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FINAL REPORT
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Elections in BiH

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Systemic transparency in electoral process
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ACRONYMS USED IN THE REPORT

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 for Civic Initiatives
CGS	Center for Civic Cooperation
CEC	Central Election Commission
JiIS	Integrated election information system
DON	Democracy, organization, progress
ECtHR	European Court of Human Rights
FBiH	Federation of Bosnia and Herzegovina
FGT	Forum of Tuzla citizens
GIK	City election commission
GRECO	Group of States against Corruption
IDWG	Interdepartmental working group for the amendments to the election law
LEC	Local election commission
ODIHR	Office for Democratic Institutions and Human Rights
OHR	Office of the High Representative in BiH
MEC	Municipal election commission
OSCE	Organization for Security and Cooperation in Europe
RS	Republika Srpska
AR	Aggregate results (form)

1. SUMMARY

Taking into account the entire electoral process, as of the day elections were announced to the confirmation of the election results, the Coalition “Pod Lupom” assesses the 2022 General Elections as partly irregular.

Such an assessment is the result of all documented irregularities particularly in the segment of voter coercion, abuse of public resources in the pre-election period, as well as numerous disagreements in the election results, which seriously dented the integrity of the electoral process, and the public confidence in the electoral process seems at its lowest point ever. Furthermore, the fact that the observed irregularities and violations of the BiH Election Law did not bring timely institutional response and an epilogue contributes to the overall dissatisfaction with the elections amongst the general public.

The observation mission of the Coalition “Pod lupom” assessed that the Election Day on October 2, 2022 took place in accordance with the BiH Election Law and regulations at the largest number of polling stations. It has also been noted that some segments of the electoral process have improved significantly compared to the previous election cycles, which is largely the result of the implementation of 14 recommendations of the Coalition “Pod lupom” just for this election, i.e. a series of technical improvements in the voting process on the Election Day. Compared to earlier election cycles, there were fewer cases of abuse of voting assistance and family voting.

The 2022 General Elections in Bosnia and Herzegovina (BiH) were organized and conducted at a very challenging political moment. The period since the last 2018 General Elections was marked with incomplete implementation of the election results, political blockages to the functioning of the government, failures to meet conditions and priorities of the European Commission (EC), global coronavirus pandemic, failed negotiations on electoral reforms, distrust of citizens in the electoral process, and attempts to block holding of the regular elections and/or to postpone them.

Electoral reforms, led by the representatives of the political subjects that form the government at the state level and mediated by the representatives of the international community, had failed. The long-lasting negotiation process between the political subjects about addressing piled up problems in the political and election system of the countries, as well as adoption of the essential technical improvements through the so-called integrity package of the electoral process, expectedly fell short due to lack of readiness to compromise and rigid, pre-defined attitudes, which have not changed throughout the negotiations.

The practice of amending the Election Law in the election year did not change for the 2022 General Elections, and it was even done in the period when the elections were already announced. Although the amendments related to additional mechanisms to prevent electoral irregularities during all stages

of the electoral process, to implement the decisions of the Constitutional Court in Ljubić case and to prevent blocking establishment of the government, particularly in FBiH, it has to be pointed out that again BiH acts contrary to the Code of good practice in electoral matters of the Venice Commission. This Code reads that it is not good to amend election rules during the election year. The aforementioned amendments were imposed by the High Representative in BiH (OHR) using the so-called Bonn powers and after the BiH politicians and decision-makers failed to address any of these issues.

The 2022 General Elections were announced in line with the Election Law of Bosnia and Herzegovina (BiH) and were held on Sunday, October 2, 2022. Members of the BiH Presidency, members of the national and entity Parliaments, and members of the Assemblies in the cantons of the Federation of Bosnia and Herzegovina were directly elected at the elections. A total of 518 mandate holders stood in the elections for all races. The Central Election Commission of BiH (BiH CEC) certified 145 political subjects (90 political parties, 17 independent candidates and 38 coalitions) to participate in the elections. The right to vote at these elections had 3.368.666 voters registered in the Central Voters' Register. The budget for the October elections in 2022 was slightly over 12.5 million KM.

In the period after the conduct of the 2020 Local Elections the BiH CEC mostly continued with the efforts to restore the dented trust of the BiH citizens in the elections partly through increased transparency as well as through consideration of reported and observed irregularities and sanctioning. However, the process of determining the results, the tardiness in their publication, a huge number of determined irregularities and disagreements between the results from the polling stations and the ones determined in the Main Counting Center (MCC), failure to adopt and to publish the MCC's reports, lack of sanctions and/or lack of information about investigations, the proceedings to determine misdemeanor or criminal liability for numerous violations of the Law, deeply dented the public confidence in the integrity of the electoral process.

It has been documented that a significant number of political subjects, as it was the case in the previous election cycles, conducted the campaign before its official start, particularly in the segment of paid advertising on the social networks. Continuing the practice started during the 2020 Local Elections the BiH CEC fined several political subjects and/or their candidates for paid advertising on the Facebook before the start of the election campaign, also imposing fines in the cases of this irregularity that were reported by the Coalition "Pod lupom". In addition to the paid advertising on the social networks it was also noted that some political subjects did conduct many activities that cannot be identified as internal party activities and can be *de facto* classified as on-ground campaigning, showing that the so-called grey zone of the BiH Election Law is being excessively used here since the BiH Election Law only explicitly prohibits paid advertising before the official start of the election campaign. The current legal solutions neither recognize nor prohibit all other election campaign activities, which in a way makes the statutory 30 day campaigning period senseless since it lasts far longer in practice.

The 2020 Local Elections were marked by a record number of out-of-country applications, as well as with a large number of documented irregularities and abuses related therewith. One of the recommendations made by the Coalition “Pod lupom” concerned the introduction of additional mechanism to prevent the abuses. For the 2022 Elections the BiH CEC introduced additional mechanism through its regulations stipulating that out-of-country applications can be submitted only electronically via the e-izbori portal available on the web site or by fax. Various security restrictions that were set have most likely affected the number of out-of-country applications, whose number for these elections was two times lower compared to the 2020 elections.

Trade of the seats in the polling station committees between political subjects was documented to a significant extent in this election cycle. The trend where certain number of political subjects applies and gets certified to participate in the elections in basic constituencies in which they neither have any activities, municipal board, premises nor plan to seriously engage in the electoral race has been continued throughout BiH, which can only lead to a conclusion that is being done with the intention to trade the seats in the polling station committees. Coalition “Pod lupom” has recently conducted a research and analyzed polling station committees’ transparency, focusing on this irregularity in particular. The research had flagged potential suspicion of trading for more than 17% of the polling station committees’ members or 747 of them out of 4337 members of the polling station committees who were subject of this analysis. The information that the Coalition documented concerning the trade of the seats in the polling station committees was submitted to the BiH CEC for informative purposes and further action.

Observers of the Coalition “Pod lupom” reported on 384 cases of abuse of public resources in 67 municipalities/cities. Most of the reported cases relate to the intensification of works on local infrastructure, and frequent and intensified visits by officials from higher levels of government, who as a rule meet or visit those municipalities/cities headed by their party colleagues. Various examples of introducing new rights to different categories and/or providing one-time assistance to the population on different grounds were documented for these elections: one-time financial assistance to pensioners, people with disabilities, civilian victims of war, beneficiaries of veteran's benefits, distribution of packages of basic foodstuffs, assistance to young people, and it was all done exclusively until the Election Day.

Manipulations of the electoral process that could have directly affected election results occurred at 6% of observed polling stations. The largest irregularities on the Election Day were observed during the observation of the Election Day and the re-count process for the level of President and Vice Presidents of Republika Srpska in the Main Counting Center, in Doboje, Prijedor and Zvornik where it was determined that preliminary results entered into the forms by the polling station committees' members and/or into the integrated system for processing of the results by the local election commissions' employees differ from the final results determined by the re-count of the ballots at up to two thirds of polling stations in these cities. By the time this report was published no one was held accountable for this either criminally or otherwise.

The election results were confirmed on November 2, 2022 and thus the statutory deadline was observed. However, it has to be underlined that the process of determining results has shaken the public confidence in the process as never before primarily due to a series of observed irregularities and disagreements between the results from the polling stations and the ones determined in the Main Counting Center, but also due duration of the entire process. During the process of determining election results the BiH CEC passed an order to perform a control re-count of ballots for president and vice presidents of RS from all 2.239 regular polling stations due to a series of observed, reported and determined irregularities concerning the results from polling stations. This was the first such case of control count of all ballots for a single level being done. The BiH CEC had additionally issued the order for re-count of ballots or opening of bags to eliminate other irregularities at more than 240 polling stations, not including the control re-count for the president and vice presidents of RS.

Recommendations to improve the electoral process in BiH

LEGAL FRAMEWORK AND ELECTION SYSTEM IN BiH

Constitution(s)

1. To implement the European Court of Human Rights judgments (“Sejdić-Finci”, “Zornić”, “Pilav”, “Šlaku”, “Pudarić”) giving both active and passive suffrage to all citizens of BiH who have attained 18 years of age regardless of their ethnic affiliation and permanent place of residence.
2. To prevent change of ethnic affiliation in the period of three consecutive electoral cycles by the BiH Constitution and the BiH Election Law.
3. To ensure minimum representation of the three constituent peoples in the representative bodies at the level of cantons in FBiH, and at the local level by amending the statutes of municipalities/cities.

Law(s)

4. To introduce deadlines for establishment of the executive government and the obligation of announcing snap elections if the executive government is not established within the set deadline.
5. To have the BiH Election Law define the institute of substitute parliamentary mandate in order to avoid the situation where one person is simultaneously performing two functions, one in the executive and other in legislative government.
6. To shorten all election related deadlines from the day the elections are announced until the official and complete publication of the final election results (to 120 days maximum instead of the current 180 days).
7. To launch an initiative for adoption of a Law on Political Organizations at the national level.
8. To urgently establish Interdepartmental working group for amendments to the BiH Election Law with clear tasks and deadlines with the aim of improving legal framework for the elections that will restore the dented citizens’ confidence in the electoral process.

9. To have the BiH Election Law envisage the situation when electoral process is interrupted and the establishment of the election results is not possible, setting a deadline in which new elections must be held.
10. To adopt official consolidated version of the BiH Election Law

Election system

11. To reduce the intra-party threshold for the general elections in BiH to 10%, making it equivalent to the intra-party threshold for the local elections.
12. To revise constituencies and number of mandates for national and entity parliament in order to ensure quality of the vote.
13. To eliminate compensation candidates' list and to award compensation mandates to the candidates with the highest number of received preferential votes on the regular candidates' lists of political subjects at the entity level. Ensure gender and regional representation per constituency with Rules on award of compensation mandates.

ELECTION ADMINISTRATION

Election commissions

14. To depoliticize to the greatest possible extent the procedure for appointment of election commission by emphasizing expertise and professional integrity of the candidates for a position in the election commission. To perform oversight over the work of the commissions and other activities in line with the law and competences, based on facts and arguments, and not based on daily political topics, thus contributing to strengthening of all election commissions.
15. To harmonize the BiH Election Law with the Gender Equality Law in the part relating to the appointment of members of the BiH Central Election Commission (BIH CEC) as to align the composition of the BiH CEC with the BiH Gender Equality Law.
16. To continue introducing improvements concerning training of the local election commissions aimed at increasing efficiency of their work in the election period.
17. To improve the system of control of political parties' financial operations both in the election and non-election year by strengthening human and technical capacities of the BiH CEC's Audit Office. Involve other institutions that control financial operations of the legal entities in the control of political parties' financial operations.

Polling station committees

18. To amend the procedure of selecting the president and deputy president of the polling station committee in a way to have them selected by the municipal/city election commission based on a public vacancy and criteria prescribed by the BiH CEC, whereat they will be appointed and trained for that position during the non-election years.
19. To prevent the trade of seats in the polling station committees that is done by the political subjects in a way as to introduce additional restrictive criteria under which the political subjects qualify to take part in the operations of the polling station committees

20. To sanction unjustified withdrawals from the polling station committees just before the Election Day by prohibiting future engagement in at least two election cycles, setting forth the obligation to keep such records at the level of local election administration.

PRE-ELECTION PERIOD

21. The BiH Central Election Commission and competent law enforcement bodies (Ministries of Interior and Prosecutor's Offices) must undertake all steps under their jurisdiction in terms of precluding, preventing and sanctioning voter coercion.
22. To precisely define responsibility of the political subjects that conduct unpaid election campaign before the beginning of statutory period in which conduct of such a campaign is allowed.
23. To consider further detailed regulation of provisions on abuse of public resources by analyzing effects of application of these provisions in the 2022 election cycle.
24. Aimed at building trust in the accuracy of the data on the Central Voters' Register (CVR) it is necessary to undertake all actions that will improve this process in the way as to conduct a comprehensive audit of all procedures affecting preparation of the CVR, to identify all weak spots in the flow of information and to create (electronic) solutions with clearly stipulated responsibilities, deadlines and sanctions.

ELECTION DAY

25. To introduce ballot scanners or other new technologies in the electoral process as to prevent abuses and disable violations of the BiH Election Law when determining will of the voters on the Election Day, following thereat standards and criteria of security, feasibility, long-term nature and cost-efficiency of the selected solution.
26. To introduce electronic voter identification at the polling station.
27. To provide for entry of the voting results into the electronic system of the BiH CEC (JIIS) at the polling station immediately after the results of the vote for every electoral race are determined.
28. To pay special attention that polling stations are accessible to persons with disabilities when designating their locations.
29. In future improvements of the Election Day organization, particularly in the segment of voting at the polling station, considerations should be made about ensuring conditions for the blind and visually impaired persons to vote independently.

Polling station setup

30. To strictly apply regulations of the BiH CEC concerning publication of the names of polling station committees' members, which has to include the name (not the code) of the political subject on behalf of which the members were appointed.
31. To introduce separate translucent ballot boxes for every level of authority that is being elected¹.

¹ Except if scanners or other form of technology is introduced at the polling station, which would eliminate the use of the ballot boxes.

Election observers

32. To simplify the procedure for accreditation of civic, non-partisan observers accredited by the CEC BiH by introducing the option for electronic submission of the application. To simplify the prescribed design of the accreditation card and to speed up the issuance of the latter.

DETERMINING OF THE RESULTS

33. To introduce mandatory annulment of elections for the polling stations at which excess of ballot papers was determined.
34. To ensure strict adherence to provisions of the BiH Election Law and the regulations that set forth the procedure of safeguarding the voting material at every polling station before the Election Day.
35. To strengthen the control over the delivery of sensitive voting material to/from the polling stations. The Rulebook on conduct of elections has to specify who is responsible to deliver voting material from polling stations to the municipal/city election commission.
36. After determining the number of unused ballots, and before they are packed into the original boxes, the unused ballots should be made unusable by cutting off the lower right and left corners of the ballots with scissors.
37. To technically improve preparation of the copies of the aggregate result forms so the latter would be legible, and to ensure their publication at the polling station after all processes at the polling station are completed, as prescribed.

PROTECTION OF ELECTORAL RIGHT

38. To enable filing of the complaints at every stage of the electoral process.
39. To make the operations of the Main Counting Center (MCC) more transparent by publishing regular reports on all facts established during the conduct of activities under its jurisdiction, as well as by publishing a timely comprehensive report on the operations of the MCC. To ensure access to all activities and documents to observers in the MCC as prescribed by the BiH Election Law.
40. To improve publication of information on received complaints and appeals on the BiH CEC's website by creating a database that will contain the information in its original form, accompanied by the decision taken thereon. The database, i.e. the publication of information on complaints and appeals, should be expanded to complaints filed with the election commissions of basic constituencies.
41. The BiH Central Election Commission and competent law enforcement bodies must be proactive concerning prevention, timely prosecution and appropriate sanctioning of all violations of the BiH Election Law in particular. The sanctions have to be dissuasive in nature, and not symbolic in order to achieve their goal.

42. The BiH Central Election Commission and competent prosecutor's offices should improve cooperation concerning exchange of the information on all proceedings i.e. on indictments raised for crimes involving violation of electoral right, and ensure timely dissemination of information to the public about the indictments and outcomes of the completed proceedings.

2. POLITICAL CONTEXT

The 2022 General Election in Bosnia and Herzegovina (BiH) were organized and conducted at a very challenging political moment. The period since the 2018 General Elections was marked with incomplete implementation of election results, political blockages to functioning of the government, failures to meet conditions and priorities of the European Commission (EC), global coronavirus pandemic, failed negotiations on electoral reforms, distrust of citizens in the electoral process, and attempts to block holding of the regular elections and/or to postpone them. For the fourth consecutive election cycle the general elections in BiH are being held under the Election Law that is not entirely aligned with the international election standards, with proven discrimination of citizens based on ethnic affiliation and place of residence, which was confirmed by 5 judgments of the European Court of Human Rights (ECtHR)

Almost none or a very small portion of 14 priorities set by the European Commission before BiH as the prerequisite for getting the status of a candidate country for membership in the European Union (EU) had been fulfilled². Only the condition to ensure the proper functioning of the Parliamentary Committee for Stabilization and Association has been fully met. In terms of the conditions related to the elections, only local elections were held in Mostar, although it was done under special rules that were different than in the rest of Bosnia and Herzegovina, which fulfilled only 1/3 of the priorities related to the area of democracy/functionality³. Percentage-wise, we have met only 12.7% of priorities in 4 years, which speaks volumes about the real political will for full EU membership.

Electoral reforms, led by the representatives of the political subjects that form the government at the state level and mediated by the representatives of the international community, had failed. The long-term negotiation process between the political subjects about addressing piled up problems in the political and election system of the country, as well as adoption of the essential technical improvements through the so-called integrity package of the electoral process, expectedly fell short due to lack of readiness to compromise and rigid, pre-defined attitudes, which have not changed throughout the negotiations.

