



2016 LOCAL ELECTIONS IN BOSNIA AND HERZEGOVINA FINAL REPORT

on civic and nonpartisan observation of local elections

Sarajevo, December 2016



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ABBREVIATIONS USED IN THE TEXT

BiH	Bosnia and Herzegovina
BD BiH	Brčko District of Bosnia and Herzegovina
PS	Polling station
PSC	Polling station committee
CVR	Central Voters' Register
CCI	Centers of Civil Initiatives
CGS	Center for Civic Cooperation
CEC	Central Election Commission
DF	Democratic Front
DNS	Democratic People's Alliance
DON	Democracy, organization, progress
ECtHR	European Court for Human Rights
FBiH	Federation of Bosnia and Herzegovina
FGT	Forum of Tuzla citizens
GIK	City election commission
GRECO	Council of Europe's Group of States against corruption
HDZ	Croatian Democratic Union
IDWG	Inter-departmental working group for changes to the electoral legislation
LEC	Local election commission
NDP	National Democratic Movement
NS	Naša stranka (Our Party)
RS NA	Republika Srpska National Assembly
OHR	Office of the High Representative in BiH
MEC	Municipal election commission
OSCE	Organization for Security and Cooperation in Europe
HoR P FBiH	House of Representatives of the BiH Federation Parliament
HoR BiH PA	House of Representatives of the BiH Parliamentary Assembly
BIH PA	Parliamentary Assembly of Bosnia and Herzegovina
RS	Republika Srpska
SDA	Party of Democratic Action
SDP	Social Democratic Party
SDS	Serb Democratic Party
SNSD	Alliance of Independent Social Democrats
SP	Socialist Party
ZR form	Aggregate results



1. SUMMARY

The general assessment of the 2016 Local Elections by the Coalition “Pod lupom” is that these elections were conducted in line with the BiH Election Law and implementing regulations, mainly in a democratic and fair atmosphere, except in Stolac municipality where the Election Law was severely violated and the electoral process violently interrupted. A certain number of incidents and irregularities in terms of violation of the Election Law and implementing regulations, which occurred in certain municipalities, were observed on the Election Day, and there were several different types of irregularities observed in the pre-election period.

The electoral legislation in BiH is instituted on Annex III (Agreement on Elections), Annex IV (the Constitution of Bosnia and Herzegovina) of the General Framework Agreement for Peace in Bosnia and Herzegovina and the BiH Election Law that provide an adequate legal framework for the conduct of democratic elections. The election administration in BiH consists of election commissions (the BiH Central Election Commission and local election commissions) and the polling station committees. The Central Election Commission had passed the decision announcing the Local Elections in BiH on May 4, 2016. Local elections were held on Sunday, October 2. A total of 3.277 mandate holders were to be elected. A total of 451 political subjects and 30.445 candidates participated in the elections. A total of 3.255.018 voters had the right to vote at these local elections, and voting took place at 5.469 polling stations.

The 2016 Local Elections were held in a political setting that posed a challenge to democratic, fair and free elections in the country. The following events had marked the election year: conflicts between parliamentary political subjects at different levels of authority and between candidates in certain local communities, polarization of political spectrum in the Republika Srpska (RS) entity to two blocks, RS National Day referendum, low work intensity of majority of government institutions and elected representatives' commitment to the election campaign, failure to conduct elections in the City of Mostar, a great number of electoral irregularities reported before the Election Day, and an election campaign that was characterized by sharp and/or inappropriate rhetoric especially in ethnically non-homogeneous settings. It is also very important to highlight amendments to the electoral legislation that were passed just before the elections were announced, and in the context of political circumstances one also has to highlight submission and acceptance of the BiH's application for EU membership.

The attention of the public in the pre-election period was substantially directed towards two municipalities in BiH – Srebrenica and Stolac. While the case of Srebrenica represents an ongoing political tension about election of the mayor, which occurs every local elections the case of Stolac municipality represents a series of registered electoral irregularities that occurred before the Election Day. The Coalition finds that the BiH Central Election Commission (BiH CEC) did not timely respond to reported irregularities, and the situation climaxed on the Election Day with a violent interruption of the electoral process due to non-observance of the provisions of the BiH Election Law and the BiH CEC's implementing regulations by individuals from the local election commission and polling station committees, and also by some of the candidates from lists of political subjects, thereby seriously undermining the integrity of electoral process in this municipality.

Election administration prepared and organized the elections mainly in line with the Election Law and implementing regulations. However, the BiH CEC's concrete reaction to observed problems, shortcomings and irregularities in the electoral process was missing in a large number of cases, especially when it comes to imposing sanctions on the offenders. The BiH CEC also rarely acts *ex-officio*, and adequate sanctions for more severe violations of the electoral process are also missing, especially when it comes to claims about trading of positions on the polling station committees. The Coalition had informed the BiH Central Election Commission about the latter on September 7, 2016. Majority of local election commissions made adequate arrangements for the conduct of elections. In relation to the 2014 General Elections the work of local election commissions was organizationally improved by enactment of the *Instruction on method of work and reporting of the election commission of a basic constituency in BiH* thereby increasing accountability and transparency in the work of these election bodies. The Coalition believes, as it did after the 2014 General Elections, that the polling station committees are still one of the biggest problems in the electoral process, and that thorough changes and concrete improvements have to be made concerning the procedures of appointment and training of the polling station committees' members. Actual cases of trading of positions on the polling station committees by political subjects were registered, and it represents a harsh violation of the Election Law. A large number of irregularities registered on the Election Day are, in Coalition's opinion, result of insufficient training and unpreparedness of the polling station committees to properly carry out the electoral process.

The election campaign, as in the previous election cycles, began even before the official launch on September 2. For these elections, the campaign revealed that a large number of political subjects were fixated on the manipulation of voters' electoral will. The latter manifested through pressures being exerted on the voters, as well as through buying and distribution of different gifts to the voters.

The trend of running the election campaign to induce feelings of fear among the voters, usually associated with ethno-national divisions in the BiH society, has been continued.

In principle, it can be said that most of the media generally complied with the standards of fair, objective and balanced reporting. The data on decline of hate speech is encouraging, although there are still examples of some other forms of inappropriate speech in the public space. The most troubling are most certainly the cases of advocacy reporting by some media i.e. the tendency of reporting (more) positively about some political subjects in relation to the others. In general, we can say that the media did meet the informative role, but both the educational (education of political public, especially about the local topics) and orientational functions were slightly less used.

At the majority of polling stations and in the local election commissions in BiH the Election Day was conducted in accordance with the Election Law and the implementing regulations, and mainly in a democratic and fair atmosphere, with the exception of the elections in the municipality of Stolac. Observers and mobile teams of the Coalition "Pod lupom" recorded and reported approximately 300 situations in the field that the Coalition found to be serious violations of the electoral rules and regulations for which it requested action to be taken both by the polling station committees and the local election commissions. The largest number of reported irregularities related to open solicitation at the polling stations – 43 reported cases; systematic violations of electoral rules and regulations, which include so-called "family voting", abuse of the "voting assistance" principle, sending a large number of voters away from the polling station, because they are not on the excerpt from the CVR – 49 reported cases; and also 6 cases of adding votes to the ballot papers. A large number of reported irregularities related to discrepancies in the accuracy test that compares number of received ballot papers before the opening of the polling station in relation to the sum of the number of unused, damaged and used ballot papers after opening of the ballot box.

Observers of the Coalition filed 143 objections, which were recorded in the polling station log book, in 64 municipalities/cities on the Election Day. Based on the reports of the Coalition's observers, the presidents of the polling station committees at 12 polling stations refused to enter observers' objections into the PS log book, thus drastically violating provisions of the Law. The Coalition will request appropriate sanctions for the presidents of these polling station committees to be pronounced.

The BiH CEC observed the deadlines relating to the announcement of election results. The results of the 2016 Local Elections were confirmed and published on November 1. The BiH CEC received 390 complaints and appeals concerning the electoral process, while the Coalition noted that local election commissions had received 104 complaints from the political subjects only in the pre-election period. Majority of the complaints filed with the election administration in the pre-election period were rejected on various grounds.

Furthermore, the Coalition also monitored implementation of the election results. The BiH CEC presented mandate certificates to the elected executive office-holders, municipal/city mayors on November 8. The vast majority of the local representative bodies, as well as the Assembly of Brčko District of BiH, were established within 30 days following the announcement of confirmed results i.e. until November 30, 2016. Ten¹ local councils/assemblies held their constituting sessions after this date, while local representative bodies in nine² municipalities were not established as of December 12, 2016.

¹ Gacko - 1.12.; Posušje - 2.12.; Zvornik - 2.12.; Ugljevik - 01.12.; Orašje - 08.12.; Domaljevac Šamac - 01.12.; Modriča - 01.12.; Bosansko Grahovo 01.12.; Kupres RS - 2.12.; Prozor Rama - 6.12.

² Glamoč, Livno, Kupres, Bugojno, Odžak, Vukosavlje, Bileća, Konjic, Kotor Varoš

The Coalition for free and fair elections “Pod lupom” that consists of 6³ civil society organizations from the entire Bosnia and Herzegovina observed the pre-election, election and post-election period in BiH through the Main office in Sarajevo and 7 regional offices. A total of 41 long-term Coalition's observers were hired for election observation in all constituencies in which the Local Elections were held on October 2 aimed at more efficient observation of the pre-election period. Different from the 2014 General Elections the Coalition “Pod lupom” had at the 2016 Local Elections put an additional focus on observing the election campaign of the political subjects and on monitoring the media coverage. On the Election Day the Coalition deployed 2.883 observers to 2.562 polling stations, covering every second polling station in the country or 49% out of 5.205 regular polling stations, and at 141 local election commissions, 60 mobile teams and the Call Center. Methodology of the long-term observation was improved by introduction of SMS weekly reporting, while the observation on the E-day was founded on statistically-based election observation methodology (SBO) that was developed in BiH for the first time and used by the Coalition “Pod lupom” at the 2014 General Elections.

Recommendations to improve the electoral process:

Priority recommendations:

- To set forth that the president of the polling station committee has to be a non-party person with experience in election management or with good knowledge of electoral process, and that he/she is appointed by the local election commission;
- To prevent exchange and potential trade of the seats on the polling station committees between the political subjects by publicly announcing names and last names of all members of polling station committees, and noting their political affiliation to the political subject that appointed them. It should be done immediately after their appointment to the polling station committee, and again at least five days before the Election Day;
- To introduce separate translucent ballot boxes for every level of authority for which the ballots are casted;
- To lower the height of voting booths to the minimum height that guarantees secrecy of the vote;
- To introduce obligation to annul elections at the polling stations where deficit/excess of ballot papers is determined;
- To equalize the status of non-party observers with the international observers in terms of rights and obligations;
- To enable non-party observers to file complaints;
- To put all legislative preconditions in place and to enable the conduct of local elections in the City of Mostar;
- To shorten all deadlines from the day elections are announced until the official and complete announcement of final election results (instead current 180 to 120 days);
- To enable voters to scan his/her ballot papers at the polling station thereby preventing electoral manipulations and having the election results published faster.

For the legislature and election administration:

1. To start the process of developing and adopting the national Law on political organization; election campaign and election silence;

³ Centers for Civil Initiatives (CCI), Citizens' Association “Democracy-organizing-progress”, Prijedor (DON Prijedor), Institute for development of youth and community “Perpetuum Mobile” Banja Luka, Center for Civic Cooperation Livno (CGS Livno), Incubator of social innovations “Munja” (Munja Inkubator) and Forum of Tuzla citizens (FGT Tuzla).

2. To prevent abuse of public resources for pre-election purposes by prohibiting ceremonies to mark the end and/or the beginning of public works financed from the public citizens' budget during the election campaign and election silence;
3. To put all legislative preconditions in place and to enable the conduct of local elections in the City of Mostar;
4. To precisely determine responsibility for political subjects that engage in election campaigning before the official start of election campaign period;
5. To improve the system of controlling political parties' financial management both in the election and non-election year by enhancing human and technical capacities of the BiH CEC's Audit Office or by transferring the authority to the State Audit Offices;
6. To prevent exchange and potential trade of the seats on the polling station committees between the political subjects by publicly announcing names and last names of all members of polling station committees, and noting their political affiliation to the political subject that appointed them. It should be done immediately after their appointment to the polling station committee, and again at least five days before the Election Day;
7. To set forth by the law that, besides the polling station committees' members, sanctions are to be pronounced to the political subjects that nominated the person to the polling station committee if it is found that provisions of the Election Law were violated under instruction of the political subject,
8. To set forth that the president of the polling station committee has to be a non-party person with experience in election management or with good knowledge of electoral process, and that he/she is appointed by the local election commission;
9. To equalize the status of non-party observers with the international observers in terms of rights and obligations;
10. To determine the deadline for issuing observer accreditation by election administration;
11. To enable non-party observers to file complaints;
12. To recognize in the BiH Election Law the situations when the electoral process is interrupted and establishing of the election results is not possible;
13. To set forth in the Election Law precise deadlines until when the decision on annulment of elections must be passed;
14. To envisage the notion of early elections with the four-year mandate;
15. To set forth in the Election Law when and under which conditions the mandates of previously elected and appointed officials end if the newly elected bodies of authority are not established within legally prescribed deadline;
16. To introduce a provision into the BiH Constitution and the BiH Election Law that would prevent abuse of national affiliation in the electoral process.
17. To ensure minimal representation of three constituent peoples, national minorities and the nationally undecided in the legislative government at the entity level and cantonal level in the FBiH, as well as in the representative bodies at the local level;
18. To adopt official consolidated version of the BiH Election Law.

In terms of the conduct of elections:

19. To shorten all deadlines from the day elections are announced until the official and complete announcement of final election results (instead current 180 to 120 days);
20. To strictly adhere to set deadlines for delivery of voting packages to by-mail voters;
21. To pay special attention to the criteria of competence and experience in electoral process when appointing and approving members of the local election commissions;

22. Use the implementing regulations to prevent abuse of by-mail voting;
23. To ensure continuous education of local election commissions aimed at increasing their work efficiency in the election period;
24. To introduce thorough changes and concrete improvements concerning training of the polling station committees' members;
25. To sanction unjustified renouncement of the position on the polling station committee just before the Election Day by prohibiting future engagement in at least two election cycles; to set forth keeping of such records at the level of local election administration;
26. The BiH CEC should provide timely information on received complains and decision made thereon on its website;

Election Day:

27. To strictly adhere to provisions of the BiH Election Law and the provisions of implementation regulations that set forth the procedure of safeguarding the polling material at every polling station;
28. Strictly adhere to implementing regulations relating to the layout of the polling station, and to precisely define sitting arrangement of the polling station committee's members so that every member of the PSC has insight into the work of other members;
29. To introduce separate translucent ballot boxes for every level of authority for which the ballots are casted;
30. To lower the height of voting booths to the minimum height that guarantees secrecy of the vote;
31. To technically improve preparation of the copies of the aggregate results forms so the latter would be legible, and after all processes at the polling station are completed the copies should be openly displayed as prescribed;
32. To introduce obligation to annul elections at the polling stations where deficit/excess of ballot papers is determined;
33. To set forth stricter penalties for members of the polling station committees where discrepancies and/or disproportion is determined as the result of under-education or manipulations;
34. To enable voters to scan his/her ballot papers at the polling station thereby preventing electoral manipulations and having the election results published faster.



2. POLITICAL CONTEXT

The political context in which the 2016 Local Elections in Bosnia and Herzegovina (BiH) were held posed a challenge to democratic, fair and free elections in the country. This period was predominantly marked by conflicts between parliamentary political subjects at different levels of authority and between candidates in certain local communities, polarization of political spectrum in the Republika Srpska (RS) entity to two blocks, RS National Day referendum, low work intensity of majority of government institutions and elected representatives' commitment to the election campaign, and not to the job for which they are paid by the citizens, the failure to conduct elections in the City of Mostar, a great number of electoral irregularities reported before the Election Day, and an election campaign that was characterized by sharp and/or inappropriate rhetoric especially in ethnically non-homogeneous settings.

The election year was marked by several important processes, some of which can be assessed as progress, while the others represent a serious threat to the political circumstances in BiH. Here we can highlight submission and acceptance of the BiH's application for EU membership and amendments to the electoral legislation just before the elections were announced.

The period just before the local elections and during the election campaign coincided, by chance or not, with the efforts of local authorities and the international community to revive the European path of BiH, which has been stalled for a long period of time and that is a positive difference in relation to the political ambience that marked the 2014 General Elections. This primarily implies submission of the application for the EU membership on February 15 and its acceptance on September 20, 2016. The political subjects that make up majority at the national level, as well as certain media, had referred to this process and to the aforementioned dates as historic, although the process still does not show concrete effects in terms of improving the quality of citizens' life, which compared to the recent past cannot be regarded as significantly improved.

The election year was also marked by amendments to the BiH electoral legislation, including the amendments to the BiH Election and the Law on political party financing, which were adopted on April 27, only seven days before the Decision on announcing the Local Elections, which is contrary to the guidelines of the Venice Commission's Code of good practice in electoral matters⁴. Endorsement of amendments to the BiH Election Law was done without consulting expert public. Five proposals of changes and addenda to the BiH Election Law were put on the agenda of the House of Representatives of the BiH Parliamentary Assembly (HoR BiH PA), which is not in line with the Rules of Procedures according to which several proposals of the law that regulate the same matters cannot be found on the agenda. Furthermore, a total of 32 amendments to the BiH Election Law, which were proposed by the Inter-departmental working group for changes to the BiH electoral legislation (IDWG), were adopted in the same day, in two readings before the both Houses of the BiH Parliamentary Assembly (BiH PA). Work of the IDWG did not yield expected results, and vast majority of 32 endorsed amendments for changes and addenda to the BiH Election Law related to technical and not to substantial improvements of the electoral process. The amendments that would improve the work of the polling station committees were not adopted and all participants in the electoral process and the civil society organizations have characterized the PSCs to be the weakest link of the Election Day. The most significant change relates to increase of the intra-party threshold for the candidates of political subjects on closed non-blocked candidates' lists (so-called semi-open lists) from 5% to 10% for local and from 5% to 20% for general elections, which boosts political power and influence of political subjects and weakens political accountability and citizens' opportunity to elect particular persons who would represent them in the representative and legislative bodies of authority. Joint efforts of some civil society organizations, political subjects, a part of the international community and the citizens, did to some extent limit the attempt to increase intra-party threshold to 15% for local elections and to 30% for general elections, as well as unacceptable proposals of the IDWG to introduce closed candidates' lists and to annul mandatory order of the underrepresented gender on the lists.

