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## REPORT OF THE PRE-ELECTION ASSESSMENT MISSION TO FYROM

Delegates from the National Democratic Institute for International Affairs (NDI) visited the Former Yugoslavia Republic of Macedonia (FYROM) from October 11 - 19 to assess the legal framework, the state of election preparation, the transparency of the electoral process, and the political environment prior to the November 17 local elections. The delegation met with more than 50 government officials, electoral administrators, political party leaders, journalists, and civic leaders.

The members of the delegation were: Carlos Flores Juberias, Professor of Law, University of Valencia, Spain; Tom Kelly, former Chairman of the Social Democratic and Labour Party Central Organization Committee, Northern Ireland; Deborah Seiler, Commissioner, California Fair Practices Commission, former Assistant to the State Secretary for Election and Political Reform, USA; Brenda Pearson, NDI resident representative in Macedonia; and Beki Bahar-Engler, NDI Program Officer, USA.

The delegation determined that significant improvements had been achieved since the 1994 parliamentary elections but that shortcomings remain on the eve of Republic's first local elections since independence. These shortcomings include: lack of public confidence in the accuracy of the voters' list, restricted access to electoral information, the tardiness of relevant campaign and electoral information released to the public, administrative challenges, and minimal voter education efforts by ruling and opposition political parties alike.

### BACKGROUND

Citizens of FYROM will go to the polls to cast their ballots for local government for the first time since 1990, although the mandate of the elected officials expired more than two years ago. The system of local government is undergoing a process of reform. The government passed the law on local government in April 1996, the law on territorial redistribution in September 1996 and four laws related to local elections in September 1996, as well. The number of municipalities has increased from 34 to 123, which raises concerns about the economic sustainability and credible competencies of many new municipalities. A related concern is the gap between the date of local elections and the lack of a specific date by which local officials assume office--no later than June 1997, according to law.

One of the most positive aspects of the local elections is the multiparty support of the law. The government, particularly the Ministry of Justice, made a concerted effort to include the opposition parties in negotiations throughout the drafting of the legislation. The government also welcomed outside expert opinion and technical support. NDI convened an all-parties roundtable on the proposed law. It marked the first time that all major parties came together



to discuss and craft a major piece of legislation. Print and broadcast media covered the roundtable extensively, which precipitated broader public debate among citizens and nongovernmental organizations. The spirit in which the local election law was drafted is encouraging opposition parties that had boycotted the 1994 parliamentary elections to fully participate in the upcoming elections.

In order to assess the pre-election environment, the NDI delegation met with the Republic Electoral Commission; two municipal electoral commissions; Minister of Justice, Vlado Popovski; officials in the Bureau of Statistics and the Ministry of Interior; President of the Voters' List Commission, Trifun Trifunovski; Prime Minister Branko Crvenkovski; journalists representing local and national media; leaders of 10 political parties; prominent civic leaders and representatives of the international community.

The delegation traveled to Stip (Eastern FYROM) and Gostivar (Western FYROM) in order to analyze the issues from a local perspective. In these two cities, the delegation met with the electoral commissions, the mayor, all the major political parties, local media, and civic leaders.

The delegation identified three categories for its pre-election assessment: 1) the legal framework for election preparations and process, 2) the administrative aspects of the election, and 3) the political environment.

## **LEGAL FRAMEWORK**

There are four separate laws that govern local elections: the local election law, the territorial redistribution law, the voters' list law, and the Skopje election law. In some cases, articles in the local election law were amended through ensuing passage of the other three laws. In addition, on October 3, 1996, Parliament passed a "decision for equal media presentation for the 1996 local elections," which seeks to regulate media coverage of the elections.

### **1. Local Election Law**

In general, the political parties pointed to the positive aspects of the local election law. Many of the amendments suggested by the political parties were included in the final version of the law. The delegation noted that the current law represents a substantial improvement of the July 1996 draft version.

