



THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

MUNICIPAL ELECTIONS
24 March and 7 April 2013

OSCE/ODIHR Election Observation Mission
Final Report



Warsaw
9 July 2013

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I. EXECUTIVE SUMMARY

Following an invitation from 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 2013 municipal elections. The OSCE/ODIHR EOM assessed compliance of the electoral process with OSCE commitments and other international standards for democratic elections, as well as national legislation. For election day observation on 24 March, the OSCE/ODIHR EOM joined efforts with an observer delegation from the Congress of Local and Regional Authorities of the Council of Europe. The OSCE/ODIHR EOM remained in the country to observe the second round on 7 April.

The 2013 municipal elections were efficiently administered and highly competitive. However, partisan media coverage and a blurring of state and party activities did not provide a level playing field for candidates to contest the elections. Further efforts are required to address gaps and ambiguities in the Electoral Code and improve confidence in the voter lists. Overall, both election days were calm and orderly, although some procedural irregularities were observed.

The elections were held against the background of a recent parliamentary boycott and announced electoral boycott of the Social Democratic Union of Macedonia (SDSM) that ended on 1 March through a European Union brokered agreement between the leaders of the SDSM and the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO-DPMNE).

The electoral legal framework is comprehensive. In addition to amendments in November 2012, the Electoral Code was further amended in the weeks before the election to extend the deadline for candidate registration. While it is not a good practice to amend the legal framework less than one year before an election, the latter amendment enjoyed cross-party consensus. The Electoral Code still lacks details on key issues concerning voter registration, candidate registration, campaigning, campaign finance, media coverage, and complaints and appeals. These gaps left room for conflicting interpretations and inconsistent application of electoral law.

The State Election Commission (SEC) operated efficiently and transparently and met most legal deadlines. However, the SEC voted along ethnic lines during the review of complaints and appeals, negatively impacting on its impartiality and collegiality. While SEC sessions were open to the public, some Municipal Election Commissions (MECs) did not announce their sessions in advance and took decisions in informal meetings thereby reducing the transparency of their work. Most MECs encountered financial problems due to failure to receive the necessary funds in a timely manner.

¹ The English version of this report is the only official document. Unofficial translations are provided in Macedonian and Albanian.

In total, 1,743,403 voters were eligible to vote in these elections. According to the Ministry of Internal Affairs, some 119,000 people were removed from the voter lists as they did not possess a biometric identification card or passport. The updating of the voter lists enjoyed the support of all major parties. Despite enhanced confidence in the accuracy of the voter lists, complaints persisted, including on both election days. As stated in previous OSCE/ODIHR EOM reports, the procedures for compiling and maintaining the voter lists would benefit from further improvement.

Candidate registration was inclusive and provided voters with distinct choices. In total, 350 lists for mayor and 480 lists for councils were submitted by 16 political parties, 8 coalitions and 97 groups of citizens. However, the extension of the candidate registration deadline for these elections was not equally applied to independent candidates. This is at odds with the principles enshrined in paragraphs 7.5 and 7.6 of the 1990 OSCE Copenhagen Document, which require authorities to respect the rights of all candidates to compete for political office without discrimination.

In line with the legal requirements, one candidate in each consecutive three places on a candidate list was reserved for the less represented gender. While there were previously no women mayors, 4 out of 32 women candidates were elected. The gender representation criteria were mostly respected in election administration bodies.

Candidates were able to campaign freely without undue interference. Although the campaign was active, it was at times overshadowed by inter-ethnic tensions. Allegations of voter intimidations persisted throughout the elections and the OSCE/ODIHR EOM observed several cases of apparent misuse of state resources for campaign purposes. This raised concerns about voters' ability to cast their vote "free of fear of retribution", as required by paragraph 7.7 of the 1990 OSCE Copenhagen Document. The blurring of state and party activities is also at odds with paragraph 5.4 of the 1990 OSCE Copenhagen Document.

Recent amendments to campaign finance regulations strengthened the timeliness, transparency, and guidance for submitting and auditing reports. However, concerns remain with respect to the detail of reporting, provisions for second round elections, and the differing thresholds for donations by individuals and legal entities.

The large numbers of media outlets in the country are divided along ethnic and political lines. Since the last elections, the closure of two broadcasters and a number of print media outlets significantly reduced the number of media outlets critical of the government. Although the media monitored by the OSCE/ODIHR EOM provided extensive campaign coverage in the news, the public broadcaster and most private broadcasters displayed significant bias in favor of the governing parties. Broadcast media regularly covered government activities but failed to distinguish between state activities and party campaigning. While the public broadcaster allocated free airtime to candidates and created a special programme to cover campaign activities, these were broadcast outside of prime time, limiting their potential viewership.

Both election days were calm and orderly, although some procedural irregularities were observed. Instances of group voting persisted and the secrecy of the vote was not always respected. Several parties and observers raised concerns over a number of diaspora citizens returning to the country to vote without having a place of residence, as required by law. Most vote counts observed were assessed positively, although procedural omissions were at times noted. During both rounds, the tabulation

process was conducted in a professional manner, despite some technical problems experienced during the first round. The preliminary results of both rounds of voting were posted on the SEC website as they were received from the MECs, with a breakdown of the vote by municipality and polling station.

The SEC did not decide on the majority of complaints filed before and after election day, thus denying complainants an effective remedy as provided by paragraph 5.10 of the 1990 OSCE Copenhagen Document. The Administrative Court handled appeals in a formalistic manner and the decisions were inconsistent. The President of the Administrative Court resigned after the publication of the court's decisions on second round challenges. The SEC announced the final results on 23 April.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Ministry of Foreign Affairs to observe the 24 March municipal elections, and based on the recommendation of a Needs Assessment Mission conducted from 28 to 31 January, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 25 February. The OSCE/ODIHR EOM was headed by Ambassador Geert-Hinrich Ahrens and consisted of an 11-member core team based in Skopje and 16 long-term observers deployed throughout the country.²

For election day observation on 24 March, 215 short-term observers were deployed, including a 15-member delegation from the Congress of Local and Regional Authorities of the Council of Europe. Voting was observed in 831 polling stations out of a total of 2,976. Counting was observed in 80 polling stations. The tabulation process was observed in 66 out of 81 Municipal Election Commissions. The OSCE/ODIHR EOM remained in the country in a reduced capacity to observe the second round on 7 April. In total, there were observers from 30 OSCE participating States.

The electoral process was assessed for its compliance with OSCE commitments and other international standards for democratic elections, as well as domestic legislation. This final report follows two Statements of Preliminary Findings and Conclusions released on 25 March and 8 April.

The OSCE/ODIHR EOM wishes to thank the Ministry of Foreign Affairs for the invitation to observe the elections, the State Election Commission for its co-operation and for providing accreditation documents, and to other state and local authorities for their assistance and co-operation. The OSCE/ODIHR also wishes to express appreciation to the OSCE Mission to Skopje and to diplomatic representations of OSCE participating States and international organizations for their co-operation throughout the course of the mission.

III. POLITICAL CONTEXT

Following the forced ejection of opposition members and media from the parliament during a budgetary procedure on 24 December 2012, the Social Democratic Union of Macedonia (SDSM) and several of its coalition partners began a boycott of the parliament. On 2 January 2013, the SDSM announced that it

² All previous OSCE/ODIHR reports are available at: <http://www.osce.org/odihr/elections/fyrom>.

would also boycott the municipal elections, unless a number of demands were met.³ The three largest ethnic-Albanian parties represented in the parliament, the Democratic Union for Integration (DUI), the Democratic Party of Albanians (DPA), and the National Democratic Revival (NDR) did not join the boycott and announced their intention to contest the elections from the time they were officially called on 11 January.

The governing Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO-DPMNE) and the SDSM were not able to find a compromise to end the ensuing political crisis. The opposition's boycott of the municipal elections only ended on 1 March when the European Union mediated an agreement between the leaders of the two parties.⁴ In an emergency session held the following day, the parliament extended the candidate registration deadline until 8 March to allow opposition candidates to register.

As a result of the political crisis, the elections assumed a political significance beyond their municipal scope. The leader of the VMRO-DPMNE coalition described the elections as a referendum on the country's future, while the SDSM chairperson argued that the election results would determine whether or not early parliamentary elections should be held. Moreover, the elections were widely viewed as an important test in the context of the shared ambition of all mainstream political parties to promote the country's Euro-Atlantic integration.

The 2013 municipal elections were also the first to be held after a merger of five municipalities into the single municipality of Kičevo.⁵ The reduction in the number of municipalities and changed demographic profile of Kičevo led to an increase in inter-ethnic competition in the race for mayor and the council.

