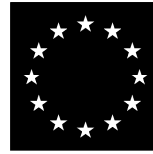




Council of Europe
European Commission



Conseil de l'Europe
Commission européenne

Strasbourg, 8 June 2005

CDL-UD(2005)003
Engl. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**with the support of
THE EUROPEAN COMMISSION**

**in cooperation with
THE SERBIAN ELECTORAL COMMISSION,
TRANSPARENCY SERBIA
and
THE COUNCIL OF EUROPE OFFICE IN BELGRADE**

UNIDEM SEMINAR

**“ORGANISATION OF ELECTIONS
BY AN IMPARTIAL BODY”**

Belgrade, 24-25 June 2005

**COMPOSITION AND FUNCTIONING OF THE ELECTORAL
ADMINISTRATION IN BOSNIA AND HERZEGOVINA**

**Report by
Mr Suad Arnautovic
Bosnia and Herzegovina Election Commission**

INTRODUCTION

1. Bosnia and Herzegovina has a central state Election Commission since 2001, when the permanent Election Law was passed. Out of seven members of the Election Commission until 30 June 2005, three members are representatives of international community in BiH, such as: Head of the OSCE Mission and Deputy Head of the OSCE Mission to BiH, and Senior Deputy High Representative in BiH. From 1 July 2005, these three international members will be replaced by three new national members, to be appointed by the Parliament of BiH. Out of current four members of the Election Commission of BiH, two were appointed by the High Representative in BiH, and two by the Parliament of BiH. In BiH, the work on changes and amendments to the Election Law are in the course. It is the aim to make changes and amendments to the Election Law by the end of 2005, and thus to create the preconditions for the upcoming general elections, to be held on 1 October 2005, and in accordance with the provisions of the amended election law.

2. The following text describes the structure and competence of the Election Administration in BiH in line with the valid legislation.

I - AUTHORITIES RESPONSIBLE FOR THE CONDUCT OF ELECTION¹

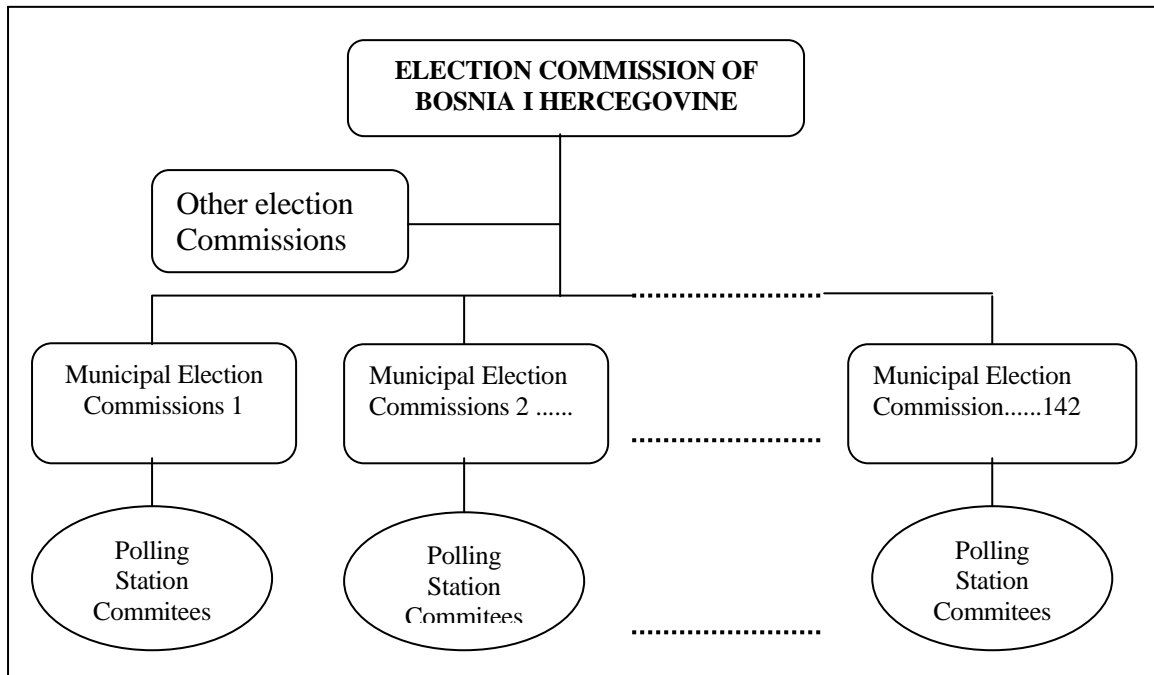
3. The competent authorities responsible for the conduct of elections in Bosnia and Herzegovina are the Election commissions and the Polling Station Committees.

