

INTERIM REPORT

13 February – 4 March 2014

7 March 2014

I. EXECUTIVE SUMMARY

- On 16 March 2014, Serbian voters will elect 250 members of the National Assembly for four-year terms in one, countrywide constituency through a closed-list, proportional system.
- As the electoral legal framework has not been amended after the 2012 elections, certain legal shortcomings previously noted in past OSCE/ODIHR reports remain unaddressed.
- The early parliamentary elections are administered by a two-tiered election administration, consisting of the Republic Electoral Commission (REC) and 8,387 Polling Boards. 166 Working Bodies were established as an *ad hoc*, intermediate level of election administration.
- Efforts have been made to improve the quality of the voter register by eliminating double entries, deleting records of deceased voters, and introducing the Latin transcription of names for voters from national minorities.
- Nineteen electoral lists nominated by political parties, coalitions and groups of citizens were registered in an inclusive process. Electoral contestants complied with the legal gender quota requirements upon submission of registration documents.
- The campaign is vivid as the electoral contestants use a variety of tools to reach out to voters. Some interlocutors have raised concerns about the misuse of incumbency and voters' intimidation during door-to-door campaigning.
- The Anti-Corruption Agency deployed observers throughout the country to monitor campaign activities and collect data to verify electoral contestants' campaign financing reports after the elections.
- As in previous elections, the parliament did not appoint the members of the Supervisory Board that should be in charge of monitoring and overseeing the campaign activities of parties, candidates and media. The REC informed the OSCE/ODIHR LEOM that it would reject complaints that fall under the responsibility of the Supervisory Board. General media-related complaints are considered by the Republic Broadcasting Agency.

II. INTRODUCTION

On 29 January 2014, the early parliamentary elections were called for 16 March. Following an invitation from the authorities of Serbia to observe the elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Limited Election Observation Mission (LEOM) on 13 February. The LEOM, led by Ambassador Boris Frlec, consists of 10 core team members based in Belgrade and 12 long-term observers, deployed on 19 February to 6 locations throughout Serbia. Members of the LEOM are drawn from 19 OSCE participating States.

On 16 March, together with the parliamentary elections, local elections will take place in five localities. The LEOM will comment on those only to the extent that they impact the parliamentary elections. In line with OSCE/ODIHR standard methodology for election observation, the LEOM intends to visit a limited number of polling stations on election day, but will not carry out a comprehensive or systematic observation of election-day proceedings.

III. BACKGROUND

On 29 January 2014, following a proposal of the government, President Tomislav Nikolić dissolved the National Assembly and announced early parliamentary elections for 16 March. The last parliamentary elections took place on 6 May 2012 simultaneously with the first round of early presidential elections. The OSCE/ODIHR LEOM concluded in its final report that the “elections provided voters with a large degree of choice between various political opinions, and were characterized by a respect for fundamental rights and freedoms.”¹

After the 2012 elections, the Serbian Progressive Party (SNS) and the Socialist Party of Serbia (SPS) formed the ruling coalition. The parties have justified the early elections by the need for a renewed political mandate to implement reforms aimed at improving Serbia’s economy and required as part of Serbia’s EU accession negotiations that officially opened on 21 January 2014.

IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The unicameral parliament is composed of 250 members elected for four-year terms in one, countrywide constituency through a closed-list, proportional system. Mandates are distributed among candidate lists that receive more than five per cent of the votes cast. Lists representing national minorities are exempt from the five per cent threshold requirement.

