

Informe sobre la observación electoral de las elecciones parlamentarias anticipadas de la República de Bulgaria

Manuel González Oropeza*

Introducción

Bulgaria cuenta con un sistema parlamentario de gobierno con un primer ministro y un presidente como jefe de Estado. Este país es miembro del Consejo de Europa desde el 7 de mayo de 1992 y forma parte de la Unión Europea a partir de 2007.

En las elecciones parlamentarias de 2009, el entonces alcalde de Sofía, Boiko Borisov, le ganó con el partido Ciudadanos para el Desarrollo Europeo de Bulgaria (GERB) al gobierno socialista de Serguéi Stánishev, quien había firmado el tratado de ingreso a la Unión Europea. La campaña de GERB se basó en promesas para acabar con la corrupción y el crimen, así como mejorar la justicia. De la misma manera, se prometió abatir la pobreza y la desigualdad que sufren las minorías étnicas, entre ellas, la población de gitanos conocida como Roma.

Las elecciones entre 2001 y 2007 se han caracterizado por pugnas y alternancia entre los partidos de izquierda y derecha, lo cual no ha permitido la reelección de ninguna corriente o partido.

Ya como primer ministro, Borisov promovió reformas a la ley electoral en diciembre de 2011, en las que afloraron preocupaciones

* Magistrado de la Sala Superior del Tribunal Electoral del Poder Judicial de la Federación.

acerca de la doble ciudadanía para búlgaros residentes en el extranjero, la composición partidista de la autoridad electoral —Comisión Electoral Central (CEC)—, la propiedad oligopólica de los medios de comunicación, así como el procedimiento de elección de los jueces, en el que intervienen los partidos políticos y el gobierno, mediante la oficina de Seguridad Nacional Estatal.

El presidente Georgi Parvanov vetó las reformas propuestas de 12 meses como requisito de residencia, así como otras medidas acerca de elección directa de alcaldes. Las iniciativas también fueron sometidas a escrutinio judicial por la Corte Constitucional, como se dio, por ejemplo, con la declaración de inconstitucionalidad del requisito de residencia de 12 meses en las elecciones municipales, por lo que se redujo a seis meses.

Igualmente, se ha estimado como desproporcionado el requisito de conseguir cinco mil firmas para apoyar las candidaturas independientes, cuando se requieren siete mil para las candidaturas de partidos políticos.

Sin embargo, se ha considerado oportuna la reforma electoral de 2011, pues representa una codificación de las disposiciones electorales anteriores. No obstante, los medios de impugnación contra los resultados de las elecciones permanecen restringidos, según el artículo 150.1 de la Constitución actual, ya que sólo están legitimados para impugnarlas ante la Corte Constitucional de Bulgaria: un quinto de la Asamblea Nacional, el presidente, el Consejo de Ministros, la Suprema Corte de Apelaciones y la Suprema Corte Administrativa, así como el fiscal general, por lo que los ciudadanos, candidatos, partidos políticos o coaliciones están excluidos de la jurisdicción electoral.

En 2009, la Corte Europea de Derechos Humanos determinó, en el precedente *Petkov & others v. Bulgaria*,¹ que el sistema restringido de acceso a la justicia vulnera los derechos consagrados en la Convención Europea de Derechos Humanos, aunado a que los plazos para la interposición de los medios de impugnación es de 24 horas, por lo que el problema estructural es la falta de acceso a la justicia para impugnar las cuestiones electorales.

¹ European Court of Human Rights. 2014. Case of Tsvetelin Petkov v. Bulgaria. Sentencia del 15 de julio. Application no. 264/06.

Como alternativa para desahogar los agravios electorales de los ciudadanos, se dio el precedente de que dos de ellos —a los que no se les permitió votar en 2011 por encontrarse en una lista de votantes limitados— acudieron ante el ombudsman, quien le ordenó a la autoridad electoral que publicitara con anticipación a las elecciones estas listas para que el ciudadano estuviera informado de su situación electoral.

La ineficacia del sistema de justicia electoral se puso en evidencia cuando en 2011 un candidato para la alcaldía de la ciudad de Varna, una de las principales del país, no pudo defenderse de los resultados electorales por haber excedido el plazo de 24 horas para interponer sus recursos.

En enero de 2013, varias protestas populares provocaron la renuncia del primer ministro Borisov, que se hizo efectiva en febrero del mismo año; como saldo de éstas, seis personas resultaron muertas por inmolación, dada la crisis económica del país.² El presidente Rosen Plevneiev nombró a un encargado del despacho el 12 marzo de 2013 y las campañas para elecciones corrieron del 12 de abril al 10 de mayo del mismo año.

Desde las elecciones de 2011, el presidente del partido político Ataka, Volen Siderov, ha basado su plataforma electoral en un discurso de odio y desprecio hacia las minorías étnicas. Por otra parte, la organización Transparencia Internacional ha declarado que 10% de los electores, por lo menos, ha sufrido la presión de ofrecimiento de dinero a cambio de su voto, lo que provocó que en Nesebar tres personas fueran detenidas por ofrecer dinero, incluido un candidato del partido GERB en las elecciones municipales.

Las minorías étnicas han sido objeto de hostigamiento. Un conflicto reciente se da en el uso de otras lenguas, pues la Constitución del país establece el búlgaro como lengua única, por lo cual se cuestionó sobremanera el discurso en turco que pronunció Ahmed Dogan en 2011, al representar a la organización política “Movimiento turco”, en un acto de campaña.

² Las altas cuotas de energía eléctrica figuraron entre los agravios persistentes.

Aspectos generales

En la elección del 12 de mayo de 2013 se presentaron 71 partidos políticos para registrarse; sin embargo, sólo 63 fueron debidamente acreditados. De cualquier manera, quedó incólume el derecho de estas organizaciones políticas para apelar ante la Suprema Corte Administrativa de Bulgaria.

La Constitución búlgara expedida en 1991 ha sido cuestionada por dos aspectos fundamentales, que consisten en la prohibición de la doble nacionalidad para el ejercicio de los derechos políticos, lo cual impacta a la población que ha sido altamente migrante por las circunstancias históricas del país, y las limitaciones en el interés jurídico para impugnar ante los tribunales competentes. Ambas deficiencias son repetidas en los reportes internacionales de The Organization for Security and Co-operation in Europe/the Office for Democratic Institutions and Human Rights (OSCE/ODIHR), así como en la Comisión de Venecia.

La Ley de Partidos Políticos de 2005 y las enmiendas de 2013 al Código Electoral,³ en el que, por cierto, se consigna como derecho la observación electoral, conformaron el marco normativo que reguló la elección de mayo de 2013. Sin embargo, las campañas políticas se caracterizaron por ser nacionalistas, con expresiones difamatorias para los candidatos y acusaciones de compra de votos y de espionaje telefónico por parte del Ministerio del Interior.

Motivo de preocupación es la equidad en la contienda electoral mediante los medios de comunicación, ya que la televisión privada está

³ Estas enmiendas provocadas por las observaciones de The Organization for Security And Co-Operation in Europe/The Office for Democratic Institutions and Human Rights (OSCE/ODIHR), y la Comisión de Venecia se refieren al régimen de transparencia adoptado en las sesiones de la Comisión Central Electoral y las comisiones distritales electorales, mediante la transmisión por internet, así como por el sistema de impugnaciones establecido para controvertir las decisiones de las comisiones electorales. No obstante, otras reformas igualmente propuestas quedaron pendientes: Reglas para la cobertura en medios con el fin de garantizar la equidad en la transmisión de promocionales (un antiguo jefe del partido en el poder GERB, Tsvetan Tsvetanov, concentra la propiedad de la mayoría de estaciones, lo que provoca un serio conflicto de interés); protección de los derechos lingüísticos de las minorías; mejoramiento del procedimiento de impugnaciones, especialmente en lo relativo a los plazos de interposición de los recursos; mecanismos para evitar y sancionar la compra de votos, y una reforma judicial que garantice la independencia e imparcialidad de sus juzgadores.

concentrada en pocos propietarios y todos los promocionales se cobran sin ninguna intervención del Estado; ni siquiera con la identificación apropiada de ser un *spot* de campaña. Por ello, en abril de 2013 el Consejo de Medios Electrónicos llegó a un acuerdo entre la Asociación de Concesionarios Búlgaros y la Comisión Central Electoral para que se identificaran los promocionales con un cintillo que indicara si se trataba o no de propaganda pagada por el partido político correspondiente. En abril 19, la organización OSCE/ODIHR comenzó a monitorear dichas transmisiones.

En la elección se renovaron las 240 curules de los distritos uninominales de la Asamblea Nacional, organizándose la elección por medio de un Comité Central de Elecciones, 31 comités distritales electorales y 12,000 comisiones electorales de precinto. No obstante que hubo impugnaciones hacia la integración de algunas comisiones distritales electorales,⁴ la mayoría de ellas fue improcedente, según las resoluciones del Tribunal Supremo Administrativo.

Aspectos específicos de la observación

El 28 de febrero de 2013, la Asamblea Nacional de Bulgaria acordó que el ministro de Asuntos Exteriores de ese país, Nickolay E. Mladenov, extendiera al presidente de la Asamblea Parlamentaria del Consejo de Europa, Jean-Claude Mignon, una invitación para que enviara observadores internacionales a las mencionadas elecciones anticipadas para renovar la Asamblea Parlamentaria, a celebrarse el 12 de mayo de 2013 (Anexo 1).

La Comisión de Venecia, por su parte, extendió una invitación al suscrito para ser acreditado como observador internacional de dichas elecciones, mediante la carta del señor Thomas Markert, en su carácter de director-secretario de dicha Comisión. El fundamento de esta invitación se encuentra en el Convenio de Colaboración entre la Asamblea Parlamentaria del Consejo de Europa y la Comisión de

⁴ Se presentaron 37 medios de impugnación acerca de la integración de las comisiones distritales electorales, de los cuales sólo cuatro fueron favorables a los actores en su resolución.

Venecia signado el 4 de octubre de 2004. En dicha carta se comisionó a Amaya Úbeda de Torres como enlace de la Comisión en la misión de observación (Anexo 2).

En sesión privada del 22 de abril de 2013, en el Pleno de la Sala Superior de este Tribunal se informó y aprobó, en primer término, acerca de la misión de observación referida a cargo del suscrito, lo cual provocó el registro correspondiente ante las autoridades de Bulgaria (Anexo 3).

La primera reunión del Comité ad hoc de la Asamblea Parlamentaria del Consejo de Europa —Parliamentary Assembly of the Council of Europe (PACE)— para la observación electoral se llevó a cabo el 10 de mayo con una bienvenida de Andreas Gross, jefe de la delegación, así como una conferencia del suscrito llamada “Desarrollos recientes en la legislación electoral de Bulgaria”, en carácter del suscrito como miembro de la Comisión de Venecia y observador acreditado. El programa completo de la observación, así como la integración completa de este comité ad hoc, se encuentran en el Anexo 4.

Los partidos políticos contendientes más relevantes fueron GERB y la “Coalición por Bulgaria” (BSP).⁵

Para la observación, la PACE hizo la distribución de los lugares de Bulgaria donde mayormente se realizaría la observación electoral de los equipos de observadores, asignando al suscrito la ciudad de Blagoevgrad, ubicada aproximadamente a 77 kilómetros al sur de Sofía (Anexo 5). En el camino, se visitó el Monasterio de Rila para observar la votación de los monjes, que se efectuó en la oficina del parque del mismo nombre, a una distancia adicional de 20 kilómetros, aproximadamente.

Con el objeto de acreditar debidamente la observación, se extendió un documento con mi nombre y procedencia, así como un gafete que me identificó como observador (Anexo 6).

⁵ Integrada por el Partido Socialista Búlgaro, el Partido Social Demócrata Búlgaro, la Unión Agraria.
Alexander Stamboliyski y el Movimiento por un Humanismo Social.

Desarrollos recientes de la legislación electoral en Bulgaria

Con base en el Reporte adoptado por el Consejo de Elecciones Democráticas de la Comisión de Venecia, aprobado en sesión plenaria el 17 de junio de 2011 (Opinión 607/2011), se llevó a cabo la plática el 10 de mayo ante los integrantes de la PACE (Anexo 7), con la presidencia de Andreas Gross, parlamentario europeo por Suiza, dando cuenta de las reformas a la ley electoral realizadas en febrero de 2013.

La delegación de la PACE fue clara al determinar que más que observar los escándalos denunciados en los medios, la operación se reducía a la observación de la elección del 12 de mayo, con una campaña electoral previa del 12 de abril al 11 de mayo. Un memorándum circulado entre los asistentes explica lo anterior (Anexo 8), al igual que los lineamientos que se debían observar por parte de la PACE (Anexo 9). La experiencia acumulada de esta organización parlamentaria en la observación electoral de Bulgaria se remonta fácilmente a 1990, tal como se observa de la relación adjunta (Anexo 10).

La ley electoral de Bulgaria fue aprobada en enero de 2011 como la primera legislación unificada del país, luego reformada en febrero de 2013, para implementar algunas recomendaciones propuestas por la OSCE/ODIHR y la Comisión de Venecia del Consejo de Europa, adoptadas en junio de 2011. Entre estas reformas se encuentra el reconocimiento legal de la observación electoral como un derecho, sobre todo el proceso electoral, así como la transparencia en las actividades electorales administrativas. Si bien en la observación fuera de Sofía este reconocimiento fue respetado en las casillas visitadas, en el informe se da cuenta de una casilla en el área de Sofía que pretendió desconocer la acreditación.

Aunque estas reformas legislativas mejoraron el marco normativo electoral del país, la Comisión de Venecia y la OSCE/ODIHR habían previsto posibles complicaciones ante lo anticipado de su adopción, ya que sólo mediaron dos meses entre la reforma legislativa y las elecciones celebradas, entre las cuales se contaba con la nueva función del CEC para transmitir resultados y difundir las quejas que fueran recibiendo, sin contar con la infraestructura adecuada. Otra de las peculiaridades de esta reforma fue la de dotar a cada casilla con una fotocopiadora,

para que cualquier persona pudiera obtener copia de los protocolos resultantes del día de la jornada electoral, situación que se comprobó durante la observación.

Sin embargo, uno de los elementos perniciosos que subsisten en la ley electoral de Bulgaria es la limitación hacia los ciudadanos con doble nacionalidad, debido al excesivo requisito de residencia de 12 meses para el ejercicio de sus derechos políticos, así como ciertas disposiciones restrictivas en relación con elecciones locales y municipales.

Otras recomendaciones de dichos organismos electorales que no fueron atendidas por Bulgaria se refieren a:

- 1) La falta de balance de los partidos políticos en la asignación de coordinadores y secretarios en todos los niveles de la administración electoral.
- 2) La necesidad de reforzar el criterio en cuanto a los partidos políticos y el financiamiento de campañas electorales, particularmente respecto de las sanciones.
- 3) La falta de acceso plural a los medios de comunicación y de cobertura mediática.
- 3) La garantía de los derechos lingüísticos de las minorías (turco).
- 4) La reducción de la privación de los derechos políticos sólo a las personas condenadas a prisión por la comisión de delitos graves.
- 5) La apertura de los medios de impugnación a los electores para discutir los cómputos finales de las elecciones.

Jornada electoral

En las elecciones anticipadas para renovar la Asamblea Nacional de Bulgaria, efectuadas el 12 de mayo de 2013, participaron alrededor de seis movimientos políticos: GERB (partido en el gobierno); “Coalición por Bulgaria” (reunión de cuatro partidos políticos); Movimiento por derechos y libertades (DPS); Ataka (partido de extrema derecha); “Coalición azul” (reunión de tres partidos políticos), y el Movimiento de orden, derecho y justicia (Anexo 11).

Se formaron 12 grupos de observadores integrados con dos personas cada uno para la misión de la PACE. El grupo 8, en el que estuvo el

suscrito, contó con la presencia de Amaya Úbeda de Torres, integrante de la Comisión de Venecia, con destino final a la ciudad de Blagoevgrad (Anexo 12), distante 100 kilómetros al sur de Sofía.

Se visitaron 10 casillas, en su mayoría, rurales; en una de éstas se concentró la votación de los monjes del monasterio más grande de Bulgaria, ubicado en Rila, donde se presencié la votación de tres de ellos, de un total de 51. Destaca la presencia femenina en la integración de las mesas directivas de casillas. Los lugares visitados fueron:

- 1) Usoika (100500004)
- 2) Kocherinovo (102700003)
- 3) Rila (103800004)
- 4) Riltsi (010300112)
- 5) Selen-Dol (010300114)
- 6) Blagoevgrad (010300119)
- 7) Blagoevgrad (010300028)
- 8) Sofía (254619027)
- 9) Sofía (244603016)
- 10) Sofía (244601010)

Sólo en la casilla listada en último lugar, ubicada en la Preparatoria Francesa, en un céntrico lugar de la ciudad de Sofía, ocurrieron varias irregularidades, cometidas por Avelina Aleksandrova, jefa de la mesa directiva de casilla:

- 1) Desconocimiento de la observación electoral internacional. A pesar de mostrarle las acreditaciones oficiales, intentó expulsar al grupo del centro de votación.
- 2) Trató de expulsar a la traductora acreditada para acompañar al grupo.
- 3) Hubo un excesivo retraso en el cómputo de la votación, con la clara intención de que abandonáramos el local. Se tardó más de una hora en el cómputo (20:00 a 21:00 horas) de 450 votos (listado de 800 electores) y más de dos horas en el llenado del acta o protocolo de resultados (21:00 a 23:00 horas), el cual se anexa (Anexo 13).
- 4) Hubo amenazas para que los observadores no hablaran, ni siquiera en voz baja, dentro del recinto; ni tampoco podían moverse libremente en el local correspondiente, por lo que los integrantes del

Informe sobre la observación electoral de las elecciones parlamentarias...

grupo estuvieron más de cuatro horas sentados y callados en un rincón del centro de votación.

De todo ello se dio cuenta en la reunión de la PACE. Adicionalmente se pudo observar:

- 1) Defectuosa representación de los partidos políticos en las casillas visitadas.
- 2) Boletas sin número de identificación, ni sellos ni cómputos en cada casilla.
- 3) Falta de capacitación de los integrantes de las mesas directivas de casillas.
- 4) Imposibilidad de observación en los centros de recuento y concentración distrital de los votos.

El resultado fue una paradójica victoria de Boiko Borisov (GERB), el mismo jefe de Estado que había sido obligado a dimitir dos meses y medio atrás, con una votación de 31% que, en opinión de la prensa internacional, era insuficiente para gobernar al más pobre de los países de la Unión Europea. Dicho porcentaje alcanzó para contar con tan sólo 97 diputados de 240 que integran la Asamblea Nacional. Le seguirían los candidatos de la coalición BSP, con un porcentaje cercano a 25%.

