



## **Former Yugoslav Republic of Macedonia Presidential Election 14 April 2004**

### **OSCE/ODIHR ELECTION OBSERVATION MISSION**

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#### **Statement of Preliminary Findings and Conclusions**

**Skopje, 15 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 observed the election process to assess its compliance with the 1990 OSCE Copenhagen Document, national legislation and other election-related commitments.

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#### **PRELIMINARY CONCLUSIONS**

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The conduct of the 14 April first-round election for President of the former Yugoslav Republic of Macedonia was largely consistent with OSCE commitments and other international standards for democratic elections. However, a limited number of irregularities were reported at polling stations – mainly involving proxy or group voting, but also including isolated incidents of ballot box stuffing.

The Presidential election was originally scheduled for the autumn of this year, but an early election was necessitated due to the tragic death of the former President, Boris Trajkovski, in an airplane crash on 26 February. The election should also be viewed within the context of the 2001 Ohrid Framework Agreement (OFA), reached by the main ethnic Macedonian and ethnic Albanian political parties in order to normalise the political process after an outbreak of civil conflict which occurred that year.

In view of the challenging circumstances under which this election has been organised, the process thus far reflects the following achievements:

- Although the 40 day constitutional deadline for filling the vacancy of the Presidency is not consistent with the normal 70 day timeline for the election process as described in the Presidential Election Law, the Macedonian Parliament speedily enacted special amendments which enabled the election process to be implemented according to the condensed timeframe.
- The election period was largely devoid of the violence which has characterised previous elections, and the campaign was conducted in an overall calm and orderly environment.

- The election commissions created for the 2002 parliamentary elections largely remain in place, which allowed the State Election Commission (SEC) to work effectively within the shortened timeframe.
- Four candidates associated with political parties representing both the ethnic Macedonian and ethnic Albanian communities were approved by the SEC. Three candidacies were approved based on the requisite petitions containing 10,000 signatures, collected within the condensed timeframe of 10 days, while the fourth submitted the signatures of 30 members of parliament.
- Although the campaign period was shortened to 13 days, there was an active debate on major issues. However, the campaign debate took place largely within the respective ethnic communities.
- A broad spectrum of media provided extensive coverage of electoral issues, which was generally unbiased, with the public broadcaster providing free airtime to all candidates and to the election administration.

However, certain shortcomings have also been observed in the electoral process, notably:

- The legislative framework for the election is complex, consisting of the recent amendments to the Presidential Election Law; that law itself; and the Parliamentary Election Law (which defines basic election structures and procedures). The relationship among these enactments created difficulties in their interpretation and application.
- The lack of a permanent and autonomous Secretariat for the SEC resulted in an over-reliance on other state bodies, and also international assistance, for the organization of the election.
- Election Boards and Municipal Election Commissions often failed to follow proper procedures in tabulating the results, and sometimes made ad hoc adjustments to the result protocols in order to reconcile them.
- The continuing absence of information on the actual residence of voters, especially those who are residing abroad, means that the Voter List contains a significant number of names of non-residents. This could lead to the possibility of electoral malfeasance, either real or perceived.
- Although there is a lack of pre-election campaign finance disclosure provisions, campaign financing may prove to be inconsistent with legal requirements concerning the ceiling and accounting of campaign expenditures, given the resource-intensive campaigns of some candidates.
- While the broadcasting regulatory body monitored coverage of the campaign in the electronic media, monitoring activities have not yet led to effective enforcement.

The OSCE / ODIHR stands ready to assist the national authorities and civil society to address any shortcomings in the election process. The OSCE/ODIHR will issue another preliminary Post-election Statement following the second round of voting, and a comprehensive Final Report will be issued approximately one month after the completion of the electoral process.

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## PRELIMINARY FINDINGS

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### Background

As a result of the tragic death of the former President, Boris Trajkovski, and according to the Constitution, the election had to be held within 40 days of a vacancy in the Presidency. The current election is the fourth Presidential election to be held since independence. The conduct of this election to date represents continued progress in the democratic development of the country, and builds on the improvements reflected in the 2002 Parliamentary elections.

The Presidential Election Law did not address the situation of the Presidency becoming vacant, and the election timeline provided in the Law was not consistent with the constitutional requirements. As a result, on 8 March Parliament enacted a Law on Amending and Supplementing the Law on Presidential Elections (“the Amendments”).

