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**INTERNATIONAL ELECTION OBSERVATION MISSION**  
**The former Yugoslav Republic of Macedonia**  
**Early Parliamentary Elections, 11 December 2016**

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**STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS**

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**PRELIMINARY CONCLUSIONS**

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The 11 December early parliamentary elections were an essential step in resolving two years of deep political crisis. The main political forces agreed to a series of legal and institutional changes to provide a level playing field for these elections. Underlying issues, such as voter registration and media, are yet to be addressed in a sustainable manner. The campaign was competitive but took place in an environment characterized by public mistrust in institutions and the political establishment, and allegations of voter coercion. The election administration struggled with the preparations for elections and missed a number of deadlines, but election day was generally well administered and proceeded without major incidents.

The legal framework is generally conducive for the conduct of democratic elections. Significant improvements to electoral legislation in 2015 addressed most previous OSCE/ODIHR and Council of Europe Venice Commission recommendations. Additional amendments in 2016 introduced temporary mechanisms for the cross-party oversight of key aspects of the electoral process. However, some recommendations remain unaddressed and certain provisions are ambiguous or conflict with other laws. In addition, while the reform process enjoyed support from the four largest political parties, decisions were taken under time pressure and without consultation with relevant electoral stakeholders.

The State Election Commission's (SEC) preparations for the elections were hampered by inefficient internal organization, politicized decision-making and shortened legal deadlines. Several deadlines were missed and some procedures were not clarified. SEC activities were not always transparent, as it often held closed sessions and did not always publish its decisions. The lower-level commissions generally worked in a professional manner, although some lacked adequate premises, timely funding and equipment.

In total, 1,784,416 voters were registered. To address longstanding mistrust in the accuracy of voter lists, for the first time the SEC reviewed the voter register by cross-checking several databases and conducting field-checks. The review does not guarantee sustainable improvement as it applied only in these elections. The legal and structural flaws for maintaining the voter register are yet to be addressed. The review process improved the accuracy of the voter register, but it appears to have led to some citizens being deprived of the opportunity to vote in these elections.

The SEC registered six political parties and five coalitions for these elections. The registration was generally inclusive, but was negatively affected by a lack of legal clarity on procedures and the rejection of candidate lists of two parties on inconsistent grounds. In line with an enhanced quota for women's participation, 41 per cent of candidates were women, although they topped only 4 of the 58 lists.

While fundamental freedoms were generally respected and contestants were able to campaign freely, the elections took place in an environment characterized by a lack of public trust in institutions and the political establishment. Allegations of voter intimidation, widespread pressure on civil servants, vote buying, coercion, and misuse of administrative resources persisted throughout the campaign. The OSCE/ODIHR EOM verified a dozen of these allegations. Such actions are at odds with OSCE commitments and Council of Europe standards.

The campaign finance regulations are comprehensive and require frequent reporting by contestants. However, transparency is diminished by the lack of requirement to support the reports with bank statements and receipts. Reports submitted by contestants on 1 and 10 December revealed significant overspending, particularly by the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO-DPMNE).

The diverse media environment is split along political and ethnic lines. Candidates could campaign on public and private media through free and paid political advertisement. OSCE/ODIHR EOM media monitoring showed that the public media largely provided contestants with equitable news coverage. Some of the monitored private media demonstrated bias in favor of the ruling party. A number of interlocutors, including journalists, expressed concern about self-censorship and editorial independence due to political and business interests favouring ruling parties. While recent amendments prohibited government-financed advertising and coverage of state officials during the campaign, significant media reforms foreseen in the Przino Agreement have yet to be implemented.

Topics related to inter-ethnic relations featured prominently in the campaign, including institutional relations between the ethnic Albanian and ethnic Macedonian communities. The Social Democratic Union of Macedonia actively sought votes from the ethnic Albanian community, including by fielding ethnic Albanian candidates. Media reporting of Roma candidates often used stereotypes.

Addressing a number of previous recommendations, the changes in the law and the adoption of a SEC rulebook on procedures strengthened legal guarantees for dispute resolution. The majority of complaints at the elections administration and courts were, however, rejected on procedural or jurisdictional grounds. The Administrative Court held its hearings in closed sessions. A number of interlocutors raised concerns with respect to judicial independence. Despite noted improvements in the law, the implementation of electoral dispute resolution procedures did not fully provide for an effective legal redress, at odds with OSCE commitments and Council of Europe standards.

Election day proceeded in an orderly manner and without major incidents, albeit with some procedural irregularities observed, particularly during the count. Voters participated in large numbers and voting was generally assessed positively by observers. Observers noted a number of persons not allowed to vote after having been deleted from the voter list during the recent review of the voter register. Transparency of the electoral process benefited from the active presence of numerous citizen and party observers. Positively, the SEC published preliminary results by polling station online throughout the night, with preliminary voter turnout at 67 per cent.

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## PRELIMINARY FINDINGS

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### Background

The 11 December early parliamentary elections were widely viewed as a crucial test for the functioning of democratic institutions, following two years of political crisis.<sup>1</sup> These elections were the fourth consecutive early parliamentary elections since 2008. The last were held in 2014 and led to a government formed by the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO-DPMNE), with 61 seats, and the Democratic Union for Integration (DUI), with 19 seats. The opposition included the Social Democratic Union of Macedonia

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<sup>1</sup> On 9 November, the [European Union \(EU\) Enlargement Policy Report](#) noted that “the country was faced with the continuation of the most severe political crisis since 2001. Democracy and rule of law have been constantly challenged, in particular due to state capture affecting the functioning of democratic institutions and key areas of society. The country suffers from a divisive political culture and a lack of capacity for compromise”.

