

ORGANISATION AND CONDUCT OF FIRST POST-WAR ELECTIONS. EXPERIENCE OF BOSNIA AND HERZEGOVINA AND LESSONS LEARNED FOR UKRAINE



Analytical overview

Dr. Irena HADŽIABDIĆ

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

ORGANISATION AND CONDUCT OF FIRST POST-WAR ELECTIONS. EXPERIENCE OF BOSNIA AND HERZEGOVINA AND LESSONS LEARNED FOR UKRAINE

ANALYTICAL OVERVIEW

Dr. Irena HADŽIABDIĆ, member
of the Central Election Commission of Bosnia and Herzegovina

June 2023

Council of Europe

Organisation and conduct of first post-war elections. Experience of Bosnia and Herzegovina and lessons learned for Ukraine

Analytical overview was prepared within the framework and with the support of the Council of Europe project “Supporting democratic post-war elections in Ukraine” implemented within the framework of the Council of Europe Action Plan for Ukraine “Resilience, Recovery and Reconstruction” 2023 – 2026.

The opinions expressed in this work are the responsibility of the author(s) and do not necessarily reflect the official policy of the Council of Europe.

The reproduction of extracts (up to 500 words) is authorised, except for commercial purposes as long as the integrity of the text is preserved, the excerpt is not used out of context, does not provide incomplete information or does not otherwise mislead the reader as to the nature, scope or content of the text. The source text must always be acknowledged as follows “© Council of Europe, 2023”. All other requests concerning the reproduction/translation of all or part of the document, should be addressed to the Directorate of Communications, Council of Europe (F-67075 Strasbourg Cedex or publishing@coe.int).

All other correspondence concerning this document should be addressed to the Directorate General of Democracy and Human Dignity of the Council of Europe, Division of Elections and Participatory Democracy (www.coe.int/en/web/electoral-assistance).

Design, cover and layout:
Denys Konovalov

Photos:
Central Election Commission of
Bosnia and Herzegovina

© Council of Europe,
September 2023



CONTENTS

ACRONYMS	5
INTRODUCTION	6
I. GENERAL CONTEXT OF THE PEACEBUILDING PROCESS AND FIRST POST-WAR ELECTIONS	9
II. SECURITY AND OTHER CRITERIA USED AROUND THE FIRST POST-WAR ELECTIONS	15
III. ELECTION ADMINISTRATION AND SUPERVISORY BODIES	19
OSCE officials	22
Election observation	24
Other supervisory bodies	25
IV. VOTERS' LISTS AND REGISTRATION	27
Active voting rights	27
Out-of-country voting	32
Passive voting rights	34
V. ENSURING A LEVEL PLAYING FIELD FOR THE FIRST POST-WAR ELECTIONS	37
VI. ELECTION DAY: PROCEDURES AND CHALLENGES	43
CONCLUSIONS AND LESSONS LEARNED	49
REFERENCES	52

ACRONYMS

BiH	Bosnia and Herzegovina
CIM	Co-ordinator for international monitoring
DPA	General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement)
EASC	Election appeals sub-commission
FBiH	Federation of Bosnia and Herzegovina
FRY	Federal Republic of Yugoslavia
HDZ	Croatian Democratic Union
ICG	International Crisis Group
ICTY	UN International Criminal Tribunal for the former Yugoslavia
IEBL	Inter-entity boundary line
IFOR	Implementation Force
IOM	International Organization for Migration
IPTF	UN International Police Task Force
LEC	Local election commission
NATO	North Atlantic Treaty Organization
OSCE	Organization for Security and Co-operation in Europe
Parties	Signatories to the DPA (Republic of BiH, RS and FBiH)
PEC	Provisional election commission
PSC	Polling station committee
RBiH	Republic of Bosnia and Herzegovina
RESG	Refugee elections steering group
RS	Republika Srpska
SDA	(Bosniac) Party of Democratic Action
SDS	Serb Democratic Party
SFOR	Stabilisation Force
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees

INTRODUCTION

“Before renewing its independence in 1992, Bosnia and Herzegovina was one of six republics of the Socialist Federal Republic of Yugoslavia. Following the death of the Yugoslav President Josip Broz Tito in 1980, economic reforms had been initiated but did not result in the expected outcome. The one-party system through which the Communist Party had monopolised power for more than 40 years could not respond to ever-louder popular demands for democratic change. Significant constitutional reforms were undertaken in the then Socialist Republic of Bosnia and Herzegovina in July 1990. The adoption of 31 amendments to the constitution opened the door to the formation of a multiparty system, the first multiparty elections on 18 November 1990, and the overall democratisation of society”.¹ A single ethnic group had formed an absolute majority in five republics of the former Yugoslavia, while Bosnia and Herzegovina was a multi-ethnic and interreligious community. The 1990 elections resulted in a power-sharing arrangement between three ethnic political parties whose vote share largely reflected the ethnic composition of the population.² Out of those who voted, 75% opted for ethnic parties: Bosniacs voted for the (Bosniac) Party of Democratic Action (SDA), Serbs for the Serb Democratic Party (SDS) and Croats for the Croatian Democratic Union (HDZ).³

Disagreements on key issues prevented these parties from reaching agreement on a common Bosnia and Herzegovina position regarding the unfolding fragmentation of the Socialist Federal Republic of Yugoslavia and the ensuing crisis. In response to this crisis the European Community adopted the Declaration on Yugoslavia,⁴ inviting all Yugoslav republics to declare their intention to pursue independence and establishing the main criteria for their recognition. Among the criteria for the independence of Bosnia and Herzegovina the Conference on Yugoslavia⁵ suggested “a referendum of all citizens without distinction carried out under international supervision.”

The referendum was held on 29 February and 1 March 1992, and the people of Bosnia and Herzegovina supported the establishment of a sovereign and independent Bosnia and Herzegovina, which granted equal status to members of the various groups (Muslims/Bosniacs, Serbs and Croats) living in the Republic.⁶ On 6 April 1992 the European Community recognised Bosnia and Herzegovina as a sovereign and independent state within its existing borders. As an international subject, Bosnia and Herzegovina became a member of the United Nations (UN) on 22 May 1992. However, Serbs had largely boycotted the referendum and did not recognise the independence of Bosnia and Herzegovina, which ultimately resulted in war, lasting from April 1992 to December 1995.

1. [Timing and Sequencing of Transitional Elections: Case studies \(idea.int\)](#)

2. According to the 1991 population census, the main ethnic groups were: 43.5% Muslims/Bosniacs, 31.2% Serbs and 17.4% Croats; 5.5% declared themselves as Yugoslav, whereas another 2.4% did not belong to any of these categories. Statistical Bureau (1993).

3. ICG (1996: 2). SDA won 86 seats, SDS 72 and HDZ 44 – a combined total of 202 out of 240 seats in parliament.

4. European Community (1991).

5. European Community (1992).

6. A total of 2 061 932 or 99.44% voters had voted “Yes” while 0.29% voted “No”. See Official Gazette of RBiH (1992).

“The international community played a central role in the negotiation process leading to the termination of this conflict in 1995, as well as in the consequent peace- and state-building processes. International engagement in the organisation and conduct of elections was an essential component of this”⁷ Conducting elections in a post-war period is very complex, as the electoral process is intertwined with the conflict resolution process. Therefore, as stressed in the observation mission’s report, it was difficult to assess the election process after four years of war in accordance with the term “free and fair” as it is usually understood.⁸

This study is an analytical overview of the first post-war elections in Bosnia and Herzegovina (the 1996 general elections and the 1997 municipal elections), presenting the basic segments of the electoral cycle, as well as the experiences and challenges faced by Bosnia and Herzegovina. It also provides legal and practical aspects related to the organisation and conduct of post-war elections, in order to ensure fundamental electoral principles, electoral rights of citizens and competent election management.

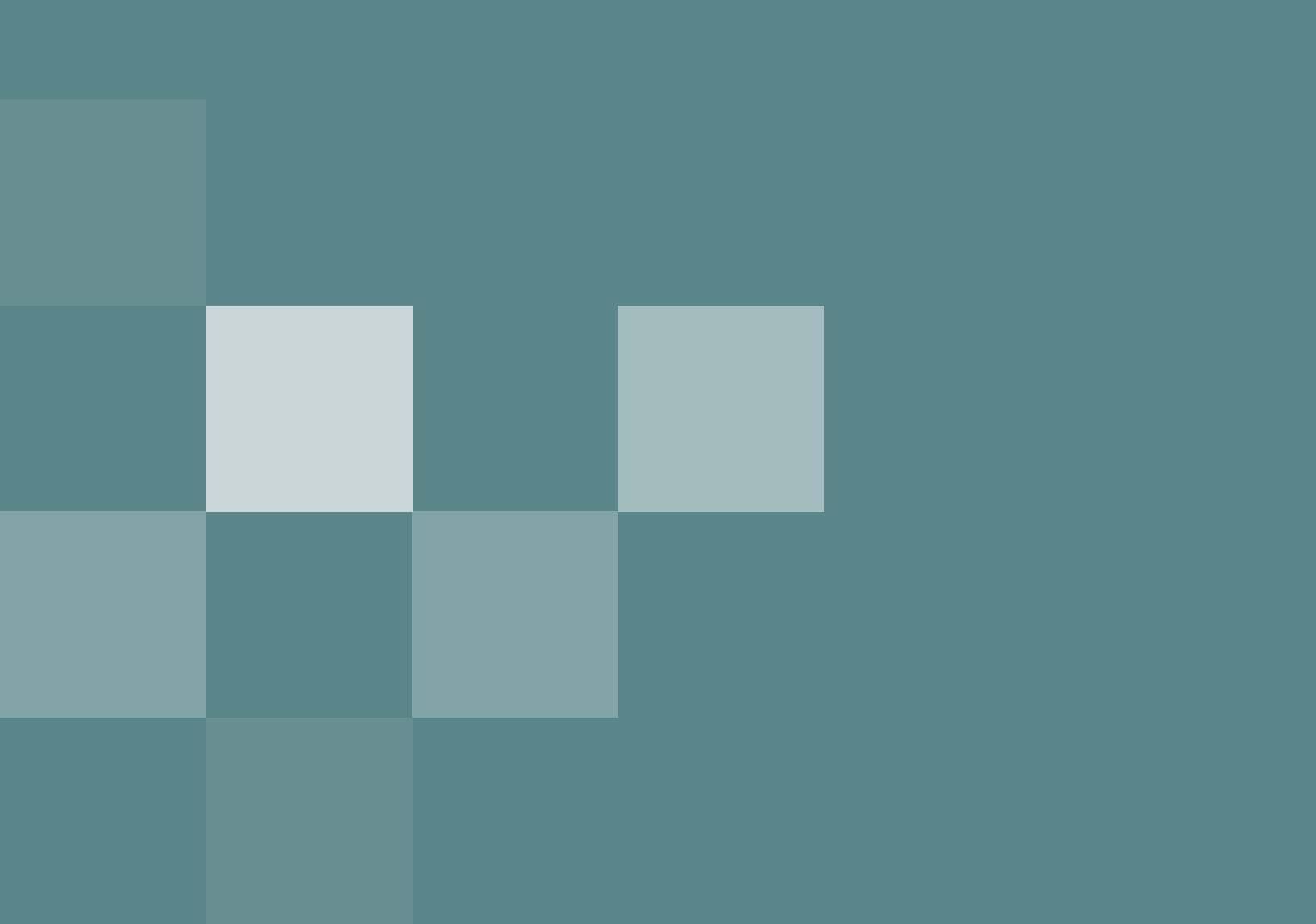
The lessons learned during the post-war elections in Bosnia and Herzegovina might be important and useful for countries facing similar issues.

7. Hadžiabdić (2019)

8. OSCE (1996a: 2)



inski
izbori '97
a je
sim ruk
septem



I. GENERAL CONTEXT OF THE PEACEBUILDING PROCESS AND FIRST POST-WAR ELECTIONS

The elections in Bosnia and Herzegovina were seen as the basis from which the country could rebuild itself. They were the first step in helping Bosnia and Herzegovina to achieve peace and attain its democratic goals.

The organisation of the first post-war general elections in 1996 faced various challenges. First, according to the United Nations High Commissioner for Refugees (UNHCR), 60% of citizens had left their homes: 29.4% as internally displaced persons (people who are forced to leave their home but remain within their country) and 30.5% as refugees (people who are forced to leave their country),⁹ and 80% of the population was dependent on humanitarian aid. Second, the elections had to be organised in extreme conditions of heightened security concerns as the war ended. The Serb-, Croat- and Bosniac-controlled territories did not have any interaction between them: they had parallel institutions, large territories covered with landmines, many civilian registers destroyed, limited freedom of movement because of checkpoints and internal inter-entity boundaries but also because of “mental barriers” after 3.5 years of restricted travel, not fully implemented reforms of the security sector, and gross violation of human rights in a large part of the territory. Third, these conditions hindered effective press freedom and the free functioning and campaigning of political parties across the country

The General Framework Agreement for Peace in Bosnia and Herzegovina or Dayton Peace Agreement (DPA)¹⁰ that ended the war in Bosnia and Herzegovina was initiated in Dayton, Ohio (United States of America) on 21 November 1995 and signed in Paris on 14 December 1995.

The DPA consists of 11 annexes, of which the following are relevant for the present study: Annex 1-A – Agreement on military aspects of the peace settlement, obliging the signatories to recreate as quickly as possible normal living conditions in Bosnia and Herzegovina, which required the deployment of multinational army forces consisting of land, air and naval units from the North Atlantic Treaty Organization (NATO) and non-NATO countries to Bosnia and Herzegovina, and their assistance in implementing the DPA; Annex 2 – Agreement on inter-entity boundary line and related issues; Annex 3 – Agreement on elections (see paragraph below); Annex 4 – Constitution of BiH, confirming legal continuity of BiH with the existing, internationally recognised borders and the status of a UN member, as well as a modified federation state structure, indicating that BiH, as a complex country, consists of two entities: the Federation of BiH and the Republika Srpska; Annex 6 – Agreement on human rights; Annex 7 – Agreement on refugees and displaced persons, guaranteeing the right to return to their homes of origin, the right to have property which they were deprived of restored to them, and the right to be compensated for any property that cannot be restored to them; Annex 10 – Agreement on civilian implementation of the peace settlement, with a requirement to designate the Office of the High Representative¹¹ who had to monitor the peace implementation process and give instructions on reconstructing and building democratic structures; and Annex 11 – Agreement on international police task force.

9. UNHCR (1996).

10. Available at www.osce.org/bih/126173?download=true, accessed 14 August 2023.

11. During the peace implementation conference in Petersberg near Bonn, Germany on 10 December 1997, it was decided to introduce the so-called “Bonn powers” of the High Representative, which helped remove all barriers to the implementation of the DPA. These covered the issues of security, resistance to the return of refugees and displaced persons, and refusal to issue personal documents. The Peace Implementation Council had demanded the High Representative, in addition to the new authority given to him by these powers, to intervene in the legislative process, impose necessary laws, and his powers also included action against persons performing public functions, even the power to dismiss them if they refused to co-operate.

