



Office for Democratic Institutions and Human Rights

BOSNIA AND HERZEGOVINA

GENERAL ELECTIONS

2 October 2022

ODIHR NEEDS ASSESSMENT MISSION REPORT

30 May-3 June 2022



Warsaw
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ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an invitation from the authorities of Bosnia and Herzegovina to observe the 2 October 2022 general elections, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) to Bosnia and Herzegovina from 30 May to 3 June 2022. The NAM included Alexey Gromov, ODIHR Senior Election Adviser, and Dr. Martina Barker-Ciganikova, ODIHR Election Adviser. The NAM was joined by Sherif Abdili, Programme and Administrative Officer of the OSCE Parliamentary Assembly.

The purpose of the NAM was to assess the pre-election environment and preparations for the general elections. Based on this assessment, the NAM should recommend whether to deploy an ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions as well as with representatives of political parties, media, civil society and international community. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs, including its Delegation to the OSCE, and the OSCE Mission to Bosnia and Herzegovina for their assistance and co-operation in organizing the visit. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and for sharing their views.

II. EXECUTIVE SUMMARY

On 4 May, the Central Election Commission (CEC) announced the general elections for 2 October in which citizens will vote at the state, entity and cantonal levels. The elections will take place against the backdrop of a continuous intra- and inter-ethnic political deadlock and a resulting blockage of state institutions. The elections also follow extensive negotiations to amend discriminatory provisions in the election-related legislation and introduce election integrity measures that failed notwithstanding mediation efforts by the international community. By the legal deadline of 19 May, the CEC did not receive the funding required to organize the elections. On 6 June, after a series of failed attempts to agree on the allocation of funds, the Council of Ministers adopted a special decision securing a large part of the funding requested by the CEC. On 7 June, the High Representative, the United Nations body mandated to oversee the implementation of the Dayton Peace Agreement, ordered the release of the full sum.

The Constitution and the Election Law, which form the primary regulatory framework for the general elections, have not been amended since the last elections. This leaves a number of long-standing electoral shortcomings, decisions of the European Court of Human Rights as well as most prior ODIHR recommendations unaddressed. These relate primarily to discriminatory residency and ethnicity-based restrictions on the right to stand as a candidate, insufficient safeguards against the misuse of state resources, campaign finance and its oversight and the formation of polling station commissions.

The three-member presidency of Bosnia and Herzegovina as well as the president and vice-presidents of Republika Srpska are elected along ethnic lines by simple majority of votes. Parliamentary seats at the state and entity levels are filled from open proportional candidate lists, but state and entity parliaments have not reviewed relevant constituency boundaries for several election cycles. A number of ODIHR NAM interlocutors raised concerns over the equality of vote in this regard.

The CEC together with lower-level commissions administer the elections. The CEC informed the ODIHR NAM that the lack of funding affected many preparation stages of the electoral process. In general, ODIHR NAM interlocutors acknowledged the ability of the CEC to organize the elections in a professional and efficient manner. Nevertheless, all ODIHR NAM interlocutors expressed a lack of confidence towards lower-level commissions citing their perceived political bias and noting possible manipulation on election day.

In-country voter registration is passive, and all citizens of at least 18 years of age are eligible to vote, unless explicitly revoked of this right by a court decision for a grave criminal offence or due to declared legal incapacity. The Central Voter Register, which includes some 3.3 million voters, is derived from the population register database. Voter lists are available for public scrutiny, and voters can request correction of their data. For voting from abroad voters need to actively register, and for the first time a dedicated platform was introduced to facilitate the registration online. Overall, ODIHR NAM interlocutors did not raise major concerns with the accuracy and inclusiveness of the voter register.

Candidates for all contests can be nominated by parties and their coalitions or stand independently. The right to stand is restricted by ethnicity and residency requirements as only voters self-declared as Bosniaks, Croats or Serbs may stand as candidates for the state and entity presidencies, provided they reside in the appropriate entity. By law, candidate lists in proportional contests must have at least 40 per cent of the less represented gender. The registration of political parties, coalitions and independent candidates wanting to participate in the process was completed on 21 June. The CEC verified a 10 per cent sample of support signatures that contestants are required to collect and certified a total of 90 political parties, 38 coalitions and 17 independent candidates. Most ODIHR NAM interlocutors noted that the rules for candidate nomination are reasonable.

The official campaign period will start on 2 September. All the political parties that the ODIHR NAM met with expressed confidence in their ability to campaign without restrictions; the legislation provides for equitable treatment of contestants to use public facilities for campaign purposes. Nevertheless, many ODIHR NAM interlocutors voiced concerns about potential misuse of state resources, limited access to public media, biased media coverage, use of hate speech and spread of disinformation, in particular online. Most ODIHR NAM interlocutors expect the campaign to be characterized by further ethnic polarization. A few of the political parties that the ODIHR NAM met with, mentioned more substantive policy issues, such as socio-economic development or corruption as a potential focus of the campaign.

The Election Law and the Law on Financing Political Parties regulate campaign finance framework. The legislation sets individual donation and expenditure limits. In January 2022, the CEC updated a number of campaign finance regulations, including with regards to reporting requirements and opening dedicated bank accounts for campaign funding. Contestants are not required to submit an interim campaign finance report before election day and have to submit financial reports within 30 days after publication of final election results. The CEC oversees campaign finances and may impose sanctions for violations either *ex officio* or based on a complaint. Nevertheless, many ODIHR NAM interlocutors assessed available sanctions as not dissuasive and voiced concerns that in practice many transactions remain unreported and thus not scrutinized by the CEC.

