



Office for Democratic Institutions and Human Rights

# REPUBLIC OF SERBIA

## PRESIDENTIAL AND EARLY PARLIAMENTARY ELECTIONS 3 April 2022

ODIHR NEEDS ASSESSMENT MISSION REPORT  
6 -10 December 2021



Warsaw  
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**REPUBLIC OF SERBIA**  
**PRESIDENTIAL AND EARLY PARLIAMENTARY ELECTIONS**  
**3 April 2022**

**ODIHR Needs Assessment Mission Report**

## **I. INTRODUCTION**

Following an official invitation from the authorities of the Republic of Serbia to observe the presidential and early parliamentary elections planned to be held on 3 April 2022, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 6 to 10 December 2021. The ODIHR NAM included Vladimir Misev, ODIHR Senior Adviser on New Voting Technologies, and Kseniya Dashutsina, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the presidential and early parliamentary elections. Based on this assessment, the NAM should recommend whether to deploy an ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions, as well as with representatives of political parties, media, civil society, and international organizations. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs of the Republic of Serbia and the OSCE Mission to Serbia for their assistance and co-operation in organizing the NAM. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and share their views.

## **II. EXECUTIVE SUMMARY**

Presidential and early parliamentary elections will be held on 3 April 2022. The 250 members of the parliament are elected for four-year terms from a single nationwide constituency through a closed-list, under proportional system. Parties must receive at least three per cent of valid votes cast to qualify for proportional seat allocation. The president is elected for a five-year term, and can serve a maximum of two terms. A candidate must receive more than 50 per cent of the votes cast to be elected, otherwise, a second round is held within 15 days between the two candidates who received the highest number of votes.

Preparations for the elections are taking place amid deep political and social polarization. Most of the opposition boycotted the 2020 parliamentary elections and is not represented in parliament. A set of measures aimed at improving the conduct of the electoral process were adopted as a result of several process seeking to bring together the representatives of the ruling coalition and the opposition parties. Several months before the elections, the election-related legislation is undergoing numerous changes as a result of parallel and inclusive political dialogue initiatives with various stakeholders. The three main election laws regulating parliamentary, presidential and local elections are expected to be adopted by the parliament before the formal calling of elections in 2022. The proposed changes aim to improve transparency of the election process and campaign finance, increase representation of the opposition in the composition of election administration and institute mid-level election commissions, and to introduce further measures to tackle the abuse of office and administrative resources and regulate the status of election observers. Most ODIHR NAM interlocutors stated that proposed changes might potentially bring certain improvements, however, many interlocutors noted with concern the short timing before the elections in which the legislation is amended, as well as the need for political will to

implement the legislation. Some ODIHR NAM interlocutors, including from the opposition parties and civil society organizations, noted that the proposed changes are not addressing previously noted shortcomings of the electoral process, in particular during their campaign activities and coverage in the media, as well as malfeasances by public officials.

According to the current legislation, elections are administered by two levels of election administration headed by the Republic Electoral Commission (REC). The draft amendments propose establishment of 170 mid-level election commissions for the upcoming elections. Some ODIHR NAM interlocutors voiced concerns about the lack of capacity of the new bodies to implement the functions vested in them. However, government and the ruling party representatives informed ODIHR NAM that mid-level election bodies had already functioned during previous elections and that the change followed a previous ODIHR recommendation. Several stakeholders expressed concerns over a politically imbalanced composition of the election commissions, and other challenges related to completion of results protocols, determining validity of the ballots, possible malfeasance at polling stations, and pressure on voters during the campaign and on election day.

The right to vote is granted to all citizens who reach 18 years of age by election day and have a permanent residence in Serbia, except those who lost legal capacity through a court decision. Most of the ODIHR NAM interlocutors did not raise major concerns over accuracy of the voter registration process and voter lists for the upcoming elections. In response to public criticism by many opposition parties and civil society organizations during past elections, the Ministry of Public Administration and Local Self-Government is implementing measures to further increase the accuracy of the unified voter register, particularly regarding the entries concerning the deceased persons and voters living abroad.

Any citizen who is eligible to vote can stand for the presidential and parliamentary elections. Presidential candidates and lists of candidates for parliamentary elections have to collect at least 10,000 notarized signatures of voters. Parties, coalitions and groups of citizens have the right to nominate candidates. Individual independent candidates are not permitted to contest the elections. Voters can only support one prospective candidate or candidate list. Some ODIHR NAM interlocutors expressed concerns over a financial burden associated with the requirement to pay a notary fee per each signature. The law establishes a gender quota for candidate lists with at least every third candidate being from the less represented gender.

The election campaign starts with the day of calling the elections. Political parties met by ODIHR NAM intend to use a mix of traditional methods of campaigning and campaigning online due to the COVID-19 pandemic and ensuing health related concerns. They do not generally foresee obstacles for free conduct of the campaign, including in minority languages, however, most expressed concerns about lack of impartial media coverage of the campaign, the use of negative campaigning, harsh and offensive rhetoric, potential pressure on voters, including on civil servants, and misuse of state resources.

Party and campaign finance legislation is currently undergoing amendments and it is expected to be adopted before the calling of elections. Some of the proposed changes include interim reporting prior to election day, lowering donations limits, prescribing more gradual system of sanctions, and establishing threshold for membership fees. The draft amendments assign to Agency for Prevention of Corruption increased responsibilities, however, according to some ODIHR NAM interlocutors, without equipping APC with additional human and financial resources, these new provisions would not be sufficient to increase the transparency and effectiveness of oversight. Several ODIHR NAM interlocutors noted the need of substantial changes and improvements of the campaign finance framework, including by introducing clear regulations on the use of loans and online campaigning, comprehensive data for campaign material imprints, limits on campaign spending and regulations of

third-parties in election campaign. Overall, most ODIHR NAM interlocutors expressed low level of confidence in the effectiveness of the party and campaign finance.

