

Bosnia and Herzegovina: post-war trends in external voting

Linda Edgeworth and Nada Hadzimehic

The devastating war that tore Bosnia and Herzegovina (BiH) apart in the early 1990s and divided the country's three constituent peoples ended with the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Agreement) in Paris on 14 December 1995. Prior to the war, Bosniac, Croat and Serb ethnic groups were interspersed with no specific concentrations of any group in any particular part of the country. (The term Bosniac has been generally used since the war to describe the Muslim population of Bosnia and Herzegovina.) The pattern of multi-ethnic integration was irretrievably altered as a result of the war. Ultimately, the Dayton Agreement was intended to ensure that BiH remained a single state, but under the terms for peace it was divided into two 'entities': the Muslim–Croat, known as the Federation of Bosnia and Herzegovina, and the Serb, known as the Serb Republic (Republika Srpska, RS). The agreement also outlined a national constitution that specified a basis for power sharing among the three ethnic groups for defined federal institutions, including a tripartite presidency, a shared central legislature, and separate governmental structures for the two entities. For the restructuring to begin, one of the key conditions of the Dayton Agreement was that elections be held throughout the country not later than nine months after its signing. The first post-war elections were held in September 1996. They were to include elections of officials at all levels of government, including municipal elections, taking into consideration the changes of municipal boundaries affected by the drawing of the Inter-entity Boundary Line dividing the Federation from the RS.

Although verifiable statistics have never been readily available, it has been estimated that approximately 2 million people, nearly half of the entire population, was displaced by the war, with about a quarter of the population taking refuge outside the country. The mass emigration caused by the war itself was exacerbated by the severe economic conditions that faced the country afterwards. The sheer numbers of refugees and the international interest in seeing them repatriated as quickly as reasonably possible made it imperative that they be fully enfranchised as participants in the elections that would greatly affect their futures, the stability of their country under the new governmental institutions and structures, and the possibilities for their safe and secure return.

Three factors, which have evolved concurrently, have shaped the process of external voting for BiH since the war and had significant impact on the procedures as they exist today. The first is the transition from a passive voter registration system to an affirmative registration system whereby every citizen must personally apply to register as an elector. The second is the progressive shift of responsibility out of the hands of the international supervisors and back into the hands of the BiH electoral authorities. Finally, the procedures set in place at the end of 2005 have been significantly affected by the dramatic decline in participation by voters living abroad which has been experienced in each successive election since 1997.

Prior to the war, inclusion on the electoral registers required no action on the part of an elector. Local officials compiled the registers on the basis of residency records maintained by the municipality. Because so many municipal records were lost or destroyed during the war, the Dayton Agreement declared that inclusion in the 1991 pre-war census, which identified each person's municipality of residence, would be the basis for establishing eligibility to participate in the elections. Furthermore, it provided that persons who were no longer living in the municipality in which they had resided at the time of the census would, as a general rule, be expected to vote in their pre-war municipalities. The exception to the rule covered people who had moved in the period between the 1991 census and the beginning of the war in April 1992 and who could substantiate that move with appropriate documentation. These general rules applied to all citizens abroad, including refugees (General Framework Agreement, annex 3, article IV).

A small loophole was provided in that a person could apply to the Provisional Election Commission to 'vote elsewhere'. Eventually, under rules and regulations adopted by the Provisional Election Commission working under the direction of the Organization for Security and Co-operation in Europe (OSCE), this was interpreted to mean that a displaced person could apply to vote in the municipality in which he or she currently resided, or in the case of an out-of-country elector in a 'future municipality' to which he or she declared an intention to return. In the latter case a stringent set of rules was adopted defining what documentation would be necessary to substantiate that declaration of intent. Documentation could include, for example, confirmation of a promise of employment, or residence with family members already resident in the intended municipality of future residence.