Las denuncias de fraude electoral también permearon inmediatamente las elecciones con la requisa de 350,000 boletas falsas, lo cual, con seguridad, sería objeto de investigación. Finalmente, el pulso del descontento sigue latente con la celebración de estas elecciones.⁶ El mismo Borisov mostró su descontento al pedir la anulación de la elección el 16 de mayo de 2013, ante la penalización de su partido, GERB, que, de manera inequitativa, según él, se le había impuesto.⁷

⁶ Blanco, Silvia. 2013. "El Gobierno búlgaro que cayó por las protestas resucita en las urnas". *El País*, 13 de mayo, sección Internacional.

⁷ "Bulgarie: Borissov demande des nouvelles élections". 2013. *Le Monde*, 16 de mayo, sección Europe.

12/03/2013 18:53 0033388619238

PR BULGARIA

PAGE 02/02



REPUBLIC OF BULGARIA

MINISTER OF FOREIGN AFFAIRS

Nº 33-00-180

MR. JEAN-CLAUD MIGNON
PRESIDENT OF THE PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Sofia, 12 March 2013

Dear Mr. Mignon,

I would like to inform you that in accordance with the Decision of the Bulgarian National Assembly of 28 February 2013, I am authorized to extend an invitation on behalf of the National Assembly to the Parliamentary Assembly of the Council of Europe to send observers to the Parliamentary elections in Bulgaria, which will take place on 12 May 2013. The National Assembly has expressed its will to invite an expanded Election Observation Mission.

Please accept, Mr. President, the assurance of my highest consideration.

Sincerely yours,

Nikolay E. MLADENOV
Minister



2, ALEXANDER ZHEBDOV ST., SOFIA 1113, BULGARIA
TEL: +359 (2) 9482995, FAX: +359 (2) 9713405

E-MAIL: MINISTER@MFA.BG WEB PAGE: WWW.MFA.BG, FOLLOW US: TWITTER/MFABULGARIA

12/03/2013 18:55

2/2

0033388619238

ANEXO: 1

Informe sobre la observación electoral de las elecciones parlamentarias...



JDem. 149
AU/br

Strasbourg, 17 April 2013

Dear Sir,

I would like to invite you to provide legal assistance to the Parliamentary Assembly of the Council of Europe delegation observing the Parliamentary Elections in Bulgaria. This assistance will take place in Sofia from 10 (10 am) to 13 May 2013 (2 pm).

In conformity with the co-operation agreement signed between the Parliamentary Assembly and the Venice Commission on 4 October 2004, you are invited to join the Assembly's election observation mission as a legal adviser.

I note that your institution will cover your travel expenses and costs related to this trip. I would be grateful if you could inform the secretariat of your travel details so that we can make arrangements for you to be met at the airport.

Specific travel-related risks are covered by a CHARTIS insurance policy (No. 2.004.761), which provides cover for persons up to their 76th birthday. If the need arises, the CHARTIS round-the-clock helpdesk can be called on +32 3 253 69 16.

Ms Amaya Úbeda de Torres is responsible for the organisation of this meeting for the Venice Commission. Do not hesitate to contact her by telephone +33 (0)3 90 21 55 90 or by e-mail: amaya.ubeda@coe.int or her assistant, Ms Brigitte Rall, on +33 (0)3 88 41 31 72, on fax +33 (0)3 88 41 37 38 or by e-mail brigitte.rall@coe.int for any further information.

Yours faithfully,

Thomas Markert
Director, Secretary of the Commission

Mr Manuel González Oropeza
Magistrate, Federal Electoral Tribunal
Carlota Armero N° 5000
Colonia CTM Culhuacán
Piso 4 edificio sede
Mexico City
eugenia.perez@te.gob.mx
alberto.guevara@te.gob.mx

ANEXO: 2

Venice Commission - Council of Europe Commission de Venise - Conseil de l'Europe
F-67075 Strasbourg Cedex Tel. +33 (0) 3 90 41 55 90 Fax +33 (0) 3 88 41 37 38
E-mail: venice@coe.int Web site: www.venice.coe.int

AD HOC COMMITTEE FOR THE OBSERVATION OF THE PARLIAMENTARY ELECTIONS IN BULGARIA
 COMMISSION AD HOC POUR L'OBSERVATION DES ELECTIONS LEGISLATIVES EN BULGARIE
 12 May - mai 2013
 ELECTORAL MISSION : 9-13 May - mai 2013

Ms/Mr MANUEL GONZALEZ OROPEZADelegation/délégation MEXICO
 Mme/M.
 Tel No . + 55 52 57282445 GSM N° + e-mail
 Contact person : MA. EUGENIA PEREZ CASTARO Tel No . + 55 54374985 e-mail eugenia.perez@te.gob.mx
 Nationality / nationalité MEXICANA
 Passport n° D0036534 expiry date/date d'expiration 06 /11/ 2016 Issued by / délivré par. MINISTRY OF FOREIGN AFFAIRS, MEXICO
 Hotel "Sheraton Sofia –Hotel Balkan" Rate (80€ Classic Room) YES /oui ☐ NO /non ☐
 per night including free WIFI (in common areas), buffet breakfast and 9%VAT (Additional charge: 0.67 Tourist tax per person per night), 5 Sveta Nedelya Square, Sofia Tel: +359 2 9816541, Web: www.luxurycollection.com/Sofia
 You are kindly requested to send the attached credit card form IN PDF FORMAT directly to the hotel to guarantee your room/ Vous êtes prié(e)s de bien vouloir envoyer le formulaire de carte de crédit ci-joint EN FORMAT PDF directement à l'hôtel à fin de garantir votre séjour.: sofia.reservations@luxurycollection.com

Arrival in / Arrivée à Sofia Departure from / départ de Sofia
 Date - time/heure: MAY 9, 22:10 Date - time/heure: MAY 14, 7:10
 Flight/ vol n° : LH 1706 Flight/ vol n° : LH 1707
 Language / langue # English/Anglais ☐ French/Français ☐

Deployment on election day / déploiement le jour des élections:
 Please indicate more than one option / Merci de bien vouloir indiquer plus d'un choix.

Area*	Option 1	Option 2	Option 3
Sofia and surrounding area	☒		
Plovdiv			
Blagoevgrad			
Montana - Vratsa			
Pazardzhik			
Veliko tarnovo*			
Varna*			
Other (precise).....			

*These deployments require a pre-deployment on Saturday and a return on Monday



ANEXO: 3

Kindly return this form by 23 April 2013 to: Ms Anne GODFREY PACE Secretariat
 Tel n : +33 388 41 31 34 Fax n° + 33 388 41 27 76 e-mail elections.pace@coe.int

Informe sobre la observación electoral de las elecciones parlamentarias...



Parliamentary Assembly
 Assemblée parlementaire

<http://assembly.coe.int>

3 May 2013



**AD HOC COMMITTEE FOR THE OBSERVATION OF THE
 EARLY PARLIAMENTARY ELECTIONS IN BULGARIA
 (12 May 2013)**

**Draft programme for joint meetings
 of international election observation delegations**

Thursday, 9 May 2013

Arrival at the Sofia international airport and transfer to the Sheraton hotel

Sheraton Sofia Hotel Balkan

5, Sveta Nedelya Square

1000 Sofia, Bulgaria

theluxurycollection.com/sofia

Contact person: Ms Silva Hovsepian-Petkova (silva.petkova@sofiabalkan.net)

Phone (mobile): +359 899 900 268

Friday, 10 May 2013

10.00-11.00

PACE Ad hoc Committee meeting
Sheraton Hotel, Presidential Suite

- Briefing on the pre-electoral mission by Mr Andreas Gross, Head of the Delegation, and members of the pre-electoral mission
- Recent developments in the field of election legislation of Bulgaria by Mr. Manuel González Oropeza, Member of the Venice Commission (Mexico)
- Practical and logistical arrangements, Secretariat

14.00 – 18.00

Joint meeting of international election observation delegations
Conference Room Anel, Hotel Anel, 14 Todor Alexandrov blvd. Sofia

14.00-14.15

Opening remarks:

- Mr Eoghan Murphy, Special Coordinator, Leader of the short term OSCE observer mission
- Mr Roberto Battelli, Head of the OSCE PA delegation
- Mr Andreas Gross, Head of PACE delegation

14.15-15.15

Meeting with Mr. Miklos Haraszti, Head of OSCE/ODIHR mission and members of his team

15.15-18.00

Meeting with the leaders and representatives of main political parties and coalitions

PP GERB
 BSP

ANEXO: 4-1



Parliamentary Assembly
 Assemblée parlementaire

<http://assembly.coe.int>

AS/BUR/BUL (2013) 01 REV6
 25 April / avril 2013



**AD HOC COMMITTEE FOR THE OBSERVATION OF THE
 EARLY PARLIAMENTARY ELECTIONS IN BULGARIA**

**COMMISSION AD HOC POUR L'OBSERVATION DES
 ELECTIONS LEGISLATIVES ANTICIPEES EN BULGARIE**

12 May / mai 2013

List of members / Liste des membres

ANDREAS GROSS*, HEAD OF THE DELEGATION / CHEF DE LA DÉLÉGATION (SWITZERLAND / SUISSE, SOC)

**GROUP OF THE EUROPEAN PEOPLE'S PARTY (EPP/CD)
 GROUPE DU PARTI POPULAIRE EUROPEEN (PPE/DC)**

VIOREL BADEA
 ŞABAN DIŞLI
 ALEKSANDAR NIKOLOSKI

MARIETTA DE POURBAIX-LUNDIN*

ROMANIA / ROUMANIE
 TURKEY / TURQUIE
 "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA /
 "EX-REPUBLIQUE YUGOSLAVE DE MACEDOINE"
 SWEDEN / SUÈDE

**SOCIALIST GROUP (SOC)
 GROUPE SOCIALISTE (SOC)**

LENNART ÅXELSSON
 PAOLO CORSINI
 RENÉ ROUQUET
 KOSTAS TRIANTAFYLLOS
 DANA VAHALOVA

SWEDEN / SUÈDE
 ITALY / ITALIE
 FRANCE
 GREECE / GRÈCE
 CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

**EUROPEAN DEMOCRAT GROUP (EDG)
 GROUPE DÉMOCRATE EUROPÉEN (GDE)**

MEVLÜT ÇAVUŞOĞLU*
 GIACOMO STUCCHI
 ØYVIND VAKSDAL

TURKEY / TURQUIE
 ITALY / ITALIE
 NORWAY / NORVÈGE

**ALLIANCE OF LIBERALS AND DEMOCRATS FOR EUROPE (ALDE)
 ALLIANCE DES DÉMOCRATES ET DES LIBÉRAUX POUR L'EUROPE (ADLE)**

ALFRED HEER
 TINATIN KHIDASHELI*
 ANDREA RIGONI
 IONUT STROE

SWITZERLAND / SUISSE
 GEORGIA / GÉORGIE
 ITALY / ITALIE
 ROMANIA / ROUMANIE

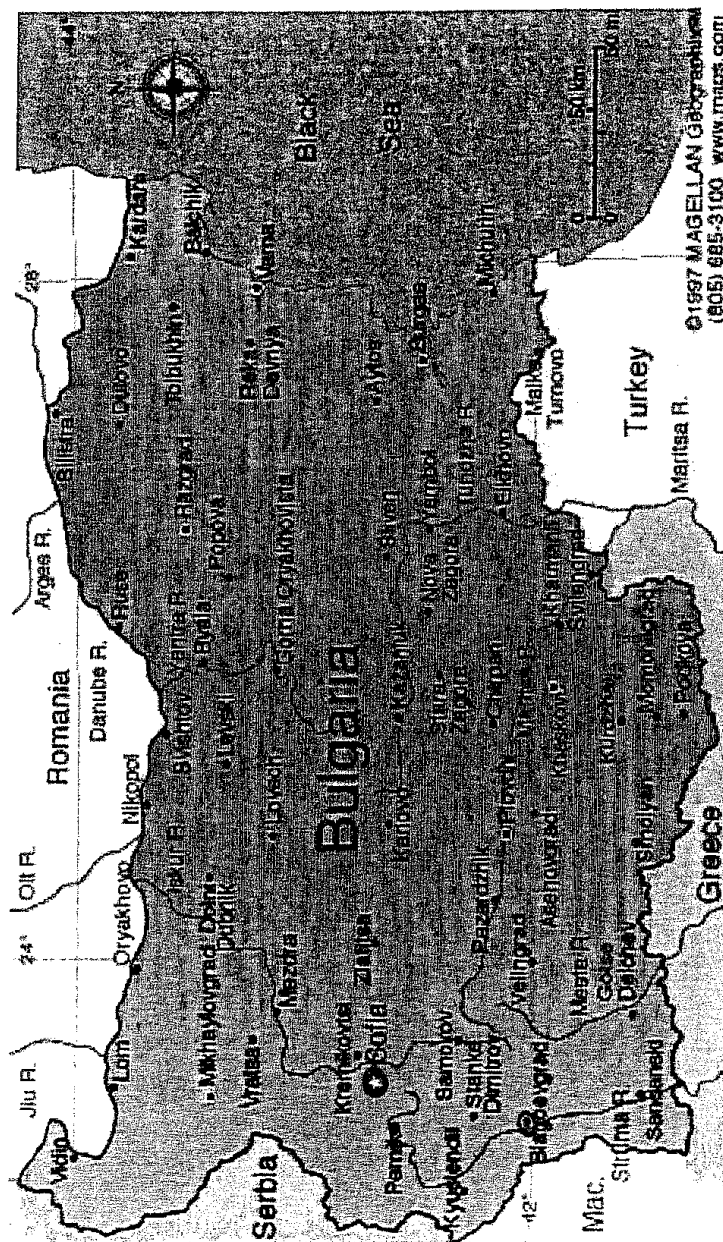
**GROUP OF THE UNIFIED EUROPEAN LEFT (UEL)
 GROUPE POUR LA GAUCHE UNITAIRE EUROPÉENNE (GUE)**

NIKOLAJ VILLUMSEN*

DENMARK / DANEMARK

ANEXO: 4-2

Informe sobre la observación electoral de las elecciones parlamentarias...



ANEXO: 5-1

Приложение № 34

ЦЕНТРАЛНА ИЗБИРАТЕЛНА КОМИСИЯ

УДОСТОВЕРЕНИЕ

за наблюдател

№ 1-М-32 / 26.04.2013 г.

(по чл. 26, ал. 1, т. 26 и чл. 101б във връзка с § 1, т. 18, б. „а“ от ДР на Изборния кодекс)

Централната изборителна комисиия удостоверява, че с

Решение № 2482-НС / 26.04.2013 г.

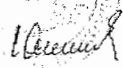
МАНУЕЛ ГОНСАЛЕЗ ОРОПЕЗА

от Мексико

е регистриран(а) за наблюдател на изборите за народни представители на 12 май 2013 г.
в качеството на представител на:

Парламентарната асамблея на Съвета на Европа (ПАСЕ)

26.04.2013

Председател: 
Красимира Медарова
Секретар: 
Севинч Солакова

ANEXO: 6

Informe sobre la observación electoral de las elecciones parlamentarias...

НАБЛЮДАТЕЛ

ANEXO: 6



Strasbourg, 21 June 2011

Opinion No. 607 / 2011

CDL-AD(2011)013
Or. Engl.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

AND

OSCE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS
(OSCE/ODIHR)

**JOINT OPINION
ON THE ELECTION CODE
OF BULGARIA**

**Adopted by the Council for Democratic Elections
at its 37th meeting
(Venice, 16 June 2011)
and by the Venice Commission
at its 87th plenary session
(Venice, 17-18 June 2011)**

**based on comments by
Mr Oliver KASK (Member, Estonia)
Mr Ugo MIFSUD BONNICI (Member, Malta)
Mr Kåre VOLLAN (Expert, Norway)
Mr Denis PETIT (Expert, OSCE/ODIHR)**

*This document will not be distributed at the meeting. Please bring this copy.
www.venice.coe.int*

ANEXO: 7

Informe sobre la observación electoral de las elecciones parlamentarias...

CDL-AD(2011)013

- 2 -

Table of contents

I.	Introduction.....	- 3 -
II.	General Comments.....	- 6 -
III.	Right to Vote and be Elected.....	- 6 -
IV.	Election Administration	- 9 -
V.	Political Party Registration.....	- 10 -
A.	Signatures and deposits	- 10 -
B.	Registration	- 12 -
VI.	Political Party and Campaign Financing.....	- 12 -
VII.	Voter Lists and Voters' Registration.....	- 13 -
VIII.	Campaign	- 14 -
IX.	Media.....	- 14 -
X.	Voting Process	- 14 -
XI.	Internet Voting	- 15 -
XII.	Counting Process	- 16 -
XIII.	Complaints and Appeals Procedures.....	- 17 -
A.	Complaints against Election Commissions' Decisions and Actions	- 17 -
B.	Contesting Election Results	- 17 -
C.	Time-limits	- 18 -
XIV.	Specific Issues Concerning the Local Self-Government Bodies	- 19 -
A.	Municipal councillors	- 19 -
B.	The direct election of mayors of "local settlements"	- 19 -
C.	Election of "district mayors"	- 19 -
XV.	Other issues	- 20 -
XVI.	Concluding remarks	- 20 -

I. Introduction

1. On 3 December 2010, the President of the Congress of Local and Regional Authorities of the Council of Europe ("the Congress") requested the Venice Commission to prepare an opinion on the Election Code of Bulgaria ("the Code").

2. This request followed a monitoring visit to Bulgaria by a delegation of the Congress from 24-26 November 2010. At the time of the request, the Election Code was still a draft. On 19 January 2011 the National Assembly of Bulgaria adopted the Election Code, which entered into force in January 2011.¹ The Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) decided to provide a joint legal opinion on the adopted Code.

3. The Election Code of Bulgaria is the first unified electoral legislation in Bulgaria, bringing together previous separate electoral laws. The Election Code supersedes the followings acts:

- Act on the Election of Members of Parliament (2001 and last amended in 2009);
- Act on the Election of President and Vice President of the Republic of Bulgaria (1991 and last amended in 2006);²
- Act on the Election of Members of the European Parliament from the Republic of Bulgaria (2007); and
- the Local Elections Act (1995).