The legal framework for parliamentary elections comprises the 2006 Constitution, the 2000 Law on Election of Representatives (LER), last amended in 2011, the 2009 Law on Single Electoral Roll (LSER), last amended in 2011, and the Republic Electoral Commission (REC) Rules of Procedures adopted in 2012. The 2011 Law on Financing Political Activities (LFPA), the 2009 Law on Political Parties, the 2002 Broadcasting Law, last amended in 2009, and the 2005 Criminal Code also include provisions pertinent to the conduct of elections. As the electoral legal framework has not been amended after the 2012 parliamentary elections, the legal shortcomings

¹ All previous OSCE/ODIHR reports with regard to Serbia can be found at: <http://www.osce.org/odihr/elections/serbia>.

outlined in past OSCE/ODIHR reports remain unaddressed. All OSCE/ODIHR LEOM interlocutors noted that the short timeframe between elections did not allow for any changes in the legislation to address recommendations made by the OSCE/ODIHR after the 2012 elections.

Instructions on Carrying out Elections of Representatives to the National Assembly and Operating Rules for Polling Boards were re-issued by the REC on 3 and 8 February respectively, and include amendments related to deadlines and such technical issues as the definition of eligibility criteria for polling board members and the requirements for registering a national minority list.

V. ELECTION ADMINISTRATION

The early parliamentary elections are administered by a two-tiered election administration, consisting of the REC and 8,387 Polling Boards (PBs), of which 29 will be set up in penitentiary institutions and 35 will be formed in 20 countries abroad. The REC is a permanent body comprising a chairperson, a deputy chairperson, and 16 permanent members and their deputies, appointed for four-year terms by the National Assembly. It also includes two non-voting members – a secretary and a representative of the National Statistical Office (RSO).² During the electoral period, each registered contestant is entitled to appoint an extended member (and a deputy) of the REC. They have the same rights and duties as permanent members.

The PBs are composed in the same manner and have three permanent members and their deputies, as well as, in the extended composition, members who are nominated by the electoral contestants and subsequently appointed by the REC. Local elections for the Belgrade City Assembly and municipal councils of Negotin, Pećinci, Arandelovac and Bor will take place on 16 March. In each of these municipalities, the PBs also reflect the political composition of the local assembly.³ The REC has published its Instructions and Operating Rules for PBs, but some local election administrators expressed a need for more detailed regulation of the process.

Apart from the election administration bodies envisioned by the legal framework, the REC established two types of *ad hoc* bodies: Working Bodies and municipal election commissions. In the municipalities where only parliamentary elections will be held, the REC has established Working Bodies to carry out specific logistical tasks (e.g. providing the PBs with all necessary non-sensitive materials). The Working Bodies are nominated by political parties represented in the National Assembly, in the manner applicable for election commission members, and approved by the REC. In municipalities where both parliamentary and local elections will take place, the municipal election commissions were established and are subordinate to the REC. Furthermore, on 18 February, 26 REC members were appointed as Regional Coordinators for each district of Serbia to oversee preparations for elections.

² The current composition of the REC, in line with Article 33 of the LER, is the following: SNS – 10 members, the Democratic Party (DS) – 7, SPS – 5, the Democratic Party of Serbia (DSS) – 3, the Liberal Democratic Party (LDP) – 2, the United Regions of Serbia (URS) – 2, the Party of United Pensioners of Serbia – 2, Social Democratic Party of Serbia (SDPS), New Serbia (NS), United Serbia (JS), Alliance of Vojvodina Hungarians (SVM), Christian Democratic Party of Serbia (DHSS) – 1 member each.

³ Parties that run only in the local elections are entitled to appoint one PB member (and his/her deputy) to all PBs in their constituency if they filed candidates for at least 60 per cent of seats (30 per cent for the parties representing national minorities).

The REC has so far been operating efficiently, in a transparent manner, open to accredited observers and media. The agenda is not made public in advance, but the minutes from sessions are published on the REC website without delay. So far, REC decisions have been adopted in a collegial manner either unanimously or by an overwhelming majority. Working Bodies observed so far by the OSCE/ODIHR LEOM operate professionally.

