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Observations of local elections in Bosnia and Herzegovina, 13-14 September 1997

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BUREAU OF THE CONGRESS

President of the delegation: Alain Chénard (France)
Rapporteur of the delegation: Alan Lloyd (United Kingdom)
Expert : Nicolas Levrat (Switzerland)

Members of the delegation : Mr Bernat (Slovakia, R), Mr Buldanli (Turkey, R), Mr Casagrande (France, L), Mr Chénard (France, L), Mr Hallberg (Sweden, R), Mr Kieres (Poland, R), Mr Lloyd (United Kingdom, L), Mr Morgan (Royaume-Uni, L), Mr O'Brien (Ireland, R), Mr Suykerbuyk (Belgium, R)

Summary of conclusions from CLRAE observers to the local elections

held in BiH on 13 and 14 September 1997

in view of a contribution to the Parliamentary Assembly Report

The Congress of Local and Regional Authorities of Europe sent a delegation of 10 members plus one expert and two members of the Secretariat. The Parliamentary Assembly of the Council of Europe also sent a delegation to observe these elections and the President of the Congress delegation (Mr Chénard), as well as two other members of the Congress were able to join the Parliamentary Assembly delegation for a briefing prior to the elections in Sarajevo as well as for a debriefing and a joint press conference in Sarajevo on 16 September. The Congress delegation wishes to acknowledge the excellent co-operation with the Parliamentary Assembly delegation throughout this mission.

1. General background

1.1. Rarely local elections have attracted so much international attention:

- since they are part of the Dayton process for restoring peace in former-Yugoslavia (and mostly in Bosnia). Article II.2. of the *Appendix 3 to the Dayton agreement* (dealing with elections) asks OSCE to organise different elections in Bosnia ; however, it was only for local elections that was added the reserve " and if feasible ", clearly indicating the awareness of the specific difficulties linked with organising these elections;

- since, due to the complexity of the issues at stake, they had to be delayed for one year, contrary to all the other elections that took place in BiH during September 1996;

- since after the " freezing " of the process of ethnic cleansing by the Dayton agreement, some of the main issues of inter-ethnic and intercommunity cohabitation are now at stake at the local level, including the crucial but largely unresolved problems of the implementation of freedom of movement foreseen in the Dayton agreement..

In this context, **the CLRAE delegation expresses its satisfaction that the international community, by according so much importance to these elections, confirms the necessity of democratically elected " authorities which are closest to the citizen " (as is worded in art. 4 § 3 of the *European Charter of Local Self-government*) for a genuine democracy to exist.** Furthermore, the holding of free and fair local elections are part of the requisites for membership to the Council of Europe.

1.2. The CLRAE delegation would also like to stress that local elections in the current institutional framework of BiH are of particular importance, due to the large competencies allocated to local authorities, in fields of such importance as local media control - most local authorities have their own local media in BiH - local police control, social support and their potential important role for the inter-ethnic dialogue. Many policies decided by central authorities having failed, it appears from discussions held that many people think that time is ripe for decisions to be taken at local level, for the benefit of the local population.

2. Observation of elections

2.1. CLRAE has been observing elections of local authorities in Central and Eastern Europe since 1990; it has therefore developed an expertise in this field, comparable to no other international organisation or body. Its own method of observation is based on a close scrutiny of the legal framework for local government, an evaluation of the political situation based on numerous contacts with political parties representatives at local and national levels, and direct observation in polling stations. In addition, the CLRAE also has developed an expertise in the monitoring of the true implementation of the results of the elections and the establishment of a genuine local democracy.

OSCE method for observing, mostly based on a very extensive coverage of polling stations from which statistical data is being compiled, has its own strength but does not replace the evaluation provided by politicians. As the Congress of Local and Regional Authorities of Europe, the delegation considers that they had the position, the experience and the legitimacy to conduct such a political evaluation for local elections; the members of the delegation therefore strongly regret that OSCE did not leave time for CLRAE members to carry out this task. However, a delegation of 4 Congress members had the opportunity to meet with Mr Slavo Cuk, Mayor of Banja Luka, who is member of the Special Guest delegation to the Congress, and who was not a candidate to these elections.

