

**INTERIM REPORT No. 2
11 – 20 September 2006**

I. EXECUTIVE SUMMARY

- The election campaign has been gaining momentum over past weeks with rallies, door-to-door campaigning, billboard posters and extensive use of the media observed. The intensity of campaign activities has varied across the country.
- The campaign atmosphere continues to be highly charged and polarized, with political parties and candidates taking strong stances on nationalist issues.
- During the reporting period, the Central Election Commission (CEC) held three sessions and has adopted most forms, instructions and regulations necessary for the conduct of the upcoming election.
- After much debate, the CEC decided that issues of nationalist rhetoric during campaigning would be considered on a case-by-case basis.
- The CEC has considered some dozen complaints or appeals during the reporting period. In general, appeals have been settled amicably. Only one decision has been appealed to the Appellate Division of the Bosnia and Herzegovina (BiH) Court.
- Although the handling of certain election complaints by municipal election commissions (MECs) is new to this election, MECs have generally demonstrated good understanding and professionalism in performing their role.
- After a meticulous examination, the CEC decided to act inclusively to allow displaced persons (DPs) who have lost their status in the interim to retain the right to vote for their pre-war municipality.
- Legal provisions for free public broadcaster airtime have been respected and regular televised debates enable candidates to convey their messages to the electorate.
- In their news programmes, all three public TV channels have shown low interest in the election campaign, but have devoted a significant portion of their coverage to state authorities and their activities outside of the campaign context.
- 3,893 domestic non-partisan observers have been accredited for the upcoming election. A number of domestic NGOs have come together under the OKO NGO umbrella, the scope and methodologies of each NGO are highly diverse.
- Mr. Karel De Gucht, OSCE Chairman-in-Office, appointed Mr. David Heath (Member of the United Kingdom delegation to the OSCE Parliamentary Assembly), as Special Co-ordinator to lead the short-term OSCE observation mission.

II. ELECTION ADMINISTRATION

The CEC is continuing to prepare for election day, adopting most forms, instructions and regulations necessary for the conduct of the election; all administrative issues appear to be on schedule. During the reporting period, the CEC held three sessions. These were publicly accessible and announcements of meetings were advertised via the CEC website, although sometimes late. Media and domestic observers were usually not present at sessions.

Amongst others, the CEC has issued a decision to establish a Main Counting Centre in Sarajevo. Draft instructions for the receipt, processing, checks, announcement and verification of the election results were proposed, but their adoption has been postponed due to the late delivery of the draft to the CEC members.¹

The issue of nationalist rhetoric also arose during CEC sessions and after heated debate a decision was finally reached that such incidents would be considered on a case-by-case basis. Reluctant to take a stand on vague legal provisions, the CEC opted in practice to postpone the issue by requesting its secretariat to examine similar issues during previous elections and to collect the necessary documentation of candidates' media appearances or statements to the press.

MECs continue to work in an organized fashion and seem well prepared for the elections. There have been minor changes to the composition of some MECs due to sickness or retirement, as approved by the CEC. Most MECs appear to work on an *ad hoc* basis and seem not to hold official meetings if no decisions are required. The distribution of key election materials to MECs is currently underway, within the legally prescribed deadlines.

The appointment of polling station committees (PSCs) has been practically completed, with only one pending appeal sent to the relevant MEC for clarification. Many MECs have also commenced their training of the PSCs. No official manuals have been envisaged for this election due to a lack of financial resources.² However, a manual was published on the website of the Stari Grad Sarajevo MEC (prepared with substantial assistance from the Association of Election Officials NGO). While intended for the PSCs of that specific MEC, it is recommended to all MECs by the authors. The CEC has not expressed an opinion on this manual so far.

As previously reported, women are actively involved in the election administration; 30 percent of MEC chairpersons are female. At the PSC level, LTOs have observed that approximately 50 percent of commissioners are women, although this figure declines in some areas to some 20-30 percent.