4. The adoption of the unified Election Code of Bulgaria was preceded by a debate between the President and the National Assembly regarding certain provisions of the Code. In early January 2011, President Georgi Parvanov vetoed the Code adopted by the National Assembly. The Code was returned to Parliament for reconsideration of a wide range of its provisions. The presidential veto was eventually overridden by a "majority of more than half of all Members of the National Assembly".³

5. Among the reservations voiced by President Parvanov were the following: the 12-months residency requirement in order to participate in local elections; limitations on voting rights of citizens with dual citizenship, preventing certain parts of the population holding dual citizenship, particularly Bulgarians of Turkish ethnicity, from being eligible to stand as candidates; abolition of the direct election of district mayors; increased population threshold for the election of mayors of villages or "settlements"; and reduction of the number of municipal councillors.

6. Following its monitoring visit, the Congress raised the following concerns:

"[...] the draft text introduces major changes regarding local elections which will henceforth take place only in the territory of the country. Active and passive electoral rights in the future will be limited by a residency requirement of 12 months. The mayor will still be elected under the majority system, while the municipal councillors under the proportional system, but the number of municipal councillors will be reduced by 20% according to the new thresholds defined by the different sizes of municipalities. A reduction in the number of political parties being represented at local

¹ Election Code of the Republic of Bulgaria in force as of 19 January 2011 (CDL-REF(2011)008). [www.venice.coe.int/docs/2011/CDL-REF\(2011\)008-e.pdf](http://www.venice.coe.int/docs/2011/CDL-REF(2011)008-e.pdf).

² www.legislationline.org/documents/action/popup/id/6202.

³ As required by Article 101(2) of the Constitution.

Informe sobre la observación electoral de las elecciones parlamentarias...

CDL-AD(2011)013

- 4 -

level is also expected along with further constraints for registration of political parties and coalitions.

Moreover, this draft bill introduces an increased population threshold to elect the mayors of mayoralities, which goes up from 150 to 500 inhabitants. It also limits the number of designated deputy mayors and as a consequence the powers of the mayors to determine their own internal administrative structures as stated in Article 6, paragraph 1 of the European Charter of Local Self-Government.⁴

7. This joint opinion is based on an English translation of the Code provided by the National Assembly of Bulgaria to the Venice Commission on 11 February 2011. The accuracy of the translation as well as of the numbering of articles, clauses, and sub-clauses cannot be guaranteed, and therefore the interpretation of the latter as reflected in the comments made hereafter may have been affected by inaccuracies in the translation.

8. On 12-13 May, the Venice Commission and OSCE/ODIHR conducted a joint expert visit to Sofia. They had meetings with the Speaker of the National Assembly, the Legal Affairs Committee of the National Assembly, the president and judges of the Constitutional Court, the chairperson and other members of the Central Election Commission, the National Association of Municipalities as well as representatives of the main political parties of the Republic of Bulgaria. The visit took place a few days after the Constitutional Court handed down its decision on a petition filed by opposition political parties.⁵ The Court declared unconstitutional several provisions of the Election Code, which have been matters of discussion during the expert visit. The information and views shared with the delegation during and after the visit have been taken into consideration in this opinion.

9. Following the ruling of the Constitutional Court on 4 May 2011, the National Assembly of Bulgaria on 2 June adopted a series of amendments to the Election Code, some of which addressed OSCE/ODIHR and Venice Commission recommendations.

10. The recommendations and comments offered in this opinion are intended to assist the authorities in bringing the Election Code closer in line with OSCE commitments as well as Council of Europe and other international standards. The Venice Commission and OSCE/ODIHR remain committed to providing assistance to further improve the legal framework for elections in Bulgaria. It is important to note that the ultimate test for assessing compliance of the Election Code with international standards lies with its implementation, particularly the level of political will exhibited by state institutions and officials responsible for implementing the legislation.

11. In the course of drafting this opinion, due consideration was given to provisions of the Constitution of the Republic of Bulgaria⁶ of relevance to electoral matters. Other legal acts, such as the Political Party Act⁷ and the electoral laws repealed by the Code, have also been taken into consideration.⁸ However, this joint opinion does not provide an analysis of the laws

⁴ Congress of Local and Regional Authorities of the Council of Europe, Congress Monitoring visit to Bulgaria, Meetings in Sofia, Veliko Tarnovo, Pernik (24-26 November 2010): <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1709041&Site=Congress>.

⁵ Constitutional Court of Bulgaria, Decision no. 4/2011, 4 May 2011.

⁶ Promulgated, State Gazette No. 56/13.07.1991 (effective 13.07.1991), amended and supplemented, SG No. 85/26.09.2003, SG No. 18/25.02.2005, SG No. 27/31.03.2006, Decision No. 7 of the Constitutional Court of the Republic of Bulgaria of 13.09.2006 - SG No. 78/26.09.2006, SG No. 12/6.02.2007, www.vks.bg/english/vksen_p04_01.htm.

⁷ Political Party Act of the Republic of Bulgaria, as amended by State Gazette No. 6 2009 <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN016314.pdf>, <http://www.legislationline.org/documents/action/popup/id/15811>.

⁸ See para. 3 of this joint opinion for details on these laws.

that are cross-referenced in the Code. More specifically, it does not include a review of the Criminal Code, the Political Party Act, the Administrative Violations and Sanctions Act, the Meetings, Rallies and Demonstrations Act, the Territorial Administration of the Republic of Bulgaria Act, the Local Self-Government and Local Administration Act, the Citizens' Direct Participation in Central Government and Local Self-Government Act, the Ministry of Interior Act, the Civil Registration Act, and the Constitutional Court Act.

The recommendations hereafter are based on international electoral standards and commitments as well as good practices for the conduct of democratic elections. Among the documents relied upon are the following:

- the 1990 OSCE Copenhagen Document;⁹
- OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation;¹⁰
- Venice Commission documents:
 - i. Code of Good Practice in Electoral Matters;¹¹
 - ii. Code of Good Practice in the field of Political Parties;¹²
- the Council of Europe European Charter on Local Self-Government;¹³
- Council of Europe Parliamentary Assembly ("the PACE") documents:
 - i. Post-monitoring dialogue with Bulgaria, Report;¹⁴
 - ii. Post-monitoring dialogue with Bulgaria, Resolution;¹⁵
 - iii. Observation of the parliamentary elections in Bulgaria (5 July 2009) – Report;¹⁶
- OSCE/ODIHR election observation mission reports:
 - i. OSCE/ODIHR Election Assessment Mission Report on the Presidential Election (22 and 29 October 2006);¹⁷
 - ii. OSCE/ODIHR Limited Election Observation Mission Report on the Parliamentary Elections (5 July 2009).¹⁸

12. This opinion takes also into consideration standards and principles recognized by the United Nations Human Rights Committee and the European Court of Human Rights. Bulgaria has ratified both the International Covenant on Civil and Political Rights and the Optional

⁹ Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE. Copenhagen, 29 June 1990. www.osce.org/odihr/elections/14304.

¹⁰ OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation, adopted by the Venice Commission at its 84th session (Venice, 15-16 October 2010, CDL-AD(2010)024).

¹¹ Venice Commission of the Council of Europe, Code of Good Practice in Electoral Matters, adopted by the Venice Commission at its 52nd session (Venice, 18-19 October 2002, CDL-AD(2002)023rev), [www.venice.coe.int/docs/2002/CDL-AD\(2002\)023rev-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023rev-e.pdf).

¹² Venice Commission of the Council of Europe, Code of Good Practice in the field of Political Parties, adopted by the Venice Commission at its 78th session (Venice, 13-14 March 2009, CDL-AD(2009)021), [www.venice.coe.int/docs/2009/CDL-AD\(2009\)021-e.pdf](http://www.venice.coe.int/docs/2009/CDL-AD(2009)021-e.pdf).

¹³ Strasbourg, 15 October 1985, ETS 122. Ratified by Bulgaria on 10 May 1995, <http://conventions.coe.int/treaty/en/Treaties/html/122.htm>.

¹⁴ Post-monitoring dialogue with Bulgaria, Report by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee). Rapporteur: Mr Serhiy HOLOVATY, Ukraine, Alliance of Liberals and Democrats for Europe (Doc. 12187, 29 March 2010).

<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc10/EDOC12187.htm>.

¹⁵ Resolution 1730 (2010). Text adopted by the Assembly on 30 April 2010 (18th Sitting).

<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/t10/ERES1730.htm>.

¹⁶ Council of Europe, Parliamentary Assembly, Observation of the parliamentary elections in Bulgaria (5 July 2009), Report of the ad hoc Committee of the Bureau of the Assembly. Rapporteur: Mr Tadeusz IWINSKI, Poland, Socialist Group (Doc. 12008, 16 September 2009). The 2006 Presidential election was not observed by the Parliamentary Assembly of the Council of Europe. <http://assembly.coe.int/Documents/WorkingDocs/Doc09/EDOC12008.pdf>.

¹⁷ Published on 22 July 2007, www.osce.org/odihr/elections/bulgaria/24138.

¹⁸ Published on 30 September 2009, www.osce.org/odihr/elections/38934.

Informe sobre la observación electoral de las elecciones parlamentarias...

CDL-AD(2011)013

- 6 -

Protocol to the International Covenant on Civil and Political Rights as well as the European Convention on Human Rights.¹⁹

13. The present opinion was adopted by the Council for Democratic Elections at its 37th meeting (Venice, 16 June 2011) and by the Venice Commission at its 87th plenary session (Venice, 17-18 June 2011).

II. General Comments

14. The unified Election Code provides the regulatory framework for the conduct of all types of elections. It provides for direct election of members of the National Assembly, the President and Vice-President, the Bulgarian members of the European Parliament as well as municipal councillors and mayors.²⁰ Codification of the different laws regulating elections is a welcome step. It minimizes the risks of discrepancies and overlaps, facilitates the administration of elections and greatly contributes to a uniform application of the law. This was a recurrent recommendation made by OSCE/ODIHR in its election observation reports since 2006. This reform is regarded as an important step toward the consolidation of the legal framework regulating the conduct of democratic elections.²¹ Nevertheless, further improvements are still possible. They do not necessarily involve major changes to the overall legal framework, rather adjustments or additions that may, however, prove decisive in addressing recommendations made by OSCE/ODIHR in connection with the 2009 parliamentary elections. The recommendations offered in this opinion should be given consideration as soon as possible so that they can be applied to the upcoming presidential and local elections. Not all of them may require amendments to the Code; they may be given effect through CEC instructions or other legal means. On the other hand, the Venice Commission and OSCE/ODIHR are fully aware that some of the recommendations made below would require amendments to the Constitution, which cannot be envisaged in the short term. They should however be examined and discussed with a view to a possible constitutional reform in the long term.

15. The Code provides that in parliamentary elections there are 31 multi-member constituencies for 240 seats of the National Assembly. The number of mandates in a multi-member constituency may not be less than four. In elections to the European Parliament, all members are elected from a single constituency. In municipal elections, municipal councillors are elected in a single constituency for the municipality. The electoral system for parliamentary elections is proportional (seats are allocated using the Hare-Niemeyer method) and a national threshold of 4 per cent of valid votes for political parties and coalitions is applied. Parliament is elected for four years. Political parties, coalitions and independent candidates may take part in the elections. They have to be registered with the electoral administration in order to be or to nominate candidates. In parliamentary, presidential and European Parliament elections, political parties have to collect 7,000 signatures in order to be registered with the Central Election Commission (CEC). Coalitions can only consist of political parties which have been registered by the CEC.

III. Right to Vote and be Elected

16. Article 42(1) of the Constitution grants the right to vote to Bulgarian citizens who are at least 18 years old, are not under a judicial interdiction and are not serving a prison sentence.

¹⁹ The United Nations Human Rights Committee has adopted a General Comment (General Comment 25) interpreting the principles for democratic elections set forth in Article 25 of the International Covenant on Civil and Political Rights (ICCPR).

²⁰ Article 2(1) of the Code.

²¹ See the OSCE/ODIHR Election Assessment Mission Report on the 22 and 29 October 2006 Presidential Election (www.osce.org/odihr/elections/bulgaria/24138).

Article 65(1) of the Constitution grants the right to be elected to the National Assembly to Bulgarian citizens at least 21 years of age, who do not hold citizenship of another country, are not under a judicial interdiction and are not serving a prison sentence. Article 93(2) stipulates that any natural born Bulgarian citizen over 40 years of age, qualified to be elected to the National Assembly and who has resided in the country for the five years preceding the election can run for the presidency. In addition to the limitations spelled out in the Constitution, the Code foresees further limitations to electoral rights.

17. Both the Constitution and the Code restrict the right to vote for persons serving a custodial sentence. From clarifications obtained during the expert visit, it seems that '*custodial sentence*' applies to all persons in prison regardless of the severity of the sentence incurred. Article 45(2) however provides that detainees who are not subject to an 'enforceable sentence' shall be placed on the electoral roll. Deprivation of voting rights should only be possible when a person has been convicted of a criminal offence of such a serious nature that forfeiture of suffrage rights may be considered proportionate to the crime committed.²² Therefore, the OSCE/ODIHR and the Venice Commission recommend that this restriction be narrowly defined to apply only to persons convicted of a serious crime.

18. Bulgarian citizens holding the citizenship of another country cannot stand as candidates in parliamentary, presidential and municipal elections. While the prohibition of dual citizenship for parliamentary and presidential elections is spelled out in the Constitution, the same prohibition for municipal elections in the Election Code is not supported by the Constitution. In its Opinion on the Constitution of Bulgaria,²³ the Venice Commission did not comment on the limitation of the right to be elected for Bulgarian citizens who hold dual citizenship. Asked to examine the matter, the Constitutional Court ruled that the prohibition of dual citizenship for municipal elections was not contrary to the Constitution. While there is now growing consensus that recognition of dual citizenship is not a problem under international law and while there are more countries that have opted to accept it, no international treaty or instrument contains an obligation for States that prohibit dual citizenship to repeal such prohibitions. That said, the consequences attached to such prohibitions have come under closer scrutiny by international bodies as they may entail discrimination on the ground of nationality that may exceed what is permissible under relevant human rights instruments. In this context, while OSCE/ODIHR and Venice Commission are aware of the reservation made by Bulgaria to Article 17.1 of the European Convention on Nationality,²⁴ they would like to draw attention to the evolving jurisprudence of the European Court of Human Rights on matters of dual citizenship. In its judgement in the case *Tanase v. Moldova*,²⁵ the European Court of Human Rights has considered that the exclusion of citizens holding dual citizenship from eligibility to vote and to be elected is a disproportionate measure and thus contrary to Article 3 of the First Protocol of the European Convention on Human Rights. The reasoning followed by the Court could *mutatis mutandis* be applied to Bulgaria, and there is indeed a risk that the existing legal framework in Bulgaria

²² See European Court of Human Rights, *Hirst (2) v. the United Kingdom*, judgment of 6 October 2005, Application no. 74025/01; *Frod v. Austria*, judgment of 8 April 2010, Application no. 20201/04, paragraph 25; *Greens and M. T. v. the United Kingdom*, judgment of 23 November 2010, Applications nos. 60041/08 and 60054/08. See also the Code of Good Practice in Electoral Matters, I 1.1 d.

²³ Venice Commission, Opinion on the Constitution of Bulgaria Adopted by the Venice Commission at its 74th Plenary Session (Venice, 14-15 March 2008; CDL-AD(2008)009). [www.venice.coe.int/docs/2008/CDL-AD\(2008\)009-e.pdf](http://www.venice.coe.int/docs/2008/CDL-AD(2008)009-e.pdf).

²⁴ Council of Europe, European Convention on Nationality, Strasbourg, 6 November 1997, ETS no. 166, <http://conventions.coe.int/Treaty/en/Treaties/Html/166.htm>, Article 17.1. "Under the terms of this reservation, the Republic of Bulgaria shall not apply in respect of the nationals of the Republic of Bulgaria in possession of another nationality and residing on its territory the rights and duties for which the Constitution and laws require only Bulgarian nationality."

²⁵ European Court of Human Rights, *Tanase v. Moldova*, 27 April 2010, application no. 7/08.

be considered in contradiction to the European Convention on Human Rights if a case were filed to the Court on similar grounds.

19. With regard to the right of foreigners to vote in local elections, the Code limits this right to residents who are citizens of EU Member States. According to the Code of Good Practice in Electoral Matters, "it would be advisable for foreigners to be allowed to vote in local elections after a certain period of residence".²⁶ It may be worth considering extending the right to vote at municipal elections to foreign citizens other than citizens of EU Member States.²⁷

20. The Code stipulates that the right to vote and be elected is also subject to residency requirements.²⁸ The principle of universal elections implies the right to vote and to stand in elections for all citizens, but these rights are not absolute and may be subject to reasonable restrictions that should, however, not curtail the rights in question to such an extent as to impair their very essence and deprive them of their effectiveness. In principle, a length-of-residence requirement may be imposed on nationals for local and regional elections only, and the requisite period of residence should not exceed 6 months. A longer period may be required only to protect national minorities.²⁹

21. Before the 2 June amendments, the required length of residence for candidates was 5 years in presidential elections, 2 years in any EU Member State for European Parliament elections and 12 months for municipal elections. In its decision of 4 May 2011, the Constitutional Court ruled that the 12-months residency requirement for municipal elections is in contradiction of the Constitution. Following that ruling, the National Assembly adopted amendments to lower the residency requirement for the right to stand for municipal elections from 12 to 6 months. For the upcoming 2011 municipal elections, the residency requirement for the right to stand will be reduced from 6 to 4 months. These are welcome amendments.

22. In its decision of 4 May 2011, the Constitutional Court ruled that the 12-months residency requirement to vote in municipal elections was in contradiction of the Constitution. Following 2 June amendments, the National Assembly decreased the residency requirement for the right to vote in municipal elections for both citizens from Bulgaria and the European Union from 12 to 6 months. For the 2011 municipal elections, this requirement was reduced from 10 to 4 months. These amendments are welcome.

23. Regarding the right to stand for European Parliament elections, a European Union directive provides that voting rights may be conditioned by length of residence – as is the case in other EU Member States – as far as the conditions applying to citizens of another EU Member State, including those related to the period and proof of residence, are identical to those applying to Bulgarian citizens.³⁰ This condition is met in the Code, which imposes the same length of residence for citizens of other EU Member States and Bulgarian citizens. Nevertheless, requiring a 2-year residence in Bulgaria or in any other EU Member State from

²⁶ Code of Good Practice in Electoral Matters, I 1.1 b. Same reference is included in the Explanatory Report of the Code of Good Practice: "Furthermore, under the European Convention on Nationality persons holding dual nationality must have the same electoral rights as other nationals."

²⁷ See the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No.: 144)

²⁸ Articles 3, 4, 53, 60-64 of the Code. Moreover, in the Supplementary Provisions, the Code defines a Bulgarian citizen who has resided in Bulgaria during the last five years as "any such citizen who had actual residence and permanent abode within the territory of Bulgaria during more than half of the time of each of the five years preceding the date of the election" (Supplementary Provisions, paragraph 1.1).

