



Republic of Serbia
Federal Republic of Yugoslavia
Municipal By-elections
28 July 2002



INTERNATIONAL ELECTION OBSERVATION MISSION

Statement of Preliminary Findings and Conclusions

Bujanovac, 29 July 2002—The International Election Observation Mission (IEOM) for the 28 July 2002 elections of Mayors and Councilors for the Municipal Assemblies in the Republic of Serbia, Federal Republic of Yugoslavia, is a joint effort of the Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Council of Europe's Congress of Local and Regional Authorities of Europe (CLRAE).

PRELIMINARY CONCLUSIONS

The 28 July 2002 early elections for mayors and municipal assembly councilors to the three municipalities of Bujanovac, Presevo, and Medvedja in South Serbia generally were conducted in accordance with international commitments and standards for democratic elections, although further improvements are still needed.

The elections were of particular significance because they represent a further step towards confidence building and reconciliation among the ethnic communities after tension and recent conflict in the region. During previous municipal elections, the electoral system in place undermined the representation of minority communities on the municipal assemblies. During the months leading to the current election, the Government of Serbia and the three local ethnic communities expanded a significant effort towards reconciliation. In addition, a proportional electoral scheme was adopted to ensure a more effective representation of the minority communities on the municipal assemblies and provisions were made for multilingual election materials.

Additional features contributing to the positive evaluation of the current elections include:

- Representation of national minorities and political parties on election commissions at all levels, although the law does not require such representation;
- Active participation of all ethnic and political actors in the electoral process and their agreement to abide by a code of conduct;
- Overall compliance of local media with the agreed guidelines during the election campaign; and
- Broad access provided to domestic observer organizations to monitor the polling and counting, although the law is silent on the issue.

The accuracy and transparency of voter registers were contentious, especially in Bujanovac, although improvements were noted. The EOM addressed complaints on the issue and found that, while further improvements were required, the complaints also required more factual and legal precision. However, such improvements will not be possible without the active participation of citizens from all three communities.

The new election law improved the election system, in particular increasing the representation of women and requiring the use of multilingual election materials. However,

the election law has significant shortcomings that were raised previously by the OSCE/ODIHR, including:

- the allocation and the removal of councilors' mandates after the election remain in the control of political parties;
- the political plurality of and multi-ethnic representation in the permanent membership of election administration bodies are not guaranteed in law, but in practice pluralism was provided;
- the accreditation and presence of domestic observers in polling stations are not provided in law, but they were given unhindered access in practice;
- the provisions for inclusion on voter lists do not include a residence deadline in a given municipality; and
- the timeframe for the election administration is overly compressed.

On election day, the voting and counting processes were carried out largely in accordance with the legal and procedural requirements and in a calm atmosphere. In the majority of polling stations visited, observers rated positively the conduct of polling, though irregularities were also noted. The integrity of the vote was properly safeguarded. However, group voting and voting in the open were observed. In an isolated number of polling stations, crowding was a significant problem, at times creating tension. The voter turnout was relatively low.

The OSCE/ODIHR and the CLRAE are prepared to assist the authorities and civil society of the Republic of Serbia to overcome remaining challenges and to build on the progress already accomplished in this election.

PRELIMINARY FINDINGS

Background

On 8 July 2002, the OSCE/ODIHR established an Election Observation Mission (EOM) in the Republic of Serbia for the early municipal elections that were held on 28 July in the three southern Serbia municipalities of Bujanovac, Presevo and Medvedja. The elections were called to choose new councilors to the three municipal assemblies, following an early termination of their mandates by a government decree on 25 April. Interim Councils, including representatives of the Serb, Albanian and Roma communities, were appointed. For the first time in Serbia, the municipal presidents (mayors) were also to be elected.

The elections were of particular significance because they represented a further step towards the peaceful resolution of tension and recent conflict in the region, mainly caused by the exclusion of the Albanian and Roma communities from administrative structures. Furthermore, they are the first elections to take place in these municipalities since the democratic transition in FRY in 2000. These elections provided an opportunity for the entire population of the region to be reintegrated into the democratic process.

Nikolai Vulchanov (Bulgaria) headed the EOM with a team of four international experts based in Bujanovac. Given the short-notice invitation and relatively small geographical area of the municipalities, the OSCE/ODIHR did not deploy long-term observers in addition to the core team. The Embassies of OSCE participating States and international organizations accredited to FRY contributed some 110 STOs to the EOM to observe the election day proceedings.

