



Office for Democratic Institutions and Human Rights

**REPUBLIC OF SERBIA
SERBIA AND MONTENEGRO**

**PRESIDENTIAL ELECTION
13 and 27 June 2004**

OSCE/ODIHR Election Observation Mission Report



Warsaw
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OSCE/ODIHR Election Observation Mission Final Report¹

I. EXECUTIVE SUMMARY

In response to an invitation from Mr. Predrag Markovic, Speaker of the Serbian National Assembly the OSCE Office for Democratic Institutions and Human Rights (ODIHR) observed the 13 June 2004 presidential elections in Serbia (Serbia and Montenegro). The OSCE/ODIHR assessed the presidential elections in terms of its compliance with the 1990 OSCE Copenhagen Document and other election- related commitments.

In the June 2004 elections of the President of the Republic of Serbia, a new President was successfully elected. Previous presidential elections held during 2002 and 2003 had failed because voter turnout fell below the prescribed 50 per cent threshold, creating a cycle of failed repeat elections. Following previous OSCE/ODIHR and Council of Europe recommendations, these requirements were removed as part of a package of legislative amendments passed by the National Assembly last February. Other amendments included provisions for homebound voting, as well as in Serbia and Montenegro's diplomatic missions abroad.

The first round, held on 13 June, was contested by fifteen candidates. The first two candidates, Tomislav Nikolic of the Serbian Radical Party (30.60 per cent) and Boris Tadic of the Democratic Party (27.37 per cent), passed through to the second round on 27 June. The third place was taken by Bogoljub Karic, a wealthy media owner (18.23 per cent), while the government candidate, Dragan Marsicanin came fourth (13.30 per cent). Turnout in the first round was 47.75 per cent.

The second round was won by Mr. Tadic with 53.24 per cent of the vote, against Mr. Nikolic's 45.40 per cent, with 48.36 per cent turnout.

The campaigning was conducted in a generally calm atmosphere. Candidates held rallies across Serbia, including parts of Kosovo. There was a general lack of inflammatory language in the first round, but the rhetoric became more heated in the second. Issues broached included Serbia's future relationship with Europe, the Kosovo question, and policy towards the International Criminal Tribunal for the former Yugoslavia (ICTY).

The media provided the voters with broad and generally balanced coverage of the campaign. The state-owned RTS complied with its own rules by providing candidates

¹ Although this report is also available in Serbia, the English version remains the only official.

with equal quantities of airtime. Private media outlets, such as Mr. Karic's BK TV, were more apt to show some bias towards a particular candidate in terms of time allotted or tone of coverage. The Republican Broadcasting Agency issued binding instructions for the coverage of the campaign in the media, but did not appear to play a significant role in monitoring media activities.

Difficulties were encountered in the interpretation and implementation of the new Law on Financing of Political Parties, which came into effect on 1 January 2004. As the law was interpreted differently by the presidential candidates and the Ministry of Finance, the candidates were confused about the quantity of state funding which was due to them under the law. Finally, 11 of the first round candidates launched a legal action against the Ministry. Uncertainty prevailed as to where responsibility for the implementation of the law should lie, and the OSCE/ODIHR recommends that this should be addressed with some urgency.

The need for a centralized voter register persists. Also, facilities for eligible voters to vote in Montenegro were lacking. There was also evidence of some degree of disenfranchisement among the Roma community, including Roma Internally Displaced Persons (IDPs).

The two rounds of polling were conducted peacefully in all regions including Kosovo, where only the Serb population participated. International and domestic non-partisan observers were generally satisfied with the polling procedures, although some minor irregularities were recorded.

The OSCE/ODIHR continues to express its willingness to work with the authorities and civil society of Serbia to meet the remaining challenges outlined in this and previous reports.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

The 2004 presidential elections in Serbia were observed by the International Election Observation Mission formed by the OSCE/ODIHR and the Congress of Local and Regional Authorities of Europe (CLRAE) of the Council of Europe. The OSCE/ODIHR long-term Election Observation Mission (EOM) was established in Belgrade from 18 May to 2 July and consisted of 18 international experts based in Belgrade and five regional centres, one in Kosovo. Ambassador Stephen Nash (United Kingdom) headed the OSCE/ODIHR EOM. The OSCE/ODIHR did not specifically deploy short-term observers on election day, and focused largely on the pre-election period.

Delegations from the CLRAE were present for each of the electoral rounds. For the first round, the delegation included eight observers, led by Mrs. Bahar Cebi (Turkey) who monitored polling and counting procedures on 13 June, and another delegation of four

observers led by Mr. Christopher Newbury (United Kingdom) monitored procedures on 27 June.

The OSCE/ODIHR is grateful to the Ministry of Foreign Affairs and the Ministry for Human Rights and Minorities of Serbia and Montenegro and the authorities of the Republic of Serbia. In particular, the OSCE/ODIHR would like to acknowledge the Speaker of Parliament, the Republican Election Commission, the Ministry of Public Administration and Local Self-Government, the Ministry of Finance, the Serbian Commissioner for Refugees and other Republican and municipal authorities for their co-operation and assistance during the course of the Election Observation Mission. The OSCE/ODIHR wishes also to express its appreciation to the OSCE Mission to Serbia and Montenegro, other international organizations and embassies of OSCE participating States accredited in Belgrade.