The pressures on the Central Election Commission of BiH (BiH CEC) by political subjects that were not satisfied with the (re)election of 5 out of 7 current members have continued, to a lesser or greater

² Opinion on Bosnia and Herzegovina's EU membership application: <https://bit.ly/2YeAE3v>

³ Priority in this area is: To ensure that elections are conducted in line with the European standards by implementing relevant recommendations of the OSCE/ODIHR and the Venice Commission, to ensure transparency in political party financing and to hold local elections in Mostar.

extent, ever since the current composition of the BiH CEC was appointed at the beginning of 2020. The problem or the saga about the appointment, challenging of legitimacy, and the lawsuit that ensued, ended in April 2022 when the Court of Bosnia and Herzegovina rejected the lawsuit of one of the former BiH CEC's members that challenged the appointment of the new members, as well as the right of the House of Representatives of the BiH Parliamentary Assembly (HoR BiHHPA) to appoint them. The rationale of the judgment⁴ reads that the decision of the House of Representatives of the BiH is lawful and correct, as well as in line with Article 2.5, paragraph (6) of the BiH Election Law. The pressure and discrediting of the BiH CEC as the institution has continued, similar as in the case of the 2020 Local Elections, by refusing timely provision of funds for the organization of elections whereat political subject that were in the executive government of BiH at that time used different excuses for such an action. All attempts to prevent elections or to postpone them eventually failed, which is very important for the wellbeing of the citizens and democracy in BiH, but there is some disbelief that such attempts even existed. The BiH CEC adopted a series of decisions for the 2020 General Elections that have improved the electoral process. These improvements mainly relate to the voting process on the Election Day, thus implanting entirely or partly 9 recommendations of the Coalition "Pod lupom".

The High Representative in BiH (OHR) passed several decisions that related to enabling conduct of elections and to the election rules. The decisions were passed during the election period, and in the night after the polls were closed, which caused a strong reaction of some political subjects that were not satisfied with the decisions or disapproved of this way of decision-making. A portion of the rules related to sanctioning of the illicit trade of seats in the polling station committees and preventing the abuse of public resources for the purpose of election campaigning, which were the priority recommendations of the Coalition "Pod lupom", while other rules related to the implementation of election results. The OHR's decision have undoubtedly improved the quality of elections in the period before the Election Day and have eliminated blockages in establishment and functioning of the government on the level of Federation of BiH, but the effect of those is not full and there is a lot more work to be done to improve these and other segments of the electoral process.

The war in Ukraine has certainly marked the year in a political sense. The key political leaders had openly sided with the parties in the conflict, which additionally contributed to polarization along ethnic and party lines. The war in Ukraine had and still has significant economic consequences to which the government has a limited response, but which were partly present in the election campaign as an important topic.

All of the above, along with the documented election irregularities, has led to apparently the highest ever mistrust of citizens in the electoral process in BiH. Questioning of the election results, as well as proven election theft and fraud without consequences and sanctions for the perpetrators, indicate an alarming state of democracy in Bosnia and Herzegovina. Improving the electoral process is a necessity, and it would be questionable to organize the next elections according to the same rules and without

⁴ The judgment of the Court of BiH can be found here: <https://bit.ly/3jY9gr0>

electronic identification of voters, scanning of ballots and entry of voting results at the polling station level.

3. BASIC INFORMATION ABOUT THE 2022 GENERAL ELECTIONS

The 2022 General Elections were announced in line with the provisions of the Election Law of Bosnia and Herzegovina (BiH) and were held on Sunday, October 2, 2022⁵. The following bodies of authority were directly elected at the October 2 elections:

- Presidency of Bosnia and Herzegovina;
- House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina;
- House of Representatives of the Parliament of Federation of Bosnia and Herzegovina;
- National Assembly of Republika Srpska;
- President and vice-presidents of Republika Srpska, and
- Cantonal Assemblies in Federation of Bosnia and Herzegovina.

A total of 518⁶ mandate holders were elected for all announced electoral races. The BiH Central Election Commission certified 145 different political subjects to participate in the elections (90 political parties, 17 independent candidates and 38 coalitions). However, a total of 127⁷ political subjects appeared on the ballots, because 8 political parties participated in the elections only as part of a coalition and 10 political parties did not certify candidates' lists. The BiH CEC certified 7.258⁸ candidates for all electoral races. Furthermore, the regular candidates' list had 3.058 candidates or 42.1% of underrepresented gender, in this case the women, meaning that the provisions of the gender equality were formally respected for the certification of candidates' lists. Gender equality is also applied to the certification of candidates' lists for compensation mandates, which is observed by the BiH CEC ex-officio.

A total of 3.368.666 citizens of BiH, who are registered in the Central Voters' Register as of August 18, 2022, had the right to vote on October 2, 2022. The electorate is made of regular voters (3.277.490), voters having the status of a displaced person and are voting in absentia (6.124) and those who are voting in person (15.086), voters voting from abroad by-mail (63.264), and voters voting from abroad

⁵ Decision on announcing the 2022 General Elections: <https://bit.ly/3BCJX40>

⁶ BiH Presidency: 3; BiH Parliament BiH: Total 42 - from FBiH 28 (21 directly and 7 compensation mandates), from RS 14 (9 directly and 5 compensation mandates); FBiH Parliament: 98 (73 directly and 25 compensation mandates); President and vice presidents of RS: 3; RS National Assembly: 83 members (63 directly and 20 compensation mandates) Canton 1 (Una-Sana Canton): 30; Canton 2 (Posavina Canton): 21; Canton 3 (Tuzla Canton): 35; Canton 4 (Zenica-Doboj Canton): 35; Canton 5 (Goražde Canton): 25; Canton 6 (Central Bosnia Canton): 30; Canton 7 (Herzegovina-Neretva Canton): 30; Canton 8 (West Herzegovina Canton): 23; Canton 9 (Canton Sarajevo): 35; Canton 10: 25

⁷ 127 political subjects: 72 political parties, 38 coalitions and 17 independent candidates.

⁸ Number of candidates by electoral races: BiH Presidency - 10; House of Representatives of the BiH Parliamentary Assembly - 752; House of Representatives of FBiH Parliament - 1.230; RS National Assembly - 1.429; President and vice presidents of RS - 31; Assemblies of the cantons in FBiH - 3.806.

at the diplomatic and consular missions of BiH (6.702). A total of 14.222 voters out the total number of regular voters registered to vote through mobile teams.

A total of 5.903 polling stations were established for the 2022 General Elections: 5.418 regular, 7 for voting of internally displaced persons, 105 polling stations for voting by tendered ballots, 352 mobile teams and 21 polling stations at the diplomatic and consular offices of BiH in 15 countries.

The elections were carried out by election administration consisting of more than 50.000 regular and temporary staff: 7 members of the BiH CEC, 58 permanent and 37 temporary employees in the BiH CEC's Secretariat, 571 members in 143 municipal/city election commissions, 217 officers in the municipal/city Centers for voters' lists, around 50.000 of members and alternate members of the polling station committees and around 450 temporary recruited employees in the Main Counting Center (MCC).

The budget for the 2022 October elections was slightly above 12.5 million KM, whereof the larger portion was allocated to compensations for members and alternate members of the polling station committees (around 6.7 million), then to the procurement of paper and printing of the ballots (around 1.5 million) and to the delivery of voting kits to the out-of-country voters (around 1.2 million).

More than 60.000 observers observed the elections, whereof majority of observers were the observers of political subject who usually observe only the Election Day. They are accredited by the municipal/city election commissions and according to the BiH CEC's estimate around 50.000 party observers were accredited for these elections. The BiH CEC accredits observers of the citizens' association from BiH and the BiH CEC accredited 3.767 observers for this election cycle. Vast majority of these accredited observers comes from the organizations that observe the electoral process entirely, including the Election Day, on behalf of the civil society organizations that are part of the Coalition for free and fair elections "Pod lupom".

4. LEGAL FRAMEWORK AND ELECTION SYSTEM

4.1. Legal framework

The elections in Bosnia and Herzegovina (BiH) are being held in a complex legal framework and under conditions that are consequence of a specific Constitution and asymmetrical internal organization. The Constitution of Bosnia and Herzegovina is Annex IV of the General Framework Agreement for Peace in BiH (so-called Dayton Agreement) that gives limited powers to the state institutions, while most powers are given to the entities - Federation of BiH (FBiH) and Republika Srpska (RS), but also to the cantons in FBiH. Brčko District has a special status as a local self-government unit, under the sovereignty of BiH and is a condominium of both entities. The Office of the High Representative is also part of the constitutional structure, and it has significant powers. The specificity of constitutional solutions in BiH is reflected in the concept of “constituency” of peoples (Bosniaks, Croats and Serbs), while those citizens who neither belong to any of the constituent peoples nor declare themselves ethnically are marked as “Others”. This also represents discrimination against those who declare themselves ethnically, not as members of constituent peoples, but as members of national minorities⁹, as well as those who have chosen not to declare themselves ethnically. National minorities, with regard to their special status concerning the passive voting right, have guaranteed seats at the level of local representative bodies, but only if they make up at least 3% of the population according to the last national Census.

Important and binding judgments of the European Court of Human Rights¹⁰, first of which was passed in 2009 establishing constitutional discrimination for the first time, have not yet been implemented and the Parliamentary Assembly of BiH (BiHPA) is the institution to be held most accountable for that. The implementation of these judgments will inevitably lead to changes in the BiH Constitution and the BiH Election Law in terms of eliminating existing discrimination against BiH citizens in the exercise of the active suffrage. Amongst many decisions of the Constitutional Court that are not implemented in BiH, it should be underlined that the Decision of the Constitutional Court of BiH from 2000 has not yet been fully implemented, and it guarantees equality of all three peoples throughout BiH, thus neutralizing the fact that members of these three peoples, depending on which entity they live in, do not have the passive suffrage.

The BiH Election Law is the basic law for the organization and conduct of elections¹¹. To date, this law has undergone 23 changes and amendments¹². The practice of amending the Election Law in the election year did not change for the 2022 General Election, and it was even done in the period when

⁹ National minorities in BiH are defined by the Law on Rights of National Minorities in BiH

¹⁰ ECtHR judgments in cases “Sejdić-Finci”, “Zorić”, “Pilav”, “Šlaku” and “Pudarić” vs. BiH

¹¹ Laws relevant to the organization and conduct of elections in BiH are: Election Law of Republika Srpska, Election Law of Brčko District of BiH, Law on Direct Election of Mayors in FBiH, and other laws associated with the election process: Law on Political Party Financing, Law on Citizenship, Law on Conflict of Interest in the Government Institutions of BiH, BiH Law on Permanent and Temporary Residence of BiH Citizens, Law of Brčko District of BiH on Selection and Change of Entity Citizenship, as well as all BiH CEC’s regulations.

¹² Official Gazette of BiH, nos. 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, 41/20, 38/22 and 51/22).

the elections were already announced. Although the amendments related to additional mechanisms to prevent electoral irregularities during all stages of the electoral process, to implement the decisions of the Constitutional Court in Ljubić case and to prevent blocking establishment of the government, particularly in FBiH, it has to be pointed out that again BiH acts contrary to the Code of good practice in electoral matters of the Venice Commission. This Code reads that it is not good to amend election rules during the election year. The aforementioned amendments were imposed by the High Representative in BiH (OHR) using the so-called Bonn powers and after the BiH politicians and decision-makers failed to address any of these issues. First decision¹³ of the OHR from June 2022 concerned amendments to the Law to ensure funds for the conduct of elections, which were not secured by the competent institutions on time due to different interpretation of relevant provision, while the political background and discontent of certain political parties with the composition and the work of the BiH CEC have probably caused such interpretations. The organization of elections continued smoothly after this amendment to the Law. A new amendment to the BiH Election Law was made at the end of July 2022 with the aim to “to strengthen the integrity of elections and to improve the management of electoral process in a transparent manner by giving the Central Election Commission the means to efficiently sanction violations of the rules of conduct in the election campaign, all with the aim to bring the Election Law in line with international standards and good practices for democratic election as recommended by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and underlined in European Commission’s Opinion on the EU membership application of BiH” as the Decision¹⁴ read. These amendments to the Law introduced the possibility to sanction so-called trade of seats in the polling station committees by “prohibiting false impersonation” for getting a seat in the polling station committee. The possibility to sanction the political subject that nominates a person to the polling station committee was also introduced. Furthermore, the Law defined more precisely the types of media, including “online” media and social networks, and it also specified “abuse of public funds and resources”. The sanctions for determined violations of the BiH Election Law were increased both for the employees of the election administration and for the political subjects. All the amendments had been already covered by the recommendations of the Coalition “Pod lupom” to improve election legislation and have been strongly advocated by the Coalition for many years now.

Third decision¹⁵ of the OHR was published in the evening of the Election Day causing great commotion amongst the public. It most probably represents a precedent in the way a law is passed, and particularly in passing of amendments to a constitution (entity) in terms of its timing. It can be definitely said that passing of these decisions was caused by inability and irresponsibility of the relevant BiH politicians to reach an agreement on implementation of the Constitutional Court’s decision in Ljubić case, as well as by the resulting blockages in establishment of the government, which had already happened after the 2018 General Elections. These decisions increased number of delegates in the House of Peoples of FBiH (amendments to the FBiH Constitution) with the aim of improving functionality of the FBiH and

¹³ Decision of the OHR no. 03/22 <https://bit.ly/3WhCkIx>. As to ensure implementation of this decision the OHR passed the decision amending the Law on financing of the BiH institutions: <https://bit.ly/3GcQHRZ>

¹⁴ Decision of the OHR no. 05/22: <https://bit.ly/3WELdvA>

¹⁵ Decision of the OHR no. 06/22 Amendments to the FBiH Constitution: <https://bit.ly/3jqm5tR> and Decision of the OHR no. 07/22: <https://bit.ly/3Vimv2I>

ensuring timely implementation of election results. The number of delegates was increased from 58 to 80 by increasing the number of delegates representing constituent peoples from 17 to 23, and number of delegates representing the so-called “Others” from 7 to 11. According to this decision the delegates representing the “Others” will be elected from all 10 cantons and not from 5 cantons as it was stipulated before. Thus the OHR has also ensured timely election of delegates to the House of Peoples in the cantonal assemblies by authorizing the BiH CEC to reassign mandates from the cantons in which the cantonal assemblies fail to meet their obligation within the deadline. The decision also sets forth that both houses of the FBiH Parliament (House of Representatives and House of Peoples) have to either reject or adopt the laws within 45 days following their passing in the other house. The decision also sets forth the mode for election of the president and vice presidents of the FBiH with deadlines.

The year 2020 has to be mentioned in terms of significant amendments to the BiH Election Law that were adopted earlier and the amendments that finally made holding of elections in Mostar possible¹⁶, then the increase of the intra-party threshold of votes won on the candidates’ lists for the allocation of mandates at the local elections (municipal council/municipal assembly) from 5% to 10% and from 5% to 20% for the general elections (2016). Raising the threshold in this context practically means closing of the lists, which was proven in the practice as well, especially at the general elections. It is reflected in voters having less influence when electing their representatives, and political subjects having more influence. The Venice Commission is also of the opinion that a high intra-party threshold/preference threshold, which is a rarity, can mean *de facto* closed lists, although there is preferential voting. A moderate intra-party threshold or a preference threshold of 5% to 7% provides good opportunities for voters to influence candidates’ lists¹⁷. In terms of gender equality, equal gender representation has also been introduced for the compensation lists for the election to the state parliament in the general elections, which was not the case before. It entails 40% of the underrepresented gender with the order of nominating the candidates in such a way that at least one candidate of the underrepresented gender is among the first two candidates, two among the first five candidates, etc. Legal solutions do not imply guaranteed mandates to ensure gender equality.

Although major changes to the Election Law, including even adoption of a new law, were announced after the 2014 General Elections as to improve the electoral process, nothing was done so far nor was the introduction of any form of new technologies in the electoral process seriously considered.

Ahead of the 2022 General Elections and for the purpose of advocating the improvement of electoral legislation the Coalition “Pod lupom” organized the signing of a petition requesting the introduction of

¹⁶ Amendments of July 2020 enabled holding of local elections in the City of Mostar after 12 years. These changes were preceded by another judgment of the European Court of Human Rights in the case of “Baralija vs. BiH”, which found that BiH had violated the European Convention on Human Rights by failing to implement a binding decision of the BiH Constitutional Court from 2010 to approximate the discriminatory provisions of the Election Law on Mostar to the Constitution. The solution offered by the amendments to the Election Law is a solution by which elections are conducted significantly differently than in the rest of BiH, where Mostar is the only city, i.e. a local self-government unit composed of several electoral units, specifically seven of them. The representative body of the City of Mostar is also unique in its organization compared to other local representative bodies, because quotas for members of the constituent peoples are only defined in Mostar.

¹⁷ Report of the Venice Commission on proportional electoral systems: the allocation of seats inside the lists (open/closed lists) <https://bit.ly/2S2iyPF>

new technologies in the electoral process, specifically the introduction of ballot scanners and electronic identification of voters at polling stations with the aim preventing irregularities related to the process of voting and determining of the results. The petition was signed by more than 92.000 citizens and was symbolically submitted to the Parliamentary Assembly of Bosnia and Herzegovina along with these requests. Unfortunately, a blind eye was turned on realization of these requests.

The BiH Election Law does not recognize the institute of snap elections or any other mechanism with a similar effect that could enable the holding of elections before the expiry of regular mandate¹⁸, which in legally prescribed situations can serve as an unblocking mechanism to the non-functioning of the government.

4.2. Election system

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

Reflecting the complex constitutional order of BiH, the election system is a combination of almost all known electoral principles: majority principle and single and/or multi-member constituencies for election of members of the BiH Presidency, President and Vice President of RS, as well as city/municipal mayor and proportional principle with multi-member constituencies for the election of parliaments/assemblies and representative bodies at the local level. The Election Law prescribes an election threshold of 3%, meaning that political subjects that have passed the threshold qualify to participate in the distribution of regular seats and it is applied to all races based on the proportional system. Voters have the opportunity to, in addition to the political subject, give their vote to some of the candidates on the closed unblocked list (so-called semi-open lists), and the preferential method is used to identify the candidates who won the most votes of the political party's voters. It is also used to determined individual distribution of seats. The intra-party threshold on semi-open lists for receiving regular mandates has been increased from 5 to 20% since the 2018 General Elections for the election of representatives in all legislative bodies. The Election Law of Bosnia and Herzegovina also provides for the allocation of compensation mandates that are distributed to political parties or coalitions, not to the independent candidates, according to the number of valid votes received and serve to compensate for insufficient proportionality at the entity level, i.e. to compensate for the so-called "dispersed" votes resulting from the existence of constituencies. Looking at the broader picture, compensation mandates should contribute to an increase in the number of representatives of the underrepresented gender, in the case of BiH women, in the legislative bodies, and should reflect greater national, age or geographic representation. In practice, however, political parties' compensation lists carry those candidates to whom political parties want to secure a mandate, given that a closed list system is used for the distribution of these mandates.

¹⁸ Except at the level of local self-government where there is a possibility to revoke the city/municipal mayor under procedures set forth by the entity laws.