(SDSM) with 34 seats and the Democratic Party of Albanians (DPA) with 7 seats. The National Democratic Revival (NDR) and Citizens Option for Macedonia had one seat each.

The main opposition party boycotted the parliament, claiming that the 2014 elections were rigged.<sup>2</sup> The crisis deepened in February 2015 when incriminating illegal wiretapped recordings, allegedly implicating government and public officials in corruption, election fraud and abuse of power, led to widespread protests. On 15 July, as part of the internationally-mediated Przino Agreement, early parliamentary elections were called for 24 April 2016 and the Office of Special Prosecutor was created to investigate the wiretapping allegations.<sup>3</sup>

The elections were postponed to 5 June on the grounds that key conditions had not been met, namely cleaning of the voter register, media reforms, and safeguards to separate state and party activities. The political climate deteriorated after 12 April, when President Gjorge Ivanov issued a blanket pardon to all individuals who were charged, under investigation or suspected of involvement in the wiretapping scandal. All of the major political parties condemned the pardon and called on the president to rescind his decision. The pardon triggered protests and counter protests. The demonstrators, under the *Protestiram* umbrella, called for the resignation of the president and cancellation of elections. The opposition boycotted the elections and, of the four signatories of the Przino Agreement, only VMRO-DPMNE submitted candidate lists. On 25 May, the Constitutional Court declared the dissolution of parliament unconstitutional and the 5 June elections were cancelled.

The third attempt to organize elections this year followed the signing of a new agreement in July by the four main political parties, mediated by the European Union and United States.<sup>4</sup> Temporary mechanisms were introduced for cross-party oversight of some aspects of the electoral process, including voter registration and media oversight. On 17 October, the parliament was dissolved for the second time this year and elections were called for 11 December.

## Electoral System and Legal Framework

A total of 120 members of parliament (MPs) are elected in-country for a four-year term, under a proportional representation system using closed lists, 20 in each of the 6 electoral districts. As a result of the 2015 amendments to the Electoral Code, up to three additional MPs are elected in a single out-of-country district.<sup>5</sup> The number of MPs elected in the out-of-country district does not necessarily correlate to voter turnout.

The Electoral Code permits deviations of up to five per cent from the average number of registered voters for in-country districts.<sup>6</sup> On 25 October, the Unity party challenged the holding of elections at

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<sup>2</sup> The [2014 IEOM Statement of Preliminary Findings and Conclusions](#) concluded that “the 27 April 2014 presidential election and early parliamentary elections were efficiently administered, including on election day. Candidates were able to campaign without obstruction and freedoms of assembly and association were respected. However, the campaign of the governing party did not adequately separate its party and state activities, at odds with paragraph 5.4 of the 1990 OSCE Copenhagen Document and Council of Europe standards”.

<sup>3</sup> The four largest parliamentary parties signed the [Przino Agreement](#) and [Protocol](#), calling for the implementation of a comprehensive set of measures to resolve the political crisis, including electoral and media reforms.

<sup>4</sup> [The 20 July Agreement](#).

<sup>5</sup> A candidate is elected if a list received a minimum number of votes equal to the MP elected in-country with the lowest number of votes during the previous elections; for the upcoming elections the number is 6,478 votes. Up to three candidates can be elected; second and third candidates of the same list are elected if their list receives obtains twice and thrice as many votes, respectively.

<sup>6</sup> Section 2.2 of the [2002 Council of Europe’s Venice Commission Code of Good Practice in Electoral Matters \(Code of Good Practice\)](#) recommends that “the permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances”.

the Constitutional Court on the grounds that electoral district 6 deviates by 5.65 per cent. The Court did not decide on the matter prior to election day.

The legal framework is generally conducive for the conduct of democratic elections.<sup>7</sup> In a positive step, the electoral legislation was significantly revised in 2015 as part of the Przino Agreement. The amendments addressed many previous OSCE/ODIHR and Council of Europe Venice Commission recommendations, particularly those related to the principle of equal suffrage for out-of-country voting, the composition and competences of the State Election Commission (SEC), and measures for balanced media coverage during the campaign. They also strengthened provisions for the separation of party and the state and for campaign finance reporting. In addition, voters can now submit a complaint at any stage of the electoral process and the courts have to decide on electoral disputes within shorter deadlines.<sup>8</sup>

Following the July agreement, additional amendments introduced a Temporary Commission for media oversight and required citizens with “questionable” voter registration data to actively re-register for these elections. These last provisions were applicable only to the current elections, signalling a need for continued reform to address these issues in a sustainable manner.

The 2015 amendments improved the Electoral Code, but some longstanding issues remain unaddressed, including in respect of candidate registration, withdrawal of candidates and lists, and public and periodic review of district boundaries by an independent body. Some articles are ambiguous or conflict with other laws and rules, making their implementation uncertain. In addition, the legal changes were approved hastily by the parliament, after a reform process that lacked transparency and meaningful consultation with affected stakeholders outside of the four main parties, including relevant state institutions, other political parties and civil society. This is at odds with OSCE commitments.<sup>9</sup>

## **Election Administration**

The elections are administered by the SEC, 80 Municipal Election Commissions (MECs), and 3,480 Electoral Boards (EBs). An additional 46 EBs were established in diplomatic-consular offices for out-of-country voting.