IV. THE LEGAL FRAMEWORK

The legal framework for municipal elections is regulated mainly by the Constitution and the Electoral Code.⁶ The Electoral Code was amended in November 2012 on the basis of findings from a government-initiated working group, chaired by the Ministry of Justice, to address recommendations from the 2011 OSCE/ODIHR EOM final report on the early parliamentary elections. Amendments were adopted by a slim majority in parliament (66 of 123 members of parliament), with opposition parties abstaining from the vote. Amendments largely related to campaign finance, as well as technical amendments for the administration of municipal elections. In addition to the 2012 amendments, the Electoral Code was amended twice in the weeks before the elections to extend the deadline for candidate registration. The last amendment extended the deadline for submitting lists of candidates until 8 March and applied only

³ These included: a call for early parliamentary elections, reform of the Electoral Code, extensive revision of the voter lists, and resignation of the Ministers of Finance, Interior, and Justice, and the Executive Director of the public broadcaster Macedonian Radio and Television (MRT).

⁴ The text of the agreement can be found at http://ec.europa.eu/commission_2010-2014/fule/headlines/news/2013/03/20130301_en.htm.

⁵ Amendments to the Law on Territorial Organization of the Municipal Self-Government in 2008 provided for the merging of the municipalities of Kičevo, Zajas, Oslomej, Vranëstica, and Drugovo into a single municipality named Kičevo. This amendment is effective from the 2013 local elections onwards, resulting in a reduction from 84 to 80 municipalities

⁶ Other applicable laws are the Law on Broadcasting Activity, the Law on Political Parties, the Law on Political Party Financing, the Law on Civil Servants, the Law on Administrative Disputes, the Law on Local Self Government, the Law on Territorial Administration of Local Self-Government and the Criminal Code.

to these elections.⁷ The remaining deadlines in the Electoral Code were not changed to reflect this extension. This created confusion among stakeholders as to when the campaign period officially started.

While it is not good practice to amend the legal framework less than one year before an election, the latter amendment enjoyed cross-party consensus.⁸ However, extensions of the deadline for candidate registration applied only to political parties and coalitions and not to groups of voters.⁹ This is at odds with the principles enshrined in paragraphs 7.5 and 7.6 of the 1990 OSCE Copenhagen Document, which require authorities to respect the rights of all candidates to compete for political office without discrimination.¹⁰

Although there have been several recent reforms of the Electoral Code responding to previous recommendations of the OSCE/ODIHR and the Council of Europe's Commission for Democracy through Law (Venice Commission), several gaps and ambiguities remain.¹¹ This includes detailed provisions for the second round of mayoral elections, campaign finance, candidate registration, and the complaints and appeals process. In addition, the question of how and when independent candidates and party lists can withdraw is not regulated in the Electoral Code, which resulted in controversy when several political parties withdrew their lists shortly before these elections. In this context, the OSCE/ODIHR welcomes the agreement of the two main political parties to continue with the process of electoral reform after these elections.

Reform of the Electoral Code should address the recommendations identified in this report, as well as previous reports of the OSCE/ODIHR and the Venice Commission. It is recommended that clear provisions for the second round of mayoral elections are added to the Electoral Code. Reform should be inclusive and completed well in advance of the next elections.

V. ELECTORAL SYSTEM

Mayoral and municipal council elections are held every four years in the second half of March. Each of the 80 municipalities and the City of Skopje elects a mayor and a council. Mayors are elected through a majoritarian system consisting of two rounds. To be elected mayor in the first round, a candidate must receive more than 50 per cent of the vote. There is also a one third turnout requirement of registered voters in the first round for the election to be valid. The Electoral Code, however, does not specify what happens if this turnout requirement is not met. If no candidate wins in the first round, a second round is

⁷ The amendment was passed with 84 members voting in favour, and one against. It was the first time since 24 December 2012 that the SDSM and other opposition parties returned to parliament.

⁸ The Venice Commission Code of Good Practice in Electoral Matters recommends that “the fundamental elements of electoral law [...] should not be open to amendment less than one year before an election”. <http://www.venice.coe.int/webforms/documents/CDL-AD%282002%29023rev-e.aspx>.

⁹ The OSCE/ODIHR EOM is aware of at least one case in Čučer Sandevo municipality where a group of voters whose list was originally rejected for late submission was refused registration under the new deadline.

¹⁰ Paragraph 7.5 of the 1990 OSCE Copenhagen Document provides that participating States “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.” Paragraph 7.6 further stipulates that participating States should “provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities.”

¹¹ The OSCE/ODIHR and Venice Commission Joint Opinion on the Electoral Code of the former Yugoslav Republic of Macedonia, No. 640/2011, CDL-AD(2011)027, available at <http://www.osce.org/odihr/84226>.

held within two weeks between the two candidates who received the highest numbers of votes. There is no turnout requirement in the second round of voting.

The Electoral Code should specify what happens in a mayoral election when less than one third of voters turn out to vote in the first round.

Municipal councillors are elected by a proportional representation system with closed lists. Seats are allocated using the *d'Hondt* formula. There is no turnout requirement for municipal council elections. The number of councillors elected per municipality depends on the population in each municipality, ranging from 9 to 33 members. The Constitution provides that the city of Skopje is a particular unit of local self-government comprising ten municipalities, thus in Skopje voters elect their individual municipal council, and a separate 45-member council for the city of Skopje.

VI. ELECTION ADMINISTRATION

The municipal elections were administered by a three-level election administration comprised of the State Election Commission (SEC), 80 Municipal Election Commissions (MECs) and the Election Commission for the City of Skopje, and 2,976 Election Boards (EBs). For the second round of mayoral elections, the number of EBs was reduced to 1,614 reflecting the number of second round contests, administered by 32 MECs.

The SEC is a permanent body responsible for the overall conduct of elections. It is composed of seven members appointed by the parliament with a two-thirds majority for a four year term.¹² The SEC president and two members are nominated by opposition parties, and the vice-president and three members by the governing parties.

The SEC met most electoral deadlines and functioned efficiently. The SEC sessions were open to election observers and the media. Their decisions and majority of the minutes of sessions were published on the SEC website, in line with a prior OSCE/ODIHR recommendation. In addition, some issues such as design and printing of the ballots were discussed in closed informal meetings among SEC members.

The SEC could further enhance their transparency by strictly adhering to the requirement to post all minutes of meetings on their web page. The Electoral Code could be amended to specify that minutes must be posted no later than 48 hours after the session is held.

Some decisions, particularly those relating to the withdrawal of candidate lists and election day complaints, were voted along party and ethnic lines rather than the legal merits of the case. This negatively impacted on the impartiality and collegiality of the SEC.

The SEC should resolve all complaints and appeals in an impartial manner free from politically motivated considerations. The law should be interpreted, implemented, and enforced in line with the intent of the law.

¹² The current SEC was appointed in 2011, after the early parliamentary elections held that year. One-third of its members are women.

The SEC prepared a comprehensive handbook for the MECs and EBs detailing the voting, counting and tabulation procedures. A few voter education TV spots were made by the SEC and broadcast prior to the first and second round of elections. Otherwise, there was a noticeable lack of voter education materials.

The SEC could provide more voter information and education, particularly regarding time and procedures for updating personal data on the voter lists, group voting, and the secrecy of the vote.

MECs are responsible for overseeing the electoral process in each municipality and their duties include registration of candidates, appointment and training of EBs, tabulation and announcement of municipal results, as well as other technical preparations under the guidance of the SEC. They are composed of a president, four members and their deputies and are appointed for a period of five years.¹³ They are randomly selected by the SEC from among employees with higher education working in the state and municipal administration. Each MEC is assisted by a secretary and a deputy appointed by the MEC president from among graduate lawyers. All MEC members and their deputies must have their residence in the area of the respective municipality. Several MECs encountered financial problems as municipalities had not provided the necessary funds for election administration in a timely manner. In some cases MEC members used their personal funds.¹⁴ However, the lack of funds did not seem to affect the preparation of the elections. Some MECs did not announce their sessions in advance and took decisions in informal meetings thereby reducing the transparency of their work.

It is recommended that the MECs are provided with the necessary resources in a timely manner. In addition, transparency of the work would increase if MECs hold only public meetings that are announced in advance.

EBs are responsible for the conduct of election day procedures at polling stations. EBs are composed of five members: a president, four members and their deputies and are appointed for a period of four years. One member and a deputy are nominated by the governing political parties, one member and a deputy by the opposition parties, and three members and their deputies are randomly selected from public service employees.¹⁵ All EB members were trained by the MECs. In some cases, MECs decided to conduct additional EB training to address some of the problems encountered in the first round of elections, including the completion of results protocols. Most of the EBs performed their duties well during the two rounds of elections although the announcement of the preliminary results was delayed in some municipalities.¹⁶

Between the two rounds the SEC replaced the MEC and 13 EBs in Čair due to allegations of falsified election results. The case is being investigated by the Prosecutor's Office. Some OSCE/ODIHR EOM interlocutors were concerned that due to the lack of minimum qualifications for the selection of EB members, often people with insufficient education were appointed to the EBs.

¹³ Current MECs were appointed on 26 April 2011.

¹⁴ From September 2012 the SEC sent more than 20 letters to government, parliament and mayors to request financial support for 25 municipalities. Several MECs informed the OSCE/ODIHR EOM that they had not received money from municipalities and payment of the EBs would be done only after the second round of the elections.

