



**2018 GENERAL ELECTIONS IN BOSNIA AND  
HERZEGOVINA**

**F I N A L R E P O R T**

**CITIZEN NON-PARTISAN OBSERVATION**

**Sarajevo, March 2019**

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## ABBREVIATIONS USED IN THE TEXT

BiH	Bosnia and Herzegovina
BD BiH	Brčko District of Bosnia and Herzegovina
PS	Polling Station
PSC	Polling Station Committee
CVR	Central Voter Register
CCI	Centers for Civic Initiatives
CGS/CCC	Center for Civic Cooperation
CEC	Central Election Commission
DON/DOP	Democracy, Organizing, Progress
ECtHR	European Court for Human Rights
FBiH	Federation of Bosnia and Herzegovina
FGT/FTC	Forum of Tuzla Citizens
CityEC	City Election Commission
GRECO	The Council of Europe Group of States against Corruption
IDWG	Interdepartmental Group for Changes to the Election Law
LEC	Local Election Commission
NS	Naša stranka
NARS	National Assembly of RS
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
HoR of PFBiH	House of Representatives of the FBiH Parliament
HoP of PA BiH	House of Representatives of the Parliamentary Assembly of BiH
PABiH	Parliamentary Assembly of Bosnia and Herzegovina
RS	Republika Srpska
TI BiH	Transparency International of Bosnia and Herzegovina
AR	Aggregate results (form)

## 1. SUMMARY

During the period leading up to election day, October 7, the Coalition Pod lupom observed a record high number of election irregularities since the start of its election observation efforts (in 2014). There seems to be a general impression that political parties in this country do as they wish and that the law does not apply to them in the same way that it applies to ordinary citizens. This is made possible because of sluggishness of the electoral and investigation authorities to eliminate and process various electoral irregularities.

During the pre-election period, the Coalition's observers registered hundreds of cases of electoral irregularities, such as illegitimate pressure on voters, vote buying, threats of workplace firing or offers of new employment in exchange for a vote, misuse of public resources for the purpose of the campaign, voter registers not being up to date in some municipalities, illicit trading of places on the polling station committees, prohibited paid political advertising prior to the start of the campaign (three times more than during the 2016 Local elections), and other types of irregularities.

In addition, the Coalition received a number of citizens' reports about various irregularities and election fraud. Having in mind that there were far more electoral irregularities, we can assess that the pre-election period in BiH was, to say the least, chaotic.

The most concerning issue is a massive misuse of citizens' personal data for the purpose of registration for voting by mail. Several hundreds of similar cases were registered and forwarded by the Election Commission to the competent Prosecutor's Office. The enormous increase in the number of voters registered to vote by mail, especially in some municipalities and towns in BiH is a signal for the competent authorities to deal thoroughly with this problem.

Unfortunately, there were also calls to violence or discrimination against some individuals and groups, which should also be treated seriously by the competent authorities. Equally concerning are open calls and messages encouraging the violations of the law, misuse of public office and resources and mockery of citizens.

Deepening of inter-ethnic and intra-ethnic divisions, instilling fear of other and different remains to be the main characteristic of the election campaigns and programs in BiH. It is disappointing to see how political subjects that are currently in power or that were in power during the previous mandates, are still not able to look to the future, to offer prospects to BiH citizens and to provide specific solutions to many accumulated problems.

With some slight deviations in the implementation of the electoral preliminary activities, the election authorities at the local level carried out adequately all preparations for administration of elections. However, the events regarding the BiH CEC and incidents in some municipalities undermine citizens' confidence in the electoral authorities.

The election day, October 7, 2018, was carried out mostly in conformity with the Election Law of BiH and other implementing acts of the CEC BiH. A number of certain incidental situations and irregularities on the election day point to the necessity to improve the quality of election administration in BiH. However, with all that happened during election campaigning, a high number of irregularities such as vote buying, misuse of public resources, pressure on voters, misuse of voting by mail voting irregularities, and irregularities in the process of establishing the election results, these elections were not held in a democratic atmosphere in which voters could freely and without any pressure make their own informed decisions. According to the CEC BiH, the national turnout in the 2018 General elections was 53.36% and compared to the 2002 elections<sup>1</sup> this was the lowest registered turnout.

The election results were certified within the 30-day deadline. The election results were published on November 6, 2018. Legislative bodies as well as the Presidency of BiH, President and Vice Presidents of the RS that are elected directly in the general elections held their constituting sessions within the prescribed deadlines, except in the case of eight cantonal assemblies, which constituted after the deadline. Indirect elections for the HoP of the PA BiH and PFBiH were completed in February, i.e. March 2019, while the Peoples' Council of RS was elected to the NSRS in December 2018. Executive authorities at the level of BiH and Federation of BiH have still not been formed five months after the 2018 General Elections i.e. as of March 1, 2019.

The FBiH presidents and vice presidents have still not been elected and only three cantons have formed their executive government (Sarajevo, Zenica-Doboj and Una-Sana Canton). On the election day, October 7, 2018, the Coalition Pod lupom deployed nearly 4,000 observers at the polling stations across BiH. The Coalition's observers observed the election processes at 3,650 polling stations which is more than 60% of the total number of polling stations in the country. 60 mobile teams were deployed in the field and the observers also monitored the work of all 143 local election commissions.

## **Recommendations for the improvement of the electoral process in BiH**

### **Constitution and electoral legislation**

1. To implement the verdicts of the European Court for Human Rights (Sejdic-Finci, Zornic, Pilav, Šlaku) to enable both active and passive suffrage rights to all BiH citizens aged 18 or older regardless of their ethnicity or place of residence.
2. To implement the verdicts of the Constitutional Court of BiH regarding the amendments to the Constitution and Election Law of BiH and formation of the HoP of the PFBiH and elections in Mostar.
3. The Constitution of BiH and Election Law of BiH must prevent the change of ethnicity during the period of three consecutive election cycles.

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<sup>1</sup> 2002: 55,5%; 2006: 55,31%; 2010: 56,62%; 2014: 54,47%.

4. To ensure minimal representation of three constituent peoples in the representative bodies at the local level and at the level of the cantons in FBiH.

### **Electoral legislation**

5. To enable voters to scan his/her ballot papers at the polling station.
6. To introduce electronic voter identification i.e. reader of unique bar codes from valid identification documents for identification of voters at the polling station.
7. To introduce video surveillance at the polling stations to allow the insight in the events at the polling station without compromising the secrecy of vote.
8. To introduce obligation to annul elections at the polling stations where excess of ballot papers is determined;
9. To reduce the intra-party threshold for general elections in BiH to 10% to equalize it with the intraparty threshold for local elections.
10. To abolish compensatory lists so as to award compensatory mandates to candidates with the largest number of preferential votes from the regular candidate lists of political subjects at the level of the entity.
11. To shorten all deadlines from the day elections are announced until the official and complete announcement of final election results (instead current 180 to 120 days)
12. To harmonize the Election Law with the Gender Equality Law in the section concerning gender equality in the process of appointing members of the Central Election Commission.
13. To recognize in the BiH Election Law the situations when the electoral process is interrupted and establishing of the election results is not possible and set a deadline for new elections;
14. To set forth in the Election Law of BiH a substitution representative mandate to avoid the situation in which one person performs public office in the executive government and at the same time wins a mandate in the legislative government.
15. To allow everyone to file a complaint about the electoral process during all stages of the electoral process.
16. To prevent misuse of public resources in the pre-election period and for the election campaigning purposes through legal regulation of this matter.
17. To specify responsibility of political subjects for engaging in election campaign before the start of the deadline established by the Law and to specify in the Law premature campaign on social networks.
18. To improve the system of control over financial transactions of political parties during the election and non-election year by strengthening human and technical capacities of the CEC's Audit Department and by engaging other institutions that control financial transactions of legal entities.
19. To set forth that the president of the polling station committee has to be a non-partisan person who will be trained and prepared for work during non-election years through special education programs.



20. To increase fines for members of polling station committees who are found in violation of the provisions of the Election Law and the CEC's implementing acts (minimum fine 2,000 KM).
21. To set forth by the law that, besides the polling station committees' members, sanctions are to be pronounced to the political subjects that nominated the person to the polling station committee if it is found that provisions of the Election Law were violated under instruction of the political subject;
22. To launch initiative for adoption of the state Law on Political Organizations.
23. To launch parliamentary and extra-parliamentary debate on introducing special election mechanism taking into account the complexity of the constitutional structure in BiH and the four levels of government.
24. To adopt official refined version of the Election Law of BiH.

#### **The CEC BiH implementing acts**

25. To introduce additional safeguarding mechanisms to prevent misuse of voting by mail.
26. To pay special attention to the criteria of competence and experience in electoral process when appointing and approving members of the local election commissions;
27. To provide continual training for local election commissions to achieve higher efficiency during election period.
28. To sanction unjustified renouncement of the position on the polling station committee just before the Election Day by prohibiting future engagement in at least two election cycles; to set forth keeping of such records at the level of local election administration;
29. The CEC BiH should provide timely information on received complains and decision made thereon on its website;
30. To simplify the procedure for accreditation of citizen, non-partisan observers accredited by the CEC BiH by introducing a new option to send application in an electronic form.
31. To ensure a strictly adherence to provisions of the BiH Election Law and the provisions of implementation regulations that set forth the procedure of safeguarding the polling material at every polling station and to strengthen the control over delivery of the sensitive polling material from the polling stations.
32. Following the establishment of the number of unused ballots, and before the packing in the original boxes, the unused ballots should be made unusable by cutting off with scissors the lower right and left corners of the ballots.
33. To introduce separate translucent ballot boxes for every level of authority for which the ballots are cast.
34. To lower the height of voting booths to the maximum height of 30 cm to prevent certain irregularities while guaranteeing secrecy of the.
35. To technically improve preparation of the copies of the aggregate results forms so the latter would be legible, and after all processes at the polling station are completed the copies should be openly displayed as prescribed.

## 2. POLITICAL CONTEXT

The political context in which the 2018 General Elections in BiH were held represented a serious challenge to implementation of democratic, free and fair elections in BiH. The failures to implement the verdicts of the European Court for Human Rights (ECHR)<sup>2</sup>, premature and negative election campaign abundant with means and methods to attract voters' affection including open and unsanctioned violations of the Election Law, inability to implement the election results due to failure to implement the decision of the Constitutional Court of BiH in the Ljubic case, the record-high number of irregularities since the Coalition Pod lupom has started observation of elections<sup>3</sup> and public distrust in the election administration are indicators of the alarming situation regarding the state of democracy and elections in BiH.

It is therefore imperative to launch changes of the Election Law of BiH, even though we are aware of the diametrically opposed positions of the key political parties. This negative political environment was in light of protests of BiH citizens who were peacefully expressing their dissatisfaction with the lack of work of the legislative, executive and judicial institutions responsible to provide equality and legal security to all citizens. Movements "Justice for David" and "Justice for Dzenan", which were frequently referred to and went by the same name were unavoidable elements of the political context of the recent elections. With a slightly lower intensity, the movements are still active. Simultaneously, other groups of citizens protested, primarily the veteran associations and other categories, workers, mainly in the Federation of BiH.

Physical attacks on journalists that were later characterized as murder attempts, pressure of the ruling structures on editorial policies of electronic media including the PBS, whose main goal is to serve citizens and not political parties, marked the election period. Illicit pressures on voters, non-partisan observers of the Coalition Pod lupom are the already seen examples of intimidations and non-democratic principles of individuals and institutions, under mentorship of government at various levels with a goal to cover their unlawful practices and prevent freedom of speech and expression of different opinion.

It is evident that the BiH's road to the Euro-Atlantic integrations has slowed down and that there are apparent failures to carry out the assumed obligations and reforms due to the contrasting political views of the country's future. This is evident especially in the example of the EU questionnaire for acquiring a candidate status, as there are still questions that have not been answered despite the government's promise that all deadlines set forth by the EU would be respected. This shows lack of accountability on the part of the government primarily toward BiH citizens and then toward the EU institutions.

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<sup>2</sup> Four verdicts of the European Court for Human Rights confirming the constitutional discrimination against BiH citizens on the grounds of passive suffrage and/or place of residence have not been implemented in the local legislation even though eight years had gone by since they were passed.

<sup>3</sup> More in the continuation of this report

In the 2018 General Elections, for the first time after 18 years, BiH citizens voted on *de facto* “closed” candidate lists. The intra-party threshold of 20% (it was 5% before) that is too high according to the recommendations of the relevant stakeholders in the field of elections<sup>4</sup>, was used for the first time in the 2018 General elections. As a result, 10% fewer candidates passed the intra-party threshold<sup>5</sup>. This represented a direct hit on power of decision making that shifted from citizens' hands into the hands of political subjects. In simple terms, it was mainly political subjects deciding on who will represent citizens in parliaments/assemblies at various levels, rather than the citizens voters.

What needs to be additionally actualized and reiterated is the fact that the current Election Law of BiH does not determine the final deadlines for the formation of executive government or the penalties in the case of violating the existing deadlines for the formation of legislative government. There is also the fact that the election legislation of BiH does not foresee “special elections” as a possibility or a mechanism for removing potential blockages of the system to allow a normal functioning of the country's political life in certain situations which had emerged and which might emerge in the future due to shortcomings in the Election Law.

Especially concerning is emigration of BiH citizens to other countries because they are losing hope and perspective that things could change for the better in BiH, because of corruption, nepotism and other negative phenomena in the social and political life. The reason is lack of trust in the political establishment and its intention to initiate changes to create assumptions for BiH to become a country in which citizens will feel safe in an environment of mutual understanding and trust. This is reflected primarily in the public's trust in the institutions that should provide human and civil rights.

Finally, there is still a lot of work ahead of BiH on improving democratic standards and electoral culture. The pre-condition is to have politics responsible to citizens, as they are the ones who elect and pay, and to have rule of law based on the principle of equality of all before the law. This means that the current practices and politics must undergo serious changes. This refers primarily to the work of government in the interest of all citizens and introduction of the EU standards that guarantee free and fair future elections in the country and faster EU integrations.

One would hope that this is possible, and one should strive towards that. However, this does not imply that one should turn blind eye to all negative phenomena in our society, especially to corruption and crime. On the contrary, there needs to be a continuity in the work to point to the observed anomalies, to reduce them, and eventually, to uproot them completely.

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<sup>4</sup> These changes are also in disharmony with the standards of good practice and recommendations of the Venice Commission „Report on proportional electoral systems: the allocation of seats inside the lists (open/closed lists)“: <https://bit.ly/2S2iyPF>

<sup>5</sup> On a sample of 5,624 candidates of the parliamentary political subjects at the state and entity levels in the previous mandate, for any level of authority in the 2018 General elections

### 3. LEGAL FRAMEWORK AND ELECTION SYSTEM

#### 3.1. Legal framework

The legal framework in Bosnia and Herzegovina is very complex, since it has abundance of unique constitutional solutions. The Constitution of Bosnia and Herzegovina is the Annex IV of the Framework Agreement for Peace in BiH (so-called the Dayton Peace Agreement), which entrusts limited competencies to the State institutions, while most of the competencies are entrusted to the entities – the Federation of BiH (FBiH) and Republika Srpska (RS), but also to the cantons in the Federation of BiH. The Brčko District of BiH has a special status as a unit of local self-government, under the sovereignty of BiH and it is held in a condominium by both entities.

The Dayton Peace Agreement also established the Office of the High Representative (OHR), which has significant authority and which is de facto a part of the constitutional structure. The specificity of the constitutional solutions in BiH is reflected in the concept of “constituency” of the people (Bosniaks, Croats and Serbs), while the citizens who do not belong to any of the constituent peoples or who do not declare their ethnic affiliation are called “Others”. This represents discrimination against the ones who do declare their national/ethnic affiliation, and these are members of the national minorities<sup>6</sup>, but also against the ones who decided not to declare their ethnic/national affiliation. The important and binding verdicts of the European Court for Human Rights<sup>7</sup> whose implementation will inevitably lead to changes of the Constitution and Election Law of BiH in terms of abolishing the current discrimination against BiH citizens in exercising their passive suffrage, have still not been implemented. The responsibility lies with the PA BiH i.e., political parties in the country that participated in the work of the PA BiH during the previous two terms.

One has to mention the fact that the Decision of the BiH Constitutional Court from the year 2000 has not still been completely implemented. The decision guarantees equality of all three peoples on the entire territory of BiH, thus neutralizing the fact that representatives of these three peoples, depending in which entity they live, do not have the passive voting right. The BiH Election Law is the organic law for organizing and administering the elections<sup>8</sup>. The law underwent 20 changes and addenda up to date<sup>9</sup>. The latest changes to the Election Law were passed in April of 2016 following the proposal of the Interdepartmental Working Group for Changes to the Electoral Legislation<sup>10</sup>

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<sup>6</sup>National minorities in BiH are defined under the Law on National Minorities in BiH

<sup>7</sup> Verdicts of the European Court for Human Rights in the cases Sejdić-Finci, Zornić, Pilav and Šlaku vs BiH

<sup>8</sup>The Laws relevant for organization and administration of elections in BiH are: the RS Election Law, The Brčko District Election Law, the Law on Direct Election of Mayors in FBiH, and other election-related legislation: Law on the Financing of Political Parties, Law on Citizenship, Law on Conflict of Interest in the government institutions in BiH, the Law on permanent and temporary residence of BiH citizens, the Law of Brčko District on the selection and change of the entity citizenship, and all CEC's regulations.

<sup>9</sup>Official Gazette BiH, number 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

<sup>10</sup> Interdepartmental Working Group formed by the Conclusion of both Houses of the PA BiH in May 2015 started its activities on October 14, 2015; it is comprised of three representatives of the CEC BiH, three representatives of the

As in the case of amendments to the Law during the year 2014, just before the General Elections, this kind of practice is not in line with the Code of Good Practices in Electoral Matters of the Venice Commission, which recommends no changes to the Election Law to be made during the election year. A total of 32 amendments to the Law were adopted, most of which are technical in nature. The key changes related to increase of intra-party threshold of won votes for allocation of mandates in local elections (municipal council/assembly) from 5 to 10%, while for the general elections, i.e., elections to the cantonal assemblies, the threshold was increased from 5 to 20%. Raising the threshold in this context represents additional closing of the lists, i.e. reduced voters' influence when electing their representatives, and higher influence of political subjects.