Annex 3 defines parties' commitment to free, fair and democratic elections, where elections would not only serve the purpose of electing new authority bodies, but also ensure a permanent foundation for peace consolidation. Article II of Annex 3 put the Organization for Security and Co-operation in Europe (OSCE) in charge of adopting and putting in place an elections programme that included several tasks. First, the verification of preconditions for free democratic and fair elections (confirming the existence of a politically neutral environment; enforcing the right to vote in secret without fear or intimidation; ensuring freedom of expression and of the press; encouraging freedom of association; and ensuring freedom of movement). Second, the establishment of a provisional election commission (PEC) that would adopt rules and regulations (unique election-related regulations/legislation in the transitional period) and supervise all aspects of the electoral process, for example determining voter registration provisions, ensuring action to remedy any violation of the electoral rules and regulations, including imposing penalties and accrediting observers of foreign and domestic non-governmental organisations, etc. All these aspects had to be considered at the level of Bosnia and Herzegovina and the entities, and if possible, at the local level.

At the same time, a deadline for the conduct of elections was also specified: the elections were to be held six months after entry into force of the DPA or, if a postponement were necessary, no later than nine months from this date.¹² It has to be emphasised that the mandate of the High Representative included co-ordinating the activities of organisations and agencies regarding free and fair elections, while Annex 11 specified the role of the UN International Police Task Force (IPTF), thus emphasising their role in ensuring the preconditions for free and fair elections.

This had not only underlined the broader approach to the electoral process and the mutual conditionality of the elections, but also the overall implementation of the peace agreement. Namely, the main aspect of the DPA was to promote political pluralism as a mechanism for sustainable peace. If not properly conducted, the elections would result in institutionalisation of nationalistic ideologies that had led to the war of 1990 in the first place. Therefore, only fair and democratic elections could lead to peace consolidation. The elections were the ultimate end of peace confirmation, so the first formal step was to verify the existence of the aforementioned preconditions.

The negotiators had recognised that the OSCE could “play a unique role”¹³ in Bosnia and Herzegovina recovery. They insisted that the OSCE assist the signatories to the DPA (the parties) in three key areas in the post-war peace process:

- ▶ Regional stabilisation: to elaborate and implement agreements on confidence and security-building measures, and regional as well as subregional arms control.
- ▶ Elections: to ensure conditions throughout the country for the organisation of free and fair elections (supervise the preparation and conduct of the elections).¹⁴ The parties agreed to establish one permanent election commission to hold all future elections in Bosnia and Herzegovina.¹⁵
- ▶ Human rights: to appoint a human rights ombudsman and monitor the human rights situation in Bosnia and Herzegovina.

12. DPA (1995): Annex 3

13. OSCE (2006: 7).

14. DPA (1995): Annex 3, Articles 2 and 3.

15. DPA (1995): Annex 3, Article 5.

The founding document for OSCE's responsibilities in the above-mentioned areas – Decision on OSCE action for peace, democracy and stability in Bosnia and Herzegovina (MC(5).DEC/1) – available at www.osce.org/files/f/documents/c/3/22231.pdf – stipulated to:

- ▶ establish a mission in Bosnia and Herzegovina and pledge that adequate resources and personnel would be provided to carry out its tasks as requested by the parties;
- ▶ call for the early appointment of the head of mission by the OSCE chairman;
- ▶ have the chairman in office and head of mission co-ordinate closely with the High Representative towards the fulfilment of the latter's responsibility for monitoring the implementation of the peace settlement and for co-ordinating the activities of the civilian organisations and agencies in Bosnia and Herzegovina.

The ministerial council took note of the cost estimate for the operation, submitted by the Secretary General, of approximately 245 million Austrian shillings¹⁶ for a 12-month period and instructed the permanent council to agree before 15 January 1996 on a budget for the OSCE tasks.¹⁷

The OSCE had to start from scratch in developing a vision on how to organise and supervise the elections. At that time, it was the largest, most extensive and most ambitious undertaking initiated by the OSCE in its existence.¹⁸ Ambassador Robert H. Frowick later stated: "As OSCE's first head of mission in Bosnia and Herzegovina, I recognised this combination as completely unrealistic. There were still too many strains from the war...but by June, I thought we had sufficient strength to proceed with the elections".¹⁹

PEC was established as an interim body responsible for adopting and implementing electoral rules and regulations, and for overseeing the proper conduct of the elections. Initial PEC rules and regulations governing elections were agreed in February 1996. By July, PEC had established rules and regulations for voter and political party registration, an electoral code of conduct and criteria for polling stations. The rules were frequently amended and adapted to every next election, representing a foundation for the development of an election system and election legislation in Bosnia and Herzegovina.

The international conference on elections in Bosnia and Herzegovina was held in January 1996 in Stockholm, Sweden.²⁰ One of the conference's conclusions was that there was a conflict of interest in the double role that the OSCE played by supervising the preparation and conduct of the elections (through PEC), and by organising an independent monitoring process. To overcome this challenge, it was suggested to establish a special election monitoring unit within the OSCE system.²¹ In line with this suggestion, Flavio Cotti, OSCE chairman at the time, had at the beginning of March appointed Ed van Thijn as head of the international observers' co-

16. App. 19 million US dollars

17. OSCE (1995).

18. The OSCE emerged from the Conference on Security and Co-operation in Europe, concluded at Helsinki 1975, but had functioned as an intergovernmental organisation for 17 years, having a minimum number of staff and serving as a forum for Cold War dialogue.

19. OSCE (2006: 14).

20. OHR Chronology Jan-Dec 1996 | Office of the High Representative

21. Arnautović (2009: 559).

ordination in Bosnia and Herzegovina (co-ordinator for international monitoring – CIM). This office functioned independently, sending its reports directly to the OSCE chairman's office.

Ambassador Frowick recommended at a peace implementation conference in Florence that the first post-war elections be held on 14 September 1996, exactly nine months after signing the DPA. At the national level, there were elections for a three-member presidency of Bosnia and Herzegovina, the chambers of the national assembly, the house of representatives of Bosnia and Herzegovina, the presidency of RS, the national assembly of RS, the House of Representatives in Federation of Bosnia and Herzegovina and cantonal assemblies.

The formal "green light" for holding the general elections on 14 September 1996 was given by Flavio Cotti in his report submitted to OSCE's permanent council on 25 June 1996.²² Nine months to set up elections was an ambitious timeline. Cotti warned that if certain minimal prerequisites were not met during the remaining three months, the elections ought not to take place as they would lead to further tensions and "pseudo-democratic legitimisation of extreme nationalist power structure." The most important condition, in his opinion, was the elimination of "every single possibility of direct or indirect exertion of influence by indicted war criminals."²³ The arrests of war criminals only started in 1997.²⁴ The elections were thus announced without the conditions from Annex 3 being met, but that is why Cotti had underlined that the three months to the elections were key for meeting the conditions. At the meeting of the "contact group"²⁵ countries in Berlin on 4 June 1996, it was concluded that "the elections in Bosnia and Herzegovina were to proceed on schedule and it was... of central importance for the peace plan..."²⁶ The early holding of elections was considered to be an essential precondition for stable, democratic and representative governance in Bosnia and Herzegovina. Special elections were held on 30 June 1996. These elections were organised for the city council and six municipal councils in the city of Mostar, presenting the first true test for the forthcoming elections.²⁷ The voting was also organised outside Bosnia and Herzegovina, in Germany, Norway, Sweden and Switzerland.²⁸

The International Crisis Group (ICG) had stated that "since June, not only have prerequisite conditions not improved, but in many respects they have deteriorated."²⁹ The return of refugees and displaced people did not happen. Even if a few of them came to the zones controlled by other ethnic groups, they were regularly under special police control, often detained, discriminated and exposed to violence. The local authorities had tolerated violent incidents against the returnees. It was stressed that the ruling parties SDS and HDZ had been manipulating voters' registration

22. Certification of the elections in BiH, declaration of the chairman in office, federal councillor Flavio Cotti, at the permanent council of the OSCE, 25 June 1996.

23. ICG (1996: 11).

24. United Kingdom special elite forces killed Simo Drljača and arrested Milan Kovačević, both indicted for war crimes. Until September 1998, 27 out of 57 public indictees had been indicted in the International Criminal Court in the Hague.

25. France, Germany, Italy, Russia, United Kingdom and the United States of America, with Italy holding the presidency of the EU at the time.

26. Established in spring 1994 the Contact Group served as a coordination forum of the crisis management efforts of the United States, the Russian Federation, France, the United Kingdom, Germany and Italy (since 1996). Hence, the Contact Group became a decisive factor in uniting the international community of states.

27. Following the war, Mostar, a city divided between Bosniacs and Croats, functioned on the basis of an interim statute of the city, which was passed by Hans Koscnik. The statute meant implementation of point 20 of the DPA, giving 31 December 1995 as a deadline for adoption of this statute that was to preserve the unity of the city.

28. In the four countries with the highest number of Mostar citizens, polling stations were opened in the capital cities. The transport costs of voters to these polling stations were covered by the EU.

29. International Crisis Group Report (1996: 12).

(both had stated that their ultimate goal was unification with their respective “mother” countries) and voters were directed to vote according to the wishes of the ruling political parties. Since most Serbs displaced from Federation of Bosnia and Herzegovina had been forced to register to vote in RS, it had not contributed to the reconstruction of ethnically mixed communities. A path towards a more stable Bosnia and Herzegovina could certainly not be built through such elections, and these abuses served to confirm the ethnic cleansing results. However, following the contact group’s decision and calls for the need of elections by the international community, the DPA timeline was prioritised over ensuring that satisfactory electoral preconditions were actually in place. The international community felt that as soon as the wartime leadership would be replaced, a democratically mandated official could be put in place. If the elections were to be postponed, it was likely that conditions regarding the proper implementation of the DPA would continue to deteriorate.



II. SECURITY AND OTHER CRITERIA USED AROUND THE FIRST POST-WAR ELECTIONS

The OSCE took the decision to postpone the highly contentious municipal elections to ease pressure on the rest of the electoral process. Ambassador Frowick stated that PEC had decided that municipal elections were not feasible.³⁰ Formal reasons for postponement were the fact that Annex 3 did not oblige the OSCE to organise municipal elections. Furthermore, the necessary conditions for free, fair and democratic elections were not met according to the reports of international organisations.³¹ Bearing in mind that these conditions did not exist, the question arises on how the failure to meet these conditions was not an obstacle to hold general elections. An answer should be sought in the efforts of the international community to elect the domestic representatives of the institutions as soon as possible regardless of the “quality” of the electoral process. This would, in turn, secure the confirmation of the peace agreement by the voters in Bosnia and Herzegovina. Early 1997, a definitive agreement was reached with Danish minister Niels Helveg Petersen, then OSCE chairman, to schedule the first municipal elections for the following September.

Aimed at preserving the hard-achieved peace, the most comprehensive elements of the DPA were the “agreement on the military aspects of the peace settlement” (Annex 1-A) and the “agreement on regional stabilisation” (Annex 1-B). The parties³² committed themselves to co-operate and to provide full support to the international peace keeping forces.

The Peace Implementation Council was established in London on 8 and 9 December 1995. It brought together 55 states and international organisations that took part in building post-war Bosnia and Herzegovina, either by deploying troops or providing financial donations (supranational organisations such as NATO and the EU, the UN with its organisations, the OSCE, the UN International Criminal Tribunal for the former Yugoslavia (ICTY), the World Bank). The Peace Implementation Council was managed by a Steering board.³³

It only became clear to many people that the war was over when NATO troops were deployed in the country mid-December 1995. The troops of parties in conflict were not allowed to leave their barracks and the international military forces had full and unimpeded freedom of movement, setting up bases, the right to accommodation, operations, training, military exercises, etc. The NATO troops had almost 60 000 people at the beginning of the intervention and were called IFOR (Implementation Force). Following the end of its term on 27 November 1996, IFOR transferred responsibilities to a new NATO Stabilisation Force (SFOR). Their basic duty was, in accordance with the DPA, to take care of security in the country, so they had control powers at checkpoints and streets. They had the authority to enact rules for the control and regulation of land and water traffic throughout Bosnia and Herzegovina (military air traffic without the permission of IFOR was suspended), and they carried out disarmament control.

30. On 27 August 1996. This decision was published in the Official Gazette of BiH, No. 29/96, on 13 September 1996 in Article 233, one day prior to the general elections. The municipal elections were tentatively scheduled for 20 November 1996.

31. IOM (2003: 16).

32. Bosnia and Herzegovina and its two entities (Republika Srpska and the Federation of Bosnia and Herzegovina), Croatia and FR Yugoslavia.

33. Consisting of the United States of America, Germany, Great Britain, France, Italy, Japan, Canada, Russia, the EU Commission, the Organization of Islamic Conference (represented by Türkiye).

The most significant parts of the agreement related to the cessation of hostilities, which entered into force on 5 October 1995,³⁴ as well as the change in the distribution of forces for Bosnia and Herzegovina and its entities³⁵ in three phases. The first phase was a ceasefire, the establishment of separation zones and a ban on military weapons within 30 days. The second phase referred to the withdrawal from certain zones and the transfer of authority to the other entity within 45 days, with an emphasis on respecting IFOR's military action, which implied the use of military force to comply with Annexes 1-A and 1-B. The third phase entailed confidence-building measures: demobilisation and withdrawal of heavy weapons to the locations designated by IFOR within 120 days after the transfer of authority. There were everyday reminders of the unique post-war international interventions, such as the presence of IFOR helicopters, tanks, armoured personnel carriers and the police. The UN agencies, most notably the IPTF, began to set up throughout the country to work on police restructuring efforts. The OSCE regional stabilisation department, together with SFOR and the OSCE, carried out inspections to assess the level of compliance by each entity on their respective commitments.

Some innovative measures were introduced: the exchange of military liaison missions between the two entities, restrictions on deployments in sensitive areas, prohibition of the re-introduction of foreign forces and the monitoring of weapon-manufacturing capabilities.³⁶ Transporting arms' inspectors between entities or municipal councils from one town to attend a session in another town laid the ground work for building confidence among people in an environment of fear and distrust. The normalisation of travel and security progressed day by day.

The joint efforts of the above-mentioned organisations enabled freer movement of all election participants (voters, candidates, election administration and observers).

IFOR, the OSCE, the IPTF and the Office of the High Representative, in collaboration with the entity ministries of internal affairs, had carried out massive security operations on election day.

Local police were responsible for keeping peace and order around the polling stations, and secured voters' freedom of movement to and from the polling stations. The police were also tasked with strictly prohibiting any campaigning, intimidation or maltreatment in the vicinity of the polling stations. Presidents of the polling stations were instructed to seek assistance of the police in case of any incidents. Local police closely co-operated with the IPTF, whose role was to monitor the situation at polling stations, and to oversee observance of the regulations concerning the prohibition of political activities in the vicinity of polling stations. The IPTF was also responsible for attempting to remove any cases of violation by informing the local police, local election commissions (LECs) and others.

On election day, IFOR had to ensure free movement of voters in the entire country. Their units were stationed at 100 metres from the polling stations, and in case of incidents the president of a polling station could seek their assistance. They also provided assistance during storage, transport and distribution of polling material.

34. DPA (1995): Annex 1-B, Article 2.

35. DPA (1995): Annex 1-B, Article 4.

36. Two OSCE verification inspector teams (a French-led inspector team, including six officers from FBiH, entered RS and a German-led inspector team, including six officers from RS, entered FBiH).

Given the number of displaced persons potentially crossing the inter-entity boundary line (IEBL), the key international organisations conducted a massive security operation to prevent any possibility of violence on election day. In total, there were 19 designated routes for crossing the IEBL. Only vehicles equipped to carry eight or more passengers were permitted to cross the IEBL.³⁷

While the security arrangements in the regular polling stations were generally satisfactory, significant problems of crowd control and voter safety occurred at some polling stations for voting in absentia, and voting was often interrupted.³⁸

Although the rules and regulations had set forth that “every effort will be made by the OSCE and the other international organisations concerned to facilitate the return of citizens to the municipality where they were registered in 1991”;³⁹ this was not followed in practice. A day before the elections, besides the bureaucratic difficulties, seven UNHCR-sponsored bus lines were established in Republika Srpska for transport of displaced persons between the two entities. These buses were often stoned and passengers were injured or detained.

