Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 13640
17 November 2014

Observation of the general elections in Bosnia and Herzegovina (12 October 2014)

Election observation report
Ad hoc Committee of the Bureau
Rapporteur: Mr Tiny KOX, Netherlands, Group of the Unified European Left

Contents **Page**

1. Introduction 1
2. Legal framework 2
3. Electoral administration, registration of the voters lists and candidates 3
4. Election campaign and media environment 4
5. Election day 5
6. Conclusions and recommendations 7
Appendix 1 – Composition of the ad hoc committee 9
Appendix 2 – Programme of the pre-electoral delegation (17-19 September 2014) 10
Appendix 3 – Statement by the pre-electoral delegation 11
Appendix 4 – Programme of the ad hoc committee (10-13 October 2014) 12
Appendix 5 – Statement by the International Election Observation Mission (IEOM) 14

1. Introduction

1. At the invitation of the Central Election Commission (CEC) of Bosnia and Herzegovina on 21 May 2014, the Bureau of the Parliamentary Assembly decided, at its meeting on 22 May 2014, to constitute an ad hoc committee composed of 32 members, plus the two co-rapporteurs of the Monitoring Committee, to observe the general elections in Bosnia and Herzegovina on 12 October 2014. Furthermore, it decided to organise a pre-electoral visit by five members of this ad hoc committee, one from each political group, and the two co-rapporteurs of the Monitoring Committee. At its meeting on 23 June 2014, the Bureau approved the composition of the ad hoc committee (see Appendix 1) and appointed Mr Tiny Kox (Netherlands, UEL) as Chairperson.

2. Under the terms of Article 15 of the co-operation agreement signed between the Parliamentary Assembly and the European Commission for Democracy through Law (Venice Commission) on 4 October 2004, "[w]hen the Bureau of the Assembly decides to observe an election in a country in which electoral legislation was previously examined by the Venice Commission, one of the rapporteurs of the Venice Commission on this issue may be invited to join the Assembly's election observation mission as legal adviser". In accordance with this provision, the Bureau of the Assembly invited an expert from the Venice Commission to join the ad hoc committee as an advisor. However, the Venice Commission did not take part in the election observation mission as this event coincided with its 100th plenary session.

3. The pre-electoral mission visited Sarajevo and Banja Luka from 17 to 19 September 2014 to assess the state of preparations and the political climate in the run-up to the general elections. The cross-party delegation comprised: Tiny Kox (Netherlands, UEL), Head of the delegation, Naira Karapetyan (Armenia, EPP/CD), René Rouquet (France, SOC), Margus Hanson (Estonia, ALDE) and Reha Denemeç (Turkey, EC).

4. During its visit to Sarajevo and Banja Luka, the delegation had meetings with leaders and representatives of the main political parties, with the Secretaries-General of the Parliamentary Assembly and of the House of Representatives of Bosnia and Herzegovina, with members of the CEC, representatives of the international community, the mission of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) to Bosnia and Herzegovina as well as with representatives of civil society. The programme of the visit appears in Appendix 2 and the end-of-visit statement of the pre-electoral mission appears in Appendix 3. The delegation wishes to thank the Head and the staff of the Council of Europe Office in Sarajevo for the excellent organisation of the programme and their logistical support.

5. For the main election observation mission, the ad hoc committee operated in the framework of an International Election Observation Mission (IEOM) alongside the delegation of the OSCE Parliamentary Assembly and the Election Observation Mission (EOM) of the OSCE/ODIHR. Mr Roberto Battelli was the Special co-ordinator leading the short-term OSCE observer mission. Ms Marietta Tidei was Head of the OSCE Parliamentary Assembly delegation. Ms Corien Jonker was the Head of the OSCE/ODIHR Election Observation Mission. Co-operation with the partners in the IEOM was based on good fellowship, and was professional, effective and smooth.

6. The ad hoc committee met in Sarajevo from 10 to 13 October 2014. The programme of the ad hoc committee's meetings is set out in Appendix 4 and the press release published by the IEOM after the elections appears in Appendix 5.

2. Legal framework

7. The electoral system in Bosnia and Herzegovina (BiH) remains extremely complex. In the general elections on 12 October 2014, voters elected the Presidency of the State and the members of the State House of Representatives. In addition, voters in Republika Srpska (RS) elected the President of RS and the members of parliament of RS. Voters in the Federation of Bosnia and Herzegovina (FBiH) elected members of the House of Representatives of the Federation. There were also cantonal elections in the Federation of Bosnia and Herzegovina.

8. The Presidency of BiH is composed of three members from among each constituent people; they are elected for a four-year term, with the presidency rotating every eight months. The House of Representatives of the Parliamentary Assembly of BiH is composed of 42 members – 28 members are elected in the FBiH and 14 in RS. The House of Representatives of the Parliament of the FBiH is composed of 98 members – 73 members are elected in 12 multi-member constituencies (MMCs) and 25 members are elected from compensatory, open party lists. The president and vice-presidents of Republika Srpska are elected according to the following rules: the candidate with the most votes is elected president; the two runners-up from the other two constituent peoples are elected vice-presidents. The National Assembly of RS is composed of 83 members.

