Parliamentary **Assembly**
Assemblée parlementaire

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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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Observation of the parliamentary elections in "the former Yugoslav Republic of Macedonia" (5 July 2006)

Report
Ad hoc Committee of the Bureau of the Assembly
Rapporteur: Mr Mevlüt Çavuşoğlu, Turkey, European Democrat Group

The parliamentary elections in "the former Yugoslav Republic of Macedonia" were largely in line with Council of Europe commitments and standards for democratic elections. However instances of violence and intimidation during the first half of the campaign, as well as isolated instances of serious irregularities during Election Day, tainted the democratic process. However, overall, voters could decide on the political direction of their country in a democratic fashion and the irregularities observed should not be allowed to overshadow the democratic progress made.

I. Introduction

1. Following the invitation by the President of the Parliament of "the former Yugoslav Republic of Macedonia", the Bureau of the Assembly decided to set up an ad hoc Committee to observe the Parliamentary elections to be held on 5 July 2006 and appointed me as the Chairman and rapporteur of the ad hoc Committee.

2. On 4 October 2004 a co-operation agreement was signed between the Parliamentary Assembly and the European Commission for Democracy through Law ("Venice Commission"). In conformity with article 15 of the agreement, reading: *"When the Bureau of the Assembly decides to observe an election in a country in which electoral legislation was previously examined by the Venice Commission, one of the rapporteurs of the Venice Commission on this issue may be invited to join the Assembly's election observation mission as legal adviser",* the Bureau of the Assembly invited an expert from the Venice Commission to join the ad hoc Committee as advisor.

3. Based on the proposals by the political groups in the Assembly, the ad hoc Committee was composed as follows:

Socialist Group (SOC)

Mr Jaime BLANCO	Spain
Ms Josette DURRIEU	France
Mr Andreas GROSS	Switzerland
Ms Fatima PEHLIVAN	Belgium

Group of the European People's Party (EPP/CD)

Mr Ignacio COSIDÓ	Spain
Ms Urszula GACEK	Poland
Mr Gebhard NEGELE	Liechtenstein

Mr Egidijus VAREIKIS	Lithuania
Mr Piotr WACH	Poland

Alliance of Liberals and Democrats for Europe (ALDE)

Mrs Aneliya ATANASSOVA	Bulgaria

European Democrat Group (EDG)

Mr Mevlüt ÇAVUŞOĞLU	Turkey

Group of the Unified European Left (UEL)

Mr VÀclav EXNER	Czech Republic

Venice Commission

Mr Oliver KASK	Expert / Estonia

Secretariat

Mr Bas KLEIN, Deputy to the Head of Secretariat of the Interparliamentary Cooperation and Election Observation Department
Ms Ivi-Triin Odrats, Co-Secretary to the Monitoring Committee
Ms Daniele Gastl, Assistant

4. The ad hoc Committee acted as part of the International Election Observation Mission (IEOM) which also included the election observation mission of the Organisation for Co-operation and Security in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

5. The ad hoc Committee met in Skopje from 4 to 6 July 2006 and held, *inter alia*, meetings with representatives of the main parties participating in these elections, the Deputy Chairman of the State Election Commission (SEC), the Head of the Election Observation Mission of the OSCE/ODIHR and his staff, as well as representatives of civil society and mass media. The programme of the meetings of the ad hoc Committee appears in Appendix 1.

6. On Election Day, the ad hoc Committee was split into 9 teams which observed the elections in and around Skopje, Gostivar, Tetovo, Kumanovo, Prilep and Ohrid.

7. The IEOM concluded that the 5 July 2006 parliamentary elections in "the former Yugoslav Republic of Macedonia" largely met Council of Europe and OSCE commitments for democratic elections. However instances of violence and intimidation during the first half of the campaign and isolated cases of serious irregularities on Election Day cast a shadow over an otherwise generally well-administered election held in a competitive environment. The joint IEOM press release issued after these elections appears in Appendix 2.

