



Election Observation Mission
The former Yugoslav Republic of Macedonia
Presidential and Municipal Elections, Second Round, 5 April 2009

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Skopje, 6 April 2009 – At the invitation of the Ministry of Foreign Affairs, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) to observe the 22 March 2009 presidential and municipal elections in the former Yugoslav Republic of Macedonia. The OSCE/ODIHR EOM remained to observe the second round of elections. The Parliamentary Assembly of the Council of Europe (PACE) appointed an Ad hoc Committee on the observation of the presidential election and designated a representative to be present for the second round.

The second round of the election process is assessed for its compliance with OSCE and Council of Europe commitments and standards for democratic elections, as well as national legislation. This statement should be considered in conjunction with the Statement of Preliminary Findings and Conclusions issued on 23 March, after the first round of voting, by the International Election Observation Mission comprising the OSCE/ODIHR, the OSCE Parliamentary Assembly, the PACE, and the Congress of Local and Regional Authorities of the Council of Europe. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, including the tabulation and announcement of results, the handling of possible complaints and appeals, and the conduct of any possible additional round of elections. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, approximately two months after the completion of the election process. The PACE report on the presidential election will be discussed during the April 2009 part of its session.

The OSCE/ODIHR EOM and the PACE delegation wish to thank the authorities and stand ready to continue to support them, and the civil society of the country, in the conduct of democratic elections.

PRELIMINARY CONCLUSIONS

The second round of the presidential and municipal elections on 5 April 2009 met most OSCE and Council of Europe commitments and standards for democratic elections, although some of the issues identified during the first round, including credible reports of intimidation, were of increased concern. Election day was again peaceful and reflected further improvement in the conduct of voting and counting.

In the campaign for the second round, most candidates and parties expressed their continued commitment to ensuring a calm and democratic election. Political activity was generally low key, with relatively few public events. Freedom of expression and freedom of assembly were generally respected. Candidates appeared to use moderate language in their public statements. Nonetheless, the situation was tense in many municipalities with close mayoral races.

The OSCE/ODIHR EOM received an increasing number of troubling and credible reports of pressure on or intimidation of citizens between the two rounds of elections, which seriously detracted from the overall quality of the election process. Almost all of the allegations concerned actions by state officials and political party activists of the governing party. Efforts by the authorities to address this problem were not sufficient to bring it to an end or to restore confidence.

Some positive aspects of the election process that emerged between the two rounds included:

- Most contestants agreed that the first round of elections was generally well run and accepted the results;
- The State Election Commission (SEC) posted detailed election results on its website, down to polling station level, the day after the first round of the elections;
- The SEC took steps to address some of the shortcomings observed during the first round of voting, by adopting short, practical guidelines for the work of Municipal Election Commissions (MECs) and Election Boards (EBs), with a focus on preventing family voting, and by conducting additional training;
- The media, taken as a whole, provided varied coverage of the presidential and municipal elections, albeit to a lesser degree than before the first round, reflecting the lower level of campaign activity. There was one televised debate between the presidential candidates, as well as a number of debates between mayoral candidates;
- Civil society again fielded a significant number of domestic non-party observers;
- A restrained but visible police presence contributed to a peaceful atmosphere on election day.

However, the following additional shortcomings were noted:

- The 40 per cent turnout requirement for the second round of the presidential election continues to create the possibility for failed elections in the future;
- The SEC did not handle complaints regarding the first round of voting within legal deadlines, delaying the final results and complicating preparations for the second round. SEC decisions on complaints did not always appear to be consistent;
- Between the two rounds the SEC did not always operate in the same spirit of consensus as before the first round, and decided a number of issues on votes that appeared to reflect political party interests;
- Concerns remained about the accuracy of the voter lists, particularly in regard to the large number of citizens abroad;
- The Administrative Court's sessions on election-related lawsuits were not open to the public except during the announcement of the content of lawsuits, despite a requirement in the Electoral Code to decide in public sessions.

Election day was overall calm and peaceful, without instances of violence or major incidents. The SEC estimated voter turnout at approximately 42 per cent. Overall, OSCE/ODIHR and PACE observers assessed the voting process positively in 97 per cent of polling stations visited, without significant regional variations. The observers reported fewer procedural violations than in the first round and only isolated cases of serious violations. Family voting was observed in 13 per cent of polling stations visited, still a high number but notably reduced from the first round. The vote count was assessed positively, with a few exceptions, although there were a number of procedural irregularities. Proceedings at MECs were assessed overall positively. The SEC again posted preliminary results by polling station on its website on election night.