4. The basic principle of activity of bodies is independence and impartiality. Members of election commissions and Polling Station Committees shall be persons eligible to vote and with appropriate expertise and experience in the administration of elections.

5. The competent authorities responsible for the conduct of elections in Bosnia and Herzegovina are:

- Election Commission of Bosnia and Herzegovina Election Commission, as central state election body
 - Entity and Cantonal Election Commissions
 - Municipal Election Commissions
 - Polling Station Committees
- The Mandate of Election Commissions shall be (5) years and same members may not be elected more than twice to the same election commission. Polling Station Committees shall be created in the year of elections in Bosnia and Herzegovina.

¹Description of competences of the Election Administration has been made on the basis of the Election Law of Bosnia and Herzegovina, published in the Official Gazette of BiH, Nos. 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04 and 25/04. All additional information on the work of the Election Commission of BiH are available on the official web page www.izbori.ba.



Scheme 1: Organisational scheme of the Electoral administration

II - ELECTION COMMISSION OF BOSNIA I HERZEGOVINA

6. The Election Commission of Bosnia and Herzegovina was established in November 2001, when it took over the competence for the conduct of elections from the Provisional Election Commission,² which was under the control of the OSCE Mission to BiH, and on the basis of the Annex 3 of the General Framework Agreement for Peace in Bosnia and Herzegovina.³

7. The Election Commission of Bosnia and Herzegovina is composed of seven (7) members of which four (4) members are national experts in the field of elections and of three (3) international members. The national members of the Election Commission are selected from the rank of citizens i.e. (1) Bosniak, Serb and Croat respectively, i.e. one representative from the rank of each constitutional peoples of Bosnia and Herzegovina, and one (1) representative from the rank of Others.⁴

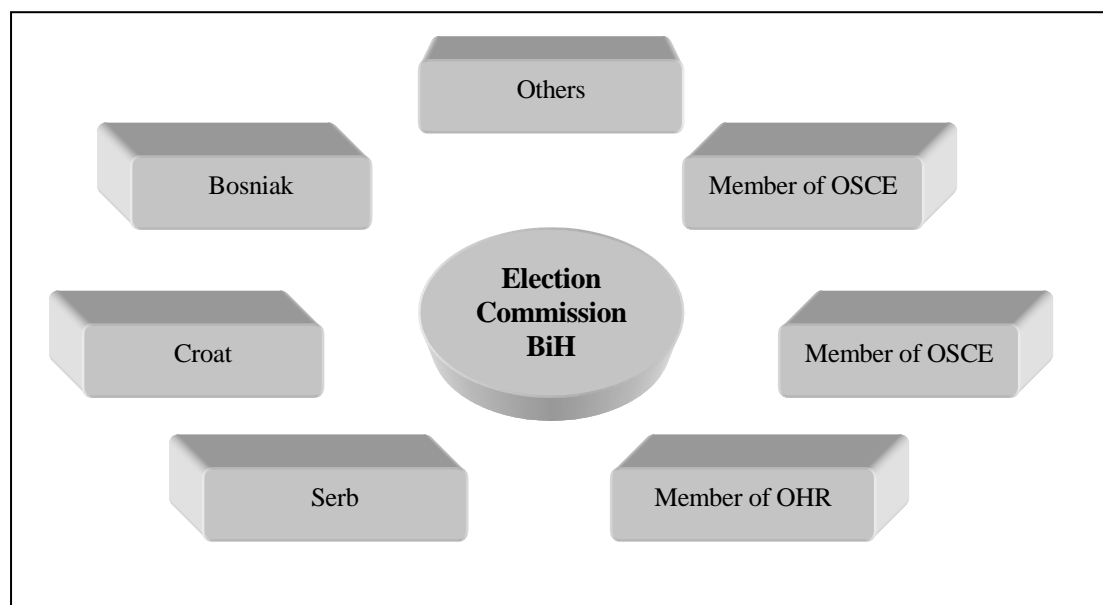
²Provisional Election Commission was established by the OSCE on the basis of the Annex III of the General Framework Agreement for Peace in BiH aimed at adopting and establishing programme for elections in Bosnia and Herzegovina.