Although the media environment includes a wide range of broadcast and online media outlets, they are segmented along ethnic and political lines. Several ODIHR NAM interlocutors acknowledged the possibility for most political contestants to get coverage by traditional media, but some expressed concerns about independence and functioning of the public service broadcasters, safety conditions of journalists, the use of defamation lawsuits by politicians to silence media, and opaque media ownership. The law requires broadcasters to cover elections in a fair, balanced and impartial manner. Several political parties noted their limited access to and biased coverage by some public and private broadcasters.

The CEC serves as a first instance to review most election-related complaints; its decisions can be appealed to the Court of Bosnia and Herzegovina. By law, deadlines for submitting complaints and resolving election disputes are short. Public hearings are not guaranteed by the legislation. Overall, the ODIHR NAM interlocutors opined that the election dispute resolution mechanism and current practice does not ensure effective legal remedy referring to lack of political will to safeguard the integrity of the elections. The interlocutors also noted that ineffective investigations, including of criminal cases, contribute to a perception of impunity.

The law provides for election observation of all stages of the electoral process by citizen and international observers, as well as observers appointed by contestants. Some political parties and civil society organizations plan to field a high number of observers on election day.

All ODIHR NAM interlocutors stressed a strong need for a large-scale ODIHR election observation activity and requested ODIHR to deploy a higher number of observers to cover all stages of the electoral process. Concerns were expressed regarding a number of aspects that would merit further attention by an ODIHR election observation activity, including the conduct of the campaign, media coverage, campaign finance, election dispute resolution and election day procedures, in particular the counting of votes.

Based on its findings, the ODIHR NAM recommends the deployment of an election observation mission (EOM) for the upcoming general elections. In addition to a core team of experts, the ODIHR NAM suggests requesting secondment by OSCE participating States of 24 long-term observers to follow the electoral process countrywide, as well as 300 short-term observers to follow election day procedures. In line with ODIHR's standard methodology, the EOM will include a media monitoring element. Concurrent cantonal assembly elections will be observed only to the extent to which they have an impact on the conduct of the state and entity-level elections.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

The state structure of Bosnia and Herzegovina is a result of the constitutional arrangement agreed in the 1995 General Framework Agreement for Peace (the Dayton Agreement). The country is composed of two entities: the Federation of Bosnia and Herzegovina and Republika Srpska.¹ In addition, Brčko District holds a special status as a unit of local self-government under direct state sovereignty. At the state level, the executive powers are exercised by the Presidency and the Council of Ministers, and the legislative powers by the Parliamentary Assembly. The Constitution grants the status of three constituent peoples to Bosniaks, Croats and Serbs. Citizens may also declare themselves as “others”, either by identifying with another ethnic group or by choosing not to affiliate with any group.²

With a few exceptions, the three constituent peoples and the political parties they form orient themselves towards their own ethnic communities for electoral support. In the Federation of Bosnia and Herzegovina, the Alliance for Better Future, the Party for Bosnia and Herzegovina, the Party for Democratic Action, the Social Democratic Party, as well as the Democratic Front feature on the Bosniak political scene, while the Croat Democratic Union, the Croat Democratic Union 1990 and others draw voters from the Croats.

¹ Each entity has its own distinctive ethnic composition and an important degree of autonomy, including its own constitution, political structure, governing institutions, administrative and judicial bodies.

² The state law on the protection of the rights of people belonging to national minorities officially recognizes 18 national minorities; most of them are very small in numbers. According to the last census conducted in 2013, 96,539 persons (2.7 per cent of the population) declared themselves as “others”; the largest national minority is Roma, with 12,583 members.

In Republika Srpska, among others the Alliance of Independent Social Democrats, the Serb Democratic Party, the Party for Democratic Progress, Socialist party, People's Democratic Movement and Democratic People's Alliance compete for the Serbs' votes. Currently, the parties representing the three constituent peoples have a different vision with respect to the country's future, its administrative division and their status within.

On 4 May 2022, the Central Election Commission (CEC) announced that general elections would be held on 2 October for the state, entity and canton levels of governance. The elections will take place against the backdrop of hindered decision-making due to persistent blockage of state institutions, reinforced since July 2021. Many ODIHR NAM interlocutors referred to an overall atmosphere of disillusionment and fatigue among citizens with the political stagnation, general mistrust in public institutions and the lack of progress with respect to Bosnia and Herzegovina's accession process to join the European Union (EU).³ Several ODIHR NAM interlocutors raised concerns about the possibility of a low voter turnout on election day, in particular among the youth.

Women continue to be under-represented in political office.⁴ The total number of elected women in the outgoing House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina (BiH HoR) is 11 (26 per cent). Women currently hold 2 out of 10 state-level minister positions, 3 out of 17 minister positions in the government of the Federation of Bosnia and Herzegovina, and 6 out of 17 minister positions of the Republika Srpska. The president of Republika Srpska is a woman.