PRELIMINARY FINDINGS

Background

Under the Electoral Code, a second round of elections for president and for mayors must be held within two weeks if no candidate receives a required majority of votes in the first round. For the presidential election, the candidate who receives the most votes in the second round is elected, if at least 40 per cent of registered voters turned out. Otherwise, the entire election process must be repeated. There is no turnout requirement for the second round of the mayoral elections.

The State Election Commission (SEC) did not announce full preliminary results from the first round within the very short legal deadline set by the Electoral Code (Art. 135.1). It chose instead to wait until the end of the complaints and appeals process to announce final results, which due to delays were only published on 3 April. The SEC did, however, post detailed preliminary election results on its website, down to polling station level, on 23 March, the day after the elections.

In the first round of the presidential election, Gjorge Ivanov, candidate of the Macedonian Internal Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO–DPMNE), and Ljubomir Frčkoski, candidate of the Social Democratic Union of Macedonia (SDSM), received the most votes – 33.95 and 19.81 per cent, respectively – and therefore contested the second round. Thirty-three mayoral candidates were elected in the first round on 22 March, with VMRO–DPMNE taking 23 municipalities, SDSM four, the ethnic-Albanian Democratic Union for Integration (DUI) four, and the Democratic Party of Turks and the Movement for National Unity of Turks – one each. In 43 municipalities and the City of Skopje, a second round of mayoral elections was held on 5 April because no candidate received the required majority in the first round. Voter turnout in the first round was about 57 per cent. The results of the first round were generally accepted by contestants.

In addition, first round mayoral and/or municipal elections were held on 5 April at 124 polling stations in various parts of the country. Of these 118 had not been able to open on 22 March due to heavy snow and six were annulled during the complaints process. According to the SEC, the number of voters registered at these polling stations was not sufficient to affect the results of the presidential election, but could have affected the results for election of mayor in eight municipalities and the results of municipal council elections in 23 municipalities. On 5 April, therefore, first round elections were held at these polling stations concurrently with the second round presidential election.

Election Administration

Between the two rounds, the SEC undertook some efforts to address procedural problems and irregularities observed at the level of Municipal Election Commissions (MECs) and Election Boards (EBs) during the first round. In particular, the SEC issued short, practical guidelines for the work of MECs and EBs on election day, which contained a strong directive to prevent family and proxy voting. The SEC also conducted additional training for MECs, and MECs in turn provided some training to EBs. These steps were intended to remedy first round deficiencies that were generally attributed to inadequate training, insufficient regulations and a lack of precise and clear details in the Electoral Code and the SEC Handbook for the Education of Electoral Bodies.

The SEC completed most technical preparations for the second round within the prescribed timeframes, although in some instances without following required procedures. For example, the

SEC formally decided on the design and features of the ballot papers for the second round only late on 30 March. However, the OSCE/ODIHR EOM observed that ballots were already being printed on 28 March.

Much of the SEC's focus between the two rounds centered on dealing with election complaints (see Complaints and Appeals section, below). The SEC was unable to handle the large volume of complaints within the required deadlines delaying the finalization of results and technical preparations for the second round. In its deliberations, the SEC did not always operate with the same spirit of collegiality and consensus as before the first round. Many decisions were taken on split votes, which at times appeared to reflect party interests. The SEC did not uphold any complaints by the smaller political parties that do not have nominated members of the SEC.

Concerns about the accuracy of the voter lists were heightened in the second round, particularly in regard to the reportedly large number of citizens abroad whose names remain on the voter lists. Many interlocutors expressed worry that this could potentially be manipulated, especially to reach the required 40 per cent turnout in the second round for the presidential election to be valid. During the first round of voting, IEOM observers noted series of seemingly identical signatures in 19 polling stations during voting, and in four during the vote count. In the second round, OSCE/ODIHR EOM observers noted one such case.