The IDWG also did not propose, although it was its obligation, a solution that would enable the conduct of local elections in the City of Mostar, which were last time held in 2008. Therefore the citizens of Mostar could not participate in the elections for the local level again, thus having their Constitutional right to elect and to be elected to the City Council directly violated. Instead of having the decision of the Constitutional Court implemented within six days following its adoption, the BiH PA did not discuss this, because the two leading parties in the FBiH, SDA and HDZ BiH, took the exclusive right to find a solution. Especially worrying is the fact that other political parties are not involved in the process, particularly the parties that represent interests of Serb citizens, which also violates the decision of the Constitutional Court on equality of all three people on the entire territory of BiH.

⁴[http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023rev-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023rev-e)

Originally announced and disputed, then banned by the BiH Constitutional Court's decision, and despite all of it ultimately held on September 25, the RS National Day Referendum had marked the period before the Election Day more than any other event in the country. The referendum was an unavoidable topic during the election campaign, especially in the entity of RS, and it inevitably had influence on obtaining of the citizens' voters in the entire country. Furthermore, a topic that is very sensitive in the BiH political situation additionally deepened the political crises and distrust, which inevitably affects the inter-ethnic relations in BiH.

The attention of the public in the pre-election period was substantially directed towards two municipalities in BiH – Srebrenica and Stolac. While the case of Srebrenica represents an ongoing political tension about election of the mayor, which occurs every local elections the case of Stolac municipality represents a series of registered electoral irregularities that was reflected in doubts about up-to-datedness of the voters' register and in invitations to vote using invalid identification documents, which was the subject of many warnings. The Coalition finds that the BiH Central Election Commission (BiH CEC) did not timely respond to reported irregularities, and the situation climaxed on the Election Day with a violent interruption of the electoral process due to non-observance of the provisions of the BiH Election Law and the BiH CEC's implementing regulations by individuals from the local election commission and polling station committees, and also by some of the candidates from lists of political subjects, thereby seriously undermining the integrity of electoral process in this municipality.

In the time before the Election Day a series of other electoral irregularities and violations of the electoral rules were registered in several municipalities. All of these were properly reported and substantiated with evidence, but the election administration and other competent bodies failed to respond on time. Registered irregularities relate to prohibited pressures on voters and vote buying, illegal trading of positions on the polling station committees, abuse of personal data for the purpose of voting by mail, not up-to-date voters' registers in municipalities, a great number of voter registration/deregistration in certain municipalities that may imply attempted electoral engineering, and premature, prohibited election campaign before the official start of campaigning.

Election year seriously affected the work intensity and efficiency of the vast majority of government institutions, where both the intensity and the efficiency were dramatically lower in the first nine months in relation to the same period in 2015, except in case of the BiH Council of Ministers⁵. In a situation of serious political crisis in FBiH, caused by the conflict within the ruling coalition, the FBiH Government has had constant, and even dramatic, decline of productivity, especially in the third quarter of this year, while the legislative productivity is best illustrated by the data that none of the Houses of the FBiH Parliament had held a complete session in the third quarter of 2016. The situation in RS was quite similar, and first nine months were spent in harsh conflicts between opposing blocks in the government and the opposition. The RS Government had almost the usual work intensity in the pre-election period, followed by a slight decline in third quarter. On the other hand, the RS National Assembly did not practically work for three months, while the annual leaves were combined with the party-related obligations in the election campaign.

⁵ Source: CCI's report on monitoring performance of the BiH Council of Ministers, BiH PA, RS Government, FBiH Government, RS BA and FBiH Parliament
<http://www.cci.ba/monitoring/1/7/1.html>
<http://www.cci.ba/monitoring/1/8/2.html>

Koalicija „Pod lupom“ najavila aktivnosti za lokalne izbore

3.000 posmatrača na svakom drugom izbornom mjestu

Cilj je zaštita integriteta izbornog procesa i glasova birača, vraćanje povjerenja u izborni proces te sprečavanje i reagiranje u slučaju nepravilnosti

Na izborni dan, 2. oktobra, koalicija „Pod lupom“ planira angažirati 3.000 građanskih i nestrancijskih posmatrača na 3.700 biračkih mjesta, dakle na svako drugo biračko mjesto u zemlji, u 142 lokalne izborne komisije, 60 mobilna širom BiH i 10 mobilna u Sarajevu. Na konferenciji u Sarajevu, direktor



POD LUPOM
Koalicija za slobodne i poštene izbore

3. BASIC INFORMATION ON THE 2016 LOCAL ELECTIONS⁶

The BiH Central Election Commission (BiH CEC) passed a decision on announcing the Local Elections on May 4, 2016. The elections were held on October 2, 2016 for the following levels of authority:

- 74 Municipal Councils in the Federation of Bosnia and Herzegovina
- 57 Municipal Assemblies in Republika Srpska
- 4 City Councils in the Federation of Bosnia and Herzegovina
- 6 City Assemblies in Republika Srpska
- 131 Municipal Mayors
- 10 City Mayors
- Assembly of Brčko District of Bosnia and Herzegovina

⁶ Data of the Central Election Commission of Bosnia and Herzegovina (CEC)

A total of 3.136 councilors were to be elected. Representatives of the national minorities in the local representative bodies and in the Assembly of Brčko District of BiH, as set forth by the BiH Election Law, were to be elected at the local elections. A total of 26 representatives of national minorities were to be elected in 24 units of the local self-government.⁷ A total of 451 political subjects participated in these local elections, whereof: 102 political parties, 103 coalitions, 171 independent candidates, 17 lists of independent candidates, and 52 independent candidates on behalf of 52 groups of citizens and six independent candidates on behalf of six citizens' associations for election of national minorities' representatives.

A total of 30.445 candidates were certified, whereof 418 candidates for municipal/city mayor, 29.884 candidates for municipal/city councils/assemblies and Assembly of Brčko District of BiH (BD BiH) and 143 candidates representatives of national minorities. The gender structure of the candidates is as follows: a total of 12.470 or 41.83% women and 17.343 or 58.17% men were certified for the councils/assemblies, while only 26 or 6.27% women were certified for the municipal/city mayors.

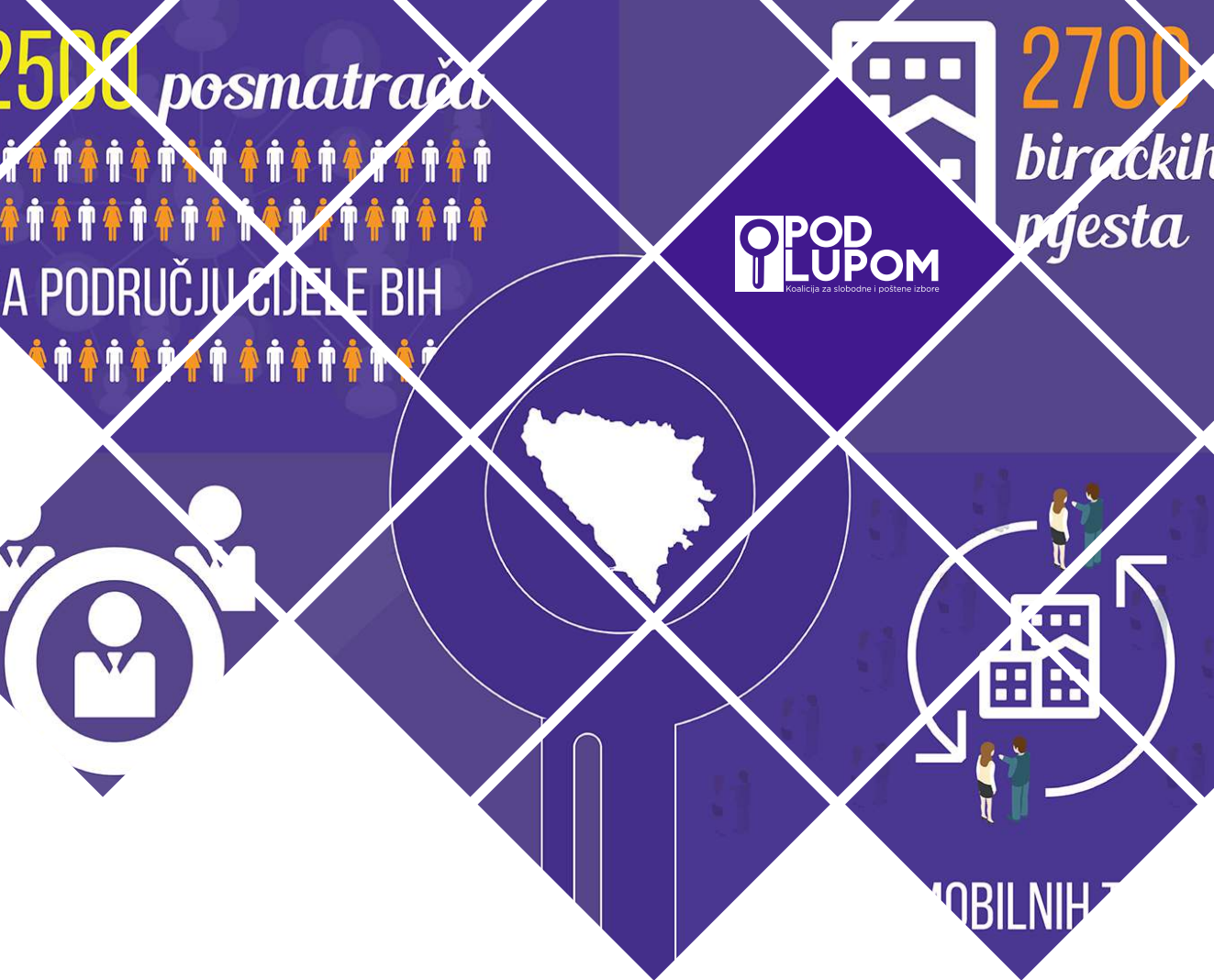
A total of 3.255.018 voters had the right to vote at the 2016 Local Elections, whereof 3.155.128 voters could vote at the regular polling stations, 8.873 voters had the status of displaced person and could vote in absentia, 11.951 voters had the status of displaced person and could vote in person, 287 voters could vote at the diplomatic-consular representation offices of BiH, 2.516 voters could vote by tendered ballots, and 63.756 voters were registered to vote by-mail.

A total of 5.469 polling stations were established, whereof 5.205 were regular polling stations, 130 for voting in absentia and 134 for voting in person. A total of 318 mobile teams were established. The voting was organized at 5 polling stations in the diplomatic-consular representation offices of BiH abroad.⁸

A total of 68.005 observers observed the 2016 Local Elections in BiH, whereof the local election commission accredited 61.175 observers of political subjects. The BiH CEC accredited 6.830 observers to observe the 2016 Local Elections, whereof 6.388 observers of 36 domestic associations amongst which 4.200 observers of 6 associations of the Coalition "Pod lupom", 333 observers of 20 international organizations and 109 observers of 17 political subjects. Observers of these political subjects were accredited to observe the Main center for counting and/or BiH CEC's work.

⁷ Cazin, Bosanska Krupa, Odžak, Gradačac, Lukavac, Srebrenik, Teočak, Banovići, Kalesija, Donji Vakuf, Kakanj, Trnovo (FBiH), Pale (FBiH), Tuzla, Zenica, Novi Grad, Gradiška, Prnjavor, Vukosavlje, Sokolac, Prijedor, Banja Luka, Trebinje, Brčko District of BiH.

⁸ One polling station in the BiH Embassy in Vienna, BiH Honorary consulate in Graz, BiH General Consulate in Munich, BiH General Consulate in Stuttgart and BiH Embassy in Belgrade respectively



4. METHODOLOGY

Coalition “Pod lupom” observed the pre-election, election and post-election period in BiH through the Main office in Sarajevo and 7 regional offices. A total of 41 long-term Coalition’s observers were hired for 141 municipality/city in BiH (all municipalities and cities in which the Local Elections were held on October 2, except for the City of Mostar) and Brčko District of BiH. Long-term observers had through their work in the field and in direct contact with the presidents and members of local election commissions (LECs), representatives of political parties, non-government organizations, media and the citizens reported on key findings of the monitoring of local election administration, on activities set forth in the electoral calendar and on observance of the deadlines, as well as on observed irregularities in the field. In the period July 18 – September 30, 2016 more than 2.000 pre-election reports of long-term observers were processes, and long-term observers' key findings and recorded irregularities represent a backbone of this report. A novelty in the long-term observation methodology that the Coalition applied in this election cycle is weekly SMS reporting based on predefined questions, which enables faster systematization of the responses, and easier detection of the trends and identification of problems concerning electoral process.

Different from the 2014 General Elections the Coalition "Pod lupom" had at the 2016 Local Elections put an additional focus on observing the election campaign of the political subjects and on monitoring the media coverage, thus expanding the extent of its activities and the volume of election observation. In the period from September 2 to September 30 additional 41 election campaign observers were hired. They visited 514 pre-election rallies of political subject and made reports from each of them using appropriate form. The election campaign observers' reports are also part of this report. Monitoring of election media coverage was done in cooperation with the Association "BH novinari" and Agency "BORAM". A total of 20 monitors were hired aimed at analyzing media coverage. The monitors followed coverage of 46 media outlets. 37.962 media contents were analyzed whereof 5.646 media contents related to elections.

The Coalition "Pod lupom" is founding the observations of the Election Day on the reports of its observers and the staff, and on the citizens' reports of irregularities. On the Election Day the Coalition "Pod lupom" deployed 2.923 observers to 2.562 polling stations, thus covering every second polling station in the country or 49% of 5.235 regular polling stations. The use of statistically-based election observation methodology (SBO) that implies deployment of observers to the accurately defined sample of polling stations and that was for the first time in BiH developed and applied by the Coalition "Pod lupom", makes the collected data statistically relevant for the entire country. This advanced methodology is used by similar organizations worldwide, and it represents a positive methodological shift away from the classic election observation, which is based on covering as many polling stations as possible. Also, this methodology allows the focus to be put on the important issues of the Election Day, as well as on the pace of collecting and processing of the information.

Furthermore, the Coalition had deployed observers to 141 local election commissions, 60 mobile teams across the country, and to the Call Center that collected and processed reports of the short-term observers. All short-term observers had undergone intensive training about legislation and regulations that regulate the Election Day procedures, as well as about the method of communication and reporting, and they had signed the Code of conduct, pledging to objective and impartial reporting. The short-term observers were responsible to monitor the process of opening of the polling stations, voting, closing of the polling stations and the vote counting, and to communicate the information about these activities using SMS reporting in real time or by calling the Coalition's call center. The short-term observers' reports and findings are backbone of this report in the segment of assessing quality of the process and the conduct of elections on the E-Day.

The coalition had for the second time implemented the project of collecting and processing the election results for the city/municipal mayors of five most populated municipalities/cities in BiH. Collected election results confirmed the official election results published by the BiH CEC.

The coalition "Pod lupom" also observed the work of the BiH Central Election Commission by attending the session, which is continuance of the practice since the 2014 General Elections. The civic, non-party observers did not attend the sessions of the BiH CEC before that. Coalition "Pod lupom" had in 2015 and 2016 monitored work of the inter-departmental working group for changes to the electoral legislation (IDWG), which held 14 sessions in the period from October 14, 2015 to March 22, 2016. A portion of the findings and conclusions in this report is result of the monitoring of the work of the BiH CEC and IDWG.



5. LEGAL FRAMEWORK AND ELECTION SYSTEM

5.1. LEGAL FRAMEWORK

The legal framework in Bosnia and Herzegovina is very complex, since it has abundance of unique constitutional solutions. The Constitution of Bosnia and Herzegovina is the Annex IV of the Framework Agreement for Peace in BiH (so-called the Dayton Peace Agreement), which entrusts limited competencies to the State institutions, while most of the competencies are entrusted to the entities – the BiH Federation (FBiH) and Republika Srpska (RS), but also to the cantons in the BiH Federation. The Brčko District of BiH has a special status as a unit of local self-government, under the sovereignty of BiH and it is held in a condominium by both entities. The Dayton Peace Agreement also established the Office of the High Representative (OHR), which has significant authority and which is *de facto* part of the constitutional structure. The specificity of the constitutional solutions in BiH is reflected in the concept of “constituency” of the people (Bosniaks, Croats and Serbs), while the citizens, who do not belong to any of the constituent peoples or who do not declare their ethnic affiliation, are called “Others”. This represents discrimination against the ones who do declare their national/ethnic affiliation, and these

are members of the national minorities⁹, but also against the ones who have decided not to declare their ethnic/national affiliation.

Here one has to mention the fact that the Decision of the BiH Constitutional Court from the year 2000 still has not been completely implemented. The decision guarantees equality of all three peoples on the entire territory of BiH, thus neutralizing the fact that representatives of these three peoples, depending in which entity they live, do not have the passive voting right. Also here one should mention the fact that the Decision of the European Court for Human Rights in case of “Sejdić and Finci”, “Zornić” and “Pilav vs. BiH” has not been implemented, and their implementation inevitably leads to changes of the BiH Constitution and the BiH Election Law.

