



Office for Democratic Institutions and Human Rights

**REPUBLIC OF SERBIA  
SERBIA AND MONTENEGRO**

**PRESIDENTIAL ELECTION  
16 November 2003**

**OSCE/ODIHR Election Observation Mission Report**



Warsaw  
18 December 2003

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**REPUBLIC OF SERBIA  
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**OSCE/ODIHR Election Observation Mission Final Report**

**I. EXECUTIVE SUMMARY**

The election for the President of the Republic of Serbia, held on 16 November 2003, like those in September/October and December 2002, failed to meet criteria required by domestic legislation for a president to be elected. The election legislation was not amended since the last failed presidential election in December 2002 and continues to set two criteria for a successful presidential election: (1) a successful candidate must receive 50 per cent plus 1 of all votes cast, and (2) over 50 per cent of all registered voters must participate in the first round of voting. If the second condition is not met, the elections are declared invalid and a new election has to be called.

While the conduct of the election was overall in line with OSCE commitments and international standards for democratic elections, the continuing political impasse, and legal provisions allowing for an endless cycle of repeat elections, caused this attempt to fail. Several major political parties chose not to field candidates, while others openly called for a boycott of the vote. While the six registered candidates represented a significant portion of the political spectrum, the decision of major parties not to participate in the election narrowed voters' choices.

The election campaign was conducted in a calm atmosphere and was relatively low-key. Unlike in previous contests, candidates' campaign rhetoric generally remained within the parameters for constructive democratic debate.

The administration of the election process by the Republican Election Commission (REC) and the lower-level electoral bodies was generally efficient and transparent. All candidates could appoint representatives to election administration at all levels. There was less controversy within the election administration, and regarding its work, than in previous polls. Although voter registers were reviewed in 2003 in order to eliminate mistakes and deficiencies, opposition parties continued to question the accuracy of the registers.

The state broadcaster, Radio Television Serbia (RTS), provided free airtime to all candidates, and its coverage of the election campaign was unbiased, enabling voters to make an informed choice. Private broadcast media and print media was overall balanced, although it tended to give more coverage to the candidate supported by the ruling coalition. Generally, coverage of the presidential elections and of candidates' campaigns was given less media attention than other political events, such as the possibility of early parliamentary elections or the ongoing discussion in the parliament on votes of no confidence in the government and the Speaker of Parliament.

International observers rated the voting, counting and tabulation positively in the overwhelming majority of polling stations visited on 16 November. Multi-party Polling Boards worked effectively, in a co-operative spirit, and generally in accordance with procedures. Polling was also conducted in Kosovo among the Serb population.

The presence of some 10,000 domestic non-partisan observers contributed to the high level of transparency on election day. While they were able to work without impediments, the rights of domestic and international observers should be guaranteed by law and criteria for accreditation should be formalized.

The fact that the 16 November 2003 elections failed may have further undermined public confidence in the democratic reforms in Serbia since 2000. A constructive dialogue between political parties is imperative in order to strengthen democratic institutions. All election legislation must be reviewed comprehensively before a new election is held at the republican level.

The OSCE/ODIHR reiterates its willingness to assist the authorities and civil society of Serbia to overcome the challenges outlined in this and previous reports.

## **II. INTRODUCTION AND ACKNOWLEDGMENTS**

The 2003 presidential elections were observed by an International Election Observation Mission formed by the OSCE/ODIHR and the Congress of Local and Regional Authorities of Europe (CLRAE) of the Council of Europe. The OSCE/ODIHR long-term Election Observation Mission (EOM) was established for the period from 20 October to 22 November 2003 and consisted of 19 experts based in Belgrade and three regional centers. Mr. Nikolai Vulchanov (Bulgaria) headed the OSCE/ODIHR EOM. The CLRAE delegation was led by Mr. Joseph Borg (Malta). On election day, the EOM was augmented by 159 international short-term observers from 31 OSCE participating States.

The OSCE/ODIHR is grateful to the Ministry of Foreign Affairs of Serbia and Montenegro and the authorities of the Republic of Serbia, in particular the Speaker of Parliament, the Republican Election Commission, the Ministry of Interior and the Ministry of Public Administration and Local Self-Government for their assistance and co-operation during the course of the election observation. The OSCE/ODIHR is also grateful for the support and co-operation of international organizations and embassies accredited in Belgrade.

## **III. POLITICAL CONTEXT OF THE ELECTION**

### **A. GENERAL BACKGROUND**

The 16 November 2003 presidential election was called by the Speaker of Parliament of the Republic of Serbia, Ms. Natasa Micic, on 17 September 2003. It was the third attempt to elect a successor to former Serbian President Milan Milutinovic, whose five-year mandate had expired on 29 December 2002. As no new president was elected in the failed elections of September/October and December 2002, the Speaker of Parliament assumed the duties of acting President of the Republic, pending the election of a new president.