²⁹ Code of Good Practice in Electoral Matters, I 1.1 c iii-iv: *iii. a length of residence requirement may be imposed on nationals solely for local or regional elections; iv. the requisite period of residence should not exceed six months; a longer period may be required only to protect national minorities.*

³⁰ Council Directive 93/109/EC laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals, Articles 4 and 13.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993L0109:EN:HTML>.

citizens of Bulgaria or other EU Member States significantly deviates from the standards applied in other EU Member States. The National Assembly decreased the length of the residency requirement to stand for European Parliament elections from 2 years to 6 months. This amendment is welcome.

24. There are concerns that the provisions of the Code on the compilation of voter lists for local elections may result in impediments to the right to vote for voters in health care facilities³¹ as well as voters detained “without an enforceable court sentence”.³² In such instances, voters are not allowed to vote at the hospitals, health care facilities or detention centres if their habitual residence in the constituency where these facilities are located has been less than 12 months. It is not clear what impact such a condition may have on voting rights as it obviously depends on whether people frequently undergo medical treatment or are placed in a detention centre not located in the constituency where they have their habitual residence. The situation is particularly problematic for voters in detention centres, as they do not themselves decide where they will be placed. It may be advisable to reconsider the 12-month provision and reduce it based on an assessment of the impact of such a measure. On another but related note, it may be worth specifying in Article 45(3) that voter lists at detention centres should be closed 48 hours before election day, as is the case for voter lists at health care facilities.³³

IV. Election Administration

25. The elections are administered by a three-tiered administration composed of:

- a. the Central Election Commission;
- b. constituency or municipal election commissions; and
- c. section election commissions.³⁴

26. The 19 members of the CEC are appointed by decree of the President for a term of five years after consultations and “on a proposal by the parties and coalitions of parties represented in Parliament and by the parties and coalitions of parties which have Members of the European Parliament but are not represented in Parliament”.³⁵ It is important that the establishment of the CEC as a permanent body, a long-standing OSCE/ODIHR and Venice Commission recommendation, be confirmed in the Code.

27. Article 23(7) indicates that upon “appointment of the complement of the Central Election Commission, the proportion of the parties and coalitions of parties represented in Parliament shall be retained”. While the first sentence of the same article stipulates that the 19 CEC members nominated by parties and coalitions represented in parliament must include the chairperson and the deputy chairpersons nominated by each party or coalition of parties represented in parliament, it is not clear whether the calculation made for determining the share of each party or coalition of parties include the chairperson and the deputy chairpersons. It is recommended that this provision be clarified so that the calculation made for determining the share of each party and coalition of parties includes the chairperson and the deputy chairperson.

28. The Code should ensure a balance of political parties in the appointment of chairpersons and secretaries at all levels of election commission.³⁶ Furthermore, it is essential that

³¹ Article 42(2) of the Code.

³² Article 45(2) of the Code.

³³ Article 42(3) of the Code.

³⁴ Articles 14-15 of the Code.

³⁵ Article 23(1) of the Code.

³⁶ OSCE/ODIHR Limited Election Observation Mission Report on the Parliamentary Elections (5 July 2009) Section on Recommendations, page 23.

opposition parties be included in these leadership positions at all levels of the election administration. An allocation of leadership positions among political parties with no consideration given to whether they belong to the ruling coalition may not be sufficient to dismiss perceptions of possible bias.

29. According to the Code of Good Practice in Electoral Matters, the CEC should include "at least one member of the judiciary" or a law officer.³⁷ During the expert visit, it was confirmed to the Venice Commission and OSCE/ODIHR that three members of the recently appointed CEC are former members of the judiciary. This is a welcome step. As the legal capacity of lower election commissions would also need to be strengthened, it is recommended that Article 16(4) of the Code which recommends that members of the CEC as well as of constituency and municipal election commissions "be qualified lawyers" be implemented in practice.

30. According to Article 20(2), decisions in election commissions are made by a two-thirds majority. As a matter of good practice, it is recommended that electoral commissions take decisions by a qualified majority or by consensus.³⁸ With members of electoral commissions being appointed by political parties, there is a risk of polarization, if not politicization of discussions in election commission with a possibility that key decisions may be blocked. It is recommended that the two-thirds majority rule be reassessed in light of the experience gained in the next elections.

31. The Code provides that the credentials of members of all electoral bodies may be terminated at the request of the nominating party or coalition of parties.³⁹ The Code of Good Practice in Electoral Matters underlines that the bodies appointing members of election commissions should not be free to dismiss them at will, as this casts doubt on their independence.⁴⁰ The discretion given to political parties to request that members nominated by them be recalled is compounded by the fact that they may be recalled at any time, since the Code does not provide any time-limit for the termination of the mandate.⁴¹ A system where members of election commissions can be dismissed upon request and at any time by the political parties who appoint them is likely to be perceived as not fulfilling the requirement of independence and neutrality. The Constitutional Court held these provisions unconstitutional on the ground that they would seriously undermine the independence of the election administration. Thus these provisions are repealed, which is welcome.

V. Political Party Registration

A. Signatures and deposits

32. For political parties and independent candidates to have access to the ballot, the Code requires the payment of a monetary deposit and the collection of supporting signatures. These requirements are different depending on the type of election and on whether they apply to political parties or independent candidates. The requirements are summarized in the tables below:

³⁷ Code of Good Practice in Electoral Matters, II 3.1 d i.

³⁸ Code of Good Practice in Electoral Matters, II 3.1 h.

³⁹ Articles 25(1)6; 26(1)6; 29(1)3; 30(10); 34(3) and 37(12).

⁴⁰ Code of Good Practice in Electoral Matters, II 3.1 f.

⁴¹ Furthermore, the CEC decision to recall a member can be appealed before the Supreme Administrative Court. It is not clear what the Court would be asked to consider in cases where the ground for dismissal is a request by the nominating party. The Code does not require that the request in question be motivated. Therefore, the Court's assessment may be limited to acknowledging the request and confirming the dismissal.

Deposits required (in BGN)

	Parties and party coalitions	Independent candidate nomination committees
Type of election		
- National representatives - President, Vice President - European Parliament	10 000 ⁴²	10 000

Signatures required

	Parties and parties coalitions	Independent candidate nomination committees
Type of election		
- National representatives	7 000	Not less than 3 per cent but no more than 5 000 voters (from within the relevant constituency)
- President, Vice President - European Parliament	7 000	7 000
- Municipal elections	7 000	No less than 1 per cent for municipal councillors No less than 2 per cent for mayors (from within the relevant constituency) One-fifth of the voters for elections of "mayorally majors" but no more than 500 voters

33. In the last parliamentary elections, applications required 15,000 and 20,000 supporting signatures and a 50,000 BGN and 100,000 BGN deposit for parties and coalitions respectively. The Code now requires a 10,000 BGN deposit from political parties and coalitions of parties for presidential, parliamentary and European Parliament elections and 7,000 signatures in support of their applications.⁴³ Under the previous legislation, independent candidates were required to pay a deposit of 15,000 BGN and support their applications with at least 10,000 signatures of voters with a permanent address in the particular constituency. Under the Code, they are required to collect as many signatures as political parties and coalitions of parties for parliamentary, presidential and European Parliament elections and to pay a smaller deposit than political parties and coalitions of parties (see the table above) for parliamentary and municipal elections, but the same amount for presidential elections. The changes made in the Code are positive. They strike the right balance between the legitimate goal of discouraging frivolous candidacies and the obligation not to prevent legitimate political parties and independent candidates from obtaining ballot access.

34. A concern remains however with regard to the fact that while political parties and coalitions of parties may compete in parliamentary elections based on applications supported by 7,000 signatures of voters residing anywhere in the country, independent candidates in parliamentary elections must collect signatures of 3 per cent of voters residing in the respective constituencies only but no more than 5,000 signatures.⁴⁴ This may need to be reconsidered as it constitutes a comparatively high barrier for independent candidacies.

⁴² 10,000 BGN equals about 5,100 EUR. As of 25 May 2011, 1 EUR equals to 1.95 BGN.

⁴³ Articles 78 and 79(1) of the Code.

⁴⁴ Code of Good Practice in Electoral Matters, I 1.3 ii.: "The law should not require collection of the signatures of more than 1% of voters in the constituency concerned".

CDL-AD(2011)013

- 12 -

B. Registration

35. Article 26(1)12 stipulates that "[the] Central Election Commission shall: [...] refuse registration of a party where establishing that the said party has not held the meetings of the supreme body thereof as provided for in the statute more than two successive times but not less frequently than once in five years, and has not submitted the complement of the new leadership to the court for recording...". As a rule, bodies in charge of organizing and conducting the electoral process should not be granted powers over party activities that exceed what may be necessary to ensure the integrity of the process. It is not clear why the CEC would need to interfere with matters that may be reasonably perceived as internal party matters and should only come to the attention of State authorities or other entities such as the CEC in exceptional circumstances. Furthermore, while States may require political parties to meet certain obligations to be placed on a ballot in elections, the system for ballot access should not add requirements directly not connected to the elections to those requirements political parties already had to fulfil in order to get registered. Most importantly, the system for ballot access should not discriminate against new parties. Therefore, it is recommended that this provision be repealed or amended so that it does not discriminate against new parties.

36. The refusal of registration of political parties or coalitions of parties may be appealed to the Supreme Administrative Court.⁴⁵ In case the Court overrules the non-registration decision of the CEC, the political party or the coalition has to be registered, but not later than 50 days (for presidential, parliamentary and European Parliament elections) or 65 (for municipal elections) before election day. There seems to be a contradiction between Article 26(8), which specifies that CEC decisions cannot be appealed and Articles 83(3) and 90(3), which indicate that a CEC decision on party registration may be appealed to the Supreme Administrative Court. Also, these rules seem to imply that a party or a coalition of parties may be denied registration if the Court does not respect the time-limits laid down in the Code. If the court decision was made within 50 or 65 days (depending on the type of elections) before election day, registration would no longer be possible, and the party or coalition in question would be *de facto* denied registration. This situation may not occur very often; however, there ought to be safeguards for applicants that registration cannot be denied on grounds that have no connection with the failure of applicants to meet the criteria set out in the law. In this spirit, it would be important that deadlines for notifying denials of registration to the parties concerned be specified in Articles 83(5) and 84(7) and 90(5).

VI. Political Party and Campaign Financing

37. The Code provides detailed provisions on election campaign financing.⁴⁶ Among the measures laid down in Section VI of Chapter VIII are the imposition of expenditure limits upon political parties and independent candidates (that differ depending on the type of elections), an obligation to keep records of all direct and in-kind contributions given to political parties as well as strict reporting requirements, with an indication of time-limits for submission of financial reports and sanctions for non-compliance with this requirement. These measures provide a sound basis for a transparent election campaign financing system. Enforcement mechanisms may, however, need to be strengthened. As noted by the Council of Europe's Committee of Ministers, political parties should be subject to "effective, proportionate and dissuasive sanctions."⁴⁷ It does appear that the sanctions provided in Article 289 may not be proportionate to breaches of the requirements regarding financing of

⁴⁵ Articles 83(3) and 90(3) of the Code.

⁴⁶ Section VI of Chapter VIII of the Code.

⁴⁷ Recommendation REC(2003)4 of the Committee of Ministers to Member States on common rules against corruption in the funding of political parties and electoral campaigns, article 16.

the election campaign and therefore not dissuasive enough.⁴⁸ That said, the Venice Commission and OSCE/ODIHR are not in a position to further comment on these provisions as they would need to be read and analyzed in conjunction with those of the Political Party Act. It remains to be seen how these arrangements will be enforced in practice. Their efficiency to a large extent depends on the scope of verification and investigation powers assigned to the National Audit body.

38. The Final and Transitional Provisions of the Code contain amendments to the Political Party Act concerning the rules on donations for the purpose of election campaigning. This law has not been assessed by the Venice Commission and OSCE/ODIHR. Nevertheless, both institutions express concerns regarding these amendments since they seem to restrict conditions of donations.⁴⁹ This should be carefully considered. This new provision will have to be assessed in light of the upcoming elections.

VII. Voter Lists and Voters' Registration

39. The voter lists are compiled by municipal administrations.⁵⁰ Additionally, it is stipulated that "[the] voter lists [...] shall be printed out on the basis of the National Population Register by the Directorate General of Civil Registration and Administrative Services at the Ministry of Regional Development and Public Works".⁵¹ During the expert visit, OSCE/ODIHR and Venice Commission experts were informed that a national census has been completed two months ago. According to this census, Bulgaria has 7,380,000 citizens out of which the voting-age population accounts for approximately 6,800,000. These numbers have been communicated verbally to OSCE/ODIHR and Venice Commission experts at a meeting with the CEC, but would need to be checked for their accuracy. If they were confirmed, there would be grounds for concern. The OSCE/ODIHR Limited Election Observation Mission Report for the 2009 Parliamentary Elections refers to 6,884,271 registered voters to be compared with an estimated population of 7.6 million.⁵² On voter lists issues, a census can be no more than indicative, revealing a trend rather than providing an accurate picture. Having said that, the unrealistic ratio between the number of inhabitants and the voting-age population shown by this census points to a need to ensure that the process through which voter lists are established be consolidated.

40. There will be a supplementary voter list in the polling stations where voters who are not in the voter lists may be entered if they are allowed to vote. Articles 47 and 197(6) seem to allow any voter with a permanent address in the precinct to be added to the list during election day. Other articles, however, are more restrictive, allowing only election staff, students with certain documents, persons with disabilities needing special assistance, citizen of another EU country wishing to vote in the European Parliament elections or local elections and who have sent in a form before the elections. A very extensive use of supplementary lists may raise questions of possibilities for multiple voting and should only be used for good reasons. It should, therefore, be made clear in Article 47 that the supplementary lists are restricted to those groups which are defined in subsequent articles and is not open to anyone who is not on the voter lists. If that is not done, the set of documentation needed to be registered on election day must be clearly defined.

⁴⁸ See OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation (CDL-AD(2010)024, October 2010).

⁴⁹ Paragraph 20 of the Transitional and Final Provisions of the Code, referring to change of Article 24 of the Political Parties Act.

⁵⁰ Article 40(1) of the Code.

⁵¹ Article 52(4) of the Code.

⁵² OSCE/ODIHR Limited Election Observation Mission Report on Parliamentary Elections (5 July 2009), Section on Election Administration, page 9.

CDL-AD(2011)013

- 14 -

VIII. Campaign

41. Article 134(2) stipulates that campaign material shall contain a warning against vote buying covering at least ten percent of the 'face space' of the material. This requirement can only be effective if the term 'campaign material' is clearly defined in the Code. It probably means leaflets and posters, and not other types of publications or internet pages. This would need to be clarified in the Code.

IX. Media

42. OSCE/ODIHR recommended that "the Election Law could be amended to provide for the requirement for the Council for Electronic Media (CEM), in co-operation with the CEC, to monitor the implementation of media-related provisions of the Election and Broadcasting Laws and to take prompt and effective action against violations, including identification of any inequitable and preferential news coverage of candidates and parties."⁵³ This recommendation is still valid.

43. The OSCE/ODIHR Limited Election Observation Mission for the 2009 parliamentary elections expressed concern in its final report that there was no provision for free airtime, and contestants had to pay for almost all campaign programmes on public broadcasters, including debates. Although the prices adopted by the public broadcaster were equal for all, some political parties complained that the prices were rather high, especially when they had to pay for all election-related coverage. It may be worth reviewing the policy of requiring candidates to pay for almost all campaign-related appearances as this may limit the public's access to information and candidates' ability to convey their messages.

X. Voting Process

44. Following recommendations from the OSCE/ODIHR election observation mission for the 2006 presidential election,⁵⁴ envelopes have been introduced to enhance the secrecy of the vote.⁵⁵ This is a welcome step.

45. After the ballot paper and envelope have been collected by the voter and until it has been dropped in the ballot box, they should not be touched by anyone else than the voter. According to the Code, the ballot for presidential and municipal elections should be stamped before the voter enters into the booth and a second time before the voter casts the ballot into the box. During the expert visit, OSCE/ODIHR and Venice Commission experts raised this issue. The explanation provided in support of this measure was that it was aimed at ensuring that the ballot paper and envelope had not been brought from outside the polling station, which was viewed as an additional safeguard against vote buying. It is not clear though how stamping the ballot paper twice (before and after voting) could serve that purpose. This procedure may risk infringing the principle of secrecy of the vote.⁵⁶ It is therefore recommended that it be reconsidered or adjusted so that the principle of secrecy of the vote is upheld.

⁵³ OSCE/ODIHR Limited Election Observation Mission Report on the Parliamentary Elections (5 July 2009), Section on Recommendations, page 24.

⁵⁴ OSCE/ODIHR Election Assessment Mission Report on the Presidential Election (22 and 29 October 2006), Section on Election Management and Administration, page 10..

⁵⁵ Articles 165 and 169 of the Code.

⁵⁶ According to Paragraph 7.4 of Copenhagen Document OSCE participating States should "ensure that votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public". See also Code of Good Practice in Electoral Matters, I 3.2.2, § 34.

46. The Code introduces new provisions according to which voters would have to place an X-mark in the box of the candidate they voted for. During the expert visit, several interlocutors of the OSCE/ODIHR and Venice Commission experts, particularly among political parties, voiced concern about the risk that voters may get confused with the new rule and that many ballots may thus be declared invalid. To minimize this risk, it is recommended that measures are taken by the CEC to effectively inform voters about the new rules, i.e. by conducting a voter education campaign targeting voters and poll workers.

47. The Code provides voting by means of mobile ballot boxes.⁵⁷ Article 176 refers to "voters with permanent disabilities which prevent them from exercising their franchise in the polling site" but does not clarify whether there may be other grounds for voters to request the use of mobile ballot boxes. As the law does not exhaustively specify the categories of voters who may request mobile voting, there is a risk that this procedure may be abused. In line with good electoral practice, it is recommended that Article 176 indicates explicitly that mobile voting is for the exclusive use of voters with permanent disabilities.⁵⁸

48. There were concerns raised by the PACE Ad Hoc Committee in 2009 as well as by OSCE/ODIHR Limited Election Observation Mission for the 2009 presidential election about instances of vote buying and intimidation.⁵⁹ In addition to Article 180 of the Code, which prohibits the display of the voters' choice, a new provision in the Code bans "[the] use of mobile telephones, still cameras or other image reproducing equipment for the purpose of recording the voting choice...".⁶⁰ This constitutes an improvement. However, the enforcement of these measures requires a consistent approach to sanctioning violations of this provision. It is not clear how Article 294 of the Code, which provides for a fine of 1,000 BGN for violation of the above-mentioned provisions, relates to Article 167 of the Criminal Code, which provides for sentences of up to 6 years imprisonment, fines of up to 20,000 BGN and possible deprivation of the right to hold certain state and public positions. Furthermore, while the specific measures foreseen in the Code are welcome,⁶¹ it is also advisable to organize training for poll workers and a public awareness campaign for voters.

