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**INTERNATIONAL ELECTION OBSERVATION MISSION**  
**Republic of Bulgaria**  
**Early Parliamentary Elections, 26 March 2017**

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**STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS**

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**PRELIMINARY CONCLUSIONS**

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Electoral contestants reached out to the voters freely, in a low-key campaign characterized by the public's disillusionment with politics and weariness of holding elections. The legal framework was amended several times since the 2014 elections, but limitations remain to the suffrage rights, use of languages other than Bulgarian, campaign finance reporting, complaints and appeals system and voting abroad. The election administration worked professionally and transparently overall, however their decision-making was not always consistent. The voting process was transparent, but procedural shortcomings were noted during counting in the limited number of polling stations observed.

The legal framework is generally conducive to holding democratic elections. The 2014 Electoral Code was amended several times, most recently in October 2016. The amendments addressed some previous OSCE/ODIHR and Council of Europe Venice Commission recommendations, but not others, including long-standing limitations of the right to vote, right to stand and equality of suffrage. The limitation of the number of polling stations in non-European Union (EU) countries has a discriminatory effect.

In general, the election administration conducted its work in a professional and transparent manner and met most legal deadlines. The sessions of the Central and District Election Commissions (CEC and DEC) were live-streamed and open to the public and media. The CEC did not reach the required qualified majority to approve several decisions. It also decided that all voter education materials would be exclusively in the Bulgarian language, contrary to international commitments and standards. Voting machines were not used in these elections as no vendor met the tender requirements.

Almost seven million citizens were registered to vote. Voter lists were available for public scrutiny and voters could verify and correct their data. Stakeholders expressed confidence in the accuracy of the voter lists. Voters abroad could also vote without prior registration, based on a self-declaration, while remaining on the in-country voter list. The lack of mandatory prior registration for voters abroad may facilitate multiple voting.

Candidate registration was inclusive with 11 political parties, 9 coalitions and 9 independent candidates registered to compete for 240 seats in 31 multi-member constituencies. The deadlines for candidate registration are not aligned with some other stages of the electoral process and were not respected. This negatively impacted equality of opportunities to campaign and voters' ability to make a fully informed choice.

Women constituted 31 per cent of candidates and led 132 of 614 candidate lists, and were well-represented in the election administration, although there are no gender related requirements for the composition of the election administration and candidate lists and no efforts were made to encourage and promote participation of women in the electoral process.

The campaign was somewhat affected by unclear or restrictive legal provisions regarding the use of campaign materials. The Electoral Code restricts campaigning to the Bulgarian language only, despite international standards, which affected the ability of some contestants to communicate with the electorate. Some parties used inflammatory and xenophobic rhetoric, mainly against Roma and Turkish communities. The authorities and some political parties claimed that the Turkish authorities interfered with the electoral process. The long-standing issues of vote-buying and 'organized' voting were raised

as issues of concern; the OSCE/ODIHR LEOM was informed of few investigations that led to several arrests and charges.

The 2016 amendments to the Electoral Code strengthened the campaign finance oversight role of the National Audit Office and changed the reporting deadlines. The modifications, however, are insufficient to ensure transparency of campaign finances. Only ten contestants reported income, as required by the law, and no sanctions were imposed during the campaign period. The substantive state subsidies to the major parties tilted the playing field during the campaign.

The media provided contestants with a platform to present their views through debates, talk shows and paid advertisement. While contestants actively used the free time provided by the public broadcasters, sparse coverage of the campaign in the broadcast news and limited editorial content of the print media, as well as a lack of political investigative and analytical reporting, significantly limited the information available to voters. Paid advertisements in the print and, to a lesser extent, broadcast media were often almost indistinguishable from the editorial coverage, thus misleading voters on the nature of the content.

The Electoral Code establishes a timely dispute resolution process for complaints, but does not ensure the right of the complainant to be informed about the place and time or to be present during the hearing or to receive a copy of the decision. The CEC received 151 complaints and alerts, which were discussed at public sessions, but some similar matters were decided inconsistently. Contrary to international standards, the law does not provide contestants with an effective mechanism to appeal election results.

The Electoral Code provides for citizen, party and international observation. According to 2016 amendments, only “organizations registered for the public interest and with objectives in the field of protection of citizen’s political rights” could nominate citizen observers, and a person can participate in the elections in one capacity only. Numerous party and citizen observers were accredited, but interpreting these requirements the CEC denied the registration of three organizations for having board members in the election administration or registered as candidates.

In the limited number of polling stations visited by international observers, the voting process was transparent and procedures were generally followed. Procedural shortcomings were noted during the counting. The tabulation observed was well organized, but slowed down by numerous errors in PEC protocols. The CEC worked efficiently on election day. It published copies of result protocols by polling station, which enhanced the transparency of the process. The CEC reported voter turnout but only until 17:00, when it was estimated at 43 per cent. Prosecutors launched 33 cases related to vote-buying, and media reported 8 arrests.

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## PRELIMINARY FINDINGS

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### Background

The early parliamentary elections in October 2014 resulted in the formation of a minority government by the Citizens for European Development of Bulgaria (GERB), the Reformist Bloc (RB) and the Alternative for Bulgarian Revival (ABV), supported by the Patriotic Front. The opposition included the Bulgarian Socialist Party (BSP), the Movement for Rights and Freedoms (DPS), the Bulgarian Democratic Centre and *Ataka*.

After the victory of the BSP-backed candidate Rumen Radev in the November 2016 presidential election, Prime Minister Boyko Borisov announced the resignation of his cabinet. Parliamentary parties

were not successful at forming a government and, on 24 January 2017, President Radev dissolved the National Assembly (Parliament), appointed a caretaker government and called early parliamentary elections for 26 March. These were the third consecutive early parliamentary elections since 2009.