³General Framework Agreement for Peace in BiH was initiated in Dayton on 21 November 1995, and signed in Paris on 14 December 1995.

⁴By the Constitution of Bosnia and Herzegovina, Annex IV of the General Framework Agreement for Peace in BiH equal rights are guaranteed to all constitutional peoples and to the group of Others.

8. The international members of the Election Commission of Bosnia and Herzegovina are selected from international organisations i.e. two (2) representative from OSCE to BiH⁵ and one (1) representative from OHR BiH.⁶

9. The last international members of Election Commission of BiH are ambassador Mr.Douglas Davidson (OSCE), ambassador Mr.Werner Wnendt (OHR) and ambassador Mr.Victor Tkachenko (OSCE).



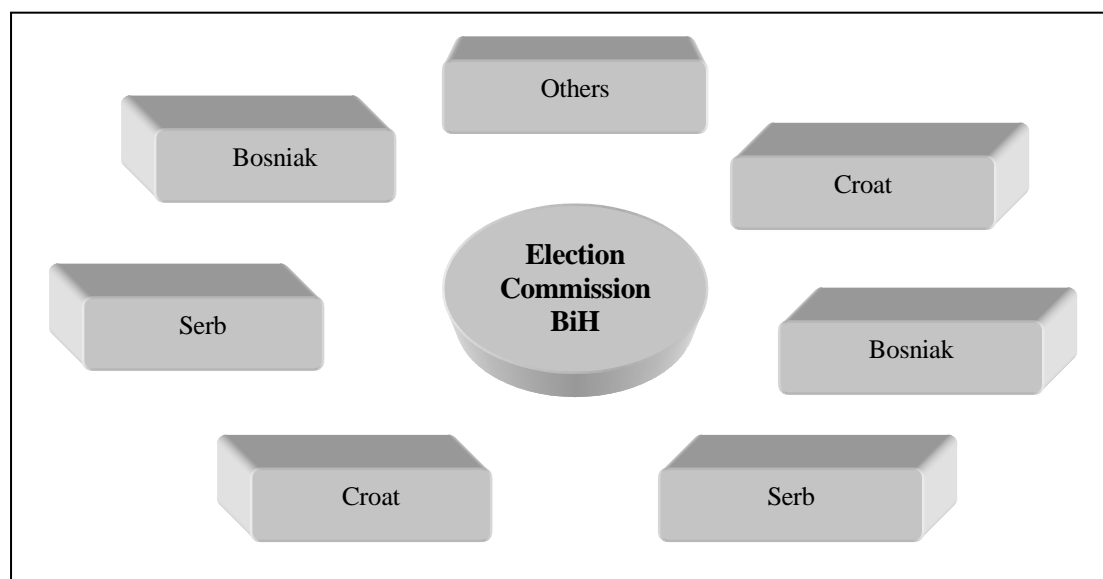
Scheme 2. Composition of Election Commission of BiH

10. The above-mentioned composition of the Election Commission of Bosnia and Herzegovina, including three (3) international members shall be valid until 30 June 2005, when the international members shall be replaced by domestic members under the principles established in line with the recent changes and amendments to the Election Law of Bosnia and Herzegovina.

11. Permanent composition of the Election Commission of Bosnia and Herzegovina shall be as follows: seven (7) domestic members, two (2) representatives from the rank of each constituent peoples in Bosnia and Herzegovina and one (1) representative from the rank of Others.

⁵The OSCE Mission was established in Bosnia and Herzegovina in December 1995, in accordance with the mandate as set forth in the General Framework Agreement for Peace in BiH, aimed at providing assistance to the transition country by promoting development of democratic political institutions at all levels.

⁶OHR BiH – The Office of the High Representative and Special Representative of EU was established to monitor the implementation of the civilian part of the Peace Agreement.



