



Office for Democratic Institutions and Human Rights

REPUBLIC OF SERBIA
EARLY PARLIAMENTARY ELECTIONS

11 May 2008

OSCE/ODIHR Limited Election Observation Mission
Final Report



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I. EXECUTIVE SUMMARY

The 11 May 2008 early elections to the National Assembly (Parliament) of the Republic of Serbia were overall conducted in line with OSCE commitments and other international standards for democratic elections, although they were overshadowed, in part, by a few negative aspects of the campaign. These elections provided a genuine opportunity for the citizens of Serbia to choose freely from a range of political parties and coalitions.

The Republic Election Commission (REC) registered in an inclusive process 22 lists of candidates of parties and coalitions. Among these were ten lists of parties rooted in national minorities. This was despite the temporary suspension by the Constitutional Court of provisions of a REC instruction offering advantageous conditions for the registration of candidate lists of national minorities.

While the campaign was vigorous and carried out in an open and overall calm environment, some aspects of the campaign went beyond acceptable limits for a democratic society, in particular when a number of death threats to senior officials were reported. This culminated with the display, in Belgrade, of a large number of posters that could be interpreted as suggesting the assassination of top state officials. The Public Prosecutor ordered an investigation into the case, and a person has been indicted subsequently.

A diverse range of media provided voters with extensive information about the parties, the candidates and their campaigns. The coverage of election-related news was predominantly neutral in tone. Official election information was widely available in minority languages.

While the legal framework provides a sound basis for democratic elections, a number of shortcomings, *lacunae* and long-standing recommendations from the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Venice Commission of the Council of Europe remain to be addressed.¹ These include, in particular, provisions permitting parties to name elected Members of Parliament (MPs) disregarding the order of candidates on the lists, and MPs to irrevocably put their term of office “at the disposal to the political party upon which proposal have been elected a deputy”. In addition, the practice of court hearings of election-related complaints behind closed doors continues.

¹ Joint Recommendations on the Laws on Parliamentary, Presidential and Local Elections and Electoral Administration in the Republic of Serbia, [www.venice.coe.int/docs/2006/CDL-AD\(2006\)013-e.asp](http://www.venice.coe.int/docs/2006/CDL-AD(2006)013-e.asp); see also www.osce.org/odihr-elections/13440.html. All OSCE/ODIHR election observation reports and other election related publications are available at: www.osce.org/odihr.

The REC administered the elections collegially, professionally and in an open and transparent manner. Its inclusive composition contributed to enhanced confidence in the electoral process. However, on a few occasions, the REC showed inconsistency in its decisions, and there were instances when REC regulations went beyond legislative provisions, mostly to address existing *lacunae* and ambiguities in the legal framework, or due to the simultaneous conduct of several different elections.

Despite being required by law, and specifically requested by the REC, the Parliament has not yet established the Supervisory Board to monitor pre-election campaign activities and the broadcast media, leaving a void in the handling of possible campaign and media-related complaints.

The OSCE/ODIHR stands ready to further support the efforts of the authorities and civil society of Serbia to meet the remaining challenges outlined in this and previous reports.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

On 13 March 2008, the President of Serbia called early parliamentary elections for 11 May 2008, to be conducted concurrently with the provincial and local elections already scheduled for the same date. Following an invitation from the Speaker of the Parliament, the OSCE Office for Democratic Institutions and Human Rights deployed on 3 April a Limited Election Observation Mission (LEOM) to observe the parliamentary elections. The OSCE/ODIHR LEOM assessed the parliamentary elections for their compliance with the 1990 Copenhagen Document, other international standards and domestic legislation. The OSCE/ODIHR LEOM did not observe the provincial and local elections held simultaneously.

The OSCE/ODIHR LEOM, headed by Mr. Nikolai Vulchanov, consisted of a 10-member core team of analysts based in Belgrade, and 24 long-term observers (LTOs) deployed on 14 April to 12 locations throughout the country. Core team experts and LTOs were drawn from 20 OSCE participating States. In view of past findings on election-day proceedings in Serbia, the OSCE/ODIHR did not consider the deployment of short term observers to be necessary, and did not undertake a systematic or comprehensive observation of election day proceedings. However, representatives of the OSCE/ODIHR LEOM visited some polling stations during voting on election day.

In the context of an International Election Observation Mission, the OSCE/ODIHR cooperated with delegations from the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE) who deployed observers for election day.

Mr. Roberto Battelli (Slovenia), Head of the OSCE PA delegation, was appointed by the OSCE Chairman-in-Office as Special Co-ordinator to lead the short-term OSCE observer mission.² Mr. Jean-Charles Gardetto (Monaco) headed the delegation of the Parliamentary Assembly of the Council of Europe.

² In line with standard practice for Limited Election Observation Missions, the OSCE/ODIHR did not deploy short-term observers for election-day observation.

The OSCE/ODIHR wishes to thank the authorities of the Republic of Serbia, the Republic Electoral Commission, the Ministry of Foreign Affairs, the Ministry of Interior, and other state and local authorities for their assistance and co-operation. The OSCE/ODIHR also wishes to express appreciation to the OSCE Mission to Serbia and the Embassies of OSCE participating States in Belgrade for their support throughout the duration of the mission.

III. BACKGROUND

The 11 May 2008 early parliamentary elections in the Republic of Serbia were called by the President of Serbia following the collapse of the coalition government led by Prime Minister (PM) Vojislav Koštunica. The months before the elections saw a crisis developing between the coalition partners, the Democratic Party (DS), G17 Plus on one side, and the Democratic Party of Serbia – New Serbia (DSS-NS) on the other, about the implementation of the 2007 coalition agreement. Serbia's response to the declaration of independence by Kosovo on 17 February 2008, and the relations with the European Union, were the most contentious issues during the campaign.

IV. LEGAL FRAMEWORK AND ELECTION SYSTEM

The Constitution of the Republic of Serbia provides guarantees for the respect of fundamental civil and political rights and freedoms, such as the freedom of opinion and expression, the right to vote and to be elected, the freedom of assembly and association, and the right to participate in the conduct of public affairs.³

The conduct of the parliamentary elections in Serbia is regulated primarily by the Law on the Election of Representatives (LER), which was adopted in October 2000 and has since undergone a series of revisions.⁴ The legal framework for elections also includes the Law on Financing of Political Parties, the Broadcasting Law, and is supplemented by the REC decisions and regulations.⁵

The 250 members of the National Assembly are elected for a four-year term through a system of proportional representation of candidate lists running in a single nationwide constituency. Mandates are allocated to candidate lists that surpassed a five per cent threshold of the votes cast⁶ according to the D'Hondt method of highest averages. Following amendments to the LER adopted in 2004, the five per cent threshold does not apply to parties and coalitions rooted in national minorities. Neither the LER nor the REC regulations provide criteria for defining which political party or coalition is entitled to take advantage of this special provision.

³ Article 46 and Articles 52–55 of the Constitution.

⁴ Significant amendments were introduced in 2004 (Official Gazette (OG) No.18/2004), while some others were adopted in 2003 (OG No. 57/2003 and 72/2003) and in 2005 (OG No. 85/2005 and 101/2005).

⁵ Please see Section VI.C "REC Regulations and Decisions".

⁶ In an official interpretation, the REC clarified that the five percent threshold is calculated on the number of voters on the voter lists with regard to whom the ordinal numbers next to their names are circled, indicating that they voted.

The current legislation generally adheres to the OSCE Commitments and other international standards for democratic elections, and provides an adequate basis for the conduct of democratic elections if implemented in good faith. However, a number of key issues remain to be addressed, as shortcomings, voids and ambiguities exist.⁷

Of particular concern is the disproportionate control of political parties over parliamentary mandates of their candidates. Article 84 of the LER provides that a submitter of a list “shall, not later than within ten days from the date of the publication of the final results of the election, hand over to the REC the information on which candidates from the candidate list will be awarded mandates won on that list.” Only if the submitter of the list fails to deliver the requested data in the above-mentioned period, “the REC shall, by a separate ruling, award all mandates gathered by that list to the candidates from the list according to their order on the list.” Article 84 of the LER diminishes transparency as voters cannot know how their votes will effectively translate into allocation of mandates to candidates. This provision also diminishes the potential positive effect of the requirement that every fourth candidate, and no less than 30 per cent in a candidate list, must belong to the less represented gender.