Campaign Environment

The campaign activities of most contestants between the two rounds were low-key, with a smaller number of public events and none of the large rallies which characterized the first round. Political parties and mayoral candidates concentrated on low profile activities such as door to door campaigning. The governing party, VMRO-DPMNE, was to some extent an exception to this trend in its mayoral campaigns, as high-level officials and cabinet ministers visited various parts of the country to support party candidates. In contrast to other parties, new VMRO-DPMNE billboards appeared in the capital after the first round, featuring the Prime Minister with mayoral candidates.

Municipal contests and issues continued to dominate the campaign agenda and even increased in profile. With fewer elections under way, political parties focused their efforts more strategically on close contests. On occasion, this focus appeared to be equated with pressure on party activists to "deliver the vote" of a particular village or settlement.

Between the two rounds, most candidates and political party leaders expressed a continued public commitment to ensuring a calm and peaceful campaign. There were no serious instances of violence directly related to the elections. Other incidents, however, including clashing demonstrators in the central square of Skopje over plans to construct a church, and a fight among students of different ethnic groups at a school in Struga, featured prominently in the media and turned into confrontational issues for candidates and parties at the national level. Although there were efforts to keep the campaign calm, tensions were high in some municipalities with tightly contested races, for instance Struga, Ohrid, Demir Hisar, Makedonski Brod, Gostivar, Berovo, and Petrovec.

The OSCE/ODIHR EOM received an increasing number of troubling reports of pressure on and intimidation of citizens in connection with close election contests in many parts of the country. The overwhelming majority of the allegations were leveled at state officials and political activists of the governing party. The OSCE/ODIHR EOM followed up on such reports and found many of them to be credible. Public sector employees appeared to be particularly vulnerable to threats that their jobs would be in danger if they did not support the governing party; such claims were linked to the

politicization of the public service. Other frequent allegations included threats that social services or pensions would be withheld from those not supporting the governing party and that businesses would be subject to tax inspections if their owners did not support the party. These ongoing allegations contributed to a continued lack of trust among many citizens that they could cast their votes freely and without fear of retribution. Although the Prime Minister spoke out publicly against pressure and intimidation, his efforts were not sufficient to bring it to an end or to restore public confidence.

The Ministry of Interior reported that it was looking into three cases of alleged election-related intimidation between the two rounds, including a report that special mobile police units threatened villagers in the municipality of Petrovec. However, there were also credible allegations of police taking an active role in the campaign in support of the governing party, for example, in Stip and Demir Hisar. The police deployment plan for the second round was based on and similar to the plan used successfully in the first round.

The Media

Overall, the media provided varied coverage of the presidential and municipal elections. However, reflecting the lower level of campaign activity during the second round, this coverage was less extensive than in the campaign period before the first round. Paid campaign spots in the media were rare between the two rounds. National media covered campaign activities primarily in their news programs. Between the two rounds, one televised debate between the presidential candidates was aired on two occasions on MTV1. Three national TV stations and a few local stations organized debates between mayoral candidates. However, a number of other media efforts to organize debates failed when candidates declined to participate.

While the campaign coverage rules of the Broadcasting Council (BC) do not specify how informative programming should be distributed among candidates in the second round, the BC told the OSCE/ODIHR EOM that media should respect the principle of equality. The BC published preliminary results of its media monitoring for the coverage of candidates in the first round, which were generally in line with OSCE/ODIHR EOM media monitoring findings.

Most media monitored by the OSCE/ODIHR EOM gave the largest portions of their news time to VMRO–DPMNE and SDSM, which had more second round contestants than other parties. However, the tendency of some media to focus on these two parties resulted in somewhat limited coverage of other contestants, for instance DUI.

In its news coverage of the activities of candidates, parties and other political actors, public TV channel MTV-1 gave 37 per cent of the time to VMRO–DPMNE and 22 per cent to SDSM. Public TV channel MTV-2, which broadcasts mainly in Albanian, gave 26 per cent of its news coverage to DUI, 12 per cent to SDSM and 11 per cent to VMRO-DPMNE. All private TV channels gave the biggest portions of time to VMRO–DPMNE or SDSM. Overall, the distribution of informative programming among all parties and candidates was relatively balanced in Alsat TV and A1, although the latter showed a bias in favor of the Party for European Future (PEI) mayoral candidate running in Struga.

The presidential candidate of SDSM received more coverage than his VMRO–DPMNE opponent in almost all monitored media, largely due to the less visible campaign of the VMRO–DPMNE candidate.

