-partisan observers were once again deployed in large numbers throughout the country, enhancing the transparency of the electoral process.

However, deficiencies were also observed in the election process:

- All first-round complaints, regardless of merit, were rejected by the State Election Commission and Supreme Court on technical grounds. In so doing the SEC missed an opportunity to communicate a strong message that similar practices would not be tolerated during the second round of voting;
- In certain regions, members of Election Boards (EB) were changed, leaving EBs with only one party represented. In addition, there were a reduced number of candidate representatives, removing another important mechanism for oversight;
- The legislative framework did not provide for inclusion of the Albanian language in the ballots for the second round, and electoral regulations did not ensure that election materials were consistently available in Albanian in areas where there are a substantial number of ethnic Albanian voters;
- Serious irregularities were observed at polling station level in some parts of the country, including proxy voting, ballot box stuffing and intimidation;
- The counting and tabulation of votes at polling stations were often not conducted with adequate regard for procedural safeguards, and proper reconciliation procedures were not always followed; and
- The constitutional requirement that a majority of registered voters cast votes in order for the second-round election to be valid may invite electoral malfeasance and poses the ever - present possibility of an unsuccessful election.

The OSCE/ODIHR stands ready to assist the national authorities and civil society to address any shortcomings in the election process.

PRELIMINARY FINDINGS

Background

On 15 April, OSCE/ODIHR published a Preliminary Statement of Findings and Conclusions on the first round voting which occurred on 14 April. The first round statement can be accessed on the OSCE/ODIHR website at www.osce.org/odihr; its findings and conclusions are not repeated herein. Rather, the present statement addresses developments since the first round of voting.

Legislative Framework

The constitutional requirement that a majority of registered voters cast votes in the second round is potentially problematic, and an amendment to the Constitution in this regard should be considered. Not only does the requirement of a voter quorum in the second round create the possibility of failed elections, but could lead to an unlimited series of repeat elections. In addition, the necessity to achieve the voter quorum may invite attempts to raise the turnout by extraordinary means – possibly including pressure on voters or manipulation of the vote.

The Amendments to the Presidential Election Law enacted prior to this election include a provision, drawn from the Parliamentary Election Law, which addresses the language(s) in which electoral materials shall be printed. This provision did not address the implications of these rules for the ballot in an election in which there is no candidate who comes from a minority community whose language is officially recognized.

As a result, in the second-round election, the names of the two remaining candidates were printed only in the Macedonian language. This is because the provision requires that the names of candidates be printed only in that language, unless a candidate comes from another community. But in the second round, both candidates were ethnic Macedonians.

The provision in question also does not fully implement the Ohrid Framework Agreement (OFA) rules on languages, which were incorporated into the Constitution through Amendment Five. In addition to the language(s) on the ballot, there were also issues with respect to the language of other electoral materials (including the voter list and electoral instructions and forms); as well as with respect to the delivery of materials in the Albanian and other minority languages in areas in which those communities are concentrated.

Election Administration

On 17 April, the SEC officially announced the final results of the first round presidential election: Branko Crvenkovski, 385,347 votes (42.47%); Sasko Kedev, 309,132 votes (34.07%); Gëzim Ostreni, 134,208 votes (14.79%); Zudi Xhelili, 78,714 votes (8.67%). With no candidate receiving support from over 50 per cent of voters on the voter register, the SEC certified the two leaders, Mr. Crvenkovski and Dr. Kedev, as candidates for the second round election.

The SEC completely rejected all complaints received after the first round election (See Complaints and Appeals, below). All of these complaints were rejected by the SEC on 17 April based on equally divided voting in which the President cast the deciding vote. Some of the complaints actually involved well-publicized situations that had been reported as problematic by international and domestic non-partisan observers. In rejecting all complaints, regardless of merit, the SEC missed an opportunity to send a signal that the type of malfeasance complained of would not be tolerated in the second round.

Despite difficulties experienced by Election Boards (EBs) in completing the Minutes form 14, due to its complicated textual nature, the form was not changed between rounds. The problem with the Form 14 was worse in predominately ethnically Albanian areas, since the form was produced only in the Macedonian language. In addition, no posters were produced for polling stations showing the candidates' names in Latin script.

In certain areas, including Gostivar and Kicevo, only one party was represented on some EBs; this led to increased opportunities for malfeasance. Reports of economic retaliation against persons who represented certain parties on EBs, as well as concerns about the security of entering some areas, may also have contributed to the absence of EB members or candidate representatives from certain parties or candidacies. The rejection of all complaints made after the first round may have also have played a role in reducing balanced representation at polling stations.