Furthermore, according to Article 102 of the Constitution of the Republic of Serbia, a Member of Parliament “shall be free to irrevocably put his or her term of office at disposal to the political party upon which proposal he or she has been elected a deputy.” Article 102 of the Constitution raises concerns of compatibility with the 1990 Copenhagen Document of the OSCE, which underscores the principle that candidates who are duly installed in office should be permitted to remain in office until their term expires.

Other shortcomings in the legislative framework for parliamentary elections include:

- Absence of an interim level of electoral commissions between the REC and the PBs;
- Absence of provisions allowing for participation of international and domestic non-partisan observers in all stages of the electoral process;
- Provisions for certifying signatures in support of a candidate list, that require clarification;
- Provisions requiring the dissolution of polling boards and repeat elections at polling stations on numerous grounds, including those that do not undermine the integrity of voting operations;
- The lack of criteria to decide whether an electoral list can take advantage of the special provisions of Article 81 according to which lists rooted in national minorities are exempt from the five per cent threshold to qualify for parliamentary representation;
- The absence of a provision requiring the publication of election results separately for each polling station;
- The need for more clarity for campaign finances.⁸

⁷ These have been identified by the OSCE/ODIHR and the Council of Europe’s Venice Commission in the “Joint Recommendations on the Laws on Parliamentary, Presidential and Local Elections, and Electoral Administration in the Republic of Serbia”, Opinion no. 347/2005, published on 23 March 2006; [www.venice.coe.int/docs/2006/CDL-AD\(2006\)013-e.asp](http://www.venice.coe.int/docs/2006/CDL-AD(2006)013-e.asp) and www.osce.org/odihr-elections/13440.html.

⁸ In particular, Art. 9 of the 2004 Law on Financing of Political Parties that determines the total amount of state funds to be distributed for campaign finance of presidential, parliamentary and local elections that are held in one budget year. This provision was interpreted by the Ministry of

V. ELECTION ADMINISTRATION

A. OVERVIEW

Parliamentary elections are administered by a two-tier administration consisting of the REC and the PBs. The REC is tasked with the overall responsibility to administer the elections. The PBs are assigned to serve voters at polling stations on election day. In addition, with regard to the parliamentary elections, the REC Instruction for the Enforcement of the LER⁹ tasked the Municipal and City Electoral Commissions (MECs) to perform logistical tasks, as the LER does not provide for an intermediate level of election administration.

The MECs¹⁰ are instituted by the Law on Local Elections (LLE). They played a role in the parliamentary election despite the fact that the LER mentions only the REC and the PBs as bodies in charge of the conduct of these elections. The role of the MECs in the parliamentary elections underscored the need for an intermediate level of election administration between the REC and PBs – a long-standing recommendation of the OSCE/ODIHR. While coordination between the REC and the MECs was generally satisfactory, the LLE grants the REC practically no legal authority over the conduct of elections for local governments and potentially endangers the uniformity of the conduct of local elections.¹¹

B. REPUBLIC ELECTORAL COMMISSION

The REC is an election administration body appointed by the newly elected parliament for a four-year term. It has a permanent and an extended composition. Its permanent composition includes the Chairperson and sixteen members with full voting rights and reflects the composition of the Parliament appointing the REC. However, the LER does not specify the consequences for the REC membership of a change of parliament composition resulting from early parliamentary elections.

In addition, a representative of the Republic Statistics Office (RSO) is appointed as a non-voting member to the REC. The REC also has a Secretary who is not a member. All permanent members of the REC and the Secretary have a deputy each, who enjoys the same authority and right to vote in their absence.

Finance as granting itself the discretion in setting the amount of campaign funds to be disbursed by the Ministry for a single election. Also Article 10 of this law, that foresees that 20 percent of the approved funds be equally allocated to the registered candidates, without distinguishing between allocation of funds for elections held under a system for proportional representation in one round of voting such as the elections for Parliament or municipal assemblies, or majoritarian election such as the two-round election of the President of Serbia. All these issues were identified in previous publications by the OSCE/ODIHR alone or jointly with the Venice Commission of the Council of Europe.

⁹ Please see Section VI.C “REC Decisions and Regulations”.

¹⁰ The MEC composition reflects the composition of the outgoing Municipal and City Assemblies. It also includes representatives of registered candidate lists and their deputies.

¹¹ Please see Section V.C “REC Decisions and Regulations”.

The permanent membership is extended with a representative, and his or her deputy, of each candidate registered by the REC to contest the election. They have voting rights identical to those of the permanent members. The REC appointed some 30 of its members and deputies as District Coordinators to supervise the distribution and collection of election materials to and from the PBs, and to carry out reporting duties.

The REC is responsible, *inter alia*, for the administration of the elections, the registration of candidate lists, the appointment of PB membership, the certification of results and decisions on complaints.¹²

The Republic Electoral Commission administered the parliamentary elections in a professional, collegial and transparent manner. The inclusion of representatives of the candidate lists enhanced transparency, accountability and confidence in the election administration. Yet, on a few occasions, the REC showed some inconsistency in its decisions.

C. REC REGULATIONS AND DECISIONS

The REC issued a set of regulations and decisions in order to clarify ambiguous legal provisions or to provide a framework for issues that were not fully regulated by the law.¹³ In addition, the simultaneous conduct of parliamentary, local and provincial elections meant that aspects of the process would be governed by different laws, potentially conflicting with each other. Of particular significance was the Decision on the Coordinated Conduct of All Elections called for 11 May 2008. This Decision enjoyed political support across party lines and was adopted by the REC with consensus; however its content went beyond REC's legal competencies, establishing rules which departed from the existing legal frameworks for parliamentary and local elections.

This was particularly the case with regards to the rules regulating the appointment of the extended membership of PBs, which attempted to accommodate principles of the LER and of the LLE, without fully respecting either (see below: Polling Boards). A number of complaints against this decision were filed by representatives of registered candidate lists in relation to the representation of the respective lists in the extended composition of PBs. Some MECs and political forces showed reluctance to comply with the new rule, and the REC had to remind MECs that it would only recognise MECs' decisions on the appointment of members which complied with its decision.¹⁴

Another disputed REC decision concerned Article 28.8 of the Instruction on the Enforcement of the LER, which stipulated that 3,000 voters' signatures were sufficient for

¹² Article 34 of the LER as amended in May 2004 and Art.11 of the Rules of Procedure of the Republic Electoral Commission.

¹³ Instruction on Enforcement of the LER, Decision on Modification and Amendments to the Instruction on Enforcement of the LER, Decision on Coordinated Conduct of All the Elections Called for 11 May 2008, Decision on Modification and Amendments to the Decision on Coordinated Conduct of All the Elections Called for 11 May 2008, The Explanation for the Enforcement of the Art 8 and 9 of the Decision on the Coordinated Conduct of All Elections, Rules of Procedure on the Work of Voting Boards for Coordinated Conduct of All the Elections called for 11 May 2008.

¹⁴ REC session 110 of 5 May 2008.

the proclamation of an electoral list presented by a political party of national minority. (see below: Registration of candidate lists).

Article 50.4 of the REC Instruction on Enforcement of the LER introduced new language with regard to the authority of the REC on the accreditation of international observers.¹⁵ While previously the REC was to issue accreditation of international observers pending a positive opinion of the government, the new language granted the REC the possibility to depart from the Government opinion on accreditation of international observers, raising concerns that the accreditation of observers would not be handled as an international commitment, but rather as a question of political expediency.

