OSCE Office for Democratic Institutions and Human Rights Election Observation Mission Republic of Bulgaria Early Parliamentary Elections, 12 May 2013



INTERIM REPORT 16-30 April 2013

2 May 2013

I. EXECUTIVE SUMMARY

- Following countrywide protests against poverty and high electricity bills, the National Assembly (parliament) was dissolved on 12 March and early parliamentary elections were called by the president for 12 May. An interim government was appointed, committing itself to organize 'free and fair elections'. The 240 members of the parliament will be elected under a proportional list system from 31 multi-mandate constituencies.
- Parliamentary elections are regulated by a comprehensive legal framework that generally provides a sound legal basis for the conduct of democratic elections, if implemented properly. Some of the OSCE/ODIHR's previous recommendations were adopted in the most recent amendments of the Electoral Code in February 2013, while others remain unaddressed.
- The elections are administered by a three-tiered system of election commissions. Following recent amendments, sessions of the Central Election Commission (CEC) and District Election Commissions (DECs) are streamed online, thereby enhancing the transparency of the commissions' activities. A database of complaints and appeals as well as CEC and DEC decisions are also available on their websites.
- The CEC and DECs generally respect legal deadlines pertaining to the organization of the elections. Training of DEC members has taken place, while training of precinct election commissions is ongoing. Thirty-seven complaints were filed against CEC decisions on the composition of DECs. In all cases, the Supreme Administrative Court (SAC) upheld the decisions.
- Voter lists are, in general, available for public scrutiny. Voters can be included in only one voter list and therefore should be removed from the voter list of their permanent address if the place of voting is changed. However, on election day voters can be included in voter lists upon presentation of an identity document. In addition, five categories of voters may be included in an additional voter list on election day. A number of security mechanisms are provided by the Electoral Code to prevent the misuse of alternative inclusion in the voter lists.
- The CEC registered 67 of the 71 political parties that submitted registration documents. Subsequently, four parties were deregistered by the CEC due to an insufficient number of valid supporting signatures. Three of the four political parties appealed these decisions to the SAC, which upheld the CEC position in all three cases. Only two independent candidates are registered by DECs.
- The official campaign started on 12 April with a focus on poverty, the fight against corruption and organized crime as well as other social issues. Campaign activities are mainly conducted through media, social networks, meetings with voters and rallies organized in big cities. The use of nationalistic, at times inflammatory language, allegations of vote-buying, as well as

allegations of wire-tapping conducted by the Ministry of Interior involving public figures, have characterized the campaign discourse.

A pluralistic media landscape pertains. The Electoral Code, however, does not provide for free
airtime and most campaign coverage in the media is *de facto* paid for. Paid media coverage is
often not labeled as such, thus potentially misleading the audience about the nature of the
reporting. However, the public service broadcaster is granting candidates free airtime on
election-related programs.

II. INTRODUCTION

Following an invitation from the Ministry of Foreign Affairs of Bulgaria and based on the recommendation of a Needs Assessment Mission conducted from 18 to 20 March, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 16 April. The EOM, led by Miklos Haraszti, consists of a ten-member core team based in Sofia and 12 long-term observers (LTOs) who were deployed on 21 April throughout the country. Mission members are drawn from 19 OSCE participating States. The OSCE/ODIHR has requested participating States to second 220 short-term observers to observe voting, counting procedures on election day and the tabulation of results.

III. BACKGROUND AND POLITICAL CONTEXT

The Constitution stipulates that the National Assembly (parliament) is elected for a term of four years. The 12 May elections will be the third early parliamentary elections since 1990. The elections are taking place in an environment of protests against poverty, socio-economic disparities and public disappointment with politics and political parties. The protests, which began in late January 2013, led to the self-immolation of six people over the course of two weeks in February and March and to a number of injured civilians and policemen. On 20 February, the government headed by Citizens for European Development of Bulgaria (*GERB*), resigned and on 12 March, President Rosen Plevneliev dissolved the parliament and set the date for early parliamentary elections. An interim government was appointed, committing itself to organize 'free and fair elections'.

The most recent presidential and municipal elections were held in October 2011. The incumbent president, nominated by *GERB*, won in the second round with 52.5 per cent of the vote against Ivaylo Kalfin, nominated by the Bulgarian Socialist Party (*BSP*).