9. The division of political parties along ethnic lines remained a predominant feature. In the FBiH, the Social Democratic Party (SDP), the Party for Democratic Action (SDA), the Alliance for Better Future (SBB), the Party for BiH (SBiH), as well as the newly formed Democratic Front (DF), feature on the Bosniak political scene, while the Croat Democratic Union of BiH (HDZ BiH), the Croat Democratic Union 1990 (HDZ 1990) and other Croat parties compete for the Croat vote. In RS, both the ruling Alliance of Independent Social Democrats (SNSD) and the opposition, consisting mainly of the Serb Democratic Party (SDS) and the Party for Democratic Progress (PDP), advocate a similar platform of promoting RS entity-level competencies.

10. Elections were primarily regulated by the Constitution and the election law. These were supplemented by Annex III of the Dayton Agreement, the Law on Financing Political Parties, the Law on Citizenship, as well as by regulations issued by the Central Election Commission. The legal framework is generally sufficient for the conduct of democratic elections. However, a lack of political will to move beyond the 1995 General Framework Agreement for Peace (the Dayton Agreement) meant that important and long-standing shortcomings remained, including a limited right to file a complaint, insufficient safeguards to prevent the misuse of administrative resources, the lack of a law on political parties, as well as inadequate campaign finance regulations.

11. The legal framework continues to pose unacceptable ethnicity-based restrictions on the right to vote and to stand as a candidate. The right to stand for the BiH presidency and the RS president and vice-presidents is granted only to citizens who declare themselves as Bosniaks, Croats or Serbs. In addition, the right to stand as a candidate is limited by residency: a Serb registered in the FBiH and a Bosniak or Croat in the RS cannot stand for the BiH presidency. Moreover, RS voters can only vote for a Serb candidate for the BiH presidency, while voters in the FBiH may only vote for either a Bosniak or Croat candidate. To date, there has been no progress on the constitutional amendment needed in order to implement the binding judgment of the European Court of Human Rights of 22 December 2009 in the *Sejdić and Finci* case regarding discrimination against citizens on the grounds of ethnicity.

12. On 15 May 2014, the BiH Central Election Commission announced general elections in Bosnia and Herzegovina to be held on 12 October 2014 in accordance with the provisions of Article 1.14 of the BiH Election Law.

13. Six separate contests took place in these elections. At State level, citizens voted for the BiH presidency and BiH House of Representatives. In addition, citizens registered in the FBiH voted for the FBiH House of Representatives and the 10 cantonal assemblies, whereas those registered in RS voted for the RS president and vice-presidents and the RS National Assembly.

14. On 19 November 2013, the new Law on conflict of interests in the BiH institutions came into force, and the competence for implementation of this law was entrusted to the special parliamentary commission for resolution of conflict of interests, and the competence of the BiH Central Election Commission under this law was terminated.

15. Regarding the BiH Election Law, the following recommendations still remain unaddressed:

– reconsideration of constituencies and the number of mandates awarded to each constituency, as set forth in Chapter 9 of the BiH Election Law, for election of members from multi-member constituencies for the House of Representatives of the BiH Parliamentary Assembly from the territory of the FBiH, and aligning multi-member constituencies and the number of mandates that are elected from the territory of FBiH to the House of Representatives of the FBiH Parliament as set forth in Article 20.13, paragraph 1, of the BiH Election Law;

– reconsideration of electoral deadlines for constituting bodies of authority;

– introduction of provisions that state that the presidents of the polling station committees and their deputies are proposed by the municipal/city election commissions;

– introduction of early elections, with precisely defined provisions on who can announce these elections, and when;

– re-transfer of the jurisdiction for implementation of the Law on conflict of interests in the BiH Government to the BiH Central Election Commission or transfer of this jurisdiction to the Agency for the prevention of corruption and co-ordination of the fight against corruption;

– adoption of changes and addenda to the Law on Financing Political Parties as the prerequisite for implementation of the recommendations of the Council of Europe's Group of States against Corruption (GRECO);

– introduction of transparent ballot boxes for voting.

3. Electoral administration, registration of the voters lists and candidates

16. The general elections were administered by the Central Election Committee (CEC) and 142 municipal election commissions appointed for seven-year terms, as well as 5 401 polling station commissions (PSCs) established by municipal election commissions for these elections. The CEC and municipal election commissions generally respected the required ethnic and gender composition.

17. A total of 113 political subjects were certified for the 2014 general elections: 65 political parties, 24 independent candidates and 24 coalitions. The Central Election Commission received 753 lists of candidates with a total of 7 892 candidates, and, following the verification process, a total of 735 lists of candidates (with 7 748 candidates) were certified, of which 3 276 candidates (42%) were women and 4 472 (58%) candidates were men.

18. The Central Voters Register was finalised on 28 August 2014. The final Central Voters Register contained 3 278 908 voters, of which 2 037 076 voters were in the FBiH and 1 241 832 voters in RS. There were 5 394 polling stations in the country: 3 145 in the BiH Federation; 2 126 in Republika Srpska; and 123 in the Brčko District.

19. Despite a legal obligation concerning the size of constituencies, there were still significant deviations in constituency size, which made the vote weight unequal: the number of voters in constituencies varied from around 20 000 voters to 360 000 voters. This is not in line with the fundamental principles on equal suffrage of the Venice Commission's Code of Good Practice in Electoral Matters, which prescribes that seats must be evenly distributed between the constituencies, with a permissible departure from the norm of no more than 10%, and certainly not exceeding 15%, except in special circumstances.

