



Republic of Serbia
Federal Republic of Yugoslavia
Repeat Presidential Election
8 December 2002



INTERNATIONAL ELECTION OBSERVATION MISSION

Statement of Preliminary Findings and Conclusions

Belgrade, 9 December 2002 – The International Election Observation Mission (IEOM) for the 8 December 2002 repeat election for the President of the Republic of Serbia / Federal Republic of Yugoslavia is a joint undertaking of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Parliamentary Assembly of the Council of Europe (PACE).

This statement of preliminary findings and conclusions is issued before the official announcement of election results and before all election-related complaints and appeals have been addressed by the administrative and judicial authorities. This statement should be considered in conjunction with the preliminary statements on the earlier two rounds of the presidential elections, published on 30 September and 14 October.

PRELIMINARY CONCLUSIONS

The first round of the repeat presidential election in the Republic of Serbia, Federal Republic of Yugoslavia, held on 8 December 2002, was conducted largely in line with international commitments and standards for democratic elections. Nevertheless, significant challenges remain: with preliminary data indicating around 45% voter turnout on election day, well below the 50% required by law, the first round of the repeat election will be declared void and **the entire electoral process must, once again, be repeated.**

Three candidates took part in the election, but they did not reflect the complete **political spectrum** in Serbia. Important political interests did not field candidates or support others, in effect discouraging their supporters to turn out and vote. One of the candidates, Vojislav Seselj's campaign rhetoric included bellicose images of himself with his paramilitary forces during the wars in the previous decade and with Radovan Karadzic, images of a skull placed as a trophy on the hood of his car, and accompanied with songs advocating greater Serbia.

Among **other elements** in the election process, the following are noteworthy:

- Amendments to the **election legislation** have improved the legal framework since the previously staged presidential election, especially with the removal of the 50% turnout requirement in a second round of voting. However, the election legislation continues to contain a number of significant shortcomings, including rules that prevent eligible voters from taking part in elections.
- The **election administration** structure has also been strengthened, in particular through the incorporation of Municipal Election Commissions as intermediate election administration bodies. Eight complaints were filed so far, including one on the accuracy of total number of voters.

- In order to improve further the accuracy and quality of the **voter register**, enhance its transparency and increase confidence in the process, substantial, coordinated and urgent efforts are required.
- As required by law, the State-owned RTS **media** provided free time to all registered presidential candidates and provided a range of predominantly balanced and neutral coverage of all the contestants. In general, the media were unbiased. However, the level of coverage of candidates and the campaign was much lower than in the previously staged election.

The 48-hour **campaign moratorium** before election day was breached with the publication and broadcasting of advertisements urging citizens to vote.

As on previous occasions, international observers rated the polling and vote count activities positively in an overwhelming majority of polling stations visited. These activities were also monitored by a large number of domestic non-partisan observers from the Center for Free Elections and Democracy (CeSID).

The third attempt of the 2002 **presidential election in Serbia failed** at a considerable cost to public confidence. The international credibility of Serbia undoubtedly suffered as well. In accordance with the presidential election law, the new election must be announced within 60 days of the failed election, and must take place from 30 to 90 days after the announcement.

While the underlying **factor for this failure** was the absence of some political interests from the election, the 50% turnout requirement was a deciding factor, in particular when combined with the uncertainties in the voter registers and the strict provision of the law requiring citizens to vote only in the precinct polling station where they are permanently registered. As such and before another repeat election is scheduled, these four factors must be addressed and remedied. Particular emphasis must be placed on the political impasse in the Republic and, given Serbia's repeated inability to muster the required turnout in these elections, consideration could be given to removing the 50% turnout requirement from the first round.

The OSCE/ODIHR and the PACE are prepared to assist the authorities and civil society of Serbia to overcome the remaining legislative challenges and to support the strengthening of public confidence in the democratic institutions of the Republic.

PRELIMINARY FINDINGS

Background

On 13 October, the turnout of voters in the second round of the election for the President of the Republic of Serbia did not meet the required threshold of 50%, causing the election to fail. By law, an entirely new election was required.

On 14 October, the OSCE/ODIHR EOM published a Statement of Preliminary Findings and Conclusions on the second round of voting. The statement identified a number of key aspects where the legal framework for presidential elections increased the likelihood of void elections. The OSCE/ODIHR EOM recommended that amendments to the relevant laws be made urgently and in advance of the repeat elections.

On 5 November, the Serbian Parliament adopted amendments to the Law on the Election of the President of the Republic (“the presidential election law”). Mostly, the amended law followed the recommendations made by the OSCE/ODIHR EOM in October.

On 6 November, using the reduced notice period provided by the amended presidential election law, the Speaker of the Parliament called for repeat presidential elections to take place on 8 December.

