
TRANSPARENCY INTERNATIONAL BULGARIA

EUROPEAN PARLIAMENT ELECTIONS*25 May 2014***SUMMARY OF PRELIMINARY FINDINGS OF THE ELECTION
MONITORING PROCESS****SCOPE OF THE MONITORING PROCESS**

Transparency International – Bulgaria has conducted monitoring of the elections for members of European Parliament from the Republic of Bulgaria, held on the 25th of May 2014. The organization was officially registered as an election observer with the Central Election Commission (Decision №242-ЕП/25.04.2014). The monitoring process was conducted with the help of 47 observers, who examined the work of the Central Election Commission (CEC), Regional Election Commissions (REC) and Precinct Election Commissions (PEC) covering the territory of a total of 16 constituencies.

Monitoring was conducted in accordance with the latest international standards; professionalism and political impartiality was the main priority of the observers. The monitoring process was based on the methodology developed by Transparency International - Bulgaria in 2001, which focuses on examining compliance with established democratic standards for conducting elections and guaranteeing access to free and fair elections for all citizens. In accordance with this approach, observers were asked to register electoral violations in four main groups: organizational violations, campaign violations, vote buying and controlled voting.

KEY FINDINGS OF THE ELECTION MONITORING PROCESS

The findings of the monitoring showed that the overarching problems of the electoral process in Bulgaria previously outlined by Transparency International - Bulgaria are deepening. Despite amended election laws and claims for a new approach towards the organization of the work of the CEC, election monitors have observed serious problems in the electoral process, which call into question its open and democratic nature. Among these problems, the following are especially notable:

1. The instability and the unpredictability of the rules of the electoral process and the frequent amendment of election laws create serious organizational challenges for conducting elections. The passing of an entirely new Electoral code by

Parliament 80 days before the elections for European Parliament and the amendment of election laws after the date of the election had already been announced put an overwhelming obstacle in front of all institution engaged with the electoral process. The changing of key electoral components such as the method of establishing of the Central Election Commission and the design of the ballot undermine the legitimacy of the institutions and the role of election laws as a pillar of the democratic process.

2. The lack of decisive actions against practices that seriously infringe upon the voting rights of citizens such as vote buying, the coercion of voters, the breach of voter privacy, etc. has led to an increase of the cases of so-called “controlled voting”. The main causes of this is an excessively formalist approach towards gathering evidence and investigating crimes against the political rights of citizens, as well as the inefficient work of law enforcement institutions. Extensive media reports of voter coercion of workers, threats of dismissal from work or withholding essential social services and vote buying yet again were not sufficient to prompt further investigations by the law enforcement institutions.
3. Transparency International - Bulgaria predictions of abuse of the status of independent election observer were confirmed in 2014. During the campaign we witnessed circumvention and discrediting of the principles of independent election monitoring through the practice of creating monitoring organizations that are closely aligned with political parties. There is also a suspicion that citizen’s votes were bought by registering them as independent observers. These practices cannot be ignored by Transparency International - Bulgaria as they erode confidence in authentic monitoring organizations which strictly abide by international election monitoring standards. This is why we will insist on adequate measures against the abuse of the status and the functions of independent observers.
4. The system of monitoring of campaign finances has continued to have serious weaknesses such as:
 - Lack of financial oversight of political campaigns;
 - Donation of large sums of money by citizens with otherwise very limited financial resources;
 - Lack of transparency of the investigations of the origin of the declared campaign donations.
5. Despite the changes in election laws with regards to free media coverage and editorial policy, the media climate in Bulgaria is a cause for serious concern. In the course of the campaign observers noted systematic publishing compromising content and negative campaigning against political opponents. The value of this information as well as who has sponsored its publicizing remains unclear.

GENERAL CONTEXT OF THE ELECTION MONITORING PROCESS LEGAL FRAMEWORK

The election campaign and the elections were conducted in accordance with a new Electoral Code, enacted by the 42nd National assembly on March 5th 2014. The new legislation was enacted shortly before the constitutionally established period for the preparation of the elections began. It is notable that this parliamentary action was not in accordance with international standards for legislative predictability and stability, which state that the election laws should be established at least six months before the election date. In addition, a precedent was established when electoral legislation was amended after the election date had already been determined. The amendments concerned two key elements of the election process – the composition of the CEC and the design of the ballot.