20. The excerpt from the Central Voters Register for out-of-country voting contained 42 258 voters, of which 214 persons were registered to vote at the diplomatic-consular representation offices of BiH abroad and 42 044 by mail. All voters residing abroad, and who applied to vote out of the country, were able to check in good time whether their name was on the list of persons whose application was not complete and if necessary make corrections. Polling stations abroad were opened in five diplomatic-consular representation offices of BiH: in the BiH Embassies in Vienna and Berlin, and in General Consulates of BiH in Munich, Stuttgart and Frankfurt.

21. During previous elections, the BiH CEC allowed the citizens of the Brčko District to register their voting option for the election in advance, but this was no longer possible due to the changes in 2012 to the Law on ID cards of the BiH Citizens. Therefore, at the beginning of the year, the authorities of the Brčko District started an extensive information campaign to encourage voters to opt for their entity citizenship before 28 August 2014, when the Central Voters Register was concluded. According to the information received by the Parlia mentary Assembly delegation, since 28 August 2014 the total number of voters in the Brčko District who have entity citizenship is 45 317, of which there are 24 789 for the FBiH and 20 528 for RS. Those who did not opt for entity citizenship (determining whether they vote for the bodies of the BiH Federation or RS) – and there were 39 974 such persons – were not able to exercise their voting rights in the general elections.

22. Voters residing in the Brčko District whose names were not found on the extract from the Central Voters Register and who opted for the first time for an entity citizenship between 29 August 2014 and Election Day, were allowed to vote by tendered-enveloped ballot papers if they showed the polling station committee the Certificate of entity citizenship and an identification document issued by a competent body of the Brčko District.

23. There was, in general, confidence in the independent functioning of the CEC. Nevertheless, members of the CEC themselves raised some matters of concern: attempts to apply political pressure on the CEC members; the tendency to limit its budget; the absence of transparent ballot boxes despite the requirements of the international community and the CEC's demands; unclear definition of the respective roles of the CEC and the Regulatory agency for communications concerning the media coverage monitoring of the election campaign.

24. The appointment of PSC members was carried out according to the law, but there were many allegations about contestants engaging in trading of PSC positions to get representation in areas of their specific interests, leading to politically unbalanced PSCs.

25. This year, for the first time, training had been organised for potential presidents of PSCs. These activities were implemented with the financial support of the Council of Europe.

4. Election campaign and media environment

26. The general elections in Bosnia and Herzegovina took place in the context of the serious challenges facing the country: economic decline; a high level of unemployment; widespread corruption; and the aftermath of catastrophic floods. These challenges played an important role in the election campaign. Nevertheless, with rare exceptions, political parties were largely competing for the votes of their own ethnic community, despite the fact that the above-mentioned challenges were the same for all ethnic communities.

27. The campaign officially opened on 12 September and ended at midnight on 10 October. While campaigning was well regulated by the election law, it did not include bans on the misuse of administrative resources. In addition, a new legal amendment enabled State, public and municipal authorities to provide contestants with free use of premises, often without ensuring equality in its implementation.

28. Overall, the campaign was visible, although with less intensity in areas affected by the floods. The campaigning landscape was dominated by the major political parties: SDA, SBB, SDP, SNSD, SDS, HDZ and HDZ 1990. It included a diversity of activities, such as displaying billboards and posters, organising public rallies, indoor gatherings and door-to-door campaigning, as well as distribution of leaflets and the use of social media.

29. The freedoms of association and assembly were respected and all electoral contestants were able to campaign without obstruction. The campaign atmosphere remained calm, with only isolated incidents. The attendance at rallies was rather low.

30. The representatives of civil society informed the delegation of cases of misuse of administrative resources in favour of the ruling parties, including the distribution of aid to victims of the floods, the lack of transparency concerning the financing of the election campaign by political parties and the absence of an efficient control mechanism for this. In this regard, it should be mentioned that some recommendations adopted by GRECO in 2013 remain unaddressed, namely the transparency of donations, the auditing competencies of the relevant State institutions and the lack of effective sanctions. The new law on conflict of interests, adopted in 2013, was also flagged as a possible source of problems after the elections.

31. There are a large number of media outlets operating in the country, but the media environment is segmented along ethnic lines. Public broadcasters complied with the legal obligation to provide free airtime to contestants on an equal basis and provided voters with the opportunity to learn about contestants through debates and election programmes, but broadcast media coverage was generally biased. Through the coverage of their official activities, State officials running as candidates received more coverage in public media in comparison with other candidates. While the law allowed the news coverage of State officials without mentioning their candidacy, it also stated that these officials must not enjoy a privileged position with respect to other participants in the electoral process. Achieving the required balance proved to be challenging for several broadcasters, who gave these political actors a platform for promotion without countering it with critical views.

5. Election day

32. Election day generally proceeded in an orderly manner, but some technical irregularities were noted throughout the day, with a significant deterioration of the process during the counting. The voting process was assessed as good or very good in 94% of the polling stations observed by teams of the IEOM. However, the overall assessment of counting was more negative, with 25% of observed polling stations assessed as bad or very bad. That seemed to be linked to PSC members lacking knowledge of procedures and general disorder. In 27 observations significant procedural errors were noted, in 43% of observations transparent bags were not used, in 41% of observations PSC accounting forms were not completed before the start of the count, in 14% of observations protocols were pre-signed by PSC members, and in 30% of observations results did not tally. However, the transparency of the counting process was assessed positively in all but 11 polling stations, even though protocols were not provided to observers in 30% of observed polling stations. Thirteen cases of interference in the work of the PSCs during the count by citizen and political observers were reported.