The BiH Election Law is the main law for organization and the conduct of elections. **So far there have been 20 changes and addenda¹⁰ to this Law. The latest changes to the Election Law were passed in April of 2016 upon proposal of the Inter-departmental working group for changes to the electoral legislation.¹¹ As in the case of amendments to the Law during the year 2014, just before the General Elections, this kind of practice is not in line with the Code of good practice in electoral matters of the Venice Commission, which recommends no changes to the Election Law to be made in the election law.** A total of 32 amendments to the Law were adopted, and these were mainly technical in nature. The key changes related to increase of interparty threshold of won votes for allocation of mandates on local elections (municipal council/assembly) from 5 to 10%, while for the general elections i.e. elections to the cantonal assemblies the threshold was increased from 5 to 20%. Raising the threshold in this context represents additional closing of the lists i.e. smaller voters' influence when electing their representatives, and larger influence of political subjects. It is also the Venice commission's opinion that a high intra-party threshold/preference threshold, which is quite rare, may de facto imply close lists although preferential voting is present. A moderate intra-party threshold or preference threshold from 5 to 7% provides good possibilities for voters to affect candidates' lists.¹² In terms of gender equality, equal gender representation was also introduced for the compensatory lists, which was earlier not the case. It implies 40% of underrepresented gender with a sequence in nomination of the candidates so that at least one candidate of underrepresented gender is amongst first two candidates, two amongst first five candidates, three amongst first eight candidates, etc.

Coalition “Pod lupom” has through its advocacy activities for improvement of electoral legislation, and with the help of two members of the BiH PA¹³, proposed two amendments relating to introduction of the non-party function for the president of the polling station committee and public disclosure of the names of all members of the polling station committees, together with their affiliation to a political subject. The objective of the amendments was to increase professionalism in the work of polling station committees by introducing non-party function for the president of the polling station committee and preventing so-called trading of the positions on polling station committees that bring legality of the electoral process and respecting of the voters' will into the question. However, members of the Parliament did not support the proposed amendments.

⁹ National minorities in BiH are defined under the Law on rights of national minorities in BiH

¹⁰ „Official Gazette of BiH”, no. 23/01, 07/02, 09/02, 20/02, 04/04, 20/04, 25/05, 65/05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08, 32/10, 18/13, 07/14, 31/16)

¹¹ Inter-departmental working group was established by a conclusion of both Houses of the BiH PA in May 2015. It started working on October 14, 2015 and consisted of three members from the BiH CEC, House of Representatives of the BiH PA, House of Peoples of the BiH PA and Council of Ministers.

¹² IReport of the Venice Commission on proportional electoral system: the allocation of seats inside the lists (open/closed lists) [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2015\)001-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2015)001-e)

¹³ Senad Šepić (SDA), Damir Arnaut (SBB)

Furthermore, the question of Mostar, in which the local elections were held in 2008 for the last time, was not the point of agreement between the leading political parties, so the elections were again not held, and citizens of Mostar were deprived of their constitutional right. Three proposals of the opposition parties were included in the agenda, but none of them was supported.

Although massive changes to the Election Law, including enactment of a new one, were announced after the 2014 General Elections, it can be concluded that there was neither political will, nor necessary political consensus to do something like that in a transparent, inclusive and comprehensive manner. The existing BiH Election Law still does not define deadlines for establishment of the executive government or penalty provisions in case the deadline for establishment of legislatures at all levels of authority are not observed. Furthermore the Election Law does not recognize the notion of early elections that can serve as a mechanism to de-block non-functional government in legally prescribed situation.

The following laws are also relevant for organization and conduct of the elections in BiH: Election Law of Republika Srpska¹⁴, Election Law of Brčko District of BiH¹⁵, Law on direct election of mayors in FBiH, and others laws closely related to the electoral process: Law on political party financing, Law on citizenship, Law on conflict of interests in the government institutions of BiH, Law on permanent/temporary residency of BiH citizens, Brčko District Law on selection and change of the entity citizenship, as well as all BiH CEC's regulations.¹⁶ Unfortunately, there is no law on political organization in BiH that would regulate issues important for their more responsible and transparent work.

Recommendations:

- **To start the process of developing and adopting the national Law on political organization;**
- **To put all legislative preconditions in place and to enable the conduct of local elections in the City of Mostar;**
- **To set forth the notion of early elections with a four-year mandate;**
- **To set forth in the Election Law when and under which conditions the mandates of previously elected and appointed officials end if the newly elected bodies of authority are not established within legally prescribed deadline;**
- **To recognize in the BiH Election Law the situations when the electoral process is interrupted and establishing of the election results is not possible;**
- **To set forth in the Election Law precise deadlines in which decision on annulment of elections has to be made.**
- **To introduce a provision into the BiH Constitution and the BiH Election Law that would prevent abuse of national affiliation in the electoral process.**
- **To shorten all deadlines from the day elections are announced until the official and complete announcement of final election results (instead current 180 to 120 days);**
- **To adopt official consolidated version of the BiH Election Law.**

¹⁴ „Official Gazette of Republika Srpska”, no.34/02, 35/03, 24/04, 19/05 and 24/12

¹⁵ „Official Gazette of Brčko District of BiH”, number 17/08

¹⁶ The FBiH and RS Constitutions are also relevant. At the level of RS: the Law on political party financing in RS, the Law on political parties in RS, Law on political party financing of Brčko District of BiH, Law on political organizations of Brčko District of BiH. The laws concerning political parties and their financing are not adopted in the FBiH.

5.2. ELECTION SYSTEM

The election system of BiH is based on Annex III (Agreement on Elections) and Annex IV (Constitution of Bosnia and Herzegovina) of the General Framework Agreement for Peace in BiH, and on the BiH Election Law. The mandate of the elected officials at all levels of authority is four years. Election cycles are divided to general and local elections, and are organized every two years alternating between the local and general elections.

Reflecting a very complex constitutional structure of BiH the election system represents a combination of almost all known election system: majority system and single-member and/or multi-member constituencies for election of members of the BiH Presidency, president and vice presidents of RS, as well as for election of the city/municipal mayors and the proportional system with multi-member constituencies for election of the members of parliaments/assemblies and representative bodies at the local level. The Election Law sets forth an electoral threshold of 3%. Political subjects that pass the threshold are qualified to participate in distribution of regular mandates and this threshold is applied to all election races under the proportional representation system. On the closed non-blocked (so called semi-open) lists the voters can, besides to the political subject, give their vote to some of the candidates on that list. The preferential method is then used to determine which of the candidates won the confidence of voters of that political party, based on which it is determined who had won the individual mandate. The intra-party threshold on the semi-open lists for obtaining the mandate has been increased from 5 to 10% at the 2016 Local Elections for the election of representatives to the local representative bodies.

At the elections for the local level and according to the BiH Election Law the representatives of national minorities are entitled to representation in the municipal councils/assemblies in proportion to the percentage of their share in the total population according to the 1991 Census. If that percentage exceeding 3%, representatives of national minorities are guaranteed at least one seat in the local representative bodies. According to the Law, registered associations or other registered organized forms of activities of the national minorities, as well as a group consisting of at least 40 citizens who have the right to vote, are besides the political parties eligible to nominate a candidate for election of national minority's representative. The representatives of national minorities had 26 guaranteed seats at the 2016 Local Elections in 24 constituencies.

Recommendation:

- **To ensure minimal representation of three constituent peoples, national minorities and the nationally undecided in the legislative government at the entity level and cantonal level in the FBiH, as well as in the representative bodies at the local level.**



6. ELECTION ADMINISTRATION

The election administration of Bosnia and Herzegovina consists of election commissions and polling station committees. The election commissions are: the Central Election Commission of BiH (CEC), municipal/city election commission and the Election Commission of Brčko District of BiH¹⁷ (hereinafter: the local election commissions). Beside the above-given commission the BiH Election Law provides possibility of establishing entity and cantonal election commission. The Entity Election Commissions are established in line with the entity law, while their competence is to be defined by the BiH CEC. Such a commission was established in Republika Srpska in 2008 in accordance with the RS Election Law, but its activities are still not visible to the public. Having in mind that no separate election law had been passed in the FBiH, there is no entity commission.

In the period from 1996 to 2000 the competence to conduct the elections had the international organizations, primarily the OSCE. In this period the international organizations organized and conducted the elections through the Provisional Election Commission in accordance with the so-called election rules and regulations. The BiH Election Law, which was passed in 2001, set forth establishment

¹⁷ 143 election commissions at the local level, including the Brčko District of BiH

of a permanent BiH Election Commission. The three international members of the Election Commission (two representatives of the OSCE, and one representative of the OHR) were replaced by the domestic members by the changes and addenda to this Law in 2006, and the commission changed its name to the Central Election Commission of BiH (BiH CEC).

The mandate of the members of election commissions is seven years, while the members of the polling station committees are appointed for every election. **Political parties in the parliaments at different levels of authority elect members of the election commissions, and all members of the polling station committees are persons who are directly nominated by the political subjects. If we are here to include a large number of party observers on the Election Day, we can conclude that the electoral process in BiH is completely politicized and that it primarily serves to protect political subjects' interests and not the citizens' electoral rights. Actually, the only apolitical and non-party representatives in the BiH elections are civic, non-party observers.**

6.1. CENTRAL ELECTION COMMISSION OF BOSNIA AND HERZEGOVINA (CEC)

The BiH Central Election Commission (CEC) is responsible to organize and to conduct elections. The CEC is in the category of permanent election administration, and it has seven members: two Bosniaks, two Serbs, two Croats and one "Other" member. Since 2002 the BiH CEC completely organized and conducted eight election cycles: four regular elections (2002, 2006, 2010 and 2014) were conducted for the state, entity and cantonal bodies of authority, and four regular elections (2004, 2008, 2012 and 2016) for the local bodies of authority, including the Assembly of Brčko District of BiH. The BiH CEC also conducted the early elections for the President of RS in 2007.

Having in mind that no major irregularities were observed in the work of the BiH CEC it can be concluded that its work is mainly positive in the segment relating to organization of the elections and the conduct of activities set forth in the electoral calendar. However, in a large number of cases appropriate response to observed problems, shortcoming and irregularities in the electoral process was missing, especially in the part relating to sanctioning of offenders. The BiH CEC also rarely acts *ex-officio*, and adequate sanctions for more severe violations of the electoral process are also missing, especially when it comes to claims about trading of positions on the polling station committees.

Amendments to the electoral legislation were adopted on the last day of the deadline¹⁸, just before the elections were announced, which lead to a situation in which the BiH CEC had used the electoral period, when it should had been focused on organizing the elections and preventing irregularities, to quickly adapt certain implementing regulations and to provided additional training to the members of the local election commission about the amendments. Adopted changes and addenda to the implementing regulations aspire to improve electoral process in the part concerning improvement and transparency of local election commissions' work and entry of the election results on the Election Day. A portion of the recommendations of the Coalition "Pod lupom" from the Final Report on observation of 2014 General Elections were implemented through these implementing regulations. However, there is certainly still room for improvement, especially in the part relating to appointment of PSC members and work of the polling station committees.

Although open to public, the BiH CEC's sessions were rarely announced on time. Vast majority of sessions was held under urgent, and not under regular procedure. From the day elections were

¹⁸ April 27, 2016

announced to confirmation of the election results the BiH CEC held 63 sessions, whereof 16 regular, 26 urgent and 21 phone sessions. Coalition's experience, and a general impression made through conversations with numerous stakeholder is that the BiH CEC's communication with the public is at a satisfactory level. However, access to information could be significantly improved by having all decisions that the BiH CEC passes in sessions made public e.g. by placing them on the BiH CEC's website.

Organization and the conduct of elections

The BiH CEC failed to observe the Election Law and its own implementing regulations concerning sending of the voting packages to the voters abroad, who registered to vote by-mail. According to the information available to the Coalition, certain number of voting packages was sent at the beginning of September although the deadline for sending of the voting packages was August 18 (45 days before the Election Day). After the Election Day approximately 2.000 votes were not counted since they were received after the set deadline, which is define in the Rulebook on the procedure of conducting elections in BiH and is two days after the Election Day, but the seal of the post office has to indicate that the package was sent on the Election Day. This situation had raised many discussions in the media and amongst the political subject, and it also left room for speculations about the election results especially in case of Srebrenica. The room for speculation would be certainly reduced if the set deadlines were observed, but also if more was done to raise awareness of the voters abroad not to vote at the last minute.

This year the election results were entered into the application of the Integrated Information Election System (JIIS) and it was done by the local election commissions. The decision on the use of this system was passed on September 14. The Local election commissions were familiarized with the use of the application 17 days before the Election Day, while the mock-up elections i.e. application testing was done eight days before the Election Day. At the same time the application was tested, the local election commission had to pack ballot papers for the polling station committees. It is Coalition's opinion that the application was not tested on time and that it was tested in the period when local election commission had a lot of work and when very little time was left to correct shortcomings if there were any.

The BiH CEC organized and conducted training for the members of local election commissions in August. For a vast majority of local election commissions the training was held within the prescribed deadline¹⁹, while the training was subsequently held for 45 local election commissions or 31%. The training sessions were generally rated positive, although it can be concluded that there is plenty of room for improvement, especially with regard to preparation of training sessions by the BiH CEC's lecturers. The BiH CEC had in September conducted training and certification of president and deputy presidents of the polling station committees (PSC) under the Council of Europe's pre-election assistance project for the 2016 Local Elections. The training was done by certified trainers, who successfully completed training for trainers that the BiH CEC conducted in August. Trainers were selected based on a public vacancy, but only persons with election management experience could apply (members of election commission or members of polling station committee), which automatically discouraged the ones without working experience in election administration from applying and made additional income possible for the election administration, i.e. 100 KM per training session. The training of trainers was one-day event, and 50 participants attended each session, which is in Coalition's opinion insufficient

¹⁹ Instruction on deadlines and sequence of activities for the 2016 Local Elections
http://www.izbori.ba/Documents/Lok_Izbori_2016/Izbori_Administracija_GCB/Uputstva/Uputstvo_05042016A-bos.PDF

time to completely understand the subject matter, and the size of the group was too big to have enough attention paid to every participant. The BiH CEC thought that every participant will have enough time to prepare for the testing, since the trainers had 10 days from the training to prepare, while the presidents and deputy presidents of the polling station committees had seven days. The presidents of the PSC had to get 75% of the test correct to be certified, and deputies had to get 50%, which is again not enough to be able to say that the election administration had completely mastered the subject matter after the training and preparation.

Among other competencies the BiH CEC is also competent to accredit observers of associations and international observers to observe all electoral activities, while the local commissions or the BiH CEC accredits the political parties' observers depending on the activities they wish to observe. Even though the CEC had put its utmost efforts to make this process, at least with regard to the Coalition's observers, as efficient as possible, it had become evident that the accreditation system is complicated, and that domestic observers, unlike the international observers, are in an unfavorable position when it comes to the observers' mobility on the Election Day and the access to the polling stations in different constituencies.

Stolac

Political background of the appointment of BiH CEC members became has become evident as never before, especially in the case of Stolac municipality. There were tensions between the two opposite political and national blocks in Stolac months before the Election Day. There were serious accusations and suspicions that attempts will be made on the Election Day to misuse the voters' register, to vote with the identification documents that are not set forth by the Election Law and to misuse voters' will in any other way. BiH CEC did not successfully recognize the risks that the Election Day in Stolac would bring, and it subsequently climaxed with interruption of voting at 17 out of 19 polling stations. Coalition "Pod lupom" was the first to inform the BiH CEC and the public thereof. Due to earlier mentioned political background of the BiH CEC's appointment, and impossibility to achieve political consensus, the BiH CEC had launched a procedure to determine responsibility for the events in Stolac only a month after the elections. After the procedure was closed, the BiH CEC passed a decision dismissing all members of the MEC Stolac, and prohibiting their engagement in the election administration for four years. The vote on the decision was tight (four to three). The political subjects and their candidates who are brought into connection with disruption of the voting were removed from the candidates' lists and pronounced pecuniary fines. The BiH CEC's decisions were appealed before the Appellate Division of the BiH Court that admitted appeals relating to the sanctions pronounced to the political subjects and candidates, and returned the decisions to the BiH CEC for reconsideration.

Divisions inside the BiH CEC, both political and ethnic in a way, were quite visible during the decision-making process, and had continued by BiH Court's rejection of the decisions. Furthermore, the case of Stolac and interruption of elections also highlighted shortcomings of the Election Law in terms of passing a decision on annulment of elections, which the Law does not define for cases like this. Namely, the BiH Election Law sets forth that the BiH CEC can annul elections when irregularities that might affect election results happened during the voting or the vote count. The Election Law also does not precisely set a deadline in which the decision on annulment of election has to be passed.

²⁰The name of Salmir Kaplan, candidate of the Coalition "For better Stolac", was removed from the candidates' list and he was pronounced a pecuniary fine of 5.000 KM. Members of the coalitions were pronounced pecuniary fine of 5.000 KM each. Demir Mahmutćehajić and Ahmet Ljubović, candidates of the initiative "For Better Stolac" for the Municipal Council, were removed from the list and also pronounced a pecuniary fine, as it was the case with candidate of the Croatian Coalition for Stolac HSP BiH - HDZ 1990 Božo Raguž.

In the repeated procedure, the BiH CEC had at its session on December 14 reiterated earlier imposed sanctions against political subjects, providing additional explanations and evidence that certain candidates and political subjects were responsible for obstruction and disturbance of electoral process in Stolac and for the use of language which could provoke or incite someone to violence or spread of hatred. Sanctions imposed were removal of the names from the candidates' lists and pecuniary fines for Salmir Kaplan, Demir Mahmutćehajić, and Ahmet Ljubović of the political subject Initiative for Stolac and Božo Raguž and political subject Croatian Coalition for Stolac HSP BiH – HDZ 1990. By the time this report was published the elections in Stolac were not annulled nor new municipal election commission was appointed, so it is not known whether new local elections will be organized in this municipality or when.

Recommendations:

- **To strictly observe set deadlines for delivery of voting packages to voters registered to vote by-mail.**
- **To prevent abuse of by-mail voting through implementing regulations.**
- **To make non-party observers equal to international observers in terms of rights and obligations.**
- **To set the deadline for issuing of observers' accreditations by election administration.**

6.2. LOCAL ELECTION COMMISSIONS (MEC/CITY ELECTION COMMISSION, ELECTION COMMISSION OF BRČKO DISTRICT OF BIH)

The election commissions at the local level are, *inter alia*, responsible for designating polling stations, establishing polling station committees, providing training to the polling station committees, organizing the Election Day and compiling the results of elections from all polling stations on its territory. Depending on the number of voters on its territory the local election commission can have 3, 5 or 7 members. Composition of the election commissions according to the provisions of the BiH Election Law and the Law on Gender Equality in BiH should reflect gender representation and have at least 40% of underrepresented gender, which was the case in 94.4% of local election commissions.²¹ The Election Law in this segment does not include BiH CEC's composition, where gender inequality is still very much expressed and where among 7 members there is only one woman.