D. POLLING BOARDS

The REC Decision for the Coordinated Conduct of All Elections taking place on 11 May established a composition for the PBs that attempted to blend together principles of the LER and of the LLE. The compositions of the outgoing Parliament, as well as of local Municipal and City Assemblies were used as the criteria to determine the PBs' permanent composition, which included a chairperson, six members and their deputies.

In addition, registered candidate lists were entitled to nominate extended members and their deputies to the extended composition. The formation process was, to some extent, impeded by the difficulties faced by MECs to implement the complex rules aimed at ensuring an appropriate representation of the lists registered for both the parliamentary and the local elections. Particular measures, which appeared to cause some confusion, were applied for parties running in different coalitions at national and local levels.¹⁶ The general rule for the extended composition of the PBs was that all submitters of candidate lists were entitled to nominate members and their deputies. Submitters of lists for the parliamentary elections were entitled to nominate their relevant members and deputies. Likewise were submitters of candidate lists for local elections, provided they did not run for parliamentary elections. In Belgrade and Niš, submitters of candidate lists for councilors in the city assemblies were also entitled to nominate members and deputies to the polling boards, provided they did not run either for parliamentary elections or for elections to one of the city municipalities.

The participation of election contestants in the PBs promoted transparency and confidence in the process, also considerably increasing their membership. To address this, the Rules of Procedure on the Work of PBs for the Coordinated Conduct of All the Elections Called for 11 May 2008 recommended that members work in shifts during voting hours.¹⁷

¹⁵ Article 50.4 of the Instructions states that "Having received the opinion of the competent state institution, the Republic Electoral Commission may issue official authorizations to the foreign observers, on the basis of which they may monitor the work of the bodies for conducting the elections." On the contrary, Article 49.3 of the previous Instructions provided that "Having received the opinion of the competent state institution, the Republic Electoral Commission *shall* issue official authorizations to the foreign observers on the basis of which they may monitor the work of the bodies for conducting the elections."

¹⁶ Explanation for the Enforcement of the Articles 8 and 9 of the Decision on the Coordinated Conduct of All Elections (OG, No.27/08).

¹⁷ Article 2.4 of the Rules of Procedure on the Work of Polling Boards for the Coordinated Conduct of All Elections Called for 11 May 2008.

Nevertheless, in those polling stations visited, OSCE/ODIHR LEOM members noted numerous cases of polling stations crowded with PB members.

The REC established 8,245 regular polling stations and additional 279 polling stations in five districts of Kosovo. Internally displaced persons (IDPs) from Kosovo voted in 157 special polling stations; of these 16 were in Kosovo. These polling stations were provided with special voter lists where voters were listed according to their municipalities of origin. In these special polling stations, voting was conducted only for parliamentary and municipal elections. In addition, the REC established 75 polling stations in 42 countries to serve out of country voters.

E. VOTER REGISTRATION

Voter registration in Serbia is conducted under a “passive” system. Voter lists are compiled from data contained in the municipal civil status offices. Voters are not required to separately apply for registration as voters, as their name is included in the voter lists *ex officio*. The voter lists are maintained on a continuous basis by municipal authorities under the supervision of the Ministry of Public Administration and Self-Governance and in co-operation with the Ministry of Interior.

The LER requires¹⁸ that voter lists are to be merged in a unified, computerized, permanent national register. The establishment of this register required by the LER since 2000 is yet to be accomplished. Once established, it would further improve the accuracy of voter lists.

The final number of registered voters for these elections was 6,749,688 representing an increase of 25,926 voters or 0.4 per cent compared to the 2008 presidential election. Some 51,000 out-of-country voters were also registered.

Domestic interlocutors did not raise major concerns about the accuracy of the voter lists. However, municipal officials frequently recognized complications in ensuring the accuracy of the voter lists in relation to the removal of names of voters deceased outside Serbia or of voters not communicating their change of permanent address to the authorities, potentially leading to multiple entries. In one case reported by LTOs in the municipality of Sjenica, some 1,940 voters were removed from the voter register at a late stage of the process without notification, in an attempt to improve the accuracy of the lists. While there was no indication that this process was politically motivated, it appeared that the municipal administration in charge did not ensure that citizens were informed about the process. As a consequence, only some 150 of these voters were able to re-register.

Voter registers were open for public scrutiny for 41 days. Modalities of the display of lists varied between municipalities. In a number of cases, proxy verification was not allowed by the municipality officials, although provided for by the law.

F. REGISTRATION OF CANDIDATE LISTS

Twenty two political parties and coalition candidate lists were registered in an inclusive process.¹⁹ These included ten lists of parties rooted in national minorities, and

¹⁸ Article 12 of the LER.

representatives of national minorities were also placed on lists of mainstream parties. Two submitted lists were rejected by the REC: a list put forward by the Croatian-Bunjevci-Šokac Party was rejected for failing to submit the necessary support signatures. A list submitted by the Socialist Party of Freedom was rejected on the basis that the name of the list differed from the name of the party, in contradiction with article 42.1 of the LER. This led to lengthy debates among REC members, fuelled by a number of complaints filed by the Socialist Party of Freedom against the rejection of their list and the different approach previously taken by the REC in a similar case.²⁰

Article 43.1 of the LER provides that in order to register a candidate list, a party, a coalition or a group of citizens has to submit to the REC a set of documents including a list of at least 10,000 support signatures of registered voters. As was the case for the 2007 parliamentary elections, the REC established in its Instruction on the Enforcement of the LER (Article 28.8) that 3,000 voters' signatures were sufficient for the proclamation of an electoral list presented by a political party of a national minority. This provision was contested in a complaint²¹ submitted to the REC, and a subsequent appeal to the Supreme Court, both dismissed as unfounded.²² Further, a group of Members of Parliament from the SRS filed a petition to the Constitutional Court asking the Court to establish whether the provision in question was in compliance with the LER. The Court established that the provision in question was not in accordance with Article 43.1 of the LER and temporarily suspended the application of Article 28.8 of the instruction. A number of domestic stakeholders complained that the Court's decision came late in the process, with little time left for minority parties to collect the then required 10,000 signatures.

In addition, the Constitutional Court concomitantly initiated a procedure for the examination of the constitutionality of Article 43.1 and Articles 80 to 82 of the LER, in view of constitutional provisions on the rights of minorities, in particular Article 14 and Article 21.4 of the Constitution.²³

Each voter is allowed to sign in support of one candidate list. Supporting signatures for parliamentary elections are laid down by voters in person, in front of specifically authorized personnel of a municipal court, upon presentation of a valid identification

¹⁹ For a European Serbia - Boris Tadić; Liberal Democratic Party – Čedomir Jovanović; Democratic Party of Serbia - New Serbia – Vojislav Koštunica; Serbian Radical Party – Dr Vojislav Šešelj; Socialist Party of Serbia - Party of United Pensioners of Serbia – United Serbia; Bosniak List for a European Sandžak – Dr Sulejman Ugljanin; Hungarian coalition - Istvan Pasztor; Reformist Party - Dr Aleksandar Višnjić; Let the village voice be heard – Peoples' Peasant Party – Marijan Rističević; The Force of Serbia Movement - Bogoljub Karić; The Civic Initiative of Gorani-GIG; United Vlachs of Serbia; Vojvodina Party - Igor Kurjački; Roma for Roma - Miloš Paunković; Montenegrin Party – Nenad Stevović; Union of Roma of Serbia - Dr Rajko Đurić; Coalition of Albanians of Preševo Valley; Alliance of Bački Bunjevci - Mirko Bajić; Movement My Serbia - Branislav Lečić; People's Movement for Serbia - Milan Paroški; Patriotic Party of Diaspora - Zoran Milinković; Roma Party - Srđan Šajn.

²⁰ The REC earlier accepted a list named "Let the Village Voice be Heard – Peoples' Peasant Party – Marijan Rističević", despite the fact that the support signatures had been given by voters to a list bearing a different title, in violation of article 42 of the LER.

