



Office for Democratic Institutions and Human Rights

## Bosnia and Herzegovina

### Municipal Elections

13-14 September 1997



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## **I. INTRODUCTION**

In accordance with Article III, 2. (e) of Annex 3 of the General Framework Agreement for Peace in Bosnia and Herzegovina signed at Dayton, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission in May to assess the election process of the Municipal Elections of 13-14 September.

Mr. Javier Rupérez, President of the OSCE Parliamentary Assembly, was appointed by the OSCE Chairman-in-Office as a Special Representative to the Election Observation Mission.

Mr. Kåre Vollan was appointed by the ODIHR as the On-site Co-ordinator in July, upon being seconded by the Government of Norway.

The participants in the Election Observation Mission included observers seconded by 27 OSCE participating States, parliamentarians and public officials representing the OSCE Parliamentary Assembly, the Council of Europe Parliamentary Assembly, the Council of Europe Congress for Local and Regional Authorities, the European Parliament, as well as the European Community Monitoring Mission (ECMM), locally based embassies, international organisations and non-governmental organisations. In total, 363 observers were deployed throughout the territory of Bosnia and Herzegovina. In addition, 30 observers were deployed in the Federal Republic of Yugoslavia to observe the out-of-country voting, and 44 observers were deployed in the Republic of Croatia.

The achievements of the OSCE Mission to Bosnia and Herzegovina, who worked in co-operation with their local counterparts at all levels of the election administration in order to realise these elections, should be commended. These Municipal Elections are a considerable achievement, despite some of the technical shortcomings, given the fact that they were organised within the context of a conflict resolution process.

In particular, the fact that it was possible to achieve 100% supervision during the registration period and the election days has been an important factor in significantly improving upon last years elections and in preventing large scale manipulation and fraud.

The realisation of these elections would not have been possible without the excellent co-operation of SFOR, which provided substantial logistical support and secured a stable environment in which the electoral process could be held.

These elections must be assessed in the post-war context, and in full recognition that the Dayton agreement is far from being fully complied with. This is particularly true in the areas of freedom of movement, return of displaced persons and freedom of the media. The elections have also been conducted under the shadow of the large number of indicted war criminals who are still at large and influential in this society.

## **II. THE LEGISLATIVE FRAMEWORK**

### **II. 1. General**

The General Framework Agreement for Peace in Bosnia and Herzegovina (GFAP) - the so-called Dayton Agreement - Annex 3 gave OSCE the authority to supervise the elections and to establish and chair a Provisional Election Commission (PEC), the Chairman having the decisive vote in case of disputes. The PEC was to organise the first elections to all elected bodies in 1996 after certifying whether certain pre-set conditions were met, so that the elections could be effectively implemented. The agreement outlines the following basic conditions: a politically neutral environment; the right to vote in secret without fear or intimidation; freedom of expression and of the press; freedom of association (including of political parties); and freedom of movement. On 25 June 1996 the necessary certification of conditions was made for all the elections to take place on 14 September 1996. However, on 27 August 1996 the municipal elections were postponed initially for three months, then until Spring, 1997, and then again until 13/14 September 1997.

The PEC adopted Rules and Regulations for the municipal elections as per its mandate and is thus acting as both a legislative and an executive body. The Rules and Regulations have empowered the Elections Appeals Sub-Commission (EASC) to issue final and binding decisions in cases where the Rules and Regulations are being violated. Such penalties could take the form of fines or the striking of candidates from candidate lists of parties found guilty of violations. The validity of this Article was a matter of dispute when some decisions were overruled by the Chairman of the PEC. The legal basis for doing so was the power given to him in the GFAP. This issue will be discussed later in this report.

## **II. 2. The Electoral System**

The electoral system is a proportional one based upon the so-called method of largest remainder. Candidates were nominated by parties, coalitions or as independent candidates. On the ballot paper each party, coalition and independent candidate was listed with one entry each, and the voter would mark one alternative according to their preference. The number of seats was distributed proportionally between the entries. In the case of parties and coalitions the people actually elected were those candidates listed first on the party or coalition list, according to the number of seats won by that party or coalition. An elected independent candidate would take the one seat personally.

The minimum number of votes that a party or candidate needed to gain one seat was defined as the total number of valid votes divided by the number of seats to be elected. Since the number of seats to be elected in the councils varied from 15 to 70, the threshold for gaining one seat varied from 6.67 % at the most (in the case of 15 seats) down to 1.43 % (when 70 seats).

Article 91 of the Rules and Regulations defines a "Division Quota" as the number of votes cast for the parties exceeding the Threshold Value divided by the number of seats to be distributed, without giving a round off rule. The assumption would therefore be that the exact figure was to be used in the calculations. The example enclosed with the article did however round the Division Quota up to the nearest integer. When this inconsistency was pointed out by the ODIHR, an administrative decision was made to follow the example and rounding up to the nearest integer without making a formal change to the article. The rule of the actual Article could still be read as if the exact figure should be used.

By rounding up to an integer instead of keeping a number of decimals, the probability for tie-break situations is increased. In municipality 26 Gradacac / Pelagicevo, the application of the example's rule led to a tie that was broken by drawing a lot, and the lot was fortunately in favour of the party which would have won if more decimals had been kept. It is strongly recommended either to keep the rule and show in the example that all decimals are being used, or to change the rule and the example to include at least two decimals.