## Electoral System and Legal Framework

The 240 members of parliament (MPs) are elected for four-year terms under a proportional system with preferential option in 31 multi-member constituencies. Despite previous OSCE/ODIHR and Council of Europe's Commission for Democracy through Law (Venice Commission) recommendations, the delineation of constituencies and allocation of mandates does not fully ensure the principle of equal suffrage guaranteed by Constitution and provided for by paragraph 7.3 of the 1990 OSCE Copenhagen Document and international good practice.<sup>1</sup> Out-of-country citizens can vote for any party or coalition registered in at least one constituency but not for independent candidates, at odds with paragraph 7.5 of the 1990 OSCE Copenhagen Document.<sup>2</sup>

The legal framework generally is conducive for democratic elections, although some areas would benefit from review, such as permitting campaigning and voter education in languages other than Bulgarian, transparency of media ownership, enhanced campaign finance reporting, opportunities to challenge election results, as well as long-standing OSCE/ODIHR and Venice Commission recommendations on suffrage rights. Citizens over the age of 18 have the right to vote, except prisoners and those deprived of legal capacity by a court decision. A blanket prohibition of voting rights for prisoners was found to be in violation of the European Convention on Human Rights,<sup>3</sup> and, along with the disenfranchisement of citizens deprived of legal capacity, is against OSCE commitments and other international standards.<sup>4</sup> Citizens over the age of 21, eligible to vote and not holding another citizenship have the right to stand as candidates.<sup>5</sup> The denial of the right to be elected to dual citizens is at odds with the jurisprudence of the European Court of Human Rights (ECtHR).<sup>6</sup>

The 2014 Electoral Code has been amended several times, including in 2016.<sup>7</sup> The amendments are numerous, yet most are of minor significance, and interlocutors appear to be well aware of the current legal framework. An important change is the introduction of compulsory voting and of the 'against all' voting option. Some amendments address a few previous OSCE/ODIHR recommendations, such as ensuring sufficient resources for the Central Election Commission (CEC) to conduct a voter education

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<sup>1</sup> The number of mandates per constituency is based on the population according to the 2011 census, but no less than four. The number of citizens per seat varies from the national average by more than 15 per cent in Vidin and by more than 10 per cent in Kyustendil. Section 2.2 of the [2002 Venice Commission Code of Good Practice in Electoral Matters \(Code of Good Practice\)](#) states that seats be evenly distributed among constituencies with the permissible departure of not more than 10 to 15 per cent, except in special circumstances.

<sup>2</sup> Paragraph 7.5 of the [1990 OSCE Copenhagen Document](#) provides that participating States "respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination".

<sup>3</sup> The European Court of Human Rights (ECtHR) in [Kulinski and Sabev v. Bulgaria](#) found that prohibiting prisoners to vote violates Article 3 of [Protocol No.1 to the European Convention on Human Rights and Fundamental Freedoms](#).

<sup>4</sup> Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will "guarantee universal and equal suffrage to adult citizens," while paragraph 24 provides that restrictions on rights and freedoms must be "strictly proportionate to the aim of the law." Paragraph 14 of the [1996 United Nations Committee on Human Rights General Comment 25](#) to Article 25 of the [International Covenant on Civil and Political Rights \(ICCPR\)](#) states that grounds for deprivation of voting rights should be "objective and reasonable." [Article 12 of the Convention on the Rights of Persons with Disabilities](#) obliges states to "recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life".

<sup>5</sup> Individuals prohibited from being members of a political party (such as military, intelligence service and police personnel, diplomats, judges and prosecutors) may contest the elections as independent candidates.

<sup>6</sup> See ECtHR case [Tanase v. Moldova](#).

<sup>7</sup> The March 2014 Electoral Code was amended in October 2014, November 2015 and May, July and October 2016.

campaign, and introducing criteria for the accreditation of citizen observer organizations. In addition, the Law on Political Parties was amended in May 2016 to prohibit the free-of-charge use of administrative resources by political parties.<sup>8</sup>

Positively, the amendments require the CEC to live-stream all their sessions and meetings and give the CEC the right to adopt rules on the application of the Electoral Code. They also prescribe that when reviewing an appeal of any CEC decision to reject a complaint, the Supreme Administrative Court (SAC) should decide on the matter of the complaint or to give binding recommendations to the CEC, provide the right to complain to party proxies, introduce administrative penalties for election administration members violating the Electoral Code, and clarify some media regulations.

Two of the 2016 amendments were challenged by the Ombudsman to the Constitutional Court. Firstly, on 17 October 2016, the Ombudsman complained against the amendment limiting to 35 per country the number of polling stations abroad.<sup>9</sup> On 28 October, another amendment cancelled this limit, but only for the European Union countries. On 14 December, the complaint was withdrawn. The remaining limitation has a discriminatory effect, as citizens should be able to vote under the same conditions of rights and access, according to international good practice and jurisprudence.<sup>10</sup> Secondly, on 23 February 2017, the Court ruled that Article 242a of the Electoral Code that provides a sanction for persons who have not exercised their right to vote in two successive elections of the same type is unconstitutional. Thus, voting remains compulsory, but there is no sanction for not voting.

The Electoral Code facilitates voting by persons with disabilities through mobile polling stations, allows voters with limited mobility and visual disabilities to vote at any polling station of their choice, and allows assisted voting. However, these measures are not sufficient to ensure equal participation, especially for persons with visual impairments who cannot vote independently.<sup>11</sup>

## Election Administration

The elections are administered by the CEC (the only permanent body), 31 District Election Commissions (DEC) and 12,081 Precinct Election Commissions (PEC). In general, the election administration conducted its work in a professional and transparent manner and met most legal deadlines, except for the registration of candidate lists and for the formation of out-of-country PECs (the latter due to insufficient nominations from political parties).