The deadline for direct inclusion in the Central Voters Register (CVR) expired on 15 September.³ The last pending registration issue was related to the category of displaced

¹ A special by-law allowing 37 BiH peacekeepers stationed in Iraq to vote by post was also adopted, following a long and controversial debate. The by-law was seen as necessary due to the fact that the deadline for out-of-country applications had expired on 17 July 2006.

² The CEC considers its *Rulebook on Manner of Voting and Ballot Counting* an appropriate substitute.

³ Voters registered between 17 August (the deadline for the primary list) and 15 September will be included in supplemental extracts to the CVR, sent under separate cover to PSCs.

persons (DPs), as the status of certain DPs changed during the voter registration period.⁴ After a meticulous examination, the CEC decided to act inclusively and in accordance with its regulations; namely, DPs whose status changed in the meantime will enjoy DP status for the purpose of this election. This decision will affect some 3,985 voters, who will vote for their pre-war municipality by tendered ballot in the municipality of their physical residence.⁵ To avoid the possibility of double voting, the names of such individuals will be marked as 'voting elsewhere' in the CVR extracts. This information is to be delivered to MECs in due time.

III. THE CAMPAIGN ENVIRONMENT

During the reporting period, the intensity of campaign activities has varied across the country. While OSCE/ODIHR EOM long-term observers in some areas noted a rather slow start to the campaign, others reported significant campaigning over past weeks. In general, it has been observed that campaign activities have been gaining momentum and have included rallies, door-to-door campaigning, billboard posters and extensive use of the media. Some parties, especially smaller ones, have expressed a preference for smaller-scale, less costly public meetings, at which politicians can have direct contact with voters.

While political subjects address questions such as the economy, education, etc. in their campaigning, issues connected with the defence of narrow ethnic interests have continued to predominate. Key topics include the constitutional structure of the state, the issue of two entities, and the question of the status of the RS. In this connection, the High Representative made a statement on 18 September warning that steps would be taken against certain candidates if such divisive rhetoric continued; most sides have reacted to this statement, either positively or negatively. Some interlocutors also expressed concern about the possibility that parties might be sanctioned by the CEC. LTOs have observed isolated instances of public campaigning verging on inflammatory speech.

Controversy arose over the Social Democratic Party's (SDP) decision to put forward only a Croat candidate from the Federation of BiH (FBiH) for the state presidency; many Croat parties objected to the possibility that the Croat representative might be elected by mainly Bosniak voters, again underscoring the delicateness of the current ethnically-based electoral system.⁶ An additional issue in the course of the reporting period was the possible signing of a special co-operation agreement between the Republika Srpska (RS) and Serbia shortly before the election; this has further polarized opinions among interlocutors on the role and limits of the two entities.

In their contacts with the OSCE/ODIHR EOM, political parties have expressed few complaints regarding the conduct of the campaign, both at central and regional levels. They seem generally to have been able to conduct their campaign activities without hindrance either from the authorities or from other parties. Instances of defaced or torn

⁴ Thus, certain DPs became regular voters, not enjoying the privilege of opting to vote in their pre-war municipality.

⁵ Voting by tendered ballot involves placing one's ballot inside an envelope at special polling stations (one in each municipality), which notes one's personal details. These are then forwarded to the Main Counting Centre in Sarajevo. Details on specific voter are checked at this point and if found to be valid, the vote is cast.

⁶ Under the current electoral system, voters in the FBiH vote for either a Croat member or a Bosniak member to the state presidency.

down billboard posters have been noted by parties and observed by the OSCE/ODIHR EOM. Individual cases of campaign posters on public buildings continue to be observed, but remain limited in scope.

Political parties have frequently expressed concerns to the OSCE/ODIHR EOM about the way that media report. Smaller parties have complained that larger parties dominate campaign coverage, while larger parties sometimes complained that their message was crowded out because of the glut of reports on the activities of smaller parties.⁷ Most parties expressed a general confidence in the election administration. However, several raised their concerns of possible election-day irregularities. They also frequently expressed opinion that the new system of passive voter registration had improved the quality of the voter lists.