The political and social polarization is reflected in the media environment. Numerous media outlets compete in a shrinking advertisement market and are influenced by political and commercial interests. The majority of ODIHR NAM interlocutors stated that most of the television channels with national coverage promote policies of the government and self-censorship persists in both public and private media. Numerous concerns over lack of media pluralism and persistent verbal attacks on journalists by high-level officials were also expressed to the ODIHR NAM. The media oversight body, the Regulatory Authority of Electronic Media (REM), plans to monitor electronic media and report on its results on a weekly basis. The Temporary Supervisory Body for Media Monitoring During Election Campaign (TSB), aimed at increasing the impartiality of the REM and which includes nominees from the opposition parties, was established as a result of the Inter-Party Dialogue. Many ODIHR NAM interlocutors stated that the responsibilities of the TSB are not clear, the functions of both bodies might be overlapping, decreasing efficiency of media oversight.

Voters, candidates and submitters of candidate lists can file complaints. The timeframes for submission and consideration of cases remain unduly short. The law does not provide for complaints to be filed with polling boards on election day. Complaints against decisions, acts or omissions of polling boards are filed with the REC. Complaints against REC decisions are filed with the REC with appeals possible with the Administrative Court that has final jurisdiction. The Administrative Court reviews cases in camera. The ODIHR NAM was informed by the Administrative Court about additional burden posed by election-related cases on the work of the court due to lack of additional financial or human resources allocated for the election period. Some ODIHR NAM interlocutors voiced concerns over the conduct of law enforcement and stated that trust in the election administration and judiciary to deal with the election-related cases impartially is limited.

The current law does not provide for domestic and international election observation. However, in line with a previous ODIHR recommendation, the draft election laws regulate the status of domestic and international observation. Several civil society organizations (CSO) informed the ODIHR NAM of their plans to conduct long-term and election day observation. Some of the CSOs informed ODIHR NAM of an increased pressure and verbal attacks on CSOs from representatives of the governing parties.

Most of the ODIHR NAM interlocutors emphasized the value of an ODIHR election observation activity for the presidential and early parliamentary elections. Many of them also stressed the importance of a long-term and country-wide presence to cover all aspects of the process. They underlined that the assessment by the potential ODIHR election observation mission will be of particular value due to high polarization and would enhance public confidence in the electoral process. Particular concerns were raised over the conduct of the campaign, including in the media, and possible voter intimidation and misuse of state resources. Specific aspects that could benefit from further assessment include the process of revision and implementation of the legal framework, the work and capacity of the election administration at different levels, conduct and financing of the election campaign, media coverage and oversight, and election day procedures.

In considering an observation activity, the ODIHR NAM has taken into account the various findings outlined in this report and the concerns expressed by stakeholders. Based on the findings of this report, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) to observe the upcoming early parliamentary and presidential elections. In addition to a core team of analysts, ODIHR will request the secondment by OSCE participating States of 26 long-term observers to follow the electoral process countrywide, as well as 250 short-term observers for the observation of election

day procedures. In line with ODIHR's standard methodology, the EOM would include a media monitoring element.

### III. FINDINGS

#### A. BACKGROUND AND POLITICAL CONTEXT

According to the Constitution, the presidential election should be held not earlier than 90 days and not later than 60 days before the expiry of the current president's term in office, which expires on 31 May 2022. Parliamentary elections should be called by the president 90 days before the expiry of the current parliament's term.<sup>1</sup> However, shortly after the 2020 parliamentary elections, President Aleksandar Vučić announced that early parliamentary elections will be held in 2022. On 29 October, an agreement between various political parties and the government was reached to hold early parliamentary, presidential and local elections in ten municipalities on 3 April 2022.

In 2017, then Prime Minister Aleksandar Vučić, nominated by the Serbian Progressive Party (SNS), won the presidential election. Following the 2020 parliamentary elections, SNS received an absolute majority in parliament.<sup>2</sup> Since 2019, the majority of the opposition members of parliament (MP) did not attend the previous parliament sessions, and parties they represented boycotted the 2020 parliamentary elections. Out of 250 MPs only seven represent opposition.<sup>3</sup> The new government took office in August and started its work in October 2020, renewing the coalition between the SNS, the Socialist Party of Serbia (SPS), and their respective junior partners. Some opposition parties are planning to put forward joint candidates for the upcoming elections.

After the last parliamentary elections, three processes were initiated to improve electoral process: the inter-party dialogue (IPD) mediated by the European Parliament (EP), the dialogue between the government and the opposition under the auspices of the President of the Parliament "without the participation of foreigners", and the government-led Working Group for Co-operation with ODIHR which was re-launched in December 2020.<sup>4</sup> The EP-mediated IPD resulted in adoption of sixteen measures to improve the conduct of the electoral process.<sup>5</sup> Most of the opposition taking part in the dialogue withdrew from the process citing the insufficiency of the proposed measures. In May 2021, a

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<sup>1</sup> The constitutive session of the National Assembly of the 12th convocation was held on 22 October 2020.

<sup>2</sup> The outgoing parliament is predominantly composed of the SNS led list Aleksandar Vučić – For Our Children with 188 seats, the Socialist Party of Serbia list (SPS) with 32 seats, and the Serbian Patriotic Alliance (SPAS), with 10 seats, which later merged with the SNS. In addition, the Alliance of Vojvodina Hungarians, and the Justice and Reconciliation Party (SPP) are in coalition with SNS with 13 mandates.

<sup>3</sup> United Valley - Party of Democratic Action of the Sandžak (six seats), and one independent MP. The European Parliament [Resolution](#) adopted on 25 March 2021 expressed "concerns about the effective functioning of the new parliament, where there is no parliamentary opposition, whose legitimacy is challenged by opposition parties and whose term, it has already been announced by the Serbian President, is to be shortened, which adopts far-reaching constitutional changes without an open, inclusive and democratic public debate, especially in the area of the judiciary".

<sup>4</sup> The working group "on cooperation with ODIHR in co-ordinating and monitoring the implementation of recommendations for improving the election process" is composed of leading members of the executive institutions, REC representatives and other agencies with competences over election process. The group was first established in September 2019.