ODIHR has observed elections in Bosnia and Herzegovina since 1996.⁵ For the 2018 general elections, ODIHR deployed an election observation mission, which found that elections "were genuinely competitive but characterised by continuing segmentation along ethnic lines. Voters were presented with a wide choice of candidates, who were able to campaign freely. Contestants, however, focused more on personal attacks and fearmongering than on discussing political alternatives. Dependence of media on political and business interests often caused biased coverage. Instances of pressure and undue influence on voters were not effectively addressed. Long-standing deficiencies in the legal framework remain and recent reform discussions stalled due to political disagreements, further eroding trust in public institutions. Overall, the upper levels of the election administration ran the elections efficiently. On election day, polling station commissions worked transparently but faced some difficulties with following procedures, particularly during counting". The final report, issued in January 2019, contains 22 recommendations, including 7 priority ones, for the authorities to improve electoral process and bring it closer in line with OSCE commitments.⁶

B. LEGAL FRAMEWORK

At the state level, elections are primarily regulated by the Constitution as included in the Dayton Agreement,⁷ as well as by the 2001 Election Law, and the 2012 Law on Financing of Political Parties.⁸ Previous ODIHR reports noted legal uncertainty and a lack of clarity when it comes to the hierarchical relationship between a state law and entity constitutions. The CEC issues regulations to supplement the

³ Bosnia and Herzegovina submitted its application to join the EU on 15 February 2016. On 23 June 2022, the European Council did not grant Bosnia and Herzegovina the EU candidate status.

⁴ See Paragraph 29 of the 2019 [Concluding observations on the sixth periodic report of Bosnia and Herzegovina](#) of the UN Committee on the Elimination of Discrimination against Women.

⁵ See previous [ODIHR election reports on Bosnia and Herzegovina](#).

⁶ In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations". See ODIHR Electoral Recommendations Database at [Paragraph25.odihr.pl](#).

⁷ The Constitution of Bosnia and Herzegovina is included in the Annex IV of the Dayton Agreement.

⁸ In addition, there are a number of entity laws, including the constitutions of the entities, regulating their electoral systems as well as activities and financing of political parties.

legislation. Bosnia and Herzegovina is party to the major international and regional instruments on democratic elections.⁹

The Election Law was last amended in 2016. Several long-standing shortcomings, including within the constitutional framework, remain unaddressed. These refer primarily to discriminatory residency and ethnicity-based restrictions to stand as a candidate as only voters self-declared as Bosniaks, Croats or Serbs may stand as candidates for the state and entity presidencies, provided that they reside in the appropriate entity.¹⁰ The ECtHR has repeatedly deemed these discriminatory restrictions incompatible with the European Convention of Human Rights.¹¹ In addition, other deficiencies previously identified by ODIHR as priority issues, including those related to insufficient safeguards to prevent the misuse of state resources for campaign purposes, campaign finance and its oversight and the formation of polling station commissions, persist. Moreover, in 2016, the Constitutional Court declared unconstitutional several provisions of the Election Law on the election of delegates to the House of Peoples of the Federation of Bosnia and Herzegovina (upper chamber of the entity parliament) by the cantonal assemblies. The ODIHR NAM interlocutors were all in agreement that there was a significant lack of political will to address any of the above shortcomings.

In May 2021, the Inter-Agency Working Group (IAWG) was established in the BiH HoR to lead the discussions on constitutional and electoral reforms.¹² During autumn 2021 - spring 2022, the EU and the USA facilitated intensive talks between political leaders on a comprehensive package of these reforms, also referred to as “the integrity package”.¹³ While some progress was made during discussions, no consensus was reached on the overall legal reform. On 11 April, some individual parliamentarians submitted draft amendments to the Election Law to the BiH HoR, which did not pass. While some interlocutors noted that several election-related bills were still on the parliamentary agenda, others informed the ODIHR NAM that the electoral reform was postponed until after these elections.

C. ELECTORAL SYSTEM

The electoral system for the general elections is complex with six direct electoral contests at three levels. At the state level, the electorate will vote for the presidency and the BiH HoR. At the entity level, voters registered in the Federation of Bosnia and Herzegovina will vote for the FBiH HoR, and those registered in Republika Srpska will cast their votes for the president and two vice-presidents of Republika Srpska and the Republika Srpska National Assembly (RS NA). Concurrently, in the Federation of Bosnia and Herzegovina, votes will be cast also for 10 cantonal assemblies. As a result of these general elections,

⁹ This includes the 1948 Universal Declaration of Human Rights, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 1966 International Covenant on Civil and Political Rights, 1979 Convention on the Elimination of All Forms of Discrimination against Women, 2003 UN Convention against Corruption, 2006 UN Convention on the Rights of Persons with Disabilities (CRPD), 1950 European Convention on Human Rights, and 1994 Council of Europe Framework Convention on the Protection of National Minorities. The country is a member of the Council of Europe’s Commission for Democracy through Law (Venice Commission) and Group of States against Corruption (GRECO).

¹⁰ Only Serb candidates may stand for the presidency of the state in Republika Srpska, while in the Federation of Bosnia and Herzegovina the state presidency is contested only by Bosniak and Croat candidates. “Others” are not eligible to stand for the state and entity presidencies. Additionally, only Bosniaks, Croats and Serbs may be indirectly elected to the BiH HoP and as president and vice-presidents of the Federation of Bosnia and Herzegovina.

