
AICEI PROCEEDINGS

“FAIR AND DEMOCRATIC ELECTIONS - REQUIREMENT ON THE PATHWAY TO THE EUROINTEGRATION”

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Abstract

In this paper, the elections are being analyzed from the aspect of regularity of the election process as one of the key criteria in the evaluation of the performance of the reforms in our country. The legitimacy of the government institutions does not result only from the election result, but also from the behavior of the key political forces at all election stages, that is, their willingness to adhere to the procedure required by law. The pressure of the international community for implementing fair and democratic elections, which may directly affect the future integration processes of the country, is certainly a sound reason for concern and accountability of all those directly involved in the holding and the organization of the parliamentary elections in July this year. Surely, the need of additional verification of the democratic nature of the elections emphasized by the international community is a fact that is not be underestimated by any participant in the elections. Here we discuss about critical opinion which is likely to have direct repercussions on the integration process of the Republic of Macedonia to the European Union. This is the reason why high EU officials underline, in various contexts, that the international community will not grant amnesty to the political parties provided they call for our traditional practices of group voting, illiteracy, and it will not tolerate especially those parties which will fail to stand clearly up for overcoming such problems.

Keywords: *elections, electoral system, political parties, legitimacy*

Introduction

Undoubtedly, elections, as a political phenomenon are largely contingent upon the social and historical context and the nature of a particular political system. Even though the elections are primarily nationally determined category, since they refer to elections in a particular country, that is, to the electoral system of a specific country, their elaboration, however, goes beyond the national boundaries and involve another aspect which arises from the interference between the national elections and the international community, as an extensive framework in the designing and the implementation of an election concept.

Certainly, such approach affirms the extensive dimension of the elections, as an integral part of a wider system, where they play the role of driving forces of the political process and an establishment for exercising the democracy and legitimating the government, not only to its voters, but also to the international public. Hence, the elections should be seen as a more complex process, which is not addressed only at national level.

It is noticeable that the issue of elections becomes a central part in the scholar and political debates in times of tumultuous social changes when the political forces face the challenges of the democracy. This ascertainment also arises from the appearance of the election issue in the post-socialist countries, and therefore, in Macedonia. Here we discuss the wave of democratization that spreads over the regions of Eastern and Central Europe, a period witnessing historical turnabouts with suitable political and ideological components, still entailing adequate scholar elaboration and explication. Along with these inter-political consolidation processes, some of these countries also emphasize the process of Eurointegration.¹ Such determination imposed myriad of obligations and standards for those countries, which somehow outlined and stigmatized the framework of influence of their political entities.

¹ In June 1993, the European Council in Copenhagen made a decision that the Central and East European countries, at their own discretion, may become members of the Community, provided that they meet the required economic and political criteria.

This group of countries includes the Republic of Macedonia. The candidate status obtained in 2005², *inter alia*, entailed a list of obligations constituting the agenda of activities of both the current and future government institutions in the RM. This very fact limits the space for maneuver and independent creating of the political actors in the definition of the reform efforts. Also, the proclaimed endeavors are not an ample guarantee for receiving such status. The effectuation of what was determined by declaration, that is, giving assumptions for functioning of the rule of law proved to be the stumbling block for the democracy of the Republic of Macedonia. One of the key segments where the problem of discrepancy between the normatively and really determined was detected are the elections, which are considered by the international community to be one of the crucial political criteria in the evaluation of the status of the Republic of Macedonia, as a country candidate for membership in the European Union³. Hence, the forthcoming elections in our country do not only come down to the question of WHO will be the winner, but HOW will the victory be won.

In this light, this paper observes the elections from the aspect of regularity of the election process as a key assumption of the legitimacy of the elected representatives. The legitimacy of the government institutions is not derived only from the achieved election result, but also from the adherence to the procedure by the key political actors in the course of any election stage. The adherence to the rules of the game usually results in legitimate parliament and legitimate political elite. Many situations and incidents prior or in the course of elections show the extent to which the elections are related to the democratic political process and particularly to the legitimacy of the government in the public perception, and generally in the political memory and culture. The experience

² Communication from the Commission of the European Communities, Brussels, Com (2005) 562

³ “Even though the recommendations given by OSCE - ODIHR were restated after the elections in 2002, the local elections in 2005 suffered a sequence of serious irregularities. The timely and appropriate implementation of the recommendations given by OSCE- ODIHR and the commitment of the political parties are necessary for ensuring overall integrity of the next parliamentary elections”. In the section of political criteria, Com (2005) 562, pp4

The recommendations also state that the RM, among other areas, has to make additional effort in the area of election process. Also see the part that refers to conclusions and recommendations, page 6

from the recent election cycles in the Republic of Macedonia highlighted this very aspect of the elections.

