

INTERIM REPORT 1

3–15 April 2008

Executive Summary

- On 13 March 2008 the President of the Republic of Serbia dissolved the Parliament and called early parliamentary elections to take place on 11 May 2008, simultaneously with local and provincial elections.
- The 250 seats in Parliament will be contested in one nationwide constituency, with mandates allocated proportionally among candidate lists which pass a five per cent threshold of the votes cast. This threshold is not applied to national minority parties.
- While the legal framework generally provides a basis for the conduct of democratic elections, a number of outstanding issues remain to be addressed. These include long standing recommendations from past OSCE/ODIHR election observations, and provisions on the creation of a national voter register that are yet to be implemented.
- The upcoming elections are administered by a three-tier election administration comprising the Republic Electoral Commission (REC), an intermediate level comprising one Provincial Election Commission, two City Electoral Commissions and 161 Municipal Electoral Commissions (MECs), and some 8,246 Polling Boards (PBs) at the lower level. Voter lists are open for public scrutiny from 14 March until 25 April.
- The REC issued an instruction to regulate the simultaneous conduct of parliamentary and local elections establishing, *inter alia*, the composition of the lower level election commissions to administer both elections. While the rationale of this decision reflects the objective to optimize State resources, and enjoys support across party lines, it is not entirely consistent with existing legal provisions.
- The Serb authorities have decided to conduct parliamentary and local elections in the Serb-populated areas in Kosovo. While UNMIK has indicated no objection to holding parliamentary elections in Kosovo, it views the holding of local elections on this date as a violation of UN Security Council Resolution 1244.
- To date nine candidate lists were registered by the REC. On 8 April, while ruling on an appeal by 81 opposition members of the outgoing Parliament, the Constitutional Court suspended a provision of an REC instruction according to which national minority parties needed only 3,000 signatures instead of 10,000 to register their candidate lists.
- Political parties began campaigning some two weeks ago. There is a diversity of media operating in a free and loosely regulated environment. While the public TV broadcaster, RTS, is providing coverage of all contestants, private broadcasters focus their coverage on parties represented in the outgoing Parliament.

Introduction

On 13 March 2008, the President of Serbia called early parliamentary elections for 11 May 2008 to coincide with the provincial and local elections already scheduled for the same date. Following an invitation from the Speaker of the National Assembly of Serbia, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established a Limited Election Observation Mission (LEOM) on 3 April.

The OSCE/ODIHR LEOM, led by Mr. Nikolai Vulchanov, consists of a 10-member core team of analysts based in Belgrade, as well as 24 long-term observers (LTOs) who were deployed on 14 April to 12 locations throughout the country. Core team experts and LTOs are drawn from 20 OSCE participating States. In view of past findings on election day proceedings in Serbia, which have increasingly demonstrated efficient conduct of the polls at polling station level¹, the OSCE/ODIHR determined not to deploy short-term observers, and will therefore not be undertaking a systematic or comprehensive observation of election day proceedings.

The OSCE/ODIHR LEOM is not observing the local and provincial elections, however it may comment on these elections in so far as they may impact on the conduct of the parliamentary elections.

The Political Context

Between January and March 2008 Prime Minister Vojislav Koštunica's government faced a major crisis between the coalition partners of the Democratic Party (DS) and G-17 Plus on the one side, and Mr. Koštunica's Democratic Party of Serbia (DSS) on the other, over the content of their coalition agreement dating May 2007, in particular concerning the cooperation with the European Union. The dispute led to the collapse of the coalition government and the dissolution of Parliament.

Nine parties and coalitions have already registered their candidate lists for running in these elections.² Notably, in a number of municipalities, parties jointly participating in coalitions for the parliamentary elections contest the elections for local councils separately.

¹ See observation reports at www.osce.org/odih

² They include the coalition "For a European Serbia – Boris Tadić" between the Democratic Party (DS), G-17 Plus, the Social Democratic League of Vojvodina (LSV), the Democratic Party of Sandžak (SDP) and the Serbian Renewal Movement (SPO); the "Serbian Radical Party – Vojislav Šešelj" (SRS); the coalition "Democratic Party of Serbia - New Serbia - Vojislav Koštunica" (DSS-NS); the "Liberal Democratic Party – Čedomir Jovanović", between the Liberal Democratic Party (LDP), the Social Democratic Union (SDU) and the Christian Democratic Party of Serbia (DHSS); the coalition "Socialist Party of Serbia- Party of United Pensioners of Serbia – United Serbia" (SPS-PUPS-US); the coalition "Hungarian Coalition – Istvan Pasztor" between the Alliance of Vojvodina Hungarians (SVM), the Democratic Union of Vojvodina Hungarians (DZVM) and the Democratic Party of Vojvodina Hungarians (DSVM); and the "Bosniak List for a European Sandžak – Dr Sulejman Ugljanin" (A proximity of the name "For a European Sandžak" with the DS-led coalition "For a European Serbia" has the potential to mislead voters). Out of the nine lists, only six have presented candidates for all the 250 seats of the National Assembly.