Since the failed elections of 2002, several key developments altered the political landscape in Serbia. At the end of 2002, negotiations on the Constitutional Charter of the common state were concluded between Serbia and Montenegro. The state union of Serbia and Montenegro was established in early 2003 with the appointment of members of the common Parliament and the election of a union government and a union president in March 2003. The assassination of Serbian Prime Minister Zoran Djindjic on 12 March 2003 threatened to destabilize the Republican government. While his successor Zoran Zivkovic continued reform policies, the political situation became increasingly complex.

The political impasse in the country, resulting from long-standing disputes between former partners in the Democratic Opposition of Serbia (DOS), continued. At the same time, relations between some of the remaining DOS parties deteriorated, and some of them withdrew from the coalition. As a result, it became increasingly unclear whether the government still had the support of a parliamentary majority, especially after the Social Democratic Party (SDP) withdrew its support on 9 November. The delicate balance in the parliament led to a stalemate which delayed the adoption of key legislation.

The issue of the mandates of 45 members of the Serbian Parliament from the Serbian Democratic Party (DSS) remained unresolved up to election day. The DOS Presidency had stripped DSS MPs of their mandates when the DSS left DOS, and the mandates were temporarily returned in November 2002. The Serbian Constitutional Court in 2003 ruled that mandates belong to deputies rather than to political parties and that members of parliament do not lose their mandates if they leave the party on whose ticket they were elected.

The political climate during the election period was further charged by the announcement that four senior army and police officers, including the current chief of Serbian police, had been indicted by the International Criminal Tribunal for the former Yugoslavia.

In the run-up to the November 2003 presidential elections, the Serbian parliament debated a motion of no confidence in Speaker of Parliament Natasa Micic submitted by the Party of Serbian Unity (SSJ), and begun debating two separate motions of no confidence in the government, which had been tabled by the Serbian Radical Party (SRS) and the DSS. The debates were suspended on 6 November in order to allow members of parliament to participate in the election campaign and were scheduled to resume on 18 November. However, the Speaker of Parliament on 13 November decided to dissolve the National Assembly and called early parliamentary elections for 28 December 2003.

## **B. THE CANDIDATES**

Six candidates contested the 16 November 2003 presidential elections: the President of the Presidency of the Democratic Party "Fatherland" (DSO), Radoslav Avlijas; the Mayor of Cacak and Chairman of New Serbia (NS), Velimir Ilic; the Speaker of the Parliament of Serbia and Montenegro and Chairman of the Democratic Center (DC), Dragoljub Micunovic (candidate of DOS); the Deputy Chairman of the SRS, Tomislav Nikolic; the Chairman of the People's Farmer's Party (NSS), Marijan Risticovic; and the Secretary-General of the Socialist People's Party (SNS), Dragan S. Tomic.

While the six candidates represented a significant portion of the political spectrum, the decision of several major political parties not to field candidates narrowed the choice for

voters. Major parties which decided not to participate in the presidential elections included the DSS, the Socialist Party of Serbia (SPS), G17 Plus, and the Serbian Renewal Movement (SPO). These parties instead called for early parliamentary elections as a means to break the current political deadlock. The SPS, the SPO and the SSJ called on their supporters to boycott the presidential elections.

#### **IV. LEGAL FRAMEWORK**

In addition to several provisions in the Constitution, two key laws provide the legal framework for presidential elections: the Law on the Election of President of the Republic (“the presidential election law”), adopted in 1990 and amended in November 2002, and the 2000 Law on the Election of Representatives (“the parliamentary election law”) which contains most of the rules applicable to administration of presidential elections. In addition, other laws and decisions issued by the Republican Election Commission (REC) govern presidential elections.

The Serbian Constitution provides for the President to be elected for a five-year term through general and direct elections. For an election to be valid, more than 50 per cent of all registered voters must turn out in the first round. If this turnout requirement is not met, new elections have to be called. If the turnout requirement is met but no candidate receives at least 50 per cent plus 1 vote in the first round, a second round is held between the two leading candidates. In a second round, the candidate who receives the higher number of votes is elected irrespective of turnout.

Suffrage is granted to every citizen of Serbia and Montenegro aged over 18 and registered as a permanent resident in Serbia. Candidates for president must meet these same criteria and also be registered as a permanent resident in Serbia for at least one year prior to election day. Candidates can be nominated by political parties, coalitions, or groups of citizens with the support of at least 10,000 verified signatures of eligible voters. Voters may only vote in person and only in the polling station in their registered place of permanent residence. This provision effectively disenfranchises citizens who are not at their place of permanent residence on election day, are homebound, in hospitals and in pre-trial detention, and eligible voters abroad.