²¹ Complaint of 19 March 2008, submitted by Mr. Dragan Todorović of the SRS

²² Judgment No Už. 40/08 of 24 March 2008.

²³ In accordance with Art.50 of the Law on the Constitutional Court of Serbia, the Court is authorized *ex officio* to initiate a procedure for the examination of constitutionality and legality of a provision.

document.²⁴ The register of signatures of voters supporting a candidate list must be submitted in written and electronic forms.²⁵ Upon verification of the submitted documentation, the REC shall register the respective candidate list.

The OSCE/ODIHR LEOM could not get immediate access to observe verification by the REC of the documentation submitted in order to register candidate lists including the verification of support signatures. The OSCE/ODIHR LEOM was informed that the Ministry of Interior (MoI) was taking part in the verification of signatures against the nationwide database of permanent residents, producing control reports to determine the exact number of valid supporters. This activity was not regulated by the law and appeared to be based on agreement between the two institutions.

During the verification of the voters support signatures, a limited number of signatures of deceased and under-aged persons, or persons supporting more than one list were found. The presence of signatures of deceased or under-aged individuals was surprising as the whole process of signing the lists was directly supervised by court clerks.

G. TABULATION OF RESULTS

The RSO is responsible for the tabulation of the polling station results for the parliamentary elections at municipal level. The procedures regulating the activities of the RSO representatives at municipality level and at the later stage of compilation of the nationwide result are outlined in RSO internal rules, as are the logical controls used in ensuring the consistency and accuracy of polling station protocols. These activities of the RSO are not provided for by the LER or REC regulations.

Official results are tabulated according to the original polling station protocols. The legal deadline for announcing the final results by the REC is 96 hours after the closure of the polls, upon aggregation of out-of-country results and resolution of possible complaints. No details of the results by polling stations was made available for the wider public, although the results by polling stations were provided to REC members and election contestants.²⁶

VI. ELECTION CAMPAIGN

Contestants had unimpeded campaigning opportunities. Campaigns were vigorous and parties and candidates made use of media, rallies, public events, numerous billboards and leaflets. There were a few allegations of distribution of food parcels by parties to vulnerable groups. The number of these allegations increased towards the end of the campaign.²⁷ In a limited number of cases they could be confirmed.

The campaign started six weeks before the elections and was dominated by the status of Kosovo, relations with the European Union (EU) and possible signing of the Stabilisation

²⁴ In line with Articles 4.1, 8 and 9 of the Law on Certification of Signatures, Manuscripts and Transcripts (OG, No.39/93).

²⁵ Article 28.7, Instruction on Enforcement of the LER.

²⁶ The detailed results by polling stations were also made available to the OSCE/ODIHR LEOM after the completion of the repeat elections conducted in a few polling stations.

²⁷ Mainly to members of the Roma communities and poor segments of the mainstream population.

and Association Agreement (SAA), as well as social and economic issues. Some decisions taken by the outgoing coalition government were the subject of disputes and accusations between the former coalition partners. These disputes dominated reports in the public media and involved the leader of the DS lead coalition, President Boris Tadić, and PM Vojislav Koštunica, leader of the DSS-NS coalition, as well as ministers from both sides. The most influential opposition party, the Serbian Radical Party (SRS) focused on this dispute and followed the strategy of a steady campaign focused on the preservation of Kosovo as part of Serbia. The Liberal Democratic Party (LDP) focused on European integration, presented itself as caretaker of the legacy of the late Prime Minister Zoran Djindjić²⁸ and criticized both camps of the former Governmental coalition for not reforming enough. The Socialistic Party of Serbia (SPS) – led coalition focused its campaign on the issue of Kosovo and social policy.

The campaign slowed down over Easter²⁹ but intensified again after the signing of the SAA with the EU on 29 April. The campaign reached its peak in May when DS started to present the signing of the SAA and an investment agreement with a major west-European car manufacturer as an example of the success of their pro-European policy. The signing of the SAA and the pro-European stance of DS was supported by LDP and the minority parties, while DSS-NS and SRS criticised the signing of the SAA as illegal and containing implicit recognition of the independence of Kosovo.

As the campaign unfolded, personal verbal attacks and insults intensified, and a number of death threats to senior officials were reported. This culminated after the signing of the SAA with the display on 1 May of posters in large numbers in and around Belgrade by a registered association called the “Family of Serbian Fans” labelling the Serbian signatory of the SAA and the President of Serbia as “enemies of the state”. These posters could be interpreted as suggesting their assassination.³⁰ Several competing parties failed to comment on this incident. Some leading politicians continued to call Deputy Prime Minister Božidar Đelić and President Boris Tadić “traitors”, while the association reconfirmed its stand with statements on its homepage³¹ and in the media. The Public

²⁸ Mr. Zoran Djindjić, who was also the then President of the DS, was assassinated on 12 March 2003 in front of the Prime-Minister’s Office in Belgrade. Notably, during a hearing of the International Criminal Tribunal for Yugoslavia (ICTY), Mr. Vojislav Šešelj, Chairman of the SRS, indicted by ICTY for “crimes against humanity and violation of the law or customs of war”, was quoted as saying that the convicted assassin of Djindjić deserved “the glory of Gavrilo Princip in Serb history” (Belgrade media, 22 May 2008). Gavrilo Princip was a Serb nationalist from Bosnia who shot dead the Austro-Hungarian Crown Prince Franz Ferdinand and his wife Sofia in Sarajevo in 1914. This assassination triggered World War I. On the next day the Serbian government unanimously condemned the statement of the Radicals’ leader Vojislav Šešelj, in The Hague on the glorification of the murderer of the late Serbian Prime Minister Zoran Djindjić, Belgrade media reported.

²⁹ Orthodox Easter in 2008 was on 27 April.

³⁰ Two posters were displayed next to each other, both bearing the logo of the “Family of Serbian Fans”. The first one showed the portrait of Mr. Stjepan Radić, then Chairman of the Croatian Peasant Party, who was fatally wounded in the Federal Parliament on 20 June 1928. On his portrait, there was the script “There is only one Puniša Račić”, the name of a Montenegrin politician from the Radical Party who shot dead Mr. Radić, as well as two other parliamentarians of his party. The second poster displayed the portraits of President Boris Tadić and Deputy Prime Minister Božidar Đelić, and bore the script “Enemies of the state”. Mr. Đelić signed the SAA between Serbia and the EU on 29 April, in the presence of President Tadić.

³¹ On 2 May 2008, on the website of the “Family of Serbian Fans”, www.familija.org.yu, its leader, Mr. Vladica Simonović posted an address stating “...we reminded about the personality and deeds

Prosecutor opened a case and ordered an investigation into the incident and the perpetrating organisation. The OSCE/ODIHR was informed that an indictment was subsequently raised on 30 May against the president of the organisation “Family of Serbian fans” for endangering the safety of the President and of the Deputy Prime-Minister. The trial is scheduled for 4 September.

VII. MEDIA

A. MEDIA LANDSCAPE

Serbia’s media market is largely unregulated and is characterized by a wide diversity of media outlets. In addition to the state-owned broadcaster RTS, there are 73 TV stations, 543 radio stations and 139 stations broadcasting both radio and television programs.

Television is the most important medium in terms of both market and audience share, and is also the primary source of information for the majority of the population. The evening RTS 1 news bulletin, *Dnevnik 2*, attracts the largest audience and is the only daily news program watched by more than one million viewers. RTS 2 broadcasts mainly sport and documentary programs except during the elections when it provides free air time to political parties and coalitions registered to contest the election. TV Pink and, to an extent, TV B92 are commercial broadcasters with a strong entertainment profile. TV Pink and RTS 1 compete for top audience ratings. On 7 April 2008, B92 began broadcasting on cable TV a news channel, B92 Info, with 24-hour news and political debates.