¹⁵ The current EBs were appointed on 1 February 2013, including the members nominated by political parties.

¹⁶ According to Article 135(1) of the Electoral Code, the MECs have seven hours from the closure of polling stations to announce results in their municipality. Forty-one municipalities failed to meet the legal deadline to announce the preliminary results.

Consideration could be given to providing frequent and more detailed trainings for EB members.

The Electoral Code provides for equitable ethnic and gender representation in all election administration bodies.¹⁷ The ethnic composition of the MECs and EBs was strictly observed and gender representation was mostly respected.¹⁸

VII. VOTER REGISTRATION

All citizens with registered residence in their respective municipality, who have reached the age of 18 years, and have a valid identification document, are eligible to vote, except those deprived of their voting right by a final court decision. Citizens who are temporarily residing abroad are registered in the voter lists according to their last place of residence. For the first time in these elections, only those citizens who possess a biometric identification card or passport were included on the voter lists.¹⁹

The SEC is responsible for maintaining the voter lists based on information extracted from the citizen's registry kept by the Ministry of Internal Affairs (MoIA). In an election year, the MoIA provides an update to the voter lists the day after the announcement of the date of the elections.²⁰ On the same date, the Basic Courts submit data to the SEC about people who have been deprived of their legal capacity by a final court decision. In addition, the Ministry of Justice (MoJ) provides regular updates to the MoIA on the newly born, the deceased and marriages.

The duties of the 132 civil registry offices of the MoJ, the 30 offices of the MoIA and the 34 SEC regional offices are not clearly defined with regard to updating voter lists' data and often seem to partially overlap. The MoJ and MoIA have conducted several administrative checks of data regarding the deceased and data of registered citizens since 2010. According to the MoJ, the MoIA, and the State Statistics Office, the voter lists are as accurate as possible given the current technological capacity.

Consideration should be given to conducting a review of the procedures for compiling and maintaining voter lists. Clear, co-ordinated, and transparent procedures would enhance accuracy of the voter lists and contribute to public confidence.

Voters could inspect the voter lists in one of the 34 SEC regional offices and could request additions, deletions or amendments throughout the year. Voters could also check if they were on the voter lists using an internet application. Electoral contestants were able to request copies of the voter lists from the SEC in paper or electronic format and submit motivated requests to amend the voter lists. In line with the law, a period of public inspection of the voter lists was conducted from 26 January to 9 February 2013, and some 43,633 people checked the lists countrywide with 1,788 voters added to the voter lists. Voter lists were closed 15 days before election day. According to the SEC, a total of 1,743,403 citizens were registered to vote in these elections.

¹⁷ According to Article 21 of the Electoral Code, ethnic communities that constitute more than 20 per cent of the population in a municipality should be represented in the MECs and EBs, while at least 30 per cent of members in all election bodies should come from each gender.

¹⁸ There are no sanctions applied in the event that the gender requirement is not met.

¹⁹ According to Law on Identification Card and Law on Travel Documents, as of 1 April 2012 the only documents deemed valid are biometric identification documents and passports.

²⁰ The parliament speaker called the municipal elections on 11 January 2013.

According to the MoIA, some 119,000 people were removed from the voter lists prior to these elections as they did not possess a biometric identification card or passport. This cleansing of the voter lists enjoyed cross-party support. Nevertheless, as election day approached, political parties expressed longstanding concerns regarding the accuracy of the voters lists. On 22 March, the SDSM filed a petition with the SEC challenging the presence of 13,869 voters on the voter lists. The MoIA informed the OSCE/ODIHR EOM that the SEC forwarded 847 names included in the SDSM petition for verification and confirmed that these names were thoroughly checked and that all were eligible voters.²¹ Other complaints regarding the accuracy of voter lists were generally not substantiated.

Thirty-nine voters who were not found on the voter lists on the first election day filed complaints with the SEC requesting that they be included on the lists for the second round. The SEC decided not to deal with the complaints until after the elections, stating that the Electoral Code prevented them from amending the voter lists between the two rounds of elections. On 2 April, the SEC, in a long and contentious session, decided not to allow citizens with biometric passports that listed the Republic of Albania as their address to vote in the second round even though they were included on the voter lists and had been allowed to vote in the first round.

A revision of the cut-off date for the finalization of voter lists could be considered to bring it closer to election day.

VIII. CANDIDATE REGISTRATION

In addition to a requirement of being a voter, the law requires that candidates be resident in the municipality where they want to contest elections. Municipal elections may be contested by candidates nominated by registered political parties, coalitions of political parties, or by independent candidates nominated by a group of voters. Independent candidates are required to support their candidatures with 100 and 450 signatures, depending on the size of the municipality, and with at least 1,000 signatures in the city of Skopje. Signature collection lasts 15 days and supporting signatures can only come from eligible voters resident in the given municipality. A voter may only sign in support of one list. Registered political parties and coalitions are exempt from signature collection provided that they submit party registration documents and, if necessary, a statement confirming their coalition status.

Candidate lists are to be submitted to the MECs no later than 35 days before election day and MECs are responsible for approving and registering the lists. In municipalities where more than 20 per cent of the citizens speak an official language other than Macedonian, candidate lists may be submitted in that language. The ordering of candidate lists on ballot papers was determined by the SEC on the basis of drawing lots. Each candidate list was allocated the same list number for all municipalities.²²

²¹ The SDSM explained in the petition that these voters were not in the voter lists in 2011 and provided examples of many voters registered at the same address; in one case in Skopje Centar municipality 75 people were registered with the same address. The SEC decided to submit a request to MoIA to clarify “under what conditions, procedures and when” these voters received their citizenship, and their identification documents.

²² If a candidate list was not registered in a given municipality, their respective list number was omitted.

Overall, candidate registration was inclusive and provided voters with distinct choices.²³ In total, 350 lists for mayor and 480 lists for councils were submitted by 16 political parties, 8 coalitions and 97 groups of citizens. In line with the legal requirements, one candidate in each consecutive three places on a candidate list was reserved for the less represented gender. In contrast with previous elections, when no woman was elected as a mayor, 4 out of the 32 women candidates were elected.

Further efforts to increase the number of women candidates are necessary. Consideration could be given to amending Article 64.5 of the Electoral Code, to provide that if a woman elected from a candidate list for municipal council resigns, she is replaced by the next woman on the list.

After the SDSM had lifted their election boycott, VMRO-DPMNE and SDSM decided to submit joint lists of candidates in Kičevo and Struga, where close contests between ethnic Albanian and Macedonian contestants were expected. As the VMRO-DPMNE lists had already been registered by the respective MECs, the VMRO-DPMNE asked the SEC to allow them to withdraw their candidate lists in these two municipalities. The SEC decided to allow the withdrawal of the lists but this decision was not accepted by the two MECs who subsequently rejected the joint lists submitted by the SDSM as they contained candidates from the verified VMRO-DPMNE lists.²⁴ The SDSM appealed the rejection of the joint lists to the Administrative Court, which overturned the decision of the two MECs on 9 March. SDSM's joint lists were then accepted. DUI and DPA questioned the legality of the court's decision claiming that the SEC did not have the authority to approve the withdrawal of lists once verified by the MECs.²⁵

The Electoral Code could include specific provisions regarding the time and conditions for withdrawal of registered candidate lists. It could also be considered to establish the possibility that a candidate list may be partly accepted (for example, only the names of candidates on the list that meet the eligibility criteria are accepted, and the others deleted from the list). Should such provisions be introduced, it is recommended that safeguards are established to ensure that the right to withdraw candidate lists is not abused.

IX. ELECTION CAMPAIGN

In accordance with the Electoral Code, the election campaign commenced officially on 4 March and ended for the first round at midnight on 22 March and for the second round on 5 April. Contrary to legal provisions, several candidates held campaign events before the start of the campaign period.²⁶

²³ A total of 8,878 candidates registered for the 2013 municipal elections, a decrease from a total of 13,079 candidates registered for the 2009 municipal elections.

²⁴ Article 57(2) of the Electoral Code prohibits any candidate from appearing on two different lists. The OSCE/ODIHR EOM was informed that the SDSM lists in Struga and Kičevo contained 12 and 13 candidates, respectively, that were already on the VMRO-DPMNE list.

²⁵ The SEC concluded in a previous session held on 4 March that there was no legal provision to allow them to amend a candidate list once registered by the MEC. SEC session minutes are available at:

http://www.sec.mk/index.php?option=com_content&view=category&layout=blog&id=42&Itemid=103.

²⁶ The OSCE/ODIHR EOM observed several events on 2 March, including in Kičevo (DUI) and Štip (VMRO-DPMNE), which featured presentations of the candidates' electoral programmes. In addition, because of the extended registration deadlines, SDSM and other opposition parties started to campaign before their lists were verified by the MECs.