The members of the CLRAE delegation also wish to express their surprise at the presence of observers from Iran and, in large number, from the Federal Republic of Yugoslavia among the observers deployed under the OSCE authority.

2.2. The CLRAE delegation has, on the two days of voting, been present in some 150 polling stations. The view shared by all the members of the delegation was generally very positive as regard the electoral process. The chosen procedure guarantees that no massive fraud during voting or counting was possible. The following noticeable observations can also be underlined:

2.2.1. The method of voting, was very simple; only one choice for a party list was allowed. This certainly offered the best possible guarantee for the largest possible number of voters to be in a position to understand the voting procedure. However, a very large number (up to 30% in some polling stations) of illiterate voters or persons with poor eye sight had to ask for help in voting; this may have, in a few cases, resulted in minor abuses, local party leaders trying to help most of the illiterates.

2.2.2. The issue of registration was, as a matter of fact, probably more central than the voting process itself. Conducted under the responsibility of OSCE, this registration process showed a clear-cut tendency among voters of the different communities; Serbian Displaced Persons have in a vast majority of cases registered in the local authority in which they now live (as is explicitly allowed by article 10 b. of the *1997 Rules and Regulations* adopted by the Provisional Electoral Commission), whereas most Croats and Muslims voters did abide by the general principle of art. 8 of the same regulations, which provide for registration in the municipality where citizens were registered in the 1991 census.

Despite all its efforts to conduct properly the registration, apparently, computer difficulties for OSCE experts resulted in a significant number of voters being registered as "duplicate" (2 registrations or more, in different places); if some had effectively registered more than once, it seems that many were simply victims of computer mistakes. All duplicates should have been allowed to vote under a "tendered ballot procedure"; however, due to a shortage of material for conducting the "tendered ballot procedure", many chairpersons of polling station Commission did discourage the voting of these duplicates, or even refused them the right to vote. Even though the number of such incidents was not in a proportion to affect the overall result in any of the observed polling stations, this was however a very upsetting experience for the voters who suffered from such difficulties, particularly if considering that many of those who encountered it were victim of a double mismanagement by the international organisers of these elections. In a significant number of cases, voters who had received confirmation of their registration were not on the final lists and therefore had also to vote by "tendered ballot". This procedure, in general, met with serious distrust from those concerned, both taking in consideration the loss of secrecy of such votes and the doubts whether, in remote commissions in Sarajevo, such votes would be properly counted.

2.2.3. The members of the CLRAE delegation regretted that no procedure for allowing ill or handicapped persons to vote was provided. Understanding the security reasons which led to make such a choice, the observers found shocking that known war criminals were allowed the right to vote, while elderly, handicapped or ill citizens were in practice denied such right. Nevertheless, satisfactory ad hoc solutions were observed in some polling stations for handicapped persons.

2.2.4. The CLRAE observers want to underline that the procedure followed for this vote and for the counting, as well as the high level of dedication and competence of most polling station commissions and supervisors (but not all of them, alas) guarantees that **these elections were fair, and that no serious fraud was possible at the stage of voting and counting.**

2.2.5. Even though they could not gather sufficient information about the campaigning for these elections, some members of the delegations observed gross violation of the rules on media utilisation for campaigning. **In Sarajevo on Saturday evening was witnessed a spot on TV for SDA. The rules about the end of campaigning 48 hours prior to elections day were then grossly violated. In other places such as Doboj, CLRAE observers witnessed office of a local opposition newspaper that had been burned the week prior to election, as well as a local seat of an opposition party which had been blown up the same day. Reservations as regard this aspect of the election, on which the CLRAE delegation was not sufficiently documented, should be expressed.**

3. Logistics and role of OSCE

3.1. The logistic deployed by the international community for the organisation and the observation of these local elections was **impressive**. It is considered that about 3'500 expatriate have been brought to BiH for this purpose. In general, the logistic for the organisation was sufficient, except the shortcomings mentioned above, linked with the registration process, and the voting material for the "tendered ballot procedure". Some cases have also been reported in which, due to wrong allocation of voting material, some polling stations had to be temporarily closed.

The logistic for the observers was not completely satisfactory, concerning transport, accommodation, adequate political background briefing.