Broadcast media at local level still remain mostly owned by local government authorities, although article 96 of the Broadcasting Law foresaw their privatisation by 31 December 2007.

Radio audiences show different preferences. Liberalized earlier than television, and with innovative programming, partly stemming from the tradition of Belgrade based Studio B and the youth station B92, radio has built up strong audiences.

Exact data on written press circulation or any other aspects of the press industry are not readily available, as many companies regard such information as confidential, but it is estimated to be low. The press market is diversified and has a long tradition of specialization in content. All of the newly established dailies in the past five years have been tabloids. The leading privately owned newspapers are: *Vecernje Novosti*, *Blic*, *Politika*, *Danas*, *Press* and *Kurir*.

B. MEDIA REGULATORY FRAMEWORK

The legal framework regulating the media coverage during the election campaign is mainly governed by the 2006 Constitution of the Republic of Serbia, the LER, the Broadcasting Act,³² the 2003 Public Information Law, the 2003 Telecommunications Law and the 2004 Law on Free Access to Information of Public Importance.

of Puniša Račić, a Serbian MP who did not spare either his or somebody else’s life when the interests of Serbia were at stake.”

³²

Last amended in 2005.

The Constitution of the Republic of Serbia guarantees freedom of thought and expression, freedom of the media and the right to information. Articles 5 and 48 of the LER, respectively, secure the right of citizens to be informed and the right of contestants to inform citizens about their programs and activities. Under the LER, all radio and television stations are required to ensure “equal accessibility of information about all submitters of electoral lists, as well as about all candidates on these electoral lists” (Article 5). The LER prohibits electoral promotion through media and public gatherings, as well as the publication of opinion polls projecting electoral results in the period of 48 hours before election day.

The LER also foresees³³ the establishment of a Supervisory Board appointed by the National Assembly to control the legality of the acts of political parties, candidates and the mass media in the course of electoral activities. The Board shall control the mass media activities with regard to ensuring equal conditions for the presentation of the election contestants. As was the case for the January 2008 presidential elections, the Supervisory Board was not established, and the Republic Broadcasting Agency (RBA) remained the only authority regarding media and media complaints during these elections. Notwithstanding the possible reasons why the Supervisory Board was not established, it must be noted that its supervisory powers would go far beyond the RBA’s competency, which is limited to the electronic media.

The Broadcasting Act of 2002 regulates both public service and commercial media. It introduced a new licensing system, defined general program standards, regulated advertising and sponsorship, and introduced anti-concentration instruments. It also establishes an independent regulatory authority, the above-mentioned RBA, the competencies of which include defining a broadcasting strategy, issuing licenses and supervising the work of broadcasters.

On 4 April, the RBA Council issued General Binding Instructions for Radio and Television Stations on Conduct of the Local, Provincial and Republican Parliamentary Elections of 2008. According to these instructions, all pre-election programs, reports, advertisement blocs, and polls on television must be clearly marked as “election program”, and paid air time must continuously have the indication “paid time”. Public broadcasters were obliged to provide all electoral contestants with an equal amount of free air time, and could broadcast “propaganda advertisements” on a basis of non-discrimination. Additionally, private electronic media should not sell more than 120 minutes of paid advertisement per day, only 30 minutes of which could be during prime-time, from 18.00 to 22.00.

C. MEDIA MONITORING

From 3 April 2008 until the end of the campaign, the OSCE/ODIHR LEOM conducted quantitative and qualitative analyses of six hours of primetime broadcasts each day on four television channels.³⁴ Five private newspapers³⁵ were also monitored.

³³ Articles 99 and 100.

³⁴ Public TV channels RTS 1 and RTS 2, and private TV channels Pink and B92.

³⁵ *Vecernje Novosti*, *Blic*, *Politika*, *Press* and *Kurir*.

The results indicate that electronic media dedicated most of their coverage to the leading political parties, while the registered lists which according to opinion polls had little prospect of passing the five per cent threshold were given considerably less coverage. There was broad coverage of government activities and media extensively reported on disagreements between DS and DSS.

On public TV RTS 1, the DS-led coalition received 31 per cent of the campaign coverage, almost twice as much as the SRS with 16 per cent. The coverage of DSS-NS, 22 per cent, also exceeded that of SRS. LDP received 12 per cent, SPS-PUPS-JS had 11 per cent and all other registered lists combined received seven per cent. However, it must be noted that at the request of SRS, public TV RTS 2 broadcast during prime time excerpts from the trial of the SRS President, Dr. Vojislav Šešelj in The Hague, which could have had an influence on some voters.

On 3 May, RTS 2 began its free air time program during prime time. Each of the 22 registered candidate lists was allocated 45 minutes to present its political platform. The sequence of the slots was decided by lottery.

Unexpectedly, on 4 May, RTS 1 commenced broadcasting a new program entitled “*Odluka*” (“*Decision*”) during prime time. The format of the program was a series of 45-minute one-on-one interviews with the leaders of each of the five registered lists that led the public opinion polls. The LEOM was informed that the program had been requested by the five leaders, who also defined the order of their respective interviews. According to RTS representatives, the decision had been taken due to the low ratings reached by the free air time programs on RTS 2. Other registered lists were not offered the same possibility, in contradiction to the principles of the Broadcasting Law.³⁶ A qualitative analysis showed that the outgoing PM, Mr. Vojislav Koštunica, was granted a favourable treatment in this programme in comparison to all four other leaders.

Private TV channels provided viewers with extensive information on the campaign with different formats including debates and panel discussions with contestants and political experts. The main topics of the campaign were often discussed by key government ministers. While DS and DSS representatives or officials actively participated, according to media, the other parties’ representatives occasionally declined such offers.

TV B92 dedicated most of its political coverage to DS, 40 per cent, and to the DSS-NS, 26 per cent; SRS, LDP, SPS-PUPS-JS received 14, nine, and seven per cent respectively. The other registered lists combined received three per cent. TV Pink also focused on the leading five candidate lists dedicating 42 per cent to DS, 19 per cent to DSS-NS, 13 per cent to SRS, 10 per cent to LDP and nine per cent to SPS-PUPS-JS, with seven per cent to all other registered candidate lists combined.

Print media also concentrated their political coverage on the five leading registered candidate lists and on the activities of government officials. Monitoring data of the coverage indicated that the DS received 48 per cent of the coverage, DSS-NS - 24 per cent, SRS - 13 per cent, LDP and SPS-PUPS-JS – five per cent each and all other lists combined five per cent.

³⁶ Article 78 of the Broadcasting Law.

These statistics do not include paid advertising. According to media representatives, all contestants were offered the same commercial and technical conditions for paid advertisements. All the leading parties placed a high number of paid advertisements in the monitored media and during the last week of the campaign some negative political spots were placed on B92 and TV PINK by DSS, DS and SRS. This highlights the widely held opinion that political parties focused more on negative and critical messages rather than on their party platforms.

The tone of the campaign coverage in the monitored media outlets tended to be neutral with the exception of the tabloid *Kurir*, which devoted large amounts of space to DS in a negative tone. Several interlocutors and associations of journalists expressed concerns and drew attention to the aggressive and unprofessional reporting of *Kurir*.

The campaign silence period from 9 to 11 May was respected.

VIII. COMPLAINTS AND APPEALS

Voters, candidates and submitters of candidate lists are entitled to lodge a complaint against a violation of their electoral rights during the elections or irregularities taking place during the procedure of candidacy or voting.³⁷ The complaints must be submitted to the REC within 24 hours of the adoption of the challenged decision or execution of the act. The REC must issue a decision within 48 hours of the receipt of the complaint and deliver it to the complainant. Appeals against REC decisions can be lodged to the Supreme Court within 48 hours of their receipt by the appellant and the Supreme Court must issue a judgment within 48 hours.