The overall election campaign was competitive and candidates were able to campaign without undue limitations. The visibility of campaign materials was moderate, but increased notably in the last ten days before the first election day. Billboards, banners and posters were displayed before the first round, with new campaign materials posted in some municipalities ahead of the second round. While authorities generally fulfilled their requirement to designate space for campaign materials, in some municipalities candidates were not provided with or made aware of such possibilities.

While many candidates held well-attended rallies across the country ahead of the first round of voting, those contesting in the second round generally opted for smaller meetings with voters, press conferences, and door-to-door campaigning.²⁷ Most electoral contestants also used the internet, including social media, to reach out to the electorate. While candidates generally targeted voters from their respective ethnic community in the first round, candidates often sought the support of voters outside of their own ethnic community in run-off elections between candidates of the same ethnicity.²⁸ During both rounds, VMRO-DPMNE enjoyed the highest visibility across areas inhabited primarily by ethnic Macedonians, while DUI was most visible where ethnic Albanians constitute a majority.

The recent political crisis sharpened the rhetoric of the campaign and the use of ethnically divisive rhetoric led to heightened tensions in an intra-ethnic and inter-ethnic context. The violent protests that surrounded the appointment of Talat Xhaferi as the new Defense Minister at the start of the campaign period resulted in some political parties accusing one another of inciting ethnic tensions, prompting the international community and domestic civil society groups to urge calm ahead of the elections. In an effort to promote a positive campaign atmosphere, candidates in Skopje and some other municipalities signed a code of conduct in support of a peaceful and fair campaign.

Although campaign events were generally peaceful, several cases of vandalized campaign offices, destroyed or removed campaign materials, and physical attacks were observed across the country during both rounds of campaigning.²⁹ The tone of the campaign became more adversarial ahead of the second round. Negative and anonymous campaign messages appeared in the media as well as on posters and flyers in several municipalities.³⁰ A number of candidates also alleged fraudulent activities by their opponents during the first round. In addition, allegations of intimidation of voters, especially public sector employees, persisted throughout the campaign period. However, political parties did not submit formal complaints or present any official evidence to the relevant authorities in support of these allegations prior to election day. Regardless of the veracity of such accusations, their pervasiveness

²⁷ The OSCE/ODIHR EOM observed 54 rallies before the first round of voting and 2 ahead of the second round of voting.

²⁸ The DPA candidate Sadi Bexheti sought to attract ethnic Macedonian voters in Tetovo; DUI candidate Nevsat Bejta reached out to ethnic Macedonians in Gostivar; both SDSM and VMRO-DPMNE candidates addressed ethnic Albanian voters in Kumanovo and Veles.

²⁹ Including the offices of the Serbian Progressive Party (SPP) mayoral candidate Stevčе Jakimovski in Karpoš, as well as the offices of DUI in Kičevo, and of SDSM in Ohrid, Strumica, and Gostivar. The OSCE/ODIHR EOM long-term observers reported that almost half of the posters of the independent lists contesting the council elections were destroyed in Kumanovo, while large number of posters of all parties were defaced throughout the country. In addition, Ajduvan Mamudov, head of the campaign office of the candidate Nedžet Mustafa (United Democratic Forces of the Roma) was attacked on 20 March and the case remains under investigation.

³⁰ For example, the OSCE/ODIHR EOM observed negative campaign leaflets against SDSM candidate Andrej Žernovski (no source cited) in Skopje and negative campaign posters about an independent candidate in Mogila, which contained VMRO-DPMNE imprint data. During Prime Minister Gruevski's visit to Mogila on 30 March, the independent candidate was described as an associate of Velija Ramkovski, the owner of the now defunct A1 TV station, who is serving a prison sentence for tax evasion.

diminished confidence in the fairness of the electoral process and raised concerns about voters' ability to cast their vote "free of fear of retribution," as required by paragraph 7.7 of the 1990 OSCE Copenhagen Document.³¹

In order to further enhance public confidence in the electoral process and to ensure an open campaign environment, relevant authorities should undertake greater initiatives to properly investigate allegations of voter intimidation and to take appropriate actions should any violations be proven.

Indications of misuse of state resources persisted throughout the campaign, including the posting of campaign materials by governing party candidates on state property such as lampposts, public buildings and bridges in contravention of Article 82 of the Electoral Code.³² The OSCE/ODIHR EOM also observed cases of government officials and ministers actively campaigning for their parties' candidates, often during official working hours and using government vehicles.³³ In several instances, ministers conditioned the support of local projects from the central government on the outcome of the municipal elections.³⁴ In addition, the government made several well-publicized announcements of vacancy notices as well as increases in pensions, welfare benefits and state support for agricultural products during the first round of the campaign. Shortly before the second round of voting, the government announced a major plan to reconstruct and build new schools around the country including in several municipalities where governing party candidates were facing run-off elections. Collectively, these instances of blurring of the line between party and state raise concerns about the level playing field for candidates and are at odds with paragraph 5.4 of the 1990 OSCE Copenhagen Document.³⁵

Authorities should exercise greater political will to ensure sufficient separation between state and party. Existing legislative safeguards, such as Article 8-a and 9 of the Electoral Code, should be interpreted in a consistent manner in order to prevent conflict of interest between executive

³¹ Paragraph 7.7 of the 1990 OSCE Copenhagen Document provides that the participating States will "ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution."

³² Campaign materials displayed on public property were observed in, among others, Veles, Štip, Strumica, Demir Hisar, and Vevčani. In Butel, VMRO-DPMNE flags were removed from lampposts after the SDSM protested.

³³ On 15 March in Štip, the minister of health was present at an inauguration of a new medical facility organized by the local authorities, during which the VMRO-DPMNE candidate presented parts of his campaign programme; on 1 April the prime minister visited Delčevo to present an industrial zone project together with the city's VMRO-DPMNE Mayor; also on 1 April, the prime minister campaigned for the mayor and VMRO-DPMNE candidate in Berovo. On other occasions, several ministers also visited the municipalities of Jegunovce and Berovo to campaign on behalf of the VMRO-DPMNE candidate. It should be noted that DUI government ministers who attended campaign events remained generally passive and did not take the floor to support their party's candidates.

³⁴ For example, during the VMRO-DPMNE rally in support of the incumbent mayoral candidate in Jegunovce, the prime minister stated that the municipality would lose some central government funds if an SDSM mayor were elected. Similar arguments were made by governing coalition candidates in Gostivar, Kratovo, Kumanovo and Tetovo. Conversely, a DPA candidate in Tetovo argued for recognition of his achievements as mayor of Tetovo despite lack of support from the central government for a municipality governed by a DPA politician. Three SDSM mayors alleged to the OSCE/ODIHR EOM that the central government's neglect of their municipalities and past obstruction of their projects damaged their ability to compete on equal basis with governing parties' candidates.

³⁵ Paragraph 5.4 of the 1990 OSCE Copenhagen Document provides for "a clear separation between the State and political parties; in particular, political parties will not be merged with the State."

government positions requiring neutrality and candidates pursuing political advantage. Provisions should be further expanded to include enforcement mechanisms.

In a positive development, some candidates of the governing coalition partner DUI, who held official functions, stepped down from their positions before the start of the campaign.³⁶

X. CAMPAIGN FINANCE

Campaign finance is regulated by the Electoral Code and the Law on Political Party Financing.³⁷ All electoral contestants are required to open a special bank account for campaign contributions and expenditures and file reports detailing the financing of the campaign. This requirement was strengthened by 2012 amendments of the Electoral Code that require each electoral contestant to obtain a unique tax number for the purposes of opening their campaign bank account. Amendments further clarified that goods and services sold at discounted prices should be regarded as in-kind donations and accounted for according to market prices. The Council of Europe's Group of States against Corruption (GRECO) in its 2012 Compliance Report positively noted this change.

Campaign financing relies largely on membership fees and donations. The legal limit for donations from private individuals is EUR 5,000, while the limit for legal entities is 5 per cent of their income from the previous year. No donations may be received from foreign and public sources.

As previously recommended, the discrepancy in the nature of thresholds for campaign donations between individuals and legal entities should be revised. The current provisions are discriminatory and grant an unfair advantage to large entities.

Campaign expenditures are limited to MKD 180 (EUR 3) per registered voter in the municipality for which a list is submitted. The Electoral Code is silent on whether or not the limitation on expenditures applies to both the first and second round.

Article 84 of the Electoral Code would benefit from further clarification to specify if the expenditure limitation applies to both rounds of elections when they are held.

Electoral contestants are required to submit two interim reports and a final report on their campaign expenditures to the SEC, State Audit Office, and the State Commission for Prevention of Corruption (SCPC). These reports are published, helping to build transparency and allow candidates to make an informed choice before they cast their vote. While the Ministry of Finance provided a reporting template and trained political parties on how to complete the reports prior to elections, the new forms did not require candidates to itemize expenditures in detail. Without this breakdown it is not possible to fully audit the reports.³⁸

³⁶ DUI candidates Teuta Arifi (Deputy Prime Minister), Nevzat Bejta (minister without portfolio) and Arben Labeništi (a member of parliament) resigned their posts to run in the mayoral race.