The protracted debates surrounding the approval of the new Electoral Code, as well as the fact that certain key proposals of the non-governmental sector were ignored, prompted Transparency International - Bulgaria to publish a number of official statements and open letters. In these we called upon all political parties to act responsibly and to adopt legislation that adequately addresses the problems of the electoral process in Bulgaria. The unprecedented short time frame in which the elections had to be organized left very little opportunity for meaningful debate on the key issues surrounding the preparation of the elections.

ORGANIZING THE ELECTIONS FOR EUROPEAN PARLIAMENT ESTABLISHING A NEW CENTRAL ELECTORAL COMMISSION

The establishment of the new Central Election Commission highlighted regulatory and procedural shortcomings. Problems arose with the procedures for the appointment of members of the Commission from the “citizen” quota, the distribution of the members from the quotas of the political parties and the adherence to established procedures for appointment of members of the CEC.

There was a clear discrepancy between the principles for appointing members of the CEC stated by the Government and their practical application.

The application of the provisions for the appointment of members of the CEC did not live up to the public’s expectations for political impartiality, high degree of professionalism, transparency and integrity. The political biographies of some of the candidates, as well as the fact that they have been nominated by non-governmental organizations, raise the question whether some civil nominations were de facto political. In practice, only two of the nominations by NGOs were experts who had not served as representatives of political parties in CECs and RECs during previous elections. The obscure way in which these candidates were “recognized” by political parties and the blurring of the lines between professional and political nominations casts doubt on the

political impartiality of some of the members of the CEC and the organizations that nominated them.

All of this, as well as the excessively formalist approach to the parliamentary procedure for appointment of members of the CEC, reduced the debate to petty political confrontation, rather than an examination of the professional qualities of the candidates.

These actions cast serious doubt on the determination and political will of the parties to establish an independent and impartial electoral administration.

ESTABLISHMENT AND FUNCTIONING OF THE PUBLIC COUNCIL

Given the short time frame for the preparation of the elections, there was an urgent need for effective interaction between the CEC and newly-established Public council of non-governmental organizations. However, the creation of a mechanism for effective cooperation was stifled by the CEC.

Furthermore, Transparency International - Bulgaria clearly stated its opposition to the first draft of the proposals that regulate the work of the Public council. Under these proposals the Public council would be established by a resolution of the CEC, its resolutions would be based on arbitrary formal criteria and its leadership would be permanent, which would not guarantee that the positions of all of the organizations involved would be publicized. The proposals reflected a unilateral, non-interactive approach to the creation of the Public council. The council was seen as subsidiary to the CEC, rather than an independent body of experts, which is entitled to oversee the election process and distribute information about the preparation of the elections freely.

During the course of the work of the Public council there became apparent the problems of the lack of feedback and the lack of effective interaction between the council and the CEC.

As a member of the Public Council, Transparency International - Bulgaria made a series of proposals and raised many questions regarding:

- The unilateral establishment of the rules that regulate the work of the Council by the CEC;
- Issues with the training of the members of the RECs and PECs;
- Non-transparent public procurement procedure for determining the supplier of the experimental voting machines;
- Concerns about the erosion of public confidence in the status of the independent election observer.

None of the abovementioned issues were adequately addressed by the CEC.

WORK OF THE CEC DURING THE PREPARATION OF THE ELECTIONS

During the course of the preparation of the elections for European parliament, Transparency international alerted the relevant institutions about the serious deficiencies in the preparation process. The most significant of these were the non-transparent work

of the CEC, the inadequate training of members of the RECs and the PECs regarding the application of the new election laws and the erosion of public confidence in the status of the independent election observer.

Identified deficiencies:

- Omissions and discrepancies in the resolutions of the CEC and the documentation – 10.56% of all resolutions of the CEC are amendments to previously passed resolutions;
- The majority of the minutes of the meetings of the CEC were not published – as of July 2nd 2014 only 15 minutes have been published, the latest being from a meeting on April 8th 2014;
- An ineffective public communication campaign, which was reduced to quoting legal texts and was not comprehensive for the average citizen.

