

Stjepan Mikić, member of the Central Election Commission of Bosnia and Herzegovina

Speech to be delivered at the ACEEEO Conference in Sarajevo

Topic: Election of representatives of national minorities and providing the right to vote to persons with special needs

According to the Election Law of Bosnia and Herzegovina representatives of national minorities have the right to be represented in the Municipal Council/Assembly and the City Council/Assembly in proportion to the percent of their participation in the total population according to the last census in Bosnia and Herzegovina. Provisions of the BiH Election Law do not stipulate the possibility of **representation** nor do they reserve guaranteed seats for the representatives of national minorities at the level of Bosnia and Herzegovina, entities and cantons. Candidacy and election of **representatives of national minorities** for given levels is done within regular candidates' lists of **political parties, coalitions, lists of independent candidates or an independent candidate**, and distribution of mandates is done within distribution of regular and compensatory mandates. The BiH Constitution does not specify election of representatives of national minorities for certain bodies as: the BiH Presidency and the House of People of the BiH Parliamentary Assembly.

Number of representatives of national minorities to be directly elected to the Municipal Council/Assembly and the City Council/Assembly is determined by the Municipal/City Statute, whereby representatives of all national minorities, who in the total number of population of that constituency, according to last census, participate with more than 3%, have one guaranteed seat.

The right to apply to participate at the election of guaranteed mandates for representatives of national minorities, besides political parties and coalition, also has:

- a) A registered association or other registered organized form of functioning of national minorities,
- b) A group of at least 40 citizens having the right to vote, who along the application to participate at the elections also submit names of the candidates.

Candidates proposed by an association, or any other registered organized form of functioning of national minorities and a group of at least 40 citizens, having the right to vote, have status of an independent candidate.

Political parties, coalitions of political parties, associations of national minorities and other registered organized forms of national minorities, and the group of at least 40 citizens, having the right to vote, can propose as many candidates as there are representatives of national minorities to be elected in that constituency.

After verification of the candidacy for every individual candidate, the BiH Central Election Commission determines the final special list of candidates, representatives of national minorities, for the Municipal Council/Assembly and the City Council/Assembly. Only one candidate, whose name is on the special list of candidates, representatives of national minorities proposed in accordance with the provisions of the BiH Election Law, can be elected as representative of national minority.

The special list of candidates, representatives of national minorities, is found on the ballot after the list of all other political subjects whose candidates' lists are running for regular mandates for Municipal Council/Assembly and City Council/Assembly. The sequence of the candidates on the special list is determined by a lottery draw.

A voter has only one vote. If a voter opts to vote for the special list of candidates, representatives of national minorities, he/she will cast his/her vote by marking the name of only one candidate on the special list of candidates, representatives of national minorities.

The candidate with the highest number of votes on the special list of candidates, representatives of national minorities, will be elected representative of the national minority.

In the Municipal Council/Assembly and the City Council/Assembly where more than one mandate is awarded, the mandates will be distributed to candidates with the next highest number of won votes according to the number of received valid votes.

In case two candidates on the special list of candidates, representatives of national minorities, receive the same number of valid votes, the mandate will be awarded by a lottery draw, organized by the BiH Central Election Commission.

If the mandate is not awarded to a representative of national minority, the mandate remains vacant.

In case of termination of the mandate of the representative of national minority, substitute mandate will be awarded to a candidate having next highest number of won valid votes on the special list of candidates, representatives of national minorities. If the list is exhausted, the mandate will remain vacant.

Special attention is given to voters with special needs both in the BiH Election Law and other by-laws, but also with the election management bodies.

In the framework of enabling exercise of the right to vote to persons with special needs; for blind, illiterate voters or voters who are physically incapacitated, the president of the polling station committee permits application of a procedure according to which another person, selected by the voter, who cannot independently cast his/her vote, assists the voter with signing the excerpt from the Central Voters' Register and with voting.

The person assisting with voting cannot be member of the polling station committee, accredited observer or observer of a political party, coalition, list of independent candidates or an independent candidate.

Person assisting the voter to cast his/her vote writes in block letters his/her name on the excerpt from the Central Voters' Register next to the name of voter, who he/she assisted and signs. The person assisting the voter does not have to be registered in the Central Voters' Register as a voter. One person can only assist one voter. If the location of the polling station is on the high grounds and there is no elevator, or access to the polling station is hindered in a manner not allowing disabled person to access the polling station, one of the members of the polling station committee will deliver ballots in from of the polling station for any such voter so he/she can cast the vote. After the vote, the member of the polling station committee places the ballot into an envelope and puts it into the ballot box. If a person with disabilities due to low mobility cannot come to a polling

station than it is possible to vote through a mobile team. The election commission sends, 40 days prior to the Election Day, a request to competent bodies responsible for the records on persons with disabilities, to submit information on the manner in which they will cast their vote. If they decide to vote through a mobile team, on the Election Day the team will come to the address indicated so that person with disability can exercise his/her right to vote. We are aware of the fact that there is a lot of room in this area both for normative solutions, but also for creating better preconditions to enable voters with special needs to exercise their right to vote in a dignified manner.

Therefore the members of the BiH Central Election Commission, as representatives of the Institution, pay special attention to this issue in their participation in the work of the Governmental working groups, established by the BiH Parliamentary Assembly to work on preparation of proposals for changes and addenda to the BiH Election Law.

We find that it is extremely important to guarantee the right of effective and full participation in the election process to all persons with special needs, who have the right to vote in accordance with the BiH Election Law. This also includes the right and the possibility to vote and to be elected, as well as the possibility to enjoy, on equal grounds with others, all other rights set by the law regarding the electoral process.

Since we find it necessary, we will certainly continue to advocate that all persons with special needs, who have the right to vote in accordance with the BiH Election Law, have appropriate, accessible and easily understood election process, polling stations, as well as electoral materials. All persons with special needs, having the right to vote, must have the right to secret vote without any intimidations and other manipulations, as well as the possibility to stand for the office and perform public functions at all levels of government with mitigating use of assistive and new technologies in an appropriate manner. All voters with special needs must be guaranteed expression of free will as voters and therefore, when it is necessary, to allow assistance with voting upon their request and by person freely selected by them, respecting valid legislative norms.

Speech prepared by: Mr. Stjepan Mikić