Although it is the legal obligation of all representative bodies to review the number of registered voters and the boundaries of constituencies every four years in order to ensure the equal value of the vote it has not been done. An exception is the RS National Assembly, which changed the boundaries of the constituencies a long time ago, in 2012.

5. ELECTION ADMINISTRATION

The election administration in BiH consists of the election commissions and the polling station committees. Election commissions are: BiH Central Election Commission (CEC)¹⁹, municipal/city election commission and Election Commission of Brčko District of BiH²⁰ (hereinafter: local election commissions). The BiH CEC and 143 local election commissions in BiH are permanent bodies and are paid for their work during the election and non-election period. In addition to the above-mentioned commissions, the BiH Election Law provides for the possibility of establishment of the election commissions of entities and cantons. Entity election commissions are established according to the entity law, while their jurisdiction is determined by the BiH CEC. Polling station committees are appointed by the local election commissions separately for each election²¹.

Members of all election commissions are appointed for a term of seven years, while members of polling station committees are appointed for each election. Members of the election commissions are elected by political parties in representative bodies at various levels of authority, and all members of polling station committees are persons directly nominated by political subjects. If we here add 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 the interests of political subjects, and not the electoral rights of citizens. In fact, the only apolitical and non-partisan representatives in the BiH elections are civic, non-partisan observers and citizen with the right to vote.

5.1. Central Election Commission of Bosnia and Herzegovina (BiH CEC)

The BiH Central Election Commission (BiH CEC) is in charge of organizing and conducting all elections in BiH. The BiH CEC announced the elections within the statutory deadline, on May 4, 2022, and had scheduled the elections for October 2, 2022. The BiH CEC held more than 85 sessions from the day elections were announced to the time this report was published. The practice established during the

¹⁹The international organizations, primarily the OSCE, were responsible for the conduct of elections in the period from 1996 to 2000 and had organized and conducted the elections in this period through a Provisional Election Commission based on so-called electoral rules and regulations. The BiH Election Law, passed in 2001, conditioned the establishment of a permanent BiH Election Commission. Amendments to this law in 2006 ended the participation of three international members of the Election Commission (2 OSCE representatives and an OHR representative), and since that time all members of the commission are BiH citizens, and the commission was renamed the BiH Central Election Commission (CEC BiH).

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

²¹ Republika Srpska established such a commission was established in 2008 in line with the RS Election Law. There is no separate election law in the FBiH and thus no entity commission exists.

2020 election cycle of live broadcasting the BiH CEC's sessions on the commission's official YouTube channel has been continued, giving the public regular insight into the commission's activities and work. The BiH CEC follows set deadlines for the organization and implementation of election activities. Furthermore, during the preparation for the conduct of the 2022 General Elections the BiH Central Election Commission had been very proactive in terms of adoption of regulations under its competence aimed at increasing the transparency of the commission's work, as well as protecting the integrity of the electoral process. In general, communication with the public in the preparation and organization of elections has been improved compared to previous election cycles, where it can be seen that an effort is being made to deliver essential information through various channels, especially social networks (Instagram and Twitter) to all interested parties.

Since the holding of the 2020 Local Elections the Central Election Commission of BiH has introduced the new procedures and/or practices during the preparation of the 2022 General Elections. These include: an online platform for training of local election commissions, as well as other tools to improve the work of election commissions of basic constituencies (frequently asked questions, clarifying dilemmas, uploaded to the website, etc.); additional mechanisms to secure the OCV applications in order to prevent previously observed abuses in the OCV application process; and publication of received complaints. As part of efforts to digitize certain processes, an application for the accreditation of Election Day observers was created in order to speed up and facilitate this bureaucratic process. However, the application failed to respond to the task due to various deficiencies in the design, and this process remained, as in previous years, challenging and burdened with bureaucracy and paperwork, particularly for the domestic observation missions, but also for the Secretariat of the BiH CEC. In terms of the Election Day itself the BiH CEC prescribed that sensitive voting materials (ballots) must be kept at the polling stations the night before the Election Day under police protection; again, the provision stipulating that the lists with members of the polling station committee must be displayed at the polling station with an indication of the political subjects that nominated each of the members was additionally elaborated; in order to prevent potential abuses by voters during the voting it was prescribed that the voting booths are placed in such a way that the opening of the booth faces the members of the polling station committee and observers. Furthermore, in order to prevent various abuses during voting, the BiH Central Election Commission introduced an additional mechanism that should prevent abuse of assistance during voting by prescribing that voters must present a proof that they need assistance, and that in exceptional cases the polling station committees can independently assess that the voter obviously needs assistance. A proof that a voter is a blind, illiterate or physically disabled person is a decision or certificate/note of a competent institution, institute or a commission, while the absence of a signature on an identity document is considered the proof that the person is illiterate. The novelty, compared to the previous election cycles, is that the name and last name of a voter is not read out loud during the identification of voter who signs the excerpt from the Central Voters' Register (CVR), which was one of the recommendations made by the ODIHR. In order to prevent the abuse of ballots after the closing of the polling stations, especially unused ones, the Central Election Commission of Bosnia

and Herzegovina prescribed that before the ballots are issued they must be stamped and signed by the member of the polling station committee in charge of issuing the ballots. The ballots also have a watermark as an additional security element.

The Coalition “Pod lupom” welcomed all these improvements, particularly since almost all of these novelties were, for many years now, part of the Coalition's recommendations to improve electoral process. However, it has to be noted that the Coalition did not offer certain solutions as such, but the introduced novelties did respond to the identified problem, irregularity and/or abuse identified in a part of the electoral process. An exception can be considered the amendment concerning abandonment of practice of reading the voter's name aloud, which can be considered to have been abandoned too early and without the introduction of an alternative mechanism (e.g. electronic identification of the voters), since that is one of the ways to detect abuses at the polling station during the voting such as persons voting on someone else's behalf.

Challenging the work, lawfulness and legitimacy of the BiH CEC by certain political subject has been continued in this election cycle as well, starting with the period when new members of the Commission were appointed in March 2020 whereafter proceedings were initiated before the Court of BiH to contest these appointments. The saga ended in April 2022 when the Court of Bosnia and Herzegovina rejected the lawsuit of one of the former BiH CEC's members that challenged the appointment of the new members, as well as the right of the House of Representatives of the BiH Parliamentary Assembly (HoR BiH PA) to appoint them. The rationale of the judgment²² reads that the decision of the House of Representatives of the BiH is lawful and correct. Furthermore it reads that in line with Article 2.5, paragraph (6) of the BiH Election Law the HoR of the BiH PA is authorized to appoint members of the BiH CEC from the list of candidates if this “list is not submitted to the HoR of the BiH PA within 30 days before the expiry of the mandate of a BiH CEC member, the HoR of the BiH PA proposes and appoints members of the BiH CEC.”

The pressure and discrediting of the BiH CEC as the institution has continued, similar as in the case of the 2020 Local Elections, by refusing timely provision of funds for the organization of elections whereat political subject that were in the executive government of BiH at that time used different excuses for such an action. It led to the first election-related reaction of the High Representative in BiH with regard to securing the funds in the budget of BiH to finance the elections.

In the period after the conduct of the 2022 General Elections the BiH CEC mostly continued with the efforts to restore the dented trust of the BiH citizens in the elections partly through increased transparency as well as through consideration of reported and observed irregularities and sanctioning. However, the process of determining the results, the tardiness in their publication, a huge number of determined irregularities and disagreements between the results from the polling stations and the ones determined in the Main Counting Center (MCC), failure to adopt and to publish the MCC's reports,

²² The judgment is available here: <https://bit.ly/3jY9gr0>

lack of sanctions and/or lack of information about investigations, the proceedings to determine misdemeanor or criminal liability for numerous violations of the Law deeply dented the public confidence in the integrity of the electoral process.

Cooperation with the civil society organizations that monitor the electoral process in BiH can be characterized as correct. Compared to earlier election cycles, the BiH CEC has a more positive attitude towards accepting and processing all reports on observed irregularities and/or violations of the BiH Election Law. Further improvements are also needed in terms of greater transparency with regard to the way certain information is published and the format in which it is published (PDF and scanned formats compared to formats representing “open data”), as well as in the segment of compliance with the provisions of the Freedom of Access to Information Law with regard to timely and mandatory response to the inquiries. The coalition expresses the hope that the trend of opening the institution to the public will continue in the future.

5.2. Local election commission

The election commissions at the local level (municipal, city, and election commission of Brčko District of BiH) are, inter alia, responsible for designation of polling stations, establishment and training of polling station committees, organization of the Election Day and consolidation of election results from the polling stations on their territory. The composition of the local election commissions, respecting the provisions of the BiH Election Law and the Gender Equality Law, should reflect gender representation of at least 40% members of under-represented gender. This defined gender representation was not observed in 8 election commissions at the local level²³. It should be pointed out that a total of 12²⁴ different local election commissions were temporarily not fully staffed in the period of 9 weeks of long-term observation.

Most local election commissions have conducted appropriate preparations for the conduct of elections. *The Instruction on the mode of operation and reporting of the election commission of the basic constituency in BiH* prescribes in more detail the functioning of local election commissions. The instruction also sets forth adoption of the Rules of Procedure of the local election commission, which all local election commissions in BiH had done. The Instruction also provides for the possibility for local election commissions to appoint a secretary and/or technical secretary, which was done by 95 election commissions or 66.43 % of the total number of local election commissions, representing an increase compared to the 2020 Local Elections.

Vast majority of election commissions holds regular weekly meetings/sessions. Three²⁵ local election commissions faced difficulties in terms of having inadequate working conditions.

²³ BANJA LUKA, BROD, DERVENTA, DONJI ŽABAR, GLAMOČ, KLJUČ, KRUPA NA UNI, ZVORNIK

²⁴ DONJI ŽABAR, NEVESINJE, ZENICA, VUKOSAVLJE, RAVNO, MOSTAR, SREBRENICA, GRADAČAC, ILIJAŠ, PRIJEDOR, VELIKA KLADUŠA, CENTAR SARAJEVO

²⁵ BANJA LUKA, LIVNO, NOVI TRAVNIK

Observers of the Coalition “Pod lupom” had documented that 21 complaints were filed with local election commissions concerning the electoral process in 9 municipalities and cities²⁶ before the Election Day, October 2. Complaints mainly related to the lottery draw for allocating seats in the polling station committees to the political subjects and to the decisions on appointment of polling station committees’ members. During the election period the only unavailable Center for Voters' List was only in Ključ Municipality.

When it comes to meeting the deadlines set by the electoral calendar, six local election commissions²⁷ failed to designate locations of the polling station and to submit a report to the BiH CEC within the statutory deadline (until September 17, 2022).

Furthermore, in line with the findings on the ground it was established local election commissions in 34 municipalities/cities²⁸ did not complete the training for the members of the polling station committees within the statutory deadline, i.e. until September 25, 2022. The observers who were present at the training sessions have given the sessions an average score “very good”. Unfortunately some local election commissions do not take this segment of the electoral process seriously since the Coalition has discovered that correct answers were read to the candidates for the members of polling station committees during the testing so they all would pass the test.

Furthermore, it was discovered that 15 local election commissions²⁹ did not meet the statutory obligation to publish names and last names of members of all polling station committees including their affiliation to a political subject.

The challenge or problem that characterized the organization of these general elections, from the local election commissions’ point of view, is certainly the establishment of the polling station committees. Namely, a large number of local election commissions faced problems during the establishment of the polling station committees due to the fact that political subjects did not nominate a sufficient number of candidates for the available seats, although they are obliged to do so. Local election commissions filled the missing number of members and alternate members of polling station committees using their own records, recruiting employees of the local self-government and often also through public vacancies encouraging citizens to apply and get hired for the elections. Although the remuneration for the work in polling station committees was increased compared to the previous elections, even that was not enough to staff all polling station committees, especially the positions of alternates, and in some basic constituencies the process of appointing polling station committees was actually not carried out fully

²⁶ BIHAĆ, BRATUNAC, DRVAR, ILIJAŠ, LIVNO, LIVNO, ORAŠJE, TEŠANJ, ZENICA

²⁷ CAZIN, KUPRES (FBiH), PALE (RS), SANSKI MOST, SAPNA, SOKOLAC.

²⁸ BANJA LUKA, BIHAĆ, BOSANSKO GRAHOVO, BRATUNAC, BRČKO DISTRIKT BiH, BUGOJNO, ČAJNIČE, CENTAR SARAJEVO, DOBOJ JUG, ILIDŽA, ILIJAŠ, ISTOČNO NOVO SARAJEVO, JABLANICA, KREŠEVO, LAKTAŠI, MOSTAR, MRKONJIĆ GRAD, ODŽAK, ORAŠJE, OSMACI, PALE (FBiH), RIBNIK, RUDO, SAPNA, ŠIPOVO, SRBAC, STANARI, TEOČAK, TEŠANJ, TRAVNIK, TRNOVO (RS), VITEZ, ZAVIDOVIĆI, ZENICA

²⁹ BIHAĆ, BILEĆA, CENTAR SARAJEVO, GRADIŠKA, KUPRES (FBiH), LIVNO, LOPARE, NOVO SARAJEVO, OLOVO, ORAŠJE, PRIJEDOR, RUDO, SANSKI MOST, SOKOLAC, ŽEPČE

as prescribed by the BiH Election Law. All this points to the necessity of revising the process of appointing polling station committees in order to enable local election commissions to have a primary role and responsibility in this process, and not to depend entirely on political subjects.

5.3. Polling station committees

Polling station committees are part of the election administration, and they are *ad hoc* bodies that are appointed before each election. Their task is to directly manage the work of the polling station, ensure the regularity and secrecy of the vote and record the results. They consist of three or five members and their alternates, depending on the number of voters at the polling station. Members of the polling station committees are nominated by political subjects, and where political subjects fail to do so, then the local election commission appoints the members of polling station committees. Unfortunately, one of the major irregularities that is being documented in every election cycle, including this one, is the so-called “trade” of the positions in the polling station committees, which is why the Coalition “Pod lupom” insists on changing the procedure for appointment of the president and deputy president of the polling station committee so as to have both president and deputy president selected, appointed and trained by the local election commission, preferably in a non-election year in order to improve the performance of the polling station committees on the Election Day.

A total of 5.903 polling stations were established for the 2022 General Elections: 5.418 regular, 7 for voting of internally displaced persons, 105 polling stations for voting by tendered ballots, 352 mobile teams and 21 polling station at the diplomatic and consular offices of BiH in 15 countries.

6. PRE-ELECTION PERIOD

6.1. Registration of political subjects and candidates

The BiH CEC certifies political subjects³⁰ to participate in all elections in BiH in accordance with the provisions of the BiH Election Law. This process was conducted for the 2022 General Elections in accordance with the Law and respecting the set deadlines. In that context it has to be emphasized that the prescribed and foreseen period of certification of all political subjects to participate in the elections is too long and lasts around 3,5 months³¹, from the beginning of the certification procedure until the publication of the final lists of candidates in the Official Gazette of BiH.

Political subjects participating in the elections must submit to the BiH CEC an evidence, not older than 60 days, that they are registered, whereafter the BiH CEC verifies signatures and certifies political subjects within 14 days. Verification of signatures by the BiH CEC is a long and exhausting process,

³⁰Political subjects are: political parties, independent candidates, coalitions and lists of independent candidates.

³¹The procedure starts from the day elections are announced, May 4, 2022 to the final publication of certified list of candidates in the Official Gazette of BiH. The ultimate deadline for publication of certified candidates' lists in the official gazettes in BiH and the media was August 18, 2022.

because there is no adequate software for automatic verification and everything is done manually. In order to shorten this procedure, it is necessary to pass a law on political organizations at the level of BiH. This law would, among other things, provide for the establishment of a central register of political parties, which would contribute to their easier certification for participation in the elections. Also, the entire procedure regarding the nomination of candidates and their certification does not necessarily have to be done in the election period, but can be done before the elections are called in the election year. Political subjects can draw up internal candidates' lists before the elections are announced, given the fact that the date of the election is fixed. The BiH Election Law also offers the possibility of correcting the list, i.e. supplementing documentation and/or changing candidates, which causes an unnecessary burden on the BiH CEC, except in the case of the death of a candidate. There is no adequate software neither for this activity nor for the certification of political subjects.

The fees for certification of a political subject to participate in the General Elections in BiH have been increased compared to previous election cycles.

Overview of certification fees:

Electoral race	Amount of the fee in 2022	Amount of the fee in 2018
For members of the BiH Presidency	25.000 KM	20.000 KM
For members of the HoR of the BiHHA	25.000 KM	20.000 KM
For members of the HoR of the FBiH Parliament, RS president and members of the RSNA	18.000 KM	14.000 KM
Members of the cantonal assemblies	13.000 KM	10.000 KM

Overview of certification fees for independent candidates:

Electoral race	Amount of the fee in 2022	Amount of the fee in 2018
For members of the BiH Presidency	13.000 KM	10.000 KM
For members of the HoR of the BiHHA	13.000 KM	10.000 KM
For members of the HoR of the FBiH Parliament, RS president and members of the RSNA	9.000 KM	7.000 KM
Members of the cantonal assemblies	7.000 KM	5.000 KM

The BiH Central Election Commission certified 145 political subjects to participate in the elections (90 political parties, 17 independent candidates and 38 coalitions). However, a total of 127 political subjects appeared on the ballots, because 8 political parties participated in the elections only as part of a coalition and 10 did not certify candidates' lists. The number of certified political subjects, compared to the 2018 elections, was 6 more, with 1 less political subject appearing on the ballot compared to 2018.

6.2. Voter registration

Voter registration in BiH has been passive since 2006, while active registration applies to voters who vote from abroad. There are several categories of voters in BiH. Voters who vote in BiH are divided into two categories: voters who vote at the regular polling stations and voters who vote in absentia (internally displaced persons). The BiH CEC maintains the Central Voters' Register (CVR) based on the records of the competent state body - the Agency for Identification Documents, Records and Data Exchange - IDDEEA, the records of the Civil Registry of BiH Citizens, and other bodies are also included: Ministry of Human Rights and Refugees, Ministry of Civil Affairs of BiH - Sector for Citizenship and Election Commission, BiH CEC and Ministries of Interior at all levels). Also, the BiH CEC keeps records of internally displaced persons who have the right to choose whether to vote in their current or pre-war place of residence.

The BiH CEC does four³² cross-sections of the Central Voters' Register (CVR), while the final voters register is concluded 45 days before the Election Day. As many as 74 days are provided for the registration of displaced persons and persons living outside BiH. It has to be noted that these deadlines were adequate in the post-war period when there was a major problem with the registration of voters living outside BiH i.e. a large number of displaced persons/refugees from Bosnia and Herzegovina.