Legal Framework and Electoral System

Parliamentary elections are regulated by the 2006 Constitution and the Law on the Election of Representatives (LER), as amended last in 2004. In addition, specific aspects of the process are subject to regulations and decisions of the REC, as well as other legislation.

The legal framework generally provides a solid basis for the conduct of democratic elections. However, a number of aspects of the process are under-regulated and require REC regulations. In addition, there remain a number of outstanding issues³ as highlighted in previous OSCE/ODIHR reports as well as in the Joint OSCE/ODIHR - Venice Commission Assessment of the electoral legislation.⁴

The National Assembly of Serbia consists of 250 members elected for a four-year term in a single nationwide multi-member constituency. Seats will be distributed proportionally among the lists which have received more than five per cent of all votes cast. The five per cent threshold is not applied to minority parties. Parties, coalitions of parties and groups of citizens may register candidate lists; the law does not allow individual nominations.

Election Administration

The upcoming elections are administered by a three-tier election administration composed of the Republic Electoral Commission (REC), one Provincial Electoral Commission (Vojvodina), two City Electoral Commissions (Belgrade and Niš), 161 Municipal Electoral Commissions (MECs) and some 8,246 Polling Boards (PBs). In addition, some 30 members or deputies to members of the REC are operating as Regional Coordinators.

The REC adopted an instruction setting up five municipal electoral commissions and a number of working groups with a view to conduct elections in 23 municipalities in Kosovo. On 9 April, the United Nations Interim Administration Mission in Kosovo (UNMIK) indicated that it did not object to the parliamentary elections being held in Kosovo. Conversely, it has stated that the conduct of the local elections by the Serb authorities in Kosovo on 11 May would “present a violation of UNSC Resolution 1244 and UNMIK’s mandate”.⁵

The permanent composition of the REC comprises a President and 16 members and their deputies, all appointed by the National Assembly. The National Assembly also appoints a non-voting Secretary and a non-voting member representing the Republic Statistical Office. The expanded composition includes one representative of each submitter of a registered electoral list.

³ In particular, with regards to the failure thus far to address: the establishment of an interim level of electoral commissions for national elections, the right of political parties and coalitions to determine the allocation of the mandate from their lists disregarding the order of appearance of candidates on the list, criteria for filing candidature as a minority party or coalition, lack of clarity for monitoring campaign finances, lack of provisions regarding the participation of domestic or international observers, and inadequate provisions for the settlement of election disputes.

⁴ *Joint Recommendations on the Laws on Parliamentary, Presidential and Local Elections, and Election Administration in the Republic of Serbia*, Opinion no. 347/2005, 23 March 2006, CDL-AD(2006)013. Available at www.venice.coe.int

⁵ Beta News Agency, 10 April, 2008

Following the call for parliamentary elections, the REC has adopted a set of regulations for the enforcement of the parliamentary elections, the conduct of the local elections in “Kosovo and Metohija” and for the coordinated conduct of all the elections simultaneously. These regulations have been designed *inter alia* to optimize electoral expenditures. They establish a common election administration structure and procedures for all elections, which is not fully in line with the existing laws regulating the different types of elections.

Local electoral commissions, specifically foreseen in the Law on Local Elections will play a role in the Parliamentary election, while the LER only mentions the REC and the polling boards as bodies in charge of the conduct of parliamentary elections. In previous electoral processes, for parliamentary elections, the REC would set up ad hoc working groups at municipal level to carry out election logistics. While the procedures adopted by the REC for the forthcoming elections have a rationale within the context of the conduct of simultaneous elections, the situation when the existing legal framework is being modified by the institution in charge of the administration of the elections is not satisfactory.

The LER still lacks provisions on accreditation of domestic and international observers. While addressed by the Instructions of the REC, the new relevant provision grants the REC discretion to deny accreditation to international observers irrespective of an invitation by the authorities and a positive opinion from the Government.

