



ODIHR SPECIAL ELECTION ASSESSMENT MISSION Republic of Serbia – Parliamentary Elections, 21 June 2020

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

The 21 June 2020 parliamentary elections in the Republic of Serbia were administered efficiently, despite challenges posed by the COVID-19 pandemic, but dominance of the ruling party, including in the media, was of concern. Outside the state of emergency, contestants were able to campaign, and fundamental freedoms of expression and assembly were respected. The advantage enjoyed by the governing parties, the decision of some opposition parties to boycott the elections, and limited policy debate narrowed the choice and information available to voters. Most major TV channels and newspapers promoted the policies of the government and gave it extensive editorial coverage, limiting the diversity of views.

On 4 March, President Aleksandar Vučić called parliamentary elections for 26 April. On 16 March, the election process was suspended due to a state of emergency declared in response to the outbreak of the COVID-19 pandemic. The state of emergency was lifted on 6 May, and the election process resumed on 11 May, with a new election date set for 21 June. Some opposition parties contested the inclusiveness of the decision-making process surrounding the state of emergency and the setting of the new date and argued for a further postponement of voting on grounds of public health concerns.

The elections were held in the context of intense political polarization. Most opposition MPs boycotted parliament sessions since early 2019, citing instances of breaches of parliamentary procedure and absence of a meaningful legislative debate and oversight of the executive. In September 2019, they announced a boycott of the upcoming parliamentary elections, although some subsequently decided to stand. Protests denouncing democratic backsliding and the opposition's lack of access to the main media, which have been taking place across the country since late 2018, gave way to fresh demonstrations of civic dissatisfaction during the state of emergency. They were met with counter-protests that some interlocutors of the ODIHR Special Election Assessment Mission (SEAM) described as further deepening political confrontation ahead of the elections.

The electoral legal framework largely provides a sound basis for the conduct of democratic elections. However, many previous ODIHR recommendations remain to be addressed, including on election administration, media, campaign finance, dispute resolution and sanctions for electoral violations. Shortly before the elections, parliament adopted changes to the Law on Election of Representatives, the Law on Local Elections and other relevant laws. While some changes were adopted following public discussions, key amendments were passed in a swift manner and without prior consultations, limiting the inclusiveness of the process. Based on the recommendations of a government working group, several positive measures were introduced by government instructions and recommendations to various state agencies. These measures dealt with voter registration, post-election inspection of the voter list by voters, election observers, prevention of misuse of state resources, and the work of the media regulatory body. The fact that these measures were introduced by government instructions and recommendations, rather than through amendments to laws, raises concerns about legal certainty.

Recent legal amendments include lowering the threshold for candidate lists to obtain seats in parliament from five to three per cent of valid votes cast, and a formula for enhanced representation of national minority lists. While technically these amendments allow for easier representation in parliament, several ODIHR SEAM interlocutors argued that they were aimed at reducing the effect of the opposition

boycott of the elections and would increase fragmentation of the political scene. Recent amendments also provided an explicit ban and additional clarifications on misuse of state resources and were accompanied by a government-run awareness campaign against such practices. Nevertheless, many ODIHR SEAM interlocutors raised concerns about insufficient implementation of these provisions, including persisting undue use of advantages of incumbency.

The elections were administered by a two-tiered election administration consisting of the Republic Electoral Commission (REC) and some 8,400 Polling Boards (PBs). The 16 permanent members of the REC were appointed in August 2016 for a four-year term by political parties represented in parliament, in proportion to the number of seats held. Most ODIHR SEAM interlocutors expressed confidence in the technical capacity of the REC to organise the elections efficiently; however, the political appointment of its members, which favours the ruling coalition, remained a concern for some. Following the registration of candidate lists, the REC comprised 79 members, including 29 women. Of these, 42 were 'extended' members and substitutes nominated by the 21 electoral contestants. The REC created 161 *ad-hoc* working bodies in all municipalities to provide a logistical and technical link between the REC and PBs. Eighty-two of the 161 co-ordinators of working bodies were women.

The election administration carried out its duties within legal deadlines, despite the compressed timeframe. The REC adopted its decisions in a collegial manner in sessions open to observers and broadcast online in a welcome step to increase transparency. However, the agenda was not distributed to members before the beginning of the sessions, limiting the possibility of substantive discussions. Positively, the REC produced and distributed improved training and information material to PBs and working bodies, voters and observers, including on facilitating the participation of persons with disabilities in the election process.