³⁷ The Law on Political Parties Financing was amended on 9 November 2012, in line with changes to the Electoral Code.

³⁸ Article 7(3) of the 2003 United Nations Convention against Corruption obliges states to “enhance transparency in the funding of candidatures for elected public office.”

It is recommended that more detailed reporting templates for campaign finance be developed that require contestants to itemize expenditures.

The first campaign finance report was due on 14 March and, according to the SEC, 84 out of 121 reports were submitted on time. The second report was due on 23 March and 56 out of 121 were submitted on time. There is no penalty for non-submission of pre-election reports. According to financial reports filed, VMRO-DPMNE spent five times more than its closest competitor during the campaign period. In accordance with good practice, the final campaign finance reports are to be submitted within 30 days of voting, however, the law is not clear as to whether this refers to the first or second round of voting.³⁹ Following recent amendments to the law, once reports are submitted, the State Audit Office must conduct a review within 60 days and initiate misdemeanor procedures should they detect irregularities which are contrary to the provisions of the Electoral Code.

Consideration should be given to introducing proportional and dissuasive sanctions for non-submission of pre-election campaign finance reports. The law should also clearly specify campaign finance requirements should a second round be held.

As list submitters are obliged to submit a unified report for all their lists that is not broken down by municipality, it is not possible to determine if the limitation on expenditures was respected.

It is recommended that electoral contestants be obliged to provide a breakdown of expenditures by municipality so as to assess if campaign finance rules have been respected.

XI. THE MEDIA

A. MEDIA ENVIRONMENT

The large number of media outlets in the country is divided along ethnic and political lines. Television is the main source of political information in the country. In addition to the 3 channels of the public broadcaster Macedonian Radio and Television (MRT), 4 commercial channels are broadcast nationally, as well as a number of regional and local channels. MRT is funded through a broadcast tax imposed on households and legal entities. Some 80 radio stations and 9 daily newspapers also operate in the country, and the internet is frequently used as a source of political information.

Since the last elections, the closure of two broadcasters and a number of print media outlets significantly reduced the number of media outlets critical of the government. In addition, the government is the largest single advertiser in the country and several OSCE/ODIHR EOM interlocutors perceived the distribution of government advertisements as a reward for loyal editorial policy.⁴⁰

³⁹ Paragraph 200 of the OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulations provides that “Reports on campaign financing should be turned into the proper authorities within a period of no more than 30 days after the elections (...) In an effort to support transparency, it is good practice for such financial reports to be made available on the Internet in a timely manner.

⁴⁰ According to AGB Nielsen, in 2012 government affiliated bodies spent over EUR 25 million on advertising in the media. See: <http://www.agbnielsen.net/whereweare/dynPage.asp?lang=english&id=517&country=Macedonia>.

The Broadcasting Council (BC) is the only media regulatory body. BC members are appointed by the parliament on the proposal of various, mainly non-media related institutions. This process has raised concerns over the professional capacity of the BC members to carry out their duties sufficiently.

Considerations could be given to establishing requirements for the appointment of members of the Broadcasting Council, giving priority to professionalism and impartiality rather than political affiliation.

B. LEGAL FRAMEWORK

Coverage of the election campaign by media outlets is governed by the Electoral Code, the Law on Broadcasting Activity, as well as the various regulations adopted by the BC. On 12 November 2012, in a positive move, defamation was decriminalized.⁴¹ Under the legal framework all broadcasters should provide balanced coverage of all election-related content. After the announcement of elections, but before the official start of the campaign, any footage that could be seen as favouring any political party or candidate is prohibited. With the official start of the campaign period, broadcast media are required to provide equitable access to media. The legal framework, however, is not clear concerning the regulation of media coverage of the second round of elections.

It is recommended that provisions on the second round of the campaign in the media are clearly outlined in the legal framework.

MRT is not allowed to air paid political advertisements but is obliged to allocate time for free political presentations. The legal framework does not address the duration of allotted time or when it should be aired. MRT decided to allocate two minutes to every mayoral candidate and one minute to every candidate list for municipal council. Electoral contestants displayed limited interest in using the free time due to the small amount of time allotted and the fact that the broadcasts were aired outside of prime time. MRT decided not to allocate free time to contestants in the second round as the legal framework did not require them to do so, thereby limiting the scope of information for voters to make an informed choice.

Considerations could be given to establishing a minimum length for free presentations allotted to electoral contestants and requiring that the free presentations be broadcast during prime time.

Consideration could be given to allocate free airtime to electoral contestants in the second round of elections.

An inconsistency between the Electoral Code and the Law on Broadcasting Activity exists regarding the amount of paid political advertising allowed on private media.⁴² According to the data released by the State Commission for the Prevention of Corruption, the overwhelming amount of time and space available for paid political advertisements was purchased by VMRO-DPMNE and to a lesser extent DUI.⁴³ In the majority of cases, VMRO-DPMNE received discounts from 20 per cent up to 75 per cent of the initial price for paid advertisements as indicated in the price lists published before the start of the

⁴¹ See press release of the OSCE Representative on Freedom of the Media, 14 November 2012: <http://www.osce.org/fom/97244>.

⁴² The Electoral Code limits the amount to 15 minutes per hour while the Law on Broadcasting Activity permits a maximum of 12 minutes per hour.

⁴³ The media outlets were obliged to submit financial reports on paid political advertisements to the State Committee for the Prevention of Corruption. The submitted reports are available at <http://www.dksk.org.mk/>.

campaign. Such discounts were not indicated in the price lists and were negotiated on the spot by the media outlets, thus undermining the principle of equality.

The Electoral Law and the Law on Broadcasting Activity should be harmonized regarding the amount of paid advertisement which is allowed.

The BC is obliged to monitor broadcast media during the campaign period and to react to irregularities identified. While the BC's media monitoring generally provided the opportunity to identify violations in a timely manner, it failed to provide a timely and sufficient remedy for identified irregularities. The BC's media monitoring identified a lack of balanced coverage during the first and the second round of the campaign by the majority of media outlets monitored. However, the body reacted to such violations only three weeks after the second round by initiating misdemeanor charges against eight media outlets and their editors-in-chief. The BC initiated 41 misdemeanor procedures against 26 media outlets and their editors-in-chief for violating rules on paid political advertisement and airing advertisements paid from the state budget. In addition, monitoring by the BC revealed a lack of balance in the news coverage in favour of the ruling parties in most national broadcast media, as well as violations of rules for presentation of opinion polls by *Sitel* and *MRT Radio*. The BC did not take any action on these issues before election day.

Clear and sufficient deadlines should be established for the Broadcasting Council to react to media violations effectively.



c. OSCE/ODIHR EOM MEDIA MONITORING

The OSCE/ODIHR EOM conducted media monitoring of major broadcast and print media outlets during both campaign periods.⁴⁴ While all media outlets monitored provided extensive campaign coverage in the news, most of them displayed significant bias in favor of the governing parties both in terms of quantity and content of coverage. In addition, all monitored broadcast media, except *Telma*, regularly covered government activities but failed to distinguish between state activities and party campaigning. This pattern was even more visible during the second round of the campaign, when media focused on government activities in the municipalities with second round elections.

The public broadcaster MRT failed to provide balanced coverage of the campaign. *MRT-1* devoted 29 per cent of its news coverage in the first round (21 per cent in the second) to the government and 27 per cent (37 per cent in the second) to VMRO-DPMNE, mainly positive or neutral in tone. SDSM received 24 per cent in the first round (29 per cent in the second) of exclusively neutral or negative coverage. *MRT-2*, which provides programmes in minority languages, displayed a similar approach and devoted 27 in the first round (15 per cent in the second) of mostly neutral coverage to the government as well as 21 per cent (33 per cent in the second) to the ruling DUI, while DPA received 9 and 16 per cent of mostly neutral coverage in the first and second round respectively.

⁴⁴ During the official campaign period before the first round of elections (4 March – 22 March) OSCE/ODIHR EOM monitored the prime time (18:00 to 24:00) political coverage of seven television channels: Public *MRT-1* and *MRT-2* and private *Alfa*, *Alsat-M*, *Kanal 5*, *Sitel*, and *Telma*; and five newspapers: *Dnevnik*, *Fokus*, *Koha*, *Nova Makedonia*, and *Zhurnal+*. For the second round (25 March – 5 April), the OSCE/ODIHR EOM conducted limited monitoring of prime time political coverage of *MRT-1* and *MRT-2*, as well as the prime time news of *Alsat-M*, *Kanal 5*, *Sitel*, and *Telma*.

In addition to their newscast during the first round of the campaign *MRT-1* and *MRT-2* created a special election programme, *Election Chronicle*, to provide more detailed coverage of campaign activities. However, this programme was aired outside of prime time, significantly limiting its audience. While more than half of its coverage of *Election Chronicle* on *MRT-1* was devoted to rallies of VMRO-DPMNE, *MRT-2* allotted between 17 and 20 per cent of such coverage to five major contestants (VMRO-DPMNE, SDSM, DUI, DPA, NDR). *Election Chronicle* was not produced for the second round of the campaign.

