

REPUBLIC OF BULGARIA

EARLY PARLIAMENTARY ELECTIONS 9 JUNE 2024

ODIHR NEEDS ASSESSMENT MISSION REPORT



Warsaw 13 May 2024

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REPUBLIC OF BULGARIA EARLY PARLIAMENTARY ELECTIONS 9 June 2024

ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an invitation from the authorities of the Republic of Bulgaria to observe the 9 June 2024 early parliamentary elections, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 23 to 25 April. The NAM included Ulvi Akhundlu, ODIHR Deputy Head of Election Department, and Kakha Inaishvili, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and preparations for these elections. Based on this assessment, the NAM should recommend whether to deploy an ODIHR observation 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 the international community. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs for its assistance in organizing the NAM as well as all of its interlocutors for taking time to meet with the NAM and for sharing their views.

II. EXECUTIVE SUMMARY

Following several months of post-election negotiations in 2023, the parliament passed a vote of confidence in the coalition government which was established on a rotating model of governance, with the cabinet changing every nine months. However, in March 2024, the new cabinet could not be formed, leading to the appointment of the caretaker government and early elections. The upcoming elections come amidst declining trust in public institutions, political antagonism, and growing public disillusionment and fatigue with politics due to the frequent elections.

In line with prior ODIHR recommendations, December 2023 constitutional amendments granted citizens with dual citizenship the right to run for National Assembly. The electoral legal framework, otherwise, remains unchanged leaving many longstanding ODIHR recommendations unaddressed, including those related to the blanket disenfranchisement and persons under guardianship, the lack of measures to promote the participation of women and persons belonging to minorities, and the limited possibility to challenge election results.

The election will be administered by a three-tiered structure led by the Central Election Commission (CEC). Preparations for the elections are well underway and CEC has already registered political parties and coalitions. While most ODIHR NAM interlocutors acknowledged technical capacity of the CEC to manage the process efficiently, several interlocutors expressed lack of trust in the CEC and voiced their concerns over its independence. Many ODIHR NAM interlocutors emphasised the need for thorough training of polling staff and a comprehensive voter information campaign tailored to the needs of different categories of voters.

There are 6.6 million eligible voters in preliminary voter lists. The legislation retains restrictions on suffrage rights for those deprived of legal capacity by a final court decision. Voter lists are available for

public scrutiny and voters can request corrections and changes. No ODIHR NAM interlocutors expressed any concerns regarding the accuracy of voter lists.

Candidates may be nominated on the lists of registered political parties or coalitions, or run independently. Within the legal deadline, the CEC has registered 23 political parties and 11 coalitions for the upcoming early parliamentary elections. Candidate lists are to be registered by the District Election Commissions (DECs) until 7 May. Positively, following the constitutional amendments, the legal framework allows citizens with dual citizenship to run for office.

The Constitution guarantees the freedoms of association and peaceful assembly and most parties met by the ODIHR NAM expect to conduct their campaign without hindrance. Some interlocutors expressed concerns about potential manipulation of social networking platforms to artificially boost content with automated accounts. Additionally, some political party representatives have expressed worries about negative online campaigns, political polarization being further exacerbated by disinformation, manipulation of sensitive issues and the spread of inflammatory or intolerant rhetoric. Most ODIHR NAM interlocutors alleged that long-standing practices of vote-buying and so-called 'controlled' voting are still prevalent in economically and socially vulnerable communities.

Campaigns are funded from public and private sources. Political parties which receive annual public subsidies may use them to fund election campaigns. Parties and coalitions not entitled to public funding may receive state subsidies for media advertising. The law sets limits for campaign expenditures and provides reporting and disclosure requirements. The National Audit Office oversees political and campaign finances and the legislation provides for a set of gradual financial sanctions as well as suspension of public funding for various types of campaign finance irregularities. Most ODIHR NAM interlocutors did not express major concerns regarding campaign finance regulations.

The freedom of expression is guaranteed by the Constitution, which prohibits censorship and establishes the right of access to information. The Election Code prescribes balanced reporting and equal treatment of all contestants in broadcast media and provides a set of detailed rules for paid and free airtime. The media landscape is diverse with a wide range of media outlets, however, many of them continue to be financially fragile and almost entirely rely on state subsidies and advertising exposing them to political and economic influences. Despite previous ODIHR recommendations, defamation remains a criminal offense punishable by fines and journalist and individuals from public life, including politicians and judges frequently initiate strategic litigations against journalist. According to several ODIHR NAM interlocutors, disinformation remains widespread polarizing society and undermining trust in public institutions and news media.

The law provides an expedited procedure for election-related complaints. Any person can report election-related violations to the CEC and DECs. Decisions of lower-level election bodies are appealed to the superior election and local administrative courts or the Supreme Administrative Court. ODIHR NAM interlocutors did not raise major concerns with the current system for resolving election disputes, but a few expressed their dissatisfaction regarding the judicial reform and noted the low level of perceived judicial independence.

The Election Code provides for citizen and international observation of the entire election process. Several civil society organizations met by the ODIHR NAM, expressed their intention to observe the elections, including the work of the CEC, the campaign environment, campaign finance, the media coverage of the election including in relation to the coverage of participation of women.