It should be considered to change the seat allocation rule to the Laguë Method which is a division method with division numbers 1, 3, 5, 7, etc. This method gives results similar to the Method of Largest Remainder, and a result close to a proportional representation, but the method is more robust and has less unexpected side-effects.

In Mostar the so-called d'Hondt's Method (Division numbers 1,2,3...) was used for the proportional distribution of seats between the parties, in combination with quotas for the three ethnic groups Croats, Bosniacs and Others. The City Council had 24 seats elected directly from the six municipalities constituting the City, with four members from each. The Rules and Regulations referred to the Interim Statute of the City of Mostar of 7 February 1996 for the allocation of seats and the quotas for the ethnic groups. The PEC made reference to the Decree on Conduct of the Elections in the City of Mostar enclosed within the Interim Statute document for the application of the quota rule. Administratively, a more detailed memo on the calculation had been worked out. This issue is discussed in detail in the next Section.

### **II. 3. Some Legal Issues**

#### ***Last Minutes Changes to Achieve Consensus - Pressure from the Parties***

The spirit and the letter of the Dayton Agreement was seriously challenged throughout the election process by the leading parties in each entity. Their continuing determination to place narrow self-interest above the national interest, including attempts to dictate the terms of their participation in the election to the international community up until the very last minute, was irresponsible in the extreme. They need to be reminded that these elections represent an important step in the peace process in Bosnia and Herzegovina, and not an opportunity to continue their conflict through other means.

The OSCE Mission to Bosnia and Herzegovina has demonstrated its commitment to the implementation of the Dayton Agreement by persevering in its determination to keep all parties engaged in this election process. It is recognised that the OSCE

Mission has attempted to treat all parties fairly and equitably and to meet their requests when deemed reasonable.

However, in its attempt to keep all parties engaged in the process, the Provisional Election Commission (PEC) went as far as to reinstate two candidates that had been struck from the list of candidates by the Electoral Appeals Sub-Commission as a penalty against serious violations of the Election Rules and Regulations<sup>1</sup>. This concession is not according to the Rules and Regulations governing the election process, since the EASC decisions are said to be final.

On 10 September a number of last minute amendments were made to the Rules and Regulations. One was an extension of the term of office for local councillors from one to two years. Such a decision should ideally be taken well before the elections and the registration process starts. It was, however, appropriate that it was taken before the elections.

Another change was a provision regarding the final certification of the elected municipal councils. Such certification should - as per the original provision - be denied if minorities were not given proportional representation in executives or committees elected by the councils. On 10 September the term "proportional" was omitted, leaving more flexibility on the number of seats a minority should have in an internal body. This was a concession given to the Bosnian Serb member of the PEC. It does not necessarily represent a problem in terms of content, other than the unfortunate fact that it was another last minute change.

### ***Mostar***

The administration of the city of Mostar is divided into six Municipalities and a Central Zone; however, the main administrative competencies fall under the responsibility of a sole City Council, which is also directly responsible for administering the Central Zone.

A discussion about the constitution of the City Council had been ongoing since the elections of June 1996. The Interim Statute Document anticipated that 24 seats should be elected directly from the six Mostar municipalities, four from each, and another 24 seats should be elected directly by a city-wide ballot giving the Council 48 members. There were equal quotas for the three ethnic groups: Bosniacs, Serbs and Others. The rules for applying the quotas in combination with the d'Hondt's method was given by Decree on 07.02.1996.

The Federation later changed its constitution, imposing a limit of 30 members to City Councils. It was then decided to reduce the number of members in Mostar from 48 to 27, incorporating the three directly elected from the Central Zone which had no municipality, and few, predominantly Bosniac, voters. Out of these three Central Zone members one had to come from each ethnic group. The agreement reached was later strongly criticised by Croat representatives. In an effort to avoid a boycott from HDZ, the leading Croat party, another last minute change was made. The three members of the Central Zone were abolished, and the voters of the Central Zone were permitted to vote in the Mostar municipality of their choice instead.

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<sup>1</sup> One in Bosanski Brod and another in Prijedor

Apart from the principle that last minute alterations represent, there were an additional two problems with the adopted rules:

The main concern is that the rules adopted by the PEC did not cover the actual situation whereby ethnic quotas were to be applied in six municipalities simultaneously. There was no formally adopted rule for how to apply the quota system in the Mostar City Council Elections. The PEC made, in its meeting of 3 June 1997, reference to the Decree on Conduct of the Elections in the City of Mostar within the Interim Statute of the City of Mostar of 7 February 1996. The rules of this decree could not be applied when quotas for ethnic groups were to be applied for the six simultaneous elections. It was designed for a situation where a sufficient number of seats were allocated from city-wide lists.

Even though officially adopted rules were not in place for the six simultaneous elections with quotas for ethnic groups, there was an administrative memo defining rules covering the actual situation. These rules were in reality not only an interpretation of the Decree, but they even defined additional arrangements. The rules could easily have led to a party losing a seat because an 'Other' ethnic group candidate was missing on a party's candidate's list in one municipality, even if that party had a spare 'Other' in another municipality. Fortunately it turned out that the application of the prescribed rules did not affect the distribution of seats between parties.