The EOM compared the conduct of these elections with international commitments and standards for democratic elections formulated in the 1990 Copenhagen Document, United Nations and Council of Europe instruments, the case law of the European Court of Human Rights, and other documents. These criteria require that the vote be universal, secret, accountable, transparent, free, fair, and equal.

The EOM was well received in South Serbia. The authorities and political actors co-operated well with the EOM. The EOM benefited from the good relations already established by the OSCE Mission to the FRY (OMIFRY).

Political Environment

The South Serbia municipal elections in Bujanovac, Presevo, and Medvedja were conducted in a complex environment. The multi-layered competition run across ethnic, party and administrative boundaries.

Each of the three municipalities has a distinctly different ethnic mix. While Presevo has a large majority of Albanians and Medvedja is substantially majority Serb, Bujanovac's ethnic composition is believed to be majority Albanian. The preliminary results of the April 2002 Census indicate the number of citizens in each municipality, but the figures are not yet subdivided into age, nationality or religion. Roma populations are small in all three municipalities, although in Bujanovac their number is larger.

There is general satisfaction among the parties with the new election system that provides for the direct election of the municipal presidents (mayors) and single constituency districts with multiple assembly members allocated on a proportional scheme. There is a perception that this system minimizes the possibility of manipulation thereby reducing tensions in the municipalities.

Generally, representatives of all political parties, for their own reasons, agree that the election date followed too soon after the establishment of the Interim Councils. They complain that the 28 July date left the parties with insufficient time to organize and the voters faced an inconvenient election date in terms of the summer holidays and agricultural work. As a result, voter turnout was relatively low.

The Government of the Republic of Serbia, and the Serb, Albanian and Roma communities undertook systematic steps to ensure the efficient and transparent administration of these elections, in particular through the use of inter-community consultation, as part of a genuine effort towards confidence-building in the region.

Political Parties

Locally, political dividing lines exist within each of the ethnic communities – Serbs, Albanians and Roma. Generally, the mainstream Serbian parties represented in the Parliament of the Republic of Serbia have their municipal branches in each of the three municipalities. The main parties of the Democratic Opposition of Serbia (DOS) coalition, namely the Democratic Party (DS) and the Democratic Party of Serbia (DSS) registered a joint list with the Socialist Party of Serbia (SPS) in Bujanovac and Presevo, while running separately in Medvedja. The non-parliamentary Albanian parties, the Party for Democratic

Action (PVD) and the Party for Democratic Union of Albanians (PBDSH) ran separately. The Party of Roma Unity also contested the elections in Presevo and Bujanovac.

The parties were focused on local constituencies and seem unconcerned about broader scale implications for this election. All participants expected that members of the three communities would vote along ethnic lines, disregarding other campaign considerations.

Legal Framework

The elections are the first to be conducted under a new legal framework for municipal elections in the Republic of Serbia. This follows the adoption by the Serbian Parliament of the Law on Local Elections (hereinafter the “election law”) on 13 June 2002.

The voter register and election day procedures are governed by the provisions of the Law on the Election of Members of Parliament (10 October 2000). The OSCE/ODIHR has provided detailed comments on this law.

The new election law has significantly revised the previous legal framework governing municipal elections in Serbia. In particular, the election law:

- establishes municipalities as single constituencies with municipal councilors elected on a proportional basis and provides for the direct election of mayors;
- enables increased representation of women in the electoral process by requiring electoral lists to consist of at least 30% women candidates;
- requires election materials to be multilingual in areas with national minorities;
- clarifies the role and responsibilities of the Municipal Election Commissions (MECs) and Polling Boards (PBs); and
- prohibits coercion of employees or undue pressure on citizens to vote.

The demarcation of electoral units that were often designed in a disproportionate manner under the previous law were improved. For the municipalities of Bujanovac and Medvedja, the previous law favoured the local Serb communities. Furthermore, women’s representation was very low in the three municipal administrations.

However, certain key recommendations regarding compliance with OSCE commitments, detailed in previous OSCE/ODIHR EOM reports to Serbia and Montenegro have not been implemented through the new legislation. The new election law:

- enables political parties to control the allocation and removal of councilors’ mandates after elections;
- does not guarantee the right of domestic observers to be accredited and to be present at polling stations; and
- does not fully guarantee political plurality and balanced ethnic or gender representation on electoral administration bodies.