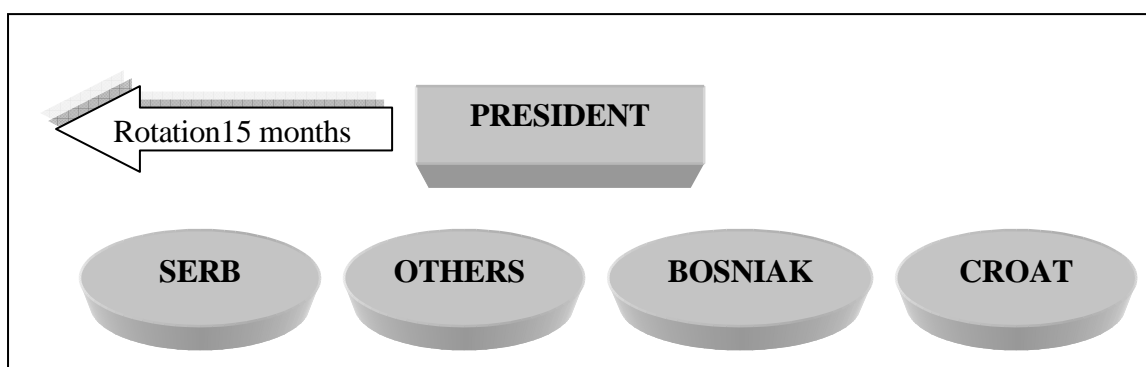
Scheme 3 : Composition of Election Commission of BiH
after 30 June 2005

12. The main tasks and duties of the Election Commission of Bosnia and Herzegovina are:
1. co-ordinate, oversee and regulate the lawful operation of all election commissions and Polling Station Committees in accordance with Election law;
 2. issue administrative Regulations for the implementation of Election law;
 3. propose a budget for the Election Commission of Bosnia and Herzegovina and the Secretariat and report on its spending;
 4. be responsible for establishment, accuracy and maintenance of the Central Voters Register for the territory of Bosnia and Herzegovina;
 5. certify the participation of political parties, coalitions, lists of independent candidates and independent candidates for all levels of elections in Bosnia and Herzegovina;
 6. verify and certify the lists of candidates for all levels of elections in Bosnia and Herzegovina;
 7. be responsible for the timely printing, distribution and security of ballots and forms for all levels of elections in Bosnia and Herzegovina;
 8. define the contents and the form of the ballot for all levels of elections in Bosnia and Herzegovina;
 9. verify, certify and publish election results for all levels of elections in Bosnia and Herzegovina;
 10. issue certificates to persons who receive mandates;
 11. notify an election commission or Polling Station Committee that it does not comply with or violates a provision of this law and order the remedial action required to be taken by the competent body;
 12. publicize all Rules of Procedure, Regulations and election results, voter information and all other information necessary for the implementation of Election law and all electoral laws, in the Official Gazettes and the media, both inside and outside Bosnia and Herzegovina as appropriate;

13. conduct all election activities for the elections for the members of the Presidency of Bosnia and Herzegovina and the members of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina;
14. review the termination of a mandate of an elected official by the competent body of authority at all levels in order to ensure that the elected official's mandate was terminated in accordance with law and in the case where a member resigns that it is of his or her own volition;
15. report annually to the Parliamentary Assembly of Bosnia and Herzegovina on the state of electoral administration in Bosnia and Herzegovina, the implementation of Election law and any proposed amendments to the Election law; and
16. perform all other duties as authorized by law.

13. The work of the Commission shall be carried out through sessions chaired by the President of the Commission.

14. Out of domestic members, the Election Commission shall elect President whose mandate shall last for fifteen (15) months.



Scheme 4: Rotation of President of Election Commission of BiH

15. The members of the Election Commission of BiH from the rank of Bosniak, Croat and Serb peoples, respectively, as well as from the rank of Others are shall be appointed by the House of Representatives of the Parliamentary Assembly of BiH following the procedure of public vacancy announcement conducted.

16. The members of the Ad Hoc Commission for Selection and Nomination propose the candidates for the Election Commission of Bosnia and Herzegovina. In accordance with the Election law the candidates for the Election Commission of Bosnia and Herzegovina shall be legal experts with experience in conducting elections and/or experts for elections.

17. Ad Hoc Commission for Selection and Nomination is composed of seven members of which two are appointed by the President of the High Judicial and Prosecutorial Council from

among the members of the Council,⁷ three are appointed by the Administrative Commission of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina from among the members of the Commission,⁸ and two are appointed by the President of the Election Commission of Bosnia and Herzegovina from among the members of the Election Commission of Bosnia and Herzegovina. The constituent peoples, i.e. two Bosniaks, two Serbs, and two Croats and one from the rank of Others must be represented in the Ad Hoc Commission for Selection and Nomination.

