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## INTERNATIONAL ELECTION OBSERVATION MISSION Republic of Serbia — Early Parliamentary Elections, 24 April 2016

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### STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

**Belgrade, 25 April 2016** – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Parliamentary Assembly of the Council of Europe (PACE).

Volodymyr Ariev (Ukraine) headed the PACE delegation. Ambassador Geert-Hinrich Ahrens is the Head of the OSCE/ODIHR Limited Election Observation Mission (LEOM), deployed from 18 March 2016.

The assessment was made to determine whether the elections complied with OSCE commitments and Council of Europe standards for democratic elections, as well as Serbia's international obligations and domestic legislation. Both institutions involved in this IEOM have endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, the tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process. The PACE delegation will present its report at the meeting of the Standing Committee in Tallinn on 27 May 2016.

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### PRELIMINARY CONCLUSIONS

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The 24 April 2016 early parliamentary elections offered voters a variety of choices. The election administration performed its duties efficiently and generally enjoyed the trust of the electoral stakeholders. Although fundamental freedoms were respected, biased media coverage, undue advantage of incumbency and a blurring of distinction between state and party activities unlevelled the playing field for contestants. Election day procedures were generally conducted in accordance with the law in the limited number of polling stations visited by international observers.

The legislation provides an overall sound basis for the conduct of democratic elections in line with OSCE commitments and other international obligations and standards. However, a number of previous recommendations by the OSCE/ODIHR and the Council of Europe's Venice Commission remain unaddressed. Key shortcomings include insufficient rules on candidate registration, ineffective measures against the misuse of administrative resources for campaigning, inadequate regulation of campaign finance, deficiencies in dispute resolution, absence of sanctions for certain violations, and the lack of provisions on observers.

The elections were administered by a two-tiered election administration, consisting of the Republic Electoral Commission (REC) and 8,378 Polling Boards (PBs). The REC met all legal deadlines and operated in an efficient and transparent manner. The REC adopted detailed instructions for these elections, including guidelines for PBs. Most OSCE/ODIHR LEOM interlocutors expressed trust in the REC's work.

Voter lists were updated through the Unified Voter Register on the basis of municipalities' records, inputs provided by state institutions, and voters' requests. Although voters could review their data and request corrections, the voter lists were not displayed for public scrutiny. This lack of transparency of the voter registration process negatively affected public confidence in the accuracy of the lists and is not in line with international good practice. The final number of voters announced by the REC was 6,739,441.

The REC registered 20 candidate lists nominated by political parties, coalitions of parties and groups of citizens in an inclusive manner. This provided voters with a range of political choices. However, some submitters of lists exploited the lack of clear criteria in the law to apply for national minority status solely to obtain the related privileges. Unclear rules for signature verification and insufficient transparency of this process led to a perception of arbitrariness in candidate registration. The REC reported to the police and the Prosecutor the possible forgery of a large number of supporting signatures.

Fundamental freedoms were respected and candidates were able to campaign freely. However, the ruling Serbian Progressive Party and, to a lesser extent, the Socialist Party of Serbia, increased their participation at official events during the electoral campaign, taking undue advantage of incumbency and blurring the distinction between state and party activities, at odds with OSCE commitments and Council of Europe standards. Widespread reports of the ruling parties exerting pressure on voters, particularly those employed in the public sector, and enticing voters through welfare initiatives raised concerns about the ability of voters to cast their vote freely, as provided for by OSCE commitments.

In 2014, amendments introduced to the Law on Financing Political Activities reduced public funding for parties' regular activities and campaigning, in line with an OSCE/ODIHR and Venice Commission recommendation. Overall, the regulatory system does not ensure transparency, integrity and accountability of campaign finances. The significantly greater financial capabilities of the ruling parties, as compared to other contestants, undermined the equality of opportunity.

Some 35 complaints and appeals were filed on the registration of 11 candidate lists. The OSCE/ODIHR LEOM was not made aware of official complaints with regard to the alleged misuse of administrative resources and pressure on voters, but received reports of a perceived fear of retribution for filing complaints as well as a general lack of trust in the effectiveness of the judiciary and investigatory bodies. The absence of comprehensive campaign regulations and of a competent campaign monitoring body potentially left irregularities unaddressed.

The law establishes a gender quota for candidate lists with at least every third candidate being from the less represented gender. One candidate list had a woman as its first candidate. Of 75 permanent and extended members of the REC, 20 were women. Women were underrepresented in the rallies observed by the OSCE/ODIHR LEOM, and the contestants generally did not address issues specifically affecting women in their programmes. The combined coverage of female political actors in most monitored media did not exceed 10 per cent, although it was notably higher on certain outlets.

Public media provided equal airtime to contestants to present their platforms, in compliance with legal obligations. However, the government and the ruling party activities dominated campaign coverage in the news and current affairs programmes. The analytical and critical reporting on the influential nationwide television channels was narrow, partly due to widespread self-censorship resulting from political control over the media sector. In the absence of an effective mechanism for monitoring media conduct during the campaign, media bias, instances of a smear campaign, and cases of infringement of media freedom were not addressed.

Despite previous OSCE/ODIHR recommendations, the legal framework does not provide for observation by citizen and international organizations, and the issue is regulated by REC instructions. The REC accredited 196 international observers and 1,689 citizen observers in an inclusive process.