III. POLITICAL CONTEXT OF THE ELECTIONS

A. GENERAL BACKGROUND

The 13 June elections of the President of the Republic of Serbia were called by the Speaker of the Serbian National Assembly on 4 April 2004. It was the fourth attempt to elect a President since 2002. All previous presidential elections held during 2002 and 2003 had failed because voter turnout fell below the prescribed 50 per cent threshold which required the conduct of repeat elections, creating a cycle of failed elections. For this reason, on 25 February 2004, the newly installed National Assembly adopted significant amendments to the Presidential Election Law. These amendments abolished the 50 per cent voter turnout requirement for valid presidential elections, in line with previous OSCE/ODIHR and Council of Europe recommendations.

In the absence of an elected president, the Speakers of the last two parliaments of the Republic of Serbia had assumed the role of acting President of the Republic.

Following the last parliamentary election held in December 2003, a new government was formed, comprising a coalition that included the Democratic Party of Serbia (DSS), the Serbian Renewal Movement (SPO), New Serbia (NS) and G17 Plus. Its leader, Prime Minister Vojislav Kostunica, was previously President of the Federal Republic of Yugoslavia, having defeated Slobodan Milosevic in the 2000 election. The current government also enjoys the tacit support of the Socialist Party of Serbia (SPS), of which Mr. Milosevic, although detained in the Hague, remains chairman. The main opposition parties include the Democratic Party (DS) and the nationalist Serbian Radical Party (SRS), headed by Vojislav Seselj, another detainee in the Hague.

Persisting differences between the DSS and the DS continued to characterize the political landscape in the period prior to the 2004 presidential elections, and were much in evidence during the first round campaign. These divisions had been obvious since 2002,

when they led to a crisis within the Democratic Opposition of Serbia (DOS) coalition, contributing to its final dissolution. The confrontation between the two parties was also evident during the 2003 parliamentary elections, and contributed to the success of the Serbian Radical Party (SRS) which won the highest number of votes, gaining 82 of the 250 seats in the Serbian National Assembly.

The tragic assassination of the late Prime Minister Zoran Djindjic on 12 March 2003 continues to cast a shadow over Serbian politics. One of the main suspects in the murder case, after months in hiding, surrendered to the authorities in early May 2004. The hearing for his testimony was initially scheduled to take place on 10 June, just three days before the first round of the presidential elections. There was a high expectation over this hearing, since many observers believed that the suspect would disclose facts pointing to the involvement of prominent political figures in the Djindjic assassination, and thus influencing the outcome of the election.

The International Criminal Tribunal for the former Yugoslavia (ICTY) remained a very divisive issue, with continuing strong opposition to the policy of cooperation with the tribunal, especially from the SRS.

The election was held against the continuing backdrop of speculation as to when a referendum (provided for in the Constitutional Charter adopted in February 2003) would be held over the state union between Serbia and Montenegro.

Political parties in Serbia also have their sights already fixed on municipal elections scheduled for 19 September 2004.

B. CANDIDATES

A total of 15 candidates were certified by the Republican Election Commission (REC) to contest the first round of the presidential election on 13 June. While few of them had any real prospects of winning, the candidates offered voters a genuine choice from across the political spectrum.

The candidates that participated in the first round of voting were, as listed on the ballot:

- Ljiljana Arandjelovic (United Serbia)
- Vladan Batic (Christian Democrat Party of Serbia - DHSS)
- Ivica Dacic (Socialist Party of Serbia - SPS)
- Milovan Drecun (Serbian Revival)
- Dragan Djordjevic (Party of Serbian Citizens)
- Branislav Ivkovic (Serbian People's Party - SNS)
- Mirko Jovic (People's Radical Party, Serbia and Diaspora, and European Bloc)
- Jelisaveta Karadjordjevic (Citizens Group "For a more beautiful Serbia")
- Bogoljub Karic (Citizens Group "Ahead, Serbia")
- Dragan Marsicanin (Democratic Party of Serbia - DSS)

- Zoran Milinkovic (Patriotic Party of the Diaspora)
- Tomislav Nikolic (Serbian Radical Party - SRS)
- Borislav Pelevic (Party of Serbian Unity - SSJ)
- Marijan Ristic (Peasants' Party)
- Boris Tadic (Democratic Party - DS)

The participation in the presidential race of Bogoljub Karic, a wealthy media owner, sparked interest, and raised concerns during the campaign that the principle of balanced coverage in the media might be prejudiced. Mr. Karic, whose candidature was presented by a group of citizens, registered a new political party under the name "Ahead, Serbia" while the campaign for the first round was under way.

Another newcomer to the political stage was Jelisaveta Karadjordjevic, a member of the former royal family of Yugoslavia.

As none of the fifteen candidates received the necessary majority of the votes to be elected in the first round, the two candidates who won most votes – Mr. Nikolic (SRS) and Mr. Tadic (DS) – went through to the second round run-off held on 27 June.

In the second round, the candidature of Mr. Tadic was endorsed by Prime Minister Kostunica and other leading members of the ruling coalition, although Mr. Tadic had made it clear that DS did not plan to join the government. Political parties representing national minority interests also supported the DS candidate, as did Mr. Karic who had come third in the first round.

IV. LEGAL FRAMEWORK

Three main laws constitute the legal framework regulating presidential elections. The Constitution of the Republic of Serbia sets out the duration of the presidential mandate (five years), as well as the extent of presidential duties and powers. The Presidential Election Law, approved in 1990 and amended in 2002 and 2004, constitutes the main legal document applicable. The Law on Election of Members of Parliament (2000) supplements it in a number of technical aspects. Also, Regulations and Instructions issued by the Republican Election Commission detail specific electoral procedures, such as the functioning of Polling Boards.

