



Office for Democratic Institutions and Human Rights

REPUBLIC OF SERBIA

Early Parliamentary Elections
16 March 2014

OSCE/ODIHR Limited Election Observation Mission
Final Report



Warsaw
22 May 2014

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REPUBLIC OF SERBIA
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OSCE/ODIHR Limited Election Observation Mission Final Report¹

I. EXECUTIVE SUMMARY

Following an invitation from the authorities of Serbia to observe the 16 March 2014 early parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on 13 February deployed a Limited Election Observation Mission (LEOM). The OSCE/ODIHR LEOM remained in Serbia until 25 March and assessed compliance of the election process with OSCE commitments and other international standards for democratic elections, as well as with domestic legislation.

The early parliamentary elections offered voters a genuine choice. Although fundamental freedoms were respected throughout the campaign, credible reports about cases of intimidation of voters overshadowed the campaign environment. All levels of the election administration operated efficiently, acted within legal deadlines, and passed decisions in a collegial manner. Despite considerable efforts made, the voter register requires further improvement. There was a lack of critical and analytical reporting on the campaign in the media. Existing pluralism of opinion and independence of journalists were jeopardized by the influence exerted on media by the political parties in power.

The legal framework for parliamentary elections provides an overall sound basis for the conduct of democratic elections in line with OSCE commitments and other international standards, although certain recommendations from the previous elections remain unaddressed, in particular those that pertain to candidate registration, election administration, complaints and appeals, and international observers. While statutory laws governing these elections remained unchanged from those that applied to the 2012 parliamentary elections, certain aspects were improved from 2012 through by-laws issued by the REC after the elections were announced.

The elections were administered by a two-tiered election administration, comprising the REC and 8,387 Polling Boards (PBs). Despite previous recommendations, the legal framework does not foresee an intermediate level of election administration. Pursuant to a REC instruction, however, 166 *ad hoc* Working Bodies were created at municipal level to provide logistical support to election administration.

The unified electronic voter register (VR) requires further improvement, as it still contains a number of double entries and records of deceased voters. Also, in accordance with the Law on Single Electoral Roll all names and surnames of national minority voters need to be entered in both Cyrillic and in the script and spelling of the voter's respective language. Some national minority parties complained that the names on the VR extracts in Cyrillic were misspelled to the extent that it was hard to locate the respective voters in the voter lists. The Law on Personal Data Protection currently restricts public display of any personal data, and thus prevents public scrutiny of the VR, an important means to ensure transparency and improve accuracy of the voter registration.

¹ The English version of this report is the only official document. An unofficial translation is available in Serbian.

The REC registered 19 candidate lists with a total of 3,020 candidates in an inclusive process. The procedure of certification of support signatures has been criticized by some electoral contestants as laborious, expensive and overly bureaucratic.

The country's economic situation, especially employment and various investment issues, the reforms necessary for EU integration, and the fight against corruption were the main topics of the campaign. Isolated incidents of election-related violence were noted but did not disturb the campaign in the localities concerned. The OSCE/ODIHR LEOM received credible reports about cases of intimidation of voters during door-to-door campaigning and of public sector employees. In line with the legally stipulated gender quota, one third of the candidates were women, however they were hardly visible in the election campaign, and the contestants did not specifically address women's issues in their programmes.

A number of OSCE/ODIHR LEOM interlocutors welcomed the more pro-active attitude of the Anti-Corruption Agency in overseeing the campaign financing during these elections. The lack of transparency of campaign financing remained an issue of concern, especially since there is no campaign expenditure limit.

Media pluralism and independence of journalists are jeopardized by the influence exerted on media by political parties and the private sector. The OSCE/ODIHR LEOM media monitoring results showed that both public and private media offered extensive coverage of the elections in a variety of formats but the voter education content was scarce and lack of critical and analytical reporting was evident.

The Supervisory Board tasked by law with the general supervision over political parties, candidates and mass media during the election was not established. Instead, the Republic Broadcasting Agency took up the responsibility of monitoring whether broadcast media provided equal conditions to all electoral contestants. The REC informed the OSCE/ODIHR LEOM that it lacked the competency to control compliance of contestants with campaign rules, thus the activities of parties and candidates were not subject to control during the campaign.

Although the electoral dispute resolution mechanism generally complied with OSCE commitments and international good practice, some shortcomings remained: the deadline for filing a complaint was too short to adequately substantiate a complaint, and the absence of public hearings before the REC and the Administrative Court was not in line with OSCE commitments, other international standards, and due process and fair trial principles. Few complaints were filed both before and after the election day.

Five national minority parties registered electoral lists independently and two coalitions comprised national minority parties only. Some national minority parties decided to run jointly with national parties and coalitions. Five out of six ethnic-Albanian parties chose to boycott the elections. Three national minority parties won a total of twelve seats in the National Assembly, which is a slight increase in comparison with the composition of the previous parliament.