In the limited number of polling stations (PS) visited by international observers, election day procedures, including counting, were generally conducted efficiently and in accordance with the law. However, the design of voting screens and layout of PSs did not ensure the secrecy of the vote. The presence of citizen observers was only noted in a few instances.

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## **PRELIMINARY FINDINGS**

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### **Background**

On 4 March, President Tomislav Nikolić acceded to the government's request to dissolve the National Assembly (parliament) and called early elections for 24 April. These were the third parliamentary elections in four years and the second consecutive elections to be called before the end of the parliament's mandate. While the government justified this move by the need to renew its mandate to complete reforms and allow the country to be ready to join the European Union (EU), most OSCE/ODIHR LEOM interlocutors claimed that it had been timed conveniently for the ruling coalition to consolidate its power at the national, provincial and local levels. Some stakeholders noted that the frequency of early elections hindered the ability of the National Assembly to plan its legislative work. Regional elections in Vojvodina and local elections in most municipalities were called for the same day.

Following the 2014 early parliamentary elections, the Serbian Progressive Party (SNS) and its coalition partners won an overall majority in the parliament. Subsequently, the SNS formed a wider coalition government, which also included the Socialist Party of Serbia (SPS). The OSCE/ODIHR LEOM for the 2014 early parliamentary elections concluded that the elections "offered voters a genuine choice", but noted cases of intimidation of voters, concerns about the voter lists, and a lack of critical and analytical reporting in the media.<sup>1</sup>

### **Legal Framework and Electoral System**

Elections are regulated primarily by the 2006 Constitution, the 2000 Law on Election of Representatives (LER), the 2009 Law on the Unified Voters' Register (LUVR), the 2009 Law on Political Parties (LPP) and the 2011 Law on Financing Political Activities (LFPA).<sup>2</sup> The legal framework is supplemented by the Republic Electoral Commission (REC) Rules of Procedure from 2012, as well as its instructions and decisions. In addition, in January 2016, a new Law on Public Gatherings was adopted and is applicable to campaign events.<sup>3</sup>

With the exception of the LFPA that was amended in 2014, the election-related legislation was last changed in 2011. It provides an overall sound basis for the conduct of democratic elections in line with OSCE commitments and other international obligations and standards. However, a number of previous recommendations by the OSCE/ODHR and the Council of Europe's Venice Commission

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<sup>1</sup> [See previous OSCE/ODIHR reports on Serbia.](#)

<sup>2</sup> Relevant provisions are also included in the 2005 Criminal Code, the laws on the Anti-Corruption Agency (LACA), on Administrative Disputes, on Free Access to Information of Public Importance, on Personal Data Protection, on Administrative Proceedings and on Criminal Proceedings.

<sup>3</sup> The law requires the local administration to publish a list of places where gatherings are not allowed, prescribes a five-day advance notification and legal remedies.

remain unaddressed. Key shortcomings include insufficient rules on candidate registration, ineffective measures against the misuse of administrative resources for campaigning, inadequate regulation of campaign finance, deficiencies in dispute resolution, absence of sanctions for some violations, and the lack of provisions on observers.<sup>4</sup>

The 250 members of the parliament are elected for four-year terms from a single nationwide constituency through a closed-list, proportional system. Mandates are distributed among candidate lists that receive more than five per cent of the votes cast. Lists representing national minorities are exempted from this threshold requirement.

## Election Administration

The elections were administered by a two-tiered election administration, consisting of the REC and 8,378 Polling Boards (PBs).<sup>5</sup> Throughout all municipalities the REC established 166 *ad hoc* Working Bodies (WBs) tasked with technical and logistical support for the elections.<sup>6</sup>

The REC is a permanent body comprised of a chairperson, a deputy chairperson, and 16 permanent members and their deputies, all appointed on 12 May 2014, for a four-year term by the parliament.<sup>7</sup> The REC also includes two non-voting members – a secretary and a representative of the National Statistical Office. For the period of the elections, each contestant appointed an extended member and a deputy to the REC.<sup>8</sup> Upon completion of the registration of the candidate lists, the REC was composed of 75 members and deputies, including 20 women.

The REC met all legal deadlines and operated efficiently and transparently overall. REC sessions were open to accredited observers and the media. REC members and observers were provided with the agenda and other materials before the sessions. During the sessions observed by the OSCE/ODIHR LEOM, all decisions were adopted in a collegial manner, either unanimously or by an overwhelming majority, following open discussions. Minutes from all sessions and most decisions were published on the REC website without delay. The REC adopted detailed instructions for these elections, including guidelines for PBs for the concurrent conduct of parliamentary and local elections. In a positive development, the REC commissioned voter education materials on election day procedures, including with sign language, which were broadcast through the public media. Overall, OSCE/ODIHR LEOM interlocutors expressed a high level of trust in the REC's work.

The PBs were composed in the same manner as the REC and had a chairperson and two members, as well as their deputies, all nominated by parliamentary groups.<sup>9</sup> Any registered contestant for the parliamentary and/or local elections had the right to nominate a member and a deputy to the extended composition of the PBs. Training was provided by the local authorities. The OSCE/ODIHR LEOM long-term observers (LTOs) noted that it was not delivered in a uniform way, of a varying quality and only made available to the chairpersons and their deputies.<sup>10</sup>

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<sup>4</sup> There is only one provision on the use of administrative resources (Article 29 of the LACA) and no provision in the LER. See also Paragraph II.B.1.3 of the 2016 OSCE/ODIHR and Venice Commission [Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes](#).