The SEC is composed of nine members: three nominated by ruling parliamentary parties, three by opposition parties, and three independent experts selected in an open recruitment. The president and deputy are elected from among the independent members. MECs are composed of five randomly selected civil servants and were appointed for five-year terms in April 2016. EBs were composed of three randomly selected civil servants, one member appointed by the governing parties and one member appointed from the opposition parties, appointed for four-year terms in November 2016. Despite some late changes in the composition of MECs and EBs, requirements for balanced ethnic and gender representation in election commissions were broadly respected. However, only two of the nine SEC members are women.<sup>10</sup>

The SEC’s preparations for these elections were hampered by inefficient internal organization and politicized decision-making. Several important deadlines were missed, but the preparations were

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<sup>7</sup> The legal framework includes the Constitution, the Electoral Code, the Law on Political Parties, the Law on Financing Political Parties, provisions of the Criminal Code, the Law on Media and the Law on Audio and Audiovisual Media Services, as well as regulations promulgated by the State Election Commission (SEC).

<sup>8</sup> See the OSCE/ODIHR and Venice Commission [Joint Opinion](#) on the Electoral Code.

<sup>9</sup> Paragraph 5.8 of the [1990 OSCE Copenhagen Document](#) provides that legislation should be “adopted at the end of a public procedure”.

<sup>10</sup> Ethnic communities constituting more than 20 per cent of the population in a municipality should be represented in the MECs and EBs. At least 30 per cent of members in all election bodies should come from each gender.

completed by election day.<sup>11</sup> The shortened timeframe for early elections also negatively impacted the SEC's activities. SEC decisions were generally adopted unanimously. However, on politically contentious issues members voted along party lines and often engaged in lengthy procedural discussions that included heated exchanges on interpretations of the law. At times, decisions were clearly partisan. For example, the SEC determined the order of candidate lists on the ballots by drawing lots, but divided the lists in two groups with the first places on the ballot offered to the four parliamentary parties represented in the SEC.<sup>12</sup> This discriminated against other contestants, challenging OSCE commitments and Council of Europe standards.<sup>13</sup> However, no contestant complained on the matter.

Measures to ensure SEC transparency were not always respected. While all members, candidates and proxies were notified about relevant SEC sessions, not all decisions were published on its website, as required by law. The obligation to publish the minutes of the SEC sessions within 48 hours was not adhered to consistently. Although official sessions were open to observers and media, the SEC often conducted private working sessions where substantive matters to be decided in the public sessions was agreed upon in advance. This included decisions on tendering procedures for selection of contractors for different activities.<sup>14</sup> These practices diminished the transparency of the SEC's work.<sup>15</sup>

The lower-level commissions generally worked in a professional and transparent manner. The OSCE/ODIHR EOM observed that some MECs lacked adequate premises and equipment at the time of visits. A number of MECs informed the OSCE/ODIHR EOM that they did not receive the necessary funds in a timely manner.

The SEC conducted cascade trainings and produced an e-learning programme, manuals and videos for election commissions. The trainings observed by the OSCE/ODIHR EOM were comprehensive and were assessed positively by the participants. The SEC, however, did not clarify certain procedures that were not elaborated in the Code.<sup>16</sup> The lack of clarity contributed to an inconsistent implementation of procedures by election commissions on election day.

The SEC conducted a limited voter education campaign on television, social media and print media. Civil society organizations also developed voter awareness campaigns on secrecy of vote and voter participation.

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<sup>11</sup> Missed deadlines included the delivery of voter lists to political parties, closing of the voter list and publication of the candidate lists. The Electoral Code provides that the deadlines for the early parliamentary elections activities are five days shorter than for regular ones, except for the duration of the election campaign.

<sup>12</sup> The first four positions on the ballots were, in order, VMRO-DPMNE-led coalition, DPA, DUI and SDSM-led coalition. The SEC decision on the manner of drawing of lots has not been published to date.

<sup>13</sup> Paragraph 7.6 of the [1990 OSCE Copenhagen Document](#) commits participating States to provide "political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law". See also section 2.3 of the [2002 Venice Commission Code of Good Practice](#). Article 6 of the Anti-discrimination Law defines discriminatory behaviour as any "active and passive behaviour from public authorities... which creates basis for giving privileges or placing persons/entities in unfavourable conditions".

<sup>14</sup> This included printing of election materials, IT software for results, transport of EB members to out-of-country polling stations, and voter education services. The tender documentation was not made public.

<sup>15</sup> Paragraph 19 of the [2011 UN Human Rights Committee General Comment 34](#) to Article 19 of the International Covenant on Civil and Political Rights (ICCPR) states "To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective, and practical access to such information". See also paragraph 3.1 of the [2002 Venice Commission Code of Good Practice](#).

<sup>16</sup> For example, recounting of ballots by MECs and the sealing of sensitive election materials by EBs for the hand-over to MECs.

## Voter Registration

Voter registration is passive, with the exception of voters temporarily residing abroad who must actively register. According to the Constitution, citizens 18 years old by election day are eligible to vote, unless deprived of their legal capacity by a court decision. However, only voters with a valid identification card or biometric passport, and registered domicile, are included in the voter register. The Electoral Code contains conflicting provisions regarding eligibility of out-of-country voters.<sup>17</sup> For the first time in these elections, voters' photographs were placed on the voter lists.

The SEC is responsible for maintaining the voter register. Following the Przino Agreement, and as a means to address longstanding mistrust in the accuracy of voter lists, the SEC was tasked to review the voter register by cross-checking entries against the databases of 11 state institutions, followed by field checks.<sup>18</sup> The review process was observed by the four largest parties and led to 39,502 voter records being identified as "questionable". These citizens were required to re-register in order not to be deleted from the register, as per a new legal requirement.<sup>19</sup> While the process improved the accuracy of the voter register, it appears to have deprived some citizens of the opportunity to vote.<sup>20</sup> On 13 November, the SEC decided to delete 28,341 records; such voters did not have the possibility of legal redress that would allow them to be added to voter lists and be able to vote on election day. Another 171,500 voters were moved to a separate register considered to be temporarily living abroad, but they could still vote in-country at their registered address.