Nationality	Administrative Commission of the PA of BiH	The High Judicial and Prosecutorial Council	Election Commission of BiH
Two (2) Bosniaks	1	1	
Two (2) Serbs	1	1	
Two (2) Croats	1		1
One (1) Others			1

Table 1: Composition of the Ad hoc Commission

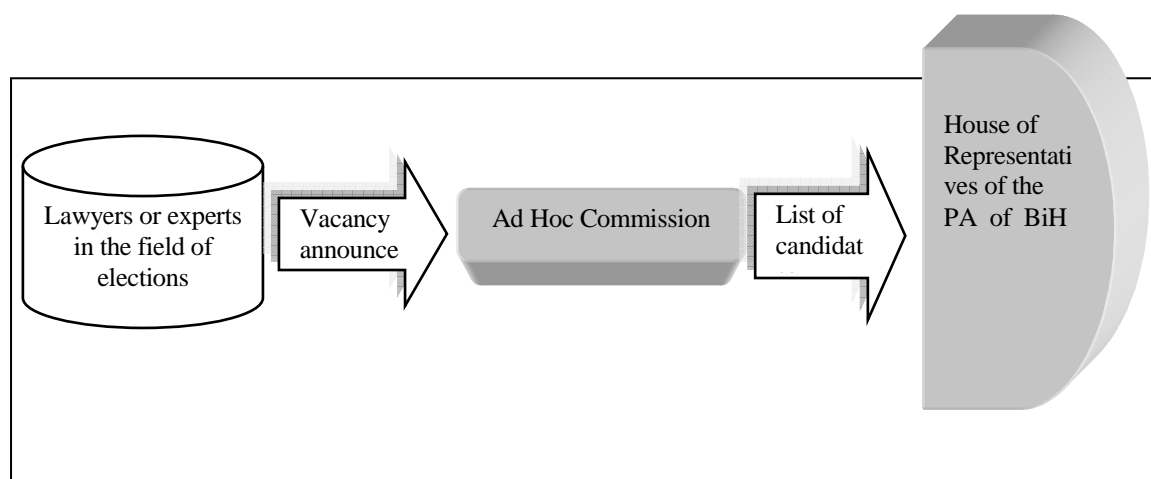
18. In accordance with the Rules of Procedure to be passed by the Election Commission of Bosnia and Herzegovina, the Ad hoc Commission carries out the procedure for announcement and appointment of candidates for members of the Election Commission of BiH. A decision on the appointment of nominees for the election Commission of Bosnia and Herzegovina shall be made by two third (2/3) majority vote.

19. Following the procedure conducted by the Ad hoc Commission, the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina appoints the members of the Election Commission of Bosnia and Herzegovina from the list of candidates. If this list is not submitted to the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina within thirty (30) days prior to expiration of the mandate of the members of the Election Commission of BiH, the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina proposes and appoints the members of the Election Commission of Bosnia and Herzegovina.

20. In the event a member of the Election Commission of Bosnia and Herzegovina cannot perform his/her duties as set forth in Article 2.15 of Election Law, the Election Commission of Bosnia and Herzegovina shall notify the House of Representatives thereof. The House of Representatives of Bosnia and Herzegovina shall in this case appoint a new member who is of the same Constituent Peoples including Others as the previous member. A new member shall be appointed from the list of nominees submitted by the Ad Hoc Commission for Selection and Nomination of Bosnia and Herzegovina.

⁷The High Judicial and Prosecutorial Council of BiH was established under the Law adopted by the Parliamentary Assembly of BiH on 3 June 2004. The HJPC is composed of 15 members. Its basic competence is to appoint judges and prosecutors, to determine number of judges and prosecutors, and to conduct disciplinary proceedings against judges and prosecutors.

⁸The Administrative Commission of the House of Representatives is established on the basis of the Rules of Procedure on the Work of the Assembly and has in total nine members. The basic duties of the Commission is to consider the administrative matters of the House of Representatives of the PA of BiH in accordance with the Rules of Procedure.