The participation of women as candidates in the electoral race is not generally visible on billboards and posters countrywide, although urban areas in FBiH feature some campaign posters with female candidates (mostly at canton level). As a result of the quota provisions in the election law, some 37 percent of candidates standing are women.⁸

IV. THE MEDIA

The three public broadcasters (BHT, FTV, and RTRS) have thus far respected the legal provisions for free airtime. They broadcast free political party campaign messages during a single timeslot each day (the slots consists of three to five different party presentations). In addition, all three public TV channels broadcast a regular election programme entitled *Election Chronicle*. While the programme is strictly formatted, it provides frequent information on the campaign activities of political parties. Regular televised debates among candidates have been taking place on the publicly funded media outlets. While the format and quality of the debates varies, they provide a good opportunity for candidates to exchange points of view.⁹

The OSCE/ODIHR EOM's interim media monitoring results indicate that news programmes on all three public TV channels have shown limited interest in the electoral campaign. In contrast, they have devoted significant coverage to the activities of the governing authorities outside of the campaign context. Between 1 and 17 September, BHT used 25 percent of its political and election prime time news to cover BiH Council of Ministers activities, which were reported in an exclusively positive or neutral tone. The entity-level FBiH and RS governments received the next highest coverage (19 and 18 percent, respectively), which was mostly positive or neutral. As for political parties and coalitions, most coverage was devoted to the *Alliance of Independent Social Democrats* (SNSD) at 10 percent and the *Party of Democratic Action* (SDA) at 4 percent. However, the OSCE/ODIHR EOM found that while 61 percent of SDA's coverage was positive and 39 percent was neutral in tone, only 24 percent of SNSD's coverage was assessed as positive and 11 percent was negative.

⁷ Significantly, no parties have complained about not receiving their legally allocated free airtime.

⁸ Currently at the BiH state level, 1 out of 9 ministers is a woman (Finance/Treasury) and 11 out of 42 MPs are women (26 percent). In addition, 23 out of 98 deputies (23 percent) in the FBiH and 18 out of 83 deputies (22 percent) in the RS are women.

⁹ For example, four televised debates among BiH presidency candidates have been aired on FTV in the framework of a programme called "60 Minutes".

During the monitoring period, there were discernable differences in coverage between the two entities, as reflected in the entity-level public broadcasters. RTRS appears to have favoured incumbent political subjects in the RS and used 63 percent of its political and election prime time news coverage on activities of the RS government (44 percent), the RS president (9 percent), and the SNSD (10 percent). This coverage was predominantly positive or neutral in tone. By comparison, FTV was slightly slanted in favour of SDA, devoting 17 percent of its coverage (mainly neutral and positive) to the party. Its prime time news political and election coverage was primarily focused on activities of the FBiH government (26 percent) and the BiH Council of Ministers (22 percent).

Private broadcasters monitored by the OSCE/ODIHR EOM exhibited similar patterns of low interest in the electoral campaign in their news coverage. TV Pink BiH devoted almost 17 percent of its political and election prime time news coverage to SNSD (primarily positive or neutral). The second most-covered political subject was the RS government (13 percent, mainly positive coverage). In comparison, the OBN privately-owned broadcaster allocated the largest portion of its political and election prime time news coverage to the *People's Party, Through Work to Betterment* (16 percent). In addition, this party has purchased significant portions of OBN airtime for its political advertising.

The third private network monitored by the OSCE/ODIHR EOM, TV Mreza Plus, provided roughly equal proportions of its political and election prime time news coverage to SDA and SNSD (12 and 13 percent, respectively). However, the OSCE/ODIHR EOM evaluated that while 36 percent of SDA's coverage was positive and only 9 percent was negative in tone, as much as 62 percent of SNSD's coverage was assessed as negative and 38 percent as neutral.

To date, the print media have provided lively coverage of the elections campaign and while all newspapers monitored by the OSCE/ODIHR EOM have provided a diverse range of opinions, they have invariably shown a pattern of political favouritism towards specific candidates and parties. Consequently, only by reading several newspapers are voters able to obtain information on diverse political perspectives and candidates. The Sarajevo-based *Dnevni Avaz* daily newspaper allocated most of its political and election coverage to SDA (24 percent) and SBiH (18 percent). While its coverage was mainly positive or neutral, SDA's leader, Sulejman Tihic, was criticized in several articles. By comparison, the *Glas Srpske* daily newspaper (funded by the RS government) showed clear support for SNSD, giving the party more than half of its coverage, which was exclusively positive or neutral in tone.