The REC registered 21 candidate lists with a total of 3,419 candidates in a generally inclusive manner. Candidate lists were to be supported by at least 10,000 certified signatures of voters, with each voter supporting only one list, contrary to international good practice and previous ODIHR recommendations. Positively, following recent legislative amendments the right to certify signatures required for registration of candidate's lists was expanded to local authorities, in addition to public notaries and courts. The law now requires a gender quota of at least 40 per cent as a prerequisite for registration.

The voter register is maintained by the Ministry of Public Administration and Local Self-Government (MPALSG) and is based on municipality records, input by other state institutions, and voters' requests for corrections. The MPALSG undertook efforts in 2019 to remove obsolete and duplicate entries, including through cross-checks with municipal records, but low public confidence in the accuracy of the voter lists remains to be addressed. An audit of the voter register with the participation of civil society organizations was envisaged but delayed due to a legal requirement to assess the effects of the audit on the protection of personal data and postponed until after the elections. Positively, the MPALSG organized an information campaign to explain how the voter lists are updated, including through publishing a comprehensive handbook on this subject. Despite a longstanding ODIHR recommendation, voter lists were not displayed for public scrutiny. Moreover, election authorities are not legally required to publish the number of registered voters by municipalities and precincts until two days before election day, which reduces transparency. The REC announced that 6,584,376 voters were on the voter lists for these elections, including 13,251 who requested to vote abroad.

The official campaign period started on 4 March but was suspended during the state of emergency. The campaign, including calls for a boycott, remained low-key, but some billboards and posters appeared shortly before election day. Most contestants opted not to organize mass rallies in light of ongoing health concerns. The ruling Serbian Progressive Party (SNS) organized smaller meetings with voters, and its coalition partner, the Socialist Party of Serbia (SPS), maintained a schedule of well-attended events.

Media coverage of these events suggests that social distancing measures were not always respected. Campaigning was significantly more vibrant in traditional and social media, with most contestants turning to Facebook and Twitter to connect with voters. Postal mailings, text messages and tele-marketing were also used, with some ODIHR SEAM interlocutors voicing concerns about the use of private data held by the state-owned telecom operator for the benefit of the SNS campaign.

The campaign centered around the COVID-19 pandemic, with governing parties campaigning on claims of successful containment of the virus, and opposition accusing the government of misusing the crisis for electoral gain. The status of Kosovo,¹ foreign policy, the date and integrity of the elections, boycott and questions about the genuineness of some candidatures also featured as campaign topics. A notable aspect was the meshing of the SNS's campaign with media coverage of the president and the government's response to the COVID-19 crisis. The president's concurrent role as SNS chairperson and nominal 'bearer' of its electoral list further facilitated the blurring of the line between his official duties and the campaign, challenging paragraph 5.4 of the 1990 OSCE Copenhagen Document. This was accentuated during the state of emergency, when, although the official campaign was suspended, the regular briefings by the president and government officials, including on measures to sustain livelihoods and employment, at times took the form of tacit campaigning.

Key prior recommendations by ODIHR and the Council of Europe's Group of States Against Corruption (GRECO) on campaign finance remain unaddressed, including introducing lower donation limits, an expenditure ceiling, reporting and disclosure prior to election day, and proportionate and dissuasive sanctions. The Anti-Corruption Agency (ACA), mandated with the oversight of political finance and misuse of administrative resources, deployed 120 ACA observers and plans to cross-check information collected against the financial reports to be submitted by contestants within a month after the publication of the final election results, in line with the law. The absence of financial reports before election day limited accountability. There is no effective mechanism to identify unreported income and expenditure or intertwined financial and political interests. Overall, the campaign finance regulatory framework does not ensure transparency of campaign finance and the effectiveness of oversight.

Most TV channels with national coverage and newspapers promote the policies of the government. The few media outlets which offer alternative views have limited outreach and provide no effective counterbalance, which compromises the diversity of political views available to most voters in traditional media. The process of allocation of public funds to media, a mechanism designed to finance projects in the public interest, was criticized by many ODIHR SEAM interlocutors as non-transparent and favouring government-friendly media outlets. Such outlets also benefit from advertisements placed by state-owned companies, while more independent media do not. Threats, attacks or pressure on critical journalists and media outlets occurring in recent years, combined with a lack of financial independence within the media sector, foster a practice of self-censorship. Cases of threats against and pressure on journalists were also reported in the period preceding the elections.

