

Report on the observation of the local elections in “the Former Yugoslav Republic of Macedonia” Held on 13, 27 March and 10 April 2005 - CG/BUR (11) 122 rev.

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Introduction

Following the invitation by the Central Election Commission, The Congress of Regional and Local Authorities decided to send a delegation to observe the local elections in “The former Yugoslav Republic of Macedonia” held on 13, 27 March and 10 April 2005. The Congress observer delegation consisted for the first round of Ms. Omur Aybar (Turkey, EPP/CD), Mr. Erik Boven (Netherlands, Expert), Mr. Christopher Newbury (UK, EPP/CD), Mr. Sean O'Brien (Ireland, SOC), Mr. Georg Spartanski (Bulgaria, NR), and Mr Keith Whitmore (UK, ILDG). The delegation was accompanied by Jean Paul Chauvet from the Secretariat of the Congress and Ms. Juliette Remy, Consultant. Mr. Keith Whitmore was appointed head of the delegation. The Congress delegation observed the first and second round of elections as well as the re-run of the first round. On 27 March, for the second round of elections, and the re run of the first round, the Congress delegation consisted of Mr. Joseph Borg (Malta), Mr. Sean O'Brien (Ireland), Mr. Owen Masters (UK), Mr. Georg Spartanski (Bulgaria), Mr. Ivan Tsenov (Bulgaria), Mr. Keith Whitmore (UK), Mr. Michel Rivollier (France) resident expert for the Council of Europe in Skopje and Ms Juliette Remy (France, Expert). The last round of elections on 10 April was observed by a smaller delegation composed of Mr Sean O'Brien (Ireland), Mr. Keith Whitmore(UK), Michel Rivollier and Ms. Juliette Remy.

The Congress delegation wishes to thank the OSCE/ODIHR long term observation mission headed by Mr. Julian Peel Yates for the excellent cooperation both politically and with regard to preparing the practical aspects of the mission. The ODIHR had a team of long term observers deployed around the country preparing the observation exercise for election day and it deployed over 360 short term observers from 39 countries for the first and second round of elections. ODIHR was most helpful in providing background information to the Congress delegation. Accordingly some of that information has been used for the present report.

The Congress wishes to express its thanks to Michel Rivollier, resident expert at the Council of Europe information office in Skopje and his staff for their assistance and support throughout the three missions.

In the days preceding the 13 March elections, as well as before the second round, the Congress delegation met representatives of the main political parties, “The former Yugoslav Republic of Macedonia” State Electoral Commission, the Association of units of local self governments (ZELS) and some domestic observers. For details about the meetings please see the programmes attached.

On the first round of elections on 13 March, the delegation was divided into four teams covering four areas of the country: Mr. Whitmore and Ms. Remy in Skopje; Mr. O' Brien and Mr. Chauvet in Ohrid; Mr. Newbury and Mr. Spartanski in Tetovo, Ms. Aybar and Mr. Boven in Kumanovo. The four teams on average visited more than ten polling stations. During the second round, the Congress delegation was divided into four teams covering similar regions and concentrating on areas where irregularities had occurred during the first round. The last round of elections was observed in Skopje, Kumanovo and Tetovo where the major mayoral contests took place.

1. The Overall “Former Yugoslav Republic of Macedonia” context and background to the March 2005 local elections

1.1 The Ohrid Framework agreement

After a violent process during 2001 starting with isolated incidents between Albanian groups fighting under the name National Liberation Army (NLA) and the “Former Yugoslav Republic of Macedonia” police, near the Kosovo border, the conflict escalated and led to 100,000 persons being displaced. Under international pressure, a new government was formed in May 2001 encompassing the four most important political parties in Parliament, SDSM, PDP, VRMNO-DPMNE and DPA. The two main Albanian parties, DPA and PDP adopted a joint platform and subsequently the four main political parties assembled for peace negotiations in Ohrid. On 13 August 2001, a formal peace agreement, known as the Ohrid framework Agreement, was signed. The agreement sought to improve the position of the ethnic Albanian community in key aspects. It was envisaged, among other things, allowing the use of Albanian and other minority languages as official languages in areas where Albanians or other minorities make up more than 20 per cent of the population; higher funding for language education; amendments to the Constitution to raise the standing of Albanians and other minorities and increased Albanian representation in government structures and policy.

The Ohrid agreement called for parliamentary elections which took place in 2002 and were won by a coalition of ten parties centred around the SDSM and LDP together with the new ethnic Albanian Party, Democratic Union for integration (DUI) led by former NLA commander. A government was formed headed by Branko Gruenkovski who became president in April 2004. Presidential elections were called, following the accidental death of President Trajkovski in February 2004.

The present government has been implementing the Ohrid framework agreement since coming to power. However progress has been uneven and at slower pace than many ethnic Albanians would wish. A major focus of the government has been to advance the prospects for the country integration with EU and NATO. The EU questionnaire was completed in February 2005 and the

country is eagerly waiting for the decision of the European Council in December 2005. The country capacity to conduct free and fair elections was also seen as a test for the ongoing process of European integration.

1.2 The Framework for decentralisation

The Ohrid Agreement inscribed in its basic principles the development of local government as essential for encouraging participation of citizens in democratic life and promoting respect for the identity of minorities. Article 3 of the agreement stipulated that for the development of a decentralized government, a revised law on local self government will be adopted that will reinforce the powers of elected local officials and enlarge their competencies to urban planning, local economic development, education, welfare, and health care. For many sectors formerly managed at central level, decision taking will be transferred at local level together with adequate financial, human and technical resources. A law on financing of local self government was to be adopted to ensure an adequate system of financing to enable local government to fulfil their responsibilities.