VI. VOTER REGISTRATION

The LSER adopted in 2009 regulates the compilation of the unified electronic voter register (VR) by a ministry in charge of public administration. After the 2012 elections, the government assigned public administration issues to the Ministry of Justice, which consequently became the Ministry of Justice and Public Administration (MoJ). The VR was used for the first time during the 2012 elections and extracts of the data in it will be provided to each polling station (PS).

The right to elect and to be elected as a member of the parliament is granted to citizens who are over 18 years of age, have legal capacity and domicile in Serbia. Voters are entitled to request inclusion in the voter lists at their place of temporary residence and also abroad. Respective changes in the VR need to be entered by relevant authorities and are then submitted to the MoJ. Although voter lists are not displayed for public scrutiny, voters can verify their personal details and identify their respective PSs either online,⁴ via text messages (SMS) or in the municipality upon request. The LSER entitles voters to review the VR and request changes if applicable. The period for VR verification was set from 30 January to 28 February and a relatively low interest from voters was reported by OSCE/ODIHR long-term observers.

The OSCE/ODIHR LEOM was informed by the MoJ and the local government authorities of considerable efforts since the 2012 elections to improve the quality of the VR by eliminating double entries and deleting records of deceased voters. The MoJ estimates that the number of double entries in the VR was reduced from some 25,000 in 2012 to around 5,000 that need to be eliminated at municipal level. Despite this, and although the MoJ also pointed out that some records of deceased voters may still remain, OSCE/ODIHR LEOM interlocutors have so far expressed only limited concerns over the accuracy of the VR.

Based on the data provided by the MoJ, the REC announced on 1 March that the provisional number of voters amounted to 6,767,324 of which 7,169 are registered to vote abroad. The VR can be amended by a decision of the MoJ until 13 March when the final VR is to be published. The law does not allow voter registration on election-day.

MoJ informed the LEOM that the VR does not have any special provisions for Internally Displaced Persons (IDPs) and that they will vote at regular PSs of their temporary residence. Voting will also be conducted in penitentiary institutions, as stipulated by law.

⁴ See the web page of the MoJ: <http://www.mpravde.gov.rs/electoralroll.php>.

VII. REGISTRATION OF CANDIDATE LISTS

Candidate lists can be proposed by political parties, coalitions or groups of citizens and need to observe a minimum gender quota of 33 per cent, with at least every third candidate being from the less represented gender.

According to the LER, to be registered, each submitter of a candidate list needs to present verified signatures of at least 10,000 voters, with the provision that each voter can support only one list. The electoral contestants with more developed structures did not have problems collecting the signatures, whereas some smaller parties and groups informed the LEOM that they overcame the requirement by entering into coalition with stronger political organizations.

Support signatures were certified by the clerks of lower-level courts and entered in the court register as required by the law. Verification of signatures is subject to a fee of RSD 50 per signature, putting the cost of registering a candidate list at RSD 500,000 (approximately EUR 5,000) or more. The MoJ was involved in the process of signature verification, annulling signatures of those who were not found on the VR or who had already signed in support of a previously registered candidate list.

The deadline for submitting the documentation required for registration of candidate lists expired on 28 February and, to date, 19 lists have been registered in an inclusive process.⁵ During the registration process, the REC ordered some candidates to correct deficiencies in the submitted documentation within 48 hours.⁶ The REC refused to register the list of the “None of the Above” party (NOPO) as it presented less than 10,000 verified signatures. NOPO appealed the REC decision to the Administrative Court, whose decision on the matter is pending. While all registered electoral contestants complied with the legal gender quota requirements upon submission of registration documents, after the registration, three female candidates withdrew from the DS list, dropping the number of women candidates below the required 33 per cent. Nevertheless, the REC decided not to de-register the list.

The order in which contestants will appear on the ballot is determined by the order in which they submit their documents to the REC. Ballots will be printed at the central level, also in minority languages. The list of PSs requiring ballots in minority languages has been defined by the REC.