Vast majority of local election commissions conducted adequate preparations for the conduct of elections. By observing the pre-election period of the 2014 General Elections the Coalition noted that although the local election commissions did function in line with the Law and procedures related to their work, the work was not systematically organized so the sessions were not frequently announced, agendas were not prepared, etc. The BiH CEC had recognized the same problem and in May of 2016 it passed the *Instruction on operation and reporting of an election commission of basic constituency in BiH*, which more precisely regulates functioning of the local election commissions. The Instruction, *inter alia*, prescribes adoption of Rules of Procedures of the local election commission, which was done by all local election commissions in BiH. The Instruction also envisages possibility for the local election commissions to appoint a secretary and/or a technical secretary, which was done by 61 election commissions or 43%. Application of the Instruction in the field certainly led to improvement of the local election commissions' work in terms of organization, although there is still enough room for improvement.

²¹ It has been noted that election commissions in Bosanski Petrovac, Bratunac, Čelinac, Kotor Varoš, Lopare, Novo Sarajevo, Petrovac and Zvornik do not reflect gender representation as set forth in the Law.

It was observed that two out of 142 local election commissions were not fully staffed in the pre-election period because procedures for appointment of missing members were not completed on time. The local authorities are obligated to provide conditions for proper functioning of the election commissions. When it comes to the conditions in which the LECs work, it was observed that 17 commissions faced many challenges in their work, and these commissions said that they were missing adequate funding, premises and equipment. Three of them faced major challenges, stating that there did not have adequate working conditions during the pre-election period. According to information provided by the long-term observers of the Coalition "Pod lupom" a total of 13²³ city and municipal election commissions did not designate number and type of polling stations by the set deadline i.e. by July 29, for which pecuniary fines from 200 to 1.000 KM²⁴ are prescribed in the BiH Election Law. Set deadlines were broken in 4²⁵ election commissions when it comes to allocation of positions on the polling station committees to the political subjects, and delivery of the proposals of polling station committees' members by the political subjects. All political subjects delivered proposals of polling station committees' members within the set deadline in 111 municipalities/cities, more than half of political subjects were on time in 17 municipalities/cities, while less than half of political subjects were on time in 14 municipalities/cities, which indicates that some political subjects applied to participate in the elections without a serious plan or with a plan to sell positions on polling station committees, which failed.

Local election commissions are also responsible for protection of electoral right, and in this segment it was observed that political subjects filed complaints relating to appointment of polling station committees' members, damaging of promotional material or placing of promotional material in or on prohibited places, registration of voters for by-mail voting, updatedness of the voters' register, etc. It is very important to underline that a complaint can be exclusively filed by representatives of political subjects and the voters, while the non-party, civic observers do not have that possibility. One of the Coalition's recommendations is to introduce the possibility for the non-party observers to file complaints in the electoral process.

The Coalition, as well as certain media outlets, had observed harsh violation of the Election Law in Stolac by the President of MEC Stolac, who instructed the polling station committees to allow voters with the passport of the Republic of Croatia to vote. The Election Law is very clear in this segment and precisely defines that a person can vote only if he/she presents valid BIH identification documents to prove his/her identity.

The cooperation between the majority of local election commissions and the non-party long-term Coalition's observers was at a satisfactory level. On the other hand, negative experience mainly implied that observers were deprived of certain information or that the observers were not informed about session of the local election commission on time.

²² Krupa na Uni and Modriča

²³ Bosanski Petrovac, Bosansko Grahovo, Drvar, Glamoč, East Drvar, Kalinovik, Livno, Novi Travnik, Oštra Luka, Sanski Most, Travnik, Vitez, and election commission of Brčko District

²⁴ Local election commissions in municipalities Bosanski Petrovac, Bosansko Grahovo, Drvar, Glamoč, East Drvar, Kalinovik, Livno, Novi Travnik, Oštra Luka, Sanski Most, Travnik, Vitez, and election commission of Brčko District.

²⁵ Gradiška, East Drvar, Laktaši and Pelagićevo

Recommendation:

- **In the process of nomination and appointment of the local election commissions' members, special attention has to be paid to the professional qualifications and election-related experience.**
- **It is necessary to provide continuous training to the local election commissions aimed at increasing their working efficiency in the election period.**

6.3. POLLING STATION COMMITTEES

The Coalition still believes that the polling station committees are still one of the weakest links in the electoral process, and some thorough changes and concrete improvements have to be made concerning appointment and training of the polling station committees' members. In terms of appointment, the method of selecting members of the polling station committees has to be changed as to have a non-party president, as well as to have the names of the members and associated political parties made public and delivered before the so-called lottery draw. The names also should be published 5 days before the Election Day at the earliest or at least two days before the Election Day. Furthermore, it is also necessary to provide continuous and high quality training to the members of the polling station committees between the elections.

The polling station committees directly manage activities of a polling station, ensure regularity and secrecy of the vote, and record the results. The PSCs have 3 or 5 members and their deputies depending on the number of voters at the polling station. A total of 5.205 polling station committees were appointed at the same number of polling stations for the 2016 Local Elections.

The observers of the Coalition, who *inter alia* observed the lottery procedure for allocation of positions on the polling station committees to political subjects, had also observed several situations where representatives of the political subjects openly discussed trade and sale of the positions on the polling station committees. Such a practice leads to a situation of having a higher number of representatives of one political subject sitting on a polling station committee, which is a practice that violates provisions of the BiH Election Law according to which a political subject cannot have more than one representative on the polling station committee only one representative of a political subject can be a member of a Polling Station Committee. Trading of the positions on the polling station committees represents a drastic violation of the BiH Election Law and leaves room for manipulation with the votes when election results are determined at the polling station. The Coalition's observers learned that trading of the positions on the polling station committees happened at least in 18 municipalities in BiH.²⁶ As to increase transparency and to reduce the volume of trading of polling station committee positions, the Coalition invited the election administration, as it did before the 2014 General Elections, to publish the names of the polling station committees' members and the associated political subjects that nominate them, whilst respecting confidentiality of personal information. Again, there was no reaction. After the procedure of appointment of polling station committees' members was completed, the Coalition obtained concrete information about trading of the polling committee positions²⁷, and it represented the information to the public and forwarded it to the BiH CEC. Unfortunately, the BiH CEC did not undertake any concrete actions, explaining that the observed practices are not contrary to the provisions of the Election Law.

²⁶ Busovača, Cazin, Foča FBiH, Han Pijesak, East Novo Sarajevo, Kiseljak, Kotor Varoš, Livno, Lopare, Mrkonjić Grad, Rogatica, Sapna, Sokolac, Srbac, Teslić, Travnik, Zenica and Živinice

The Coalition's long-term observers attended 25 training sessions for members of polling station committees. Duration of the sessions was not the same. Ten sessions lasted up to 2 hours, while the others lasted up to 4 hours. A vast majority of observed training sessions was positively rated in terms of organization and contents.²⁸

Recommendations:

- **To make comprehensive changes and concrete improvements concerning the training of the polling station committees' members.**
- **To sanction unexcused abandonment of the position on the polling station committee shortly before the Election Day by prohibiting engagement in at least two election cycles; to set forth keeping of such records at the level of local election administration.**
- **To prevent exchange and potential trade of the positions on the polling station committees between the political subjects by publicly announcing names and last names of all members of polling station committees, and noting their political affiliation to the political subject that appointed them. It should be done immediately after their appointment to the polling station committee, and again at least five days before the Election Day;**
- **To set forth by the law that, besides the polling station committee members, sanctions are to be imposed on political subject that made the appointment if it is ascertained that the provisions of the BiH Election Law were violated by the political subject's order.**
- **To set forth that the president of the polling station committee has to be a non-party person with experience in election management or with good knowledge of electoral process, and that he/she is appointed by the local election commission.**
- **To strictly adhere to provisions of the BiH Election Law and the provisions of implementation regulations that set forth the procedure of safeguarding the polling material at every polling station-**
- **To strictly adhere to implementing regulations relating to the layout of the polling station, and to precisely define sitting arrangement of the polling station committee's members so that every member of the PSC has insight into the work of other members.**

²⁷ In Travnik political subject SBB nominated Renato Beljan as member of the polling station committee, and the official website of HDZ BiH Travnik read that Renato Beljan is the president of the basic branch HDZ Kalibunar. Andrea Martinović is in Municipal Board of HDZ BiH Youth Travnik, and she was nominated by SDA. Daliborka Sučić is member of the HDZ 1990 Executive Board in Nova Bila, and she was nominated by SBB. There were also reports about the candidates for members of the polling station committees in municipalities Sokolac and East Novo Sarajevo, where it was observed that certain parties registered in the BiH Federation, which obviously were not interested in having members of the polling station committees in certain municipalities of Republika Srpska, nominated persons from the local communities to the polling station committees and these persons were active members of parties registered on the territory of Republika Srpska.

²⁸ Chapter 8 provides more information about the work of polling station committees.



7. PRE-ELECTION PERIOD

7.1. REGISTRATION OF POLITICAL SUBJECTS AND CANDIDATES

In accordance with the BiH Election Law the BiH CEC certifies political subjects²⁹ for the elections. Political subjects can participate in the elections if they submit an application for the certification to the BiH CEC within the prescribe deadline.

The BiH CEC certified 451 political subjects for the 2016 Local Elections, whereof: 102 political parties, 103 coalitions, 171 independent candidates, 17 lists of independent candidates, and 52 independent candidates on behalf of 52 groups of citizens and six independent candidates on behalf of six citizens' associations for election of national minorities' representatives. A total of 30.445 candidates were certified, whereof 418 candidates for municipal/city mayor, 29.884 candidates for municipal/city councils/assemblies and Assembly of Brčko District of BiH (BD BiH) and 143 candidates representatives of national minorities.

²⁹ Political subjects are: political parties, independent candidates, coalitions and lists of independent candidates, candidates representatives of national minorities

7.2. VOTERS' REGISTRATION

The registration of voters in BiH has been passive since 2006, while the active registration is still in place for the voters, who vote outside Bosnia and Herzegovina. According to the BiH Election Law there are several categories of voters in BiH. The voters, who vote in BiH, are divided into two categories: the voters, who vote at the regular polling stations and the voters, who vote in absentia (internally displaced persons). Also the BiH CEC keeps the records of internally displaced persons, who have the right to choose whether they will vote in their present place of residence or in the pre-war place of residence. The BiH CEC maintains the Central Voters Register (CVR) based on the records of the competent State body – the Agency for identification documents, registers and data exchange– IDDEEA, records of the civil registry on the BiH citizens, and other bodies are also involved: the BiH Ministry for human rights and refugees, the ministries of interior at all levels, the BiH Ministry of civil affairs – Sector for citizenships and the BiH Central Election Commission.

The local election commissions provide the data necessary for update of the CVR. Centers for voters register in almost all municipalities/cities were open for public and provided timely information upon citizens' requests. **Suspicion or complaints concerning updatedness of the voters register were recorded in 19 municipalities/cities.**³⁰ This is particularly important since the problem of voters register's updatedness was actualized in the public and there were information that deceased people were found on voters registers in certain municipalities. Having in mind that BiH has passive voter registration through the Central citizens' it is very important to investigate these allegations and to eliminate all doubts about updatedness of the voters register. A higher number of voter registration/deregistration cases was registered in 11 municipalities³¹.

A total of 3.263.906 voters had the right to vote at the 2016 Local Elections. The number of regular voters³² was 3.177.557; 8.946 voters had the status of displaced person and could vote in absentia; 12.005 voters had the status of displaced person and could vote in person, 287 voters could vote at the diplomatic-consular representation office of BiH, and 65.111 voters were registered to vote by-mail.

7.3. GENDER EQUALITY AND PARTICIPATION OF NATIONAL MINORITIES IN THE ELECTORAL PROCESS

Gender equality

Although the law protects underrepresented gender in the electoral process, under-representation of women in the political life in BiH is apparent.

The BiH Election Law defines that the gender equality exists when one of the genders is represented with minimum of 40%³³. This change implies that political subjects must have at least 40% of candidates of the underrepresented gender on their lists. All political subjects certified by the BiH CEC had observed

³⁰ Bosanska Krupa, Brod, Busovača, Domaljevac-Šamac, Donji Vakuf, Jablanica, Jezero, Konjic, Ljubuški, Neum, Novi Travnik, Odžak, Stolac, Šipovo, Travnik, Vareš, Vitez, Vukosavlje and Zenica

³¹ Gornji Vakuf-Uskoplje, Gračanica, Gradačac, East Drvar, Jezero, Kotor Varoš, Lukavac, Novo Goražde, Srebrenik, Trnovo FBiH and Trnovo RS

³² Cross-section of the CVR on August 18, 2016.

³³ Harmonization with the Law on gender equality in BiH. This was one of the OSCE/ODIHR recommendations in the Final report of the 2010 observation mission. The quota was earlier 30%.

this provision on their candidates' lists. The latest changes to the Election Law expanded gender equality to include compensatory lists, which earlier was not the case. . It implies 40% of underrepresented gender with a sequence in nomination of the candidates so that at least one candidate of underrepresented gender is amongst first two candidates, two amongst first five candidates, three amongst first eight candidates, etc.

This law also applies to the election administration, but this provision is only applied to composition of local election commissions and polling station committees and not to the BiH CEC's composition where there is only one woman among 7 members. The Coalition registered that gender equality was observed in 134 local election commissions, while the remaining 8 did failed to do so.³⁴ Latest changes to the Election Law eliminated impossibility to achieve prescribed percentage for commissions that have three members so that gender balance exists when one of the genders is represented with 1/3 of the total number of members.

Only 6.27% or 26 candidates out of the total number of candidates certified for the municipal/city mayors were women, and only 6 female candidates won mandate. Elected female mayors will in the next four years manage municipalities Mrkonjić Grad, Visoko, Kalinovik, East Drvar, Novo Goražde and Jezero. In the first three municipalities the mayors were re-elected. **According to the BiH CEC's information a total of 3.094 mandate holders were elected to the local councils/assemblies whereof 18.5% or 572 are women. This number also includes three female representatives of national minorities who were elected among 26 female candidates- representatives of national minorities.**

Participation of national minorities

Even though the BiH Constitution, as we have previously stated, recognizes significant political rights based on the ethnic affiliation, at the same time it does not enable enjoyment of equal active and passive suffrage to all citizens regardless of the ethnic or national affiliation. Therefore the failure to implement the decision of the European Court for human rights in the case "Sejdić-Finci", "Zornić" and "Pilav" as well as the related recommendations of the European Union given in the BiH Progress Report still limits the passive suffrage of the BiH citizens, who are not members of any constituent peoples, in the general elections.

Seventeen minority groups are recognized in BiH as the national minorities³⁵ out of which the Roma national minority is the largest³⁶. The Election Law regulates participation of the members of national minorities, but only in the elections for the representative bodies at the local level. The Election Law guarantees mandates to the members of all national minorities who make up more than 3% in the total number of population of the particular constituency according to the last census. There are no guaranteed seats for the representatives of national minorities at the general elections. There were 26 guaranteed mandates for the representatives of national minorities in 24 local representative bodies, i.e. the Assembly of Brčko District at these local elections. All guaranteed seats for the representatives of national minorities were filled after the results of local elections were confirmed.

³⁴ Bosansko Grahovo, Bratunac, Čelinac, Kotor Varoš, Lopare, Novo Sarajevo, Petrovac and Zvornik

³⁵ The Law on protection of rights of members of national minorities (adopted in 2003, changed in 2005).

³⁶ Even though the Census was completed in 2013 the information published up to now do not present any data on the number of members of the Roma population, but the estimates, depending on the source, vary between 30.000 and 100.000 Roma people in BiH.

7.4. ELECTION CAMPAIGN

7.4.1. Election campaign of political subjects

The election campaign showed that a large number of political subjects are fixated on the manipulation of voters' electoral will. The latter manifested through pressures being exerted on the voters, as well as through buying and distribution of different gifts to voters that carried the name and the last name of candidate/political subject. The trend of running the election campaign to induce feelings of fear among the voters, usually associated with ethno-national divisions in the BiH society, has been continued. Divisions based on ethnic/national affiliation of BiH citizens continued and deepened, often dominating campaign of political subjects, primarily of those that started the electoral race as part of the government and particularly in the ethnically divided environments.

The election campaign is defined by the BiH Election Law and it encompasses all activities and actions in the period of time defined by the Law during which political subjects, in line with the Law, present their program and the candidates to the voters and the general public. The key processes regulated by the provisions of the Election Law relate to the complete freedom in the conduct of all activities of the political subjects during the election campaign, rules of conduct (including distribution and placement of the promotional material, and destroying the latter, the use of public buildings, campaign during the election silence), election campaign financing, lottery procedure for media appearances, equal and fair representation in the media, and prohibition to conduct the campaign from the day elections are announced until the official start of the election campaign. The election campaign starts 30 days prior to the Election Day.³⁷

Although the election campaign is to be held from September 2, 2016 until the start of election silence, October 1, 2016, it started much earlier, and therefore the election campaign can be divided into two parts, as follows:

- ▶ Premature election campaign in the period before September 2, 2016 (“prohibited campaign”), and
- ▶ Official election campaign from September 2, 2016 until the start of election silence October 1, 2016.

