

AS/Bur/MK (2004) 1
18 November 2004

Bureau of the Assembly

**AD HOC COMMITTEE FOR THE OBSERVATION OF THE
REFERENDUM IN “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”¹**

Report on the referendum observation mission presented by Mr Zekeriya Akçam (LDR, Turkey), chair and rapporteur of the ad hoc Committee

I. Introduction

1. At its meeting on 8 October 2004, the Bureau of the Assembly decided to set up a five-member ad hoc committee (one from each political group) to observe the referendum to be held in the country, subject to an invitation from the authorities. Such an invitation was granted shortly after.

2. The delegation composed of Mr Zekeriya Akçam (Turkey) from the LDR Group, elected on 6 November 2004 as Chair and Rapporteur of this ad hoc committee, and Mrs Fátima Aburto (Spain), representing the Socialist Group. It was accompanied by Mr David Čupina, from the Monitoring Committee Secretariat. The programme of the delegation is appended.

3. The ad hoc committee acted as part of the international Election Observation Mission (EOM) from the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), and a delegation from the Council of Europe's Congress of Local and Regional Authorities headed by Mr Sean O'Brien (Ireland). It was briefed by the former for two-hours. The ad hoc committee members would like to express thanks to the Chairperson of the parliamentary delegation of “the former Yugoslav Republic of Macedonia”² to the Assembly, Mrs Petrova-Mitevskva, for her hospitality.

4. On election day the ad hoc committee constituted a single “flying” team to observe the voting and vote counting in different regions of special interest: Tetovo, Kičevo, Struga, Ohrid and Skopje (Đorče Petrov). The joint press release of the observation mission is attached as Appendix 2.

II. Political and legal context

5. It was the second time in the Assembly's history that one of its delegation observed a national referendum, the last occasion was in 1998 for Latvia's referendum on the

¹ Turkey recognises ‘the former Yugoslav Republic of Macedonia’ under its constitutional name.

² In this document, the term “Macedonia” is used for descriptive purposes and for readers' convenience, without prejudice to the Assembly's position on the name of the state.

amendments on the law on citizenship. Moreover, at that time the referendum coincided with legislative elections.

6. In August 2004, the Parliament of “the Former Yugoslav Republic of Macedonia” adopted the Law on Territorial Organisation, as a last part of the “Ohrid Framework Agreement” package of 2001, which ended troubles in the country. This law establishes new municipal districts by merging some municipalities, thus reducing the number of municipalities from the current 123 to 84. As a result of the law, the modification of municipal boundaries in the case of two municipalities, that is, Kičevo and Struga, will change their ethnodemographic composition. In addition, wherever a minority represents 20% of the population of a municipality (according to the 2002 census), its language *de facto* reaches an official status within the boundaries of this municipality (this will notably be the case in greater Skopje for the Albanian language).

7. The Government having disregarded the results of local referenda conducted prior to the establishment of the law, the World Macedonian Congress (hereinafter WMC) took the initiative to collect signatures to call for a referendum to be held to oppose the law referred to above. The collection of signatures took place over six months, from February to August 2004, in designated places of the Ministry of Justice; although slow at the beginning, the process intensified with the politicisation of the issue, at a speed that permitted to collect in the end a number of signatures well over the required legal threshold of 150,000. Once the signatures had been validated by the State Election Committee (SEC), they were submitted to the Speaker of Parliament which convoked the legislative additional referendum, in accordance with the law³. The date set was 7 November.

8. The question the voters had to decide upon was whether they wanted to have the 123 municipalities created by the law on the establishment of the municipalities of 1996 or not. In the case of a winning “yes”, the immediate consequence would have been the effective repeal of the 2004 law on territorial organisation. That is why the European Union and its member states publicly opposed the referendum. In a more astute manner, the United States decided on 4 November to recognise the country under its constitutional name of “Republic of Macedonia”, to the great satisfaction of the people, as this would prevent them challenging the completion of the package necessary for the country’s integration into other Euro-atlantic structures.

9. The country’s integration into these structures has been a priority of all governments’ foreign policy. With this in mind, the majority called for the abstention with the slogan “Europe needs Macedonia”, while the opposition party of VMRO-DPMNE called for the voters to say “yes”. The minorities’ parties either advocated abstention or did not take a stand.

10. According to the law, the referendum is only valid if there is a turnout of 50% plus one of the eligible voters. Of these, 50% plus one need to vote yes for the result to be positive. The decision taken by such a referendum is binding. Following the recognition by the United States of the “Republic of Macedonia”, many observers expected on the eve of the referendum it will not fulfil the first compulsory requirement, which amounted to more than 854,000 voters.

³ The legislative framework for the referendum was extremely complex and was criticised by the OSCE/ODIHR EOM for being “outdated”. It suffices here to give reference to the statement of preliminary findings and conclusions adopted jointly by the OSCE/ODIHR, the CoE Parliamentary Assembly and the CoE Congress for further detail.