The delegation was encouraged by a new provision in the law to provide for multi-partisan representation on the electoral boards at the municipal and local levels, as mandated by Article 8. We believe this will provide a deterrent to abuses, expedite resolution of conflicts and strengthen citizen confidence in the electoral process. Confidence in the neutrality of the electoral regulatory bodies would be increased further if the same multi-partisan representation standards were applied to the Republic Electoral Commission (REC) and the newly established

## Voter Lists' Commission.

Another positive aspect of the local election law is Article 5, which states the incompatibility of holding dual offices at the local and national levels, specifically: elected positions in parliament, appointed positions in government and the judicial system, and state administrative bodies or in the administrative organs of the municipalities. This allows for diffusion of power in the political system. The incompatibility clause would be even stronger if candidates had to resign from public office upon announcement of their candidacy for local office. Currently 15 mayors are also Members of Parliament or Deputy Ministers.

The new law also establishes the first steps towards regulating campaign financing. Articles 34-39 attempt to set campaign spending limits and hold political parties publicly accountable. The Election Commission has the authority to levy fines and to determine the amount of public compensation to the candidates who win council or mayoral seats (Article 38). It is, however, unclear as to whether the newly established Election Commission will include members from the opposition parties. Public confidence in such issues as compliance with campaign finance regulations would be more likely if the Election Commission were comprised of multi-party representatives.

One weakness in the campaign financing section of the law relates to the ambiguity of whether parties were required to open campaign accounts in each municipality in which the parties submitted candidate lists or whether one national campaign account for each party would suffice. This lack of clarity led to an inconsistent application of the law at the municipal level. For instance, in the city of Bitola, the municipal electoral commission requested proof of a local campaign account before accepting a party's candidate list. Other municipal electoral commissions did not require such documentation.

In addition, if political parties only open a national campaign account, it will be very difficult to track expenditures locally. This, in turn, calls into question the degree to which successful candidates can be compensated accurately for their campaign expenditures. In-kind contributions are not subject to public disclosure.

## **2. Voters' List and Voter Identification Requirements**

The most problematic aspect of the FYROM's ability to conduct fair and free elections relates to the voters' list. Political parties across the spectrum, including the government parties, pointed to the inaccuracy of the voters' list as the greatest obstacle to guaranteeing the validity of the local elections. In the FYROM, individuals do not register to vote, rather the voter list is compiled by governmental administrative bodies. Initially, the local election law required that the voters' list be publicly displayed for 30 days in order to allow citizens to check their registration status. This time period was shortened to 15 days by the voters' list law. The delegation viewed the 15-day period as too short. The delegation considers it a positive

development that the government extended the period by an additional 8 business days until October 25, 1996. While voters will be able to check the voters' list throughout the year, a significant number of voters may be disenfranchised during the upcoming local elections.

From a legal perspective, the delegation views the new requirement of public access of the voters' list as an improvement (Article 3-Voters' List Law). However, the restrictive interpretation of "public" access was widely criticized by many civic leaders and by political parties. The voters' list is kept in a municipal office and citizens are allowed to inspect only their individual names. Public administrators then verify individual voter registration. In many of the newly created municipalities, the location of the voters' list was not obvious. In other countries, the lists are displayed outside a public building, such as the town hall, where a voter can check his or her name without the assistance of an administrator.

The delegation agrees that the change in the law that voter invitation cards not be issued prior to the November 17 elections because inaccuracies on the voter list make the information suspect. In the 1994 elections, many citizens did not receive their voter invitation cards, which led to much confusion regarding the voters' designated polling stations. Therefore, voters should be informed of their designated polling sites in a timely manner. After the voters' lists have been accurately updated, the issue of voter invitations or notification should be revised before the next parliamentary elections.