Following the last parliamentary elections in July 2009, *GERB* obtained 116 of 240 seats in the parliament and formed a minority government. Other political forces represented in the parliament were: the Coalition for Bulgaria, headed by *BSP*, the Movement for Rights and Freedoms (*MRF*) with 40 and 38 mandates, respectively; the *Ataka* party with 21 seats, the Blue Coalition with 15 seats and the Order, Law and Justice Party (*RZS*) with 10 seats. The opposition consisted of *BSP* and *MRF*; while *Ataka*, the Blue Coalition and *RZS* did not join the government, they at times supported it.

IV. THE LEGAL FRAMEWORK AND ELECTION SYSTEM

The legal framework regulating the parliamentary elections includes the Constitution, the Electoral Code, the Law on Political Parties and other legal acts, as well as instructions and decisions of the Central Election Commission (CEC).

The Electoral Code adopted in 2011 regulates elections on all levels and, if implemented properly, generally provides a sound legal basis for the conduct of democratic elections. In February 2013, politicized and heated discussions in the parliament led to a number of amendments to the Electoral Code, some of which address previous OSCE/ODIHR recommendations. Specifically, CEC and DEC sessions are now streamed online in real time enhancing the transparency of the activities of commissions and providing the public with an opportunity to follow these discussions. Election commission decisions that could not be adopted due to a lack of a two-third majority vote are now appealable. In addition, amendments provide for the rights of observers to observe the entire electoral process, including the right to be present during sessions of election commissions. However, a number of OSCE/ODIHR recommendations remain unaddressed, such as media coverage of the campaign, the right of minorities to use their mother tongue during campaigning, and procedures for complaints and appeals.

The Criminal Code imposes criminal liability on people who offer or provide material benefit in exchange for votes, who organize vote-buying or who accept such offers or benefits. The amendments adopted in 2009 increased the penalties for vote-buying and other election-related crimes. The Electoral Code also addresses this issue by requiring that all campaign materials contain a statement that vote buying and selling is a criminal offence. Audio and audiovisual materials must also contain the same message, which must be "unambiguous and understandable".

The National Assembly is a unicameral body consisting of 240 members elected under a proportional list system from 31 multi-mandate constituencies. The number of mandates in each constituency is between 4 and 16, and is decided by the CEC according to the population size in the respective constituency, with a minimum of 4 mandates per constituency. Political parties and coalitions that receive a minimum of four per cent of valid votes at the national level and independent candidates who receive valid votes not less than the constituency electoral quota can participate in the allocation of mandates.²

V. THE ELECTION ADMINISTRATION

The responsibility for the administration and organization of the elections is shared between the government, regional and municipal administrations and the three-level system of election commissions: the CEC, 31 District Election Commissions (DECs), one in each of the 31 multi-mandate constituencies, and some 11,000 Precinct Election Commissions (PECs). All election commission members are nominated by parliamentary political parties and coalitions proportionally to their seats in the parliament.

The CEC is the only permanent election administration body. Twenty-one CEC members were appointed by the president upon nominations from political parties in April 2011 for a five-year term. The DECs were appointed by the CEC on 26 and 27 March within the legal deadline.⁵

The decision defining the number of mandates per constituency was adopted on 15 March 2013.

Political parties and coalitions of parties that have a faction in the parliament are entitled to be represented in all election commissions. The National Movement for Stability and Prosperity (*NDSV*), which has members in the European Parliament, but is not represented in the national parliament is also entitled to nominate one member to the CEC and to each DEC, as well as two per cent of PEC members within each constituency.

The electoral quota is the ratio of the total number of valid votes divided by the number of mandates in the relevant constituency.

A precinct can have up to 1,000 voters.

DECs comprise 13 members (in constituencies with less than ten mandates) or 17 members (in constituencies with 10 and more mandates). The number of PEC members varies from five to nine, depending on the number of registered voters.

According to the information provided to the OSCE/ODIHR EOM by the CEC, representatives of the former Blue Coalition challenged CEC decisions on the composition of all 31 DECs. In addition, Coalition for Bulgaria, *MRF* and Movement Bulgaria for Citizens appealed CEC decisions on the composition of some DECs. None of these appeals were upheld by the Supreme Administrative Court (SAC). Thirteen female members serve on the CEC and some 54 per cent of all DEC members and 74 per cent of DEC chairpersons are women.