XI. Internet Voting

49. Paragraph 11 of the transitional provisions of the draft Election Code provides for testing of voting via the Internet for five polling stations within and five sections outside Bulgaria during the upcoming presidential elections. While remote voting via the Internet and other forms of electronic voting are generally considered compatible with the standards of the Council of Europe, this compatibility largely depends on whether adequate technical security has been provided and social conditions in the country have been taken into account.⁶² As electronic voting via the Internet is an alternative voting channel to paper-based voting, its legal basis has to be drafted in an equally detailed and accountable manner.⁶³ The Code

⁵⁷ Article 205 of the Code.

⁵⁸ Code of Good Practice in Electoral Matters, I 3.2.2.1, §§ 39 & 40.

⁵⁹ See OSCE/ODIHR Limited Election Observation Mission Report on the Parliamentary Elections (5 July 2009), Section on Legal Framework and Electoral System, page 6 and Section on Complaints and Appeals, page 17 and Observation of the parliamentary elections in Bulgaria (5 July 2009), Report of the Ad Hoc Committee of the Bureau of the Assembly, paragraph 42.

⁶⁰ Article 181 (1) of the Code.

⁶¹ See for instance Article 134 (2), which stipulates that campaign materials should contain a statement that vote-buying is a criminal offence.

⁶² See the Report on the Compatibility of Remote Voting and Electronic Voting with the Standards of the Council of Europe, adopted by the Venice Commission at its 58th Plenary Session (Venice, 12-13 March 2004); CDL-AD(2004)012, in particular paragraph 56.

⁶³ For guidance on regulating electronic voting see Council of Europe Committee of Ministers' Recommendation Rec(2004)11 on legal, operational and technical standards for e-voting, Strasbourg, <https://wcd.coe.int/wcd/ViewDoc.jsp?id=778189>, as well as the recently published Guidelines of the Committee of Ministers of the Council of Europe on certification of e-voting systems

does not sufficiently describe the voting process, the setup, the testing, and the opening and closing of electronic voting via the Internet nor does it provide for data destruction or how observation of these procedures will be enabled. Including five polling stations outside Bulgaria adds considerable complexity to the project, as they include voters with voting rights from more than one constituency. This is not only organisationally challenging, but also challenges the secrecy of the vote in cases where only few votes are received for a specific constituency. The Constitutional Court declared that the provisions on Internet voting contradict the Constitution, thus provisions of paragraph 11 of the transitional provisions of the Code do not apply. Following the Constitutional Court decision, on the 2 June, the National Assembly also repealed paragraph 14 (2) of the transitional provisions that required the CEC to adopt a procedure for the experimental electronic voting via the Internet for the 2011 presidential election. These are welcome changes.

XII. Counting Process

50. The Code provides a list of reasons to validate or invalidate ballot papers. Conditions for the validity of ballot papers are quite restrictive.⁶⁴ Good practice suggests that if the voter's choice is clear despite violating the exact voting procedure (no blue ink for instance) or if there are no signs or symbols identifying the voter, the vote should be taken into account as a valid vote.⁶⁵

51. Articles 216(5), 223(2) and 227(2) state that the number of voters who have voted shall equal the number of envelopes and ballots found in the box. This requirement should rather be part of an explicit reconciliation process so that commission members do not think that such numbers are simply entered into the tally sheets. The reconciliation should be done after filling in all figures. If they do not tally, the commission may be required to recount ballots, and if it still does not tally, to enter the discrepancies into the protocol with a comment.

52. The transitional and final provisions of the Code stipulate that a counting commission will be set up in 2011 for the next elections on an experimental basis.⁶⁶ If the intention is to prevent manipulations and enhance the integrity of the process, it is certainly laudable. However, establishing a separate commission to perform the counting could prove problematic in practice. Several constraints must be taken into consideration. First, the count must take place immediately after the vote has been completed in order to ensure transparency of the process and to minimize the risk of manipulations, as it is recommended by the Code of Good Practice in Electoral Matters.⁶⁷ Second, there are obvious safety risks for the electoral material if it has to be transported elsewhere to process the count. Considering that transportation is foreseen to take place under the responsibility of the Ministry of Interior, it may affect public trust in the process. If this measure is to be implemented, it is recommended that it be complemented with specific arrangements addressing the above-mentioned concerns.

53. The OSCE/ODIHR Limited Election Observation Mission Report on the 2009 parliamentary elections recommended that the legislation should be amended to

(2011), and Guidelines of the Committee of Ministers of the Council of Europe on transparency of e-enabled elections (2011) www.coe.int/t/dgap/democracv/Activities/GGIS/E-voting/E-voting%202010/Biennial_Nov_meeting/Guidelines_transparency_EN.pdf.

⁶⁴ Article 198(3)2 and (4), Article 216(4)2 and 3, Article 221(4)5 and 6 and Article 225(4)5 and 6 of the Code.

⁶⁵ Code of Good Practice in Electoral Matters, I 3.1.

⁶⁶ Transitional and Final Provisions of the Code, §§ 12 and 12(8).

⁶⁷ Code of Good Practice in Electoral Matters, I 3.2.2.4, § 45.

foresee recounting of votes.⁶⁸ The same concern was raised by the PACE Ad Hoc Committee, in particular with the introduction of a majoritarian component shortly before the 2009 parliamentary elections.⁶⁹ This recommendation was not addressed.

XIII. Complaints and Appeals Procedures

54. There is a dual system of complaints and appeals: decisions and actions of election commissions may be challenged in the higher election commissions, whereas all other complaints are adjudicated by courts.

A. Complaints against Election Commissions' Decisions and Actions

55. The lack of possibility for judicial review for a number of decisions of the election management bodies appears problematic. The 1990 OSCE Copenhagen Document underlines that "everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity." The Code of Good Practice in Electoral Matters underlines that the judicial supervision should at least apply to decisions on "right to vote, electoral registers and standing for election, the validity of candidatures, compliance with the rules governing the electoral campaign and access to the media or to party funding."⁷⁰ It is therefore recommended that a final appeal to a court be made available more broadly.

56. In connection with the 2009 parliamentary elections, concerns were expressed by both OSCE/ODIHR and the PACE Ad Hoc Committee with regard to the lack of written procedural rules concerning the review of complaints and appeals lodged with the CEC.⁷¹ The criteria upon which the CEC based its decision of what constituted a complaint were unclear, as was the appropriate form of its decisions. It is recommended that the Code explicitly require that the CEC adopts procedural rules for its decisions in writing as well as for those applying to lower election commissions. All election commissions should be required to issue written decisions and duly argue all their decisions. The format of decisions should also be standardized. This should apply to all decisions, whether or not they can currently be appealed to the Supreme Administrative Court.

B. Contesting Election Results

57. According to Articles 264(1), 265(1) and 267(1) of the Code, election results may be challenged either before the Constitutional Court (for national or European elections) or the relevant administrative court (for municipal elections). With regard to national and European elections, Article 150(1) of the Constitution confers the right to initiate proceedings before the

⁶⁸ OSCE/ODIHR Limited Election Observation Mission Report on Parliamentary elections (5 July 2009), Section on Recommendations, page 22.

⁶⁹ Observation of the parliamentary elections in Bulgaria (5 July 2009), Report of the ad hoc Committee of the Bureau of the Assembly, § 16.

⁷⁰ See 1990 OSCE Copenhagen Document, para. 5.10 and comment 32, para. 18 of International Covenant on Civil and Political Rights: "whenever rights and obligations in a suit at law are determined, this must be done at least at one stage of the proceedings by a tribunal within the meaning of this sentence." Furthermore, Paragraph 18 of the 1991 OSCE Moscow Document provides that "to the same end, there will be effective means of redress against administrative regulations for individuals affected thereby."

See also Code of Good Practice in Electoral Matters, II 3.3 a and para. 92-93. Moreover, "it is desirable that there should be some form of judicial supervision in place, making the higher commission the first appeal level and the competent court the second."

⁷¹ See OSCE/ODIHR Limited Election Observation Mission Final Report on Parliamentary elections (5 July 2009), Section on Complaints and Appeals, pages 16-17 and Council of Europe, Parliamentary Assembly, Observation of the parliamentary elections in Bulgaria (5 July 2009), Report of the ad hoc Committee of the Bureau of the Assembly. Rapporteur: Mr Tadeusz IWINSKI, Poland, Socialist Group (Doc. 12008, 16 September 2009).

Constitutional Court upon a few institutions.⁷² In order to challenge election results, a political party, a coalition or a candidate must approach one of these institutions within 7 days of the CEC's decision validating the results; they then have 15 days to file a petition with the Constitutional Court. This means that there is no effective judicial procedure for challenging election results. In June 2009, the European Court of Human Rights concluded that similar provisions laid down in the then applicable Parliamentary Election Law did not provide for effective remedy due to the limited category of persons and bodies which may refer a case to the Constitutional Court.⁷³ The above-mentioned articles should be amended accordingly so that the Code provides effective remedies for challenging election results.

58. Furthermore, the Code does not allow election results to be disputed by voters but only by political parties, coalitions and candidates (through the institutions listed under Article 150(1) of the Constitution). These restrictions are not in accordance with good electoral practice. All candidates and voters registered in the constituency concerned must be entitled to contest the election results.⁷⁴ The right to vote is as important in a democratic state as the right to be elected. Allowing a wide range of persons to appeal decisions concerning elections protects the legality of the elections. As it is possible to consider similar appeals together, the workload of courts after elections should not be affected. The Venice Commission explained in its Report on the Cancellation of Election Results that "[...] [in] case the elections are carried out unlawfully the individual constitutional right to vote or to be elected is violated. Such right should be protected by individual complaint, though it might not always lead to the cancellation of election results. The cancellation of election results is not necessary if the violations of electoral law are at small scale and do not influence the electoral results [...]"⁷⁵

C. Time-limits

59. In many cases, the Code provides for very short time-limits for appeals. This is the case especially for disputes concerning registration of parties and coalitions and their candidates where the appeal shall be brought before the competent court no later than 24 hours after the CEC decision has been issued.⁷⁶ It is important to avoid lengthy disputes on such sensitive matters; however, parties concerned should have access to effective remedy. Within the extremely short timeframe stipulated in the Code it might prove difficult for the appellants to bring forward all the relevant arguments in support of their case. The Code of Good Practice in Electoral Matters calls for a time-limit from three to five days.⁷⁷ The same comment also applies to the timeframe for deciding on the case, which is also 24 hours and may not be sufficient to allow for the case to be considered thoroughly.⁷⁸

60. According to Article 93(6) of the Constitution, the Constitutional Court shall rule upon any challenge of the legality of a presidential election no later than one month after the election. Article 264 does not provide any time-limit for the decision-making in the Constitutional Court

⁷² One-fifth of the parliament, the President, the Council of Ministers, the Supreme Court of Appeals, the Supreme Administrative Court and the General Prosecutor.

⁷³ European Court of Human Rights, First Section, *Petkov and others v. Bulgaria*, 11 June 2009.

⁷⁴ Code of Good Practice in Electoral Matters, II 3.3 f, Explanatory Report, paragraph 99, 3rd sentence: "A reasonable quorum may, however, be imposed for appeals by voters on the results of elections", that is to say that appeals will be admissible only if made by a minimum number of voters. See also OSCE/ODIHR Guidelines for Reviewing a Legal Framework for Elections, <http://www.osce.org/odihr/elections/13960>.

⁷⁵ Report on the Cancellation of Election Results (CDL-AD(2009)054), IV B 2, § 49.

⁷⁶ Articles 26(8), 83(3) and (5), 107(8), 110(3), 112(6), 113(5), 115(3), 117(4), 119(8), 120(3), 122(9) and 125(7) of the Code.

⁷⁷ Code of Good Practice in Electoral Matters, II 3.3 g.

⁷⁸ OSCE/ODIHR Limited Election Observation Mission Report on Parliamentary Elections (5 July 2009), Section on Complaints and Appeals, pages 16-17.

for other elections. For local elections, the time-limits for deciding on the appeals are long.⁷⁹ The procedure may take 24 days in first instance courts and 14 days in the Supreme Administrative Court. Time-limits for contesting the election results are longer than recommended in the Code of Good Practice in Electoral Matters which provides that "time-limits for lodging and deciding appeals must be short (three to five days for each at first instance)"⁸⁰ since appeals may be lodged in seven days.⁸¹ According to Article 267(11), the proceedings before competent courts on appeals concerning local elections shall be concluded in three months. It is recommended to reconsider the time-limits for the appeals on the decisions made by electoral bodies to ensure an effective system of appeal. In case the time-limits for the decision-making are too long, the legitimacy of the elections may be questioned and it is difficult for the elected bodies to fulfil their duties.

XIV. Specific Issues Concerning the Local Self-Government Bodies

61. The Code appears to affect features of the local self-government system by introducing changes that may have to be reflected in the Local Self-Government and Local Administration Act. This opinion does not include a review of the latter Act, and limits itself to examine the provisions relevant to these matters that are set forth in the Electoral Code. All of the matters discussed below have been subject to a petition before the Constitutional Court. The Constitutional Court decision released on 4 May 2011 has been taken into consideration in the comments and recommendations made below.

A. Municipal councillors

62. One of the elements of the reform is the amendment to Article 19 of the above-mentioned Act, which reduces the number of councillors in self-government bodies. In its recent decision, the Constitutional Court ruled that there is a constitutional standard of representation involved in this matter, and therefore held this amendment unconstitutional.

B. The direct election of mayors of "local settlements"

63. Before the adoption of the Code, mayors of "small settlements" with more than 150 inhabitants were directly elected, while those with less than 150 inhabitants were elected by municipal councils at the level of the municipality (which may contain many such settlements). Under the newly adopted Code, this threshold has been raised to 350 inhabitants, which seems to imply that more than one thousand such mayors would no longer be directly elected. In its recent decision,⁸² the Constitutional Court has seen no contradiction with the Constitution with regard to these changes considering that the legislators have a broad margin of discretion on such matters. There are no international standards imposing the direct election of mayors.

C. Election of "district mayors"

64. "District mayors" were first introduced in 1995. These are mayors of "districts" with the three biggest cities of Bulgaria accounting for one million citizens. According to the Code,⁸³ "district mayors" are no longer directly elected, but elected indirectly by municipal councils. The Constitutional Court, in its recent decision,⁸⁴ did not find this rule in contradiction with the Constitution. However, it expressed concern that this new rule could be seen as a step

⁷⁹ As in Article 267(3), (5) and (7) of the Code.

⁸⁰ Code of Good Practice in Electoral Matters, II 3.3 g.

⁸¹ Articles 264(1), 265(1), 267(1) and (8) of the Code.

⁸² Constitutional Court of Bulgaria, Decision no. 4/2011, 4 May 2011, item 1.

⁸³ Final and Transitional Provisions of the Code, Article 37b.

⁸⁴ Constitutional Court of Bulgaria, Decision no. 4/2011, 4 May 2011, item 8.

Informe sobre la observación electoral de las elecciones parlamentarias...

CDL-AD(2011)013

- 20 -

backward in the process of decentralization susceptible to weaken the democratic legitimacy of local authorities. As already mentioned, there are no international standards imposing the direct election of mayors.

XV. Other issues

65. OSCE/ODIHR previously recommended that persons belonging to minorities should be allowed to use their mother tongue in the electoral campaign in order to promote their effective participation in public affairs.⁸⁵ This recommendation has not been taken into consideration in the Code as evidenced by Article 133(2), which requires that “the election campaign shall be conducted in the Bulgarian language.” It is essential that persons belonging to minorities be provided voter information and other official election materials in their languages. This would enhance the understanding of the electoral process for all communities.

66. Regarding domestic and international election observers, the OSCE/ODIHR Limited Election Observation Mission for the 2009 parliamentary elections recommended that the full scope of rights and responsibilities of observers be defined in the law.⁸⁶ To bring the election legislation closer in line with paragraph 8 of the 1990 OSCE Copenhagen Document which provides for the presence of observers, this recommendation should be reflected in the Code at least through a requirement that the matter be specifically addressed by the CEC.⁸⁷

XVI. Concluding remarks

67. The Election Code of Bulgaria provides a sound legal basis for the conduct of democratic elections. The harmonization of the rules and procedures governing the conduct of elections and their consolidation in one single Code is a decisive step towards ensuring the consistency of these rules and procedures and facilitating their uniform application. Most importantly, this is beneficial to Bulgarian citizens, voters and potential candidates alike.

68. The Code is comprehensive, covering in details rules and procedures regulating all stages of the electoral process for all types of elections. It is important that crucial aspects of the process be subject to detailed regulations, however it would have been more appropriate that some aspects be regulated through by-laws or CEC instructions given the need to retain a margin of flexibility, particularly on practical matters. This may for instance be the case with regard to provisions regulating the format of ballot papers. Furthermore, the structure of the Code could be improved to avoid unnecessary repetitions and make it easier for those in charge of its application to identify which rules or procedures apply to one particular election without having to look in too many different parts of the text. This may require that some of these rules and procedures be simplified or streamlined.

69. On the substantive aspects, the high quality of the Code must be underscored. There is, however, still room for further improvements in areas where public trust is much needed as the sensitivities may be high. This is the case specifically with regard to the remedies available for challenging decisions and actions of election commissions and the results of elections. The Constitutional Court decision resulted in welcome changes on several key

⁸⁵ OSCE/ODIHR Limited Election Observation Mission Report on Parliamentary Elections (5 July 2009), Section on Participation of Minorities, page 19.

⁸⁶ OSCE/ODIHR Limited Election Observation Mission Report on Parliamentary Elections (5 July 2009), Section on Domestic Observers, pages 20.

⁸⁷ See also, Venice Commission, Guidelines on an internationally recognised status of election observers adopted by the Council for Democratic Elections at its 31st meeting (Venice, 10 December 2009) and by the Venice Commission at its 81st plenary session (Venice, 11-12 December 2009; CDL-AD(2009)059). [www.venice.int/docs/2009/CDL-AD\(2009\)059-e.pdf](http://www.venice.int/docs/2009/CDL-AD(2009)059-e.pdf).

- 21. -

CDL-AD(2011)013

issues: the discretionary dismissal by political parties of members of election commissions appointed by them, the residency requirements to vote and to stand in elections, and internet voting. These provisions have been declared unconstitutional and thus were either repealed or amended by the National Assembly.