<sup>5</sup> See [Measures](#) to improve the conduct of the electoral process. These include establishment of a Temporary Supervisory Body and other media-related measures aimed at more balanced political representation, expanding the Republic Electoral Commission (REC) membership to include non-parliamentary opposition, prevention of the pressure on voters, abuse of public office and public resources. The IPD first started its work in 2019 and seized its functioning in September 2021.



dialogue without the participation of foreigners included the political parties which did not boycott the 2020 parliamentary elections. The final agreement was adopted on 29 October.<sup>6</sup>

Preparations for the elections are taking place amid hardened political and social polarization and ongoing street protests related to environmental issues and adoption of the Law on Referendum and Public Initiatives and the Law on Expropriation.<sup>7</sup> The Constitutional referendum related to judiciary will be held on 16 January 2022.<sup>8</sup>

ODIHR has observed 17 elections in Serbia since 1997, most recently in 2020, when ODIHR deployed a Special Election Assessment Mission for the parliamentary elections.<sup>9</sup> The final report, issued in October 2020, contains 29 recommendations, including 11 priority ones, for the authorities to improve the electoral process and bring it closer in line with OSCE commitments.<sup>10</sup>

## B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The 250 members of the parliament are elected for four-year terms from a single nationwide constituency through a closed-list under proportional system. Prior to 2020 parliamentary elections, the threshold for candidate lists to participate in the distribution of mandates was lowered from five to three per cent of the votes cast. Lists representing national minorities are exempted from this threshold requirement. The president is elected for a five-year term, and can serve a maximum of two terms. To be elected in the first round, a candidate must receive more than 50 per cent of the votes cast. Otherwise, a second round is held within 15 days between the two candidates who received the highest number of votes.

Elections are regulated primarily by the 2006 Constitution, the 2004 Law on Election of the President (LEP), the 2000 Law on Election of Representatives (LER), the 2009 Law on the Unified Voters' Register (LUVR), the 2009 Law on Political Parties (LPP), the 2011 Law on Financing Political Activities (LFPA), the 2002 Broadcasting Law, and the 2016 Law on Public Gatherings. The LEP stipulates that provisions of the LER apply to the presidential election in matters not specifically regulated by the LEP.<sup>11</sup> The legal framework is supplemented by the Republic Electoral Commission's

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<sup>6</sup> The [agreement](#) defines the date for presidential, early parliamentary and local elections in some municipalities, proposes measures to expand the REC composition and establish the mid-level election administration, prohibits media reporting on functionary campaign ten days before elections, and sets domestic and international election observation.

<sup>7</sup> On 8 December, the Law on Expropriation was withdrawn, and the Law on Referendum and Public Initiatives was further amended.

<sup>8</sup> Following amendments to the Law on Referendum and People's initiative, there is no turnout requirement for the referendum to be valid. Some of the proposed constitutional changes include the selection of judges by High Judicial Council instead of the Parliament, selection of prosecutors by a High Prosecutorial Council, strengthening of the office of the prosecutor.

<sup>9</sup> ODIHR NAMs for 2017 presidential and 2020 parliamentary elections recommended deployment of an Election Observation Missions (EOM). However, due to logistical obstacles related to deployment timeframe in 2017, and conditions imposed by the COVID-19 pandemic in 2020, ODIHR was not in a position to deploy EOMs in line with the NAM recommendation. See previous ODIHR election [reports](#) on Serbia.

<sup>10</sup> In paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations".

<sup>11</sup> Relevant provisions are also included in the Criminal Code, the laws on the Anti-Corruption Agency, on Administrative Disputes, on Free Access to Information of Public Importance, on Personal Data Protection, on Administrative Proceedings and on Criminal Proceedings.

(REC) Rules of Procedures. Serbia is party to major international and regional instruments related to holding of democratic elections.<sup>12</sup>

As a result of three processes on the improvement of electoral conditions, a number of draft laws or amendments are pending adoption and were subject to public consultations in December 2021. These include the LEP, the LER, the Law on Local Elections, the LFPA, the Law on Electronic Media, the Law on Public Service Media, and the Law on Prevention of Corruption.<sup>13</sup> Some of the proposed changes relate to measures improving transparency of the election process and campaign finance, extended composition of election administration and introduction of mid-level election commissions, measures to tackle abuse of office and administrative resources and regulate the status of election observers. Most ODIHR NAM interlocutors stated that proposed changes might bring certain improvements, however, many interlocutors noted with concern the short timing before the elections in which the legislation is amended, as well as the need for political will to implement the legislation in good faith. Some ODIHR NAM interlocutors, including from the opposition parties and civil society organizations, noted that the proposed changes are not addressing previously noted shortcomings of the electoral process and malfeasances by public officials, in particular during the conduct of election campaign and its coverage in the media.

### C. ELECTION ADMINISTRATION

The current structure of election administration includes the REC and some 8,500 Polling Boards (PBs) which will be formed once the elections are called.<sup>14</sup> It is also expected that following the adoption of the draft amendments, 170 mid-level election commissions will also be established for the upcoming elections. Some ODIHR NAM interlocutors voiced concerns about the lack of capacity of the new bodies to implement the functions vested in them. However, government and ruling party representatives informed ODIHR NAM that the mid-level election bodies had functioned during previous elections and that the change followed a previous ODIHR recommendation.<sup>15</sup>

The REC is a permanent body comprising a chairperson, 16 permanent members and their deputies, appointed for a four-year term by the parliament.<sup>16</sup> The composition of REC is proportional to the number of seats held by the parliamentary parties. By law, each registered electoral contestant has a right to appoint a representative to serve as an extended REC member with the same rights and duties as permanent members. Eight out of 17 permanent REC members are women. As of 30 November, the REC is functioning in the extended composition with additional six members and their deputies from non-parliamentary parties. These members are appointed for conducting the 16 January Referendum, however, the draft election laws replicate this temporary change and, according to the REC, the current REC composition will remain for the upcoming elections. ODIHR NAM interlocutors expressed

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<sup>12</sup> Including the [1966 International Covenant on Civil and Political Rights](#), [1979 Convention on the Elimination of All Forms of Discrimination Against Women](#), [1965 International Convention on the Elimination of All Forms of Racial Discrimination](#), [2003 Convention against Corruption](#), [2006 Convention on the Rights of Persons with Disabilities](#), the [1950 European Convention on Human Rights](#). Serbia is also a member of the Council of Europe's Venice Commission and of the Group of States against Corruption (GRECO).