The Campaign

Three candidates contested these elections: Yugoslav President and Democratic Party of Serbia (DSS) Chairman, Vojislav Kostunica; Party of Serbian Unity (SSJ) Chairman, Borislav Pelevic MP; and Serbian Radical Party (SRS) Chairman, Vojislav Seselj MP. The three candidates had already been contestants in the first round of the previously staged elections. The candidates did not fully reflect the political spectrum of Serbia and offered voters a limited choice.

In contrast to the previously staged election, no submission of candidate was rejected or appealed. The OSCE/ODIHR EOM notes that candidates had a limited period of 10 days from the day the election was called to the deadline for submission in which to prepare their candidacy.

Despite all indications of significant public apathy towards the repeat election, each candidate pursued a low profile campaign, with relatively few public meetings, advertising or media appearances. However, Vojislav Seselj’s campaign rhetoric went far beyond acceptable limits. In a 45-minute paid TV advertisement, the Seselj campaign displayed bellicose images of the candidate with his paramilitary forces during the wars in the previous decade, with Radovan Karadjic, images of a skull placed as a trophy on the hood of his car, and accompanied with songs advocating greater Serbia.

The primary focus of the campaign period was on whether the member parties of the governing coalition “Democratic Opposition of Serbia” (DOS) would provide formal support to the candidacy of Dr Kostunica. The Democratic Party of Serbia (DSS), which he chairs, remains a coalition member despite political disagreements. Eight of the 17 DOS members offered their support to the DSS campaign, while two parties advocated an election boycott. The other DOS parties provided no public opinion on which of the candidates their members should support.

All sides failed to motivate public interest in this election campaign. In advance of the holding of further repeat elections, the OSCE/ODIHR and PACE urge all political parties and civil society to hold constructive dialogue in order to identify methods to strengthen public confidence in the democratic institutions of Serbia and so ensure greater levels of public participation in future elections.

Legislative Framework

The amendments to the presidential election law have generally improved the legal framework for presidential elections in Serbia, although shortcomings remain.

The requirement for a 50% turnout of voters in a second round of a presidential election was unique to Serbia. Its removal from the presidential election law was a welcome step in the long overdue process of revising electoral legislation in Serbia.

Other amendments to the law were also constructive, in particular: the introduction of an intermediate municipal level of election administration; a clearer definition on the method by which voter turnout is determined (through the counting of ballots found in the ballot box); a requirement for repeat elections to be called within 60 days; improved transparency in election result tabulation; and enabling additions to be made to the voter register between a first and second round of voting. An amendment to reduce the minimum notice period between calling and holding the election to 30 days was also adopted in order to ensure that the repeat election was held within a timeframe required by the Constitution.

There was no amendment to the law to change the provision where, in determining whether a candidate won half of the votes cast, all votes are counted in the first round, including invalid votes.

Moreover, no changes were made to the Law on the Election of Representatives (“the parliamentary election law”), which regulates many aspects of the polling procedures for the presidential election. The OSCE/ODIHR has made repeated recommendations for this law to be amended in order to remove provisions that fail to meet international standards relating to elections. In particular, the unconditional legal restriction on voters only being able to vote at the polling station at which they are permanently registered should be amended as it effectively disenfranchises homebound voters and does not provide for any alternative solutions for citizens temporarily absent from their permanent residence from voting.

The OSCE/ODIHR and PACE reiterate their previous recommendations for a comprehensive revision of the election legislation in Serbia to take place as soon as possible.

In addition, further thought could be given to the deciding factor for the failure of this election. After the first two rounds in September-October, the OSCE/ODIHR EOM was silent on the 50% turnout requirement in the first round. Such a requirement was not unique to Serbia – 10 OSCE participating States in South-east, Central and Eastern Europe, and Central Asia include a 50% turnout requirement for the first round of their presidential elections. Nonetheless, the OSCE/ODIHR EOM cautioned in September that the 50% turnout requirements, both in the first and second round of an election, could lead to repeated attempts to elect the President without success. Thus, given Serbia’s repeated inability to muster the required turnout and the cost of this failure to public confidence and funds, urgent consideration could be given to abolishing the 50% turnout requirement from the first round as well.

Election Administration

The presidential election law was amended to create a formal role for the existing Municipal Election Commissions (MECs) of 161 municipalities in Serbia to act as the intermediate level of election administration between the Republican Election Commission (REC) and the 8,630 polling boards. This step has further improved the transparency, accountability and

efficiency of the electoral administrative structures. In Kosovo, the REC has again appointed *ad hoc* working groups in the 19 municipalities with registered Serb voters.