In line with OSCE/ODIHR standard methodology, the OSCE/ODIHR 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. Nevertheless, OSCE/ODIHR LEOM observers visited a limited number of polling stations on 16 March. In the polling stations visited, PB members presented solid knowledge of the voting procedures and voting proceeded in an orderly manner. Some PS premises

were inadequately small, which led to overcrowding. The design of voting screens, combined with the layout of polling stations, did not always ensure the secrecy of vote.

In the polling stations visited during the vote count, the vote count was carried out in a professional, transparent and orderly manner. The Republic Statistical Office fulfilled its tasks regarding the tabulation of results in accordance with the law and all PB protocols were delivered to the REC in a timely manner. Official results broken down to polling station level were announced and published on the REC website on 24 March, within the legal deadline.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the authorities of Serbia to observe the 16 March 2014 early parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on 13 February deployed a Limited Election Observation Mission (LEOM). The LEOM was headed by Ambassador Boris Frlec and consisted of 10 experts based in Belgrade and 12 long-term observers (LTOs) who were deployed throughout the country. Mission members were drawn from 19 OSCE participating States. Local elections in five localities were held concurrently with the parliamentary elections and were observed by the LEOM only to the extent that they impacted on the conduct of the latter.

In line with the OSCE/ODIHR's standard methodology for LEOMs without short-term observers, the mission did not carry out comprehensive or systematic observation of election-day proceedings, but members visited a limited number of polling stations and followed the tabulation of results in some districts. The mission followed electoral proceedings on 16 March jointly with delegations from the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE). Roberto Battelli (Slovenia) was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator to lead the short-term observer mission. Luigi Compagna (Italy) headed the OSCE PA delegation. Pedro Agramunt (Spain) headed the PACE delegation. The OSCE/ODIHR LEOM remained in Serbia until 25 March and followed post-election developments.

The OSCE/ODIHR LEOM assessed compliance of the election process with OSCE commitments and other international standards for democratic elections, as well as domestic legislation. This final report follows the Statement of Preliminary Findings and Conclusions, which was released on 17 March 2014.

The OSCE/ODIHR LEOM wishes to thank the authorities of the Republic of Serbia for the invitation to observe the elections, and the Ministry of Foreign Affairs, the Republic Electoral Commission (REC), local authorities, as well as political parties, candidates, and civil society organizations for their co-operation. The mission also wishes to express appreciation to the OSCE Mission to Serbia and to diplomatic representations of OSCE participating States and international organizations for their co-operation throughout the course of the mission.

III. BACKGROUND

On 29 January 2014, following a proposal by the government, President Tomislav Nikolić dissolved the National Assembly and announced early parliamentary elections for 16 March. The ruling coalition of the

Serbian Progressive Party (SNS) and the Socialist Party of Serbia (SPS) justified early elections by the need for a renewed political mandate and a longer timeframe to implement economic reforms and lead the country to EU accession, negotiations for which officially opened on 21 January.

Previous parliamentary elections were held on 6 May 2012, simultaneously with the first round of the early presidential election. The OSCE/ODIHR in its final report assessed that the elections “provided voters with a large degree of choice between various political opinions, and were characterized by a respect for fundamental rights and freedoms” and highlighted that “additional efforts are needed to further enhance the integrity of the election process, particularly with regard to the electoral dispute resolution system, the transparency of voter registration, and professionalism of election administration”. It also offered recommendations to improve the electoral process.² In the 2012 parliamentary elections, the SNS-led coalition obtained 73 seats in the parliament and formed a government with the SPS-led coalition (44 seats). The opposition comprised a coalition led by the Democratic Party (DS) who obtained 67 seats, the Democratic Party of Serbia (DSS) – 21 seats, a coalition led by the Liberal Democratic Party (LDP) – 19 seats, and the United Regions of Serbia (URS) – 16 seats.

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The 250 member unicameral parliament is elected for a four-year term in one, countrywide 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 exempt from the five per cent threshold.

Parliamentary elections are primarily regulated by the 2006 Constitution and the 2000 Law on Election of Representatives (LER), last amended in 2011. Provisions of other laws including the 2009 Law on Single Electoral Roll (LSER), last amended in 2011, the 2011 Law on Financing Political Activities (LFPA), the 2009 Law on Political Parties, the 2001 Broadcasting Law, last amended in 2009, and the 2005 Criminal Code are also applicable. Procedural aspects are regulated by the 1997 Law on Administrative Procedures, the 2009 Law on Administrative Disputes, and the 2011 Criminal Procedures Code, last amended in 2013. The legal framework is supplemented by the REC Rules of Procedures adopted in 2012, and a set of instructions issued by the REC before every election. The legal framework for parliamentary elections provides an overall sound basis for the conduct of democratic elections in line with OSCE commitments and other international standards, although certain recommendations from previous OSCE/ODIHR reports remain unaddressed, in particular those that pertain to candidate registration, election administration, complaints and appeals, and international observers.