A decision by the Constitutional Court declaring the Presidency to be vacant was published in the Official Gazette on 7 March, officially triggering the election period. On 8 March, the Speaker of Parliament announced that the election would be held on 14 April, with a second round if necessary on 28 April.

The election is being conducted just as another major element of the Ohrid Framework Agreement (OFA) process is about to be implemented, with the proposed decentralization of power to the municipalities, followed by municipal elections scheduled for the autumn. The current Presidential election is therefore seen as an important indicator of attitudes towards OFA implementation, as well as political party strength, prior to the municipal elections.

### Legislative Framework

Under the Constitution, the President is elected directly. Candidates qualify to stand for the Presidency by meeting certain criteria, including residence in-country for 10 of the 15 years prior to the election, and demonstrating their support through the submission of petitions signed by 30 parliamentarians or 10,000 registered voters.

To win the Presidency on the first day of voting, a candidate must receive the votes of a majority of the total number of registered voters. If the first round is unsuccessful, the two leading candidates go into a second round no more than two weeks later. The candidate who receives the most votes in the second round is elected, but only if a majority of registered voters cast votes. Otherwise the election would need to be repeated.

In addition to establishing a timeline for early Presidential elections, the Amendments to the Presidential Election Law identify the election administration structures to administer Presidential elections; provide for replacement of vacancies on existing election commissions; specify shortened periods for submitting nominations, inspecting voter lists, and campaigning; and create a streamlined system for complaints and appeals. The Amendments also provide for the layout and content of ballot-papers.

The previous Presidential Election Law remains in effect, except as modified by the Amendments. This Law is very general in nature, however, and contains only basic provisions, many of which are drawn directly from the Constitution. Other aspects of election administration for Presidential elections are supposed to be applied in accordance with the Law on Election of Members of Parliament (“Parliamentary Election Law”), except when its provisions are inconsistent with the requirements of a Presidential election. This situation creates difficulties in interpretation and application of the laws.

### **Election Administration**

The Presidential Election Law establishes a three-tiered system of election administration – the State Election Commission (SEC), 34 Municipal Election Commissions (MECs) and 2,973 Election Boards (EBs). Appointment to these bodies is by proposal from one of the four parties who won the most seats in the last parliamentary election. These bodies remained largely the same as for the 2002 elections.

The SEC, in particular, established an efficient and collegial working relationship. In response to the tight deadlines necessitated by the accelerated election schedule, the SEC displayed a flexible attitude to the participation of both domestic and international observers, by extending the deadline for their accreditation.

Political parties and civil society organizations have raised questions over the service on the SEC of the SDSM member who is currently the Vice-Minister for Justice, and her deputy who is the Secretary-General of Parliament, although no official complaint has been filed. In addition, previous OSCE/ODIHR concerns related to the selection of judges by the political parties to serve on election commissions have not been addressed.

Although there is a provision in the legislation for the establishment of a permanent Secretariat to the SEC, this has still not been established or budgeted for. Thus the SEC is reliant on other government departments, as well as international organizations, for many of its technical operations. For instance, the Department of Statistics provided computers to each MEC, a computer specialist for entry of the results, and also programmed the system for entry of the results.

The SEC adopted useful instructions to clarify certain procedures. However, the lack of a tabulated results protocol for the EBs has led to a lack of clarity in the reconciliation of the ballots at many polling stations. To compensate, results were transferred to a tabulated results protocol at the MEC to assist in entering the results into the database. However, this step invited ad hoc reconciliation of the vote tabulations which could not be easily monitored by candidate representatives or other observers.

With respect to the ballots in particular, party names and symbols were left off the ballot since the SEC agreed that this was a candidate-based election, not one of party lists. The names of the ethnic Albanian candidates appear in both Cyrillic and Latin scripts, while the names of the ethnic Macedonian candidates appear only in Cyrillic. Voting instructions were printed in languages of all constitutionally recognized communities.

Special voting for military personnel and prisoners took place on 13 April. Some 860 internally displaced persons (IDPs) were also allowed to vote in IDP centres in Kumanovo and Skopje on 13 April. However, due to the lateness of this decision by the Government, the deadline for posting and checking the extracts of the voters list had passed. Around 50 per cent of the IDPs were not on the list, and had no chance to check if they were meant to vote at the centre or at their previous residence.