On election day the voters could not cross the IEBL without fear of intimidation or their personal safety. It was decided that the safety of voters crossing the IEBL could only be ensured by travelling in buses along 19 designated routes regularly patrolled by security forces. The voters who opted not to use organised transport were informed that their safety could not be guaranteed. However, lack of information about transport arrangements and the realisation that voters would not be allowed to visit their homes resulted in a small number of voters who decided to vote in person in their pre-war municipalities.

Nevertheless, there were some positive steps forward. In the spring of 1996, national leaders on all sides, especially those indicted for war crimes, had started to get concerned about their positions.⁴⁰ Until mid-September, only seven out of a total of 75 war criminals indicted by the ICTY had been arrested or had surrendered to the Tribunal.⁴¹ In spite of the problems to locate war criminals, the arrests did send a signal to local authorities who obstructed the return of displaced persons and refugees that their violations of the DPA would not be tolerated.

Regardless of all these problems, it has to be concluded that the implementation of the DPA’s military aspect, unlike its civilian aspect, was done in the beginning of 1996 without major problems.⁴²

There is no way that elections could have taken place without the committed and dedicated support of IFOR troops that worked in co-operation and co-ordination with other relevant organisations and competent ministries of interior.

37. As per the agreed statement by ministers of internal affairs on elections’ security, 13 September 1996: to minimise traffic congestion, small vehicles would not be permitted to use the voter routes.

38. OSCE (1996a: 2).

39. PEC rules and regulations, 1996, Article 8. Decisions until July 16, 1996

40. The tribunal had decided to hear in absentia the testimony against Radovan Karadžić and Ratko Mladić (a Serb military general). Tihomir Blaškić (a Croat military general) had surrendered to the ICTY in the Hague

41. ICG (1996: 19).

42. Since 1996, armed forces in BiH have downsized dramatically, from an estimated 230 000 soldiers (with another estimated 200 000 people considered combatants) to what in 2006 would become a force of 15 000 military professionals and active reserves. Compulsory military service ended at the end of 2005.



III. ELECTION ADMINISTRATION AND SUPERVISORY BODIES

The OSCE, together with its offices (election officers and international observers), was responsible for securing conditions for the efficient conduct of elections, and for supervising preparation and conduct of the elections. This was achieved through the following three levels of administration:

- ▶ Chairperson of LEC, who, in co-operation with the OSCE election officer, was responsible for making all executive decisions on election day.
- ▶ OSCE election officers, who were responsible for all OSCE's election-related activities in their responsibility zone.
- ▶ OSCE international election monitors, who were responsible for monitoring the work of a particular polling station. Their role was to consult and inform the president of the polling station committee (PSC) about the observance of the rules and regulations, to note all significant events in the poll book, to check if the forms were properly handled and stored in a safe manner, and to sign all documents together with the president of the PSC.

Thus, the election administration had several levels:

The **provisional election commission** was established in April 1996 and had seven members.⁴³ Their task was not only to adopt rules and regulations, and numerous special instructions for the elections (which took precedence over all local laws and regulation, except in the segments not covered by these regulations), but also to oversee the proper conduct of elections. Rules and regulations were the legal basis of the post-war elections. The parties were required to fully comply with PEC's rules and regulations, irrespective of any internal national laws and regulations.⁴⁴ The international community had, in fact, expected that a permanent election commission of Bosnia and Herzegovina would be established by 1 January 1997.⁴⁵

Local election commissions, the election management bodies at the local level, consisted of a chairperson and three or five members (depending on the size of the municipality or city), and their alternates. These commissions were appointed by appropriate authorities for all elections, subject to PEC's consent. LECs were responsible for conducting elections under the supervision of the OSCE and PEC, and had to carry out all other duties ordered by PEC. They had to ensure facilities, furniture, utilities, etc. for regular polling stations, polling stations for voting in absentia and the counting centres, and they were also responsible for recruitment and training of PSCs that worked at these locations. LECs had, in consultation with PEC and the OSCE, provided a geographic description of the areas to be covered by polling stations and the selected sites for polling stations (an average of 600-800 voters was used as a guideline for establishing a polling station in 1996, and that number increased to 2 000 voters in 1997).⁴⁷ All LEC members were people eligible to vote in the forthcoming elections. LECs were staffed with present and former

43. Robert H. Frowick (head of the OSCE mission in BiH), Sir Kenneth Scott (senior deputy for elections of the OSCE mission in BiH), Kasim Begić (representative of RBiH), Slobodan Kovač (representative of RS), Mate Tadić (representative of FBiH), Eugene Hutchinson (representative of Carl Bildt, the UN High Representative to BiH), and John Reid (election expert from Canada).

44. DPA (1995): Annex 3, Article 3, paragraph 1.

45. OSCE Manual for voting and counting, October 1997, p. 9.

46. Rules and regulations, municipal elections, 27 May 1997, Article 72.

47. Ibid., Article 71.

judges of the courts of Bosnia and Herzegovina. If there was not a sufficient number of judges, then lawyers and other persons of a high professional standing and appropriate experience and knowledge who could efficiently perform the work of the commission were appointed.⁴⁸ This way of selecting LEC members was a wise decision of PEC, bearing in mind that the judges were the most independent part of society at that time. If LEC could not pass a decision because the votes on each side were equal, the chairperson had a casting vote.⁴⁹

Certain prohibitions were put in place, aimed at achieving impartial operations of LECs: “No persons shall be appointed as a member of or be employed by or participate in the functions of LECs if he or she is: ineligible to run as a candidate for office, prohibited under any of the provisions of the rules and regulations of PEC, elected to or holds a political appointed office or is seeking an elected office, is in a leadership position of a political party or intends to seek such position or shown to lack the impartiality necessary to be a member of the commission.”⁵⁰

In this way, PEC had ensured that the operations of LECs were independent of all other state bodies, which were required to provide support and all necessary assistance to LECs in conducting the elections.⁵¹

PEC could refuse engagement of any person in a LEC and their decision on confirming the appointment of LECs was final.⁵² In addition to PEC, the powers in the process of establishing a structure of election administration in line with the rules and regulations were also given to LECs as lower-level bodies. The international community had tried to reduce the possibility of obstruction, so the higher levels of authority – entity and cantonal – were not given any role in the conduct of the elections.⁵³

All LEC members who were appointed for the elections on 14 September 1996 remained in office for the 1997 municipal elections, except for those members who were dismissed by PEC (due to partiality or withdrawal). In line with the new set of rules and regulations, additional members of LECs were appointed in every municipality for the 1997 municipal elections. They came from political parties that were registered for the elections. Every political subject that had submitted a list of candidates to PEC had the right to submit one name of that subject’s representative to the OSCE election officer responsible for that region. The OSCE officer then drew lots for the persons to become LEC members. The lots were drawn until the commission had 12 members or until there were no more representatives left. PEC and the OSCE underlined that the purpose of expanding the membership was to increase transparency during the process, and that adding political parties’ members should not undermine impartiality and professionalism. However, in practice it did not happen this way. It is quite likely that such decisions, which directly introduced politics into the election administration, were some kind of concession to the political parties, aimed at defusing the tensions, but such a massive body was neither operational nor impartial, so this solution was gradually abandoned for the next elections.

48. Rules and regulations, decision until 16 July 1996, Article 20.

49. Rules and regulations, municipal elections, 27 May 1997, Article 18.1.

50. *Ibid.*, Article 21.

51. Rules and regulations, Annex No. 1.1, decision from 17 July until 15 August 1996, Article 202.

52. *Ibid.*, Article 22.

53. Entity commissions were only an instrument for the receipt of funds necessary for the elections (for the remuneration of PSCs, for rent and utilities at the polling station) from the entity governments.

Polling station committees were appointed for every polling station, and their composition had to reflect the national structure of the municipalities. LECs had the responsibility to appoint PSCs. This task was demanding, particularly for the first post-war elections in 1996 when the first PSCs were appointed, due to a lack of qualified and impartial personnel. LECs heavily relied on information and personal acquaintances of their members. LECs looked for PSC members in the municipal administration, among teaching staff, local community commissioners or students. The recommendation in the subsequent election cycles was to select PSC chairpersons from the list, approved by the municipal election commission during the previous elections, with people who carried out their tasks in line with the instructions and in a professional manner. The chairperson of the PSC had to be an educated person, capable of managing and organising their work, as well as correctly entering information in the stock form. The PSC was responsible for voting procedure, maintenance of integrity and unhindered process at the polling stations. PSCs consisted of a chairperson and seven members responsible for different stages of the process (order supervisor/ink controller, one person for inking – voters who voted were inked to prevent duplication of voting, two persons in charge of identification, two of issuing the ballots, and one of monitoring the ballot box). The president reported to LEC, maintained peace and order, made sure regulations were observed, was responsible to immediately report all mistakes, helped the voters to understand the process, and handled all problems concerning identification and the right to vote. All extraordinary cases were entered into the poll book and in case of any issues their decision was final.

The new criteria for PSCs were already laid down in 1997. The criteria related to the number of voters in municipalities: that is at least six members and a chairperson if there were more than 2 000 voters, at least five members and a chairperson if there were 1 000 voters, and if the polling station had less than 1 000 voters than there were at least four members and a chairperson.⁵⁴ The ineligibility to be a member of the PSC was also laid down in 1997: people with no right to stand in an election according to the DPA could not be PSC members; people under a ban for violation of the rules and regulations, or who were holding a political position or an elected position, and were part of a political party's leadership, or were aspiring to become part of the party's leadership, or who had demonstrated a lack of impartiality necessary for a member of the election administration. These novelties were a positive step towards a more professional election administration.

Committees at the centres for counting ballots from all polling stations were appointed by LECs and the OSCE. These were working groups consisting of PSCs and OSCE monitors, and had worked under observers' scrutiny. The committees consisted of a chairperson and two deputies, and a sufficient number of members to complete the count in two days.⁵⁵ All engaged persons had to sign a declaration of secrecy, guaranteeing not to convey available information on voting without authorisation to protect the integrity of the process.

54. Rules and regulations, municipal elections, 15 September 1997, Article 73.

55. A group of three members could count 950 ballots in one hour. Therefore, 50 000 ballots had to be counted for a smaller municipality of 10 000 voters, and six working groups were necessary to complete that task within 24 hours. (OSCE manual for counting centers, 21 August 1995, p. 2).

OSCE OFFICIALS

Authorised agents of PEC, supervisors, observers and other members of the international community accredited by PEC had access to all documents and records, and were permitted to attend working groups, planning meetings and official sessions of the election commissions.⁵⁶

The establishment of the first OSCE mission in Bosnia and Herzegovina, led by head of mission Frowick, began in December 1995 with only four members. When the first OSCE officers arrived there were no election laws, voters' lists or LECs. The mission often seemed to be trying "to bridge the unbridgeable and repair the no repairable – often greeted by both local authorities' and citizen's reluctance, intransigence and ignorance..."⁵⁷ The establishment of a mission is a challenging task and that task is even more challenging at times of war. Participants of the process often referred to it as an "organised chaos and frenzy of activity".⁵⁸ Preparing the election in difficult post-war conditions was risky and challenging, and meant daily testing of capabilities of both the international community and the local staff. There were frequent power outages, the water supply was irregular and wood burning stoves provided much of the heat for the offices. Phone lines were often non-existent and mission members relied on satellite phone connections. Motorola radios were an important communication tool before mobile phone coverage was available. Staff approaches were often ad hoc and improvised, but result-oriented. The mission received their first computers after three months.

In only five months, the mission had its head office in the capital Sarajevo, six regional centres and an additional 25 field offices throughout Bosnia and Herzegovina, with five programme areas: democratisation, elections, human rights, media development and regional stabilisation. In total, there were 400 international officers and almost 500 local officers. The sites selected for regional centres and field offices were of mixed quality, with some having suffered war damage and others simply neglected. Mission members had different backgrounds and experiences, including work as police officers, printers, lawyers, travel specialists and even air traffic controllers, and they had very different understandings of the OSCE and its mission. International staff came under seconded arrangements with their respective governments. They had various levels of knowledge about the situation in Bosnia and Herzegovina, the basic conditions of the mission and life in a post-conflict zone, which was an additional challenge. The mission's task was to establish a structure and become operational within six months, so that elections could be planned within six to nine months after formal signing of the DPA. All of this made the task of the OSCE mission even more challenging.

Elections were paid by the international community. The initial budget for the small mission was approximately US\$25 million, though significant additional fundraising efforts were needed from the start to cover the estimated US\$50 million cost of the elections and related free media support efforts.⁵⁹

56. Rules and regulations, decision until 16 July 1996, Article 23.

57. OSCE (2006: 152).

58. OSCE (2006: 52).

59. OSCE (2006: 55).

In general, funds for the elections were provided according to the following ratio: 50% OSCE and 50% entity governments. The entity governments covered the funds for the remuneration of PSCs (a daily allowance of 60 Deutsche mark), the costs for renting office space and polling stations, fuel costs and material costs such as office supplies, equipment, post services, power and travel allowances.⁶⁰ The OSCE covered the remuneration for LEC members (500 Deutsche mark per month for the chairperson and 450 Deutsche mark for members).

Delays in funding and lack of staff made the OSCE postpone all deadlines to ensure that the elections would take place. For example, publication of the preliminary voters' lists was postponed for two months, and the start of the OSCE out-of-country office registration that was planned for 1 April started only on 10 June 1996, which resulted in multiple postponements of the final deadline for registration that was ultimately set for 8 August 1996.

The OSCE developed a strategy for a smooth transition to gradually transfer responsibilities for conducting elections from international to domestic staff.

From 1998 onwards, the OSCE had started activities aimed at creating preconditions for a successful transition of responsibilities for conducting elections to the domestic institutions. In addition to the association of election officials, which was successfully registered in both entities and acted as a single organisation at Bosnia and Herzegovina level, some other activities were also initiated. Some examples are training for the election administration in co-operation with Essex University, United Kingdom, sending Bosnia and Herzegovina representatives to international conferences abroad, election observation missions, etc. The Bosnia and Herzegovina representatives had gradually taken over election management and election results' implementation, while the international election officials assumed an advisory role, and provided support to election officials in the execution of their tasks. Already in 1999, some field offices were managed by domestic actors, without international election experts. The first Bosnia and Herzegovina election commission was established only in 2001, when the first election law was adopted, but its international members were involved in the electoral process until 2005.