After the first failed cycle of elections in 2002, the OSCE/ODIHR provided a number of key recommendations to remedy important shortcomings in the election legislation. Some of the recommendations were addressed by the authorities and incorporated in the amendments of the presidential election law passed on 5 November 2002. However, the legal framework has not been further amended since then, and it still contains provisions that allow for a cycle of failed elections. In its Final Report on the 2002 presidential elections of 18 February 2003, the OSCE/ODIHR stated that the 50 per cent voter turnout requirement for valid elections was “impractical, counterproductive to the concept of participatory democracy and opening the possibility of an endless and expensive cycle of repeat elections”. In addition, turnout requirements can have a tendency to encourage electoral boycotts.

In September 2003, following a DSS motion, the Constitutional Court ruled on Art. 5.10,3<sup>1</sup> of the presidential election law, stating that the 60 day period set down in the law for calling new elections after a failed one is binding. Therefore the Speaker of Parliament has no discretion on whether to call new elections or not, in line with the manner in which the law was interpreted after failed 2002 elections.

## **V. CHALLENGES REMAINING TO BE ADDRESSED**

### **A. TURNOUT REQUIREMENT**

The November 2002 amendments to the presidential election law retained the requirement for more than half of all voters to participate in a first round of a presidential election in order for it to be valid. If this requirement is not met, elections are declared void and have to be repeated from the outset.

No international standards for voter participation are in place for presidential elections in the OSCE area. However, after the failure of three different cycles of elections from 1997 until now, the turnout requirement shows its impracticality. It creates the possibility of endless cycles of repeat elections that prove to be both financially expensive and detrimental to the concept of participatory democracy because of the use of both silent and overt boycott by political parties.

The turnout requirement has tended to encourage electoral boycotts by political forces that may seek, for example for their own party interests, and to prevent a popular opponent from winning. Where elections fail because of boycotts, the confidence of voters in the value of voting may be undermined, further weakening public confidence in democratic processes.

Furthermore, the voter turnout requirement in Serbia is established not by the Constitution but by the presidential election law. The Constitution envisions a presidential office that executes laws promulgated by the Parliament, unhampered by vacancy. Constitutional provisions that promote the continuity and stability of the presidential office underscore this principle and are at odds with legislative provisions that can lead to a perpetually vacant presidential office. Thus, the OSCE/ODIHR considers that the requirement may run counter to the Constitutional obligation to have an elected president.

### **B. INCONSISTENCIES BETWEEN THE PRESIDENTIAL AND PARLIAMENTARY ELECTION LAWS**

The November 2002 amendments to the presidential election law have created two different administrative structures for Republic-wide elections in Serbia. Municipal Election Commissions (MECs) have been introduced as an intermediate body by the 2002 amendments, but such changes have not been introduced for parliamentary elections, making it necessary for the REC to use municipal working groups whose only legal base can be found in REC regulations.

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<sup>1</sup> Art 5.10/3 states that “The President of the National Assembly of the Republic of Serbia is to decide on calling the new elections for the President of the Republic within 60 days from the day when unsuccessful elections were held”.

## **VI. ELECTION ADMINISTRATION**

Overall, the election administration performed its duties in a transparent and efficient manner. Representatives of candidates were appointed to the extended composition of election administration bodies at all levels, and they had the opportunity to participate in the conduct of the elections.

### **A. THE REPUBLICAN ELECTION COMMISSION**

The Republican Election Commission (REC) is a body composed of 16 permanent members. Its current composition was appointed by the Parliament in July 2002. The REC is chaired by a President and its work is supported by a non-voting Secretary and a non-voting member from the Republican Statistics Institute. Presidential candidates have the right to appoint representatives to this body 24 hours after their submission for candidature has been certified by the REC. All members have the same rights, and all have deputies.

All six candidates appointed representatives to the REC, so they could have insight to and participate in the work of the commission.

### **B. MUNICIPAL ELECTION COMMISSIONS**

The amendments to the presidential election law passed in November 2002 incorporated Municipal Election Commissions (MEC) into the election-administration structure for presidential elections. MECs act as an intermediate level between the REC and the Polling Boards. The amendments formalized the role of the MEC, carried out earlier by an *ad hoc* body, the municipal working group, that is still in place for parliamentary elections. MECs are composed of a chairperson and at least six permanent members. They are appointed by Municipal Assemblies, and perform mainly logistical duties. However, they also appoint Polling Boards.

Presidential Candidates can appoint extended members to the MEC. Their compositions were determined after the local elections held in 2000 and after by-elections that took place over the last three years. They have generally a multi-party composition.

### **C. POLLING BOARDS**

The REC appointed a total of 8,581 Polling Boards (PBs) for the 16 November elections. Polling Boards are composed of a President and two members. Candidates can appoint extended members, but not all of them had the capacity and resources to do so in all PBs. In some cases, “allied” parties which did not field candidates helped by offering to fill in vacant seats. For example, DSS members acted as extended members for Velimir Ilic on some PBs.