While *MRT-1* did not organize any debates, *MRT-2* held 17 debates between ethnic Albanian contestants during the first round of the campaign; most of them biased in favor of DUI. A number of attempts to organize debates on private media outlets failed, reportedly due to the lack of interest from the ruling VMRO-DPMNE.

For the private channels, *Sitel* and *Kanal 5* favoured the ruling parties and were mostly negative in tone towards the opposition, while *Telma*, *Alfa*, and *Alsat-M* provided more neutral coverage. *Sitel*, the most popular private TV station in the country, favoured VMRO-DPMNE by allocating 49 per cent in the first round (42 per cent in the second) of mainly positive coverage, while SDSM received 21 per cent in the first round (32 per cent in the second) of mainly negative coverage. Similar trends were observed on *Kanal 5* that devoted 36 per cent in the first round (34 per cent in the second) of mainly positive and neutral coverage to VMRO-DPMNE and 26 per cent in the first round (23 per cent in the second) of mainly negative and neutral coverage to SDSM.

Although *Telma* provided all contestants with predominantly neutral coverage, it allocated slightly more time to SDSM. In newscasts SDSM received 32 per cent in the first round (35 per cent in the second), while VMRO-DPMNE received 25 per cent in the first round (28 per cent in the second). In addition, *Alfa* provided mainly neutral and balanced coverage of the campaign, although at times biased in favor of VMRO-DPMNE and the Government.

In both rounds of the elections, *Alsat-M* placed more focus on the ethnic Albanian parties by devoting 24 per cent in the first round (26 per cent in the second) to DUI, while allotting 12 per cent in the first round (15 per cent in the second) to DPA. On *Alsat-M*, VMRO-DPMNE and SDSM received similar proportions of coverage both in the first and second round of the campaign.

In comparison to the broadcast media, print media outlets presented a wider variety of views. *Dnevnik* and *Nova Makedonija* generally provided a balanced picture of the campaign while being more critical of the SDSM and other opposition parties. *Focus* was very critical of the government and the ruling coalition. Both Albanian language newspapers, *Koha* and *Zhurnal+*, were mainly focused on the activities of the government and the ruling DUI.

XII. INTERNATIONAL AND CITIZEN OBSERVERS

The Electoral Code provides for observation by international and citizen observers as well as authorized representatives of candidates at all levels of the election administration. The citizen observer groups which deployed the greatest number of observers were MOST, CIVIL, and the Institute for Democracy. In line with a prior OSCE/ODIHR recommendation, all observers were entitled to receive copies of MEC and EB results protocols.

In the first round, citizen observers were present at the opening in 72 per cent of polling stations observed by the OSCE/ODIHR EOM, during the voting process in 74 per cent of polling stations, and during the counting process in 80 per cent of polling stations. In addition, authorized representatives of candidates were present in 96 per cent of polling stations visited by the OSCE/ODIHR EOM.

XIII. PRE-ELECTION DAY COMPLAINTS AND APPEALS

Protection of electoral rights is guaranteed in the Electoral Code, which provides for appeals to different administrative and judicial bodies. The SEC has jurisdiction over complaints related to voter registration, violations of citizens' rights to vote on election day, and on the voting, counting, and tabulation of results. Appeals of these decisions are heard by the Administrative Court, whose decisions are final. According to Article 37(16) of the Electoral Code the MECs also have the authority to decide upon complaints, however, the exact jurisdiction of the SEC and MECs over complaints is unclear. As a result, the MECs forwarded all election-related complaints to the SEC for disposition.

The jurisdiction over pre-election complaints would benefit from clarification with a detailed description of the competences of the SEC and the MECs.

Deadlines for adjudication of election-related disputes are short. Contrary to prior OSCE/ODIHR and Venice Commission recommendations, the timeframe for the Administrative Court to decide on complaints on submissions of candidate lists has been shortened to 24 hours, placing increased demands on judges to decide on complaints, especially when the court has to decide on multiple complaints collectively. Nevertheless, the Administrative Court adhered to the deadline during these elections.

Consideration should be given to extending the deadline for the courts to decide on complaints, while ensuring that it remains short enough to provide effective remedy.

Despite prior OSCCE/ODIHR recommendations, the SEC has not yet adopted a detailed procedure on how to file and resolve complaints. The lack of clear procedures for handling pre-election complaints by the SEC impacts on the effective redress as provided by paragraph 5.10 of the 1990 OSCE Copenhagen Document.⁴⁵ The number of complaints filed and the lack of resources to review complaints meant that many complaints went unaddressed and resulted in an inconsistent application of the Electoral Code.

Electoral legislation should provide a clear and detailed process for electoral contestants and voters to lodge complaints and appeals arising from alleged violations of the Electoral Code and regulations issued by the SEC. Consideration could also be given to the creation of a Legal Department within the SEC Secretariat that would inform SEC members of the legal situation and draft legal documents and justifications.

Eleven complaints were filed with the Administrative Court during the candidate registration period that disputed the rejection of candidate lists by MECs, of which four were accepted. With the extension of

⁴⁵ Paragraph 5.10 of the 1990 OSCE Copenhagen Document provides that "everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity."

the candidate registration deadline, three candidate lists that were initially rejected by MECs because of late submission were resubmitted and accepted.

Due to the lack of clear procedures and deadlines for handling pre-election related complaints, the SEC did not act upon 431 complaints submitted prior to the first round election-day concerning allegations of early campaigning.

In order to guarantee effective redress, introduction of deadlines for the SEC to investigate complaints on early campaigning should be considered.

Complaints that allege misdemeanors are resolved by the Basic Courts, with appeal to the Court of Appeals. The OSCE/ODIHR EOM was informed that no complaint was filed with the Basic Courts during the election campaign. Representatives of some political parties told the OSCE/ODIHR EOM that they lacked confidence in the complaints procedure and the ability of these courts to resolve them in a neutral manner.

Seventy-three complaints were filed by SDSM with the SCPC alleging the abuse of state resources by VMRO-DMPNE during the election campaign. These complaints were not acted on before the end of the election period.⁴⁶ On 3 April, the SCPC announced the initiation of an ex officio misdemeanor procedure against Andrej Žernovski, opposition candidate in (Skopje) Centar municipality, for alleged irregularities in financial reports during his time as a member of parliament between 2002 and 2011. Mr. Žernovski claimed the timing of the announcement was politically motivated.

The introduction of deadlines for the State Commission for the Prevention of Corruption to investigate complaints on misuse of state resources during the campaign could be considered and the necessary resources to resolve them in a timely manner should be provided.

XIV. ELECTION DAYS

A. FIRST ROUND VOTING

Early voting took place on 23 March for homebound voters, prisoners and internally displaced persons.⁴⁷ The overall assessment by OSCE/ODIHR EOM observers was positive in 61 of the 72 cases observed. However, in 14 cases of homebound voting the secrecy of the vote was not respected, while voters' understanding of the procedure was assessed negatively in 4 instances. The OSCE/ODIHR EOM observers also noted that some prisoners were not included in the voter list

Overall, election day was calm and peaceful although some technical irregularities were noted. On election day the OSCE/ODIHR EOM observed the opening and voting in 828 polling stations and counting in 82 polling stations, as well as the tabulation of results in 66 of the 81 MECs.

⁴⁶ The Commission indicated to the OSCE/ODIHR EOM that they lacked the necessary resources to investigate not only cases during the election campaign, but also requests for an opinion or other cases under their jurisdiction.

⁴⁷ The overall number of homebound voters registered for the first round amounted to one per cent of the total turnout.

The OSCE/ODIHR EOM observers evaluated the opening of polling stations positively in 99 per cent of observations. Seventeen of the polling stations visited opened with short delays, but this did not prevent voters from voting. In 14 observations, initial sections of the protocol were not completed before opening, as required by the Electoral Code. Other irregularities were observed in a small number of cases, including EB not checking the election materials prior to opening in four observations, the EB not verifying that the ballot box was empty in five cases, and the EB not properly sealing the ballot boxes in three cases.

The overall assessment of the voting process was good or very good in 94 per cent of observations. Observers were not obstructed and could clearly observe procedures in 98 per cent of observations. However, procedural irregularities were observed in a number of polling stations visited. This included group voting in 15 per cent of polling stations observed, the secrecy of the vote not being respected in 12 per cent of observations, proxy voting in 3.5 per cent of observations, and ballot boxes not sealed properly in 3 per cent of observations. In 11 per cent of the polling stations observed, voters were turned away because their names were not on the voter list of that particular polling station. The performance of the EBs and their understanding of voting procedures were assessed positively in 90 per cent of observations. Several parties raised concerns about the large number of diaspora voters returning on election day to vote

In addition, the OSCE/ODIHR EOM noted that the secrecy of the vote could have been compromised in the 60 polling stations with less than 10 registered voters.

To ensure the secrecy of the vote, authorities could consider counting votes from small polling stations at the municipal level or other means, while safekeeping the integrity of the electoral process.