A. RECENT LEGISLATIVE AMENDMENTS

On 25 February 2004, the newly elected National Assembly of the Republic of Serbia approved significant amendments to the legislative framework for elections. These amendments reflected previous OSCE/ODIHR and Council of Europe recommendations, and included the abolition of the requirement for a minimum 50 per cent voter turnout for a presidential election to be valid. This key amendment finally ensured the election of a president.

Other amendments enabled a number of categories of voters, who had been effectively disenfranchised in the past, to cast their votes. Citizens of Serbia and Montenegro, with registered permanent residence in Serbia but temporarily residing abroad, were able to cast their votes in diplomatic and consular missions. This was a positive development.

However the low number of voters that registered for voting abroad came as a disappointment. Eligible voters temporarily residing abroad had to register at least 20 days before election day. Their names were then checked against voter registers in their municipalities of origin in Serbia to prove their right to vote. Some ten thousand voters only were registered for voting abroad, but due to the legal requirement establishing a minimum of 100 eligible voters for setting up a polling station, only eight thousand were finally able to vote in 33 representations abroad.

This provision for out-of-country voting met criticism for its high cost. Each candidate had the right to appoint representatives at all polling stations abroad and most of them opted to use this right. Only the main political parties had representatives already abroad, thus not incurring transport costs. It was estimated that a vote cast abroad cost around 300 EUR, compared with 0.1 EUR for an in-country vote.

Out-of-polling-station, or mobile, voting was re-introduced for homebound voters. In addition, voting in detention centres was also introduced and took place in 15 different prisons in Serbia.

Out-of-polling-station voting had been removed from the legislation in 2000, as a fraud prevention measure. As in the case of out-of-country voting, few voters took advantage of this new provision in the 2004 presidential election. A possible explanation for this may be the lack of relevant knowledge among the electorate. There was no evident public information campaign to publicize this and other new features of the election process. Also, the EOM noted discrepancies at local level in the application of the mobile voting provisions, despite attempts by the REC to ensure uniform application.

Eligible voters temporarily residing in the Republic of Montenegro, including internally displaced persons from Kosovo, remained effectively disenfranchised, as no provision was made for them to vote in Montenegro.

B. LAW ON FINANCING OF POLITICAL PARTIES

A new Law on Financing of Political Parties was applied for the first time in this election. The law, which was passed by Parliament in 2003 with a wide majority, entered into force on 1 January 2004. It regulates campaign financing of presidential, parliamentary and municipal elections, and introduces a much more stringent framework for party and campaign finances as a whole, setting limits on party expenditure, property income, and voluntary contributions.

While the introduction of the new law is a welcome step towards increasing transparency and accountability in party finances, its effective implementation was a source of controversy. Several points in the law were interpreted differently by the presidential

candidates and by the Ministry of Finance, leading to a heated debate and legal action taken against the latter.

The most controversial point in the law was the amount of state funds to be disbursed for campaign finance purposes. According to the Finance Ministry's interpretation, the law does not stipulate the exact amount of campaign funds to be released by the Ministry for a single election; instead, it sets the total amount for all elections to be held in a budget year (0.1 per cent of the annual state budget).

Consequently, on 6 May, the Ministry set a total of 45 million Dinars (around 642,000 EUR) to be allocated for financing campaigns in the June 2004 presidential elections, a fraction of the 228 million Dinars prescribed in the annual budget. This interpretation of the law, that attributes to the Ministry the task of setting the total of campaign funds for a single election, gives considerable discretionary power to the government and constitutes a potential advantage to incumbent candidates.

It is also to be noted that, while drafting the annual election budget, the government did not take into account the new law on financing political parties. Rather it applied earlier regulations in force until last year, thus adding further confusion to the issue.

Representatives of 11 of the 15 first-round candidates contested the decision of the Ministry of Finance at the REC. They claimed that the amount disbursed should be five times greater than that set by the Ministry.

Differences in interpretation might have been avoided had the Ministry provided timely unambiguous information on the functioning of the new law. Communication between the Ministry, political parties, and the REC could have been better.

The law foresees that 20 per cent of the approved sum to cover campaign expenses be equally divided among all the registered candidates, with the remaining 80 per cent going to the winner of the seat(s). One evident shortcoming of the law is that it makes no distinction between allocation of funds for an election under the proportional system (i.e. parliamentary or municipal) or a majoritarian system, such as a presidential election. In fact, the procedure in place is designed mainly for the proportional system, allocating the greater part of the funds for parties that succeed in winning seats in an election. The difference is too big in the case of a presidential race, where only 20 per cent is distributed among all participants and 80 per cent goes to the winner. Furthermore, the losing candidate in the second round is further disadvantaged, having to face more expenses than other unsuccessful first-round candidates but allocated the same amount of funds.

When it became clear that candidates were only going to receive around 600,000 Dinars (8,700 EUR) each under the 20 per cent provision, instead of the 3 million Dinars which they had calculated, eleven of the fifteen candidates embarked on a legal action against the Ministry of Finance for mishandling the law, by filing a suit with the Supreme Court.

Candidates claimed that this sum was barely sufficient to cover costs incurred in the candidate registration phase, when a minimum of ten thousand supporting signatures must be certified by a notary. The Ministry of Finance, on the other hand, claimed that some candidates registered only for the purpose of obtaining state funds, while realizing they had no real prospects of winning.²

The law stipulates that funds for campaign finance should be disbursed to candidates within ten days after the certification of the list of candidates. However, this deadline was not respected and funds arrived late, again drawing criticism of the Ministry of Finance. In order to receive funds stipulated under the law, candidates need to open a special bank account and appoint two authorized persons responsible for the lawful raising and spending of campaign funds. The Ministry explained that the delay was caused by some candidates failing to meet these requirements, and that this led to a temporary block on the transfer of funds to all candidates.