The Venice Commission is, also, of the opinion that a high intra-party threshold/preference threshold, which is quite rare, may *de facto* imply closed lists although preferential voting is present. A moderate intra-party threshold or preference threshold from 5 to 7% provides good possibilities for voters to affect candidates' lists<sup>11</sup>. In terms of gender equality, equal gender representation was also introduced for the compensatory lists, which was earlier was not the case. It implies 40% of underrepresented gender with a sequence in nomination of the candidates so that at least one candidate of underrepresented gender is amongst first two candidates, two amongst first five candidates, three amongst first eight candidates, etc.

The legal solutions do not imply guaranteed mandates to ensure gender equality. Throughout 2017 the Coalition Pod lupom continued to monitor the work of the Interdepartmental Working Group for changes to the election legislation (IDWG) that during 2016 prepared a set of changes to the Election Law of BiH. The Commission, working as a temporary joint commission of the IDWG i.e., as an ad hoc commission for reviewing the execution of preparation of a certain act or investigative commissions, has the same composition as the previous working group comprised of representatives of the CEC BiH, Council of Ministers and HoR of the PA BiH. The joint commission of the IDWG started its activities in February 2017, however it came to a deadlock due to political influence and disagreements of the IDWG members about some key issues regarding the modifications of the election legislation. The sessions lacked quorum. Consultation meetings took place instead, but there was no meaningful work of the Commission.

The Decision of the Constitutional Court of BiH<sup>12</sup> on the appeal filed by Bozo Ljubic, the then chairman of the HoR of the PA BiH marked the period following the 2016 Local Elections. The Constitutional Court established that the provision of Sub-chapter B, Article 10.12 (2), in the part stating that each of the constituent peoples shall be allocated one seat in every canton and the provisions of Chapter 20– Transitional and Final Provisions of Article 20.16 A (2), items a-j of the Election Law of Bosnia and Herzegovina are not in conformity with Article I(2) of the Constitution

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HoR of the PA BiH, three representatives of the HoP of the PA BiH and three representatives of the Council of Ministers.

<sup>11</sup> The Venice Commission Report on Proportional Electoral Systems; the allocation of seats inside the lists (open/closed lists) <https://bit.ly/2S2iyPF>

<sup>12</sup> [https://www.izbori.ba/Documents/2017/4/12/Odluka\\_Ustavnog\\_suda\\_BiH\\_po\\_apelaciji\\_dr\\_Boze\\_Ljubica.pdf](https://www.izbori.ba/Documents/2017/4/12/Odluka_Ustavnog_suda_BiH_po_apelaciji_dr_Boze_Ljubica.pdf)

of Bosnia and Herzegovina. This refuted the method of election of delegates to the HoP of the FBiH Parliament and ordered the PA BiH to harmonize the provisions with the Constitution of BiH within six months. Two proposals submitted by HDZ BiH<sup>13</sup> and SDA<sup>14</sup> were not adopted due to their diametrically different positions and solutions proposed. Later on, in the HoR of the FBiH Parliament, SDP and DF introduced a proposal of the Law on Electoral Constituencies and the number of mandates of the FBiH Parliament <sup>15</sup>. This proposal did not receive support either. Hence, the legislator failed to resolve the issue before the October 7 General Elections, which seriously questions the implementation of the election results pertaining to the formation of the HoP of the PFBiH, the HoP at the level of BiH and the executive government at the level of the FBiH.

Following the elections, politicians engaged in discussions on who is responsible to regulate this issue and the ways how to form the HoP in light of the mentioned decision. The CEC BiH assumed the responsibility and in December 2018 prepared the *Instruction on the procedure for implementation of direct elections for the authorities in BiH covered in the Election Law BiH*<sup>16</sup> providing that the filling of the HoP of the PFBiH shall be based on the results of the 2013 census, applying the principle 1-1-1 which means that one Bosniak, one Croat and one Serb from every canton is elected to the HoP, if elected. SDA submitted a request for assessment of constitutionality of the Instruction, however, the Constitutional Court has declined its jurisdiction over this matter.

During 2017, the CEC BiH prepared the working material for modifications to the Election Law of BiH. The analysis observed several proposed changes that were seen as a step forward in improving the electoral legislation. The Working material also included the Coalition's recommendations that had been made after a thorough observation of the 2014 General Elections and 2016 Local Elections in BiH. The most important changes and amendments proposed by the CEC BiH include:

The following proposals were never introduced to parliamentary procedure or were not part of any serious discussion: to introduce an independent function of the president of the polling station committee who is to be elected through public competition during non-election year and appointed by local election commissions that will be responsible for his/her work; to introduce fines for political subjects that nominated the person to the polling station committee if it is found that provisions of the Election Law were violated; to prevent misuse of public resources by setting forth in the Election law provisions on prohibiting the use of public resources for the purpose of personal or political party promotion; to introduce early voting for eligible voters who, due to justified reasons are not able to vote at their polling stations on election day; to prevent

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<sup>13</sup> <https://bit.ly/2INZ1Tj>

<sup>14</sup> <https://bit.ly/2GZLNRT>

<sup>15</sup> <https://bit.ly/2GW15qB>

<sup>16</sup> Instructions of the CEC BiH: <https://bit.ly/2GZARn8>

misuse of ethnic affiliation by setting forth a provision that the ethnic affiliation of the candidate stated in the 2013 census will be taken into account should there be a sudden change. The reasons why these proposals were never introduced to parliamentary procedures were not known, and one assumption is that serious political questions pushed aside once again the essential improvements of the election process.

The amendments to the Election Law were prepared by the Coalition Pod Lupom. Since the Coalition cannot propose the amendments to the law or introduce them to parliamentary procedure, the proposal was sent out to all MPs in the PA BiH, after which a group of MPs introduced the proposal to parliamentary procedure. The proposal referred to introduction of mandatory annulment of elections at a polling station at which excess of ballot papers was determined; appointment of the independent president and vice presidents of the polling station committee according to the procedure established by the CEC BiH; public disclosure of names of members of the polling station committees including the information about the political party that nominated them; to introduce “*or electronic*” in article 6.2. of the Election Law which discusses the methods of voting; to specify situations or activities when elections are interrupted due to higher force or violence; to expand a pool of persons eligible to file a complaint against observers and candidates of political subjects. This proposal was endorsed in the first reading in the HoR of the PA BiH. Unfortunately, the proposal was not adopted in the later procedure.

Even though some serious changes to the Election Law had been announced during the 2014 General Elections, it can be inferred that there was no political will or political consensus required to carry out reforms in a transparent and inclusive manner. The current Election Law still fails to specify the deadlines for the formation of legislative government at all levels. The Election Law does not recognize “special elections” that can serve as a mechanism to deblock the government in certain situations prescribed by the law.

### **3.2. Election system**

The election system of BiH is based on Annex III (Agreement on Elections) and Annex IV (Constitution of Bosnia and Herzegovina) of the General Framework Agreement for Peace in BiH, and on the BiH Election Law. The mandate of the elected officials at all levels of authority is four years, but election cycles for local levels of authority do not coincide with election cycles for the higher levels of authority.

Reflecting a very complex constitutional structure of BiH the election system represents a combination of almost all known election systems: majority system, single-member and multimember constituencies for election of members of the BiH Presidency, president and vice presidents of RS, as well as for election of the city/municipal mayors and the proportional system with multi-member constituencies for election of the legislative bodies at the state/entity/cantonal level and representative bodies at the local level. The Election Law sets forth an electoral threshold of 3% and political subjects that pass the threshold are qualified to participate in distribution of regular mandates and it is applied to all electoral races under the

proportional representation system. On the semi-open candidates' lists the voters can, besides the political subject, give their vote to some of the candidates on that list. The preferential method is used to determine whom of the candidates won the confidence of the political party's voters, based on which it is determined who had won the individual mandate.

The intraparty threshold for election to all representative bodies in 2018 General elections was raised from 5% to 20%. The Election law anticipate compensatory mandates that are distributed to political parties or coalitions, but not to independent candidates, according to the number of valid votes and they serve to compensate which serve to compensate for scattered votes resulting from existence of constituencies. By looking at the bigger picture, the compensatory mandates should increase representation of women in legislative bodies and be reflective of a larger national, age or geographic representation. In practice however, political parties put on the compensatory lists the candidates whom they want to win a mandate, considering that a system of closed lists is applied in distribution of the compensatory mandates.

In General Elections in BiH, members of the Presidency of BiH, representatives in the HoR of the PA BiH, National Assembly RS, presidents and vice presidents of RS and members in the assemblies of all ten cantons in FBiH are elected directly. The HoP of the PA BiH and PFBiH, the Council of Peoples of RS are formed through indirect elections.

The two members of the BiH Presidency (Bosniak and Croat) stand for the office and are elected from the territory of the FBiH as one constituency<sup>17</sup>, whilst the third member of the BiH Presidency (Serb) stands for the office and is elected from the territory of RS as one constituency.

The Parliamentary Assembly of Bosnia and Herzegovina is bicameral – House of Representatives and House of Peoples. Out of the 42 members of the House of Representatives of the BiH Parliamentary Assembly 28 members are elected in the FBiH (from five multi-member constituencies), and 14 members are elected in Republika Srpska (from three multi-member constituencies). 21 members are elected directly from the FBiH under the proportional representation system, whilst remaining 7 mandates are so-called compensatory mandates, which serve to compensate for scattered votes resulting from existence of constituencies. The same electoral principle is used to distribute 14 mandates from Republika Srpska, where 9 members are elected directly, while remaining members are determined from the compensatory lists.

The legal obligation of all representative bodies is to review the number of registered voters and the boundaries of constituencies every four years in order to ensure equal value of the vote, but in practice it did not happen except in the case of RS<sup>18</sup>. However, it is evident that these do not ensure equal value of every individual vote<sup>19</sup>.

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<sup>17</sup>One voter may vote only for one candidate proposed for the BiH Presidency

<sup>18</sup>Exception is the RS National Assembly that changed the boundaries of constituencies in 2012

<sup>19</sup>For example, number of voters in constituency 1 for HoR BiH PA from RS is two me higher than the number of voters in constituency 3, and both give the same number of mandates, 3 mandates each.



Table 1: Overview of the weight of votes by constituencies – Parliamentary Assembly of BiH – direct mandates

Constituency	Number of voters	Direct mandates	Compensatory mandates	Vote value	Deviation +/- u relative to 100%	Corrections to compensatory mandates	Deviation with corrections
F BiH 1A (511)	319,662	3	0	106,554	95.3	106,554	133.4
F BiH 2A (512)	268,640	3	1	89,547	80.1	67,160	84.1
F BiH 3A (513)	441,354	4	3	110,339	98.7	63,051	78.9
F BiH 4A (514)	555,497	6	1	92,583	82.8	79,357	99.3
F BiH 5A (515)	508,631	5	2	101,726	91.0	72,662	91.0
RS 1B (521)	571,192	3	3	190,397	170.2	95,199	119.2
RS 2B (522)	393,756	3	1	131,252	117.3	98,439	123.2
RS 3B (523)	296,697	3	1	98,899	88.4	74,174	92.8
<b>Total</b>	<b>3,355,429</b>	<b>30</b>	<b>12</b>	<b>111,848</b>	<b>100.0</b>	<b>79,891</b>	<b>100.0</b>

Such a high disparity is contrary to the provisions of the Code of Good of Practice in Electoral Matters of the Venice Commission<sup>20</sup> which recommends that disparity in number of voters by constituencies can in some rare cases exceed 10%, and exceptionally 15%, but only in case of huge geographic and/or administrative areas with small number of voters. And while the disparity in the two constituencies for the HoR of the PA BiH in FBiH exceeds 20%, the disparity in one of three constituencies in Republika Srpska is even 70%. The delegates in the House of Peoples of the BiH PA are elected indirectly in the entity parliaments.

The HoR of the PFBiH has 98 members, and a minimum number of four (4) members of each constituent people must be represented in the HoR of PFBiH. The largest part of the mandates (24 or around 75%) is determined within 12 multi-member constituencies, while the remaining mandates are determined from the compensatory lists. Neither the PFBiH, similar to the PABiH, did reconcile the size of constituencies despite their constitutional obligations of parliaments at the state and entity levels every four years, which led to enormous disparities (see the table below). Also there is a HoP of the PFBiH consisting of 58 delegates, 17 representatives of each constituent people and seven representatives of the group of Others, who are nominated amongst the members of the Cantonal Assemblies in line with the BiH Election Law. The members of ten Cantonal Assemblies are also elected in the BiH Federation. The number of members in these Assemblies varies between 20 and 35 depending on the number of voters registered in the Central Voters Register.<sup>21</sup>

Table 2: Overview of the weight of votes by constituencies – Parliament of FBiH – direct mandates

<sup>20</sup> The Venice Commission's Code of Good Practice in Electoral Matters: <https://bit.ly/2K91F6S>

<sup>21</sup> The Cantonal Assemblies having less than 75,000 voters registered in the CVR have 20 to 25 members; the Cantonal Assemblies having 75,000 to 200,000 voters have 25 to 30 members, and the Assemblies having more than 200,000 registered voters have 30 to 35 members

Constituency	Number of voters	Direct mandates	Compensation mandates	Vote value	Deviation +/- relative to 100%	Corrections to compensatory mandates	Deviation with corections
F BiH 1 (401)	254,621	9	1	28,291	98.6	25,462	119.2
F BiH 2 (402)	167,028	5	5	33,406	116.5	16,703	78.2
F BiH 3 (403)	204,641	7	4	29,234	101.9	18,604	87.1
F BiH 4 (404)	136,962	4	1	34,241	119.4	27,392	128.2
F BiH 5 (405)	231,993	8	1	28,999	101.1	25,777	120.6
F BiH 6 (406)	97,502	4	0	24,376	85.0	24,376	114.1
F BiH 7 (407)	226,940	6	4	37,823	131.9	22,694	106.2
F BiH 8 (408)	226,002	9	1	25,111	87.6	22,600	105.8
F BiH 9 (409)	195,693	8	2	24,462	85.3	19,569	91.6
F BiH 10 (410)	72,947	3	1	24,316	84.8	18,237	85.4
F BiH 11 (411)	214,414	7	5	30,631	106.8	17,868	83.6
F BiH 12 (412)	65,041	3	0	21,680	75.6	21,680	101.5
<b>TOTAL</b>	<b>2,093,784</b>	<b>73</b>	<b>25</b>	<b>28,682</b>	<b>100.0</b>	<b>21,365</b>	<b>100.0</b>

If a political subject, which had won a compensatory seat, does not have enough eligible candidates of the relevant constituent people on its list to meet the minimum of four members, the mandate is transferred to the next candidates' list having received the highest number of votes and having such candidates left on its compensatory list, until the minimum is met<sup>22</sup>. Similar solutions are in place for the election of 83 members of the National Assembly of Republika Srpska.

The National Assembly and the Council of Peoples are the legislative authority in Republika Srpska. A total of 83 members of the National Assembly are elected from nine multi-member constituencies and the Council of Peoples is composed of eight Serbs, eight Bosniaks, eight Croats and four representatives of the group of Others, who are elected by their respective caucus in the National Assembly of RS, and whose main function is to initiate procedure for the protection of the vital national interest.

Table 3: Overview of the weight of votes by constituencies – National Assembly of RS - direct mandates

Constituency	Number of voters	Direct mandates	Vote value	Deviation +/- relative to 100%
RS 1 (301)	149,050	8	18,631	122.6
RS 2 (302)	146,042	8	18,255	120.1
RS 3 (303)	276,100	21	13,148	86.5
RS 4 (304)	85,169	5	17,034	112.1
RS 5 (305)	122,565	6	20,428	134.4
RS 6 (306)	186,022	11	16,911	111.3
RS 7 (307)	116,742	10	11,674	76.8
RS 8 (308)	69,945	5	13,989	92.0
RS 9 (309)	110,010	9	12,223	80.4
<b>Total</b>	<b>1,261,645</b>	<b>83</b>	<b>15,201</b>	<b>100.0</b>

<sup>22</sup>Similar to 2014, misuse of national affiliation has been observed for the purpose of increasing chances for winning a mandate

## 4. ELECTION ADMINISTRATION

The election administration of Bosnia and Herzegovina consists of election commissions and polling station committees. The election commissions are: the Central Election Commission of BiH (CEC)<sup>23</sup>, municipal/city election commission and the Election Commission of Brčko District of BiH<sup>24</sup> (hereinafter: the local election commissions). The CEC BiH and 143 local election commissions in BiH are permanent bodies that are paid for their work during both election and non-election period. Beside the above-mentioned commissions the BiH Election Law provides possibility of establishing entity and cantonal election commissions. The Entity Election Commissions are established in line with the entity law, while their competence is to be defined by the BiH CEC<sup>25</sup>.

Polling station committee are appointed by the local election commissions separately for every election. The mandate of the members of election commissions is seven years, while the members of the polling station committees are appointed for every election. The members are appointed by political parties in the representative bodies at various government levels and all members of the polling station committees are directly appointed by political subjects. If we add to this a large number of political party observers on Election day, it can be inferred that the election process in BiH is entirely politicized and it serves primarily to protect the interests of political subjects rather than the electoral rights of the citizens. In fact, the only non-political, non-partisan representatives in the elections in BiH are citizens, nonpartisan observers.

### 4.1. Central Election Commission of Bosnia and Herzegovina (CEC)

The BiH Central Election Commission (CEC) is responsible for organizing and conducting the elections<sup>26</sup>. The CEC is in the category of the permanent election administration; it is appointed by the PA BiH and it has seven members: two Bosniaks, two Serbs, two Croats and one "Other" member'.