The problems with the preparation of the election process and the proposed solutions for these problems were not addressed adequately by the relevant institutions. These discrepancies became prerequisites for further problems that arose during Election Day.

The drafting and adoption of the Methodical Guidelines for the PECs in particular was subjected to stringent scrutiny, as it is a vital element of the electoral process. Transparency International - Bulgaria challenged the amendment of the Central Electoral Commission's resolution №324-ЕП/12.05.2014, which established the Methodical Guidelines for the PECs, in front of the Supreme Administrative Court. This administrative action constituted a de facto amendment of article 278 of the Electoral Code, which concerns the validity or invalidity of a ballot.

The ruling of the Supreme administrative court stated that the amendments to the Methodical guidelines for the PECs contradicted existing legislation and established administrative norms.

Transparency International - Bulgaria strongly argued that these administrative actions may undermine the main principles of the Electoral Code, cause confusion and irregularities during the vote counting and might be a prerequisite for other negative phenomena during Election Day.

Training of the Electoral Commissions

As a registered observer of the elections for European Parliament, Transparency International - Bulgaria monitored training sessions of members of Regional and Precinct Commissions throughout the country. A number of significant omissions were noted, such as:

- Participants in the training program were not properly instructed about the validity of ballots have been cast without having their serial number in bottom right corner removed by a member of the PEC;

- Participants in the training program were not well instructed on the methodology for counting preferential votes;
- The guidelines for the application of the Election code of the CEC were distributed the day before the elections, giving members of Electoral Commissions little time to get acquainted with the practical application of the law;
- Despite a resolution adopted by the CEC (№ 313-EII/08.05.2014) regulating the work of the training staff, there was a lack of essential training tools (samples of ballots, handbooks, slides of presentations, videos, etc.);
- The duration of the training (approximately two hours) was extremely insufficient to properly inform the trainees of the requirements of the new Election code and the resolutions of the CEC which concerned their work. Given significant changes in the handling of the ballots (separating each ballot from a bound stack, removing the serial number of the ballot, the counting of preferential votes), members of Electoral Commissions required much more detailed information and opportunities to have their questions answered. Training sessions were conducted at an inconveniently late hour, which produced a tense atmosphere and stifled the effectiveness of the training;
- The overall approach of the CEC towards the training process relied on the previous experience of some of the members of the Regional and Precinct Commissions, who had served on Electoral Commissions during previous elections. Because of this the trainees did not receive adequate instructions, as proven by the fact that during the first part of the Election Day 66% of all complaints, received at TI-Bulgaria concerned organizational and/or technical issues.

It should also be noted that the organizational and technical problems in the work of the RECs and the PECs often concerned the validity of the ballots and therefore the final result of the elections. For these reasons, we find the overall lack of adequate training of members of Electoral Commissions particularly alarming.

Unfortunately, the problems with the organization of the elections which were pointed out to the relevant institutions by Transparency International - Bulgaria during the run-up to the elections, strongly manifested throughout Election Day.

Campaign Finances and Role of Media Coverage in the Election Campaign

One of the most significant amendments of the Electoral Code was the introduction of public financing and subsidies for media coverage for election campaigns. The new laws maintain the requirement that all contracts between the media and candidates as well as the prices of media coverage during the election campaign must be published. These provisions guaranteed free participation of candidates in

various public debate programs and increased the editorial freedom of the media.

However, the decline of the media environment on Bulgaria became evident, as the public discussion was dominated by smearing campaigns against candidates, rather than a debate about the future of Europe. It remains unclear who sponsored these smear campaigns.

The results of the media monitoring show that the proper publishing of the prices of media coverage and the contracts between the media and candidates remains problematic. The tendency on behalf of some media companies to ignore the transparency requirements casts doubt on the relationship between the media and political parties.