#### ***The EASC Decision on Decertifying the SDS in Pale***

On 15 September - the day after the elections - the EASC issued a judgement in the matter of allegations that the SDS through its headquarters in Pale was maintaining a person (Radovan Karadzic) under indictment by the International Criminal Tribunal for the Former Yugoslavia in a party position or function in violation of the PEC Rules and Regulations. The decision was that the allegations were confirmed and the SDS was subsequently de-certified from the elections in the municipality of Pale.

This decision was overturned by Ambassador Frowick, the Chairman of the PEC, on 15 September, before it had been made public. The ODIHR will not undertake an extensive legal investigation as to what extent it is justified for the Chairman to fall back on the general provisions in the GFAP and thus override the PEC Rules and Regulations when changing the EASC decisions, but restrict its comments to the following:

- 1) Making decisions against the letter of the Rules and Regulations does set a bad example in a process of institution building under the rule of law.
- 2) The decision of re-instating the two candidates is of a limited scale, whereas the one of decertifying SDS in Pale could have jeopardised the implementation of the results and represented a serious threat to security and stability in the region. It is therefore difficult to see that the Chairman of the PEC had any other choice than to repeal the decision of decertifying the SDS in Pale, but it is more difficult to accept the necessity of reinstating the two candidates.
- 3) The Rules and Regulations should have had clear provisions for the procedure for allowing all parties to be heard in a case with such a serious penalty. Decisions made in the first instance should not be final.

- 4) If it is deemed necessary to give the PEC Chairman the authority to overrule any decision made by the EASC, that should be stated explicitly in the Rules and Regulations.

### **III. THE ELECTION ADMINISTRATION**

Elections were held for 135 Municipal Councils and for the City Council of Mostar. The election administration had a three-layered structure, with the Provisional Election Commission (PEC) being ultimately responsible, and having Local Election Commissions (LECs) in every Municipality and Polling Station Committees (PSCs) managing the polling stations. There were 2662 polling stations out of which 2519 were in-country. Each polling station had in addition an International Supervisor from the OSCE. The supervisor's role was to ensure that the Rules and Regulations were adhered to.

The PEC was chaired by the OSCE Head of Mission and consisted of distinguished lawyers of each of the three groups Bosniaks, Serbs and Croats, as well as a member from the Office of the High Representative. In case of disagreements in the PEC, the Chairman had a decisive vote, even if his vote was in minority. This prerogative was used by the Chairman on several occasions.

The central election administration was largely constituted by the OSCE. All key processes such as voter registration, claims, printing and distribution of ballot papers, logistics in bringing ballot papers and reports back to counting centres, counting and tabulation processes, etc. were all administered by OSCE predominantly using international experts and the assistance of other international organisations such as SFOR. Little preparation has been done on the transfer of these tasks to the civil authorities of Bosnia and Herzegovina. For future elections this aspect should be more predominant.

### **IV. VOTER AND CIVIC EDUCATION**

The OSCE produced an extensive voter education programme to encourage citizens to participate in the new voter registration process, the claims arrangements for voter registration and the elections. The campaign included television and radio spots, brochures and pamphlets, posters, etc. They also organised seminars and training for domestic election observers. Non-governmental organisations had their own programmes for voter and civic education. (See also Section VIII on the Media).

### **V. VOTER REGISTRATION**

#### **V. 1. The Registration Results**

The registration was conducted for the most part competently and effectively. The OSCE Mission and registration committee members should be especially commended for the tremendous effort that has been put into the creation of a new voter register. A total of 2,525,230 were registered and appeared on the Final Voters Register (FVR). This represents almost eighty percent of the total electorate according to the EASC assumptions.<sup>2</sup>

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<sup>2</sup> As given in case numbers 96-183, 193 and 195, of 25 September 1996.



Last year's postponement of the Municipal Elections was due to wide scale and organised abuse of registration provisions enabling voters to vote in their new or future municipalities rather than in their pre-war municipalities. The revised Rules and Regulations have greatly reduced the possibilities for large-scale manipulation of the voter registers.

The general rule of the GFAP was that voters should vote in the municipality they lived in before the war, as per to the 1991 census. There was a provision, however, to allow refugees and displaced persons to "cast his or her vote elsewhere". The Rules and Regulations also gave a provision for refugees abroad to vote in a future municipality, which might have been different from their former, under rather strict conditions for proving connections to that municipality. Less than two hundred refugees registered for that possibility in the end. Displaced persons in-country were permitted to register in their present municipality, provided they could produce a recognised residence document with a date of issue not later than 31 July 1996.

Registered for Municipality	1991 Municipality				Total 1991	1996 Municipality	Total <sup>3</sup>
	Entity	Still Living in '91 municipality	Absentee in country	Absentee out-of-country			
<b>Federation BiH</b>	1,036,271	60,129	175,415	235,544	1,271,815	55,854	1,331,670
<b>Republika Srpska</b>	587,372	125,030	222,606	347,636	935,008	221,943	1,177,556
<b>Total</b>	1,623,643	185,159	398,021	583,180	2,206,823	277,797	2,509,226

**Table 1.**

Breakdown of the voter registration is based upon OSCE figures as of 1 September 1997. The figures are not the final ones, and they are approximate only. In particular for voters registered to vote in regular polling stations there is an uncertainty to whether they are 1991 or 1996 voters.