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<sup>23</sup> In the period from 1996 to 2000 the competence to conduct the elections was vested with international organizations, primarily the OSCE. In this period, the international organizations organized and conducted the elections through the Provisional Election Commission in accordance with the so-called election rules and regulations. The BiH Election Law, which was passed in 2001, set forth establishment of a permanent BiH Election Commission. The domestic members replaced three international members of the Election Commission (two representatives of the OSCE, and one representative of the OHR) by the changes and addenda to this Law in 2006, and the commission changed its name to the Central Election Commission of BiH (BiH CEC).

<sup>24</sup>Total 143 election commissions at the local level including the Brcko District of BiH

<sup>25</sup> Such a commission was established in Republika Srpska in 2008 in accordance with the RS Election Law, but its activities are still not visible to the public. Having in mind that no separate election law had been passed in the FBiH, there is no entity commission.

<sup>26</sup> Since 2002 the BiH CEC completely organized and conducted seven elections: five regular elections (2002, 2006, 2010, 2014 and 2018) were conducted for the state, entity and cantonal bodies of authority, and four regular elections (2004, 2008 2012 and 2016) for the local bodies of authority, including the Assembly of Brčko District of BiH. The BiH CEC also conducted the early elections for the President of RS in 2007.

During its regular activities, the CEC monitored and fulfilled certain obligations anticipated in the Election calendar and observance of the deadlines. While carrying out its regular activities, the CEC BiH mainly monitored and fulfilled the obligations anticipated in the electoral calendar in line with the deadlines set forth. As similar to previous elections, in a number of cases in the 2018 General Elections the CEC failed to respond to many observed problems, shortcomings and irregularities in the election process, especially regarding the sanctions against violators. The CEC BiH should react more to protect the integrity of the electoral process. It should react to non-partisan observers' reports, especially those in connection with allegations of trading of the positions on polling station committees prior to election day. Also, this includes the Coalition's reports about the observed anomalies in the polling stations regarding the number of invalid ballots, the extremely high percentages of preferential votes in the basic constituency Zvornik and many registered irregularities in the polling stations during the election day. With this approach the CEC diminishes its credibility of an independent institution that is responsible primarily for the legality of the electoral process.

Several high-profiled affairs shook the public confidence in the work of CEC. In February 2018, the working material of CEC concerning a potential model for filling the House of People of the FBiH Parliament leaked in the public, after the Constitutional Court repealed the provisions of the Election Law referring to the latter. Even though this was the working material, some media and political leaders saw it as an attempt to impose unconstitutional and discriminatory solution to this issue. However, the biggest harm inflicted on CEC's reputation is the fact that the working material leaked in the public, which can be seen also as an internal political or some other conflict that damages the credibility and public's confidence in this institution.

In April 2018, the information emerged in the public about disappearance of 35.8 tons of paper procured for printing of ballot papers. The BiH CEC denied these allegations while appearing confused and providing contradictory information and failing to explain to the public the situation regarding the disappearance of the paper.

Some political subjects took advantage of the situation to bring into question the regularity of the October elections. Currently, the Special Investigation and Protection Agency of BiH by order of the Prosecutor's Office of BiH is carrying out the investigation into the disappearance of dozens of tons of paper from CEC's warehouse.

In implementing its regular activities, the CEC BiH mostly monitors and carries out the obligations set forth in the electoral calendar. The only delay was registered in 19<sup>27</sup> basic election units, the election commissions did not receive the overview of the political subjects certified by the CEC by August 5, 2018, which was the deadline.

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<sup>27</sup>Brčko Distrikt BiH, Čapljina, Centar Sarajevo, Grude, Hadžići, Ljubuški, Neum, Novi Grad Sarajevo, Novo Sarajevo, Sanski Most, Šekovići, Široki Brijeg, Stolac, Vareš, Velika Kladuša, Zavidovići, Zenica, Žepče and Živinice

In the 2018 elections, the BiH CEC approached more seriously to the training of presidents and members of the polling stations and members of municipal/town election commissions. This was done by creating a *Uniform methodology for preparing a plan and program of training for members of the polling station committees in BiH*, and the supporting implementing documents.

This methodology anticipates a unified training for members of municipal/town election commissions and members of the polling station committees as well as an exam after completion of the training. The exam for members of the polling station committees is foreseen to take place five days after the training while municipal/town election commissions are required to conduct additional training for presidents of the polling station committees and their deputies. Successful completion of the exams is a requirement for all members of the polling station committees prior to their employment on Election Day. The Coalition's observers participated in a regional, mandatory education for presidents and members of municipal/town commissions in Sarajevo, which was organized by CEC BiH, and which was assessed by the observers as a well-organized and beneficial education.

In the 2018 elections, the CEC BiH introduced several novelties based on the Coalition's recommendations: The CEC BiH passed a Decision to introduce a translucent ballot box, to reduce the height of voting booths and to disclose publicly the names of members of the polling station committees including the political subject that appointed them. These are three (3) out of ten (10) of the Coalitions recommendations for better elections. The Coalition advocated for introduction of translucent boxes for each government level, while lowering the height of voting booths for these elections did not produce desired effects, i.e. they remained too high. Public disclosure of named and surnames did not produce desired effects because the lists were not placed at 21% of polling stations, while at a certain number of polling stations placed the polling station code instead of the polling station number, which fails to provide specific information about who is represented by the Polling Station Committee at the polling station. In order to prevent misuse of pens used by the polling station committees on Election Day, the Rules on a method of implementing the elections in the part concerning the filling out of the forms in a polling station was modified. The modification implies the use of a red-ink pen for filling out the forms at the polling station, while voting is done with a blue-ink pen.

The sessions of the CEC BiH are open for public and were covered by a number of media outlets. An aggravating circumstance was that the sessions were frequently announced just a few minutes before their start, especially in the period after the elections and up to the announcement of the final results. This hindered the media and accredited observers to monitor adequately the work of the CEC. Since the day of the announcement of the election until the certification of the results, the CEC BiH held 63 sessions, which is the exact same number of sessions that the CEC held in Local Elections 2016. Communication with the public is dissatisfactory in the segment concerning the information about all important aspects of the election process, especially of importance to the voters, availability of the CEC's members to take

part in various media and other public appearances in order to provide a timely and accurate information to voters.

As in the previous election cycles, the transparency of the CEC's work could be improved significantly by providing access to all decisions made by the Commission during its sessions, especially after Election Day in the segment of the protection of the electoral right.

#### **4.2. Local election commissions (MEC/City election commissions, Election Commission of Brcko District of BiH)**

The election commissions at the local level are, inter alia, responsible for designating polling stations, establishing polling station committees, providing training to the polling station committees, organizing the Election Day and compiling the results of elections from all polling stations on its territory. Depending on the number of voters on its territory the local election commission can have three (3), five (5) or seven (7) members

The composition of the local election commissions according to the Election Law of BiH and Law on Gender Equality of BiH should reflect gender representation of at least 40% of the underrepresented gender. This provision does not apply to the composition of the CEC BiH, due to unknown reasons.

While observing the pre-election period of the 2014 General Elections, the Coalition noted that even though local election commissions worked in line with the Election Law and procedures, their work was not systematically organized, and it often happened that sessions were unannounced and without agenda, etc. The CEC BiH recognized the same and in May 2016 adopted the *Instruction on method of work and reporting of the election commission of a basic constituency in BiH*, which more closely regulated the work of the local election commissions.

Among other things, the Instruction set forth the adoption of Rules of Procedure by local election commissions, which was fully observed by all local election commissions in BiH. The Instruction also envisions that local election commissions may appoint secretary and/or technical secretary, which was done by 69 (48%) local election commissions. The majority of local election commissions carried out adequate preparations for elections. From July 23 to October 1, 2018, local election commissions held 889 sessions.

All members of the local election commissions were present at 767 sessions or 86.27% of the total 889 sessions, while all members were not present at 122 sessions. Besides, a number of telephone sessions took place. All local election commissions operate in full capacity. The composition of the election commissions, according to the provisions of the Election Law BiH and Law on Gender Equality, must reflect gender representation of at least 40% of underrepresented gender, which was observed in 91.6% of local election commissions. It was recorded that election

commissions in 12 municipalities<sup>28</sup> did not meet the gender requirement. Government at the local level is required to secure conditions for the work of the election commissions. In terms of the working conditions of the election commissions of the basic constituency, it was registered that 11 elections commissions<sup>29</sup> faced problems in their work, such as inadequate premises or equipment.

The Coalition's observers reported that the Voters Register Centers in all municipalities/towns were available to the citizens, except in Ključ, where the Municipal Election Commission assumed respective duties and in Bosansko Grahovo, where a person was not appointed as a substitute for a worker on sick leave. During the reporting period that covers ten weeks of reporting, the Coalition's observers learned that 29 objections were filed with local election commissions, of which 28 address the General Elections and one refers to the appointment of the members of the Local Ward Council. The Coalition Pod lupom observers have mostly positive experiences in working with local election commission. Some problems in communication with observers (which mainly concern the failures to provide notice of sessions) were reported in only 14 out of 143 local election commissions.

#### **4.3. Polling station committees**

The polling station committees directly manage activities at the polling station, ensure regularity and secrecy of the vote, and record the results. The PSCs have 3 or 5 members and their deputies depending on the number of voters at the polling station. A total of 5,380 polling station committees were appointed for the 2018 General Elections for regular polling stations<sup>30</sup>.

Members of the polling station committees are nominated by political subjects, and in case when political subject do not do that, the members are then nominated by the local election commissions. Unfortunately, a single large irregularity that has been registered in every election cycle is a so-called trading of places on polling station committees. The Coalition insists that at least president and deputy president of the polling station committee should be nonpartisan persons, which would contribute to a more professional work of this body. The training for members of the polling station committees in the 2018 General Elections in BiH was carried out within the prescribed deadline, however, more than 1000 members of the polling stations renounced their positions 48 hours before the Election Day. This placed an enormous burden on the local election commissions to nominate and train additional members, which certainly reflected on the quality of the election day administration. See Chapter 8 for more on Election Day irregularities.

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<sup>28</sup> Bosanski Petrovac, Bosansko Grahovo, Domaljevac - Šamac, Glamoč, Krupa na Uni, Kupres (RS), Novi Grad Sarajevo, Novo Sarajevo, Petrovac, Široki Brijeg, Stolac and Zvornik.

<sup>29</sup> Election commissions in Bosansko Grahovo, Donji Žabar, Glamoč, Eastern Mostar, Livno, Maglaj, Pelagićevo, Ribnik, Sokolac, Usora and Vukosavlje.

<sup>30</sup> A total of 5,794 polling stations were formed; 5,380 regular and 128 for voting in absentia, 141 polling stations for voting in person and 145 polling stations for voting on tendered ballots

#### **4.4. Observance of deadlines anticipated in set in the electoral calendar**

One of the election commissions' requirements is to designate the number and type of the polling stations by the deadline set in the calendar of electoral activities. The vast majority of local election commission designated the number and type of the polling stations by August 3, while 9<sup>31</sup> of them failed to do so.

With regards to observance of other deadlines set forth in the electoral calendar, 21<sup>32</sup> municipal/town election commissions failed to assign the positions on polling station committees to the political subjects by August 8. In other words, they failed to carry out a draw for members of the polling station committees thus violating the deadline of this activity. Some of them claimed that they had received approval from the CEC BiH to prolong the draw.

In more than a half of municipalities and towns in BiH, the political subjects failed to submit their proposals for members of the polling station committees by August 15. According to information from these election commissions, the BiH CEC prolonged the deadline to August 20. This situation raises a question of why there are deadlines if they are to be violated without any consequences or prolonged by the CEC's decision, which then affects other activities of the local election commissions.

The deadline for the training of the polling station committee members is October 5, 2018. A vast majority of the LECs observed the deadline. The Coalition's observers attended 111 training sessions for the Polling Station Committees across the country and assessed them with average grade of good-very good.

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<sup>31</sup> Čapljina, Čitluk, Gračanica, Ilijaš, Ljubinje, Mrkonjić grad, Novi Grad Sarajevo, Novo Sarajevo and Velika Kladuša.

<sup>32</sup> Election commissions in Berkovići, Bosansko Grahovo, Busovača, Čelić, Dobojug, Dobretići, Donji Žabar, Drvar, Eastern Mostar, Jajce, Kreševo, Kupres (RS), Milići, Novi Grad, Ribnik, Srbac, Teočak, Tešanj, Tomislavgrad, Usora and Vogošća.



## 5. PRE-ELECTION PERIOD

### 5.1. Registration of political subjects and candidates

In accordance with the BiH Election Law the BiH CEC certifies political subjects<sup>33</sup> for the elections. For 2018 General election this process was implemented in conformity with the Law and anticipated deadlines. However, the prescribed and anticipated duration for certification of all political subjects in the elections is too long and takes almost four months<sup>34</sup> from the beginning of the certification procedure until the publication of the final lists of candidates in the official gazettes.

For the General Elections 2018 the CEC BiH certified 69 political parties, 36 coalitions and 34 independent candidates. However, the candidate lists were submitted by 58 out of 69 certified political subjects so the total number of political subjects participating in the elections was 128. In comparison with the General Elections 2014, the number of political subjects in the elections increased by 30<sup>35</sup>. The regular lists included 7,497 candidates while the compensatory lists included 842 candidates.

Certification of political subjects takes 14 days because there are no central records of political parties. Political subjects that participate in the election must submit to the CEC BiH a proof of their registration, not older than 60 days, after which the CEC BiH verifies the signatures and certifies the political subjects within a 14-day period. Signature verification by the CEC BiH is long and exhausting because there is no adequate software solution in place to facilitate verification, and the entire process is done manually. To shorten this procedure it is necessary to adopt the Law on Political Organizations at the level of BiH<sup>36</sup>. The Law will anticipate the establishment of a central registry of political parties and it would facilitate the certification of political parties in the elections. Also, the entire process concerning the appointment of candidates and their verification does not necessarily have to be completed during the election period, but it can be done prior to calling the elections in the election year.

The deadline for submitting the lists is 90 days before the election day. This timeline of almost three and a half months between the calling for election until the publication of candidate lists is too long. Political subjects can compose internal candidate lists before the elections are called given the fact that the election date is fixed. The Election legislation also sets forth the possibility to make corrections to the list, i.e., to submit additional documentation and/or replace a

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<sup>33</sup>Political subject is a party, a coalition, an independent candidate or a list of independent candidates

<sup>34</sup> The prescribed procedure starts on the day of the announcement of elections, May 8 until the announcement of the final lists of candidates—August 14 for regular lists and August 16 for allocation of compensatory mandates. The final deadline was August 23.

<sup>35</sup> 98 political subjects participated in the 2014 General Elections – 50 political parties, 24 coalitions and 24 independent candidates.

<sup>36</sup> The CEC BiH information on political parties deleted from the court register <https://bit.ly/2DvClmm>

candidate, which causes unnecessary burden to the CEC BiH, except in case of death of a candidate. Not even this procedure is completed with help of an adequate software solution.

In 2018, according to the CEC's data, 29 political parties were removed from the Registries of competent courts; five on the proposal of the CEC BiH because they failed to perform the activity which they registered, and 24 upon their own request. From 2009 to 2018, the CEC BiH submitted a motion to the competent courts to erase 172 political parties on the ground of suspicion that they were not performing and/or for a longer period of time have not been performing their legally prescribed duties.

## **5.2. Voter registration**

The registration of voters in BiH has been passive since 2006, while the active registration is still in place for the voters who vote out of Bosnia and Herzegovina. A total of 3,352,933<sup>37</sup> voters were registered in the Central Voter Register (CVR) as of August 23, 2018. According to the BiH Election Law there are several categories of voters in BiH. The voters, who vote in BiH, are divided into two categories: the voters, who vote at the regular polling stations and the voters, who cast their ballot at an absentee polling station (internally displaced persons).

Furthermore, the CEC BiH keeps the records of internally displaced persons, who have the right to choose whether they will vote in their present place of residence or in the pre-war place of residence. The BiH CEC maintains the Central Voters Register (CVR) based on the records of the competent State body – the Agency for identification documents, registers and data exchange– IDDEEA, records of the civil registry on the BiH citizens, and other bodies are also involved: the BiH Ministry for human rights and refugees, the ministries of interior at all levels, the BiH Ministry of civil affairs – Sector for citizenship and the Central Election Commission. The deadline for voter registration for voting abroad was July 24 after which the CEC BiH registered total of 77,814 voters for voting abroad. The CEC disapproved 9,098 applications on different grounds: 3,490 on the grounds of invalid proof of identification, 2,349 on the grounds of lack of proof of residence in BiH, and 1,358 applications on the grounds of registration of multiple persons from the same address.

The CEC BiH performs four (4) verifications of the CVR, and the final register is in place 45 days prior to elections. The first verification is created one day prior to calling the elections and is used to create provisional excerpts from the CVR. The second verification is used to determine the number of polling station and specification for printing of ballot papers. The third verification is used to create an excerpt from the final voters lists that is distributed to the polling stations. And the fourth, final verification is done on the Election day to determine the suffrage of voters voting on tendered ballots. As many as 74 days are available to register displaced persons and persons living abroad. These deadlines were adequate in the post-war period when there were major issues with registration of voters living outside of BiH and a large number of displaced persons/refugees, however, such long deadlines are not required any more. Accuracy of the

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<sup>37</sup> A total number of voters in the Federation of BiH is 2,092,336; a total number of voters in RS is 1,260,597.

Voters Register has been one of the issues ever since the 2016 Local elections because of the presence of a substantial number of deceased people on the voters register. The BiH CEC undertook certain steps to resolve this problem ahead of the 2018 elections, however, even though CEC is responsible for accuracy of the register it is difficult to keep the register up-to-date without collaboration of other competent bodies in the chain of command. More than 5,000 deceased persons were deleted from the register as of May 8, when the Elections were called. Yet, there are still indications that the register contains a number of persons over the age of 100 (more than 8,000 persons) and who should have been deleted from the voters register.