Since the call for elections, the REC has been holding regular sessions under new rules of procedure. Representatives of the candidates’ lists are gradually being integrated into the REC’s extended composition, as their list is being proclaimed by decision of the REC. By these decisions, submitters of the electoral lists are also entitled to nominate candidates to the polling boards, which must be established by midnight on 5 May 2008.

Voter Registration

By law⁶, a uniform, connected, electronic national voter register should be established. Such a central voter register has not yet been established. Instead, there is a diversity of municipal computerized voter registers compiled in a variety of electronic formats.

The Ministry for State Administration and Local Self-Governance supervises the maintenance of the registers which should be updated annually. The municipal authorities, jointly with the Ministry of Interior, are in charge of introducing changes in the voter register, such as people turning 18 years of age or changing permanent residence. Voters have been called to check their data in voter registers between 14 March 2008 and 25 April 2008. Voters abroad could have applied for registration to the Embassies and Consulates until 20 April 2008.

To date the LEOM has received no complaints about the voter register.

Campaign Environment

While on 11 May parliamentary elections are being held on the same day as the regularly scheduled elections for municipal, city and provincial councils, some domestic analysts expressed the view that, except for a limited number of areas where strong regional parties

⁶ Article 12.1 of the LER

or powerful local politicians campaign, political issues at national level will dominate and influence strongly these local elections.

The major political parties began campaigning some two weeks ago. The dominant issues in the campaign so far are Kosovo, Serbia's position towards the European Union and the work of the outgoing government. The questions of Kosovo and EU integration are particularly used to mark differences among competitors. The work of the government has become a contentious and controversial issue between the former partners and current competitors of the Democratic Party (DS) of President Tadić and his partners from G-17 Plus on the one side, and Prime Minister Koštunica's coalition of his Democratic Party of Serbia (DSS) and New Serbia (NS) on the other. These controversies triggered personal accusations focusing on members of the Government. The strongest opposition party to date, the SRS, has mainly stayed on the sidelines on this issue. Meanwhile, SRS-Vice president Tomislav Nikolić began the campaign with a rally in Gračanica/Kosovo by indicating possible closer cooperation with China, Russia, Asia and countries of Latin America, and less cooperation with countries that have recognised the independence of Kosovo.⁷

Much attention is devoted by parties and the public to the question of possible post-election coalitions. Domestic analysts expressed the view that, after the elections, a governmental coalition would need to include at least three parties.

As for the national minority parties, the Hungarian parties reached a joint platform based on the desire for improvement of the status of Hungarians in Serbia and formed a pre-election coalition. The two Bosnian parties from the Raška (Sandžak) region continue their competition which, as in the past, has led to a few clashes between their activists. In a positive development, all the parties running in the region, including these two parties, have signed on 15 April a code of conduct in which they commit to fair behaviour during the campaign and the elections.⁸ It is not yet known whether the parties rooted in the Albanian minority from the Preševo Valley will decide to participate and, if they do, whether they will be able to collect the required 10,000 signatures to be registered.

The ruling of the Constitutional Court to suspend the regulation requiring parties of the minorities to present only 3,000 signatures for registration would appear to make registration difficult for at least one of the two Roma parties, the Union of Roma in Serbia (URS), which has expressed their concern to the OSCE/ODIHR LEOM. The Hungarian parties have offered to support every other minority party in the collection of signatures.

Media

The media landscape is characterized by a diversity of media outlets operating in a free and loosely regulated environment. Television is the most important medium in terms of both market and audience share, and the major source of information. Press circulation remains among the lowest in Europe.

The legal framework for the media coverage of the campaign includes relevant provisions of the LER and the Broadcasting Act. The Broadcasting Act established an independent

⁷ Tanjug, 5 April, 2008

⁸ An initiative of the OSCE Mission to Serbia, the Council of Europe and the National Democratic Institute.

regulatory authority, the Republican Broadcasting Agency (RBA) as the broadcasting regulator with wide competencies covering several areas.

On 4 April, the RBA Council issued General Binding Instructions to Radio and Television Stations on Conduct in Local, Provincial and Republican Parliamentary Elections 2008. According to these instructions, all pre-election programmes, reports, advertisement blocs, and polls on television must be clearly marked as “election programme”, and paid air time must continuously have the indication “paid time”. Public broadcasters are obliged to provide all the electoral contestants with an equal amount of free air time, but can broadcast “propaganda advertisements” in a non-discriminatory manner. The schedule of free air time is to be established by the public broadcaster Radio Television of Serbia (RTS).