A significant number of refugees might reasonably have been expected to take advantage of the 'future municipality' option, given that in the post-war environment the three ethnic groups are more clearly concentrated in separate regions. It is estimated, for example, that as many as 300,000 people who formerly lived in the territory of today's Federation now live on the RS side of the Inter-entity Boundary Line; similarly 200,000 people who used to live in the RS now reside on the Federation side of the boundary line (Association of Election Officials of Bosnia and Herzegovina 2003). However, the stringent nature of the documentation, investigation and verification requirements put the future municipality option out of reach for the vast majority of refugees who might have been interested in exercising this option.

The use of the 1991 census as a basis for the electoral register for the 1996 elections, while expedient, failed to provide a sound basis for establishing a verifiable number of

registered electors against which an auditable election result could be definitively and accurately compared. In addition, incidents of electoral fraud were suspected as ethnic groups sought to mobilize voters improperly to use the ballot box to regain territory lost in the war or to consolidate political influence over territory gained in the war. Due to concerns about how such instances could adversely affect the local elections, the municipal elections were postponed altogether and were not held until 1997.

It was in preparation for these municipal elections that a complete shift was made to establish an affirmative registration system whereby every citizen has had to apply to be registered as an elector and has had to provide supporting documentation to establish identity and voting residence. This shift had a particularly burdensome effect on refugee voters because of the time constraints involved in the two-way postal process, and the fact that access to the required documentation was often limited.

External voting procedures were also significantly affected by the step-by-step transition from an election process that was totally supervised by the international community, under the auspices of the Office of the High Representative and administered by the OSCE, to one totally managed by national authorities, specifically the Election Commission of Bosnia and Herzegovina and its secretariat. This transition was completed in August 2001.

Another factor that is seriously affecting the current approach to out-of-country voting in BiH is the continuing decline in both the number of potential voters remaining out of the country and their interest in participating in BiH elections. Both these circumstances have had a major impact on the facilitation of registration and voting by electors who have lived outside BiH since the 1996 external voting efforts began.

In 1996, reaching out effectively to the upwards of 800,000 citizens estimated to be living abroad taxed the logistics and manpower capacities of the OSCE's Sarajevo-based operations. The task of operating the programme within BiH was also hampered by the lack of a reliable postal service within the country. In preparation for the first post-war elections in 1996, the OSCE established an emergency Refugee Elections Steering Group (RESG) to oversee the registration and voting of eligible electors outside the country. The OSCE also entered into a memorandum of understanding with the International Organization for Migration (IOM) to serve as the operational arm of the RESG from its base in Vienna. Outreach to potential voters was accomplished through communications and coordination with refugee organizations, immigration offices, diplomatic missions and consular offices, as well as Bosnian social clubs that had emerged in countries hosting larger numbers of refugees, and through advertising in publications that targeted these refugees. Ultimately, 630,257 electors outside BiH were registered, of whom nearly 400,000 actually voted in the 1996 elections (International Organization for Migration, undated). External voters posted their ballot papers to the IOM's operations office in Vienna. Once verified, they were shipped to the counting centre in Sarajevo where they were counted and integrated into the countrywide results.

The RESG was disbanded for the 1997 elections, but a similar arrangement between the OSCE and the IOM was maintained. In addition to the postal voting services provided to voters scattered in 80 countries around the world, in-person registration centres and polling stations were established in the former Federal Republic of Yugoslavia (FRY) and in Croatia to serve the 156,000 refugees residing in those countries in nearly equal

proportions. Regardless of whether he or she had participated in the 1996 elections, each external elector was required to register anew and submit a copy of an authorized identification document. Acceptable identification included identity documents issued by BiH authorities in either of the entities or by former Yugoslav authorities in the state, or a refugee document issued by a host government or international refugee agency. An applicant could also submit a copy of a passport granted by a host government which permitted dual citizenship. Upon proper registration each elector was sent a confirmation form that was posted to him or her well in advance of his or her ballot packet. This form was to be returned with the completed ballot papers, which were to be sealed in a special envelope to preserve the secrecy of the vote. In the event of a person returning to BiH before voting as an external voter, he or she had the opportunity to present the confirmation form in order to be assigned to a polling place within BiH.