Political parties represented in the national and European parliaments could nominate members to the election administration. No party or coalition can have a majority in a commission, and the chairperson and secretary cannot be from the same party or coalition. There is no gender or national minority requirement for appointments in the election administration. Women were well-represented at all levels of the election administration, including in leading positions. Of the 22 CEC members, the chairperson, the deputy, the secretary and eight other members are women. In the 31 DEC, there were 57 per cent female members, including 48 per cent chairpersons, 57 per cent deputies and 81 per cent secretaries.

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<sup>8</sup> The amendment defines administrative resources as premises, transport, equipment and other (un)movable assets of state and municipal ownership, as well as work of employees.

<sup>9</sup> There are 371 polling stations in 70 countries for voting abroad, most in the United Kingdom (58), Spain (38), Turkey and United States (35 each), and Greece (21). The total number decreased from 428 in 2014, mainly due to 101 stations cut in Turkey.

<sup>10</sup> See section I.1.1 of the [2002 Venice Commission Code of Good Practice](#) and the [Court of Justice of the European Union M.G. Eman and O.B. Sevinger v Mayor and Councillors of The Hague](#), 12 September 2006. See also [Ždanoka v. Latvia](#), 16 March 2006, application no. 58278/00, par. 135; and [Ādamsons v. Latvia](#), 24 June 2008, application no. 3669/03, par. 123.

<sup>11</sup> [Article 29 of the Convention of the Rights of Persons with Disabilities](#) prescribes that states should ensure that persons with disabilities would have the right to participate in political life on equal base and voting procedures, facilities and materials are appropriate, accessible and easy to understand and use.

The current CEC was appointed in March 2014 for a five-year term. It held regular sessions open to public and media and broadcasted live on its website. The sessions were generally conducted in a collegial manner, and draft agendas were published shortly in advance. The CEC adopted some 400 decisions and a similar number of ‘protocol’ decisions.<sup>12</sup> The decisions, together with election day forms, instructions and regulations were posted on the CEC website, as required by law, overall in a timely manner. The CEC was not always consistent in its decision making.<sup>13</sup> In addition, some decisions were not approved as they were not supported by the required two-thirds majority.<sup>14</sup>

The CEC professionally conducted voter education through banners, video and audio clips and print materials, but voters would have benefited from more comprehensive information.<sup>15</sup> Contrary to international standards and a long-standing OSCE/ODIHR recommendation, the CEC decided that voter information and education materials were to be developed in the Bulgarian language only.<sup>16</sup>

Following consultations between political parties, the CEC appointed the DEC members. Members of 14 DECs were partially selected by the CEC because political parties did not reach a consensus. The DECs appointed the PEC members by the legal deadline. However, the composition of numerous PECs was changed as late as the day prior to election day, which impacted on their performance during voting and counting (see *Election Day* section).

The CEC conducted online training for the members of DECs and out-of-country PECs. The CEC, responsible to ensure the uniform implementation of the Electoral Code, provided inconsistent clarifications of some procedures.<sup>17</sup> The on-line DEC training sessions observed by the OSCE/ODIHR Limited Election Observation Mission (LEOM) were well-attended and generally conducted professionally, but the topics were covered inconsistently between sessions and lacked interaction.

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<sup>12</sup> Decisions included, among others, technical details of candidate registration, DEC and PEC guidelines, procedures for out-of-country voting, regulations on election observation, voter education materials. ‘Protocol’ decisions included publishing the addresses of out-of-country polling stations, approval of forms for handing-over election materials and results data from out-of-country PECs, etc. Both types of decisions can be appealed, but the protocol ones are published only in the minutes of the sessions.

<sup>13</sup> For example, it refused to register one citizen observer organization, the Alliance Bulgaria to the Citizens, for unclear reasons. It changed its own instruction for PECs abroad on 24 March. This instruction appears to be discriminatory as it requires voters to fill in self-declaration forms inside the polling station, while voters in the country can do this also outside. On the same day, DOST appealed this decision. It also accused CEC of violating the Constitution. The SAC did not review the complaint prior to election day, as it does not work on the weekends.

<sup>14</sup> *De facto* decisions rejected the registration of the Alliance Bulgaria to the Citizens as a citizen observer organization, the proposal to turn off any cameras in polling stations on election day, an alert for campaign materials in a chain of pharmacies and a proposal to demand from the political party the consent of these pharmacies, and the proposal to demand information from the DEC on a similar signal. Such decisions can be appealed to the SAC, which, following the 2016 amendments, must pronounce on the merits or return the case file to the CEC with binding instructions. Several such appeals were filed with the SAC.

<sup>15</sup> Materials contained general and specific information about the preferential voting option, homebound voting and criminal responsibility for vote-buying and selling. The videos included sign language. However, as an example, the general video does not inform that abstention from voting is not sanctioned and the video on homebound voting does not mention that persons with permanent disabilities can vote at any polling station in the district.

<sup>16</sup> Paragraph 12 of the 1996 General Comment 25 to Article 25 of the ICCPR states that “Information and materials about voting should be available in minority languages.” Paragraph 32.5 of the [1990 OSCE Copenhagen Document](#) states that “persons belonging to national minorities have the right [...] to disseminate, have access to and exchange information in their mother tongue”, while paragraph 35 states that “The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs (...).”

<sup>17</sup> For example, the Electoral Code provides that the ballots should be taken out of the ballot box one by one, while the training video shows the PEC members emptying the entire ballot box on the table. The Electoral Code provides that one member reads the voting preferences and two members record them simultaneously, while the video instructs that one member reads, one records and a second recording is just recommended.

DECs trained PEC members in-person. The PEC training sessions observed by the LEOM were generally informative and sufficient though varied by duration, training methods and materials used.

### **New Voting Technologies**

The Electoral Code provides for the use of new voting technologies in a controlled environment, specifically and only by using direct recording electronic voting machines.<sup>18</sup> The 2016 amendments to the Electoral Code transferred to the CEC all responsibilities related to machine and remote electronic voting (Internet voting), including public procurement, testing, audit and certification, and to conduct pilot remote electronic voting from 2018.