Articles 99 and 100 of the LER provide for the establishment of a Supervisory Board appointed by the National Assembly for general supervision over the acts of political parties, candidates and mass media during the electoral campaign. As was the case in the last elections, the Supervisory Board has not been established for these elections, and the RBA is the only body of authority regarding media and media complaints during these elections. Notwithstanding the possible reasons why the Supervisory Board was not established, it must be noted that its supervisory powers would go far beyond the RBA’s competency, which is limited to the electronic media.

The OSCE/ODIHR LEOM began qualitative and quantitative analysis of selected media outlets on 3 April 2008, to assess the coverage of the campaign and relevant political subjects. The monitoring activities focus on the prime time (from 18.00 to 24.00) of State owned TV RTS and RTS2 channels, and two privately owned stations TV B92 and TV PINK. Five private daily newspapers *Večernje Novosti*, *Blic*, *Kurir*, *Politika* and *Press* are also monitored.

Preliminary TV monitoring results indicate that the campaign is being covered in a wide range of formats including debate programmes and panel discussions with experts. Paid political spots in the monitored TV channels were placed only by DSS, DS and LDP to date, and only SRS, DSS and DS have been placing paid advertising in the print media. Public Service RTS provided coverage of all political contestants, while private broadcasters dedicated their coverage mainly to political parties represented in the last Parliament. Overall, the tone of the coverage in the monitored media outlets tended to be neutral with the exception of the tabloid newspaper *Kurir*, which devoted a large amount of space to DS in a negative tone.

The Belgrade Media Documentation Institute “EBART Consulting” started media monitoring on 15 March 2008.⁹ Its monitoring activities will focus on 30 newspapers (daily, weekly and local print media outlets), seven TV channels with national frequencies and TV Studio B, a local station established by Belgrade City Assembly.

Complaints and Appeals

Every voter, candidate and submitter of electoral list has the right to file an appeal with the REC because of infringements of electoral rights during the elections, or because of irregularities in the procedure of candidacy or voting. A complaint against a decision, act or mistake by a Polling Board shall be filed with the REC within 24 hours of the decision

⁹ This monitoring is commissioned by five political parties: DS, DSS, SRS, SPS and LDP.

or the event deemed irregular, and the REC shall rule on the complaint within 48 hours. If the REC does not rule on the complaint within 48 hours, the complaint shall be considered upheld. Appeals against a ruling of the REC are adjudicated by the Supreme Court. They must be lodged through the REC within 48 hours. The REC is bound to hand over the appeal and all documents to the Supreme Court within 24 hours after receipt.

The Supreme Court reviews election-related complaints *in-camera*, where the complainant is not present. This aspect of the process has been repeatedly criticized by the OSCE/ODIHR in previous reports, as well as in the 2006 *Joint OSCE/ODIHR - Venice Commission Recommendations*, for failing to provide “guarantees of a fair, public and transparent hearing”. A ruling shall be made not later than 48 hours after the receipt of the appeal. The ruling on the appeal immediately goes into effect, and neither the requirements for extraordinary revision of the court ruling, nor requests for repeated proceedings (as foreseen by the law on administrative procedure), can be filed against it.

As of 14 April, the REC had received ten election related complaints. These included, *inter alia*, an SRS complaint against the REC instruction according to which national minority parties needed only 3,000 signatures instead of 10,000 to register their candidate lists, as well a DS complaint on provision of the same instruction granting the REC discretion in the accreditation of foreign observers. Three complaints were lodged separately by three members of the LDP concerning the adoption of the ‘Instruction on the Conduct of Local Elections in Kosovo & Metohija’. There were also two complaints lodged by the Party for Democratic Action alleging they had inadequate representation in view of the composition of polling boards in several municipalities of South Serbia, and one complaint by G17 Plus requesting explanation on the extended composition of polling boards.

Most of the complaints were dismissed as unfounded or rejected for late submission. LDP appealed the REC rulings on their complaints to the Supreme Court which referred them to the District Court in Belgrade; the cases are pending. The case concerning minority parties’ requirements for registering candidates list was brought before the Constitutional Court (See above, Campaign Environment).

OSCE/ODIHR LEOM Activities

The OSCE participating States seconded 24 Long-Term Observers who were deployed on 12 April. The accreditation for all OSCE/ODIHR LEOM members was issued by the REC in a timely manner. The OSCE/ODIHR LEOM has established contacts with the REC, the resident diplomatic community, the political parties and the civil society. A first briefing for representatives of the diplomatic community took place on 18 April 2008. The Head of the OSCE/ODIHR LEOM has met with representatives of the OSCE Parliamentary Assembly and the Parliamentary Assembly of the Council of Europe in the context of early pre-election visits.