<sup>5</sup> This included 29 PBs set up in penitentiary institutions and 38 PBs established in 22 countries abroad.

<sup>6</sup> Members of the WBs are nominated by parliamentary political parties and appointed by the REC.

<sup>7</sup> One REC member resigned to stand as a candidate.

<sup>8</sup> Members of the extended composition have the same rights and duties as permanent members.

<sup>9</sup> The REC does not maintain gender-disaggregated data on the composition of the PBs.

<sup>10</sup> Paragraph II.3.1.g the [2002 Venice Commission Code of Good Practice in Electoral Matters](#) (Code of Good Practice) recommends that “members of electoral commissions must receive standard training.”

## Voter Registration

The right to vote is granted to all citizens who reach 18 years of age by election day and have a permanent residence in Serbia, except those who lost legal capacity through a court decision. Voter registration is passive. The Unified Voter Register is maintained by the Ministry of Public Administration and Local Self-Government (MPA) and updated continuously based on municipalities' records, inputs provided by state institutions, and voters' requests.<sup>11</sup>

Voters were entitled to request inclusion in a voter list at their place of temporary residence and also abroad, in which case they were excluded from the lists where they permanently reside. Special voter lists were compiled for military voters as well as voters in prisons and detention facilities based on information provided by the respective institutions. Local authorities provided reasonable voter information on the procedures for updating the voter lists. In areas observed by the OSCE/ODIHR LEOM, voters had the possibility to verify their data in their municipalities and on the MPA website, and to request corrections.

Despite previous OSCE/ODIHR recommendations, the voter lists were not displayed for public scrutiny. Although the law provides for the voter lists to be disclosed at the municipal level, the MPA issued an instruction that allowed only individual checking of records using one's personal identification number. This lack of public scrutiny limited the transparency of the voter registration process, negatively affected public confidence in the accuracy of the lists and is not in line with international good practice.<sup>12</sup> In the lead up to election day, the delivery of voter invitations with wrong information also raised concerns over the accuracy of the voter lists.<sup>13</sup> The final total number of voters announced by the REC on 22 April was 6,739,441, and the law does not allow adding voters to the lists after this date.

## Candidate Registration

Any eligible voter can stand for the elections. Candidate lists can be submitted by political parties, coalitions of parties, as well as groups of at least 10 citizens. The LER does not provide for individual independent candidates to contest the parliamentary elections, which is contrary to OSCE commitments.<sup>14</sup>

Candidate lists were to be supported by at least 10,000 signatures of voters, whereby each voter could support only one list.<sup>15</sup> This limitation can be seen as restricting political pluralism and could stigmatize supporters of prospective candidates.<sup>16</sup> All signatures had to be certified by municipal courts or notarized. A fee of RSD 50 for each signature was to be paid by the submitter at the time of certification.<sup>17</sup> While most OSCE/ODIHR LEOM interlocutors considered the signature threshold as a

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<sup>11</sup> Notifications of *ex-officio* changes were communicated to voters by post or emails.

<sup>12</sup> Paragraph I.1.2.iii of the Code of Good Practice provides that "electoral registers must be published."

<sup>13</sup> OSCE/ODIHR LEOM interlocutors noted instances of invitations issued to deceased voters and sent to the wrong address.

<sup>14</sup> Paragraph 7.5 of the 1990 OSCE Copenhagen Document commits participating States to "respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination." See also Paragraph 17 of the United Nations Human Rights Committee (UNHRC) General Comment No. 25 to the International Covenant on Civil and Political Rights (ICCPR).

<sup>15</sup> After the crosscheck, the REC kept only those certified signatures of voters that were submitted for the candidate list they supported first.

<sup>16</sup> Paragraph 77 of the [2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation](#) recommends that "in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party."

<sup>17</sup> 1 EUR is approximately 123 Serbian Dinars (RSD).

way to exclude frivolous candidatures, some expressed concerns that the procedure was overly burdensome and the requirement to visit a municipal court or notary office might have a dissuasive effect on some voters.<sup>18</sup>

The verification of supporting signatures was primarily conducted by REC staff, and the MPA electronically cross-checked the signatures against the UVR. While some REC members and observers used the possibility to attend the verification of signatures, cross-checking at the MPA was not monitored. The REC lacked resources and legal guidelines for the process and stated that it would conduct a comprehensive review only after the elections. Nevertheless, the REC reported to the police and the Prosecutor the possible forgery of a large number of supporting signatures for at least six prospective contestants.<sup>19</sup> Unclear rules for signature verification and insufficient transparency of this process led to a perception of arbitrariness in candidate registration.

In total, the REC registered candidate lists of eight parties, six coalitions, and six groups of citizens in an inclusive manner. While this provided voters with a range of political choices, candidate registration was negatively affected by the lack of clarity in the legal provisions for registration of national minority lists. Six candidate lists were rejected due to an insufficient number of valid supporting signatures.<sup>20</sup> One candidate list was deregistered on 29 March following an Administrative Court decision. The REC published the candidate lists on its website, enabling voters to familiarize themselves with the candidates.