Each presidential candidate was represented by at least two members of the REC, one as a permanent member representing the parliamentary party that supported the candidate, the other as an extended member, representing the candidate directly. However, at the MEC and polling board levels, the candidates were only guaranteed representation through extended membership.

The administration of the repeat election was undertaken in a generally smooth and professional manner, despite the compressed timeframe. The publication of interim results by the REC further enhanced the transparency of the process. However, voting on some contentious issues at the REC tended to follow party lines.

Election Disputes

During the pre-election period, the REC received eight complaints – four from SRS, three from DSS, and one from DS – relating to the permanent membership of polling boards and MECs in six municipalities, and one on the total number of voters, all of which were rejected. The REC also approved proposals from the DSS to grant access to the electronic compilation of the voter register to the REC members and candidate representatives. Another DSS complaint was withdrawn before the REC considered it. No separate complaints from any candidate were submitted to the OSCE/ODIHR EOM.

Voter Register

Despite some visible attempts by the relevant authorities to improve the quality and accuracy of voter registers since the previously staged elections, the registers require further uniform and coordinated effort in order to enjoy the confidence of election contestants and voters. The compilation of voter registers requires better coordinated information sharing and clearly defined management responsibilities. A CD-ROM disk containing a compilation of municipal voter registers was made available to all REC members and candidate representatives only on 2 December.

Following the second round of the previous elections in October, the DSS submitted a complaint to the REC on issues related to the voter register. The complaint, which compared the number of voters to recent census data and raised concerns about the inclusion of deceased persons, duplicate names and voters resident abroad in the voter register, was rejected by the REC on 17 October and again on appeal by the Supreme Court on 20 October. The OSCE/ODIHR EOM notes that it is fully in accordance both with Serbian law and with international standards relating to elections that citizens temporarily resident abroad remain included in a voter register. Furthermore, any comparison between civil registration and census data should be treated with caution due to the different nature of these exercises. On 5 December, the DSS submitted a new complaint on the voter register, alleging that over 450,000 entries should not have been on the voter registers.

The OSCE/ODIHR EOM did not have an opportunity to assess these allegations. Nonetheless, the OSCE/ODIHR EOM urges the Republic of Serbia authorities, in particular

the Ministry of Interior, the Ministry of State Administration and Local Self-Government and all municipalities, to coordinate efforts and resources to improve further the voter register.

Media

There were no amendments to the legislation regulating the media during elections. It remains brief, lacks sufficient provisions to ensure equal access by candidates and is limited to the public media only. The mandate of the media Supervisory Body in elections must be clarified in law.

An agreement on the representation of candidates on the State-owned Radio Television Serbia (RTS) was signed on 25 November, two weeks after the legal deadline. Thereafter, the three candidates received equal access to free airtime and advertisements. However, the agreement does not regulate other media outlets.

Private electronic media generally gave a low level of coverage to the campaign and the candidates, often leading on other news items such as the activities of the Serbian Government and parliamentary sessions. When reported, the tone of the coverage was predominantly neutral, although Dr. Kostunica received proportionally more coverage because of his role as Federal President.

The print media offered a wider range of views and served as a more comprehensive source of information. Generally, the level of coverage was balanced, although Dr. Kostunica was portrayed in a more positive tone than the other candidates.

The 48-hour campaign moratorium before election day was breached by *Blic*, *Politika*, *Vecernje Novosti*, *Glas Javnosti*, *RTS*, *BK* and *B92* through the publication of advertisements urging citizens to vote. One of these ads running since mid-November and sponsored jointly by the OSCE and the Council of Europe missions in Belgrade was published on the first day of the campaign moratorium, while the contract terms required an end to the campaign by 6 December.

Election Day

As on previous occasions, international observers rated the polling and vote count activities positively in an overwhelming majority of polling stations visited. The small number of irregularities noted in less than 5% of polling stations visited closely paralleled those from the two rounds of the previous elections. Again, the main problems observers noted were group voting (noted in 12% of visits) and difficult access to polling stations (13%).

These activities were also monitored by a large number of domestic non-partisan observers from the Center for Free Elections and Democracy (CeSID).

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

MISSION INFORMATION & ACKNOWLEDGMENTS

Mr. Nikolai Vulchanov (Bulgaria) heads the OSCE/ODIHR Election Observation Mission. Mr. Thomas Michael Cox (MP, United Kingdom) represents the Parliamentary Assembly of the Council of Europe (PACE).

This statement is based on the observations of 22 election experts of the OSCE/ODIHR EOM, based in Belgrade and three regional centers throughout the Republic as well as Kosovo who have been deployed since 17 November. The statement also incorporates the election day findings of some 121 short-term observers from 31 participating States reporting from 621 polling stations out of 8,630.

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