The BiH CEC had on August 25, 2022 passed the Decision on concluding and confirming the excerpt from the CVR, according to 3.368.666 voters were registered, as follows: number of regular voters was 3.277.490, number of voters having the status of a displaced persons and are voting in absentia was 6.124, number of voters having the status of a displaced persons and are voting in person was 15.086, number of voters voting from abroad by-mail was 63.264, and voters voting from abroad at the diplomatic and consular missions of BiH was 6.702. A total of 14.222 voters out the total number of regular voters (3.368.666) was found on the excerpt of the CVR to vote through mobile teams.

The deadline for voters to register to vote outside Bosnia and Herzegovina was July 19, 2022. About 88.000 people opened an account on the newly established online platform (e-lzbori application), which significantly simplified the process of registering voters from abroad and reduced the possibility of certain errors and false applications. More than 10.000 out of 80.000 people did not complete the application process. In addition to electronic applications, applications could also be submitted by fax, and in this way the BiH CEC received around 1.400 applications. Following the verification process and expiration of the appeal period the BiH CEC registered 69.966 out-of-country voters.

At the same time BiH CEC passed a decision rejecting registration in the excerpt from the CVR for out-of-country voting to 10.749 voters. The reasons for rejection of the aforementioned 10.749 voters are

³²The first cross-section is made the day before the elections are called and is used to prepare temporary excerpts from the CVR. The second cross-section is used for the purpose of determining the number of polling stations and making specifications for ballot printing. The third cross-section is used to create an excerpt from the final voter register that is distributed to the polling stations. The fourth, and the last, cross-section is made on the Election Day, with the aim of determining the voting right of voters who vote by tendered ballots.

as follows: 1.157 voters had deficiencies related to proof of identity; 4.052 voters did not have adequate proof of the correct address of their residence outside BiH; 2.594 voters did not submit application form and did not sign it, while a total of 2.506 voters who applied had multiple deficiencies, a combination of the first, second or third reason.

6.3. Gender equality and participation of minorities in the election process

Gender equality

Although the Gender Equality Law of BiH protects the underrepresented gender in the electoral process, the underrepresentation of women in political life in BiH is quite evident. In the context of ensuring equality on candidates' lists, the BiH Election Law provides for gender equality in such a way that it exists when one of the genders is represented by at least 40%³³. This change implies that the lists of political subjects must have at least 40% of the underrepresented gender, and that political subjects cannot be certified to participate in elections without meeting this condition. Amendments to the Law in 2016 extended gender equality to the compensation lists that exist for election to the state parliament in the general elections, which was not the case before. It entails 40% of the underrepresented gender with the order of nominating a candidate in such a way that at least one candidate of the underrepresented gender is among the first two candidates, two among the first five candidates, three among the first eight, etc.

The Gender Equality Law of BiH is also applied to the election administration, but these provisions are only applied to the composition of local election commissions and polling station committees, but not to the composition of the CEC in which women are still not sufficiently represented. Currently, the BiH CEC consists of 5 male and 2 female members. Also, observers of the Coalition "Pod lupom" noted that as of August 1, 2022 gender equality provisions were not observed in 8 election commissions at the local level³⁴. The total number of members of 143 local election commissions in BiH is 571, whereof 294 are women or 51.5%.

When it comes to the already mentioned 7.258 candidates for the 2022 General Elections, who were registered by the BiH CEC, ten candidates (2 women) ran for the Presidency of BiH, while there were 31 candidates (2 women) for the President of Republika Srpska. A total of 752 candidates (298 women) stood in elections for 42 seats in the House of Representatives of the Parliamentary Assembly of BiH, and 1.230 candidates (534 women) stood in the elections for 98 seats in the House of Representatives of the Federation of BiH Parliament. Also, 1.429 candidates (611 women) stood in the elections for 83 seats in the National Assembly of the Republika Srpska. It should certainly be noted that only 43 out of 613 candidates' lists (7%) exceeded the minimum number of women prescribed by law (40% women), while women were first on 135 candidates' lists (22%).

³³Harmonization with the Gender Equality Law of BiH. This was one of the OSCE/ODHIR's recommendations in the Final election observation report in 2010. The quota was 30% earlier.

³⁴ Glamoč, Krupa na Uni, Zvornik, Banja Luka, Brod, Derventa, Donji Žabar, Ključ-Report of the long-term observers of August 1, 2022.

Participation of national minorities

Although the BiH Constitution recognizes significant political rights based on ethnic affiliation, it does not allow all citizens, regardless of ethnic affiliation or being ethnically undeclared, to enjoy equal active and passive suffrage. In this regard, the non-implementation of judgments of the European Court of Human Rights confirming discrimination in terms of the electoral right, and therewith connected recommendation of the European Union given in the BiH Progress Report, continues to limit passive suffrage for BiH citizens who are not members of the constituent people (Bosniaks, Serbs and Croats), when we speak of general elections.

Seventeen minority groups are recognized as national minorities in BiH³⁵, the most numerous of which is the Roma national minority³⁶. The BiH Election Law deals with the participation of members of national minorities only in elections for representative bodies at the local level (municipality/city) while there are no guaranteed seats for the members of national minorities at the cantonal, entity and state level. The candidates representing the so-called “Others”, i.e. those not belonging to any of the constituent peoples, are elected indirectly at the level of entity, 4 to the Council of Peoples of Republika Srpska, and 11 candidates to the House of Peoples of the FBiH Parliament, instead of 7 who were elected before.

Certain abuses have happened in the previous election cycles with regard to declaration of ethnic affiliation aimed at winning a mandate in the Council of Peoples of the RS or becoming a representative in the House of Peoples of the FBiH Parliament. Unfortunately, neither the BiH Constitution, nor the Election Law, provide provisions that would prevent abuses related to the declaration of ethnic affiliation for the purpose of obtaining a mandate, which leaves room for improvement in this area.

6.4. Election campaign

The election campaign is defined by the BiH Election Law and means actions and procedures in the period established by the Law within which a political subject informs the voters and the public, as prescribed by the Law, about their programs and candidates for the forthcoming elections. The key processes defined by the provisions of the BiH Election Law refer to the complete freedom for political subjects to carry out all activities during the election campaign, rules of conduct (including distribution and placement of promotional material, use of public facilities, campaign during election silence), election campaign financing, lottery draw for order in media appearances, equal representation in the media, and the ban on running an election campaign from the day the elections are announced until the official start of the election campaign.

³⁵Law on Protection of Rights of National Minorities (adopted in 2003, amended in 2005)

³⁶Although the Census was published in 2013, the data publish so far do not contain information on number of members of Roma population, and estimates, depending on the source, range between 30.000 and 100.000 of Roma persons in BiH.

The election campaign in BiH lasts 30 days before the day of the elections³⁷. The election campaign lasted from September 2 to October 1, 2022 for the 2022 General Elections, i.e. until the beginning of the election silence that starts 24 hours before the Election Day and lasts until closing of the polling stations. More on irregularities observed in the election campaign period is presented in Chapter 7 of this Report.

6.5. Election campaign financing

Election campaign financing is regulated by the BiH Election Law, the Law on political party financing, and partially also by the Law on Conflict of Interest and the Administrative Procedure Law of BiH. In January 2022 the BiH CEC renewed the rules on campaign finance reporting procedures, addressing some recommendations of ODIHR and the Group of States against Corruption (GRECO) of the Council of Europe, including those on the mandatory use of dedicated banking accounts for campaign expenses. In line with the BiH Election Law political parties and independent candidates are obligated to submit financial statements to the BiH CEC no later than thirty (30) days after the election results are published covering the period from the day application to participate in the elections was submitted until the certification of the election results. This statement covers the election campaign period. In terms of the 2022 General Elections the final deadline was December 2, 2022

According to the provisions of the BiH Election Law, the maximum amount that a political subject can spend for election campaign financing represents a result of the multiplication of the number of voters in all constituencies in which the political subject has a candidates' list or a candidate³⁸ by a certain amount that is prescribed by the Law. Namely, the political subjects can spend up to 0,30 KM per registered voter in every electoral race, and it was so for the 2022 General Elections in BiH.

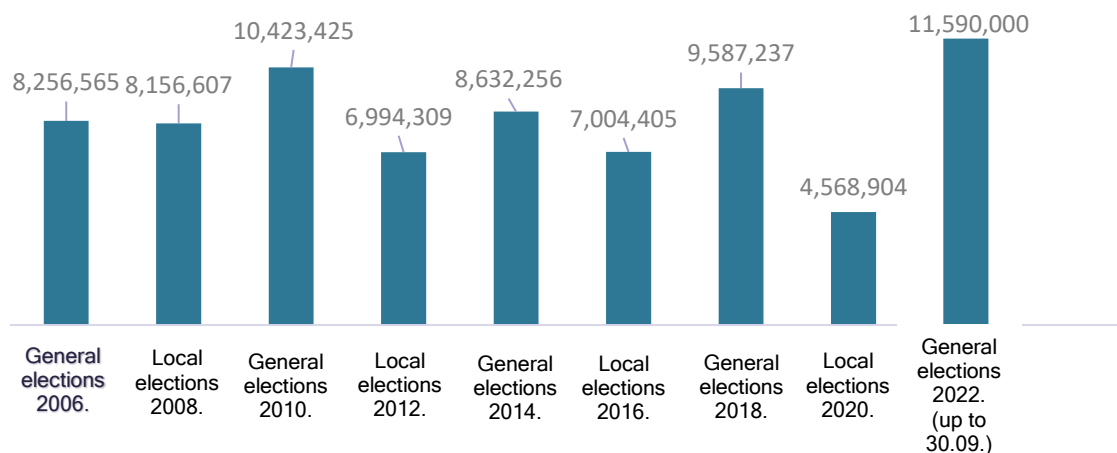
According to official data of the BiH CEC a total of 63.593.904,22 KM³⁹ was spent on election campaigns in the period from 2006 to 2020, while the results of the Transparency International's (TIBiH) election campaign cost monitoring reveals that the political parties had spent around 11.59 million KM during the election campaign or the 2022 General Elections in BiH. It shows that this is one of the most expensive campaigns, given that the political parties spent approximately 11.59 million KM on three types of public advertising and the pre-election rallies they had organized.

³⁷Election Law of Bosnia and Herzegovina, Chapter 16 16. <https://bit.ly/3dPkQjd>

³⁸ The BiH Election Law, Article 15.10, paragraph (2): 0,20 KM for election of members of cantonal assemblies, 0,30 KM for other electoral races.

³⁹ The data for 2018 are incomplete, because, as stated in the Information of the BiH CEC, a total of 57 political parties and 15 independent candidates out of 69 political parties and 34 independent candidates have submitted post-election financial reports.

Costs of election campaigns in BiH in the period 2006-2022



Overview of costs of election campaigns in the period 2006-2022

Also, according to "Istinomjer" data, political subjects and different stakeholders had spent over 438.000 KM during the pre-election campaign for the 2022 General Elections through 475 profiles on the social networks Facebook and Instagram, and had 5.064 posts/advertisements promoting their status, pictures, photo galleries, video messages and audio-video advertisements. SDP BiH had the highest number of registered promotions, followed by SDA and SNSD. SNSD is first for funds spent on post boosting, and on second place is PDP followed United Srpska and SDP BiH.

6.6. Political party financing

Political party financing is defined by the Law on Political Party Financing⁴⁰ and allowed sources of funding are membership fee; contributions from legal entities and natural persons; publishing activities, selling propaganda material and organizing party events; incomes generated by property owned by political party; the budget of Bosnia and Herzegovina in accordance with the aforementioned Law, entities' budgets, cantonal budgets and the budget of Brčko District of BiH, and from budgets of other units of local government and self-government in accordance with the law (entity regulations); and profit from the income of the enterprise owned by political.

A natural person may give voluntary contribution to a political party in a maximum amount of 10.000 KM during one calendar year, while a member of the political party may not give more than 15.000 KM, including the membership fee, to a political party during one calendar year. Natural persons, regardless of whether they are from the country or abroad, make contributions under the same

⁴⁰ Official Gazette of BiH, nos. 95/12, 41/16

conditions and within the limit prescribed by this law. The limit on contributions of legal entities is 50.000 KM.

The sources of funding that are prohibited by the Law on Political Party Financing include contributions from public administration bodies at state, entity and cantonal level, level of Brčko District of BiH, and city and municipal bodies, public institutions, public enterprises, private companies that concluded public procurement contracts with executive bodies, humanitarian organizations, anonymous donors, religious communities, labor unions, associations and other non-profit organizations, which are financed by public funds regardless of the amount, legal entities in which invested public capital amounts at least 25% (the prohibition equally applies to financial and in-kind donations).

The CEC BiH is responsible for the implementation of the regulations on the political party financing; however its mandate is very limited in the segment concerning audit and control of the financing especially in the field of expenditure auditing. In line with its competences, the BiH CEC adopted regulations that in more detailed regulate reporting with regard to political party financing and election campaigns, procedures for creating expenditure programs and opening of a special account for campaign financing and procedures for reviewing, controlling and auditing financial statements of political parties.

Furthermore, the capacities of the BiH CEC's Audit Office are insufficient and cannot provide adequate and timely analysis of all statements filed by the political parties as to be able to respond to observed irregularities and illegal activities. In this context, the ruling structures have made no attempts to date to work on the preparation and adoption of a unified Law on Political Parties at the state level, which could potentially resolve many open issues, and implement recommendations for improvement of financing and activities of political parties.

Namely, the Group of States against Corruption of the Council of Europe (GRECO), which monitors the compliance of member states with the Council of Europe's instruments against corruption, published the third cycle of evaluation on the compliance of Bosnia and Herzegovina with the recommendations of GRECO on the topics of criminalization and transparency of political party financing. In the evaluation GRECO states that BiH has not achieved any tangible progress since the adoption of the addendum to the Second Compliance Report, because only ten out of a total of 22 recommendations were implemented in a satisfactory way, eight recommendations were partially implemented, and four were not implemented at all.

Only one recommendation concerning the transparency of the political party financing in Bosnia and Herzegovina was implemented in a satisfactory way, and it related to the publication of data on the finances of political parties and political subjects participating in the elections. In addition, only partial solutions were sought in response to the deficiencies identified in the Evaluation Report. For example, political parties were obliged to keep records of membership fees and voluntary contributions, and to issue receipts for the latter, to include income from associated entities, and to

establish internal financial control mechanisms. However, it is necessary to further promote the use of the banking system for contributions to political parties, to introduce the principle of a single campaign account, to achieve increased transparency of accounts and activities of entities associated with political parties, and in terms of violations of election financing rules to introduce defined and effective, proportionate and dissuasive sanctions in the area of political funding for all associated violations and for all persons involved.

Although the BiH Central Election Commission (BiH CEC) has established a Service for Auditing of political party financing, there is neither evidence of an increase in the financial and human resources allocated to the BiH CEC for the performance of supervisory functions related to both party and election financing, nor was the cooperation and coordination between the BiH CEC, tax authorities and law enforcement agencies strengthened at the operational and executive level.

Therefore, the reform process should be implemented more vigorously in order to increase the transparency of political funding and the role of political parties as a fundamental element of the democratic system. GRECO, once again, called on the authorities in Bosnia and Herzegovina to fully implement the remaining eight recommendations concerning transparency of political party financing in BiH.

7. IRREGULARITIES IN PRE-ELECTION PERIOD AND ELECTION CAMPAIGN

7.1. Premature election campaign

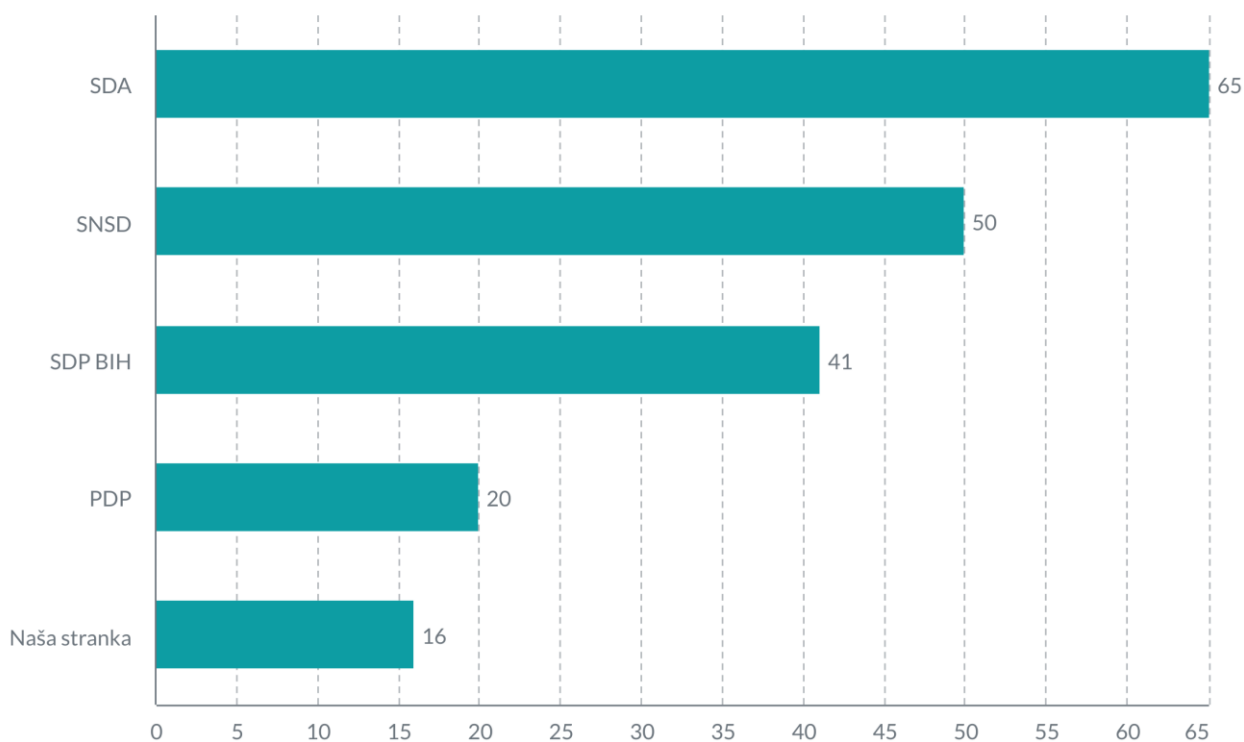
The BiH Election Law defines election campaign as a period of 30 days before the Election Day in which political subjects present their programs and candidates for the elections to the voters and the public. The election campaign for the 2022 General Elections started on September 2, 2022, which means that any paid public advertising, as well as all pre-election activities of political subjects are prohibited until this date, except for the holding of internal gatherings of authorities and statutory bodies of political subjects within the period between the day when elections are announced and the day of official start of the election campaign.

