

SERIES OF STUDIES ABOUT ELECTION LEGISLATION

Analysis of methods of formation and composition of Polling Station  
Committees in the OSCE participating states

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## ABBREVIATIONS

PSC	POLLING STATION COMMITTEE
BiH	Bosnia and Herzegovina
CEC BiH	Central Election Commission of Bosnia and Herzegovina
OSCE	Organization for Security and Co-operation in Europe
OSCE/ODIHR	OSCE Office for Democratic Institutions and Human Rights

## **INTRODUCTION**

Coalition for Free and Fair Elections 'Pod Lupom', composed of 6 civil society organizations from the whole country, has started monitoring the election process in Bosnia and Herzegovina (BiH) on July 1, 2014.

The general assessment of the Elections observed is that they were held in a democratic and fair atmosphere and in accordance with the Election Law and related rules and procedures, with a small number of irregularities and critical situations, and isolated incidents.

However, some irregularities in the electoral process were observed during fieldwork in certain legal arrangements and application of existing regulations, which suggests that there is a need for improvements in the Election Law and the implementing regulations of the CEC BiH as well as in their implementation in the field and in narrowing the space for possible abuse. In relation to this, the Coalition made a number of recommendations in its Final Report on the General Elections 2014 in BiH.

After observing the implementation of the General Elections, the Coalition activities continue in the direction of contributing to the improvement of the electoral process in Bosnia and Herzegovina. In the post-election period the Coalition organized a conference in Sarajevo and three round tables in Mostar, Banja Luka and Tuzla where the relevant stakeholders, especially those who are directly participating in the electoral process, discussed the presented recommendations, and were asked to give their opinions on problems identified by the Coalition, as well as on other issues of election legislation.

With the aim of argumentation and conduct of fruitful discussions on specific topics which are identified as 'burning issues', the Coalition made a decision to form a working group composed of young researchers in April 2015 with the task of analyzing the Election Laws of the OSCE Member States. The first analysis is related to the Polling Station Committees which were characterized as the weakest link of the electoral process in Bosnia and Herzegovina.

## **WHY POLLING STATION COMMITTEES**

By observing the General Elections 2014 and according to information from the round table meetings, the problems with Polling Station Committees (PSC) can be classified into several categories:

**PSC appointment** – All political subjects in Bosnia and Herzegovina have the right of nominating the members of the PSC. After determining the number of members in the PSC for each political subject (filling places in the PSC or lottery if the number of political subjects exceeds the number of places in the PSC), political subjects are obliged to submit the names of the PSC members with the related SG-1 form in which they provide information about the potential PSC member within 7 days. If political subject fails to submit the names by the deadline or does not submit enough names or fails to submit the related SG-1 form, the local election commission independently appoints PSC members taking into account the multi-ethnic composition of the PSC. The names of the members and subjects they represent are not announced publicly.

### **Problems**

1) **This solution that prescribes a wide range of membership in the Polling Station Committees leaves an open space for trade and/or swap of places in the PSC which is used by almost all political subjects.** In practice, it often happens that political subjects obtain positions in the PSC in the territory where they do not have significant voters' support, and participation in these PSC is not 'interesting' to them. On the other hand, it may happen that in areas with significant voters' support, they do not have their representatives in the PSC. It was also observed that some small parties and independent candidates fail to fill all assigned places. Then, political subjects swap or trade places in the PSC. In some cases, even when they have representatives in the Polling Station Committees, they buy 'additional' places to ensure extra representation which is contrary to section 2.19 paragraph 13 of the Election Law of Bosnia and Herzegovina. Since the names of the nominated PSC members and political subjects they represent are not announced publicly it is impossible to get the data in which extent this is actually used.

2) **The Election Law does not stipulate a deadline by which a person may withdraw from membership in the PSC.** According to information from local election commissions, it often happens that political subjects fill in the forms without the consent of potential PSC members, about which the members are not even informed. Also, a large number already nominated members of the Polling Station Committees become party observers a few days before the Elections which then forces the local election commission to appoint PSC members few days before the Elections in which case there is not enough time for adequate training.