<sup>13</sup> Following the adoption of the Law on Referendum and People's Initiative in November 2021, the REC's composition was expanded to include six representatives from non-parliamentary opposition, and the deadlines for election-related complaints and appeals were extended.

<sup>14</sup> The REC will also establish PBs in military and penitentiary institutions as well as in diplomatic missions abroad. A polling station is established for a minimum of 100 and a maximum of 2,500 voters.

<sup>15</sup> In previous elections, the REC established Working Bodies in municipalities to facilitate the work and communication between the REC and PBs and undertake logistical support in organizing the elections.

<sup>16</sup> The REC also has three non-voting members – a secretary, a deputy secretary and a representative of the National Statistical Office.



varying degrees of confidence in the impartiality of the REC, as its current composition reflects the composition of the parliament where the ruling party has the majority of seats.

PBs include a chairperson, two members and their deputies and are composed according to the same principle of a permanent and an extended composition. While preparations for elections will commence once they are officially called, the REC has commenced its training of trainers. The REC noted to the ODIHR NAM its commitment to conduct elections in a professional and effective manner, to conduct voter information activities, training for members of lower-level commissions, and further improve the layout of polling stations and enhance the secrecy of the vote. On 3 December, the REC adopted its Rules of Procedures (RoP) regulating its work and decision making. According to RoP, REC's sessions can no longer be held via e-mail, and should be called two days in advance. Moreover, the REC will be legally obliged to publish all election-related decisions, including on complaints and appeals.

Several stakeholders expressed concerns over the composition of the election commissions, and other challenges, related to completion of results protocols, determining validity of the ballots, possible malfeasance at polling stations, and pressure on voters during the campaign and on election day.

#### **D. VOTER REGISTRATION**

The right to vote is granted to all citizens who reach 18 years of age by election day and have a permanent residence in Serbia, except those who lost legal capacity through a court decision. The voter registration is passive. The Unified Voter Register (UVR) is an electronic database maintained by the Ministry of Public Administration and Local Self-Government (MPALSG) and updated continuously based on municipalities' records, inputs provided by state institutions, and voters' requests.<sup>17</sup> Voters are entitled to request inclusion in the voter lists at their place of temporary residence and also abroad, in which case they are temporarily excluded from the original voter list. Special voter lists are compiled for military and voters in prisons and detention facilities based on information provided by the respective institutions.

Most of the ODIHR NAM interlocutors did not raise major concerns over accuracy of the voter registration process and voter lists. However, in response to public criticism by many opposition parties and civil society organizations (CSO) during past elections, the MPALSG took several initiatives to address previous concerns regarding the accuracy of the voter lists, particularly regarding deceased persons and voters living abroad. In September 2019, the MPALSG established a Working Group, with the participation of CSOs, to conduct an audit of the UVR. However, the audit did not take place due to legal requirements on personal data privacy and an opinion of the Commissioner for Information of Public Importance and Protection of Personal Data that limited possibilities of the CSOs to conduct the audit. On 13 April 2021, the MPALSG set another Working Group for analyzing data in the UVR, the duty of which is to establish possible deficiencies with respect to the voter-related data, and alignment of the existing data contained in the UVR.<sup>18</sup>

On 22 April 2021, the MPALSG issued an Instruction for the Implementation of the LUVR, which enables voters to check its content. According to the Instruction, voter registration data should be published quarterly. Upon the closure of the voter register, the MPALSG will publish the voter list on its website with the names and surnames of all voters per specific polling station. There is a two-step verification process which requires entering personal ID number and registration number of the ID card.

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<sup>17</sup> The UVR closes for changes 15 days before election day. Beyond this, modifications shall only be done by the MPALSG if application is lodged not later than 72 hours before election day. After the deadline, the final number of voters is published. The law does not allow voter registration on election day.

<sup>18</sup> The first meeting took place on 23 April, where the methodology for analyzing the UVR was adopted.

On 23 October 2021, the MPALSG published an overview of the number of voters by cities and municipalities. The MPALSG also adopted a Guidebook for those working with the voter register.

## E. CANDIDATE AND PARTY REGISTRATION

Any citizen who is eligible to vote can stand for the presidential and parliamentary elections. For presidential elections political parties, coalitions and groups of citizens have the right to nominate candidates. Individual independent candidates are not permitted to contest the elections. Candidate registration begins when the election is called and lasts until 20 days prior to election day, potentially leaving only ten days for registration. Presidential candidates and list of candidates for parliamentary elections have to collect at least 10,000 notarized signatures of voters. Voters can only support one prospective candidate. Signatures are verified by the REC and the MPALSG against the UVR. Submitters of candidate lists are given 48 hours to correct errors or omissions found in the documents. A number of ODIHR NAM interlocutors expressed concerns over a financial burden associated with the requirement to pay a notary fee per each signature.