Complaints and Appeals

The misdemeanor procedures initiated by the SEC and the BC before competent courts in connection with campaigning before the official start of the first-round campaign period were not completed before the second round of elections. The majority of court hearings were repeatedly postponed, thus resulting in further delays in the enforcement of election rules and not providing an effective remedy for defendants. Between the two rounds, the BC initiated additional misdemeanor procedures.

On 22 March, the first round election day, the SEC received four complaints submitted by voters regarding their right to vote, all of which were resolved within the legal deadline. After election day, the SEC received 82 complaints from list submitters concerning the first round. The SEC did not resolve all complaints within the legal deadline. SEC decision-making on complaints continued until 30 March; thus the Administrative Court did not make its final ruling on appeals of SEC decisions until 1 April.

All formal SEC sessions were open to the public, and authorized representatives of list submitters were able to present their case. The SEC did not inspect all election material from the polling stations listed in complaints, and instead based its decisions primarily on EB protocols. In a few cases, the SEC requested that the complete election material be brought to Skopje and inspected, including the ballots. It appears that the SEC interpreted narrowly its legal obligation to resolve complaints based on the inspection of election material (Art. 31.2.35 of the Electoral Code). In most cases the SEC ruled that it would not accept a complaint unless an objection from an authorized party representative had been entered into the EB results protocol, although there is no legal requirement for this.

There were some inconsistencies in the SEC's decisions whether to inspect all election material or not. For example, three polling stations in Dolneni municipality were annulled on 28 March, after the SEC recounted the ballots cast in these polling stations for the mayoral election and established that the number of ballots cast exceeded the number of signatures on the voter lists. However, the SEC reviewed the results protocols for the municipal council but voted – along party lines – against conducting a recount and against annulment, although exactly the same differences as for the mayoral election had been established.

The SEC rejected a complaint from the Party for the Complete Emancipation of Roma, whose logo on the council ballot in four municipalities was mistakenly replaced with the logo of another Roma party, claiming that the printing house had made a mistake. However, according to the Electoral Code the SEC is responsible for confirming the final layout of ballots.

The SEC upheld just eight of the 82 complaints it received (one submitted by DUI, three by VMRO–DPMNE and four by SDSM), six of which resulted in annulment of polling station results for municipal elections. One of the complaints upheld by the SEC involved the recount of the municipal council ballots of 19 polling stations in Tetovo, where illegal corrections had been made to the EB protocols. As a result of the recounts, the allocation of mandates in the Tetovo municipal council changed.

The Administrative Court received 52 lawsuits against SEC decisions. Despite the legal requirement that it decide in public sessions (Art. 150.1 of the Electoral Code), the Court's sessions were only open to the public during the announcement the contents of the lawsuits. The inspection

of election material, deliberations and decision making on lawsuits did not take place in public. The Court published its decisions on its website. All 52 lawsuits were rejected.

Participation of National Minorities

Of the 33 mayoral candidates from smaller ethnic communities, two won in the first round; another seven candidates advanced to the second round. They mostly belong to parties representing their respective ethnic group. In some municipalities, however, mayoral candidates attempted to forge alliances across ethnic groups ahead of the second round. In the municipality of Šuto Orizari, where both contenders in the second round belonged to the same ethnic community, the campaign between the two rounds was marked by high tensions, and in at least one case police questioned party activists over allegations of vote buying. The OSCE/ODIHR EOM heard allegations of vote buying in ethnic Roma communities but did not witness any such cases.

Participation of Women

The only female presidential candidate did not advance to the second round. In addition, none of the 13 women running for mayor won in the first round or advanced to the second round. Consequently, there will be no female mayors; both in the 2000 and the 2005 municipal elections, three women had been elected mayor. As before the first round, issues of special interest to women did not feature prominently in the campaign or in the media.

Several interlocutors, including from political parties and civil society, alleged to the OSCE/ODIHR EOM that various forms of pressure were exerted on some female municipal councilor candidates, including especially less educated women from minority communities, to resign their mandates in favor of male candidates.