A significant change pertaining to voting will be implemented on election day. In previous elections, voters were allowed to register on election day and cast their ballots. This practice will be discontinued. While many countries do not allow election day voter registration, in the FYROM, the unregistered voters are not fully aware of this new practice and may show up at polling sites on election day expecting to cast their ballots. Accordingly, the delegation suggests that the REC's voter education campaign inform the public about this change in the law in advance of election-day to avoid voter confusion and frustration. In addition, it is advisable that the local election boards record the names and relevant information of citizens who attempted to vote but were not registered. This information will be useful in updating the voters' lists.

Another change in the law that could lead to confusion on election-day is the new ambiguous wording of the legislation that reads, "voters may be required to show identification." Given the considerable inaccuracies in the voters' list and the potential for fraudulent multiple voting, the delegation recommends that voters will be required to provide identification.

## **ADMINISTRATIVE PROCESS**

The delegation applauds the appointment of respected and independent members to the Republic Electoral Commission (REC). The delegation was impressed by the dedication of the REC members to meet many of the new legislative deadlines. Nearly all political parties praised the professionalism and impartiality of the president of the REC, Liljana Inglizova.

The overarching problem relating to the administration of the elections is the diffusion of responsibility for the administration of elections among seven separate bodies: the Republic Electoral Commission, the Ministry of Interior, the Ministry of Justice, the Statistical Bureau, the Voters' List Commission, the Election Commission, and the Ministry of Urbanism. In many instances, there were conflicting impressions of which body was responsible for carrying out specific administrative duties.

The Minister of Justice informed the delegation of a plan to create a new agency that would be responsible for the compilation of the voters' list. Representatives from all agencies that contribute to the compilation of the voters' list would serve as members. While the creation of this new body will be too late to positively influence local elections, the delegation believes that the government should make the formation of this new agency a top priority.

### **1. Voters' List**

As noted earlier, all political parties raised concerns about the accuracy of the voters' list. Speculation as to the degree of its inaccuracy ranged from 10 to 40 percent. However, given that there are only 1.4 million eligible voters in the country, the problem should not be insurmountable. Many political parties claimed that the voters' list had not been significantly updated since the 1994 parliamentary elections. Although these charges are difficult to substantiate, it is true that many inaccuracies that existed in 1994 were still present in the by-elections in Unit 113 and Unit 102, which were held in December 1995 and April 1996, respectively.

In early October 1996, NDI deployed volunteers in 15 cities to spot-check the accessibility of the voters' list, the procedure for verifying voter registration, the accuracy of information dispensed by the administrator in charge of the list, the procedure for making corrections to the voters' list, and the accuracy of the list. The volunteers visited more than 35 municipalities. Although the delegation does not have sufficient data to make definitive conclusions, a few observations can be made.

According to the volunteers, checking the voters' list in at least 15 municipalities was an arduous process with long waiting lines. In some instances, inconsistent information or inaccurate information was given to citizens regarding their right to make corrections to the voters' lists. Ten of the 15 volunteers reported inaccuracies in the voters' list, either names of their family members or their business associates were missing from the voters' lists.

In a few municipalities, proper forms were not available for citizens to make corrections to the voters' list. One volunteer reported that he was asked by the public administrator to write his name on a blank sheet of paper. This may be an extraordinary exception but it points to a larger potential problem. When an individual requests that corrections be made to the voters' list, he does not receive any documentation or receipt to prove that he requested an amendment to the voters' list. This lack of documentation will make it difficult for a prospective voter to

file an appeal with the municipal election commission if he/she does not find his/her name on the voters' list on election day.

The Minister of Justice and Prime Minister told the delegation that many discrepancies in the voters' list were due to citizens living in "illegally zoned" buildings. Many domiciles were constructed without building permits, therefore when the voters' list is confirmed by the Ministry of Urbanism, many residences are not found within the government's list of legal addresses.