Vote counting was assessed positively in 66 of 81 observed counts and observers had a clear view of the counting procedure in 97 per cent of observations. However, the counting procedure was not well organized in 24 observed cases and procedural errors were noted in 18 counts observed. While the transparency of the count was assessed positively in 92 per cent of observations, the results protocol was not publicly posted in 44 per cent of polling stations observed, as required by the Electoral Code.

B. SECOND ROUND VOTING

Early voting took place on 6 April for homebound voters, prisoners, and internally displaced persons. As in the first round the secrecy of the vote for homebound voters continued to be an issue and instances of prisoners not being included on voter lists were again observed.

As in the first round, voting in the majority of polling stations visited by the OSCE/ODIHR EOM was calm and orderly overall and procedures were largely followed. Members of EBs at the polling stations visited managed the process efficiently. A number of instances of group voting were observed. While a few polling stations suspended voting for a short time to handle technical concerns or complaints, this did not negatively impact the voting process.

As in the first round, several OSCE/ODIHR EOM interlocutors raised concerns about large numbers of diaspora citizens returning to the country for the purpose of voting on election day. In particular, several parties questioned the legitimacy of ethnic Macedonians residing in Albania being allowed register and vote. This was a special concern in Centar Municipality in Skopje where it was reported that a large number of people were registered in the voter lists even though they did not appear to be residents of Centar.

In the limited number of polling stations observed by the OSCE/ODIHR EOM, the vote count was carried out in a professional and transparent manner with only a few procedural problems observed.

C. TABULATION AND ANNOUNCEMENT OF THE RESULTS

During both rounds, the tabulation process was conducted in a professional manner despite some technical problems experienced during the first round. The OSCE/ODIHR EOM observers assessed the tabulation process as good or very good in 93 per cent of the MECs observed during the first round, with observers being generally able to observe without restrictions. Some discrepancies were noted in EB results protocols in 18 observed cases, but these were mostly corrected by the MECs. In the second round of voting, the tabulation process appeared to be well administered in the few MECs visited by the OSCE/ODIHR EOM.

The preliminary results of the first round of the municipal elections were posted on the SEC website as they were received from the MECs, with a breakdown of the vote by municipality and polling station. The process was transparent and most of the MECs results were listed on the website by the morning following the elections. However, 41 municipalities failed to meet the short legal deadline to announce the preliminary results and 15 MECs' results were still not posted on the SEC website by the morning of 26 March. After the SEC intervened and called in the late MECs for verification, the preliminary results were announced on Tuesday 26 March at 20:00. Following the completion of the complaints process, the SEC announced final results of the first round on 2 April.

During the second round of voting, all MECs managed to submit the results to the SEC in a timely manner, which were then posted on the SEC website by municipality and polling station. The current deadline for announcing results was criticized by the SEC and other OSCE/ODIHR EOM interlocutors for being too short.⁴⁸

Forty-nine mayors were elected in the first round of the elections with the required majority of votes. Second round runoffs between the top two candidates were called for 7 April in 29 municipalities and the City of Skopje. On 7 April, voting had to be repeated for the first round in some polling stations in Dolneni and Strumica.

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According to article 135 of the EC, the MECs have 7 hours from the closure of polling stations to announce results in their municipality; in turn the election commission of the City of Skopje has 10 hours to announce results.

XV. POST-ELECTION COMPLAINTS AND APPEALS

A. FIRST ROUND ELECTION DAY COMPLAINTS AND APPEALS

Following the first round of voting, 8 political parties and coalitions filed a total of 402 complaints with the SEC challenging results in 476 polling stations. The SEC adopted 173 decisions, accepting 6 of the complaints.⁴⁹ The majority of complaints were dismissed on procedural grounds or because no evidence was submitted. For example, although the Electoral Code does not specifically require that an election day violation be noted in the EB or MEC protocol in order for the SEC to consider the complaint, in several cases complaints were dismissed for this reason. Others were dismissed because two complaints were not filed in the same polling station as required by the Electoral Code.

Article 31(2)(35) of the Electoral Code, which mandates the SEC to inspect voting material upon a complaint only if at least two complaints are submitted for a respective polling station, should be removed as it undermines the right to effective legal remedy. There should be no threshold for the number of complaints to be filed before they are considered.

The SEC took decisions on first round election day complaints primarily based on political considerations rather than the legal merit of the complaint, with members voting in line with their party affiliation. SEC members also voted regularly and inconsistently against reviewing election material before deciding on the merits of a complaint. This resulted in inconsistent and contradictory decisions being made on complaints alleging the same irregularities.

Based on the accepted complaints, the SEC annulled results in three polling stations in Strumica due to irregularities based on complaints from VMRO-DPMNE, as well as in one polling station in Dolneni based on a complaint from DPA. In Čair municipality, the SEC voted to inspect the election materials in 13 polling stations based on a complaint from DPA alleging that the results on the MEC protocol did not match those on EB protocols. The SEC upheld the complaint and amended the results of the 13 polling stations, resulting in a second round election in Čair. In addition, the SEC dismissed the MEC and the members of these 13 EBs.

Results in many polling stations were annulled by the SEC based on Article 151(1) of the Electoral Code which makes mandatory the annulment of results in a given polling station in cases of minor irregularities. This can result in the effective disenfranchisement of voters in an entire polling station without an analysis of whether or not the alleged irregularity has affected the results.

It is recommended that Article 151(1) of the Electoral Code is amended in order to ensure that election results are only annulled in case of serious violations that affect the overall election results.

The Administrative Court heard 142 appeals against SEC decisions, of which 141 were rejected as unfounded. An appeal from VMRO-DPMNE was accepted concerning one polling station in Kičevo, however, no repeat voting of the first round was ordered as the final result would not have changed. The public hearings conducted by the Administrative Court as observed by the OSCE/ODIHR EOM were formalistic and did not provide an opportunity for the complainants to submit evidence.⁵⁰ Decisions of

⁴⁹ Three complaints by VMRO–DPMNE on Strumica, two by DPA on Čair and Dolneni, and one by SMDM in Ohrid.

⁵⁰ It should be noted that as far as the OSCE/ODIHR EOM is aware no complainant requested the opportunity to be heard at the hearings.

the court were mostly based on the written complaint, the decision of the SEC, and the protocols of the polling station. This was partially the result of the large number of appeals filed and the short deadlines for the court to decide cases. Although the Administrative Court met the legal deadlines, their capacity to investigate and properly prepare the cases within the deadlines remains uncertain.

B. SECOND ROUND COMPLAINTS AND APPEALS

Political parties and coalitions filed 387 complaints with the SEC concerning voting procedures in the second round of elections. The SEC adopted 189 decisions concerning challenges to 368 polling stations, of which 2 were accepted and 1 was partially accepted.⁵¹

The majority of complaints were dismissed on the same technical grounds as those filed in the first round. In three cases, the SEC decided to open the ballot boxes and review the election material. As in the first round, the deadlines for adopting decisions were not fully respected and the SEC was inconsistent in deciding on complaints of a similar nature.

The Administrative Court heard 136 appeals from SEC decisions. The court rejected 95 and accepted 41 appeals, 36 submitted by VMRO-DPMNE concerning polling stations in Struga and Centar, and five submitted by SDSM concerning 4 polling stations in the City of Skopje and 1 polling station in Gjorče Petrov. In some instances, the Administrative Court made contradictory judgments, annulling the results in some polling station where it found that the ballot box contained one ballot more than the number of people who actually voted and in other cases ruling that this did not serve as sufficient grounds to annul results. On 14 April, the president of the Administrative Court resigned after the publication of the decisions on Struga and Centar municipalities, stating that he had resigned for moral reasons due to the ethnic division among the judges of the court.

Following the Administrative Court decisions repeat second round voting was conducted in 29 polling stations in Centar, in 9 polling stations in Struga, and 1 polling station in Gjorče Petrov on 21 April. Second round voting also took place in all of the 39 polling stations in Dolneni. The OSCE/ODIHR EOM did not observe the vote held on 21 April. The SEC announced the final results on 23 April.

XVI. RECOMMENDATIONS

The following recommendations, as contained throughout the text, are offered for consideration by the authorities, political parties, and civil society with a view to supporting efforts to conduct elections fully in line with OSCE commitments and other international standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. The OSCE/ODIHR stands ready to assist the authorities of the former Yugoslav Republic of Macedonia to further improve the electoral process and in following up on the recommendations contained in this report.

⁵¹ The two complaints filed by VMRO-DPMNE for polling stations 1860 and 1877 in Struga were accepted, although these annulments did not influence the final result. The complaint by VMRO-DPMNE on polling station 1020 in Kumanovo was partially accepted.