According to the law, two bodies are responsible for overseeing its implementation. The Parliamentary Finance Committee oversees the regular party finance side, while the REC is responsible for auditing the financial reports of campaign expenses which candidates must present ten days after the certification of the final election results. Despite earlier plans to provide technical training in financial matters to REC personnel, this did not happen and the REC remained without specific financial expertise. According to the law, the REC may hire an independent company to audit the financial reports of campaign expenses.

Under the new law, the amount approved for campaign financing from state sources also determines the maximum amount of privately donated funds which parties or candidates can spend on campaigning. The law also envisages penalties for candidates who spend in excess of the limit. Uncertainty about the amount of funding provided by the state made it difficult for candidates to plan and budget for the campaign.

V. ELECTION ADMINISTRATION

Reflecting the new composition of the National Assembly after the 28 December 2003 parliamentary election, a new Republican Election Commission was appointed on 25 February 2004. The REC is composed of 16 permanent members plus a chairman. Each member has a deputy and all members have the same rights. In addition, the REC has an “extended” composition including representatives nominated by each registered candidate, together with deputies. Finally, the REC also includes a non-voting Secretary and a non-voting representative of the Republican Statistics Institute. The REC is responsible *inter alia* for registering candidates, carrying out technical preparations, certifying results and taking decisions on complaints submitted.

² From a total 75 candidates that registered in presidential elections in Serbia between 1990 and 2004, 48 failed to obtain 5 per cent of the total vote. Vladimir Goati, *Politika*, 17. 06. 04.

While encountering some early difficulties in reaching consensus during the period leading up to the first round on 13 June, the REC later became more familiar with procedures and provided efficient and transparent administration of the electoral process. It faced an increased workload resulting from the introduction of out-of-country and out-of-polling station voting, but this was efficiently tackled by the REC staff.

At an intermediate level between the REC and the Polling Boards, there are Municipal Election Commissions (MECs) which are composed of a Chairman and at least six permanent members appointed by the Municipal Assemblies. In addition, each registered candidate has the right to appoint a representative and deputy to the “extended” MECs. The MECs mainly carry out administrative duties. However, they are also responsible for the appointment of Polling Board members.

For the 2004 presidential elections a total of 8,596 Polling Boards were established. Polling Boards are composed of a Chairman and two permanent members. As in other election administration bodies, candidates have the right to appoint their own representatives to "extended" Polling Boards.

MECs generally performed their tasks in a professional manner. In a number of instances however, payments due to “extended” members of both MECs and Polling Boards, was delayed without explanation.

A total of some 6.5 million voters were registered for the poll. As a result of the legal amendments of February 2004, voter turnout was no longer a decisive factor for the viability of the election, and the accuracy of the voter lists was no more a controversial issue. From the beginning of the year until the closing of the voter registers, the Ministry of Public Administration and Local Self-Government continued to update and correct voter data; some 76,000 entries were deleted and 88,000 new entries added.

Shortcomings in the voter lists noted previously by the OSCE/ODIHR and the Council of Europe were still in evidence. A centrally managed database for voters’ personal data, as foreseen by the parliamentary election law, has yet to be created. Moreover, some municipalities continue to use a variety of software for data processing, making the verification of lists across municipal borders difficult.

According to the Ministry of Public Administration and Local Self-Government, before a comprehensive review of the voter registers can take place, a legislative framework with clear demarcation of responsibilities is necessary. The Ministry informed the OSCE/ODIHR EOM that a new law on voter registers is currently being drafted, and a comprehensive project for the computerization of municipal administrations is planned in the near future.

A. VOTING IN KOSOVO

Voting also took place in Kosovo, where some 97,000 voters were registered. Polling took place in a calm atmosphere, although restrictions on the freedom of movement of

many Serbs living in the province hindered their effective use of the right to vote. As in the past, except in a very few individual cases, the ethnic Albanian population did not participate in the election, even in areas where some were on the voter lists.

Technical preparations and updating of voter registers in Kosovo were organized in cooperation with the parallel Serb administration in the province and supervised by three REC coordinators in the Serbian towns of Vranje, Raska and Kraljevo. Updating voter registers in Kosovo remains a very difficult task because of the Serbian authorities' limited access to records in the province. After the violent incidents of March 2004, the number of polling stations was decreased to 229, mainly due to security concerns.

B. CANDIDATE REGISTRATION

Although 15 candidates were certified by the REC to contest the presidential election, the REC rejected five applications for candidacy because they did not meet the legal requirements. The Supreme Court also turned down all subsequent complaints filed by applicants whose candidatures had been rejected.

Candidates were required to submit to the REC an application, including at least 10,000 signatures verified by a notary to support his or her candidacy. Some found this procedure difficult and expensive. Several candidates who met with the EOM – especially those without the support of a major party – were critical of the procedure for collection and verification of signatures. Others argued that 10,000 signatures were not sufficient for an electorate of 6.5 million, and that a higher minimum figure would help discourage candidates who had little or no hope of winning.

VI. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES

Two women candidates participated in the first round of the election: Ljiljana Arandjelovic (United Serbia) and Jelisaveta Karadjordjevic (Citizens Group “For a more beautiful Serbia”). Ms. Arandjelovic conducted a low-key campaign, confining her campaigning mainly to her region of origin. Ms. Karadjordjevic, a member of the royal family of pre-WWII Yugoslavia and exiled after the war, campaigned more widely; she told the EOM that she was seeking to bring a new sense of pride to the Serbian people. Neither candidate attempted to address gender equality issues, focusing more on family values, as did their male competitors. In the first round, Ms. Karadjordjevic came sixth with 2.01 per cent of the vote, while Ms. Arandjelovic achieved only 0.38 per cent.