The DECs formed some 10,800 PECs for administering voting and counting within the country. The CEC appointed 227 PECs for the conduct of out of country voting in 56 countries by 29 April.

The CEC approved the main procedural rules and templates to be used for official documents within the shortened deadlines provided by the law for early elections. The Electoral Code does not grant voters and media a possibility to be present at CEC and DEC sessions, although in accordance with new Electoral Code provisions, CEC and DEC sessions are streamed online. A database of complaints and appeals, and all CEC and DEC decisions, are available on their websites as prescribed by the law.

The CEC organized training sessions for DEC members on pre-election issues as well as on counting and tabulation procedures, and plans to conduct a public-awareness campaign on voting procedures. DECs have started to train PEC members. The OSCE/ODIHR has observed some of these training sessions.

VI. VOTER REGISTRATION

Voter lists are extracted from the national population register maintained by the Civil Registration and Administrative Services Department of the Ministry of Regional Development (GRAO). The OSCE/ODIHR EOM observed that voter lists were posted for public scrutiny both in hard copy and on websites of municipalities. A voter education campaign on the verification of voter lists was launched by the CEC.

Voters who will be away from their place of residence are entitled to request a change of voting place no later than 14 days before election day. To be able to vote abroad, citizens should apply to a diplomatic mission or consulate in person, by post or via e-mail to the CEC 30 days before election day. ¹⁰ CEC and DEC members, candidates and observers are allowed to vote at any polling station on election day, provided that they receive an absentee voting certificate no later than 14 days before the poll. Special voter lists are compiled for voters in healthcare and detention centres. In cases where a voter is omitted from the voter list, s/he can be added to the main voter list by a PEC on election day at the place of the voter's permanent address upon presentation of an identity document.

OSCE/ODIHR EOM observers reported that DEC 19 did not appoint all PECs within the legal deadline due to failure of some political parties to present correct data on nominated PEC members.

The complainants challenged the right of some representatives, who were previously part of the Blue Coalition, to submit nomination documents for DEC members on behalf of the former Blue Coalition. The Blue Coalition was formed for the previous parliamentary elections, but was dissolved, though its parliamentary group has remained registered and therefore is entitled to propose DEC and PEC members.

The distribution of the three leading positions within the DECs was challenged. The CEC decisions on the composition of DECs do not provide data on the party affiliation of the appointed members.

See also section IX, Complaints and Appeals.

By the 11 April deadline, 83,887 people had applied for out-of-country voting; 11,359 via email.

Voters can be included in only one voter list and therefore should be removed from the voter list of their permanent address if the place of voting is changed. However, fulltime pupils and students, and voters with disabilities are entitled to vote at any place and may be included in an additional voter list on election day. Furthermore, PEC members and police officers serving in a particular polling station are included in the additional page of the voter list of the respective polling station but not excluded from the voter list of their permanent address. A number of security mechanisms are provided by the Electoral Code to prevent the misuse of alternative inclusion in the voter list.¹¹

VII. CANDIDATE REGISTRATION

Candidate lists can be put forward by political parties and coalitions registered with the CEC.¹² Independent candidates can be put forward by nominating committees in the constituencies.¹³ A total of 71 political parties applied for registration with the CEC from 19 to 27 March; 14 did so on the last day of registration. The CEC rejected the registration of four political parties for not having paid the monetary deposit and not having presented the supporting signatures. Following the registration of 67 political parties, 4 of them were deregistered by the CEC based on the statement of the GRAO that there was an insufficient number of valid signatures presented.¹⁴ As a result, 63 political parties are registered for the upcoming elections.

According to the Electoral Code, political parties have three days for the elimination of any inaccuracies in their nomination documents, but not later than the deadline for registration. The CEC interpreted the law strictly and did not provide the political parties with the possibility to correct nomination documents after 27 March. This approach was approved by the SAC. ¹⁵

Political parties and coalitions registered with the CEC presented their candidate lists to the DECs. According to the preliminary CEC data, seven coalitions were registered for the elections with some 2,000 candidates. ¹⁶ Only 29 of the remaining 38 political parties registered candidate lists, fielding approximately 6,090 candidates. Some political parties decided not to register candidates while others were denied registration by the DECs. Only two independent candidates were registered by the DECs. Thirty-one per cent of all registered candidates are women.