While statutory laws governing these elections remained unchanged from those that applied to the 2012 parliamentary elections, certain aspects were improved from 2012 through regulations issued by the REC in February 2014, after the elections were announced.³ Specifically, in line with previous recommendations of the OSCE/ODIHR, the criteria of polling board membership was better defined and the REC recommended that employees of the municipal administration with previous election experience are appointed as Polling Board (PB) members. Additionally, the requirements for national minority lists

² All previous OSCE/ODIHR reports with regard to Serbia can be found at: <http://www.osce.org/odihr/elections/serbia>.

³ Instructions on Carrying out Elections of Representatives to the National Assembly were issued by the REC on 3 February 2014, and Operating Rules for Polling Boards on 8 February.

to register were more clearly specified. To prevent the abuse of the LER provision intended to ensure the representation of national minorities in the National Assembly, which was reported in previous elections, and as recommended by the OSCE/ODIHR, the REC requested that the programme, statute or any account of actions undertaken to represent and promote interests of a national minority be submitted in order to register as a national minority candidate list.

Consideration could be given to codifying certain provisions included in the REC regulations, which are issued by the REC before every election, with a view to provide lasting legal grounds.

The LER provides for a Supervisory Board tasked with the general supervision over political parties, candidates and mass media during the election campaign.⁴ The Supervisory Board was only established for the first elections conducted under the LER in 2000. The REC informed the OSCE/ODIHR LEOM that it lacked the competency to control compliance with campaign regulations, based on a Supreme Court decision of 2006.⁵ As a consequence, the activities of parties and candidates were not subject to control during the campaign.

It is recommended that the legal framework be revised to equip relevant institutions with competencies of control and enforcement of provisions of electoral legislation, including those on the campaign.

The lack of sanctions in the LER for breaches of certain provisions of the electoral legal framework as well as by the inability of the REC to act *ex-officio* even in cases of flagrant irregularities hampered implementation of legal provisions. The LER, for example, fails to define legal consequences for breaches of provisions concerning campaigning outside the deadlines specified by law.

Legal consequences for non-compliance with electoral legal provisions should be clearly defined.

V. ELECTION ADMINISTRATION

The early parliamentary elections were administered by a two-tiered election administration, comprising the REC and 8,387 PBs.⁶ The REC appointed 26 of its members as Regional Co-ordinators for each district of Serbia to manage preparations for elections. Despite recommendations by the OSCE/ODIHR and the Commission for Democracy through Law of the Council of Europe (Venice Commission), there is no intermediate level of election administration.⁷ Pursuant to an REC instruction, however, 166 *ad hoc* Working Bodies (WB) were created at municipal level to provide logistical support to the election administration. The members of WBs were nominated by political parties represented in the National Assembly and appointed by the REC. Local elections for the Belgrade city assembly, as well as the municipal councils of Negotin, Pećinci, Arandelovac and Bor, were held concurrently with the

⁴ See Article 99 of the LER.

⁵ In its decision No. UZ 296/06, the Supreme Court reaffirmed that the REC does not have competencies to control compliance with campaign regulations as the LER vests this responsibility with the Supervisory Board.

⁶ The number includes 90 PBs in Kosovo, 29 PBs set up in penitentiary institutions, and 35 PBs established in diplomatic and consular representations of Republic of Serbia.

⁷ See Final Report of the 2012 OSCE/ODIHR LEOM, <http://www.osce.org/odihr/92509>. See also the OSCE/ODIHR and Venice Commission Joint Opinion CDL-AD(2006)013, Paragraph 18, which recommends that “the law be amended to include intermediary electoral commissions with adequate transparency safeguards and broad political participation”.

parliamentary elections.⁸ All levels of the election administration operated efficiently, acted within legal deadlines, and passed decisions in a collegial manner.

Of 75 REC members, only 17 were women. The REC does not have gender-disaggregated data on the composition of the election management bodies.⁹ OSCE/ODIHR LEOM observers noted that women made up, on average, one third of the WBs' composition, with a significant variation between different parts of the country.¹⁰ Women were well represented among the staff of the limited number of polling stations visited by the OSCE/ODIHR LEOM observers on election day.

