

Draft Permanent Election Law Completed

Today, the Office of the High Representative (OHR) and the OSCE announced the completion of the first draft of Bosnia and Herzegovina's (BiH) Permanent Election Law. The law introduces significant electoral reform that aims to foster more moderate politics, reconciliation and accountability of publicly elected officials. In drafting the law, the working group of seven BiH nationals and the OHR and OSCE paid close attention to the views expressed by the public, through the various discussion groups and polls held under the auspices of the election law information campaign.

"The draft Permanent Election Law encompasses significant reform, and should be seen as key to a stable, functioning democracy," stated OSCE Head of Mission, Ambassador Robert L. Barry. He added, "Last week's Stability Pact Summit signals that the international community remains concerned with and committed to this region. This law is an opportunity for BiH authorities, political parties and civil society actors to illustrate their genuine commitment to democracy and the process of integration into Europe as a single state."

Reforms introduced by the draft law, which will replace the Provisional Election Commission's Rules and Regulations, aim to promote inter-ethnic reconciliation and compromise by requiring candidates running for a member of the BiH Presidency to either obtain a certain percentage of signatures of support from voters who hold permanent residence and still live in a different Entity or obtain the support of a Municipal Council/Assembly in a different Entity. This should encourage more moderate policies, as parties are required to garner support cross-entity in the pre-election period.

A preferential vote system for the members of the Presidency of BiH and the President and the Vice-President of the RS, has been incorporated into the draft Permanent Election Law. This allows voters to rank candidates in order of preference. This system, which is in use in several countries such as Australia will cause candidates to seek not only the votes of their own supporters but also the second, third, fourth, etc. preferences of others. In order to attract these preferences candidates must move away from extremist positions and appeal to other interests.

In addition, for all bodies of authority at all levels parties and coalitions shall put forward open candidates lists so that voters are able to express their preference not only for a party or coalition but also for the candidate whom they support. This will allow voters to express their preference for particular candidates, and will require candidates to be more accountable to the voters. It will no longer be completely up to the party or coalition to decide which candidates get elected. Once candidates are directly elected by the voters, they will have to become responsive to the electorate to be re-elected.

Under this law candidates will still be elected using a proportional representation system however, for the House of Representatives of the Parliamentary Assembly of BiH, the House of Representatives of the Parliament of the Federation of BiH and the Republika Srpska National Assembly multi-member districts have been created. The creation of smaller constituencies will bring elected officials closer to the electorate, and, when coupled with open list voting, will require elected representatives to answer to the public.

Women's political participation has been acknowledged by the law's drafters as critical to BiH's successful transition to democracy. The draft law incorporates a provision that mandates that at least one-third of the candidates on the candidates' list must be women and that they are equally distributed throughout the list. This reform is in keeping with the public will-in a recent poll, 72 percent of those asked supported a requirement that there be a quota of women candidates.

The draft law also requires a party, coalition or candidate to disclose its finances and assets and identify large contributors, before or after the campaign, depending on the election level and if a mandate is won. In addition, the draft law limits the amount of money that parties, coalitions and candidates can spend on each voter during the election campaign. The draft law also preserves the right of refugees and displaced persons to vote in the municipalities of their pre-war homes and ensures that the voting process is transparent and sustainable.

The draft law also establishes the independence of the election commission from political influence.

The draft of the Election Law has already been submitted to the Peace Implementation Council Steering Board and

the Council of Europe in order to ensure that it meets international standards. It is anticipated that comments on the draft will be available in September. Once these comments have been incorporated, the law will be presented to the Parliamentary Assembly of BiH for consideration and passage. During the coming weeks, we will be discussing the law with political leaders and non-governmental organizations. We will also promote public discussion of the central principles contained in the law.

The OSCE-OHR jointly co-ordinated and facilitated the drafting process, and acted as advisors to the seven BiH members of the Working Group. Prominent international elections experts were also consulted. On July 28, the draft was presented to outgoing High Representative Carlos Westendorp by Francois Froment-Meurice, Chairman of the Permanent Election Law Working Group.

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