All parties expressed confidence in the impartiality of the election administration and courts to provide effective remedies for election-related grievances. Yet, a number of issues previously identified by the OSCE/ODIHR and the Venice Commission remain to be addressed.³⁸ In particular, the short deadline for submitting a complaint to the REC, or the fact that for election-related appeals, Supreme Court hearings are held *in camera*, in the absence of the complainant. The lack of public and transparent hearing of an appeal is not in compliance with OSCE Commitments³⁹ and other international standards⁴⁰ for democratic elections.

At times, the REC was overwhelmed by the numbers of complaints received which could have prevented systematic examination of the complaints. In addition, written decisions did not always thoroughly articulate the facts, issues, evidence, and legal analysis necessary for a reader's full understanding of the circumstances and issues involved. However, the REC always met the 48 hours legal deadline for adjudication of complaints

³⁷ Article 95 of the LER.

³⁸ Joint Recommendations on the Laws on Parliamentary, Presidential and Local Elections and Electoral Administration in the Republic of Serbia, [www.venice.coe.int/docs/2006/CDL-AD\(2006\)013-e.asp](http://www.venice.coe.int/docs/2006/CDL-AD(2006)013-e.asp) and www.osce.org/odihr-elections/13440.html.

³⁹ Paragraphs 5.10 and 12 of the 1990 OSCE Copenhagen Document.

⁴⁰ Part II 3.3.100 of the Code of Good Practice in Electoral Matters; Articles 8 and 10 of the Universal Declaration of Human Rights; Article 14 of the International Covenant on Civil and Political Rights; Articles 6, 13 and 17 of the European Convention on Human Rights and Article 3 of its Protocol No. 11.

and all its decisions indicated the right to appeal to the Supreme Court within the 48-hour timeframe.

A. PRE-ELECTION COMPLAINTS

The REC examined all complaints in public sessions and adopted decisions by a majority vote of its full membership. A total of 48 complaints were submitted during the pre-election period. These covered a broad range of issues, including the permanent and extended membership at the polling boards, denial of registration of a candidate list,⁴¹ the cancellation of the provision on the 3,000 signatures for proclaiming the candidate lists of minorities' parties,⁴² the registration of foreign observers, the non-establishment by the National Assembly of a Supervisory Board and the REC's failure to provide timely and objective information about candidates to the voters. None of these complaints was upheld; they were either rejected on grounds that the submission was late or not carried out by an authorized person, or dismissed, either as unfounded or because the required number of votes for their adoption was not reached.⁴³

During the electoral period the Supreme Court delivered a total of 17 judgments in response to appeals against REC decisions. The Court did not uphold any of them, dismissing them as unfounded or rejecting them for not being lodged in accordance with Article 97 of the LER. Three appeals were referred to the Belgrade District Court and one to the Prokuplje District Court, for lack of jurisdiction.

The Constitutional Court issued two election-related judgements. In the first,⁴⁴ the Court suspended Article 28.8 of the REC Instructions for the Enforcement of the LER intended to discriminate positively in favour of parties rooted in national minority communities. In the second⁴⁵, the Court rejected a petition on the unconstitutionality of the provision on determining voters' identities provided by Article 15.2 of the Rules of the Procedure of the Voting Boards for Coordinating Conduct of All the Elections Called for 11 May 2008.

B. POST-ELECTION COMPLAINTS

Some 73 complaints were submitted to the REC concerning election-day and post election-day proceedings, 23 of which were referred by the REC to the competent lower-level election commission when they related to the conduct of local or provincial elections.

Most of the complaints lodged before the REC relate to alleged irregularities in the polling process. These include: complaints related to alleged inadequate voter identification; alleged cases of voters being allowed to vote while not on the right list, or without signing the right voter list; one complaint alleging that names of voters were circled as having voted although they did not cast their ballot; 18 complaints alleging that homebound

⁴¹ Please Section VI.F "Registration of Candidate Lists".

⁴² Please see Section VI.C "REC Decisions and Regulations".

⁴³ Article 20.2 of the Rules of Procedure of the Republic Electoral Commission.

⁴⁴ Decision IU, No. 42/2008 of 8 April 2008 (OG, No. 37/2008"). Please see Section VI.C "REC Decisions and Regulations".

⁴⁵ Case IUp-54/2008 of 24 April 2008.

voters did not sign the required certificate of suffrage; and complaints alleging that polling stations did not open on time.

There were also six complaints alleging that polling stations did not open for voting or that the protocols of the work of the PB were destroyed, six complaints submitted by various parties alleging that their representatives were not allowed to participate in the work of the PBs and 15 complaints concerning family relationships among members of the Polling Boards.

Five complaints referring to campaign posters and leaflets displayed less than 50 meters from a polling station were rejected as submitted by unauthorized persons or dismissed, and there were two complaints alleging distribution of humanitarian aid to voters; one was referred to the relevant MEC and the other was rejected as submitted by an unauthorized person.

Most of these complaints were either rejected on grounds of formality without consideration of the merits, or referred to the relevant electoral commissions at local level. A significant number of complaints were rejected for having been submitted by an unauthorized person. In all these cases, the complaints were rejected because they related to the conduct of the parliamentary elections but had been submitted by the local branch of a political party, which was not considered as a “submitter of an electoral list” in the sense of Art.95 of the LER and hence was not entitled to lodge a complaint. In effect, the four complaints upheld by the REC were all submitted by individual voters. While the Law provides a possibility for submitters of electoral lists to lodge complaints related to proceedings in polling stations for parliamentary elections, this right appeared to be uneasy to exercise in practice.

Acting upon complaints, the REC decided to hold repeat elections in three polling stations.⁴⁶ These cases related to campaigning activities and campaign material displayed less than 50 meters from the polling station (No.3 in Laznica, Municipality of Zagubica), a claim that names of voters had been circled although they had not voted (No.124 in Kraljevo), and two further complaints alleging that the polling station closed early, the ballot boxes were broken and that protocols and voters’ list were destroyed (No.2 in Banja, Municipality of Srbica).

Upon receiving information from the RSO that the results of five polling stations⁴⁷ were inconsistent and could not be validated, and in the absence of any complaint related to these cases, the REC decided to establish the number of votes in these polling stations as zero.⁴⁸ In the absence of a formal annulment of the vote in these polling stations, no repeat voting could be ordered. While the REC decision was in line with the law and jurisprudence of the Supreme Court, the voters in these polling stations were in effect disenfranchised. Possibilities for the REC to act on its own motion could be considered in order to address this type of situation.

⁴⁶ Under Article 91 par. 2 and 3 of the LER, repeat elections are held not later than seven days after the day of annulment of voting in a polling station.

⁴⁷ Special polling station No. 74 in Cukarica, special polling stations No. 6, 32 and 177 in Leskovac and polling station No. 20 in Cacak.

⁴⁸ According to Supreme Court decision No.Už 36/07 dated 28 January 2007, the REC is not authorized to annul *ex officio* the election results in a polling station without the prior submission of a complaint.

IX. DOMESTIC NON-PARTISAN OBSERVERS

The LER does not provide specifically for domestic non-partisan observers. However, under Article 49 of the Instructions for Enforcement of the LER, Serbian civil society organizations have the right to appoint observers to the parliamentary election. Overall, the REC adopted an open approach to accrediting domestic observers. The largest civil society observation initiative was organized by the non-governmental domestic observer organization Centre for Free Elections and Democracy (CeSID), which deployed over 2,000 domestic observers throughout the country on election day. CeSID also undertook a parallel quick count exercise and announced estimated results at a press conference held during election night. Combined with the gradual and timely announcement of preliminary results by REC, through the RSO, shortly after the closing of the polling stations, this exercise further enhanced the transparency of the process.