The LER establishes a gender quota for candidate lists with at least every third candidate being from the less represented gender. One candidate list had a woman as its first candidate.<sup>21</sup> While a candidate list may be withdrawn no later than 10 days before election day, the withdrawal of candidates from registered lists is not regulated by the legal framework.<sup>22</sup>

## Campaign Environment

The official election campaign period started on 4 March and ended 48 hours before election day. Freedoms of expression, movement, and assembly were respected and candidates were able to campaign freely. Campaigning was slow to start due to an emergency flood response in parts of the country, and effectively began during the week of 21 March. It was dominated by the SNS-led coalition “Serbia Wins”. Other visible contestants included: the “Fair for Serbia” coalition led by the Democratic Party (DS), the SPS-led coalition, the Serbian Radical Party (SRS), and the “Alliance for a Better Serbia” coalition, composed of the Liberal Democratic Party of Serbia (LDP), the Social Democratic Party and the League of Social Democrats of Vojvodina.

Most parties conducted their campaigns through rallies and outdoor campaign material. Opposition parties complained to the OSCE/ODIHR LEOM that, due to a lack of financial resources, their ability to purchase campaign advertising on billboards or in print and electronic media was limited. In

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<sup>18</sup> OSCE/ODIHR LEOM interlocutors claimed that notary offices, at times, limited the number of certifications to 200-250 per day or refused to certify signatures during their working hours. According to the REC, some signature lists received with notary stamps did not contain voters’ signatures.

<sup>19</sup> United Russian Party, Republican Party, Hungarian Movement - For Change, This is Us-Natural Movement, The Tolerance, and the Male and Female Citizens of Serbia – Roma Party and Bunievci Citizens Coalition. All of these cases were pending as of election day.

<sup>20</sup> The Coalition Democratic Movement of Romanians and Party of Russians, Danica Grujicic – Vlach Party, Hungarian Movement – For changes, Male and Female Citizens of Serbia – Coalition Roma Party and Bunievci Citizens of Serbia, This is us – Natural Movement, and the Tolerance.

<sup>21</sup> *Dveri* – Democratic Party of Serbia – Sanda Rašković Ivić – Boško Obradović.

<sup>22</sup> Consequently, the REC denied the withdrawal of a *Dveri* – Democratic Party of Serbia (DSS) candidate.



contrast, billboards and posters promoting the SNS were the most prevalent, and the party had a dominant presence in electronic media advertising. In addition, both the SNS and SPS, used official events, such as visits to schools, the inauguration of public institutions and the opening of private factories to promote their campaign messages.<sup>23</sup> This amounted to taking undue advantage of incumbency, blurring the distinction between state and party activities, at odds with OSCE commitments and Council of Europe standards.<sup>24</sup> The SNS and the Alliance of Vojvodina Hungarians enjoyed the support of foreign dignitaries.<sup>25</sup>

Where parliamentary elections took place in parallel with provincial or local elections, campaigning for the various elections was combined, with the ruling parties at all three levels focusing on their policy achievements. Economic and social topics were at the centre of all contestants' campaigns. There was a division between those contestants supporting EU accession and those calling for closer cooperation with the Russian Federation. In general, campaigns and platforms of all candidates did not include issues specifically affecting women.

The campaign atmosphere was calm, with only a few isolated cases of violence.<sup>26</sup> Opposition parties tended to use negative campaigning directed at the ruling parties rather than focusing on their own programmes. Throughout the country, the OSCE/ODIHR LEOM heard widespread reports of alleged abuse by the ruling parties of their dominant position at both national and local levels with the aim to exert pressure on voters, particularly those employed in the public sector.<sup>27</sup> These allegations raised concerns about voters' ability to cast their vote "free of fear of retribution," as required by paragraph 7.7 of the 1990 OSCE Copenhagen Document. There were also attempts to entice voters through welfare initiatives.<sup>28</sup>

## **Campaign Finance**

In 2014, amendments introduced to the LFPA reduced public funding for both regular party activities and campaigning, in line with an OSCE/ODIHR and Venice Commission recommendation.<sup>29</sup> In

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<sup>23</sup> The media reported that in March, Prime Minister Vučić visited 25 schools as well as two medical facilities and in April, he attended the opening of factories and infrastructure projects. Foreign Minister Dacić attended a rally that coincided with the opening of a pedestrian area in Vranje.

<sup>24</sup> Paragraph 5.4 of the 1990 OSCE Copenhagen Document provides for "a clear separation between State and political parties." Paragraph I.2.3 of the Code of Good Practice states that "Equality of opportunity must be guaranteed for parties and candidates alike. This entails a neutral attitude by state authorities, in particular with regard to: i. the election campaign; ii. coverage by the media, in particular by the publicly owned media; iii. public funding of parties and campaigns." See also the OSCE/ODIHR and Venice Commission Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes.

<sup>25</sup> Hungary's Foreign Minister lent support to both parties at a political rally in Pančevo on 5 April. The Hungarian Prime Minister joined Prime Minister Vučić at the opening of a private factory in Subotica on 13 April. The Deputy Speaker of the Russian State Duma was a guest at the SNS final convention in Belgrade on 21 April.

