

## **INTERIM REPORT**

**4 April – 24 April 2012**

**27 April 2012**

### **I. EXECUTIVE SUMMARY**

- On 6 May 2012, voters will vote for the Serbian president, 250 members of the National Assembly and members of provincial and local government assemblies. For the first time, three elections will be held concurrently nationwide.
- The legal framework comprises a number of laws for the different types of election; in certain cases, requirements are somewhat at odds and need to be reconciled.
- Twelve candidates and 18 electoral lists were registered in an inclusive process for the presidential and parliamentary elections, respectively. They were nominated by a combination of political parties, coalitions and groups of citizens. Some 33 per cent of the registered candidates are women.
- The parliamentary and early presidential elections will be administered by two levels of election administration, composed of the Republican Electoral Commission (REC) and over 8,000 Polling Boards. The REC is active in making preparations for the elections, meeting legal deadlines, and has adopted decisions in a collegial manner.
- For the first time, a single unified voter register will be used in the forthcoming elections. Some interlocutors have raised concerns about the accuracy of the voter lists and possible exclusion of some voters, particularly Roma. Voter lists are not displayed for public scrutiny, but voters have been able to examine their entries, upon request.
- The campaign is competitive but generally calm. It has intensified after the early presidential election was called and is now visible throughout the country. Some interlocutors raised concerns about potential vote-buying and possible misuse of public resources.
- While Serbia has a pluralistic media environment, it is affected by a lack of transparency in media ownership and a difficult financial situation, which makes the media more vulnerable to political and economic interests. To date, television channels have provided balanced coverage of the campaign, but analytical and critical reporting is generally lacking.
- Members of minorities participate in the elections within their own parties or with parties seen as representing their interests. The Roma community is considered by certain interlocutors to be particularly vulnerable with regard to possible malpractices.
- For the first time since the adoption of the new Law on Financing of Political Parties, which regulates political finance, the Anti-Corruption Agency is monitoring campaign finances. All presidential candidates but one chose to utilize public funds in their campaign.

### **II. INTRODUCTION**

On 13 March 2012, President Boris Tadić called parliamentary elections for 6 May, simultaneously with local and provincial elections. Following an invitation from the Ministry of Foreign Affairs and

based on the recommendation of a Needs Assessment Mission conducted from 8 to 10 February, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established a Limited Election Observation Mission (LEOM) on 4 April.<sup>1</sup> The LEOM, led by Corien Jonker, consists of a 10-member core team based in Belgrade and 12 long-term observers (LTOs) who were deployed on 10 April to 6 locations throughout the country. Members of the LEOM were drawn from 17 OSCE participating States. The LEOM will also observe the early presidential election that was announced on 5 April. It will comment upon the municipal-level elections only to the extent that they impact the other electoral races. In line with OSCE/ODIHR standard methodology for election observation, the mission will not carry out a comprehensive or systematic observation of election-day proceedings, but intends to visit a limited number of polling stations.

### **III. BACKGROUND**

Apart from the parliamentary, local and provincial elections, voters will also elect the new Serbian president. On 5 April, President Tadić resigned from his post, announcing that he would shorten his term and declaring his intention to run as a candidate in the early presidential election. The President cited a need for a new mandate from citizens in the wake of Serbia gaining EU candidate status as well as a motivation to save resources by holding all elections simultaneously. On the same day, the parliament speaker called an early presidential election for 6 May. This is the first time since the emergence of multi-party elections in 1990 that three different concurrent elections will be held.

The last parliamentary elections were held on 11 May 2008. The OSCE/ODIHR LEOM concluded in the final report that they were “overall conducted in line with OSCE commitments and other international standards for democratic elections although they were overshadowed, in part, by a few negative aspects of the campaign.”

In the last presidential election in 2008, President Tadić was re-elected in the second round with 50.31 per cent of the vote, against 47.97 per cent for Tomislav Nikolić, then Deputy Chairperson of the Serbian Radical Party (SRS).<sup>2</sup> The OSCE/ODIHR LEOM concluded in the final report that the election was conducted “mostly in line with OSCE commitments for democratic elections...The process was transparent and offered voters a genuine choice between distinct political perspectives.”

### **IV. THE LEGAL FRAMEWORK AND ELECTORAL SYSTEM**

The presidential and parliamentary elections in Serbia are primarily regulated by the Constitution, the Law on Election of the President (LEP) and the Law on Election of Representatives (LER), respectively. Specific aspects of the elections are dealt with by other laws, such as the Law on Financing of Political Activities (LFPA), the Law on Single Electoral Roll and the Law on Broadcasting.

The LER was most recently amended in 2011. The previous provisions of the LER that gave parties the prerogative to arbitrarily choose candidates from their list to become MPs has been changed; the law now provides for the allocation of mandates according to the order in which candidates appear on

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<sup>1</sup> All previous OSCE/ODIHR reports with regard to Serbia can be found at: <http://www.osce.org/odihr/elections/serbia>.

<sup>2</sup> Although President Tadić was first elected in 2004, a Constitutional Law on Enforcement of the Constitution of the Republic of Serbia specifically provided that his 2008 election be considered his first term following a new Constitution adopted in 2006.

the candidate lists. Another amendment of the LER abolished the practice of blank resignations.<sup>3</sup> These changes are in line with previous OSCE/ODIHR recommendations. The Constitution, however, still provides for such an imperative mandate, which was the basis for the practice. The LER was also changed to require that at least every third candidate on the list should be of “the gender less represented on the list”.

The LER does not require the Republican Electoral Commission (REC) to publish election results for each polling station and remains silent on international and domestic observers. There are also differences between procedures described in the LER and the LEP, such as differing methods of counting the voters who voted or determining the order of contestants on the ballot. In case of simultaneous conduct of parliamentary, presidential and local elections, these differences lead to an additional need of reconciling the process with the differing requirements in these laws.

Voters will elect 250 deputies from party lists under a proportional electoral system. Mandates are distributed using the *d'Hondt* method among parties and coalitions that pass a five per cent threshold. The parties representing national minorities are exempted from this threshold. In the presidential election, a candidate winning more than 50 per cent of votes cast in the first round is elected. If the election is not decided in the first round, a second round is held within 15 days between the two leading candidates; the one who wins most votes is elected.

## V. THE ELECTION ADMINISTRATION

The parliamentary and early presidential elections are administered by two levels of election administration, composed of the REC and over 8,000 Polling Boards (PBs). The REC is a permanent body comprising a chairperson, 16 permanent members and their deputies, appointed for a 4-year term by the National Assembly, and 2 non-voting members – a secretary and a representative of the National Statistical Office (RSO).<sup>4</sup> During elections, each registered electoral contestant has a right to appoint a representative to serve as an extended member of the REC with the same rights and duties as permanent members.

The PBs are composed according to the same principle of a permanent and an extended composition. For these elections, PB permanent composition has been increased for all PBs in those municipalities and towns where local elections will be held, with some members nominated to reflect proportionality of the parliamentary factions and some of the local councils. In addition, a sequential mechanism of nominations to the extended composition is also in place, to ensure appropriate representation of registered lists for all types of elections.

Despite the LER not providing for the municipal and town electoral commissions (MECs)<sup>5</sup> in the conduct of parliamentary and presidential elections, MECs and the electoral commissions of Belgrade

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<sup>3</sup> Previously, the mandate of an elected deputy was terminated if s/he ceased to be a member of the political party or coalition on whose candidate list s/he was elected, or such party/coalition ceased to exist. Article 88 of the LER now provides that a resignation of a deputy must be personally submitted to the Speaker of the National Assembly within three days of having his/her signature on the resignation letter verified by the authority competent for verification of such signatures.

<sup>4</sup> In its current composition, the REC has eight members from the Democratic Party (DS), eight from the SRS, three from each the Serbian Socialist Party (SPS), the Democratic Party of Serbia (DSS), the United Regions of Serbia (URS), and the Serbian Progressive Party (SNS), two from the Liberal Democratic Party, and one from each the Alliance of Vojvodina Hungarians (SVM), the Serbian Renewal Movement, the New Serbia, the League of Vojvodina Social Democrats (LSV) and the Christian Democratic Party of Serbia. The chairperson represents the DS and the secretary, the SPS.

<sup>5</sup> The composition of the MECs reflects the composition of the municipal and city assemblies and it also includes representatives of registered candidate lists and their deputy members.

and Niš (instituted by the Law on Local Elections) also have a role in the organization of the national races. In the municipalities and towns where no local elections will be held, REC-established *ad hoc* Working Bodies which will undertake logistical tasks related to the organization of presidential and parliamentary polls. In addition, some 33 members or deputy members of the REC have been appointed as regional coordinators responsible for particular areas of the country to conduct activities related to the preparation of the elections. The REC established common technical arrangements for the coordinated conduct of all elections, including joint procedures for the formation of PBs, the division of the work and the establishment of election results.<sup>6</sup>

The REC has been managing the process in an efficient and transparent manner, holding frequent sessions that are open to accredited observers and the media. Notwithstanding that the REC does not post the agenda of its sessions on its website, the relevant minutes are published on a regular basis. Decisions have been adopted unanimously in a collegial manner. Those MECs observed by the OSCE/ODIHR LEOM are also operating in a proficient way, demonstrating a good knowledge of procedures and generally communicating well with the REC.

Voter education has been limited thus far and conducted mainly with regard to voter registration by the Ministry of Human and Minority Rights, Public Administration and Local Self-Government, the MECs, and the media.

## VI. VOTER REGISTRATION

After the entry into force of the Law on a Single Electoral Roll in December 2011, the Ministry of Human and Minority Rights, Public Administration and Local Self-Government initiated the compilation of a unified electronic voter register on the basis of the previous multiple voter lists that had been maintained by municipalities. This register, based on a system of permanent registration, is to include all eligible voters and will serve as a single data source from which voter lists for each PB will be extracted.

Based on the data provided by the Ministry, the REC announced on 22 April that 7,026,579 citizens will be eligible to vote in the upcoming elections, representing an increase of 276,891 voters (approximately 4.1 per cent) compared to the 2008 parliamentary elections. The number of registered voters may increase further as requests for registrations that can be submitted to the Ministry until 2 May. The final number of registered voters is to be published by the REC on 4 May. The law does not provide for the registration of voters on election day.

The authorities have made considerable effort in compiling the voter register in view of a short timeframe, correcting the data on some 3.5 million citizens, which constitutes about half of all registered voters. The Ministry undertook efforts to eliminate duplicate registrations by verifying its data with the municipalities.<sup>7</sup> As an additional safety measure, the use of invisible ink during voting was retained in the law. The newly adopted Law on Personal Data Protection does not allow all electoral stakeholders to audit all changes in the register. The REC instructions state, however, that “submitters of electoral lists can review a part or the entire electoral roll.” The OSCE/ODIHR LEOM has not had been permitted to observe the implementation of special software utilized to compile the register thus far.<sup>8</sup>

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<sup>6</sup> In particular, the REC adopted the Instructions on Carrying Out of Elections of the Representatives to the National Assembly and of the Elections of the President of the Republic, as well as the Operating Rules for the Polling Boards for Coordinated Conduct of All Elections called for 6 May 2012.

<sup>7</sup> On 9 March, a number of 154,323 double registrations was recorded which was decreased to 82,942 by 6 April.

<sup>8</sup> The REC has informed the OSCE/ODIHR LEOM that observation of this process is not possible due to legislation on personal data protection.

Voter lists are not required to be displayed for public scrutiny, but voters have been able to examine their registration upon request at the municipalities and through the website of the Ministry or via SMS.<sup>9</sup> A period of verification of the voter register ran from 14 March to 20 April and was characterized by a relatively low level of public interest. Some REC members have voiced concerns over citizens who appear to be unregistered. In addition, the OSCE/ODIHR LEOM received allegations of de-registration of ethnic Albanians residing in the South as well as information that large numbers of Roma are not registered.

The new legal provisions include the possibility for citizens to vote at the place of their temporary residence in Serbia or abroad, by submitting a request to the relevant municipalities or consular offices abroad to be included in the voter register of their temporary residence. IDPs will vote at regular polling stations of their temporary residence.

## VII. REGISTRATION OF CANDIDATES AND CANDIDATE LISTS

The deadlines for candidate nomination for the presidential and parliamentary elections ended on 15 and 20 April, respectively. Twelve candidates and 18 electoral lists were registered in an inclusive process for the presidential and parliamentary elections, respectively.<sup>10</sup> Presidential candidates include two women, as well as a Hungarian minority representative and a Mufti from the Sandžak region.

Each proposed candidate list, including those submitted by political parties representing national minorities, is to be supported by verified signatures of at least 10,000 voters, with each voter able to support only one list.<sup>11</sup> Support signatures were certified by lower-level courts, which made a considerable effort to undertake this task, including satisfying a number of requests to conduct verifications in various places outside the courts' premises. The order of candidate lists on the ballot was determined by their order of registration with the REC, while the order of presidential candidates was determined by a lot drawn on 20 April. Ballots are printed centrally and will also include minority languages for those municipalities where such languages are in official use.

## VIII. CAMPAIGN ENVIRONMENT

While the law stipulates that the official electoral campaign starts once parliamentary elections are called, political parties have already engaged in election-related activities for several months. The campaign has noticeably intensified after the early presidential election was called and is now visible throughout the country. In addition to such traditional means of campaigning as billboards, posters, campaign stalls and door-to-door canvassing, parties and candidates rely on the internet, including social networks. Social and economic conditions, unemployment, alleged corruption, EU accession and Kosovo have been the main issues of the campaign.

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<sup>9</sup> Requests for review of another voter's data were possible only upon knowledge of that voter's unique 13-digit identification number (JMBG) and in case of such requests filed by submitters of registered electoral lists who should have a Power of Attorney issued by the said political party.

<sup>10</sup> Candidate lists presented by 7 coalitions (comprising 41 political parties and 5 associations), 9 political parties and 2 groups of citizens were registered for the parliamentary elections.

<sup>11</sup> For the first time, the Ministry of Human and Minority Rights, Public Administration and Local Self-Government was involved in the verification process, by verifying whether citizens supporting the electoral lists were included in the voter register and submitting this information to the REC that ordered the correction of deficiencies within 48 hours in order to register the lists.

The campaign environment is competitive but generally calm, with only a few isolated incidents of violence reported to the OSCE/ODIHR LEOM. President Tadić and Mr. Tomislav Nikolić, who are the frontrunners in the presidential election, appeared to have the most visible campaigns, both presidential and parliamentary. They and other presidential candidates have toured the country, holding numerous rallies. In general, there has been a noticeable difference in scope and intensity of the campaigns led by President Tadić and Mr. Nikolić in comparison to other candidates. A number of parliamentary candidates are also running in the local elections and place more emphasis on local issues. Political party and non-governmental organization representatives have raised concerns with the OSCE/ODIHR LEOM regarding media bias, concerns over the lack of transparency of campaign finances, and possible misuse of public resources.

## IX. POLITICAL FINANCE

The LFPA, which came into force in June 2011, provides for a tighter control of political funding, both during and outside the electoral campaign. The adoption of the LFPA was considered an improvement by many LEOM interlocutors. The LFPA has increased the amount of public funding that parties can receive. In order to do so, contestants must pay a deposit equal to the amount of the funding. This is returned for parties that gain 1 per cent of the valid votes (or 0.2 per cent in the case of minority parties). All contestants with the exception of Mr. Istvan Pasztor (presidential candidate from the Alliance of Vojvodina Hungarians) are utilizing public funding.

The Anti-Corruption Agency (ACA), which is tasked with control over political finance, has six staff members to deal with these matters. In addition, it has hired and trained 165 monitors to oversee campaign expenditures throughout the country. The ACA will rely on media monitoring results from the Republic Broadcasting Agency (RBA) to evaluate paid media advertising costs.

The ACA has the power to request sanctions for violations of the LFPA. So far, no charges have been brought in relation to the current elections. The State Auditor's Office, who may be requested by the ACA to audit campaign spending reports, has publicly announced that it lacks capacity and will not do so in 2012.

## X. THE MEDIA

Serbia has a pluralistic media environment, including public and private broadcasters and a wide range of print and online media that generally provide voters with diverse information about politics and elections. However, the high number of media outlets operating in a relatively small market makes it difficult for them to be financially viable. As a result, journalists are reportedly exposed to pressure from political parties. In its recent report, the Anti-Corruption Council, a government-appointed advisory body indicated that the main problems included a lack of transparency in media ownership and economic influence of state institutions on the media, among other issues.<sup>12</sup> Several interlocutors have also informed the OSCE/ODIHR LEOM that local media are subject to pressure from political parties and local authorities.

The LER and LEP contain provisions regulating media conduct during campaigns. They provide for paid political advertising, but also oblige all broadcasters to ensure "equal accessibility" to contestants. A key regulatory body, the RBA, supplements these provisions and on 9 March issued detailed instructions stipulating that all public-service broadcasters are to allocate free-of-charge, balanced and non-discriminatory coverage of all electoral contestants. The free-of-charge airtime will

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<sup>12</sup> See the report "Pressures on & Control of Media in Serbia" at <http://www.antikorupcija-savet.gov.rs/Storage/Global/Documents/mediji/IZVESTAJ%20O%20MEDIJIMA%20PRECISCEN%20ENG..pdf>

be distributed equally among all contestants (in both presidential and parliamentary elections) and broadcast on the public TV channel, RTS2. Contestants can also purchase paid political advertising, up to five minutes per day on each channel, on both public and private broadcasters under equal conditions. In addition, RTS1 will organize three debates among representatives of seven parties and lists represented in the outgoing parliament. The first such debate was broadcast on RTS1 on 19 April.

On 6 April, the OSCE/ODIHR LEOM commenced its quantitative and qualitative monitoring of the campaign coverage, including five television channels and five daily newspapers.<sup>13</sup> National and local public and private broadcasters have aired talk shows and discussion programmes among contestants, providing voters with an opportunity to compare candidates. The interim monitoring results show that television channels have provided fair coverage of all contestants in their news coverage of the campaign. However, the campaign coverage and coverage of state authorities is characterized by a substantive lack of critical reporting that would offer the public an analysis of electoral contestants' platforms and views.

By contrast, parties have utilized paid political advertising on television to criticize their opponents. On 16 April, the RBA requested Pink TV to stop broadcasting a paid advertisement by the LSV blaming Slobodan Milošević and Vojislav Koštunica for problems during privatization of an oil company. The RBA decided that the spot violated its instructions not to insult the honour and dignity of citizens and other participants in the campaign. The LSV leader called the decision to ban the spot censorship.

## **XI. COMPLAINTS AND APPEALS**

Legislation provides a 24-hour deadline from an event to filing a complaint with the REC. To date, the REC has received five complaints related to the presidential and parliamentary elections. The complaints pertained to the formation of PBs, were discussed in an open session and decided on 24 April. The REC informed the OSCE/ODIHR LEOM that it does not publish decisions regarding complaints, but provides them to the complainant. The Law on Administrative Disputes does not require holding public hearings for appeals in the Administrative Court, while the practice of in-camera hearings has been previously criticized by the OSCE/ODIHR.

Any complaints decided by the REC can be appealed to the Administrative Court. 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.

A Supervisory Board, which, according to the LER, is responsible for overseeing the campaign and media coverage during an election, has not been appointed. Its role is partially performed by the RBA which monitors coverage of campaign by the broadcast media and deals with media-related complaints. To date, the RBA has received 37 complaints, on which it has initiated and finalized 5 proceedings with 3 additional proceedings pending. The RBA does not publish its decisions on complaints in full, although information on RBA decisions on complaints is available on its website.

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<sup>13</sup> The LEOM monitoring includes political and electoral coverage during the prime-time period (18:00–24:00 hours) on public RTS1 and TV Vojvodina and private television channels Pink TV, B92, and Prva TV, as well as daily newspapers *Blic*, *Danas*, *Politika*, *Press* and *Vecernje Novosti*.

## **XII. PARTICIPATION OF NATIONAL MINORITIES**

According to the 2002 census,<sup>14</sup> some 17 per cent of the population identified themselves as non-Serbs, representing more than 20 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. The 2009 Law on National Councils of National Minorities led to election of 19 councils responsible for promoting culture, education, language, and social interests among minorities.

The Law on Political Parties requires a lower threshold of 1,000 supporters to establish a political party representing a national minority. Four minority parties (Alliance of Vojvodina Hungarians, Party of Montenegrins, Party of Democratic Action of Sandžak – Sulejman Ugljanin and None-of-the-above Party) and two minority coalition lists (Coalition of Albanians from Presevo Valley and Coalition All Together) have been registered for the upcoming parliamentary elections. In addition, several other parties representing Bosniaks, Bulgarians, Slovaks, Bunjevci, Croats, Macedonians, Roma and Vlachs are participating in the elections, in coalition with major parties. One representative of a Hungarian national minority was registered as a presidential candidate.

Electoral stakeholders consider the Roma minority to be particularly vulnerable to possible electoral malpractices. Several interlocutors from political parties and civil society informed the OSCE/ODIHR LEOM that they expect vote-buying to be an issue in Roma communities. There appears to be little interest in the presidential and parliamentary elections and little trust in the system among the Roma population.

## **XIII. DOMESTIC AND INTERNATIONAL OBSERVERS**

The LER continues to lack provisions for domestic and international observers, despite previous OSCE/ODIHR recommendations. The REC has addressed this issue in its instructions, providing for accreditation of domestic and international observers and no problems have been reported. The largest domestic observation effort is carried out by the Centre for Free Elections and Democracy (CeSID), which plans to deploy some 1,000 observers in 800-1,000 polling stations throughout the country and to conduct a parallel vote tabulation. In addition to the OSCE/ODIHR LEOM, the REC has accredited seven other international groups and embassies.

## **XIV. OSCE/ODIHR LEOM ACTIVITIES**

The OSCE/ODIHR LEOM commenced its activities in Belgrade on 4 April. The LEOM has met with the Ministry of Foreign Affairs, the REC, the Statistical Office, the Ombudsperson, the Constitutional Court, various state agencies, leaders and representatives of political parties, civil society, media, the diplomatic community and international organizations. It has established working relations with relevant stakeholders involved in the election process. The LTOs follow the election process at the regional level and meet with MECs, state and local authorities, parties and candidates, civil society and regional media.

The OSCE/ODIHR LEOM intends a joint undertaking with the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE), which will deploy observer delegations for election-day observation. Mr. Matteo Meccaci has been appointed by the OSCE Chairman-in-Office as a Special Co-ordinator to lead the short-term OSCE observer mission for these elections.

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<sup>14</sup> The 2011 census data on ethnic breakdown is expected to be published later in 2012.