X. PARTICIPATION OF NATIONAL MINORITIES

According to the 2002 census in Serbia,⁴⁹ 17.14 per cent of Serbia's population identified themselves as non-Serbs, representing more than twenty national minorities. Hungarians accounted for 3.91 per cent, Bosniaks - for 1.82 per cent, Roma - for 1.44 per cent, Croats - for 0.94 per cent, Montenegrins - for 0.92 per cent, Albanians - for 0.82 per cent and Slovaks - for 0.79 per cent.⁵⁰

Some minority communities are territorially concentrated to the extent that in some areas they constitute majority populations such as Hungarians and Slovaks in parts of the north of the country, Bosniaks in the Raška/Sandžak region and Albanians in southern Serbia, while other minorities such as the Roma are largely distributed throughout the country.

The Serbian constitution of 2006 has a liberal approach towards minorities and guarantees the rights and freedoms of national minorities, including those related to political association, cultural institutions, education and access to information in their own languages, the right to elect and be elected to local authorities and the national government, and to engage in business and other activities. The law also provides for the establishment of National Minority Councils to give each minority a voice in promoting its culture, language, education, and social interests.

Political parties rooted in particular national minorities have previously participated at all levels in local, city, provincial and parliamentary elections. In the 2008 presidential election, a candidate of a national minority participated for the first time. The election law exempts parties rooted in national minorities from the requirement to surpass the five percent threshold in order to qualify for seat allocation in the national Parliament.

⁴⁹ The 2002 census was not conducted in Kosovo.

⁵⁰ 1.08 per cent of Serbia's population identified themselves as Yugoslavs, 0.53 per cent as Vlachs, 0.46 per cent as Romanians, 0.35 per cent as Macedonians, 0.27 per cent as Bulgarians, 0.27 per cent as Bunjevci, 0.26 per cent as Muslims, 0.21 per cent as Ruthenians, 0.07 per cent as Slovenians, 0.07 per cent as Ukrainians, 0.06 per cent as Goranians, 0.05 per cent as Germans, 0.03 per cent as Russians, 0.03 per cent as Czechs and 0.16 per cent as other.

Another special provision, introduced by the REC for the last parliamentary elections, the lowering of the number of signatures for the candidate's list registration for national minority parties from 10,000 to 3,000, was suspended by the Constitutional Court.⁵¹ Coming at a late stage of the process, this decision constituted a serious challenge for all the minorities who complained of the administrative burden. This prevented most minority parties to start their campaigns at the same time as the mainstream parties, and seemed to impact on the resources of some of them. Several parties openly confirmed that they had asked and received support from mainstream parties in the collection of the signatures.⁵² Some minorities were collecting signatures for parties of other minorities to help them reach the required number of signatures.⁵³ Eventually ten out of the 22 registered candidate lists⁵⁴ contesting the elections were rooted in minority communities; however, the situation when some minority parties have to rely on other political forces to fulfil candidate lists registration requirements should be addressed.

In addition to the ten lists rooted in national minorities, some minority parties were partners in mainstream coalitions and other representatives of the communities were running individually on the lists of mainstream parties. This gave members of minority groupings a variety of options to participate in the electoral process.

The Hungarian minority parties formed a three party coalition. Three parties from the Preševo Valley, all rooted in the Albanian minority, also formed a coalition. For the first time, Montenegrins, Gorani, Bunjevci and Vlachs each participated in the elections with their own candidate lists. Internal conflicts and competition continued in particular in the Bosniaks community in the Raška /Sandžak region, and among the Roma. At times, the electoral contest in Raška /Sandžak saw tensions rising during the campaign.⁵⁵ Three Roma parties and coalitions contested these elections.

Despite the increased participation of minorities, their representation in Parliament slightly decreased mainly because none of the Roma parties qualified for a seat. The Hungarian list increased its representation with an additional seat. The Bosniaks and the Albanians maintained their results of the previous elections.

All three Roma parties complained about problems in the registration of candidate lists, the election administration and the campaign. Their main concerns were the slow performance of the court clerks in the process of the verifying support signatures, and the

⁵¹ Please see Section VI.C "REC Decisions and Regulations".

⁵² The Vlach coalition reported about the support they received from the DS in the collection of signatures, while the leading party of the Albanian coalition, PDD from the Preševo Valley, informed representatives of the international community that without the support of LDP they would have fallen short of some one thousand signatures.

⁵³ The Hungarian parties helped the Albanian coalition from Preševo with signatures, while the Bosniaks collected signatures for the Bunjevci. In a more symbolic action, signatures were also collected by NGOs such as the Civic Initiative and the Centre for Cultural Decontamination in support of the Albanian coalition from the Preševo Valley.

⁵⁴ The 10 candidate lists with minority background were Bosniak List for a European Sandžak–Dr Sulejman Ugljanin, Hungarian coalition–Istvan Pasztor, Roma for Roma–Miloš Paunković, Montenegrin Party–Nenad Stevović, Union of Roma of Serbia–Dr. Rajko Đurić, Coalition of Albanians of Preševo Valley, Alliance of Backi Bunjevci–Mirko Bajić, United Vlachs of Serbia–Dr. Predrag Balašević, Roma Party–Srdjan Šain, Citizens' Initiative of Goranians (GIG).

⁵⁵ The most serious incident involved gunshots fired at activists when putting up campaign posters.

non-acceptance of their representatives in the extended composition of the polling boards in municipalities with a significant percentage of Roma population due to shortcomings in the registration of their representatives.

During the campaign minority issues were not addressed by the mainstream parties and remained an exclusive issue for the minority parties. The minority parties as well as politicians with minority backgrounds enjoyed their full rights and were able to campaign and freely communicate their political programs. However, in a few instances mainstream politicians used abusive language against national minorities, which went beyond acceptable limits in a democratic society. In one case, posters were displayed against a local party leader intending to insult him on his ethnic and religious background.⁵⁶

Generally, the increased participation of parties rooted in national minorities ensured an inclusive process and provided minority representatives with the opportunity to present their views during the campaign.

XI. PARTICIPATION OF WOMEN

According to the 2002 census, 51.4 per cent of the Serbian population is female. However, according to surveys, women are under-represented in politics and public life. Although Serbia's laws satisfy many of the requirements of the UN Committee on the Elimination of Discrimination Against Women, there is general consensus among women advocacy organizations that laws rarely go beyond a mere statement of equality, while implementation remains weak.

Despite previous recommendations of the OSCE/ODIHR, the provision in the election legislation on a quota for the less represented gender remained unchanged. Parties are obliged to have 30 percent of women on their candidate lists, but there is no legal provision which obliges parties to respect this clause when it comes to naming the Members of Parliament from their candidate lists after the announcement of the results. In the outgoing Parliament, 20 percent of the 250 members were women.

In these elections only parties with limited influence, and several of the minority parties, voluntarily placed significantly more than the obligatory 30 percent of women as candidates on their lists. Also, only a few of the leading parties committed to implement the 30 percent requirement when naming their new MPs after the election.

All 22 registered lists were headed by men, and men dominated rallies of political parties with only a few women appearing as key speakers. During the campaign there were no womens-related issues in the dominant topics. On election day, the observed cases of family voting involved mainly elderly women in rural areas and women from national minorities.

⁵⁶ The posters were designed as faked warrants against the regional coordinator of DS in Bor on the basis that he belongs to the Croatian minority and is a catholic.

XII. ELECTION DAY

On election day, the OSCE/ODIHR did not undertake a systematic or comprehensive observation of polling, counting or tabulation of results. However, representatives of the OSCE/ODIHR LEOM did visit some 165 polling stations in 66 municipalities. Their impression was that polling was generally conducted professionally and in a calm atmosphere, and co-operation between PB members and knowledge of procedures appeared to be high. Representatives of the OSCE/ODIHR LEOM noted that the secrecy of the vote could have been affected by a combination of factors including the poor design of the voting screens⁵⁷, the inadequate layout of numerous polling stations and the low quality of the ballot paper, which put at risk the secrecy of the vote if not properly folded.

The size of many polling stations, combined with the high number of individuals authorized to be in the polling stations, at times caused overcrowding, especially for the opening and the count. Several instances of family voting, mainly in rural areas, were witnessed.