<sup>26</sup> The OSCE/ODIHR LEOM was informed of cases involving political activists in Sjenica on 25 March, Belgrade on 27 March, Mladenovac on 3 April and Kruševac on 7 April.

<sup>27</sup> The OSCE/ODIHR LEOM received reports (including from primary sources) of voters being subjected to direct threats, mostly regarding loss of employment. Pervasive reports of aggressive door-to-door campaigning and phone calls were also brought to the attention of the OSCE/ODIHR LEOM, as well as reports of pressure on public and private sector employees to attend SNS rallies in Bor and Niš.

<sup>28</sup> The OSCE/ODIHR LEOM LTOs noted that the SNS used food packages, free health care services, child protection workshops and trips for pensioners to influence voters in the campaign in Kovačica, Šid, Novi Sad, Vršac, Sombor and Šabac. The OSCE/ODIHR LEOM received also a number of allegations from across the country that the Roma community was particularly vulnerable to vote-buying.

<sup>29</sup> The annual public funding was reduced from 0.15 per cent of the budgetary expenditure to 0.105 per cent of tax revenue, whereas the campaign public funding from 0.1 per cent of the budgetary expenditure to 0.07 per cent of tax revenue.

addition, the amendments introduced a five-day deadline after the elections are called for the Anti-Corruption Agency (ACA) to provide a campaign finance report template, and allowed contestants to use regular public and private funds for campaigning. The OSCE/ODIHR and Venice Commission previously recommended establishing an expenditure ceiling, lowering limits of donations, submitting reports before election day, shortening the deadlines for submission of financial reports, and introducing a short deadline for their publication as well as proportionate and dissuasive sanctions.<sup>30</sup> These recommendations have yet to be taken into account. Overall, the regulatory system does not ensure transparency, integrity and accountability of campaign finances.

Public funding for campaigning totalled RSD 580 million.<sup>31</sup> The Ministry of Finance reported on 18 April that 17 out of the 20 contestants received RSD 5.8 million each as a 20 per cent advance payment.<sup>32</sup> The remaining 80 per cent is to be allocated after the elections proportionally to the number of seats won. In addition, six contestants with representatives in the parliament were able to use their annual public funding from past years.<sup>33</sup> Funding, monetary or in-kind, from foreign, state, public and anonymous sources, as well as from non-profit organizations and trade unions, is prohibited. However, a number of OSCE/ODIHR LEOM interlocutors alleged that the ruling parties misused funds from state and public sources.<sup>34</sup> The significantly greater financial capabilities of the ruling parties, as compared to other contestants, undermined the equality of opportunity.

By law, annual individual donations to parties are up to 20 average monthly salaries, whereas a legal entity may donate up to ten times this amount.<sup>35</sup> The limit is doubled in an election year, regardless of the number of electoral contests. There is no spending limit. All income and expenditures of contestants have to be incurred through dedicated bank accounts called ‘campaign funds.’ Donations must be made by bank transfer. Out of 20 contestants, 5 published information on donations on their websites, as required by law.<sup>36</sup>

The ACA is mandated with the oversight of political finance and misuse of administrative resources. In addition, the State Audit Institution (SAI) is mandated with auditing the public funds of parties.<sup>37</sup> Political entities are obliged to submit financial reports to the ACA annually and within 30 days after the announcement of the final elections results. There is no deadline for the ACA to publish the financial reports and no obligation to publish any conclusions. The absence of financial reports before

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<sup>30</sup> See the 2014 [OSCE/ODIHR and Venice Commission Joint Opinion on Draft Amendments to the LFPA](#).

<sup>31</sup> Equivalent to some EUR 4.7 million.

<sup>32</sup> This represents approximately EUR 47,200. The advance funds must be paid within five days from the registration of all candidates’ lists. Recipients have to deposit a guarantee of equal value. The deposit is refunded if the contestant obtains at least 1 per cent of the votes or 0.5 per cent if the contestant represents the interests of a national minority. Three contestants were refused, on the grounds that they did not submit a deposit.

<sup>33</sup> Out of a total RSD 764 million (approximately EUR 6.2 million) provided in 2015, the SNS received RSD 435 million, SPS – 137 million, DS – 73 million, SDS – 70 million, SVM – 27 million, SDA – 12.5 million, Party for Democratic Action (PDD) – 8.7 million.

<sup>34</sup> Such allegations included the use of public premises and vehicles for campaign events (Novi Pazar), hosting an SNS call centre on municipal premises (Zemun), and advertising the SNS administration achievements on billboard space purchased by the municipal administration (Prokuplje). Settlements of unpaid salaries in the public sector and reimbursement of excess kindergarten fees in Kragujevac also appear to have been used to promote the SNS campaign.

<sup>35</sup> This represents respectively RSD 887,200 (some EUR 7,220) and RSD 8,872,000 (some EUR 72,200).

<sup>36</sup> Namely the DS, SDS – LDP, SNS, SPS, and SRS.