70. Successful electoral reform requires adequate time for all those involved and interested to participate in the reform. Considering the proximity of the next presidential and local elections scheduled for autumn 2011, it is recommended that the comments and recommendations offered by OSCE/ODIHR and the Venice Commission that do not require constitutional amendments be given due consideration ahead of the next elections with a view to improving the Code. This calls for broad consultations with key political stakeholders, including opposition parties, should any significant change to the current legal framework be considered. The Venice Commission and the OSCE/ODIHR stand ready to provide their support in this process. In the longer term, constitutional amendments would be required to clarify the voting rights of persons serving prison sentences and of citizens with dual citizenship.

71. To ensure the integrity of the election process and increase public confidence and considering the high level of involvement of political parties in the electoral management (i.e. the composition of the election administration), it is essential that the Election Code of Bulgaria be implemented in good faith and with a high level of political maturity.

Informe sobre la observación electoral de las elecciones parlamentarias...



MEMORANDUM

To: The Ad hoc Committee for the observation of the Parliamentary Elections in Bulgaria on 12 May 2013

Date: 6 May 2013

Re: Bulgarian legislation on the Parliamentary elections.

I. INTRODUCTION

1. Early parliamentary elections will be held on 12 May 2013. The 240 members of Parliament will be elected under a proportional electoral system. The Electoral Code provides that there are 31 multi-member constituencies for 240 seats of the National Assembly. The changes recently introduced in the Electoral Code of Bulgaria (in February 2013) establish a closed list system¹.

2. The candidate lists of 67 political parties were registered by the Central Electoral Commission. According to the information provided by the 1st interim report of the OSCE/ODIHR pre-electoral mission, only two independent candidates have been registered by District Electoral Commissions. This seems to confirm what was stated by the Joint Opinion of the Venice Commission and OSCE/ODIHR in 2011 on the Electoral Code of Bulgaria, concerning the high barriers established for independent candidacies². The Central Election Commission (CEC) rejected the registration of 4 parties because of the lack of valid supporting signatures.

II. GENERAL REMARKS

3. The main piece of legislation governing the forthcoming election is the Electoral Code of 2011, modified in February 2013. Other pieces of relevant legislation include the Constitution, the Law on Political Parties as well as instructions and resolutions of the Central Election Commission (CEC).

¹ Article 5 of the Electoral Code.

² See CDL-AD(2011)013, para. 34

May 7, 2013

4. Parliamentary elections are administered by a three-level system of election commissions: the Central Electoral Commission, 31 District Electoral Commissions (DECs), one in each of the 31 multi-mandate constituencies, and 12,000 Precinct Electoral Commissions (PECs - polling stations). The members of each election administration body are formed based on political nominations. The CEC appoints DEC members and DECs appoint PECs. The same parties and coalitions that form the CEC nominate members to DECs and PECs.

5. The new electoral Code was adopted in January 2011, being the first unified electoral legislation in Bulgaria. It was modified in February 2013. A number of changes addressed several OSCE/ODIHR and Council of Europe's Commission for Democracy through Law (Venice Commission) recommendations, *inter alia* the fact that observers have also now rights over the entire electoral process and the increased transparency of the activities of the electoral administration (DEC sessions are streamed online).

6. The 2011 Code provides a detailed and comprehensive regulation and it gives a good and appropriate framework for the forthcoming anticipated parliamentary elections if implemented properly. However, as stated in many occasions by the Venice Commission and the OSCE/ODIHR, the introduction of changes to the Code in February 2013, hence, two months before the election, can make it difficult to implement them and challenge the stability of the system. This can be specially difficult for the CEC's new responsibilities, as it has to broadcast sessions in real time and keep an updated and public database of complaints and appeals.

7. For these forthcoming elections, the new amendments introduced the obligation to equip all polling stations with copy machines in order to ensure that anyone present in PECs can get a copy of the protocols, as a result of a new provision aiming to improve transparency in the tabulation process and results.

III. LEGAL FRAMEWORK IN THE LIGHT OF THE NEW AMENDMENTS TO THE ELECTORAL CODE INTRODUCED IN FEBRUARY 2013

III.A. On the electoral system of Bulgaria

8. The electoral system of Bulgaria is proportional for the 240 members of Parliament. There are 31 multi-member constituencies for 240 seats of the National Assembly and the amendments introduced in February 2013 to the Electoral Code establish a closed list system. The allocation of seats follow the Hare-Niemeyer Method (or largest remainder method). The right to the allocation of seats shall be limited to the parties and coalitions of parties which have gained not less than four per cent of the valid votes within Bulgaria and abroad. In parliamentary, presidential and European Parliament Elections, political parties have to collect 7,000 signatures in order to be registered with the CEC. Coalition can consist of political parties registered by the CEC.

III.B. The legal framework

9. The joint Venice Commission - OSCE/ODIHR opinion on the Electoral Code of Bulgaria was adopted in June 2011. The Code was vetoed by the President, Georgi Parvanov, on the basis of the 12-months residency requirement in order to participate in local elections, the limitations on voting rights of citizens with dual citizenship and certain provisions relating to local and municipal elections. The presidential veto was overridden by the majority of

May 7, 2013

more than half of all the members of the National Assembly. Although the limitations of voting rights based on dual citizenship were criticised in the 2011 Joint opinion in the light of the European Court of Human Rights case-law³, this provision is still valid.

III.C. The new amendments introduced in February 2013 to the Electoral Code

10. The new changes introduced in February 2013 to the Code improve transparency of the election administration decisions, by establishing now a mandate to broadcast sessions and keep a public database on appeals procedure (the appeals introduced and decisions taken should be published and be accessible in their Website). There are also important improvements on the rights of national observers, admitted to all the different stages of the electoral process.

11. However, many of the changes introduced to the Code in February 2013 can be considered of a technical nature and do not address some of the key recommendations stemming from the joint Venice Commission - OSCE/ODIHR 2011 opinion, mainly concerning:

a. Lack of balance of political parties in the appointment of chairpersons and secretaries at all levels of elections administration, which may result in a lack of trust in the election administration. New provisions to the Code introduced in February 2013 have nevertheless established an independent budget and permanent administrative staff for the Central Electoral Commission, although it is not clear whether this will be set into place for these forthcoming elections due to time constraints;

b. Need to reinforce criteria concerning political party and campaign financing, mainly regarding sanctions, an important measure in the background of fight against corruption in Bulgaria;

c. Building further a pluralistic media access and coverage; in February 2013, Article 138.a of the Electoral Code has introduced nevertheless better transparency in media, as it requires that the providers of media services shall be obliged to announce on the Internet page the entire content of contracts entered with the parties, coalition of parties and nominating committees which participate in the elections.

d. Ensuring rights of minorities, mainly concerning the use of their mother tongue during electoral campaign and materials.

e. Establish that the deprivation of voting rights should be further defined to apply only to persons convicted of a serious crime⁴.

f. Improve the remedies for contesting electoral results, as the Electoral Code does not allow election result to be disputed by voters but only by political parties, coalitions and candidates⁵.

³ ECtHR, *Tanase v. Moldova*, 27 April 2010. See CDL-AD(2011)013, para. 18.

⁴ See among others ECtHR, *Hirst v. UK*, G. Ch., judgment of 6 October 2005; *Greens and M.T. v. United Kingdom*, judgment of 23 November 2010. See CDL-AD(2011)013, para. 17.

⁵ See CDL-AD(2011)013, paras. 57 and 58.

May 7, 2013

IV. SOME PRACTICAL ISSUES TO TAKE INTO ACCOUNT FOR THE FORTHCOMING ANTICIPATED PARLIAMENTARY ELECTIONS

12. Parliament is elected for a four-year term. However, the forthcoming elections are organized following the dissolution of the Parliament in March 2013, after the resignation of Prime Minister Boyko Borisov following protests against the crisis, poverty and high electricity bills. The Parliament was dissolved by the President on 12 March 2013, as forming a new government was not possible.

13. In 2009 parliamentary elections, the GERB (Citizens for European Development of Bulgaria) had 117 out of 240 seats, and had formed a minority government. The Coalition for Bulgaria (BSP) had 40 seats, the Movement for Rights and Freedoms (MRF) got 37 seats and ATAKA (far-right) got 21 seats. Finally, Blue Coalition received 15 seats and Order, law and Justice received 10 seats.

14. The electoral campaign has focussed on poverty and fight against corruption mainly. There have been allegations of vote-buying, intimidation and pressure on voters (with forms of the so-called "controlled voting"⁶), allegations of bribery of election commissioners and lack of transparency on paid media coverage.

15. Concerning voters lists, voters can be added to a voter list on election day based on their permanent address. Concerning registration of candidate's lists and support by voters, according to the recent amendments, each voter can sign in support of only one political party.

16. Electoral campaign is to be conducted only in Bulgarian language. The elections take place against the backdrop of minorities being perceived as vulnerable to electoral irregularities and the need to grant effective equal access to media.

17. Finally, tabulation and counting of results is to be followed, mainly concerning the respect for the obligations introduced by the amendments to the Electoral Code and the access to the results protocols, such as the existence of the necessary equipment at all DEC's with scanning machines, the requirement to scan all PEC protocols at the district level and its posting on the CEC website.

⁶ OSCE/ODIHR, Needs Assessment Report, 12 May 2013.

Informe sobre la observación electoral de las elecciones parlamentarias...



Parliamentary Assembly
 Assemblée parlementaire

<http://assembly.coe.int>



COUNCIL
 OF EUROPE
 CONSEIL
 DE L'EUROPE

AD HOC COMMITTEE FOR THE OBSERVATION OF THE
 EARLY PARLIAMENTARY ELECTIONS IN BULGARIA
 12 May / 2013
 List of members



ANDREAS GROSS*, HEAD OF THE DELEGATION (SWITZERLAND, SOC)



V. BADEA



Ş. DİŞLİ



A. NIKOLOSİ



M. DE POURBAIX-LUNDIN



L. AXELSSON



P. CORSINI



R. ROUQUET



K. TRIANTAFYLLOS



DANA VAHALOVÁ



M. ÇAVUŞOĞLU



G. STUCCHI



Ø. VAKSDAL



Parliamentary Assembly
Assemblée parlementaire

<http://assembly.coe.int>



AS/Bur (2012) 85
18 December 2012

Guidelines for the observation of elections by the Parliamentary Assembly

Bearing in mind the objectives and the political nature of the Parliamentary Assembly's observation missions as well as the problems deriving from the past co-operation arrangements with other international institutions, the following Guidelines were adopted by the Bureau of the Assembly on 24 May 2004 and updated by the Bureau on 7 October 2005, 16 November 2006, 23 May 2007, 8 October 2010, 27 January 2012, 29 June 2012 and 17 December 2012.

A. Elections to be observed

1. For the Parliamentary Assembly of the Council of Europe, the observation of elections plays an important role in the assessment of the overall political situation of the country in question. In practical terms this entails the systematic observation of elections in any state whose parliament has requested or enjoys special guest status, partner for democracy status, which has applied for membership, or is subject to the monitoring procedure.
2. Observation of parliamentary and presidential elections as well as of referenda in an applicant State or a State under the monitoring procedure should be an inalienable right of the Assembly. A State's lack of cooperation with the Assembly, its refusal to accept an election observation mission from the Assembly should give rise to a debate at the part-session or Standing Committee meeting following the elections in question. It may result in sanctions, such as a freezing of the application procedure or the challenge of the credentials of the national delegation concerned on the basis of Rule 8.2.b.(lack of cooperation under the Assembly's monitoring procedure).
3. The Bureau may also decide to observe parliamentary and/or presidential elections, as well as referenda, in a State that is subject to the post-monitoring dialogue.
4. The observation of regional and local elections is the responsibility of the Congress of Local and Regional Authorities of the Council of Europe (the Congress). If the Assembly receives an invitation to observe such elections and the Bureau decides to observe them, the Assembly ad hoc committee shall cooperate with the election observation mission the Congress may deploy. A report on these elections by the Congress, sent to the President, should be referred, on a Bureau's proposal, to the Monitoring Committee.
5. The Bureau of the Assembly may decide to observe elections in other States when exceptional circumstances have been brought to its attention.

B. Elections as a process

6. In conducting election observations, the Assembly shall proceed from the understanding that an election is not a one-off exercise, but rather a continuous process involving several stages, all of which need to be analysed in order to assess an election. The timeline, below, based on various Venice Commission documents, shall serve as an aid in the assessment process.
7. The process starts with the elaboration of electoral legislation. The quality of that legislation is a major, although not the unique criterion to assess an election.
8. Electoral legislation should not be subject to constant change. According to Venice Commission recommendations, "the fundamental elements of electoral law... should not be open to amendment less than one year ahead of an election, or should be written in a constitution or at a level higher than ordinary law." **ANEXO: 9** certain circumstances, exceptions to the one year rule could be accepted, namely where there is a need to

¹ Venice Commission (CDL-AD(2010)037).

Informe sobre la observación electoral de las elecciones parlamentarias...

rectify, through legislation, unforeseen problems or to provide redress to violations of internationally recognised rights where they had been built into the electoral law.

9. The second stage starts with the date when an election is called. That date, in normal circumstances involving regular elections, should be reasonably distant from the voting day to allow all political stakeholders to prepare for an electoral contest.

10. The third stage starts with the opening of the electoral campaign.

11. The fourth stage is the voting day proper, and the vote counting.

12. The next stage is the declaration of results of an election, followed by a complaints period stage.

C. Regarding observation and co-operation in the field

13. Considering the role played by OSCE/ODIHR in the field, the Assembly should stress the political objectives of its participation in the observation process: full respect of Council of Europe values and standards. This should be possible thanks to the Assembly's comparative assets such as the high political level of its delegations and the experience of its members.

14. Practical assistance to Assembly delegations to observe the elections, particularly the organisation of the programme for the observation mission, should be provided by the national parliament, in order to supplement properly the programme for short-term observers organised by OSCE/ODIHR.

15. Co-operation with OSCE/ODIHR and other international organisations will be continuous during the observation process in order to ensure, in so far as possible, that assessments of the elections do not differ. However, if, after the election, a joint final assessment cannot be achieved in the framework of the IEOM, the Assembly's ad hoc committee reserves itself the right, to hold -if necessary- its own press conference and issue a separate press release containing its own assessment. In this respect, it is essential that the Assembly's ad hoc committee, when organising briefings, invites the OSCE/ODIHR. Reciprocity is expected in briefings organised by OSCE/ODIHR.

D. Regarding the practical organisation of the observation

16. On the basis of past experience, the following rules will be applied:

i. the Assembly will observe elections mentioned in Section A above (any refusal to send an invitation will constitute an evaluation criterion in itself);

ii. the Assembly observers will receive accreditation from the Central Electoral Commission; the national parliament concerned will be responsible for facilitating the issuing of this accreditation;

iii. the ad hoc Committees will cover a geographical area of the country which is as wide as possible when observing elections. Members of the ad hoc Committee must be ready to accept deployment beyond the capital city of the country in which the elections are observed.

iv. the membership of ad hoc committees for elections will vary between 5 and 40 members and include any already appointed rapporteurs of the Political Affairs Committee, Committee on Legal Affairs and Human Rights and the Monitoring Committee for the country concerned; in special cases the Bureau can decide to increase this number. The composition of the ad hoc committees is determined according to an appointment system taking into account the numerical size of the political groups on the understanding that each political group should be represented;

v. while rapporteurs for the monitoring of, or post-monitoring dialogue with, a given country should be encouraged to join an ad hoc committee to observe an election in that country, they should not be appointed chairpersons thereof. This is to ensure a distinction between election observation as such and monitoring and post-monitoring dialogue in the context of which the findings of an ad hoc committee are followed up. Where the said rapporteurs join an ad hoc committee to observe an election, their participation in the ad hoc committee shall be *ex-officio*, and they shall not be included in the quota allotted to their political group within the meaning of paragraph iv;

- vi. the Chairmanship of the ad hoc committees shall rotate between political groups to ensure, generally, an overall political balance over a 12-month period;
- vii. a standard programme will be established for observation missions: three days for political meetings (organised by the national parliament), one day for the elections themselves (with cars, guides and interpreters paid for by the Assembly), one day for evaluation/assessment and the press conference;
- viii. where the Bureau deems it necessary, a pre-electoral and/or a post-electoral 5-member cross-party mission may be dispatched;
- ix. to enhance the mission's public profile, the ad hoc committees will be referred to as "delegations" headed by a "leader of the delegation" appointed by the Bureau;
- x. while every effort should be made to ensure a political balance of ad hoc committees to observe elections, in the event when some political groups fail to come up with candidates while others put forward more candidacies than they are entitled to, the principle of a political equilibrium may be foregone in the interests of having a strong PACE presence during election observation. In such circumstances, a notification by the Secretary General of the Parliamentary Assembly will suffice;
- xi. political groups should bear it in mind that any appointment to an ad hoc committee to observe elections should aim to ensure the principle of gender balance of such a committee. Political groups should endeavour to include, in the list of representatives appointed, members of the under-represented sex in the same percentage as is present in the group;
- xii. political groups should bear it in mind that any appointment to an ad hoc committee should respect fair geographical representation and be based on the candidate's express capability, language-wise, to meaningfully participate in the work of the mission, in particular, given that on the spot the Council of Europe only provides interpretation to and from English or French. It should be pointed out that English is the de facto working language of the OSCE/ODHIR election observation mission;
- xiii. members of an ad hoc committee are encouraged to plan their travel arrangement in a way that would allow them at least to participate in the ad hoc committee debriefing on the morning following the elections. It is understood that those members who are unable to attend the debriefing in the capital because they were deployed outside it may report their conclusions by phone;
- xiv. members of the ad hoc committee should be aware that as far as the funding of their participation in the work of the ad hoc committee is concerned, Article 38 of the Statute of the Council of Europe shall apply (*"Each member shall bear the expenses of its own representation in the Committee of Ministers and in the Parliamentary Assembly"*);

E. Local staff

- 17. Staff recruited locally by the Council of Europe for the specific purposes of a pre-electoral, electoral or post-electoral mission (eg interpreters, drivers) are expected to declare any actual or potential conflict of interest by signing a written statement and not to take any action which would cause damage to the reputation and integrity of the mission.

F. Conflict of interest and code of conduct of members of ad hoc committees

- 18. Members of ad hoc committees for the observation of elections shall abide by the provisions of the Code of Conduct for members of the Parliamentary Assembly of the Council of Europe appended to Resolution 1903 (2012).
- 19. In particular, members of ad hoc committees, in the accomplishment of their pre-electoral, electoral or post-electoral duties, shall avoid conflicts between any actual or potential economic, commercial, financial or other interests on a professional, personal or family level and their election observation activity in the country concerned; if a member is unable to avoid such a conflict of interest it should be disclosed.
- 20. Members shall not request or accept any fee, compensation or reward intended to affect his or her conduct as a member of an ad hoc committee. They shall avoid any situation that could appear to be a conflict of interest or receiving an inappropriate payment or gift.