Second Round Campaign

The election campaign resumed on 17 April, after the announcement of the final first round results. Both candidates continued to hold rallies and meetings with citizens, but the campaign emphasis shifted somewhat towards mobilizing party organizations at the local level to get out the vote. The campaigns, however, appeared to have low visibility at the local level.

Public discussion of the second round focused on the potential for high abstention, and on the extent to which ethnic Albanians would support either candidate. Mr. Ostreni and the DUI actively campaigned on behalf of Mr. Crvenkovski. The DPA, on the other hand, did not support a candidate and did not call on supporters to vote, although it maintained participation in EBs. On election day, however, DPA supporters at some polling stations actively discouraged citizens from voting. Some non-candidates called on voters to abstain or emphasized the right not to participate.

While the campaign in the first round was mostly conducted along ethnic lines, the two candidates in the second round made some attempts to appeal to ethnic Albanians directly. Mr. Crvenkovski's campaign placed its first advertisements in the Albanian-language newspapers, which the Kedev campaign had begun to do in the first round. Both candidates held some public events with ethnic Albanian voters.

All four major parties expressed concern to the EOM about the potential for electoral irregularities during the second round, especially in certain areas of the country.

The pre-electoral environment was fairly calm, as it was prior to the first round of voting, and there were few incidents of violence. One major exception was the bombing of the VMRO-DPMNE party office in Tetovo, involving an explosive device placed on the roof. That party has also made numerous allegations concerning intimidation or other coercion of voters, including by threats to their employment or benefits; but none of these have been confirmed by the authorities or made the subject of a formal complaint.

Media Coverage for the Second Round

Information regarding presidential candidates was again widely available during the second round. During this period, the electronic and print media focused particularly on the turnout issue for the second round, and on whether the main ethnic Albanian parties would support the two Macedonian candidates.

The public broadcaster MTV1 provided the presidential candidates with free-of-charge time for campaigning. In addition, MTV1 scheduled roundtables with NGO representatives, economists, prominent intellectuals and political experts, who were invited to discuss the implications of the election. The plan to debate on this channel was cancelled because the two candidates decided to take part in a duel broadcast by the private TVA1.

The private broadcasters TV Sitel and TV A1 provided broadly balanced coverage of both candidates. The private national broadcasters' coverage of presidential candidacies remained concentrated in news segments. The tone of coverage in the electronic media was predominantly neutral.

A trend was noticed in the print media between the two rounds. In the second round, the overall space devoted to the campaign activities of the candidates decreased. In addition, more articles with an analytical approach to the elections appeared.

Some of the newspapers monitored provided Mr. Crvenkovski with more coverage than Dr. Kedev. However, part of the space devoted to the SDSM candidate consisted of negative comments.

The Kedev campaign decreased notably the amount of paid space placed in the monitored newspapers compared to the first round. On the other hand, the campaign continued its negative advertisements in the print and electronic media.

Complaints and Appeals

Following the first-round election, the DPA filed 16 complaints and VMRO-DPMNE 11 complaints (consolidated to eight by the SEC) concerning alleged irregularities at 113 polling stations (out of 2,973 country-wide), and at least one MEC. The fact that the judges appointed with the agreement of political parties uniformly voted the same way as the members designated by those parties, in "party-line" voting, again raises questions about the independence of the judiciary associated with the method of appointment of judges to election administration.

The SEC attributed rejection of the complaints to a number of statutory grounds, but largely did not explain its reasoning. One basis of its decision was a provision of the underlying Parliamentary Election Law, Art. 100, which provides that for certain types of violations, annulment of the results is required – but only if the number of votes in question would be sufficient to affect the result in the district (which in the case of a presidential election is the entire country). In applying this criterion the SEC considered the effect of each complaint individually, and did not address the cumulative effect of alleged violations.

By rejecting the complaints outright, the SEC took a somewhat different approach than in 2002 – when a limited number of complaints were accepted but repeat elections were often not ordered. In addition, it should be noted that Article 100 is actually only a provision which makes annulment mandatory in certain limited cases. With respect to the complaints received, however, the SEC appears to have relied on it to reject any complaint, no matter how meritorious, for which annulment would not clearly be required by law.

The SEC is under more general requirements under the Amendments to “take care of the legality in the preparation and conduct of the elections ...”, and “decide upon complaints”. The SEC also based decisions on the latter ground in rejecting complaints due to lack of evidence, but did not actually review evidence available to it or give any indication what evidence would have been sufficient. The SEC also rejected numerous complaints due to failure by the parties to record their objections at the polling stations or MECs, despite allegations that the entering of objections had been prevented.

The Supreme Court confirmed the rejection of all the complaints upon which appeals were received. The Court accepted the SEC’s basis for decision and similarly refrained from reviewing evidence.