Women were well represented in the election administration, especially at REC and MEC levels. However, with a few exceptions, they were poorly represented within political party and campaign management structures. Women in Serbia have become very involved in the work of non-governmental organizations, but their participation in political life appears to remain somewhat limited, as this is still generally perceived as a male domain.

None of the candidates belonged to a national minority, but most candidates made efforts to gain the support and vote of minorities, who constitute a significant proportion of the voter population. In particular, Mr. Nikolic underlined on several occasions during his campaign that, if elected, he would represent all the communities of the country, thus trying to soften the SRS' traditional hard line reputation on minority issues. However, political parties defending the interests of national minorities openly supported Mr. Tadic.

The participation of Roma, and in particular of Roma IDPs, remained problematic. While the exact number of Roma IDPs currently living in Serbia remains unknown, there are various estimates calculated by relevant authorities. For instance, according to the Serbian Commissioner for Refugees, Roma IDPs in possession of documentation proving their IDP status number more than 22,500. The Advisor on Roma Issues at the Ministry of Human Rights and Minorities of Serbia and Montenegro, assessed that there may be up to 30,000 additional Roma IDPs mainly from Kosovo. These persons are not registered, and therefore not enjoying IDP status. Other non-governmental organizations and research institutes provide different figures, but agree that Roma IDPs remain very vulnerable, and that many may be disenfranchised due to a lack of proper documentation.

While there are various political parties representing the Roma, their level of organization is still weak, and none have succeeded in being elected at the national level. Participation of Roma in elections, according to voter turnout figures in areas where large Roma communities reside, remains low.

Voter turnout figures showed that the participation in areas of the country where non-Roma national minority communities reside, e.g. Vojvodina with its large ethnic Hungarian population, was rather high. It was also noted that voter turnout in these areas registered a notable increase between the first and second rounds, in particular in Vojvodina where voter turnout in the second round exceeded 53 per cent, one of the highest in the country. The second-round results also showed that, in this region, Mr. Tadic won over 55 per cent of the vote. These results were probably also effected by an active get-out-the-vote campaign carried out at the local level, targeting these communities.

VII. ELECTION CAMPAIGN

The overall atmosphere of the campaign was calm, although tensions were somewhat higher in the run-up to the second-round poll. Candidates conducted conventional campaigns, holding rallies and meetings across Serbia, including parts of Kosovo. Door-to-door canvassing intensified during the second round, as did the get-out-the-vote campaign, which the SRS claimed had a pro-Tadic bias. In addition, candidates used television advertisements widely, and billboards and posters were placed throughout the country.

A. FIRST ROUND CAMPAIGN

The speeches in the first round campaign were generally lacking inflammatory language, although there were some heated arguments between the DSS and the DS. In particular, the DSS was accused of “dirty” campaigning against the DS candidate, when it called on the DS leadership to unveil the truth about last year’s assassination of the late Prime Minister Zoran Djindjic, implying that members of the former government were concealing facts about the murder. According to many analysts, this attempt by the DSS to link the DS candidate to the murder of Prime Minister Djindjic did not benefit the DSS candidate, and became one of the causes of his poor showing.

The hearing in a special court of testimony from the principal suspect in the assassination of Prime Minister Djindjic had been initially scheduled for 10 June, prompting concern about its possible influence on the campaign. The hearing was eventually postponed and took place just after the first round.

Opinion polls were widely published during the entire campaign period. Prior to the first round, they suggested that the frontrunners in the election were Tomislav Nikolic (SRS), Borislav Tadic (DS), and Dragan Marsicanin (DSS), who enjoyed the support of the other parties in the government coalition. Later on in the campaign, the polls showed increasing support for Bogoljub Karic.

In the run-up to the first round, one candidate alleged to the EOM that the DSS candidate was abusing state resources. However, no formal complaint on this matter was filed with the relevant authorities. It should be noted that the DSS candidate had officially withdrawn from his position as Minister of Economy in early May immediately after registering as a presidential candidate.

An advertising initiative promoting the successes of the first 100 days of the new government was launched in the middle of the first round campaign and continued in some newspapers even during the electoral silence period of 48 hours before 13 June.

B. SECOND ROUND CAMPAIGN

The second-round campaign began as soon as initial projections of the first-round results were known, i.e. that Mr. Nikolic (SRS) and Mr. Tadic (DS) had gathered 30.6 per cent and 27.37 per cent of the vote respectively, and would therefore proceed to the second round.

The SRS and DS candidates continued to hold rallies and meetings in Belgrade and provincial centres, but also seemed to concentrate more on door-to-door campaigning than in the first round. Both candidates tried to increase their visibility on the streets: Mr. Nikolic was seen at local markets, and Mr. Tadic mixed with crowds at recreational centres. Issues broached included Serbia’s future in Europe, economic policies, the

Kosovo question, and attitudes towards the International Criminal Tribunal for the former Yugoslavia (ICTY).

In an effort to underline his pro-European platform, Mr. Tadic traveled to Brussels to meet high-ranking EU officials. There were various calls from representatives of the EU and other international organizations for a high turnout in the second round.

The tone of the second-round campaign was somewhat more confrontational than in the first round. Several instances of inflammatory language were noted, for example, allegations by the SRS candidate that his opponent's party had ties to criminal circles. The campaign did not, however, degenerate into reciprocal accusations, and no formal complaints were lodged about the allegations made.