3) **On the proposal given by political subjects the election commissions appoint members of the PSC prior to the training.** Since the by-laws stipulate cancellation of appointments in the case that PSC members do not receive training, this practice leads to a large number of re-

appointment for the same position which is an additional burden on local election commissions.

### **Suggestions**

None of the eight countries observed, which recognize only party membership in the Polling Station Committees, give the right of nominating PSC members to absolutely every political subject. This right is mainly limited to: political parties represented in parliaments (at any level) in proportion to their strength and/or candidacy in the previous elections.

*In BiH it is necessary to consider:*

- *whether this set of nominations increases the quality of work of the Polling Station Committees or causes a number of problems in their work which leads to a decrease in quality;*
- *an option that the Presidents and Vice Presidents of the Polling Station Committees are non-partisan persons appointed by local election commissions;*
- *the establishment of the deadline for withdrawal or replacement of members of the Polling Station Committees which gives enough time for local election commissions to provide adequate education;*
- *the possibilities for training of nominees or potential members of the Polling Station Committees, after which only those who have successfully completed the training could be appointed;*
- *establishing the obligation of public disclosure of the PSC members names and the names of political subjects they represent which would increase the transparency of their appointment;*
- *the introduction of financial penalties for political subjects and/or appointed members of the Polling Station Committees which unjustifiably withdraw after determined deadline.*

**Number of Polling Station Committee members** - existing solution provides 3 or 5 PSC members depending on the size of the polling station, with deputies who are required to participate in procedures after the closure of polling stations and during the Election Day in the case of absence of members.

### **Problems**

Conduction of several types of elections on Election Day, with the complicated and long-lasting procedures, often leave PSC members fatigue during the most essential part of the Election Day – determination of the voting results. This results in a number of (un)intentional mistakes during vote counting, filling in the forms and packing election materials which makes the work of local commissions and the CEC more difficult. Subsequent correction of forms raises doubts about the credibility of the election process and recount of ballots from a large number of polling stations delays the publication of preliminary election results.

## Suggestions

Number of PSC members, in relation to the analyzed countries, is satisfactory but also challenging due to numerous races on Election Day and the complicated and long-lasting procedures.

*In BiH it is necessary to consider:*

- *introducing obligation for Vice Presidents and members to actively participate in the procedures before the closure of the polling station where deadlines of their engagement can be determined by lottery, which would make the members work easier.*

**Training of the Polling Station Committee members** – Training of the PSC is done by a cascade system in a way that the CEC trains local election commissions, which then train Presidents and Vice Presidents and then the members of the PSCs. Trainings for all members of the PSC is performed right before each Elections. After training, each appointed member of the PSC passes the test after which all candidates who had more than 50% correct answers are issued a certificate. Candidates who solved more than 75% accurately are considered to be particularly successful.

## Problems

By observing trainings prior to the General Elections 2014, the Coalition came to the following data:

- 1) **Methodology, quality and duration of the PSC members training** are not uniform throughout BiH, which leads to less skilled PSC members by local election commissions.
- 2) **A large number of withdrawal of already certified PSC members** who become party observers and often know more than the members of the Polling Station Committees who are not sufficiently trained. This practice makes the work of local election commissions more difficult since they are forced to make the appointment and train new members in a very short period.
- 3) In some cases it happens that **the testing is done pro forma**, with the help of the local election commission members who have the interest in greater transience of candidates.

## Suggestions

Only three analyzed countries recognize the institution of continuous of certification of Polling Station Committees, where the certificate is one of the criteria for the appointment of PSC members.