60. Decision proposal on spending plan for financing elections in FBiH of 9 October 1996.

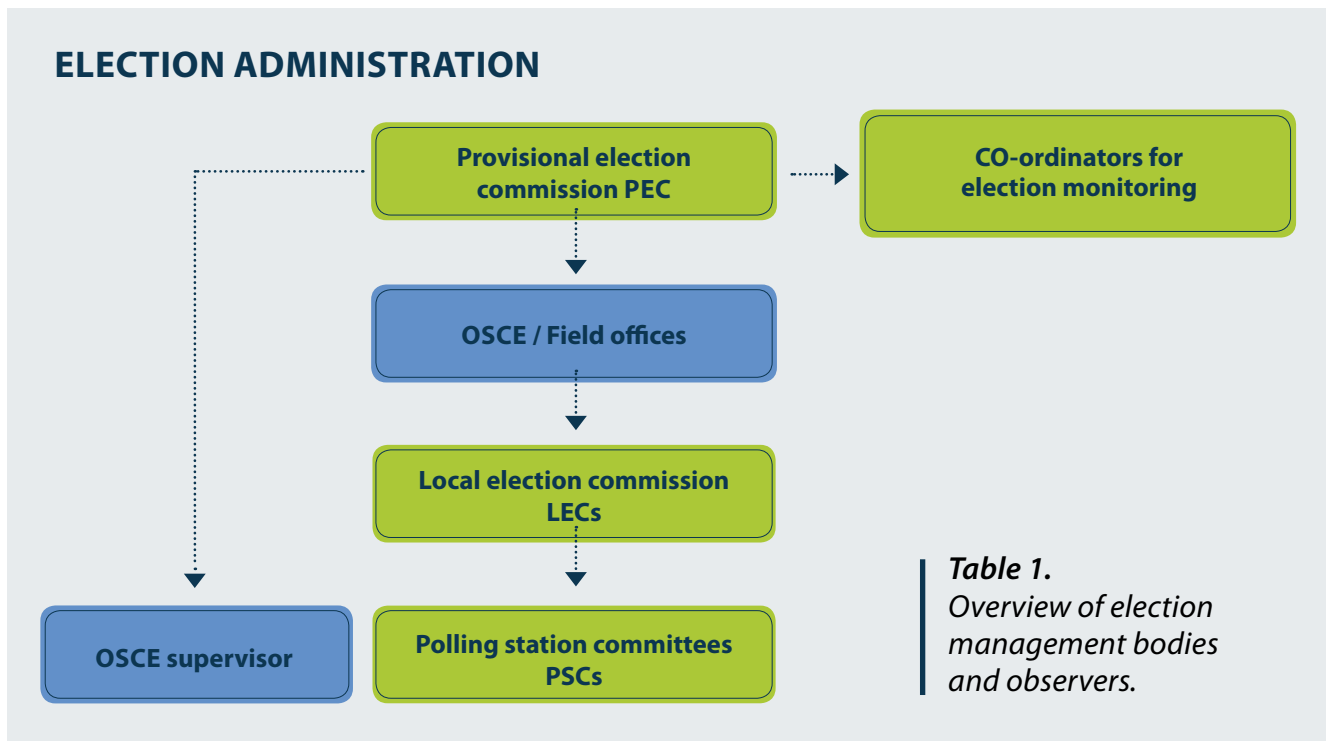
ELECTION OBSERVATION

Accredited observers were able to monitor the electoral process at polling stations and in ballot counting centres. They had the right to move freely, without approval or notice, to communicate freely with all political parties, candidates, the media and election officials, to follow the course of voting, to count and publish results, to freely inspect polling materials, to access complaints and appeals, to inform the PSC chairperson about irregularities, but they were never allowed to give instructions or override a decision of election officials.

Registered representatives of political parties and independent candidates had the right to access polling stations and counting centres, but they were not allowed to interfere with the process and had to respect the secrecy of the vote. They were not allowed to wear any signs that would affiliate them with a party. They could pass on their observations to the monitoring team.

The first rules and regulations (1996) only prescribed the role of international observers (representatives of governments and international organisations, and representatives of international non-governmental organisations).⁶¹ PEC authorised the election monitoring group to accredit international observers. The head of the election monitoring group co-ordinated joint efforts of the international observers.

The mission of the co-ordinators for the election monitoring group was headed by Ed van Thijn from the Netherlands and was tasked to assess the entire election cycle. A small team commenced its activities in April and 25 long-term observers were added to the team in June. A total of 1 000 election observers were deployed at almost 3 000 out of 4 400 polling stations in Bosnia and Herzegovina on election day.



61. Rules and regulations, decision until 16 July 1996, Article 151.

OTHER SUPERVISORY BODIES

An election appeals sub-commission (EASC) was established as a supervisory body. The EASC was a judicial body whose four members were appointed by the chairman of PEC in consultation with its members. The EASC chairman was a distinguished international lawyer or jurist with international experience. In addition, one senior judge from Bosnia and Herzegovina, one from Federation of Bosnia and Herzegovina and one from Republika Srpska were also appointed. The EASC was served by a staff of four lawyers: one from OSCE participating states and one from Bosnia and Herzegovina, one from RS and one from Federation of Bosnia and Herzegovina. It adopted its own rules and regulations, including a complaint filing procedure. This body reported to the head of the OSCE mission to BiH. The function of the EASC was to ensure compliance with PEC rules and regulations, to adjudicate complaints regarding violations of provisions on elections, and it had the right to impose appropriate penalties. The EASC could prohibit a political party for running in the elections, decertify a party already listed on the ballot, and remove candidates from a party list. In the event that consensus could not be reached by the EASC, the chairman made the final and binding decision.⁶²

A media expert commission⁶³ was established to assist the Parties of the DPA in the fulfilment of their obligations concerning media regulation, in particular with respect to freedom of movement, full and equal access of the media, and all other media activities related to the elections. Its chairman was the OSCE senior adviser for media development, and included representatives of the governments of BiH, Federation of Bosnia and Herzegovina and Republika Srpska, a qualified media specialist appointed by each of the parties, representatives of the ministries of interior of both entities, a member appointed by the High Representative, and the human rights officer of the OSCE mission. Special sub-commissions were established in five OSCE regional centres. Each regional centre of the OSCE mission included the chairmanship of the OSCE regional media officer and two designated representatives of the appropriate entity government (one from the ministry of interior, a qualified media expert resident in the locality and appointed by the appropriate entity government, a member appointed by the High Representative, and human resources officers of the OSCE regional centre). A quorum consisted of half of the membership plus one. In the event of a dispute, the decision of the chairman was final, but the sub-commission could decide to refer difficult issues to the media expert commission.⁶⁴

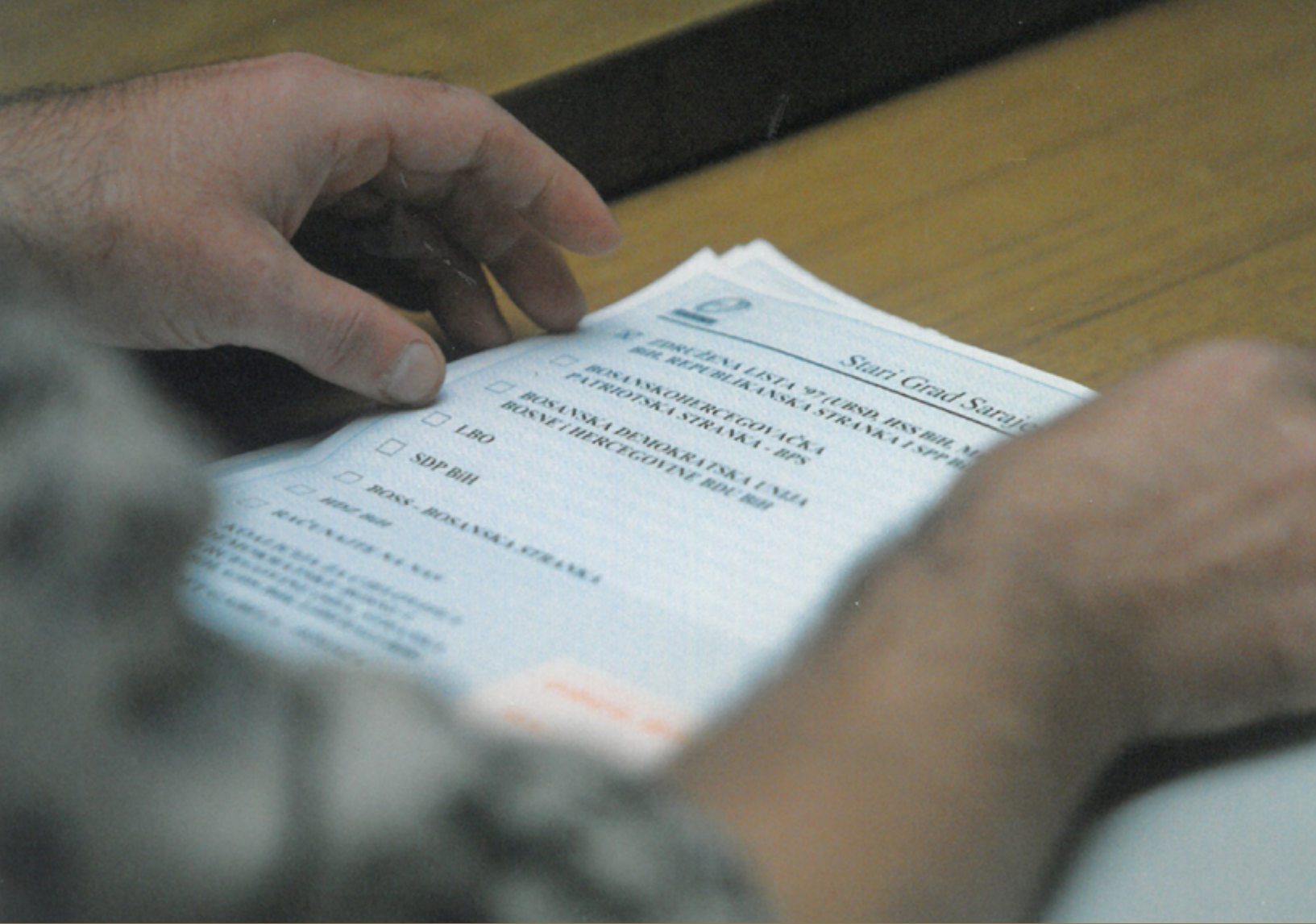
At that time, government-controlled media prevailed in Bosnia and Herzegovina. A main problem was that all main electronic media were owned and controlled by the authorities, while independent private media existed only in a few municipalities. In particular the authorities in the RS- and Croat-controlled areas used the media to further their own political agendas. The state-controlled media in RS used their programmes to spread secessionist messages. Opposition parties had to pay high fees for advertisements, effectively barring access to them. The OSCE media expert commission issued warnings rather than fines for violations that had taken place. Therefore, there was some criticism regarding the lack of efficient mechanisms to prevent violations of the rules and regulations. "The media expert commission addressed some 30 complaints, for most of which it asked for additional explanations. In the few cases in which the media expert commission decided to take action, it merely required apologies and referred a few others to PEC for further action."⁶⁵

62. Rules and regulations, decision until 16 July 1996, Chapter VIII, Articles 137-144.

63. Ibid., Article 146.

64. Rules and regulations, decision until 16 July 1996, Chapter VIII, Article 148.

65. ICG (1996: 41).



Stari Grad Sarajevo

IZBORNICA LISTA 97 (URSD, HSS BiH, M...
BiH, REPUBLIKANSKA STRANKA I SPP BiH)

BOSANSKOHERCEGOVAČKA
PATRIOTSKA STRANKA I SPP BiH

BOSANSKA DEMOKRATSKA UNIJA
BOSNE I HERCEGOVINE BDU BiH

LBO

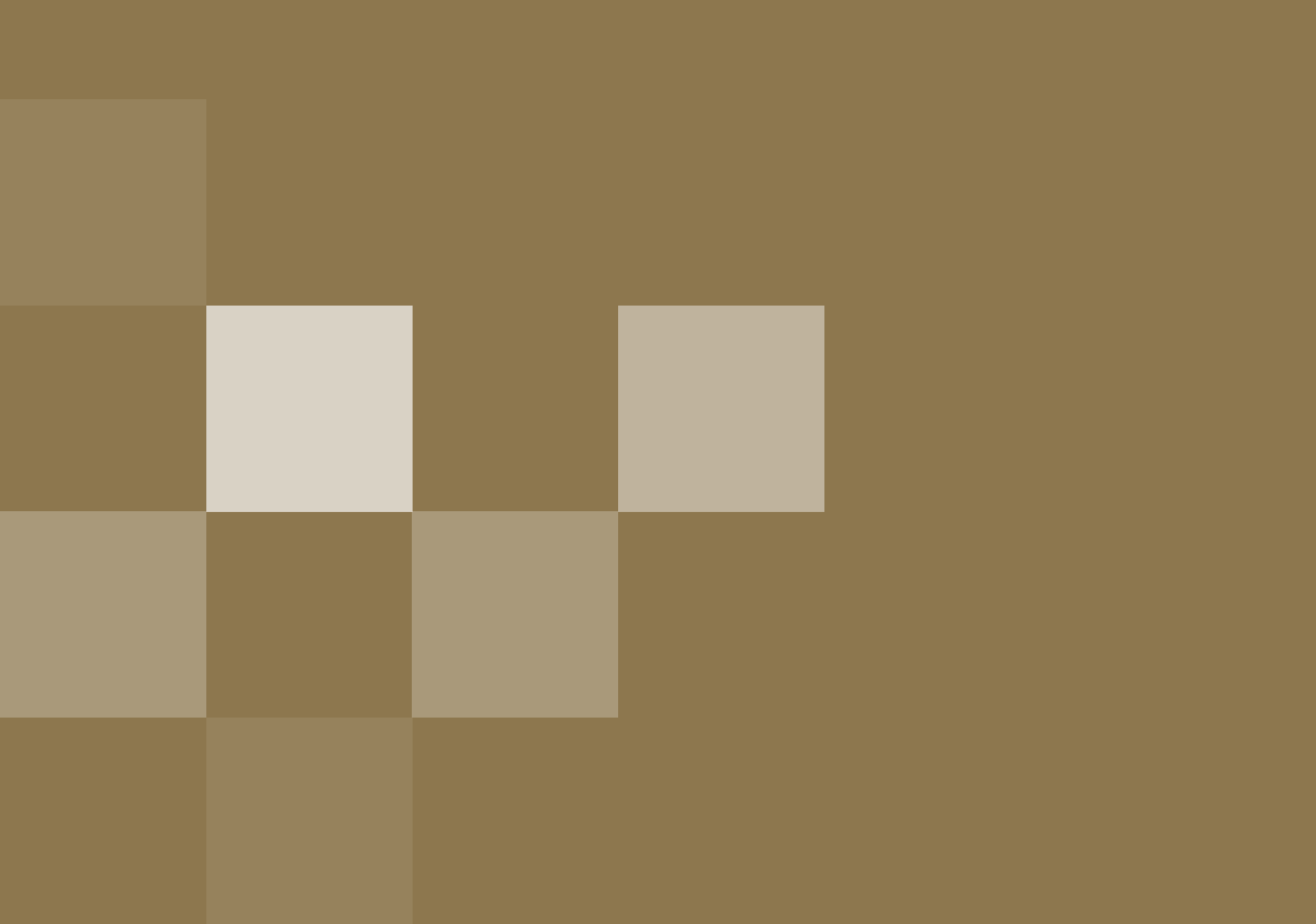
SDP BiH

BONS - BOSANSKA STRANKA

BDU BiH

RACIONALISTIČKI SAVET

AGENCIJA ZA IZBORNO PRAVO
IZBORNO UREĐIŠTE SARAJEVO
IZBORNA JEDINICA STARI GRAD SARAJEVO
IZBORNA LISTA 97



IV. VOTERS' LISTS AND REGISTRATION

ACTIVE VOTING RIGHTS

At the first post-war elections on 14 September 1996, all citizens of Bosnia and Herzegovina, aged 18 or older and whose name appeared on the 1991 census, had the right to vote. PEC had prescribed that the voters' lists would be based on the 1991 census, as there were no other relevant records in the country destroyed by war. Copies of the provisional voters' lists, based on the 1991 census conducted by the State Statistical Institute, were distributed to all municipalities, but also outside Bosnia and Herzegovina to countries in which Bosnia and Herzegovina refugees lived. All voters had a period of six weeks from publication of the provisional lists to check if their name appeared on the list and if it was correct. If not, they had to submit an application form to be granted the right to vote. These provisional voters' lists were of poor quality, contained a lot of mistakes and were difficult to use. It is important to underline that publication of the voters' lists was delayed for two months due to the lack of human and technical resources. However, these lists laid the foundation for voters' registration.