Domestic Observers

As in the first round, the largest domestic non-party observer group was MOST, which stated that it deployed 3,750 observers for the second round of voting. MOST again conducted a parallel vote tabulation exercise for the presidential election and the election for the City of Skopje mayor. On 5 April, domestic non-party observers were present in 76 per cent of polling stations visited by OSCE/ODIHR and PACE observers. In addition, political parties and candidates fielded authorized representatives, who were present in 93 per cent of polling stations visited on election day.

Election Day

As during the first round of voting, election day was overall calm, orderly and peaceful, and very few instances of more serious problems were noted. In most respects, the assessment of OSCE/ODIHR and PACE observers was more positive than during the first round. Preliminary figures announced by the SEC put voter turnout at around 42 per cent. According to preliminary SEC data, over five per cent of the ballots cast in the presidential elections were invalid. The SEC started announcing and posting on its website preliminary results for the presidential and municipal elections on election night, down to polling station level.

The opening of polling stations was assessed in positive terms by most observers, although some problems were once again noted with regard to the recording of the serial number of ballot box seals.

The voting process was assessed as good or very good in 97 per cent of polling stations visited – an improvement on the first round – and described it as overall well organized, calm and orderly. There were no significant regional variations in the assessment. As in the first round, no instances of violence or major incidents were reported, but tensions were evident in a few places, especially where mayoral contests were close. There were reports that substantially higher numbers of homebound voters participated in early voting in the second round in some municipalities. The police were generally well organized and discreet.

Despite the positive overall assessment, a number of procedural violations were noted, albeit generally on a reduced scale compared to 22 March. Instances of family voting were observed in 13 per cent of polling stations, still high but significantly less than two weeks earlier. Family voting was again more widespread in ethnic Albanian areas (23 per cent, compared to 7 per cent in the rest of the country). Two cases of ballot box stuffing were observed, in Gostivar and Sopište. Other problems observed included: the same person “assisting” numerous voters (16 cases), attempts to influence voters (15 cases), proxy voting (12 cases), intimidation of election officials or voters (three cases), multiple voting (three cases). In 3 per cent of polling stations visited, the ballot boxes were not properly sealed. In 6 per cent, the secrecy of the vote was not ensured, mainly due to poor polling station layout or lack of space, and two instances of people taking pictures of marked ballots were reported. Inking procedures were not always followed. Unauthorized persons were observed in less than 1 per cent of polling stations visited, with only one reported case of such a person interfering.

The vote count was assessed positively in most polling stations where it was observed. However, just as in the first round, observers reported that basic reconciliation procedures were often not followed, in particular before the opening of the ballot boxes. There were two observations of more serious irregularities. In more than one half of polling stations where the count was observed, the EB did not post copies of the results protocols for public familiarization.

OSCE/ODIHR observers followed part of the tabulation process at 47 of the 84 MECs, evaluating it positively in all but one MEC (Tetovo). As in the first round, some issues with transparency were noted, mainly with regards to observers’ ability to observe the data entry of results.

*This statement is also available in the Macedonian and Albanian languages.
However, the English version remains the only official document.*

MISSION INFORMATION & ACKNOWLEDGEMENTS

The OSCE/ODIHR Election Observation Mission (EOM) opened in Skopje on 13 February with 39 experts and long-term observers deployed in Skopje and 11 regional centers. For the first round of elections on 22 March, the OSCE Parliamentary Assembly, Parliamentary Assembly of the Council of Europe (PACE), and the Congress of Local and Regional Authorities of the Council of Europe joined the OSCE/ODIHR EOM in an International Election Observation Mission. For the second round, the OSCE/ODIHR EOM deployed 132 short-term observers. The OSCE/ODIHR EOM observed voting in over 750 polling stations out of a total of 2,976, and counting in some 61 polling stations. The OSCE/ODIHR EOM also observed proceedings in 39 MECs. Mr. Peter Eicher is the Head of the OSCE/ODIHR Election Observation Mission.

The PACE conducted a pre-election visit from 26–27 February 2009. For the first round of the elections the PACE appointed an Ad hoc Committee consisting of 14 members. For the second round of elections the PACE was represented by Mr. Jørgen Poulsen, member of the Assembly.

The OSCE/ODIHR EOM and the PACE wish to thank the authorities of the former Yugoslav Republic of Macedonia for the invitation to observe the elections, the State Election Commission for its continuous cooperation and for providing accreditation documents, and the Ministry of Foreign Affairs and other state and municipal authorities for

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