## **2. Absentee Voting**

The delegation sees potential for irregularities in this area. The 1994 census reports that there are 138,000 citizens who are eligible to cast absentee ballots. Officials from the Ministry of Interior said that Macedonian citizens living abroad for more than one year were supposed to be deleted from the voters' list but that it was very unlikely that this had occurred. According to Article 50, citizens who are residing abroad shall cast their votes for municipalities where they last resided. Currently, none of the FYROM's diplomatic or consular missions has received a comprehensive voters' list that would allow the embassy staff to verify an overseas citizen's right to vote in any given municipality.

The wording of the legislation is vague and does not specify procedural guidelines for casting absentee ballots. For example, article 50 states that absentee ballots must be received no later than three days after municipal elections but there are no guidelines as to how these ballots will be distributed to the municipalities. Additionally, the law does not contain provisions for the absentee ballots to be counted in the presence of political party or domestic monitors.

The delegation recommends: 1) each embassy keeps a roster of who cast an absentee ballot and in which municipality so that it can be compared to the votes cast in each municipality; 2) each voter in FYROM be required to show proper identification in order to reduce the potential for persons voting multiple times for absentee voters; and 3) party observers be present at the counting of absentee ballots.

## **3. Candidate Nominations**

In meetings with the opposition parties, the delegation heard many complaints regarding a last minute administrative hurdle that threatened to delay the submission of the candidate lists. Article 20 of the local election law requires that all candidates provide: their first name and surname; permanent address; profession; position; and identification number. Approximately 48 hours before the deadline for submission of candidate lists, political parties were informed that they needed to provide a copy of the candidates' citizenship document or a passport. Although all Macedonians carry an identification card with a unique number, very few individuals possess citizenship documents. In fact, no more than 20 percent of Macedonian citizens have a citizenship document or passport. Documents can be requested from the courts

but it requires a payment and an average waiting period of 3-5 days.

While this requirement is within international standards, the delegation was concerned with the short notification and the fact that the requirement did not seem to be uniformly applied to all political parties or in all municipalities. In a meeting with the Prime Minister, the delegation was pleased to learn that this problem has been resolved. Political parties subsequently welcomed the waiver of this administrative requirement.

#### **4. Polling Sites**

The expansion of the number of municipalities from 34 to 123 will require the re-assignment of many voters to new polling sites. The Prime Minister as well as the Minister of Justice told the delegates that approximately 40 to 50 of the 2,000 polling site locations will change for the local elections. While many polling stations may remain the same, it is likely that many voters will be assigned to new polling sites given the new territorial division of municipalities. This may create voter confusion and lower turn-out. Therefore, the legal requirements to visibly post the locations of polling stations and to describe the area the polling stations covers 20 days prior to the elections should be scrupulously observed. The delegation also recommends public information campaigns that would advise voters of the boundaries of the polling stations and the exact location of their designated polling stations.

#### **5. Voter Education and Administrative Training**

In meetings with political party members, journalists and civic groups, the delegation was disappointed to learn that many voters are not well informed about the new election laws, and particularly about the proportional system. Voter education is not only the responsibility of government and should also be carried out by political parties and nongovernmental organizations. The delegation was, however, encouraged by the President of the Republic Electoral Commission's suggestion to produce voter education videos for television.

The combination of new election laws and the appointment of political party members to the municipal election commissions and election boards may lead to disagreements or confusion among the members of these electoral boards because a number of them will not have had previous electoral experience. To promote greater understanding of electoral rules, the REC should actively train the members of the municipal commissions and election boards.

The REC should also consider issuing a directive to the police about their role in the elections. In 1996 by-elections, armed police were present in many polling stations. Although the law provides for police presence when electoral boards request assistance, the REC is obligated to ensure that armed police are not routinely stationed in the polling sites.

#### **6. Voters' List Commission**

One political party claimed that the Voters' List Commission had not been formed and had never met. With some difficulty, the delegation located the President of the Commission, who had been appointed three days earlier. He told us that the Commission had met three to four times. While the delegation recognizes that the Commission had been recently created, the public seems to know little about the workings of this body. This is unfortunate because this Commission plays a vital role in ensuring that the electoral complaint process works smoothly. The transparency of the electoral complaint process would be enhanced if this Commission had multi-party membership.