PBs were in general offering a multi-party composition, however, several complaints were filed at the REC on this issue. Opposition parties claimed that Art. 29.4 of the parliamentary election law, stating that “no party or coalition can have a majority in the permanent composition of election administration bodies”, had not always been applied properly. All



such complaints were rejected on procedural grounds. No post-election appeals were filed on this issue.

#### **D. VOTING IN KOSOVO**

Voting took place in Kosovo; 248 Polling Station were established in 19 municipalities where a Serb population resides. There was a net decrease of 13 polling places, mainly due to security considerations. The administration of elections in Kosovo was coordinated from three main centers, located in the cities of Vranje, Raska and Kraljevo. The REC appointed three of its members as coordinators to supervise operations.

### **VII. CANDIDATE REGISTRATION**

Unlike in past presidential elections, the candidate registration process was smooth and not subject to numerous appeals. All certified candidates submitted well above the 10,000 signatures necessary for candidature submission. Four potential candidates were rejected for failing to present the complete documentation foreseen by the law, or for not presenting the necessary number of signatures. One of them filed an appeal to the Supreme Court, which upheld the REC decision.

### **VIII. VOTER REGISTRATION**

The responsibility to compile and maintain voter registers is vested in the municipal authorities, which are obliged to update the registers by 31 March each year. Citizens over the age of 18 are included in the voter register in their place of permanent residence as recorded by the police. Therefore, the two main sources for updates to the voter register are the municipal civil status books (for births, deaths, marriages and citizenship) and the police records (for registered/de-registered permanent residence). However, in addition to the efficiency of the administration, the accuracy of voter registers depends substantially on the timely reporting of civil events by citizens.

The accuracy of the voter register has been at the center of heated debates and court proceedings during the past presidential elections. As noted in the Final Report on the 2002 presidential elections, “[the] accuracy of voter register was more important for these elections because of the voter turnout requirement”.

In December 2002, the REC rejected a complaint filed by the DSS on the accuracy of the voter register on the grounds that the final number of voters had already been certified and could not be amended *post factum*. This decision was appealed with the Supreme Court which rejected the appeal on grounds that it was not competent to judge on the matter. However, the DSS insisted that a large number of inaccuracies and non-existing voters were still on the register as it had been approved in December 2002.

The Ministry for Public Administration and Local Self Government (MPALSG) undertook a comprehensive action at local level to improve the accuracy of the voter register. Between December 2002 and the closing of the register on 31 October 2003, about half a million entries were corrected and a series of inspections at local level were carried out. No changes were

made to the voter registers of the 19 municipalities in Kosovo. The Ministry and several members of the REC, while admitting that about 120,000 entries still show wrong or missing identity data, agreed that there has been considerable improvement in the quality of the register, and wrong data generally did not prevent identification of citizens. However, opposition members continued to disagree.

All interlocutors agree that assessing the accuracy of the voter register is still a very difficult task. This is mainly due to a number of factors that still need to be addressed:

- Non-uniform storage of data at the municipal level. Some 76 different types and versions of software are being used. Because of the decentralized local-administration system, it is unclear whether a central institution could introduce some level of uniformity in the way data are managed at local level. Both the REC and the MPALSG claim that it is not within their competence or power to do so. Standardization may be introduced with a more comprehensive law on voter registers.
- Unclear definition of responsibilities. Municipalities have responsibility for updating the register together with local branches of the Ministry of Interior, while the role of the REC is not clearly defined or subject to different interpretations. Several times, the opposition requested that the REC only announce the final number of voters, rather than certifying them, mainly because the REC has no way to assess the accuracy of extracts submitted by municipalities
- The unique voter register envisaged by law does not exist in practice. Instead, the REC merely collects and aggregates the different municipal registers. This considerably limits transparency, and creates potential problems for comparing data and finding duplicate entries on the various municipal voter registers.
- Problematic areas indicated involve not only municipal authorities, but also the Ministry of Interior, the MPALSG and the REC. A comprehensive revision and a more clear definition of responsibilities is urgently needed to add efficiency and transparency to the process. Some interlocutors have expressed the idea that a completely new law on the voter registration and an *ex novo* registration might be the most effective solutions.

## **IX. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES**

No women candidates submitted nomination papers; thus, the candidates were exclusively male. Women tended to be represented fairly well in the election administration, especially the REC. No candidate made significant attempts to address issues of gender equality.

Similarly, no candidate came from a national minority. Overall, candidates did not address minority issues or focused their campaigns on minority communities. As in previous elections, voters from national minority communities generally participated in voting. In some municipalities in the Sandzak and in northern Vojvodina, voter turnout was above the national average. On the other hand, some municipalities in Southern Serbia with a concentration of ethnic Albanians recorded turnout well below the average.