### **5.3. Gender equality and participation of national minorities in the electoral process**

The Election Law stipulates that gender equality exists when one of the genders is represented with minimum of 40%<sup>38</sup>. Complying with the provisions on gender equality is a condition for certification of the candidate lists by the CEC BiH. Gender equality implies 40% of the underrepresented gender i.e., the less represented gender shall be placed in each list according to the following sequence: at least one candidate of less represented gender among the first two candidates, two - among the first five candidates, three - among the first eight candidates, etc. The Law on amendments to the Election Law of BiH from 2016 introduced gender equality for compensatory lists. The current solutions do not imply guaranteed mandates to secure gender equality. The composition of the election commissions, according to the provisions of the Election Law BiH and Law on Gender Equality, must reflect gender representation of at least 40% of underrepresented gender, which was observed in 91.6% of local election commissions. It was observed that the election commissions in 12 municipalities<sup>39</sup> did not meet the gender requirement. Further, the Election Law does not stipulate gender equality for election of members of the CEC BiH, where there is only one woman amongst the seven BiH CEC's members.

A total of 7,497 candidates were on regular candidate lists and 842 candidates were on the list for compensation mandates. 41.6 % of the total number of candidates on the regular candidate lists are women implying that the provisions on gender equality had been observed<sup>40</sup>.

General assessment of the organizations monitoring this segment of the electoral process is that women are generally underrepresented in the election campaigns of political subjects which then results in a small number of mandates<sup>41</sup>. Of total 223 directly elected seats in parliaments at level of the state and entities, women won only 44 mandates or 20% in the 2018 General

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<sup>38</sup> Harmonization with the Law on Gender Equality of BiH. This was one of the OSCE/ODIHR recommendations in the Final Report on Observation of Elections 2010. Previously, the quota was 30.

<sup>39</sup> Bosanski Petrovac, Bosansko Grahovo, Domaljevac - Šamac, Glamoč, Krupa na Uni, Kupres (RS), Novi Grad Sarajevo, Novo Sarajevo, Petrovac, Široki Brijeg, Stolac and Zvornik.

<sup>40</sup> Provisions on gender equality regarding certification of the lists for distribution of compensatory mandates are handled by the Central Election Commission ex officio

<sup>41</sup> A.Šabić, „Less women in the legislative institutions in BiH in the next four years “: <https://bit.ly/2Ujf55B>

Elections, which is by 6% less than in the 2014 – 2018 mandate period.<sup>42</sup> Increasing the intra-party threshold for winning a mandate from 5% to 20%, which practically meant closing the lists, has probably contributed to the higher number of women representatives in the cantonal assemblies where this “closing” of the lists was most tangible in a sense that a number of candidates did not pass the 20% threshold thus changing the sequence of distribution of mandates. 43 more women will be sitting on cantonal assemblies compared to the 2014 General Elections.

### ***Participation of national minorities***

The Constitution of BiH recognizes significant political rights based on the ethnic affiliation, at the same time it does not allow citizens enjoyment of equal active and passive suffrage regardless of their ethnic or national affiliation. In the context of passive suffrage in General Elections in 2018, the verdicts of the European Court for Human Rights in the cases of Sejdić-Finci, Zornić, Pilav and Šlaku<sup>43</sup> and the related recommending of the European Union given in the BiH Progress Report have still not been implemented, which limits the passive suffrage of the BiH citizens, who are not members of any constituent peoples or limits the same right in relation to the residence of the members of constituent peoples. The ruling structures have not made any significant attempts to implement the binding verdicts since the General Elections 2014. The Election Law regulates participation of the members of national minorities<sup>44</sup>, but only in the elections for the representative bodies at the local level. The Election Law guarantees mandates to the members of national minorities who make up more than 3% in the total number of population of the particular constituency according to the census in 1991.

There are no guaranteed seats for members of the national minorities at the level of general elections. Delegates from the rank of “others” i.e., those that do not belong to any of the constitutional peoples are elected indirectly at the level of entities; seven (7) are elected to the House of People of the PFBiH and four (4) to the Council of Peoples of the NARS. However, this does not mean that the seats belong to or are filled by the members of national minorities in BiH. The seats can be filled by all those who do not declare as members of the constitutional peoples. Unfortunately, the Constitution or Election Law do not set forth the provisions to prevent misuse of national affiliation and there are frequent examples of attempts to misuse the national affiliation for the purpose of winning a mandate.

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<sup>42</sup> Istinomjer survey Istinomjer.ba <https://bit.ly/2Hd3ZGS>

<sup>43</sup> See the decisions by the European Court for Human Rights here: <https://bit.ly/2PCKqx0>

<sup>44</sup> Seventeen minority groups are recognized in BiH as the national minorities out of which the Roma national minority is the largest. Even though the census was carried out in 2013, the results published so far do not contain the numbers on members of the Roma population, and according to the estimates and depending on the source the numbers are between 30,000 and 100,000 Romas in BiH

## 5.4. Electoral campaign

The election campaign is defined by the BiH Election Law and it encompasses all activities and actions in the period of time defined by the Law during which political subjects, in line with the Law, present their program and the candidates to the voters and the general public. The key processes regulated by the provisions of the Election Law relate to the complete freedom in the conduct of all activities of the political subjects during the election campaign, rules of conduct (including distribution and placement of the promotional material, the use of public buildings, campaign during the election silence), election campaign financing, lottery procedure for media appearances, equal and fair representation in the media, and prohibition to conduct the campaign from the day elections are announced until the official start of the election campaign. The election campaign starts 30 days prior to the Election Day<sup>45</sup>. Election campaign in the 2018 General Elections started on September 7 and ended on October 6, i.e. until the start of the election silence. More information on irregularities regarding the activities of political subjects in the pre-election time is provided in the Chapter 6 of this Report.

## 5.5. Election campaign financing

The election campaign financing is regulated by the BiH Election Law, the Law on Political Party Financing, and partly by the Law on Conflict of Interests and the Law on Administrative Procedures of BiH. According to these laws political parties and independent candidates are required to submit to the CEC BiH financial reports within 30 days from the day of publishing the election results for the period from the day of filing application for certification of participation in the elections until the day of certification of the election results. This report covers the period of the election campaign. The CEC BiH, as part of its competencies, passes regulations to regulate the financing of political parties and election campaigns.

The Coalition Pod Lupom did not systemically and methodologically monitor financing of political campaigns. According to the data from the Transparency International BiH (TI BiH) nine political parties by October 2 spent more than 2.1 mill KM for the purpose of commercial advertising on *television* and in the print, and ten political parties organized more than 430 rallies and events costing up to more than 2 million KM. The TI BiH assesses that political parties spend up to 4 million KM on advertising, billboards, posters and leaflets. This implies that the monitored political parties spent at least 8 million KM by October 2 for the purpose of the election campaign

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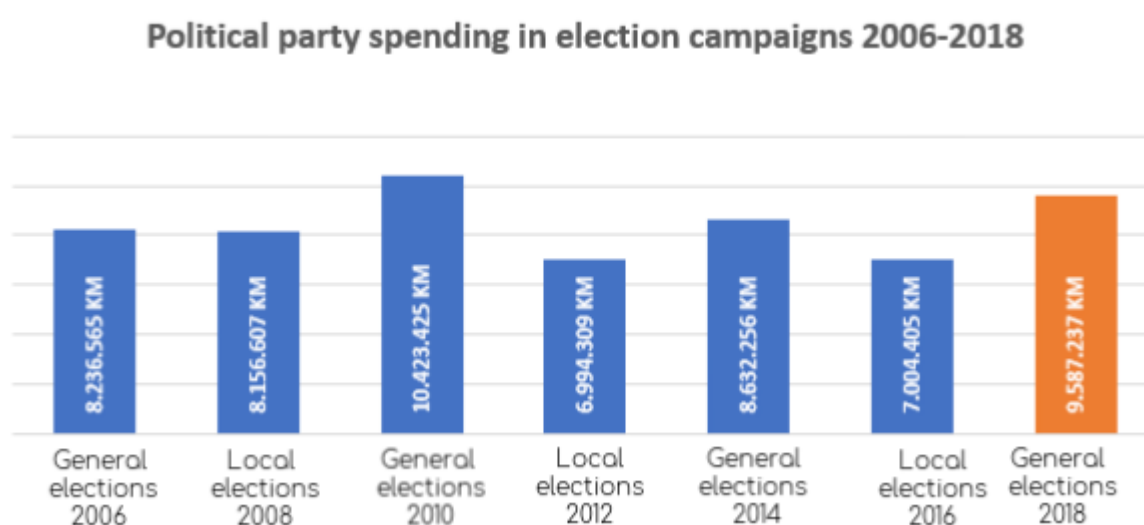
<sup>45</sup>The Election Law of Bosnia and Herzegovina, Chapter 16.

[http://izbori.ba/Documents/documents/ZAKONI/Izborni\\_zakon\\_PRECISCENI\\_TEKST-bos.pdf](http://izbori.ba/Documents/documents/ZAKONI/Izborni_zakon_PRECISCENI_TEKST-bos.pdf)

<sup>46</sup> TI BiH [www.ti-bih.org](http://www.ti-bih.org), Preliminary results of monitoring the election campaign: <https://bit.ly/2S0Flew>

According to the Election Law of BiH, the maximum amount allowed to be spent for financing the election campaign shall represent a result of the multiplication of the number of voters in all electoral units in which the political subject has a candidate list or a candidate<sup>47</sup>.

According to the official data of the CEC BiH a total of 59,024,915 KM were spent for the purpose of election campaign from 2006 to 2018. However, it should be noted that the data for 2018 are incomplete because the CEC's information<sup>48</sup> cites that the post-election financial reports were submitted by 57 political parties and 15 independent candidates out of 69 political parties and 34 independent candidates. The chart below provides more details about the expenditures of the election campaigns per election cycles.



## 5.6. Financing of political parties

The financing of political parties is defined in the Law on the financing of political parties<sup>49</sup>. The allowed sources of funding are membership fees, voluntary contributions from legal entities and natural persons, incomes generated and owned by political parties and the budgets at all levels of authority in BiH. A natural person may give voluntary contribution to a political party in a maximum amount of 10,000 KM during one calendar year; legal entity may give contribution in the amount of 50,000 KM, while a member of the political party may not give more than 15,000 KM during one calendar year. The prohibited sources of funding include contributions from a state body, public administration, public companies and institutions, anonymous, humanitarian and foreign sources, unions, publicly funded associations, and legal entities in which public capital has been invested to the amount of a minimum of 25%.

<sup>47</sup> The Election Law of BiH, article 15.10, paragraph (2): 0.20 KM for members of the cantonal assemblies; 0.30 KM for other election races

<sup>48</sup> Information about the post-election reports submitted by political parties and independent candidates on the financing of the 2018 General Elections campaign from December 6, 2018

<sup>49</sup> Official Gazette of BiH, numbers 95/12, 41/16

The Fourth Interim Report on Bosnia and Herzegovina on the compliance of BiH with the recommendations of the Group of States against Corruption of the Council of Europe<sup>50</sup> as part of the third evaluation states that in the field of financing of political parties BiH had implemented satisfactorily only one (1) out of nine (9) recommendations; five (5) had been partially implemented and three (3) had not been implemented.

The CEC BiH is responsible for the implementation of the regulation 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. Furthermore, the capacities of the Department for Audit of Political Party Financing are insufficient and cannot provide adequate and timely analysis of the reports of political parties. The Department is not able to react in a timely manner to the observed irregularities. In addition, after the 2014 General elections there were no attempts by ruling structures to work on adopting a unified law on political parties to resolve many open issues and realize the recommendations for improvements in the field of political party financing and activity.

## **6. IRREGULARITIES IN PRE-ELECTION PERIOD AND ELECTION CAMPAIGN**

The Coalition's observers registered hundreds of cases of electoral irregularities, such as illegitimate pressure on voters, vote buying, threats of workplace firing or offers of new employment in exchange for a vote, misuse of public resources for the purpose of the campaign, voters registers not being up to date in some municipalities, illicit trading of places on the polling station committees, prohibited paid political advertising prior to the start of the campaign (three times more than during the 2016 Local elections), and other types of irregularities.

In addition, the Coalition received many reports from citizens concerning various irregularities and election fraud. Having in mind that there were far more electoral irregularities, we can assess that the pre-election period in BiH was, to say the least, chaotic.

The most concerning issue is a massive misuse of citizens' personal data for the purpose of registering to vote by mail. Several hundreds of similar cases were registered, and they were forwarded subsequently by the CEC BiH to the competent Prosecutor's Office. The enormous increase in the number of voters registered to vote by mail, especially in some municipalities and towns in BiH, is a signal for the competent authorities to deal thoroughly with this problem. Unfortunately, the competent authorities once again reacted slowly and solutions to this problem and sanctions against the perpetrators are still not in sight even though there is indication that certain procedures are taking place.

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<sup>50</sup> The Report was adopted at the 76th plenary meeting in Strasbourg in June 2017. The Report: <https://bit.ly/2OWeVsD>

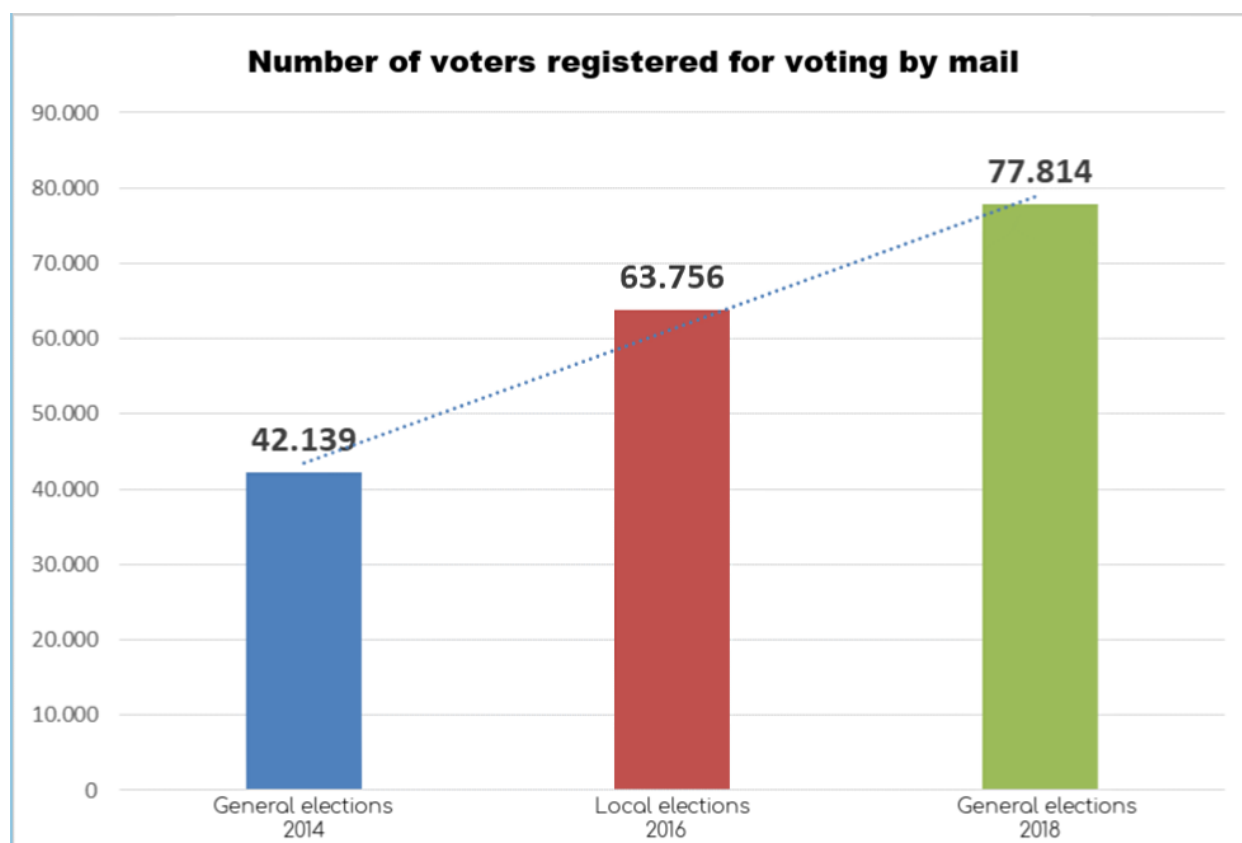
## 6.1. Misuse of personal data for the purpose of registration of voters to vote by mail

Almost 78, 000 voters are registered to vote by mail in the 2018 General Elections, which is the highest number ever in elections in BiH. The CEC BiH disapproved more than 9,000 applications for voting by mail on different grounds. Due to technical error, some citizens received wrong ballots for some levels of government for voting by mail.

The CEC BiH registered 500 cases of misuse of personal data and identity theft for the purpose of registering to vote by mail. The CEC forwarded the reports to the competent Prosecutor's Office, since this is a criminal act.