“Prohibited campaign”

Although the BiH Election Law reads that the election campaign is permitted in the period of thirty days before the election silence, it started much earlier in this election cycle. Even though one cannot expect all media related activities of political subjects to cease due to nearing of the local elections, it is visible that media related activities were directed towards (self) promotion of primarily ruling parties aimed at winning the votes in the elections. Presence of leading party officials at opening of infrastructural projects in local communities or at opening ceremonies for built facilities was common practice in the entire country. A certain number of activities, such as party conventions and academies³⁸ were observed and these are not forbidden by the Law because they can be considered regular activities of political subjects. However, it is quite symptomatic that such activities are not organized in the same months of non-election years, and they are used to present candidates and often involve high-ranking

³⁷ The Election Law of Bosnia and Herzegovina, Chapter 16

http://www.izbori.ba/Documents/documents/English/Laws/BiH_Election_Law_consolidated_version_2016.pdf

³⁸ Examples: (Tuzla – SDA; Gračanica, Gradačac, Kalesija – SDP; Dobož – SNSD rally; Ugljevik – DNS-SNSD-SP-Srpska u sigurne ruke (eng. Getting Srpska into safe hands), etc.

party guests who are at the same time members of executive and/or legislative authority. Some went a step further and had promoted work of public companies as their own or party achievement, and intensification of local infrastructural projects across BiH³⁹ was also observed. The long-term observers of the Coalition also monitored forbidden election campaign and made weekly reports about these activities. So they have registered different “get-togethers”, “celebrations”, which the political subjects organized for the citizens, public events to promote candidates – tribunes, humanitarian actions, meetings at the local boards, local communities, municipalities and villages, distribution of leaflets and relief packages.⁴⁰ Premature campaigning by political subjects and their candidates was especially registered in the segment of the social network's use, primarily the Facebook. This type of promotion is not included in the Election Law and still represents a certain vacuum where political subjects and candidates have paid promotion, while there are no sanctions and/or more thorough checks by the BiH CEC on whether these advertisements are in line with the law or not. The Coalition had informed the BiH CEC about some concrete examples, but there was no real action since, as the BiH CEC explained, no proof of such payments can be acquired. **Different types of forbidden election campaign were registered in 72 municipalities/cities or in 50.7% of them**

Election campaign

During the election campaign, i.e. in the period of 30 days before the start of election silence, the political subjects used usual, already seen methods to win over the voters. Hiring additional observers, who observe election campaign across BiH, gave the Coalition better insight into electoral activities of political subjects, especially into pre-election rallies organized by the political subjects.

It can be concluded that the political subjects' rallies were generally peaceful gatherings of like-minded, but individual incidents, such as hate speech and tensions between the rally participants, were also registered.⁴¹

The contents of the pre-election rallies were diverse and ranged from usual promotion of election candidates to discussions about local topics of interest for the citizens. Political officials mainly used advantages of their official positions, such as official vehicles and bodyguards, to come to the pre-election rallies.⁴²

One of tested methods of winning over the voters was distribution of food and beverage to the visitors, which was registered at almost every third observed rally. The cases of arranged transport were also observed (6 %)⁴³, while the presence of the media was registered at 56% of rallies observed. Due to the fact the elections were local, attenuated media was observed, except in cases of bigger rallies of “more significant” political subjects.

³⁹ Tuzla: promoting achievements of local public companies; inter alia the public works that were registered in municipalities Sarajevo Centar, Ugljevik, Tuzla, and in Živinice the municipal mayor promoted himself by distributing T-shirts with his name to the participants of Peace March, which was partly financed by the municipality, etc.

⁴⁰ Examples: Velika Kladuša – independent candidate Adem Pajzetović distributed financial aid; SDP in Travnik, Socialist Part and DNS in East Novo Sarajevo and East Ilidža organized humanitarian actions, and SDA in Busovača distributed relief packages.

⁴¹ Hate speech was registered at the rallies of Party for BiH in Prijedor, BPS Sefer Halilović in Tuzla, United Srpska in Banja Luka, SDS and NDP in Banja Luka, SDS in Gradiška, SDP in Olovo, HDZ and HDZ 1990 in Livno, SBB in Tuzla.

⁴² It was registered that elected officials came to the pre-election rallies with official vehicles 84 times, and it was registered that the President of RS came to the rallies in official helicopter, which was registered 5 times. Official vehicle was most used by Milorad Dodik – 20 times, Mladen Bosić - 11, Željka Cvijanović - 10, Mladen Ivanić - 8, Petar Đokić - 7, Dragan Čović - 6, Bakir Izetbegović – 5, etc. There were 73 cases of official bodyguards following the officials.

⁴³ Examples: BPS Sefer Halilović in Tuzla, DF in Bosanska Krupa, SNSD in Brod, DNS in Dobojo, SDA in Fojnica, Alliance for changes in Kotor Varoš, etc.

As at the previous elections, forbidden activities such as placement of political subjects' promotional material in unauthorized places were registered throughout the country, and there were a few cases of "poster wars".⁴⁴ Although the Election Law sets forth fines up to 10.000 KM for this kind of violations, the Coalition did not register that any fines were pronounced in these cases. Having in mind that spaces reserved for posters, ads, etc. are under competence of the local utility services, there were some cases where sanctions were pronounced at the local level, but it is not enough to put an end to this problem.

Although majority of the topics and messages heard at the election rallies had related to the local economy and employment, as well as to local infrastructure, there were also topics that are in no way related to the local elections. The RS National Day Referendum is such an example and it was used for national homogenization primarily around the ruling parties. The contents of the rallies varied depending on whether these were presented by the ruling parties or the opposition, so there were cases where authority's achievements were glorified or where the ruling structure was under an attack. Pre-election promises were mostly promises that lacked concrete implementation plans. Local topics that are important for the local elections were not even mentioned at around 5% of all observed rallies.

Recommendations:

- **To prevent abuse of public resources for pre-election purposes by prohibiting ceremonies that mark the beginning and/or the end of public works financed from the budget during the election campaign and election silence;**
- **To precisely define responsibility of political subject that conduct forbidden election campaign before the official start of the campaign.**

7.4.2. Election campaign financing

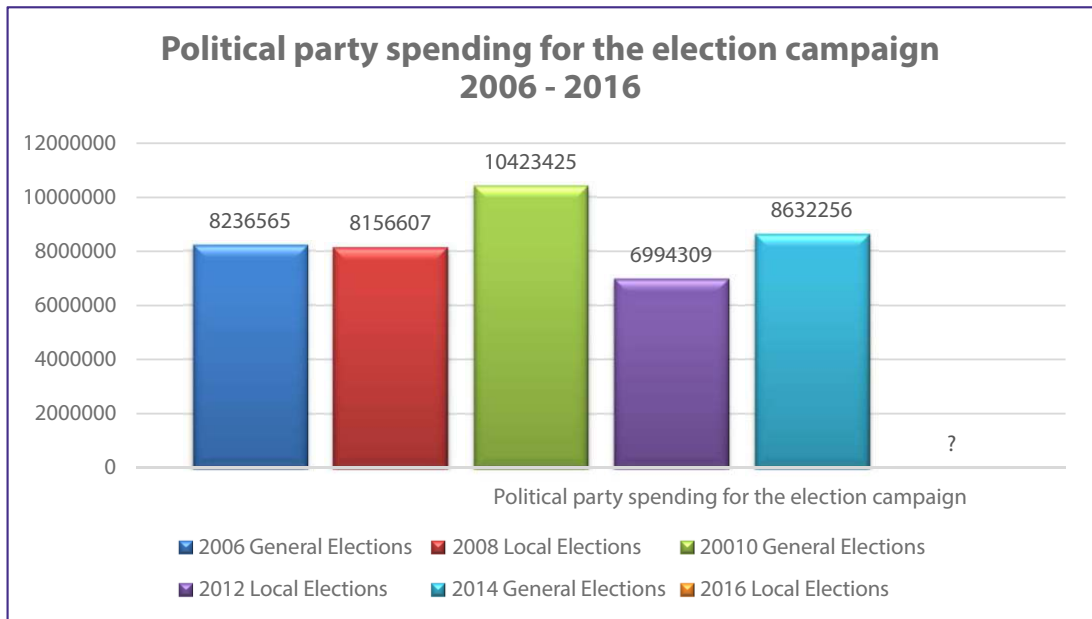
The election campaign financing is regulated by the BiH Election Law, the Law on political party financing, and partly by the Law on conflict of interests and the BiH Law on administrative procedures. The Coalition "Pod lupom" did not systematically and methodologically monitor financing of the political campaigns, and since no other NGO had monitored election campaign financing this year, the data will not be available until they are collected and published by the BiH CEC.

In line with the provisions of the BiH Election Law the maximum amount that could be spent to finance the election campaign for the 2016 Local Elections was 28.158.645 KM. The Report on political parties' financial affairs audited in 2014, which that the BiH Central Election Commission published in August of 2016, reads that political parties spent 8.632.256,35 KM for election campaign for the 2014 General Elections, while they spent 6.994.309 KM for the 2012 Local Elections.

Election campaign spending of political parties in the period from 2006 to 2016 is presented in the chart below.

⁴⁴ "Poster war" was registered in the East Novo Sarajevo and Pale, where SNSD and SDS had accused each other of tearing the posters and destroying promotional material.

⁴⁵ U Istočnom Novom Sarajevu i na Palama je zabilježen „rat plakatima“, gdje su se SNSD i SDS međusobno optuživali za cijepanje plakata i uništavanje promotivnog materijala.



Data were taken from the Report on political parties' financial affairs audited in 2014.⁴⁵

7.4.3. Political party financing⁴⁶

The BiH CEC is responsible to implement regulations on political party financing, and it has a very limited mandate when it comes to audit and control of political party financing, especially in the area of cost. **The legal framework that regulates political party financing still has considerable shortcoming that disable adequate law monitoring and implementation.** All problems concerning the legal framework caused inefficient and ineffective implementation of the law i.e. they enabled misuses that can be neither observed on time nor adequately reprimanded.

Five years after the GRECO recommendations were issued the opportunity to significantly improve transparency and accountability of political subjects through the work of Inter-departmental working group (IDWG) for changes to the election legislation has been lost and an illusion of compliance with the recommendations was made through cosmetic changes to the law. Four out of nine recommendations were not even addressed by the latest changes to the Law on political party financing, while the remaining recommendations were only superficially addressed or partly met. None of the recommendations were completely addressed by the offered changes to the Law. The changes did not solve the issue of thoroughly defining BiH CEC's competencies concerning the audit of parties' costs nor promoting the use of single bank accounts for political parties' transactions, which are two of the most important criteria for establishment of efficient control over financing of political parties.

Having in mind aforementioned shortcomings, as well as the fact that numerous recommendations of international institutions and organizations, and the civil society, are still not met, especially when it

⁴⁶ Source: https://www.parlament.ba/sadrzaj/ostali_akti/strategije/default.aspx?id=67607&langTag=bs-BA&pril=b

⁴⁷ Transparency International BiH (2016) – *Monitoring implementation of anti-corruption reforms in Bosnia and Herzegovina - summary*

comes to GRECO recommendations, it is necessary to start drafting new changes to the Law on political party financing and the Election Law, making sure that the changes represent substantial improvement and not to be only cosmetic in nature, as it was the case so far. The BiH Parliamentary Assembly announced that the IDWG for changes to the election legislation will continue its work, which is the first changes to implement the recommendations, but only under the condition that public consultations are done, and that the process of amending the laws does not become subject of political parties' interests.

Recommendation:

- **To improve the system of control of the political parties' financial management both in the election and non-election year by strengthening human and technical capacities of the BiH CEC's Audit office or by transferring authority to the State Audit Offices.**

7.4.4. Media monitoring⁴⁷

Coalition "Pod lupom" did monitoring of media election coverage at the 2016 Local Elections for the first time.⁴⁸ **In principle, it can be said that most of the media generally complied with the standards of fair, objective and balanced reporting.** The data on decline of hate speech is encouraging, although there are still examples of some other forms of inappropriate speech in the public space. The most troubling are most certainly the cases of advocacy reporting by some media i.e. the tendency of reporting (more) positively about some political subjects in relation to the others. It particularly relates to existing office holders, who used their positions for self-promotion, which was covered by the media without significant critical reporting.

Furthermore, under-representation of women in the media space during the election campaign is still very much present, but we could say that it is actually a reflection of the women under-representation in the political sphere in general. Cases of extremely negative misogynistic reporting were not registered. In general, we can say that the media did meet the informative role, but both the educational (education of political public, especially about the local topics) and orientational functions were slightly less used. In other words, media reporting maintained the level of 5Ws + one H (Who, What, Why, When, Where and How), but the explanation of causes and consequences was still missing.

This chapter presents key findings and general conclusions of media monitoring, while a detailed media monitoring report was also presented and it is available to the public.

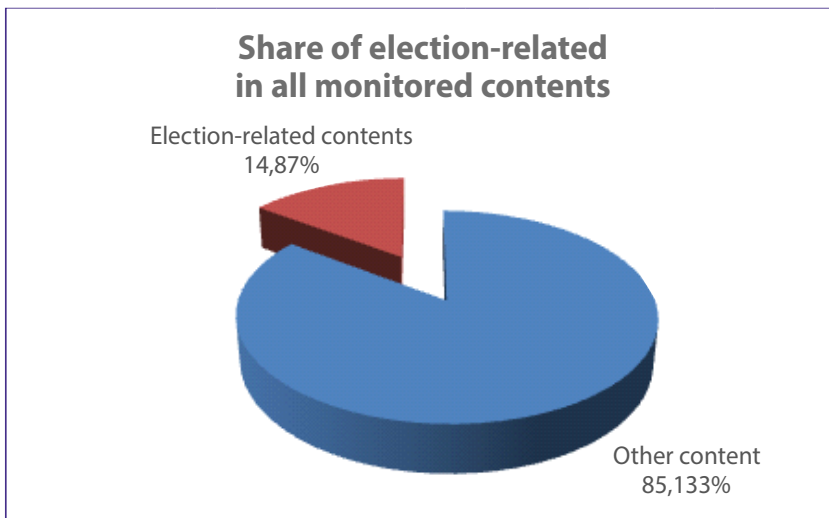
⁴⁷ L. Turčilo, B. Vukojević, B. Miodragović, B. (2016) - *Monitoring of media reporting during election campaign for the 2016 Local Elections – Final Report. Association BH Novinari and Agency BORAM for the Coalition for free and fair elections – Pod lupom.*

⁴⁸ Monitoring of media election reporting was done in cooperation of the Association "BH novinari" and Agency "Boram". A total of 20 monitors were hired aimed at analyzing media coverage. The monitors followed coverage of 46 media outlets. Total 37.962 media contents were analyzed whereof 5.646 media contents related to elections.

Share of election related contents in media coverage

Total 37.962 media contents were published in the monitored media outlets (46 media outlets)⁴⁹ during the monitoring period (September 2 – October 2, 2016), whereof 5.646 were election related contents. Election related contents made up 14.87% of all media contents, which implies that local elections were not a dominant topic of media reporting.

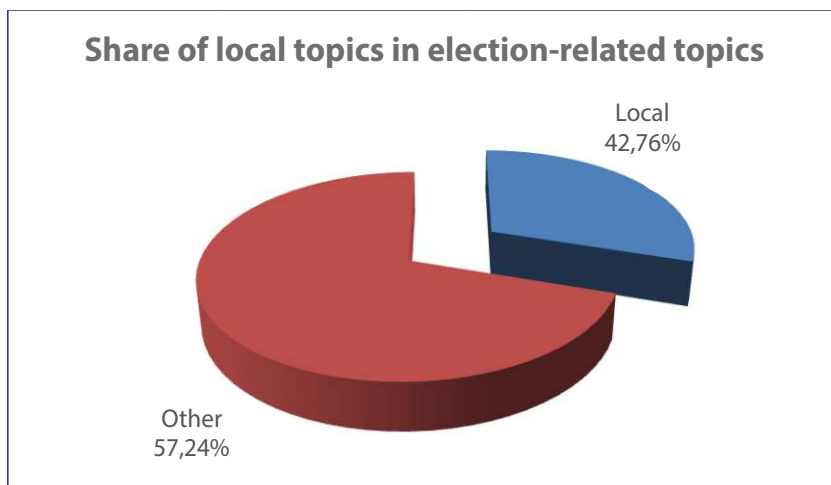
The private radio stations had the lowest share of election-related content in relation to other media contents (the share of election related content was 9.45), followed by the print media (10%), public radio stations (13.53%), private TV stations (17.31%), and public TV stations (17.55%) while the web portals had the highest share of election-related content (24.67%). But, election-related content did not make up more than one quarter of the total media content in any of the above-listed media outlets.



General and Local topics

Local topics made up 42.76% of the total number of election-related contents, which is not an insignificant share. It implies that the media that did report on local elections mainly dealt with local topics i.e. had placed them in the foreground.

⁴⁹ BHT, RTRS, FTV, BN TV, ATV, TV 1, TV Hayat, RTV 7 (TV), Elta TV, RTV USK, RTV Goražde, RTV Zenica, TV SA, RTV of Tuzla Canton, Radio Brčko District, Radio Srebrenica, Radio station Čapljina, Radio Stari Grad, Bobar radio, BH radio 1, Radio of BiH Federation, Radio RS, Oslobođenje, Faktor, Dnevni list, Dnevni avaz, Euro Blic, Nezavisne novine, Kozarski vijesnik, Semberske novine, Naša riječ, Unsko –sanske novine, MojaHercegovina.info, Bljesak.info, Klix.ba, Poskok.info, RadioSarajevo.ba, Frontal.rs, Buka.ba, Radioorašje.com, Otisak.ba, Frontal.ba, Tuzlarije.net, Tuzlanski.ba, Fokus.ba, Zeportal.net.



Public TV stations, whereof vast majority were the local stations, had 229 reports on local topics (majority of which was on the Federation TV; Goražde TV and Tuzla canton TV). Private TV stations broadcasted 122 reports on local topics (majority of which was on ATV Banja Luka). Public radio stations had 147 reports on local topics (majority of which was broadcasted by RS radio), which private radio station did not broadcast any stories concerning local topics. Print media published 1.048 articles on local topics, and it is interesting that the majority of these were not published in the local newspapers, but in the high circulation newspapers (Oslobodjenje published the highest number of articles on local topics, followed by Dnevni Avaz, Nezavisne Novine and Factor). Web portals published 798 contents that related to local topics (Klix.ba published the highest number, followed by Otisak.ba and Buka).