As can be seen from Table 1, the tendency for displaced persons to register in their present municipality was far more significant in the RS than in the Federation. This caused controversy, because it was claimed by those supporting the concept of a multi-ethnic society that the general rule of registering for one's 1991 municipality became the exception. It was argued that this represented an acceptance of "ethnic cleansing". However, having provided for the possibility to register in the present municipality by producing valid documents, it would be up to the individual voter to make his or her own free choice, and if that resulted in more persons choosing to do so than some parties might want, it is still the voters own will. It was noted that there were attempts to abuse this provision by some parties, who launched an insidious campaign to pressure the electorate to register in particular municipalities, such as in Brcko where the chairman of the LEC was saying on SRT 22/6/1997 that not registering "will be treated as a betrayal of interests of their own people".

## V.2 Observations of the Registration Process

The Co-ordinator for the Observation of the Voter Registration period completed his mission at the close of the registration period, and a comprehensive the ODIHR Report on Registration was forwarded to the Chairman-in-Office.

<sup>3</sup> The totals are higher than the sums, because they include two figures that are not included in the breakdown: For 24,461 voters registered in their present municipality it cannot be derived from the statistics whether they were registering in their 1991 or their 1996 municipality, and the other group is the 145 opting for future municipality.

A total of 158 visits were made by observers to 143 Voter Registration Centres in the country during the registration period (5 May to 28 June) which represents 34% of the total number of centres.

ISSUE	TOTAL
Supervisor present	95%
Party or Candidate present	13%
Irregularities Reported	36%
Overall Assessment (Good/Very Good)	95%

**Table 2:** Summary of observers reports on the registration.

Among the significant irregularities reported by observers was the linkage of registration with, for example, the provision of humanitarian aid, the issuing of public documentation, or with employment or property questions. The second issue that came to the attention of observers was the use of more general intimidatory statements and practises to encourage people to register, or to register for a particular place.

There is a fine but distinct line to be drawn between a pro-active role of the parties encouraging people to register on the one hand, and unacceptable intimidation on the other. Cases of both the above were observed, particularly in the Republika Srpska. In the Federation, an OSCE instruction to ensure that VRCs were ethnically mixed built in a safety mechanism, which reduced the possibility for intimidation and linkage.

Other irregularities observed included regulatory problems regarding acceptable documentation, the definition of residence for voters whose 1991 municipality is now divided by the Inter Entity Boundary Line, family registration by proxy and, in approximately five percent of cases, ineffective supervision.

It was noted that the lack of accurate maps and coherent regulations, which would have clearly delineated on which side of the IEBL a voter should be registered, allowed a number of persons to be registered for the wrong side of a municipality. This was a significant problem during the registration process, and led to a number of complaints to be lodged by Local Election Commissions which although dismissed, were described as having "validity and considerable merit" by the EASC".

The sometimes secretive and slow handling of technical problems and errors and a lack of timely and well communicated information by the election authorities, whilst somewhat understandable in the political context, did represent a lack of transparency.

The Citizenship Verification Sub Commission (CVSC) was not established until two weeks after the start of voter registration. This, coupled with a series of tight guidelines, resulted in a lot of people having to undergo a long, and in some cases expensive, administrative process before knowing whether or not they were properly registered. The publication of the Final Voters Registers was put off until the last possible moment for a number of technically and politically valid reasons, but the

reticence to state clearly that it would not be given to either entities' election commission until the last moment raised tension as the election days drew closer.

There was also some controversy over the strict application of the registration rules, the Brcko case being the most prominent. Of the 3,200 voters that were not accepted to register in their current municipality because they could not provide acceptable pre-1996 proof of residency, the majority were referred to their 1991 municipality. It can be argued that the Rules and Regulations left too little room for judgement, in that a very precise list of documents were defined as the only ones accepted; although it is recognised that this was a response to the situation in 1996 when massive fraud in manipulating the electorate took place. However, the handling of the individual cases was thoroughly scrutinised by the Election Appeals Sub-Commission, which rejected most of the appeals.

It is unfortunate, however, that the election administration discovered at a late stage that the input of data for some 2,600 additional Brcko voters had been overlooked until a few days before the elections and well after the final stages of establishing the voter register. The fault has been explained as a human error in labelling batches of registration forms. The Elections Appeals Sub-Commission validated on a sample basis the names and verified that the 2,600 were unique and valid registrations, and they did not coincide with the 3,200 denied registration for Brcko earlier. Observers had noticed during the claims period that approximately ten percent of the people that came to check their names had been omitted despite being able to produce a registration receipt. This indicates that approximately 2-3,000 voters had been omitted from the voters registers. This indication should have prompted the OSCE Mission to make a search for more registrants earlier, thus avoiding the inevitable suspicions that arose from the last minute changes to the register.

The most effective sanction against registration fraud imposed by the EASC was the striking of candidates from party lists. The most serious attempts at fraudulent registration occurred in Brcko and Zepce, where new registrations had to be undertaken, whilst intimidation of registrants was detected and penalised in Jajce and Caplina. In total thirty five candidates were struck from lists in cases directly relating to registration, nineteen from the HDZ, eleven from the SDS and two from the SDA led coalition.