It was observed, as in previous election cycles, that a significant number of political subjects had conducted election campaign before its official start, particularly in the segment of paid advertising on the social media platforms. The Coalition documented 157 individual cases of unlawful paid advertising by 33 political subjects and/or their candidates.

In addition to paid advertising on the social media platforms it was documented that some political subjects started to conduct activities on the ground that are *de facto* election campaign activities, and

do not relate to internal activities of the political subject. In these cases the so-called grey zone of the BiH Election Law, which explicitly prohibits only paid advertising before the official start of the election campaign, is used to a great extent. The current statutory solutions neither recognize sanctions nor prohibit all of these other activities of election campaigning, where the 30-day campaigning period is somewhat made senseless as the campaign in practice lasts far longer. The political subjects inform the public and the voters about these activities through regular media reporting, and unpaid posts on private profiles or profiles of the political subject on different social media platforms. Observers of the Coalition “Pod lupom” had documented 484 such cases in 67⁴¹ municipalities and cities in BiH (including the previously presented 157 cases of unlawful paid advertising). The analysis of reports on premature campaigning, which is prohibited by the law, shows that the highest number of reports relate to the political subjects SDA (65), SNSD (50), SDP BiH (41), PDP (20) and Naša stranka (16).

Premature, forbidden by law campaign (by political subjects, top 5)



⁴¹ BANJA LUKA, BIHAĆ, BRATUNAC, BRČKO DISTRIKT BiH, BREZA, BUGOJNO, BUŽIM, ČAJNIČE, ČELIĆ, ČELINAC, CENTAR SARAJEVO, DERVENTA, DOBOJ, DOBOJ ISTOK, DOMALJEVAC – ŠAMAC, DONJI VAKUF, DONJI ŽABAR, FOJNICA, GRAČANICA, GRADIŠKA, HADŽIĆI, ILIDŽA, ILIJAŠ, ISTOČNO NOVO SARAJEVO, JABLANICA, KALESIJA, KLJUČ, KONJIC, KOZARSKADUBICA, KREŠEVO, LIVNO, LJUBUŠKI, LOPARE, LUKAVAC, MODRIČA, MOSTAR, NOVI GRAD, NOVI GRAD SARAJEVO, NOVI TRAVNIK, NOVO SARAJEVO, ODŽAK, OLOVO, ORAŠJE, OŠTRALUKA, PETROVO, PRIJEDOR, PRNJAVOR, RIBNIK, ŠAMAC, SANSKI MOST, SREBRENICA, SREBRENİK, STANARI, STARI, GRAD SARAJEVO, STOLAC, TEOČAK, TEŠANJ, TOMISLAVGRAD, TUZLA, VAREŠ, VELIKA KLADUŠA, VIŠEGRAD, VITEZ, VOGOŠČA, ZENICA, ŽEPČE, ZVORNIK

Cases of premature campaigning by offenders/political subjects (top 5)

Continuing the practice started during the 2020 Local Elections, the BiH Central Election Commission had imposed fines against several political subjects and/or their candidates for paid advertising on the social media platform Facebook at the time before the official start of the election campaign. The BiH CEC also imposed fines for cases of this irregularity that were reported by the Coalition "Pod lupom". According to the information available to the Coalition, the BiH CEC had by September 5, 2022 imposed fines against different political subjects and/or their candidates for this breach of the BiH Election Law in the amount of 37.000 KM, which is not the final amount due to subsequent procedures and those that are still ongoing.

7.2. Timeliness of the Central Voters' Register (CVR)

Registration of voters in BiH is passive since 2006, while active registration is still used for voters who want to vote outside Bosnia and Herzegovina or abroad. A total of 3.368.666 voters are registered in the Central Voters' Register (CVR) as of August 18, 2022 for the 2022 General Elections.

In terms of the timeliness of the Central Voters' Register it is very important to underline that there were no reports of a higher number of names of deceased persons on voters' lists in basic constituencies, which was the case in previous election cycles, but only some incidental cases. The observers of the Coalition reported that the Center for Voters' Register in Ključ municipality has not worked throughout the entire reporting period.

When it comes to by-mail voting, a record in numbers of applications for this mode of voting (approximately 130.000 applications) was broken for the 2020 Local Elections, but a record was also broken in the number (attempts) of personal data abuse for this mode of voting. One of the recommendations made by the Coalition "Pod lupom" after these elections was that it is necessary to introduce additional safeguarding mechanisms to prevent abuses of by-mail voting. For the 2022 General Elections the BiH CEC has prescribed additional mechanisms in its regulations stipulating that the OCV applications can only be submitted electronically through the portal E-izbori, available on the website, or via fax. Having in mind that limitations were imposed that one OCV application can be sent from only one e-mail address, that copy of a valid BiH document must be uploaded, that there has to be a proof of residence abroad, and that the applications cannot be sent through post, the space for abuses, which were observed in previous election cycles, was significantly narrowed. Narrowing of the space for potential manipulations has most likely affected the number of OCV applications, whose number for these elections was almost two times lower compared to the elections two years ago (69.966 voters registered to vote by mail).

7.3. Trade of seats in the polling station committees

Since 2014 the Coalition “Pod lupom” has been warning the public, election administration and decision-makers about the so-called trade of seats in the polling station committees between the political subjects. Although the Election Law of BiH is clear and stipulates that political subjects certified to participate in elections can only have one representative in one polling station committee, this is often not the case in practice and different methods have been used to circumvent this provision of the Law. The High Representative in BiH had in July 2022 passed the Decision on Amendments to the Election Law of BiH⁴², which, among other things, prohibits the abuse of the statutory right to participate in the work of a polling station committee by fictitious representation, prohibiting also false impersonation of any political subject with the aim of favoring another political subject. Sanctions are provided for such violations of the Law.

Observers of the Coalitions reported allegations about 55 cases of trade of seats in the polling station committees in 36⁴³ different municipalities/cities. Inspection of the list of political subjects certified to participate at the forthcoming General Elections shows continuation of the trend across BiH where a certain number of political subjects apply and get certified to participate in the elections in basic constituencies in which they neither have any activities, municipal board, official premises nor are planning to seriously participate in the race, which can indicate an intention to trade seats in the polling station committees. Having in mind the new legal provisions that prohibit trade of seats in the polling station committees and set forth high pecuniary fines, both for the individual offenders, but also for the political subjects, it seems that a certain number of political subjects has directly given up on these intention, which can be concluded from the fact that in a higher number of basic constituencies the political subjects did not nominate sufficient number of candidates for the members of polling station committees. Unfortunately, there are still some indications that trade of seats in the polling station committees has grown from party corruption into a worse form of systemic corruption. Coalition “Pod lupom” received reports from multiple cities and municipalities, containing both proofs, but also strong indications, that some local election commissions take part in manipulation with the membership of the polling station committees by appointing party persons to the polling station committees as representatives of the local election commission.

The Coalition “Pod lupom” has recently conducted a research and prepared an analysis of the transparency of polling station committees, focusing on the so-called trade of seats in polling station committees. In line with the defined methodology the research covered 10% of the total number of polling stations in BiH, namely 500 polling stations in 126 municipalities/cities. The results of the analysis clearly and precisely confirm the existence of electoral irregularities, which the Coalition has

⁴² Decision enacting the Law amending the BiH Election Law: <https://bit.ly/3UC2lw5>

⁴³ BIHAĆ, BOSANSKO GRAHOVO, BRATUNAC, BRČKO DISTRIKT BIH, ČAJNIČE, ČELIĆ DOBOJ, GORNJI VAKUF-USKOPLJE, GRAČANICA, GRADAČAC, HADŽIĆI, ILIDŽA, JABLANICA, KLJUČ, LIVNO, LOPARE, LUKAVAC, MAGLAJ, ORAŠJE, PELAGIĆEVO, PROZOR-RAMA, RIBNIK, RUDO, STANARI, STARI GRAD SARAJEVO, TEOČAK, TEŠANJ, TOMISLAVGRAD, TRAVNIK, VAREŠ, VELIKA KLADUŠA, VITEZ, VUKOSAVLJE, ZAVIDOVIĆI, ZVORNIK, ŽEPČE

been pointing out for many years now. The research had flagged potential suspicion of trading for more than 17% of the polling station committees' members or 747 of them out of 4337 members of the polling station committees who were subject of this analysis. In the largest number of cases these were the persons who were on the lists of polling station committees both for the 2022 General Election and the Local elections in 2020, and who were there on behalf of different political subjects.

With this in mind, it can be already concluded that it is necessary to amend the legislative framework concerning appointment and composition of the polling station committees in order to the end to this abuses and has to be done immediately after the elections.

7.4. Abuse of personal data for the purpose of registering voters for out-of-country voting

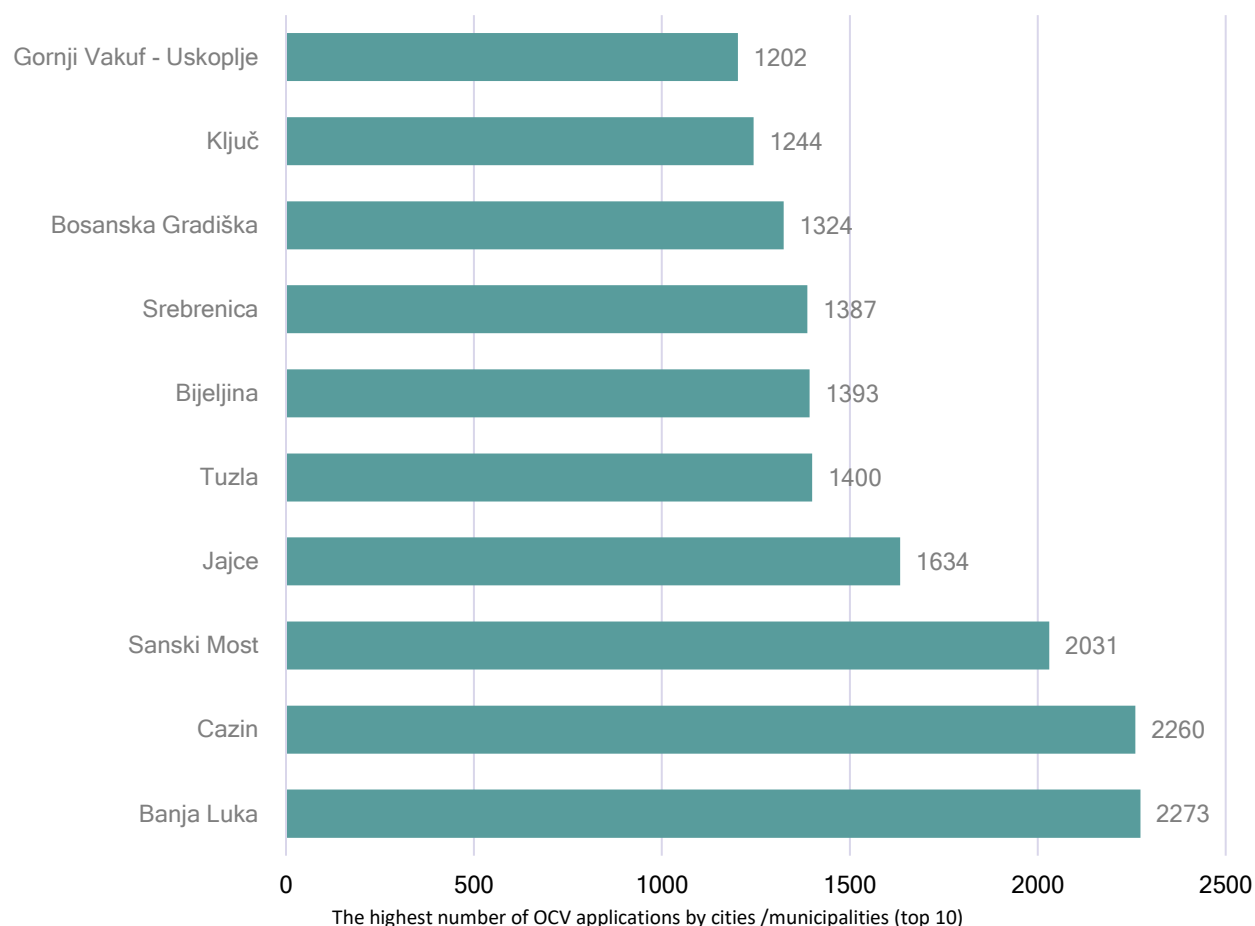
In terms of this type of irregularities this election cycle was marked by a change in the procedure for applying to vote by-mail, and for the first time an electronic system was used to send and process this type of applications.⁴⁴ Compared to the election cycles in the last six years the BiH CEC received a significantly lower number of OCV applications, more precisely slightly more than 80.000 applications of this type. If we compare this data with the data for the 2020 Local Elections, when close to 130.000 applications were received, it is obvious that this number is reduced for about 50.000 OCV applications received for this electoral process. After reviewing all received applications the BiH CEC rejected 10.720⁴⁵ and the most common reason for the rejection of the aforementioned application was failure to give the correct address of residence outside BiH (4.039 applications had this shortcoming). The deadline for voters to register to vote outside Bosnia and Herzegovina was July 19, 2022. The BiH CEC ultimately registered 69.979 voters⁴⁶ to vote outside Bosnia and Herzegovina. The most important change brought about by the new system of receiving and processing the applications, as well as by the additional safeguarding mechanisms, is the near prevention of this type of irregularity, and thus there were no irregularities of this type that were documented by the long-term observers of the Coalition "Pod lupom".

⁴⁴ https://www.izbori.ba/Documents/Izbori_2022/Uputstvo_elektronske_prijave-bos.pdf

⁴⁵ https://www.izbori.ba/Documents/Izbori_2022/Odluke/1808/SKM_28722081816260-srp.pdf

⁴⁶ https://www.izbori.ba/Documents/Izbori_2022/Odluke/1808/SKM_28722081816280-srp.pdf

Number of OCV applications by cities/municipalities



7.5. Voter coercion and vote buying

Although illegal, voter coercion and vote buying have become a usual practice at the elections in BiH. Observers of the Coalition reported 27 such cases in 18⁴⁷ municipalities/cities. These cases relate to allegations on money being offered in exchange for a vote, coercion of employees in the public enterprises, and so on. The rumors on vote buying were recorded in several municipalities/cities, and the prices range from 50 to 200 KM. Concerns are raised by the reports of the long-term observers that such discussions and negotiations are accepted and that citizens do not shy away from vote selling, as well as that there is no understanding of these actions actually being criminal offences. At the same time citizens who report such cases refuse to publicly talk about this in fear of retaliation in the local communities and are not willing to report it to the competent bodies.

⁴⁷ BIHAĆ, BOSANSKA KRUPA, BRČKO DISTRIKT BIH, CENTAR SARAJEVO, DONJI ŽABAR, GRAČANICA, ISTOČNA ILIDŽA, ISTOČNO NOVO SARAJEVO, JABLANICA, MILIĆI, NOVI GRAD, OSMACI, PROZOR-RAMA, SANSKI MOST, STARI GRAD SARAJEVO, ŠEKOVIĆI, TRNOVO (RS), ZAVIDOVIĆI

7.6. Abuse of public resources and public functions for the purpose of campaigning

Abuse of public resources and/or public functions for campaign purposes refers to abuses in the use of public budget money and other public money owned by citizens of BiH, and abuse of public companies and assigned public functions by political entities or individuals who are candidates in the elections. Almost always, abuse of public resources occurs by those who enter the election race for various levels from the position of the current authority. The Coalition has been warning about this problem since the General Elections of 2014 and is advocating for the legal treatment of this irregularity.

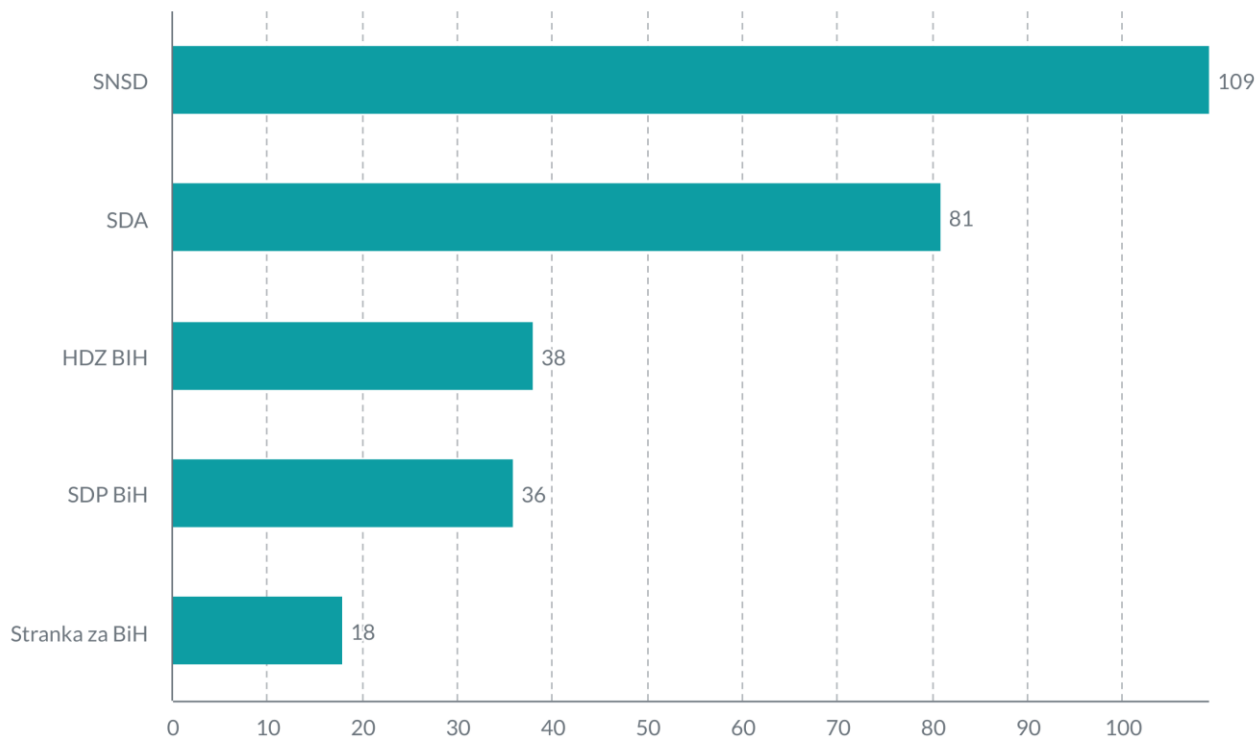
In July of this year, the High Representative for Bosnia and Herzegovina (OHR), using the powers at his disposal, issued a Decision adopting the Law on Amendments and Addenda to the BiH Election Law⁴⁸, which introduced the term "public funds and resources". As amended, abuse of "public funds and resources" means any illegal use of funds and resources of the State of BiH, entities, cantons, Brčko District of BiH and other units of local administration and self-government, by which candidates in elections and on the candidates' lists, as public or state officials, or directly elected persons, have at their disposal for the purposes of performing their official duties. This includes all movable and fixed assets, as well as all human resources of public institutions that are used during working hours. The Coalition is of the opinion that these changes are a step forward in the fight against this irregularity, but that it is necessary to monitor their effect, and possibly go in the direction of adopting even more restrictive provisions.