33. The ad hoc committee split into 13 teams which observed the elections in Sarajevo and its outskirts, as well as in Banja Luka, Brčko, Goradze, Grbavica, Konjic, Mostar, Pale, Praca, Rogatica, Srebrenica, Trnovo and Visegrad.

34. The members of the Parliamentary Assembly delegation drew attention to a number of particular problems in the polling stations they visited:

– several polling stations opened late, due to the complexity of the preparations to be made before polling could start;

– the quality of the polling station committees varied substantially. Some polling stations in RS were overcrowded. In some polling stations, IDs were kept by the PSC until the vote was cast, while in most polling stations IDs were returned after voters signed the voter register;

– overall, polling stations in urban areas functioned better than in rural areas;

– in the Brčko district, where, for the first time, voters had to choose an entity citizenship in order to be able to vote, it was observed that many voters, especially the elderly, were not properly informed about the new rules, which caused unrest and queuing in and around polling stations;

– some polling station committees were unaware of the right of international observers to observe and therefore the access of a number of teams inside the polling stations was delayed until the PSC received confirmation by telephone;

– during the afternoon, an observer team witnessed the reception by a voter who had not yet cast his vote of an anonymous phone call, asking him to go to vote and instructing him exactly how to vote;

– in a polling station in Sarajevo, the President closed the voting 15 minutes before the official closing time, despite the fact that there were voters still queuing and left the premises taking with him the protocol; he accepted to return to the polling station only after a member of the observer team managed to convince him to do so;

– in all polling stations, observers representing political parties were present; they were not always willing to inform the ad hoc committee delegations about their political affiliation. Most observers of the ad hoc committee did not meet observers deployed by the Pod Lupom election observation organisation, although it was said that over 3 000 of them would be present in polling stations throughout the country.

35. On 27 October, the CEC announced the following results, to be certified on 12 November:

Presidency of Bosnia and Herzegovina

Bosniak member: Bakir Izetbegović (32.87%, elected), Fahrudin Radončić (26.78%), Emir Suljagić (15.2%), Bakir Hadžiomerović (10.02%), Sefer Halilović (8.80%), Mustafa Cerić (4.5%)

Croat member: Dragan Čović (52.2%, elected), Martin Raguž (38.61%), Živko Budimir (6.27%)

Serb member: Mladen Ivanić (48.71%, elected), Željka Cvijanović (47.56%), Goran Zmijanjac (3.73%)

House of Representatives of Bosnia and Herzegovina

FBiH: SDA (27.87%, 9 mandates), DF (15.33%, 5), SBB (14.44%, 4), HDZ BiH coalition (12.15%. 4), SDP (9.45%. 3), HDZ 1990 (4.08%, 1), BPS (3.65%, 1), A-SDA (2.25%, 1)

RS: SNSD (38.46%, 6 mandates), SDS (33.64%, 5), PDP-NDP (7.76%, 1), DNS (5.72%, 1), SDA (4.88%, 1)

House of Representatives of the Federation of Bosnia and Herzegovina

SDA (27.79%, 29 mandates), SBB (14.71%, 16), DF (12.9%, 14), HDZ coalition (11.93%, 13), SDP (10.14%, 11), HDZ 1990 (4.04%, 4), BPS (3.72%, 4), SzBiH (3.30%, 3), A-SDA (2.25%, 2), Nasa Stranka (1.54%, 1), Laburisticka Stranka (0.57%, 1)

President of Republika Srpska

Milorad Dodik (45.22%, elected), Ognjen Tadić (44.19%), Ramiz Salkić (3.73%, elected Vice-President), Josip Jerković (0.98%, elected Vice-President)

National Assembly of Republika Srpska

SNSD (32.24%, 29 mandates), SDS (26.22%, 24 mandates), DNS (9.23%, 8), PDP (7.37%. 7), Domovina (5.28%, 5), NDP (5.13%, 5), SP (5.09%, 5)

Cantonal assemblies

Unsko-Sanski Kanton: SDA (32.38%, 11 mandates), A-SDA (16.92%, 5), DF (11.51%, 4), SDP (10.93%, 4), SBB (9.74%, 3), Laburisti (5.43%, 2), ZZP (3.23%, 1)

Posavski Kanton: HDZ BiH coalition (32.92%, 7 mandates), HDZ 1990 (29.69%, 7), SDA (12.14%, 3), Posavska Stranka (6.22%, 1), HSP BiH-DSI (3.83%, 1), SBB (3.68%, 1), SDP (3.03%, 1)

Tuzlanski Kanton: SDA (32.23%, 13 mandates), SDP (13.7%, 6), SBB (12.41%, 5), DF (10.96%, 4), SzBiH (8.36%, 3), NSRzB (4.44%, 2), BPS (4.4%, 1)

Zenicko-Dobojski Kanton: SDA (28.60%, 11 mandates), SBB (19.61%, 8), DF (12.56%, 5) SDP (11.36%, 4), HDZ BiH coalition (5.97%, 2), A-SDA (5.57%, 2), SzBiH (4.44%, 2), BPS (3.91%, 1)

Bosansko-Podrinjski Kanton: SDA (22.03%, 6 mandates), SBB (18.48%, 5), SzBiH (8.54%, 2), SDP (8.43%, 2), DF (6.77%, 2), Stranka za Bolje Gorazde (6.34%), BPS (5.86%, 2), Novi Pokret (5.69%, 1), Stranka Dijaspore (4.79%, 1), LS BiH (4.29%, 1), A-SDA (3.71%, 1)