VIII. CAMPAIGN ENVIRONMENT

The election campaign started on 29 January and will end on 13 March – 48 hours prior to the election day. Most electoral contestants launched active campaigns throughout the country conducting rallies, indoor gatherings, door-to-door campaigning, billboards, and posters. State and private television channels, which traditionally have a considerable impact on shaping the

⁵ Among the 19, there are 7 coalitions, 8 political parties and 4 groups of citizens.

⁶ The LDP, the Serbian Radical Party (SRS), Party of Democratic Action – Riza Halimi (PDD), Russian Party – Slobodan Nikolić; Coalition of all Peoples and Nationalities (RSD-SDS); Patriotic Front – Borislav Pelević; It was enough – Saša Radulović.

electorate's views and preferences, are the most important tools of the campaign. Social media have also been used by a number of parties.

The campaign atmosphere is vivid, marked with some isolated incidents. The main topics of the campaign are economic reforms to address poverty and unemployment, as well as the fight against corruption and organized crime. The majority of electoral contestants have declared their commitment to European values and EU integration. Several corruption cases that involve, either directly or indirectly, key political figures were brought to public attention during the campaign. Consequently, doubts about the political impartiality of the fight against corruption were raised by a number of the OSCE/ODIHR LEOM interlocutors.

Some OSCE/ODIHR LEOM interlocutors have raised concerns about the misuse of administrative resources at the local level in terms of pressure exerted on local government employees. On 28 February, when the electoral campaign entered a more active stage, the Ombudsman of the Republic of Serbia, the Commissioner for Information of Public Importance and Personal Data Protection, and the Anti-corruption Agency (ACA) published a joint statement urging all campaign participants to respect the legislation and refrain from misusing public resources, conducting aggressive door-to-door campaigning, and conducting campaigning in facilities for children.⁷

IX. POLITICAL FINANCE

The LFPA specifies that election campaigns can be financed from both public and private funds and establishes no limits for expenditures by electoral contestants. Public financing of campaign activities relies on the allocated 0.1 per cent of the state budget, 20 per cent of which is distributed in equal amounts among all electoral contestants. The remaining 80 per cent is disbursed to contestants after elections proportionally to the results obtained. Unused public funds must be returned to the state budget. The ceiling for private donations for an election campaign amounts to 20 average monthly salaries (some EUR 7,000) for an individual and to 200 average salaries (some EUR 70,000) for a legal entity.

A political entity wishing to use public funds to finance its campaign must match them with an election bond of the same amount to be deposited with the Ministry of Finance. The bond is to be returned to the political entity if it wins a minimum of one per cent of the valid votes cast. The public funds must be returned if the contestant fails to reach this threshold.

Electoral contestants are required to submit a report on campaign financing to the ACA 30 days after the publication of the final election results. During the campaign, the ACA may request relevant information from contestants, issue warnings and initiate misdemeanour proceedings if a contestant fails to comply with the ACA recommendations. The ACA deployed 151 observers (43

⁷ 'Appeal of Independent Control Authorities to Political Parties in the Election Campaign', 28 February 2014, <http://www.ombudsman.rs/index.php/lang-sr/2011-12-25-10-17-15/2011-12-25-10-13-14/3212-2014-02-28-09-34-10>.

in Belgrade and 108 throughout Serbia) to monitor campaign activities and collect data to verify the electoral contestants' campaign financing reports after the elections. A number of OSCE/ODIHR LEOM interlocutors welcomed the more pro-active attitude of the ACA in the context of these elections.

On 11 February 2014, the ACA started procedure to determine whether the Minister of Energy, Development and Environmental Protection, Zorana Mihajlović (SNS) had misused administrative resources for campaigning purposes. The Minister has to submit a response to the ACA, upon which the ACA shall pass a decision.

X. THE MEDIA

Freedom of opinion and expression are protected by the Constitution. The LER guarantees voters' rights to receive information on the campaign and the right of electoral contestants to inform citizens about their political programmes. The Public Information Act prohibits political advertising outside the election campaign and establishes principles of equal representation and non-discrimination in the media. The Law on Advertising stipulates that running a personally targeted, negative campaign is illegal.