## **X. ELECTION CAMPAIGN**

The election campaign took part in a quiet environment, despite the political uncertainty over the government's future and demands for early parliamentary elections. Such issues overshadowed political life before such elections were actually called on 13 November. As in previous elections from December 2000 onward, fundamental freedoms of association, assembly and expression were respected, reflecting the significantly improved atmosphere for elections since the downfall of the Milosevic regime.

The presidential election law contains no provisions regarding the election campaign, while the parliamentary election law — outside provisions regulating media coverage — only stipulates a campaign-silence period 48 hours prior to election day and on election day itself. Despite this absence of legal campaign regulations, the conduct of the individual candidates' campaign was not a matter of dispute between competitors. Campaign financing is only partly regulated in the election legislation and lacks transparency. However, a recently adopted law on party financing, which will take effect on 1 January 2004, addresses some of these issues.

The election campaigns of most candidates were low-key. The only candidate to post billboards throughout the country was Dragoljub Micunovic. While the SRS put up many posters of its candidate, Tomislav Nikolic, the other four candidates put up only small numbers of posters. In their meetings with the OSCE/ODIHR EOM, most candidates said that limited financial resources hampered their campaign activities and lowered visibility.

All candidates held campaign meetings throughout Serbia. Dragoljub Micunovic was particularly active and was often accompanied on his campaign activities by senior government officials and leading DOS politicians. This was criticized by his competitors, who maintained it constituted direct government involvement in the campaign. They also claimed that Micunovic was using state resources for campaign purposes.

## **XI. MEDIA AND ELECTIONS**

### **A. LEGAL FRAMEWORK**

The presidential election law does not provide a legal framework for the regulation of the media campaign. Instead, media coverage of presidential candidates is governed by a variety of provisions, including articles of the parliamentary election law and of the Broadcasting Law, which is supplemented by a set of detailed instructions.

Upon coming into effect, the Broadcasting Law, which was adopted by the Serbian Parliament in July 2002, did not address coverage of the presidential candidates on the state-owned Radio Television Serbia (as prescribed in the Law on the Elections of the Members of the Parliament, Article 51). Instead, based on the Broadcasting Law, the Council of the Republic Broadcasting Agency – appointed in May 2003 – issued on 14 October 2003 General Binding Instructions, defining the conditions of conduct for the presentation of candidates, both in state and in private broadcast media. The Binding Instructions do not apply to print media.

The OSCE/ODIHR Final Report on the 2002 presidential elections noted that “insufficient provisions failed to ensure candidates equal access to, and coverage in, the media. While the law was explicit in addressing the State-owned media, it provided no guidance on the role and obligations of the private media in the election campaign”. In a welcome development, the Binding Instructions issued by the Broadcasting Council provide that all broadcasters (state and private ones) should ensure candidates equal opportunities, including offering equal rates for paid advertisements to all contestants.

On 19 September 2003, the state broadcaster Radio Television Serbia issued the Rules for Presentation of Candidates on Radio Television Serbia (RTS) as a set of internal and voluntarily adopted regulations for the coverage of the presidential campaign. The Rules require RTS to equally and objectively represent all candidates and establish in great detail the format and time of presentation of electoral activities.

The parliamentary election law also provides for a special institution, the Supervisory Board, appointed by Parliament, to monitor the media during the campaign period. The Board, however, was not constituted for the previous presidential elections. At that time, the justification given by Parliament was that the Board had a temporary mandate relating only to the parliamentary elections.

Under the new Broadcasting Law, the Council of the Republic Broadcasting Agency shall supervise the work of the broadcasters and in the event of any breach of the Binding Instructions, undertake legally prescribed measures. However, apparent breaches in the appointment procedures of some of the members of the Council, together with the lack of confidence in their neutrality expressed by some interlocutors, could have undermined the credibility of this regulatory body.

At its session held on 5 November, 2003, the Broadcasting Council discussed the behaviour of broadcasters in the pre-election campaign and stated that there had been no significant deviations from the Agency’s Binding Instructions. However, a lack of uniformity in the practice of candidate presentation was noticed by the Council in various media.

## **B. MEDIA MONITORING**

On 23 October, the EOM began monitoring the political and campaign content of a variety of print and electronic media. Four TV channels and four newspapers<sup>2</sup> were analysed daily in order to assess media coverage of candidates and relevant political actors during the campaign.