Srednjo-Bosanski Kanton: SDA (25.7%, 8 mandates), HDZ BiH coalition (22.76%, 8), SBB (10.97%, 4), SDP (10.87%, 4), DF (8.53%, 3), HDZ 1990 (6.77%, 2), HSP-HSS (3.16%, 1)

Hercegovacko-Neretvanski Kanton: HDZ BiH coalition (32.25%, 11 mandates), SDA (20.83%, 7), HDZ 1990 (9.01%, 3), SBB (8.39%, 3), SDP (7.73%, 3), DF (5.68%, 2), BPS (3.69%, 1)

Zapadno-Hercegovacki Kanton: HDZ BiH coalition (56.56%, 14 mandates), HDZ 1990 (15.07%, 4), HSP BiH-DSI (6.6%, 2), NSRzB (5.61%, 1), HSP Ante Starcevic (4.48%, 1), HKDU-Hrast (3.26%, 1)

Kanton Sarajevo: SDA (25.02%, 10 mandates), DF (17.1%, 7), SBB (16.65%, 7), SDP (9.4%, 4), NS (7.7%, 3), BPS (4.81%, 2), BOSS (3.75%, 2)

Kanton 10: HDZ BiH coalition (30.57%, 9 mandates), HDZ 1990 (15.16%, 4), SNSD (11.81%, 3), HNL (7.71%, 2), SDA (7.26%, 2), NSRzB (5.9%, 2), PSS (5.55%, 2), SDP (4.4%, 1)

36. The voter turnout was 54.14%. This is 2% lower than in 2010, when it was at 56.3%.

6. Conclusions and recommendations

37. The 12 October general elections in Bosnia and Herzegovina were held in a competitive environment but the interethnic divide was a key factor. The lack of a shared vision of the country's future and of co-operation among the three constituent peoples continued to hinder the reforms necessary to ensure fully democratic elections.

38. The 51 political parties, 14 coalitions and 15 independent candidates which were certified by the CEC, in a generally inclusive process, to compete in the State and entity elections in Bosnia and Herzegovina on 12 October 2014 were able to campaign without obstruction, and freedoms of association and assembly were respected.

39. The electoral campaigns were largely negative, blaming opponents for the lack of progress.

40. The lack of political will to move beyond the Dayton agreement prevented the country from moving away from the current inter-ethnic divides. Fundamental shortcomings remain, including ethnicity-based restrictions on candidacy and voting rights that run counter to Council of Europe standards, in particular with regard to the failure to implement the 2009 *Sejdić and Finci* judgment of the European Court of Human Rights. The ad hoc committee recalls that the Parliamentary Assembly, in its report on the observation of the 2010 general elections, had already urged the country's authorities to comply with the *Sejdić and Finci* judgment, by amending the Constitution and the electoral legislation in order to prevent the risk of once again setting up national institutions under conditions incompatible with the European Convention on Human Rights (ETS No. 5). Regrettably, this has not been done.

41. Otherwise, the legal framework was, for the most part, sufficient for the conduct of democratic elections, even though the number of votes needed to win varied significantly from one constituency to another, violating the principle of equality of the vote.

42. The Central Election Commission generally administered the elections efficiently and enjoyed the confidence of most electoral stakeholders. However, there were numerous cases of political parties and individual candidates engaging in the trading of positions in polling station commissions to gain greater representation in particular areas. This sometimes led to political imbalance in commissions and reduced general confidence in the integrity of the process.

43. There were a large number of media outlets operating in the country, but the media environment was segmented along ethnic lines. Public broadcasters complied with the legal obligation to provide free airtime to contestants on an equal basis and provided voters with the opportunity to learn about contestants through debates and election programmes, but broadcast media coverage was in general biased.

44. The system for regulating campaign finance was not adequate to ensure transparency and accountability, and the majority of previous recommendations by GRECO remain unaddressed. The lengthy auditing process for financial reports and the lack of proportionate sanctions negated the effectiveness of campaign finance regulations, leaving violations unaddressed.

45. In addition to the issue of the non-implementation of the judgment of 22 December 2009 of the European Court of Human Rights in the case of *Sejdić and Finci*, a number of other recommendations remain unaddressed (see paragraph 15 above).

46. The ad hoc committee was surprised to discover that in a number of polling stations the members of the PSC were reticent in disclosing their respective political party membership, which only confirms the need for measures to be taken in order to prevent the trading of PSC positions and to ensure the political balance of all PSCs.

47. The ad hoc committee also considers that the rule which require PSCs to announce out loud the voters' names during the voting process should be reconsidered, as this was obviously used by observers of political parties to check which citizens had not yet cast their votes. This information was passed on to others, who used it to put pressure on a number of persons who had not voted by early afternoon, and who were asked to go and vote.

48. Bearing in mind the complexity of the voting process, the ad hoc committee recommends that in future general elections four ballot transparent boxes be used, instead of a single one, to prevent the physical mixing inside the ballot box of ballot papers for different elections, which proved to be a potential cause for problems during the separation of the ballot papers for the counting.

49. More generally, the ad hoc committee observed an ever-growing mistrust of citizens in the functioning of democratic institutions. This endangers stability and compromises the future of the country. Without enough public trust democratic institutions cannot function properly. The ad hoc committee urges all politicians and political parties in all parts of Bosnia and Herzegovina to understand this mistrust as being a major warning sign for the future of the country, and to find ways to regain public trust in the functioning of the democratic institutions of Bosnia and Herzegovina.