In considering an observation activity, the ODIHR NAM has taken into account the various findings outlined in this report and the concerns expressed by stakeholders. These include issues related to the

confidence in the election administration, conduct of the campaign, with a particular focus on possible voter intimidation and vote-buying. Various ODIHR NAM interlocutors emphasized specific aspects of the electoral process meriting attention by an ODIHR election observation activity, including campaign finance framework and media coverage. All ODIHR NAM interlocutors welcomed external scrutiny of the electoral process and underlined that the assessment by ODIHR will be of particular value due to high polarization and would enhance public confidence in the electoral process. Most previous ODIHR recommendations remain unaddressed.

Based on these considerations the ODIHR NAM would have recommended the deployment of a Limited Election Observation Mission (LEOM) with long-term observers for the upcoming early parliamentary elections, in addition to a core team of experts. However, due to the short timeframe until election day as well as the time required to recruit and deploy long-term observers, the deployment of the LEOM will not be possible. Nevertheless, ODIHR sees merit in sending an observation activity for these elections and thus recommends the deployment of an Election Expert Team to focus on issues identified by stakeholders as meriting specific attention, including the work and capacity of the election administration, conduct of the campaign, assessment of media environment, and aspects of campaign finance regulations.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

The 2023 early parliamentary elections resulted in six political parties gaining the representation. Of these, the Coalition of Citizens for the European Development of Bulgaria, and the Union of Democratic Forces (GERB-SDS) won 69 seats and We Continue the Change-Democratic Bulgaria (PP-DB) obtained 64 mandates.¹ In June 2023, following several months of post-election negotiations, parliament passed a vote of confidence in the coalition government of two biggest parliamentary groups GERB-SDS and PP-DB. The coalition agreement envisaged a rotating model of government whereby the rotating cabinet would change every nine months.

In December 2023, the parliament approved an extensive set of constitutional amendments to provide the adequate structural and organisational mechanisms and guarantees for a fair and independent justice system, address subsisting shortcomings in the organisation and the operation of the Supreme Judicial Council, and to find a solution to the recent consecutive parliamentary crisis that led to the appointment of several successive caretaker governments following five parliamentary elections held since 2021.² Among others, the constitutional amendments limited the president's discretion in appointing a caretaker prime minister and introduced changes in the justice system. The amendment also granted citizens with dual citizenship the right to be elected as MPs and ministers.³ The parliamentary opposition and the representatives of the civil society argued that the process of adoption was rushed and not transparent.⁴

¹ In addition, Movement for Rights and Freedoms (DPS) received 36, *Vazrazhdane* (Revival) 37, BSP for Bulgaria 23, and There is Such a People (ITN) 11 mandates.

² See the <u>Opinion on Draft Amendments</u> to the Constitution by the European Commission for Democracy Through Law (Venice Commission). A total of 165 Members of Parliament (MPs) from the government coalition parties GERB-SDS and PP-DB, along with the DPS, representing the Turkish minority, supported the constitutional amendments. On the other hand, 71 deputies from the opposition parties - Revival, BSP, and ITN - opposed the changes.

³ President Rumen Radev strongly opposed the proposed constitutional changes but couldn't veto them after they passed with a two-thirds majority vote. In January, 2024 he challenged these amendments at Constitutional Court.

⁴ The Venice Commission expressed regret that "the launching of the constitutional reform was not preceded by an appropriate public debate, and that the reasons for all the amendments were not explained sufficiently".

In March 2024, exactly nine months after the appointment, the cabinet led by Nikolai Denkov (PP-DB) resigned and the new government was supposed to be led by Mariya Gabriel from GERB. However, following a few weeks of tense negotiations, PP-DB rejected the new government. Subsequently, the president and the parliament were notified that the new cabinet could not be formed. On 9 April, a caretaker government, headed by Dimitar Glavchev was sworn in and early parliamentary elections were called for 9 June, concurrently with the European Parliament elections. According to many ODIHR NAM interlocutors, the upcoming early elections take place against the backdrop of declining public trust in state institutions and continued strong antagonism and mutual distrust between the major political forces. Some pointed at growing disillusionment with politics and overall public fatigue following the high number of elections within a relatively short period of time.⁵

Women remain under-represented in the parliament holding 61 of 240 seats (25.4 per cent).⁶ In the current government, 4 of 18 ministerial posts are held by women. Positively, there are 6 women among the 12 justices of the Constitutional Court. There are no special legislative measures to promote women's participation.

ODIHR has observed 14 elections in Bulgaria since 1997.⁷ Most recently, ODIHR deployed an Election Observation Mission to assess the 2023 early parliamentary elections. Its Final Report contains 22 recommendations, including 7 priority ones, for the authorities to improve the electoral process and bring it closer in line with OSCE commitments.⁸

B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

Parliamentary elections are regulated by the 1991 Constitution, the 2014 Election Code and the 2005 Political Parties Act, and the relevant provisions of the Code of Administrative Procedure and the Criminal Code. The Central Election Commission (CEC) issues supplementary regulations. Bulgaria is party to the key international instruments related to the holding of democratic elections.⁹

In line with prior ODIHR recommendations, the constitutional amendments adopted in December 2023, among others, allow citizens with dual citizenship to stand for National Assembly elections. In addition, these amendments limited the president's discretion to appoint a caretaker prime minister while also limiting the choice for the prime minister's post to certain individuals.¹⁰ The constitution explicitly tasks the caretaker government "to ensure free and fair elections". The proposed amendments introduced a two-month period for holding parliamentary elections following the appointment of caretaker government while regular elections are to be held no later than one month before the sitting parliament's

⁵ From April 2021, Bulgaria had five parliamentary elections, of which four were called early, one presidential election and one local elections

⁶ See 2023 <u>Inter-parliamentary Union data</u> on Monthly ranking of women in national parliaments.

⁷ See all <u>prior ODIHR observation reports on Bulgaria</u>.

⁸ 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 <u>Paragraph25.odihr.pl</u>.

⁹ Including the <u>1966 International Covenant on Civil and Political Rights</u>, the <u>1979 Convention on the Elimination of All Forms of Discrimination Against Women</u>, the <u>1965 International Convention on the Elimination of All Forms of Racial Discrimination</u>, the <u>2003 Convention against Corruption</u>, the <u>2006 Convention on the Rights of Persons</u> with Disabilities, and the <u>1950 European Convention on Human Rights</u>. Bulgaria is a member of the Council of Europe's Group of States against Corruption (GRECO) since 1999 and of the Commission for Democracy through Law (Venice Commission) since 1992.

¹⁰ These include the chair of the National Assembly, the president of the Supreme Court of Cassation, a governor or deputy governor of the Bulgarian National Bank, the president or a vice-president of the Bulgarian National Audit Office, and the National Ombudsman or a deputy ombudsman. The president must consult with parliamentary groups before appointing a caretaker cabinet, based on the caretaker prime minister's proposal.

term expires. Further, constitutional amendment also ensured continuation of the work of the National Assembly during the martial law by extending its powers until such circumstances are lifted.

The amendments also made changes in justice system. The term of office for the prosecutor general has been reduced from seven to five years, and they can no longer be re-elected to the position. Moreover, the number of members of the Supreme Judicial Council has been reduced from 25 to 15 members. Additionally, a new entity called the National Council of Prosecutors has been established, which will include ten representatives from the prosecution authorities.

The electoral legal framework, otherwise, remained unchanged since the last 2023 parliamentary elections leaving many longstanding ODIHR recommendations unaddressed, including those related to the blanket disenfranchisement of prisoners and persons under guardianship, the lack of measures to promote the participation of women and persons belonging to minorities, and the limited possibility to challenge election results.

The 240 members of the National Assembly are elected for a four-year term, under a proportional representation system in 31 multi-member constituencies, with 26 constituencies corresponding to the administrative districts and the remaining five in Sofia and Plovdiv, defined before each parliamentary election.¹¹ The number of seats in each constituency is determined by the latest census. However, each constituency must have at least four seats.

Parties and coalitions must pass the threshold of four per cent of the valid votes cast nationwide and abroad to be eligible for seat allocation, while independent candidates must surpass a constituency quota.¹² Voters may mark a preference for one candidate in open lists; when no such preference is indicated the vote goes to the candidate listed in the top position.¹³

C. ELECTION ADMINISTRATION

Elections are administered by a three-level structure of election commissions, comprising the CEC, 31 District Election Commissions (DECs), and some 12,000 Precinct Election Commissions (PECs).¹⁴ Out-of-country voting will be conducted in some 700 polling stations established abroad. While most ODIHR NAM interlocutors acknowledged technical capacity of the CEC to manage the process efficiently, several interlocutors from civil society and political parties expressed lack of trust in the CEC and voiced their concerns over its independence.

The CEC is a permanent body of 15 members appointed for a five-year term, with its current composition established in May 2021.¹⁵ Eight CEC members, including the chairperson, one deputy chairperson and the secretary, are women. Preparations for the elections are underway and at the time of conducting NAM the CEC met all legal deadlines. The CEC decisions are taken during the public sessions, open to observers and live-streamed online, with recordings also made publicly available. Yet, several ODIHR NAM interlocutors noted that the CEC continues muting the sound of livestream during

¹¹ By law, the President defines the constituencies' names, boundaries and numbering no later than 56 days before election day. Amendments made in December 2022 to the Election Code have postponed the creation of a separate constituency for out-of-country voters until January 2025.

¹² The quota is defined as a number of valid votes cast divided by the number of seats in a given constituency.

¹³ To obtain a preferential seat, a candidate must receive at least seven per cent of the votes cast for the respective list in the constituency.

¹⁴ For technical and organizational matters, the CEC is assisted by the government and various state and local authorities.

¹⁵ The CEC composition by law should reflect the composition of the parliament which is different following the last early parliamentary elections and some parties currently represented in the parliament are not represented in the CEC.

the debates of contentious issues thereby limiting access to information of public interest; a practice previously criticized by ODIHR.

The DECs and PECs are appointed for each election by the respective upper-level commissions, following consultations among the nominating parties and coalitions within the constituency or municipality. DECs have either 13 or 17 members, depending on the number of parliamentary mandates in the constituency and according to the CEC calendar, they were appointed by 19 April. They oversee election preparations and the conduct of elections within its territory, including registering candidates, tabulating, and transferring the voting results of the district to the CEC. PECs, which are to be formed by 14 May, conduct voting and counting on election day as well as facilitate homebound voting. PECs have five to nine members, depending on the number of registered voters. By law, several polling stations within each constituency should be accessible for voters with visual impairments and reduced mobility.

On election day, voters may vote either with touchscreen voting machines or by paper ballots in all polling stations with at least 300 registered voters. The ODIHR NAM interlocutors expressed varying degrees of confidence in the use of machines on election day, with some of them expressing concern about insufficient institutional control exercised by the CEC as well as the fact that the use of the voting machines was reduced to the printing of 'machine ballots', cast and counted in the same way as paper ballots, and regretted the loss of the benefits associated with the use of voting machines. The CEC is mandated to supervise machine voting and the law provides for creation of a machine voting unit within the CEC, however, the CEC informed ODIHR NAM that neither such unit was established nor is envisaged as the CEC lacks adequate capacity to ensure efficient maintenance. The CEC continues to rely on the same private company to provide the software, IT support, logistics, and training for the election personnel.

Many ODIHR NAM interlocutors emphasised the need for the CEC to provide thorough training of polling staff and a comprehensive voter information campaign tailored to the needs of different categories of voters. Most representatives from civil society and political parties, who ODIHR NAM met with, expressed concerns about ability of the precinct level commissions to handle counting and noted erroneous completion of voting result protocols by polling staff.¹⁶ Some of them also reported instances of interference by local authorities in the work of polling staff, especially in the regions and rural areas.

D. VOTER REGISTRATION

Citizens over the age of 18 have the right to vote. The legislation retains restrictions on suffrage rights for those deprived of legal capacity by a final court decision, including those with intellectual or psychosocial disabilities, as well as those serving a prison sentence, irrespective of the gravity of the

¹⁶ The ODIHR NAM was informed that during the 2023 local elections, approximately 15,000 corrections were made to voting results protocols and over 500,000 ballots were invalidated due to the complexity of the results protocols and voter confusion stemming from the dual voting methods.

crime.¹⁷ The Constitutional Court has previously noted the need to amend the Constitution to comply with international obligations.¹⁸

Voter registration system is passive and based on the permanent and continuously updated National Population Register maintained by the Directorate General of Civil Registration and Administrative Services (GRAO) of the Ministry of Regional Development and Public Works. Eligible voters with a permanent address in Bulgaria are automatically included in the voter list of their precinct. Voter lists are compiled by the municipal administrations prior to each election. The preliminary voter lists are made available for public inspection online and at polling stations 40 days prior to election day. Voters may request inclusion on the lists at their current registered address. According to GRAO, there are 6,639,440 registered voters in the preliminary voter lists.

The Electoral Code provides for alternative voting methods such as absentee, mobile, and out-ofcountry voting. Absentee voting certificates allow voters to vote at any polling station of their choice. Mobile voting is available for voters with physical disabilities, limited mobility, elderly, in healthcare and social service institutions, or in pre-trial detention; such voters are added to special voter lists. Certain categories of voters may be added to the lists on election day without submitting a prior request.¹⁹ These voters are later included in voter lists of their permanent registration, with their declaration being the only safeguard against multiple voting.²⁰

While no ODIHR NAM interlocutors expressed any concerns regarding the accuracy of voter lists, several interlocutors noted that two separate voter lists for early parliamentary and European Parliament elections may create administrative hurdles for the polling staff. The CEC has informed the ODIHR NAM that voter verification on election day for these two elections will be addressed in methodological materials designed for the poll workers and will be part of the planned training sessions.

E. CANDIDATE REGISTRATION

Eligible voters of at least 21 years of age have the right to stand as candidates. Candidates may be nominated on the lists of registered political parties or coalitions, or run independently in a constituency, supported by nomination committees.²¹

In order to register, political parties and coalitions must submit to the CEC a minimum of 2,500 supporting signatures from voters and a deposit of BGN 2,500.²² Nomination committees are required to provide DECs with supporting signatures of at least one per cent of registered voters in the

According to Articles 12 and 29 of the <u>CRPD</u>, "State Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life" and ensure their "right and opportunity [...] to vote and be elected". Paragraph 48 of the CRPD Committee's <u>General Comment No. 1 to Article 12 of the CRPD</u> 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". See the ECtHR judgements in <u>Kulinski and Sabev v. Bulgaria</u>, <u>Marinov v. Bulgaria</u> and <u>Dimov and others v. Bulgaria</u>.

¹⁸ In response to the government's request to interpret Article 42(1) of the Constitution, the Court ruled on 18 October 2022 that implementing ECtHR judgements on prisoners' voting rights and persons with mental disabilities requires constitutional amendments. Such amendments were not tabled as part of December 2023 constitutional changes.

¹⁹ PEC members and security officers may vote at their duty polling station; students may vote in the municipality where they live, and persons with disabilities may vote in any suitable polling station without submitting a prior request. Voters not found on the voter list for their registered address may be added on election day if they present residency documentation issued by the respective municipality.

²⁰ Such voters must sign a declaration that they haven't voted and will not vote at another polling place. The GRAO is required by law to check all voter lists for multiple voting following election day.

²¹ A nomination committee is established by three to seven voters.

²² 1 EUR is approximately 1,95 Bulgarian *Lev* (BGN). Deposits are refunded to political parties and coalitions which obtained at least one per cent of valid votes, and independent candidates who obtained valid votes of at least one quarter of the constituency electoral quota.

constituency, but not more than 1,000 signatures, and a deposit of BGN 100. Voters can sign in support of only one contestant in the elections. Within the legal deadline, the CEC has registered 23 political parties and 11 coalitions for the upcoming early parliamentary elections.

Candidate lists are to be registered by the DECs until 7 May. The registration documents and candidate lists are verified by the respective election commissions and the GRAO. By law, prospective contestants may remedy any deficiencies identified, within a three-day period, or replace unqualified candidates. On 8 May, the CEC plans to draw lots to determine the order of the contestants on the ballot paper.

There are no special legislative measures to promote women's participation and most parties met by the ODIHR NAM stated they do not have specific internal policies to promote women candidates, but rather try to focus on identifying candidates based on their capacity and experience rather than gender. Overall, political parties met by the ODIHR NAM did not express any concerns regarding candidate nomination or registration process.

F. ELECTION CAMPAIGN

The official campaign starts 30 days before election day and will end 24 hours prior to election day. By law, all campaign materials must identify the issuer and contain a statement that vote-buying and selling are criminal offenses. The law prohibits the use of campaign materials that are contrary to good morals and damaging the honour and reputation of the candidates. Additionally, the law prescribes that the election campaign be conducted only in the Bulgarian language. Some ODIHR NAM political party interlocutors regretted the language requirement especially in the context of overlapping campaign activities of early parliamentary and European Parliament elections.

The Constitution guarantees the freedoms of association and peaceful assembly and most parties met by the ODIHR NAM expect to conduct their campaign without hindrance. Campaign topics will likely feature energy policy, corruption, foreign policy, domestic social and economic issues, labour market, education, and youth employment. Some political parties believe that the campaign agenda for the European Parliament elections will dominate the campaign of national elections and hence present an opportunity to synchronize national agenda with EU policies. Political parties plan to organize face-toface meetings with voters and large-scale events as well as utilize media and online platforms in their campaigns. Several interlocutors mentioned the notable increase of nationalist rhetoric and far-right ideas.

Campaigning by third-parties is not regulated, including on social networking platforms, and some ODIHR NAM interlocutors expressed concerns about potential manipulation of social networking platforms to artificially boost content with automated accounts. Additionally, some political party representatives have expressed worries about negative online campaigns, political polarization being further exacerbated by disinformation, manipulation of sensitive issues and the spread of inflammatory or intolerant rhetoric, including sexism and misogyny. Some political parties that the ODIHR NAM has met with believe that online platforms will be used as propaganda tools, including by external actors, to mislead or disinform the broader public to further entrench indifference and voter apathy.

Most ODIHR NAM interlocutors alleged that long-standing practices of vote-buying and so-called 'controlled' voting are still prevalent in economically and socially vulnerable communities, in particular Roma communities.²³ While the legal framework contains some regulations aimed at preventing the misuse of administrative resources during the campaigns, ODIHR NAM received a multitude of

²³ The Anti-corruption Fund in its research <u>Election Fraud: Prevalence and Impact in Bulgaria</u> describes "vote trading as a lucrative business controlled by organized crime and patronized by interested political entities" with "neediest, poorly educated voters being the most frequent target of electoral manipulation".

allegations regarding the use of coercion by municipal administrations towards both their employees and voters at the local level, to the extent, which inhibits voters from exercising their right to an independent choice, free from fear or retribution. At the same time, many interlocutors attributed persisting systemic malpractices to impunity of perpetrators owing to inaction of law-enforcement forces and judiciary, especially at the local level.

G. PARTY AND CAMPAIGN FINANCE

The Electoral Code and the Political Parties Act regulate party and campaign finance. Political parties and coalitions that received, respectively, at least one and four per cent of valid votes nationwide in the previous elections are entitled to annual public funding, which may be used for election campaigns.²⁴ Political party income also includes membership fees, donations from natural persons, loans, interest accrued on bank deposits, and property income.

Campaigns can be financed by the party's or candidate's own funds as well as monetary and in-kind donations from private individuals. Donations over one minimum monthly wage (BGN 940) must be accompanied by the donor's declaration of the source of donated funds. ²⁵ The law does not limit individual donations. Both parties and candidates may not receive contributions from legal entities, religious institutions, anonymous and foreign sources, or foreign sources. Political parties and independent candidates not entitled to annual public funding receive a subsidy of BGN 40,000 and BGN 5,000, respectively, for the media coverage. Transactions over BGN 1,000 have to be conducted via bank transfer and contestants are required by law to maintain a dedicated campaign fund account.²⁶ Campaign expenditures are limited to BGN 3 million for parties and coalitions and BGN 200,000 for independent candidates.

The National Audit Office (NAO) oversees political and campaign finances. By law, contestants are required to regularly disclose to the NAO their income and contracts concluded with the media prior to the elections, but have no obligation to report on campaign expenditure before the election.²⁷ Within 30 days after the elections, contestants must submit a detailed report of their campaign income and expenses to the NAO, to be published within 15 days from submission and audited within six months. The NAO is then required to verify the reported information against the financial documentation.²⁸ The law does not address third-party spending on behalf of eligible contestants. Conducting and reporting on campaign on social networks is not regulated by the law.

The legislation provides for a set of gradual financial sanctions for various types of campaign finance irregularities as well as suspension of public funding, until next elections, for late or non-submission of financial reports. The NAO can issue warnings or impose financial sanctions and refer cases to the Prosecutor's Office.²⁹ Overall, most ODIHR NAM interlocutors did not express major concerns regarding campaign finance regulations; however, some noted that regulating online campaign spending would further enhance transparency of campaign finance spending.

²⁴ 19 political parties received direct public funding in 2023.

²⁵ EUR 1 is approximately BGN 1,9 (Bulgarian Lev).

²⁶ Contestants must provide bank account information to the Audit Office within 5 days of registering for elections.

²⁷ Media outlets are required to publish all contracts with contestants online and to submit such information to the NAO within 30 working days after election day.

²⁸ The NAO cross-checks the information submitted by the media outlets with the contestants' reports and audits the reported data for prohibited donations or other irregularities. The NAO has a six-month deadline to complete the audit of the information provided by parties in their final report. The last audit published by NAO applies to elections held in 2023.

²⁹ The maximum amount of a fine that may be imposed by the NAO is BGN 15,000

H. MEDIA

The media landscape is diverse with a wide range of media outlets. Television and internet-based media are the prime sources of news, followed by social networks, whereas the consumption of print media follows the global downward trend.³⁰ Many media outlets continue to be financially fragile and almost entirely rely on income from advertising, which is limited in nature and often dominated by the state involvement in the advertising market. The distribution of subsidies, state advertising, and EU funds to the media lacks clear rules creating opportunities for such funding to be traded for favourable coverage and exposing the media outlets to political influences that can impact their perceived editorial independence.³¹ The public service media Bulgarian National Television (BNT) and Bulgarian National Radio (BNR) remain the most trusted news outlets, however, the funding model does not guarantee sufficient resources to accomplish the public remit effectively.

The legislation guarantees the freedom of expression and the right to information, and prohibits censorship. Despite previous ODIHR recommendations, defamation remains a criminal offense punishable by fines. Independent media and especially journalists investigating corruption cases are regularly victims of abusive litigation (so-called SLAPPs) with claimed damages reaching significant amounts.³² In June 2023, the Council for the Rule of Law established a working group on the media environment to also address the protection of journalists from SLAPPs; however, most of the ODIHR NAM interlocutors remained unconvinced by the progress in this area. Some ODIHR NAM interlocutors raised concerns that a number of lawsuits against journalists were strategically initiated by individuals from public life, including politicians and judges.³³ Following the adoption of the recent EU Directive on protecting persons against abusive court proceedings, the authorities set up a working group, at the Ministry of Justice, with the aim to transpose provisions of the Directive into national legislation.³⁴

The Election Code prescribes equal treatment of all contestants in broadcast media and provides a set of detailed rules for paid and free airtime. By law, editorial output and paid-for material must be clearly separated and labelled. While legal provisions requiring the allocation of equal time aim to contribute to a level playing field, in practice, these do not contribute to voter's ability to make an informed choice as the rules prioritize the equal allocation of time to contestants rather than the quality of the debates or their content. Some ODIHR NAM interlocutors mentioned that certain provisions of the Electoral Code have a negative impact on the ability of public broadcasters to exercise editorial independence due to strict rules set by agreements with parties on campaign coverage.

Almost all political party interlocutors noted that access to private media is problematic due to media ownership and close association of some media and political parties which often results in excessive coverage of some contestants and saturation of media airtime with paid political advertising of these contestants.

³⁰ According to the <u>World Bank data</u>, internet penetration in the Republic of Bulgaria stood at 79 per cent.

³¹ See <u>European Commission 2023 Rule of Law Report</u>, Country Chapter on Bulgaria.

³² On 24 April 2024, the <u>Media Freedom Rapid Response</u> consortium urged authorities to drop defamation lawsuit against investigative journalists. See also call by the <u>Association of European Journalists – Bulgaria</u>.

³³ See additional information regarding attacks and harassment of journalists registered on the <u>Council of Europe</u> <u>Platform</u> to promote the protection of journalism and safety of journalists.

³⁴ In April 2024, the Council of the European Union and the European Parliament adopted <u>Directive (EU) 2024/1069</u>. This Directive provides safeguards against manifestly unfounded claims or abusive court proceedings in civil matters with cross-border implications brought against natural and legal persons on account of their engagement in public participation.

The Council for Electronic Media (CEM) serves as media regulator and is responsible for licensing, registering, and supervising the media service providers.³⁵ The CEM is mandated to monitor media coverage during the electoral campaign and alert the CEC about infringements of the law by providing recording of non-compliant audiovisual content. The scope of the CEM's monitoring is determined by an agreement signed with the CEC prior to the start of the campaign.

The Radio and Television Act contains provisions regarding the use of hate speech and the CEM may sanction media service providers for related content.³⁶ In addition to CEM, the National Council for Journalistic Ethics and its executive body – the Ethics Commission also form part of the institutional framework. Nevertheless, protection against hate speech is ineffective and it remains widespread in digital news media and social networks. The UN Committee on the Elimination of Racial Discrimination (CERD) noted that sanctions issued by the CEM in relation to hate speech disseminated through media channels do not have a deterrent effect.³⁷

Several ODIHR NAM interlocutors have noted that disinformation remains widespread in Bulgaria, including through bogus media channels, at times operating from abroad, mimicking public broadcasters to spread deceitful narratives, polarizing society and undermining trust in public institutions and news media.³⁸ While there are some self-regulatory provisions against false and inaccurate information, there is no national strategy to tackle disinformation, particularly from foreign sources. Due to the overlap with the European Parliament elections, CEM, along with other regulators in the European Regulators Group for Audiovisual Media Services, is planning a media campaign to increase audience awareness and vigilance in content selection.

I. ELECTION DISPUTE RESOLUTION

Election disputes are handled by the election administration and courts with complaints against administrative acts or decisions only allowed to be lodged with electoral commissions by those with justified legal interest. The law provides for an expedited dispute resolution procedure, with deadlines ranging from three days to one hour on election day.

Any person can report election-related violations to the CEC and DECs. Decisions of lower-level election bodies are appealed to the superior election and local administrative courts or the Supreme Administrative Court as the final instance. DEC decisions upheld on appeal by the CEC can be challenged in district administrative courts under the general administrative procedure.

Petitions challenging parliamentary elections outcomes can only be made to the Constitutional Court by one-fifth of the members of parliament, the President, the Council of Ministers, the Supreme Court of Cassation, the Supreme Administrative Court, and the Prosecutor General, which leaves election

³⁵ The CEM monitors the activities of the media service providers – linear and non-linear, and video-sharing platforms registered in the Public Register of CEM.

³⁶ By law, media service providers are obliged not to incite hatred as well as production or distribution of any programmes which incite hatred based on race, gender, religion, or nationality is not allowed.

³⁷ See also paragraphs 12 and 13 of the UN CERD December <u>2023 Concluding Observations</u> on the combined twentythird to twenty-fifth periodic reports of Bulgaria, which noted concerns related to "[,,,] the persistence of racist hate speech and hate crimes in the State party, including in the media and on the Internet [...]" and recommended authorities to "[...] intensify its efforts to monitor and address the spread of racist hate speech in the media and on the Internet, in close cooperation with media outlets, Internet service providers, social media platforms and members of groups vulnerable to racist hate speech."

³⁸ The 2023 <u>Ipsos Flash Eurobarometer survey</u> revealed that well over 50 per cent of Bulgarians have been exposed to fake news and disinformation in the period under review.

contestants without an effective legal remedy.³⁹ ODIHR NAM interlocutors did not raise major concerns with the current system for resolving election disputes, but a few expressed their dissatisfaction regarding the judicial reform and noted the low level of perceived judicial independence.⁴⁰

J. ELECTION OBSERVATION

The Election Code provides for citizen and international observation of the entire election process. Registered contestants are entitled to appoint their agents to follow the electoral process at all levels of the election administration and proxies to observe at polling stations. Several civil society organizations met by the ODIHR NAM, expressed their intention to observe the elections, including the work of the CEC, the campaign environment, campaign finance, the media coverage of the election including in relation to the coverage of participation of women. At least three CSOs plan to accredit and deploy observers on election day, with one of them planning to focus their observation effort in economically and socially challenging parts of the country.⁴¹

IV. CONCLUSION AND RECOMMENDATION

In considering an observation activity, the ODIHR NAM has taken into account the various findings outlined in this report and the concerns expressed by stakeholders. These include issues related to the confidence in the election administration, conduct of the campaign, with a particular focus on possible voter intimidation and vote-buying. Various ODIHR NAM interlocutors emphasized specific aspects of the electoral process meriting attention by an ODIHR election observation activity, including campaign finance framework and media coverage. All ODIHR NAM interlocutors welcomed external scrutiny of the electoral process and underlined that the assessment by ODIHR will be of particular value due to high polarization and would enhance public confidence in the electoral process. Most previous ODIHR recommendations remain unaddressed.

Based on these considerations the ODIHR NAM would have recommended the deployment of a Limited Election Observation Mission (LEOM) with long-term observers for the upcoming early parliamentary elections, in addition to a core team of experts. However, due to the short timeframe until election day as well as the time required to recruit and deploy long-term observers, the deployment of the LEOM will not be possible. Nevertheless, ODIHR sees merit in sending an observation activity for these elections and thus recommends the deployment of an Election Expert Team to focus on issues identified by stakeholders as meriting specific attention, including the work and capacity of the election administration, conduct of the campaign, assessment of media environment, and aspects of campaign finance regulations.

³⁹ Article 2.3 of the <u>ICCPR</u> states that "[a]ll persons whose rights or freedoms are violated shall have an effective remedy [...]"; see also paragraph 5.10 of the <u>1990 OSCE Copenhagen Document</u>. ODIHR has previously recommended revision of legislation to allow direct challenges against election results.

⁴⁰ The European Commission 2023 Rule of Law Report, <u>Country Chapter on the rule of law situation in Bulgaria</u>, states that "The level of perceived judicial independence in Bulgaria continues to be low among the general public [...], despite recent improvement". The report also notes lack of progress "with the reform regarding political influence and the functioning of the Inspectorate to the Supreme Judicial Council which oversees the activity of the judiciary, assesses the integrity and potential conflicts of interest of magistrates, and is responsible for proposing any opening of disciplinary proceedings regarding magistrates".

⁴¹ These include Institute for Public Environment Development (IPED), Union Fair Elections (OCHI) and this Anticorruption Fund-Bulgaria.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs

Svetlan Stoev, Permanent Secretary Angel Bandjov, Director of the Human Rights Directorate Evgeniya Ivanova, Head of International Humanitarian Organizations Department Iliana Eldarova, Attaché

Central Electoral Commission

Kameliya Neykova, Chairperson Dimitar Dimitrov, Vice-chairperson Emil Voynov, Vice-chairperson Rositsa Mateva, Vice-chairperson Tsvetozar Tomov, Vice-chairperson Sevintch Solakova, Secretary Georgi Bahanov, Members Elka Stoyanova, Member Erhan Chaushev, Member Yordanka Gancheva, Member Krasimir Tsipov, Member Gergana Stoyanova, Member Ljubomir Georgiev, Member Silviya Stoytcheva, Member Tsvetanka Georgieva, Member

<u>Civil Registration and Administrative Services Department of the Ministry of the Regional</u> <u>Development and Public Works</u>

Ventsislav Hristov, Chief Director Nina Simeonova, Head of Methodology and Control Department Boryana Taneva, State Expert

National Audit Office

Toshko Todorov. Deputy Head Ekaterina Percheva-Antova, Director of Specific Audits Directorate Toma Donchev, Director of Development of the Audit Activity Directorate Kosta Stoyanchev, Head of International Activity Department

Supreme Administrative Court

Marinika Cherneva, Deputy Head of the Supreme Administrative Court Tatyana Hinova, Judge Kremena Haralanova, Judge Krasimir Kanchev, Judge Diana Garbatova, Judge

Political Parties (in alphabetical order)

Kristian Vigenin, Vice-President of the National Assembly, Bulgarian Socialist Party Georgi Svilenski, Deputy Chairperson of Parliamentary Group, Bulgarian Socialist Party Maya Dimitrova, MP, Bulgarian Socialist Party Erten Anisova, Deputy Chairperson of Parliamentary Group, Movement for Rights and Freedoms Hamid Hamid, Deputy Chairperson of Parliamentary Group, Movement for Rights and Freedoms Stanislav Anastassov, MP, Movement for Rights and Freedoms Denitsa Sacheva, Deputy Chairperson of Parliamentary, GERB-SDS Raya Nazaryan, Deputy Chairperson of Parliamentary, GERB-SDS Ekaterina Gecheva-Zaharieva MP, GERB-SDS Gueorg Gueorguiev, MP, GERB-SDS Lyudmila Ilieva, Deputy Chairperson of Parliamentary Group, PP-DB Rositsa Pandova-Yovkova, MP, PP-DB Angel Georgiev, MP, Parliamentary Group Rivival Stanislav Stoyanov, MP, Parliamentary Group Rivival

Bulgarian National Television

Anton Andonov, Member of the Board of Managers Kremena Kadieva, Director, Head of Legal Affairs Directorate Mariela Dragolova, Director, Head of News and Current Affairs Directorate Daniel Chipev, Deputy Director, News and Current Affairs Directorate

Civil Society

Marina Kisyova de Geus, Founder and Chairwoman, Ekaterina Karavelova Foundation Alexander Kashumov, Executive Director, Access to Information Programme Yasen Lazarov, Expert, Institute for Public Environment Development Lilian Nikiforova, Expert, Institute for Public Environment Development Mario Rusinov, Analyst, AntiCorruption Fund – Bulgaria Stoil Tsitselkov, Expert, Fair Elections (OCHI) Daniel Stefanov, Expert, lecturer at New Bulgarian University Stoil Stoilov, Election Expert

Diplomatic Missions Resident in Bulgaria

Representatives of diplomatic missions of Italy, Turkey, United Kingdom, the Russian Federation, and the United State of America.⁴²

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