In 1997 the number of out-of-country applications dropped to just under half a million, but turnout among them was over 80 per cent.

Through the 1998 elections the application rules remained the same for new registrants. However, those who had registered successfully in 1997 did not have to re-register. Rather, they were sent a confirmation form to confirm their continued interest in voting, to record any changes in personal status or address, or to change their voting option from their 1991 municipality to a future municipality of intended residence. The major change in the process in 1998 was the development of an external voting department within the OSCE Mission in Sarajevo. The transfer of operations to Sarajevo was deemed a critical step in preparing for the eventual takeover of responsibility for the conduct of elections by the Election Commission of Bosnia and Herzegovina and the inevitable pulling out of international supervisors. The department was supervised by international personnel but was fully staffed by local staff from both the Federation and the RS. The IOM was also retained, but in a much more limited capacity. It continued to arrange for the in-person registration and voting sites in the FRY and Croatia, and to serve as the repository for applications and votes cast by post before they were transported to Sarajevo for processing and counting.

Once again the number of voters abroad declined. Approximately 350,000 external electors received ballot papers. The postal turnout rate remained over 80 per cent, although participation in the FRY and Croatia fell significantly. The decline in these two countries was attributed to a great degree to voters' disappointment at the choices on the ballot paper, as parties continued to be ethnically based. A Croat voter residing in Croatia who had formerly lived in what was now the territory of the RS was likely to find only Serb parties on the ballot paper for his or her 1991 municipality, and Serb voters who had formerly resided in Federation territory would have found predominantly Croat and Bosniac parties to choose from on their ballot papers.

Two major changes in external voting procedures were implemented for the elections in 2000. Operations were managed solely out of Sarajevo, without the assistance of the IOM. In addition the establishment of in-person polling stations in the FRY or Croatia was abandoned, and BiH voters who chose to participate from those countries had to do so by post.

By the 2000 elections it became obvious that the number of registered external electors was decreasing with each election. In 2000 this number fell to 222,000.

In August 2001, the Election Law of Bosnia and Herzegovina was enacted and responsibility for organizing elections was finally transferred from the OSCE Mission to the Election Commission of Bosnia and Herzegovina. The procedure for registration and voting by external electors that had been established by the OSCE was generally maintained. However, under the new law, the eligibility of BiH citizens seeking to register could no longer be confirmed on the basis of their inclusion on the 1991 census. They had to substantiate their claim to citizenship with a copy of a citizenship certificate or a copy of a newly issued national ID card.

By 2002, the total number of successfully registered external electors had dropped to 58,000. The significant decline in external voting is attributed to two important factors. The first is reduced interest in participating in BiH elections as more and more refugees still living abroad have sought and received citizenship in their host countries. In addition, more stringent application and documentation requirements continue to hinder potential voters for whom accessing the proper documents is still burdensome. For the latest elections, in 2004, the total number of successful external registrants was 27,000, while an additional 30,000 applications were rejected due to the lack of acceptable supporting documentation.

The turnout among registered external electors remains high, however, at about 80 per cent—well above the turnout for in-country voters in 2004, which was about 52 per cent. However, some 20 per cent of ballot papers returned from voters abroad could not be counted because registrants had failed to follow the instructions that were sent with them. Those instructions indicated that a copy of an ID document and the confirmation of registration form had to be enclosed in the outer mailing envelope along with the secrecy envelope containing their marked ballot papers.

Given the significant decline in participation by Bosnians living abroad, it is anticipated that the Election Commission of BiH will soon approach the Parliamentary Assembly with proposed amendments to the election law to limit external voting to voting in person in BiH diplomatic offices abroad.