50. The Council of Europe stands ready to provide its expertise and to continue to work with the country to support its efforts in fulfilling Council of Europe standards.

Appendix 1 – Composition of the ad hoc committee

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

– Tiny KOX* (Netherlands UEL), Chairperson of the ad hoc committee

– **Socialist Group (SOC)**
  - Ingrid ANTIČEVIĆ-MARINOVIĆ, Croatia
  - Paolo CORSINI, Italy
  - Joseph DEBONO GRECH, Malta
  - Ute FINCKH-KRAEMER, Germany
  - Maria GIANNAKAKI, Greece
  - Liliane MAURY PASQUIER, Switzerland
  - Melita MULIĆ, Croatia
  - Stefan SCHENNACH, Austria

– **Group of the European People's Party (EPP/CD)**
  - David BAKRADZE, Georgia
  - Şaban DIŞLI, Turkey
  - Mikael OSCARSSON, Sweden

– **European Conservatives Group (EC)**
  - Reha DENEMEÇ,* Turkey
  - Tûlin ERKAL KARA, Turkey
  - Ingebjørg GODSKESEN, Norway
  - Morten WOLD, Norway

– **Alliance of Liberals and Democrats for Europe (ALDE)**
  - André BUGNON, Switzerland
  - Margus HANSON,* Estonia
  - Alfred HEER, Switzerland
  - Kerstin LUNDGREN, Sweden

– **Group of the Unified European Left (UEL)**
  - Tiny KOX,* Netherlands
  - Nikolaj VILLUMSEN, Denmark

– **Rapporteur of the Monitoring Committee (ex officio)**
  - Egidijus VAREIKIS, Lithuania

– **Secretariat**
  - Caroline RAVAUD, Head of the Secretariat of the Monitoring Committee
  - Bogdan TORCĂTORIU, Administrator, Interparliamentary Co-operation and Election Observation Division
  - Franck DAESCHLER, Principal Administrative Assistant
  - Nicola STEMP, Assistant

* members of the pre-electoral delegation (17-19 September 2014)

Appendix 2 – Programme of the pre-electoral delegation (17-19 September 2014)

Wednesday 17 September 2014

17:00-17:30 Briefing by Ms Mary-Ann Hennessey, Head of the Council of Europe Office in Bosnia and Herzegovina

17:30-18:30 Meeting with the Ms Corien Jonker, Head of ODIHR mission in Bosnia and Herzegovina and members of the core team

18:30-19:15 Meeting with Ms Nina Suomalainen, Deputy Head of the OSCE Mission to Bosnia and Herzegovina

Thursday 18 September 2014

07:00 Departure of the members of the delegation to Banja Luka

12:30-13:30 Meeting with Mr Mladen Ivanić, President of the PDP

14:00-14:45 Meeting with Ms Ivana Korajlić, Transparency International

Meetings with leaders and representatives of the parliamentary groups in Republika Srpska

15:00-15:30 Meeting with Mr Dragan Ćuzulan, Secretary General of the SDS

16:00-16:30 Meeting with Mr Željko Mirjanić, MP, Chair of the SNCD group (National Assembly of Republika Srpska)

16:30-17:00 Meeting with Mr Dragan Čavić, President of the Democratic Party

17:15 Departure of the members of the delegation to Sarajevo

Friday 19 September 2014

09:00-09:45 Meeting with Mr Vlado Rogić and Mr Suad Arnautović, members of the Central Election Commission

Meetings with the representatives of the parliamentary groups

10:00-10:45 Meeting with the Collegium of the Parliamentary Assembly of Bosnia and Herzegovina

- Mr Ferid Buljubašić, Secretary General, Parliamentary Assembly of BiH
- Mr Dragoljub Reljić, Secretary General of the Parliamentary Assembly of the House of Representatives

11:00-11:30 Meeting with Mr Davor Selak, Secretary General of HDZ 1990

11:30-12:00 Meeting with Mr Asim Sarajlič, Deputy President, Chair of the SDA group

14:00-14:30 Meeting with Mr Ante Domazet, MP (House of Representatives), SDP

14:30-15:00 Meeting with Mr Damir Arnaut, Deputy President of the SBB, and Mr Fehim Škaljić, member of the main board

Meetings at the Council of Europe Office in Sarajevo

16:00-16:30 Meeting with representatives of NGOs

- Ms Tijana Cvjetičanin and Mr Darko Brkan, “Zašto ne” NGO
- Mr Dario Jovanović, coalition “Pod Lupom”

17:00-17:30 Meeting with Ms Karolina Karačić, Deputy President of the DF

17:30-18:30 Preparation of the text of statement of the pre-electoral delegation

Appendix 3 – Statement by the pre-electoral delegation

Strasbourg, 19.09.2014 – A pre-electoral delegation from the Parliamentary Assembly of the Council of Europe (PACE) visited Sarajevo and Banja Luka to assess the election campaign and the preparation of the general elections to be held on 12 October 2014.

The importance of the upcoming general elections in Bosnia and Herzegovina was pointed out by most interlocutors of the PACE delegation. The delegation was informed of the serious challenges facing the country – economic decline, high level of unemployment, wide spread corruption and consequences of catastrophic floods. These challenges will play an important role in the campaign, the delegation was told.