The voter list, updated by the Ministry of Justice immediately prior to the election, contains 1,695,103 names, an increase of eight per cent over the 2002 list and of 32 per cent over the 2000 election. Due to the condensed timeframe, the list was posted for public inspection for only 10 days, and no public information campaign was conducted. Of the 100,000 people who checked their names, six per cent reported errors. Although these were amended, there remains the probability that many more errors remain for the people who did not have time or the necessary information to check their details.

In addition, there are a large number of citizens who have emigrated, although their names are still on the list. Only residents temporarily overseas have the right to vote, if they return to the country. Based on the 2002 census, generally considered to have been conducted in line with international standards, the EOM estimates that 7-8 per cent of people on the Voter List are no longer present in the country. A number of civil society organizations and political parties have expressed concern that this could lead to electoral malfeasance.

## Election Campaign

The SEC approved four candidates on 25 March. The candidates – two ethnic Macedonians and two ethnic Albanians -- are associated with the four major political parties: **Mr. Branko Crvenkovski** of the Social Democratic Union of Macedonia (SDSM); **Dr. Sasko Kedev** of the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian Unity (VMRO-DPMNE); **Mr. Zudi Xhelili** of the Democratic Party of Albanians (DPA); and **Mr. Gëzim Ostreni** of the Democratic Union for Integration (DUI). Mr. Crvenkovski is the current Prime Minister, and the other three candidates are serving members of Parliament.

Prior to the official start of the campaign, VMRO-DPMNE and some civil society organizations called upon candidate Crvenkovski to step down as Prime Minister while running in the elections, a step which is not required under the law. Some have also complained publicly about the participation of government ministers in the SDSM campaign board. However, none of these claims have been officially submitted as complaints. While government officials are not necessarily excluded from involvement in political campaigns, extra vigilance is required so that officials do not use the powers, resources, or facilities of the State to advance partisan interests.

The conduct of the campaign has been generally positive. The short campaign period, 30 March to 12 April, has not had an appreciably negative impact on the ability of the candidates to convey their message to the public. The sporadic violence that characterized the 2002 campaign has all but disappeared, and campaign rallies of all candidates have generally proceeded without interference from supporters of other candidates. However, there have been a few reported incidents of vandalism, mainly targeted at churches and mosques, which may or may not have been linked to the election process.

The EOM has received allegations of pressure or influence on voters in some areas, although these have been relatively few, and have not been the subject of official complaint. These have included allegations of vote buying and threats to employment. All four parties concur in saying that the campaign was free of significant problems.

Major campaign themes have included implementation of the Ohrid Framework Agreement, security and stability, Euro-Atlantic integration, the difficult economic situation, rule of law, and the relative leadership qualities of the candidates. Candidates have largely avoided the use of inflammatory language, although Mr. Xhelili and other DPA officials have used highly charged rhetoric against their opponents. None of the candidates have openly called for division of the country or repudiation of the OFA.

Despite the fact that three of the candidates have focused on the need to be the president of all citizens, the campaign has been conducted largely on an intra-ethnic basis, with little attempt by Mr. Crvenkovski or Dr. Kedev to appeal to ethnic Albanian voters or by Mr. Xhelili or Mr. Ostreni to attract ethnic Macedonian voters. Dr. Kedev did place a full page advertisement in *Fakti* newspaper in the Albanian language, and Mr. Ostreni has used the Macedonian language in some campaign events. However, neither Mr. Crvenkovski nor Dr. Kedev appeared for a debate held on the Albanian-language public television channel on 3 April, and a second debate on this channel was cancelled when both these candidates declined to appear.

Finally, the observed level of SDSM and VMRO-DPMNE campaign expenditures appears to be high; it remains to be seen whether the ceiling on expenditures has been exceeded and whether such expenditures have been channelled through the special bank accounts established for this purpose.

## **Media**

Media coverage of the presidential election campaign is regulated under the Parliamentary Election Law. The media during the campaign is furthermore governed by the Rules for Equal Access to Media Presentation, proposed by the Broadcasting Council, and approved by Parliament on 18 March 2004.

According to the Rules, the state broadcast media are obliged to provide free airtime to all presidential candidates on the basis of fair, objective and transparent criteria. Commercial broadcasters, if they decide to provide free airtime, must do so to all electoral contestants on a fair basis. The rules also set provisions on paid political advertisements, establishing in great detail advertising time limits for all the electronic media. The electronic media are required to provide airtime for paid political advertising to the presidential candidates under equal conditions of access and manner of payment.