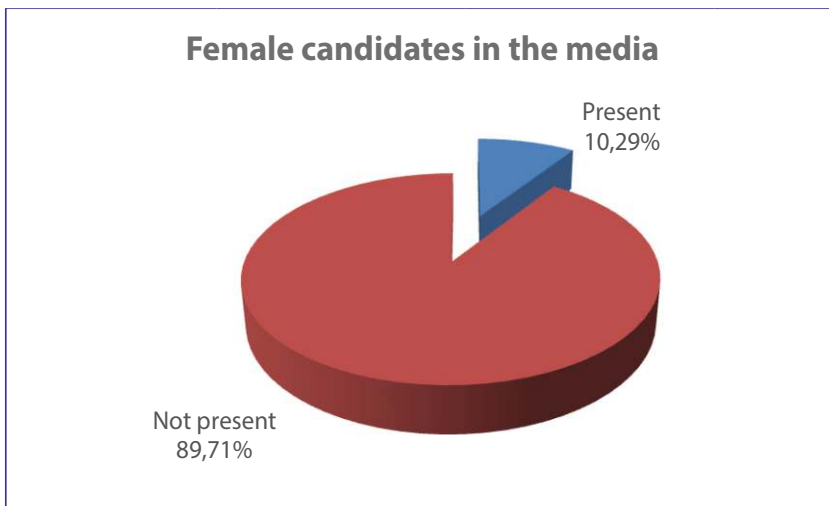
When it comes to concrete topics that were subject of media reporting and political subjects' focus, infrastructure and construction works take the first place with 533 references in local topics; utility services are in the second place; quality of local administration's services is in the third place, while the economy and employment were the least discussed topics.

Topic	Economy and employment	Utility services	National minorities	Public finances	Quality of local administration's services	Infrastructure and construction works
Number of reports	93	407	198	276	322	533

Media reporting about female candidates

As part of the media monitoring during the pre-election campaign we had also separately investigated promotion of female candidates.

In relation to the total number of analyzed election related contents, the share of contents which featured female candidates was 10.29% (525 out of 5.646 media contents), whereof 96 contents featuring female candidates positively presented the fact that a woman is candidate, while in 9 cases this fact had a negative connotation.



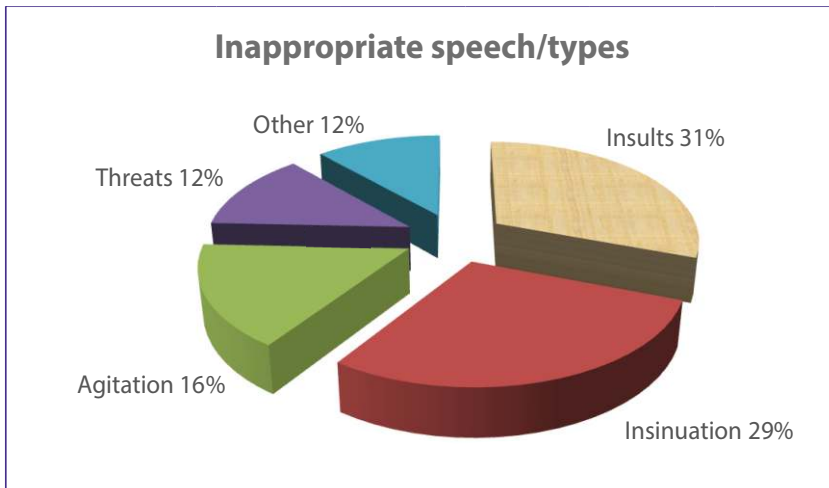
With regard to the type of the media in which the female candidates were promoted, the situation is as follows: female candidates were featured in 129 reports on public TV stations (16.66%, while 645 election related reports did not feature female candidates); in 12 reports on private TV stations (2.36%, while they were not featured in 495 reports); in 53 stories on public radio stations (16.51%, while they were not featured in 268 stories), in one story on the private radio (3.84%, while they were not featured in 25 stories); in 154 articles in newspapers (7.70%, while they were not featured in 1844 articles) and in 178 stories on portals (8.81%, while they were not featured in 1842 stories).

Presence/absence of hate speech and appropriate speech

Presence of the hate speech in all of its forms was particularly monitored and analyzed during the analysis of election-related contents. Special attention was paid to who used the hate speech: a journalist or someone else.

The results show that 1.96% of the contents among the total number of analyzed election-related content comprised inappropriate speech, i.e. 111 media contents. In 27 cases the journalists were using inappropriate speech, while other actors of public communication used inappropriate speech in 84 cases.

The most present form of inappropriate speech was insult (34 cases), followed by insinuation or comparison (32 cases), instigation (18 cases), and threats (in 14 cases).



When it comes to the structure of the media where the presence of inappropriate speech was detected there were 22 cases of inappropriate speech registered among the TV stations, whereof in 15 cases other actors, and not the journalists, used inappropriate language. No examples of inappropriate speech were registered on the radio stations, while there were some forms of inappropriate expression in print media (19 cases whereof 6 cases of a journalist using inappropriate expression). There were 70 examples of inappropriate speech at news portals, whereof 14 times a journalist used inappropriate speech.

There was no classic hate speech by which violence against individuals or groups would be incited. Examples in which some kind of threats were detected were not examples of direct violence threats, but these were rather threats of electoral defeat, so they cannot be classified as classic forms of hate speech. Therefore we can conclude that there was no classic hate speech during the pre-election campaign, but that there was inappropriate speech, which was more used by other actors of public communication (e.g. when political subjects were confronting their opponents), and much less by the journalists.

Media approach to election campaign, political subjects and candidates

In relation to the media coverage of the elections it seemed more important to analyze the reporting style of certain media outlets during the election campaign. Here it is very important to analyze whether they had sufficiently reported about the elections, what topics did they cover, and whether they had favored any of political subjects.

BHT broadcasted 1.400 election-related contents, whereof 67% was about local topics. Already elected officials were not favored in respect to other candidates, and actually there were less reports about them (ration 30% - 58%).

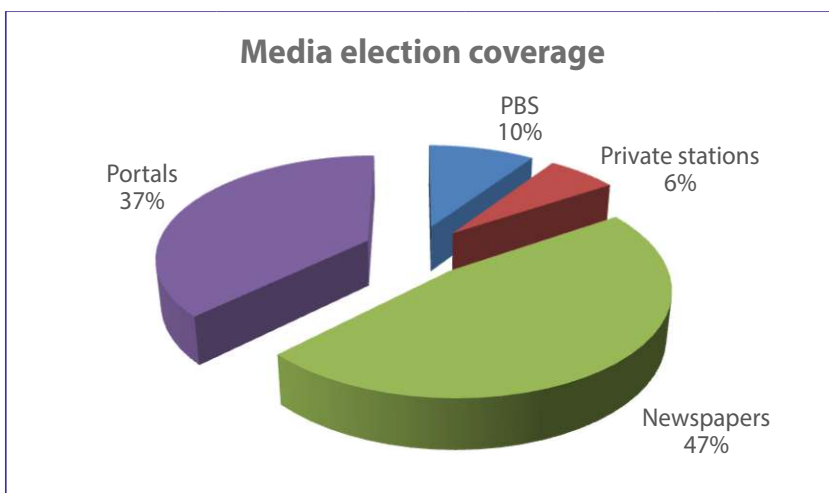
RTRS broadcasted 1.423 election-related contents, whereof 39% related to local topics, and 61% to general political topics. Furthermore, 59% of space on this media was occupied by already elected officials.

FTV broadcasted 1.063 election-related contents, whereof half related to local topics. 40% of subjects in election-related contents were already elected officials.

Private TV stations broadcasted 2.545 election-related contents, whereof 47% related to local topics. Public officials were present in 43% of the cases.

A total of 19.073 election-related contents were registered in print media, whereof 77% related to local topics. 56% of the subjects in these contents were the election candidates who did not have public functions.

News portals published 15.118 contents in total, whereof 60% related to local topics, and 56% of the subjects were candidates who were not the holders of a public function.

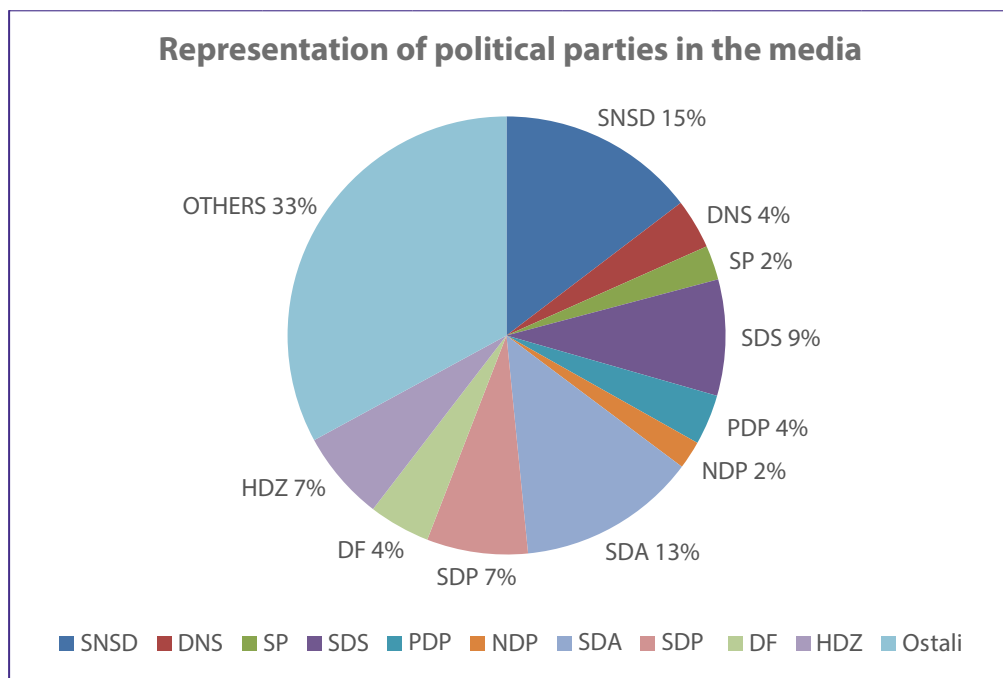


Media coverage of political subjects and candidates

During the monitoring period political parties from BiH appeared 4.249 times in the media, and candidates for councilors and municipal/city mayors, and presidents and party officials appeared 2.686 times. So, during the 40 days of monitoring political options were 6.935 times subject of reporting (61% political parties, 39% candidates).

When it comes to political parties the media reported the most about SNSD (15%), SDA (13%) and SDS (9%). Nine biggest parties in BiH make up two-thirds of media coverage of the elections. Portal Nezavisne novine reported the most about SNSD, DNS, SP and SDS, and portal Klix about SDA, SDP, DF and NS.

Representation of political parties in the media



The data on presence of political candidates and party leaders indicates that the media reported the most about the president of SNSD, Milorad Dodik (9.5%), candidates for the mayor of Srebrenica Čamil Duraković (8%) and Mladen Grujičić (6.9%), and the president of SDA, Bakir Izetbegović (3.5%). Poskok.info and RTRS reported the most about Milorad Dodik, Radio Srebrenica reported the most about Mladen Grujičić and Klix.ba about Čamil Duraković, while the portal Poskok.info reported the most about Bakir Izetbegović.

Political parties, candidates and party officials appeared in 30% of the cases as public officials and holders of public function, while in 58% of the cases they appeared as candidates at the local elections (in 12% of the cases their role was not clear). The media coverage was most frequently neutral (83%), negative attitude towards the subjects was apparent in 5% of the cases, while in 12% of contents the media positively reported about the political subjects. On the other hand, the study shows different results in terms of media contents' character: positive media content 29%, negative content 26% and neutral content 45%. The data actually indicate that the media had generally strived to neutral reporting, regardless of the nature of the event and the position of a political subject.

When the data for public broadcasting services are compared, it is evident that BHRT had the highest percentage of neutral reporting (98%), while RTRS was partial the most (25%). Also, in most of the cases BHRT reported on political subjects as election candidates (52%), and RTRS reported about candidates as public officials (59%). In 31% of the cases FTV had unclear role of political subject.

Amongst 15 political subjects that most frequently appeared in the media the highest share in the total media appearance (7.125) has SNSD – 8.73%, followed by SDA – 7.87%. Besides these political parties there are other parties that had significant share in media appearance SDS – 5.1%, SDP – 4.44% and HDZ – 3.95%. From the total number of political subjects' media appearance, the most neutral reports were made about HDZ 1990 (75 times), Coalition SNSD+DNS+SP (63 times), and NDP (61 time).



8. ELECTION DAY

With the exception of Stolac municipalities and the events that occurred at the polling stations in that municipality, the Election Day in BiH had generally passed in a democratic and fair atmosphere, with a certain number of irregularities and critical situations⁵⁰, and isolated incidents.⁵¹ Registered irregularities are to a large extent the consequence of inadequate structure and training of polling station committees' members.

8.1. OPENING OF THE POLLING STATIONS

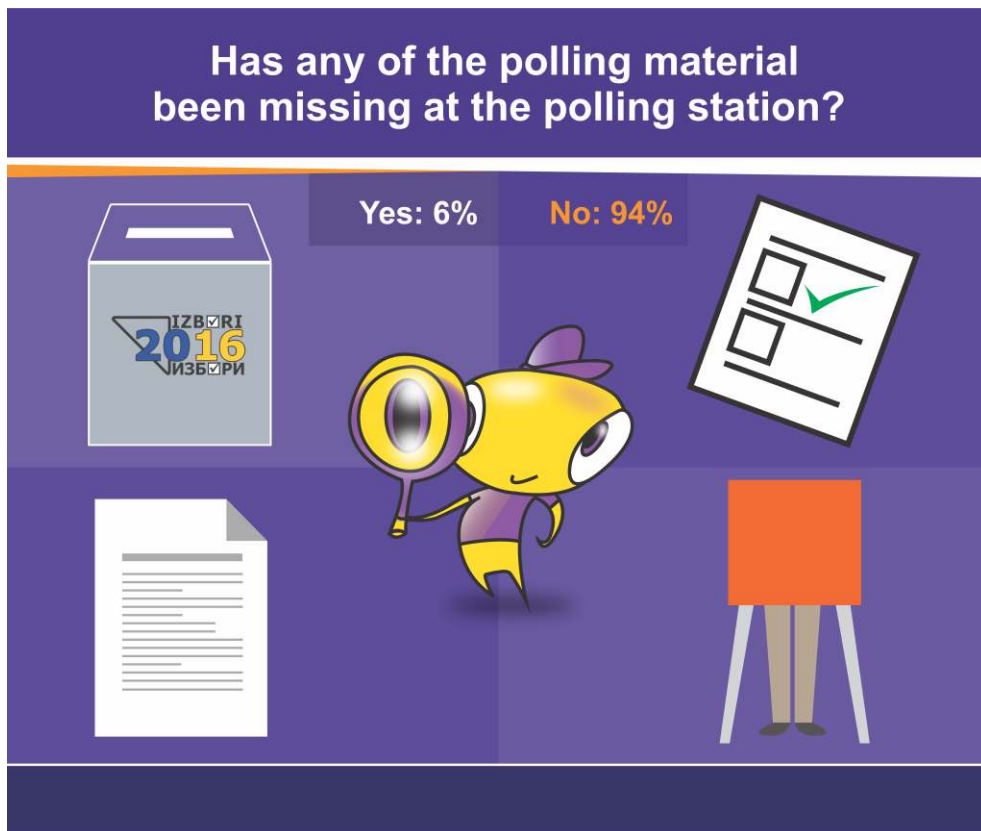
The BiH Election Law sets forth that polling stations are to be opened at 7 a.m., and remain open for voting 12 hours. If the polling is interrupted, the decision on the length of time for which the polling will

⁵⁰Adding the votes during the counting, voting without valid identification documents, discrepancies in accuracy test, instances of falsified ballot papers, and incidents during the counting at the polling stations.

⁵¹Assaults on members of the polling station committee, observers of the Coalition "Pod lupom" denied access to polling station, lack of polling material at opening of the polling station, citizens not allowed to vote after closing of the polling station, unauthorized persons entering the polling station after it was closed and during the counting process.

be prolonged is taken either by the polling station committee or by the election commission, depending on duration of the interruption.⁵² Opening of the polling stations at the 2016 Local Election was generally conducted in line with the laws and implementing regulations, with some minor problems that did not significantly affect the future course of the voting.

All members of the polling station committees were present at 85.2% of the polling stations an hour before their opening (at 6 a.m.). Polling material was missing at 6.2% of the polling stations, which indicates that the election administration in some areas did not adequately prepare for the local elections.

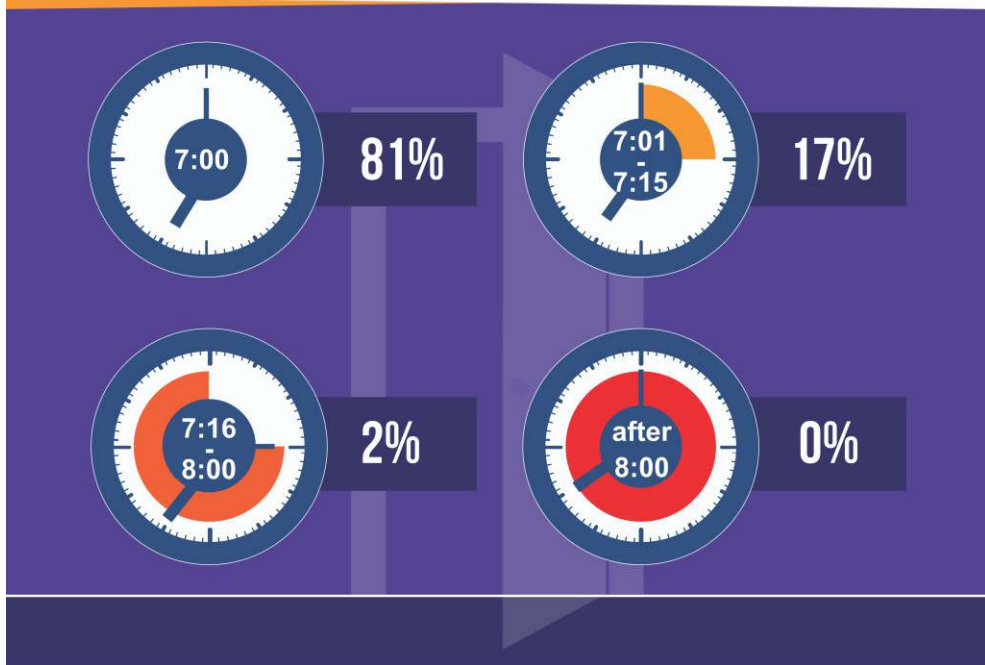


Observers of the Coalition “Pod lupom” registered breaches of procedures prescribed by the law during opening of the polling stations. 0.7% of the polling stations were opened without the ballot papers being counted manually, while the empty ballot box was not shown before it was sealed off at 0.5% of the polling stations.