The Republic Broadcasting Agency (RBA) elaborated the LER stipulations with its General Binding Instructions from 9 March 2012, which state that all public broadcasters are required to allocate free, balanced, and non-discriminatory coverage to all candidates. An additional instruction to enable viewers with hearing impairments to follow the electoral campaign was published by the RBA on 29 January. The public broadcaster, Radio Television Serbia (RTS), adopted a set of internal rules that specify, among other things, that RTS journalists and editors cannot actively participate in the election campaign.

Television, which is the main source of news and information for an estimated 85 per cent of citizens,⁸ is the primary media in the campaign. Additionally, a number of the OSCE/ODIHR LEOM interlocutors stated that tabloids as well as social networks play an important role, at times being platforms for negative campaigning. Some interlocutors, both at central and local level, complained about the media bias towards the SNS and clear relations between certain political parties and media outlets. On 18 February, the OSCE/ODIHR LEOM started qualitative and quantitative media monitoring analysis of the campaign coverage, including five newspapers with national distribution and five TV channels during the primetime slot.⁹ So far, the media monitoring shows a general lack of critical reporting and a moderate tone in the campaign.

XI. COMPLAINTS AND APPEALS

The LER provides that the protection of suffrage shall be guaranteed by the REC, the Administrative Court and relevant lower courts, and grants the right to redress to voters and

⁸ European Journalism Centre: http://ejc.net/media_landscapes/serbia.

⁹ Among these are: public service broadcaster Radio Television Serbia (RTS1) and Radio Television Vojvodina (RTV1) and privately owned TV PINK, TV B92 and TV PRVA; and newspapers: *Politika*, *Blic*, *Večernje Novosti*, *Danas* and *Kurir*.

electoral contestants. Complaints against decisions, acts or omissions of PBs are filed with the REC. Decisions made by the municipal administration regarding voter registration can be filed with the MoJ, while decisions of the REC and of the MoJ can be appealed before the Administrative Court, whose rulings are final. Additionally, the Criminal Code and the LER establish which violations of electoral rights are to be prosecuted through standard criminal or misdemeanour procedures in lower courts and can be sanctioned with fines and up to five-year jail sentences. These include obstruction of voter and candidate registration and bribery, among other things.

To date, no complaints on voter registration have been filed with the MoJ, while four complaints pertaining to candidate list registration were lodged with the REC. The REC rejected all four, of which two were further appealed to the Administrative Court that upheld the REC decision in one case with another still pending.

As in previous elections, the parliament did not appoint the members of the Supervisory Board that, in accordance with the LER, should be in charge of monitoring and overseeing campaign activities of parties, candidates and media.¹⁰ The REC informed the OSCE/ODIHR LEOM that it would reject complaints that fall under the responsibility of the Supervisory Board, in line with a 2006 Supreme Court decision. General media-related complaints are considered by the RBA which, to date, has decided on seven of them.¹¹

XII. PARTICIPATION OF NATIONAL MINORITIES

According to the 2011 Census, there are around 20 ethnic minorities in Serbia. The largest are: Hungarians (3.53 per cent), Roma (2.05 per cent) and Bosniaks (2.02 per cent). As the Albanians boycotted the 2011 census, the data does not reflect their actual numbers in Serbia. All other ethnic minorities represent less than 1 per cent of the population each.¹²

The 2009 Law on Political Parties contains provisions promoting participation of national minorities in public life. Whereas 10,000 signatures are required to register a political party, a national minority can register a party with the support of 1,000 signatures. The REC introduced some safeguards, requiring that a national minority list submit its programme, statute, and actions undertaken to represent and promote the interest of a national minority in order to prevent the abuse of affirmative measures by political entities.