The law requires a gender quota of at least 40 per cent as a prerequisite for registration of a list, with at least two out of every five candidates on a candidate list being from the less represented gender. In the outgoing parliament women hold some 39.2 per cent of seats, and 11 out of 25 ministerial posts, including the Prime Minister. In May 2021, a new Law on Gender Equality was adopted and on 14 October, the Government adopted a National Strategy for Gender Equality.<sup>19</sup>

## F. ELECTION CAMPAIGN

The official election campaign period starts with the day of calling the elections and ends 48 hours before election day.<sup>20</sup> The legislation provides for equitable campaigning conditions for all electoral contestants. The draft amendments to the Law on Prevention of Corruption aim to address issues of misuse of office and administrative resource by narrowing the list of public officials who are not required to declare if they are acting in their official capacity. These categories include MPs, members of the Assembly of the Autonomous Province of Vojvodina, and councillors in assemblies of local self-government units.<sup>21</sup> Moreover, draft amendments to the Law on Electronic Media envisage a ban on media to cover public officials at the openings of infrastructure and other projects ten days prior to the elections. Some ODIHR NAM interlocutors opined that proposed measures are insufficient to tackle the long-standing issue of misuse of administrative resources.<sup>22</sup>

Parties intend to use a mix of traditional methods of campaigning, including small scale rallies, door-to-door canvassing, and campaigning online due to the COVID-19 pandemic and ensuing health related concerns. According to the ODIHR NAM interlocutors, the campaign is expected to be primarily focused on topics of environment, public health, economy, employment, education, and foreign policy. Political parties met by ODIHR NAM generally did not foresee obstacles for free conduct of the campaign, including in minority languages, however, most expressed concerns about lack of impartial media coverage of the campaign, the use of negative campaigning and aggressive and offensive rhetoric,

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<sup>19</sup> Some of the measures in the strategy include elimination of gender stereotypes and sexism, prevention and combating violence against women, guaranteeing equal access of women to justice, and achieving balanced participation of women and men in political and public decision-making.

<sup>20</sup> Presidential and early parliamentary elections will be called on different dates, hence, the campaign periods will commence on different dates.

<sup>21</sup> The president will have to clarify if he/she is speaking on behalf of their official public office, or on behalf of their political party or political actor.

<sup>22</sup> Some interlocutors informed ODIHR NAM that during the IPD they proposed 30-days ban while others noted that the legal prohibition should be on the public officials campaigning in their official capacity and not only on the media.

potential pressure on voters, including on civil servants, and the possible misuse of state resources. Many ODIHR NAM interlocutors stated that patriarchal attitudes, and concerns about online or other attacks on women candidates may limit women's political participation.

## G. PARTY AND CAMPAIGN FINANCE

Party and campaign finance are mainly regulated by the LFPA, which is currently pending amendments. Some of the proposed amendments aim to address previous ODIHR recommendations, and include interim reporting prior to election day, lowering donations limits, prescribing more gradual system of sanctions, establishing threshold for membership fees, and clarifying which entities are subject of the State Audit Institution (SAI) oversight.

Parties are financed through donations, membership fees, loans and state funding.<sup>23</sup> Moreover, contestants can finance campaigns from their own funds and donations.<sup>24</sup> Donations from foreign, state, public and anonymous sources and from non-profit, charitable organizations and trade unions is prohibited. Donations must be made by bank transfer. There is no expenditure cap. Several ODIHR NAM interlocutors noted the need of substantial changes and improvements of the campaign finance framework, including by introducing clear regulations on the use of loans and online campaigning, comprehensive data for campaign material imprints, limits on campaign spending and regulations of third-parties in election campaign.

The Agency for Prevention of Corruption (APC) is the main supervisory body mandated with the oversight of political finance and misuse of state resources. In addition, the State Audit Institution (SAI) oversees the public funds of parties. According to the current legislation, political entities are obliged to submit reports on election campaign to the APC annually (by 15 April) and within 30 days after the announcement of final elections results. There is no deadline for the APC to publish the financial reports and no obligation to publish any conclusions.<sup>25</sup> The APC may request information from political entities and may request statements of transactions using campaign funds. The APC can issue warnings or initiate misdemeanour or criminal proceedings for possible violations.<sup>26</sup> The APC plans to recruit, train and deploy some 120 observers to collect data on compliance with the legislation on campaign finance. The draft amendments assign to APC increased responsibilities, however, according to some ODIHR NAM interlocutors, without equipping APC with additional human and financial resources, these new

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<sup>23</sup> The law provides for annual state funding to parties up to 0.105 per cent of the state budget whereas the total amount of campaign funding for registered electoral contestants equals to up to 0.07 per cent of the state budget. The draft LFPA stipulates that 20 per cent of the funds will be allocated upfront to all the party lists in equal portions, and 80 per cent will be allocated after elections based on the number of votes received. The budget for 2021 is RSD 1,514.8 billion.

<sup>24</sup> Current LFPA provides that annual individual donations to parties can be up to 20 average monthly salaries, whereas a legal entity may donate up to ten times this amount. The donation limits are doubled in an election year, regardless of the number of electoral contests. The average monthly salary in 2021 equals RSD 65,218.

<sup>25</sup> The draft LFPA introduces a seven-day deadline from the receipt of the final annual report regarding the political entity financing for the APC to publish it on its website. In addition, the APC oversight report is published on the website of the agency by 1 February of the following year. Seven-day deadline applies for the publication of the interim and final reports on campaign expenditures. The APC has 120 days from the submission of the final report to publish its conclusions.

<sup>26</sup> In 2020, the APC dealt with 34 cases related to party and campaign finance, and dismissed 26 of them as unfounded. In addition, the APC issued five warnings and initiated four cases of misdemeanour procedures. In addition, it considered 50 cases against public officials. In four cases, the APC issued measures of public announcement of recommendation for dismissal of public officials for one mayor, one president of the municipality and two directors of public companies and seven warning for one mayor, one president of the municipality, one deputy mayor, three directors of public institutions and one director of the company.

provisions would not be sufficient to increase the transparency and effectiveness of oversight.<sup>27</sup> Overall, most ODIHR NAM interlocutors expressed low level of confidence in the transparency of the party and campaign finance.