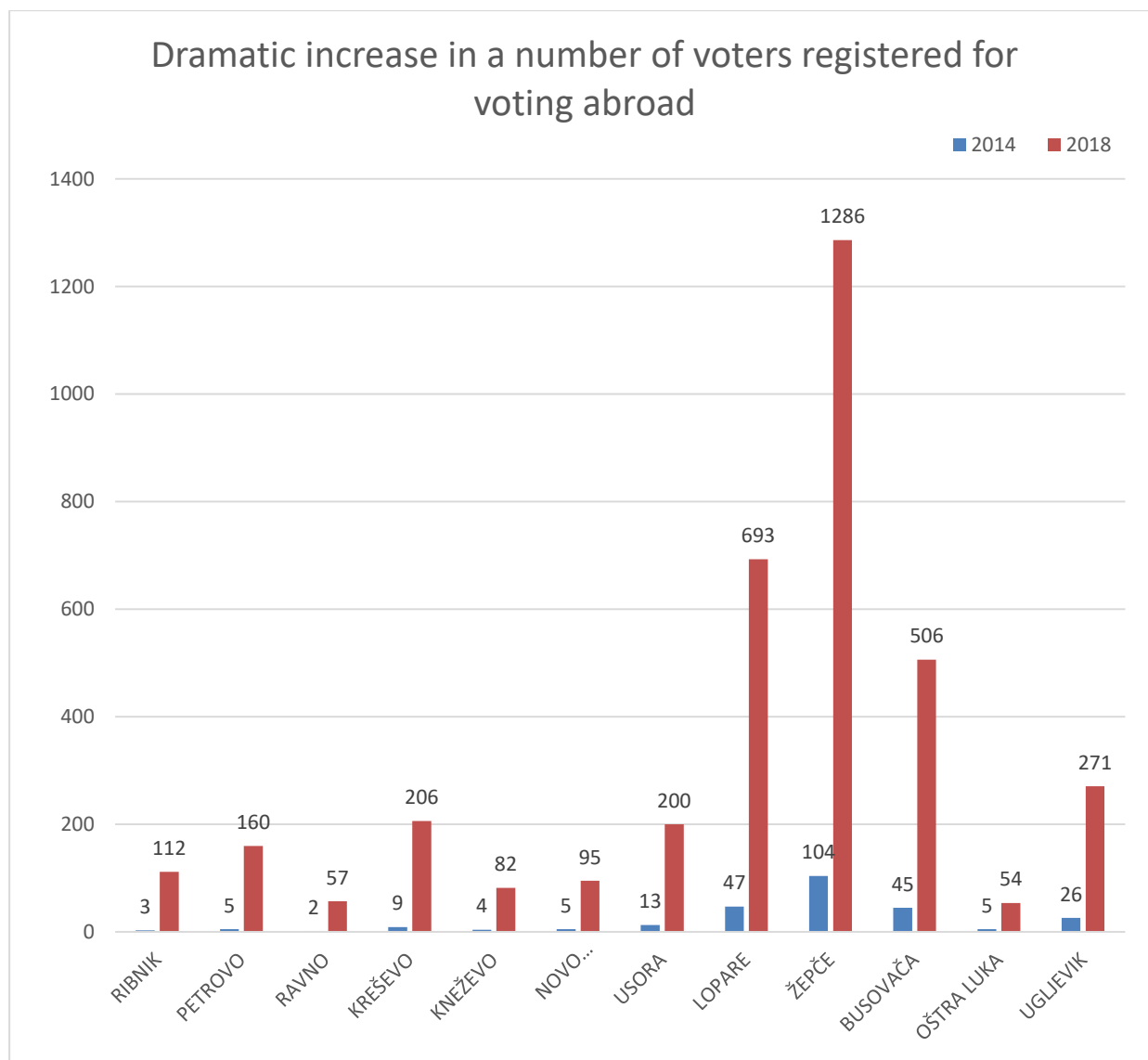
The Coalition Pod lupom received dozens of reports from citizens about misuse of their personal data for the purpose of registering to vote by mail. The most notable example is the anonymous report from a group of persons from Lopare municipality saying that they personally participated in electoral fraud as instructed and under pressure from political subjects. Lopare is one of the most drastic examples of an enormous increase in the number of voters registered to vote by mail. The number of voters registered to vote by mail in Lopare municipality is 15 times higher (more than 1,400%) compared to the 2014 General Elections – from 47 to 694 registered voters.

Also, reports are coming from citizens in Vlasenica municipality. In total, in the two listed examples, it is more than 400 new cases of personal data misuse for the purpose of fake registrations for voting by mail. The number of voters registered to vote by mail almost doubled compared to the 2014 General Elections.





A significant increase in the number of voters registered to vote by mail occurred in some municipalities and towns in BiH. Thus, the number of voters registered vote by mail in the 2018 General Elections compared to the 2014 General Elections increased: in Ribnik by almost 38 times, in Petrovo by 32 times, in Kresevo by 23 times, in Knezevo by 20 times and in Lopare by 15 times. An overview of the municipalities in which the number of voters registered for the 2018 General Elections increased by 10 times or more compared to the 2014 General Elections is presented below.



The greatest number of voters registered to vote by mail in the 2018 General Elections is registered in the following municipalities in BiH: Prijedor, Derвента, Zvornik, Banja Luka, Doboj, Jajce, Brod, Tomislavgrad, Bratunac and Orašje. An overview of the 20 municipalities/towns with the highest number of voters registered to vote by mail is in the chart below.

<b>Municipality</b>	<b>2014</b>	<b>2018</b>
<b>PRIJEDOR</b>	4081	3154
<b>DERVENTA</b>	2379	2945
<b>ZVORNIK</b>	1332	2672
<b>BANJA LUKA</b>	2674	2528
<b>DOBOJ</b>	1046	2236
<b>JAJCE</b>	1036	2186
<b>BROD</b>	1866	2084
<b>TOMISLAVGRAD</b>	594	1966
<b>BRATUNAC</b>	744	1831
<b>ORAŠJE</b>	1015	1827
<b>BIJELJINA</b>	788	1763
<b>GORNJI VAKUF - USKOPLJE</b>	287	1541
<b>KOTOR VAROŠ</b>	709	1495
<b>ODŽAK</b>	695	1465
<b>DOMALJEVAC - ŠAMAC</b>	492	1412
<b>MODRIČA</b>	760	1402
<b>TESLIĆ</b>	959	1370
<b>STOLAC</b>	374	1350
<b>ŽEPČE</b>	104	1286
<b>SREBRENICA</b>	614	1228

Personal data misuse for the purpose of voting by mail is not the only registered irregularity pertaining to voting by mail. In May and June, there were cases of several fake profiles and prize contests of big retail chains in the country, which asked citizens to provide copies of both sides of their ID cards as a condition for competing. These profiles are believed to be connected to the alleged misuse.

Also, there were numerous cases of political party activists pressuring BiH citizens in Croatia and Serbia to register to vote by mail, where students from BiH in the Serbian town of Novi Sad were offered money in exchange for their personal data and registration for voting by mail on their behalf, massive partisan campaigns for voting by mail in other countries (Austria, Germany and Sweden).

All this implies that there is intentional manipulation of the electoral process to influence the result of the election. The only ones who have an interest in something like this are political subjects registered for running in the election, and those who instructed and perpetrated such operations criminal acts should be sought among them.

Unfortunately, voting by mail has been compromised and it is necessary to consider certain, perhaps even drastic, steps prior to the Election Day. Introducing additional security mechanisms to control the vote-by-mail ballots, such as cooperation with investigation and police authorities in other countries to determine the real legal residence of citizens registered to vote by mail outside BiH in order to prevent this and similar misuse in the future.

## **6.2. Misuse of public resources and public office for the purpose of the campaign**

Misuse of public resources and/or public office for the purpose of the campaign refers to misuse of public budget and other public funds and misuse of public companies and appointed public office functions by political subjects or individuals running in the elections. Almost always, the misuse of public resources is done by those who enter the race for various levels of government from the position of government.

A total of 88 cases of the misuse of public budgets, citizens' money, for the purpose of the campaign of certain political subjects. Of the total number 64 cases (73%) refer to the misuse of public budgets, public companies or public office, and 24 cases (32%) refer to intensified public works across municipalities and towns in BiH. Of 64 registered cases involving the misuse of public budgets, public companies or public office, the largest number of cases relates to: SNSD (31), HDZ BiH (12), SDA (10), DNS, PDA and SDS (2 each) then ASDA, Naša stranka, SDP and SP (1 case each). The listed cases involving the misuse occur mostly in Republika Srpska.

It was registered that the Republika Srpska Government increased salaries in the health sector as well as pensions prior to the election campaign and during the election period. One-time assistance was paid to all pensioners in Republika Srpska in amount of 100 KM. In addition, the RS Government decreased the tax base for calculation of salaries in RS and as a result all workers in RS received a salary increase (around 30 KM increase on the average salary in RS). These are blatant examples of the misuse of public budgets and powers by holders of public office.

Unfortunately, it is not regulated or prohibited in BiH to carry out such actions during the pre-election period, while in some countries it is prohibited to increase salaries in the public sector, social benefits, to introduce new social categories, to increase public spending on public works, new employment in public sector, etc., 60-90 days prior to elections.

As for other cases in this segment, there was open influence on the recruitment of interns in public companies through participation in the RS Government program. This unlawful influence was revealed in a form of a letter with the SNSD letterhead. The SNSD Berkovici misused a bus owned by Public Company "Hidroelektrane na Trebišnjici" (Hydroelectric Power Plan on river Trebisnjica) to organize an outing for SNSD's activists. Public Company "Putevi RS" (Roads RS), whose acting director Nenad Nešić is also the President of the DNS Regional Board used public funds to pave the courtyards of the Democratic People Alliance activists. Vlado Đajić, General Director of the RS University Clinical Center in Banja Luka and Gorsn Selak, Director of the Correctional Facility Banja Luka misused public office and supported publicly SNSD and SP and their candidates for the upcoming elections. The DNS Regional Office Opening in Banja Luka and Manjača was attended by public officials employed in the RS Government and National Assembly during the work hours. Secretary of the Pale Municipal Election Commission, Božidar Novaković was noticed at the SDS regional meeting in Pale Municipality. Public promotion of the Socialist

Party candidates was carried out at Public company Pošte Srpske in Bratunac. Competitions for new employment were registered at the state level. Massive recruitment was also registered in some cantons in the Federation of BiH, for example, through the Program of co-financing and self-employment of persons up to 35 years of age in Sarajevo Canton.

Fadil Novalic the FBiH Prime minister sent out a letter to the pensioners in the Federation of BiH several days prior to the elections, explaining what has been done for the pensioners, from the perspective of the FBiH government, and calling on the pensioner population to vote for the political subject and candidates that he himself represents.

24 registered cases involving intensified public works across BiH during the pre-election period occurred in Banja Luka, Bijeljina, Bratunac, Gracanica, Ilijas, Kalesija, Kresevo, Kupres FBiH, Lopare, Osmaci, Pale RS, Prozor-Rama, Teocak, Tomislavgrad and Ugljevik. Six (6) reports relate to SNSD, 5 to SDS, 3 to HDZ and current Mayor of Kalesija Municipality and the candidate of the Independent BiH list Sead Džafić, 2 to HDZ BiH, SDA and SDP and 1 to DNS.

These cases include intensified construction works on public roads, water networks, building new objects and ceremonies for launching or completing public works in some municipalities and towns.

### **6.3. Illicit trading of positions on the polling station committees**

The Election Law of BiH prescribes that the political subjects certified to participate in the elections may have only one representative on the polling station committee. Despite this clear provision, political subjects often reach to various means to have as many places as they can on polling station committees trading the places and/or paying for the places to those political subjects that do not have an interest in having their members appointed to the polling station committees in a particular constituency. Dominance of one political subject and/or its cooperation with other members of the polling station committee aims to manipulate the election results in the polling stations.

The Coalition's observers reported allegations of trading of places on the polling station committees in 34 municipalities/towns in BiH. It is about the following municipalities: Banjaluka, Bosanska Krupa, Bosansko Grahovo, Bratunac, Brčko Distrikt BiH, Busovača, Čelinac, Doboj, Doboj Istok, Goražde, Gračanica, Gradačac, Ilijaš, Istočna Ilidža, Istočno Novo Sarajevo, Kalesija, Kakanj, Livno, Mostar, Odžak, Petrovo, Prijedor, Rogatica, Rudo, Srebrenik, Srebrenica, Stari Grad Sarajevo, Stolac, Tešanj, Višegrad, Vitez, Zavidovići, Zenica and Živinice. In Doboj, independent candidate for the President of Republika Srpska Vojin Pavlovic said that he would file a complaint with the Central Election Commission of BiH and Police Station Bratunac against SDS in Doboj for

harassment and offers of money for positions on the polling station committees in the upcoming elections.<sup>51</sup>

The Coalition Pod lupom sent to the BiH CEC the reports with evidence that trading of positions on the polling station committees occurred for the electorates in Konjic and Vitez. In the case of Konjic, the CEC passed a decision to remove the person from the list of members of the polling station committee on the grounds of being a candidate in the 2016 Local elections and not on the grounds of trading of positions on the polling station committees.

#### **6.4. Illegitimate pressure on voters and vote buying**

The Coalition's observers reported 55 cases of illegitimate pressure on voters and/or vote buying. In addition, citizens reported additional 37 cases in which they personally witnessed this illegitimate pressure. Political parties that were reported for exerting illegitimate pressure on voters and for vote buying include: DNS, HDZ BiH, Mirsad Hadzikadić, Independent BiH List, NSRzB, SBB, SDA, SDP, SDS, SNSD, PDA and Socialist Party (SP).

During the rally in Gacko, SNSD's leader Milorad Dodik threatened that all those who vote for candidates of the Alliance for Victory would be fired. Also, the RS Government secured one-time financial assistance to pensioners while the president of Republika Srpska Milorad Dodik told publicly that this would help pensioners to get out and vote for SNSD. These are the cases of open threats and intimidation of citizens in the elections in BiH that have not been registered previously. Employees in public and private companies experienced threats of firing and intimidations on a daily basis if they would not vote for a certain political party.

Employees of "Vodovod" a.d. Banjaluka were under pressure to vote for SNSD. The Company's Acting Director Zoran Popović (the Chief of the SNSD Caucus in the City's Assembly) organized closed meetings to discuss the elections. The employees who were employed on the basis of contract of service had been told that if they wished to have permanent contracts they needed to become members of the party and secure 50 votes; those who wished to extend contracts of service had to secure 20 votes and those who chose not to become members but wanted to keep their current jobs had to secure five (5) votes. Also, employees were pressured to visit the SNSD pre-election rallies.

Free medical examinations for citizens were also organized. Dr. Vlado Đajić organizes free medical examinations in his private practice while SNSD's members are found at the front door distributing the promotional materials and calling on citizens to vote for SNSD in the elections.

Children at the Pediatrics Department of the Tuzla University Clinical Center of Tuzla received packages and "Certificates for Bravery" from members of the Movement for Democratic Action.

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<sup>51</sup> <http://dobojski.info/drustvo-i-politika/politika/item/22559-doboj-optuzuje-sds-za-prodaju-mjesta-u-birackim-odborima>

The Certificate showed the PDA Tuzla official stamp and the message “Loved by your aunts, uncles, brothers and sisters from the PDA Tuzla”, which can be considered as misuse of children for the purpose of political campaign. Even though they are illicit, pressure on voters and vote buying in BiH elections have already become the usual practice as some of Bosniaks returnees witnessed lately in Zvornik. Information from August 30, 2018, says that the cost of a vote for Milorad Dodik, the current President of Republika Srpska, President of SNSD and a candidate for the Serb member of the Presidency of BiH was 70 KM in Zvornik. Several Bosniaks returnees to Zvornik confirmed this information, under the condition of staying anonymous due to fear of retaliation. Employees of Nova Banka in Banja Luka, whose President of the Management Board Milan Radovic is also the vice-president of DNS, were handed lists which they had to fill out with information such as name, surname, Local Ward to which they belong, a number of household members, along with a requirement to vote for DNS on Election Day. Also, the employees were instructed to take photos of the ballot. They were threatened that they would face consequences if they did not vote for DNS or the candidates of the coalition parties in the areas in which DNS does not have its candidates. DNS Pale launched a project „Register of families with no working members”. SDS responded to this DNS's activity believing that DNS wants to obtain personal information of citizens to create records for the party by manipulating this vulnerable category of population.

During several weeks, representatives of SDS in Banja Luka paid house calls to their members bringing presents, which they promoted publicly on Facebook (<https://bit.ly/2MMvnil>). And while direct contact with voters is a desirable form of election campaigning, giving away presents is not in line with democratic practices. Citizens in Breza received job offers in exchange for their votes. Promises range from “bag on a doorstep”, donation of livestock to livestock farmers, to the promise that young people will get jobs in their field of study through volunteering, etc.). In addition, there was a case of distribution of parcels to citizens with SDA logotype, and cases of donation of school supplies to students in Eastern Novo Sarajevo by an SDS candidate and to students in Dobož by the City Branch of the Socialist Party (SP) in Dobož. In these two cases, young minors were used for the purpose of the campaigns of the political subjects SDS and SP, which is prohibited.

## **6.5. Accuracy of the Central Voters Register (CBS)**

Accuracy of the Voters Register has been one of the issues ever since the 2016 Local elections because of the presence of a substantial number of deceased people on the voters register. The BiH CEC undertook certain steps to resolve this problem ahead of the 2018 elections, however, even though the CEC is responsible for accuracy of the register, it is difficult to keep the register up-to-date without collaboration of other competent bodies in the chain of command. More than 5,000 deceased persons were deleted from the register as of May 8, when the Elections were called. Yet, there are still indications that the register contains a number of persons over the age

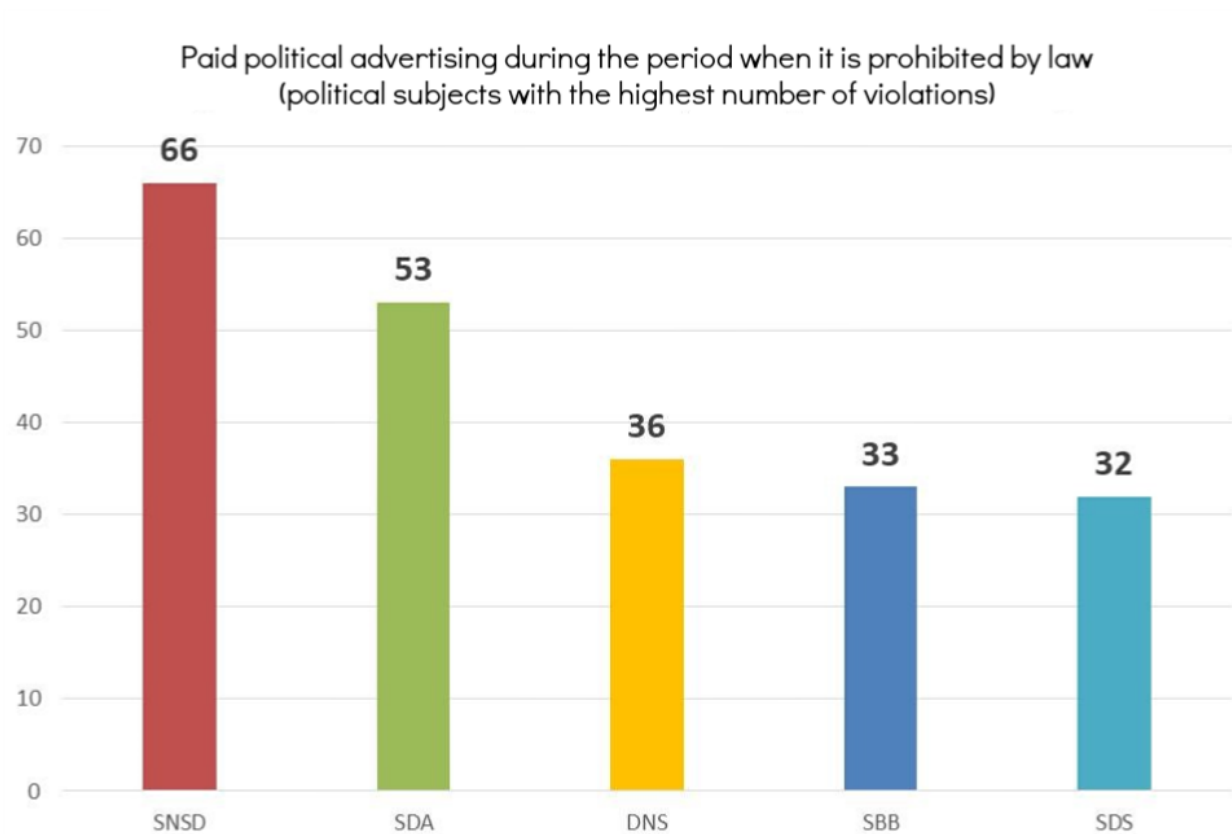
of 100 (more than 8,000 persons) and who should be deleted from the voters register. In the case of the increased number of voters in electorates, Ravno Municipality registered a 5% increase compared to the total population in this municipality. The suspicion was raised about accuracy of the voters register in 28<sup>52</sup> municipalities, mostly because of the presence of a certain number of deceased persons on the voter register.