V. COMPLAINTS AND APPEALS

Following the most recent amendment to the election law in April 2006, the complaints and appeals process in BiH has been amended.¹⁰ These revisions have resulted in a minor confusion on the part of plaintiffs; as a result, a number of complaints were filed incorrectly

¹⁰ In particular, the Elections Complaints and Appeals Council was dissolved and its functions reallocated to MECs and the CEC. In addition, the CEC has adopted *Instruction on Handling Complaints and Appeals* where certain aspects of this process are clarified.

during the reporting period (to the CEC). The CEC has forwarded such complaints to the competent authorities and has informed plaintiffs accordingly.¹¹

Although the handling of certain election complaints by MECs is new to this election, MECs have generally demonstrated good understanding and professionalism in performing their role in the process.

During the reporting period, the CEC has considered nine appeals on MEC decisions concerning PSC nominations. In some cases, the plaintiffs had missed the seven-day deadline for nominating candidates to PSCs. Although the CEC rejected such appeals, it did recognize a lack of clarity in its by-laws (in terms of calculating deadlines) and decided to correct them accordingly. Other appeals on PSC membership questioned the transparency of the appointment process and the distribution of managerial positions (chairpersons or deputies). The CEC rejected all such complaints as being without grounds or untimely, having concluded that the MECs in question had been acting in compliance with the law.

In its role as first instance adjudicator, the CEC has considered two complaints alleging the use of inflammatory language in the campaign. Both complaints were unanimously rejected as without grounds. Given the vague wording of the “inflammatory language” provision in the election law, the CEC enjoys broad interpretative discretion and investigates each case separately.

There was also one complaint to the CEC alleging abuse of public resources by an incumbent candidate. Rather than being considered in an open session, the complaint was dismissed unilaterally by a letter from the CEC Chairperson; no collegial decision was taken in this sensitive case, raising concerns. It is also of note that the current election legislation lacks provisions to limit the abuse of public resources by incumbents.

Only one appeal has been filed with the Appellate Division of the BiH State Court during the reporting period. The appeal challenged a decision rejecting the establishment of a polling station in one of the electoral units. The Appellate Division of the BiH Court rejected the appeal as ungrounded.

In addition, the Communications Regulatory Agency (CRA), which is tasked to deal with broadcast media violations during the elections, has informed the OSCE/ODIHR EOM that it has received ten media-related complaints. The OSCE/ODIHR EOM has yet to meet with the CRA and to receive more detailed information regarding these complaints.

VI. DOMESTIC OBSERVATION

25 domestic non-government organizations (NGOs) requested accreditation for the upcoming 1 October elections. The CEC has granted accreditation to all who applied; thus 3,893 domestic non-partisan observers will be monitoring the process on election day. In addition, the CEC has accredited 80 party observers nominated by 12 parties to monitor the work of the CEC and the Main Counting Centre in Sarajevo.¹²

¹¹ This concerns, in particular, complaints on the destruction of campaign posters (forwarded by the CEC to the relevant MECs) and complaints on violations by electronic media (forwarded to the CRA by the CEC).

¹² Party observers in polling stations are accredited at the MEC level.

The NGO network OKO will be coordinating the activities of a number of domestic NGOs in conducting a nationwide election observation effort. However, the scope and methodologies of the groups is highly diverse.

VII. OSCE/ODIHR EOM ACTIVITIES

The Head of the OSCE/ODIHR EOM and other mission members continue to meet with the election commissions, political parties, candidates, state and entity-level officials, media, civil society and others throughout the country. LTOs have met with the majority of MECs and have established contacts with local authorities, political parties, civil society and media at the regional level.

A second briefing for representatives of diplomatic missions and international organizations is planned for 21 September. Preparations for the arrival of short-term observers have commenced.