## H. MEDIA

The media environment is characterized by significant polarization, is driven by the political agenda, providing limited diversity of views.<sup>28</sup> Television continues to serve as the main source of information, although online media are gaining ground. Numerous media outlets compete in a shrinking advertisement market and are influenced by political and commercial interests. The main television operators broadcasting nationwide are several private channels and the public service broadcaster Radio Television Serbia (RTS).<sup>29</sup>

Majority of ODIHR NAM interlocutors stated that television channels with national coverage promote policies of the government and self-censorship persists in both public and private media, limiting media pluralism.<sup>30</sup> Numerous concerns were also expressed with regard to persistent verbal attacks on journalists by high-level officials.<sup>31</sup> The OSCE Representative on Freedom of the Media (RFoM) on several occasions condemned violence, intimidation and other incidents, including death threats, directed at media professionals.<sup>32</sup>

The Action Plan for the Strategy for the Development of the Public Information System for the period from 2020 to 2025 was adopted in December 2020. The Action Plan envisages introducing amendments to a number of media-related laws, measures to address issues of transparency in ownership structures and financing of media content and advertising from state resources.<sup>33</sup> Some of the proposed changes will regulate issues of media service providing equal opportunities to all and oblige public service media to organize debates. However, some ODIHR NAM interlocutors from civil society opined that their

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<sup>27</sup> The APC informed ODIHR NAM of its readiness to comply with all legal obligations.

<sup>28</sup> The EP [Resolution](#), adopted on 25 March 2021 stressed that freedom of expression and the independence of media remain serious concerns which need to be addressed as a matter of priority. According to Freedom House's [Nations in Transit](#), the rating of independent media has decreased from 4.00 in 2014 to 3.25 in 2021. In Reporters Without Borders's 2021 [World Press Freedom Index](#), out of 179 countries Serbia is now ranked 93, as compared to 54 in 2014.

<sup>29</sup> The leading private channels are *TV Pink*, *TV B92*, *TV Prva*, and *Happy TV*.

<sup>30</sup> The EP [Resolution](#) urged the authorities to ensure the necessary conditions for fair competition and ownership transparency in the media sphere; invited the editorial teams of all television channels with national coverage to respect the highest professional standards and allow for differing opinions to be heard regularly. Moreover, the Resolution expressed regret over the deterioration of media freedom and increase in abusive language, intimidation and hate speech towards opposition activists, intellectuals, NGOs and journalists, including by members of the ruling parties and urged the authorities to take immediate measures to guarantee freedom of expression and media independence and to ensure proper investigations into these cases. In August 2021, Twitter labeled the accounts of *Kurir*, *Prva*, Radio Television Vojvodina (RTV), RTS *Vesti*, *Tanjug*, *Informer*, *Srpski Telegraf*, *Politika*, *TV Happy*, *Pink.rs* and *B92* news as "Serbia government-affiliated media".

<sup>31</sup> The 2021 European Commission Progress [Report](#) on Serbia concludes that "limited progress was made by adopting and starting to implement a limited number of measures under the action plan related to the media strategy, while verbal attacks against journalists by high-level officials continued". The EP [Resolution](#) stresses that it is "concerned with the recent orchestrated attacks carried out by several MPs and pro-government tabloids against investigative journalists and members of civil society, including those from the independent media network KRIK and NGOs such as CRTA and the Open Parliament".

<sup>32</sup> See OSCE RFoM [statements](#) on Serbia.

<sup>33</sup> These include the Law on Public Information and Media, the Law on Electronic Media and the Law on Public Media Services. The Ministry of Culture and Information informed ODIHR NAM that the Law on Electronic Media and the Law on Public Service Media will be further amended by the end of 2022.

recommendations to improve the legislation were not accepted, and many ODIHR NAM interlocutors assessed the implementation as limited so far.

The LER defines the basic principles for media conduct during election campaigns and obliges public service media to ensure equal reporting about all contestants. Public service media are also obliged to provide equal airtime to contestants to present their platforms. In a move to eliminate dependence of the public broadcaster on the state budget, *RTS* was not included in the 2021 budget and is now financed from the subscription fees.<sup>34</sup> The *RTS* stated that it plans to cover the elections extensively, including through organizing talk shows and debates between contestants and their representatives. It also plans to air voter education spots, including on national minority languages. All broadcast media are obliged to provide information about the contestants in a non-discriminatory and objective manner.

The oversight over broadcast media, including during the election campaign, is exercised by the Regulatory Authority of Electronic Media (REM).<sup>35</sup> The REM informed the ODIHR NAM that it plans to monitor a number of television channels and publish the results of their monitoring on a weekly basis during the campaign, but indicated that full results of the monitoring with both quantitative and qualitative analysis will only be published after the elections. The REM and a number of ODIHR interlocutors opined that the system of sanctions applied for violations of media legislation is ineffective due to protracted deadlines.

On 14 October, a new body, Temporary Supervisory Body for Media Monitoring during Election Campaign (TSB) was established by a Government decision and as a result of the IPD. TSB is composed of 12 members, three proposed by the oppositions from the EP-facilitated dialogue and three by the opposition from the dialogue without EP participation, and six members appointed by the REM.<sup>36</sup> Main functions of TSB include media monitoring, monitoring of the implementation of new rulebooks for public broadcasters and recommendations for private television, and reporting to the public on its findings. The REM will draft the Rulebook on Obligations of Public Service Media Providers during the election campaign, the recommendations for private national broadcasters, and the methodology for the reporting of TSB to be implemented by the body.<sup>37</sup> Many ODIHR NAM interlocutors stated that the responsibilities of the TSB are not clear, the functions of both bodies might be overlapping, decreasing efficiency of media oversight.

## I. COMPLAINTS AND APPEALS

Voters, candidates and submitters of candidate lists can file complaints. Complaints against decisions, acts or inactions of PBs are filed with the REC. Complaints against REC decisions are filed with the REC and these can be appealed to the Administrative Court as final instance. A complaint shall be filed with the REC within 24 hours from when the decision was taken or the action performed. The REC must decide on a complaint within 48 hours. If a complaint is upheld, the relevant decision or act is annulled.<sup>38</sup> Appeals against REC decisions are lodged with the Administrative Court within 48 hours of the receipt of the decision.<sup>39</sup>

The Law on Administrative Disputes does not require holding public hearings for appeals in the Administrative Court, and election-related appeals are heard in camera. According to the Administrative Court the transparency of the process will be ensured by publication of all election-related decisions on

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<sup>34</sup> In July 2021, the REM Council elected six new members of the RTS Management Board.