VIII. ELECTION CAMPAIGN

The official campaign started on 12 April and ends at midnight on 10 May, when the silence period begins. Opinion poll results may not be published after the start of the silence period and until the end of voting. Municipal mayors are required to designate places for posting election materials and

All these voters are to sign a written oath stating that they have not voted and will not do so a second time. Pupils and students must have the grade books stamped after voting. The GRAO is responsible for identifying cases of multiple voting according to procedures established by the CEC.

A deposit of 10,000 Bulgarian Leva (BGN; around Euro 5,100) and at least 7,000 supporting signatures are required to be registered.

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The nomination of independent candidates shall be supported by signatures of not less than 5,000 voters from within the relevant constituency and a deposit of 10,000 BGN.

The procedure for verification of the collected signatures was established by the CEC. The GRAO, in charge of checking the signatories' personal data, invalidated more than 2,500 signatures presented by each of the deregistered parties, mainly due to invalid personal identity numbers of citizens, duplicate signatures or signatures of voters who had previously signed in favor of another party.

The Party of Bulgarian Communists, the Bulgarian National-Patriotic Party and the Green Party challenged the CEC decisions on their deregistration because the CEC did not grant them three additional days to present new supporting signatures to replace those invalidated by the GRAO. The SAC rejected the appeal on the grounds that correction of the nomination documents could be exercised only before the registration deadline.

Twenty-five political parties are registered within seven coalitions.

should be notified by the contestants 48 hours prior to holding a public campaign event. Misuse of administrative resources, including public transport owned by the state or municipality is prohibited.

Campaign activities are mainly conducted through media, social networks, direct meetings with voters and rallies organized in big cities. The focus of the campaign has been on social and economic issues, such as poverty, unemployment, the fight against corruption and organized crime. However, some of the political parties base their platforms on nationalistic issues using inflammatory and xenophobic rhetoric at times. ¹⁷ Concerns of vote-buying are present and while interlocutors state that the Roma population remains the most vulnerable group, they also note that the issue extends across all parties and ethnic groups in the country. ¹⁸

Several political parties questioned the role and involvement of the Ministry of Interior (MoI) in political life and the electoral process. ¹⁹ On 28 March, the leader of the *BSP*, Sergei Stanishev, submitted documents to the Prosecutor General, which alleged an unlawful scheme for wire-tapping politicians, journalists and businessmen. According to the leader of the *BSP*, the responsibility rests with the former minister of interior, Tsvetan Tsvetanov, who is currently the head of the *GERB* campaign headquarters. On 15 April, the Prosecutor General announced that malpractices in the work of the MoI related to the wire-tapping matter have surfaced and initiated an investigation of several officials. A number of political parties called for the resignation of Mr. Tsvetanov as the head of *GERB*'s campaign headquarters. ²⁰

IX. THE MEDIA

The media landscape is pluralistic despite a growing concentration of media ownership in the hands of a restricted circle of businesspeople. In this respect, many interlocutors have raised concerns about the independence of media from undue economic and political pressure. Furthermore, the lack of legislation requiring establishment of a public register of broadcast media owners raises concerns among interlocutors regarding the transparency of media ownership. Internet access is unimpeded and provides for an alternative source of information *vis-à-vis* more traditional media.²¹

The Electoral Code regulates in detail the coverage of the campaign by the public Bulgarian National Television (BNT) and Bulgarian National Radio (BNR). The formats established for campaign coverage are "spots, chronicles, debates and other forms". The Electoral Code explicitly requires that the coverage of political parties in the various formats in the public media must be

Ataka as well as some smaller political parties played on ethnic stereotypes prior to the start of the campaign and continue to do so. The National Front for Salvation of Bulgaria proposes the creation of isolated villages for the Roma population in its political platform.

On 24 April, the Prosecutor General informed the OSCE/ODIHR EOM that that he had received approximately 35 alerts of vote-buying. The Ministry of Interior opened seven pre-trial investigations of which six are on vote-buying.