Domestic Observers

Over 4000 domestic non-partisan observers from nine different NGOs registered to observe the second round elections. ODIHR observers reported that over half of all polling stations were covered by static teams. The largest observer group was MOST, which fielded over 3200 observers and once again conducted a parallel vote tabulation.

MOST also gave four press conferences during election day, attracting attention to the turnout, as well as to polling stations where their observers had witnessed irregularities. The widespread deployment of domestic observers increased the transparency of the electoral process.

Election Day – Voting, Counting and Tabulation

On election day, 290 OSCE observers visited over 1400 polling stations in all 34 MEC areas. The overall assessment of the opening process was positive (good or very good in 89 per cent of polling stations observed). The voting process was also generally assessed as positive with voting rated as good or very good in 92 per cent of polling stations observed. In some areas of the country, largely in the south and east, observers noticed an improvement between the two

election rounds. However, in other areas the process was seriously marred by ballot box stuffing, proxy voting and intimidation.

Strong indications of ballot box stuffing – substantially larger number of ballots issued than signatures in the voter list or stacks of ballots folded together in the ballot box – were reported in a significant number (4 per cent) of all polling stations observed. Multiple instances of ballot stuffing were reported in MEC areas Debar, Gostivar, Kicevo, Gazi Baba, Struga, Kumanovo, Centar, Cair, Kisela Voda, Struga and Tetovo. Isolated incidents were reported in MEC areas Prilep and Veles.

Proxy voting was reported in 3 per cent of polling stations observed. There were reports of identical signatures on the voters list – also a potential indication of ballot stuffing or proxy voting – in 6 per cent of polling stations observed. In 4 per cent of polling stations observed, voters never signed the voter list and in a further 4 per cent voters did not always sign the list. Election board members did not check identification of voters in 5 per cent of polling stations observed, and ink was not applied to voters' thumbs in 6 per cent. Thus, important safeguards against ballot stuffing, proxy voting and other election fraud were undermined. The secrecy of the ballot was not respected in 6 per cent of polling stations observed.

Also of concern was the degree of intimidation reported in and around polling stations. At some polling stations, voters were actively discouraged from voting. In others, intimidation was directed against members of election boards, domestic observers and candidate representatives. In one particularly serious incident in Tetovo, a group of armed men, including prominent DPA party members, damaged a ballot box in polling station 2050 in Sinicani and were detained by police later in polling station 1926 in Tetovo, in which they were preventing people from voting. There were also reports of armed groups in the Skopje area, and fights were reported in three polling stations. International observers were prevented from observing in a few polling stations.

The closing and counting process was observed in 112 polling stations. In 24 per cent of these, the process was reported as bad or very bad. This figure is up from 8 per cent in the first round. Problems were partly due to a lack of understanding of the procedures, particularly relating to ballot reconciliation. In 41 per cent of these polling stations the number of signatures on the list was not used to determine the number of voters that had voted.

Key safeguards were disregarded during the counting process. In 25 per cent of polling stations observed, ballots were not shown to all election board members, candidate representatives and observers. In 61 per cent, a copy of Minutes Form 14 was not posted at the polling station. In 12 per cent of observed polling stations, election boards experienced problems in completing the minutes. Observers reported deliberate falsification of results in 8 per cent of polling stations. This is compounded by the fact that in 92 per cent of cases the EB members did not sign the minutes form. Significantly, in 8 per cent of polling stations in which the close and count was observed, observers were prevented in their observation.

The mission observed the tabulation process in 29 of the 34 MECs. There was a marked improvement on the process in the first round. In 27 of the 29 MECs observed, the tabulation was reported as good or very good.

*This statement is also available in Macedonian language
However, the English text remains the only official version*

MISSION INFORMATION & ACKNOWLEDGEMENTS

Ambassador Dr. Friedrich Bauer is Head of the long-term OSCE/ODIHR Election Observation Mission.

The EOM issues this statement before the final certification of the election results and before a complete analysis of the EOM observation findings. The OSCE/ODIHR will issue a comprehensive report shortly after the completion of the electoral process.

This statement is based on the election preparation and campaign observations of 10 election experts of the OSCE/ODIHR EOM stationed in Skopje and 18 long-term observers deployed in nine regions since 27 March. The statement also incorporates the second-round election day findings of 290 short-term observers, reporting from more than 1200 polling stations out of a total of 2,973 countrywide.

The EOM wishes to express its appreciation to the Ministry of Foreign Affairs, the State Election Commission, and other authorities for their co-operation and assistance during the course of the observation. The EOM would also like to express its appreciation to the OSCE Spillover Mission to Skopje.

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