In addition to the possibility of verifying their registration throughout the year, voters could check and amend their registration details at SEC regional centres during a public scrutiny period, from 28 October to 11 November. In spite of a legal requirement, the SEC regional offices did not display printed voter lists and voters who visited the offices could only check their data on SEC computers. Voters could also check their personal data online as well as who is registered at other addresses. According to the SEC, few of the 10,274 voters who visited the SEC offices requested corrections.<sup>21</sup>

The SEC approved 20,573 and rejected 458 applications for voting abroad.<sup>22</sup> Numerous applications were submitted from the same email address, with a significant number from the same Internet Protocol addresses in Skopje, Bitola and Shtip. Several OSCE/ODIHR EOM interlocutors raised questions about the integrity of the process. Some political parties informed the OSCE/ODIHR EOM that they assisted voters with applications. Voters were required to declare their ethnicity, which, according to the SEC, was necessary to print electoral materials in minority languages.

On 18 November, two days after the legal deadline, the SEC provided electoral contestants with copies of the preliminary voter lists. The SDSM requested the addition of 45 persons who recently renewed their identification cards, as well as the addition of 348 voters identified through field checks conducted by the party and the deletion of about 800 voters who were not found at their home address. The DUI requested the addition of five voters, whose applications were delayed by regional SEC offices. The

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<sup>17</sup> Article 41(4) states that only voters with domicile in country are added to the voter list. Article 6(1) stipulates that any citizen with "domicile in electoral district" has the right to vote, which would include those in the out-of-country district.

<sup>18</sup> Field checks took place from 28 March to 6 April. On 26 April, the SEC reported 44,308 voters identified as living at addresses with more than 20 persons, or more than six surnames, were registered.

<sup>19</sup> Article 196-b of the Electoral Code allows the SEC to delete the data of the voters with no data found in the other databases than the MoIA registry, who were not present during field checks, and who did not re-register.

<sup>20</sup> Paragraph 7.3 of the [1990 OSCE Copenhagen Document](#) commits participating States to "guarantee universal and equal suffrage to adult citizens". See also sections 1.1 and 1.2 of the [2002 Venice Commission Code of Good Practice](#).

<sup>21</sup> As a result, 176 changes were made, 88 persons added, and 71 deleted due to wrong address or death.

<sup>22</sup> According to SEC, as of 21 October, officially there were 76,721 citizens temporary residing abroad.

SEC rejected the SDSM requests and accepted the DUI request.<sup>23</sup> The SEC also approved 107 of the 120 deletions requested by a civil society organization.<sup>24</sup>

On 28 November, two days after the official date for closing the voter lists, the SEC announced that 1,784,416 voters were registered to vote in-country, of which 230,122 were placed on the special list of voters considered to be temporarily living abroad. Special lists were also created for 2,015 prisoners, 13 internally displaced persons and 325 members of out-of-country EBs.

The political agreement to review the voter register only applied for these elections. In addition, the legal and structural flaws for maintaining the voter register, mainly due to citizens registered at addresses where they do not actually live, were not addressed.<sup>25</sup>

## Candidate Registration

Any eligible voter can be a candidate for parliament, except those sentenced by a final court decision to more than six months imprisonment and who have not completed their sentence.<sup>26</sup> Registered political parties, coalitions of political parties, and groups of voters can nominate candidates. The latter were required to provide at least 1,000 supporting signatures of voters residing in the respective district. In line with a previous OSCE/ODIHR and Venice Commission recommendation, for the first time, a voter could sign in support of more than one candidate list; however, the signatures are still required to be collected in front of a SEC employee.

Candidate registration took place from 18 October to 11 November and was generally inclusive. However, it was negatively affected by a lack of legal clarity on several aspects of nomination and registration, including signature verification and re-submission of registration documents,<sup>27</sup> and by SEC inconsistency in verifying the documentation. This led to the rejection of a number of lists from the Social Democratic Party of Macedonia (SDPM) and the People's Movement for Macedonia (NDM).<sup>28</sup> The two parties appealed the SEC decisions to the Administrative Court, which upheld the SEC decisions.

The SEC registered 6 political parties and 5 coalitions fielding a total of 1,092 candidates on 58 lists.<sup>29</sup> In line with an enhanced quota to increase women's participation, 41 per cent of candidates were

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<sup>23</sup> The SEC justified its decision on the grounds that voters could be added on the voter list only based on personal application. This is in contradiction with Article 49-a of the Electoral Code which allows parties to request "entering data" in the voter list. The SEC also considered that the SDSM could not use its field checks as grounds for deleting voters, and had to base its request only on information existing in the preliminary register.

<sup>24</sup> The local office of Transparency International requested the SEC to delete 120 voters with domicile in the Ministry of Internal Affairs (MoIA) building. The MoIA cancelled 107 records due to illegal registration.

<sup>25</sup> The legal provisions regulating the address register, including on updating the records, deleting expired addresses and preventing registration at addresses with insufficient proof is inconsistent. In addition, the rule requiring persons to declare a change of address is not enforced.

<sup>26</sup> The law also identifies a range of government and government-related positions incompatible with candidacy.

<sup>27</sup> The SEC published the documentation required for candidate registration only on 1 November.