The new Election Code introduced a new mechanism for monitoring of election campaigns, which aimed to improve the oversight of campaign financing. The Council on Electronic Media (CEM) was charged with monitoring media coverage of election campaigns and reporting any discrepancies to the CEC. Intermediate results show that this monitoring mechanism has manifested its first positive outcomes. A conclusive evaluation of the effectiveness of the legal amendments will be reached after the CEM publishes its media monitoring report.

The data published in Unified Registry of the Election Code kept voters up to date with the amount of donations for the campaign of each candidate in real time. These statistics allowed Transparency International – Bulgaria to reconfirm its position regarding the need for reform in the system of campaign financing, including the financing of political parties. The results of the monitoring of this aspect of the campaign highlighted the following problems:

- There are legitimate concerns about “laundering” of campaign financing of unknown origins (with some citizens with very low income donating very large sums of money).
- Excessive formalism on behalf of the relevant institutions when reviewing the financial documents submitted by the campaigns.
- Lack of information regarding the conclusion of launched investigations into the origin of campaign donations.

ELECTION DAY MONITORING RESULTS

Organizational Violations

Registered complaints regarding organizational discrepancies during Election Day were predominant yet again. During the first half of the Election Day, 66% of all official complaints concerned organizational and/or technical issues.

The most frequent irregularities in the work of the Precinct Electoral Commissions were:

- Disregard for the guidelines for handling ballots (members of the PEC instructing voters on how to fold the ballot; ballots cast without having their serial number removed; ballots that were torn from the bound stack before the voters approached the members of the PEC).
- Inadequate control over election observers (some observers were not registered accordingly; two or more observers from the same organization present in the same polling station; instances of pressuring the observers to sign the protocols of the PEC in advance, before the end of the election process.
- Inaccuracies in the filling out of protocols of the PEC or delays in their processing.

The hastily adopted Methodical Guidelines for the PECs, as well as the insufficient training of members of Electoral Commissions significantly contributed towards these issues. The high number of individuals who opted out of membership in the PECs the day before the election shows that action was not taken to ensure that the electoral administration has the necessary human resources and is indicative of the overall poor preparation process of the elections.

The practice of not officially registering complaints was common in the work of the Regional Electoral Commissions. A large part of the issues reported to the REC were resolved in ad-hoc manner, usually over the phone. This indicates a lack of oversight of the functioning of the REC regarding the appropriate handling of submitted complaints.

By the end of Election Day there were once again long lines of voters in front of the polling stations. After Election Day was officially over there were issues with the timely processing of the results, the insufficient amount of copies of the official protocol of the sections (due to the fact that the provided photocopiers ran out of ink) and the poor handling of electoral documents during their transfer to from the Precinct to the Regional Electoral Commissions. Some of the problems (such as the insufficient amount of ink) were foreseeable and steps could have been made on behalf of the relevant institutions to avoid them. As far as the handling of important electoral documentation is concerned, it should be pointed out that the established system of transfer of documents

between Commissions is inefficient and has led to two negative consequences: an inadequate oversight of the transfer and storage of ballots and disillusionment of the members of the PEC, making them less likely to serve on Electoral Commission in the future.

Controlled Voting

Second in terms of number of complaints, but equally important was the issue of “controlled voting”. A new development in the electoral process this year was the use of “independent” election observers as enforcers of controlled voting (the presence of more than one observer in a polling station, unregistered observers that were impossible to supervise, attempts to replace already registered observers with individuals who did not have observer status, observers openly admitting that they work for political parties, but refusing to indicate for which ones exactly).

The registration of independent observers from non-governmental organizations was deeply flawed. The new Electoral Code allows each organization to register as many observers as there are polling stations in the country. However, the law does not establish a mechanism for verifying the independence of the observers and examining the relationship between non-governmental organizations and political parties and candidates. On the contrary – a large part of the complaints submitted by citizens stated that observers openly worked for certain political parties and that they are being paid to do so. Close examination of the Registry of independent observers from non-governmental organizations maintained by the CEC clearly indicates that some of the registered NGOs are backed by entities closely aligned with political parties. This allowed the number of registered observers to grossly exceed the legal limit and in practice led to many observers representing the interests of political parties, rather than the broader public interest of conducting transparent and democratic elections. It would be hard to justify the registering of over seven thousand observers on behalf of a single organization as a pragmatic approach to election monitoring.