Four national minority parties: the SVM, the Party of Democratic Action of Sandžak (SDA-Sandžak), the Montenegrin Party – Josip Broz (CS – Josip Broz) and the PDD registered their

¹⁰ See Art. 99 and Art. 100 of the LER. The Supervisory Board was last formed for parliamentary elections in 2000.

¹¹ The Delta Company complained that its logo was presented in a negative light in an SNS TV spot and RBA decided that the media should stop broadcasting it. In response to six complaints of the *Dveri* Movement on limited access to different media outlets, RBA contacted the broadcasters to remind them of the need to provide balanced coverage to all electoral contestants. RBA is examining six more media-related complaints submitted by electoral contestants.

¹² See the 2011 Census results at http://popis2011.stat.rs/?page_id=2134&lang=en

electoral lists independently. There is also a coalition comprised of national minority parties only.¹³ Some national minority parties decided to run in coalitions with national parties.¹⁴

The OSCE/ODIHR LEOM was informed that political parties representing the Albanian population attempted to register as a single list, but could not overcome their internal differences and reach a consensus over the list's leader. As a result, PDD runs in the elections, whereas the remaining five Albanian parties decided to boycott them. The political participation of Roma remains low due to limited human and financial resources combined with a lack of interest.

Following the 2012 elections, the MoJ added a field in Latin letters to the VR and the names of voters of respective national minorities are recorded in both Latin and Cyrillic. According to the MoJ, however, there are still about 50,000 names of people from national minorities to be transcribed in the VR. The OSCE/ODIHR LEOM has received reports on a number of ethnic Albanians residing in southern Serbia being concerned that the lack of permanent registration could affect their right to vote.

XIII. DOMESTIC AND INTERNATIONAL OBSERVERS

While the LER, despite past OSCE/ODIHR recommendations, still does not have provisions on domestic and international election observation, the issue is regulated by REC instructions. A domestic organization, the Center for Free Elections and Democracy (CeSID) applied for the accreditation of 1,000 observers who will be deployed to observe in PSs throughout Serbia and will conduct a parallel vote tabulation.

The REC has accredited OSCE Mission to Serbia and OSCE/ODIHR observers, as well as a Lithuanian NGO "International Election Study Center". The deadlines for submitting applications for international and domestic observers are 6 and 10 March respectively; no complaints have been registered regarding observers' accreditation so far. The legislation does not provide for political party observers as it allows every registered political entity to nominate an extended member and a deputy to the REC and to each PB.

XIV. OSCE/ODIHR LEOM ACTIVITIES

The OSCE/ODIHR LEOM commenced its work in Belgrade on 13 February. The LEOM has met with the Prime Minister, the Ministry of Foreign Affairs, the REC, state agencies responsible for various aspects of the election process, leaders and representatives of political parties, civil society, the diplomatic community, and international organizations. It has established working relations with relevant stakeholders at central and local level. The LTOs met with representatives

¹³ The Bosniak Democratic Union (BDZ), the Civic Union of Hungarians (MPSZ), the Movement of Hungarian Hope (MRM), the Bosniak Union – Emir Elfić.

¹⁴ For example, the Bosniak Democratic Union of Sandžak (BDZ- Sandžak) runs with the LDP-led coalition of Čedomir Jovanović; the Association of Croats in Vojvodina (ACV) with the Coalition "With the Democratic Party for Democratic Serbia"; the "Together for Vojvodina" (ZZV) and the Democratic Left of Roma in coalition with Boris Tadić – New Democratic Party – Greens.

of local administrations, Working Bodies, local branches of political parties, and civil society, as well as with regional media.

The OSCE/ODIHR LEOM intends a joint undertaking with the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE), which will deploy observer delegations for election-day observation. Mr. Roberto Battelli has been appointed by the OSCE Chairman-in-Office as a Special Co-ordinator to lead the short-term OSCE observer mission for these elections.