*In BiH it is necessary to consider:*

- *the introduction of continuing education/certification of potential Polling Station Committee members using the existing infrastructure of local election commissions which are funded also in non-electoral years;*

- *the possession of a certificate as a criteria (refers to a situation where there is continuous education/certification) when nominating potential members of Polling Station Committee (or only the President and Vice President);*
- *stipulating the training methodology by by-laws (program, duration, number of participants, etc.);*
- *the introduction of online testing a few days after the training, which would give all candidates more time to prepare.*

## **METHODOLOGY**

Research methodology is based on a detailed study of election legislation, primarily the Election Laws of the Members States of the OSCE, 39 out of 57 of them. Due to limited capacity, as well as taking into account the relevance of the legislation in the context of BiH, the research excluded a certain number of Member States, mainly those with Anglo-Saxon legal tradition, countries outside Europe as well as the smaller European countries like San Marino, Andorra, etc.<sup>1</sup>

The survey includes the following countries: Albania, Armenia, Austria, Azerbaijan, Belarus, Bulgaria, Montenegro, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Netherlands, Croatia, Iceland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Hungary, Macedonia, Moldova, Norway, Poland, Portugal, Romania, Russian Federation, Slovakia, Slovenia, Serbia, Spain, Sweden, Switzerland, Turkey, Ukraine and Uzbekistan.

For this research the OSCE/ODIHR database of legal regulations of the Member States of the OSCE was mainly used<sup>2</sup>. It is important to emphasize that most of the translations are unofficial and made just for research purposes. Reports of election monitoring missions by OSCE/ODIHR<sup>3</sup> were used as an extra source along with other available information from organizations dealing with electoral processes<sup>4</sup>.

For this purpose, the Coalition 'Pod Lupom' formed a working group composed of 8 researches/collaborators out of over 200 applicants that applied to Coalition's public call for researchers/collaborators.

The data that will be presented in this study were obtained in a way that the Coalition primarily divided the states per members of the working group. After that, working group received tasks

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<sup>1</sup> Research did not include the following Member States:

Andorra, BiH, Greece (no available translation of the Election Law to English), Ireland, Canada, Liechtenstein, Luxembourg, Malta, Monaco, Mongolia, USA, San Marino, Tajikistan, Tunisia, Turkmenistan, United Kingdom and Vatican. The Election Law of BiH was analyzed separately and used for comparison of electoral solutions.

<sup>2</sup> <http://legislationline.org/>

<sup>3</sup> <http://www.osce.org/odihr/elections>;

<sup>4</sup> <http://www.idea.int/elections/>; <http://aceproject.org/>



according to areas/topics on which they had to provide adequate answers from Election Laws and regulations of countries they were researched about.

The received answers point out different legal traditions, emphasizing at the same time different levels of development of political culture, election awareness which can be assessed through the level of regulation of certain areas. So countries that can be characterized as those with highly developed awareness of the election process and the rules of conduct for the election (eg. The Scandinavian countries) very poorly define a number of questions, and give to election commissions, and sometimes even to citizens, quite wide powers to organize and conduct elections. On the other hand, countries that have in their recent past gone through a transition of their political and economic systems, and even wars, tend rather to have a very detailed regulation of all segments related to the electoral process, which again points to the efforts of these countries to thus prevent potential election fraud and manipulation. This variety of regulations was a challenge in making an analysis in terms of recognizing trends and common features that can possibly serve as examples of good practice for BiH.