More than four-fifths of the polling stations were opened at exactly 7 a.m. (81.6%), and the information that more than 98% of the polling stations were opened at 7:15 a.m. already indicates that the delays were minimal and that they were result of poor judgment of time needed to complete all preparations before the opening.

⁵² Interruption up to 3 hours, decision to prolong the work is passed by the PSC, interruption exceeding 3 hours, the decision is passed by the local election commission.

When was the polling station opened?



Observers of the Coalition “Pod lupom” had free and unhindered access to almost all polling stations. There were some minor problems at only 1.3% of the polling stations, and these were caused by lack of communication between the local election commissions and the BiH CEC and by some problems with issuance of accreditations.

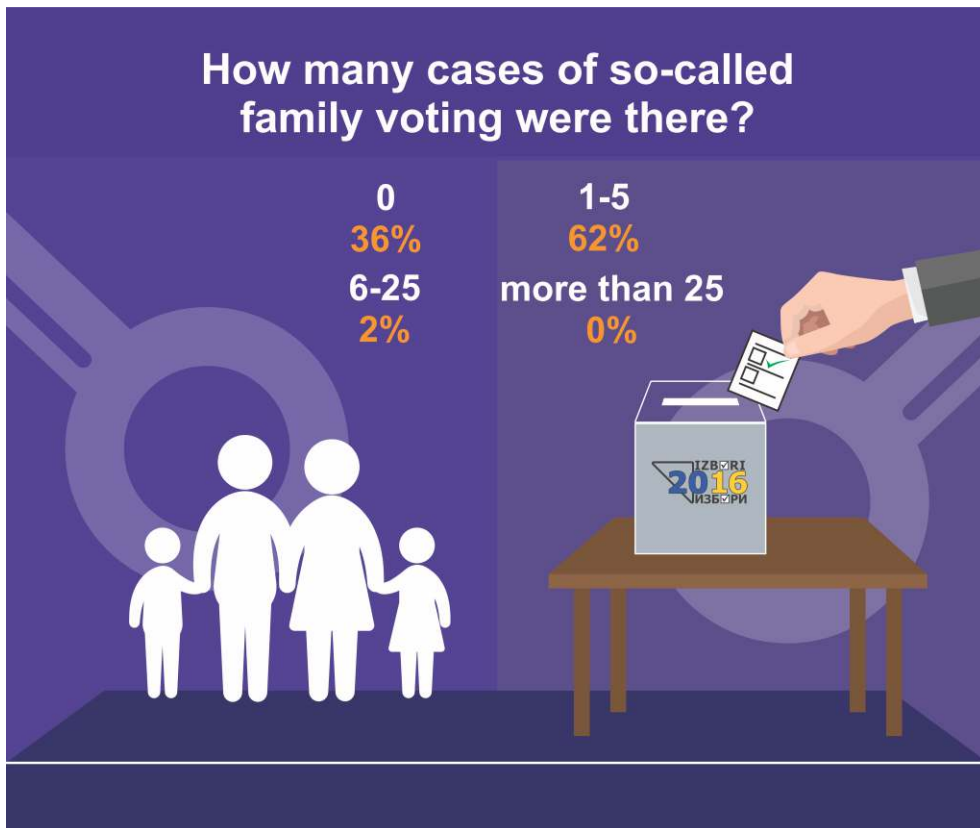
8.2. VOTING PROCESS

The most serious violation of the electoral rules occurred in Stolac, where the elections were completely suspended at 17 out of 19 polling stations due to a large number of incidents and violence. Apart from violence in Stolac, two cases of assault on members of the polling station committees in Pelagićevo and Prozor-Rama, two cases of physical violence between the voters in Ilijaš and Visoko, as well as threats to the observers of the Coalition “Pod lupom” were registered. With the exception of Stolac municipality, and other abovementioned situations, the voting process was mainly conducted in a democratic atmosphere with a small number of irregularities, which can be attributed to inadequate education of certain polling stations, and some isolated incidents related to activities of political subjects.

At 63.1 % of PS a smaller number of voters was sent away from the polling station because they were not on the excerpt from the Central Voters Register. However, this did not happen systematically, but these were the cases that cannot jeopardize electoral process.

There were cases of voters voting without valid identification documents at 7.5% of the polling stations.

At least one case of one person assisting several voters to vote was registered at 36.9% of the observed polling station, and only at a few polling station (0.7%) more than 6 of such cases were registered. At least one case of family voting was registered at 64.8% of the PS, and at only 2% of the PS more than 5 such cases were registered, so it can be rightfully said that family voting and assistance with voting are still a regular occurrence in BiH electoral process.

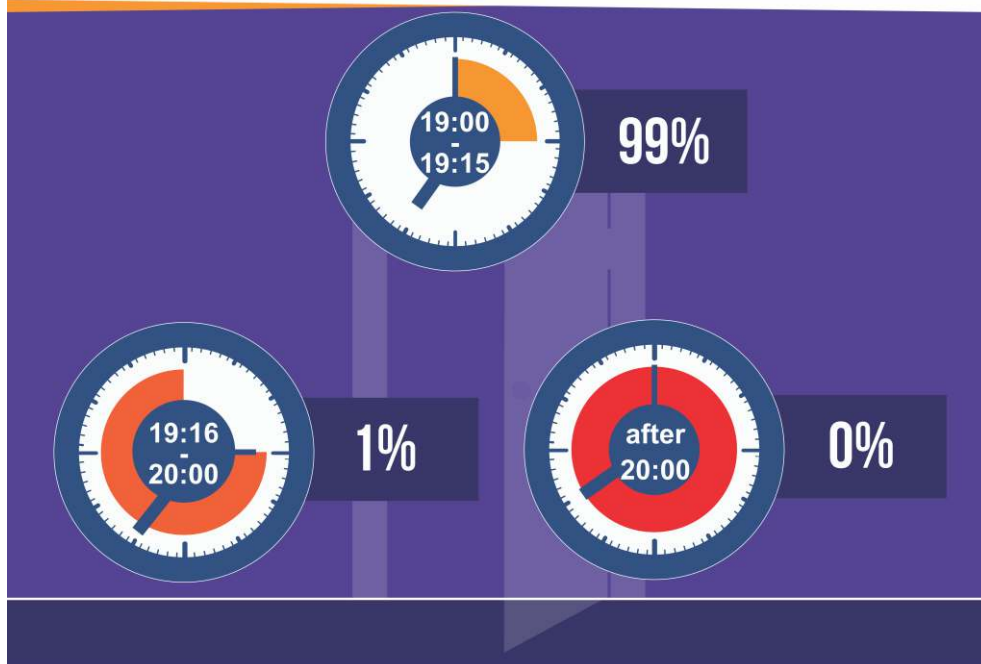


The cases of voters being persuaded and pressured to vote for a particular candidate/political party were registered at 2.4% of polling stations, including its surrounding area (50 meters).

8.3. CLOSING OF THE POLLING STATIONS

Polling stations are closed at 7 p.m. Almost all observed polling stations were closed on time or with a minimum delay of 15 minutes (99.3%), and remaining polling stations were closed by 8 p.m. At vast majority of the polling stations the closing was done in line with the regulations. It is also very important to underline that at 1% of the polling stations the voters, who were in the polling station at 7 p.m., were not allowed to vote, although it is defined that voters must be allowed to cast the ballot in such cases.

When was the polling station closed?



Significantly higher presence of all polling station committees' members was observed during the closing of the polling station than during the opening. All members of polling station committees were present during the closing at 98.7% of the polling stations.

8.4. COUNTING OF THE VOTES

At a vast majority of polling stations the counting process was conducted in a generally positive manner. In general, Coalition's observers reported irregularities in the counting process, which might affect election result at that particular polling station, from less than 1% of polling stations. The procedure for declaring ballots invalid was respected at 97% of the polling stations. Adding of the votes during the counting was registered in 0.2% of the cases, discrepancies in the accuracy test for the municipal/city mayor occurred at 3.6% of the polling stations, and discrepancies in the accuracy test for election of councilors to the city/municipal council/assembly occurred at 3.8% of the polling stations. There were pens on the tables during the counted at approximately 0.2% of the polling stations.

The yellow copy of the Aggregate results form was visibly displayed at 94% of the polling stations, but at 9% of the PS the copy was illegible, namely the visibility of the information on the yellow copy of ZR1 form was very poor, and when photographed or scanned it could not serve as a legible document on determined election results. At the same time, the yellow copy of the Aggregate results form was not displayed at all at 6% of the polling stations.

8.5. OBSERVING THE WORK OF LOCAL ELECTION ADMINISTRATION ON THE ELECTION DAY

Observers of the Coalition were also deployed at the local election commissions from 6 p.m. where they observed the entire process of delivery i.e. the handover of the material from the polling stations, processing of the received materials, entry of the results into integrated information system and cases of eventual recount of the votes on the Election Day and after the Election Day.

Not all members of the LEC were present during handover of the polling material at 8% of the municipalities, and it was registered that not all members of the PS were present for the handover of polling material in 54% of the municipalities, which is contrary to the Rulebook on the procedure of conducting elections according to which all members of the polling station committee have to present during the handover of the polling material.

In 9% of the municipalities the Coalition's observers assessed that number of positions or people for the receipt of the polling material was insufficient or disproportionate to the number of polling stations in the municipality.

In a large number of municipalities, even 35%, the most frequently observed problems relate to packing of polling material by the polling station committees, where the polling station committee packed ballots or forms in wrong bags. The cases of damaged packaging were recorded in 10.6%⁵³ of the municipalities, which indicates that someone had opened the bags. Besides these municipalities, there were additional 4% of the municipalities where delivery of unsealed bags was registered. The Coalition's observers registered occurrence of crowding, disorder or chaos during the handover of the polling material in 7%⁵⁴ of the municipalities.

A novelty in this electoral process was dislocation of recount to the local level, i.e. to the local election commissions. During the election night the Coalition's observers in 19% of the municipalities registered cases where CEC had approved recount of the ballots to be done by the local election commissions (from 134 PS). The recount process was mainly done (93%) by the same PSCs that were responsible for that particular PS, although the Rulebook on the procedure of conducting elections enables the local election commission to establish a special team for this purpose. All these information imply the need to improve training for the members of election administration, especially the members of polling station committees, in all segments of Election Day operations.

8.6. IRREGULARITIES REGISTERED AND REPORTED BY THE OBSERVERS AND THE CITIZENS

Observers and mobile teams of the Coalition "Pod lupom" recorded and reported approximately 300 situations in the field that the Coalition consider to be serious violations of the electoral rules and regulations, and for which it requested action to be taken both by the polling station committees and the local election commissions. The largest number of reported irregularities related to open solicitation at the PS – 43 reported cases; systematic violations of electoral rules and regulations, which include

⁵³ Srebrenik, Konjic, Gradiška, Laktaši, Mrkonjić Grad, Fojnica, Breza, Vogošća, Banja Luka, Derventa, Čitluk, Novo Sarajevo, Novi Grad, Ključ, Tuzla

⁵⁴ Kozarska Dubica, Bugojno, Gornji Vakuf – Uskoplje, Prozor-Rama, Široki Brijeg, Vogošća, Ilidža, Maglaj, Gradačac, Tuzla

so-called “family voting”, abuse of the “voting assistance” principle, sending a large number of voters away from the polling station, because they are not on the excerpt from the CVR – 49 reported cases; and also 6 cases of adding votes to the ballot papers.

A large number of reported irregularities relate to discrepancies in the accuracy test that is used to determine number of received ballot papers, and number of ballot papers counted after the opening of the ballot box.

This implies that it is primarily necessary to respect prescribed procedures for counting of the ballots before the polling station is opened, and to continue insisting on training of the polling station committees on importance of respecting voting procedures that relate to placing of the ballot papers into the ballot box (one by one as prescribed) in order to prevent attempts of malversation i.e. taking of the ballot papers from the polling station. A certain number of cases of voters taking pictures of the ballot papers during the voting were recorded. Such a practice is forbidden, but can imply vote buying where the pictures serve as evidence. Therefore, it is necessary to seriously consider lowering of the voting booth as to prevent such practice, but without jeopardizing secrecy of the vote.

At the same time the Coalition had received almost 120 citizens' reports, whereof majority related to solicitation, intimidation, bribery, vote buying, in total 45 reports. A total of 28 reports related to violation of election silence; violation of voting procedures – 18 reports; reports relating to the voters registers (names of deceased persons found on the voters' register, fake registration to vote out of country) – 11 reports; and 16 reports relating to other irregularities in the electoral process. It is interesting to stress that the Coalition had received a smaller number of citizens' reports that were actually more of a warning that certain election-related irregularities are about to happen, and that supporters and/or members, and even party candidates, use this tool to report irregularities. Both cases imply that citizens, regardless of whether politically active or not, still feel a certain dose of mistrust and/or fear to report irregularities to the competent bodies or to their political subjects.

Recommendations:

- **To introduce separate translucent ballot boxes for every level of authority for which the ballots are casted;**
- **To lower the height of voting booths to the minimum height that guarantees secrecy of the vote;**
- **To technically improve completion of the aggregate form's copies so they would be legible, and to display them at the polling station after all processes at the polling station are completed, as it is prescribed.**
- **To enable voters to scan his/her ballot papers at the polling station thereby preventing electoral manipulations and having the election results published faster.**

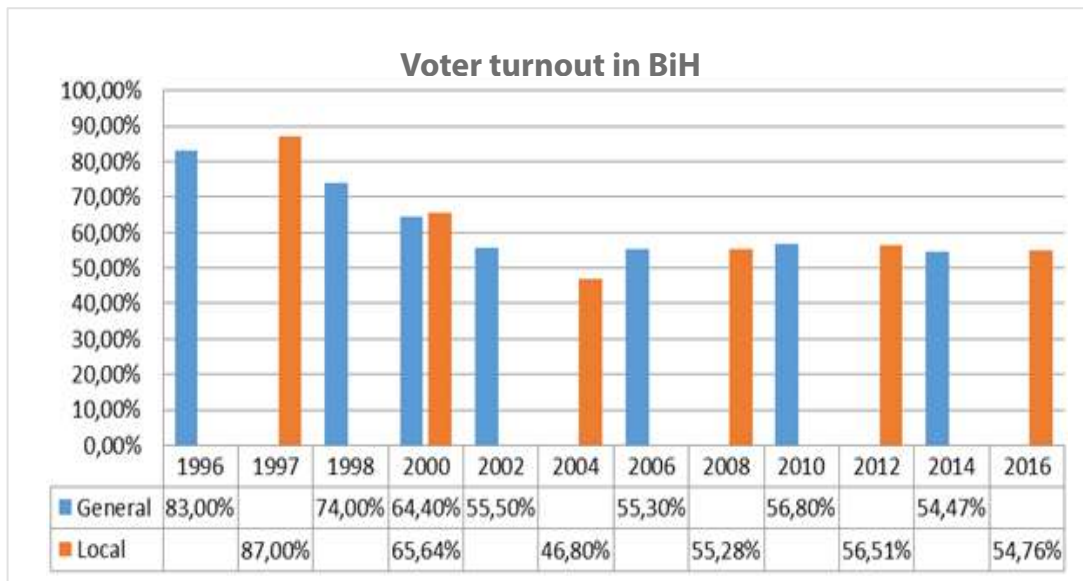


9. POST-ELECTION PERIOD

9.1. TURNOUT AT THE 2016 LOCAL ELECTIONS

The right to vote at the 2016 Local Elections had 3.255.018 voters, whereof 1.782.831 or 54.76⁵⁵ voted.

⁵⁵ Official data on the turnout rates taken from the BiH CEC's website (www.izbori.ba).



9.2. VERIFICATION OF ELECTION RESULTS

The BiH CEC is responsible for verification of the election results. The BiH CEC verifies the results of direct and indirect elections after expiry of the deadline for submission of complaints and appeals, as set forth in the Law and after the decisions have become final and binding. The BiH Election Law defines the deadlines for verification of the election results, while the BiH CEC's regulations set forth the order of determining the results, dissemination of the results to the public and how the results are to be published. The BiH CEC has to confirm the final election results within 30 days after the elections are held. The results of the 2016 Local Elections were confirmed and published on November 1, 2016, which means that the BiH CEC respected the deadline for announcement of the results.

According to the information submitted by the Coalition's observers, the BiH CEC approved recount of the votes at 134 polling stations to be conducted in the local election commissions during the election night due to the change in the way of how results were determined. Namely, the local election commissions entered results directly into the application. After the results were determined during the election night, the BiH CEC authorized local election commission to recount the votes at 231 polling stations in 56 municipalities. Preliminary results were determined by and published in the BiH CEC's decision from October 17, followed by a three day deadline during which the requests for the recount could be submitted. In line with the information provided by the observers the Coalition submitted requests for recount at 12 PS, since at some of these PS large discrepancies in the accuracy test and significant deficit or excess of ballot papers were registered. The BiH CEC rejected these requests as incomplete, although they were completed in line with the instruction. For example, the BiH CEC rejected the request for recount of the ballots from the polling station where compared to the number of received and used ballot papers additional 24 ballot papers were found, which brings the results of the vote at that PS under a question mark. The conclusion that in this particular case the BiH CEC is trying to avoid responsibility and the work it has to do in order to protect integrity of electoral process is inevitably imposed. Coalition's observers registered that recount in 92 municipalities at 226 polling stations was done in the Main center for counting by the BiH CEC's order. The votes from 54 polling stations in 28 municipalities were recounted based on the political subjects' complaints.

By comparing the number of recounts after the 2014 General Elections when recount of the ballot papers was done for 198⁵⁶ polling stations, at these elections we observe visible increase, i.e. the recount, according to Coalition's information, was done in 645 cases, which is more than a threefold increase. This figure is disturbing having in mind that the idea behind transferring of the results' entry to the local level was to achieve more efficient verification of the results. The conclusion is that the election administration should conduct a detailed analysis of the reasons for such an increase in number of recounts, and find the reasons for discrepancies in the accuracy tests from the polling stations.