Legitimizing function of the election

The election processes are one of the tools that legitimize the political order. In this light, we could discuss about the legitimizing, that is, compensating function of the elections⁴. Therefore, the legitimacy of the government is not pertinent only as rationalization of its roots, but also for stabilizing of already established order. "Legitimacy denotes capability of the system to create and maintain an assurance that the current political institutions are most suitable for the society"⁵. Accordingly, the problem of legitimizing is also a concern for any authority. The problem of the method of ensuring transformation of the possessed power into legitimate exercising of the power is also one of the major issues faced by the political science and practice. It is evident that in contemporary society, apart from many other issues risen by its dynamical and, at the same time, controversial development, the issue of legitimacy is also a subjected to some kind of reconsideration.

Understanding the elections "as an efficient instrument of legitimate shift of government"⁶, the political entities use their involvement or non-involvement in the elections for putting the government under pressure, with a view of winning some concessions, etc., being aware that the absence of some influential society forces might be a ground or a reason for denying the legitimacy of the newly elected government. Considering the above, we are not surprised by the phenomenon, present worldwide, and in our country, of certain political parties and leaders threatening to boycott, or withdraw from the elections. The above illustrates the connection between the elections and the legitimacy, not only in theoretical but in practical terms, as well.

⁴ Nohlen, D. (1992) *Izbornopravno i stranacki sustav*. Zagreb: Skolska knjiga. pp 15- 23

⁵ Lipset M.S. (1969) *Politički čovek*. Rad, Beograd pp119

⁶Idem, page 119

In the plural system, it is inevitable to institutionalize the perception that the system produces common good⁷ for all its benefactors. Thus the achieved meritorious consensus for the political procedure is the relational matrix which is a place of interaction of the political protagonists, with the survival of the system not being put at stake at any moment. This common good, however, is not abstractly determined by the system, but it arises from the political activity of various groups, which are allowed to autonomously articulate specific and individual needs, interests and merits. The democracy is understood as a legitimate right of any group or individual to compete in order to win the confidence of the electors and to promote their interest by participating in the government.

Although the elections imply a contest, underlain by strictly defined rules of the game, which is a fundament of the democracy, yet, the defeated party denies even the rules themselves. This is surely reasonable, as the elections, inter alia, involve competition, which means a winner and a loser. This very fact is the reason of discontentment and raging reaction of one party, i.e. some of the nominees and the parties they belong to. Such debates for altering the rules, or even the election model itself, immediately after the elections, became common practice for the countries with relatively short democratic tradition⁸.

In order to occupy certain positions in the institutions of the system, in the fight without quarter, only the endeavor to make a particular program operational becomes legitimate, which could be achieved by adherence to the already specified rules of the game, which equally apply to all those involved in the election process. Accordingly, the legitimacy arises not only from the election result, but also from the behavior of the key

⁷ Sumpeter underlines that the democracy, in literal sense, does not imply that the people themselves exercise the power. He doubts that the idea of *general will of the people* as a core of the classical democracy could be tested, and in that light, a fundamental criteria in the evaluation of the legitimacy of a system. Sumpeter, J. (1960) *Kapitalizam, socijalizam, demokratija*. Belgrade: Kultura, pp284- 285

⁸ See: Nolen, D. i Kasapovic, M. (1997) *Izborni sistemi vo Istocna Evropa*. Skopje: Foundation "Friedrich Ebert Stiftung"; Juberias, C. F. (1991) *Founding Elections and Electoral Systems After the Wall*, special issue on "*Transitions and Changes in Europe in the 80s and 90s*". Hungary; Jovevska A. (2000) *Izbornite reformi vo zemjite od Istocna Evropa vo periodot na tranzicija*. Godisnik, ISPPI, Skopje

political forces in the course of the elections, that is, their adherence to the procedure specified by law. The legalization of the voting right does not mean that all assumptions have been created so that this right is ideally exercisable. More precisely, whether or not this right is only one among the formal rights, mainly depends on the method and the extent to which the election laws regulate its protection. Consequently, the scarcity of efficient protection of the voting right (both active and passive), that is, the lack of assumptions for its full exercise also affects the democratic nature of the elections.