¹¹ See, among others, ECtHR judgements in *Sejdić and Finci v. Bosnia and Herzegovina*, *Zornić v. Bosnia and Herzegovina*, *Pilav v. Bosnia and Herzegovina* and *Šlaku v. Bosnia and Herzegovina*.

¹² The IAWG was composed of representatives of the parliamentary political parties, but excluded the CEC and other institutions in charge of election-related issues.

¹³ The ODIHR NAM was informed that the “integrity package” negotiated by the political parties comprises 132 points, including ODIHR recommendations, decisions of the ECtHR and the Constitutional Court. These reforms should also address the key priorities from the 2019 European Commission [Opinion](#) on the EU membership application. The Opinion identifies 14 key priorities for Bosnia and Herzegovina to fulfil in order to be recommended for opening of EU accession negotiations.

indirect elections will be held for the upper houses of parliaments of the state and of both entities, as well as for the president and two vice-presidents of the Federation of Bosnia and Herzegovina. All mandates are allocated for four-year terms.

The presidency of Bosnia and Herzegovina is a three-member institution elected by simple majority of votes from the two entities, with voters from the Federation of Bosnia and Herzegovina electing Bosniak and Croat candidates and voters from Republika Srpska voting for a Serb candidate.¹⁴ The presidency is rotating every eight months among its elected members from each of the constituent peoples. The president and vice-presidents of Republika Srpska are elected by a simple majority of votes. The candidate who receives the most votes is elected president, and the top candidates from the two other constituent peoples are elected vice-presidents.

The BiH HoR is comprised of 42 members of parliament (MPs), with 28 elected in the Federation of Bosnia and Herzegovina and 14 in Republika Srpska. Among those, 21 MPs are elected from 5 multimember constituencies (MMCs) in the Federation of Bosnia and Herzegovina, including in Brčko District, and 9 MPs from 3 MMCs in Republika Srpska. The remaining seven and five seats are compensatory mandates distributed from closed party lists accordingly from the Federation of Bosnia and Herzegovina and Republika Srpska.¹⁵

At entity level, the FBiH HoR is composed of 98 deputies, with 73 elected in 12 MMCs and 25 receiving compensatory seats. The RS NA has 83 deputies, with 63 elected in 9 MMCs and 20 receiving compensatory seats. The law guarantees a minimum four seats for each of the three constituent peoples in the FBiH HoR and RS NA through compensatory mandates.

In all MMCs, proportional candidate lists with preferential voting are used, and an electoral threshold of three per cent applies for allocation of mandates to political subjects in line with the Saint-Lague method.¹⁶ Voters may indicate a preference for any number of candidates on their chosen list, or just vote for the list, without stating preference for any candidates. First candidates to obtain seats are those with number of preferential votes of at least 20 per cent of the votes cast for a given list; others are awarded mandates based on their order on the list.

Although the respective parliaments have the obligation to review constituency boundaries of the MMCs every four years as stipulated in the law, no such review has taken place for several elections. A number of ODIHR NAM interlocutors expressed concerns that the equality of the vote is not guaranteed, as there are significant deviations in the number of voters per parliamentary seat, both at the state and entity levels.

D. ELECTION ADMINISTRATION

The elections are administered by the CEC, 143 Municipal Election Commissions (MECs), including 14 City Election Commissions and the Election Commission of Brčko District, as well as some 5,600 Polling Station Commissions (PSCs).

¹⁴ Voters in Brčko District vote either for contestants standing in the Federation of Bosnia and Herzegovina or Republika Srpska, depending on their “entity citizenship”.

¹⁵ After the initial distribution of mandates in the MMCs, compensatory seats are allocated from closed party lists to ensure proportional representation of winning parties and coalitions at entity level. The candidate lists for compensatory mandates may include only those candidates who run on the open lists.

¹⁶ A political subject is a party, a coalition of parties, an independent candidate or a list of independent candidates registered to participate in the elections.

The CEC is a permanent body, with all seven members appointed for a seven-year term by the BiH HoR upon the nomination by a Special Commission for Selection and Nomination.¹⁷ By law, the composition of the CEC should include two Bosniaks, two Croats, two Serbs and one member from “others”. The chairperson is elected by the CEC members from among themselves, provided that one Bosniak, one Croat, one Serb and one “other” member serve a 21-month term each. Currently, two CEC members are women, and according to the law, all election commissions should have at least 40 per cent of members of each gender, while in three-member commissions both genders should be represented. The CEC has the overall responsibility to administer elections and establish election results at all levels.

Over the past years, the integrity of the CEC and the legality of the appointment of some of its members have been repeatedly questioned by some political forces in the country due to alleged political affiliations. On 21 April 2022, the Court of Bosnia and Herzegovina concluded that the appointment of the CEC members in question was in accordance with the Election Law and the Constitution.¹⁸ Several ODIHR NAM interlocutors expressed concerns about political and personal pressure exercised by some politicians against CEC members.

On 4 May, the CEC adopted and published the calendar of activities for the upcoming elections. By the legal deadline of 19 May, the CEC did not receive the required funding to start the electoral preparations.¹⁹ Many ODIHR NAM interlocutors noted this might jeopardize CEC’s activities, but expressed confidence in its ability to organize the elections in a professional and efficient manner once the funding is provided. On 6 June, after a series of failed attempts, the Council of Ministers adopted a special decision securing a large part of the funding requested by the CEC.²⁰ On 7 June, the High Representative ordered the release of the entire sum requested by the CEC for organizing the elections.²¹

Despite lack of changes in the election legal framework, the CEC adopted regulations related to the administration of elections, registration of out-of-country voters, campaign finance, voting day procedures and other aspects of the electoral process with the stated aim of addressing some shortcomings previously noted by ODIHR.²² The CEC sessions are broadcast live on a *YouTube* channel, and all its decisions are made public on its website which has been updated for these elections.