8. The ad hoc Committee wishes to thank the OSCE/ODIHR election Observation Mission, the Council of Europe Resident Expert and the Director of the Council of Europe Information Office in Skopje for their co-operation and support provided to the ad hoc Committee.

II. Political and legal context

9. The Parliamentary Elections were called for by the Speaker of the Parliament of "the former Yugoslav Republic of Macedonia" at the end of the mandate of the Parliament that was elected in 2002. The elections were originally due to be held by October 2006, but in an agreement between governing and opposition parties they were scheduled at the beginning of the 90-day period envisaged in the law for regular elections.

10. Political forces in "the former Yugoslav Republic of Macedonia" are split along ethnic lines and competition mainly takes places between ethnically based parties within either the Macedonian or Albanian ethnic communities. Regrettably, no genuine inter-ethnic party with a wide appeal exists. The main Macedonian parties are the "Social Democratic Union of Macedonia" (SDSM), and the opposition "Internal Macedonian Revolutionary Organisation – Democratic Party for Macedonian Unity" (VMRO-DPMNE). The main ethnic Albanian parties are the "Democratic Union for Integration" (DUI), which was in a governing coalition with the SDSM in the outgoing government, and the opposition "Democratic party of Albanians" (DPA).

11. The political landscape among the Macedonian parties has fragmented since the last Parliamentary elections in 2002, with the VMRO Peoples Party (VMRO-NP) breaking away from the VMRO-DPMNE in 2004, and in 2005, when SDSM co-founder Tito Petkovski left the SDSM to found a new party called "New Social Democratic Party" (NSDP). In both cases the political split was mostly the result of a leadership conflict, which highlights the importance that personalities continue to have in politics in "the former Yugoslav Republic of Macedonia".

12. These elections should be seen in the context of the stated aspirations of "the former Yugoslav Republic of Macedonia" for further integration into the Euro-Atlantic structures and especially, accession to the European Union.

13. The parliament is a unicameral body consisting of 120 members elected for a four year term through a proportional system in 6 constituencies using closed party lists. The seats are allocated using the d'Hondt formula without a legal threshold for entering parliament.

14. The parliamentary elections of July 2006 were governed by the Election Code that was adopted in March 2006. Although adopting election legislation so close to Election Day runs counter to Council of Europe standards for best democratic practice, the adopted Election Code formed a more consistent basis and improved framework for the conduct of elections. On 12 June 2006 the Parliament adopted amendments to the Criminal Code that established strict sanctions for election related criminal offences, including prison sentences of considerable duration.

15 Although vastly improved some shortcomings and ambiguities still remain in the Election Code. The provision that all Election Board presidents be state or municipality officials proved difficult to implement and it was unclear what actually constituted a campaign activity and what constituted regular party activities, rendering provisions against early campaigning ineffective. In addition the Election Code does not give the State Election Commission (SEC) the power to enforce its decisions on actors outside the election administration, for which it depends on other state actors.

16. The provisions in the Election Code regarding campaign finances are insufficient to safeguard against illegal campaign financing. Anonymous donations are allowed which undermines the transparency of campaign finances. In addition provisions regarding financial disclosure and effective mechanisms to ensure compliance with regulations are largely lacking.

III. Election Administration

17. As laid out in the Election Code, the elections were administered by a three tiered election administration consisting of the State Election Commission (SEC), 84 Municipality Election Commissions (MECs) and 2,976 Election Bureaux (EBs). In line with the Election Code the opposition parties nominated the president and the governing parties the vice-president of the seven member SEC. For these elections the president was nominated by VMRO-DPMNE, and the vice president by the DUI. Although there are no provisions in the Election Code with regard to the selection of the other five members of the SEC, in practice they were all nominated by the other major political parties.

18. A major change in the Election Code was the manner in which the five members for the MECs and EBs were selected. Instead of being nominated by political parties as in previous elections, the members on these commissions were selected at random with the help of a computerised database from among civil servants. Under a transitional rule in the Election Code, two members on the commissions for these elections were nominated by the political parties, one by main ruling and one by the main opposition parties. In addition, the composition of the election commissions had to comply with specific criteria regarding gender and ethnic balance.