<sup>28</sup> The SEC notified the parties to correct a number of irregularities and omissions, including certificates of non-conviction and signed statements confirming ethnicity, electoral district, and acceptance of candidacy. However, the SEC ultimately rejected all their lists, some due to irregularities not initially communicated. The verification of signatures is not regulated by the Electoral Code. The SEC used its discretionary powers in an inconsistent manner to verify the signatures and rejected lists without prior notification to allow for certain corrections.

<sup>29</sup> The VMRO-DPMNE-led coalition "For a Better Macedonia" included 25 parties, and the SDSM-led coalition "For Life" included 14. The other coalitions are the Alliance for Albanians (DPA - Reform Movement, Unity and NDR), the Coalition for Change and Justice (Democratic Union, FRODEM, MORO – Workers Party, and DEMOS) and VMRO-Coalition for Macedonia (VMRO-PP, United for Macedonia and *Dostoinstvo*). The six registered parties are DUI, DPA, BESA, *Levica*, Party for Democratic Prosperity and Liberal Party. One third of the outgoing 123 MPs did not compete in these elections.

women, although only 4 of the 58 lists were topped by women.<sup>30</sup> The SEC registered the out-of-country candidate list for VMRO-PP and two in-country lists of *Levica* despite not fulfilling the gender requirement.

## Campaign Environment

The parties were generally able to campaign freely, and the fundamental freedoms of association, assembly and expression were respected. The campaign took place in an environment characterized by lack of public trust in the institutions and political establishment.

Contestants campaigned through door-to-door canvassing, small scale meetings and rallies. Billboards were visible in many municipalities from the four main parties. However, the placing of campaign posters and banners in public places varied by municipality due to the locations not being clearly marked and some local authorities not being aware of their legal obligation to designate such places. Rallies throughout the country were generally well attended but some audiences appeared to lack enthusiasm. Women represented an average of 20 per cent of the audience and very few were speakers. The VMRO-DPMNE-led coalition benefited from public support, including at rallies, of senior officials from EU member states. Social media was extensively used in the campaign, including by smaller parties.

The main campaign messages focused on the economy, youth emigration and job creation. While the majority of contestants used positive campaigning, negative rhetoric was also noted. The VMRO-DPMNE-led coalition used nationalistic messages and accused the SDSM-led coalition of attempting to weaken the national identity, presenting the elections as a referendum on a unitary and sovereign state. In turn, the SDSM-led coalition accused the VMRO-DPMNE-led coalition of abusing state power and criminal activity. The campaigns of the ethnic Albanian parties addressed only their communities.

Persistent allegations of voter intimidation, coercion, pressure on civil servants, vote buying in Roma communities and misuse of administrative resources negatively impacted the campaign. The OSCE/ODIHR EOM verified a dozen of these allegations.<sup>31</sup> Such actions raised concerns about voters' ability to cast their vote "free of fear of retribution", as required by paragraph 7.7 of the 1990 OSCE Copenhagen Document.<sup>32</sup>

During the campaign a number of violent incidents were observed, targeting a range of political parties.<sup>33</sup> The campaign within the ethnic Albanian community was more intense, with some inflammatory rhetoric from DPA, BESA, Alliance for Albanians and DUI. New wiretapped

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<sup>30</sup> The quota increased by 10 per cent compared to the 2014 elections. Every third and tenth candidate on a list must be from the less represented gender.

<sup>31</sup> Including reports of vote-buying and pressure on individuals, their families, national minority representatives, public and private employees, and media, primarily by the VMRO-DPMNE and DUI.

<sup>32</sup> Paragraph 7.7 of the [1990 OSCE Copenhagen Document](#) commits participating States to "ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution". See also the [2016 OSCE/ODIHR and Venice Commission Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#).

<sup>33</sup> A number of local party offices were damaged or vandalized (SDSM Arachinovo on 7 November; VMRO-DPMNE Kavadarci on 18 and 26 November; NSDP Aerodrom on 22 November; two VMRO-DPMNE offices in Negotino on 23 November; DUI Sllupcane on 25 November). On 9 November, the car of the GROM branch president in Strumica was set on fire; on 13 November, the car of the DUI leader was stoned by a group of local residents in Kumanovo. Several billboards were destroyed: of DUI in Kumanovo and Gjorce Petrov; of BESA in Saraj; of VMRO-DPMNE in Strumica, Stip, Kumanovo and Berovo.



conversations of DUI officials were posted on social media during the campaign. Several parties claimed difficulties opening campaign offices in specific areas controlled by DUI.<sup>34</sup>

## Campaign Finance

Electoral contestants were required to open a dedicated bank account for campaign finance purposes. Individuals could donate up to EUR 3,000, while legal entities could donate up to EUR 30,000. Foreign and anonymous donations, as well as those from state-owned, religious and charitable organizations, are prohibited. Contestants could spend a maximum of EUR 1.8 per registered voter in a district. Lists will be reimbursed by EUR 0.25 for each vote won, provided it obtains at least 1.5 per cent of the votes cast in the district.

All 11 electoral contestants submitted interim campaign finance reports on 1 and 10 December, declaring donations received and expenditures, which were published online. The expenditures in nine reports exceeded the contributions, with VMRO-DPMNE having the highest discrepancy amounting to more than EUR 600,000 in the first report and EUR 1 million in the second.<sup>35</sup> The reports submitted by BESA and VMRO-PP contained donations that exceeded the permitted limit.<sup>36</sup> All contestants are obliged to submit final reports within 30 days from the closing of the account, which can be up to four months after the elections.<sup>37</sup>

The campaign finance regulations are comprehensive and require frequent reporting by contestants. However, transparency is diminished by the lack of requirement to support the reports with bank statements and receipts. The State Audit Office informed the OSCE/ODIHR EOM that it can conduct an audit, including a cross-check of expenses at local level, but only following complaints.