The delegation notes with satisfaction that all political stakeholders expressed genuine confidence in the Central Election Commission's work. Nevertheless, the delegation was informed by the CEC that there is a certain political pressure – mostly indirect – to its functioning, i.e by limiting its budget. According to the CEC, the weakest link is the functioning of the Municipal and Polling Stations commissions.

The delegation was also informed by some interlocutors about a risk of possible irregularities on election day such as multiple voting, vote buying, pressure on electors, especially in rural areas, potential manipulations, particularly during and after the vote count. Others see less danger for irregularities. Nevertheless, the delegation calls on the Central Election Commission, main political stakeholders and relevant State bodies to assure the neutral work of all polling stations commissions and to take appropriate measures to avoid any manipulations.

The delegation regrets that, despite a legal obligation, there are still significant deviations in constituency size, which makes the vote weight unequal. This is not in line with the fundamental principles on equal suffrage of the Council of Europe Venice Commission's Code of good practice in electoral matters.

The delegation noted that the media environment is diverse. Nevertheless, the delegation was also informed that many media outlets still remain segmented along ethnic and political lines. Public broadcasters have the obligation to ensure equal access for all political parties and not to privilege the ruling parties. However, the delegation also heard allegations, primarily but not only in Republika Srpska, of possible misuse of administrative resources and unequal access to public media.

Concerning the financing of election campaigns and political parties, the PACE delegation pointed out that some recommendations adopted by the Council of Europe's Group of States against corruption (GRECO) in 2013 still remain unaddressed, namely the transparency of donations, the auditing competencies of the relevant State institutions and the lack of effective sanctions. The new law on conflict of interests, which was adopted in 2013, was also flagged as a possible source of problems after the elections.

The PACE delegation expressed its great concern that, despite the Assembly's previous resolutions on incompatibility of the constitution and election legislation with the European Convention on Human Rights, the authorities of Bosnia and Herzegovina failed to amend the constitutional and legal framework to remove ethnicity and residency based discriminations with regard to the right to stand for elections to the Presidency and House of Peoples. As a result, the 12 October general election once again will be held in violation of the Convention. All interlocutors of political parties said that this matter will be solved after the elections – a promise also made 4 years ago.

The delegation had meetings with leaders and representatives of political parties, with representatives of the collegium of the BiH Parliamentary Assembly, with the members of the Central Election Commission, representatives of international community, OSCE/ODIHR mission to Bosnia and Herzegovina as well as with representatives of civil society.

The Parliamentary Assembly will send a 32-member delegation to observe the general elections on 12 October 2014.

Members of the delegation: Tiny Kox (Netherlands, UEL), head of the delegation; Naira Karapetyan (Armenia, EPP/CD); René Rouquet (France, SOC); Margus Hanson (Estonia, ALDE); Reha Denemeç (Turkey, EDG).

Appendix 4 – Programme of the ad hoc committee (10-13 October 2014)

Friday 10 October 2014

08:30-09:30 Meeting of the ad hoc committee:

- Opening of the meeting and presentation of the pre-electoral mission's findings, by Mr Tiny Kox, Head of Delegation
- Presentation of the recent developments in the field of electoral legislation and the activities of the Venice Commission in Bosnia and Herzegovina
- Practical arrangements and logistics, by the Secretariat

Joint briefing programme with the delegation of the OSCE Parliamentary Assembly

10:00-10:20 Opening by the Heads of Delegation:

- Mr Roberto Battelli, Special Coordinator of the OSCE short-term observer mission
- Mr Tiny Kox, Head of the PACE Delegation
- Ms Marietta Tidei, Head of the OSCE PA Delegation

10:20-11:10 Welcoming remarks:

- Ambassador Jonathan Moore, Head of OSCE Mission to BiH
- Ms Nina Suomalainen, Deputy Head of Mission
- Mr Ahmed Rifatbegovic, Political Advisor
- Ms Mary Ann Hennessey, Head of the Council of Europe Office in BiH
- Mr Michael Doyle, Head of Cabinet and Senior Policy Adviser, Office of the High Representative

11:10-12:00 Meeting with Mr Stjepan Mikić, Chairperson of the Central Election Commission of BiH

13:30-14:45 Briefing by Ms Corien Jonker, Head of the OSCE/ODIHR Election Observation Mission, and her team

14:45–18:20 Meetings with political parties:

- Social Democratic Party of Bosnia and Herzegovina (SDP BiH) – Ms Lidija Korać, Vice-President
- Union for a Better Future of Bosnia and Herzegovina (SBB) – Mr Damir Arnaut, Vice-President
- Party of Democratic Action (SDA) – Mr Asim Sarajlić, Vice-President
- Croatian Democratic Union of Bosnia and Herzegovina (HDZ) – Ms Lidija Bradara, Member of HDZ BiH Presidency and Director of the HDZ Political Academy
- Croatian Democratic Union 1990 (HDZ 1990) – Mr Ante Janković, International Secretary
- Party of Justice and Trust (SPP) – Mr Aner Šuman, Acting Secretary
- Union of Independent Social Democrats (SNSD) – Mr Dušan Petrović, Member of the Steering Committee and President of the Young Social Democrats
- Party for Democratic Progress (PDP) – Mr Zoran Tešanović, Member of the Presidency
- Serb Democratic Party (SDS) – Mr Predrag Kovač, Vice-President
- Democratic Front (DF) – Mr Željko Komšić, Chairperson

Saturday 11 October 2014

09:30-10:45 Panel discussion with media representatives:

- Regulatory Communication Agency – Mr Kemal Huseinović, Director General
- BH Novinari – Ms Borka Rudić, Director
- Radio and Television of Bosnia and Herzegovina – Ms Senada Ćumurović, Assistant Director-General for Education and team leader for the elections
- Federation TV – Mr Džemal Šabić, Director General

– Radio and Television of Republika Srpska – Ms Tamara Ćuruvija, Editor of TV Informative Program
– Dnevni Avaz – Mr Tarik Lazović, Deputy, Editor-in-Chief
– Oslobodjenje – Ms Vildana Selimbegović, Editor-in-Chief
– ACIPS – Mr Anes Makul, Chairperson

11:00-12:00 Panel discussion with representatives of NGOs/INGOs:
– Transparency International – Mr Emir Đjikić, Chairperson
– Centre for Civic Initiatives – Mr Dario Jovanović
– Forum of Tuzla Citizens – Ms Jelena Tanasković, representative
– Pod Lupom – Mr Dario Jovanović, Director
– Center for Investigative Reporting – Mr Kenan Efendić, Editor

12:00-12:45 Briefing by the OSCE/ODIHR Election Observation Mission (observation rorms, Election Day procedures, security)

13:00 Meeting with interpreters and drivers

Sunday 12 October 2014

Observation of the elections

Monday 13 October 2014

08:00-09:00 Meeting of the ad hoc committee (debriefing)

14:00 Joint press conference

Appendix 5 – Statement by the International Election Observation Mission (IEOM)

Elections in Bosnia and Herzegovina held in competitive environment, but interethnic divide and mistrust remain key factors, international observers say

Sarajevo, 13 October 2014 – While the 12 October general elections in Bosnia and Herzegovina were held in a competitive environment, the interethnic divide was a key factor. The lack of a shared vision in the country's future and of co-operation among the three constituent peoples continues to hinder the reforms necessary to fully ensure democratic elections, and a growing mistrust in the functioning of democratic institutions endangers stability, international observers said in a statement today. At the same time, candidates were able to campaign freely and fundamental freedoms of expression, association and assembly were respected.

"Yesterday's elections demonstrate that Bosnia and Herzegovina has a legal framework sufficient for conducting democratic elections," said Roberto Battelli, the Special Co-ordinator and leader of the short-term OSCE observer mission. "However, the lack of political will to move beyond the Dayton agreement prevents the country from moving away from the current inter-ethnic divides and towards real progress for the country."

While the Central Election Commission (CEC) generally administered elections efficiently and enjoyed the confidence of most electoral stakeholders, there were numerous cases of political parties and individual candidates engaging in the trading of positions in polling station commissions to gain greater representation in particular areas. This led to some political imbalance in commissions and reduced trust in the integrity of the process, the statement said.

The legal framework is, for the most part, sufficient for the conduct of democratic elections, the observers said. However the lack of political will to move beyond the Dayton Agreement means that important, long-standing shortcomings remain, including ethnicity-based restrictions on candidacy and voting rights that run counter to OSCE and Council of Europe standards, in particular with regard to the failure to implement the 2009 *Sejdić and Finci* judgment of the ECtHR. They also noted that the number of votes needed to win varies significantly from constituency to constituency, violating the principle of equality of the vote.

"There is an ever-growing mistrust in the functioning of democratic institutions, which endangers stability and compromises the future of the country", said Tiny Kox, Head of the delegation from the Parliamentary Assembly of the Council of Europe. "This should be a major warning sign to all politicians and political parties."

In a generally inclusive process, the CEC certified 51 political parties, 14 coalitions and 15 independent candidates to compete in the State and entity elections. All electoral contestants were able to campaign without obstruction, and freedoms of association and assembly were respected. Their campaigns were largely negative, blaming opponents for the lack of progress.

"Election day was generally well administered and polling commission members for the most part performed efficiently", said Marietta Tidei, Head of the OSCE Parliamentary Assembly delegation. "The new 40 per cent gender requirement was respected both in the election administration bodies and in candidate lists. This, unfortunately, does not necessarily translate into a proportionate gender balance in the legislative bodies."

There are a large number of media outlets operating in the country, but the media environment is segmented along ethnic lines, the statement said. While public broadcasters complied with the legal obligation to provide free airtime to contestants on an equal basis and provided voters with the opportunity to learn about contestants through debates and election programmes, OSCE/ODIHR election observation mission media monitoring results substantiated widespread allegations of bias in broadcast media.

"In observing the entire election process so far, we have seen that fundamental freedoms have generally been guaranteed", said Corien Jonker, Head of the OSCE/ODIHR long-term election observation mission. "More has to be done, however, to fully ensure democratic elections. There are still people unable to run as candidates or vote, based on ethnicity, there is trading of positions on polling station commissions, and the media landscape suffers from biased coverage and segmentation along ethnic lines."

The system for regulating campaign finance is not adequate to ensure transparency and accountability, and the majority of previous recommendations by ODIHR and the Council of Europe's Group of States against Corruption (GRECO) remain unaddressed. The lengthy auditing process for finance reports and the lack of proportionate sanctions negates the effectiveness of campaign finance regulations, leaving violations unaddressed.

Election day generally proceeded in an orderly manner, but some technical irregularities were noted through the day, with a significant deterioration of the process during the counting. The voting process was assessed as good or very good in 94% of polling stations observed. The overall assessment of counting was more negative, with 25% of observed polling station assessed as bad or very bad.