Print media are less regulated, as they are only required to report on the candidates in a fair, balanced and impartial manner and respect the pre-electoral silence period.

The Broadcasting Council oversaw the operations of all broadcasters, closely monitoring the election campaign on all the electronic media and issuing warnings to the broadcasters about violations of the Rules for Equal Access to Media Presentation. However, the Council has no direct enforcement authority, thus reducing its capacity to effectively act regarding unfair or illegal media coverage during the campaign.

A large spectrum of electronic and print media provided voters with comprehensive information about the election campaign. The laws and regulations on equal access to media and on freedom of expression generally conform to OSCE commitments and international standards related to elections.

With respect to the media's coverage of the campaign,<sup>1</sup> presidential candidates had the opportunity to present themselves during special direct access programs on MTV1 and on MTV3 (Albanian language), in compliance with the legal provisions on allocation of free airtime.

Overall, the amount of time devoted by MTV1 to the candidates contesting the election was balanced. MTV3, the public channel which broadcasts in the language of the national minorities, tended to concentrate more on the two Albanian candidates in its main news program, with 72 per cent of the campaign-related time devoted to them.

Private broadcasters and print media monitored by the EOM provided more coverage to the two candidates with the highest possibilities of reaching the second round – with TVA1, for instance, covering Mr. Kedev and Mr. Crvenkovski in 62% of their news programs, and TV Sitel covering them in 76 per cent of the campaign-related time.

*Fakti*, the leading Albanian daily, devoted more attention to the ethnic Albanian candidates (31 per cent for Xhelili and 34 per cent for Ostreni), thus confirming an ethnically-oriented media coverage trend. The tone of the coverage in the private media remained predominantly neutral.

The Kedev and Crvenkovski campaigns ran extensive paid advertisements in both print and electronic media. VMRO-DPMNE engaged in negative campaigning through paid advertisements, targeting the prime minister, with SDSM countering with an anti-Kedev advertisements.

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<sup>1</sup> The EOM conducted qualitative and quantitative analysis of selected media outlets to assess the coverage of the candidates and relevant political subjects. The monitoring activities focused on three national TV stations – the public broadcaster MTV1 and the private TV A1 and TV Sitel – and of the most important daily newspapers in the Macedonian and Albanian languages. In addition, the EOM analyzed the prime time news in Albanian language on MRTV3.

## **Pre-election Complaints and Appeals**

Only one formal complaint was submitted prior to the election, by a politician from the ethnic Macedonian community, concerning the denial of his candidacy. The candidacy of this independent nominee was rejected by the SEC based on the requirement that a candidate must have resided in the country for at least ten of the fifteen years prior to election day.

Reviewing the information provided by the nominee, the SEC found that he had resided in Croatia for a number of years, and did not have the required period of residence. The nominee appealed to the Supreme Court, invoking a constitutional provision allowing residence in other republics of the former Socialist Federal Republic of Yugoslavia (SFRY) to count toward the requirement.

The Supreme Court upheld the decision of the SEC, ruling that residence in a former republic of the SFRY, after adoption of the Macedonian Constitution in 1991, could not be applied toward residency. Aside from its basis in Macedonian law, this decision appears to be consistent with international law and practice regarding the status and succession of states emerging from the former SFRY.

On 31 March, the Constitutional Court denied a further appeal by the nominee, indicating that the questions raised were not within its jurisdiction. The Court's opinion was consistent with its decision in an earlier case during the 2002 parliamentary elections, not to accept the appeal of a nominee whose candidacy had been denied.

The nominee then pursued further appeals, including to the full Supreme Court, Primary Court I, Skopje and the European Court of Human Rights in Strasbourg. Failing to secure judicial relief, the nominee has embarked upon a political campaign to urge voters to abstain from voting in the election.

Another potential nominee – associated with one of the main ethnic Albanian-based parties – previously terminated his candidacy prior to submission. This nominee stated that he had received indications that his residency for the required period of time would be questioned by the authorities. Since the nominee withdrew prior to submitting a request for registration as a candidate, and did not file a complaint or appeal, this claim cannot be verified.

## **Participation of Minorities in the Electoral Process**

As in previous presidential elections, there are candidates from the large ethnic Albanian minority. No candidates from other minority ethnicities were nominated, but several parties representing ethnic minorities have aligned themselves with one candidate or another. The candidates have made efforts to reach out to non-Albanian minorities. These minorities, particularly Roma, Turks and Vlachs, are represented in some MECs and Election Boards.