A few of these technical shortcomings may have had a minimal impact on the results themselves, but they do give those parties intent on blocking the peace process a reason to argue with the authorities, which serves to further disrupt the implementation process. The number of irregularities in municipalities in the Drina Valley/Eastern RS area detected by or reported to observers is notable.

### ***Out-of-Country Registration***

The registration of voters currently not living in Bosnia and Herzegovina was the responsibility of the OSCE Out of Country Voting Office in Vienna, organised through the International Office for Migration (IOM).

Voters currently living in the Federal Republic of Yugoslavia and Croatia were able to register in person at VRC s set up within the two countries. The VRC s followed procedures which directly paralleled, including the presence of supervisors, those in use at VRC s within Bosnia and Herzegovina.

Potential voters currently living elsewhere in the world were contacted by mail, and invited to return their registration application to Vienna or, in the case of those in Germany, to a collection point in Bonn.

Of the approximately 535,000 eligible voters Out-of-country some 420,000 registered (80%). The number of registrants in Croatia was substantially lower than in 1996: some 59,000 registrations (adjusted as of 1 September) as opposed to 131,761 the year before. It was clear that fear existed within the refugee communities in that the fact of registration might be used in the future by Croatian authorities to enforce return to Bosnia and Herzegovina. Additional factors which contributed to the low registration included relocation or return of refugees and a perceptible apathy towards the electoral process.

In the Federal Republic of Yugoslavia, the total registration for 1997 was approximately 72,000. This compares with a 1996 total of 89,000 plus 123,000 declarations to a future address in Bosnia and Herzegovina. The fear of registration being used by authorities to enforce return to Bosnia and Herzegovina was given as a possible reason for the low figure, along with a lack of interest among refugees in returning to the Republika Srpska. Another significant problem stood out clearly with the Federal Republic of Yugoslavia registration, concerning linkage of humanitarian assistance with registration. In a letter sent on 15 May, 1997, by the President of the Federal Government Commission for Assisting Potential Voters at Municipal Elections in Bosnia and Herzegovina to the Secretary of the Red Cross of Serbia, the following abstract is noteworthy:

“[The Commission] believes that voters registration should be considered obligatory, while the participation in the elections is the matter of voters personal decision [...] Consequently we ask you kindly to oblige all the Secretaries of Municipal Red Cross branches to give humanitarian assistance to persons from Bosnia and Herzegovina only after seeing proof of their registration”.

Although apparently the letter was not forwarded to the field, and the Secretary of the Commission indicated that its issue had been a mistake, there was a widely felt perception among refugees that such a policy was in existence.

For voters registering out-of-country both the registration and subsequent claims process proved far more complicated than for those registering in-country, particularly for those who could not be found on the 1991 census. The process, the limited time-scale and problematic nature of acquiring documentation proved very stringent, and subsequently a high number of potentially eligible out-of-country registrants were rejected by the Citizenship Verification Sub Commission.

### **V.3 Observations of the Claims Process**

A total of 101 separate visits were made to Claims Centres during the claim period (21 July-3 August) which represents 69% of the total.

During the claims period when there was under 50% supervision, some eight thousand Bosnian Serb registrants were identified as requiring their claims amended under Category "D" of the claims procedure, where it was unclear if the registrant intended to vote for their 1991 or 1996 municipality. In the training given to supervisors it was clearly stated that in such an instance "Registering in 1991 municipality is the voters ONLY option". This created uproar throughout the Republika Srpska. It was later discovered that the reason the central computer had made this error was due to a scanning fault with the Cyrillic registration form. These problems were later handled centrally. However, the difference in understanding between the local claims centres and the central administration did cause tension and raised false expectations locally.

The fact that there was under 50% supervision during the claims period, which in some instances was taken advantage of by local Claims Commissions, and that little information was displayed explaining the claims process, represent a significant lacuna to the aim of the OSCE's overall strategy for the election period. In Gacko (eastern Republika Srpska) some 471 amendments were made in the absence of the claimants themselves by the claims centre committee. When questioned, one member replied that they were making the amendments because no-one in this area was interested in voting in their 1991 municipality and so they were making the registrants only eligible to vote in their current municipality. This observation was passed onto the OSCE who rightfully rejected the amendments.

ISSUE	TOTAL BiH %	Republika Srpska %	Federation %
Supervisor Present	38	43	33
PVR Displayed	71	46	95
Voter Education Information displayed	26	27	25
Irregularities in the process	16	25	6
Overall Assessment (Good/Very Good)	82	82	81

**Table 3:**

The table shows some of the more significant observations made during the claims period.

Irregularities observed during the claims process, included claims centre staff not being present at all times and claims done by proxy.

The main faults in the Provisional Voters Registers (PVR) were registered voters not being on the list, double registrants, incoherent serial numbers and people assigned to the wrong polling station. The discovery of the latter cases were part of the objectives of the claims period and made the necessary alterations and amendments possible.

The noted difference between centres with the PVR displayed in the Federation and the Republika Srpska is, however, significant in that it underpins a general statement on the freedom of, and access to, information, particularly in the Republika Srpska.