In the monitored period, from 23 October to 13 November, media coverage was characterized by limited attention to the election campaign. Out of the total coverage devoted to political actors during the campaign, the electronic media dedicated 38 per cent of the time to presidential candidates, and the print media just 15 per cent of the space devoted to politics. The coverage of candidates was somewhat overshadowed by other news items, including the votes of no confidence in the government and in the Speaker of Parliament, the possibility of

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<sup>2</sup> The following electronic media were monitored: the first channel of state-owned TV (RTS1) and the private TV BK, TV PINK and TV B92. Among the print media, the dailies *Vecernje Novosti*, *Politika*, *Blic* and *Balkan* were monitored.

early parliamentary elections, a number of alleged scandals and accusations involving members of the government, the Hague tribunal and trade union protests.

Overall, the spectrum of electronic and print media provided balanced treatment of the candidates. The media environment was generally professional. It has to be noted, however, that the electronic media in their informative/political programs tended to avoid comments and criticism, covering political issues without an analytical or investigative approach.

No instances of explicit hate speech emerged during the course of the campaign. According to several interlocutors, the media campaign for the presidential elections 2003, unlike previous ones, was not used as a vehicle for fierce inter-party fights; instead it was characterized by constructive political dialogue among the contestants.

The public broadcaster *RTS* fulfilled its legal requirements, and all candidates took advantage of the allocation of free airtime during its special election programs. The presidential campaign was presented within the main news programs of *RTS1* and in a special election program, *Political Polygon*, which was aired right after the “News 2” program at 22:40. All candidates were also provided with free-of-charge airtime for their video clips.

On 13 November, right before the main news, *RTS* broadcast a special announcement by the Speaker of Parliament *Natasa Micic*, Prime Minister *Zoran Zivkovic*, and presidential candidate *Dragoljub Micunovic*, announcing early parliamentary elections for 28 December 2003, with *Micunovic* stressing his support for the upcoming elections. The presence of Mr. *Micunovic* during the official announcement by the highest state officials in the state-owned TV had the potential to blur the distinction between activities of state and a candidate's campaign.

The private broadcasters concentrated their campaign coverage on the DOS candidate, *Dragoljub Micunovic*. On private *TV B92* and *TV BK*, *Micunovic* received 64 per cent and 50 per cent of the coverage devoted by the two TV channels to the presidential candidates, respectively. All other candidates received coverage, but it was significantly less than the exposure given to *Micunovic*. The main pre-election convention of *Dragoljub Micunovic* was broadcast live by *TV BK* and *TV Pink* the night before the pre-election silence began. Overall, though, private broadcasters provided neutral information about all candidates with the sole exception of *TV B92*, which showed some critical approach.

Three of the four monitored dailies – *Vecernje Novosti*, *Politika* and *Blic* – granted most space to *Micunovic*. Showing a different trend, the daily *Balkan* devoted a similar amount of space to the SRS candidate *Tomislav Nikolic* and to *Micunovic*. The tone of the candidates' coverage in the print media was predominantly neutral.

Only *Dragoljub Micunovic* placed paid advertisements on the monitored print and electronic media on a regular basis. *Tomislav Nikolic* took advantage of some paid airtime and space, while other candidates relied mainly on free airtime and space.

A Get-Out-the-Vote campaign launched by NGOs, *CeSID* and the *REC* was given extensive coverage in the electronic media outlets, especially during the last week of campaign. The campaign coverage continued also during the 48-hours media blackout prior to election day.

## **XII. RESOLUTION OF ELECTION DISPUTES**

Electoral complaints may be lodged by any voter or candidate who claims that a violation of electoral rights or irregularity regarding the electoral process has occurred. As all decisions related to the administration of the election and interpretation of election legislation are taken by the REC, an appeal or complaint against one of its decisions can only be filed with the Supreme Court of Serbia.

The REC dealt with a number of complaints during the pre-election phase, the majority of which concerned the composition of Polling Boards. All complaints were dismissed for procedural reasons, or because terms for filing complaints with the REC had expired. A subject filing an election-related complaint to the REC has 24 hours after the decision has been taken to submit a formal complaint and all necessary evidence. However, in most cases, complainants exhausted the time limit by forwarding the appeal to the MEC instead, wasting precious time and *de facto* invalidating the complaint.

## **XIII. DOMESTIC OBSERVERS**

The rights of non-partisan observers, whether domestic or international, to monitor the election process are not provided for in the legislative framework for elections in Serbia. However, the REC issued an instruction allowing observers to be accredited and to be given full access to the election process. An application by the Smederevo branch of the Socialist Party of Serbia to be accredited as observers was rejected by the REC on the basis that the main scope of that organization was not election observation.

As in previous elections, the entire election process was observed closely by the Belgrade-based Center for Free Elections and Democracy (CeSID) which deployed over 10,000 observers in polling stations to monitor voting and counting. Based on its presence in polling stations throughout the country, CeSID was able to provide voter turnout figures and parallel vote tabulations of the count which were timely and accurate. The work of CeSID contributed significantly to the transparency of the election day process and public confidence in the accuracy of the results.