On 10 April, the Ministry of Interior requested the CEC to provide the Ministry with data of registered candidates and members of the DECs and PECs. The Ministry reasoned that the information was necessary in order to avoid a conflict of interest based on potential family relations between police officers assigned to polling stations and members of the election commissions as well as between police officers and candidates. On 15 April, the CEC rejected the request on the grounds that the Electoral Code does not contain provisions with such restrictions. The CEC also stated that as 'the personal data administrator' it is bound by the Personal Data Protection Act and cannot disclose personal data of the election commissioners and candidates.

At the time of writing, all parliamentary political parties, except *GERB* and *RZS*, as well as a non-parliamentary party Movement Bulgaria for the Citizens called for the resignation of Mr. Tsvetanov.

Nearly half of the population has home-based access to the Internet. Source: Eurostat, Internet use in households and by individuals in 2012, available at: http://epp.eurostat.ec.europa.eu/cache/ITY OFFPUB/KS-SF-12-050/EN/KS-SF-12-050-EN.PDF.

The order of presentation of candidates in the various programs was decided by a lot held by the CEC on 9 April.

equitable and should be paid for according to rates determined by the Council of Ministers no later than 40 days prior to election day. In March 2013, the Council adopted a decision introducing rates higher than during the 2011 presidential election.²³ The public broadcaster is granting candidates free airtime on election-related programs, although this is not provided for in the Election Code.

Commercial broadcasters and the press are largely unregulated. They are required to offer campaign coverage under equal contractual conditions to all contestants. The rates, terms and conditions for paid coverage, as well as the contracts between the media and candidates, must be published on the webpage of each media outlet. However, several private media houses have yet to post their contracts despite having already published paid political advertising. The Electoral Code does not require paid advertising to be labelled. In an effort to foster transparency on the source of sponsorship of programs, in April 2013 the Council for Electronic Media (CEM), the CEC and the Association of Bulgarian Broadcasters (ABBRO)²⁴ signed a voluntary agreement whereby private media committed to label paid election advertisements. However, the OSCE/ODIHR EOM received a number of complaints that some private electronic and print media continued not to properly label their paid coverage, thereby potentially misleading the audience about the nature of the reporting.

To assess the conduct and coverage of the campaign in the media, the OSCE/ODIHR EOM started a quantitative and qualitative monitoring of the prime-time broadcasts of four television stations (BNT, bTV, Nova TV and TV7), two radio stations (BNR1 and Darik Radio) as well as three newspapers (24 *chasa*, Telegraf, Standart) on 19 April.

X. COMPLAINTS AND APPEALS

Decisions of election commissions can be contested to higher level commissions. Decisions of the CEC are contested before the SAC, whose decisions are not appealable. The Electoral Code specifies which CEC decisions can be appealed and also determines the deadline for the submission of appeals.²⁶

The CEC has handled 33 appeals of which 22 concerned the registration of candidates. The CEC overturned four DEC decisions and upheld DEC decisions in 18 cases. ²⁷ Ten appeals on DEC decisions concern the composition of PECs. In three cases, the CEC overturned the DEC decisions while in the remaining seven the DEC decisions were upheld. One appeal addressed the obligation of the DEC to publish its decision on the website and it was satisfied by the CEC.

The SAC has handled 55 appeals against CEC decisions, of which four were on the non-registration of political parties. The SAC upheld three CEC decisions based on the fact that fewer valid signatures than required by the law had been submitted by political parties. Thirty-seven appeals

Under Article 147.2 of the Electoral Code, only the opening and closing spots of candidates are exempt from payment. In addition, parties not represented in the parliament do not receive state funding. In this respect the decision of the Council of Ministers has prompted some criticism.

According to the agreement, the CEM will be in charge of monitoring the compliance of the agreement.

ABBRO is an independent organization representing the interests of commercial radio and television industry in Bulgaria.

The deadlines within which a decision must be made and an appeal filed depend on the nature of the complaint. CEC decisions related to the registration of political parties, coalitions and candidates can be appealed to the SAC within 24 hours. Other CEC decisions can be appealed within three days. The CEC has three days to decide on an appeal. Of note, a decision on an appeal taken by the CEC on the appointment and dismissal of PEC members is not further appealable before the SAC.