Observers of the Coalition "Pod lupom" reported on 384 cases of abuse of public resources in 67 municipalities/cities. Most of the reported cases relate to the intensification of works on local infrastructure, and frequent and intensified visits by officials from higher levels of government, who as a rule meet or visit those municipalities/cities headed by their party colleagues. The analysis of the received reports shows that the largest number of cases of abuse of public resources refer to political subjects SNSD (109), SDA (81), HDZ BiH (38), SDP BiH (36) and Party for BiH (18).

For these elections, various examples of introducing new rights to different categories and/or providing one-time forms of assistance to the population on different grounds were recorded: one-time financial assistance to pensioners, people with disabilities, civilian victims of war, beneficiaries of veteran's benefits, distribution of packages of basic foodstuffs, assistance to young people, and all with implementation exclusively until October 2, the Election Day. The same or similar examples were recorded at the level of both entities in Bosnia and Herzegovina.

⁴⁸ OHR's decision: <https://bit.ly/3SmB58N>

Misuse of public funds (by political subjects, top 5)



Cases of abuse of public resources per offenders /political subject (top 5)

The work of civil servants and other employees in the public administration or public enterprises for the purpose of the campaign of any political subject can be considered as abuse of public resources, and the observers of the Coalition reported on 99 such cases in 40⁴⁹ municipalities/cities in BiH.

⁴⁹ BIHAĆ, BILEĆA, BRČKO DISTRIKT BiH, BUGOJNO, CAZIN, CENTAR SARAJEVO, ČAJNIČE, DOMALJEVAC – ŠAMAC, DONJI VAKUF, GACKO, GRAČANICA, GRADAČAC, GRADIŠKA, HADŽIĆI, HAN PIJESAK, ISTOČNI STARI GRAD, ISTOČNO NOVO SARAJEVO, JABLANICA KOZARSKA DUBICA, LOPARE, LUKAVAC MILIĆI, MODRIČA, NEVESINJE, NOVI GRAD, NOVO GORAŽDE, OSMACI, PALE (FBiH), PELAGIĆEVO, RUDO, SANSKI MOST, STARI GRAD SARAJEVO, ŠAMAC, ŠEKOVIĆI, TEŠANJ, TRAVNIK, TRNOVO (RS), VITEZ, ZAVIDOVIĆI, ŽEPČE

7.7. Other irregularities

Through the previously mentioned amendments to the BiH Election Law adopted by the OHR, “hate speech” was added to the law, which is defined as any form of public expression or speech that causes or incites hatred, discrimination or violence against any person or group of persons, on the basis of race, color, nationality, sex or religion, ethnic origin or any other personal characteristic or orientation that incites discrimination, hostility and violence.

Inappropriate speech, content or speech that can encourage religious, national or bigotry on other grounds, most often belonging to a political option, was recorded in 45 cases in 23⁵⁰ municipalities/cities. Most of the cases refer to the latter, extremely inappropriate speech or bigotry based on political affiliation where, especially on social networks, through bots, fake profiles and the like, a lot of effort is invested in defaming candidates or political opponents.

In a few dozen cases, citizens have reported irregularities that mainly relate to allegations of vote buying, aggressive actions of party activists in attempts to find out how the citizens will vote, which was interpreted and understood as pressure on voters, and misuse of data with telephone numbers by political parties for the same purpose. A certain number of reports also refer to the trading of seats in the polling station committees, which citizens started to send increasingly after the announcement that a sanction had been issued for this violation of the BiH Election Law.

8. ELECTION DAY

The Coalition’s assessment of the Election Day, October 2, is that the Election Day at the vast majority of polling stations went in line with the BiH Election law and the regulations, with irregularities that in general are traditionally repeated at every elections.

Manipulations of the electoral process that could have directly affected election results happened at 6% of observed polling station. The largest irregularities on the Election Day were observed during the observation of the Election Day and the re-count process for the level of President and Vice Presidents of Republika Srpska in the Main Counting Center, for Doboj, Prijedor and Zvornik where it was determined that preliminary results entered in the forms by the polling station committees' members and/or in the integrated system for processing of results by the local election commissions' employees differ from the final results determined by the re-count of ballots at up to two thirds of polling stations

⁵⁰ BANJA LUKA, BIHAĆ, BOSANSKO GRAHOVO, DOBOJ ISTOK, GORAŽDE, ILIDŽA, ISTOČNO NOVO SARAJEVO, MODRIČA, MOSTAR, NOVO SARAJEVO, PALE (FBIH), PRIJEDOR, ŠAMAC, SANJSKI MOST, STARI GRAD SARAJEVO, TRAVNIK, TRNOVO (FBIH), VITEZ, ZENICA, NOVI GRAD, BRČKO DISTRIKT BIH, SREBRENİK, SREBRENICA

in these cities. By the time this report was published no one was held accountable for this either criminally or otherwise.

It has also been noted that some segments of the electoral process have improved significantly compared to the previous election cycles, which is largely the result of the implementation of 14 recommendations of the Coalition "Pod lupom" just for this election, i.e. a series of technical improvements in the voting process on the Election Day. Compared to earlier election cycles, there were fewer cases of abuse of voting assistance and family voting.

However, taking into consideration the entire electoral process from the day elections were announced until the confirmation of the election results, the Coalition "Pod Lupom" assesses the 2022 General Elections as partly irregular. Such an assessment is the results of all documented irregularities particularly in the segment of voter coercion, abuse and use of public resources in the pre-election period, as well as numerous disagreements in the election results, which seriously dented the integrity of the electoral process. Furthermore, the fact that the observed irregularities and violations of the BiH Election Law did not bring timely institutional response and an epilogue contributes to the general dissatisfaction with the elections amongst the general public.

During the Election Day the legal team of the Coalition "Pod lupom" processed 91 reported cases, some of which could affect the election results at the relevant polling stations. Voter coercion and other procedural irregularities were recorded, most prominent of which were irregularities during the voting.

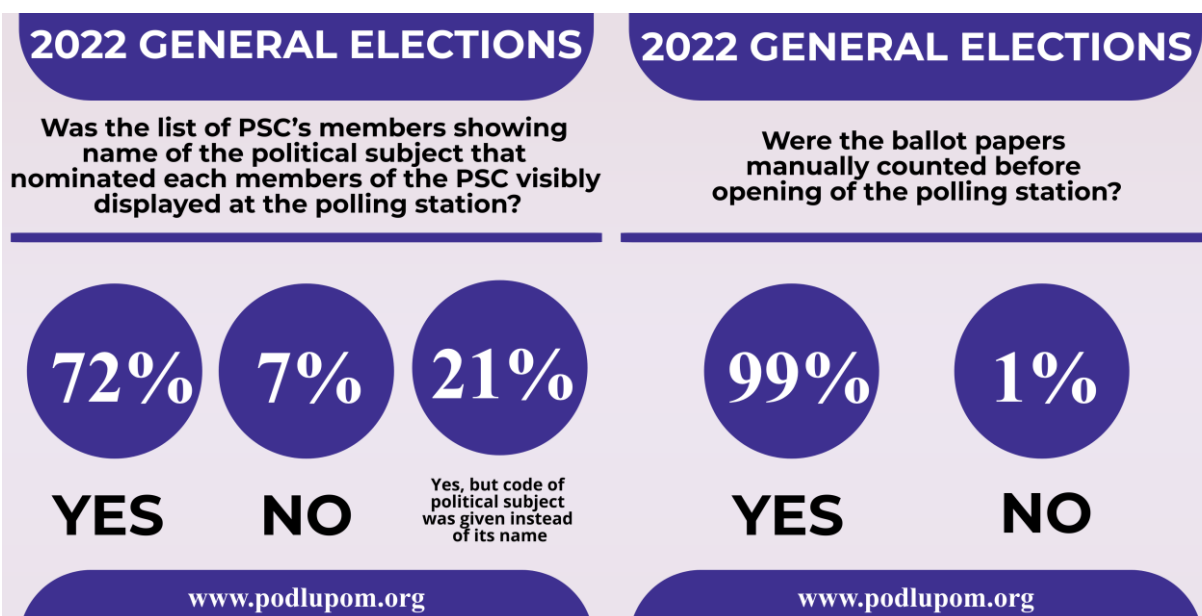
Documented irregularities point to the need for additional improvement of the electoral process in a qualitative sense, before the Election Day, particularly in the segments of preventing crimes related to voter coercion and reform of polling station committees. In terms of the Election Day it is necessary to introduce new technologies (electronic identification of voters, scanning of ballots and electronic processing of voting results at the polling station level).

8.1. Opening of polling stations

The observers were able to access all the polling stations they were assigned to without any hindrance. Some sporadic cases concerning access were documented at the very beginning, but these were addressed in a timely fashion. Some isolated cases concerning problems with observation of the electoral process were documented at several polling stations.

All members of the polling station committees were present at the polling stations at 6 a.m. in 91 % of the cases, which is a significant improvement compared to the previous elections.

Problems with voting material were recorded at 2% of polling stations, while the ballots were not manually counted at less than 1% of the observed polling stations.

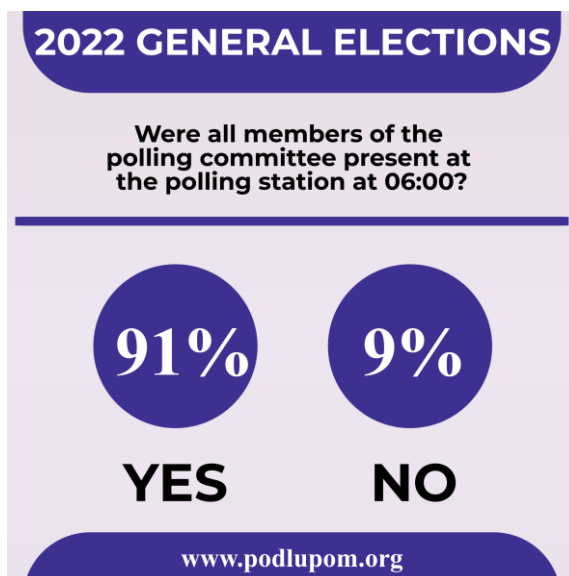


The information that the list of PSC members, showing name of the political subject for every PSC member, was not displayed at 20% of polling stations in the country, which is a statutory obligation, causes concern. At almost 7% of the polling stations the list was displayed, but contained only the code and not the name of political subject.

The ballot box was shown empty before the opening of the polling station at almost all polling stations.

The BiH Election Law sets forth that the polling stations open at 7 a.m. and remain continuously open for voting until 7 p.m. If there is an interruption of voting, the PSC or the local election commission, depending on duration of interruption⁵¹, are to decide on prolongation of voting. A total of 79% of polling stations were opened exactly at 7 a.m., 18% of polling stations were opened by 7:15 a.m., and the remaining polling stations were opened up to an hour late.

⁵¹ PSC decides on prolongation of voting if the interruption lasted three or less hours, and if the interruption lasted more than three hours the decision is taken by the election commission.

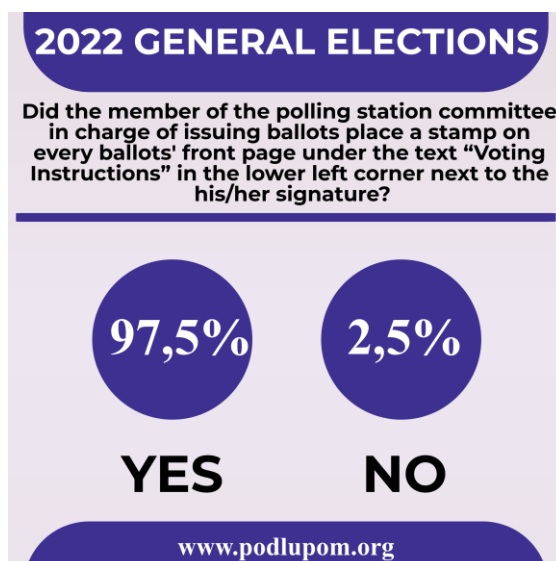


Voting secrecy was ensured at all polling stations, that is, the voting booths were placed in such a way that no one can see how the voter voted, but it was done in line with the new procedure according to which the opening of the voting booth faces the observers and members of the polling station committees.

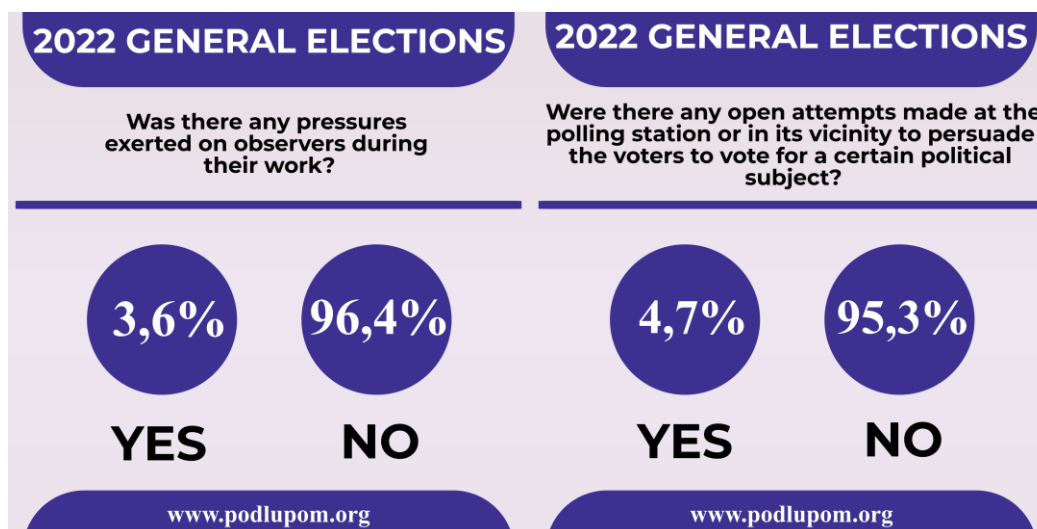
8.2. Voting process

Irregularities in the voting process, such as issuing of multiple ballots to one person, one person voting more than once, or one person voting on behalf of other persons who did not come to the polling station were documented at 40 polling stations.

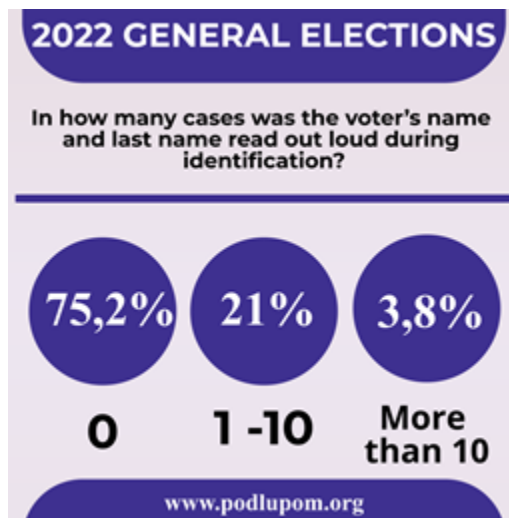
The member of the polling station committee in charge of issuing ballots did not place a stamp on every ballots' front page under the text "Voting Instructions" in the lower left corner next to the his/her signature at 20 polling stations. This irregularity can result in greater difference between the number of stamped ballots and the number of voters who voted, which opens the door for the abuse of such unused ballots.



Voters being openly persuaded to vote for a certain political subject was documented at 38 polling stations, while voter coercion or intimidation was documented at 13 polling stations.

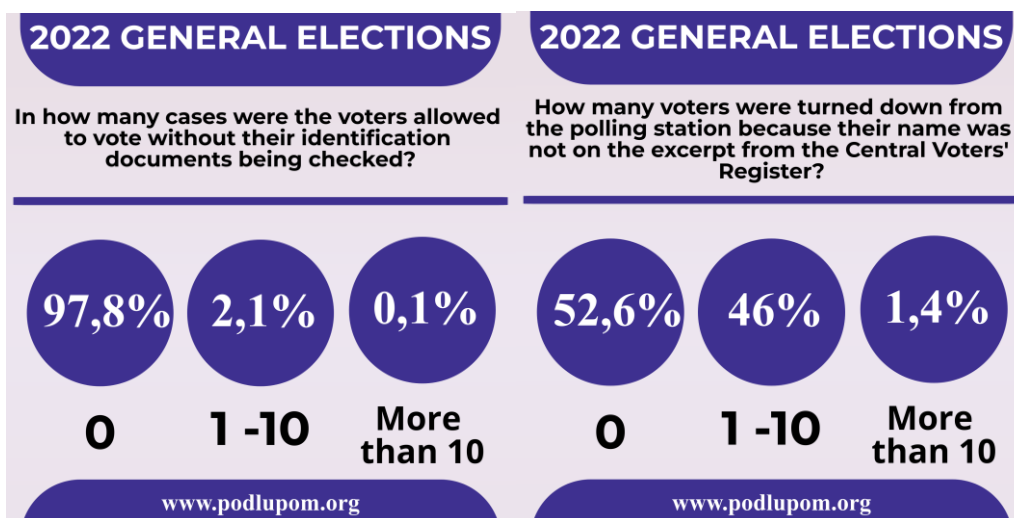


Up to 10 cases were document at ever fifth polling station where the voters' name and last name were read aloud during identification. More than 10 cases of this irregularity were documented at 31 polling stations. This procedure has been changed in relation to the previous elections in BiH, and now the name and last name of a voter at the polling station should not be read aloud.