The CEC informed the ODIHR NAM that the delayed allocation of funds for organization of the elections and consequent lack of necessary staff has already affected several electoral preparations, including the procurement of ballot papers and other election materials, printing of the preliminary voter lists, verification of signatures required for registration of political subjects, processing of electronic applications from out-of-country voters, as well as the launch of a nationwide cascade training for lower-

¹⁷ This commission consists of two members from the High Judicial and Prosecution Council, three from the administrative commission of the BiH HoR and two from the current CEC.

¹⁸ Ruling of the Court in the case brought by a former CEC member who challenged the selection of current CEC members and the procedure of the BiH HoR for appointing CEC members.

¹⁹ The legislation stipulates that funds for the elections have to be released and made at the disposal of the CEC 15 days following the announcement of the elections. The country has not adopted a state budget for the past two years.

²⁰ The Council of Ministers allocated BAM 9.7 million (some EUR 4.9 million; EUR 1 equals some BAM 1.95 (Bosnian *Convertible Mark*) instead of BAM 12.5 million as requested by the CEC.

²¹ See [decision](#) of the High Representative. The Office of the High Representative, an international body mandated to oversee the implementation of the Dayton Agreement, retains extensive powers, including the power to impose legislation and remove any officials obstructing the peace process from their office. Recently, the so-called “Bonn powers” were used in July 2021 when the High Representative imposed amendments to the Bosnia and Herzegovina’s criminal code to ban the denial of genocide and the glorification of war criminals. As a result, representatives of Republika Srpska blocked the functioning of the state level institutions.

²² New CEC regulations refer among others to abolishing the practice of calling out the names of voters in polling stations, enhancing the selection criteria of MEC members to protect their independence, determining the exact placement of the polling booth to protect the secrecy of the vote and stamping of ballots for each polling station.

level commissions.²³ With funds provided by the international community, the CEC developed some limited voter education programmes, including with regards to a new electronic platform for registration of out-of-country voters.

MECs are permanent bodies appointed for a seven-year term by municipal councils and approved by the CEC; they are responsible for overseeing voting and counting in subordinate polling stations and the data entry of the preliminary election results. The MEC composition should reflect the ethnic composition of the given municipality.²⁴ MECs appoint the PSCs no later than 30 days prior to election day. The PSCs administer the voting and counting of votes, and the number of PSC members differs based on the size of the polling station. According to the law, all political subjects running in a respective constituency have the right to nominate PSC members.

All ODIHR NAM interlocutors expressed mistrust towards lower-level commissions due to their alleged strong political affiliation as well as the suspected widespread practice of manipulations on election day, especially during the counting, in previous elections. The interlocutors pointed to a longstanding malpractice of registration of so-called fake contestants with the aim to trade positions in the PSCs in order to strengthen representation of other parties in areas of their specific interest, resulting in politically biased PSCs. In this regard, most ODIHR NAM interlocutors regretted that parliament did not make any advancement in legislating the introduction of new voting technologies with the aim of reducing the human factor during the counting process. All ODIHR NAM interlocutors expressed a strong wish for a significantly increased presence of international observers to enhance the integrity of the process.

E. VOTER REGISTRATION

Citizens aged 18 or older have the right to participate in the elections, except those disenfranchised for a serious crime, including for war crimes, and those who have been declared legally incapable by a court decision, including on the basis of intellectual or psychosocial disability. Suffrage restrictions based on mental disability is at odds with OSCE commitments and other international standards.²⁵

In-country voter registration is passive; the CEC maintains the Central Voter Register (CVR), which is derived from the population register and based on permanent and temporary residence of citizens.²⁶ The population register is maintained by the Agency for Identification Documents, Registers and Data Exchange under the Ministry of Civil Affairs. As of 4 May, the CEC announced the preliminary number of voters as 3,371,487. The CEC informed the ODIHR NAM that it conducted regular updates of the CVR to remove records of deceased voters from voter lists.²⁷ In general, ODIHR NAM interlocutors did not express major concerns regarding the accuracy of the voter register.

The law provides for voting from abroad, for which voters need to register anew for each election. Voters abroad can vote either in-person at diplomatic and consular representations in select countries or by mail. For these elections, out-of-country voting is planned to take place in 24 countries, and the CEC launched an electronic registration platform *eizbori* through which citizens can register. According to the CEC,

²³ The CEC informed the ODIHR NAM that although its administration was heavily understaffed, the CEC was unable to hire additional staff to specifically deal with these tasks.

²⁴ MECs are composed of three, five or seven members depending on the size of the municipality.

²⁵ Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will “guarantee universal and equal suffrage to adult citizens”. See Articles 12 and 29 of the [CRPD](#). See also Paragraph 48 of [General Comment No. 1 to Article 12 of the CRPD](#) states that “a person’s decision-making ability cannot be a justification for any exclusion of persons with disabilities from exercising [...] the right to vote [and] the right to stand for election”.

²⁶ Registration of permanent residence is mandatory for all citizens, while displaced citizens may have temporary residence until their return to the municipality of their prior permanent residence.

²⁷ For updates of the CVR, the CEC depends on the accuracy of the data provided by other institutions responsible for updating the population register, including municipalities, canton and entity level police.

their current server's capacity to store all documents for out of country voter registration is insufficient and needs additional storage space.

Voters can verify their records throughout the year and request corrections of their personal data with the municipal institutions responsible for updating the population register. Records of internally displaced persons (IDPs) living in Bosnia and Herzegovina, citizens living abroad and residents in Brčko District shall be updated by 19 July.²⁸ Following a voter list verification process, the CEC shall finalize the CVR by 18 August and subsequently forward the voter lists to respective MECs. Voters, whose records on election day are not found in the voter list, but who can prove valid residency within the relevant election precinct, can be additionally registered at the polling station and vote by special "tendered" ballots. Homebound voters and those in places of detention can vote via mobile ballot boxes.

Several interlocutors informed the ODIHR NAM about plans of piloting a technical solution for voter identification at polling stations with the aim of addressing alleged practices of impersonation of voters. While the parameters of a potential pilot were previously defined by the CEC, the realization of the pilot has not yet been launched due to lack of available funds.

F. CANDIDATE REGISTRATION

The right to stand is restricted by ethnicity and residency requirements (see *Legal Framework*). Political parties and their coalitions may nominate candidates for all levels of elections or candidates may stand independently. In order to register, political subjects have to submit supporting signatures²⁹ and electoral deposits; the latter was increased for these elections.³⁰ With the exception of presidential elections, parties are exempt from signature collection if they are represented in the legislative body the party wishes to contest or in the corresponding higher-level legislature.

Contestants had to collect the required support signatures manually through street campaigns. The CEC informed the ODIHR NAM that in line with a new CEC resolution and due to shortage of resources, it was able to verify only a 10 per cent sample of support signatures for each subject. According to the CEC, almost all political subjects presented a certain number of fake signatures, and the CEC referred such cases to the prosecutors.

Most ODIHR NAM interlocutors expressed no concerns with the technicalities of the candidate registration process. Between 5 May and 21 June, the CEC certified a total of 90 political parties, 38 coalitions and 17 independent candidates.³¹ Candidate lists shall be submitted by contestants to the CEC from 22 June to 4 July.³² Candidate lists must have at least 40 per cent of candidates of each gender, with

²⁸ IDPs have the right to either vote in the polling station of their temporary residence, provided such residence has been kept for at least six months, or in special "absentee" polling stations for the electoral unit where they were registered before being displaced.

²⁹ Parties and independent candidates must submit 5,000 supporting voter signatures to run for the state presidency and the BiH HoR, and 3,000 signatures for the president of Republika Srpska, the FBiH HoR and RS NA.

³⁰ For political parties, deposits amount to BAM 25,000 (some EUR 12,826) for the state presidential and BiH HoR elections, and BAM 18,000 for entity-level elections; independent candidates deposit half of these amounts. The deposits are returned to those who receive at least 3 per cent of votes in a proportional race or who win the elections of a president (vice-president) or receive at least one-third of number of votes of the elected president (vice-president).

³¹ The CEC rejected the application of one political party as the party did not rectify the identified shortcomings in its application documents.

³² The CEC informed the ODIHR NAM about its plans to launch a software enabling political subjects to compile their candidate lists electronically.

specific placement requirements.³³ Several political parties informed the ODIHR NAM about their internal rules to promote participation of women, including internal quotas. The CEC should verify and register all candidates by 29 July and publish final lists of candidates in the media by 18 August.

G. ELECTION CAMPAIGN

The official election campaign period, during which the rules for equitable access to public facilities by contestants for campaign purposes apply, will start on 2 September.³⁴ There is a campaign silence period on election day and the day preceding it, including online. Political parties the ODIHR NAM met with expressed confidence in their ability to campaign without restrictions. Nevertheless, many interlocutors noted concerns about potential misuse of state resources by the ruling parties and lack of level playing field.³⁵ Many ODIHR NAM interlocutors pointed to previous practices of pressuring voters, in particular public sector employees, students and pensioners, to campaign and to vote for ruling parties.

Some political parties highlighted small-scale door-to-door campaigning, field visits and direct contact with the electorate as the most effective campaign methods. Campaigning online and on social networks is expected to play a significant role as another avenue of outreach to voters, in particular by opposition and smaller parties with lesser resources. Many ODIHR NAM interlocutors expressed concerns related to use of hate speech, nationalist rhetoric and spread of disinformation, in particular as the online campaign domain remains unregulated. In this regard, the Communications Regulatory Agency (CRA) informed the ODIHR NAM that more than 40 per cent of websites registered in the country operate without an impressum, a legal statement of ownership.

Most ODIHR NAM interlocutors anticipate that the campaign will be further polarized along ethnic lines, with the most heated contests taking place within the same ethnic groups. The electoral system, in particular for the State presidency, further contributes to this campaign dynamic. Some political parties mentioned substantive issues, such as corruption, economic development, implementation of ECtHR rulings and immigration, to become the main topics of their campaign programmes.

H. CAMPAIGN FINANCE

Campaign finance is primarily regulated by the Election Law, the Law on Financing Political Parties, laws on political parties of Republika Srpska and Brčko District, and by CEC instructions. There is no direct public funding for election campaigns, but parties represented in the state parliament receive annual funding from the state budget, and those represented at entity levels receive funding from the respective entity budget. In addition, membership fees, and donations from individuals and legal entities, including in cash, are allowed sources of income.³⁶ Foreign, anonymous, and religious donations are prohibited as well as those from publicly funded sources, and from persons who have public procurement contracts exceeding BAM 10,000 in the current year. A political subject may spend up to BAM 0.3 for each registered voter per electoral contest during the one month official campaign period.

In January 2022, the CEC issued updated regulations for political parties and independent candidates defining the templates for the campaign finance reports, including in electronic format, and clarifying

³³ The Election Law stipulates that at least one candidate of the less represented gender be placed among the first two candidates, two - among the first five candidates, three - among the first eight candidates on each list. The CEC can return a list for correction or register the part of the list that complies with the quota and the sequential order of candidates, or deny registration.

³⁴ This includes access to public places, including for holding meetings and displaying posters and billboards.

³⁵ The legal framework does not regulate the misuse of administrative resources.

³⁶ An individual may donate to a party up to BAM 10,000, a party member up to BAM 15,000 and a legal entity up to BAM 50,000 annually.

the rules on reporting.³⁷ Addressing a prior ODIHR recommendation, the new regulations further specify that all campaign incomes and expenditures must be channelled through a designated campaign bank account each contestant is required to open. Unspent funds from these accounts during campaign period shall be returned to the political party or in case of individual candidates to respective donors.

The CEC oversees party and campaign finances. All political subjects are required to submit two financial reports on incomes and expenditures, first at the time of registration, covering the last three months prior to registration, and second – on campaign finances - within 30 days after the announcement of the final election results. According to its 2022 regulations, the CEC will publish campaign finance reports on its website within 30 days of receipt. No interim reporting on campaign finance is envisaged. Non-compliance with the requirement to submit the initial report results in denial of registration of the electoral contestant, and failure to submit the final report leads to revocation of a mandate.

The CEC may impose sanctions for violations either *ex officio* or based on a complaint. However, some ODIHR NAM interlocutors opined these sanctions were not sufficiently dissuasive, and that the CEC performed only formal reviews of the reports but no audits of financial transactions.

While ODIHR NAM interlocutors in general did not express major concerns with the legal framework regulating campaign finance, they admitted that the transparency of political and campaign finance is not adequate, as in practice many transactions remain unreported, including alleged donations from public procurement contractors to ruling political parties.

I. MEDIA

There is a large number of media outlets, with some 40 television stations, 140 radio stations, and more than 100 periodicals. Television is the main source of political information. While acknowledging media diversity, some ODIHR NAM interlocutors expressed concerns about partisan editorial policies in public media and alleged that both public and private media are vulnerable to pressure from political or business interests. According to several political parties, there is a possibility for most political contestants to get coverage by traditional media; some ODIHR NAM interlocutors also noted limited access to and biased coverage by some public and private broadcasters. In this regard, many interlocutors referred to online portals and social networks as providing for increasing the space for meaningful coverage and public debate.

The public broadcasting service is provided by the Radio and Television of Bosnia and Herzegovina operating on the state level, and two entity-based public broadcasters, Radio and Television of the Federation of Bosnia and Herzegovina and Radio Television of Republika Srpska. In addition, there are multiple public television and radio channels operating on the cantonal and municipal levels.

The state and entity constitutions guarantee freedom of expression. Nevertheless, verbal attacks by public figures against journalists, especially online, are common, as are other forms of pressure on media.³⁸ Several ODIHR NAM interlocutors raised concerns with regards to independence and functioning of the public service broadcasters, safety conditions of journalists, the use of defamation lawsuits by politicians to silence media, and opaque media ownership.³⁹

³⁷ The templates require itemized reporting on campaign expenditures, including costs for printing posters, billboards and other propaganda costs, advertising in print and electronic media and on the Internet, campaign events etc. In line with a new CEC resolution, all donations exceeding BAM 100 are to be reported.

³⁸ See [joint statement](#) of the OSCE Representative on Freedom of the Media (RFoM) and of the Head of OSCE Mission to Bosnia and Herzegovina from 24 September 2021 and also [statement](#) from 27 May 2021.

³⁹ The legislation does not counter excessive media ownership concentration nor provides for transparency of ownership of offline media and online information portals. See also the OSCE RFoM [information from 21 April 2022](#).

Media coverage of election campaigns is regulated by the Election Law and CEC regulations. Broadcast media are required to respect the principles of balance, fairness, and impartiality, especially in their information programmes.⁴⁰ Public broadcast media must grant three minutes of free airtime to each contestant for advertisement during the official campaign period. The election contestants can also purchase advertising time, up to a maximum of 30 minutes on each public broadcaster, and 60 minutes on each private broadcaster, per week.

Compliance with media regulations by broadcasters is overseen by the CRA, which has the mandate to resolve media-related complaints and apply sanctions for violations. The CRA informed the ODIHR NAM that it would not conduct media monitoring during the campaign period due to lack of resources. The CRA noted, however, that most violations, if any, would be reported to the CRA through complaints. The decisions of the CRA can be appealed to the Council of the CRA, then to the Administrative Court and further to the Court of Bosnia and Herzegovina. The CRA admitted that the deadlines for considering the media-related complaints are quite long, and noted that it would speed up the complaint proceedings if possible. Complaints related to print an online media coverage of the campaign fall under the mandate of the Press Council of Bosnia and Herzegovina, a self-regulatory body that issues non-binding decisions.

J. COMPLAINTS AND APPEALS

Voters and political subjects whose rights are violated may file election-related complaints with the election commissions. The CEC serves as the first instance to review most election disputes and handles appeals against MEC decisions.⁴¹ As regards election day irregularities, voters, observers and PSC members may register “substantiated objections” in a logbook, on the basis of which a contestant may file a formal complaint or the CEC may consider the matter *ex officio*.

Appeals against all CEC decisions are dealt with by the Appellate Division of the Court of Bosnia and Herzegovina, whose decisions are final, except in cases where constitutional rights are in question. The Court of Bosnia and Herzegovina informed the ODIHR NAM that in accordance with legislation, its hearings on electoral matters are not public, and not all decisions are posted on its website. The Constitutional Court deals with cases infringing individuals’ fundamental rights when all other remedies have been exhausted.

Election related complaints have to be filed within 24 hours after an alleged violation and resolved within 48 hours by the election commission and within three days by the court. Observers, contestants, MECs and groups of at least 50 voters in the respective polling station may challenge the voting results and request a recount of votes in an individual polling station. A case may be referred to the prosecutor or police if it contains elements of a criminal offence.

Overall, the ODIHR NAM interlocutors opined that the election dispute resolution mechanism and current practice does not ensure effective legal remedy referring to lack of political will to safeguard the integrity of the elections. The interlocutors also noted that ineffective investigations, including of criminal cases, contribute to a perception of impunity.

K. CITIZEN AND INTERNATIONAL OBSERVATION

The law provides for election observation of all stages of the electoral process by citizen and international observers, as well as observers appointed by contesting political parties and candidates. The CEC is in

⁴⁰ The news coverage of officials who are also contestants is allowed provided their candidacy is not mentioned. These officials must not enjoy a privileged position in media with respect to other election contestants.

⁴¹ MECs are in charge of complaints related to voter registration and campaign.

charge of the accreditation process; MECs accredit the observers appointed by contestants for activities within their relevant territory. For the first time, observers will be able to submit their applications for accreditation to the CEC electronically.

Pod Lupom, a coalition of several civil society organizations, informed the ODIHR NAM about its plans to deploy 100 long-term observers some six weeks prior to the elections and some 2,300 short-term observers to follow election day proceedings. Political parties informed the ODIHR NAM of their intentions to field party observers with the aim of deterring potential violations, but some referred to a lack of human and financial resources to ensure comprehensive observation.

IV. CONCLUSIONS AND RECOMMENDATION

All ODIHR NAM interlocutors stressed a strong need for a large-scale ODIHR election observation activity and requested ODIHR to deploy a higher number of observers to cover all stages of the electoral process. Concerns were expressed regarding a number of aspects that would merit further attention by an ODIHR election observation activity, including the conduct of the campaign, media coverage, campaign finance, election dispute resolution and election day procedures, in particular counting of votes.

Based on its findings, the ODIHR NAM recommends the deployment of an election observation mission (EOM) for the upcoming general elections. In addition to a core team of experts, the ODIHR NAM suggests requesting secondment by OSCE participating States of 24 long-term observers to follow the electoral process countrywide, as well as 300 short-term observers to follow election day procedures. In line with ODIHR's standard methodology, the EOM will include a media monitoring element. Concurrent cantonal assembly elections will be observed only to the extent to which they have an impact on the conduct of the state and entity-level elections.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs

Asim Dorović, Minister-Counsellor
Miranda Sidran, Head, Department for the OSCE

Central Election Commission

Suad Arnautović, President
Željko Bakalar, Member
Vanja Bjelica-Prutina, Member
Irena Hadžiabdić, Member
Jovan Kalaba, Member
Vlado Rogić, Member
Ahmet Šantić, Member
Goran Mišković, Secretary General

Constitutional Court

Mato Tadić, President
Erda Zaciragić, Chief of Cabinet
Zvonko Mijanić, Head, Legal Department

Court of Bosnia and Herzegovina

Dinka Beslagić Čovrk, Judge
Vesna Trifunović, Judge

Communications Regulatory Agency

Amela Odošajić, Director of Broadcasting
Azra Maslo, Head, Department for Programs and Complaints

Agency for Identification Documents, Registers and Data Exchange

Dražen Vujica, Head, Regional Centre Sarajevo

Political Parties

Damir Arnaut, MP, Our Party
Zlatan Begić, MP, Democratic Front
Alma Čolo, MP, Party for Democratic Action
Anja Petrović, Head, Media and Relations, Party of Democratic Progress
Slaven Raguz, Head, Croat Republican Party
Dragutin Rodić, Secretary General, Democratic People's Alliance

Media

Matea Jerković, Journalist, *Oslobodjenje*
Dejan Sajinović, Journalist, *Nezavisne Novine*
Arjana Tafro, Association of Journalists

Civil Society

Dario Jovanović, Project Coordinator, Coalition *Pod Lupom*

International Community

Representatives of embassies of OSCE participating States, the OSCE Mission to Bosnia and Herzegovina, the Office of the High Representative, the UN office and the EU delegation