Eight of these decisions were further appealed before the SAC, which dismissed all the appeals reasoning that candidacy requirements for valid documents were not fulfilled.

were against decisions on the composition of DECs and the SAC upheld all thirty-seven CEC decisions basing their legal reasoning on the fact that DECs were established in accordance with the law. Appeals on 14 CEC decisions were found by the SAC not to fall within its competency.²⁸

In four cases, political parties requested a refund of their deposit. In three of those cases, political parties were deregistered after GRAO established that they had not produced 7,000 valid signatures. In the fourth case, a political party requested to be withdrawn from the race after it had been registered. The CEC denied all four requests, reasoning that only those parties that gain two per cent of valid votes nationwide are entitled. All four parties appealed to the SAC; it reasoned that a CEC decision on issue electoral deposits is not appealable and, thus, does not fall under SAC jurisdiction.

XI. PARTICIPATION OF MINORITIES

The Constitution makes no reference to national minorities, but Article 54.1 provides the right for self-identification. Article 11.4 prohibits the formation of political parties on "ethnic, racial or religious basis". According to the last census taken in 2011, 84.8 per cent of the population is ethnic Bulgarian, while 8.8 and 4.9 per cent are ethnic Turk and Roma, respectively. Other ethnic groups are below one per cent of the population.

The Electoral Code stipulates that the election campaign is to be conducted in the Bulgarian language. It is a longstanding OSCE/ODIHR recommendation that individuals identifying themselves as belonging to national minorities should be allowed to use their mother tongue in the election campaign and that official voter information could be provided in minority languages.³⁰

While the *MRF* is perceived as the political party representing the interests of the Turkish minority, ³¹ the Roma minority remains marginalized in social and political life. ³² The OSCE/ODIHR EOM was informed by interlocutors that most of the political parties and coalitions are either not fielding Roma candidates or placing them in 'non-electable' positions on the lists.

XII. CITIZEN AND INTERNATIONAL OBSERVERS

The Electoral Code provides for citizen and international election observation. Citizen observers can be nominated by Bulgarian non-governmental organizations. Lists of international observers are submitted for registration via the Ministry of Foreign Affairs. Observers are registered by the CEC.

As of 27 April, 16 citizen organizations with 6,066 observers and three international organizations with 55 observers were registered. Political parties, coalitions and nominating committees may appoint proxies, who are registered by DECs.

Not all CEC decisions can be appealed; the Electoral Code (Articles 26.7, 26.8) list appealable CEC decisions.

In December 2012, a new political party was formed, People's Party Freedom and Dignity, stating that it represents the interests of the Turkish minority in Bulgaria.

It is widely assumed that the actual number of Roma is significantly higher; most estimates put it between 700,000 – 800,000.

General Comment 25 adopted by the United Nations Human Right Committee in 1996 states that "information and materials about voting should be available in minority languages." Paragraph 32.5 of the 1990 OSCE Copenhagen Document states that "persons belonging to national minorities have the right [...] to disseminate, have access to and exchange information in their mother tongue". Paragraph 35 of the 1990 OSCE Copenhagen Document states that "The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs (...)."

In March 2012, the parliament adopted a National Roma Integration Strategy and an Action Plan for an eight year period, with a broad approach encompassing issues such as: non-discrimination, education, housing, media coverage and healthcare.

XIII. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODHIR EOM opened in Sofia with a press conference on 16 April. The Head of Mission has met with the CEC, the Ministry of Foreign Affairs, the chairperson of the Supreme Administrative Court, the Minister of Interior, the General Prosecutor, the Ombudsperson and with representatives of political parties, media and civil society. The OSCE/ODIHR EOM has also established regular contacts with the election administration at all levels, governmental institutions involved in the election process, political parties, civil society and the media.

For election day observation, the OSCE/ODIHR EOM will join efforts with the delegation of the OSCE Parliamentary Assembly (PA) and the Parliamentary Assembly of the Council of Europe (PACE). Eoghan Murphy has been appointed by the OSCE Chairperson-in-Office as Special Coordinator to lead the short-term observation mission for these elections.