On 1 February, following the complaint from New Republic coalition, the SAC overturned the CEC decision to use 500 touch-screen voting machines, and ruled that voting machines were to be used in all polling stations. The CEC carried out the tender procedure to procure the required 12,500 voting machines. Only one vendor submitted a bid, which did not meet the requirements.<sup>19</sup> As a result, no voting machines were used for these elections.<sup>20</sup>

### **Voter Registration**

Voter registration is passive. Based on data from the National Population Register, the Directorate General of Civil Registration and Administrative Services at the Ministry of Regional Development (GRAO) provided the CEC with the list of 6,857,229 citizens with voting rights for public verification and update. The lists were displayed for public verification online, at local administrations and election commissions between 40 and 7 days prior to election day.

Citizens could change their voting address to a temporary residence. Special voter lists were compiled for welfare institutions, and detention and health care centres. The GRAO removed 90,492 voters who changed their place of voting from the voter list of their permanent address. Their records were compiled on a 'removed persons list' published on municipal websites ten days prior to election day for public scrutiny.<sup>21</sup> The Electoral Code provides for mechanisms against multiple inclusions in the voter list.<sup>22</sup>

The final voter list included 6,810,330 voters. The number of voters per constituency was not publicly available until election day, but the CEC provided it to the OSCE/ODIHR LEOM upon request. A total of 45,017 citizens registered for out-of-country voting.<sup>23</sup> Voters abroad could also vote without prior registration, based on a self-declaration, while remaining on the in-country voter list. Such provisions

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<sup>18</sup> Machine voting was piloted during the May 2014 European Parliament elections (100 voting machines), 2014 early parliamentary elections (500 machines) and 2015 local elections (50 machines). The results generated by the machines were not official. For the 2016 presidential election, machine voting was conducted in 500 polling stations and the results were binding. In addition, an experimental machine vote count was conducted in five polling stations.

<sup>19</sup> The vendor could not meet the 10 March deadline to provide all voting machines with the required software, and was not able to provide training and technical support to all commissions prior to and on election day.

<sup>20</sup> One contestant publicly called on the president to convene the parliament which should remove the machine voting provisions from the law in order to prevent possible challenges of the legality of the election.

<sup>21</sup> Certain categories of voters could vote outside their precinct without being removed from the voter lists based on permanent address: PEC members and police officers could vote at the polling station to which they were assigned; students and persons with disabilities could vote at any station within a constituency.

<sup>22</sup> The voter with a changed voting address has to sign a declaration that s/he has not voted and will not vote again. The grade books of pupils and students were stamped after voting. The GRAO is to identify any cases of multiple voting after election day.

<sup>23</sup> This is an 86 per cent increase compared to 2014. Most requests came from Turkey (19,014), the United Kingdom (5,259) and Spain (3,009).

create the risk for multiple voting.<sup>24</sup> Also on election day PECs could add, without judicial oversight, persons who are not on the voter list to a supplementary list if they reside in the precinct, which is contrary to international good practice.<sup>25</sup> Stakeholders expressed confidence in the accuracy of the voter list.

## Candidate Registration

The registration of candidates is a two-stage process. Firstly, the CEC registers political parties or coalitions and DEC's – nominating committees for independent candidates. Secondly, the DEC's register candidate lists and independent candidates.<sup>26</sup> Parties and coalitions could correct their applications within three days after submission, but not later than the registration deadline.<sup>27</sup>

The CEC registered 11 parties and 9 coalitions in an inclusive manner. It rejected the application of five parties after the verification of their supporting signatures.<sup>28</sup> Four rejections were challenged to the SAC, which upheld the CEC decisions.

Contrary to international good practice and previous OSCE/ODIHR and Venice Commission recommendations, voters can sign in support of only one prospective contestant. This may limit political pluralism and may also affect voters' privacy as authorities have the possibility to check their political affiliation.<sup>29</sup>

DEC's registered some 4,700 candidates, including 9 independent, on 614 lists.<sup>30</sup> Some 31 per cent of candidates are women, including two independents. Women led 132, or 22 per cent, of the candidate lists. There are no requirements on gender or national minority representation in the candidate lists. Aggregated information on the participation of women candidates was not publicized by either the election administration or contestants.<sup>31</sup>

The deadlines for candidate registration are not aligned with some other stages of the electoral process. The deadline for registration of candidate lists (26 February) is after the start of the campaign (24

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<sup>24</sup> See the [2015 Venice Commission Report on Electoral Lists and Voters Abroad in Bulgaria, Moldova and Tunisia](#).  
<sup>25</sup> Section 1.2.iv of the Venice Commission [Code of Good Practice](#) provides that the registration on election should not take place at the polling station on election day without an administrative procedure subject to judicial control or a judicial procedure.

<sup>26</sup> A candidate can stand for a party in no more than two constituencies and in one as independent.

<sup>27</sup> Generally, contestants submitted their lists on the last day and, as such, could not benefit in practice from this provision.

<sup>28</sup> The Union of Bulgarian Nationalists, the National Movement Unity and the Bulgarian National Union - New Democracy were not registered due to list of signatures not provided in an electronic form or in improper format, pages of signatures not numbered, etc. The Bulgarian Union for Direct Democracy and the Union of Free Democrats were initially registered but were rejected after GRAO verification indicated insufficient number of valid signatures.

<sup>29</sup> Paragraph 77 of the [2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation](#) state that "in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing ... for only one party."

<sup>30</sup> To contest the elections, parties and coalitions had to submit to the CEC until 8 February a set of documents, 2,500 supporting signatures and a deposit of BGN 2,500 (1 EUR is 1,96 BGN). Registered parties and coalitions presented their candidate lists to the DEC's by 21 February. The DEC's registered independent candidates based on a deposit of BGN 100 and supporting signatures from no less than one per cent, but no more than 1,000 voters from the constituency.