The compliance with the procedure would normally result in legitimate parliament and legitimate political elite that communicates the will of the electors. Therefore, to make sure that the sovereignty transfer is legitimate, it is essential, *inter alia*, that the elections are fair and free, that is, to subdue to the normatively defined procedure, and to enable those involved in the election process to act free from any pressure.

This is certainly due to the fact that election rules might encourage and also impede the democratization processes. These rules might be positively correlated to the evolving processes of democracy, and yet, due to the lack of political culture, they might produce completely opposite effects. On the other hand, relatively "well" designed electoral system cannot save the politics by itself, provided that other institutions and values do not work. On the other hand, a well-conceptualized policy widely supported by the public is likely to compensate and alleviate the deficiencies of a "moderately" created electoral system. However, one should not overlook the fact that such electoral system, in times of volatile and unconsolidated politics, might easily prove to be one of the crisis generating factors.

This particularly applies to countries that lack electoral system in place recognized by all electoral parties. This is the very reason for using the term election rules the reform of which becomes relevant especially prior to the elections⁹. After all,

⁹Only if the elections pass the test of the time they can be incorporated in a certain coherent electoral system. In that light, we should address the issue of whether each electoral system is *sui generis* (as election rules are applied in different historical and sociopolitical context) or is it possible to outline a reasonable electoral system, for their advantages and disadvantages, based on other experience. See Taagepera R.

this is also illustrated by the chronology of the electoral reforms in our country and the debates that concern them. It even became common that the requests for change or the initiative for changing some electoral dimensions be a part of the electoral platforms of some political parties. In our country, going back to the time of holding the first multiparty elections in 1990, debates were open concerning the reforms of the election regulations. The decision-making parties, however, were overridden for the issue of altering the majority principle. But in 1994¹⁰, qualifying the elections as irregular, two political parties (DP and VMRO- DPMNE) boycotted the elections in the second round. The problems regarding the assurance of regularity of the election process, in particular, were a motive to seek for solutions, inter alia, in the change of the election model. In 1998, prior to the third parliamentary elections, the key political entities reached an agreement on mixed election model, according to which, 85 terms were distributed on the basis of the majority principle, and the remaining 35 on the basis of the pro rata rule. The RM also followed the trend of shifting the elections from prevailing majority to mixed type, which was a symbol of the electoral reforms in the transitional countries. At these elections (1998), the opposition managed to conquer the power, and SDSM became an opposition party for the first time.

Speaking about the regularity of the election process, it is inevitable to get back to the local elections. Namely, in this context, the experience of the local elections in 1996/2000 in our country is an illustration of how same regulations (Law on Local Elections 1996) created presumptions of holding relatively regular elections, and only four years later (2000) they provoked completely opposite situation, when the elections were meritoriously considered “unfair and undemocratic”. More precisely, in two key areas these elections failed to meet the required standards¹¹, and therefore can not be deemed fair and free. They failed to organize elections free from violence and

Estonia Parliamentary Elections. Electoral Studies No 3/95, pp.329 and Nolen D. and Kasapovic M., ibidem, page 87

¹⁰ Essential trait of these elections was the conduct of direct elections for President of the State, the first of a kind, and simultaneity of the election campaigns for President of the State and member of the Parliament (upper house).