## Media

Numerous media, including over 130 broadcasters, operate in a relatively small market with media outlets divided along political and ethnic lines. Substantial media reforms foreseen in the Przino Agreement have yet to be agreed upon.

The Electoral Code governs the media coverage of elections. All broadcasters are required to provide balanced coverage during the campaign period. The public broadcaster, Macedonian Radio and Television (MRT) is required to grant access to free airtime, organize debates and provide contestants with prescribed shares of news coverage.<sup>38</sup> Amendments in 2015 prohibit government-financed advertising and coverage of state officials favouring political parties during elections. Additional amendments in 2016, applicable only for these elections, provided for the appointment of an MRT1 editor-in-chief nominated by the opposition 100 days prior to elections (whose mandate will end on

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<sup>34</sup> BESA, DPA and SDSM stated difficulties in acquiring party offices in Tetovo area.

<sup>35</sup> Other reports included BESA, the Liberal Party, PDP, DUI, DPA, *Levica*.

<sup>36</sup> The Electoral Code provides for a fine up to EUR 9,000 in MKD equivalent for failing to submit campaign finance reports, and suspension or loss (partial or complete) of the reimbursement of election expenses for exceeding the spending limit. The Criminal Code imposes a prison sentence of minimum five years for failure to submit a report and/or exceeding the spending limits.

<sup>37</sup> Paragraph 200 of the [2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation](#) states that "Reports on campaign financing should be turned into the proper authorities within a timely deadline of no more than 30 days after the elections".

<sup>38</sup> The public broadcaster, MRT, operates MRT1, MRT2 and a Parliamentary Channel. Article 76a (2) of the Electoral Code provides that coverage of every newscast should be divided, with 30 per cent of each newscast to local and international events, 30 per cent to the campaign activities of the parliamentary majority, 30 per cent to the parliamentary opposition and 10 per cent to non-parliamentary parties.

election night), and the formation of a Temporary Commission to oversee media coverage during the pre-electoral period.<sup>39</sup>

The Temporary Commission was mandated to supervise the media for more than three months prior to elections. However, certain legal provisions were not fully harmonized with other sections of the Electoral Code, which strictly regulate the coverage of contestants only during the official 20-day campaign, creating uncertainty about its mandate. The Commission has proposed 57 misdemeanor procedures, primarily in connection with unbalanced coverage, hidden campaigning by government officials, and paid political advertising. Before election day, the court decided on two cases by rejecting them. Although required by law, the AVMS did not supervise the election coverage in the electronic media, due to unclear regulations.

All electoral contestants were able to access the media for campaigning, including through free airtime in public broadcast media and paid advertising. Some non-parliamentary parties complained about insufficient opportunities to present their messages in the media, including limits on advertisement in private broadcast media.<sup>40</sup> Attempts to organize debates with all key contestants were largely unsuccessful due to refusals of candidates to participate.<sup>41</sup>

Many OSCE/ODIHR EOM interlocutors, including journalists, noted self-censorship and lack of editorial independence of media due to the political or business interests of the owners. During the campaign, the OSCE/ODIHR EOM was informed of one case of alleged intimidation of a news editor by a DUI representative. Interlocutors also raised concerns about the use of government-financed media campaigns (on hold during the electoral period) as a way to sustain and reward friendly outlets.

The OSCE/ODIHR EOM media monitoring results showed that both public television channels complied with the regulation on distribution of coverage between the groups in the campaign period.<sup>42</sup> In MRT1 news programmes, the VMRO-DPMNE-led coalition and DUI received 20 per cent of coverage each, while the opposition parties were allocated 42 per cent, and non-parliamentary parties 11 per cent. On MRT2, the distribution of coverage between governing and opposition parties was similarly equitable, with more time dedicated to the ethnic Albanian parties. MRT1 and MRT2 portrayed the competitors overall in a positive and uncritical manner.

The private *Sitel*, *Kanal 5* and *Alfa* failed to provide balanced and impartial coverage in their news. Although they allocated equitable portions of airtime mainly to VMRO-DPMNE and SDSM, the former was very positive in tone and the latter was often negative, in particular on *Sitel*. All three channels were openly supporting the ruling party and focusing on VMRO-DPMNE campaign topics. Dubious information originating from Internet was occasionally presented as political news on these channels.

Other private channels, *Alsat-M*, *Telma* and *24 Vesti*, offered diverse and frequently critical coverage of the main contestants and political actors in their news programmes, and also granted to contestants

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<sup>39</sup> The five-member body was composed of four political nominees (two from governing parties and two from the opposition), and a fifth member chosen by the first four. The Commission supplanted the supervisory role of the Agency for Audio and Audiovisual Media Services (AVMS), the regulatory body for broadcast media. The Commission assessed the media coverage based on monitoring reports prepared by the AVMS.

<sup>40</sup> Parties not represented in the parliament are allowed to purchase only a minute of advertising per hour, compared to 17-minutes of such airtime for parliamentary parties.

<sup>41</sup> One noteworthy debate took place on 29 November on *Alsat-M*, and benefited of the participation of the list leaders in district 1 from VMRO-DPMNE, SDSM, DUI and DPA.