<sup>31</sup> The outgoing parliament had 20 per cent women MPs, which puts it on the 101<sup>st</sup> position in the [Inter-Parliamentary Union ranking](#). Paragraphs 40.8 and 13 of the [1991 OSCE Moscow Document](#) provides that a participating State should "encourage and promote equal opportunity for full participation by women in all aspects of political life" and "ensure the collection and analysis of data to assess adequately, and monitor and improve the situation of women". See also paragraphs 29 and 30 of the [Convention on the Elimination of all Forms of Discrimination against Women](#).

February), which is contrary to international good practice.<sup>32</sup> Following the registration, on 9 March, according to its legal deadline, the committee for announcing any affiliations of citizens to the State Security and intelligence services publicized the list of 78 candidates affiliated with the former State Security.<sup>33</sup> The deadlines were also not respected, as, on 27 February, the CEC deregistered four candidates for dual citizenship and seven for not meeting the age requirement. Also, the CEC received the report on candidate eligibility due to any current prison convictions from the Ministry of Justice only on 1 March, and a report on one candidate as late as on 13 March. While these inconsistencies and delays did not affect these candidates' right to stand, it negatively affected equality of opportunities to campaign and voters' ability to make a fully informed choice.

## Campaign Environment

The election campaign officially commenced on 24 February and ended at midnight on 24 March. The late registration of some candidates delayed their campaign start. Fundamental freedoms were generally respected and contestants were able to conduct their campaign activities freely without major restrictions.

The campaign was somewhat affected by unclear or restrictive legal provisions. The Electoral Code prohibits the use of campaign materials which are 'contrary to good morals', but provides no clear definition which may affect freedom of expression. The CEC and SAC at times broadly interpreted this term.<sup>34</sup> According to the May 2016 amendments to the Electoral Code, campaigning by clergy is prohibited, as are the use of religious symbols, the coat of arms and flags of Bulgaria or of a foreign country. The prohibition to use the national flag challenges the freedom of expression and is at odds with OSCE commitments.<sup>35</sup>

Many OSCE/ODIHR LEOM interlocutors, including the majority of political parties met, noted that voters were discontent with politics and the political establishment and weary of holding elections. This impacted the election environment and the campaign atmosphere. The campaign was generally low key. Contestants conducted their activities in a reserved manner, with only 10 running an active campaign.<sup>36</sup> The main campaign means were social media, Internet and traditional media, as well as posters, leaflets and face-to-face meetings.

The campaign messages addressed education, social welfare, national identity and, to a lesser extent, corruption and economy. The campaign tone was marred at times by a confrontational tone of racist,

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<sup>32</sup> Section 1.3.v of the Venice Commission [Code of Good Practice](#) provides that the candidatures must be validated by the start of the campaign, as late validation places some parties and candidates at a disadvantage.

<sup>33</sup> Parties and coalitions could not replace these candidates, as this can happen up to 30 days before election day.

<sup>34</sup> Article 183.4 of the Electoral Code prohibits the use of "campaign materials ... which are contrary to good morals and damaging the honour and reputation of the candidates." The CEC interpreted this article and decided that the Electoral Code was violated in several instances: the presence of the Turkish ambassador in a campaign video; showing on television censored nude photos of a candidate during the campaign (the photos were initially published years ago); allegations on the sexual orientation of a candidate; and distribution of books about alleged involvement of candidates in financial crimes.

<sup>35</sup> See paragraph 9.1 of [1990 OSCE Copenhagen Document](#). The OSCE/ODIHR LEOM noted the use of the national flag in two campaign events: on 3 March, in Sofia the national and foreign flags appeared on the United Patriots (UP) campaign event. On 13 March, in Pleven, national flags were distributed during a BSP rally. See also article 19.2 of the [ICCPR](#) which states that "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." See also paragraph 9.1 of [1990 OSCE Copenhagen Document](#). The OSCE/ODIHR LEOM noted the use of the national flag in two campaign events: on 3 March, in Sofia the national and foreign flags appeared on the United Patriots (UP) campaign event. On 13 March, in Pleven, national flags were distributed during a BSP rally.

<sup>36</sup> This included the BSP, GERB, UP, RB, DPS, *Volya*, ABV- Movement 21 (ABV), Yes, Bulgaria (YB), New Republic (NR), and Union Democracy for Responsibility, Freedom and Tolerance (DOST).



xenophobic and anti-Roma rhetoric.<sup>37</sup> The Commission for Protection Against Discrimination, a specialized body responsible for prevention of discrimination, informed the OSCE/ODIHR LEOM that it did not receive complaints related to the campaign and did not undertake any measures on its own initiative. With some notable exceptions, the visibility of female candidates was low.<sup>38</sup>

The long-standing issues of vote-buying and ‘organized’ voting in economically and socially vulnerable communities, particularly Roma, were raised by all OSCE/ODIHR LEOM interlocutors. On 5 March, the prime minister stated that the government is informed about cases of illegal campaigning and that he instructed the state institutions to act accordingly to counter these cases. The investigations were opened and led to several arrests and charges.

The influence and role of the Turkish authorities in the elections was on the public agenda during the campaign. The Bulgarian authorities several times claimed that the Turkish authorities interfered in the electoral process and the statements from both sides became more confrontational as election day approached.<sup>39</sup> On 6 March, media reported that the Minister of Labour and Social Security of Turkey endorsed DOST. On 9 March, the CEC banned a DOST spot where the Turkish ambassador appears briefly. On 14 March, UP, RB and NR called for closing the polling stations in Turkey. The government took actions to “prevent Turkey’s interference”, and against alleged bussing of voters. On 21 and 24 March, UP blocked the main roads on border to prevent any incoming voters from Turkey.