¹¹ Here we discuss about a list of standards containing OSCE document prepared in 1990 in Copenhagen which is binding for all OSCE member-states.

intimidation¹², on the one hand, and on the other hand, no secrecy of the ballot papers was ensured. The fact that the Government, or its institutions remained indifferent towards the issue of protection of the right to vote, that is, nobody was punished in spite of the identified election irregularities is of a special concern. The village of Kondovo, in the vicinity of Skopje, is an explicit example where in the course of voting, close to the polling station, a man was murdered, and there is still no effective court judgment on this case. As an exception, the court settled the case of identified violations of the voting right in Ohrid, but long after it happened, that is at the end of 2004, i.e. in the eve of the local elections in 2005. Unfortunately, the developments during the presidential elections in 1999 and 2004, and the local elections in 2005, which were seen as a test for the political stability of the country failed to fix the general impression that there are positive changes in favor of regularity of the election process and that there is a political will of the parties to obey the law. Even though the international observers¹³ found the aforementioned elections mostly peaceful, yet, they indicated certain irregularities, identified at the previous elections: group voting, filling of ballot boxes, violence, intimidation of voters, secrecy violation, etc. The government institutions were particularly criticized for their failure to respond adequately to the identified irregularities.

¹² These very incidents of violence were the reasons why PDP boycotted the second round of elections and prepared a kind of a “white book” describing all violence, terror and irregularities made by certain political mercenaries in the first round of the elections over the innocent voters. This case involves 17 voting districts with prevailing Albanian population, where we witnessed glaring violation of the provisions of the Law on Local Elections. See: Jovevska A. (2004) *Lokalni izbori, vo studijata: Funkcionirawe na sistemot na lokalnata samouprava vo RM* (grupa avtori). (*Local elections, in the study: Functioning of the Local Government System in the RM.* (group of authors) ISPPi, Skopje

¹¹ According to the preliminary observations and conclusions of the international spillover monitor mission from March 13 to 17 2005, the local elections were conducted in compliance with the election-related recommendations given by OSCE and the standards of the European Council, but failed to comply with the key endeavors which ensure universal and equal right to vote (paragraph 7.3 of the Copenhagen Document). Grave irregularities were also registered at the polling stations in Lipkovo, Tearce, Saraj, Suto Orizari, Studenicani, Dolneni, Aracinovo i Oslomej.

Such claim is supported by the fact that during the presidential elections in 2004¹⁴ the police did not make any intervention to reestablish the disturbed law and order at the polling stations, and during the local elections in 2005, it intervened only five times. While the blame for such situation is partially on the composition of the electoral boards, i.e. failure to win votes necessary to make a decision to request for police assistance, the impression remains that in some instances of obvious violation of the provisions of the law, the local police preferred to remain an observer, rather than to confront the perpetrators.

Furthermore, although ODIHR, in its final report on 2005 local elections states that the Supreme Court met the deadlines specified by law for making decisions, it still underlines that "many" of its decisions were "inconsistent" and that the court "refused to investigate the circumstances and the validity of appeals"¹⁵. Surely, in a situation where the work of the highest judicial instance is given a negative rating, there is a reason for concern that the lower judicial instances are not capable to protect the voting right. In this context, the qualifications presented in this report, referring to the institutions and entities responsible for smooth election process: "culture of non-punishment" or lack of "actual sanctions"¹⁶, precisely depict the long-lasting environment of holding elections in our country.

All foregoing was a reason to reinitiate the issue of amending the election legislation. Although we cannot blame the Law for most of the incidents, the endeavor to amend some provisions essential for regular election process was however justified¹⁷.

¹⁴ www.osce.org/documents/odihhr/2004/07/3321_en

¹⁶ www.osce.org/documents/odihhr/2005/06/15001_en

¹⁷ In May 2005, the Government of the RM made a decision to codify the legal framework of the elections. On March 29, 2006, the Parliament of the RM adopted the Election Code. The amendments to the regulations refer to the composition and the responsibilities the election administration, ensuring of principle of subordination in the activities of the electoral bodies, compulsory representation of sexes at all levels of electoral bodies, precise definition of the role of the police, transparency in the activities of the bodies, regulation of the appellate procedure, protection of the voting right, etc. rather than to the election model.