The main objective of the DPA was to have the elections contribute to repatriation of displaced persons and to counter the effects of ethnic cleansing. To counter the effects of ethnic cleansing, and taking into account the provisions of Annex 7 (agreement of refugees and displaced persons) of the DPA: "All refugees and displaced persons shall have the right to freely return to their homes",⁶⁶ some very complex rules for voters' registration were laid down.

However, although the 1996 rules and regulations had stipulated that any Bosnia and Herzegovina citizen aged 18 or older whose name appeared on the 1991 census for Bosnia and Herzegovina, had the right to vote for their 1991 municipality of residence, PEC had passed an exception to this rule. This allowed refugees and displaced persons who had changed their place of residence after 6 April 1992 due to war activities, to change, under certain circumstances, the municipality for which they would be voting.⁶⁷

Article 7 of the rules and regulations stipulated that a "citizen who no longer lives in the municipality in which he or she resided in 1991, shall, as a general rule, be expected to vote, in person or by absentee ballot, in that municipality". However, the elections did not have the desired effect because, as an exception to this general rule, a citizen could apply to PEC to cast their ballot elsewhere.⁶⁸

66. DPA (1995): Annex 7, Article 1, paragraph 1.

67. Rules and regulations, decision until 16 July 1996, Article 10. Citizens of BiH who changed their place of residence between the 1991 census and 6 April 1992 could register to vote in the municipality in which they lived on 6 April 1992 and could vote there in person or by absentee ballot. Persons who were citizens of BiH on 6 April 1992, but who had changed their place of residence since that date, either voluntarily or as a result of the war, could register to vote in the municipality in which they now lived and intended to continue to live; they could vote there in person, but not by absentee ballot.

68. Rules and regulations, Article 9.

Citizens who were no longer residing in the municipality from 1991 were expected to vote for that exact municipality, either in person or by absentee ballot, provided that they had been registered in that municipality as confirmed by LEC or PEC.⁶⁹ However, in line with the exception to the general rule, refugees and displaced persons had an additional option: they could register to vote in the municipality in which they intended to continue living, and to vote in person, but not by absentee ballot.⁷⁰ In this way, PEC turned an exception into the general rule, allowing displaced persons to vote in their temporary place of residence if they could prove their intention to continue to live there. This possibility was abused by the authorities on all sides and by the three main political parties for the purpose of tactical voter registration.

In Bosniac areas, displaced persons were generally encouraged to vote in their former places of residence, to win the vote in municipalities that were now controlled by Croats and Serbs.

The situation was quite the opposite for displaced Serbs from Federation of Bosnia and Herzegovina. A total of 78 196 wanted to vote by absentee ballot and 241 741 chose to vote in their current place of residence.⁷¹ Serb authorities systematically pressured them into registering to vote in RS. As a result, the exception became a rule in practice, distorting the spirit of the DPA. Government officials from RS and the Federal Republic of Yugoslavia (FRY) had prevented refugees from registering to vote in their home areas, pressuring them to do so by stating that they would receive housing, humanitarian aid and other benefits, only on presentation of a special certificate which they could acquire by showing voter registration form P-2. A total of 123 007 Serb refugees in FRY registered using form P-2 to vote in municipalities across RS. Approximately 37 000 Serbs from FRY had come by bus to vote in RS on election day as reported by the interior ministry of RS.⁷²

The situation was similar in many areas controlled by Croats, where Croat displaced persons were put under pressure to vote in their current place of residence. Displaced BiH Croats, who were now living in Federation of Bosnia and Herzegovina, generally registered to vote in the municipalities in which they were living in 1991, by absentee ballot (187 414) and many others had expressed their intention to travel on election day to their former place of residence and cast the ballot in person. Only 59 473 persons had requested to vote at their current place of residence.

To cast a ballot on election day, a voter's name had to be on the 1991 census or the vote had to show an application form approved by LEC or PEC.

The registration procedure conducted by LEC in 1996 related to the processing of application forms of persons whose names were not on the provisional voters' list, or of people who were requesting a change in the information provided on the list, or to the removal of the names of deceased persons.

69. Rules and regulations, decision until 16 July 1996, Article 7.

70. Rules and regulations of PEC, Official Gazette of RBiH, Nos. 22/96, 27/96 and 31/96, Article 10.

71. ICG (1996: 35).

72. ICG (1996: 50).

The following documents were accepted for identification: ID card, passport, driving license, military booklet, birth certificate, certificate of citizenship, health booklet, resident certification, certificate of registration of change of name, but also a declaration. Persons with no identification papers had to submit a declaration containing their name, address at the time of the 1991 census, identity number (if known) and current address. This declaration was made in the presence of either a magistrate, religious authority or municipal official, and two reputable persons whose names were on the provisional voters' list. After identification, it was checked if the name of the person was on the provisional voters' list and if the name was entered correctly. No action was needed if the person intended to vote in person at the 1991 address. In case the person wanted to vote by absentee ballot at the 1991 address or in person for the municipality in which they had resided from the 1991 census until 6 April 1992, then a P-1 form had to be submitted. Form P-2 had to be submitted for voting in person if the person wanted to change the place of voting to the municipality they resided in or intended to continue residing in.

Voters submitted application form P-1 if their name was not on the provisional voters' list and they wanted to register; the same form was used for a change of name, for voting by absentee ballot for the municipality in which they were registered in 1991, for removal from the list, or for voting at the address the voter resided in from the 1991 census to 6 April 1992, in person or by absentee ballot. Application form P-2 was used for voting in a municipality different from the one in which the voter was registered in 1991, and this option did not allow voting by absentee ballot. Form P-2 had to list the identity number, gender, personal information and address, and had to be accompanied by a proof of residence. In this case an acceptable document was a certificate of citizenship issued before the 1991 census.

Following verification and approval of the submitted documents, the voter received a copy of LEC's approval.

Application form P-3 was used in case the application was rejected. It served as a complaint to PEC against LEC's decision to reject the application form, but LEC had to inform PEC about the reasons for rejection (when the voter was not on the 1991 census and had no proof of citizenship).

Voters who lived in the municipalities divided by the IEBL faced additional problems. PEC had stipulated that "a citizen, who has been displaced from one side of the IEBL, to the other within a municipality divided by the IEBL, shall have the right to vote by absentee ballot in the part of the divided municipality in which he/she lived in 1991."⁷³ The additional problem for these voters was identification of residence, because they were living in the municipalities that were divided by the IEBL after the war. Another controversy related to voters' registration existed in the Brčko district of Bosnia and Herzegovina in which approximately 3 200 voters were not approved for registration in the municipality of their then residence as they did not have acceptable proof of residence in Brčko until 1996, and the majority of them were instructed to vote for their 1991 municipalities.⁷⁴ The EASC had rejected most of the applications due to a lack of relevant documents.⁷⁵

73. Rules and regulations, decisions until 16 July 1996, Article 38 (A).

74. OSCE/ODIHR (1997: 12).

75. Voters who were living in FRY and Croatia at that time could register in person at the registration centres established in these countries. Registration and appellate procedures for these voters were more complicated than for in-country voters, particularly for those who were not on the 1991 census. Thus, a large number of voters with possible suffrage was rejected.

All voters were encouraged to check the provisional voters' lists to ensure that their name was there. The census was found to be full of errors, with ID numbers transposed and names misspelled. Moreover, entries were sequenced in different ways, some by ID number, others by date of birth, and yet others alphabetically by family name. The OSCE decided to re-order the names on the voters' list to make it easier for PSCs to locate voters' names on election day. Thus, the final voters' list included corrections, changes and additions made during the registration process, but names were arranged in a different sequence than on the provisional voters' list. Every polling station had a hard copy of the final voters' list for the entire country (since voters could opt to vote in person in their pre-war municipalities).⁷⁶ This resulted in widespread confusion at the polling stations. The entire process of registration was further distorted by technical errors and incomplete voters' lists, which excluded many citizens. Voter registration was a very slow and tedious process. LECs were responsible for remedying this situation, but it resulted in thousands of people being unable to vote.

People who did not appear on the provisional voters' list had to produce a Yugoslav "citizenship certificate" from the period before the 1991 census in order to be allowed to vote. This document was an insignificant document, only valid for six months, and most people did not have it. The majority of people who did not appear on the provisional voters' list due to errors made in the 1991 census could not vote. All of this seriously undermined the integrity of the vote.

The first post-war active voter registration process was established at the next municipal elections held in 1997. It started in the spring of 1997 for voters in the country, who had to personally complete an application form in the voters' registration centres. A total of 2 525 230 out of an estimated 3.2 million eligible voters registered and appeared on the final voters' list. This represented almost 80% of the total electorate according to EASC assumptions.⁷⁷ Out-of-country voters were still able to register by mail in the same period. The right to vote was still based on the 1991 census and the census was available at all voters' registration centres that were established throughout the country. The forms were scanned after registration and the first generated final voters' list⁷⁸ was created containing names of all voters who registered to vote. A voter whose name was not on the final voters' list, but who could produce valid proof, was added to the supplementary voters' list at the polling station and was allowed to cast the ballot.

During these municipal elections, PEC made an attempt to reduce the errors and fraud that had happened in 1996, when displaced voters and refugees had the option to vote in person in an intended place of residence. For the 1997 municipal elections this option had been restricted: displaced voters within the country were not allowed to register in an intended place of residence and refugees could do so only if they had genuine ties to the place. PEC rules were further changed to limit the kind of documentation acceptable to entitle displaced persons to vote in their current municipalities. Now they were required to produce additional proof of continuous residence in that municipality since 31 July 1996 or earlier. Such a document could be the registration of residence or a refugee card issued before 31 July 1996.⁷⁹ Refugees who wanted to vote for the municipality in which they intended to live after returning to Bosnia and Herzegovina had to obtain an OSCE certificate to prove their status of out-of-country voter, which entailed the submission of an application form

76. ICG, municipal elections in BiH, 10 September 1997, p. 13. www.intl-crisis-group.org/projects/bosnia/report/bh26main.html

77. OSCE/ODIR, municipal elections, 1997 report, p. 8.

78. Article 6.1, e) Rules and regulations, PEC, 1997 municipal elections, Annex 1, Official Gazette of RBiH, No. 15/97. This final voters' list included: registered voters living in their municipalities since 1991; displaced persons who were registered to vote in person in their municipalities where they resided in 1991; displaced persons voting *in absentia* for the municipality where they resided in 1991; displaced persons who were registered to vote in their current municipalities; refugees who were registered to vote in person in the municipality where they resided in 1991; refugees who registered to vote in person in a future municipality.

79. Rules and regulations, Official Gazette 10/97, Article 10.

accompanied by the declaration of intention to return, a clear and conclusive document showing that the voter already had existing, valid and permanent ties with the future municipality (for example real estate, tenancy rights, an ownership share of 25% or higher in a company, an invitation from a family member living in the voter's place of residence, etc.).⁸⁰ New documents were added as proof of identity: a passport issued by a foreign government, allowing for dual citizenship, a refugee card issued by the host country or other international organisation and a displaced person card.⁸¹ However, there were cases of abuse, because the same municipal authorities that were authorised to issue the required documents were also the beneficiaries of a larger number of displaced persons voting there.⁸² Only 1 000 voters had successfully registered to vote for the municipalities in which they intended to live.⁸³ A sub-commission for citizenship verification was established that acted in cases when a person's name could not be found on the 1991 census.⁸⁴ This body passed decisions by consensus, and in case consensus could not be reached, the chairperson, who was a foreign member and appointed by PEC's chairperson, had a casting vote. In case of difficulties concerning the issuing of the certificate, the OSCE officer was authorised to submit an application form on behalf of that person to the municipalities, which was obligated to issue a certificate within five days or to explain why it could not issue the certificate. Each municipality that issued a false certificate was subjected to appropriate sanctions imposed by PEC.⁸⁵

Nonetheless, many errors still occurred during the process of generating data from the voters' registration forms, due to incorrectly completed or illegible forms, thus voters still faced difficulties in finding their name at the polling stations.

The registration process for the 1998 general elections was different from the registration process conducted in 1997. An attempt was made in 1998 to avoid re-registration of already registered voters by introducing a so-called "pre-registration" stage, but this stage only allowed for the accuracy of personal data to be checked. Pre-registration was not only aimed at generating voters' lists for the elections, but it was also a starting point for a continuous registration procedure for future elections in Bosnia and Herzegovina.⁸⁶ Voting cards were given to every person registered for the 1997 elections according to the polling stations and after the information of a person's "settlement" in which they currently resided were entered on the cards. New regulations concerning persons whose name could not be found on the 1991 census were also introduced.⁸⁷ Special rules for the registration of prisoners and physically incapacitated persons, who were not able to vote at the polling stations, were introduced for the first time and mobile voting teams were established in line with Directive 111 of PEC.⁸⁸

Lessons learned during the 1998 elections were useful for the 2002 elections, moving towards the development of a modern voters' registration system. After some great steps were made in 1999 concerning the assignment of settlements and the improvement of voters' personal data, an initiative was launched to have the domestic authorities take care of the publication of voters' lists and invite

80. Ibid., Article 505.

81. Ibid., Article 16, paragraphs 11 and 12.

82. ICG, municipal elections in BiH, 10 September 1997, p. 12.

83. Ibid.

84. Rules and regulations, Official Gazette 10/ 97, Article 17.1.

85. Ibid., Article 17.1 b).

86. PEC rules and regulations, Official Gazette of BiH, 15/98, Article 2.35.

87. Having learned from abuse of the registration process in 1997, PEC decided that "certificates issued by the municipalities directly to the voters shall not be accepted as proof of citizenship". Instead, the OSCE officer had to prove the citizenship and check the municipal records. The sub-commission of citizenship verification had ceased to exist. PEC (1998), Directive 104.

88. PEC rules and regulations, Official Gazette of BiH, 15/98, Articles 2.75 and 2.80.

the voters to check their data, all aimed at securing more accurate voters' lists for the next election, removing errors from 1998 and building confidence in the voters' lists.⁸⁹

All the aforementioned problems with voter registration and voters' lists which burdened the electoral process for years after the war were only resolved in 2006, when active voters' registration was abolished and the passive registration system was introduced for the first time in Bosnia and Herzegovina, enabling automatic voting delivery of information from registry offices (about those who had turned 18 and those who had died), and data delivery on residence and citizens of Bosnia and Herzegovina from the ministries of internal affairs. This resulted in a single voters' list that automatically contained the names of all persons who should be on this list.