Voting without verification of identification documents was allowed at 17 polling stations up to 10 times, while in one polling station this case was documented more than ten times.

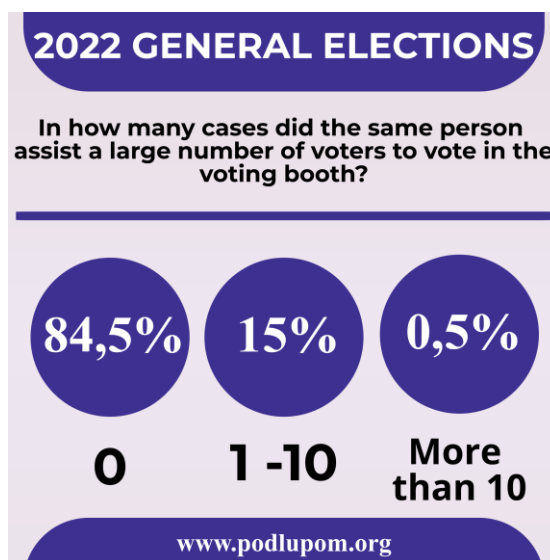
Voters being turned down from the polling station because their name was not on the excerpt from the Central Voters' Register was document at almost half of the polling stations, while more than 10 of such cases were documented at 11 polling stations.



Observers of the Coalition “Pod lupom” documented up to ten cases of family voting at every other polling station in the country. More than ten cases of family voting were documented at 11 polling stations.

The new procedure for assisting other persons to vote was not followed at 21% of the polling stations (up to 10 cases). More than 10 cases of this irregularity were documented at 7 polling stations.

Up to 10 cases of having the same person assisting a large number of voters to vote in the voting booth were documented at 15% of the polling stations, while more than 10 cases were documented at 4 polling stations.

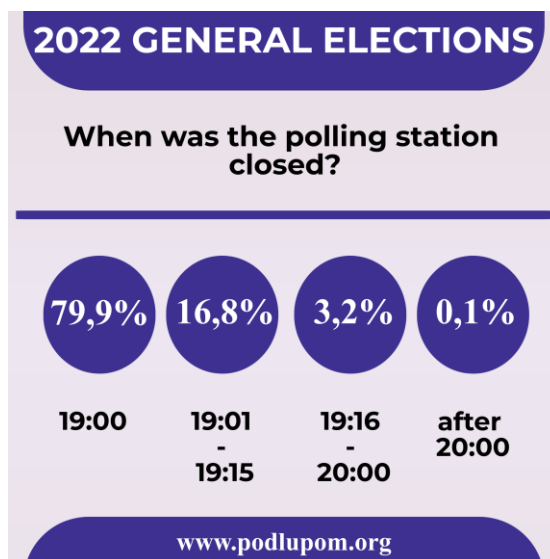


Prolonged presence of unauthorized persons was documented at 23 polling stations.

8.3. Closing of the polling stations

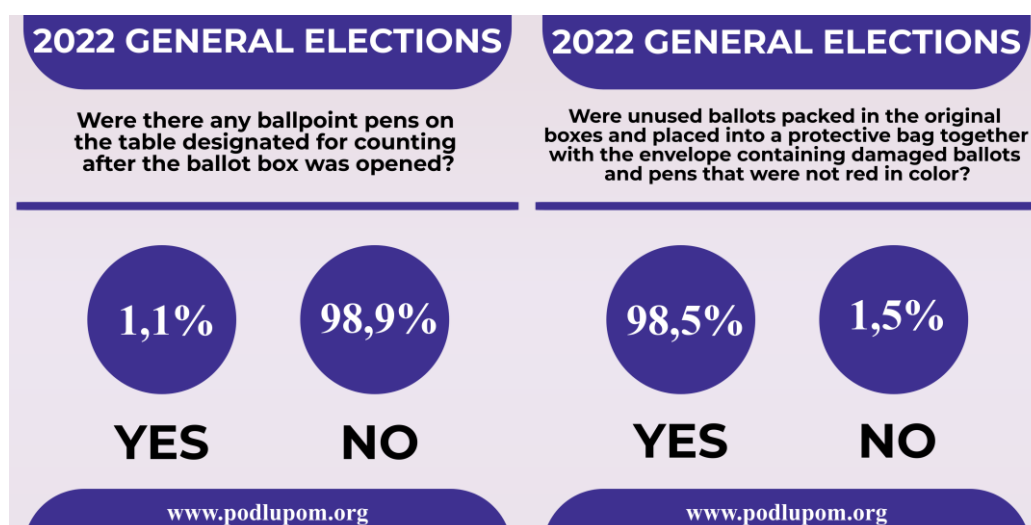
The closing of the polling stations was mostly carried out in accordance with the regulations. The number of polling stations that closed at 7 p.m. is 79.9%. An additional 16.8% were closed until 7:15 p.m., 3.5% were closed until 8:00 p.m., and the remaining 0.1% were closed after 8:00 p.m. Not all

members of the polling committees attended the closing at 5 polling stations. People entered 12 polling stations after they were closed.



8.4. Vote counting

Ballpoint pens were found on the counting tables after the ballot box was opened at 1.1% of polling stations. Unused ballots were not packed in the original boxes and they were not placed into a protective bag together with the envelope containing damaged ballots and pens that were not red in color at 1.5% of the polling station. An observer of the Coalition "Pod lupom" was not able to unimpededly observe the counting process at one polling station.



Determining the results for the BiH Presidency - Disagreements in the accuracy test for the election of the Presidency of Bosnia and Herzegovina were documented at six polling stations. (137A043 Stari Grad Sarajevo, 182B035 Trebinje, 034B252 Banja Luka, 032A023 Sanski Most, 167A004 Goražde, 164B005 Gacko). All ballots for the election of the BiH Presidency members did not carry the stamp and the signature of a member of the polling station committee, as prescribed, at six polling station (139A019

and 139A080 Novo Sarajevo, 136A051 Centar Sarajevo, 050A083 Tuzla, 151A001A Mostar, 038B040B Doboј). The process to determine the validity of the ballots for members of the BiH Presidency was not conducted in accordance with the regulations of the BiH CEC at two polling stations (079A034 Živinice, 032A023 Sanski Most). At one polling station (133A080 Novi Grad Sarajevo) votes were added or made invalid on the ballots for election of the BiH Presidency members during the vote counting. Remarks/objections on the process of determining the results for the election of the BiH Presidency were documented at 14 polling stations. At four polling stations (035B014 Čelinac, 083B029A Zvornik, 034B010 Banja Luka, 135A039 Vogošća) more serious irregularities were documented during the vote counting process that might affect the results of the BiH Presidency elections at that polling station.

Determining the results for the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina - Ballots from the ballot box did not have a stamp and signature of a member of the polling committee at four polling stations (136A051 Centar Sarajevo, 054B018 Lopare, 093A077 Zenica, 115A010 Kiseljak). The process to determine the validity of the ballots for these levels was not done in accordance with BiH CEC regulations at seven polling stations (136A051 Centar Sarajevo, 004A005 Bosanska Krupa, 101B005 Šekovići, 038B040B Doboј, 131A041 Ilidža, 144B032 Pale RS, 111A023 Novi Travnik). Adding of votes on ballots during the counting of votes for the House of Representatives of the Parliamentary Assembly of BiH was document at two polling stations (133A019 Novi Grad Sarajevo, 083B026A Zvornik).

Determining the results for other levels of authority (President and vice presidents of Republika Srpska, National Assembly of Republika Srpska, House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina, cantonal assemblies) - Ballots from the ballot box did not have a stamp and signature of a member of the polling committee at seven polling stations (136A051 i 136A024 Centar Sarajevo, 004A005 Bosanska Krupa, 101B005 Šekovići, 038B040B Doboј, 056B002 Ugljevik, 111A023 Novi Travnik). The process to determine the validity of the ballots for these levels was not done in accordance with BiH CEC regulations at eight polling stations (074B025 Teslić, 184B011 Kostajnica, 185B008 Milići, 093A077 Zenica, 077A053 Zavidovići, 079A021 Živinice, 106A025 Livno, 024B036 Modriča).



8.5. Work of local election commissions

Observers of the Coalition "Pod lupom" followed the work of local election commissions without any hindrances, with exceptions of two municipalities.

Voting materials from the polling station committees were in 81% of cases received in the premises of city/election commission, while in other cases, voting materials were received in sports halls, centers of culture, rented space, etc.

Not all members of city/election commissions were present in the premises of the city/election commission in five municipalities/cities.

Mostly all members of the polling station committee delivered the voting material in 36% of the cases, while only some members of the polling station committee delivered the voting material in 53.5% of the cases, and in almost 10.5% of the cases only the president of the polling station committee delivered the voting material.

Large crowds were created during the handover of voting materials in 6 municipalities/cities. In three municipalities/cities the conditions during the handover of the material were such that the voting materials could be easily stolen, replaced or damaged.

In three municipalities/cities the local election commission failed to properly organize the handover process from the moment of the polling station committee's arrival to the local election commission.

The cases of wrongly packed materials by the polling station committees were documented in 23 cities/municipalities.

Damage was documented in three municipalities/cities that may indicate that someone opened voting materials. This can include, for example, no seal on the bag, the seals are loose or the seals are different from the standard ones on all other bags, etc.

Representatives of the local election commissions did a standard check of the submitted/delivered material in 88% of the cases. Observers documented that this procedure was generally followed in ten municipalities/cities.

The representatives of the local election commissions opened bags with the aim of eliminating errors in forms or packaging of materials in 18 cities/municipalities.

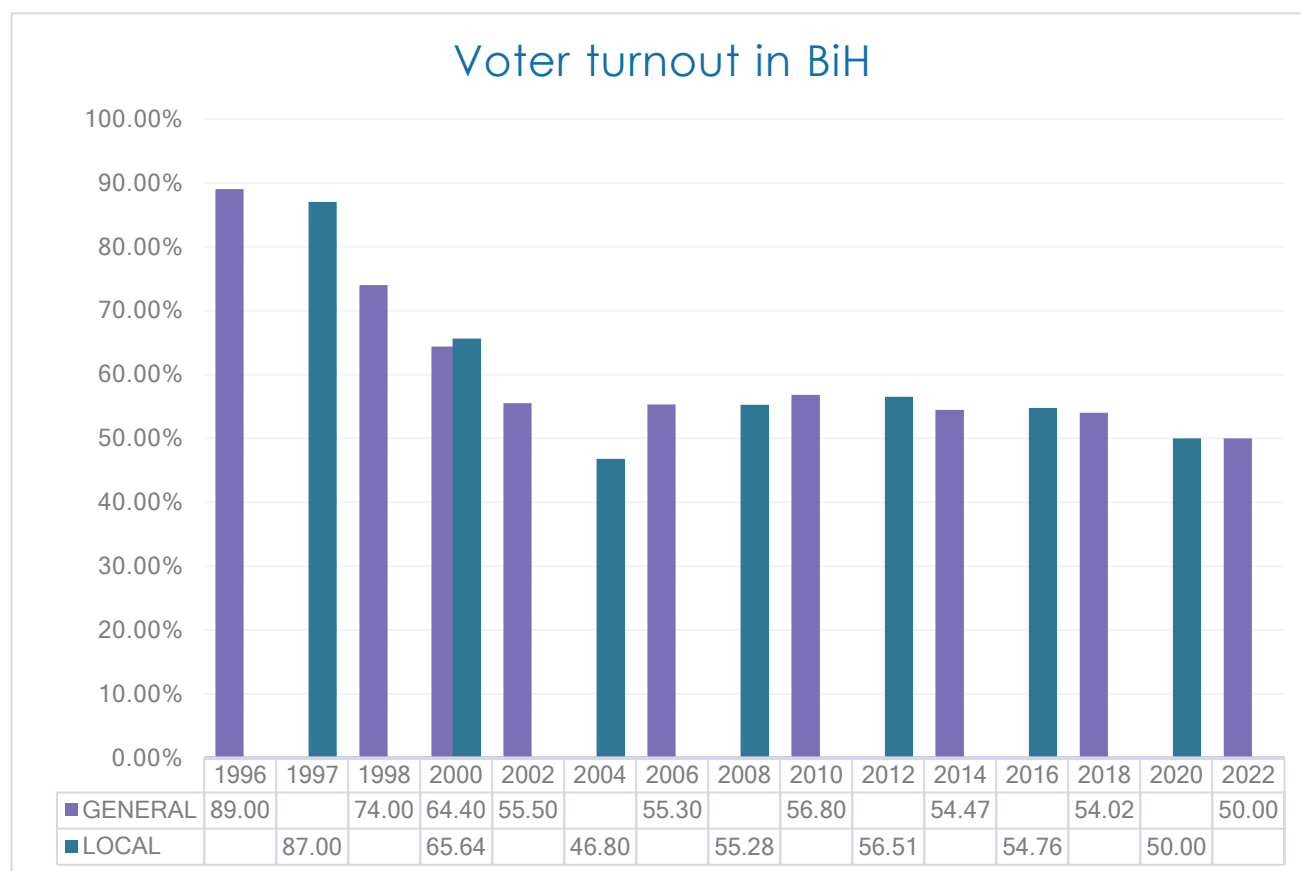
The most common errors and/or problems that occurred when the voting materials were delivered from the polling stations are: unsealed bags or incorrect packaging (29% of the cases), errors or incorrectly filled forms (19% of the cases). There were no problems with the handover of voting materials in 46% of the cases, and 6% of the cases relate to some other problems.

The operators who enter data into the JIS were at the same location where the material is received in 22 municipalities/cities. The observers stated that the operators were not well trained in data entry in two municipalities/cities, namely there were difficulties when using the JIS. The most common problems when entering data into the JIS were that the system creates problems during entry (12% of cases) and that operators make mistakes during entry (5% of cases). There were no problems with entry in 70% of the case, and the other cases relate to some other problems. The controller of election results supervised operators who enter data into JIS in 75% of the cases. In 23% of the cases observers reported that the controllers mostly did perform supervision, with a few exceptions.

There was no recount in 85% of the cases. In cases where there was a recount, in one municipality, the recount was done by the polling station committees, and in 11 municipalities and cities, it was done by special teams formed by the local election commission. Objections to the work of local election commissions were filed in six municipalities/cities. Observers assessed the work and activities of local election commissions in the following way: excellent in 62% of cases, very good in 27% of cases, the work of several local election commissions was rated as good or satisfactory, while the work of no local election commission was assessed as poor.

8.6. Voter turnout

In the Municipal/General elections held on October 2, 2022 in BiH, 50% of the electorate or 1,652,501 voters exercised their right to vote, which is 4% less than in the Municipal/General elections and the lowest turnout in the Municipal/ General elections since the beginning of multi-party democratic elections in Bosnia and Herzegovina.



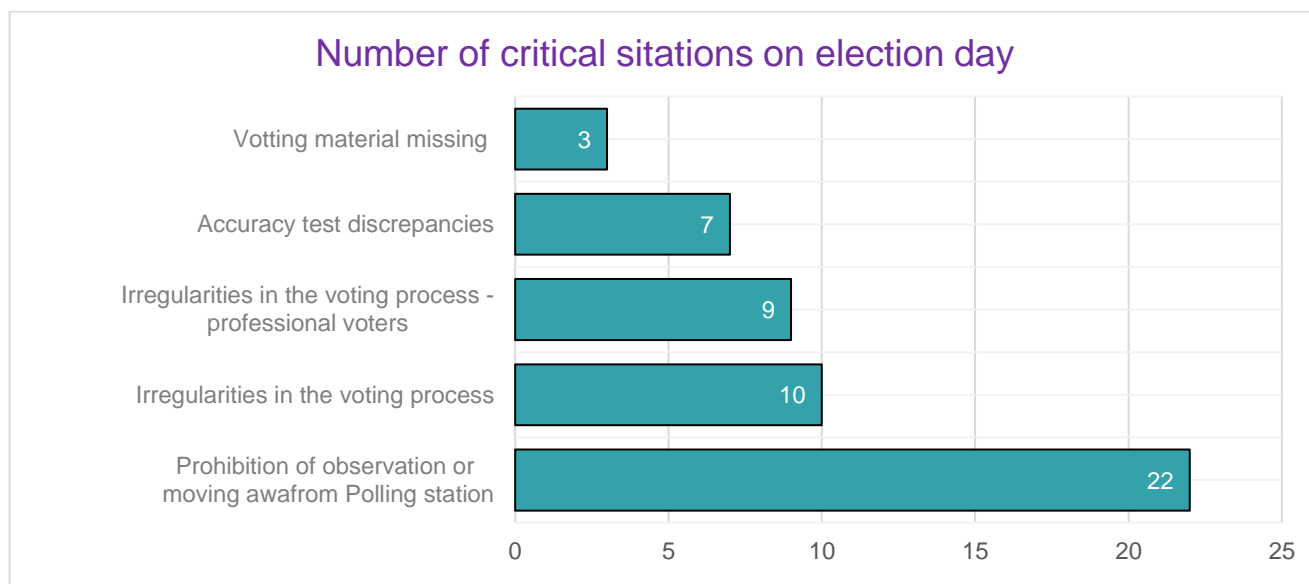
9. IRREGULARITIES ON THE ELECTION DAY

9.1. Reports of the Election Day observers

On the Election Day the Coalition received information from its observers about 91 critical situations on the ground. This term is used by the Coalition to indicate violations of procedures and election rules, significant technical errors in the work of the election administration at all levels, or incidents at the polling stations. In cooperation with the election administration, 73 critical situations were successfully resolved during the Election Day and night (80.22% of document cases).

Most of the documented cases related to prohibition to conduct observation or removal from the polling station (22), irregularities in the voting process (10), irregularities in the voting process - professional voters (9), disagreements in the accuracy test (7), voter coercion and intimidation (7), lack of voting materials (3), ballots that are in the ballot box and that do not have a stamp in the lower left corner are invalid (2), irregularities in the issuing of ballots - ballots are not stamped and signed (1), adding of votes during counting (1), and other (29).

Number of critical situations on election day



9.2. Citizens' reports

Coalition "Pod lupom" received around 90 citizens' reports on different election-related irregularities during the Election Day. The highest number of reports related to having names of deceased persons found on the voters' lists (33), then 14 reports on voter coercion in the vicinity of polling station, 10 cases of non-observance of new procedure for stamping and signing the ballot, four reports of vote buying, election silence violation and voting on behalf other persons, respectively.