## **XIV. OBSERVATION OF VOTING, COUNTING AND VOTE TABULATION**

Polling on 16 November 2003 was conducted in a relaxed and calm atmosphere and was generally in accordance with the law and regulations. Turnout, however, was only 38.79 per cent, causing the elections to fail once again.

### **A. VOTING**

As in previous elections since December 2000, international observers rated the polling and counting procedures positively in the overwhelming majority of polling stations observed. Only in 1 per cent of polling stations was the conduct of the vote assessed as “poor”. Observers noted that access to polling stations was difficult in 12 per cent of polling stations visited.

Polling Boards worked efficiently, impartially and tried to implement voting procedures in the correct manner. However, voters' privacy was not always ensured, especially in polling stations which were too small for the registered number of voters or where sub-standard voting screens were used. In 12 per cent of polling stations visited, observers noted that the Polling Board did not prevent "group voting" (more than one voter marking ballots at voting booths simultaneously, usually, members of the same family). Another problem noted was that Polling Boards did not always systematically check voters' identification before handing out ballots (10 per cent of polling stations visited) or check for traces of invisible ink on voters' fingers (7 per cent).

Many Polling Board members who were met stated to observers that they did not belong to any political party or did not want to disclose their party affiliation. Among those who did state a party affiliation, all major parties were represented, including those which did not have a candidate in the elections. Such parties tended to be less represented on PBs than those which had a stake in the election. Candidate representatives were part of the extended PB membership in almost all polling stations visited, in particular those representing Micunovic, Nikolic and Ilic. The remaining candidates had less PB members; however, each candidate had extended members in more than half of the polling stations visited.

International observers were able to peruse the extracts of the voter registers in order to identify possible problems, for example whether a unique personal identification number (JMBG) was missing. On election day, 18 per cent of PB chairpersons said they were aware of deceased persons on the voter register, although the number of cases was usually small. In October 2002, before the Ministry of Public Administration and Local Self-Government undertook efforts to correct mistakes in the voter registers, some 34 per cent of PB chairpersons had said that deceased persons remained on their polling station's voter list. In around 22 per cent of polling stations visited, at least one person was turned away because his or her name was not included in the voter register. Only in less than 1 per cent of polling stations visited were persons not on the voter register allowed to vote.

## **B. VOTE COUNT**

Observers also evaluated the vote count in positive terms. Less than 3 per cent characterized the count they observed as "poor". In most cases, procedures to safeguard the integrity of the vote were implemented properly. Observers noted, however, that Polling Boards did not always count the number of unused ballots or determine the number of voters who had voted (based on the number of signatures on the voter list) before opening the ballot box and counting the votes cast. Polling Board members and observers could follow the vote count and scrutinize the ballots in almost all polling stations. Only in 4 per cent of polling stations were extended Polling Board members representing the top-scoring candidates not given a copy of the minutes, while in a few isolated cases, the results were not put on public display outside the polling station.

On Election Day, four PBs were dissolved as during the vote count more ballots were found in the ballot box than signatures on the voter register. No repeat elections were called for these polling stations on the grounds that the overall result of the elections would not be affected.

Observers also accompanied Polling Board members to the Municipal Election Commission level where the boards handed over their election materials. The processing of results at this stage was generally transparent although the premises of around half of the MECs visited were overcrowded as many Polling Boards arrived there at the same time. Observers noted in 20 per cent of the MECs visited that polling station protocols contained deficiencies; these were, however, corrected on the spot by members of the Polling Board in question or by the statistician handling data input.

### **C. TABULATION**

The REC processed election results efficiently and transparently, and could announce the official results within the legal deadline. Preliminary results were announced by the REC at several times during election night, and turnout figures from a representative sample of polling stations were announced during the course of polling. All REC members were able to receive electronic copies of the election results. There was no challenge to the accuracy of results.

## **XV. POST-ELECTION DAY DISPUTES, COMPLAINTS AND APPEALS**

Election Day and the post-election period were largely uncontroversial. Only one complaint was filed with the REC after election day, in which a representative of Dragan Tomic asked for a recount in one polling station. It was rejected on procedural grounds, and that decision was not appealed to the Supreme Court.

## **XVI. RECOMMENDATIONS**

The OSCE/ODIHR would like to reiterate its previous recommendation that election legislation should be reviewed comprehensively. In doing so, the next parliament should consider recommendations made by the OSCE/ODIHR in this and in previous Final Reports on presidential and parliamentary elections, and also the Assessment of Legislation in the Republic of Serbia issued in April 2001.