## Campaign Finance

The 2016 amendments to the Electoral Code set the deadline for contestants to report their campaign expenditures within 30 working days and for the National Audit Office (NAO), which is mandated to oversee the campaign finance, to audit a report within six months if it includes more than BGN 1,000 received and spent. The transparency of campaign finances was limited as there are no requirements for contestants to submit and for the NAO to audit or publish reports on expenditures before election day.

Parties and coalitions that received more than one per cent of votes in previous parliamentary elections are entitled to public funding proportionally to the votes received.<sup>40</sup> Parties not entitled to state funding and running in all constituencies received BGN 40,000 and independent candidates received BGN 5,000 for paid political advertising. Some OSCE/ODIHR LEOM interlocutors expressed concerns that amount of state funding is too high and distorts the level playing field during the campaign.

Contestants must report to the NAO the origin of donations five days after the start of the campaign. According to the NAO, only 12 of the 29 contestants complied with this requirement. Contestants also

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<sup>37</sup> On 3 March, in Sofia, UP representatives used highly inflammatory language to describe actions of the Turkish minority and DPS and DOST. On 5 and 12 March, on Channel 3 during the paid interview of GERB, Roma community was portrayed in a negative way. On 13 March, a BNT *Volya* paid advertising called Bulgarian citizens to eliminate Roma votes. On 16 March, UP used highly inflammatory language against Roma in a BNT debate.

<sup>38</sup> Two of the 20 contestants (or 5 out of 43 contesting parties) are led by women.

<sup>39</sup> On 7 March, Deputy Foreign Minister stated that “the promises that were made for ‘incentives’ for voting and the open calls in support of one specific political party constitute direct interference in the home affairs of Bulgaria, which we consider unacceptable.” On 17 March, President Radev stated that “Bulgaria wants to develop strong neighborly relations with Turkey, but its interference in our elections is a fact and it is absolutely unacceptable... On the same day Prime Minister Gerdzhikov stated that “Turkey is interfering in the election process in Bulgaria”. On 23 March, President of Turkey stated that putting pressure on Turks in Bulgaria is unacceptable. President of Bulgaria responded refusing “lessons in democracy” from Turkey.

<sup>40</sup> Starting with 2014, one vote received is equal to BGN 11, as voted by the parliament in the yearly state budget. GERB receives annually BGN 12,145,950, followed by BSP – 5,730,286; DPS – 5,513,486; RB – 3,304,152; PF – 2,709,515; Bulgaria without Censorship – 2,118,226; *Ataka* – 1,679,778; ABV – 1,543,298; Movement 21 – 444,398; and People’s Voice – 422,831.

have to report received donations on a weekly basis.<sup>41</sup> The NAO informed the OSCE/ODIHR LEOM that any violations of reporting requirements will be sanctioned only after elections. Some OSCE/ODIHR LEOM interlocutors raised concerns about the limited institutional capacity of the NAO to conduct effective oversight.

## Media

The pluralistic media environment operates in a shrinking advertisement market. OSCE/ODIHR LEOM interlocutors raised concerns regarding the widespread practice of media to avoid controversial topics in order to keep good relations with potential public and private advertisers. They also stated that the allocations of public funds for advertisements often lack transparency, and are perceived as rewards for favourable editorial policies. The Council for Electronic Media (CEM), the regulatory body for broadcast media, was tasked by the CEC to monitor the media broadcast during the campaign.

In line with the Electoral Code, Bulgarian National Television (BNT) and Bulgarian National Radio (BNR) provided the contestants with a platform to present their views and opinions through free advertisements, debates and talk shows.<sup>42</sup> However, BNT and BNR refrained from the editorial coverage of the campaign. The OSCE/ODIHR LEOM media monitoring results indicate that during the campaign period, the prime time news of BNT devoted a total of four minutes to all contestants combined.<sup>43</sup> Instead, the BNT created a current affairs programme “Bulgaria Votes 2017” focused on elections and campaign where reporting was through material paid for by contestants.

The private bTV, *Nova* and Channel 3 displayed a similar approach by devoting only between three and five per cent of their prime time news to the election campaign, thus significantly limiting the opportunity for voters to make an informed choice. In the limited political and election-related coverage, bTV and *Nova* devoted most of the time to GERB (20 and 26 per cent), BSP (17 and 23 per cent), DOST (12 and 11 per cent) and, to a lesser extent, DPS, UP and RB (between 8 and 11 per cent each). While most parties were covered in a neutral manner, the coverage of DOST was more negative. Channel 3 devoted most of its election related news coverage to RB (22 per cent), GERB (20 per cent), BSP (19 per cent) and UP (15 per cent). While largely positive or neutral, this coverage was more critical of BSP, RB and Yes, Bulgaria.

The OSCE/ODIHR LEOM media monitoring findings indicate that the majority of paid advertisements in the print media were almost indistinguishable from regular articles, thus potentially confusing the voters on the nature of the content.<sup>44</sup> The CEC initiated administrative penalty procedures against Channel 3 and *Bulgaria 24* and newspapers *Trud* and *24 Chasa* for not properly identifying paid content; in reaction, they improved such identification. The OSCE/ODIHR LEOM noted that 6 national and 18 regional media outlets did not clearly identify paid content throughout the campaign.

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<sup>41</sup> By election day only 12 contestants declared a total of BGN 1,187,166 from 1,773 donors: BSP – 276,432; ABV – 267,760; RB – 266,010; *Volya* – 127,872; YB – 124,258; DOST – 49,580; UP – 42,000; NR – 25,654; Movement for Radical Change – Bulgarian Spring – 3,600; The Green Party – 4,000; GERB and DPS declared only in-kind donations.

<sup>42</sup> The allocation of time on the majority of BNT and BNR programmes was based on the equality principle. The decision of BNT to have one debate programme with only parliamentary parties, and a decision of BNR to host one debate only with political parties that on previous elections receive more than 0.5 per cent of votes was challenged by two parties with the CEC. Later it was appealed to the SAC, which did not consider the complaint on merits stating that the CEC decisions on approval of media agreements are un-appealable.