3.2. The principle of having one international supervisor in each polling station required the mobilisation of a great number of staff, diligently provided by OSCE member States. **CLRAE observers however wish to stress the necessity of ensuring the proper selection of such supervisors**, as in a minority of cases some were found totally incompetent. Their training may also have been provided at home in their native language, since some showed difficulty at understanding the instructions given to them in English.

The heavy paperwork at the closing of the polling stations in preparing the transmission of the voting material to Local Electoral Commissions has prevented many supervisors from performing an efficient supervision of the counting procedure. In future occurrences, this shortcoming should be arranged, either by reducing the paperwork or by issuing clearer instructions concerning this paperwork.

3.3. In general, the OSCE performance in organising these elections was good. The main problem seems to have been with the registration process - and the resulting fairly large number of "duplicates" as well as voters missing on the final lists - and in some rare cases, with the provision of adequate voting material (especially in relation with the "tendered ballot procedure").

3.4. Finally, as a matter of principle, CLRAE observers wish to raise doubt about the ability of one single organisation to organise and subsequently impartially observe an election. At least the debriefing that was conducted by the OSCE field Office and the long term Observer in Banja Luka (to which the majority of CLRAE delegation took part) was appalling including short term observers being regularly asked to vote on statistical data provided. Criticisms of OSCE procedures were not even recorded.

4. Prospects for genuine local self-government in BiH

4.1. The main issue that CLRAE delegation would like to stress, is that these elections are only one small, but important step in the process of restoring democracy in BiH. The **implementation** of local competencies by the newly elected local authorities, according to the population's wishes, constitutes an important test for the success of democracy in BiH and for a peaceful solution to the actual tensions in the same way as the holding of elections itself.

In this respect, CLRAE observers note that the competencies actually allocated to local authorities are quite substantial. It remains however to be seen if the means for the proper implementation of these tasks will be available for the local authorities. **The CLRAE observers wish that the competent CLRAE organs take the commitment to follow the development of local democracy and offer, whenever appropriate, the assistance and expertise of the Congress in this field.**

4.2. The other issue that needs to be underlined is the necessity for the newly elected local authorities to be in a position to function properly, with the effective presence of all the elected members. The current limitations to the freedom of movement within BiH may make this objective hard to reach. **For this reason, the presence and active support of the international forces in BiH will be an absolute necessity, largely beyond the currently proposed date for their repatriation.** Without genuine restoration of the freedom of movement, all the procedures concerning absentee voting, cross-municipality voting will remain dangerous illusions, programming and feeding new conflicts for the future.

4.3. Finally, it is to be hoped that the political climate should, in a further stage, allow local issues to appear more clearly for the voters. It appeared to the CLRAE observers that the current voting procedures did tend, with the noticeable exception of the Banja Luka area where local lists seem to have fared well, to encourage people voting for national - if not nationalistic and ethnic - political parties, rather than on the basis of an electoral programme linked with typical local government issues.

4.4. Furthermore, discussions during these elections clearly demonstrated the need for further education of the citizens of BiH concerning the organisation of the country comprising two entities: the Federation of Bosnia and Herzegovina and the Republika Srpska. Unfortunately, the upcoming elections of a new Parliament in the Republika Srpska will add further to the misunderstanding of citizens in this respect. In addition, it should be noted that the so-called "Herzeg Bosna" still exists despite the contradiction with the Dayton agreement.

4.5. Whilst a clear political will has been expressed for large international aid, procedures have apparently hampered the full use of the resources foreseen by the European Union. It is crucial that this situation be remedied in order that people's confidence in democracy is restored and for the economic situation of the country to improve. **International aid must be fully utilised and increased in order to reconstruct and revitalize the country's economy otherwise a lasting peace will not be possible.**

4.6. The CLRAE and the Council of Europe in general are ready to assist the newly created local democracy in BiH with legal advice and with training of those concerned in local management issues and more generally in contacts with local government in other European countries. Local Democracy Embassies established in certain cities in BiH under the aegis of CLRAE can also play an important role in this respect. Each member country of the Council of Europe and its neighbouring countries need to intensify their efforts in order to reinforce democracy and cooperation between the three ethnic communities.

4.7. Lastly, as of 1 November 1997, the election results had not yet been made public, a fact which the CLRAE considers extremely unfortunate.