The election law was amended on 18 July, well after the elections were called, by Parliament using emergency measures to clarify the requirement for a successful candidate in the elections for mayor to obtain an absolute majority (i.e. 50% plus 1 vote of the votes cast). The previous provision was unclear whether an absolute majority or a simple majority (i.e. the largest number of votes) was required. While accepted international practice in general

does not permit the changing of election laws once an election is called, clarification of legislative provisions through amendments of the law or administrative regulations, as was the case with the 18 July amendments in Serbia, falls outside of this prohibition.

Election Administration

The election law creates a two-tiered structure for the administration of municipal elections. The MECs have responsibility for the implementation and co-ordination of the elections within its area and appoints PBs to manage the vote and count in each polling station. While there is no role for the REC in the municipal election process, both it and the Secretariat of the Republican Government were actively involved in advising and assisting the work of the three MECs. The MECs reflect the Interim Municipal Councils in being multi-ethnic and having political plurality. Membership of the MECs and PBs was extended for all parties and coalitions that submitted electoral lists with a number of candidates that was at least two-thirds of the number of assembly seats. The two-thirds threshold prevented smaller parties, including the Roma party, from guaranteeing their presence on MECs and PBs. There is no guarantee for representatives of mayoral candidates upon the extended MECs or PBs.

As in previous EOMs, the timeframe for election administration is compressed, placing the administration under pressure to implement adequately the law.

The Albanian community in Medvedja requested and obtained assistance from the authorities to facilitate the transportation of eligible voters currently residing in Kosovo to take part in the election.

Voter register

The right to vote is granted to citizens of Serbia who are 18 or older, who possess business capacity, and who are registered as permanent residents in the municipality, without any time requirement for residence. This latter shortcoming prompted allegations that voters were moved into Bujanovac to change the demographic picture of the municipality. However, no evidence was found to substantiate these allegations.

While the accuracy and transparency of voter registers were improved, the registers remained a contentious issue, especially in Bujanovac. The controversy centered around the eligibility to vote in the light of significant migration across the administrative boundary with Kosovo. The EOM followed up on complaints on this issue and notes that such allegations indicate the need for further confidence building between the communities living in the area.

The EOM was informed that the voter registers were compiled in the order of registration requests rather than in alphabetical order. On election day, the voters' entries were found in the voter register polling station extracts by their sequential numbers, which should appear on the invitations to vote. However, where a voter failed to bring an invitation to the polling station, finding their entries took time and created some delays in the voting process. Nonetheless, the authorities provided an unofficial alphabetical list to remedy the difficulty.

The accuracy of the civil and voter registers should be improved with the active participation of citizens. The inaccuracies originate from previous tensions and failure of citizens and at times of officials to report changes of civil status in a timely manner.

Media

The public media in the three municipalities is limited to one public radio station for each community. The OMIFRY had two media monitors/trainers headquartered in Bujanovac. On 3 July, an agreement was signed by the managers of the three public radio stations, the Presidents of the Interim Councils, and the OMIFRY Ambassador on basic principles and guidelines for the local elections. In addition, multilingual election broadcasts took place for the first time on public radio. The OMIFRY media personnel in Bujanovac monitored compliance with the agreement.

Although few problems were reported, the OMIFRY media monitors noted concern with the coverage by Radio Presevo. In the final week of the elections, the station began to give extensive coverage to the Chair of the Presevo Interim Council, Riza Halimi, who was also a candidate for the newly created position of Mayor. To a lesser extent, Radio Presevo also favored in its coverage the Party for Democratic Action (PVD), Mr. Halimi's party. The OMIFRY media department considered Radio Presevo's conduct to be a violation of the guidelines provided in the 3 July agreement.

Campaign

Even though long standing ethnic rivalries remain, the parties agreed that the main issues facing all three municipalities were economic development, improvement of the infrastructure and housing. With the limited time to campaign, the main parties mostly relied on meetings/rallies and "door to door" canvassing. Thus, the campaign was relatively quiet.

Due to the efforts of the National Democratic Institute (NDI) and the OMIFRY, all political parties in the region signed an electoral "Code of Conduct" on 3 July, committing to abide by a general framework for fair conduct during the election campaign.

All parties complied with the letter of the law requiring 30% of the candidates on each party list to be women.

Complaints

The EOM notes a complaint to the municipal authorities from the Party for Democratic Action (PVD) alleging inaccuracies in the voter register of Bujanovac. The complaint involved two issues:

1. an unexplained increase in the total number of registered voters in the municipality since December 2000 by some 4,000 names, however no list of names was provided; and
2. an alleged omission of some 1,800 voters from the Albanian community, with a list substantiating the claim.