19. Due to the complex criteria regarding the appointments on the election commissions it was not possible to compose election commissions solely from among locally resident civil servants. As a result, around 3000 commission members served on an election commission other than the one they were registered to vote. As this potentially could have disenfranchised a large group of voters specific measures were taken by the SEC and local and regional authorities to ensure that the members concerned would be present in their home precinct at some time during Election Day in order to allow them to vote. Members of the ad hoc Committee noted that election commissions with a number of "outside" members serving on them seemed less susceptible to local pressures, which was considered to be a positive side effect of the new appointment criteria used.

20. The SEC administered these elections generally in a professional and efficient manner. However, the SEC continued the practice of having closed informal working sessions next to its open regular sessions. This to some extent undermined the transparency of the election process and led to some confusion about what had been officially decided at SEC meetings. Following previous recommendations of the Assembly and OSCE/ODIHR, the SEC was for the first time supported by a permanent secretariat which greatly improved the efficiency of its work.

21. Ballot papers had not only to be adapted for each of the 6 districts but also for the official language requirements of the different municipalities.

22. The Election Code stipulates mandatory training for members on MEBs and EBs. However the training sessions for EB members started with considerable delay and the official SEC manual for election procedures was received by the majority of EB members only the day before the elections, which affected the consistent implementation of election procedures on Election Day

IV. Candidate and Voter Registration

23. In total 31 political parties and coalitions, as well as two groups of voters registered for these elections. Eleven parties and coalitions registered for all six constituencies and another six for five out of the six constituencies. Party and candidate registration was overall inclusive and provided the electorate with genuine alternatives to choose from on Election Day.

24 The DPA placed one person with two criminal indictments and one person under investigation for war crimes on its list of candidates, which was not conducive for the pre-electoral atmosphere between the different parties and ethnic groups.

25. The accuracy of the voters' list had significantly improved in relation to previous elections. The Ministry of Justice, which is responsible for the maintenance of the voters' lists, displayed the lists in its regional offices as well as on the internet for public inspection. The Ministry of Justice took several initiatives to encourage citizens to check their entries on the voters' lists and conducted house to house surveys to check for errors on the list. The deadline for updating the voters' lists was 30 May 2006. The Election Code does not allow voters to be added to the list after that deadline had passed.

26. The Election Code does not allow for out-of-country voting. Citizens residing abroad, but who maintain a registered residence in "the Former Yugoslav Republic of Macedonia" have the right to vote in the elections and remain on the voters' list. Some concerns regarding the voters' list were related to possible misuse of the entries in the voters' lists of citizens residing abroad for proxy voting. In order to minimise the potential for violations, the entries of voters known to have been residing abroad for more than one year were marked with an asterisk in the voters' list by the Ministry of Justice.

V. Pre-election period

27. In line with provisions in the Election Code the campaign officially started on 15 June 2006. Prior to that date several political parties organised activities, such as party conventions and tours by party leaders that were widely conceived as campaign activities in contravention to the law. However the SEC stated that it had no competence to act in these matters, highlighting the existing ambiguities in the Election Code in this regard.

28. In a welcome development, most political parties publicly signed a Code of Conduct for fair elections on 13 June 2006.

29. Regrettably, despite the Code of Good Conduct, the first half of the campaign was overshadowed by numerous violent incidents mainly in the North-West region of the country and

involving the DUI and DPA. These incidents included attacks on party activists and campaign offices as well as a number of shooting incidents. In addition, a fight broke out between VMRO-MPMNE and SDSM supporters in central Skopje that reportedly involved shooting. These violent incidents and acts of intimidation hindered the campaign activities of a number of parties in some areas of the country. Amid strong protests of the international community, the parties concerned managed to exert control over their supporters and no further violent incidents were reported during the second half of the election campaign.