## **POLITICAL ENVIRONMENT**

The presence of parties across the political spectrum participating in the elections contributes positively to a meaningful campaign. Twenty-eight out of 37 registered political parties have submitted candidate lists. The initial cooperation between the ruling and opposition parties in drafting the election-related legislation has encouraged full participation of two political parties that had boycotted the 1994 parliamentary elections.

Due to the haste in which local elections were called, only the ruling Social Democrats (SDS) were prepared to field candidates in all 123 municipalities. The ruling party is clearly at an advantage in terms of organization and financial resources.

On the positive side, the expansion of the municipalities has encouraged parties to form coalitions. For example, the Liberal Party and the Socialist Party have relied on broad-based coalitions in order to field as many candidates as possible in the new municipalities. In some instances, the more extremist national parties have also moderated their positions and demands as a consequence of participating in coalitions.

### **1. Equal Access to Electoral Information**

Inaccessibility of the voters' list has raised questions about a "fair playing field". Political parties do not receive copies of the voters' list because the list reportedly contains "sensitive information." This information includes name, address, identification number, and date of birth. And, since the voters' lists are not accessible for public verification, many political parties believe that their supporters have been deleted intentionally and improperly from the list.

In the Spring of 1996, the opposition parties Internal Macedonian Revolutionary Organization-Democratic Party for Macedonian National Unity (VMRO-DPMNE) and the Democratic Party (DP) mounted a referendum calling for early parliamentary elections. The two parties collected nearly 220,000 signed ballots, which included the citizens' names and identification numbers. The referendum was rejected by Parliament as unconstitutional and is currently on the docket of the Constitutional Court. Both VMRO-DPMNE and the DP have accused the government of deleting their supporters who signed the referendum from the current voters'



list.

VMRO-DPMNE and the DP assert that when party activists went to several municipalities to check the voter registration, their names had been deleted from the voters' list. The delegation could not confirm these claims. These types of accusations, however, only decrease voters' confidence in the administration of the elections. The atmosphere of mistrust and suspicion could be calmed with the timely release of the voters' list, which is common practice in other countries. Moreover, in order to respond to opposition charges, an independent commission could be appointed to compare the voters' list to the referendum list of signatures.

In addition to restricted access to voters' lists, other electoral information is lacking, such as how many inhabitants live in each municipality and how many voters are registered in each municipality. Political parties should know how many constituents live in each municipality in order to mount credible campaigns and allocate financial resources accordingly.

To further illustrate this point, the delegation was told by four different political parties about serious problems with government statistics. They point to discrepancies between the stated population of certain municipalities and the voters' list in those same municipalities. For example, in the city of Bitola, the Liberal Party reported that there are 82,000 inhabitants and 72,000 voters; but according to local records, there are 12,000 primary and secondary students. The MAAK party reported that in Cair, there are 60,000 inhabitants and 48,000 voters. The Party for Democratic Prosperity (PDP) repeated that there are 45,750 inhabitants in Gostivar and 33,000 voters. The Socialist Party reported "a paradox" in Mavrovo, a new municipality that has 1,320 inhabitants and 1,382 voters.

If these numbers are accurate, the voters' list has serious shortcomings. Either the 1994 census data is inaccurate or the Macedonian citizens living abroad have not been deleted from the voters' list. In the above mentioned four cities, the number of citizens living abroad are as follows, Bitola: 31, 288, Cair: 3,419, and Gostivar: 9, 428. (No figures are available for Mavrovo).

These large numbers indicate that absentee voters can influence the outcome of the elections. This concerns the delegation because absentee voting is one of the least transparent aspects of the process.