### **ANALYSIS BY AREA:**

#### **ROLES AND RESPONSIBILITIES OF THE POLLING STATION COMMITTEE MEMBERS**

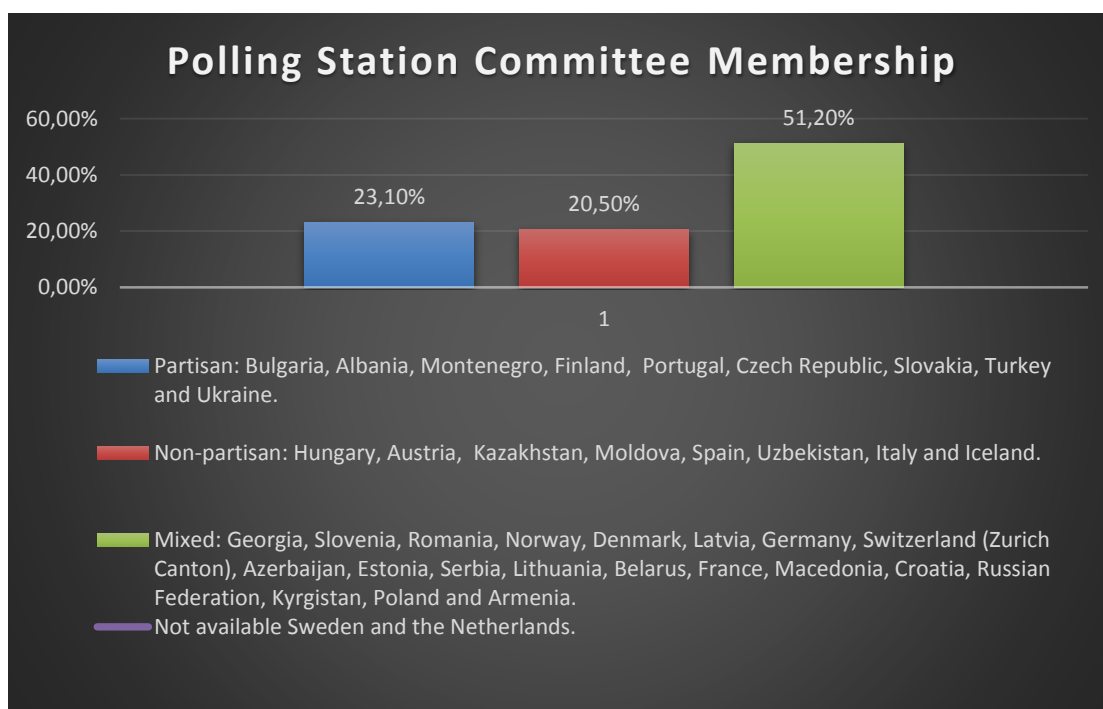
Election administration in BiH is composed of election commissions and Polling Station Committees (PSC). Election commissions are appointed for a period of 7 years, while PSCs are appointed specifically for each election. PSCs have 3 or 5 members, depending on the number of registered voters at the polling station, one of which is the president of PSC, and deputies to the president and all members of the PSC are also appointed. According to the Election Law, PSC directly manages the electoral process at the polling stations, ensures regularity and secrecy of voting and record the election results at given polling station. PSC President makes sure that the voting process takes place in the manner prescribed by the Election Law and the implementing regulations. PSCs do not have other duties in addition to the conduction of elections.

In most observed countries the PSCs obligations are similar to those prescribed in BiH. In 8 of the 39 states the obligations of PSC members are not visible, in 18 states they are limited to the Election day while in 13 states they have obligations prior to the Election Day. These obligations are mainly related to the preparation of the PS for voting and/or reception of election materials on a day or a few days before the elections. Yet in some countries, PSC have greater responsibilities: eg. in Georgia they verify the accuracy of voter lists, consider complaints etc. Also, in Armenia where PSCs adopt individual legal acts, even though the law does not specify the type of these acts, have regular meetings etc. This can, however, be linked to the length of the PSC mandate as well as the composition (PSC in Armenia has for example a secretary). In another country close to Armenia, Azerbaijan, as stated in the unofficial translation, they consider complaints regarding to violations of the law and make decisions with the respect thereto. However, from the available legislation it is also not clear what kind of acts are those.

## MEMBERSHIP IN THE POLLING STATION COMMITTEES

Candidates for PSC members are nominated by political subjects<sup>5</sup>. The appointment itself is done by the local election commission or CEC BiH when the local election commissions fail to do so within the stipulated time. Thus the membership in the PSCs is partisan.

A comparative analysis of 39 of the 57 member states of the OSCE and their relevant regulations concerning membership in the Polling Station Committees in terms of whether members are appointed ahead of political subject or not, showed that the membership in the Polling Station Committees is generally mixed. Mixed membership includes membership which is appointed by combining partisan and non-partisan members. Thus, in 20 countries<sup>6</sup>, or 51.2%, the membership in PSC is mixed; in 9 countries it is partisan (23.1%); in 8 countries it is non-partisan (20.5%) while in two countries (5.2%) the membership structure in this respect is not visible from laws and other available materials.