11. The accuracy of the voter's list was once again questioned notably by the OSCE/ODIHR EOM, which made a similar observation during the presidential election of 2004: election which was not observed by the Assembly.

12. Early voting was permitted for the military, persons serving a prison sentence or held in custody, and for internally displaced persons (IDPs) following the troubles. It took place on 6 November in 39 specially organised polling stations. Observations of early voting gave the impression it went smoothly, only a low turnout was reported. The results were counted at the same time as the results of the 7th voting.

13. The Law on Referendum of 1998 provided for the inclusion of only two members for each electoral board, which may have created problems in large polling stations, but the provision was overruled by a decision of the SEC authorising the electoral boards to entrust their normal deputies with the task of replacing electoral boards' members in case of absence⁴.

14. The setting-up of the election boards, the distribution of electoral material and the arrangements for the referendum suffered no delay. No complaints were filed on the technical aspects of the referendum.

III. The campaign

15. The campaign was very low-key. As already seen, the governmental parties played on the abstention, which in the end paid off, while the VMRO-DPMNE (Internal Macedonian Revolutionary Party – Democratic Party for Macedonian National Union) supported the referendum and a “yes” vote. Allegedly, the VMRO-DPMNE did not oppose further Euro-atlantic integration, but rather the way the law on territorial organisation was decided. Smaller parties also supported the “yes”, as well as the initiator of the referendum, the WMC.

16. The only issue worth mentioning here is that since there was no official campaign (no legislative provisions exist for the campaign regulation of such referendums), the observers were only subjected to conjectures, especially regarding the campaign financing and disclosure. In fact, anyone could take part in the campaign.

17. The declarations made by the international community during the referendum campaign related above infuriated some, and this question was raised by representatives of the press at the 8 November press conference. The recognition of the “Republic of Macedonia” by the United States completely dominated the discussions on the last day of the campaign and of course even during the official campaign silence (one day prior to the referendum).

IV. The media

18. Media coverage was in general well balanced in presenting the two options for the referendum, and the amount of coverage was sufficient for voters to make an informed choice. Both camps advertised for their choice in both the electronic and printed media. The Open Society Institute (OSI) openly campaigned against the referendum in the printed media, which is quite unusual.

19. The issues at stake in the slogans were the move of the country towards further Euro-atlantic integration or backwards, or the risk of deterioration of inter-community relations. These issues almost completely overshadowed the specific issue which the referendum was about.

⁴ With the notable exception of the voting right and the right to signature.

20. The editorial line of some printed newspapers clearly reflected a choice, either pro- or anti-referendum in the case of Albanian newspapers.

V. Observation of the voting

21. The voting took place in an unprecedented calm and peaceful atmosphere, with a generally low turnout. A turnout of 0% was registered in polling stations of the Albanian-speaking area. Only in Struga did the delegation witness a relatively high turnout, although even there a difference was felt between polling stations according to the ethnodemographic lines of the voters' lists.

22. No incidents were reported. The United States Embassy had issued warnings to its observers not to go to Struga because of potential tensions in the municipality. But the team was given a warm welcome and, as a rule, and contrary to what was pre-supposed, polling station staff appreciated the presence of foreign observers.

23. Access to certain polling stations in Struga could have posed difficulties, had the polling station officers not regulated the flow of voters in a very orderly manner. The polling stations themselves turned out to be small and cramped.

24. There were observers in every polling station visited. However, there was an obvious confusion among the observers accredited by the WMC. Since political parties were unable to monitor the referendum process, they looked for other means to accredit their observers, and the VMRO-DPMNE did it through this organisation for instance.

25. One single incident was reported to the team in Struga by an observer, who immediately added that the polling station officers had turned away the person who wanted to vote for the second time.

26. In order to avoid double voting, voters' fingers were sprayed with a special ink that glowed in ultra-violet light. The vote was transparent and the secrecy of the vote respected.

27. In anticipation of the future law, the SEC printed ballot papers in the languages of minorities where they represented 20% or more of the municipality population. Posters with voting instructions were printed in minority languages as well. Only the forms used for the referendum day were printed solely in Macedonian.

28. The ad hoc committee was impressed by the professionalism shown by the polling station officers, particularly during vote counting.

VI. Conclusion

29. The voting took place in a very calm atmosphere for the very first time since the country's transition to democracy. It is worth noting this, as the referendum created a some tension in relations between communities in certain places of the country.

30. The voting took place in conformity with international democratic standards and principles, and the government must be complimented for having allowed the voters to express their right to vote.

31. On 8 November, the SEC announced that the referendum had failed, as the first prerequisite condition had not been fulfilled. The nationwide turnout was announced to be at

26,24%. This caused great satisfaction and relief in the European Union and in the United States.

32. The political behaviour of the voters proved they were able to make a free and informed choice. They voted for a tolerant society, which respects the identity and rights of others than the majority. The impression gathered by the delegation during its visit was of a now peaceful and resolutely forward-looking country.