The media speculated about the possible resignation of Prime Minister Vojislav Kostunica following the poor first-round results of the coalition government's candidate, Dragan Marsicanin. Talk of early parliamentary elections led to an apparent agreement between the government and Mr. Tadic – should he be elected – not to hold elections until after the adoption of a new constitution.

The second-round campaign was also characterized by an increase in allegations from both sides, of physical intimidation of their respective supporters. These incidents typically involved clashes over putting up posters or distributing flyers.

The main suspect in the case of the assassination of the late Prime Minister Zoran Djindjic testified in court immediately after the first round. While it received very wide media coverage, the hearing failed to influence the campaign, because the testimony contained no accusations against the contestants.

VIII. MEDIA AND ELECTIONS

A. LEGAL FRAMEWORK AND MEDIA LANDSCAPE

The parliamentary election law provides the basic legal framework for the media campaign, while the Broadcasting Law adopted in 2002 sets the parameters for broadcast media conduct. It also establishes the Republican Broadcasting Agency (RBA) to supervise and regulate the activities of broadcasters. In addition, the Council of the RBA on 12 May 2004 issued the General Binding Instructions for the 2004 presidential election that provided the conditions for treatment of the candidates on state-owned and private broadcast media.

According to the Binding Instructions, the state-owned electronic media should ensure free-of-charge and equal broadcasting time for all the candidates. Private broadcasters have the right to define the format and extent of their coverage of the campaign. If they decide to provide candidates with free-of-charge time, then such time should be equally

distributed among all the candidates. Candidates have the right to place paid advertisements in the broadcast media and broadcasters should provide the candidates with equal opportunities for this.

The coverage of this election campaign by State TV and Radio was further regulated by the Rules of Conduct for Presentation of Presidential Candidates on Radio-Television Serbia Programmes (RTS). This document theoretically regulated RTS programming during the entire election campaign. According to its provisions, RTS should provide coverage of all the candidates equally and objectively. Each candidate was given the right to use 25 minutes free-of-charge airtime on TV RTS 1 and 30 minutes on State Radio. Candidates were also able to use free TV and radio time to inform voters about their campaign activities and put out one free-of-charge advertisement per day. During the second-round campaign, RTS was committed to broadcasting a debate between the two second-round candidates.

At present, there are hundreds of TV and radio stations broadcasting in Serbia, but they lack proper licenses. The Broadcasting Law of 2002 established the RBA as a body with competence to issue broadcasting licenses and to participate in the process of transforming state-owned RTS into a public company. However, these processes had not been completed prior to the presidential election, partly because of the unclear status of the Council of the RBA.

As noted in previous OSCE/ODIHR reports, the credibility of this body was undermined following breaches in the procedures for appointment of some of its members in April 2003. The questionable status of the Council of the RBA has still not been resolved, and this has had an impact on its ability to supervise broadcasters and to take measures against them in case of misconduct.

Apart from the publication of the Binding Instructions, the RBA did not demonstrate an ability to regulate the Serbian media effectively during the election campaign. While there were almost no complaints connected with media behaviour during this campaign, concerns remain regarding the lack of serious corrective measures at the disposal of the RBA: the procedure for considering complaints is too long and the prescribed measures are ineffective, as previously noted in the OSCE/ODIHR report on the 2003 Parliamentary elections.

Although the law on parliamentary elections calls for the creation of a parliamentary Supervisory Board to monitor fair and equal access to the campaign by all candidates, such a committee has yet to be appointed. Its absence, compounded with problems encountered in the functioning of the RBA, created uncertainty with regard to media-related complaints during the campaign, as the REC declined to consider the substance of such complaints.³

³ The OSCE/ODIHR Final Report on the December 2000 parliamentary election highlighted unclear definition of the mandate of the Supervisory Board and shortcomings in its functioning.

Prior to the first round of the 2004 presidential election, some political parties and candidates' representatives expressed dissatisfaction with the media coverage of their candidates. However, formal complaints related to media conduct were rare. The Christian Democratic Party of Serbia (DHSS) informed the EOM of a formal complaint lodged with the Council of the RBA and the REC concerning the small amount of airtime allotted to its candidate on RTS. The complaint was not accepted by the REC on the grounds that it was not competent to decide on this matter, while the Council informed the EOM that the DHSS had not officially filed the complaint with them. All this pointed to a continuing confusion over effective supervision of the media during elections.

B. EOM MEDIA MONITORING

The EOM conducted a qualitative and quantitative analysis of four TV stations, including state-owned TV RTS 1, private TV channels TV PINK, BK TV and TV B92. It conducted also analysis of four newspapers - *Balkan*, *Kurir*, *Politika* and *Vecernje Novosti* - from 19 May. The TV monitoring focused on prime-time programmes. The EOM produced statistics on the quantity of time and space allocated to candidates and political parties, as well as the tone of the coverage.

The broadcast and print media provided adequate coverage and offered voters wide-ranging information about the contestants. Candidates were able to put across their messages without hindrance. Most nation-wide broadcast media covered the campaign in news and current affairs programmes, as well as their regular discussion programmes.

Election rallies and meetings were given broad media coverage. During the second round campaign, the media dedicated extensive coverage to the election-related statements by representatives of various international organizations, including the EU, and speculated about the possibility of early parliamentary elections.

With the finalizing of the list of first-round candidates, RTS 1 provided all registered candidates with the possibility of free-of-charge airtime slots in accordance with the legal requirements. RTS 1 also covered the activities of the fifteen candidates in special election coverage programmes and in news programmes. Prior to the second round, RTS 1 increased the amount of time dedicated to the election campaign and coverage of the two candidates' activities in the newscast.