## NUMBER OF POLLING STATION COMMITTEE MEMBERS

As previously mentioned, the number of PSC members is 3 or 5, and the same number of alternates is appointed. Number of PSC members is the same regardless of the type of elections. On the other hand, workload of PSC members is not the same in terms of the type of elections, considering that when implementing the General Elections there is a maximum

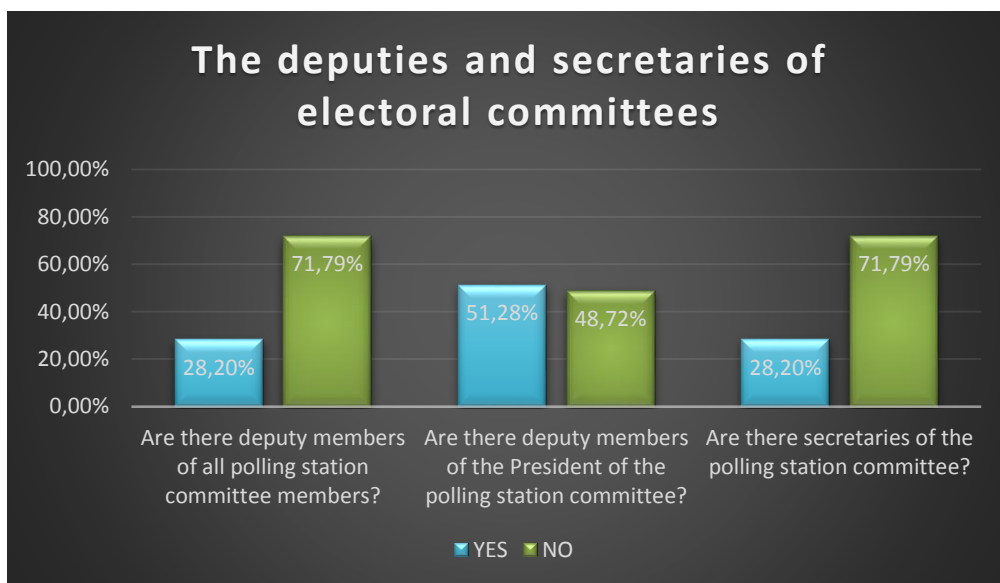
<sup>5</sup> Political subject in sense of Election Law of BiH and this analysis are: independent candidates, political parties, coalitions..

<sup>6</sup> Georgia, Slovenia, Romania, Norway, Denmark, Latvia, Germany, Switzerland (example of Canton Zurich since the polling station committees and their formation is the jurisdiction of the Canton), Azerbaijan, Estonia, Serbia, Lithuania, Belarus, France, Macedonia, Croatia, Russia, Kyrgyzstan, Poland, Armenia

of four different races, which results in more complicated procedures and time-consuming activities to count the votes and other procedures related to election materials.

The regulations of states observed in this study vary significantly even in solutions they offer in terms of the number of members in the PSCs. Thus in one of the 39 countries that number is not specified in the outline law but is or will be defined by other laws or regulations. The approximate average number of members, since it is difficult to get the exact average because most states define either a minimum number of members or a range in the number which again depends mainly on the size of the polling station, is 6.6 members per PSC. This number ranges from a minimum of 3 members (eg. Slovenia, Norway, Iceland, Spain, the Netherlands) to a maximum of 24 members which may be appointed in Ukraine (Belarus and Uzbekistan 19, Russia 16, Poland 11, etc.)

What is different from the situation in Bosnia and Herzegovina is that in a little more than 50% of observed countries only PSC President has a deputy president, in 11 countries all PSC members have deputies (28.2%), while in the same number of observed states PSC have at their disposal also secretaries.