A Roma NGO has claimed that many Roma are missing from the Voter List. This situation could be compounded due to a certain lack of education, identity documents, and permanent housing among the Roma community. Allegations of vote buying were particularly prevalent in Roma communities in the areas of Stip and Strumica.

Members of the Roma community in Suto Orijari, north Skopje, complained to a domestic non-partisan observer organization that their votes had been cast for them. Evidence of ballot stuffing at this large polling centre was directly witness by ODIHR observers.

### **Participation of Women in the Electoral Process**

No women were nominated as presidential candidates, and gender issues have been mostly absent from the campaign. Mr. Ostreni addressed a large group of women supporters in Skopje, where he called for greater participation of ethnic Albanian women in political activities and for an increased role in all spheres of society.

Regarding election administration, there is one woman on the SEC (out of 9 members), and representation on MEC's varies from 10 – 50 per cent, with urban areas tending to have a greater concentration of women MEC members than rural areas. Based on EOM observations, 60% of Election Boards had women members, while this number decreased to 45% in ethnic Albanian areas.

The EOM has noted that attendance by women at candidate rallies was noticeably low.

### **Domestic Observers**

Over 4,000 domestic nonpartisan observers from eight different organizations were accredited, contributing to confidence in the election results. The largest such organization, MOST, deployed 3,320 observers and conducted a parallel vote tabulation. EOM observers reported the presence of domestic nonpartisan observers in 54 per cent of polling stations observed.

Candidate representatives could be registered up until election day, and were observed in 92% of polling stations visited.

### **Election Day – Voting, Counting and Tabulation**

Over 300 OSCE / ODIHR observers followed the voting process in more than 1,400 polling stations. In addition, observers were present in 29 of the 34 Municipal Election Commissions (MECs) following the tabulation of the count.

Voting was conducted in a generally peaceful manner throughout the country. Voter turnout was reported as approximately 55% of registered voters, which was markedly lower than in any other recent national election.

While election day procedures were assessed positively in the vast majority of polling stations observed, procedural errors were noted during the closing of polling stations, and some significant problems emerged during the vote count and tabulation process at both polling station and MEC levels:

Opening procedures were judged to be good or very good in 92% of all polling stations observed. Thirty-three per cent of polling stations opened late for a variety of reasons, and one polling station failed to open at all due to a local dispute. Voters boycotted several polling stations in protest over the reported failure of local administration to provide desired infrastructure.

The voting process was assessed as good or very good in 95% of the polling stations observed. However, there were incidents of proxy voting in 26 polling stations, and strong indications of ballot stuffing were observed in 10 polling stations. In two polling stations observers directly witnessed an election board member falsifying signatures on the extract of the Voters List. Significantly, in four per cent of polling stations observed, voters did not sign or mark the Voters List in any way.

Group voting was also observed in 13% of polling stations, rising to 21% in ethnically Albanian areas. Although group voting, which was observed generally among families, is a serious breach of secrecy of the ballot, it must be pointed out that this figure is lower than in previous elections.

Candidate representatives were observed in 92% of the polling stations, greatly contributing to transparency.

Domestic non-partisan observers were also encountered in 54 % of polling stations observed. However, one domestic observer organization reported that their representatives were threatened and made to leave the same polling centre in Suto Orijari, in which EOM observers witnessed ballot stuffing.

Counting and tabulation procedures were not rated so highly. Procedural errors occurred in many polling stations that inhibited some of the important safeguards of the electoral process:

In 14% of polling stations observed the results did not reconcile. However, in less than half of these cases, did the election board recount the ballots as required by law. In some cases, signatures were added to the voters list to rectify the problem. The lack of a clear, tabulated results protocol impeded the Election Boards in their ability to fulfill the procedures, and 15% of EBs observed had difficulty in filling out the minutes (form 14). In over 40% of polling stations observed, the results were not posted at the polling station.

Similarly, there were problems in some of the MECs observed. In several MECs results have been systematically changed to reconcile them, and to allow entry into the computerized data system. In another two MECs, the results forms were checked and entered in a separate room which observers and candidate representatives were not allowed to enter.

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

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**MISSION INFORMATION & ACKNOWLEDGEMENTS**

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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 two and a half weeks prior to election day. The statement also incorporates the election day findings of 328 short-term observers, reporting from more than 1,400 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.

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