A. PRIORITY RECOMMENDATIONS

1. Reform of the Electoral Code should address the recommendations identified in this report, as well as previous reports of the OSCE/ODIHR and the Venice Commission. It is recommended that clear provisions for the second round of mayoral elections are added to the Electoral Code. Reform should be inclusive and completed well in advance of the next elections.
2. Consideration should be given to conducting a review of the procedures for compiling and maintaining voter lists. Clear, co-ordinated, and transparent procedures would enhance accuracy of the voter lists and contribute to public confidence.
3. Electoral legislation should provide a clear and detailed process for electoral contestants and voters to lodge complaints and appeals arising from alleged violations of the Electoral Code and regulations issued by the SEC. Consideration could also be given to the creation of a Legal Department within the SEC Secretariat that would inform SEC members of the legal situation and draft legal documents and justifications.
4. In order to further enhance public confidence in the electoral process and to ensure an open campaign environment, relevant authorities should undertake greater initiatives to properly investigate allegations of voter intimidation and to take appropriate actions should any violations be proven.
5. It is recommended that Article 151(1) of the Electoral Code is amended in order to ensure that election results are only annulled in case of serious violations that affect the overall election results.

B. OTHER RECOMMENDATIONS

Legal Framework

6. The Electoral Code should specify what happens in a mayoral election when less than one third of voters turn out to vote in the first round.

Election Administration

7. The SEC could further enhance their transparency by strictly adhering to the requirement to post all minutes of meetings on their web page. The Electoral Code could be amended to specify that minutes must be posted no later than 48 hours after the session is held.
8. The SEC should resolve all complaints and appeals in an impartial manner free from politically motivated considerations. The law should be interpreted, implemented, and enforced in line with the intent of the law.
9. The SEC could provide more voter information and education, particularly regarding time and procedures for updating personal data on the voter lists, group voting, and the secrecy of the vote.

10. It is recommended that the MECs are provided with the necessary resources in a timely manner. In addition, transparency of the work would increase if MECs hold only public meetings that are announced in advance.
11. Consideration could be given to providing frequent and more detailed trainings for EB members.
12. To ensure the secrecy of the vote, authorities could consider counting votes from small polling stations at the municipal level or other means, while safekeeping the integrity of the electoral process.

Voter Registration

13. A revision of the cut-off date for the finalization of voter lists could be considered to bring it closer to election day.

Candidate Registration

14. The Electoral Code could include specific provisions regarding the time and conditions for withdrawal of registered candidate lists. It could also be considered to establish the possibility that a candidate list may be partly accepted (for example, only the names of candidates on the list that meet the eligibility criteria are accepted, and the others deleted from the list). Should such provisions be introduced, it is recommended that safeguards are established to ensure that the right to withdraw candidate lists is not abused.
15. Further efforts to increase the number of women candidates are necessary. Consideration could be given to amending Article 64.5 of the Electoral Code, to provide that if a woman elected from a candidate list for municipal council resigns, she is replaced by the next woman on the list.

Election Campaign

16. Authorities should exercise greater political will to ensure sufficient separation between state and party. Existing legislative safeguards, such as Article 8-a and 9 of the Electoral Code, should be interpreted in a consistent manner in order to prevent conflict of interest between executive government positions requiring neutrality and candidates pursuing political advantage. Provisions should be further expanded to include enforcement mechanisms.

Campaign Finance

17. As previously recommended, the discrepancy in the nature of thresholds for campaign donations between individuals and legal entities should be revised. The current provisions are discriminatory and grant an unfair advantage to large entities
18. Article 84 of the Electoral Code would benefit from further clarification to specify if the expenditure limitation applies to both rounds of elections when they are held.

19. It is recommended that more detailed reporting templates for campaign finance be developed that require contestants to itemize expenditures.
20. Consideration should be given to introducing proportional and dissuasive sanctions for non-submission of pre-election campaign finance reports. The law should also clearly specify campaign finance requirements should a second round be held.
21. It is recommended that electoral contestants be obliged to provide a breakdown of expenditures by municipality so as to assess if campaign finance rules have been respected.

Media

22. Considerations could be given to establishing requirements for the appointment of members of the Broadcasting Council, giving priority to professionalism and impartiality rather than political affiliation.
23. Consideration could be given to allocate free airtime to electoral contestants in the second round of elections.
24. It is recommended that provisions on the second round of the campaign in the media are clearly outlined in the legal framework.
25. Considerations could be given to establishing a minimum length for free presentations allotted to electoral contestants and requiring that the free presentations be broadcast during prime time.
26. The Electoral Law and the Law on Broadcasting Activity should be harmonized regarding the amount of paid advertisement which is allowed.
27. Clear and sufficient deadlines should be established for the Broadcasting Council to react to media violations effectively.

Complaints and Appeals

28. The jurisdiction over pre-election complaints would benefit from clarification with a detailed description of the competences of the SEC and the MECs.
29. Consideration should be given to extending the deadline for the courts to decide on complaints, while ensuring it remains short enough to provide effective remedy.
30. In order to guarantee effective redress, introduction of deadlines for the SEC to investigate complaints on early campaigning should be addressed.
31. The introduction of deadlines for the State Commission for the Prevention of Corruption to investigate complaints on misuse of state resources during the campaign could be considered and the necessary resources to resolve them in a timely manner should be provided.

32. Article 31(2)(35) of the Electoral Code, which mandates the SEC to inspect voting material upon a complaint only if at least two complaints are submitted for a respective polling station, should be removed as it undermines the right to effective legal remedy. There should be no threshold for the number of complaints to be filed before they are considered.

XVII. FINAL RESULTS⁵²

Mayoral Election Results	Round 1		Round 2⁵³		Re-runs⁵⁴	
	Seats	Seats	Seats	Seats	Seats	Seats
Total number of voters	1,743,403		931,554		145,629	
Turnout	1,164,687	66.81%	551,744	59.23%	94,471	64.87%
Total number of valid votes	1,124,398	96.54%	534,486	96.87%	92,783	98.21%
Total number of invalid votes	40,289	3.46%	17,258	3.12%	1,688	1.78%
Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO-DPMNE)	38		15		2	
Social Democratic Union of Macedonia (SDSM)	2		1		1	
Democratic Union for Integration (DUI)	7		7		0	
Democratic Party of Albanians (DPA)	0		1		1	
Independent candidate	1		1		0	
Serbian Progressive Party (SPP)	0		1		0	
Democratic Party of the Turks in Macedonia (DPTM)	1		0		0	
Union of the Roma of Macedonia (URM)	1		0		0	

City of Skopje Mayoral Election Results	Round 1		Round 2	
	Seats	Seats	Seats	Seats
Total number of voters	444,259		444,259	
Turnout	284,119	63.95%	209,696	47.20%
Total number of valid votes	270,808	95.31%	200,845	95.78%
Total number of invalid votes	13,311	4.69%	8,851	4.22%
VMRO-DPMNE	0		1	

Municipal Council Election Results		%
Total number of voters	1,743,403	
Turnout	1,167,768	66.98%
Total number of valid votes	1,117,814	95.72%
Total number of invalid votes	49,954	4.28%

⁵² Data according to final results as published at www.sec.mk.

⁵³ The second round of mayoral elections was conducted in 29 municipalities.

⁵⁴ On 21 April 2013, there was a repeated vote conducted in Dolneni, while in Centar, Gjorče Petrov and Struga there was a re-run of the second round due to annulment of results following decisions of the Administrative Court.

Party	Votes	%	Seats
VMRO-DPMNE	416,972	37.30%	537
Social Democratic Union of Macedonia (SDSM)	328,547	29.39%	381
Democratic Union for Integration (DUI)	137,029	12.26%	171
Democratic Party of Albanians (DPA)	77,724	6.95%	98
Independent candidates	45,612	4.08%	55
NDR - New Democratic Revival	28,565	2.56%	26
Democratic Party of the Turks in Macedonia (DPTM)	14,097	1.26%	22
Union of the Roma of Macedonia (URM)	5,400	0.48%	11
Democratic Renewal of Macedonia (DOM)	18,414	1.65%	9
Peoples Movement for Macedonia (PMM)	9,008	0.81%	9
Serbian Progressive Party (SPP)	10,992	0.98%	7
Movement for National Unity of the Turks (MNUT)	2,503	0.22%	5
Party for European Future (PEI)	1,804	0.16%	5
United Democratic Forces of the Roma (UDFR)	2,121	0.19%	4
Social Democratic Union (SDU)	8,638	0.77%	3
Liberal Party (LP)	4,334	0.39%	2
SDPM - Social Democratic Party of Macedonia	2,291	0.20%	1

Council Election Results for City of Skopje		%	
Total number of voters on Voter List		444,259	
Party	Votes	%	Seats
VMRO-DPMNE	121,881	45.42%	22
Social Democratic Union of Macedonia (SDSM)	80,112	29.86%	14
Democratic Union for Integration (DUI)	32,835	12.24%	5
Democratic Party of Albanians (DPA)	16,459	6.13%	3
Democratic Renewal of Macedonia (DOM)	6,056	2.26%	1
Alliance of Tito's left forces (ATLF)	3,497	1.30%	0
Social Democratic Union (SDU)	3,124	1.16%	0
Liberal Party (LP)	2,426	0.90%	0
New Democratic Revival (NDR)	1,941	0.72%	0

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect human rights and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).