During the entire campaign period, RTS 1 newscasts provided a generally balanced coverage of the fifteen first-round candidates as well as the two second-round candidates, both in terms of time and tone. In the period leading up to the second round, Mr. Nikolic and Mr. Tadic were given equal amounts of time in the news as well as election programmes.

RTS 1's coverage of the Serbian government was overwhelmingly positive. Before the second round poll, reporting on the election campaign increased on RTS 1's news programmes, while coverage of government activities decreased.

During the first-round campaign, BK TV, owned by presidential candidate Bogoljub Karic, provided extensive coverage of the campaign and allowed all candidates to broadcast messages in free-of-charge airtime slots. BK TV news programmes gave greater coverage (42 per cent) to Mr. Karic, and his portrayal in news items was overwhelmingly positive. Other candidates received space as follows: Mr. Nikolic (18 per cent), Mr. Tadic (16 per cent) and Mr. Marsicanin (15 per cent).

In the second round campaign, BK TV provided the two candidates with almost equal amounts of airtime in the newscasts and portrayed them in a generally neutral light. However, in BK TV's current affairs programmes, the portrayal of Mr. Nikolic was somewhat negative, with Mr. Tadic portrayed in more positive terms.

TV PINK provided generally equitable coverage of the candidates in its news prior to the first round. Apart from campaign-related information presented in the newscasts, TV PINK did not broadcast special election programmes. Before the second round, TV PINK dedicated 58 percent of airtime in its newscasts to Mr. Tadic and 42 percent to Mr. Nikolic; both candidates were presented in a more or less neutral manner.

During the first round campaign, TV B92 presented most of the candidates in its regular programmes, while the frontrunners were given additional time in interviews and discussion programmes. TV B92's newscasts dedicated most time to Mr. Marsicanin (37 per cent) and Mr. Tadic (32 per cent). Their portrayal was neutral. By giving the SRS candidate, Mr. Nikolic, some coverage, TV B92 broke a long-lasting boycott of SRS activities in its broadcast that had started in 2000.

Prior to the second round, TV B92 newscasts dedicated 60 percent of its coverage to Mr. Tadic and 40 per cent to Mr. Nikolic, with generally neutral portrayal of both. During the second round campaign, TV B92 broadcast several programmes calling on people to vote for the democratic future of the country, which was interpreted as support for Mr. Tadic. The portrayal of Mr. Nikolic in these programmes was somewhat negative.

On 23 June, a single two hour long debate between both candidates took place on state-owned RTS 1, BK TV and several local channels. Both candidates were given an opportunity to present their platforms to voters and answer questions on a wide range of issues. The debate lacked serious confrontation, partly owing to its format which did not provide opportunities for direct exchanges between the contestants.

In the first-round campaign, the main newspapers focused predominantly on the more important candidates. The tabloid *Balkan* showed a clear bias in favour of Mr. Karic who received 46 per cent of the coverage of all 15 contestants. *Kurir*, another tabloid, conducted a generally negative campaign against the DS.

In the second round campaign, the newspapers dedicated more space to Mr. Tadic, especially in the final week. In *Balkan* and *Politika* there was something of a bias

towards Mr. Tadic, while *Vecernje Novosti* presented the two candidates in a predominantly neutral manner. *Kurir* tended to show a bias in favour of Mr. Nikolic.

A wide-ranging get-out-the-vote campaign, predominantly targeting youth, appeared in the media during the week before the first-round poll. This continued on television and in some newspapers during the two weeks leading up to the run-off, acquiring even more visibility. In particular TV B92 conducted a very active operation to mobilize votes which was perceived by the SRS candidate as favouring the DS candidate – it specifically targeted youth and, as Mr. Nikolic complained, used the slogan “*Bori se*” (“fight” in Serbian), which appeared to echo Tadic’s first name, Boris.

IX. RESOLUTION OF ELECTION DISPUTES

Ten complaints were lodged with the REC regarding the first round of the election. Only one was upheld, resulting in the cancellation of the results in one polling station. As the results were missing from another polling station, voting was invalidated there, although no formal complaint was lodged. In both cases, voting was not repeated because it could not affect the outcome of the first round.

Between the two rounds, representatives of eleven of the fifteen candidates running in the first round filed a complaint with the Supreme Court against the Minister of Finance, for purportedly mishandling the law on financing political parties

No complaints were lodged about polling in the second round.

X. DOMESTIC OBSERVERS

While various amendments to the legal framework for presidential elections had been adopted earlier this year, no provisions were included to cover the rights of non-partisan observers, domestic or international, to monitor elections in Serbia. Previous OSCE/ODIHR election observation missions have repeatedly recommended such provisions. This element of the electoral process was once again regulated by instructions issued by the REC, allowing observers to be accredited and to be given full access to the election process.

Despite the initial rejection of the Belgrade-based Centre for Free Elections and Democracy (CeSID) accreditation on procedural grounds, the REC, as in previous years, registered this domestic, non-partisan organization to monitor the election process. CeSID therefore deployed observers to scrutinize voting and counting procedures on election day, although in lesser numbers than in previous elections.

CeSID observers were present in polling stations across the country, including Kosovo, and also monitored polling in Serbia and Montenegro embassies and consulates abroad,

contributing to the transparency of the vote. CeSID also carried out a parallel vote tabulation and it was able to provide reliable information about voter turnout and results of the count in a timely manner, increasing public confidence in the accuracy of the results. During the evening of 27 June, Mr. Nikolic ceded victory to Mr. Tadic on the basis of the preliminary findings of CeSID's parallel vote tabulation.