It was discovered during the claims period that some thirty thousand registrants appeared a number of times on the Final Voters Register. Whilst in some cases these were genuine errors, a large number were concentrated in certain municipalities. Rather than striking such registrants, it was decided to mark the Final Voters Register and have the individuals concerned vote by tendered ballot, thus ensuring that multiple voting by that particular registrant was not possible, whilst still allowing them to cast their ballot.

## **VI. CANDIDATE REGISTRATION**

During the initial stage of candidate registration several hundred candidates were wrongly rejected due to technical errors with the registration forms. After rectifying the situation 19,584 valid candidates were registered for the 4,789 Municipal Council seats throughout Bosnia and Herzegovina.

91 political parties registered for the Municipal Elections. There were 9 coalitions and 159 independent candidates. This year's coalitions did not necessarily comprise exactly the same parties as last year, despite the similarity of names.

## **VII. THE PRE-ELECTION CAMPAIGN**

The election campaign was conducted in a generally calm manner and campaign events were held without significant problems. The incident in Banja Luka on September 8, when the SDS held an unauthorised rally, showed a willingness on the part of some to de-stabilise the campaign environment. This was, however, an isolated incident.

The official date for the start of the election campaign was 21 July, 1997. In general, very little campaigning was observed until the start of September, though it remained fairly mute and largely limited to press briefings at this early stage.

It was mainly during the last weeks before elections days that campaigning started. In general the level of the activities was relatively low. The low-level campaign can be explained by many different factors:

- ❑ general election fatigue because of the elections last year and in 1998
- ❑ local elections never get the same attention as national elections
- ❑ people do not believe these election will change things very much
- ❑ the three ruling political parties were mainly campaigning in their own areas and therefore not very active in the municipalities where they expected to get the majority of the votes anyway
- ❑ some parties are more concerned about the 1998 elections and will save some of the funding from the OSCE for next year's campaign
- ❑ the political parties and independent candidates received the funds for campaigning from OSCE late, late August or beginning of September.

An OSCE Election Campaign Fund, provided by the donor governments, was created to provide a greater equality among the contestants in the elections. The three ruling parties did not receive OSCE funding since they are entitled to receive funds from public budgets which are given to all parties according to their strength in the parliaments. The OSCE has not made public the amounts allocated through its fund to each party. Not making the fund distribution public could create suspicion among the parties and candidates and does not favour the transparency of the electoral process.

The purpose of the OSCE funding was to encourage political pluralism. In some instances this might have had as an effect that new parties registering this year were not all serious in their political ambitions. The OSCE funds were distributed to political parties and independent candidates without preconditions and specific criteria for assessing the serious intent of all candidates/parties. People may start up new parties or register as independent candidates only for the money. This could again lead to further mistrust in the political system.

### **VIII. THE MEDIA**

The abuse of the media by the ruling political parties which control them had serious and adverse consequences for the campaign environment. The broadcast of extreme propaganda, particularly by SRT in Pale and HTV in Mostar, were characteristic of this election campaign and do not in any way serve the electorate or enable it to make informed choices.

On the 15 August (Case No. ME-127), the EASC, in an unprecedented decision, struck three HDZ candidates from three separate municipalities in Mostar after the case referred to them by the Media Experts Commission (MEC). The case was brought following a number of inflammatory statements made by HTV Mostar, which, as it was proved, was financially and morally supported by the HDZ. Furthermore, and in compliance with an MEC decision, HTV Mostar had to broadcast apologies or face further sanctions. HTV Mostar complied with the decision shortly afterwards.

Somewhat surprisingly no such referral or sanctions were ever brought against the SDS with regard to its direct control and blatant use of Serb Radio and Television (SRT) in its overtly biased reporting.

The campaign was basically covered in three separate areas following the ethnic boundaries. The lack of a nation-wide television station with journalists from all parts of the country being able to cross the IEBL and report neutrally on political issues is damaging to the whole democratic process.

### **IX. OBSERVATION ON POLLING DAY**

On election days observers visited approximately 85 % of the polling stations on at least one occasion. The voting was generally carried out in a calm and peaceful way in most parts of the country. The absence of violence must be stressed in view of the nature of these elections.

Election observers did, however, report some administrative difficulties during the election days (see table below). A number of polling stations opened late, and in several cases ballot papers were not available on time. However, these difficulties were



later corrected and did not ultimately affect the majority of voters from exercising their right to vote.

There was a reported lack of voting materials for displaced persons voting in both the Republic of Croatia and the Federal Republic of Yugoslavia. However, it was also reported that these problems were addressed by the second day of voting.

Many technical problems were evident in absentee polling stations, where a lack of voting materials was often reported. Some polling stations were reportedly too small, too many voters were assigned to one station, and their location was not well chosen resulting in voters having to wait for long periods of time in uncomfortable circumstances in order to cast their ballot.

Problem areas included Brcko, where voters who wished to cast a ballot for their new municipality were rejected and offered the right to cast an absentee ballot for their pre-war municipalities. In Drvar voters from Republika Srpska were processed unusually and blatantly slowly. In Zepce only four polling stations opened on time. Four others opened later, but in locations different from those originally announced, because of a boycott organised by the Croat leaders in the region.