10. POST-ELECTION PERIOD

10.1. Determining of election results

The BiH CEC is responsible for determining of election results. The CEC determined results of direct and indirect election after expiry of deadline for submission of complaints and appeals, as set forth by the Law, and after the decision becomes final and binding. The Election Law defines deadlines for determining of election results, while the BiH CEC's regulation regulates the order of determining of the results, dissemination of information to the public, and the method of publication. The BiH CEC is obligated to confirm final election results within 30 days following the Election Day. The results of the 2022 General Elections were confirmed and published on November 2, 2022⁵², which means that the statutory deadline had been observed. However, it has to be noted that the process of determining of the results has deeply dented the public confidence in process as never before primarily due to many observed irregularities and disagreements between the results from the polling stations and the ones established in the Main Counting Center, but also due to duration of the process to determine the results. During the procedure for determining the election results the Central Election Commission of BiH issued an order to conduct a control counting of ballots for the election of the president and vice president of the RS from all 2.239 regular polling stations due to a series of observed, reported and established irregularities concerning the results from the polling stations. This is the first case where

⁵² Decision on confirming the results of the 2022 General Elections: <https://bit.ly/3BRX1IQ>

all ballots for one level were counted. Despite the observed major disagreements that may indicate serious abuses during the process of voting and determining of the results at the polling stations themselves, requests to annul the results for this level and repeat the elections were not respected for the reason, as determined by the BiH CEC, that the observed irregularities do not affect the final outcome of the elections. This interpretation about effects of irregularities and abuses in the electoral process is not in the interest of the public nor does it ensure that the will of the voters has been respected beyond any reasonable doubt due to the fact that a series of combined irregularities, particularly when talking about the excess or shortage of ballots, falsified ballots, ballots without the prescribed stamps, improperly packaged voting materials, etc., must be grounds for annulment of the election, if not for the entire election races, then at least for polling stations where a series of irregularities were detected.

The fact that the report on the work of the Main Counting Center with a presentation of all identified irregularities is still not available to the public did not any good to the overall bad impression related to the process of determining the results. The Coalition "Pod lupom" requested access to this report from the BiH CEC, referring to the provisions of the Freedom of Access to Information Law. After the expiration of the deadline set by the Law, the coalition was told that the BiH CEC still has not adopted the requested report. The answer did not specify when this Report will be adopted.

During the process of determining the election results and in addition to the control counting for the election of the President and Vice President of the RS the Central Election Commission of BiH issued orders to recount the ballots or to open the bags in order to remove other irregularities at over 240 polling stations.

10.2. Protection of electoral right – objections and complaints

Legal framework

Protection of the electoral right is secured by the election commissions, i.e. local election commissions and the BiH CEC and the Appellate Division of the Court of BiH. The regulations relating to the system of complaints and requests are laid down in the Election Law, the BiH Law on Administrative Procedure, and the BiH CEC's Instruction⁵³. Election commissions protect electoral rights ex-officio, on the basis of discoveries or on the basis of complaint filed by the authorized persons. According to the Election Law, the authorized persons are a voter and political subject. A voter, according to CEC's interpretation, may file a complaint only when his/her personal electoral right is violated, which, in the Coalition's opinion, represents a fairly restrictive interpretation because it disables the citizens, associations and also other interested parties in the electoral process to officially file a complaint when their electoral right is indirectly violated. Furthermore, when it comes to the political subjects, complaints may be filed by the political subjects, but not the candidates of these subjects individually without support of their

⁵³ Instruction on procedures for adjudicating complaints and appeals filed to the election commissions: <https://bit.ly/2PirHRr>

political subject. The Coalition believes that the circle of persons who have the right to file a complaint in the electoral process should be expanded.

Election irregularities reported to the competent bodies

Following the practice from earlier election cycles the Coalition “Pod lupom” reported all observed irregularities to the competent authorities, primarily to the BiH CEC. The reports were submitted to the BiH CEC, i.e. initiatives to initiate proceedings against 33 different political subjects and/or candidates of political subjects with 157 different cases of unlawful paid advertising. The BiH CEC carried out the procedures for each of the reports, and financial sanctions were imposed in cases where it was determined that the paid advertising was for the election campaigning purposes.

The Coalition “Pod lupom” has also submitted an initiative to initiate proceedings for violation of the BiH Election Law in terms of running a campaign in a period when it is not allowed for two candidates for the Presidency of BiH. Although campaigning by these candidates is not necessarily prohibited paid advertising, it does *de facto* fall under other activities that are campaign activities (visits to cities, talking to voters, presentation of programs, plans, etc.), the Coalition believes that a certain reaction of the competent authority should have followed because with such behavior and activities, the very existence of the election campaign period, which is prescribed by the BiH Election Law for 30 days before the election day, becomes meaningless. These requests were rejected, but there is still a need to actually put the election campaign in a time frame through legal changes and to find a way to prevent the campaign from being conducted beyond that specific period.

Although in earlier election cycles the Coalition “Pod lupom” had regularly reported documented cases of trading of seats in polling station committees, encouraged by amendments to the Election Law of BiH which explicitly prohibit it, until the publication of this Report, the Coalition had submitted initiatives to BiH CEC to initiate proceedings for these violations of the Law in more than 50 individual cases in 33 basic constituencies. The first sanctions were imposed for this violation of the Law based on these reports and pecuniary fines were imposed against individuals and political subjects they represented, while the individuals were found illegible to work in the election administration for 4 years. The Coalition has no information on whether these sanctions have become legally binding, considering that there is a possibility of filing an appeal against the decisions of the BiH CEC.

On the Election Day the Coalition had sent complaints to the BiH CEC on the violation of election silence and abuse of public resources, but these complaints were rejected. After the election, the Coalition submitted to the BiH CEC all its findings regarding the election day, including a review of observed more serious irregularities at the polling stations that were reported by the Coalition's observers, as well as a review of reports on the observation of local election commissions in the election night.

Due to irregularities at the polling stations during the process of determining the results, the Coalition had, in the period stipulated by the Law, sent requests to the BiH CEC for re-count at 40 polling stations in 5 basic constituencies. These requests were not accepted.

Complaints and appeals during the election period

One of the recommendations of the Coalition “Pod lupom” for a number of years was that the BiH CEC should publish information about received complaints and decisions about them on its website in a timely fashion, which was done for the first time at the 2022 General Elections. It certainly represents a step forward in the transparency of the electoral process in this segment.

A total of 443 complaints were sent to the BiH CEC during the election period of the 2022 General Elections⁵⁴.

Complaints related to:

- Election campaign under the competence of the Communications Regulatory Agency (CRA): 9. These complaints were submitted to the CRA for further action.
- Lottery draw of positions in polling station committees: 6
- Pain election campaign before its official start: 95
- Impersonation during the election period: 2
- Hate speech during election campaign: 32
- Use of public resources for election purposes: 63
- Violation of election silence: 61
- Violations on polling stations on the Election Day under the competence of the local election commissions: 143
- Complaints on published election results: 32

The BiH CEC received 126 requests for re-count of votes at polling stations, whereof 37 were accepted, mostly in the way that the BiH CEC ordered re-count ex officio, since the request were deemed to have been submitted by unauthorized persons. Other requests were assessed as unfounded, inadmissible or submitted by an unauthorized person. In this election cycle, the BiH CEC was more proactive when it comes to ordering various activities, including the ex officio activities.

The BiH CEC had acted in 76 cases in the second-instance jurisdiction for appeals against decisions of the local election commissions on procedures related to the allocation of seats in the polling station committees, appointment of polling station committees, placement of posters and violations of election campaign rules.

In terms of the determining of the results of the 2022 General Elections a total of 13 appeals were submitted to the Appellate Division of the Court of Bosnia and Herzegovina. One appeal was assessed by the Court as inadmissible, one was resolved with the amended Decision of the BiH CEC on determining of the results, while the others were assessed as unfounded. Thus the trend of the Appellate Division of the Court of Bosnia and Herzegovina confirming the decisions of the BiH CEC in almost all cases continued.

10.3. Implementation of election results

⁵⁴ BiH CEC's data as of December 28, 2022. Overview of complaints and appeal can be found here: <https://bit.ly/3Go3aci>

The results of the elections were confirmed with the statutory deadline of 30 days and were published on November 2, 2022. The BiH Election Law defines deadlines for establishment of representative and legislative authorities, as well as for the BiH Presidency. These deadline are different depending on the level of authority, and the maximum deadline is up to 30 days following publication of final results by the BiH CEC. The legislative bodies, as well as the BiH Presidency, and president and vice presidents of RS that are directly elected, have held their constitutive sessions mostly within set deadlines⁵⁵. Exceptions are cantonal assemblies in 8 cantons that did it after the stipulated deadline⁵⁶ and House of Representatives of the FBiH Parliament⁵⁷, which should have been constituted within 20 days following publication of the election results. The RS National Assembly was constituted within the set deadline.

Indirect elections for the Houses of Peoples in the BiH PA and FBiH Parliament are ongoing. The government at the national and Federation of BiH level has not been established, and president and vice presidents of the FBiH have not been elected yet. Executive government at the level of canton has not been established yet. Only one government, the government of Zenica-Doboj Canton⁵⁸, was established, and the remaining eight cantonal governments have been established at the time this report was released. The RS Government held the first session on December 23, 2022.

Election of delegates to the Council of Peoples of Republika Srpska is initiated when the RS NA is constituted, and is held at least a month after the BiH CEC confirms the results, which were published on November 2, 2022, so the Council of Peoples of Republika Srpska was established after the set deadline.⁵⁹

11. METHODOLOGY OF LONG-TERM OBSERVATION

The Coalition “Pod lupom” observes the entire electoral process in BiH, which includes all stages of the electoral process from the day elections were announced until the publication of final and confirmed

⁵⁵ BiH Presidency: 16.11; president and vice presidents of RS: 15.11.; HoR of BiH PA: 1.12.; RS NA: 15.11.; assembly of Tuzla canton: 10.11.; assembly of Sarajevo Canton: 11.11.2022.

⁵⁶ Canton 10, Una-Sana Canton: 14.11; Goražde canton 15.11; Posavina canton: 16.11; Herzegovina-Neretva canton: 17.11; West Herzegovina Canton, Zenica-Doboj canton: 21.11; Central Bosnia canton: 22.11.2022.

⁵⁷ Constitutive session of the FBiH House of Representatives was held on December 1, 2022.

⁵⁸ Establishment of the Zenica-Doboj canton Government December 27, 2022.

⁵⁹ Constitutive session of the Council of Peoples of Republika Srpska December 15, 2022.

results. Long-term observation is therefore organized and its purpose is continuous monitoring of the entire electoral process as to be able to provide a comprehensive overview that includes the widest possible spectrum of election-related activities, and not only the Election Day as such.

The Coalition “Pod lupom” carried out long-term observation of the 2022 General Elections in cooperation with 85 civil society organizations, informal groups and activists from BiH and 100 long-term observers who cover all basic constituencies in BiH, 143 of them (municipalities, cities and Brčko District). The long-term observers observe operations and sessions of all municipal/city election commissions in BiH, activities set forth by the election calendar and observance of deadlines, electoral irregularities, and media reporting. Since the 2020 Local Elections the long-term observers of the Coalition make the reports using online reporting forms and database with pre-defined questions, which enables faster classification of responses, and easier identification of trends and problems related to the electoral process. The long-term observers report on their activities weekly, and they have turned in 1.573 regular reports on key observation findings. Long-term observers of the Coalition “Pod lupom” have held 1.965 meetings with different election stakeholders (election administration, political subjects, institutions, police administrations, civil society organizations, media and the others) aimed at the most objective assessment of the electoral process in BiH. The reports of the long-term observers are backbone of this final report.

The Coalition “Pod lupom” observed the Election Day on October 2 with 1.813 civic, non-partisan observers.

Using the methodology of statistically based election observation, which involves the deployment of observers at a precisely determined sample of polling stations and which was applied in BiH for the first time by the Coalition at the 2014 General Elections, the collected data are statistically relevant for the entire country. This advanced methodology is implemented by similar organizations around the world and represents a positive methodological shift from the classic observation of elections, which is based on covering as many polling stations as possible. In addition, it enables focusing on the important issues of the Election Day and the speed of collecting and processing of the information.

The Coalition “Pod Lupom” also worked on Parallel Vote Tabulations (so-called PVT) for the level of the BiH Presidency. The voting results processed by the Coalition on the basis of a statistically representative sample of the polling stations are within the margin of statistical error compared to the results published by the BiH CEC, thanks to which the Coalition “Pod lupom” can confirm the voting results for the BiH Presidency level.

The Election Day was also observed in the local election commissions, 143 of them. The Coalition “Pod lupom” had established a call center for the General Elections, held on October 2, 2022, where more than 80 operators worked collecting and processing information from the ground in real time. All Election Day observers received training on the legal framework that lays down Election Day procedures and on the method of communication and reporting, and had signed the Code of Conduct committing to objective and impartial reporting. Election Day observers were in charge of monitoring the process of opening of polling stations, voting, closing of polling stations, vote counting and

determining of the results, and sending information about these processes through the SMS reporting system in real time and through the Call Center of the Coalition. The reports and findings of the Election Day observers are the backbone of this Report in the segment of the evaluating the quality of the process and the conduct of elections on the Election Day.

At the 2022 General Election the Coalition informed the public about the voter turnout regularly. The turnout reported by the Coalition corresponded to the turnout presented by the election administration.

In addition to observing the work of municipal/city election commissions, the Coalition also observed the work of the BiH CEC, which has been a regular practice since the establishment of the Coalition in 2014. The practice established during the 2020 election cycle of live broadcasting the BiH CEC sessions on the commission's official YouTube channel has been continued at the 2022 General Elections.

12. ABOUT US

12.1. About “STEP” project and the Coalition “Pod lupom”

Centers for Civic Initiatives (CCI), as the project coordinator, together with the Center for Civic Cooperation (CGS) Livno, the Citizens' Forum of Tuzla (FGT), the Association of Citizens “Democracy-Organization-Progress” - DON Prijedor and Perpetuum mobile - Institute for Development of Youth and Communities from Banja Luka, as partners in the project, and within the framework of the Coalition for Free and Fair Elections “Pod lupom”, are implementing the project “Systemic Transparency in the Electoral Process” (STEP) financed by the European Union (EU) and co-financed by the American Agency for international development (USAID) and the Organization for Security and Cooperation in Europe (OSCE) in Bosnia and Herzegovina (BiH). The STEP project directly increased the strength and visibility of civil society organizations (CSOs) engaged in civic observation of elections and supported the development of civil society in the process of democratization in BiH, including two election cycles in BiH: Local elections in 2020 and General Elections in 2022.

A series of activities divided into five components was designed through the STEP project, following the imperative of the CSO capacity building with the aim of strengthening the civil society to build capacities for further, stronger, visible and sustainable election observation activities in the future. STEP consists of the following five components: Capacity Building and Network Development, Election Observation, Public Policy Development and Advocacy, Public Relations and Voter Education, and Media Monitoring.

The Coalition for Free and Fair Elections “Pod lupom” exists since 2014 as an informal coalition of civil society organizations. So far, the Coalition had observed 18 different elections in BiH, including regularly, early and repeated elections at different levels. More than 15.000 civic, non-partisan observers of the Coalition “Pod lupom” were engaged in all the mentioned elections. The Coalition has so far worked directly with more than 150.000 citizens, of which 50.000 are young people. Twenty-six recommendations of the Coalition “Pod lupom” have so far been partially or fully implemented in the election rules, which has resulted in the improvement of the electoral process. According to IPSOS research from August 2018, the Coalition “Pod lupom” is an election stakeholder that citizens trust the most.

Furthermore, the Coalition is engaged in research and preparation of international comparative analyses, it monitors sessions of the Central Election Commission of BiH, organizes round tables and conferences that bring together representatives of legislative institutions of government, election administration, the international and academic community, as well as the media and civil society. The Coalition advocates the improvement of the electoral process in all its segments. Apart from these activities the Coalition, during the election year, also educates young voters who are going to the polls for the first time, with the aim of motivating and encouraging them to actively participate in the electoral process.

12.2. Coalition in numbers

The Coalition “Pod lupom” had deployed 1.813 civic, non-partisan observers for the 2022 General Elections in BiH held on October 2, 2022. The Coalition’s observers observed the electoral process at the 970 regular polling stations and in 143 municipal and city election commissions. Approximately 80 persons were recruited to work in the Call Centre for data processing. On Election Day alone, more than 190.000 individual pieces of information on the course of the electoral process were received and processed.

Aimed at observation of the 2022 General Elections the long-terms observers delivered more than 300 educations with the aim to boost the capacity of election observers and citizens, as well as to prepare for the elections. A total of 1.965 meetings with local election commission, representatives of political subjects, non-government organizations, media and other electoral stakeholders were held. The Coalition had 1.813 observers present at the polling stations across BiH on the Election Day. A total of 1.202 electoral irregularities were documented in the pre-election period, while the Coalition’s legal team received 91 reports from the Coalition’s observers on more serious violations of the electoral rules on the Election Day.

A total of 869 media reports about activities of the Coalition “Pod lupom” were documented in the reporting period. During the election period the Coalition organized 12 press conferences and published 17 press releases. More than 2 million of citizens were informed about the electoral process through activities of the Coalition “Pod lupom” over the past years.

12.3. Acknowledgments

The Coalition has gained trust and support of domestic and international public by working and advocating for free and more fair elections in BiH and greater citizens' participation in the direct election process. Everything achieved so far would not been possible without those who had supported our work and participated in the Coalition's activities. We owe the greatest gratitude to our observers, citizens of BiH who have recognized the importance of the Coalition's mission and actively participated in the improvement of the electoral process and electoral culture in BiH. They directly strengthened confidence in the electoral process and observance of the free will of all voters. Also, a big thank you goes to all citizens of BiH who expressed their support to the activities of the Coalition and reported election irregularities, thus contributing to free and fair elections. Donor financial and advisory support provided high-quality and appropriate working conditions and a solid foundation for the concretization of project goals. More precisely we wish to thank the European Union (EU), the United States Agency for International development (USAID) and the Organization for Security and Cooperation in Europe (OSCE) in BiH for continuous support over the years, but we also want to thank other domestic and international organizations and institutions for the cooperation. We also owe gratitude to all media houses that reported on the election process in a professional manner, and especially to those that provided free air time for the promotional material of the Coalition "Pod lupom". Thanks also to all the administrative bodies that had opened the door to the Coalition staff and showed their willingness to cooperate. We believe that the electoral process in BiH can be improved and we are actively working on it.

Thank you!



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