The law on local self government was adopted in 2002 and set the general framework for the decentralisation process. During 2003, the Government adopted an operational programme for implementation of legislative changes with an additional 80 odd laws to be modified in order to implement the law on local self government. Working groups of relevant ministries were established to draft new proposals for the law on municipal financing and the most sensitive law on territorial organisation and the city of Skopje. Both laws were adopted in September 2004. But increased politicization of the debate on decentralization slowed the process.

The debate on the Law on territorial organisation was much politicized. The new law was negatively received by the press, the media, mayors and the opposition who claimed that government had used ethnic criteria in determining the new boundaries. The government had also been criticized for a non-transparent policy-making process, for a lack of communication to the public of the criteria adopted in the new law such as viability in terms of population size, infrastructure and local economy, as well as a disregard of a local referendum organized to oppose the new law on territorial organization. The necessity of amending the law on territorial organisation was justified from the government side by the fact that the 1996 law did not provide a realistic territorial division with mechanical groupings of towns.

Population in the municipalities ranges from 456 to 444,760 in Skopje. Around 60 per cent of the municipalities have less than 10,000 inhabitants and 46 municipalities have less than 5000 inhabitants. Revision of the municipal boundaries was meant to enable a workable transfer of competencies and effectiveness in delivering public services.

Under the new law, adopted in September 2004 the number of municipalities is therefore reduced from 123 (law of 1996) to 84. Two municipalities are added to Skopje, bringing the Albanian community within Skopje above 20 per cent and making the city bilingual. Struga will include surrounding municipalities and change to an Albanian majority while Kicevo remains as it is until 2008 when five municipalities merge into one and it changes into an Albanian majority.

The Law on financing of the Municipalities also adopted in September 2004 provides for fiscal decentralization in two stages. Although the municipalities have expressed concern at the level of decentralised funding foreseen under the new legislation, this law has not given rise to the same level of controversy generated by the law on municipal boundaries and the city of Skopje.

Under the new law on territorial organisation, the merging of predominantly ethnic Macedonian municipalities into predominantly Albanian authorities will occur. A decision taken by Parliament to hold a referendum last November on the new law was triggered by a nationalist Macedonian diaspora-funded NGO which collected, with the support of opposition parties, over 184,000 signatures out of the 150,000 initially required by law. The referendum took place on 7 November and the Congress sent a delegation to observe the referendum process.¹ As a result, the local elections planned for October 2004 had to be postponed and the whole process of decentralization was put on hold.

The question of the referendum was: "do you favour local self government territorial organisation as defined in the law issued in 1996 and the law on the city of Skopje issued the same year?"

The referendum on 7 November failed because the turnout was well below the legally required 50 per cent. This result came about in part due to a negative campaign from the supporters of the redistricting plan, and the ethnic Albanian parties which urged their supporters to boycott the referendum. Also strong international urging against supporting the referendum may have helped persuade many of the risk of international isolation, and a return to conflict in the event of the referendum being successful. The recognition of the constitutional name of "Republic of Macedonia" by the United States some days before the referendum during the official silence of the campaign helped build self confidence as well.

As a result, the Law on territorial organisation remained effective and municipal elections, delayed since October, were scheduled for 13 March 2005.

The March 2005 municipal elections have special significance owing to the much greater powers that mayors will in the future enjoy in areas such as planning, environment, local economic development, education, and welfare as a result of decentralization. It is expected that 26000 employees will be transferred, and that 345 elementary schools and 94 secondary schools will be transferred to municipalities. The transfer will officially start on 1 July 2005. Money from the central budget will be transferred in instalments depending on the ability of the local unit to use it properly. The process will be monitored by a special commission for two years.

Training modules for the new local administrations and local authorities will be implemented soon after the elections.

2. The political climate

2.1 Political actors

The diversity of local conditions and differences in ethnic composition entails a wide variety of political configurations at local level. Politics are however primarily divided along ethnic lines and as in past elections, the key race is among ethnically based parties competing for votes within their own ethnic community. The principal ruling ethnic Macedonian Party, the Social Democratic Union of Macedonia (SDSM), and the Liberal Democratic party faces a fragmented ethnic Macedonian opposition. The former leader of the Internal Macedonian Revolutionary Organization-democratic party for Macedonia Unity (VRMNO-DPMNE), led a breakaway group and formed the VRMNO People's party. Strongly divided in many areas, these parties together with the rest of ethnic Macedonian opposition are nevertheless supporting a common independent candidate, Trifun Kostovski, in the race for Skopje.

The ethnic Albanian party in the governmental coalition, the Democratic Union for Integration (DUI), led by Ali Ahmeti, is the successor of the former National Liberation Army. It is challenged by a coalition of the Democratic Party of Albanians (DPA) led by Arben Xhaferi and the Party of Democratic Prosperity (PDP). The DUI and the DPA have signed an agreement on the fair conduct of the elections. The DUI is regarded as untarnished by corruption and emerged victorious among ethnic Albanians voters in the 2002 Parliamentary elections. The DUI is part of the ruling coalition with the SDSM and holds several ministries. Tension between the DUI and the SDSM increased somewhat in recent months, nevertheless common interest in retaining their leading positions within their own ethnic communities may be sufficient to prolong their cooperation in government.

These are the first municipal elections in which the DUI has competed and it seeks to repeat its success in the 2002 Parliamentary elections and to supplant the DPA in as many places as possible. In the key intra-Albanian race in Tetovo, Vebi Bexheti, a professor, of the coalition made between the DPA and the PDP, faces Hazbi Lika of the DUI, a former NLA commander. In the city of Skopje, the incumbent Risto Penov of the ruling coalition (SDSM, LDP) entitled "Macedonia together" faces Trifun Kostovski, an independent candidate, prominent businessman, supported by Macedonian opposition, led by VRMNO-DPMNE.

2.2 The election campaign

Almost all interlocutors whom the Congress met agreed that the election campaign had been conducted in a relatively calm atmosphere. Still, allegations from opposition parties of intimidation and pressure and plans for election day fraud reveal the deep mistrust among the parties and a lack of confidence in the electoral process and those handling it. This was particularly true in ethnic Albanian inhabited areas. One representative of the DPA told the Congress delegation that pressure, intimidation, and threats were standard practices and that the DPA was prevented from campaigning in areas where the DUI was established. The DPA announced a boycott of the second round to protest against the major irregularities in the electoral process, quoting stealing of ballot boxes, proxy voting, intimidation...

The campaign began officially on 21 February but some parties had already held conventions the preceding days. Outside Skopje where both opponents strongly emphasized Skopje issues, there was no focus on local matters, main campaign events were rallies addressed by national party leaders. All parties signed a code of conduct for the elections and all reiterated to the Congress delegation that they were aware of the importance of holding free and fair elections in light of their country's aspiration towards integrating into the European Union.

2.3 The Media

The system is characterized by a huge number of outlets operating in the country. After independence in 1991, hundreds of private newspapers and TV stations sprung up changing the media scene. Controversial association of the media with powerful business groups and political parties has resulted in questionable independence of editorial policies. Media reporting of the campaign was generally balanced and adhered to professional and ethical standards. The electoral legislation was enforced and as required by law, the broadcasting council conducted monitoring of the media coverage. A number of media outlets received official warnings for not respecting the provisions for equal access and news coverage was sometimes unbalanced with government officials over-represented on the public broadcast channels.

3. Legislative framework for the elections, including election administration and the composition of electoral commissions on different levels

The Congress delegation met with the chairman of the State Electoral Commission on 12 March and was briefed about the legislation and administrative procedures for the elections. The legal framework for the 2005 municipal elections includes several recently amended laws and the amended 1991 Constitution. Most provisions are contained in the Law on local elections of 2004 which has incorporated the mandatory use of ethnic minority languages in those units where 20 per cent of the population belongs to an ethnic community.

The Law on local elections governs the election of municipal councillors and that of the Mayor. Councillors are elected by a proportional system, there being no turnout threshold. A mayor is elected in the first round when a candidate wins more than 50 percent of the votes cast, provided that one third of registered voters in that municipality have voted.

The Law establishes a three-tier system of election administration: the first tier being the State Election Commission (SEC), the second tier being the 84 municipal election commissions (MEC) for each new municipality envisaged in the new law on territorial organisation. The MECs are composed of a president, who should be a judge, and four members representing four political parties. All MECs are appointed by the SEC.

The third tier of the electoral administration is represented by the 2976 electoral boards (EB) for each polling station. MEC presidencies are shared evenly between ruling and opposition parties. It is the responsibility of the MEC to ensure legal conduct of elections, decide upon complaints, and determine the elections results within 24 hours of the closing of the polling stations. The EB at the polling stations must manage the voting, ensure the regularity and secrecy of voting and peaceful conduct of voting and counting. All election officials are "official persons" under the criminal code of 1996, who are placed under mandatory obligation to report certain criminal acts to public prosecutors, including the use of serious threats, inducements, bribes and the use of deception during the voting process. Failure by the officials to report these matters is a criminal offence under article 364 of the criminal code.

Substantial international support was given for organisation and conduct of training of EB members, preparation of a manual for EB members and assistance in the production of voter education material. Training of EB members was conducted in 34 regional centres, however, attendance was not compulsory and the overall effectiveness of training was diminished.

The procedure for candidate registration was completed within the legal deadlines. There was a total of 379 mayoral candidates and 445 individuals listed as candidates for councillors in the 84 municipalities. To win in a mayoral race in the first round, candidates need to win more than 50 per cent of the votes on a turnout of at least one third of the registered voters. The updated voters' list closed on 11 February with a total number of 1,711,293 voters. The voters' list integrity was contested by most of the political parties, claiming that a large number of deceased persons were still on the list.

The electoral authorities operated in a collegial and consensual manner, respecting in general the legal deadlines. The legal framework however remains unclear in important respects. While the duties of the municipal election commissions (MEC) have been enhanced, the role of the State Electoral Commission has been reduced. The State Electoral Commission has no permanent secretariat, operates in a small office within the parliament and has no staff. Failure to prepare minutes of their meetings and regular publication of their decisions has affected the electoral process.

4. Observations on election day

During the first and second round of elections, the four Congress delegation teams were able to observe on average 50 polling stations. One team was deployed in Skopje, one team in Tetovo, one team in Kumanovo and one team in Ohrid. All together the 361 OSCE international observers visited over 1300 polling stations. Observers noticed a generally calm environment and in most parts of the country the electoral process was fair and free, in line with most Council of Europe and OSCE commitments and standards for elections. During the delayed second round on 10 April, only a limited number of observers was deployed by ODIHR/OSCE, and the two teams of the Congress delegation were deployed in Skopje and Kumanovo.

It should be noted that military personnel, prisoners, persons in custody and displaced persons were authorized to participate in an early ballot. Special voting provisions were made for people with disabilities either at home or in hospital. This provision was not very well advertised and resulted in a negligible utilisation.

Opening procedures were assessed as generally good in 80 per cent of the country. However during the second round of elections on 27 March, half of the polling stations did not open on time. The Congress delegation met domestic observers from NGO MOST and from political parties in all polling stations visited. Transparency of the process was enhanced by a large presence of observers of all political parties. The turnout was approximately 60 per cent during the first round and decreased substantially for the second round. Polling kits were provided in almost all polling stations but the Congress delegation witnessed that in some polling stations UV lamps, batteries and sprays were not available. In other instances, the forms prescribed by the SEC for the opening of polling stations were missing. The Congress delegation witnessed a lack of understanding on the part of the voters owing to the number of ballot boxes available for councillors and mayors, and a shortage of posters explaining the procedures. Printing mistakes on the Albanian language version of the ballot paper created some confusion among voters in Kumanovo.

Other Procedural shortcomings observed by the Congress delegation included the use of a spray on voters' fingers to prevent them from voting twice; this seemed to be checked in a haphazard way or at some polling stations not to be used at all. In the area of Tetovo, the Congress delegation observed what appeared to be multiple signatures with the same handwriting on the voter list where voters are to sign upon receiving the ballot papers. In rural areas, voters' identities were often not verified by identity documents although one should bear in mind that EB members may personally know the members of the electorate in small communities. Moreover, in rural areas, the voter lists were often not signed by the voters. The Congress delegation noted that the non-smoking environment was not respected in a large number of polling stations. In the majority of the polling stations visited the vote count was undertaken smoothly with, in some instances however, a lack of understanding of counting procedures.

However, while the process was generally well conducted in most of the country, during both rounds, there were some very serious irregularities observed in the region of Skopje, Kumanovo, and Tetovo, in a number of municipalities. These are the municipalities of Cucer Sandevo, Zelino, Jegunovce, Brvenica Lipkovo, Tearce, Saraj, Suto Orizari, Studenicani, Dolneni, Aracinovo, Oslomej. The irregularities which occurred during the first round persisted during the second round and included stolen ballot papers, ballot box stuffing, intimidation, group voting, proxy voting, tension inside polling station and overcrowded polling stations which resulted in the ID check not being performed adequately. These practices seriously undermine the universality and equality of the vote. In addition, violent incidents took place in two municipalities during the first round.

The Congress delegation witnessed numerous cases of group voting and family voting. Family voting in this context is understood when a husband and wife enter the voting booth together or when the husband takes and fills in the ballot paper of his wife and sometimes those of his children as well. Another manifestation of family voting witnessed by the Congress delegation was assisted voting, i.e. that one family member assisted another due to bad eyesight or similar handicap, which the law allows for. The Congress delegation reiterated during the press conferences its position that group voting is a violation of the secrecy of the ballot. It is unacceptable and should be seen as a thing of the past.

The participation of women is a cause of equally serious concern for the Congress delegation. Amendments to the law on local elections include the requirement to have each gender represented on the candidates list with at least 30 per cent in both the upper and the lower parts of the list. There are currently three women serving as mayors and only one of them ran during the first round. There was a total of 18 women registered as candidates for mayors prior to the first round of elections. Out of these, one was elected in the first round while the other three will be competing in the second round. During the first and second round, observers reported that there was not a single woman in Electoral Boards in 43 per cent of the polling stations. The Congress delegation deplores the de facto disenfranchisement of women in many areas and outlines that it was essential that all the country citizens be properly represented in its official and elected institutions and that the right to vote of all citizens should be respected. Furthermore, the presence of women in those Electoral Boards revealed an important factor in relation to the irregularities observed. In polling stations where there were no women present, international monitors observed a 19 per cent overall negative assessment compared with a 5 per cent assessment where there was at least one woman member of the board.

The persistence of widespread irregularities was a great cause of concern to the international community at large. The OSCE/Council of Europe by means of a press release and press conference on the day following the first round of elections, warned the authorities that such practices were undermining the process as a whole and urged the authorities to address the shortcomings identified during the first round. European Union and Nato statements all indicated great concern at the lack of respect of European standards and all stressed the need for the authorities to address the shortcomings identified.

Despite naming those municipalities on the outcome of the first round where extremely serious irregularities occurred, the Congress delegation regrets that no action has been taken to address the issues raised by the international community that their practices now seem to be a culture of flouting democratic decision making which undermines the whole process of democracy in the country.

5. Elections results and developments between first and second round of elections

Results of the 13 March round

In general, the governing parties emerged fairly strongly from the first round. Preliminary figures, before all complaints had been processed and all results finalised, showed that the coalition for "Macedonia together" had won 421 seats compared with 310 for VRMNO-DPMNE and 130 for VRMNO-NP. Among the Albanian parties the DUI won some 206 council seats compared with 131 for the DPA PDP coalition. Eighteen Mayors were elected from the first round, eleven from "Macedonia together", three from DUI, one from VRMNO-DPMNE, one from the DPA PDP and one independent. In the second round "Macedonia together" was still in the race for another 45 mayoralties. In the intra-VRMNO battle, VRMNO-DPMNE has 36 candidates in the second round, compared with seven for VRMNO-DP. Among the Albanian parties, the DUI has candidates in 15 second round races, and the DPA- PDP in 12.

Following the complaints and appeals process, voting results from the first round were invalidated in 41 polling stations in 13 municipalities and in the city of Skopje. Therefore in some 57 municipalities a second round for mayoral elections was called for 27 March with re-runs for the election of councillors in three. In nine other municipalities and in the city of Skopje only, re-runs were announced for 27 March thus postponing the second round of the Mayoral elections until 10 April.

Controversy between the two rounds

The climate in the period leading to the second round was politically dominated by disputes over the election results in some municipalities and alleged irregularities which occurred on 13 March. Opposition parties accused the ruling coalition of electoral fraud, in particular in the contests of Tetovo and Skopje.

Strong controversy started in the early hours of 14 March when the results for the mayoral race in the city of Skopje remained unclear and it was fuelled by the slow response of the election authorities to disclose initial results. The local NGO MOST, which had deployed observers in almost each polling station, published a parallel voting tabulation announcing that the independent candidate for mayor Trifun Kostovski had won with more than 50 per cent. The Kostovski campaign team declared victory before the official release of the results. After a delay in the announcement the results showed that Kostovski had not achieved the absolute majority required to win in the first round but 48.6. This figure would make a run-off necessary.

Results for the election of the city council in the city of Skopje were not challenged. But the opposition accused the ruling parties of electoral fraud in particular in three municipalities of Skopje where widespread irregularities had been observed. In Tetovo, DPA and PDP accused governing parties of serious irregularities in the first round vote and demanded re-runs in 16 predominantly Albanian-inhabited municipalities. The demands were not met, which led to a DPA and PDP announcement of a boycott. This contributed to a profound lack of confidence in the electoral process. The slow process in announcing results and uncertainty over the complaints and appeals process contributed to a climate of fatigue on the part of the citizens. Campaigning activities between the first and second round were directed at the accusations and not on campaigning as such. The prime minister called a meeting of all party leaders on 22 March, to try to smooth out the controversies, but with little success.

While the State Electoral Commission was able to announce the overall initial results within the legal deadline of three days after polling day, the lack of preliminary information on the city of Skopje created a lack of confidence and tension that persisted throughout the period. Due to the lengthy and extensive process of complaints and appeals, information about which contests would be run was only available five days before the contest itself, leaving little time for preparations for the second round. However, the SEC could organized training sessions for presidents and deputies of MECs in those municipalities where problematic behaviour occurred.

Complaints and appeals

Article 17 of the Law gives the MEC a wider obligation to consider election complaints in that it states that the MEC shall take charge of the legal conduct of the elections in the municipality and that the MEC shall rule upon complaints. Voters and parties can bring complaints about decisions, omissions and irregularities in the MECs. Generally, the MECs are the first avenue for lodging complaints and appeals when there are alleged irregularities. Appeals of MEC decisions should not be lodged with the SEC but directly with the domestic courts. In some cases, appeals against MEC decisions can be lodged directly with the Court of Appeals or Supreme Court for decision, annulling the vote at a given polling station.

Approximately 200 complaints were submitted nationwide to MECs alleging irregularities, mainly from political parties. The vast majority was rejected on alleged technical and procedural grounds making no investigation into the substance of the complaint, even if there was clear evidence of ballot stuffing and the refusal of the EB to follow mandatory procedures.

Furthermore, the mandatory rule under Art. 65 of the electoral law stating that only comments registered in the minutes can be invoked in complaints and appeals proceedings was used by the MEC to dismiss complaints even where there was evidence that threats and intimidation were used against members of EBs and candidate representatives.

Given the poor quality of MEC decisions in some municipalities, there was a high number of cases sent to the Supreme Court protesting against MEC decisions. The Supreme Court received 77 appeals against MEC decisions and delivered 64 judgements. Of these 64 appeals, 17 were allowed in part or full when irregularities or objections were written in the minutes, where there was evidence of ballot stuffing, a high number of invalid ballots, and deceased persons voting.

Court decisions were based on procedural grounds and often disregarded obvious proof of irregularities. Nineteen persons are currently under criminal investigation for offences committed on the 13 March first round of elections.

The Congress delegation is concerned at the number of instances where the MEC was unable to protect the legality of the election process and remedy cases of obvious unlawfulness and electoral malpractice. The law provides that members of the MECs must perform their duties impartially, conscientiously and in accordance with the law. Observers from ODIHR also witnessed instances where standards were not followed and where the MEC acted primarily in accordance with party interests; and the SEC adopted a passive approach refraining from guiding the MEC during the complaints process. There were clear instances where MEC proved reluctant to question Electoral Boards even if it was clear that fundamental safeguards and mandatory procedures had been ignored.

Results of 27 March round

The State Election Commission announced on 28 March that SDMS and its allies had won the second round of mayoral elections in 25 municipalities. Adding the first round, the coalition won in 37 municipalities, with a total of 37 mayors. The opposition coalition VMRO-DPMNE won in 17 municipalities, DUI in seven; VRMNO-DPE in three; Albanian opposition DPA PDP in one. Independent candidates were elected as mayors in three municipalities.

Results of the 10 April round

The State Electoral Commission confirmed, on 11 April, the election of mayors in 17 municipalities. Eighty-two mayors from a total of 84 municipalities were elected. The SDSM won in five municipalities; the VRMNO-DPMNE coalition in three municipalities; VRMNO-People's party in one; the DUI won in five municipalities including Tetovo; and independent candidates in three municipalities. Independent candidate Trifun Kostovski won as the mayor of Skopje. The turnout however was very low.

Press conference

The Congress Delegation held a joint press conference with the ODIHR mission on Monday 15 March and again on Monday 28 March to report on the findings of the election observation missions. The Congress Delegation was represented by its Head of Delegation, Mr. Keith Whitmore, and the ODIHR mission by ODIHR Ambassador Julian Peel Yates. On 11 April, a press release was issued. The three joint press releases issued are in the appendix.

6. Conclusions

In order to improve the general election environment, the Congress invites the authorities of "the Former Yugoslav Republic of Macedonia" to take into account the following points:

- In the opinion of the Congress delegation, the local elections held on March 13 for the first round, March 27 for the second round and re-runs, and April 10 for the Mayoral contest of Skopje, Tetovo and Kumanovo showed further progress towards compliance with OSCE, Council of Europe and other international standards.
- The Congress delegation was satisfied with the calm and peaceful campaign which had already been the case during the referendum of November 2004 and acknowledgement must be paid to the work of Electoral boards in the majority of the cases.
- However, the Congress notes the low rate of participation and the general fatigue of citizens in the electoral process and wishes to draw the attention of the authorities to the seriousness of the electoral malpractice and irregularities. Attention by the authorities and a commensurate level of political will is clearly necessary to eradicate these malpractices. It is the responsibility

of the authorities to ensure such practices are a thing of the past. The authorities' ability to ensure transparency and accountability is an indicator of its capacity to further strengthen the democratic process in the country.

- The main impression is that the political environment in which elections were held in "the Former Yugoslav Republic of Macedonia" has grown more mature and that extremely aggressive rhetoric or behaviour between the political parties is a thing of the past. However, the democratic political culture and the behaviour of political parties with regard to fair votes needs to be seriously improved. Practices such as control of the nomination of the EB president, influencing voters through intimidation and pressure, or declaring a boycott of elections undermines the credibility of the electoral process. Owing to such practices, citizens tend to have a limited and declining trust and interest in political life as shown by the low turnout of voters.

- The performance of the electoral administration, although satisfactory during the runup to the elections, was most disappointing in addressing situations arising from the first and second rounds. Modest efforts were made by the election administration to address the multiple irregularities which occurred during the first round. While the Congress delegation recognises that the State Electoral Commission deserves credit for administering the runup to the elections in a generally professional, transparent, and even-handed manner, it lacks a strong mandate over the other election bodies. Also, lack of training resulted in a number of shortcomings which must be remedied.

- The Congress delegation is quite concerned that despite the need for official positions in the EB to be non partisan, political party interests may often determine the choices of judges as presidents. The Congress delegation notes with regret that the independence of members of the EB is not guaranteed and that the SEC role in securing such independence cannot be achieved. The Congress is equally concerned that the SEC did not properly take action in the case of individuals who are currently under investigation for past electoral violations and were still approved as EB board members.

- The Congress delegation is worried by the lack of measures taken to ensure proportionate sanctions of election officials responsible for detected violations of procedure and irregularities. The issue of accountability of EB members and MEC members is a signal of the lack of enforcement of the rule of law in the country. Equally worrying is the lack of transparency in the role played by political parties in the method of selection of judges who preside over the EB.

- The Congress delegation is most concerned at the issue of the validity of the candidates that have been put forward. Serious consideration of this matter will be given when reviewing nominations which will be put forward for the new delegation of the Council of Europe Congress. The very recent case of newly elected mayor Amdi Bajram of the district of Suto Orizari is of great concern to the Congress. Mr. Bajram was able to run for Mayor despite being sentenced to four years in prison for large scale theft by the Court of Stip. The Court of Skopje issued an arrest warrant for him on 13 April. The case is pending before the Court of Appeal. This situation shows there are serious loopholes in the election legislation.

- The Congress wishes to reiterate its willingness to assist the central and local authorities of "the Former Yugoslav Republic of Macedonia" in addressing the remaining challenges ahead.

The Congress wishes to make certain recommendations to "the Former Yugoslav Republic of Macedonia" authorities in order to improve future electoral processes:

- Ensure training for election officials well in time before election day: earlier and more thorough training of election officials would certainly increase the professionalism of and confidence in election officials and would hence be desirable. From what the Congress Delegation observed, it appears that additional training would be particularly important in rural areas where shortcomings were more frequent and obvious. Attendance at this training should be made compulsory by law, even through remuneration of expenses incurred by those who participate.

- Improve transparency and efficiency of the election administration, including strengthening the responsibility of the SEC over the action of subordinate election bodies; establishment of a permanent secretariat of the SEC, and increase the mandate of the SEC to be able to conduct proceedings related to cases of electoral malpractice and to impose sanctions on election officials involved in these malpractices.

- Promote the participation of women in political life: the participation of women should be actively promoted and not hindered. In this context, it should be remembered that the Congress Recommendation 111 (2002) stressed the paramount importance of a woman's right to an individual, free and secret vote, and underlined that the problem of family voting is unacceptable from the standpoint of women's fundamental rights. The Congress report (2002) proposed a number of measures that could be implemented to combat family voting and increase women's participation in public and political life.

- To prevent group voting and family voting through voter education and training of electoral boards: this behaviour stems from cultural attitudes and practices that fail to recognize women's right to full and equal citizenship with men. This is facilitated by polling officials refusing to adhere fully to electoral laws. Considering that family voting is a practice which tends to deprive women, and sometimes young people, of their individual voting rights and as such amounts to a form of electoral fraud, the Congress, again calling on Recommendation 111(2002) on individual voting rights gives particular attention to this matter.

- The special voting procedures for people with disabilities should be well advertised and the procedures should be simplified. It is essential that this sector of society should be fully enabled to participate in the democratic process.

- Introduce measures to restore confidence among the main political parties with regard to boycott of elections: such practices, although legally authorized, are not encouraged in democratic states. Progress could be made if political parties would look for common ground and avoid using threats or effective boycotts. The Council of Europe and the Congress could organise training workshops for newly elected officials in order to encourage moderation and tolerance among actors of political life in "the Former Yugoslav Republic of Macedonia."

Annex I

Press releases

Elections largely in accordance with international standards but significant irregularities in some areas

SKOPJE, 14 March 2005 – The municipal elections in “the former Yugoslav Republic of Macedonia” were in line with most OSCE and Council of Europe standards for elections, but failed to meet key commitments guaranteeing universal and equal suffrage and the secrecy of the ballot. Whilst election day was generally well conducted in most of the country, serious irregularities observed in a number of municipalities undermined the universality, equality and secrecy of the vote.

This is the conclusion of the International Election Observation Mission, which published its findings today. Some 360 observers from 39 countries observed the election on behalf of the OSCE Office for Democratic Institutions and Human Rights, (OSCE/ODIHR). They were joined by representatives from the Council of Europe’s Congress of Local and Regional Authorities of Europe.

“Whilst the generally orderly conduct of the elections in most places is very welcome, the serious and persistent irregularities in a significant number of municipalities undermine the process as a whole. The behaviour of the persistent offenders must change before the second round,” said Julian Peel Yates, Head of the OSCE/ODIHR mission.

Keith Whitmore, Head of the Council of Europe’s Congress delegation said: “Polling went smoothly in many parts of the country. However, numerous cases of group voting, signatures missing on voter lists and overcrowding in polling stations are disappointing. Group voting is a violation of the secrecy of the ballot, is unacceptable and should be seen as a thing of the past.”

The campaign atmosphere was relatively calm and all political parties signed a Code of Conduct for the elections. The electoral authorities operated in a collegial and consensual manner, respecting in general the legal deadlines. The media provided voters with sufficient and diverse information, although the news coverage proved to be unbalanced and government interests were over-represented on the public broadcast channels.

Allegations of intimidation, pressure and plans for election-day fraud were indicative of a high level of mistrust amongst the parties and a lack of confidence in the fairness of the electoral process. Legal provisions regarding the appointment of the State Election Commission continue to be inconsistent with the principle of an independent judiciary.

Election day was generally calm and orderly in most of the country. However, observers reported serious irregularities in a number of municipalities, such as ballot stuffing, stolen ballot papers and ballot boxes, open, group and proxy voting, voters not properly checked for ink, voters not signing the voter lists, tension in and around polling stations and intimidation.

The conduct of voting was assessed as “bad” or “very bad” in one of out ten polling stations visited, and the count was assessed negatively in one out of five stations. The main problems reported during the count were more ballots found than voters who had voted in 10 per cent of polling stations, and the presence of unauthorized persons in 11 per cent of cases. The count was described as poorly organized in 28 per cent of polling stations.

Authorities fail adequately to address electoral shortcomings

SKOPJE, 28 March 2005 – The second round on 27 March in “the former Yugoslav Republic of Macedonia”, whilst well conducted generally in the majority of the country, in some areas again did not meet key OSCE and Council of Europe commitments and standards for elections, guaranteeing universal and equal suffrage and ensuring the secrecy of the ballot. In the period between the two rounds of local elections and on polling day the authorities failed adequately to address the shortcomings identified in the first round, despite some remedial effort.

This is the conclusion of the International Election Observation Mission, which published its findings today. Some 260 observers from 31 countries observed the partial second round on behalf of the OSCE Office for Democratic Institutions and Human Rights, (OSCE/ODIHR). They were joined by representatives from the Council of Europe’s Congress of Local and Regional Authorities of Europe.

“Whilst the generally good conduct of polling for the second round in most parts of the country is again welcome, the persistent and widespread irregularities elsewhere give rise to serious concern, threaten the integrity of the whole process, and must be addressed as matter of urgency,” said Julian Peel Yates, Head of the OSCE/ODIHR mission.

Keith Whitmore, Head of the Council of Europe Congress delegation said: “We deplore the de facto disenfranchisement of women in many areas, and their absence from many electoral boards and polling stations where there was not a single woman present. It is crucial that all the country’s citizens are properly represented in its official and elected institutions and that all citizens’ right to vote is respected.”

A second round for the local elections was held in 57 municipalities. Between the rounds the observers noted that legal deadlines were respected for announcing initial results and deciding on complaints and appeals. However, delays in announcing results in some municipalities undermined public confidence in the results. Reports of intimidation of election officials and others, as well as sporadic violent attacks on party activists, contributed to a negative atmosphere.

The authorities made some effort to address first round irregularities, changing some electoral boards where the conduct of voting had been problematic, and opening criminal investigations against persons who had been involved in electoral malfeasance. At the same time, the authorities did not act consistently to remedy cases of obvious malpractice and in many instances municipal election boards voted on complaints exclusively according to political party interests.

The continuing lack of more decisive intervention by the relevant authorities against intimidation of voters and election board members has led to a culture of impunity in some municipalities, undermining confidence in the rule of law and the ability of election bodies to protect the legality of the process.

Election day calm but irregularities go unaddressed

“The Former Yugoslav Republic of Macedonia”, Skopje, 11 April 2005

Press Release

Skopje, 11 April 2005 – The delayed second round of the municipal elections held on 10 April in “the former Yugoslav Republic of Macedonia” took place in a generally calm atmosphere, but with low voter participation and cases of electoral malpractice again witnessed by observers in a number of municipalities. Indications of ballot box stuffing, group voting and voters not signing the voter list were observed in numerous cases. Many of these irregularities were observed in previous rounds, and the authorities did not take adequate measures to address them and to safeguard the integrity of the process.

These were the conclusions of the International Election Observation Mission of the OSCE Office for Democratic Institutions and Human Rights (OSCE / ODIHR) and representatives from the Council of Europe’s Congress of Local and Regional Authorities of Europe. Some 80 observers from 24 countries observed the delayed second round municipal elections, which were held in nine

municipalities, including the City of Skopje, and re-runs which were partially conducted in 11 additional municipalities.

"Serious attention by the authorities, and a commensurate level of political will, are now necessary to address shortcomings identified throughout the observation mission. The OSCE/ODIHR will release its Final Report and recommendations in the coming weeks" said Gerald Mitchell, Head of the OSCE / ODIHR Election Department.

"Those newly elected mayors and councilors are to be congratulated and wished well in the tasks they now have ahead. But the authorities must deal with the highlighted irregularities to increase confidence in the process", said Keith Whitmore, head of the Council of Europe's Congress delegation.

Following the voting on 27 March, the Municipal Election Commissions (MECs) rejected most complaints, and 76 appeals were made to the Supreme Court. As previously, the majority were dismissed on procedural grounds regardless of the gravity of the alleged irregularities. In many cases, neither the MECs nor the Supreme Court acted to remedy obvious cases of electoral irregularities.

The election preparations were adequate, despite the late resolution of complaints and appeals and decisions about subsequent re-runs. The State Election Commission (SEC) remained reluctant to remove MEC Chairpersons who performed poorly during previous rounds. Some changes were made in the composition of Electoral Boards where the results were invalidated, generally on the initiative of the MECs. No additional training to address procedural errors was undertaken between rounds.

The period between the rounds was marked by considerable election fatigue among party activists and the public. There was little campaign activity, apart from some get-out-the-vote efforts. The atmosphere was marked by mistrust and an evident lack of confidence in the electoral process.

On 30 March, the candidate of the ruling coalition and incumbent mayor withdrew from the City of Skopje contest, even though his name remained on the ballot in accordance with the relevant legislative provisions. The main ethnic Albanian opposition coalition continued its boycott of the elections.

On election day observers noted a persistent problem of electoral malpractice in certain municipalities, including a departure from standard procedures and safeguards. In Kumanovo the Albanian-language version of the ballot paper included mistakes, which might have created confusion among voters. Counting was generally well conducted in most municipalities where observed, although in some cases there were procedural deficiencies.

ANNEX II

9 March 2005 **Programme Observation of 1st Round of Local Elections in "The former Yugoslav Republic of Macedonia" 13 March 2005**

Thursday 10 March 2005

Arrival of the Congress delegation in Skopje

17h –Meeting in the main hall of the Holiday Inn (Holly Ruthrauff, Dusica Perisic, Michel Rivollier)

Friday 11 March 2005

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| 10h00 | - Meeting in Association of Local Self-Government (ZELS) |
| 13h00 | - Meeting with Mr Pendarovski – president of the State Election Commission
Venue: SEC premises, Parliament of the "the Former Yugoslav Republic of Macedonia" |
| 14h00 | Meeting with Mr Sulejmani, Minister of Local Self-government
Venue : Ministry of Local Self-government |
| 14h30 | - Meeting with Mr Kjurkciev, Secretary General of SDSM and campaign manager
Venue: SDSM Head office, Bihacka no 8 |
| 15h30 | Meeting with Mr Petrov, President of the World Macedonian Congress
Venue: World Macedonian Congress |
| 18h00 | Briefing to the Congress STOs and Introduction to the Mission with Mr Julian Peel Yates
(ODHIR Office, Skopje) |

Saturday 12 March 2005

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| 08h30 | <i>Departure of 2-member team to observe elections in Ohrid (Mr Chauvet and Mr O'Brien)</i> |
| 09h30 | Meeting with Mr Zernovski, Campaign manager for Mr Penov and MP, Democratic Party
Venue: CoE Information Office, Skopje |
| 10h30 | Deployment to and familiarization with observation areas (Tetovo, Kumanovo and Skopje) |
| 11h00 | Meeting with Mr Ostreni, Secretary General of the Democratic Union for Integration (DUI) and campaign manager tbc
Venue: DUI Head Office, Mala Recica no, Tetovo |
| 12h00 | - Lunch break |
| 12h00 | - <i>Ohrid observation mission: meeting with Ms Miriana Lozanoska, Local Democracy agency</i> |

Sunday 13 March 2005

Election day

Monday 14 March 2005

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| 08h30 | - Debriefing meeting of Congress delegation, Hotel Holiday Inn |
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09h30	- Meeting with OSCE/ODIHR Observation Mission
12h00	- Lunch break
14h00	- Joint press conference with OSCE/ODIHR

Afternoon of 14 March 2005

Departure of the Congress delegation

25 March 2005

Programme

Observation of 2nd Round of Local Elections in "The former Yugoslav Republic of Macedonia"

27 March 2005

Friday 25 March 2005

09h30 – 12h00	Briefing at the OSCE/ODIHR, Hotel Continental
12h10 – 13h00	Meeting with Mr Darko Markovic, Campaign Manager for Mr Trifun Kostovski Venue: Aluminka Business Centre (mezzanine), Partizanski odredi 70-6
13h00 – 14h00	Meeting with Mr Viktor Cvetkovski, State Secretary and Ms Zagorka Tnokovska, Head of Department for Legislation, Ministry of Justice
14h00-15h00	Meeting with Mr Sulejmani, Minister of Local Self-government Venue : Ministry of Local Self-government
15h00 -	Meeting with the Campaign Manager for Mr Risto Penov

Saturday 26 March 2005

Meeting with Mr Stevo Pendarovski
State Election Commission
Meeting with respective OSCE LTO

Sunday 27 March 2005

Election day

Monday 28 March 2005

08h30	Debriefing meeting of Congress delegation, Hotel Holiday Inn
09h30	Meeting with OSCE/ODIHR Observation Mission
12h00	Lunch break
14h00	Joint press conference with OSCE/ODIHR, Army Hall Skopje

¹ See report CG/BUR (11) 75