Yet, the fact that the electoral systems are not composed of election rules only, but also include certain political culture should not be considered irrelevant. The question of what political culture we discuss about is certainly appropriate. One thing is to discuss the electors and their conscience, the method of exercising their voting right and the method of protecting it from being abused, and it is completely different to discuss the political culture of political parties, which, unfortunately, did not prove to be ready to understand the significance of the moment (transition) and their contribution to this process. The most indicative, in this context, is the behavior of the local bosses in the process of elections. Turning the elections into an act of "winning the power at any price", adversely affects the democracy of a country and the political culture of its population, thus resulting in lower readiness to participate in the elections. That is why the issue of possible abstinence of a part of the voters is relevant. In this case, the abstinence from voting is likely to be understood as a discontentment with the offer at the elections, lack of personal motivation to take part in the election and the believe that the elections cannot change anything, etc.

Obviously, declarative standardization of the democratic election institution is less than enough. The government institutions involved in the election process need to have real power to ensure the legitimacy of the elections at any stage. It implies creation of real assumptions for their effectuation in practice. This is essential in cases when the existence of minimum social and economic assumptions of stable democracy in our country is put at stake: 1) middle class - which is the core of democracy, 2) high percentage of literate population, 3) availability of health services and well organized prevention and 4) uniformity and access to information.

If supplemented with the processes of fragmentation of the party system of the RM, which primarily results from the high centralization of the parties themselves, the lack of democratization of the interrelations, and the likelihood of abstinence of voters and its encouragement as a strategy of certain parties, the pressure of the international community for holding fair and democratic elections, which might directly affect the future integration processes of the country, it gives a sufficient ground for concern and responsibility of all those directly involved in the conduct and the organization of the parliamentary elections in July this year. This is especially important for the parties, since

the poll of the public opinion indicates that the respondents point rather to the parties, than to the laws as being the main culprits for the irregularity.

The need of additional verification of the democratic nature of the elections emphasized by the international community is a fact that needs not to be underestimated by any participant in the elections. Here we discuss about a critical opinion, which is likely to have direct repercussions on the integration process of the Republic of Macedonia to the European Union¹⁸. Because of that, the international community will not grant amnesty to the parties¹⁹ if they clearly call for our traditional habits of group voting, illiteracy, and it will not tolerate especially those parties which will fail to stand clearly up for overcoming such problems. The amendments to the election regulations are not powerful enough to resolve the problems, particularly if there is no political will. These amendments are aimed at preventing the parties from providing an alibi from the deficiencies of laws for the irregularities of the election process. This particularly applies to those parties directly responsible for holding fair and free elections.

¹⁸ “The sooner the reforms are completed, the faster one can expect the next stage of the journey to the EU to be the recommendation to onset the negotiations. This means that you should get down to work, with the election campaign and elections being a significant part of the reform agenda”. A part of the interview with Ervan Fuere for Nedelno Vreme, March 5, 2006

¹⁹ “The process of holding fair and democratic elections is not easy for any part of the world, the elections should reside with each political party”. Part of the statement made by Carel de Huht, OSCE Chairman, after the meeting with Ilinka Mitreva, Minister of Foreign Affairs, in Skopje, Dnevnik, April 28, 2006

References:

1. Juberias, C. F. (1991) *Founding Elections and Electoral Systems After the Wall*, special issue on “*Transitions and Changes in Europe in the 80s and 90s*”, Hungary
2. Jovevska A. (2000) *Izbornite reformi vo zemjite od Istocna Evropa vo periodot na tranzicija*. Godicnik, ISPPI, Skopje
3. Jovevska A. (2004) *Lokalni izbori, vo studijata: Funkcionirawe na sistemot na lokalnata samouprava vo RM*. ISPPI, Skopje
4. Nolen D. i Kasapovic M. (1997) *Izborni sistemi vo Istocna Evropa*. Fondacija. Friedrich Ebert Stiftung, Kancelarija Skopje, str.87
5. Nohlen, D. (1992) *Izbornopravo i stranacki sustav*. Zagreb: Skolska knjiga
6. Lipset M.S. (1969) *Politički čovek*. Rad, Beograd
7. Sumpeter, J. (1960) *Kapitalizam, socijalizam, demokratija*. Beograd: Kultura,
8. Taagepera R. *Estonia Parliamentary Elections*. Electoral Studies No 3/95

SUMMARY

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international community will not grant amnesty to the political parties provided they call for our traditional practices of group voting, illiteracy, and it will not tolerate especially those parties which will fail to stand clearly up for overcoming such problems.