<sup>35</sup> One of the REM members resigned after new president of REM was appointed in 2020, due to apparent lack of transparency in the selection procedure and insufficient work of REM in regulating media.

<sup>36</sup> TSB functioning was delayed by the rejection of two opposition parties to propose their candidates.

<sup>37</sup> Deadlines for the adoption of these documents are defined by the IPD measures.

<sup>38</sup> If the REC fails to review a complaint within the legal timeframe, the complaint is considered upheld.

<sup>39</sup> If the Administrative Court upholds an appeal and annuls an election, the election shall be repeated within 10 days.

its website. Administrative Court informed the ODIHR NAM that they have extensive experience in election related cases, however, these pose additional burden on the work of the court due to lack of additional human resources allocated for the election period.

Electoral disputes may also be brought before the Constitutional Court when all other legal remedies have been exhausted. The Constitutional Court is empowered to annul elections if it finds irregularities that may have influenced the result. Complaints on campaign finance irregularities and the misuse of administrative resources may be filed with the APC. The police, the Prosecutor, the Ombudsman and the Commissioner for Personal Data Protection may also deal with election-related cases upon a complaint. Some ODIHR NAM interlocutors voiced concerns about the effectiveness of the dispute resolution process and conduct of law enforcement and stated that trust in the election administration and judiciary to deal with the election-related cases impartially is limited.

## **J. PARTICIPATION OF NATIONAL MINORITIES**

The Constitution 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 rights to elect and to be elected. There are 23 national minorities in Serbia, which have constituted and exercise their rights through their respective National Minority Councils. Out of the 123 political parties listed in the registry administered by the MPALSG, 74 are registered as representing national minorities.

The 2009 Law on Political Parties contains provisions promoting participation of national minorities in public life. A national minority can register a party with 1,000 signatures. However, minority parties require the same 10,000 signatures as other parties to submit their candidate lists. According to ODIHR NAM interlocutors the number of signatures for national minority list will be reduced to 5,000 if the amendments to election laws are adopted. The REC has the authority to grant minority status to candidate lists and ODIHR previously recommended that the legal criteria for such a decision should be clearer. Some ODIHR NAM interlocutors stated that provisions for obtaining national minorities status are often misused for accessing related benefits, including enhanced representation and exemption from the 3 per cent threshold.

## **K. ELECTION OBSERVATION**

The law does not provide for domestic and international election observation. The draft election laws envisage regulation of the status of domestic and international observation. In addition, registered candidates through their nominating entities may appoint authorized representatives to each election administration body. Several CSOs informed the ODIHR NAM of plans to conduct long-term and election day observation. However, some stated that they lack financial resources which might restrict the scope of their activities. Some of the CSOs informed ODIHR NAM of an increased pressure and verbal attacks on CSOs from representatives of the governing parties.<sup>40</sup>

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<sup>40</sup> In the 2020 [Report](#) on Serbia, the European Commission emphasized that further efforts were needed to ensure systematic co-operation between the government and civil society, and that it was necessary to establish an encouraging environment for the development and financing of civil society. Members of the EP adopted amendments to the EP Resolution on Serbia, which states that the EP is appalled by the orchestrated attacks of certain members of the Parliament and pro-government tabloids against investigative journalists and members of civil society.



#### **IV. CONCLUSIONS AND RECOMMENDATION**

Most of the ODIHR NAM interlocutors emphasized the value of an ODIHR election observation activity for the presidential and early parliamentary elections. Many of them also stressed the importance of a long-term and country-wide presence to cover all aspects of the process. They underlined that the assessment by the potential ODIHR election observation mission will be of particular value due to high polarization and would enhance public confidence in the electoral process. Particular concerns were raised over the conduct of the campaign, including in the media, and possible voter intimidation and misuse of state resources. Specific aspects that could benefit from further assessment include the process of revision and implementation of the legal framework, the work and capacity of the election administration at different levels, conduct and financing of the election campaign, media coverage and oversight, and election day procedures.

In considering an observation activity, the ODIHR NAM has taken into account the various findings outlined in this report and the concerns expressed by stakeholders. Based on the findings of this report, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) to observe the upcoming early parliamentary and presidential elections. In addition to a core team of analysts, ODIHR will request the secondment by OSCE participating States of 26 long-term observers to follow the electoral process countrywide, as well as 250 short-term observers for the observation of election day procedures. In line with ODIHR's standard methodology, the EOM would include a media monitoring element.

## **ANNEX: LIST OF MEETINGS**

### **Ministry of Foreign Affairs**

Aleksandar Tasić, Ambassador, Deputy Minister for Multilateral Cooperation  
Nikola Ratković, Head of Department for OSCE and Council of Europe  
Marija Trifunović Ljubojević, Minister Counsellor  
Marko Brkić, First Counsellor

### **Ministry of Public Administration and Local Self-Government**

Marina Dražić, Assistant Minister Ministry of Culture and Information  
Ivana Radulović, Head of the Department for Operational and Technical Support Affairs, Sector for Registers  
Aleksandar Marković, Head of the Department for Personal Status of Citizens, Sector for Registers  
Milan Čuljković, Senior Advisor

### **Ministry of Justice**

Livija Pavićević, State Secretary  
Dejan Carević, Director, Department for Execution of Criminal Sanctions  
Tanasković, Head of the Section for Material and Financial Affairs, Department for Execution of Criminal Sanctions

### **Ministry of Interior**

Danilo Stevandić, Assistant Chief of the Police Administration  
Vera Delić, Assistant Chief of the Criminal Police Directorate