## **6.6. Premature election campaign**

The Election Law of BiH defines the election campaign as a period starting 30 days prior to Election Day during which the political subjects inform the voters about their programs and candidates for the forthcoming elections. Election campaign for the 2018 General elections started on September 7, 2018. Any form of paid political advertising and pre-election activities of the political subjects shall not be allowed except for the holding of internal gatherings of authorities and statutory bodies of the political subjects within the period between the day when elections are announced and the day of official start of the election campaign. Yet, as in the previous election cycles, a considerable number of political subjects launch their activities early, which can fall under prohibited election campaign. The Coalition's observers registered 436 cases of premature election campaign carried out by 33 political subjects. The leaders in the number of premature campaign activities are the Alliance of Independent Social Democrats (SNSD) with 66 registered cases, followed by the Party of Democratic Action (SDA) with 53 cases, Democratic People's Alliance (DNS) with 36 cases, the Alliance for Better Future (SBB) with 33 and Serb Democratic Party SDS with 32 documented cases. The cases refer mostly to paid advertisements on social networks and organization of public events (meetings, forums) to promote a political subject and/or candidate for the elections. The overview of the registered cases is in the attachment to this Report. The number of documented cases of premature election campaigns is three times higher compared to the 2016 Local elections. Unfortunately, sanctions for the prohibited premature election campaign are continually missing.

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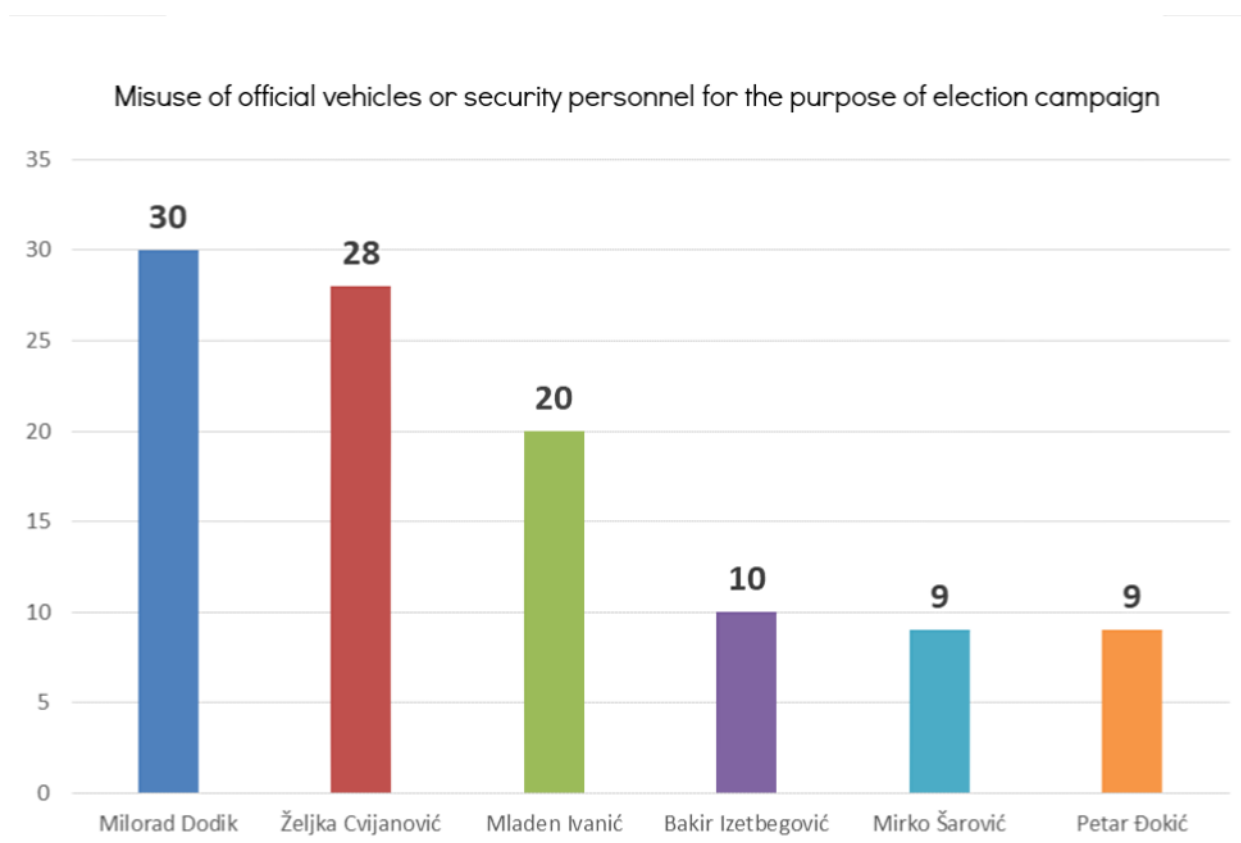
<sup>52</sup> Domaljevac-Šamac, Donji Žabar, Pelagićevo, Banovići, Ključ, Ilijaš (around 140 deceased persons on the registry), Bosanska Krupa, Ravno, Vitez, Sapna, Odžak, Kalesija, Čapljina, Stolac, Stari Grad Sarajevo, Orašje, Donji Žabar, Živinice, Mostar, Ilijaš, Travnik, and Banja Luka where SDP expressed suspicion about accuracy of the voters register.



### 6.7. Irregularities in the election campaign

Various types of irregularities were recorded in as many as 227 cases. The highest number of the electoral irregularities pertained to misuse of public resources and public office -- the use of official vehicles and security personnel for the purpose of the campaigns of political subjects. The person with the largest number of cases involving the misuse of official vehicles is Milorad Dodik (30 times, of which 3 times involved the misuse of a helicopter belonging to the Helicopter Service of Republika Srpska intended for emergency, medical transport and special operations of the RS Ministry of Interior); Željka Cvijanović (28 times); Mladen Ivanić (20 times); Bakir Izetbegović (10 times); and Mirko Šarović and Petar Đokić (9 times each).





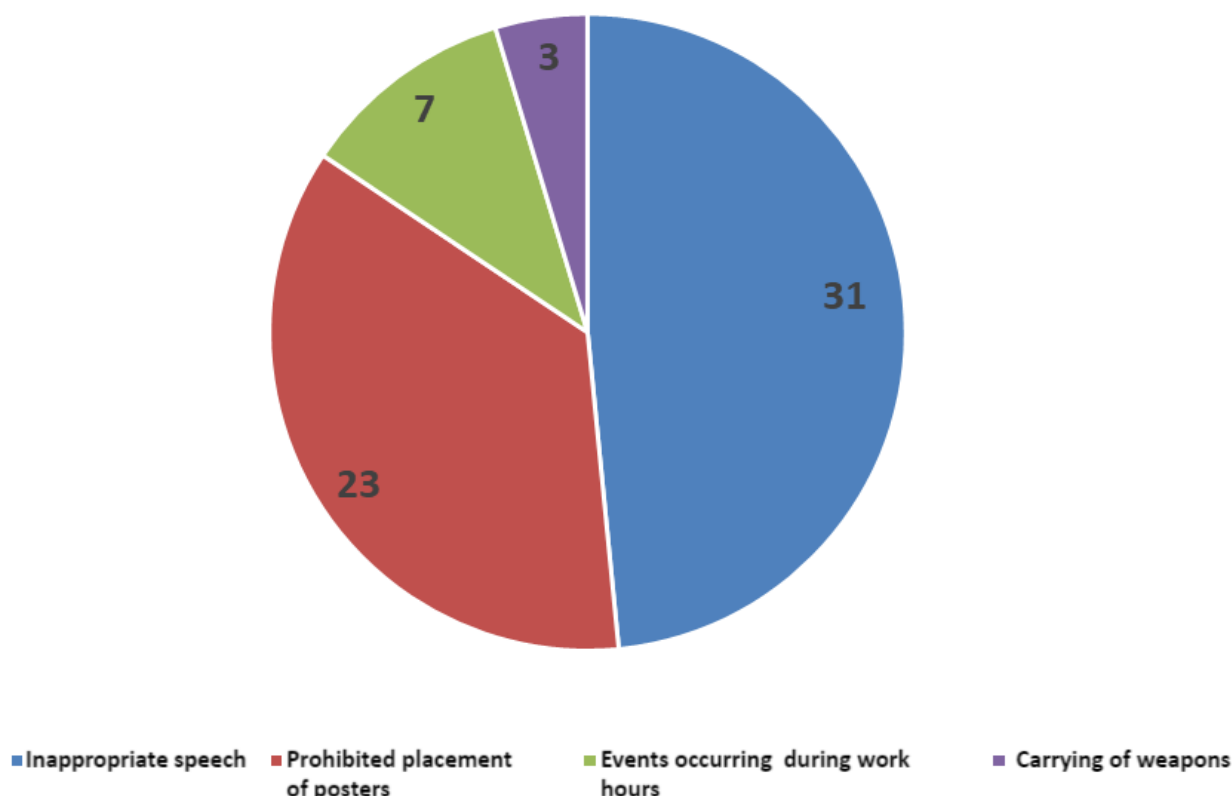
A total of 65 cases of prohibited activities of the political subjects were registered during the pre-election events. The largest number of cases pertain to inappropriate language—use of language that may lead to or incite violence or spread of hatred (31 cases), placing ads and posters inside or on the buildings of authorities, public companies, public institutions and local wards or on public roads and property, which is prohibited (23 cases).

Seven (7) pre-election rallies organized during the work hours were attended by public officials<sup>53</sup>. It is alarming that in three cases weapons were carried and shown on/or in the vicinity of the political rally<sup>54</sup>.

<sup>53</sup> During work days, SNSD in Dobož, Nevesinje and Petrovo between 9 am and 3 pm; SDA in Mostar at 11 am; DNS in Dobož at 9 am; SDS in Dobož at 10 am; and United Srpska in Dobož at 9 am).

<sup>54</sup> September 7 during the SNSD rally in Banja Luka; on September 17 during the SDS rally in Sokolac and on September 18 during the rally of the Alliance for Victory in Banja Luka.

## Types of prohibited activities



### 6.8. Citizens' reports

During the election period, the Coalition Pod lupom receives reports from citizens, representatives of political subjects, nongovernment organizations and other interested parties via Coalition's web page or the toll-free number. Until the time of the start of election silence, the Coalition received 88 reports that are electoral irregularities in the opinion of those who reported them. The Coalition also received reports concerning personal data misuse for the purpose of voting by mail. The reported irregularities refer to the following: bribery (21 reports); premature election campaign (19 reports), voters register (16 reports), election campaign (10 reports), voting outside the country (6 reports with a considerable number of individual reports<sup>55</sup>); appointment of polling station committees (2 reports), hate speech (1 report); other (12 reports).

The Coalition Pod lupom received dozens of reports from citizens about misuse of their personal data for the purpose of registering to vote by mail. The most notable example is the anonymous report from a group of persons from Lopare municipality saying that they personally participated

<sup>55</sup> Vlasenica Municipality: misuse of personal data for 34 persons, with statements of persons claiming that their data were misused; Lopare Municipality: a report filed anonymously by a group of persons because of the fear of retaliation – they personally participated in electoral fraud in which, as they claim, between 350 and 400 out of 694 voters registered to vote by mail are falsely registered, i.e. their personal data was misused.

in electoral fraud as instructed and under pressure from political subjects. Lopare is one of the most drastic examples of an enormous increase in the number of voters registered to vote by mail. The number of voters registered to vote by mail in Lopare municipality is greater by 15 times (more than 1,400%) compared to the 2014 General Elections – from 47 to 694 registered voters. Also, reports are coming from citizens in Vlasenica municipality. In total, in the two listed examples, it is more than 400 new cases of personal data misuse for the purpose of fake registrations for voting by mail.

## **6.9. Other irregularities**

With respect to irregularities that cannot be classified under any previous categories, there was a case in which some highly positioned candidates of the political subject Democratic Front (DF) signed the contract on material relations between the Democratic Front (DF) and its candidates for all levels of executive and legislative government. This contract specifies that if a candidate leaves or is expelled from the party or joins the Caucus of another political subject and/or becomes an independent candidate during his/her elected office he/she is liable to pay the amount of 50 000 KM to party's account. These contracts are not democratic<sup>56</sup> because the mandate belongs to an individual not the party.

The Coalition Pod lupom also received a report about fake accreditations for alleged controllers of the work of the polling station committees on behalf of the Delegation of European Union in BiH. The concerning part of this phenomenon was the fact that those who instructed the making of these fake accreditations have intention to present themselves on Election Day as representatives of the international community.

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<sup>56</sup> The Code of Good Practice in Electoral Matters of the Venice Commission that „representative mandate makes a representative independent from his or her party once it has been elected. The Code recognizes that there is potential for misuse to harm political parties and indicates possible solutions in a form of inter-party agreements to prevent such misuse. The Code: <https://bit.ly/2I2oN4P>

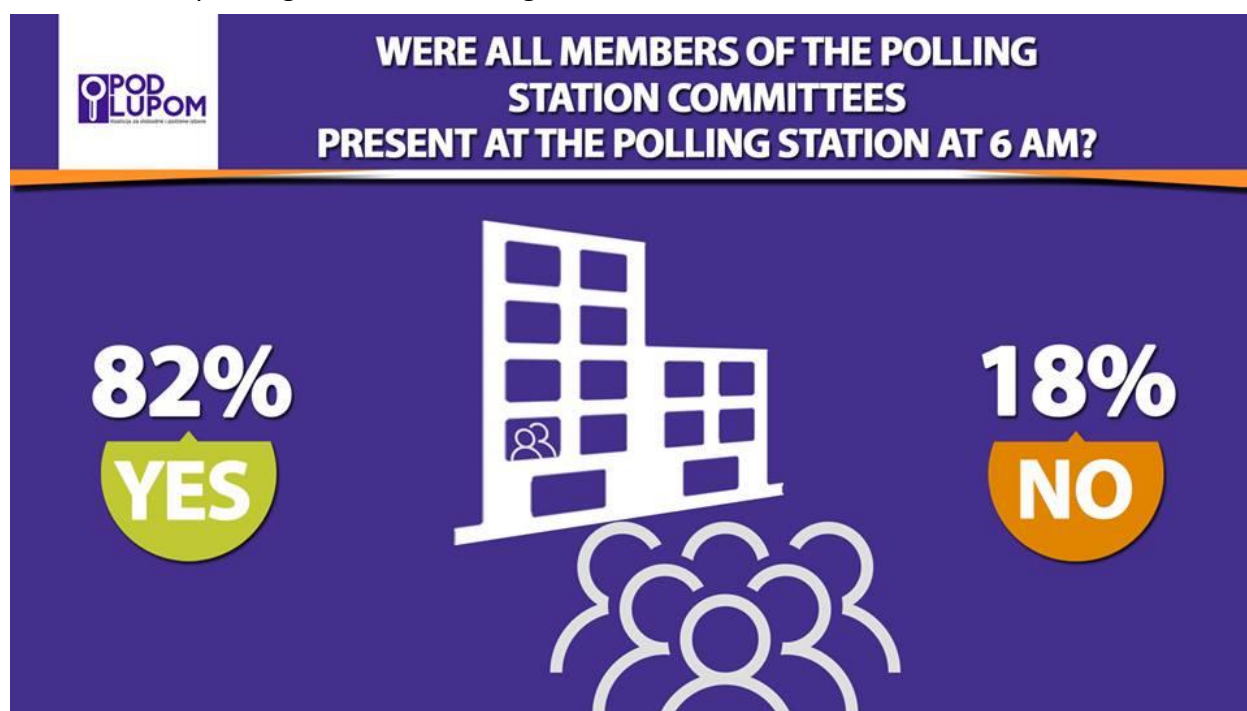
## 7. ELECTION DAY

On Election Day, October 7, 2018, the Coalition Pod lupom deployed nearly 4 000 observers at the polling stations across the country. The Coalition's observers observed the elections at 3,650 polling stations, which is more than 60% of the total number of polling stations in the country. 60 mobile teams were deployed in the field and the observers monitored the work of all 143 local election commissions.

The election day was carried out mostly in line with the Election Law of BiH and other implementing acts of the CEC BiH. There was a number of certain incidental situations and irregularities on Election Day, which points to the necessity of improving the quality of election administration in BiH.

### 7.1. Opening of the polling stations

The Election Law of BiH sets forth that polling stations are opened at 7 am and remain open for voting for 12 hours. In case of interruptions of the voting process, either the polling station committee or the local election commission, depending on the duration of the interruption, shall decide on the prolongation of the voting<sup>57</sup>.