<sup>37</sup> The SAI is not obligated to audit all parties regularly, but has discretionary power to select which parties to audit, based on criteria prescribed by its Rules of Procedure. To date, the SAI has audited three parties for their 2014 finances (the DS, SNS, and SPS) and cases are pending in court against the DS and SPS.



election day limited voters' ability to make a fully informed choice.<sup>38</sup> The ACA may request information from political entities, banks and other stakeholders and can issue warnings, initiate misdemeanour or criminal proceedings for possible violations.<sup>39</sup> The ACA deployed 135 observers across the country to collect data on compliance with the legislation on campaign finance. In practice, the ACA can initiate misdemeanour proceedings for possible campaign finance irregularities after the submission of financial reports.

## Media

Serbia's media environment is diverse, with television (TV) being the most dominant source of information. Many OSCE/ODIHR LEOM interlocutors highlighted that, despite the large number of outlets available, the analytical and current affairs programming offered in the influential nationwide TV channels, except for the public broadcast media, is narrow; this could limit voters' ability to make an informed opinion of the contestants and their platforms. Many of them also attributed the overall lack of critical analyses in the media to widespread self-censorship resulting from political control through the allocation of advertising or tax relief,<sup>40</sup> or initiating tax inspections. The reform of the media legislation in 2014 aimed to improve the media environment, but, with the exception of increased transparency of media ownership or additional funding for the public broadcasters, the effects were limited by its poor implementation. Following the privatization of the local public media, concentration of media ownership and political bias in the media reportedly increased.

The Regulatory Authority of Electronic Media (REM) paid little attention at its sessions to the conduct of the media during the campaign. While the REM attempted to address complaints received, their efforts remained limited.<sup>41</sup> Smear campaigns conducted by one media outlet against investigative journalists, non-governmental organizations, and public bodies perceived as critical of the government, were intimidating and impacted on their ability to operate.<sup>42</sup> Investigative journalists also reported that, despite legal regulation, the access to information from state entities was problematic as in an increasing number of cases these entities would opt to pay a fine instead of releasing the information, which is not in line with international standards.<sup>43</sup> There were some instances of infringement of media freedom.<sup>44</sup>

The public broadcast media, national *Radio Television of Serbia (RTS)*, and provincial *Radio Television of Vojvodina (RTV)*, complied with their legal obligations to provide contestants with

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<sup>38</sup> Article 7.3 of the 2003 United Nations Convention against Corruption provides that states should "consider taking appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties".

<sup>39</sup> Sanctions include warnings, suspension of public funding, fines from RSD 200,000 up to RSD 2 million (EUR 1,630 up to 16,300), confiscation of funds and imprisonment.

<sup>40</sup> The Anti-Corruption Council (ACC), a government advisory body, described these mechanisms in its 2015 reports. See [Report on Ownership Structure and Control over Media in Serbia and Report on the Possible Impact of Public Sector Institutions on Media, through Financing of Advertising and Marketing Services](#).

<sup>41</sup> The REM received 22 complaints related to media conduct during the campaign period, half of which were received in the last week of the campaign. See *Complaints and Appeals Section*

<sup>42</sup> As an example, in February, the daily newspaper *Informer* launched a campaign against a member of the ACC after the publication of one of the ACC reports; in March, *Informer* targeted a journalist of the Crime and Corruption Reporting Network (KRIK).

<sup>43</sup> UNHRC General Comment No. 34 to Article 19 of the ICCPR reads that "Article 19, paragraph 2 embraces a right of access to information held by public bodies. Such information includes records held by a public body, regardless of the form in which the information is stored, its source and the date of production."

<sup>44</sup> For example, a *Boom 93 Radio* journalist in Požarevac was denied access to a political party's press conference; an *RTV* journalist was reprimanded for asking the Prime Minister a critical question about his political past; the OSCE/ODIHR LEOM received credible reports of a group of journalists being pressured to write articles supporting a particular political position.

platforms to present their programmes. However, as the OSCE/ODIHR LEOM media monitoring showed, government activities dominated in the news of the two public TV channels, receiving some 40 per cent of news coverage, generally in a positive or neutral light.<sup>45</sup> In the news coverage of the electoral contestants by these two channels, the SNS received the largest share, some 15 per cent.<sup>46</sup> The current affairs programmes on *RTVI* were more balanced.

In contrast, four national private TV channels – *B92*, *Happy*, *Pink* and *Prva* – dedicated a much smaller share of time to the political actors. The newscast by these channels provided favourable, and in some cases extensive coverage of the government. This imbalance was even more pronounced outside of the news.<sup>47</sup> The time devoted to such coverage increased substantially in the last week of campaign. *Pink*, in particular, showed a clear bias, openly promoting the government, while portraying the DS very negatively. Positively, *NI*, a private TV channel available primarily in the major cities, offered extensive, and rather diverse and balanced, coverage of political actors in the news and current affairs programmes.

Among the monitored newspapers, *Informer*, a tabloid newspaper, ran negative campaigns against those who appeared to oppose the government. It presented some parties in a negative light, in particular the DS, while openly promoting the SNS and the government. *Politika*, *Kurir* and *Večernje Novosti* leaned towards the government, while *Blic* presented a somewhat more critical attitude towards the political actors. A more diverse and balanced picture of political subjects was provided by *Danas*, whose circulation figures are significantly smaller than the other monitored newspapers. The combined coverage of female political actors in most monitored media did not exceed 10 per cent although it was notably higher on the public broadcasters and *NI*.