### **A. LEGAL FRAMEWORK**

1. The legislative inconsistencies between the presidential and parliamentary election system should be addressed to bring the two election systems into line with each other. Improvements made to the presidential election law, in particular with regards to the role of Municipal Election Commissions, should be incorporated in the parliamentary election law.
2. Thorough consideration should be given to the removal of any provisions that can cause repeated failures of presidential elections. In particular, the requirement for a minimum voter turnout in the first round could be dropped or modified to allow the two strongest candidates to contest a second round, regardless of voter turnout in the first round.
3. Out-of-polling station voting for disabled, hospitalized and those temporarily away from their homes should be introduced along with the appropriate safeguards in order ensure that all eligible citizens could cast their ballots.



4. A winning candidate should require the majority of valid votes cast, disregarding invalid ballots.
5. The rights of domestic and international non-partisan observers should be guaranteed in the law, and criteria for their accreditation should be stipulated clearly.

#### **B. ELECTION COMMISSIONS**

6. The legal framework should be amended in order to clarify the rights of extended members of election administration bodies. In particular, it should be made clear whether the extended composition continues throughout a possible second round of elections.
7. The parliamentary election law should be amended to ensure that Polling Boards may only be dissolved by the REC, following a formal complaints about serious violations.

#### **C. CAMPAIGN AND THE MEDIA**

8. The Broadcasting Law should be amended to ensure the autonomy of the Council of the Republican Agency for Broadcasting Media. In particular, amendments should provide for more balance between civil society and political authorities within the list of bodies which are entitled to nominate members of the Council. The law in its current form gives the state the right to nominate four of the nine councillors, while social institutions and professional organisations nominate two members each and the ninth member is nominated by the eight other councillors.
9. Consideration should be given to the removal of those provisions in the election legislation superseded by provisions of the newly adopted Broadcasting Law, in order to ensure more consistency in the legal framework regulating campaign media.

#### **D. VOTER REGISTRATION**

10. Consideration should be given to creating a single, unified voter register for the Republic, as envisaged in the law. Overall responsibility and authority for its maintenance should be given to a single State body.
11. Current efforts to improve the accuracy of voter registers should continue in order to remove remaining deficiencies. In particular, control checks for duplicate entries and entries with incomplete or incorrect data should be conducted continuously at the Republic level.
12. Civil records held by municipalities in electronic form should be maintained using a single uniform software throughout the Republic. Links should be created between municipalities in order to allow for the verification of errors or duplicates in civil records.
13. The parliamentary election law should be amended to require voter registers to be publicly accessible at polling stations in advance of an election.

14. Political parties' access to voter registers should be regulated in the law. However, safeguards should be introduced to protect citizens' right to privacy.

**E. ELECTION DISPUTES**

15. A thorough review of the election disputes resolution process should be conducted in order to ensure an efficient, inclusive and transparent process.

16. Appeals to the Supreme Court should be heard in public and the parties to the appeal should have the right to present their case directly or through legal representation.

**F. ELECTION DAY**

17. Polling stations should be selected to ensure that their size and layout is suitable and that they offer unimpeded access to elderly and disabled voters. The quality of voter screens should be standardized in such a way that they ensure the secrecy of the vote.

18. Training of polling board members should ensure the proper conduct of all voting and counting procedures on election day. In particular, serious efforts to prevent "group voting" should be undertaken by the REC.

## APPENDIX: SUMMARY OF OFFICIAL RESULTS

First Round, 16 November 2003

The REC announced the official first round results on 18 November 2003.

Number of <b>voters registered</b> in the voters' register	6,506,505	100 per cent
Number and per cent of voters recorded as having <b>voted</b>	<b>2,523,889</b>	<b>38.79</b> <b>per cent</b>
Number and per cent of <b>invalid</b> ballots	86,178	3.41 per cent
Number and per cent of <b>valid</b> ballots	2,437,711	96.59 per cent

Candidates	Name of the submitter (party, coalition, group of citizens)	Number of votes	per cent of number of voters who voted	Per cent of number of all registered voters
Tomislav Nikolic	SRS	1,166,896	46.23	17.93
Dragoljub Micunovic	DOS	893,906	35.42	13.74
Velimir Ilic	New Serbia	229,229	9.08	3.52
Marijan Risticovic	NSS	72,105	2.86	1.11
Dragan S. Tomic	SNS	54,703	2.17	0.84
Radoslav Avlijas	Democratic Party "Fatherland"	20,872	0.83	0.32

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It co-ordinates and organizes the deployment of several observation missions with thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, gender equality, and trafficking in human beings. The ODIHR implements more than 100 targeted assistance programmes every year, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR promotes the protection of **human rights** through technical assistance projects and training on human dimension issues. It conducts research and prepares reports on different human rights topics. In addition, the Office organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States. In its anti-terrorism activities, the ODIHR works to build awareness of human dimension issues and carries out projects which fundamentally address factors engendering terrorism.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website ([www.osce.org/odihhr](http://www.osce.org/odihhr)).