OUT-OF-COUNTRY VOTING

PEC's rules and regulations about out-of-country voting were published in the Official Gazette of Bosnia and Herzegovina⁹⁰ only on 15 August 1996. The refugee elections steering group (RESG) was responsible for overseeing elections outside Bosnia and Herzegovina in line with the rules and regulations. The RESG was appointed by the head of the OSCE mission. The elections were organised and conducted by international officers, who were appointed to the co-ordination office by the government of host countries in consultation with the countries' representatives. The main office for out-of-country voters was established in Vienna, Austria. A memorandum of understanding between every host country and the OSCE was drawn up to express the financial obligations of the host countries in relation to the co-ordination offices and to ensure that all procedures were conducted in line with the rules and regulations. The OSCE office in Sarajevo was responsible for preparing educational and information material. Delivery of this material was done by the host countries, refugees' organisations, UNHCR, the International Organization of Migration (IOM), non-government organisations and embassies of Bosnia and Herzegovina. Host countries published the locations of co-ordination offices and how to get information by phone.⁹¹ The RESG helped to accelerate the process and complete preparations for registration and voting of eligible out-of-country voters. The IOM was the operational arm of the RESG. It established RESG offices in 17 host countries to facilitate the implementation of the RESG mandate. The co-ordinating RESG office in Vienna (which was relocated to Sarajevo only four years later) ensured consistency of the policy and procedural compatibility with OSCE and PEC directives. The operation was completed and closed on 30 September 1996. A total of 394 174 out of 630 257 registered voters (62.5%) had cast their ballot.⁹²

The 1991 census served as the foundation for registration and if a voter's name could not be found on the voters' list, they had to obtain a certificate of citizenship from the time of the census. The

89. PEC, Directive 132.

90. PEC rules and regulations, Official Gazette 25/96, Annex of August (containing decisions from 17 July to 15 August), Article 218.

91. Ibid

92. Available at www.iom.int/sites/g/files/tmzbdl486/files/jahia/webdav/shared/shared/mainsite/activities/mepmm/op_support/esu_ocv_080107.pdf, accessed 15 August 2023.

application forms for registration were available at the RESG offices, various non-government and international organisations, embassies and government offices of the countries in which the refugees had resided. The application forms contained personal data, a voting option (in person/by mail), the address in the country of temporary residence, and also the address in Bosnia and Herzegovina at the time of the 1991 census or in the period between the census and 6 April 1992 (the proof required was a certificate of residence in that municipality, and if there was none the OSCE tried to confirm the residence against the municipal registers in the municipality provided on the form. It was a very demanding procedure, which did not yield many results due to very short deadlines, at the voters' expense).

The voters were able to send their registration form by mail. According to the report of the Bosnia and Herzegovina embassy in Vienna, around 200 000 voters from 54 countries were excluded.⁹³ This was affected by the OSCE's organisational issues and short implementation period (registration in the period from 10 June to 8 August). Registration of refugees from 63 countries had to start as early as possible to ensure their participation in the elections. However, the OSCE had problems finding information technology experts for this activity and the registration process could not start before 10 June. Therefore, the final registration deadline was extended several times and it was finally concluded on 8 August. Only 630 257 out of 900 000 expected refugees registered to vote.

The OSCE's out-of-country office in Vienna, organised through the IOM, was responsible for out-of-country voters' registration for the next municipal elections in 1997. Voters that were living in FRY and Croatia were able to register in person at Voter Registration Centres (VRCs) that were established in these two countries, following procedures in use within Bosnia and Herzegovina. The registration started on 5 May and ended on 7 June 1997.⁹⁴

Potential voters who lived elsewhere in the world were contacted by mail and invited to return their registration application to Vienna, or, in case of those in Germany, to a collection point in Bonn. Generally speaking, registration was lower than in 1996. Additional factors which contributed to the low registration included relocation or return of refugees and perceptible apathy towards the electoral process.⁹⁵ On election day, 35 polling stations were opened in FRY and 25 in Croatia for voting for pre-war municipalities in person.⁹⁶

93. ICG (1996: 34).

94. Rules and regulations, Official Gazette 7/97.

95. OSCE/ODIHR (1997: 13). The process, limited timescale and problematic nature of acquiring documentation proved very stringent, and subsequently a high number of potential eligible out-of-country registrants were rejected by the citizenship verification sub-commission (of the approximately 535 000 eligible out-of-country voters some 420 000 registered (80%).

96. ICG (1997: 17).

PASSIVE VOTING RIGHTS

Basically all citizens of Bosnia and Herzegovina who were over 18 years of age had passive voting rights, that is the right to be elected, although this was subject to certain limitations.⁹⁷ Rules and regulations had laid down limitations for war criminals: no person who was serving a sentence imposed by the ICTY, and no person under indictment by the Tribunal and who had failed to comply with an order to appear before the Tribunal, could stand as a candidate or hold any appointed, elective or other public office on the territory of Bosnia and Herzegovina.⁹⁸

In addition to arrests, indictments and dismissals of officials from posts, PEC and the EASC had been striking out an increasing number of candidates from the ruling parties' electoral list in response to clear, egregious and usually repeated violations of PEC rules and regulations.

European standards established today recommend that all limitation to the exercise of the right to vote must be stipulated by law, and that exclusion must be founded on responsibility for a serious criminal offence established by the court's decision.⁹⁹

The central voters' register in Bosnia and Herzegovina today does neither contain the names of Bosnia and Herzegovina citizens who were deprived of legal capacity by a final and binding court decision,¹⁰⁰ nor the names of persons serving a sentence and persons under indictment for war crimes and violation of humanitarian law.¹⁰¹ A special record of such persons is kept and their names do not appear on the central voters' register. Once the reasons for limitation of the right to vote end, the recorded information is erased and thus these persons get their right to vote reinstated.

Nowadays, the Bosnia and Herzegovina election law sets forth limitations for persons serving a sentence and persons under indictment for war crimes and violation of humanitarian law.¹⁰² Comparison of norms from the Bosnia and Herzegovina election law and Article IX of the Bosnia and Herzegovina Constitution¹⁰³ indicates that the legislator had, contrary to the constitutional norm, voluntarily added a determinant in the election law of Bosnia and Herzegovina – "cannot be registered in the central voters' register", thus expanding the constitutional limitation of suffrage (which exclusively related to a limitation of passive suffrage, that is the right to stand as a candidate and serve in public office) and not to a limitation of active suffrage, namely registration in the central voters' register.

98. PEC rules and regulations 1996, Article 15.

99. Point 1.1 d) ii, Venice Commission, Code of good practice in electoral matters. [www.venice.coe.int/webforms/documents/default.aspx?pdffile=C-DL-STD\(2003\)034-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=C-DL-STD(2003)034-e)

100. BiH Election Law, Article 3.2, paragraph 3.

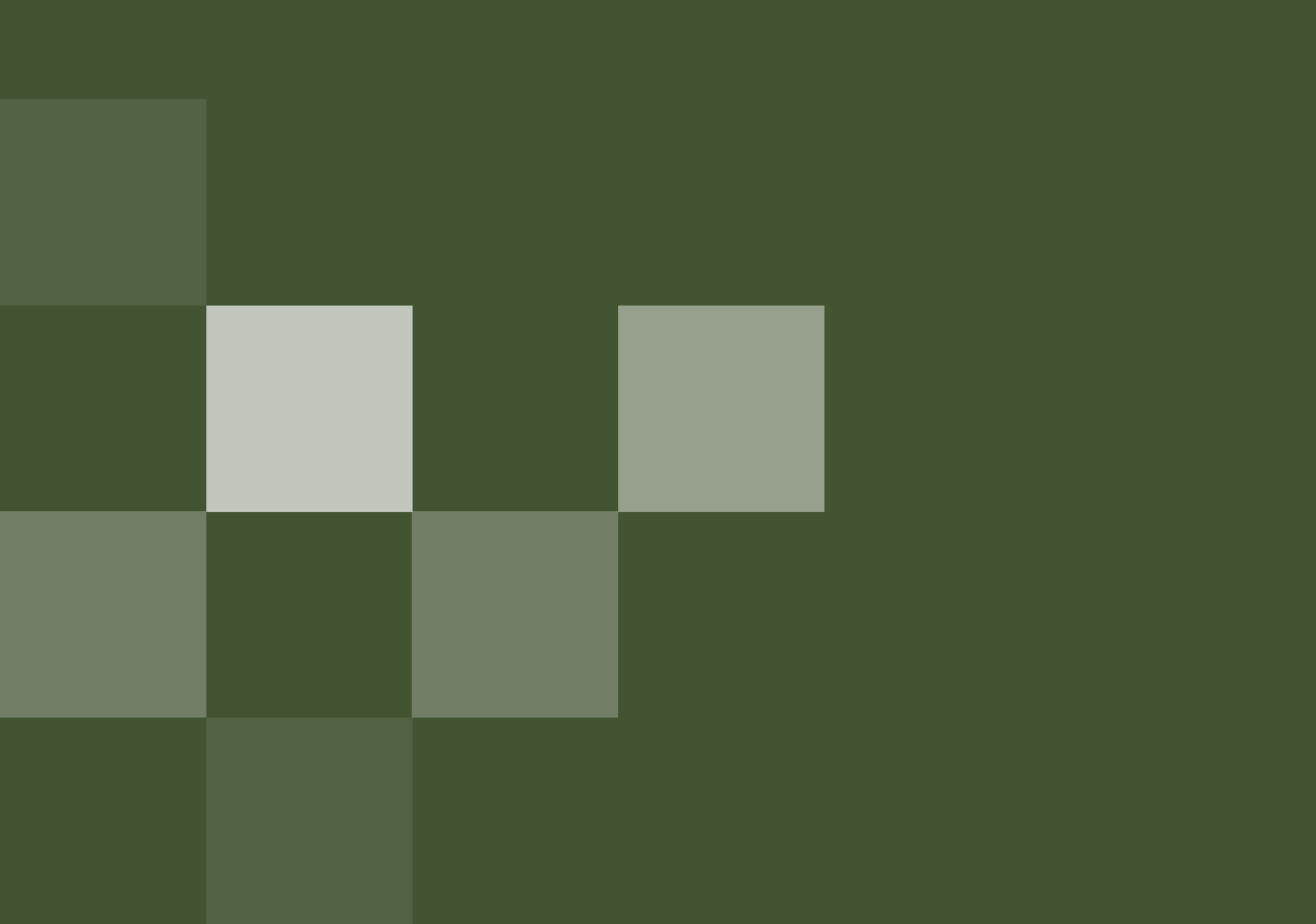
101. Ibid., Articles 1.6, 1.7 and 1.7a.

102. Ibid., Article 1.6: "No person who is serving a sentence imposed by the ICTY, and no person who is under indictment by the Tribunal and who has failed to comply with an order to appear before the Tribunal, may be recorded in the central voters' register or stand as a candidate or hold any appointed, elective or other public office on the territory of BiH."

103. "Persons who are serving a sentence imposed by the ICTY, and persons who are under indictment by the Tribunal....cannot stand as a candidate or hold any public office...on the territory of BiH."

This provision is obviously colliding with the Bosnia and Herzegovina Constitution, as the constitutional norm clearly indicates that the intention of signatories to the DPA has not been to limit active suffrage. Not registering these persons in the central voters' register not only deprives them of the right to be elected, but also deprives them of active suffrage. Regarding this contradiction between the constitution and the Bosnia and Herzegovina election law, it is worth noting that the European Court of Human Rights has generally sided with the solution that the prohibition of active suffrage can be specified for a narrowly defined group of prisoners, serving a long-term sentence. It would go against Article 3, protocol 1, to introduce a general prohibition of active suffrage to all convicted persons who are in prison regardless of sentence duration, nature and gravity of the crime.¹⁰⁴

104. *Greens and M.T. vs. Great Britain*, applications 6004/08 and 60054/08, decision of the European Court of Human Rights of 23 November 2010, paragraph 115.



V. ENSURING A LEVEL PLAYING FIELD FOR THE FIRST POST-WAR ELECTIONS

Political pluralisation had started around 1990 in a very complex social and historical context, while parties were established along two lines: reform of earlier political organisation of a single-party system, and establishment of new parties that would not be burdened by the past, but that were established based on an ethnic principle (SDA for Bosniacs, SDS for Serbs and the Croat Democratic Party for Croats). The main division of political parties came down to promotion of their ethnic interests or the social interests of citizens.

At the first multiparty elections, held on 18 November 1990, a total of 15 parties had put forward candidates for the Bosnia and Herzegovina parliamentary assembly, the assembly of the city of Sarajevo and 110 municipal assemblies, while 11 parties had won seats in the parliamentary assembly of Bosnia and Herzegovina. The turnout of the elections was 74.42%. SDA obtained the highest number of votes (35.85%), followed by SDS (30%), HDZ (18.35%) and SK-SDP (5.83%).¹⁰⁶

A total of 49 parties participated in the first post-war elections in 1996. New parties were formed in RS: Social-Liberal Party, Socialist Party of Republika Srpska, Party of Independent Social Democrats, People's Radical Party "Nikola Poplašen" and Serb Radical Party (thus five new parties in addition to SDS). The political scene in Federation of Bosnia and Herzegovina had also expanded: Liberal Bosniac Organisation, Republican Party of BiH, Party of Economic Prosperity, Croat Peasant Party, Bosnian Party and Bosniac Party of Right (thus eight new parties in addition to HDZ, SDA and SK-SDP).¹⁰⁷

The provisional election system, established for the 1996 general elections and applied for the 1997 municipal elections, was a combination of the majority system (for the presidencies of BiH and RS)¹⁰⁸ and the proportional representation system for other levels of authority with closed party lists for national, entity and cantonal parliaments.¹⁰⁹ Political parties and independent candidates had to submit signatures of support along with the application for registration, and one voter could give their vote to an unlimited number of political parties and candidates. Verification of signatures was conducted by a statistical sample method, upon which only 1% of signatures were checked, which is not in line with the democratic standards underlining the need for a more comprehensive verification.

Candidates were eligible to stand for the elections if their name appeared on the 1991 census. To be accepted, candidates could not be on the list of persons suspected of war crimes by the ICTY. No candidate could run for office for two political parties at the same time.

105. Alliance of Communists of BiH, Alliance of Socialist Youth BiH and Socialist Alliance of Working People.

106. Fink Hafner and Pejanović (2006: 47).

107. Ibid., p 58.

108. PEC rules and regulations, Official Gazette of RBiH, No. 22/96: Articles 94 and 93.

109. Ibid., Articles 90-92.

To register for the elections, a party had to complete and submit the appropriate application form to PEC. The application form had to include a list setting out the name, address on the provisional voters' list, original signature and identity number of each voter supporting the application of the political party (10 000 signatures for representatives of Bosnia and Herzegovina and its entities, 15 000 for cantons and 200 for municipalities). The conditions for independent candidates were the same, except that the signature requirement was reduced by 50%.¹¹⁰

A meaningful campaign took place in the final two weeks before polling day. The election campaign was a struggle between ruling ethnic parties and their internal oppositions. The observers noted an increase in campaigning and political rallies, and most of the opposition parties were able to conduct rallies without intimidation. But a "politically neutral environment" as set in the DPA was virtually non-existent in many parts of Bosnia and Herzegovina.¹¹¹ Opposition parties in both entities were subjected to threats, intimidation, harassment and restrictions on the freedom of campaigning. The observers noted incidents where opposition parties' members were fired or demoted, threatened, had windows broken, were deprived of office space, etc.¹¹²

The first post-war elections resulted in a win for three political parties (SDA, HDZ and SDS), confirming polarisation of the electorate along ethnic lines. The following members were elected to the Bosnia and Herzegovina presidency: Alija Izetbegović as a Bosniac member (SDA) with 79.99% of votes, Krešimir Zubak as a Croat member (HDZ) with 88.70% of votes, and Momčilo Krajišnik as a Serb member (SDS) with 67.30% of votes. A total of 42 mandates in the house of representatives of the Bosnia and Herzegovina parliamentary assembly were distributed as follows. Out of 28 mandates for Federation of Bosnia and Herzegovina, SDA had won 16; HDZ 8; Joint List BiH (a coalition of five opposition parties) 2; and Party for BiH 2. Out of 14 mandates for RS, SDS had won 9, SDA 3 and People's Alliance for peace (a coalition of five opposition parties) 2.¹¹³

Political parties, coalitions and independent candidates had to register for the 1997 municipal elections, but it was a pretty straightforward process, and 92 political parties applied to participate in these elections.¹¹⁴ In terms of candidacy, no person serving a sentence imposed by the ICTY, and no person under indictment by the Tribunal and who failed to comply with an order to appear before the Tribunal, could stand as a candidate or hold any appointed, elective or other public office on the territory of Bosnia and Herzegovina.¹¹⁵

110. Ibid., Articles 41 and 54.

111. The Norwegian Helsinki Committee report (1996: 6).

112. Ibid.

113. Election results in BiH of 14 September 1996, PEC, Official Gazette of RBiH, No. 32/96.

114. To participate in the elections, a political party did not have to be registered with the competent court. Parties and candidates who were already registered for the 1996 elections did not have to go through the registration process again, but had to file a participation form confirming their intention to participate in the 1997 general elections.