30. Election Observers received numerous complaints, some of them confirmed, regarding vote buying and attempts to intimidate voters. In addition several cases of abuse of administrative resources were reported, especially by mayors' offices. The State Anti-corruption Commission identified two cases of illegal sale of state assets in relation to these elections. The ad hoc Committee welcomes the positive role played by the State Anti Corruption Commission in publicly condemning such violations.

31. The broadcast media generally adhered to the legal provisions during the campaign and overall provided the voters with balanced information.

VI. Election day - Vote count and tabulation

32. On Election Day, the vote took place in a calm and well organised manner. It was regrettable that a number of serious, but isolated irregularities were observed such as ballot stuffing, intimidation of voters, proxy voting and theft of ballots and election materials. Procedures were inconsistently followed and especially the inking of voters' fingers, an important mechanism to prevent multiple voting, was not always properly implemented.

33. The vote count was more problematic, again with isolated instances of serious irregularities observed by international observers. The proceedings during the vote count were evaluated as bad or very bad in 15% of the polling stations visited. The main reason for this negative assessment was, as during the vote itself, the inconsistent or erroneous implementation of key procedures to be followed as a safeguard against irregularities. Many of the shortcomings observed during the vote and vote count appear to be the result of inadequate training and lack of experience of Election Bureau members

34. The ad hoc Committee welcomed the positive role by the Police forces, which maintained and restored order where necessary and generally acted within the provisions of the Election Code. In addition, domestic observers, mostly deployed by the civic organisation MOST, were present in the majority of polling stations, which increased public confidence in the fairness of the electoral processes. In many cases MOST observers appeared to be better informed about Election Day procedures than members of the Election Bureaux.

VII. Conclusions and recommendations

35. The parliamentary elections in "the former Yugoslav Republic of Macedonia" were largely in line with Council of Europe commitments and standards for democratic elections. However instances of violence and intimidation during the first half of the campaign, as well as isolated instances of serious irregularities during Election Day, tainted the democratic process. However, overall, voters could decide on the political direction of their country in a democratic fashion and the irregularities observed should not be allowed to overshadow the democratic progress made.

36. The ad hoc Committee regrets that violence and manipulation are still acceptable tools for some to further their political goals, which can only be condemned. The serious, albeit isolated, irregularities observed have no place in a democratic society and should be fully investigated by the authorities and perpetrators must be held accountable to the law.

37. The new Election Code forms a more consistent basis and improved framework for the conduct of democratic elections. However inconsistencies and ambiguities still remain which need to be addressed. The ad hoc Committee would therefore like to call upon the authorities to implement the recommendations that will be made in the upcoming Opinion of the Venice Commission on the Electoral Code.

38. The provisions in the Election Code for the composition of the election commissions have greatly improved their impartial functioning. The large number of civil servants serving on election commissions outside their place of residence did make the commissions less susceptible to local

political pressures. However care should continue to be taken during future elections for these members not to be disenfranchised from their democratic right to vote.

39 The Election Code does not allow out-of-country voting. While recognising the difficulties for out-of-country voting in a multi-constituency system, this potentially deprives a considerable group of citizens from their right to vote.

40. The ad hoc Committee regrets that parties are still divided along ethnic lines and that no party exists that has a wide appeal among all ethnic groups. This could be an obstacle for the continuing integration of all ethnic groups in the society.

Appendix 1

AD HOC COMMITTEE TO OBSERVE THE PARLIAMENTARY ELECTIONS IN "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"

5 July 2006

PRELIMINARY DRAFT PROGRAMME

Monday, 3 July 2006

Arrival of the members of the ad hoc Committee
All members will be met at the airport and provided with transport to:

Holiday Inn Skopje
Vasil Agilarski Street 2
Skopje, 91000
Tel: +389-2-3292929
Fax: +389-2-3115503

Tuesday, 4 July 2006

Holiday Inn Skopje

09:00 Opening of the meeting
- Mr Mevlüt Çavuşoğlu, Head of Delegation PACE
- Amb. Audrey Glover, Head of the OSCE/ODIHR Election Observation Mission
- Mr. Michel Rivollier, Resident Adviser of the Council of Europe in Skopje

09:15 Briefing by the OSCE/ODIHR Election Observation Mission
- Political and Legal Context: Mr Peter Palmer, Political Analyst, and Ms. Vanja Skoric, Legal Analyst;
- Pre-electoral Campaign: Mr. Peter Palmer, Political Analyst, and Mr. Harald Jepsen, Election Analyst;
- Media Monitoring: Ms. Mirella Marchese, Media Analyst
- Election Day Procedures and Forms: Mr. Harald Jepsen

11:00 Meeting with Mr Subhi Jakupi, Deputy President State Election Commission

11:30 Coffee Break

11:45 Meetings with political parties
- SDSM – Ms Karolina Ristova-Asterud, International Secretary
- VMRO-DPMNE – Mr Vlatko Cingovski, member Executive Committee
- NSDP – Mr Tito Petkovski, Chairperson

13:15 Lunch

14:45 Meetings with Political Parties
- DUI – Ms Teuta Arifi, Vice President
- VMRO-NP – Mr Jovan Andonovski, Secretary General
- DPA – Mr Besim Dogani, Vice President

16:15 Meeting with Mr Darko Aleksov, Chairperson Domestic Observer NGO "MOST"

16:30 Meeting with Mr Mirce Adamcevski, President Broadcasting Council

17:00 Technical Arrangements, Deployment, Meeting with interpreters and drivers

18:00 Departure of the teams to Prihep and Ohrid

Wednesday, 5 July 2006

Observation of the Parliamentary Elections

Thursday, 6 July 2006

Holiday Inn Skopje

09:00 Debriefing

14:00 Joint Press Conference

Afternoon

Departure of the members of the ad hoc Committee

Friday, 7 July 2006

Departure of the members of the ad hoc Committee (continued)

Appendix 2

INTERNATIONAL ELECTION OBSERVATION MISSION

PRESS RELEASE

Parliamentary elections largely met international standards, but tainted by isolated irregularities, say observers in Skopje

Skopje, 06.07.2006 - Parliamentary elections in the former Yugoslav Republic of Macedonia on 5 July largely met international standards for democratic elections, but violence and intimidation cast a shadow over the campaign, and election day, 5 July, was calm with isolated cases of serious irregularities, concluded the International Election Observation Mission in a preliminary statement released today.

Some 380 observers monitored the election on behalf of the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the Parliamentary Assembly of the Council of Europe (PACE). This was the ninth time the OSCE observed elections in the country.

"There were a number of improvements in the election process which are a result of the implementation of previous recommendations," said Audrey Glover, Head of the ODIHR mission. "However, serious incidents during the campaign and on election day are a continuing reminder that perpetrators must be held accountable in accordance with the rule of law."

Mevlut Cavusoglu, who led the PACE delegation, said: "Yesterday the citizens could, and did, decide on the political direction of their country in a generally democratic fashion. The serious, but isolated, irregularities observed should not be allowed to overshadow the democratic progress made. We regret that for some violence and manipulation are still acceptable tools to further their political goals. This can only be condemned. We welcome the willingness and capacity of the people and the electoral system to take corrective action towards such abuses, which is a sign of political maturity."

The observers also concluded that voting and counting were conducted in an orderly and peaceful manner in most of the country, but isolated, serious irregularities, such as vote buying, ballot box stuffing, tension and intimidation tainted the election process in a number of municipalities. While observers did not find any deliberate attempt to manipulate polling station protocols during the count, major procedural problems were reported.

Following an inclusive registration of political parties, the campaign was competitive, offering the electorate a broad choice. However, a number of violent incidents cast a shadow over the first half of the campaign. Observers also noted instances of abuse of administrative resources, particularly by mayors' offices.

Overall, the broadcast and print media provided the voters with a variety of views, but the public broadcaster, Macedonian Television, favoured the ruling parties in its coverage. The tone of the media coverage was generally moderate, with some partisan comments in private media.

Although the new consolidated Election Code was finalized only three months before the elections, it provides a more consistent basis for their conduct, including provisions for increasing the participation of women and national minorities.

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