Many observers reported on a lack of trust concerning secrecy of the ballot on the part of voters casting absentee and tendered ballots which were placed in a single envelope bearing the voter's name.

In general it was considered that the 100% supervision greatly enhanced the process and that supervisors were generally well trained. However, there were reports concerning supervisors who were considered too inexperienced.

During the polling days the following tendencies can be read out of the reports by the Short Term Observers:

### ***General Findings***

More than 3,000 observation forms were processed, including 240 from out of country polling stations.

No significant problems have been reported for the opening and the closing procedures of polling stations over the two days of voting.

97% of observers reported that the voting process was generally conducted properly. 94% in Out-of-Country polling stations.

90% of observers reported that the procedures followed inside the polling stations were either fairly good or very good.

90% of observers reported that the performance of the Polling Station Committee was either fairly good or very good.

79% of observers reported that the voters' understanding of the process was either fairly good or very good.

The following two tables show the only significant deficiencies reported by observers on their reporting forms.

Issue	Total	Fed	RS	OCV
Physical access to station was difficult	8%	7%	9%	6%
Polling station was overcrowded	7%	7%	6%	17%
There was insufficient or wrong ballot materials	9%	8%	9%	21%
There were instances of family voting	26%	29%	23%	12%

**Table 4:** Some specific problems identified by entity. Percentage of observation reports identifying a problem.

Issue	Total <sup>4</sup>	Regular	Absentee	OCT
Physical access to polling station was difficult	8 (11)%	7 (11)%	11 (16)%	6%
Polling station was overcrowded	7%	4%	21%	17%
There was insufficient or wrong ballot materials	9 (3)%	7 (3)%	22 (11)%	21%

**Table 5:** Some specific problems identified by type of polling stations. Percentage of observation reports identifying a problem. Figures in brackets are from the 1996 elections.

## X. OBSERVATION OF COUNTING

After evaluating both a counting procedure based on making piles of ballot papers cast for the same party, coalition or candidate, and then counting the piles, and another based upon reading out each ballot paper and recording it on tally sheets, the election administration decided for the latter. Many observers found this process to be too cumbersome and complex. Conversely, the overall assessment of the conduct of the count was 6.1 on a scale from 0 to 10, (8.1 on the organisation of the count and 8.3 on the understanding of the process by the Polling Station Committee). The sample of observer reports is too limited to give a statistically valid average time estimate on the count, but the general comment on the process is that few mistakes were reported, and that it was performed in a transparent and orderly manner. In most places the count in regular polling stations ended within a reasonable time.

Few specific problems were reported. However, 11 % of the observers reported that the voting material was not properly secured before starting the counting process. 15 % reported that there were some disagreements on the judgement of invalid votes, and in 11 % of the polling stations, complaints were raised by some of the people present during the counting process.

<sup>4</sup> Includes even: 'Return from out of country' and 'Cross Municipality' polling stations

The number of invalid votes averaged 3.8 %, according to the official results. The number ranges from 0.8 % (Stolac, FBiH) to 16.7 % (Trnovo, FBiH). In 29 % of the municipalities more than 5 % of the votes were invalid. This is a fairly high number, and it should be looked into whether it is due to a too strict judgement by the PSCs, or systematic misunderstandings by the voters.

In absentee stations, the situation differed somewhat. In these stations the voters were voting for a large number of municipalities in some instances, and every municipality had to be recorded and reconciled individually. The ballots were not counted in these stations, but centralised in two counting centres in Sarajevo. In those absentee polling stations with many voters, it is fair to say that the process was extremely time consuming, and in some instances continued to next morning. Smaller stations should be considered in the future. It is, however, recognised that a system with the degree of flexibility for voters to vote absentee, combined with the requirements for control and transparency will inevitably lead to a complex system.

It was originally decided that the counting of absentee votes, out-of-country votes and tendered ballots would be centralised to Sarajevo. In last minute efforts to secure participation by the SDS leaders in Pale, however, two further concessions were made: A new counting centre was located in Lukavica in the RS close to Sarajevo to count the absentee votes cast for RS municipalities. This increased logistical difficulties (the shifts arriving late every day) and heightened security issues (easy access for unauthorised people to the building) and caused delays in the delivery of results. Notwithstanding these issues the counting seemed to follow the prescribed procedure.

Tendered ballots were used as a last resort for those voters able to produce registration receipts but who had, for some reason or another, been omitted from the final voters register. The ballots were placed in a named envelope and, for those voters who were accepted following verification against the register, the envelope was opened and the ballot put into a ballot box for that particular municipality in the presence of an international supervisor, thus retaining as much secrecy as possible.

Although the system succeeded in its objectives, it also considerably slowed the counting process and, due to a lack of explanation by the OSCE, has left many voters unsure as to whether their vote was counted or not. Out of approximately seventy thousand tendered ballots cast about twenty five thousand were accepted when checked against the Final Voters Registers. This figure of approximately seventy thousand includes any double registrant, all of whom voted by tendered ballot.