## **2. Reports of Intimidation**

The Democratic Party claimed that two of its candidates in Kumanovo have been called to the local police station for questioning. As a result, they said both candidates withdrew their names from the race. The delegation could not independently confirm this information but would urge the authorities to promote publicly an open, tolerant political environment. Similarly, the delegation heard from many nongovernmental organizations that the government exerted some pressure on them not to undertake a domestic election monitoring effort.

### **3. Penalties or Fines for Violating Electoral and Campaign Regulations**

The local election law does not specify under which code electoral or campaign violations would be punished. The criminal code does not offer guidelines either. The lack of specified punishment or penalties in the law does little to dissuade potential violators. There should be clearly definable penalties and fines for electoral fraud.

### **4. Media**

Media guidelines for the local elections were established by parliamentary decree. The new law attempts to establish the first guiding principles to ensure fair media coverage "under same conditions and equally" for all political parties and candidates. During meetings with local and national journalists, however, the delegates heard many interpretations of what the guidelines actually meant. The delegation was pleased to hear that the journalists were eager to play a role in elections. The journalists agreed that the majority of the citizens viewed the local elections as a referendum on the government rather than about local issues.

The media representatives confirmed that media outlets are heavily influenced by partisan interests at both the national and local levels, both by government parties and to a lesser extent by the opposition. The delegation recognizes the professionalism of journalists who aspire to present fair, balanced media coverage. They are, however, uncomfortable with assuming an independent role. All journalists are issued professional licenses or cards by the government. If the license is revoked, there is no appeals process.

One complaint heard in the 1994 elections pertained to the concept of "equal access" time for all political parties. There are many small, fringe groups that have strikingly similar names to the larger opposition parties. For instance, two extremely nationalist parties are named VMRO-DP and Liberal Party Alliance and are given public access to the media. Their spokesmen express inflammatory campaign rhetoric. To the casual television viewer, the name of the political party is often not clearly stated, which causes confusion. The delegation recommends that all political parties be clearly and distinctly identified on all media outlets.

### **CONCLUSION AND RECOMMENDATIONS**

As noted earlier, the legal framework for the upcoming elections and the process through which the new electoral law was adopted represent positive steps in the development of an election system that meets international standards and enjoys the confidence of the electorate. At the same time, given the advantages of the ruling parties and controversies surrounding previous elections, the government must assume the responsibility for adopting additional safeguards -- an added measure of transparency -- in the electoral process. In FYROM, as in other countries, the perception of fairness is as important as the letter of the law.

The delegation recommends that the following measures, if taken before the November 17

election, would increase the transparency of the elections and voter confidence in the process:

1. voters' lists be publicly displayed in a prominent area for all citizens to see the list in its entirety;
2. all voters be required to show proper identification before being allowed to vote;
3. relevant electoral data such as the number of registered voters in each municipality be released to the public (additionally, the 1994 Census Data should be made available to the public);
4. the Republic Electoral Commission, political parties and nongovernmental organizations make a concerted effort to conduct voter education;
5. the location of polling sites and voter designation to each polling site be published and prominently displayed;
6. the Republic Electoral Commission hold training sessions for the municipal electoral commissions;
7. penalties and fines be established for voter inducement and ballot stuffing;
8. embassies keep a roster of those who voted by absentee ballot to compare with who voted in each municipality;
9. party observers be present at the counting of absentee ballots;
10. domestic election monitors be encouraged to monitor the process;
11. there be a strong presence of international monitors.

**Post-Election Recommendations:**

1. an independent commission be established to review the voters' list and compare to the list of referendum signatures;
2. the new, updated voters' list be published immediately and distributed to political parties;
3. the government implement its plan to form a new agency that would assume primary responsibility for compiling the voters' list;

4. the responsibility for the administration of elections be consolidated under one multipartisan body;
5. the Republic Electoral Commission hold regular meetings with representatives of political parties to encourage communication;
6. a uniform method be established by which citizens can check their voter registration status and provide verifiable documents for an appeals process.