<sup>43</sup> On 24 February, the OSCE/ODIHR LEOM started quantitative and qualitative monitoring of the primetime broadcasts of four television stations (BNT1, bTV, *Nova* and Channel 3), and five daily newspapers (*24 Chasa*, *Kapital-Daily*, *Telegraf*, *Trud* and *Standart*).

<sup>44</sup> Article 179 of the Electoral Code requires all paid political advertisements to be separated from regular content with an indication that is paid.

On 13 and 20 March, editions of the *Telegraph* were distributed together with free books alleging connections between *Nova Republica* and *Yes, Bulgaria* candidates and organized crime. Responding to a complaint, the CEC concluded that the books may not be considered as campaigning as they do not call to support or not a candidate or a party. However, the CEC prohibited further distribution of these two books concluding that they damage the ‘good name of the candidates’.<sup>45</sup>

The Electoral Code requires that media indicate who ordered, financed and conducted the polls they publish. However, there is no requirement to describe its methodology (i.e. sample, margin of error, and polling period), as recommended by the Council of Europe.<sup>46</sup> The CEC displayed a lack of consistency when reacting to violations of this provision. It acknowledged a number of violations from alerts filed by the citizen observer group Civil Initiative for Free and Democratic Elections (GISDI), but did not issue any sanction. At the same time it initiated administrative penalty procedures against *TV Nova* and Alfa Television based on a CEM alert.<sup>47</sup>

### Participation of National Minorities

The Constitution prohibits discrimination on ethnic or religious basis and provides for the right of self-identification.<sup>48</sup> The law forbids the creation of political parties along “ethnic, racial or religious lines”, which is contrary to international obligations and good practice.<sup>49</sup>

The DPS and Democrats for Responsibility, Freedom and Tolerance (DOST) are seen as representing the interests of the Turkish community. Both parties nominated ethnic Turks in their candidate lists. In contrast, the Roma community remains largely excluded from political life, and was mainly represented by the Movement for Equality Public Model (DROM) for these elections.<sup>50</sup> Roma interlocutors expressed concern to the OSCE/ODIHR LEOM that their communities are affected by high illiteracy and economic and social exclusion. They also noted that the main political forces are not interested in Roma issues and that populist campaigns portray negatively the Roma community.

The Electoral Code restricts campaigning to the Bulgarian language only, despite international standards.<sup>51</sup> The DPS and DOST stressed that this affects their ability to communicate with the

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<sup>45</sup> These decisions were appealed to SAC, which upheld one of them and revoked the other.

<sup>46</sup> The Council of Europe [Recommendation CM/Rec\(2007\) 15](#) requires member states to ensure that media, when presenting results of a public opinion poll, also provide the public with sufficient information to make a judgement of the value of the poll, including methodology, sample, margin of error and polling date/period.

<sup>47</sup> The CEC has reacted to four out of 37 alerts from GISDI, by sending letters informing bTV (twice), PolitikaPlovdiv.com and ClubZ.bg about the occurred violations and potential sanctions.

<sup>48</sup> According to the 2011 census, ethnic Turks are the largest minority group with 8.8 per cent of the population, followed by Roma with 4.9 per cent. Unofficial estimates put the number of Roma significantly higher, at some 10 per cent. Other minorities include Russians, Armenians, Vlach (Aromani), Karakachani, Macedonians, Jews, Romanians, Ukrainians and others, all together below one per cent of the population.

<sup>49</sup> Freedom of association includes the freedom to establish political parties based on communal identities – see Article 7 of the [Framework Convention on National Minorities \(FCNM\)](#); Article 2 of the [UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities](#) states “persons belonging to minorities have the right to establish and maintain their own associations”. The [OSCE/ODIHR and OSCE High Commissioner on National Minorities Handbook on Observing and Promoting the Participation of National Minorities in Electoral Processes](#) provides that “a state should respect the rights of national minorities to establish associations, including political parties, based on minority or communal identities.

<sup>50</sup> The OSCE/ODIHR LEOM is aware of some 120 Roma candidates in DROM, DPS, DOST, BSP and GERB candidate lists.

<sup>51</sup> Paragraph 32.5 of the 1990 OSCE Copenhagen Document states that persons belonging to national minorities have the right “to disseminate, have access to and exchange information in their mother tongue”. See also Article 9.1 of [FCNM](#) and Article 27 of the [ICCPR](#). The CEC banned one advertisement as it contained subtitles in the Turkish language.

electorate. The OSCE/ODIHR LEOM was informed of two complaints against using the Turkish language in campaign events.<sup>52</sup>

## Complaints and Appeals

The Electoral Code prescribes timely consideration of different types of complaints, which can be filed by citizen observers, representatives of electoral contestants and party proxies. Other complaints are admissible if the complainant proves that his/her right was directly affected. Complaints and alerts about potential electoral violations can be submitted to the CEC and DEC. <sup>53</sup> Decisions of an election commission can be appealed to the higher-level commission, and to the SAC as final instance, except for the acts on administrative violations which are sent to the regional governor.

Contrary to international standards and ECtHR jurisprudence, the law does not provide contestants with an effective mechanism to appeal election results.<sup>54</sup> At odds with international good practice, it does not ensure the right of the complainant to be informed about the place and time or to be present during the hearing or to receive a copy of the decision.<sup>55</sup>

The Electoral Code prescribes the electoral commissions' obligation to maintain an electronic public registers of complaints and alerts, and to review all of them. The CEC, however, issued an instruction that allows the commissions not to decide on some alerts.<sup>56</sup> There is no deadline for publishing the alerts, complaints and decisions.