<sup>42</sup> The OSCE/ODIHR EOM media monitoring was conducted from 7 November to 10 December, and included the prime time programmes aired by public TV channels MRT1 and MRT2 and private televisions *Sitel*, *Kanal 5*, *Alfa*, *Telma* and *Alsat-M* (between 18:00 and 24:00), and main news programmes of *24 Vesti* (aired at 20:00), as well as the daily newspapers *Dnevnik*, *Koha*, *Lajm*, *Sloboden Pecat* and *Vest*.

opportunities to present their platforms in debates or interviews. Monitored newspapers overall provided variety of views, while leaning towards particular parties.

### **Participation of National Minorities<sup>43</sup>**

Parties and coalitions primarily representing the ethnic Albanian community ran independently, whereas parties and candidates representing smaller communities joined coalitions led by parties representing larger communities.<sup>44</sup> Both the SDSM-led and VMRO-DPMNE-led coalitions included in their lists representatives of almost all smaller communities, some in likely winnable positions. As in the past, the majority of parties representing smaller communities ran under the VMRO-DPMNE-led coalition. The SDSM-led coalition actively sought votes from the ethnic Albanian community, including by fielding ethnic Albanian candidates in winnable positions, which unfortunately was not well received by established ethnic Albanian parties.

Topics related to inter-ethnic relations featured prominently in the campaign, including institutional relations between the ethnic Albanian and Macedonian communities and the official use of languages. The electoral contest was particularly competitive in the ethnic Albanian communities. The Alliance for Albanians and BESA challenged the dominant position of DUI. Media coverage of smaller communities and their participation in the elections, including rallies and statements by parties, was limited. Reporting on political activities by smaller communities, particularly Roma, often used negative stereotypes. While electoral materials were provided in national minority languages, there was no specific voter education campaign to reach out to smaller communities or in their languages.<sup>45</sup>

### **Complaints and Appeals**

The SEC dealt with most administrative disputes related to elections, and the SAO and SCPC handled complaints related to campaign finance and misuse of administrative resources respectively. Amendments to the Electoral Code in 2015 strengthened legal guarantees for electoral dispute resolution. In line with previous OSCE/ODIHR and Venice Commission recommendations, this included shorter deadlines, publication of administrative decisions within 24 hours, and guaranteeing the right to appeal all administrative decisions to the Administrative Court. In addition, following previous recommendations, the SEC adopted a rulebook on procedures for dealing with complaints.

The SEC received 11 complaints prior to election day, the majority of which were dismissed due to a lack of jurisdiction or evidence.<sup>46</sup> Despite the legal obligation, the SEC did not implement an electronic system for case and complaint management. Two decisions regarding the rejection of the SDPM and NDM lists were appealed to the Administrative Court and both were rejected, in closed session, as ungrounded.<sup>47</sup> Although both decisions were published on its website, the lack of public hearings is

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<sup>43</sup> The national legal framework refers to ethnic nationalities. Article 48 of the Constitution provides that “the Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of the nationalities”.

<sup>44</sup> Most parties representing non-ethnic Albanian communities consistently called for the creation of one special electoral district and for the establishment of reserved or guaranteed seats, to allow them to run independently.

<sup>45</sup> The last census was conducted in 2002. A new census had been planned in 2011 but was cancelled, mainly due to disagreements on how to count persons not residing in the country as well as attempts by the two main communities to maximize their numbers during the counting.

<sup>46</sup> The complaints were largely on the allegations of early campaigning, violations of Article 8-a of the Electoral Code forbidding new employments or the termination of employment in state and public institutions; partiality of presidents and members of two MECs; and changing the location of a polling station.

<sup>47</sup> According to the Constitution, court hearings and passing of verdicts are public. The public can only be excluded in cases determined by law. The Law on the Courts states that proceedings before the courts are to be based on the principle of publicity and transparency.

contrary to OSCE commitments and other international obligations.<sup>48</sup> In addition, a number of interlocutors raised concerns with judicial independence. Overall, despite improvements in the law, the implementation of electoral dispute resolution procedures did not fully provide for an effective system of redress, at odds with OSCE commitments and Council of Europe standards.<sup>49</sup>

The SCPC received some 1,000 requests for clarifications on issues related to misuse of administrative resources, many of which were anonymous or submitted with little evidence. On 1 December, the SCPC requested the Basic Public Prosecution to initiate an investigation in two.<sup>50</sup> In addition, the Ombudsman initiated 10 investigations related to allegations of pressure on public employees and corrections in voter lists, which are ongoing.

Two other initiatives were submitted to the Constitutional Court challenging the constitutionality of election-related provisions. On 9 November, the Constitutional Court rejected both: one from BESA, challenging the provision which required voters with “questionable” voter registration data to re-register (no jurisdiction) and one from NDM, challenging the composition of the Temporary Commission (ungrounded).

## **Election Observation**

The Electoral Code allows for citizen, party and international observation. Two citizen observer groups observed the elections: MOST deployed 80 LTOs and some 3,300 STOs, and CIVIL deployed 35 LTOs and some 300 STOs. MOST also conducted parallel vote tabulation. The participation of citizen observers at all stages of the electoral process contributed to the transparency of the elections. Ten civil society organizations, working on voter awareness campaign, were notified of forthcoming financial audits before and soon after election day. These organizations questioned the timing of such inquiry.

## **Early Voting and Election Day**

Early voting and election day generally proceeded in an orderly manner and without major incidents or tension. Transparency benefited from the presence of numerous citizen and party observers throughout the day (76 and 97 per cent, respectively) in the polling stations observed.