## Complaints and Appeals

The right to seek legal redress is granted to voters, candidates and submitters of candidate lists. Complaints against decisions, acts or omissions of PBs are filed with the REC. Complaints against REC decisions are filed with the REC itself, whereas appeals are filed with the Administrative Court, which has final jurisdiction. A complaint must be filed with the REC within 24 hours of the decision or the irregularity and an appeal must be filed with the Administrative Court within 48 hours of the receipt of the decision. The REC and the Court must decide within 48 hours. If a complaint is upheld, the subject matter decision or act is annulled. If the Administrative Court annuls elections, repeat elections are held within 10 days. A public hearing is not mandatory and election-related appeals continue to be heard *in camera*, citing the very short deadlines.

In addition, the LER stipulates that a Supervisory Board (SB) monitors the election-related activities of political parties, candidates and mass media and identifies irregularities; however, the SB was not formed for these elections.<sup>48</sup> The absence of comprehensive campaign regulations and of monitoring

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<sup>45</sup> From 24 March, the OSCE/ODIHR LEOM monitored primetime broadcasts of public TV channels *RTS1* and *RTVI*, and private TV channels *B92*, *Pink* and *Prva*. Evening news and current affairs programmes of TV channels *Happy* and *NI*, as well as the contents of daily newspapers *Blic*, *Danas*, *Informer*, *Kurir*, *Politika* and *Večernje Novosti* were also monitored.

<sup>46</sup> In comparison, on *RTS1*, the SRS received 10 per cent, DS 8 per cent, LSV and SPS 4 per cent each, SVM 3 per cent while all other contestants received less than 2 per cent of coverage. On *RTVI*, DS-led coalition received 9 per cent, SRS 8 per cent and SPS 5 per cent.

<sup>47</sup> *B92*, *Pink* and *Prva* allocated dominant shares of their coverage outside of the news programmes to the government and SNS, who together received over 90 per cent of the coverage in each of these three channels. *Happy* dedicated some 46 per cent of such coverage to SNS and 38 per cent to SPS.

<sup>48</sup> The SB must be appointed by the parliament and may issue warnings to political parties, administration, candidates and media and it may suggest measures to media for ensuring equal conditions among contestants. The SB was appointed only once in 2000.

of the campaign potentially left irregularities unaddressed and impacted on the effectiveness of dispute resolution. No complaints on campaign finance irregularities or the misuse of administrative resources were filed with the ACA. The OSCE/ODIHR LEOM was not made aware of official complaints with regard to the alleged misuse of administrative resources and pressure on voters, but received reports of a perceived fear of retribution for filing complaints as well as a general lack of trust in the effectiveness of the judiciary and investigatory bodies.

As of 19 April, some 35 complaints and appeals were filed with the REC, the Administrative and the Constitutional Court on the registration of 11 candidate lists.<sup>49</sup> Of these, eight concerned the registration of a candidate list nominated by a group of voters.<sup>50</sup> An additional 12 concerned the denial of registration of 6 candidate lists,<sup>51</sup> 2 against the registration of 1 candidate list<sup>52</sup> and 8 on the granting or denial of national minority status to 4 candidate lists.<sup>53</sup> The Ombudsman and the Commissioner for Personal Data Protection have not dealt with any election-related cases.

### Participation of National Minorities

The Constitution guarantees the rights and freedoms of national minorities, including those related to political association, cultural institutions, education and access to information in their own languages, the rights to elect and to be elected. According to the 2011 census, there are around 20 ethnic minorities registered in Serbia.<sup>54</sup>

The 2009 LPP contains provisions promoting participation of national minorities in public life and 64 of the 106 registered parties represent national minorities.<sup>55</sup> Out of 29 submitted candidate lists, 17 applied for national minority status and 8 obtained it.<sup>56</sup> Initially, based on REC's own instructions stipulating the criteria for granting national minority status to candidate lists, it rejected the lists that

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<sup>49</sup> Russian Party-Slobodan Nikolić, Republican Party-Nikola Sandulović, Serbian-Russian Movement-Slobodan Dimitrijević, Green Party, The Coalition Democratic Movement of Romanians and Party of Russians, Danica Grujicic – Vlach Party, Hungarian Movement – For changes, Male and Female Citizens of Serbia – Coalition Roma Party and Bunievci Citizens of Serbia, This is us – Natural Movement, and the Tolerance, Democratic Movement of Romanians of Serbia and Party of Russians of Serbia.

<sup>50</sup> The complaint was filed by an individual against the candidate list 'United for Serbia - National Alliance Glišić – Parović,' on the grounds that the name of the candidates' list may not have two surnames and it was rejected by the REC. The Administrative Court overturned the REC decision, upon an overly restrictive interpretation of the law (LER, Art. 42). Subsequently, the REC provided this group of citizens with a 48-hour deadline to collect signatures and re-submit an application for registration of the candidates' list under a new name. The Administrative Court rejected three appeals filed by the nominating group against the REC and the court's decisions. In addition, two complaints are pending with the Constitutional Court, filed by the same group of voters against the decision of the Administrative Court and alleging violation of their constitutional rights. This candidate list eventually obtained new registration under the name of "In spite – United for Serbia – People's Alliance."