Preparations for the opening of polling stations were carried out mostly in line with the regulations. All members of the polling station committee were present at 82% of polling stations an hour before the opening of the poll, as required, while this was not the case in 18% of the polling stations.

<sup>57</sup>Decisions on interruption up to 3 hours are made by the Polling station committee; decisions on interruptions longer than 3 hours are made by the local election commission

## WAS THERE A MANUAL COUNT OF BALLOTS PRIOR TO THE OPENING OF THE POLLING STATION?

**98%**  
**YES**



**2%**  
**NO**

Ballots were not counted manually at 2% of polling stations, and some elections materials were lacking at 6% of polling stations. In some isolated cases, ballot box was not shown empty prior to the opening of the polling station.

Total 72% of polling stations opened at 7 am; 23 % of polling stations opened between 7 am and 7:15 am, and 5% of polling stations opened between 7:15 am and 8 am. In some isolated cases, polling stations opened after 8 am and the secrecy of vote was not adequately secured.

## AT WHAT TIME DID THE POLLS OPEN?

**TILL  
7:15**  
**95%**



**AFTER  
7:15**  
**5%**

## DID POLLING STATIONS LACK ANY ELECTION MATERIALS?

**6%**  
**YES**



**94%**  
**NO**

The majority of polling stations received all required materials.

A list containing names and surnames of members of the polling stations including the information about their affiliation to political subjects was not displayed in 21% of polling stations. This was the recommendation of the Coalition “Pod lupom” that the Central Election Commission adopted, and as such it is obligation of all polling station committees.

## WAS A LIST OF NAMES AND SURNAMES OF THE MEMBERS OF THE POLLING STATION COMMITTEES WITH AFFILIATION TO THE POLITICAL SUBJECT DISPLAYED IN FRONT OF THE POLLING STATION?

**79%**  
**YES**

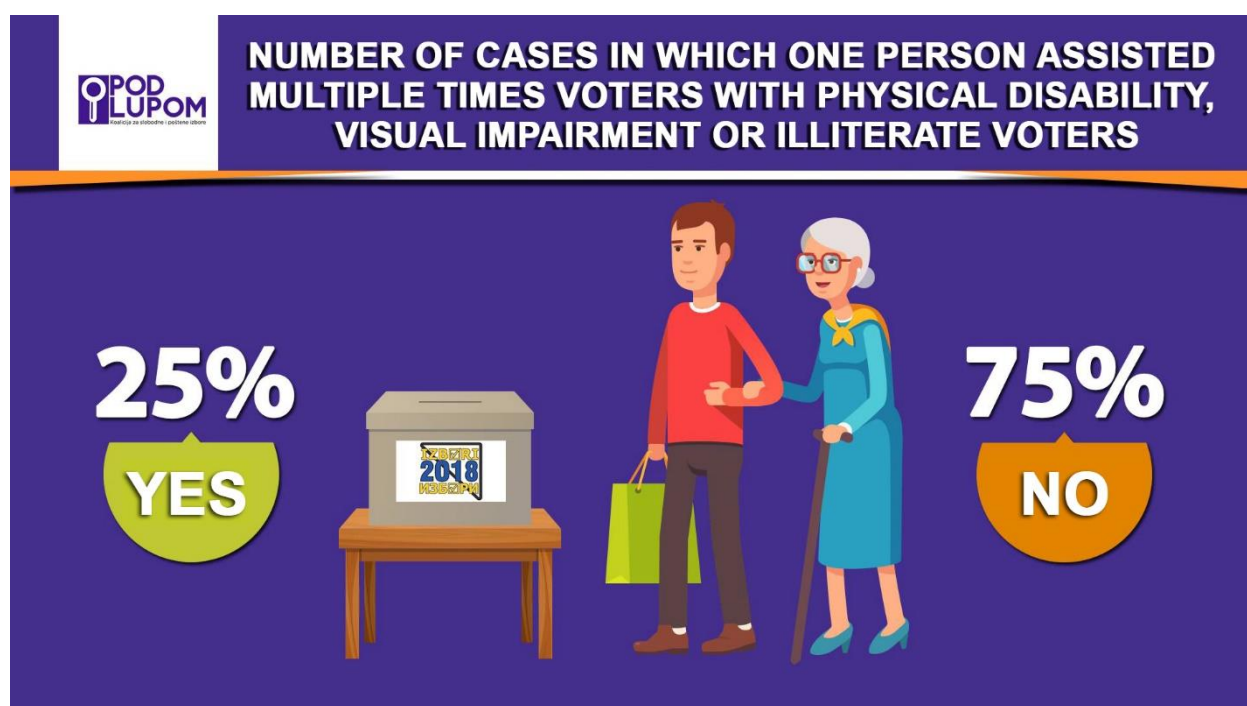


**21%**  
**NO**



## 7.2. Voting process

All observers were allowed to observe the voting process. Objections and complaints by the Coalition's and other observers of the political subjects concerning the voting process were recorded at 14.7% of the polling stations. Between 1 and 5 cases in which one person assisted multiple times voters taking the vote were registered in around 25% of polling stations, and between 1 and 5 cases of voting without valid identification documents were registered at 4% of polling stations.



The practice of a widespread family voting continued in these elections. Between 1 and 5 cases were registered at 52% of polling stations, with more frequent cases, between 6 and 25, being registered at 4% of polling stations. More than 25 such cases were registered at 1% of polling stations.



In some isolated cases it was observed that voters arrived at polling stations with ballots that were already filled out and that one person was given multiple ballots for the same electoral level.





**IN SOME ISOLATED CASES IT WAS OBSERVED THAT VOTERS ARRIVED AT POLLING STATIONS WITH BALLOTS THAT WERE ALREADY FILLED OUT AND THAT ONE PERSON WAS GIVEN MULTIPLE BALLOTS FOR THE SAME ELECTORAL LEVEL.**

The comparison of the types of irregularities by polling stations shows that usually only one type of irregularity appears at a polling station.

### 7.3. The close of the polling stations

## AT WHAT TIME DID THE POLLING STATIONS CLOSE?



**19:00**

**75%**



**19:01-19:15**

**15%**



**19:16-20:00**

**6%**

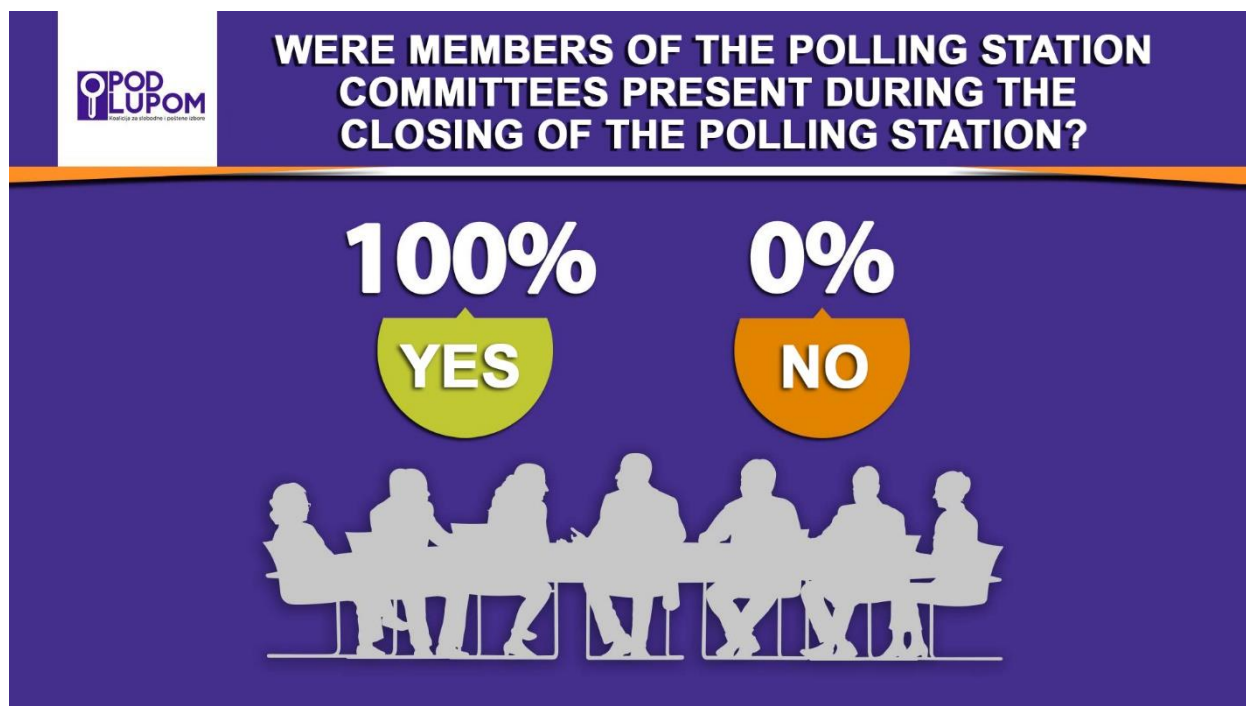


**NAKON 20:00**

**4%**

79% of polling stations closed at 7 pm; 15% of polling stations closed by 7:15 pm, while the remaining 6% of the polling stations closed by 8 pm. At 76% of polling stations, there were no voters outside the polling station during the close. At 22% of polling stations, citizens who were outside the polling station at 7 pm were allowed to vote, while at 2%, voters were not allowed

to vote. All members of the polling station committee were present during the close of the polls at the majority of polling stations.



#### 7.4. Vote count

The Coalition's observers and other observers of political subjects filed objections and complaints concerning determination of the voting results at 3.2% of polling stations.



Declaring of invalid ballots was carried out in line with the CEC's regulations. More than 10% of invalid ballots for election of the members of the Presidency are found at 16% of polling stations, which is concerning. The yellow copy of the Aggregate Results Form was not displayed at 5.8% of the polling stations, and it was illegible at 19.6% of polling stations.

### **7.5. Observing the work of local election commissions on Election Day**

The Coalition "Pod lupom" had observers in all 143 local election commissions (LEC) in BiH. Until the time of finalizing this Press Release, 80 observers reported on the work of the election commissions. The general assessment of the work of LECs is that the majority of LECs carried out their duties in line with the Law and other implementing regulations. However, the Coalition's observers registered that bags containing sensitive election materials were opened in as many as 30 LECs. Wrong packing of the election materials by members of the polling station committees (PSC) was registered in 23 LECs. Corrections in the Polling Station Poll Books or in the Forms from the polling stations were registered in 12 LECs. Big crowds while receiving the election materials were registered in 7 LECs.

### **7.6. Turnout**

According to the CEC's data, the nationwide turnout in the 2018 General Elections in BiH was 53,36%. The largest turnout was registered in RS (57.3%), in FBiH (51.25%) and Brcko District (46.81%). In comparison with the 2002 General elections in BiH<sup>58</sup>, this is the lowest turnout registered in BiH.

The Coalition also observed the voter turnout and the data coincides with the official data of the CEC BiH. According to the Coalition's data, the national turnout is 53.6% with a margin of error of +-1%. Voter turnout at the level of the Federation of BiH was 51.2 % and a +-1,2 % margin of error and 55.2% for Republika Srpska with a +-1,4% margin of error. Margin of error is calculated with 95% confidence interval.

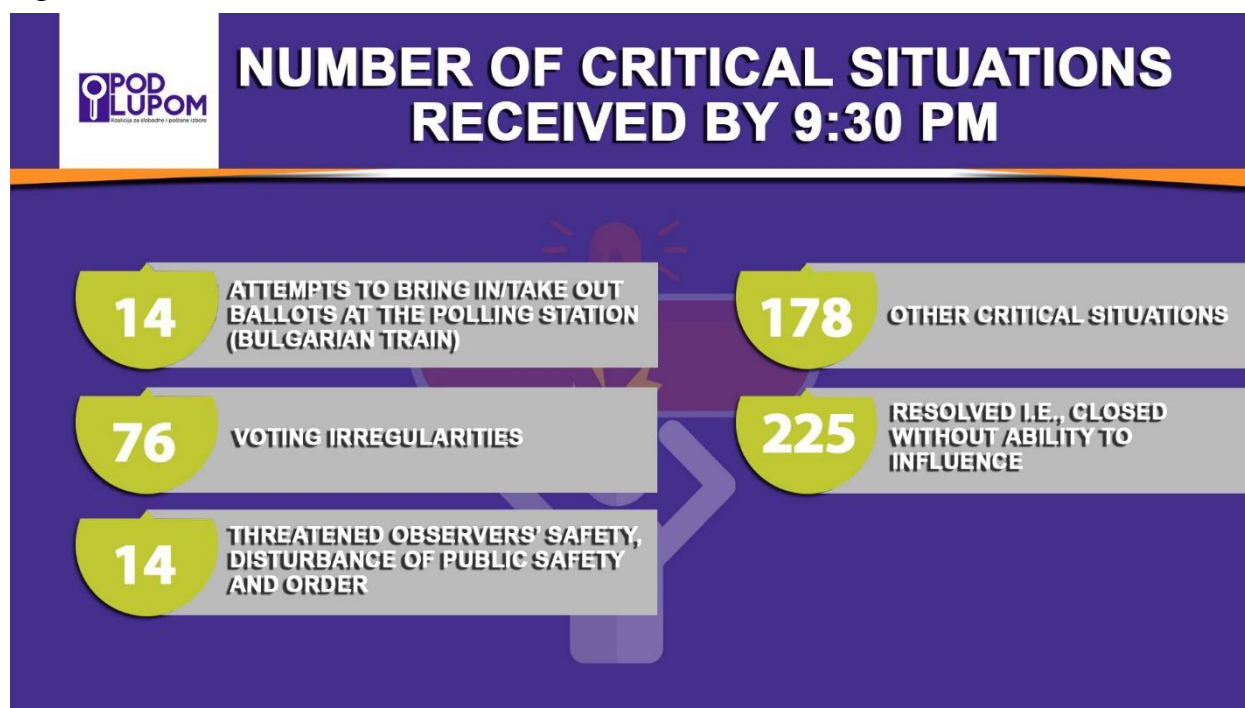
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<sup>58</sup> 2002: 55,5%; 2006: 55,31%; 2010: 56,62%; 2014: 54,47%.

## 8. ELECTION DAY IRREGULARITIES

### 8.1. Reports of Election Day Observers

A total of 370 critical situations were registered. The term critical situation implies violations of the election procedures and rules, substantial technical errors in the work of the electoral authorities at all levels or incidents at the polling stations. 225 critical situations (60.8% of the registered cases) were resolved in collaboration with election authorities during Election day and night.



The highest number of the registered cases concern the ban on observation of elections (88), voting irregularities (76), violence or threatened observers' safety (17), suspicion of the so-called Bulgarian train (14) and other types of irregularities.

Banning the Coalition's observers to observe the elections was the result of poor communication among electoral authorities. The issues were resolved during the election day and the Coalition's observers resumed their observation activities.

Around 70 falsely accredited observers who introduced themselves as observers of the Coalition Pod lupom were registered in Lopare and Ugljevik. Besides impersonation, they also exerted illicit pressure on the Coalition's observers to leave their assigned polling stations. The case was reported to the police.

## 8.2. Citizens' reports

During the election day, citizens reported to the Coalition 198 election irregularities. The largest number of the reported irregularities concerned the bribery of voters and vote buying and violation of election silence.



## **9. POST-ELECTION PERIOD**

### **9.1. Establishing the election results**

The BiH CEC is responsible for establishing the election results. The BiH CEC establishes the results of direct and indirect elections after expiry of the deadline for submission of complaints and appeals, as set forth in the Law and after the decisions have become final and binding. The BiH Election Law defines the deadlines for establishment of the election results, while the BiH CEC's regulations determine the order of establishing the results, dissemination of the results to the public and how the results are to be published. The BiH CEC has to confirm the final election results within 30 days after the elections are held. The results of the 2018 General Elections were confirmed and published on November 6, 2018, which means that the CEC BiH observed the deadline for the publishing of the results.

### **9.2. Protection of electoral right – objections and complaints**

#### *Legal framework*

The bodies that provide protection of the electoral right are election commissions, namely the local election commissions and the BiH CEC, and the Appellate division of the BiH Court. The provisions governing the system of complaints and requests are set forth in the BiH Election Law, BiH Law on administrative procedure and in the BiH CEC's Instruction<sup>59</sup>. The election commissions may initiate, ex officio, a procedure to protect the electoral rights. They may also initiate the procedure based on the findings or based on a complaint filed by authorized persons. In accordance with a provision of the BiH Election Law these authorized persons are voters and political subjects. A voter, in line with the BiH CEC's interpretation of the provision, may file a complaint only when his/her personal electoral right is violated, which in the Coalition's opinion represents quite a restrictive interpretation, since it does not allow citizens, associations or other interested parties in the election process to officially file a complaint when their electoral right is indirectly violated. Also the complaints can be filed by the political subject, but not individually by the candidates of the political subject, without the support of his/her political subject. The Coalition deems that the circle of persons, who are authorized to file a complaint in the electoral process, should be expanded.

#### *Objections and complaints*

By law, observers at the polling stations cannot file a complaint. The observers can file an objection in the Polling Station Committee Logbook of activities based on which political subjects can file a complaint. On the Election Day, October 7, the Coalition's observers filed around 100

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<sup>59</sup> Instruction on procedures of adjudicating complaints and appeals submitted to the BiH CEC and the election commissions, "Official Gazette of BiH", number 37/14

objections regarding errors in the work of the polling station committees and/or observed irregularities. The CEC BiH was informed about all filed objections.

Prior to and after the elections, the Coalition sent several letters informing the CEC BiH about the observed irregularities and seeking adequate response from this competent authority. Prior to the elections the Coalition informed the CEC of the two cases of trading of seats on polling station committees with evidence substantiating the claims in Konjic and Vitez. The CEC BiH response was to remove the persons involved from the composition of the polling station committees on the grounds of their participation in the previous elections as candidates. Hence, the response was not on the ground of trading of seats on polling station committee, i.e. appointment of personnel belonging to one political subject falsely on behalf of another political subject. Mechanisms must be found to prevent such a practice in the future.