115. Article 15, PEC rules and regulations, 1997 municipal elections, Annex 1, Official Gazette of BiH, No. 15/97. (This provision is contained in Article IX, point 1, of the BiH Constitution).

Organised violence against party activists and interruption of public party rallies was evident in some areas during campaigning.¹¹⁶ Opposition parties were denied a permit to organise a rally, meetings were violently and deliberately disrupted, and bomb threats were a common occurrence.¹¹⁷

In 1996, the OSCE had spent 7.5 million Deutsche mark to finance political parties' campaigns, independent candidates received 11 250 Deutsche mark, parties got 375 000 Deutsche mark, depending on the number of candidates, and coalitions 600 000 Deutsche mark. Parties from RS did not have any candidates in Federation of Bosnia and Herzegovina. In contrast, parties from Federation of Bosnia and Herzegovina did contest in the elections in RS, but apart from TV debates, did not attempt to hold rallies in RS.¹¹⁸

In 1997, the OSCE helped with campaign financing but did not contribute to the three ruling parties as it had done a year earlier. This was because those parties already received substantial handouts from the entity governments based on their parliamentary representation.¹¹⁹ Funds were distributed in the following manner: every independent candidate was entitled to a maximum of 4 000 Deutsche mark, which was given partly as up-front cash and the rest as re-imburement upon presentation of receipt for campaign-related expenses. Political parties received a proportion of the total funding available, adjusted according to the following: the number of municipalities in which they stood for the elections; the number of candidates they were putting forward and their relative political strength based on the 1996 elections.

Results of the 1997 elections showed that voters preferred the same parties as for the 1996 elections (SDA, HDZ, SDS), that mainly won mandates in the municipal councils/assemblies, an exception being the municipal council Tuzla in which a majority of mandates was won by other parties.¹²⁰

The OSCE attempted to promote political pluralism and the interests of other political parties. Aimed to ensure equal treatment of all political parties, the OSCE had provided campaign funds to all political parties, except to the three ruling parties. The campaign funds came in late, almost at the end of the campaign, at the end of August and the beginning of September. A lack of specific criteria for the allocation of funds increased distrust in the overall system. Furthermore, suspicion was raised among parties and candidates due to the non-disclosure of amounts received by some political parties, which did not contribute to transparency of the process.

Media abuse by the ruling parties, who were controlling the media, had serious consequences for the entire context of the election campaign.¹²¹

116. OSCE (1996a: 4).

117. ICG (1996: 22).

118. ICG (1996: 22).

119. For example, in FBiH there was 600 000 Deutsche mark to be divided among all political parties in 1997. SDA got 30 7317 Deutsche mark and HDZ 193 171 Deutsche mark (ICG 1997: 19).

120. Out of 30 mandates, the joint list (UBSD, HSS BiH, MBO BiH, RS, SPP BiH), Coalition for territorial integrity and a democratic BiH won 16 mandates, and three mandates each were won by SDP BiH and HDZ BiH. These results were technically confirmed by PEC, Official Gazette of BiH, No. 5/97.

121. "Not only were opposition parties and candidates denied access to these media, but intimidation and occasional violence were also used to silence alternative votes..." ICG (2001: 8).

The proportional representation formula for the allocation of mandates in elected parliamentary bodies was applied for the 1998 general elections. In line with the OSCE/ODIHR recommendation, the Sainte-Laguë formula for mandate allocation was introduced.¹²² Miljko points out that the “earlier D’Hondt method had rewarded bigger and more organised parties, but at the same time enabled allocation of all seats without the need for application of special methods for allocation of remaining mandates.”¹²³ The new Sainte-Laguë formula was to “weaken the position of the strongest parties in Bosnia and Herzegovina as well as their party cohesion and unity”,¹²⁴ and votes of smaller parties could be calculated into the allocation of remaining seats. A total of 57 parties applied to participate in these elections. Some novelties were introduced concerning the obligation to submit the necessary number of signatures of support for several political parties or independent candidates;¹²⁵ the obligation to sign a “statement of conduct” with regard to respecting the DPA and the code of conduct for political parties, coalitions and independent candidates, aimed at promoting conditions that would lead to the conduct of free and fair elections without the use of any force or intimidation;¹²⁶ the obligation to submit a political platform that had to contain clear and explicit visions, ideas and plans of a party or a candidate about the issues concerning the return of refugees and displaced persons, economy, right of minorities, reconstruction and development, education and social activities. An incomplete platform was one of the elimination factors for registration.¹²⁷ Furthermore, a deposit for registration was introduced, as well as a limitation concerning the name of a political party that could not be identical to the name of another party to avoid confusion.

Moreover, all candidates had to present an asset declaration form that included their total income, sources of financing, and property belonging to themselves and close family members, which PEC publicised, but the truthfulness of the information on the forms was not checked. However, this obligation did not exist for the municipal election candidates.¹²⁸ This was the first time that provisions to ensure better representation of female candidates on the candidates’ lists were introduced.¹²⁹

A continuation of the downward trend in the popularity of ethnic parties was observed at the 2000 general elections, during which 47 parties participated, and it was caused, among other things, by the introduction of compensatory mandates, so many smaller parties won mandates. Describing the intentions of the international community at these elections, Kasapović states that it resorted to using the election system as “a most powerful lever of constitutional engineering as to encourage parliamentarisation of small multi-ethnic and non-exclusive ethnic parties at the expense of the main parties of the three ethnic camps”.¹³¹ Miljko explains that the main goals

122. Official Gazette of BiH, No. 15/98, rules and regulations, Article 6.15.

123. Miljko (2006: 357).

124. Official Gazette of BiH, No. 15/98, rules and regulations.

125. Ibid., Article 7.25.

126. Ibid. Article 10.5.

127. Ibid. Article 7.40.

128. Ibid. Article 7.37 l.

129. Ibid. Article 7.50 f, “Each candidate’s list shall include male and female candidates, who shall be listed in an order that ensures that each gender on the list has at least three (3) candidates equally distributed among the first nine (9) candidates on the list if the list has nine (9) or more candidates...” In case of non-compliance with these provisions, special places for female candidates remained unfilled.

130. Certified election results – elections of 11 November 2000, Official Gazette of BiH, No. 30/2000. In addition to the big parties winning mandates in BiH parliamentary assembly – SDP BiH (nine mandates), SDA (eight mandates), SDS (six mandates), HDZ BiH (five mandates), Party for BiH (five mandates) – there were also some smaller parties like PDP that won two mandates while BPS, Democratic Party of Pensioners, DNZ BiH, NHI, SPRS, SNS and Coalition SNSD–DSP won one mandate each.

131. Kasapović (2005: 184).

of the international community were aimed at “reshaping the previous model of proportional representation, in order to reduce existing social divisions along the ethnic lines. The effort was to make parties appeal to voters of another ethnic background, without at the same time risking losing voters of their own ethnic background.”¹³² As the future election system of Bosnia and Herzegovina was tested in these elections, other smaller parties also gained seats in the parliament at the 2002 elections thanks to this method and the introduction of compensatory mandates.

According to the records of the Bosnia and Herzegovina central election commission, there are over 160 registered political parties¹³³ in Bosnia and Herzegovina today, and half of them do not participate in the elections. At the same time, political pluralism is still based on ethnicity, an inter-party conflict that represents a “latent danger for blocking the functioning of the political system and a stable Bosnia and Herzegovina society.”¹³⁴

132. Miljko (2006: 357).

133. In the BiH parliamentary assembly (out of 42 representatives in total) there are currently 16 political subjects for the election cycle 2022-26.

134. Fink Hafner and Pejanović (2006: 69).



VI. ELECTION DAY: PROCEDURES AND CHALLENGES

The first post-war general elections held on 14 September 1996, although not perfect, had, according to the OSCE/ODIHR, represented the first key step towards the democratic functioning of Bosnia and Herzegovina government institutions.¹³⁵ In their report, they stated that the elections technically went well, but that the general climate in which the elections were held was in some cases below the minimum standards established by the Copenhagen document.¹³⁶

In order to inform Bosnia and Herzegovina citizens about the electoral process and citizens' rights as voters, PEC decided that all radio and TV stations throughout Bosnia and Herzegovina in both entities had to broadcast voter educational material produced by PEC. These were to be broadcast as public service announcements, free of charge, but some media in RS did not accept this obligation.

The observers confirmed that voting was conducted properly on 97% of the ballots, as the PSCs worked professionally and in an impartial manner.¹³⁷ Similar to LECs, they had seemed highly motivated to perform their duties, but the "LECs and PSCs were in many cases composed of people who were affiliated with local ruling parties".¹³⁸ Problems that were reported included: poor secrecy of voting, especially in rural areas, procedures of voter assistance were violated, PSCs were assisting voters in filling out the ballots, the checking and spraying of ink was practiced leisurely, ballot boxes were not sealed properly, unauthorised persons were present and interfered with procedures, campaign material and flags were observed inside or close to some polling stations.¹³⁹

The mission considered that the OSCE conducted a solid training under difficult conditions and prepared the correct materials for administration.

However, the mission expressed serious reservations regarding the voter registration list. In particular the pressure on displaced persons to vote in "strategic municipalities" should be considered a violation of the spirit of Dayton.¹⁴⁰

The voting process turned into a series of abuses, and many voters were denied the right to vote due to problems with voter lists, because many voters could not find their name.¹⁴¹ Voters who did not find their names on the voters' list could file an appeal to LECs if they could prove that their names were on provisional voters' lists. They would then receive a form enabling them to vote. But for some voters it was impossible to travel to the municipal centre to collect the appropriate form due to large travel distances.

135. OSCE (1996a: 6).

136. *Ibid.*, p. 1.

137. *Ibid.*, p.

138. The Norwegian Helsinki Committee report (1996: 9).

139. *Ibid.*

140. OSCE (1996a: 3).

141. Although the rules and regulations had stipulated that the main indicator for finding a voter's name on the voters' list would be the ID number, the voters' lists were printed by date of birth.

In its analysis of the 1996 general elections, the ICG had offered its view of the entire process in a similar way: "... the OSCE-led provisional election commission encouraged a spate of ethnic consolidation and gerrymandering by Bosnia's big three ethnic parties. Conducted before any significant refugee return could take place, these elections turned populations already polarised by war into mono-ethnic voting blocks, supporting their respective wartime champions. Far from encouraging return and ethnic reintegration, elections in these circumstances applied a brake to both processes and looked likely to confirm the results of ethnic cleansing."¹⁴² The system established in 1996 was exposed to critics concerning the failure to observe the democratic election standards.¹⁴³ These reasons undoubtedly jeopardised the conditions for fair and democratic elections, and certainly influenced the decision to postpone the municipal elections.

Large crowds were reported at most polling stations for voting in absentia, and the CIM determined that "the total number of absentee polling stations was clearly insufficient". In some cases, these polling stations did not have a sufficient number of ballots.¹⁴⁴

Voters could not find their names on voters' lists and could not vote. In Federation of Bosnia and Herzegovina, 50% of polling stations reported such problems and in RS 37%¹⁴⁵ – thousands of voters were excluded. To solve these problems, the OSCE instructed LEC and polling stations to direct those voters to verify with LEC, obtain a certificate and return to the polling station to cast their ballot. However, this instruction came in late and many voters had returned home, giving up on voting. Displaced persons who had crossed the IEBL could not venture away from the secured polling stations where they arrived in buses and appeal to LECs. Some municipalities extended the voting hour until 10 p.m. to accommodate voters who had experienced this kind of problems.

A particular problem was the fact that the ballot boxes and seals were of inadequate standards. The seal would fall off the boxes by themselves; the cardboard boxes had too many openings in them and they were so big that there were problems with transporting them from polling stations to the counting centre. Another technical shortcoming was the small print on the ballot and many voters needed assistance to read the ballot.

Violence at some polling stations led to the results from these polling stations being annulled, which illustrates the lack of democratic spirit in some parts of the country.¹⁴⁶

142. ICG (2001: 7).

143. "The system is built on premises that fundamentally contradict the basic right to vote established in numerous international conventions on human rights and fundamental freedoms and the rights of the man and the citizen, especially in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols." Arnautović (2009: 571).

144. OSCE (1996b: 3).

145. OSCE (1996a: 4).

146. OSCE (1996b: 3).

The complaints concerning irregularities at the polling stations were filed either with the PSC chairman (into the poll book), the LEC's president or the OSCE's supervisor. Objections were filed within 24 hours after the violation, but filing of complaints could neither stop nor suspend voting or the counting process.

International observers witnessed ballot box stuffing by the PSC, unauthorised persons in the polling stations, family voting and the PSC acting partially.¹⁴⁷

On election day, only 14 700 displaced persons crossed the IEBL – 13 500 from Federation of Bosnia and Herzegovina into Republika Srpska and 1 200 from Republika Srpska into Federation of Bosnia and Herzegovina.¹⁴⁸

There was a vast number of invalid ballots, and some factors that had affected this were a lack of voter education, deliberate spoiling of valid ballots and political motivation (for voters who voted across the IEBL).¹⁴⁹

There were no major incidents or irregularities observed during the count, but the competence of the counting teams was put in question by observers. In addition, instructions about what was considered an invalid ballot were not co-ordinated between PEC and the OSCE (the OSCE offered examples of invalid ballots, but according to PEC's rules these ballots could be valid). All of this just increased the confusion.¹⁵⁰

Voting outside Bosnia and Herzegovina that was organised by mail and in polling stations abroad also had its negative aspects.

Out-of-country voting was observed in 23 countries by 65 international observers. Voting in 1996 started earlier and was extended due to a series of logistic problems. The plan was to start on 28 August and to last until 3 September, but it began on 25 August and postal ballots which arrived up to 14 September were accepted. The biggest problems related to the issuing of wrong ballot combinations, delay in delivery of ballots and mistakes made in packing by-mail voting material.¹⁵¹ These problems were quite prominent in FRY. However, regardless of all presented problems, the overall conclusion of the CIM was that out-of-country voting worked reasonably well and was free of any significant manipulation.¹⁵²

The first post-war municipal elections in Bosnia and Herzegovina lasted two days, 12 and 13 September 1997. Approximately 2 200 polling stations were opened from 7 a.m. to 7 p.m. The plan was to have a supervisor at each polling station who had attended a two-day training earlier and who slept at the place where ballot boxes were stored.