Informe sobre la observación electoral de las elecciones parlamentarias...

21. All candidates for membership of an ad hoc committee, at the time of putting forward their candidacy shall make a written declaration regarding the absence or otherwise of any actual or potential conflict of interest in connection with the country concerned by an election observation. In accordance with paragraph 14 of the Code of Conduct, they shall also register with the Secretariat of the Assembly any gifts or similar benefits (such as travel, accommodation, subsistence, meals or entertainment expenses) of a value in excess of 200 euros that they have accepted in the last twenty four months from the authorities of the country concerned, either directly or indirectly.

22. The aforementioned declarations shall be made available to the Bureau when it approves the composition of an ad hoc committee. Failure to sign such declarations shall disqualify the member concerned from being appointed to the ad hoc committee in question.

23. Members of an ad hoc committee shall refrain from engaging in public statements interviews, press conferences or communications via social networks which could contradict or conflict with the final assessment made by the ad hoc committee. This applies at all stages of the process: during the pre-electoral period, including in the context of a pre-electoral mission, during and following the election day, including in the context of a post-electoral mission.

24. Members of an ad hoc committee shall abstain from engaging in public activities which could appear to interfere in the electoral process or could be considered as partisan. This applies at all stages of the process: during the pre-electoral period, including in the context of a pre-electoral mission, during and following election day, including in the context of a post-electoral mission.

25. Additionally, the provisions stipulated in the Code of Conduct for rapporteurs of the Parliamentary Assembly (Resolution 1799 (2011)) shall apply *mutatis mutandis* to chairpersons of ad hoc committees over and above the provisions of the Appendix to Resolution 1903 (2012).

26. Alleged breaches of paragraphs 18-21 and 23-25 above shall be dealt with in the manner prescribed in paragraphs 17 to 20 of the appendix to Resolution 1903 (2012).

G. Election observation reports

27. The Chairperson of an ad hoc committee shall draft a report on the election observation mission, which is submitted to the Bureau and subsequently to the Assembly as part of the progress report of the Bureau.

28. This report shall be based on the information received during the meetings held during the mission, in line with the press release and preliminary findings and conclusions of the International election observation mission (IEOM), and take into account the comments and assessments of members of the ad hoc committee regarding election day made during the ad hoc committee's meeting on the day following the vote or in written form within a deadline fixed by the Chairperson, as well as relevant documents of the Monitoring Committee, the Venice Commission and other reliable sources. In principle, all members of the ad hoc committee shall be consulted on the draft before the report is issued.

H. Form of Election Observation by PACE

29. The observation of elections by PACE can take place in one of the following three forms upon decision of the Bureau.

a. *Election Observation Missions.* These take the form of an ad hoc Committee set up for this purpose. The size may vary from 5 to 40 members, Committees are composed on the basis of proposals by the Political Groups taking into account the D'Hondt rule. The Chairperson of the ad hoc Committee is appointed by the Bureau of the Assembly. Chairmanship rotates between political groups. PACE Election Observation Missions issue a statement of their findings immediately following the elections, where applicable in the framework of an IEOM. A pre-electoral mission shall be conducted following a Bureau's decision.

b. *Election Assessment Missions.* These take the form of an ad hoc Committee specifically set up for this purpose. Election Assessment Missions are normally composed of five members, but never less than three members, in order to guarantee a minimum political and geographical balance of the ad hoc Committee. The Chairperson of the ad hoc Committee is appointed by the Bureau. Chairmanship rotates between political groups. The ad hoc Committee will report its findings in the form of a memorandum by its Chairperson to the Bureau. No pre-electoral mission will be conducted.

c. *Presence on the Occasion of Election* of Assembly members during and/or just before an election without a formal observation or assessment of it. Accordingly, the Bureau does not set up an ad hoc Committee but decides on the dates of the mission. These missions are normally composed of the country rapporteur(s) of the Monitoring or Political Affairs Committee. In exceptional cases, the Bureau can appoint one of its members to participate in these missions. This mission will report their findings in the form of a memorandum to the Bureau.

30. Election Observation Missions for which less than five members are identified shall be considered as Election Assessment Missions. In the event that three members cannot be identified for an assessment mission, the mission shall be cancelled. Time allowing, the possibility of ensuring a presence could then be considered by the Bureau of the Assembly.

Informe sobre la observación electoral de las elecciones parlamentarias...

Appendix

DECLARATION ON CONFLICT OF INTEREST OF CANDIDATES FOR ELECTION OBSERVATION MISSIONS OF THE PARLIAMENTARY ASSEMBLY

Ad hoc committee to observe the elections in ...

1. I hereby declare that I have no actual or potential economic, commercial, financial or other interests on a professional, personal or family level in connection with the country concerned by the election observation. ☐*

I hereby declare that I have an actual or potential conflict of interest in connection with the country concerned by the election observation. ☐*

Please specify the nature of the actual or potential conflict of interest:

.....

2. I also declare that I have not accepted in the last twenty four months gifts or similar benefits, of a value in excess of 200 €, from the authorities of the country concerned, either directly or indirectly. ☐*

I also declare that I have registered with the Secretariat gifts or similar benefits, of a value in excess of 200 €, that I have accepted in the last twenty four months from the authorities of the country concerned, either directly or indirectly. ☐*

.....

3. I note that the present declaration will be made available to the Bureau when it approves the composition of the ad hoc committee.

Name

On.....

Signature:

 * Please tick the appropriate box.

Parliamentary Assembly
Assemblée parlementaire

Restricted – Internal Document

27 March 2013

BULGARIA

PACE ELECTION OBSERVATIONS 1990 – 2011

Chairperson/ Rapporteur	Delegation	Ref Doc	Main Concerns	Remarks
Parliamentary Elections 10 June / 17 June 1990 (second round)				
First round Mr Martinez (SPA/SOC) Chairperson and Rapporteur	8 members	6279 Addendum 1	The Bulgarian Socialist Party has had a serious advantage in being the ruling party and having a number of state instruments at its disposal.	Conclusion: "The elections may indeed be regarded as free and fair, in the light of our observations of the actual elections and of information currently available"
Second round Sir Smith (UK/EDG) Chairperson and Rapporteur	5 members			
Parliamentary Elections 13 October 1991				
Mr de Puig (SPA/SOC) Chairperson	9 members	6543 Addendum 1	- Banning of the formation of parties on ethnic or religious grounds. - The main problem anticipated and experience throughout the country was the registration of unregistered voters. - Minor infractions of the electoral procedure.	Special Guest Status on 3 July 1990 Conclusion: "Although irregularities may have affected local results, we have no reason to believe that significant fraud or malpractice took place to the national benefit of any single party or coalition. We were however unable to judge how free the electorate really was, in view of the newness of the democratic tradition in
Mr Soares Costa (POR/LDR) Rapporteur				

ANEXO: 10

Informe sobre la observación electoral de las elecciones parlamentarias...

Bulgaria				
Parliamentary Elections 19 April 1997				
Mr Columberg (SWT/EPP) Chairperson	5 members	7830 Addendum I	No major concern	Accession on 7 May 1992 Conclusion: "Despite the country's economic plight and the political showdown at the beginning of the year, these elections were free, fair and democratic."
Mr Onalinda (SPA/SOC) Rapporteur				
Parliamentary Elections 17 June 2001				
Mr Gjellerod (DK/SOC) Chairperson and Rapporteur	4 members	9134	- Lack of independence of the judiciary. - Generalisation of corruption. - The regulatory framework for public media was felt to be overly restrictive and not encouraging open debate among the contestants. - Extensive coverage of government officials by the public media during the election campaign. - The election law makes no provision for mobile voting stations which would have allowed all disabled and home-bound voters to cast their ballot. - Lustration laws. - Underrepresentation of national minorities.	Conclusion: "The elections were carried out in a calm and orderly manner and in compliance with the election law. The international observers did not report any significant problems or disturbances. (...) The results of these elections have drastically changed the political landscape in Bulgaria. These results and the high voter turnout are a clear indication of the desire for change favoured by the Bulgarian electorate".
Parliamentary Elections 25 June 2005				
Joint report of the members	3 members	10663	- The competence of the Central Election Committee vis-à-vis the Cabinet of Ministers should be defined. - Need of a better administration of voters' lists, absentee certificates and means of identification of voters as means of avoiding multiple voting. - The election law makes no provision for mobile voting	Conclusion: The elections "demonstrated the credibility and stability of the election process in general, though some politico-administrative issues added a note of uncertainty and decreased voter confidence in the election system".

580

F-67075 Strasbourg tel: +33 3 88 41 20 00, fax: +33 3 88 41 27 76, http://assembly.osce.org alt: assembly@coe.int



Parliamentary Assembly
Assemblée parlementaire

Restricted – Internal Document

27 March 2013

BULGARIA

PACE ELECTION OBSERVATIONS 1990 – 2011

Chairperson/ Rapporteur	Delegation	Ref Doc	Main Concerns	Remarks
Parliamentary Elections 10 June / 17 June 1990 (second round)				
First round Mr Martinez (SPA/SOC) Chairperson and Rapporteur	9 members	6279 Addendum 1	The Bulgarian Socialist Party has had a serious advantage in being the ruling party and having a number of state instruments at its disposal.	Conclusion: "The elections may indeed be regarded as free and fair, in the light of our observations of the actual elections and of information currently available"
Second round Sir Smith (UK/EDG) Chairperson and Rapporteur	5 members			
Parliamentary Elections 13 October 1991				
Mr de Puig (SPA/SOC) Chairperson	9 members	6543 Addendum 1	- Banning of the formation of parties on ethnic or religious grounds. - The main problem anticipated and experience throughout the country was the registration of unregistered voters. - Minor infractions of the electoral procedure.	Special Guest Status on 3 July 1990 Conclusion: "Although irregularities may have affected local results, we have no reason to believe that significant fraud or malpractice took place to the national benefit of any single party or coalition. We were however unable to judge how free the electorate really was, in view of the newness of the democratic tradition in
Mr Soares Costa (POR/LDR) Rapporteur				

ANEXO: 10

Informe sobre la observación electoral de las elecciones parlamentarias...

			stations which would have allowed all disabled and home-bound voters to cast their ballot.	
Parliamentary Elections 5 July 2009				
Mr Iwinski (POL/SOC) Chairperson	11 members	12008	- Last minute changes of the electoral legislation run counter to the recommendations set out in the Code of Good Practice in Electoral Matters. - Lack of public confidence in the democratic process resulting in wide-scale electoral cynicism - The establishment of a permanent CEC in Bulgaria would be most advisable. - Lack of legal provisions for free airtime on public broadcasting channels for those running in the elections. - Need to tighten up the existing rules on financial disclosure in the electoral context, in particular, by introducing effective enforcement mechanisms.	Accession to the EU on 1st January 2007 Very late invitation and lack of co-operation by the Bulgarian authorities. Conclusion: The elections "were generally in accordance with OSCE commitments and Council of Europe standards; however further efforts are necessary to ensure the integrity of the election process and increase public confidence".
Presidential Election 23 and 30 October 2011				
Mr Binley (UK/EDG) Chairperson	10 members	12796	- All complaints should be considered in a short time-frame and according to similar procedure. - Access to media need drastic improvement to ensure a level playing field for all concerned. - CEC should improve transparency. - More thorough training of MECs and PECs members. - A proper dedicated voter register should be established.	Conclusion: The elections "PACE welcomed Bulgaria's continuous progress towards the implementation of its commitments vis-à-vis the Council of Europe in the field of democratic elections", although "certain aspects need to be addressed" (see conclusions)

F-67075 Strasbourg Cedex, tel: +33 3 88 41 20 00, fax: +33 3 88 41 27 76, <http://assembly.coe.int>, e-mail: assembly@coe.int

ANEXO: 10

Note prepared by the Secretariat

29.04.2013

Main political parties running in the early parliamentary elections in Bulgaria on 12 May 2013

1. National Assembly of Bulgaria

The National Assembly (*Narodno Sabranie*) has 240 members, it is elected for a four-year term by proportional representation in multi-seat constituencies with a 4% threshold.

Composition of the Parliament elected in 2009

GERB – Citizens for European Development of Bulgaria – Boyko Borissov – 117 seats

BSP - Coalition for Bulgaria– Sergei Stanishev – 40 seats

- Bulgarian Socialist Party
- Party of Bulgarian Social Democrats
- Agrarian Union "Aleksandar Stamboliyski"
- Movement for Social Humanism

DPS - Movement for Rights and Freedoms– Müfti Mestan – 37 seats

ATAKA – Volen Siderov – 21 seats

Blue Coalition – 15

- Union of Democratic Forces
- Democrats for a Strong Bulgaria
- United Agrarians

Order, Law and Justice – 10

2. Parties running in the early parliamentary elections

CITIZENS FOR EUROPEAN DEVELOPMENT OF BULGARIA (GERB)

The party was founded in April 2006 as a civil movement (NGO). In December 2006, the NGO was registered as a political party. The leader of the party is Tsvetan Tsvetanov, a former police officer, at that time working for municipality of Sofia. In January 2010 – Borisov was elected as party leader and Tsvetanov – as vice-President.

The party is in government since the last parliamentary elections in 2009, the party is represented in the EP, holds the majority of the mayors' offices and municipal councilors in municipalities (all large and medium sized cities). It is a centre right party, member of the European People's Party. The basis of its

ANEXO: 11

Informe sobre la observación electoral de las elecciones parlamentarias...



POLITICAL PARTY ATAKA

The party is considered to have a right wing nationalist tendency, it held 2 mandates in the Parliament (2005-2009) and holds 21 seats in the current Parliament. This party was founded in 2005 by Voden Siderov, journalist, TV SKAT is considered as anti-Roma, racist, anti-Semitic, xenophobic political party. The party has a strong influence in the mixed regions. The only party that left the current Parliament and used the street manifestations for political aims

Leader – Volen Siderov



BULGARIA OF THE CITIZENS



The leader of the party is Ms Meglena Kuneva (EC commissioner until 2009). The party was founded as a civil association in October 2011, after the Presidential elections in Bulgaria, in which Ms Kuneva came third, taking 14% of the votes. The founders of the Bulgarian for Citizens Association include politicians and officials from the National Movement for Stability and Progress – the party was initially founded around former monarch Simeon Saxe-Coburg, and was the partner of the government from 2001 to 2005 and then in opposition to the government from 2005 to 2009.

ANEXO: 11

Note prepared by the Secretariat

29.04.2013

Main political parties running in the early parliamentary elections in Bulgaria on 12 May 2013

1. National Assembly of Bulgaria

The National Assembly (*Narodno Sabranie*) has 240 members, it is elected for a four-year term by proportional representation in multi-seat constituencies with a 4% threshold.

Composition of the Parliament elected in 2009

GERB – Citizens for European Development of Bulgaria – Boyko Borissov – 117 seats

BSP – Coalition for Bulgaria– Sergei Stanishev – 40 seats

- Bulgarian Socialist Party
- Party of Bulgarian Social Democrats
- Agrarian Union "Aleksandar Stamboliyski"
- Movement for Social Humanism

DPS – Movement for Rights and Freedoms– Müfti Mestan – 37 seats

ATAKA – Volen Siderov – 21 seats

Blue Coalition – 15

- Union of Democratic Forces
- Democrats for a Strong Bulgaria
- United Agrarians

Order, Law and Justice – 10

2. Parties running in the early parliamentary elections

CITIZENS FOR EUROPEAN DEVELOPMENT OF BULGARIA (GERB)

The party was founded in April 2006 as a civil movement (NGO). In December 2006, the NGO was registered as a political party. The leader of the party is Tsvetan Tsvetanov, a former police officer, at that time working for municipality of Sofia. In January 2010 – Borisov was elected as party leader and Tsvetanov – as vice-President.

The party is in government since the last parliamentary elections in 2009, the party is represented in the EP, holds the majority of the mayors' offices and municipal councilors in municipalities (all large and medium sized cities). It is a centre right party, member of the European People's Party. The basis of its

ANEXO: 11

Informe sobre la observación electoral de las elecciones parlamentarias...

membership is police officers and staff, as the leaders used to be in the highest levels of the police system. Many political analysts consider that this party has populist tendencies with a strong leadership.

Leader Boyko Borissov.



Born 1959, his father was a policeman and his mother a teacher. He graduated from the Police faculty – specialty “Fire protection”. Since 1985 he has been a lecturer at the High police institute – PhD in 1990 (Psychophysical readiness of the police staff). In 1990 left the Police academy – “major”.

After 1991 founded a bodyguard company which protected the ex-communist leader Todor Zhivkov. In 2001, he was appointed as Chief Secretary of the Ministry of Interior and closed his companies. Since 2002 he is general – major.

In October 2005 he was elected as mayor of Sofia and since 2009 an MP and leader of the largest parliamentary group.

BULGARIAN SOCIALIST PARTY

The party continues the tradition and history of Bulgarian Communist Party, the ruling party from 2005-2009.

Leader Sergei Stanishev



MOVEMENT FOR RIGHTS AND FREEDOM

The party was registered in January 1990 after a decision by the ECHR, since then the party has had members in all parliaments, holding the mandate twice, and ruling in coalition 2005-2009. This party is considered to be relying on the votes of the ethnic Turkish minority. The party is a member of Liberal International and Alliance of Liberals and Democrats for Europe. The party has Mayors and municipal councils in almost all of the mixed population regions of Bulgaria.

The Leader of the party is Mr. Lutvi Mestan (Mr. Ahmet Dogan led the party from 1990 to 2013)



POLITICAL PARTY ATAKA

The party is considered to have a right wing nationalist tendency, it held 2 mandates in the Parliament (2005-2009) and holds 21 seats in the current Parliament. This party was founded in 2005 by Voden Siderov, journalist, TV SKAT is considered as anti-Roma, racist, anti-Semitic, xenophobic political party. The party has a strong influence in the mixed regions. The only party that left the current Parliament and used the street manifestations for political aims

Leader – Volen Siderov



BULGARIA OF THE CITIZENS



The leader of the party is Ms Meglena Kuneva (EC commissioner until 2009). The party was founded as a civil association in October 2011, after the Presidential elections in Bulgaria, in which Ms Kuneva came third, taking 14% of the votes. The founders of the Bulgarian for Citizens Association include politicians and officials from the National Movement for Stability and Progress – the party was initially founded around former monarch Simeon Saxe-Coburg, and was the partner of the government from 2001 to 2005 and then in opposition to the government from 2005 to 2009.

ANEXO: 11

Informe sobre la observación electoral de las elecciones parlamentarias...

3. The latest poll results

National Centre for Public Opinion (NCOM)

10-15 April 2013, 1120 interviews by random selection

GERB – 23.9%

BSP – 17.5%

MRF – 6.2%

Ataka – 5.2%

On the very edge of the threshold is Bulgaria to Citizens' – 3.1%

Expected participation is 55%

Centre for Development of Regions

9-15 April 2013, 1300 interviews by random selection

- GERB – 24%
- BSP – 18.9%
- Ataka – 5.4%
- MRF – 5.00%

On the very edge of the threshold is the party Bulgaria to the Citizens and the party Order, Protection, Security.

DRAFT DEPLOYMENT- BULGARIA – 12 May 2013						
Version 7 May 2013						
Team #	NAMES	L	AREA	Long Term Observers Name / GSM	Interpreter Name / GSM	Driver Name / GSM
1	Mr Andreas GROSS Mr Chemavon CHAHBAZIAN	E	SOFIA (Sofia region)			
2	Mr Luca VOLONTE Mr Nikolaj VILLUMSEN	E	SOFIA			
3	Mr Mevlüt CAVUSOGLU Mr Andrea RIGNONI	E	SOFIA			
4	Mr Aleksandar NIKOLOSKI Mr Øyvind VAKSDAL	E	SOFIA (Sofia region)			
5	Mr Saban DISLI Mr Violel BADEA	E	SOFIA (Sofia region)			
6	Mr René ROUQUET Mr Paolo CORSINI	French	SOFIA (Sofia region)			
7	Mr Giacomo STUCCHI Ms Anne GODFREY	French	SOFIA (Sofia region)			
8	Mr Manuel Gonzales OROPEZA Ms Anaya UBEDA DE TORRES	E	BLAGOEVGRAD			
9	Ms Dana VAHALOVA Ms Marietta de POURBAIX-LUNDIN	E	PAZARZHIK			
10	Ms Daniele GASTL Mr Konstantinos TRIANTAFYLLOS	E	KIUSTENDIL			
11	Mr Alfred HEER Mr Ionut-Marian STROE	E	VRAZHA-MONTANA (Direction Vidin)			
12	Ms Tinatin KHIDASHIELI Mr Lennart AXELSSON	E	VARNA			

ANEXO: 12

Informe sobre la observación electoral de las elecciones parlamentarias...

Приложение № 86
Секционният протокол е в четири идентични екземпляра, изработен на четирисловна индигирана хартия и е защитен с полиграфическа защита. Образецът се одобрява от ЦИК.

ИСТ 1

ЦИК
ИЗБОРИ 2013
51572

ПРОТОКОЛ
на СЕКЦИОННАТА ИЗБИРАТЕЛНА КОМИСИЯ в ИЗБИРАТЕЛНА СЕКЦИЯ
№ 24 - 24 - 24 - 24
Изборен район община адм. район секция

за избиране на НАРОДНИ ПРЕДСТАВИТЕЛИ на 12 май 2013 г.

населено място гр. София кметство Среден община столична
административен район д-р Среден изборен район София № 24

нес. 12.05 2013 г., в 21.30 часа, СЕКЦИОННАТА ИЗБИРАТЕЛНА КОМИСИЯ в състав:
председател: Евелина Александрова Александрова
заместник-председател: Верджина Петрова Бончева
Секретар: Верджина Петрова Бончева
членове: 1. Борислав Иванов Борджалиев 2. Марияна Димитрова Петрова
3. Петър Иванов Бончев 4. Снежана Тодорова Миланова
5. _____ 6. _____

а основание чл. 213 от Изборния кодекс (ИК) състави този протокол за установяване на резултатите от гласуването за народни представители в секцията.
Изборът започна в 21.00 часа на 12.05 2013 г. и завърши в 22.00 часа на същия ден, когато председателят на секционната избирателна комисия обяви гласуването за приключило и се пристъпи към установяване на резултатите.

При отварянето на избирателната урна и при установяването на резултатите от гласуването присъстваха кандидати, застъпници, представители на партии, коалиции от партии и инициативни комитети, наблюдатели и журналисти, както следва:
Иван Каджасаничов - застъпник

(посочват се имената им и качеството, в което присъстват)

ЧАСТ I
Попълна се преди отваряне на избирателната урна
СЕКЦИОННАТА ИЗБИРАТЕЛНА КОМИСИЯ УСТАНОВИ:

Брой на регистрираните кандидатски листи на партии, коалиции от партии и независими кандидати за народни представители списъкът и нет 45
(с думи) (с цифри)

Брой на бюлетините, получени по реда на чл. 187, ал. 1 от ИК, вписани в т. 2 протокола с чл. 187, ал. 3 от ИК – Приложение № 80 от изборните книги осемстотин и петдесет 850
(с думи) (с цифри)

ДАНИ ОТ ИЗБИРАТЕЛНИТЕ СПИСЪЦИ:

Брой на избирателите според избирателния списък при предаването му на СИК <u>осемстотин и петдесет и две</u> (с думи) <u>852</u> (с цифри)	пишете числото по т. 4 от протокола за приемане на избирателния списък – Приложение № 74 от изборните книги
Брой на избирателите, вписани в допълнителната страница (под чертата) на избирателния списък в изборния ден <u>нула</u> (с думи) <u>0</u> (с цифри)	Пребройте и впишете само избирателите, вписани под чертата на избирателния списък в изборния ден
Брой на избирателите, вписани в допълнителния избирателен списък в изборния ден <u>тридесет и две</u> (с думи) <u>34</u> (с цифри)	КОНТРОЛ – числото по тази точка трябва да е равно на сумата от числата по т. 6, букви „а“, „б“ и „в“

Приложение № 86
ANEXO: 13

СИК ПРОСТАВАТИ СЪДЪРЖАНИЕТО НА ИЗБОРНИТЕ СПИСКОВЕ И НА ДОПЪЛНИТЕЛНИЯ ИЗБОРАТЕЛЕН СПИСК СИК КОНТРОЛА – числото по т. 4 трябва да е равно на числото по т. 10 и да е по-малко или равно на сумата от числата по т. 1, 2 и 3.		460 (с цифри)
ДАНИИ ИЗВЪН ИЗБОРАТЕЛНИТЕ СПИСКОВЕ И СЪДЪРЖАНИЕТО НА УРНАТА:		
Приложение към избирателните списъци		
5. Приложения към избирателния списък:		
а) декларации по чл. 194 от ИК от лицата, заети в произвеждането на изборите като членове на СИК и охрана на съответната секция – Приложение № 72 от изборните книжа нула (с цифри)		0 (с цифри)
б) декларации по чл. 57 от ИК – Приложение № 73 от изборните книжа нула (с цифри)		0 (с цифри)
в) удостоверения по чл. 486, ал. 1 от ИК – Приложение № 14 от изборните книжа нула (с цифри)		0 (с цифри)
6. Приложения към допълнителния избирателен списък:		
а) декларации по чл. 203, ал. 3 от ИК – Приложение № 70 от изборните книжа двадесет и шест (с цифри)		26 (с цифри)
б) декларации по чл. 207, ал. 1, т. 3 от ИК – Приложение № 71 от изборните книжа четири (с цифри)		4 (с цифри)
в) удостоверения за гласуване на друго място (чл. 206 във връзка с чл. 49 от ИК) – Приложение № 18 от изборните книжа едно (с цифри)		1 (с цифри)
КОНТРОЛА – Сумата от числата по т. 6, букви „а“, „б“ и „в“ трябва да е равна на числото по т. 3		
Други участващи лица		
7. Брой на придружителите:		
а) вписани в графа „Забележки“ в избирателния списък двадесет (с цифри)		20 (с цифри)
б) вписани в Списъка за допълнително вписване на придружителите двадесет и една (с цифри)		21 (с цифри)
8. Брой на лицата, присъствали в изборните помещения в изборния ден и при установяване на изборните резултати:		
а) брой застъпници, вписани в Списъка на застъпниците четири (с цифри)		4 (с цифри)
б) брой на представители на политическа партия, коалиция от партии и инициативен комитет, вписани в Списъка за вписване на представители нула (с цифри)		0 (с цифри)
в) брой на наблюдателите, вписани в Списъка за вписване на наблюдателите три (с цифри)		3 (с цифри)
9. Бюлетени извън урната		
а) брой на неизползваните бюлетени триста осемдесет и едно (с цифри)		381 (с цифри)
б) брой на унищожените от СИК бюлетени по други поводи (за създаване на образци за таблата пред изборното помещение и увредени механично при отпъскане от кочана и станали неизползваеми) три (с цифри)		3 (с цифри)
в) брой на недействителните бюлетени по чл. 180 от ИК нула (с цифри)		0 (с цифри)

Екземпляр за СИК
Приложение 86

210010

Informe sobre la observación electoral de las elecciones parlamentarias...

г) брой на недействителните бюлетини по чл. 181 от ИК	нула	0 (с цифри)
А) брой на сгъшените бюлетини по чл. 201, ал. 2 от ИК	една	1 (с цифри)

След като напишете броя на бюлетините по т. 9, букви „а“, „б“, „в“, „г“ и „д“, опаковайте ги в отделни пакети, надпишете пакетите и ги отстранете от мястото за броене!

ЧАСТ II

Попълва се след попълване на част I и отстраняване на всички вещи и книжа от масата, с изключение на черновата от протокола и отваряне на избирателната урна

СЛЕД КАТО ОТВОРИ ИЗБИРАТЕЛНАТА УРНА, СИК УСТАНОВИ:

10. Брой на намерените в избирателната урна бюлетини	465 (с цифри)
КОНТРОЛ – Числото по т. 10 трябва да е равно на сумата от числата по т. 12 и т. 13	
11. Брой намерени в урната недействителни гласове (бюлетини), както следва:	
а) бюлетини, които не са по установен образец;	0 (с цифри)
б) бюлетини върху които има изписани специални символи, като букви, цифри или други знаци;	3 (с цифри)
в) бюлетини по установен образец, в които не е отразен със знак „Х“ и с химикал, пишещ със син цвят, вотът на избирателя;	1 (с цифри)
г) бюлетини по установен образец, в които не е отразен вотът на избирателя;	2 (с цифри)
д) бюлетини по установен образец с отбелязан знак „Х“ или друг знак и с химикал, пишещ със син цвят или друг цвят, вот на избирателя за две или повече кандидатски листи;	4 (с цифри)
е) бюлетини по установен образец с отбелязан знак „Х“, който засяга повече от едно квадратче за гласуване и не може да се установи еднозначно волята на избирателя;	0 (с цифри)
ж) бюлетини по установен образец, които не съдържат два броя печата на съответната секционна избирателна комисия.	0 (с цифри)
12. Недействителни гласове – сумата от числата по т. 11, букви „а“, „б“, „в“, „г“, „д“, „е“ и „ж“.	10 (с цифри)
КОНТРОЛ – Числото по т. 12 трябва да е равно на сумата от числата по букви „а“, „б“, „в“, „г“, „д“, „е“ и „ж“ от т. 11.	
13. Брой на действителните гласове (броят на действителните гласове е равен на броя на бюлетините по установения образец, съдържащи два печата на гърба на съответната СИК, върху които вотът на избирателя е отбелязан със знак „Х“ с химикал, пишещ със син цвят, само в едно от квадратчетата за гласуване)	455 (с цифри)
КОНТРОЛ – Числото по т. 10 трябва да е равно на сумата от числата по т. 12 и т. 13	

Приложение 86

3

240010

14. РАЗПРЕДЕЛЕНИЕ НА ДЕЙСТВИТЕЛНИТЕ ГЛАСОВЕ ПО КАНДИДАТСКИ ЛИСТИ

№	Наименование на партия/коалиция от партии и/или имената на независим/и кандидат/и	БРОЙ НА ПОЛУЧЕНИТЕ ГЛАСОВЕ с думи	с цифри
1.	ПП НОВА АЛТЕРНАТИВА	нула	0
2.	ПП ДЕМОКРАТИЧЕСКА ПАРТИЯ	нула	0
4.	ПП НАЦИОНАЛЕН ФРОНТ ЗА СПАСЕНИЕ НА БЪЛГАРИЯ (НФСБ)	единадесет	11
5.	КП КОАЛИЦИЯ ЗА БЪЛГАРИЯ	сто и шест	106
6.	КП ЦЕНТЪР – СВОБОДА И ДОСТОЙНСТВО	три	3
8.	ПП Национал-демократична партия	нула	0
9.	КП ГРАЖДАНСКА ЛИСТА „МОДЕРНА БЪЛГАРИЯ“	две	2
10.	КП СЪЮЗ НА ДЕМОКРАТИЧНИТЕ СИЛИ – САС, Обединени земеделци, Движение „Гергьовден“, РАП, БСАП	седемнадесет	17
11.	ПП АЛИБЕРАЛЕН АЛИАНС	нула	0
12.	ПП ХРИСТИЯН-СОЦИАЛЕН СЪЮЗ	две	2
14.	ПП АТАКА	девет	9
15.	ПП ГЕРБ	сто и петдесет и шест	156
17.	ПП РЕД, ЗАКОННОСТ И СПРАВЕДЛИВОСТ – РЗС	две	2
18.	ПП ВМРО – БЪЛГАРСКО НАЦИОНАЛНО ДВИЖЕНИЕ	шест	6
19.	ПП ДЕМОКРАТИЧНА ГРАЖДАНСКА ИНИЦИАТИВА	нула	0
20.	ПП ХРИСТИЯН-ДЕМОКРАТИЧЕСКА ПАРТИЯ НА БЪЛГАРИЯ	три	3
22.	ПП СРЕДНА ЕВРОПЕЙСКА КЛАСА	едно	1
23.	ПП НАЦИОНАЛНО ПАТРИОТИЧНО ОБЕДИНЕНИЕ	едно	1
25.	ПП ЛИДЕР	две	2
26.	ПП ЗЕЛЕНИТЕ	двадесет	20
27.	КП Демократи за силна България и Български демократически форум (ДСБ, БДФ)	осемдесет и три	83
28.	ПП СОЦИАЛ-ДЕМОКРАТИЧЕСКА ПАРТИЯ (САП)	две	2
29.	ПП ДРУГАТА БЪЛГАРИЯ	нула	0
30.	ПП БЪЛГАРСКАТА ЛЕВИЦА	нула	0

Таблицата продължава на лист 3, стр. 5

Екземпляр за СИЛК
Примено, 06

Informe sobre la observación electoral de las elecciones parlamentarias...

№	Наименование на партия/коалиция от партии и/или имената на независим/и кандидат/и	БРОЙ НА ПОЛУЧЕНИТЕ ГЛАСОВЕ с думи	с цифри
32.	ПП КАЗА БЪЛГАРИЯ	едно	1
33.	ПП Движение България на гражданите	петнадесет	15
34.	ПП ДАНО – Демократична алтернатива за национално обединение	нула	0
35.	КП Българска пролет (Българска Социалдемокрация, Партия на Зелените)	нула	0
36.	КП ГОРДА България	нула	0
37.	ПП ГЛАС НАРОДЕН	единадесет	11
38.	ПП БЗНС	едно	1
40.	ПП ДПС – Движение за права и свободи	едно	1
41.	ПП Национално движение Единство	нула	0
42.	ПП ПАРТИЯ НА БЪЛГАРСКИТЕ ЖЕНИ	нула	0
44.	ПП ЕДИННА НАРОДНА ПАРТИЯ	нула	0
45.	ПП Съюз на комунистите в България	нула	0

КОНТРОЛ – Числото по т. 13 трябва да е равно на сумата от числата по т. 14.

Поредността на изписване е според поредността на номерата на кандидатските листи в бюлетината.



по тях решения и бележките и възраженията на членове на комисията по взетите решения:

(опишва се по кои точки от протокола са спорете, взети ли са по тях решения и има ли особени мнения. Протоколът по чл. 215Б, ал. 4 от ИК, както и текстовете на особените мнения се прилагат и са неразделна част от протокола на СИК)

След откриване на изборния ден и при установяване на резултатите от гласуването в СИК постъпиха следните заявления, жалби и възражения и брой на взетите решения по тях:

(посочва се от кого и в какво качество е подадена жалбата или възражението, и взето ли е решение от СИК. Жалбите, заявленията и взетите по тях решения, както и особените мнения, ако има такива, се прилагат към протокола и са неразделна част от него)

Изборите в секцията бяха произведени при следната обстановка:

Нормална

Този протокол беше съставен в четири еднообразни екземпляра.

Брой на приложените жалби, възражения, заявления, особени мнения и решения по тях, представляващи неразделна част от този протокол:

(с думи)

нима

(с цифри)

0

Брой на поправките, извършени преди обявяването на протокола и заверени на съответните места с означението "поправка" и с подписите на всички членове на СИК:

(с думи)

нима

(с цифри)

0

Подписите в протокола се положиха в 21.45 часа на 18.05 2013 г.

ПОДПИСИ НА ЧЛЕНОВЕТЕ НА СЕКЦИОННАТА ИЗБИРАТЕЛНА КОМИСИЯ

ПРЕДСЕДАТЕЛ:

ЗАМ.-ПРЕДСЕДАТЕЛ:

СЕКРЕТАР:

ЧЛЕНОВЕ:

1.

3.

5.

2.

4.

6.

Протоколът се подписва от всички членове на комисията след съставянето му. Член на комисията не може да откаже да подпише протокола. Член, който не е съгласен с отраженото в протокола, го подписва с особено мнение, което се прилага към протокола и става неразделна част от него. Когато член на комисията е обективно възпрепятстван да подпише протокола, това се отбелязва, като се посочват и причините. Член на СИК, който откаже да подпише този протокол се наказва с глоба от 1000 лв. Неподписването на протокола от член на комисията не го прави недействителен.

При извършване на изборните резултати СИК трябва задължително да провери дали са спазени следните условия:

1. Числото по т. 4 трябва да е равно или по-малко от сумата на числата по т. 1, 2 и 3.
2. Числото по т. 4 трябва да е равно на числото по т. 10.
3. Числото по т. 10 трябва да е равно на сумата от числата по т. 12 и т. 13.
4. Числото по т. 13 трябва да е равно на сумата от числата по т. 14.
5. Числото по т. 3 трябва да е равно на сумата от числата по т. 6, букви „а“, „б“ и „в“.
6. Числото по т. 12 трябва да е равно на сумата от числата по букви „а“, „б“, „в“, „г“, „д“, „е“ и „ж“ от т. 11.

Всеки екземпляр на протокола се оформя на листове с обособени страници. Всяка страница се номерира. На всяка страница се отпечатва номерът на листа от протокола, номерът на страницата и фабричният номер на формуляра. На всяка страница се поставят визуални маркери, дефиниращи ориентацията на протокола.

Екземпляр за СИК
Приложение 86