Recommendations:

- **To introduce obligation to annul elections at the polling stations where deficit/excess of ballot papers is determined;**
- **To set forth stricter penalties for members of the polling station committees where discrepancies and/or disproportion is determined as the result of under-education or manipulations.**

9.3. PROTECTION OF ELECTORAL RIGHT

Legal framework

The bodies that provide protection of the electoral right are election commissions, namely the local election commissions and the BiH CEC, and the Appellate division of the BiH Court. The provisions governing the system of complaints and requests are set forth in the BiH Election Law, BiH Law on administrative procedure and in the BiH CEC's Instruction.⁵⁷ The election commissions may initiate, ex officio, a procedure to protect the electoral rights. They may also initiate the procedure based on the findings or based on a complaint filed by authorized persons. In accordance with a provision of the BiH Election Law these authorized persons are voters and political subjects. A voter, in line with the BiH CEC's interpretation of the provision, may file a complaint only when his/her personal electoral right is violated, which in the Coalition's opinion represents quite a restrictive interpretation, since it does not allow citizens, associations or other interested parties in the election process to officially file a complaint when their electoral right is indirectly violated. Also the complaints can be filed by the political subject, but not by the candidates of these political subjects without the support of his/her political subject. The Coalition deems that the circle of persons, who are authorized to file a complaint in the electoral process, should be expanded.

Objections and complaints

According to the BiH CEC's information, the election commissions had received 390 complaints and appeals. The complaints and appeals related to the following: violation of election silence (17), election campaign (12), hate speech (9), paid advertising (3), certification of candidates and candidates' lists (14), appointment of polling station committees (15), irregularities at the polling stations (PS) on Election Day (23), requests for recount (19), requests for correct verification of the results at the PS (39), requests for opening of the bags with ballot papers for 366 PS (64), appeals filed to the BiH CEC's decision concerning the requests for recount and correct verification of results at PS (74), appeals of election commissions on appointment of polling station committees (23) and appeals on the Central Voters

⁵⁶ Report of the BiH CEC on the conduct of 2014 General Elections, page 31

http://izbori.ba/Documents/2015/lzvjestaj/lzvjestaj_o_provodjenju_Opcih_izbora_2014-bos.pdf

⁵⁷ Instruction on adjudication of complains and appeals filed to election commissions, Official Gazette of BiH, no. 37/14

Register (78). In case of the BiH CEC's decision regarding the interruption of elections in Stolac Municipality, appeals were filed to the Appellate Division of the BiH Court. The Court accepted the appeals in part relating to penalties pronounced to political subjects and candidates, and returned the decisions to the BiH CEC for reconsideration.⁵⁸ After the results were verified now already former mayor of Srebrenica Municipality had filed an appeal to the Court for annulment of elections and recount of the ballots in Srebrenica, but the Appellate Division of the BiH Court rejected this appeal. In order to boost transparency of the process, as well as accountability, and to enable the interested public to follow these processes easier, the BiH CEC should publish information on received complaints and the decisions thereon on its web site in a timely manner.

According to the Coalition's information, political subjects filed a total of 104 complaints to the local elections commission before the Election Day. The complaints had, *inter alia*, related to appointment of polling station committee members, destruction of political subjects' promotional material or placement of promotional material in/on undesignated places, registration of voters for by-mail voting, updating of the voters register, etc.

On the Election Day the Coalition's observers used the only mechanism available to the non-party observers to react to electoral irregularities or violation of electoral rules and regulations and they filed objections. On the Election Day the Coalition's observers filed 143 objections to the polling station log book in 64 municipalities/cities. According to the reports of the Coalition's observers, presidents of the polling station committees at 12 polling stations refused to enter observer's objections, this drastically violating the provisions of the Law. The Coalition will request sanctions to be pronounced to presidents of these polling station committees. The overview of filed objections, as well as of all other irregularities registered on the Election Day in these constituencies, was submitted to all competent election commissions and the BiH CEC. By the time this report was published the Coalition did not receive responses from all election commission concerning actions that were taken in relation to the filed objections. It is very important to underline that there is no centralized system for tracking of complaints and objections concerning electoral process, which reduces transparency of the entire process.

Recommendations:

- **To enable non-party observers to file objections.**
- **The BiH CEC should publish information on received complaints and the decisions thereon on its web site in a timely manner.**

9.4. IMPLEMENTATION OF ELECTION RESULTS

The BiH Election Law defines deadlines for establishment of the legislative and representative government, and the BiH Presidency. These deadlines differ depending on the level of authority, and the maximum deadline is 30 days from announcement of final election results by the BiH CEC. The deadline of 30 days from the announcement of final and confirmed results also applies to establishment of municipal/city councils in FBiH, municipal/city assemblies in RS and the Assembly of Brčko District of BiH.

A total of 141 executive office holders at the local self-government level were elected at the 2016 Local Elections, whereof 131 municipal mayors and 10 city mayors in BiH. A total of 3.105 councilors were elected to the local representative bodies, together with 31 member of the Assembly of Brčko District of

⁵⁸ See Chapter 6, point 6.1.

BiH. The total number of elected councilors also includes 26 councilors from the lists for national minorities, whose seats are guaranteed in line with the BiH Election Law and who were elected at the 2016 Local Elections. A vast majority of local representative bodies, as well as the Assembly of Brčko District of BiH, were established within the 30 days deadline, i.e. until November 30, 2016, ten⁵⁹ local councils/assemblies held their constituting sessions after this date, while in nine⁶⁰ municipalities the local representative bodies were not constituted by December 12, 2016.

As before, there were cases where candidates stood in the elections without any intention to accept won mandate. Colloquially said, these were the candidates who stood in the elections for the purpose of attracting votes. So far it has not been registered that these candidates had rejected their mandate for justified reasons. On the contrary, they continued to be politically engaged, while their mandates are being awarded to other candidates. It is very important to find a solution in the law that would put an end to this practice, because this directly jeopardizes will of the voters who give their confidence to one candidate, while the other candidate assumes the office.

⁵⁹ Gacko - 1.12.; Posušje - 2.12.; Zvornik - 2.12.; Ugljevik - 01.12.; Orašje - 08.12.; Domaljevac Šamac - 01.12.; Modriča - 01.12.; Bosansko Grahovo - 01.12.; Kupres RS - 2.12.; Prozor Rama - 6.12.

⁶⁰ Glamoč, Livno, Kupres, Bugojno, Odžak, Vukosavlje, Bileća, Konjic, Kotor Varoš



10. ABOUT THE COALITION “POD LUPOM”

10.1. About Coalition Pod lupom

The Coalition for free and fair elections “Pod lupom” brings together seven non-government organizations from entire Bosnia and Herzegovina (Centers for civil initiatives, Don Prijedor, Incubator of social innovations MUNJA, Perpetuum Mobile, Center for Civic Cooperation Livno, Forum of Tuzla citizens). Primarily activity of the Coalition is election observation. So far we observed the 2014 General Election, early local elections in seven municipalities and the 2016 Local Elections. A total of 5.613 observers were engaged in all of the elections. Besides the election observation we also conduct studies and prepare international comparative analyses. The Coalition is advocating improvement of electoral process in all of its segment by monitoring sessions of the BiH Central Election Commission, organizing roundtable discussions and conference that bring together representatives of legislature, election administration, international and academic community, media and civil society. Besides the

forementioned activities, the Coalition also educates young first-time voters during the election year aimed at motivating and encouraging them to actively participate in the electoral process. The Coalition's activities are supported by foreign donors that have been working on improving and democratizing electoral process in BiH for a very long time. Current donors are the European Union and the U.S. Agency for International Development (USAID).

10.2. COALITION IN NUMBERS

At the 2016 Local Elections the Coalition deployed 2.883 observers, whereof 2.562 observers were deployed at the same number of polling stations, 120 observers in the mobile teams, 141 observer in the local election commissions and 60 volunteers in the Call Center. The Call Center received more than 30.000 SMS on the Election Day. The mobile team additionally covered more than 600 polling stations, which means that the Coalition "Pod lupom" had covered 3.162 polling stations, which is 60.7% of the total number of regular polling stations.

More than 7.000 citizens were interested to observe this year's elections. The Coalition organized 41 street actions aimed at animating the citizens to observe elections. More than 40.000 copies of educational and promotional material were distributed during these actions. Long-term observers delivered more than 140 training sessions in more than 100 municipalities/cities in Bosnia and Herzegovina, educating more than 4.000 citizens about duties, work principles and obligations of the short-term observers. More than 400 meetings were held with local election commissions, representatives of political subjects, non-government organizations and the media. In the period from September 2 to September 30, 2016 the Coalition additionally deployed 41 observers, who observed the election campaign. They visited and reported from more than 500 pre-election rallies. Since the beginning of implementation of the project "Building Accountability and Systems in the Elections", more than 900 media reports on activities of the Coalition "Pod lupom" were registered in the period from November 15 to October 2016. Coalition "Pod lupom" had in this period organized 12 press conferences and published 26 press releases. Three audio/video spots were prepared and broadcasted by the radio and TV stations across the country. The Coalition established cooperation with 41 media outlets in BiH during its paid promotion, and additional 18 media outlets have promoted activities of the Coalition free of charge.

In the period from March to October 651 interactive workshops were implemented for senior high school students and college freshmen entitled "I vote for the first time!". In this period peer educators, 28 of them, educated 14.552 young people in 155 different education institutions. A quiz with the same title was organized in September, and all age groups had the opportunity to test their knowledge about the elections, which was done for the first time in the country, but also in the region. A total of 2.542 persons participated in the quiz, while the quiz application was launched/played 32.644 times.

10.3. ACKNOWLEDGEMENTS

Although it was established just three years ago, the work of the Coalition "Pod lupom" has attracted support of many. Both domestic and international audience is today interested in the activities that the Coalition implements in Bosnia and Herzegovina. But, everything that the Coalition has achieved would not be possible without the ones who supported its work and took part in its activities. The Coalition is primarily indebted to its observers, BiH citizens, who had recognized and accepted the Coalition's vision and who actively participate in the process of improving the electoral process and electoral culture in

BiH. Together with other citizens of Bosnia and Herzegovina they have boosted the confidence in electoral process and the respect for the voters' free will, while the citizens have proved to be a collective instrument of democracy, because they have reaffirmed their interest and involvement in political streams by expressing support to civic observation and by reporting electoral irregularities. Donors' financial and advisory support provided high quality and adequate working conditions, and a firm foundation for concretization of project goals. The media have completely justified their role of a powerful democratic tool by reporting about all activities of the Coalition in an objective and professional way and by putting their own media space at its disposal. The Coalition would also like to thank all election management bodies that had opened their doors to the Coalition's staff and had expressed readiness for cooperation. We believe that electoral process in BiH can be improved and we are actively working on it. Thank you!

ANNEX 1 – Election Day statistics

Statistics of the observers' responses to the SMS questions during the Election Day. The sample of polling stations: 549.

ACCESS TO THE POLLING STATIONS

AA	Da Are you granted free and unhindered access to the polling station (PS)?	
Possible responses	YES	NO
Response percentage (%)	98,7	1,3
OTVARANJE BIRAČKIH MJESTA		
BA	Were all the members of the polling station committee present at the polling station at 6 a.m.?	
Possible responses	YES	NO
Response percentage (%)	85,2	14,8
BB	Has any of the following polling material been missing: ballot boxes, ballot papers, excerpt from the Central Voters Register, voting booths, and/or minutes/forms?	
Possible responses	YES	NO
Response percentage (%)	6,2	93,8
BC	Were the ballot papers manually counted before opening of the polling station?	
Possible responses	YES	NO
Response percentage (%)	99,3	0,7
BD	Number of voters registered in the excerpt from the Central Voters Register...	
Possible responses	<i>(the response was a whole number based on which average number of voters per a polling station was calculated)</i>	
Response (average number of voters per PS)	610	

BG	Was the ballot box showed to be empty and then sealed?		
Possible responses	YES		NO
Response percentage (%)	99,5		0,5
BH	When was the polling station opened?		
Possible responses	7 a.m.	7:01-7:15 a.m.	7:16-8:00 a.m. After 8:00 a.m.
Response percentage (%)	81,6	16,8	1,5 0,1
VOTING PROCESS			
CA	Have you noticed irregularities in the voting process? (e.g. one person receiving several identical ballot papers, one person votes multiple times, one person votes on behalf of another person/persons who did not come to the PS...)		
Possible responses	YES		NO
Response percentage (%)	1,5		98,5
CB	Have you noticed any voters who brought already marked ballot papers to the polling station, and took the empty ones with them? (so called Bulgarian train)		
Possible responses	YES		NO
Response percentage (%)	0,4		99,6
CC	Were there any open attempts made at the polling station or in its vicinity to persuade the voters to vote for a certain political subject?		
Possible responses	YES		NO
Response percentage (%)	2,4		97,6

CD	Were there any attempts made to intimidate or to pressure the voters at the PS or its surroundings?		
Possible responses	YES		NO
Response percentage (%)	1,1		98,9
CE	Was the secrecy of the vote ensured i.e. were the voting booths installed so that no one can see for whom the voter casted the vote?		
Possible responses	YES		NO
Response percentage (%)	99,8		0,2
CF	In how many cases were the voters allowed to vote without their identification documents being checked?		
Possible responses	Zero	1-5	6-25
Response percentage (%)	92,5	7,5	0,0
CG	How many voters were turned down from the polling station because they were not registered in the excerpt from the CVR for that particular polling station?		
Possible responses	Zero	1-5	6-25
Response percentage (%)	36,9	60,5	1,3
CH	How many cases of so-called family voting were there?		
Possible responses	Zero	1-5	6-25
Response percentage (%)	35,2	62,4	2,2
CJ	In how many cases a person provided voting assistance to a larger number of voters in the voting booth?		
Possible responses	Zero	1-5	6-25
Response percentage (%)	63,1	36,1	0,8
			More than 25
			0,0

CK	Did unauthorized persons (e.g. police officers, representatives of political subjects and/or representatives of local authorities) stay in the PS for a long period of time and disturbed the voting process?		
Possible responses	YES	NO	
Response percentage (%)	0,7	99,3	
CL	Were all observers allowed to freely observe the voting process?		
Possible responses	YES	NO	
Response percentage (%)	98,9	1,1	
CM	Did you and/or other observers file written complaints/objections?		
Possible responses	YES	NO	
Response percentage (%)	10,5	89,5	
CN	Have you observed any irregularities at the polling station?		
Possible responses	YES	NO	
Response percentage (%)	11,9	88,1	
CLOSING OF THE POLLING STATIONS			
DA	When was the polling station closed?		
Possible responses	7:00-7:15 p.m.	7:16-8:00 p.m.	After 8 p.m.
Response percentage (%)	99,3	0,7	0,0
DB	Were the voters, who were in the PS or in the line before the PS at 7 p.m. allowed to cast the ballot? Were the voters, who were in and in front of the PS at 7 p.m. allowed to vote?		
Possible responses	YES	NO	There were not voters at 7 p.m.

Response percentage (%)	16,4	0,9	82,7
DC	Were all members of the polling station present during closure of the polling station?		
Possible responses	YES		NO
Response percentage (%)	98,7		1,3
DD	Was anyone (e.g. members of MECs/city election commissions, representatives of political subjects, observers, etc.) allowed to enter PS after it was closed and during the counting process?		
Possible responses	YES		NO
Response percentage (%)	3,1		96,9
DE	Were all observers allowed to clearly and freely observe the counting process??		
Possible responses	YES		NO
Response percentage (%)	98,3		1,7
PROCESS OF DETERMINING THE RESULTS OF THE VOTE/ COUNTING OF THE VOTES FOR THE MUNICIPAL/CITY MAYOR			
EA	Were there any pens on the table designated for counting after the ballot box was opened?		
Possible responses	YES		NO
Response percentage (%)	0,2		99,8
EB	Number of voters' signatures on the Excerpt from the Central Voters Register?		
Possible responses	<i>(the response was a whole number based on which average number of voters per a polling station was calculated)</i>		
Response percentage (%)	342		
EH	Where there are any discrepancies in the ACCURACY TEST for election of city/municipal mayor? (Stock Form, point 10)		

Possible responses	YES	NO
Response percentage (%)	3,6	96,4
EV	Were the ballot papers pronounced invalid in line with the BiH CEC' regulations?	
Possible responses	YES	NO
Response percentage (%)	97,0	3,0
EZ	Have you observed adding of the votes to the ballot papers during the counting?	
Possible responses	YES	NO
Response percentage (%)	0,0	100,0
EX	Did you or other observers file complaints/objections concerning the process of determining the results?	
Possible responses	YES	NO
Response percentage (%)	2,7	97,3
EY	Have you noticed serious irregularities during the counting process that might affect the results of the elections for the municipal/city mayor at your polling station?	
Possible responses	YES	NO
Response percentage (%)	0,4	99,6
PROCESS OF DETERMINING THE RESULTS OF THE VOTE/ COUNTING OF THE VOTES FOR THE ASSEMBLY/COUNCIL		
FA	Where there are any discrepancies in the ACCURACY TEST for the election to the city/municipal Assembly/Council (Stock Form, point 10)	
Possible responses	YES	NO
Response percentage (%)	3,8	96,2

FC	Have you observed adding of the votes to the ballot papers during the counting?	
Possible responses	YES	NO
Response percentage (%)	0,2	99,8
FE	Have you noticed serious irregularities during the counting process that might affect the results of the elections for the city assembly at your polling station?	
Possible responses	YES	NO
Response percentage (%)	0,2	99,8
FF	Did you or other observers file complaints/objections concerning the process of determining the results?	
Possible responses	YES	NO
Response percentage (%)	2,3	97,7
FG	Have you noticed any irregularities in the process of packing of the polling material?	
Possible responses	YES	NO
Response percentage (%)	0,6	99,4
FH	Did all PSC members sign the Stock Form and the Aggregate Results Form?	
Possible responses	YES	NO
Response percentage (%)	93,6	6,4