On the evening between the two election days it was further agreed that the counting of tendered ballots cast in Brcko for Brcko should be counted in Brcko, after having been verified in Sarajevo. In Brcko a special polling station had been organised to offer those rejected to vote for their present municipality Brcko a chance to vote in their 1991 municipality instead. There was a high degree of tension in that polling station, because most of the numerous voters that went there insisted on voting for Brcko. The officials there, as a last resort, accepted a tendered vote, even though it was unlikely that the vote would be accepted when checked against the final voters register.

Verification of tendered ballots was carried out on the basis of photo copies of the tendered ballot envelopes sent to Sarajevo and checked against the voters register. A high percentage were rejected. The process again delayed the results, but did not alter the actual process of verifying or counting of the tendered ballots.

In the Counting Centre of Rajlovac in Sarajevo, on the Federation side, the problems were mainly logistics related; the staff seemed to know the process well.

Observers reported on the results of the count in a number of Polling Stations. These reports were later checked against the official tabulation of results at polling station level, and all of them matched.

## **XI. AGGREGATION AND VERIFICATION OF RESULTS**

At the time of writing this report, the detailed results down to polling station level have not yet been made available to the public. It is also currently unclear in what format and to what extent the results will be made public. This is extremely unfortunate, since this is the only way observers and the public can verify how the polling station they have observed, or have knowledge of, has been entered into the final tabulation. A letter to this effect was sent to the President of the PEC by the ODIHR On-site Coordinator on 20 September 1997.

The tabulation of results, the calculation of the distribution of seats and the publication of results have only been evaluated by the Observer Mission after the process had been concluded. It is noted that there have been some problems in the tabulation. In the election to the Mostar City Council from Municipality No 253, an error was found in the tabulation after the technical certification of the results. The problems were due to the design of some working sheets which varied from the standard elsewhere. It was decided not to change the final results. It does not seem that a correction would have altered the distribution of seats, even though it would have been close to a change in the favour of the SDA-led coalition. This example indicates that the improvements to the review processes should be considered.

## **XII. THE IMPLEMENTATION AND CERTIFICATION PROCESS**

This process had just started at the time of writing this report. PEC has established structure for the implementation of the results which is designed to ensure that all elected members of Municipality Councils can take their seat and that minorities are represented in the Executive Boards, committees etc. in the Councils. There is for example a provision for the PEC not to give final certification to a Council which denies a minority party or coalition representation in the Executive Board. The original provision went a step further by giving a possibility to deny such certification if minorities were not proportionally represented, but this was changed at the last minute to ensure the participation of all parties in the election.

## **XIII. CONCLUSIONS**

While recognising the long way ahead before elections in Bosnia and Herzegovina become a routine event in compliance with the OSCE commitments, these municipal elections do represent a significant accomplishment in the peace process. Their ultimate success will depend upon the parties fully implementing and complying with the final results.

The parties carry a huge responsibility in implementing all the other parts of the GFAP like freedom of movement, return of refugees, etc. to create the right basis for all democratic processes.

However, further progress will have to be made in view of the next elections. The international community must remain fully engaged in its efforts to maintain the peace and assist the development and institutionalisation of democracy in Bosnia and Herzegovina.

#### **XIV. RECOMMENDATIONS**

The ODIHR would like to recommend the following changes to be made for future elections in Bosnia and Herzegovina:

##### ***A. The Responsibilities of the Parties***

A.1. The parties should recognise the importance of abiding by the Rules and Regulations and adhering to the words and spirit of the Dayton Agreement.

A.2. Country-wide official media must be given a framework which offers the public a pluralistic spectrum of news and comment. It should also be ensured that inflammatory language and war mongering propaganda are not broadcast.

##### ***B. Rules and Administration***

B.1. The expertise in electoral systems should be strengthened within the election administration, and the rules should be made less open for tactical considerations by the parties (e.g. in Mostar). A transfer to a division-based method, such as Laguë, from the present Method of Largest Remainder should be considered. If ethnic quotas are to be combined with proportional distribution between parties such as in Mostar, the rules should be properly authorised and the effects clearly analysed and understood by the parties involved.

B.2. Electoral Rules and Regulations should be adopted well in advance of an election. Administrative procedures should also be adopted in advance, ensuring full understanding by all parties.

B.3. The electoral staff on the ground should have enough time and resources to plan sufficiently ahead and to train those tasked with the administrative implementation. This was a pertinent lesson learned from the early stages of the voter registration process for Municipal Elections.

##### ***C. Transfer of Responsibilities***

C.1. The Rules and Regulations should be clear and coherent, so they can be applied even in difficult political situations. In particular the provisions for the PEC, or its Chairman, to over-rule decisions made by PEC sub-commissions should be clearly defined. This is extremely important in the transfer of authority to regular civic institutions.

C.2. The administrative structure should be changed in such a way that the Bosnia and Herzegovina authorities are in a position to take over the full responsibility eventually. At present the administration of the Voters Registers, the logistics, the decision-making etc. is all decided by the OSCE, and the effort involved in transferring this to a Permanent Election Commission should not be underestimated.

C.3. Taking Recommendation C.2 into account, it must, however, be stressed that the international presence and a heavy involvement in the elections from the OSCE will still be required.

#### ***D. Transparency***

D.1. The transparency of the process should be improved, so that registration figures and detailed election results are made available to the public, enabling full scrutiny of the figures. The strategy for making them public needs to be established well in advance.