VII. Expectations

33. The members of the ad hoc committee consider that the referendum was very well organised and its results largely contributed to the process of the country's integration into the Euro-atlantic structures. The last piece of the Ohrid Framework Agreement can now be implemented, paving the way to municipal elections next year.

34. However, they do feel that there is room for improvement in the referendum law and in the editing of the voters' list and expect that the quality of the voters' list be improved to make them adequate.

35. The members of the ad hoc committee are confident and expect the future municipal elections to be as successful.

36. At the time of writing, the government of "the former Yugoslav Republic of Macedonia" had resigned. It is of the utmost importance that the government can pursue the task of reform after the referendum's results.

37. In the light of the above, the ad hoc committee wishes the Monitoring Committee to pursue its fruitful post-monitoring dialogue.



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APPENDIX I

**AD HOC COMMITTEE FOR THE OBSERVATION OF THE
REFERENDUM IN "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"⁵
7 November 2004**

PROGRAMME

Friday, 5 November 2004

Arrival of the PACE delegation

All members of the PACE delegation are welcomed at the airport and provided with transport to:

*Holiday Inn Skopje
Vasil Adzilariski 2
Skopje, MK-1000
Tel: 389-2-3292929
Fax: 389-2-3115503*

Saturday, 6 November 2004

Holiday Inn, Parliament of the Republic of Macedonia and OSCE/ODIHR premises

09:30 Ad Hoc Committee meeting; election of the Head of Delegation

10:00 Briefings by the OSCE/ODIHR Election Observation Mission

13:00 Official lunch at the invitation of the Chairperson of the National Delegation of 'the former Yugoslav Republic of Macedonia' to the PACE, Mrs Petrova-Mitevskva

20:00 Meeting with the OSCE/ODIHR Election Observation Mission

Sunday, 7 November 2004

Observation of the Referendum in Tetovo, Kičevo, Struga, Ohrid and Skopje

Monday, 8 November 2004

Council of Europe Information Office, OSCE/ODIHR premises and Holiday Inn

08:30 Ad Hoc Committee Meeting

09:30 Meeting with the OSCE/ODIHR Election Observation Mission

14:00 Joint Press Conference

Departure of Mrs Aburto and Mr Ćupina

Tuesday, 9 November 2004

Departure of Mr Akçam, Head of Delegation

⁵ Turkey recognises 'the former Yugoslav Republic of Macedonia' under its constitutional name.

Referendum generally consistent with international standards for electoral processes

SKOPJE, 8 November 2004 – The 7 November referendum in the Former Yugoslav Republic of Macedonia, was generally consistent with OSCE and Council of Europe standards for democratic electoral processes. The referendum day and preceding campaign were conducted in an overall calm and orderly manner. The limited cases of reported procedural or other irregularities did not appear to challenge the overall integrity of the process, concluded the International Observation Mission to the Referendum, which published its preliminary findings today, based on the work of some 200 international observers.

The mission was deployed by the OSCE Office for Democratic Institutions and Human Rights, (OSCE/ODIHR) and joined by representatives from the Council of Europe's Parliamentary Assembly and its Congress of Local and Regional Authorities of Europe. The referendum was called in reference to legislation, which establishes new municipal boundaries throughout the country.

"I welcome the fact that the referendum took place without incident and that voters were able to base their choice on overall balanced media coverage, although it focused more on the broader political issues rather than the fundamental question of the referendum," said Ambassador Friedrich Bauer, Head of the OSCE/ODIHR mission. "However, the referendum was characterized by certain problems, which mainly related to incomplete, and in some cases outdated, legislation as well as inaccurate voter lists."

"The referendum was an opportunity to confirm the maturity and self-confidence of all the people of this country for the consolidation of democracy. The political behavior of citizens showed that they were able to make an informed choice. We look forward to seeing this replicated in future elections," said Zekeriya Akcam, Head of the CoE Parliamentary Assembly delegation.

Sean O'Brien, Head of the CoE Congress delegation, added: "The voting process was transparent and the secrecy of the vote was largely respected. We believe that further training of officials would alleviate some procedural irregularities that we observed."

The observation mission received reports of alleged intimidation, which reflect a certain atmosphere of suspicion and mistrust. This was reinforced by the perception that anyone going to the polling station was seen to be voting in favor of the referendum.

The referendum was noteworthy for several accomplishments. The State Election Commission operated in an efficient and consensual manner, and its decision to print the ballot papers in languages of all ethnic groups that comprise more than 20% of that particular municipality was commendable.

Shortcomings included the incomplete legislation and its interpretation, in particular the decision not to apply existing campaign regulations in the context of the referendum. The accuracy of voter lists was again questioned; however political parties did not make use of their legal right to review the lists.

On referendum day, observers reported that the voting was generally administered in an orderly and efficient manner. However, there were limited observed instances of polling stations that either failed to open on schedule or closed early, and isolated cases of reported intimidation and ballot stuffing. Instances of inattention to procedural details were observed during counting and tabulation of votes.