<sup>51</sup> Republican Party-Nikola Sandulović, This is Us -Natural Movement, Danjica Grujicic-Vlach Party, Hungarian movement-For Changes, The Tolerance, Male and female citizens- Coalition Roma Party and Bunievci Citizens of Serbia.

<sup>52</sup> The Green Party.

<sup>53</sup> Russian Party-Slobodan Nikolić, Republican Party-Nikola Sandulović, Serbian-Russian Movement and Green Party.' See *Participation of National Minorities Section*.

<sup>54</sup> According to the 2011 census, the largest minorities are the Hungarians (253,899), the Roma (147,604) and the Bosniaks (145,278). The Albanian minority boycotted the 2011 census, however a 2015 assessment in Southern Serbia requested by the Serbian authorities showed an Albanian population of 47,938.

<sup>55</sup> While 10,000 signatures are required to register a political party, a national minority can register a party with 1,000 signatures. However, all candidate lists, including those of a national minority, require the same 10,000 signatures to be registered.

<sup>56</sup> In addition, the Roma list was registered with national minority status, but afterwards withdrew. Six lists that applied for nationality minority status were not registered for lacking the supporting signatures.

did not present evidence of activities undertaken to represent and promote the interests of a national minority. However, the Administrative Court ruled that the REC cannot deny the national minority status to candidate lists submitted by political parties that have such status.<sup>57</sup> Some submitters of lists exploited the lack of clear criteria in the law to apply for the national minority status solely to obtain the related privileges.

Two candidate lists each were registered as Bosniak, Hungarian and Russian minorities, as well as one each as Albanian, and Slovak minorities. In addition, one other national minority party was on a coalition list with Serbian parties.<sup>58</sup>

### **Citizen and International Observers**

Despite longstanding OSCE/ODIHR recommendations, the electoral legislation does not provide for election observation.<sup>59</sup> Access for citizen and international observers is regulated by the REC Rules of Procedure and regulations for these elections. These regulations set reasonable deadlines for accreditation and limit the number of citizen observers to one observer per organization per polling station. In addition, the REC regulated that in order to be eligible to observe the elections, the goals and objectives of citizen organizations must relate to elections.<sup>60</sup>

The REC accredited 196 international observers and 1,689 citizen observers in an inclusive process. The Centre for Research, Transparency and Accountability (CRTA) observed a representative sample of a total of 450 polling stations while the Center for Free Elections and Democracy (CeSID) deployed 800 short-term observers. All international observers deployed by the OSCE/ODIHR and the PACE were accredited by the REC.

### **Election Day**

In accordance with standard practice for LEOMs, the OSCE/ODIHR LEOM did not observe election day proceedings in a systematic or comprehensive manner. In the limited number of polling stations (PS) visited by international observers, election day procedures, including counting, were generally conducted efficiently and in accordance with the law.

The design of the voting screens and the layout of PSs did not ensure the secrecy of the vote, which is not in line with OSCE commitments and other international obligations and standards. At times, the small size of voting premises and the large number of PB members contributed to overcrowding. In multiple cases noted by international observers, PB members lacked clear identification.

While procedures were followed overall, instances of family voting were observed and UV lamps to check against multiple voting were not used consistently. Not all PSs visited were accessible to voters with disabilities. The presence of citizen observers was only noted in a few instances. International observers noted and received reports about an intimidating presence of SNS representatives in and around some PSs.

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<sup>57</sup> Article 42 of the REC Instructions stipulate the criteria for granting national minority status to candidate lists, whereas the LER is silent on the issue. See *Complaints and Appeals Section*.

<sup>58</sup> The Democratic Alliance of Croats in Vojvodina is on “Fair for Serbia – DS” list.

<sup>59</sup> Paragraph 8 of the 1990 OSCE Copenhagen Document provides that “the participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place”. See also the Code of Good Practice, which states that “the presence of national or international observers should be authorized”.

<sup>60</sup> This led some of the citizen organizations to change their charters to apply for accreditation.

The REC began releasing preliminary results and posting PB protocols in the early morning after election day, contributing to the overall transparency of the process. Preliminary voter turnout was reported at 56.3 per cent.

*The English version of this Statement is the only official document.  
An unofficial translation is available in Serbian.*

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## **MISSION INFORMATION AND ACKNOWLEDGEMENTS**

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Belgrade, 25 April 2016 - The OSCE/ODIHR Limited Election Observation Mission opened in Belgrade on 18 March. It includes 10 experts in the capital and 12 long-term observers deployed throughout Serbia.

In line with OSCE/ODIHR's standard methodology for Limited Election Observation Missions (LEOMs), the LEOM focused on the longer-term electoral process without the additional deployment of short-term observers that would have provided the basis for a quantitative assessment of election day.

The observers visited a limited number of polling stations around the country on election day, although observation was not conducted in comprehensive fashion. On election day, 51 observers, were deployed, including 28 long-term observers and experts deployed by the OSCE/ODIHR, as well as 23 from the PACE. In total, there were observers from 29 OSCE participating States.

The observers wish to thank the authorities of the Republic of Serbia for the invitation to observe the elections, and the REC and the Ministry of Foreign Affairs for their assistance. They also wish to express appreciation to other state institutions, political parties and civil society organizations for their co-operation. The observers also wish to express appreciation to the OSCE Mission to Serbia and other international institutions for their co-operation and support.

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