Early voting took place on 7 December for members of out-of-country EBs and on 10 December for homebound voters, internally displaced persons, detainees and prisoners. Early voting was assessed positively in all but 3 observations. Procedural problems observed related to ballot boxes not being properly sealed in 7 cases, and the secrecy of the vote not always ensured in 8 cases. During voting at the country’s largest prison, Idrizovo, the observers noted several prisoners with valid ID being unable to vote because they were not on the voter list. Over 500 prisoners were not included in the list due to expired IDs. There is no procedure to renew the expired ID of prisoners.

On election day, almost all of the observed polling stations opened on time. The opening process was assessed positively in most areas, however, observers noted procedural problems: in 20 cases the

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<sup>48</sup> Paragraph 12 of the [1990 OSCE Copenhagen Document](#) states that “proceedings may only be held in camera in circumstances prescribed by law and consistent with obligations under international laws and international commitments”. See also Article 10 of the [Universal Declaration of Human Rights](#) and Article 14 of the [ICCPR](#).

<sup>49</sup> Paragraph 5.10 of the [1990 OSCE Copenhagen Document](#) states that ‘everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity’. See also section 3.3 of the [2002 Venice Commission Code of Good Practice](#).

<sup>50</sup> One submitted by the Additional Deputy Minister of Interior, claiming alleged misuse of official position by Minister who relocated employees and increased their salaries. The second, submitted by VMRO-DPMNE, alleging the use of official vehicles for transportation of SDSM campaign material by the Public Communal Enterprise - Kumanovo, the Mayor of Kumanovo and SDSM.

required protocol was not filled in prior to voting, in 21 cases the ballot boxes were not shown to be empty, and in 10 cases the numbers of ballot box security seals were not recorded.

The voting process was assessed positively in 97 per cent of observations. Procedures were generally followed, including those to safeguard against multiple voting such as inking of voters' fingers and checking the photos on the voter list. The layout of 4 per cent of polling stations observed was assessed as inadequate. In half of these cases, this impacted on the secrecy of the vote. Overcrowding was noted in 5 per cent of the polling stations visited. More than half of the polling stations observed did not allow for independent access for voters with disabilities.

Significantly, in 16 per cent of the observed polling stations, persons were not allowed to vote as they were not on the voter lists. While some of these citizens were redirected to other polling stations, others stated that they were part of the 28,341 records deleted in July 2016. A total of 335 of the affected persons submitted complaints to the SEC on this matter. This highlights the continued need to sustainably address the structural flaws in the voter register.

Some serious irregularities were observed during voting, such as group voting (4 per cent), proxy voting (2 per cent), ballot boxes not sealed properly (2 per cent). Incidents of voters being pressured and unauthorized persons directing the work of EBs were also observed. During the day, a number of police and media reports informed of irregularities related to vote buying and photographing of ballots. At least six people were arrested.

The counting process was assessed as efficient and transparent by the IEOM observers. However, significant procedural omissions were observed in a number of polling stations and the counting was assessed negatively in 10 EBs observed. This primarily related to steps taken prior to opening the ballot boxes, including counting the number of signatures and unused ballots (28 and 25 cases, respectively), and verifying the numbers of the ballot box security seals (14 cases). Following the count, 16 EBs observed had difficulties filling in the results protocols, and 14 EBs did not follow the procedures for packing sensitive election materials and ballots. Copies of the protocol were given to those who requested them; however, 33 EBs observed did not post the protocols, as required by law. The counting finished by the midnight deadline in all polling stations observed.

Tabulation proceeded in a timely manner but was assessed negatively in 8 observations. The main problems noted related to the conditions at MECs: insufficient space (24 MECs), overcrowding (22 MECs), and poor organization (9 MECs). During the observation, 336 counting protocols had discrepancies and the ballots from 40 polling stations were recounted.

While not required by law, preliminary results by polling station and district were published online by the SEC throughout the night, which contributed to the transparency of the process. The SEC announced preliminary voter turnout at 67 per cent.

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## MISSION INFORMATION & ACKNOWLEDGEMENTS

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Skopje, 12 December 2016 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavor involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP). The assessment was made to determine whether the elections complied with OSCE commitments and other international obligations and standards for democratic elections and with national legislation.

Roberto Battelli was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and Leader of the OSCE short-term observer mission. Azay Guliyev headed the OSCE PA delegation. Stefan Schennach headed the PACE delegation. Igor Šoltes headed the EP delegation. Tana de Zulueta is the Head of the OSCE/ODIHR EOM, deployed from 3 November.

Each of the institutions involved in this International Election Observation Mission (IEOM) has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process. The OSCE PA will present its report at its 2017 Winter Meeting. The PACE will present its report in January at the first 2017 part-session in Strasbourg. The EP will present its report at a forthcoming meeting of the Committee on Foreign Affairs.

The OSCE/ODIHR EOM includes 16 experts in the capital and 20 long-term observers deployed throughout the country. On election day, 335 observers from 42 countries were deployed, including 277 long-term and short-term observers deployed by the OSCE/ODIHR, as well as a 24-member delegation from the OSCE PA, a 19-member delegation from the PACE, and a 15-member delegation from the EP. Opening was observed in 92 polling stations and voting was observed in 1,337 polling stations across the country. Counting was observed in 131 polling stations, and tabulation in all 80 MECs.

The observers wish to thank the authorities for their invitation to observe the elections, and the SEC and the Ministry of Foreign Affairs for the assistance. They also express their appreciation to other state institutions, political parties and civil society organizations and the international community representatives for their cooperation.

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*The English version of this report is the only official document.  
Unofficial translations are available in the Macedonian and Albanian languages.*