XI. ELECTION DAY

The EOM did not include a specific short-term observation component, but it deployed 14 long-term observers (7 teams). While no systematic observation of polling and counting was conducted, the long-term observers carried out random visits to a few polling stations on election day.

According to reports from the EOM long-term observers, as well as the media and domestic observers, voting took place in a calm atmosphere and in accordance with domestic laws and regulations. Also, the voting and counting were considered to be professionally and efficiently administered.

Some detailed comments however are worth recording. The design of voting booths and screens were, in many cases, inadequate to guarantee the secrecy of the vote. Also, observers reported that Polling Boards, especially those in rural areas, often failed to check voter IDs, or allowed individuals to vote without IDs. Some international observers expressed the view that a certain laxness might be returning to the polling procedures, and that short-term observers might be again called for in the future.

XII. RECOMMENDATIONS

A. THE LEGAL FRAMEWORK

1. The rights of domestic and international observers should be guaranteed in law, and criteria for their accreditation stipulated clearly.
2. The winning candidate should require a majority of valid votes cast, disregarding invalid votes.
3. Provisions should be made to facilitate voting by eligible voters temporarily residing in Montenegro.
4. The threshold of at least 100 voters to register in order to set up a polling station abroad should be decreased in order to allow more eligible voters temporarily residing abroad to cast their votes.
5. The right of candidates to send representatives to the polling boards in diplomatic and consular offices should be reviewed to decrease costs.
6. The Ministry of Finance should, after consulting with other interested parties, state its considered interpretation of all controversial points in the law on political party financing.

7. Campaign financing for presidential elections should be regulated separately in a different section or article of the law on political party financing. Distribution of campaign funds for presidential elections should be regulated in a manner different from the one applied for parliamentary elections.
8. The form used for reporting on campaign finances should be revised to include a list of funding sources, so that it is made clear whether private donation limits have been respected.
9. Vesting in one body the responsibility for the implementation of the law on campaign finance should be considered. If relevant training is provided, the Republican Election Commission would be the appropriate body to be vested with this function.
10. Technical training for organs charged with the implementation of the law on campaign finance should be provided. Also, training for political parties and election administration bodies might be considered. In addition, the Ministry of Finance should establish better communication with the Republican Election Commission and political parties.

B. VOTER REGISTRATION

11. A single, unified voter register for the Republic should be created, in accordance with the law.
12. A new legislative framework, regulating voter registration and establishing a clear demarcation of responsibilities for maintenance of voter registers, should be introduced.
13. The authorities should continue efforts to improve the quality of voter registers and to remove remaining deficiencies. In particular, specific procedures should be undertaken on a regular basis to check the registers for duplicate entries or entries with incorrect and incomplete data.
14. A single, uniform computerized database for the maintenance of civil records at municipality level should be introduced. Municipalities should have efficient links with one another for checking against errors or duplicates in the records.
15. Attention should be given to facilitating voter registration among the IDP community, the Roma IDP community in particular, and the Roma in general.

C. CAMPAIGN AND THE MEDIA

16. The status of the Council of the Republican Broadcasting Agency should be clarified. The RBA should fulfill the role ascribed to it in the Broadcasting Law.
17. Consideration should be given to the removal of those provisions in the election legislation which are superseded by provisions in the Broadcasting Law, in order to ensure more consistency in the legal and regulatory framework for media conduct during a campaign.
18. The full transformation of state-owned RTS into an authentic public service broadcasting company should be completed.

19. A thorough public information campaign should be conducted to raise awareness among voters of the new provisions allowing out-of-polling station voting for homebound persons.
20. Efforts to increase awareness of out-of-country voting opportunities should continue.

D. ELECTION DAY

21. Standardized, good-quality voter screens should be introduced to ensure the secrecy of the vote.
22. Polling Boards should enforce all aspects of the voting procedures, including voter identification modalities: this should be underlined during training sessions for Polling Boards.

ANNEX – FINAL RESULTS

ELECTIONS FOR THE PRESIDENT OF THE REPUBLIC OF SERBIA

Second Round held on 27 June 2004⁴

1.	Number of polling stations established	8,586	
2.	Number and % of polling stations processed for results	8,586	100.00%
3.	Number and % of polling stations not processed for results	0	0.00%
4.	Number of voters entered in the electoral roll	6,532,940	
5.	Number and % of voters turning out to vote	3,159,194	48.36%
6.	Number of received ballot papers	6,561,101	
7.	Number of unused ballot papers	3,401,907	
8.	Number and % of voters casting their ballots	3,158,571	48.35%
9.	Number and % of invalid ballot papers	42,975	1.36%
10.	Number and % of valid ballot papers	3,115,596	98.64%

Candidates for the office of President of the Republic of Serbia, by number of votes received

Rank by no. of votes received	Candidate	Nominator (party, coalition, citizens' group)	Number of votes received by candidate	% of number of voters casting their ballots	% of total number of voters entered in the roll
1.	Boris Tadic	Democratic Party	1,681,528	53.24	25.74
2.	Tomislav Nikolic	Serbian Radical Party	1,434,068	45.40	21.95

⁴ The Republic Bureau of Statistics Report on Final Results of Elections for the President of the Republic of Serbia, Held on June 27, 2004, http://www.rik.parlament.sr.gov.yu/engleski/propisi_frames.htm

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (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 Document).

The 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 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It coordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, gender equality, and trafficking in human beings. The ODIHR implements a number of targeted assistance programmes. annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

The 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. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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).