### MEMBERSHIP CRITERIA

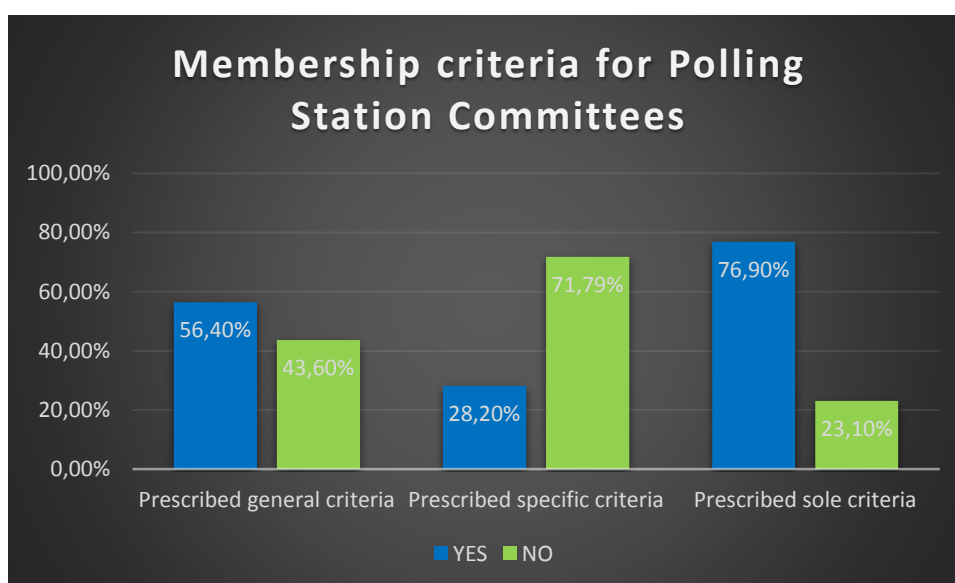
The Election Law provides the general requirements for membership in the Polling Station Committees, while the CEC elaborates this area and sets special conditions through the Guidelines for defining the qualifications and procedure for appointing the members of PSCs. These conditions can be cumulatively summarized in a way that PSC member can be the person with the right to vote, which has at least secondary education, which is not prosecuted for crimes against humanitarian law by International Tribunal for the Former Yugoslavia or the national courts, which is not a candidate at the elections, and is a resident in the territory of the local government where the polling station is located.

Membership criteria in observed countries can be divided into general and specific. Under the general, for the purpose of this study, we look at those concerning universal suffrage and acquired adulthood. Under special conditions we take those conditions listed as inclusive or exclusive criteria, which are as such defined by laws of the observed countries. These include: a certain level of education, that person has not been previously convicted for criminal offenses; crimes related to the election process, owning professional certification in the field of elections, membership of a particular profession or occupation etc.

The general rule in all countries covered by this study is that the same person can not be a member of more than one level of electoral administration, and that the election candidates are banned to participate in the work of PSCs.

General conditions are prescribed by 22 of 39 countries (56.4%). The exclusive criteria, meaning the criteria on the basis of which one can not be a member of PSC, were not found in 9 of the 39 countries surveyed (23.1%).

In 11 countries (28.2%) specific requirements for participation in the work of PSCs require certain conditions that may be of interest in the context of BiH. For example, in Romania the President and his deputy are usually magistrates or lawyers. Similarly, in Italy, the court officials, state officials and notaries are obliged to serve as members of the PSC. In Croatia, it is prescribed that the President and his deputy will not be members of political parties when it comes to parliamentary elections, and preferably will be lawyers, while for presidential elections, the rule is that no member of the PSCs can be a member of political party.



## APPOINTMENT OF POLLING STATION COMMITTEES

PSCs in BiH are appointed by local election commissions no later than 30 days before the elections. Members of the PSC are selected on the basis of proposals by political subjects. The law does not define the deadlines for replacing the PSC members, does not contain provisions concerning the refusal and/or withdrawal after appointment, and envisages appointment of deputies for all members and president. As stated earlier, in practice it often happens that the appointed members of PSCs withdraw, even right before the elections, which creates

problems for local election commissions in terms of filling these positions with well trained persons. There is no prescribed obligation to respect the previously taken responsibility. If it happens that the local election commission does not appoint the PSC before the given deadline, this is done by CEC BiH.

Laws of 4<sup>7</sup> out of 39 analysed countries do not mention the appointment procedure at all or not enough to be able to draw some relevant conclusions. When it comes to other countries, appointment procedures are more or less similar in the sense that the PSCs are usually appointed by the next higher election commission, and, as in BiH, if this is not done by them by the deadline prescribed, the CEC does the necessary appointments.