147. ICG (1996: 46).

148. Press conference of the Head of CIM, 16 September 1996. www.refworld.org/docid/3ae6a6d50.html

149. OSCE (1996b: 3).

150. The Norwegian Helsinki Committee report (1996: 11).

151. Voting was organised in countries with a high number of refugees from BiH. The largest number of polling stations was opened in FRY and Croatia, but the voting was also organised in Hungary, Türkiye, etc. Ballots did not arrive on time in Australia, and in Austria and Germany voters from FBiH had mistakenly received ballot combinations for RS.

152. OSCE (1996a: 4).

The concept of so-called “tendered ballots” was introduced to enable voting of people who were approved for registration after the voters’ lists were printed.¹⁵³ The OSCE/ODIHR assessed that this system had served its purpose, but slowed down the counting process. Only around 25 000 out of 70 000 tendered ballots were confirmed/verified and many voters were not certain if their vote was counted or not.¹⁵⁴

Although both the OSCE and PEC had to be aware of the international standards concerning a change in the election rules, many amendments to the rules and regulations were adopted shortly before the elections.¹⁵⁵ One of the amendments was an extension of the mandate of elected councillors from one to two years. Although such decisions are usually passed much earlier, possibly not in the election year itself, and certainly not before the day elections are announced, the OSCE/ODIHR concluded that “...it was in fact appropriate that such decisions were passed before the election day.”¹⁵⁶ However, criticism did exist, particularly relating to the violation of secrecy of the vote (in case of absentee ballots and tendered ballots). Nevertheless, the OSCE/ODIHR assessed that the 1997 municipal elections had given significant contribution to peacebuilding.¹⁵⁷

There were considerations to change the election system. At these elections, the OSCE/ODIHR also recommended to consider amending the method for allocating mandates under the Sainte-Laguë formula¹⁵⁸ that entailed a division with 1, 3, 5, 7, etc. because the results reached in this way were more proportional.¹⁵⁹

The elections held in 1997 were not conducted for so-called “divided” municipalities that were divided by the IEBL. “... As partners in the ruling parties in Federation of Bosnia and Herzegovina could not reach an agreement on the law on new municipalities, a certain number of divided municipalities had thus lost the possibility to elect their parliaments, and a large number of voters was not able to exercise their suffrage rights.”¹⁶⁰ Nevertheless, the ICG had assessed these elections, as they had done for the 1996 elections, as a confirmation of ethnic cleansing due to a more pervasive “consolidation and change of election units’ boundary by three large ethnic parties...”¹⁶¹

The final recommendation read that OSCE’s participation in the preparation and organisation of the next 1998 general elections was necessary, as in their opinion the previous elections could not have been conducted without OSCE’s participation.¹⁶² The second general elections in Bosnia and Herzegovina were held on 12 and 13 September 1998 for the Bosnia and Herzegovina

153. These ballots were packed in double envelopes at the polling station. The first envelope contained the ballot and the other voter information. These ballots would be counted with other ballots in the main counting centre only after the elections, and after it was confirmed that a voter was indeed registered.

154. OSCE/ODIHR (1997: 13).

155. PEC’s representatives continued this practice in the next election cycles, for example during the election year 2000. See the Official Gazette of BiH, Nos. 1/00, 2/00, 7/00, 11/00, 16/00, 18/00, 20/00, 21/00, 25/00 and 26/00.

156. OSCE/ODIHR (1997: 6).

157. *Ibid.*, p. 21.

158. This method eliminates the effect of disproportion that is present in medium to larger election units when D’Hondt’s method is applied (Miljko 2006: 343).

159. OSCE/ODIHR (1997: 6).

160. Arnautović (2009: 580).

161. ICG (2001: 7).

162. OSCE/ODIHR (1997: 20).

presidency, the house of representatives of the Bosnia and Herzegovina parliamentary assembly, the president and vice presidents of RS, the RS national assembly, the house of representatives of the Federation of Bosnia and Herzegovina parliament, ten cantonal assemblies in Federation of Bosnia and Herzegovina¹⁶³ and municipal councils in 12 municipalities in which elections in 1997 were not conducted.¹⁶⁴ The rules and regulations stipulated for these elections included novelties that gradually set out the framework of the future permanent election system in Bosnia and Herzegovina.

Activities to draft the Bosnia and Herzegovina election law commenced at the end of 1997 by creating a working group consisting of legal experts from three constituent people and international experts. They made arduous efforts to find a compromise and their work came to an end in 1999 when the draft was completed and forwarded to parliament. The adoption of this law was not done at the desired pace. The main task of the OSCE in 1999 was to transfer election-related activities to domestic bodies.

163. Official Gazette of BiH, PEC rules and regulations, No. 15/98 Article 1.10.

164. Municipalities in which elections were not held in 1997: Domaljevac-Šamac, Doboj Istok, Doboj Jug, Teočak, Dobretići, Sapna, Pale (Canton 5), Foča (Canton 5), Ravno, Usora, Kostajnica and Bosanski Novi/Novi Grad. Official Gazette of BiH, No. 15/98, PEC rules and regulations, Article 1.10.



CONCLUSIONS AND LESSONS LEARNED

The decision to conduct elections within six months after signing the DPA – with the possibility to postpone this date for another three months, if so decided by the OSCE – came from the necessity to legitimise governing structures and create space for moderate, modern and multi-ethnic political options in the political life of Bosnia and Herzegovina.

However, this decision did not consider all the administrative, technical and logistical obstacles that were important for the organisation of the electoral process in post-war Bosnia and Herzegovina. The OSCE was an integral part of the administration of the elections in Bosnia and Herzegovina. In fact, the OSCE dominated the partnership with LECs. The problems that happened concerning voters' lists, confusion and voters who could not exercise their right to vote could have been partly solved if there had been more time and efforts necessary for this type of massive public service.

The problems of late decision making were aggravated by the obvious problems of communication between the different electoral actors involved. A willingness to communicate and an operational way of thinking are crucial.

At first, the mandate of the OSCE was only for the first post-war elections. However, the OSCE's leading role in the organisation of elections would continue for five years after the war and through six election cycles, two of which were at the local level, because in the opinion of the international community, the conditions for the independent conduct of elections were not met. The OSCE had remained strongly involved in the organisation of the 2002 general elections, namely even after adoption of the Bosnia and Herzegovina election law and the establishment of the election commission. The OSCE was able to leave after the basis for a democratic country was set up and all necessary political and basic government structures were in place.

The international community has made 20 amendments and additions to the rules and regulations that were designed specifically for each election. The process of designing a permanent electoral system, reliable voter lists and an independent electoral administration ran in parallel through the reforms of electoral rules. In addition, rules had been established that would enable greater political participation of smaller political parties.

Elections were held almost every year (1996, 1997, 1998, 2000 and 2002). However, despite the efforts to build a path to achieving democratic standards through frequent elections, little progress was made in Bosnia and Herzegovina, especially in relation to universal and equal suffrage. Minor advances have been achieved in connection with the freedom and secrecy of the right to vote, and greater participation of women on candidates' lists. However, the idea to form a new party structure of the state and entity parliaments through party competition in the election process did not yield any success.¹⁶⁵ Intensive electoral activity did not guarantee that democratic consolidation would be ensured in Bosnia and Herzegovina, especially because of the country's structure, which was

165. Pejanović (2013: 21).

established by the DPA. The ICG was very direct in its report: "...the 14 September elections in Bosnia and Herzegovina cannot be considered free and fair as required by DPA."¹⁶⁶

Elections were often insufficiently prepared, which resulted in serious criticism of the international community and its role due to insufficient achievement of international standards. However, with the existing balance of political forces, it was not realistic to expect systematic solutions, such as the revision of the Constitution of Bosnia and Herzegovina. The fact that the electoral system, stipulated in the first election law in 2001, has not fundamentally changed even 22 years later speaks in support of this.

There are several lessons learned from the Bosnia and Herzegovina experience. Several crucial elements are needed for conducting elections:

- ▶ Cessation of conflict and demilitarisation. Demilitarisation of politics before holding post-conflict elections is crucial for a more secure environment.
- ▶ Peace agreement (which could lay out the framework for post-conflict elections).
- ▶ A secure environment. A clear operational plan to guarantee freedom of movement and safety that needs to be provided to political parties and candidates during registration and campaigning, as well as to voters and observers on election day. Polling stations have to be located in safe and conditional facilities that can be accessed without risk of mines or other problems, and ensure secrecy of the vote and an unhindered electoral process (if possible, visit the locations to check their capacities and conditions).
- ▶ Security units (military, police) have to be stationed at a fair distance for the voters not to feel intimidated, but close enough to enable a timely response if called by the election administration.
- ▶ Timely secured budget for elections (post-war elections require more logistics, technical and human resources). International support can be helpful for technical, financial and capacity-building purposes.
- ▶ Clear election rules must be adopted (the best time to do so is a non-election year to leave enough time to all stakeholders to get acquainted with the rules).
- ▶ Post-war elections require innovative and alternative solutions to make suffrage possible (for example, voting *in absentia*, special mobile teams for voters who cannot come to the polling stations, etc.)
- ▶ Updated voters' lists that contain the names of all persons who have the right to vote until election day, along with any limitations set forth by the election rules.
- ▶ An election administration capable to complete all stages of the election cycle professionally. It is important to clearly define leaders of the process and to follow hierarchy in the election administration structure. It would be good to have a permanent, independent of government, properly staffed and resourced election administration.
- ▶ Administrative and communicational infrastructure need to be functional.

166. ICG (1996: 1).

- ▶ Preparation of necessary elements requires enough time, particularly in challenging post-war conditions.
- ▶ Transport and safeguarding polling material has to be planned with security agencies, so that they are not compromised.
- ▶ Plan reserves of polling material and human resources that can, if needed, be promptly engaged, so that possible interruptions on election day do not jeopardise the process and lead to a need to repeat the elections.
- ▶ Size of the polling stations has to be adapted to the expected number of voters to avoid crowding.
- ▶ Co-ordination between different levels in the organisational structure of election administration, and preparation of high-quality polling material (ballot boxes and safety seals, because due to post-war conditions this material is often transported under different conditions).
- ▶ Training materials for both election administration and voters, containing clear rules for voting and counting, must be prepared early and made available at the polling stations (for example posters clearly indicating which ballots are considered valid and which are not).
- ▶ A task force team capable of providing accurate, clear, written instructions in case of inquiries from the ground, which can be urgently delivered to all necessary addresses (both to the election administration and candidates).
- ▶ Check for compliance with requirements at several levels (state of material, voters' lists, ballots, plans for sensitive polling material, knowledge of election administration).

Elections are an aptitude test for all institutions and all levels of authorities, even at times of peace. In a post-war situation, all tasks get more complex and must be viewed from all different angles. Thus, it is crucial to have backup solutions.

Conducting elections contrary to democratic standards could perhaps have been tolerated in the post-war period in Bosnia and Herzegovina. Organisations dealing with the election evaluation at that time were rare. Election observation and assessment methodology was still in its infancy, even in the late 1990s.

However, today, 25 years later, it would be hardly possible, even unacceptable, to tolerate elections that do not meet the basic prerequisites and that are not in line with international standards.

REFERENCES

Arnautović S. (2009), *Političko predstavljanje i izborni sistemi u BiH u XX stoljeću*, Promocult, Sarajevo.

DPA – The General Framework Agreement for Peace in Bosnia and Herzegovina (1995), initialled in Dayton on 21 November 1995 and signed in Paris on 14 December 1995, available at www.osce.org/files/f/documents/e/0/126173.pdf, accessed 14 August 2023.

European Community (1991), *Declaration on Yugoslavia*, Extraordinary EPC Ministerial Meeting, Brussels, available at www.dipublico.org/100637/declaration-on-yugoslavia-extraordinary-epc-ministerial-meeting-brussels-16-december-1991/, accessed 14 August 2023.

European Community (1992), Conference on Yugoslavia, *Arbitration Commission Opinion No. 4, On International Recognition of the Socialist Federal Republic of Bosnia-Herzegovina by the European Community and its Member States*, Paris.

Fink Hafner, D. and Pejanović M. (2006), *Razvoj političkog pluralizma u Bosni i Hercegovini*, Promocult, Sarajevo/Ljubljana.

Hadžiabdić, I. (2019), "Transitional elections in Bosnia and Herzegovina, 1996-2002", in Alihodžić S., Matatu N. and Raffoul A. (eds), *Transitional Elections: Case studies. Appendix to International IDEA's Policy Paper No. 18, Stockholm*, pp. 7-15.

ICG (1996), Elections in Bosnia and Herzegovina, Bosnia Report No. 16, available at www.crisisgroup.org/europe-central-asia/balkans/bosnia-and-herzegovina/elections-bosnia-and-herzegovina, accessed 14 August 2023.

ICG (1997), Beyond ballot boxes: Municipal elections in Bosnia and Herzegovina, ICG Bosnia project, 10 September 1997, available at www.intl-crisis-group.org/projects/bosnia/report/bh26main.html, accessed 15 August 2023.

ICG (2001) The wages of sin: confronting Bosnia's Republika Srpska, Balkans Report No. 118, Sarajevo/Brussels, available at www.crisisgroup.org/europe-central-asia/balkans/bosnia-and-herzegovina/wages-sin-confronting-bosnias-republika-srpska, accessed 15 August 2023.

IOM (2003), *Case studies on the participation of conflict forced migrants in elections*, available at www.geneseo.edu/~iompres/PEP%20Case%20Studies%202003.pdf, accessed 15 August 2023.

Kasapović M. (2005), *Bosni i Hercegovina: Podijeljeno društvo i nestabilna država*, Politička kultura.

Miljko Z. (2006), *Ustavno uređenje Bosne i Hercegovine*, Hrvatska sveučilišna naklada.

Official Gazette of BiH (1992), *Results of the Republican referendum for determining the status of BiH*, No. 7/92.

OSCE (1996a), The elections in Bosnia and Herzegovina, 14 September 1996: preliminary statement of the co-ordinator for international monitoring (CIM), available at www.osce.org/files/f/documents/b/1/14031.pdf, accessed 15 August 2023.

OSCE (1996b), The elections in Bosnia and Herzegovina, 14 September 1996: second statement of the co-ordinator for international monitoring (CIM), available at www.osce.org/files/f/documents/f/3/13615.pdf, accessed 15 August 2023.

OSCE (2006), *10 years OSCE mission to Bosnia and Herzegovina, 1995-2005*, Blicdruk, Sarajevo.

OSCE/ODIHR (1997), Bosnia and Herzegovina, Republika Srpska national assembly elections, 22-23 November 1997, available at www.osce.org/odihr/elections/bih/14048, accessed 15 August 2023.

Pejanović M. (2013), *Politički pluralizam i parlamentarna demokratija u Bosni i Hercegovini*, Sarajevo.

Statistical Bureau (1993), *National population composition*, Sarajevo.

The Norwegian Helsinki Committee report (1996) from the elections in BiH.

UNHCR (1996), *Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia, the Former Yugoslav Republic of Macedonia and Slovenia*, Information Notes, No 6-7/96 (June/July 1996).

This is an analytical overview of the first post-war elections in Bosnia and Herzegovina that were conducted with the assistance of the international community in the period from 1996 to 2000. It presents the basic segments of the electoral cycle and difficulties of organizing elections in a post-war environment. It also provides insight into the problems of organising elections, particularly problems concerning security, lack of infrastructure and a great number of refugees and displaced persons. It dives into legal and practical aspects related to election management that are to ensure fundamental electoral principles, electoral rights of citizens and competent election management. The lessons learned during the post-war elections in Bosnia and Herzegovina might be important and useful not only for Ukraine, but also for countries facing similar issues.

ENG

www.coe.int

The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE