REPUBLIC OF SERBIA
PARLIAMENTARY ELECTIONS
2012

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT
8–10 February 2012

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I. INTRODUCTION

Following a preliminary invitation from the Ministry of Foreign Affairs to observe the forthcoming 2012 parliamentary elections and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 8 to 10 February 2012. The NAM included Beata Martin-Rozumilowicz, Head of the OSCE/ODIHR Election Department, Alexander Shlyk, OSCE/ODIHR Election Adviser, and Roberto Montella, Deputy Director for Field Operations with the International Secretariat of the OSCE Parliamentary Assembly.

The purpose of the mission was to assess the pre-election environment and the preparations for the parliamentary elections. Based on this assessment, the NAM was to recommend whether to deploy an OSCE/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, the election administration, and the judiciary, as well as with representatives of political parties, media, civil society and the international community. A list of meetings is annexed to this report.

OSCE/ODIHR would like to thank the Ministry of Foreign Affairs for its assistance and cooperation in organizing the visit. OSCE/ODIHR would also like to thank the OSCE Mission to Serbia for assistance provided during the NAM. OSCE/ODIHR is grateful to all of its interlocutors for taking the time to meet with the mission.

II. EXECUTIVE SUMMARY

For the upcoming elections, 250 National Assembly deputies will be elected under a proportional representation system in a single, nationwide constituency. Most OSCE/ODIHR NAM interlocutors, including political parties, expressed a high level of trust and confidence in the impartiality and professionalism of the election administration at all levels. Since the last 2008 elections, amendments were introduced to key laws, including the Law on the Election of Representatives. While most NAM interlocutors welcomed the amendments, they underscored that it remains to be seen how the new provisions will be applied in practice.

Following the 2009 adoption of the Law on a Single Electoral Roll, the authorities embarked on consolidating voter lists into a single unified voter register, which is to be used for the forthcoming parliamentary elections. While state authorities assured the OSCE/ODIHR NAM that the responsible ministry will be able to accomplish this task in time, some electoral stakeholders expressed concerns regarding the resulting quality.

OSCE/ODIHR NAM interlocutors did not voice any significant concerns with regard to the candidate registration process. Although legislation prescribes that the electoral campaign starts on the day that elections are announced, a number of NAM interlocutors acknowledged that parties have been focusing on election-related activities for several months.
Political finance is regulated by the recently adopted Law on Financing Political Activities. Many OSCE/ODIHR NAM interlocutors welcomed the adoption of the new law, but underscored that its effectiveness can only be evaluated in context of the upcoming elections.

A diverse media landscape allows for a broad range of political views. Some OSCE/ODIHR NAM interlocutors, however, expressed concerns that the media does not provide balanced coverage of political alternatives in the period between the elections and opined that the Republic Broadcasting Agency, which issues licenses and supervises the work of broadcasters, lacks independence and impartiality.

Most OSCE/ODIHR NAM interlocutors expressed trust in the system of electoral dispute resolution. The law foresees relatively short deadlines for the adjudication of such disputes and allows for complaints and appeals to be considered solely on the basis of written evidence.

Most OSCE/ODIHR NAM interlocutors expressed confidence in the impartiality and professionalism of the election administration and their ability to organize elections in a professional and efficient manner. They did not express significant concerns about election day procedures. Nevertheless, most interlocutors stated that they would welcome a potential OSCE/ODIHR observation activity for these elections, recognizing that further improvements could be made to the electoral process and that an assessment and recommendations by OSCE/ODIHR could contribute to this and help to build confidence in the electoral process.

While some previous OSCE/ODIHR recommendations have been implemented, several areas would benefit from continued attention. This particularly relates to the implementation of the recently amended legal framework, including on voter registration, newly introduced provisions on political finance, media coverage of the electoral campaign as well as its overall conduct, and the participation of national minorities in the electoral process.

Given these circumstances and the fact that no significant concerns were expressed regarding the conduct of election day proceedings, the OSCE/ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM) with a core team of experts and 10 long-term observers seconded by OSCE participating States. In line with the OSCE/ODIHR’s standard methodology, the LEOM would include a media monitoring element. While the mission would visit a limited number of polling stations on election day, systematic observation of voting, counting or tabulation of results on election day is not envisaged.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Following the 11 May 2008 early parliamentary elections, 23 political parties gained representation in the parliament, forming 12 parliamentary groups. The Democratic Party, the Socialist Party of Serbia, and the G17+ political party were joined by a number of other parties...
in a ruling coalition.\(^1\) The Serbian Radical Party, Serbian Progressive Party, Democratic Party of Serbia, Liberal Democratic Party, and a number of other parties form the parliamentary opposition.\(^2\)

The Limited Election Observation Mission deployed by OSCE/ODIHR for the early parliamentary elections in 2008 concluded 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.”\(^3\) Among other things, the mission recommended that the method of allocation of mandates be revised, the compilation of a single unified voter register be prioritized, and the legal framework be further enhanced with regard to the regulation of campaign finance, complaints and appeals procedures, and participation of national minorities in the electoral process.

The upcoming parliamentary elections will be held together with local council elections in certain constituencies. The OSCE/ODIHR NAM was informed that the Ministry of Human and Minority Rights, Public Administration and Local Self-Government is still finalizing the list of municipalities that are to hold local council elections.

**B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK**

The National Assembly is a unicameral body composed of 250 deputies elected under a proportional representation system in a single, nationwide constituency. Mandates are allocated among the candidate lists that pass a five per cent threshold using the \textit{d'Hondt} method. There is no legal threshold for parties representing national minorities, only the ‘natural threshold’ necessary to gain representation.

Elections are regulated by the 2006 Constitution, which provides for basic guarantees of fundamental civic and political rights. The conduct of parliamentary elections is primarily regulated by the Law on the Election of Representatives (LER) that has been amended twice since the last elections, in 2009 and 2011. The legal framework for parliamentary elections also includes the Law on Political Parties, the Law on Financing Political Activities and the Broadcasting Law, and is supplemented by the regulations, decisions, and rules of procedure of the Republic Electoral Commission (REC).\(^4\) The REC adopted its Rules of Procedure for the forthcoming elections on 23 January.

In the previous elections, political parties entering parliament were able to allocate mandates to any of the candidates on their lists. For the forthcoming elections, following a 2011 Constitutional Court ruling and in line with previous OSCE/ODIHR recommendations,

\(^1\) Other members of the ruling coalition are the League of Social Democrats of Vojvodina, Party of United Pensioners of Serbia, Social Democratic Party of Serbia, Serbian Renewal Movement, Alliance of Vojvodina Hungarians, United Serbia, Together for \textit{Sumadija}, Democratic League of Croats in Vojvodina, Movement of Veterans of Serbia, Christian Democratic Party of Serbia, Party of Democratic Action of Sandzak, Bosniak Democratic Party of Sandzak, and one independent member of parliament.

\(^2\) Other members of the parliamentary opposition are ‘New Serbia’, Party for Democratic Action, Social Democratic Union, Democratic Left of the Roma, and one independent member of parliament.

\(^3\) For all previous OSCE/ODIHR reports on Serbia, see: \url{http://www.osce.org/odihr/elections/serbia}.

\(^4\) Since 2001, Serbia is also party to the International Covenant on Civil and Political Rights (ICCPR). It is also been party to the UN Convention on Elimination of All Forms of Discrimination against Women (CEDAW) since 2001 and ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) in 2009.
candidates will be awarded mandates according the sequence in which they appear on the candidate lists.5

Amendments introduced to the LER in 2011 also clarified the rules for re-allocating seats that become vacant in the National Assembly.6 Of particular importance is the introduction of a provision that stipulates allocation of vacated seats to the next candidate on the same electoral list. A constitutional provision, however, still allows an elected MP to “irrevocably put his/her mandate at the disposal of the respective political party”.7

According to the law, at least one candidate in every group of three starting from the top of the list should be of ‘the less-represented gender’. The gender quota was generally welcomed by OSCE/ODIHR NAM interlocutors.

C. ELECTION ADMINISTRATION

The forthcoming parliamentary elections will be administered by a two-tiered election administration comprised of the REC and approximately 9,000 regular Polling Boards (PBs). In addition to the regular PBs, REC plans to establish PBs for internally displaced people in localities where they are known to reside; in these PBs voters will be listed according to their place of origin. The Ministry of Foreign Affairs plans to establish PBs for voters abroad.

The REC is a permanent body comprising a chairperson and 16 permanent members. The commission also has two non-voting members – a secretary, appointed by the National Assembly from among its staff, and a representative of the National Statistical Office. In addition, each of the registered candidate lists has the right to appoint a representative to serve as an ‘extended’ member of the REC with the same rights and duties as permanent members.

PBs are composed according to the same principle of combined permanent and extended composition: a chairperson and at least two permanent members of the PB are joined by one representative from each registered candidate list.

The LER does not envisage an intermediary level of the election administration between the REC and the PBs, although this has been a past OSCE/ODIHR recommendation. The OSCE/ODIHR NAM was informed that the REC will make some of its members responsible for particular areas of the country, in order to facilitate communication with the local PBs. According to the REC, timely and effective resolution of electoral disputes is also made possible because REC members are familiar with the local situation and are able to recommend informed decisions for the REC to consider in session.

Despite previous OSCE/ODIHR recommendations, rights of international and domestic observers are not delineated in the LER. The REC informed the OSCE/ODIHR NAM that it plans to adopt a regulation regarding international and domestic observers that will define their rights and criteria for accreditation.

Most OSCE/ODIHR NAM interlocutors, including political parties, expressed a high level of trust and confidence in the impartiality and professionalism of the election administration at all levels. They underscored that few problems are expected on election day, and that representation of electoral contestants at the PB level should ensure adequate oversight of election day proceedings.

**D. VOTER REGISTRATION**

All citizens over the age of 18 with a domicile in the country and possessing legal capacity are entitled to vote and stand in elections. A voter can only be disenfranchised by a final court decision depriving him/her of legal capacity.

Following the adoption of a Law on the Single Electoral Roll in 2009, the Ministry of Human and Minority Rights, Public Administration and Local Self-Government commenced work to consolidate multiple voter lists maintained by municipalities into a single, unified electronic voter register. This register should include all eligible voters and will serve as a single data source from which excerpts for each PB will be made.

The unified voter register will be based on the system of permanent registration, which allocates a unique 13-digit identification number to each citizen. According to the authorities, the unified register should preclude the possibility of double registration. Each voter will be able to submit a written request up to 20 days before the elections to be included at their place of domicile, if this is different from their permanent registration. Voter lists are then finalized 15 days before election day. The OSCE/ODIHR NAM was informed that the use invisible ink will continue as an added protection against potential double voting.

By law, a voter can request correction of his/her data, as well as of ‘another citizen’. It is not, however, required that a voter is notified of a third party request to introduce changes to his/her data. Although the amended legislation does not require that voter lists are displayed for public scrutiny prior to the elections, voters will be able to examine them upon request. Complaints regarding the voter register are adjudicated by the Ministry of Human and Minority Rights, Public Administration and Local Self-Government.

In line with amendments to the Law on a Single Electoral Roll adopted in late 2011, the consolidated voter register will be used for the forthcoming parliamentary elections. A number of OSCE/ODIHR NAM interlocutors acknowledged that the time available for consolidation of the voter register is limited. While public authorities assured the NAM that the responsible ministry will be able to accomplish this task, some electoral interlocutors expressed some concerns regarding the quality of voter registers.

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8 According to the LER, internally displaced people are registered according to the last domicile location, and voters temporarily residing abroad are registered according to the last domicile location before leaving the country or the last domicile of one of their parents.

9 Article 12 paragraph 1 of the Law on Single Electoral Roll.

E. CANDIDATE REGISTRATION AND ELECTION CAMPAIGN

Lists of candidates can be submitted by political parties, coalitions, or groups of citizens. Each proposed candidate list should be supported by signatures of at least 10,000 voters, with each voter able to support only one list. The OSCE/ODIHR NAM was informed that, following a 2008 ruling of a Constitutional Court, parties representing national minorities will not be subject to a lower number of required supporting signatures.\(^{11}\) At the same time, a political party representing a national minority can be established by 1,000 members, as compared to 10,000 members for a regular political party.\(^{12}\) This difference in the number of signatures has been the subject of an appeal that eight minority parties submitted to the Constitutional Court in October 2011.

Voters’ support signatures will be certified by courts, according to the same procedure as during the previous elections, with the expenses paid for by the political parties in the amount determined by the Ministry of Justice. OSCE/ODIHR NAM interlocutors did not voice any significant concerns with regard to the candidate registration process.

Candidate lists will appear on the ballot in the sequence of their registration by the REC. Ballots will be printed centrally and also produced in the languages of national minorities for those municipalities where such languages are in official use.

Although the legislation prescribes that the electoral campaign starts once elections are announced, a number of OSCE/ODIHR NAM interlocutors acknowledged that election-related activities have been the focus of parties’ work for several months. NAM interlocutors stated that they expect the campaign to be vigorous and centered on the issues of economic development, unemployment, EU accession, and the status of Kosovo.

The LER envisages that a Supervisory Board, consisting of prominent public figures, monitors the conduct of the media, political parties, candidates and other electoral stakeholders during the campaign. Its 10 members are appointed by the National Assembly prior to the elections.

F. POLITICAL FINANCE

Political finance is regulated by the 2011 Law on Financing Political Activities. The law regulates the sources of funding and prescribes reporting mechanisms for both regular and campaign-related activities of political parties.\(^{13}\) Many OSCE/ODIHR NAM interlocutors welcomed the adoption of the new law, but underscored that its implementation can only be evaluated in context of the forthcoming elections.

The law foresees state subvention to political parties, distributed among those represented in the National Assembly proportionally to the number of votes they received during the previous election.

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\(^{11}\) Following a complaint submitted during 2008 early parliamentary elections, the Constitutional Court ruled that a requirement for the minority parties to collect only 3,000 signatures to register a candidate list was contrary to the provisions of the LER.

\(^{12}\) Article 9 of the Law on Political Parties.

elections. Additional state funds will be distributed between parties that will take part in the forthcoming elections. Of these funds, 20 per cent will be distributed equally among all electoral contestants, while the remaining 80 per cent will be split after the elections among the parties gaining representation in proportion to the number of seats won.

Private donations are limited to 20 average monthly salaries for individuals and 200 average monthly salaries for legal entities. In addition, membership dues may be solicited. Although donations from private sources include both monetary and in-kind contributions, the law does not prescribe a mechanism to evaluate the value of in-kind contributions. Donations from legal entities containing a share of state capital or linked to state concerns in the two years prior to an election are prohibited by the law.

Legislation forbids anonymous contributions, funds from abroad, or monetary contributions from foreign political associations. It requires that all contributions exceeding RSD 1,000 (approximately EUR 10) are made by a bank transfer. Political parties can receive additional private donations during an election year in the same amount as for their regular political activities. Private funds received for regular party work can be transferred to a separate campaign bank account and can be used for funding election-related activities.

The Anti-Corruption Agency, established in 2010, is tasked by law to oversee political party financial reporting for regular and election-related activities. Political parties are required to publish details of donations if the annual volume of contributions from one donor exceeds the average monthly salary. Details of incomes and expenditures should be submitted to the Anti-Corruption Agency annually, as well as after an election campaign. It plans to hire some 200 monitors to independently assess the volume and estimate the costs of the upcoming electoral campaign throughout the country.

A number of political party interlocutors expressed concerns with regard to drawing a distinction between their regular work and the election-related activities of their parties. Moreover, several political parties reported that the Anti-Corruption Agency had initiated proceedings against them for engaging in election-related activities outside of the official campaign period, although they felt that the actions in question constituted normal party activity.

G. MEDIA

A diverse media landscape allows for a broad range of public and political views. Apart from the public Radio-Televizija Srbije (RTS) that includes five radio stations and five television channels, private broadcasters such as Pink and B-92 also have a large audience. Print media

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14 Approximately EUR 12.5 million in 2012. At the time of writing the official exchange rate was approximately EUR 1: RSD 106.
15 Approximately RSD 890 million (EUR 8.4 million).
16 Approximately RSD 1.2 million (EUR 11,500). The average salary is RSD 61,116 (approximately EUR 575).
17 Approximately RSD 12 million (EUR 115,000).
19 According to Article 22 of the Law on Financing Political Activities, limits to the private donations for election-related activities in an election year do not depend on the number of campaigns in one year.
featuring political content include newspapers such as *Blic*, *Vecernje Novosti*, *Danas*, *Politika* and a number of weekly editions.

TV and radio broadcasting is regulated by the Law on Broadcasting, last amended in 2009. This prohibits any “censorship and/or influence on the work of public media outlets”. The law also establishes a Republic Broadcasting Agency (RBA) and a nine-member RBA Council as its decision-making body. The National Assembly is to appoint all nine members of the RBA Council for a six-year term based on nominations from a broad range of public institutions. The RBA is tasked with monitoring implementation of the law, issuing broadcasting licenses, receiving and considering complaints, and issuing sanctions for violations of the law or of license requirements. A number of OSCE/ODIHR NAM interlocutors opined that the RBA lacks independence and impartiality.

The media is legally obliged to “ensure equal accessibility of information about all submitters of the electoral lists, and about all candidates on those electoral lists.” The broadcasting law also prescribes that all broadcasters should provide “equal representation without discrimination to registered political parties, coalitions and candidates during an election campaign.” Political advertising in the broadcast media is forbidden outside the official campaign period.

Public service broadcasters are obliged to provide equal, free-of-charge coverage of all electoral contestants. In addition to allocating free TV spots, the RTS plans to conduct debates between representatives of political parties and to cover activities of the parties in its news programmes. RTS informed the OSCE/ODIHR NAM that it will prepare internal guidelines aimed at ensuring balanced and objective coverage of electoral contestants during the official campaign period.

Some OSCE/ODIHR NAM interlocutors expressed concerns that the media does not provide adequate coverage of political alternatives in the period between elections and pointed to a lack of information regarding media ownership in the public domain, undermining transparency in this sector.

RBA informed the OSCE/ODIHR NAM that it plans to conduct a 24-hour monitoring of television coverage during the official campaign period. The Anti-Corruption Agency expects to co-operate with the RBA and to use its monitoring results to assess the volume and estimate likely costs of paid political advertising.

**H. COMPLAINTS AND APPEALS**

The process of electoral dispute resolution is regulated by the provisions of the LER and other election-related legislation. Every citizen can file a complaint regarding a violation of suffrage rights, as well as against actions or decisions of the PBs to the REC within 24 hours of the disputed action. The REC then has 48 hours to rule on the complaint. Decisions of the REC can be appealed to the Administrative Court within 48 hours. The Administrative Court, in turn, has 48 hours to rule on the appeal.

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20 Such as the competent committee of the National Assembly, the Assembly of the Autonomous Province of Vojvodina, associations of public media and journalists, civil society organizations, traditional churches and religious communities.

21 See Article 5 Paragraph 2 of the LER.

22 See Article 68 Paragraph 6a of the Law on Broadcasting.
The OSCE/ODIHR NAM was informed that relatively short deadlines allow for a prompt resolution of electoral disputes. Adjudicators, however, acknowledged that for the sake of an expeditious process, complaints and appeals are considered in camera on the basis of written evidence and without the possibility for concerned parties to present their cases.

Despite OSCE/ODIHR previous recommendations, the legislation continues to provide for repeat elections as a remedy for various electoral violations. Alternative remedies, such as recounts of votes or audits of polling station protocols are not provided for by law.

Overall, most OSCE/ODIHR NAM interlocutors expressed trust in the system of electoral dispute resolution.

**IV. CONCLUSION AND RECOMMENDATION**

Most OSCE/ODIHR NAM interlocutors expressed confidence in the impartiality and professionalism of the election administration and their ability to organize elections in an professional and efficient manner. They did not express significant concerns about election day procedures. Nevertheless, most interlocutors stated that they would welcome a potential OSCE/ODIHR observation activity for these elections, recognizing that further improvements could be made to the electoral process and that an assessment and recommendations by OSCE/ODIHR could contribute to this and help to build confidence in the electoral process.

While some previous OSCE/ODIHR recommendations have been implemented, several areas would benefit from continued attention. This particularly relates to the implementation of the recently amended legal framework, including on voter registration, newly introduced provisions on political finance, media coverage of the electoral campaign as well as its overall conduct, and the participation of national minorities in the electoral process.

Given these circumstances and the fact that no significant concerns were expressed regarding the conduct of election day proceedings, the OSCE/ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM) with a core team of experts and 10 long-term observers seconded by OSCE participating States. In line with the OSCE/ODIHR’s standard methodology, the LEOM would include a media monitoring element. While the mission would visit a limited number of polling stations on election day, systematic observation of voting, counting or tabulation of results on election day is not envisaged.
ANNEX: LIST OF MEETINGS

AUTHORITIES

Ministry of Foreign Affairs:
Ambassador Sladana PRICA, Assistant Minister for Multilateral Affairs
Boris HOLOVKA, Counsellor, Director of Department for the OSCE
Maria TRIFUNOVIC-LJUBOJEVIC, Counsellor, Department for OSCE and CoE

Ministry of Human and Minority Rights, Public Administration and Local Self-Government:
Zoran PETROVIĆ, Director of Administrative Inspectorate
Saša MOGIN, Assistant Minister
Jasmina BEN MASSUR, Assistant Minister

Ministry of Interior:
Srdjan GREKULOVIĆ, Assistant Police Director

Ministry for Kosovo and Metohija:
Kruna KALIČANIN, Assistant Minister

Republic Electoral Commission:
Predrag GRGIĆ, President
Veljko ODALOVIĆ, Secretary

Supreme Court of Cassation:
Snežana ŽIVKOVIĆ, Judge

Administrative Court:
Sladana BOJOVIĆ, Judge

Republic Broadcasting Agency:
Archbishop PORFIRIJE, President
Goran KARADŽIĆ, Deputy President

Anti-Corruption Agency:
Zorana MARKOVIĆ, President

POLITICAL PARTIES (in alphabetical order)

Democratic Party
Miloš JEVTIĆ, Secretary for International Cooperation

Democratic Party of Serbia
Miloš ALIGRUDIĆ, MP

Liberal Democratic Party of Serbia
Bojan ĐURIĆ, MP
Svetislava BULAJIĆ, Member of Political Council
Marko PALAMAREVIĆ, Representative in REC

**Serbian Progressive Party**
Tomislav NIKOLIĆ, MP,

**Socialist Party of Serbia**
Dijana VUKOMANOVIĆ, Vice-President

**United Regions Party**
Suzana GRUBJEŠIĆ, MP

**MEDIA**

**Radio-Television of Serbia**
Aleksandar TIJANOVIĆ, Executive Director
Bojan BRKIĆ, Foreign Affairs News Desk

**B-92**
Veran MATIĆ, Executive Director, B-92
Saša MIRKOVIĆ, Director of TV, B-92

**Blic**
Veselin SIMONOVIĆ, Editor in Chief

**CIVIL SOCIETY**

**Center for Democratic Elections and Democracy (CeSID)**
Zoran LUČIĆ, President

**INTERNATIONAL COMMUNITY**

Ambassador KYPREOS, Head of OSCE Mission in Serbia
Thomas MOORE, Deputy Head of OSCE Mission in Serbia
Vladimir ULASEVICH, Deputy Chief of Mission, Embassy of Russian Federation
Matthew PALMER, Chief of the Political Section, Embassy of the United States
Peter WIEBLER, Director, USAID Democracy and Governance Office