### **Ministry of Culture and Information**

Gordana Predić, Special Advisor to the Minister  
Slavica Trifunović, Assistant Minister, Information and Media Department  
Maja Zarić, Head of Unit for International Cooperation, European Integrations, Programming and Conducting Programmes and Projects Financed from International Funds in the Field of Public Administration  
Borka Radovanović, Adviser, Unit for International Cooperation, European Integrations, Programming and Conducting Programmes and Projects Financed from International Funds in the Field of Public Administration

### **Working group for co-operation with ODIHR**

Dejan Đurđević, Director of the Republican Secretariat for Legislation, Chairperson  
Veljko Odalović, Member  
Olivera Zekić, Member  
Srđan Smiljanić, Member  
Aleksandr Marković, Member  
Milan Čuljković, Member  
Vesna Jevtić, representative of the Ministry of Finance  
Biljana Zeljković, Professional Service of the Republic Electoral Commission  
Verka Atanasković, Assistant Director of the Agency for Prevention of Corruption  
Dušan Jeličić, Assistant Director of the Agency for Prevention of Corruption  
Jelisaveta Radisavljević, Independent Advisor in the General Secretariat of the Government

### **Republic Electoral Commission**

Vladimir Dimitrijević, President  
Srđan Smiljanić, Secretary

Branko Marinković, Deputy Secretary  
Dragana Odović, Member  
Marko Janković, Member  
Jelena Milenković, Member  
Marina Đukanović, Deputy Member  
Nada Jelić, Deputy Member  
Džemil Divanefendić, Deputy Member  
Marina Marković, Deputy Member  
Goran Dilparić, Deputy Member  
Srđan Zoraja, Deputy Member  
Aleksandar Đorđević, Advisor  
Vladimir Matić, Member  
Srđana Vidović, Deputy Member  
Zorica Simeunović, Member  
Boris Butulija, Deputy Member

#### **Administrative Court**

Jelena Ivanović, President  
Dragana Vasić, Chief of Staff to the Court President  
Milka Murganić, Spokesperson

#### **Agency for Prevention of Corruption**

Ivana Cvetković, Assistant Director  
Verka Atanasković, Assistant Director  
Dušan Jeličić, Assistant Director

#### **Office of the Ombudsman**

Zoran Pašalić, Ombudsman

#### **Regulatory Authority for Electronic Media**

Milan Todorović, Secretary General  
Rajka Galin Čertić, Executive Director  
Stevica Smederevac, Head of Monitoring and Analysis of Broadcasting Programs department

#### **Media**

Dragan Bujošević, Director, Radio and Television of Serbia  
Zoran Stanojević, Deputy Editor-in-Chief, Radio and Television of Serbia  
Igor Božić, News Director, N1  
Branislav Sovljanski, N1  
Tatjana Aleksić, N1  
Vojislav Stevanović, N1

#### **Commissioner for Protection of Equality**

Mirjana Kecman, Deputy Commissioner  
Tatjana Jokanović, Assistant to Commissioner

#### **Commissioner for Information of Public Importance and Personal Data Protection**

Milan Marinović, Commissioner  
Sanja Unković, Deputy Commissioner  
Gordana Mohorović, Deputy of the Secretary General

### **Political Parties**

Samir Tandir, President, Party of Freedom and Reconciliation  
Radmila Vasić, Member of the Presidency, Dveri  
Dr Andrej Mitić, International Secretary, Dveri  
Vladimir Matić, Member of the Council for Constitution, Justice and Law, Dveri  
Elvira Kovač, Deputy Speaker of the National Assembly, Alliance of Vojvodina Hungarians  
Selma Kučević, MP, Party of Democratic Action of Sandzak  
Mirsad Hodžić, MP, Party of Democratic Action of Sandzak  
Vladimir Orlić, Vice President, MP, Serbian Progressive Party  
Dejan Đurđević, Member of the Presidency, Serbian Progressive Party  
Sandra Božić, Member of the Presidency, MP, Serbian Progressive Party  
Jelena Žarić Kovačević, Member of the Presidency, MP, Serbian Progressive Party  
Miroslav Aleksić, First Vice-President of the Party, People's Party  
Stefan Jovanović, Secretary General, People's Party  
Vladimir Gajić, Chair of the Party's Legal Council, People's Party  
Dobrica Veselinović, Do not Drawn Belgrade Movement  
Robert Kozma, Do not Drawn Belgrade Movement  
Borko Stefanović, Vice-President of the Party, Party of Freedom and Justice  
Ana Stevanović, International Secretary, Party of Freedom and Justice  
Žarko Obradović, Vice President, Socialist Party of Serbia

### **Civil Society**

Ivo Colovic, Program Director, Center for Free Elections and Democracy (CeSID)  
Emilija Orestijević, Project Manager, CeSID  
Tamara Branković, Policy Lab Coordinator, Center for Research, Transparency and Accountability (CRTA)  
Lana Avajummović, Researcher, CRTA  
Nemanja Nenadić, Program Director, Transparency Serbia  
Zlatko Minić, Program Coordinator, Transparency Serbia  
Zoran Gavrilovic, Executive Director, Bureau for Social Research (BIRODI)  
Goran Georgijev, Legal Expert, BIRODI  
Saša Mirković, Deputy President, Association of Electronic Media  
Ivana Stefanović, Member of Executive Board, Association of Online Media  
Norbert Šinković, President, Independent Journalists' Association of Vojvodina  
Tamara Filipović, Secretary General, Independent Journalist Association of Serbia  
Jelena Petković, Investigative Journalist, Association of Journalists of Serbia  
Biljana Stepanov, Director, Centre for Support of Women  
Svetlana Stefanović, Program Co-ordinator, Women's Leadership Academy  
Nađa Duhaček, Co-ordinator, Women's Platform for Development of Serbia

### **International Community**<sup>41</sup>

Representatives of diplomatic missions of Denmark, European Union Delegation, Greece, Lithuania, Netherlands, Norway, Poland, Russian Federation, Turkey, United Kingdom, and United States of America.

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<sup>41</sup> The ODIHR NAM extended an invitation to representations of all OSCE participating States resident in Serbia.