Scheme 5: Selection of members of the Election Commission of Bosnia and Herzegovina

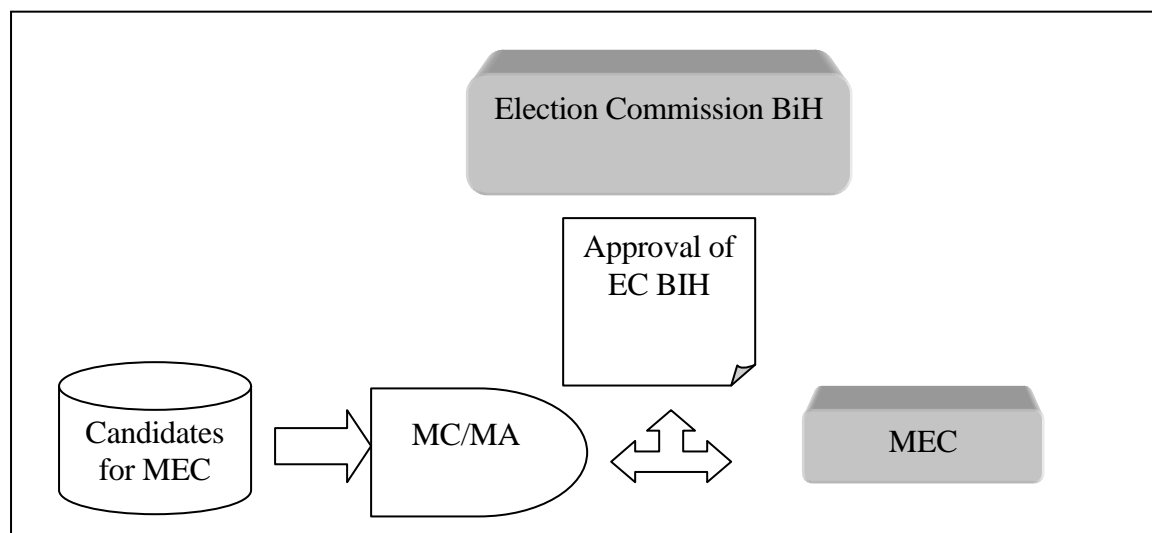
III - MUNICIPAL ELECTION COMMISSIONS

21. The members of the Municipal Election Commission shall be appointed by the Municipal Council/Municipal Assembly, subject to the approval of the Election Commission of Bosnia and Herzegovina. Amongst the members of the Municipal Election Commission, the Municipal Council/Assembly shall appoint the President, subject to the approval of the Election Commission of Bosnia and Herzegovina.

22. A Municipal Election Commission are consist of between three (3) or five (5) members. The Election Commission of Bosnia and Herzegovina shall determine the number of the Municipal Election Commission members in accordance with the number of the registered voters and the size of a municipality and may also use other criteria when defining the number of members of the Municipal Election Commission.

23. The member of the Municipal Election Commission can be: the President of a regular court, the Secretary of the Municipal Council/Municipal Assembly, persons professionally employed in Municipal administration and other persons if they meet the requirements established under the Election Law of BiH.

24. Apart from the above-mentioned requirements to be met by the members of the Municipal Election Commissions, the Election Law of BiH provides that the composition of the Election Commission or polling Station Committees should be multiethnic, so as to reflect the representation of the constituent peoples, including Others as well, in the electoral unit for which a body competent for conduct of elections is established, taking care of the last census conducted at the state level.



SCHEME 6. Manner of selection of members of the Municipal Election Commission

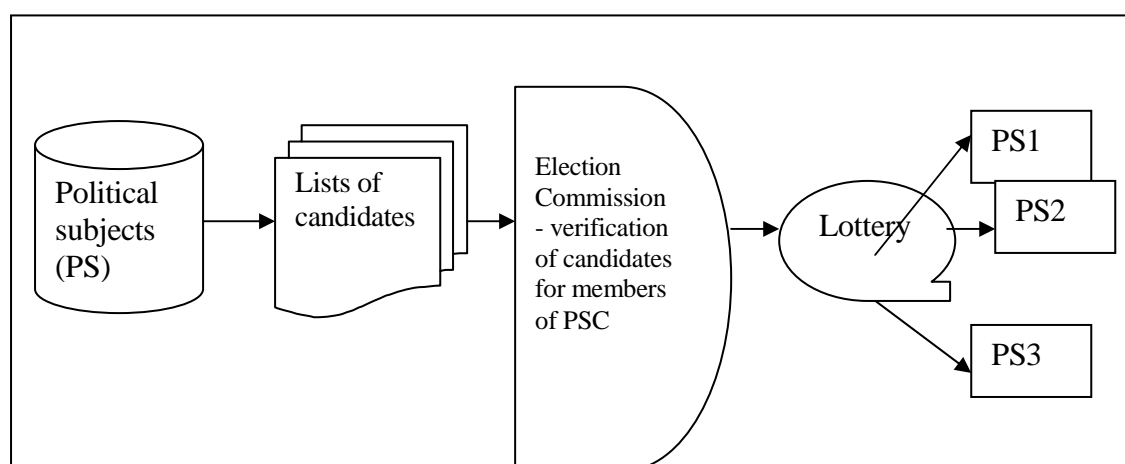
25. The main tasks and duties of the Municipal Election Commission are:

1. ensure that all candidates lists for a Municipal Council/Municipal Assembly are made in accordance with the law, and forward them to the Election Commission of Bosnia and Herzegovina for its approval;
2. monitor the work of competent municipal bodies for the administration of the elections, including the process of voter registration;
3. designate Polling Stations in the territory of the municipality for voting on all levels of authority in Bosnia and Herzegovina;
4. appoint and train the members of the Polling Station Committees;
5. ensure the security of, and deliver to the Polling Station Committees the polling material for voting at all levels of the elections in Bosnia and Herzegovina;
6. as directed by the Election Commission of Bosnia and Herzegovina notify voters of information necessary for the administration of elections;
7. be responsible for the technical arrangements at the Polling Station and any other technical preparations for the elections;
8. be responsible for the proper conduct of the counting of ballots at Polling Stations and municipal counting centres;
9. compile the results of elections from all Polling Stations in the municipality, separately for each body for which elections were administered and forward the results to the Election Commission of Bosnia and Herzegovina; and
10. perform all other tasks as authorised by law and by the Regulations of the Election Commission of Bosnia and Herzegovina.⁹

⁹Those responsibilities are mentioned in article 2.13 of the Election law of Bosnia and Herzegovina.

IV - POLLING STATION COMMITTEES

26. In addition to the Election Commission there are polling station committees as an important segment of the electoral administration. The Municipal Election Commission appoints polling station committees for each election. Depending on the number of voters registered for a specific station, three (3) or five (5) members of the polling station committees will be appointed, and the deputies. In the process of appointment of the Polling Station Committees, the political subjects play an important role since they propose members of the Polling Station Committees to the Election Commission. The basic requirement to be met for a list of candidates to become members of the Polling Station Committees, to be proposed by the political subjects, is that the candidates are verified for elections in a given municipality. One representative of one political subject can be in the composition of the Polling Station Committees at the polling station to the maximum. Places and representation of the members of the Polling Station Committees shall be made by the lottery.



Scheme 7: Manner of Selection of members of the Polling Station Committees

27. In Bosnia and Herzegovina, in 142 municipalities, 4,065 Polling Station Committees were nominated for municipal elections held on 2 October 2004.

V - OTHER ELECTION COMMISSIONS

28. The Election Law of Bosnia and Herzegovina provides also for establishment of the entity and cantonal election commissions.¹⁰ However, recent experience show that they do not have function in the implementation of the elections which can justify the purpose of their existence. The competence of these commissions is established by the Election Commission of Bosnia and Herzegovina. Apart from the above-mentioned problem, i.e. its function, there is also a problem because the major part of these commissions are not established. Namely, the Election Commission of the Federation of Bosnia and Herzegovina has not been established, while the Election Commission of the Republika Srpska has been nominated, but it has not been active in practice, and the cantonal commissions have not been nominated as well.

¹⁰In accordance with article 2.21 of Election law.

29. In the upcoming period, the Election Commission of BiH should address the issue of a need for the existence of the Entity Election Commissions and their role and significance in the electoral process, and should incorporate the solutions into the Election Law of BiH.

VI – CONCLUSION

30. Present Election Law of BiH enables the central Election Commission of BiH, as a professional state body, to be independent and impartial. The Law envisages that lawyers and election experts can be appointed members of the Election Commission on the basis of public announcement. However, the Election Law does not provide for representatives of the ruling and opposition political parties to be the members of the Election Commission of BiH or Municipal Election Commissions. These representatives can monitor the work of the Election Commission, but can not take part in decision making.

31. The work on changes and amendments to the Election Law of BiH is ongoing for preparation of upcoming general elections to be held in October 2006.

* * *