Following the elections, the Coalition Pod lupom submitted to the CEC BiH requests for recount of the invalid votes for the election of members of the Presidency of BiH and a request to determine the reasons why the ballots are invalidated especially in the category “on other criteria”. The CEC BiH noted in its public statements that a usual percentage of invalid ballots in BiH varies between 6% and 9% which means that everything over that is considered unusual and should alarm the electoral administration to undertake steps to determine the reasons. The letter submitted to the CEC BiH lists the polling stations where the Coalition's observers were present and that had enormously high percentages of invalid ballots in the race for members of the Presidency of BiH. A total of 559 regular polling stations or 10.4% of all polling stations. The percentage of invalid ballots at these 559 polling stations was higher than 9%. The percentage was even higher than 15% at as many as 143 polling stations.

Furthermore, on the grounds of observed irregularities in the established results in the basic constituency Zvornik where some candidates won mandates due to unusually high percentages of preferential votes at 64 out of 88 polling stations, the Coalition asked the CEC BiH to annul the elections in this constituency. Namely, at 64 out of 88 polling stations in Zvornik, candidates from Zvornik have 100% of votes of the political party to which they belong, whereas candidates who are not from Zvornik have zero or maximum several votes. In other areas with a larger electorate, the percentage won by local candidates rarely surpass 50%. The analysis of the established results from Zvornik constituency indicates misuse by the polling station committee members where adding preferential votes helped candidates win a mandate. The CEC BiH failed to respond to the appeals as they were filed electronically rather than in a hard copy or through the clerk's office.

Even though the information addressed some possibly serious irregularities, the CEC BiH failed to respond ex officio, as stated in the Election Law of BiH. Other observed irregularities and/or observed shortcomings in the work of the polling stations on the election day were also filed with the CEC BiH as well as all “critical situations” observed and reported by the Coalition on the

election day. Prior to the election day, around 120 objections and complaints were filed with the CEC BiH whereof 45 related to the composition of the election commission, a similar number – to campaign violations, and some 20 to party and candidate registration. The majority of complaints reviewed on the merits were rejected as groundless, and the CEC BiH imposed fines on both the parties and the candidates in 12 cases of prohibited speech<sup>60</sup>.

Around 65 appeals against the CEC's decision were filed with the Court of BiH. The majority of the appeals were rejected on the merits, while the Court overturned the CEC's denials of registration of four (4) political subjects and two decisions on the composition of the local election commissions. The Court upheld the CEC's position regarding some 1,000 appeals against denials of registration to out-of-country voters<sup>61</sup>.

Following the election day, around 60 complaints of alleged irregularities were filed with the CEC BiH. The CEC BiH rejected 15 complaints as groundless. Some 30 complaints were referred to the local election commissions<sup>62</sup>. Following the establishment and announcement of the election results, around 100 requests for recount of votes from polling stations were filed with the CEC BiH and around 10 requests were filed for recounts of votes from all polling stations in a constituency or entity. The CEC BiH ordered the recount of votes from 84 polling stations<sup>63</sup>.

### 9.3. Implementation of the election results

The election results were confirmed according to the Law within 30 days and they were published on November 6, 2018. The BiH Election Law sets forth deadlines for establishment of the legislative government and the BiH Presidency. These deadlines differ depending on the level of authority, and the maximum deadline is within 30 days after the final election results are published by the BiH CEC. The legislative bodies as well as the Presidency of BiH, and the president and vice president of RS, who are elected directly in the General elections, convened their constituting sessions within the deadlines set forth by the law<sup>64</sup>. Exceptions are cantonal assemblies in eight (8)<sup>65</sup> cantons that failed to respect the deadlines.

Indirect elections for the HoP of the BiH and FBiH Parliaments were completed in February and March 2019, while the Council of Peoples was elected to the National Assembly of RS in December 2018.

The Caucus of the Delegates of the Serb People to the HoP of the FBiH Parliament was not filled initially. It was missing three delegates; The CEC BiH additionally determined *the Criteria and*

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<sup>60</sup> Data from Final Report of the ODIHR's Election Observation Mission <https://bit.ly/2U3zvxK>

<sup>61</sup> Data from the Final Report of the ODIHR's Election Observation Mission: <https://bit.ly/2U3zvxK>

<sup>62</sup> Data from the Final Report of the ODIHR's Election Observation Mission: <https://bit.ly/2U3zvxK>

<sup>63</sup> Data from the Final Report of the ODIHR's Election Observation Mission: <https://bit.ly/2U3zvxK>

<sup>64</sup> Presidency of BiH: Nov 20; President and Vice presidents of RS; Nov 19; The HoP of the FBiH Parliament: Nov 27; the NARS: Nov 19; the assembly of Tuzla Canton Nov 14; the Assembly of Sarajevo Canton: Nov 16.

<sup>65</sup> Una-Sana Canton: Nov 21; Posavina Canton: Nov 29; Zenica-Doboj Canton, Bosnia-Podrinje, Central Bosnia, Herzegovina-Neretva, Western-Herzegovina Canton and Canton 10: Nov 23, 2018.



*procedure for filling the missing mandates in the HoP of the FBIH Parliament*<sup>66</sup> and filled the three missing mandates, which questions the constitutionality and legality of the criteria given that the elected delegates were not elected to the cantonal assemblies from which they came.

The Constitution of FBiH and Election Law recognize election of delegates to the HoP only from the rank of representatives that are already elected to the cantonal assemblies. The executive authorities at the levels of BiH and Federation of BiH have not been constituted even five months after the General elections in BiH, as of March 1, 2019. The President and vice presidents of the Federation of BiH have still not been elected and the executive authorities have been formed only in three cantons (Sarajevo, Western-Herzegovina and Una-Sana).

## **10. ABOUT THE 2018 GENERAL ELECTIONS<sup>67</sup>**

On May 8, 2018, the Central Election Commission of BiH (CEC BiH) passed a decision on administering General elections in BiH. The elections in BiH took place on Sunday, October 7, 2018 for the following levels of authority:

- Presidency of Bosnia and Herzegovina;
- House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina;
- House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina;
- National Assembly of Republic Srpska;
- President and Vice President of Republika Srpska; and
- Assemblies of Cantons in the Federation of Bosnia and Herzegovina.

A total of 518<sup>68</sup> office holders were elected in the elections. Although the CEC BiH certified 69 political parties to participate in the elections, and the candidate lists were submitted by 58 of them thus the number of political subjects participating in the elections in 128. In addition to the number of political parties (58), 36 coalitions and 34 independent candidates also participated in the elections. A total of 7,497 candidates were on regular candidate lists and 842 candidates were on the list for compensation mandates. 41.6 % of the total number of candidates on the regular candidate lists are women implying that the provisions on gender equality had been observed<sup>69</sup>. Age structure shows that 22.5% or 1,684 candidates were 30 years of age or below.

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<sup>66</sup> The Criteria and procedure for filling the missing mandates in the HoP of the FBIH Parliament can be downloaded: <https://bit.ly/2TXWyds>

<sup>67</sup> Data of the Central Election Commission of BiH

<sup>68</sup> The Presidency of BiH: 3; HoR of the PA BiH total 42 representatives, 28 from FBIH (21 directly and 7 compensatory mandates), 14 from RS (9 direct and 5 compensatory mandates); HoR of the FBIH Parliament total 98 representatives (73 direct and 25 compensatory mandates); President and vice presidents RS: 3; the NARS total 83 representatives (63 direct and 20 compensatory mandates); Canton 1 (Una-Sana): 30; Canton 2 (Posavina): 21; Canton 3 (Tuzla): 35; Canton 4 (Zenica-Doboj): 35; Canton 5 (Bosnia-Podrinje Goražde): 25; Canton 6 (Central Bosnia): 30; Canton 7 (Herzegovina-Neretva): 30; Canton 8 (Western Herzegovina): 23; Canton 9 (Sarajevo): 35; Canton 10: 25

<sup>69</sup> The CEC BiH is responsible for implementation of the provision on gender equality apply to certification of the lists for distribution of compensatory mandates

A total of 3,352,933<sup>70</sup> BiH citizens who were registered in the Central Voter Register as of August 23, 2018 were eligible to vote. 3,257,767 voters could vote at the regular polling stations, while 8,306 voters with a status of displaced person could vote in absentia; 12,046 voters with a status of displaced person could vote in person; 1,085 voters could vote at the diplomatic-consular representation offices of BiH and 76,729 voters were registered to vote by mail.

A total of 5,749 polling stations were formed, 5,380 of which were regular polling stations, 128 polling stations for voting in absentia, 141 polling stations for voting in person, and 145 polling stations for voting on tendered ballots. 314 mobile teams were formed, and voting was organized also on 10 polling stations at the diplomatic-consular representation offices outside of BiH<sup>71</sup>.

The 2018 General Elections in BiH were observed by around 60, 000 observers. According to the CEC's estimates, the local election commissions accredited 50,000 political party observers. The CEC BiH accredited 6,424 observers to observe the elections whereof 5,611 were observes from 20 domestic associations. Around 5,000 of these observers were from six (6) organizations members of the Coalition Pod Lupom. Moreover, 650 accredited observers were from 41 international organizations and 163 observers were from 22 political subjects<sup>72</sup>.

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<sup>70</sup> Total number of voters in the Federation of BiH is 2,092,336; total number of voters in Republika Srpska is 1,260,597.

<sup>71</sup> Per one polling stations at the embassies of BiH in Wien, Berlin, Belgrade, Canberra and Oslo, and at the general consulate offices of BiH in Chicago, Frankfurt, Munich and Stuttgart and honorary consulate in Graz.

<sup>72</sup> Observers of these political subjects are accredited to observe the Main Counting Center and/or the work of the CEC.

## 11. METHODOLOGY

The Coalition Pod lupom observes the entire election process in BiH, all phases of the electoral process, from the day on which elections were announced until the implementation of the election results and formation of government. Therefore, the Coalition organizes a long-term election observation to observe the overall electoral process and to be able to provide a complete picture of a broad spectrum of election-related activities, not only of Election Day.

The Coalition Pod lupom monitors the 2018 General Elections in BiH through its head office in Sarajevo and 7<sup>73</sup> regional offices. For the purpose of efficient observation of the pre-election period, the Coalition deployed 63 long-term observers to cover all basic constituencies in BiH, 143 of them. The long-term observers monitor the work and sessions of all municipal/town election commissions, the activities anticipated in the electoral calendar and observance of deadlines and electoral irregularities and they educate Election-Day observers, more than 5000 of them. The long-term observers report on their activities on a weekly basis, and they sent more than 1,700 regular reports on key findings regarding their observations. The long-term observers' reports made the backbone of the Coalition's reporting. Since the 2016 local elections in BiH, the Coalition's long-term observers use SMS to report on a pre-defined question, which facilitates a faster systematization of replies and easier identification of trends and problems related to the electoral process.

As of September 7, the Coalition had additional 42 observers of the election campaigns. Their task was to monitor and report on the promotional activities of political subjects during the legally prescribed election campaign<sup>74</sup>. The observers visited and reported on 363 pre-election rallies of political subjects.

On the election day, October 7, 2018, the Coalition Pod Lupom deployed more than 3,900 citizens, non-partisan observers whereof 3,442 observed the election day process at the regular polling stations across BiH. Using the statistical based observation methodology<sup>75</sup> that implies deployment of observers to the accurately defined sample of the polling stations was for the first time developed and applied in BiH by the Coalition in the 2014 General Election, makes the collected data statically relevant for the entire BiH. This advanced methodology is used by similar organizations all around the world, and it represents a positive methodological shift away from the classic election observation, which is based on covering as many polling stations as possible. Also, this methodology allows the focus to be put on the important issues of the Election Day, as well as on the pace of collecting and processing of the information. In order to prevent

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<sup>73</sup> Banja Luka, Bijeljina, Livno, Mostar, Prijedor, Sarajevo and Tuzla

<sup>74</sup> According to the Electoral law of BiH, election campaign starts 30 days prior to Election Day

<sup>75</sup> Eng. Statistically Based Observation – SBO

irregularities at the polling stations, the Coalition deployed observers in more than 60% of the total number of polling stations in BiH.

The Election Day was observed in all local election commissions – 143 of them. The Coalition also had observers in 60 mobile teams and 80 persons deployed in the Call Center for reception and processing of information from the field. All Election Day observers had undergone intensive training about legislation and regulations that regulate the election day procedures, as well as about the method of communication and reporting and they had signed the Code of conduct, pledging to objective and impartial reporting. Election Day observers were responsible to monitor the process of opening of the polling stations, voting, closing of the polling stations, the vote counting and confirmation of the results, and to communicate the information about these activities using SMS reporting or calling the Coalition's call center. The reports and findings of the Election Day observers were the backbone of this report in the segment of assessing the quality of the process and administration of elections on the election day.

Furthermore, the Coalition implemented a project for parallel collecting and processing of the election results as part of the methodology for statistically based observation for the members of the BiH Presidency. The collected election results confirmed the official election results published by the CEC BiH. Besides monitoring the work of municipal/town election commissions, the Coalition also monitors the work of the CEC BiH which has been Coalition's regular activity since the Coalition's formation in 2014. The Coalition also observed the work of the Interdepartmental Working Group for Amending the Electoral Legislation during 2016 and 2017.

## **12. ABOUT THE COALITION “POD LUPOM”**

### **12.1. About Pod lupom**

The Coalition for free and fair elections “Pod lupom” brings together six non-government organizations from entire Bosnia and Herzegovina: the Centers for Civic Initiatives (CCI); Center for Civic Cooperation Livno (CGS); Democracy -Organizing- Progress Don Prijedor, Forum of Tuzla citizens (FGT); Incubator of social innovations MUNJA Sarajevo (Munja Incubator) and Institute for Youth and Community Development Perpetuum Mobile from Banja Luka). Primarily activity of the Coalition is election observation. So far we observed the 2014 General Election, the 2016 Local Elections, early local elections in eight municipalities, the first elections in the newly formed Stanari municipalities, repeated elections in Stolac, the recall procedure for the mayor of Lukavac Municipality, and the 2018 General Elections. A total of around 10 000 observers were engaged in all of the elections. Besides the election observation we also conduct studies and prepare international comparative analyses and advocate for solutions to improve elections in BiH. The Coalition has so far provided 34 recommendations for improvement of electoral process ten of which were priority recommendations. Eight (8) of these recommendations were either fully or partially adopted. The Coalition also monitors the work of the BiH Central Election Commission and local election commissions, organizes roundtable discussions and conference that bring together representatives of legislature, election administration, international and academic community and the media and civil society.

The Coalition advocates for improvement of electoral process in all its segments. In election year, the Coalition educates through the I vote for the first-time action to motivate and encourage them participate in the electoral process. The Coalition’s activities are supported by foreign donors that have been working on improving and democratizing electoral process in BiH for a very long time. The Coalition’s current donors are the European Union and the U.S. Agency for International Development (USAID).

### **12.2. Coalition in numbers**

At the 2018 General elections, the Coalition “Pod lupom” deployed more than 3 900 civic, non-partisan observers, whereof 3,442 observers observed the electoral process at regular polling stations, then in 143 local election commissions, in 60 mobile teams and 80 persons in the Data Processing Call Center. 60 mobile teams visited and reported from additional 837 polling stations until 03:00 hrs on October 8, 2018. The observation mission covered 80% of the total number of regular polling stations. On Election day, the Coalition received and processed more than 400 000 pieces of various information about the election process.

More than 15,000 citizens were interested to observe this year’s elections. The Coalition organized 42 street actions across BiH to animate the citizens to observe elections. More than 40 000 copies of the educational and promotional materials were distributed during these actions. Long-term observers delivered around 350 training sessions on election day observation

educating more than 6,500 citizens about duties, work principles and obligations of the Election day observers. More than 1,400 meetings were held with local election commissions, representatives of political subjects, non-government organizations and the media. In the period from September 7 to October 7, 2018, the Coalition deployed additionally 42 observers who observed the election campaign. They visited and reported from more than 363 pre-election rallies. Since the beginning of implementation of the project “Building Accountability and Systems in the Elections”, more than 2,057 media reports on activities of the Coalition “Pod lupom” were recorded in the period from November 15, 2015 to October 2018.

During the 2018 election period, the Coalition “Pod lupom” had in this period organized 12 press conferences and published 22 press releases. Three audio/video spots were prepared and broadcast by the radio and TV stations across the country. The Coalition established cooperation with 41 media outlets in BiH during its paid promotion, and additional 63 media outlets promoted activities of the Coalition free of charge.

As part of the *I vote for the first-time* action, The Coalition educated young, first-time voters to animate them to participate in the election process. More than 1,275 interactive workshops for young people were implemented in the period from March 2016 to June 2018 involving 29,000 young voters in 234 different education institutions and 69 municipalities in BiH. An online quiz with the same title was organized in September, and all age groups had the opportunity to take part and test their knowledge about the elections, which was done for the first time in the country, but also in the region. A total of 2,017 persons participated in the quiz, while the quiz application was launched/played 55,243 times.

### **12.3. Acknowledgements**

During a little over four years, the work of the Coalition “Pod lupom” has attracted support of both the domestic and international audience. However, everything that the Coalition has achieved would not be possible without the ones who supported its work and took part in its activities. The Coalition is primarily indebted to its observers, BiH citizens, who had recognized and accepted the Coalition’s vision and who actively participate in the process of improving the electoral process and electoral culture in BiH. They boosted directly the confidence in electoral process and the respect for the voters’ free will. Thanks to all BiH citizens who supported the Coalition’s activities, reported electoral irregularities hence providing their own contribution to the free and fair elections. Donors’ financial and advisory support provided high quality and adequate working conditions, and a firm foundation for concretization of project goals. We owe gratitude to all the media outlets that reported professionally on the electoral process and especially to those that put their own media space at the Coalition’s disposal free of charge. The Coalition would also like to thank all election management bodies that had opened their doors to the Coalition’s staff and had expressed readiness for cooperation. We believe that electoral process in BiH can be improved and we are actively working on it. Thank you!