A serious problem related to controlled voting was the fact that some parties intended on mobilizing a large number of representatives and proxies during Election Day. In some constituencies the number of representatives of some political parties was five times larger than the number of available polling stations. This was a prerequisite for the application of intense psychological pressure on voters on the day prior to the election.

Along with these new forms of controlled voting, there could be observed some of

the more traditional forms of controlled voting and vote buying such as:

- The presence of known vote dealers in front of some PECs.
- The placement of a sample ballot that has already been filled out in the voting room.
- The same individual accompanying several voters to the polling station one after another.
- Direct control over the voting process by some mayors.
- Representatives of political parties/proxies accompanying voters to the polling stations.

Vote Buying

It is worth noting that in 2014 a very small percentage of citizens and observers submitted complaints for direct vote buying. It is likely that voters are disillusioned with the constant accusations of vote buying between political parties. However, the complaints for vote buying may be fewer due to the more sophisticated techniques used by vote dealers. The large number of paid registered observers and representatives of parties is also a type of vote buying. This practice is especially alarming, since the Electoral Code forbids independent observers from receiving any financial compensation for their work from political parties, coalitions and candidates.

Over the course of Election Day the media published a number of reports of infringements against the voting rights of citizens (vote buying schemes, pressure on workers by employers or by local civil servants to vote a certain way, controlled voting, etc.) These reports were left with virtually no institutional follow-up. It should be noted that such practices discourage citizens from submitting official complaints or informing the media about issues in the future.

Unlawful Campaigning

Complaints regarding unlawful political campaigning are traditionally not prominent. There were a few reported instances of campaigning in close proximity to the

polling stations, door-to-door campaigning and unlawful distribution of campaign materials.

Institutional Response

On Election Day Transparency International – Bulgaria submitted a number of complaints regarding irregularities in the electoral process noted by our observers and submitted by citizens via our hotline 0800 11 224.

Transparency International submitted six letters summarizing organizational issues to the CEC, six complaints regarding general irregularities to various RECs (three to 24th REC-Sofia, two to 23rd REC-Sofia and one to 16th REC-Plovdiv), two complaints to the Chief Prosecutor's office, including one to the Regional Prosecutor of Dupnitsa and another one to the Regional Prosecutor of Gotse Delchev.

Up until May 30th 2014 Transparency International – Bulgaria's complaints were answered only by the Regional Prosecutors, with both refusing to launch investigations due to lack of data.

Once again citizens were weary of disclosing their identities when submitting complaints. There are two main reasons for this – the fear of reprisal and the low confidence in the ability of the institutions to effectively investigate and sanction the reported issues.

SUMMARY

In order to improve the electoral process, Transparency International-Bulgaria suggests the following measures:

1. The creation of Regional vote counting centers as a model for a transparent vote counting process. This will be an effective measure against organizational, technical and methodological errors made by the PECs and against the practices of vote buying, controlled voting and manipulation of the final results.
2. There is a clear need for a decisive and effective reaction on behalf of the relevant institutions when it comes to infringements against the voting rights of citizens via the practices of vote buying, controlled vote and employer pressure against employees.

3. The procedure for registering independent observers from non-governmental organizations needs to be improved by emphasizing on the professionalism, integrity and political impartiality of registered observers and NGOs, as well as their financial activities. This would limit their abilities to exert pressure on voters under the guise of legitimate election monitoring.
4. The way in which the list of eligible voters is determined needs to be reformed. Transparency International-Bulgaria will continue to insist on the creation of a Unified voter registry under the management of a permanent Central Electoral Commission in order to ensure the transparency of the information regarding the number of voters in cities, small towns, districts, regions, etc.
5. A proactive and effective oversight of campaign financing is necessary. This mechanism must allow for action against offenders during the election campaign itself (including administrative measures). The current oversight mechanism relies on subsequent control, with sanctions sometimes applied months, even years, after Election Day.

Sofia, June 5th 2014

TRANSPARENCY INTERNATIONAL - BULGARIA