According to the CEC public register of complaints, as of 25 March it received 54 complaints on DEC and other bodies' decisions, and 44 of its own decisions were appealed to SAC, including 3 on voting machine usage, 6 on PEC composition and 8 on political party registration. The SAC held public hearings where applicants could present their positions and additional evidence; it left 15 appeals without consideration for procedural reasons, upheld 21CEC decisions and partially or fully revoked eight. The CEC received 97 alerts, most on violations of the rules of publishing public opinion polls, language of the campaign and on media not indicating paid content. The alerts were announced and discussed at the CEC sessions. As of 25 March, the DECs received some 182 complaints and alerts and generally published them on their websites.

The CEC issued 22 decisions followed by acts on administrative violations that should be handed over first to the violator and then further submitted to the Sofia city governor. The governor has three days to issue any penalty decree, which can be appealed to regional court and further to administrative court; a final decision must be taken within 21 days. The lack of timely review leaves violations or irregularities unaddressed in an expeditious timely manner, which can compromise the protection of

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<sup>52</sup> On 9 March, RB filed a complaint to DEC that DPS conducted a campaign event in Dobrich in Turkish. On 9 March, in Varna, Regional Police Department filed an alert to DEC against DOST campaigning in Turkish in village Asparukhovo.

<sup>53</sup> A complaint can be filed against administrative acts/decisions. An alert can be submitted against any other violation.

<sup>54</sup> The election results can be appealed to the Constitutional Court only by the president, the Council of Ministers, the Supreme Court of Cassation, the SAC, the Prosecutor General or at least one-fifth of MPs. The ECtHR found this remedy to be ineffective within the meaning of Article 13 of the [European Convention on Human Rights](#) in *Petkov and others v. Bulgaria*. 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". .

<sup>55</sup> Paragraph II.3.3.h of the [Venice Commission Code of Good Practice](#) provides that the applicant's right to a hearing involving both parties must be protected.

<sup>56</sup> According to its Decision 3526 on Complaints Review, a commission may not decide on a complaint/alert if it does not involve a violation of the Electoral Code, or the violation does not require the commission to take any action.

electoral rights.<sup>57</sup> Some OSCE/ODIHR LEOM interlocutors raised concerns that a representative of executive authority decides on election-related violations.<sup>58</sup>

Eight CEC decisions on administrative violations were appealed to SAC. In three of them, the SAC upheld the right of CEC to prohibit distribution of campaign materials and in two cases revoked it. At the same time, the SAC did not decide on all eight appeals on the grounds that no penalty decree has been issued to date. The governor did not receive any act by election day.

## Election Observation

The Electoral Code provides for citizen, party and international election observation. While the Electoral Code provides for registration of observers until the day before the election day, the CEC established by a decision a deadline for submission of applications at three days before election day. According to 2016 amendments, only “organizations registered for the public interest and with objectives in the field of protection of citizen’s political rights” could nominate citizen observers. The amendments also stipulate that a person could participate in the elections in only one capacity (either as candidate, proxy, observer or election official). The CEC interpreted this limitation broadly and, as result, three citizen observer organizations were not registered. .<sup>59</sup>

The CEC accredited 20 citizen observer organizations with 5,386 observers, 7 public opinion poll agencies and 5 international organizations. The Alliance Bulgaria to the Citizens was not registered as the CEC decision to approve the organization was not supported by a two-thirds majority; the *de-facto* rejection lacked legal grounds and published motivation. The GISDI conducted long-term observation and deployed some 900 short-term observers on election day. The DEC registered numerous proxies.

## Election Day

In the limited number of polling stations visited by international observers, the voting process was transparent and procedures were generally followed, except with regard to folding of the ballot which could affect vote secrecy. Most polling stations visited lacked adequate access for voters with disabilities, including some that were, in a positive step, assigned for them. The counts observed were less organized. Procedural shortcomings were noted, particularly in relation to counting the preferential votes and filling in the protocol, often due to PECs aiming to speed-up the process. The tabulation, where observed, was well organized, but slowed down by numerous errors in PEC counting protocols.

The CEC worked efficiently on election day. It reported receiving and promptly considered 114 complaints and alerts on violations of campaign rules, publication of opinion polls, filling in self-declarations inside polling stations and usage of languages other than Bulgarian by PEC members abroad. As required by the Electoral Code, the CEC published on its website copies of result protocols by polling station, which enhanced transparency of the process. The CEC reported voter turnout only until 17:00 hrs, when it was estimated at 43 per cent. On election day and the day prior, prosecutors launched 33 cases related to vote-buying, and media reported 8 arrests.

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<sup>57</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 II.3.3 of the Venice Commission [Code of Good Practice](#).

<sup>58</sup> Paragraph 7.8 of the [1990 OSCE Copenhagen Document](#) states that the participating States will “provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process”.

<sup>59</sup> A board member of the Alliance for the Rights of Women was also a DEC member. The Alliance Agricultural Youth Union was required to be deregistered, as its board member was a candidate. Two board member of the Civic Council for Justice were a candidate and a PEC member.

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## MISSION INFORMATION & ACKNOWLEDGEMENTS

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Sofia, 27 March 2017 – 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) and the Parliamentary Assembly of the Council of Europe (PACE). 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.

Marie-Christine Dalloz headed the PACE delegation. Roman Jakic is the Head of the OSCE/ODIHR LEOM, deployed from 22 February.

Both 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 PACE will present its report during its session in Strasbourg on 24 April.

The OSCE/ODIHR LEOM includes 11 experts in the capital and 8 long-term observers deployed throughout the country. On election day, 42 observers from 27 countries were deployed, including 19 parliamentarians and staff from the PACE, and 23 long-term observers and experts from the OSCE/ODIHR.

The observers wish to thank the authorities for their invitation to observe the elections, and the CEC 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 co-operation.

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*The English version of this report is the only official document.  
Unofficial translation is available in Bulgarian.*