What can be singled out as interesting in the context of Bosnia and Herzegovina are some solutions in certain countries: so for example, in Ukraine, when submitting documents for the nomination of PSC members one must submit signed statements that nominees accept to be part of a given PSC; in Hungary – there can not be changes to given suggestions for members and deputy members of PSCs; in Germany and Switzerland – the membership positions in PSCs are positions of 'honor' and obligatory, and the performance of such duties can be refused only under the prescribed conditions; in Kazakhstan nominated candidates also submit an application in which they agree to work in the PSC. Macedonia has an interesting solution when it comes to the allocation of seats in the PSC – it is reflected in the use of specially designed software that awards the places in the PSC randomly<sup>8</sup>.

When it comes to the deadlines for the appointment of the PSC in relation to the Election Day, they also vary, and are defined in relation to different dates. In 10 countries such terms are not defined in the Election Law or the beginning date is not visible from the law; 2 countries set the deadlines in relation to the day of announcement of elections<sup>9</sup>; 3 countries define a deadline for nomination of candidates, but not for the appointment<sup>10</sup>. In other countries observed in this study the deadline for the formation of PSC is defined and it ranges from a maximum of 45 days to a minimum of 3 days before the elections. Average of that period in the 24 countries is 25.2 days.

## **REPLACEMENT OF THE POLLING STATION COMMITTEE MEMBERS**

When it comes to replacement of PSC members after their appointment, and in relation to Election Day, the solutions are also flexible. Only 8 of the 39 surveyed countries specify the deadline for the replacement of members, and these limits range from 1 to 15<sup>11</sup> days before Election Day.

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<sup>7</sup> Iceland, the Netherlands, Czech Republic, Slovakia

<sup>8</sup> The rules governing the appointment procedure do not specify the criteria used in the allocation of places in the PSC. However, in one of the articles is written that the member of PSC can be resident in the municipality for which PSC is formed, which leads to the conclusion that the 'random' allocation is carried out on the territory of a municipality.

<sup>9</sup> Spain: between 25 and 29 days since the announcement of elections, Macedonia 21 day.

<sup>10</sup> Slovenia, Armenia, Montenegro: the average deadline for nomination is 16.6 days

<sup>11</sup> The example of Georgia where the deadline for the PSC member is 15 days before the Election Day, after which there is no further replacement.

## **TRAINING AND CERTIFICATION OF POLLING STATION COMMITTEES**

Training of Polling Station Committees in BiH is the responsibility of local election commissions. CEC BiH is the one that provides the materials and methodology for training, while the obligation of the local commissions is to organize and prepare the training. What was seen as an improvement in the training of PSC members on the previous General Elections are the videos that have been used, which show the total process of the Election Day, making it simple and self-explanatory for the PSC members. What was observed during the last elections was that, although of course all commissions organize trainings, the length, quality of trainers etc. vary. This was later shown to be a problem especially during the vote counting and packing of voting materials. When it comes to certification, in BiH, after they have completed the training, members take the test and are issued a certificate on the basis of which they may serve as a member of the PSC.

When it comes to countries observed in this research it was interesting to see whether there is an institutionalized form of training of persons involved in the electoral process.

Thus, in 18 countries, training of Polling Station Committees is not regulated by law. Certification as such is provided in 5 countries (Georgia, Armenia, Macedonia, Italy). In most countries, the election commissions provide trainings, whether they are local or national/regional, depending on the administrative organization of each state.

Special centers which, among other things, carry out training of PSC, exist in Georgia, Moldova and Italy.

## **INSTEAD OF CONCLUSION**

In the coming months, the Coalition 'Pod Lupom' will work on developing similar analysis concerning the election deadlines in given countries, the protection of the Election Law, as well as analysis of individual technical solutions in connection with the electoral process.

In light of the recent appointments of Interdepartmental group for changing the electoral legislation in BiH, we hope that this and other materials that the Coalition prepares will be useful in the process of preparing amendments to the Election law of BiH.

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