While the public broadcasters provided contestants with free airtime and equal access to election programming, as required by law, media monitoring results of various civil society organizations indicate that at the same time, government benefitted from extensive coverage in other editorial programmes and broadcaster's online portals. Overall, diversity of views in the broadcast media was limited; for instance, those promoting a boycott of the elections were largely ignored or criticized in all national TV channels, with the exception of cable TV *NI*. The Regulatory Authority of Electronic Media (REM) adopted new rules supplementing the legal framework for media conduct during elections, but these rules were not mandatory for private broadcast media, which raised questions given the perceived

¹ All references to Kosovo, whether to the territory, institutions or population, in this text should be understood in full compliance with United Nations Security Council Resolution 1244.

bias of the broadcast media. A Supervisory Board was established to monitor the conduct of the campaign. Despite the availability of a range of media monitoring efforts which would have allowed for scrutiny, both the Supervisory Board and the REM remained passive in supervising media conduct during the campaign period. In the final phase of the campaign, the REM acted promptly and banned several election-related ads including a spot by the ruling party and another one promoting the election boycott.

There are 23 registered national minorities in Serbia. Following recent legislative amendments, votes cast for candidate lists with national minority status are multiplied by 1.35 to enhance their representation. The law authorizes the REC to determine whether a candidate list is eligible for national minority status but does not provide objective criteria for such determination. Many SEAM interlocutors stated that provisions for obtaining national minorities status are often misused for accessing related benefits. Of the five national minority lists, one was registered as representing Hungarian, two representing Bosniak minority (one with a Macedonian coalition partner), one Albanian, and one Russian. Other lists had within their ranks parties or candidates representing national minorities. The supporting signature requirement is difficult to meet for parties representing national minorities, especially the smaller ones.

The SEAM has been made aware of 16 complaints filed mostly by contestants to the REC mainly on candidate registration and 2,591 identical complaints filed by voters against the REC decision to resume the election process, citing persisting COVID-19 health risks. Most of these complaints were considered by the REC within the legal deadlines and rejected as inadmissible or unsubstantiated. Some ten appeals were filed to the Administrative Court, including five on candidate registration. The ACA rejected as unsubstantiated most of the 18 complaints received on misuse of state resources and campaign finance irregularities whereas some were still pending resolution by election day. As required by law, decisions on complaints were published on the websites of the respective bodies, in a timely manner.

Despite a long-standing ODIHR recommendation, the law does not provide for international and citizen observers. The REC granted access for observers to all levels of the election administration and accredited 3,341 citizen observers from seven citizen organizations and 111 international observers. The largest citizen observation efforts were carried out by the Center for Research, Transparency and Accountability (CRTA), Center for Free Elections and Democracy (CeSID) and the Center for Monitoring Elections (CPA).

The ODIHR SEAM did not undertake systematic or comprehensive observation of election-day proceedings. In the limited number of polling stations visited, the voting process appeared to be smooth, and procedures were generally followed. However, the setup of voting screens frequently did not safeguard the secrecy of the vote, at odds with OSCE commitments and other international obligations and standards. Personal protective equipment was readily available but not used consistently. The ODIHR SEAM observed cases and received reports of violations of the campaign silence provisions in favour of the ruling party. The REC started announcing preliminary results at 22:00 hours on election day. Preliminary turnout was reported at 50.25 per cent.

***The English version of this report is the only official document.
An unofficial translation is available in Serbian.***

MISSION INFORMATION & ACKNOWLEDGEMENTS

Belgrade, 22 June 2020 – This Statement of Preliminary Findings and Conclusions is an assessment made to determine whether the elections complied with OSCE commitments, international obligations and standards for democratic elections, and with national legislation.

ODIHR has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process.

The ODIHR SEAM, headed by Ambassador Urszula Gacek, was deployed from 6 June and consists of a core team of eight international experts based in Belgrade. The ODIHR SEAM did not carry out systematic or comprehensive observation of the voting, counting and tabulation proceedings on election day, in line with ODIHR's methodology for election assessment missions. Mission members did, however, visit a limited number of polling stations on election day.

The ODIHR SEAM wishes to thank the authorities of the Republic of Serbia for their invitation to observe the elections, and the Republic Election Commission and the Ministry of Foreign Affairs for the assistance. They also express their appreciation to other state institutions, political parties, media and civil society organizations, and international community representatives for their co-operation.

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