The PVD complaint was submitted on 12 July, the last day for administrative amendments to the voter register, creating serious difficulties for the municipal authorities to remedy the problems.

On 25 July, the "Coalition for Bujanovac" submitted a letter to the EOM, without copying to the authorities, alleging that some 5,000 voters from the Albanian community were "registered in Kosovo and voted there during the recent November elections". While noting that changes to the voter register were no longer possible after 25 July, the EOM accepted to follow up on the allegation.

The EOM concluded that in both above complaints with the three separate allegations, the allegations required more factual and legal precision.

The EOM found that:

1. the alleged 4,000 additions to the voter register included some 1,600 IDPs who were properly marked as such and who were not eligible to vote in the present municipal elections in accordance with the Republic of Serbia election legislation. The remaining 2,400 alleged additions could not be investigated without the complainant providing a list;
2. the alleged 1,800 omissions included some 500 names in fact included in the voter register and another 300 names ineligible to vote in the municipal elections in Bujanovac. The remaining 1,000 omissions proved to be eligible voters and some 500 of them were eventually registered after a court order. The Bujanovac municipal administration's and Judiciary's effort to address and redress the PVD complaint regarding the 1,800 omissions are commendable.

While the EOM continues to follow up on the "Coalition for Bujanovac" allegation, the EOM notes that:

- the list of 5,000 names includes the entire voter population of villages within the area of the Bijanovac municipality;
- the allegation refers to these voters having taken part in a different election some 8 months prior to the current one; and
- the election in Kosovo and the current one are conducted under different legislative and administrative frameworks with different voter registration requirements.

Election Day

On election day, the IEOM deployed some 110 short-term observers, covering 102 out of 133 polling stations in the three municipalities. In the majority (73%) of polling stations visited, observers rated the conduct of polling as "excellent" or "good", though problems were also noted.

In terms of safeguarding the integrity of the vote and preventing multiple voting, in an overwhelming majority of observations, the inking and verification of ink on voters' finger were performed properly, and identification documents with photos were checked. However, in more than 70% of the polling stations visited, voters did not sign the voter register as required by law. In most polling stations visited, voters whose names were not on voter registers or who could not produce proper IDs were appropriately turned away. Regrettably though, the secrecy of the voting was not always respected, with group voting observed in 44% of the visits and voting in the open in 22% of cases.

In a few cases (15%), unauthorized persons were seen in polling stations, but they were rarely interfering with the work of the polling boards. Observers reported not a single case of undue pressure on voters and only isolated cases of pressure on polling board members. Also, there were only 8 reports of campaign materials in or within 50 meters of polling stations and no campaign activities were reported within polling stations.

So far as domestic observers were concerned, they were reported present in polling stations in 75% of visits and not a single case of restriction was reported in terms of their access to

polling activities. This is all the more remarkable since the law makes no provision for the accreditation of domestic observers.

In an isolated number of polling stations where the number of voters assigned was excessive, crowding was a significant problem, at times creating tense situations. As a result voting hours were extended in the affected polling stations. Otherwise, election day proceeded in a calm and orderly manner.

Observers evaluated the vote count from 45 polling stations and characterized these in an equally positive tone, indicating overall confidence in the accuracy of the results.

*This statement also is available in Serbian and Albanian.
However, the English text remains the only official version.*

MISSION INFORMATION & ACKNOWLEDGMENTS

Mr. Nikolai Vulchanov (Bulgaria) heads the OSCE/ODIHR Election Observation Mission. Mr. Tomas Jirsa (Czech Republic) leads the CLRAE short-term observation delegation

The IEOM issues this statement before the final certification of the election results and before a complete analysis of the IEOM observation findings. The OSCE/ODIHR will issue a comprehensive report shortly after the completion of the electoral process.

This statement is based on the election preparations and campaign observations of four election experts of the OSCE/ODIHR EOM based in Bujanovac and deployed for three weeks prior to election day. The statement also incorporates the election day findings of some 110 short-term observers reporting from 102 out of 133 polling stations in the three municipalities.

The IEOM wishes to express appreciation to the Ministry of Foreign Affairs of the Federal Republic of Yugoslavia, and the Ministry of Interior, the Republic Election Commission, the Co-ordination Body, and other Republic and Municipal authorities of South Serbia for their cooperation and assistance during the course of the observation.

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- Mr. Olivier Terrien, Secretary of the Bureau of the Congress, Council of Europe, in Strasbourg (+33 3 88 41 22 47).

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