In line with procedures, ballots were counted immediately after the closing of the polls in the polling stations. The PBs' broadly inclusive membership contributed to transparency and confidence in the process. The transfer and handing over of election material and protocols to the MECs were well organized.

XIII. RECOMMENDATIONS

The following recommendations are offered for consideration by the authorities of the Republic of Serbia with a view to further consolidate overall improvements already made in the electoral process to conduct elections in line with OSCE commitments and other international standards for democratic elections. Many of these recommendations have been communicated by the OSCE/ODIHR in its previous election observation reports on elections in Serbia and should be read in conjunction with those reports.

A. LEGAL FRAMEWORK

1. Review of the Article 84 of the LER could ensure that parties and coalitions determine and announce the order in which their candidates will be awarded mandates before the election, to ensure that voters are informed in advance of the candidates who are likely to be mandated as a result of their support for a particular party or coalition.
2. The challenges stemming from the simultaneous conduct of parliamentary, local and provincial elections underscored the benefits of consolidating the entire election legislation of Serbia in an Electoral Code.
3. The gender quota required for the submission of candidate lists should also apply to the distribution of mandates so as not to diminish the potential positive effect the quota was intended to achieve.

⁵⁷ As previously observed and reported by OSCE/ODIHR missions to Serbia.

4. Lawmakers could reconsider the procedures for the 10,000 signature requirement related for submission of candidate lists, and determine any difference in that number to be required for contestants qualifying for special status, including status as a minority party or coalition.
5. The law would benefit from indicating the criteria by which a party or coalition is qualified to take advantage of the special provisions of Article 81 according to which political parties of ethnic minorities and coalitions of political parties of ethnic minorities shall participate in the distribution of mandates even when receiving less than five per cent of the total number of votes. The law could also be amended to resolve the question as to whether a group of citizens representing a national minority can qualify for the same privileges relative to the submission of electoral lists and distribution of mandates as a party or coalition.
6. The rights of international and domestic non-partisan observers should be guaranteed in the law, and criteria for their accreditation should be defined.
7. The reasons for which a Polling Board is to be dissolved and repeat voting to be conducted at a polling station could be reviewed thoroughly to remove overly strict provisions that cause undue delay in the reporting of final results. To the greatest degree possible, repeat voting could only be required as a last resort under court order, after all administrative remedies have been exhausted. Administrative remedies could be authorized in law, including, for example, options for recounts and audits of polling station protocols.
8. The law on political party financing would be improved by establishing distinct frameworks for the allocation of public funding for the campaign taking into account the specific contexts of presidential, parliamentary or local government elections.

B. ELECTION ADMINISTRATION

9. Intermediary electoral administration bodies, between the REC and the PBs need to be formally introduced. This would institute a formal chain of command, reduce logistical burdens on the REC, and provide an enhanced level of pluralism by formally providing for multi-party representation at all levels of the election administration.
10. Rules for the appointment of such intermediary bodies need to be determined in the law, whether they are Working Groups or Election Commissions. Precise rules would promote consistency in the appointment across all municipalities.
11. The law could also define the grounds, circumstances, and deadlines under which parties and coalitions may appoint or change their extended members and deputy members on the REC, any intermediary body that might be established, or a PB.
12. The role of the RSO in the tabulation of results could be defined by law. Greater transparency should be given to the procedures regulating the tabulation process.

13. The transparency of the work of the REC could be enhanced through the publication of the agenda, minutes of meetings and decisions on its website. Detailed results by polling station should be published on the REC website in a timely manner.
14. A review of the REC Rules of Procedure needs to be undertaken with the aim of harmonizing the decision making process, especially concerning the handling of complaints.
15. The compilation of a single, state-wide, unified voter register would need to be prioritized, as required by law. Specific procedures could be undertaken on a regular basis to check the registers for possible duplicate entries.
16. Consideration could be given to facilitating voter registration among the IDP community, the Roma IDP community in particular and the Roma community in general.

C. CAMPAIGN AND THE MEDIA

17. The Supervisory Board to monitor the conduct of the media, political parties, candidates and other participants in the electoral process needs to be established as required by law.
18. Provisions regarding pre-electoral silence could be clarified. Currently, provisions for pre-electoral silence refer only to the media and do not specify whether other campaign activities such as distribution of leaflets or door-to-door campaigning are in breach of the silence.
19. Consideration could be given to the adoption of the draft law on “Prevention of Media Concentration and Transparency of Media Ownership”,⁵⁸ as well as to its implementation.

D. ELECTION DISPUTES

20. The Supreme Court could enhance transparency by considering appeals in public, with parties having a right to attend and to present their cases directly or through their legal representatives.
21. Deadlines need to be established for the hearing and resolution of media-related complaints during the campaign period, in order to ensure that they are dealt with in a timely manner. Decisions related to such complaints should be made public.
22. The REC could further develop its Rules of Procedure to include clear and detailed procedures on handling, examination and adjudication of complaints.

⁵⁸ An expert working group was established on 27 June 2007 under the auspices of the Ministry of Culture to draft a Law on “Prevention of Media Concentration and Transparency of Media Ownership”. The OSCE Mission to Serbia and the Council of Europe have supported the work of the expert group.

E. ELECTION DAY

23. Polling station sites could be better selected to ensure that their size and layout is suitable, not only for the number of voters to be served, but also to accommodate the sizeable PBs. They could also offer unimpeded access to elderly and disabled voters.
24. The layout of the polling stations and the quality of the voter screens could be standardized in such a way as to better preserve the secrecy of the vote. PB members should be proactive in their discouragement of “family” and “group” voting.
25. Formal training could be provided to the PBs and instructional handbooks or checklists be made available to further assist them in their work.
26. Printing the ballots on better quality paper would prevent breaches of secrecy of the vote.
27. Voting procedures could foresee possibilities to issue new ballot papers to voters who have damaged/spoiled theirs.

ANNEX: SUMMARY OF THE OFFICIAL ELECTION RESULTS⁵⁹

Electoral Lists in the Order of Numbers of Mandates Won	Valid Votes	Mandates	Per cent of valid votes
For a European Serbia – Boris Tadić	1.590.200	102	38.41
Serbian Radical Party – Dr Vojislav Šešelj	1.219.436	78	29.45
Democratic Party of Serbia – New Serbia – Vojislav Koštunica	480.987	30	11.61
Socialist Party of Serbia (SPS) – Party Of United Pensioners (PUPS) – United Serbia (JS)	313.896	20	7.58
Liberal Democratic Party– Čedomir Jovanović	216.902	13	5.23
Hungarian Coalition - Istvan Pasztor	74.874	4	1.80
Bosniak List For a European Sandžak – Dr Sulejman Ugljanin	38.148	2	0.92
Coalition of Albanians of the Preševo Valley	16.801	1	0.40
Movement Force of Serbia – Bogoljub Karić	22.250	0	0.53
Let The Village Voice Be Heard - Peoples' Peasant Party - Marijan Rističević	12.001	0	0.28
Reformist Party – Dr Aleksandar Višnjić	10.563	0	0.25
Roma Party – Srdjan Šajn	9.103	0	0.21
Movement My Serbia – Branislav Lečić	8.879	0	0.21
United Vlachs of Serbia – Dr Predrag Balašević	6.956	0	0.17
Citizens' Initiative of Goranians – GIG	5.453	0	0.13
Roma For Roma - Miloš Paunković	5.115	0	0.12
Union of Roma of Serbia – Dr Rajko Đurić	4.732	0	0.11
Vojvodina Party – Igor Kurjački	4.208	0	0.1
Peoples' Movement For Serbia – Milan Paroški	3.795	0	0.09
Montenegrin Party – Nenad Stevović	2.923	0	0.07
League of Bački Bunjevci – Mirko Bajić	2.023	0	0.05
Patriotic Party of Diaspora – Zoran Milinković	1.991	0	0.05

ABOUT OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect human rights and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).