A. THE REPUBLIC ELECTORAL COMMISSION

The REC has 37 permanent members, of which 36, including the non-voting secretary and his/her deputy, represent parliamentary groups in a proportion calculated with the d'Hondt method,¹¹ and 1 non-voting member is a representative of the Republic Statistical Office (RSO). During the electoral period each registered contestant is entitled to appoint an extended member of the REC along with a deputy. Extended members have the same rights and duties as permanent members. Once candidate registration was completed and the 19 electoral contestants appointed their representatives along with their deputies, the REC had 75 members and deputies. The majority of REC members or their deputies must be present to form a quorum and REC decisions are taken by majority vote. Deputies are entitled to vote only if the respective members are not present.

During these elections, the REC held 37 sessions that were open to accredited observers and the media. Most REC decisions were adopted unanimously or by an overwhelming majority. Although the minutes of the REC sessions were published on the REC website without delay, agendas of the sessions were not known in advance, which somewhat limited transparency of the REC's work.

As a measure to further increase transparency of election administration, consideration could be given to publishing agendas of the REC sessions in advance.

Neither the REC nor any other public institution, including public media, dedicated considerable efforts to voter education.¹² Voter information was limited to notification on the place of voting, as required by law.

⁸ Local elections were administered by municipal election commissions (MECs), permanent bodies established by local assemblies in municipalities.

⁹ See Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Article 7. See also Article 48 of the CEDAW General Recommendation No. 23: Political and Public Life.

¹⁰ Representation of women in the WBs varied from some 80 per cent in Vojvodina to 20 per cent in southern Serbia.

¹¹ For these elections the permanent REC composition, in line with Article 33 of the LER, was the following: SNS – 10 members, DS – 7, SPS – 5, DSS – 3, LDP – 2, URS – 2, Party of United Pensioners of Serbia (PUPS) – 2, Social Democratic Party of Serbia (SDPS), New Serbia (NS), United Serbia (JS), Alliance of Vojvodina Hungarians (SVM), Christian Democratic Party of Serbia (DHSS) – 1 member each.

¹² Paragraph 11 of the General Comment No. 25 (1996) to Article 25 of the International Covenant on Civil and Political Rights (ICCPR) by the UN Human Rights Committee stipulates that “voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.” See also Paragraph 3.1 (b) of the Venice Commission Code of Good Practice in Electoral Matters (CDL-AD (2002)23), Inter-Parliamentary Union “Declaration on Criteria for Free and Fair Elections”, available at <http://www.ipu.org/cnle/154-free.htm>, and Guidelines 11, 11.1 and 11.2 of the Article XIX Reporting Elections Broadcast Guidelines, available at http://webworld.unesco.org/download/fed/iraq/english/broadcast_guidelines_en.pdf.

As a measure to maintain public trust in the electoral process, it is recommended that consideration is given for the REC to develop and co-ordinate voter information and voter education materials and for the public media to take measures to actively distribute those.

B. POLLING BOARDS

The PBs were composed in the same manner as the REC, and had three permanent members and their deputies, as well as, in the extended composition, members and their deputies nominated by the electoral contestants and appointed by the REC.¹³ The OSCE/ODIHR LEOM received reports that some electoral contestants, which focused their campaign only on certain regions, did not have sufficient numbers of nominees for PBs outside their electoral strongholds. Yet, having the right to nominate extended members to PBs throughout the country, they allegedly exchanged seats on PBs with contestants with strongholds in other regions. While neither the LER nor the REC instruction explicitly prohibit such practice, it is contrary to having representative composition of PBs to ensure political balance and could lead to disproportional representation of some parties on PBs in their traditional strongholds. Several OSCE/ODIHR LEOM interlocutors opined that this could lead to intimidation or malpractice.

Consideration should be given to introducing additional safeguards to ensure that political representation in the PBs is in line with LER provisions.

The REC prepared detailed instructions regulating PB operations before and on election day.¹⁴ Some local election administrators pointed out, however, that there was a need for more detailed regulation of the process. Each PB chairperson and, at times, his/her deputy were trained by the head of the respective local administration.

VI. VOTER REGISTRATION

The right to elect and to be elected as a member of parliament is granted to citizens who are over 18 years of age, have legal capacity and domicile in Serbia. The unified electronic Voter Register (VR) is maintained by the Ministry of Justice and Public Administration (MoJ), but the data is processed at the municipal level. The MoJ provided the VR extracts for each polling station (PS) to the REC.

The current VR was used for the first time during 2012 elections and the OSCE/ODIHR LEOM was informed by the MoJ of considerable efforts since then to eliminate double entries and delete records of deceased voters. However, the VR requires further improvements. As the LSER provides that name and surname of a voter who belongs to a national minority should be entered in both Cyrillic and in the script

¹³ In the municipalities where local elections took place, the PBs also reflected the political composition of the local assembly. Each electoral contestant that ran only in the local elections could also appoint an extended member (and his/her deputy) to the respective municipal electoral commission and one PB member (and his/her deputy) to all PBs in their constituency, given that it registered candidates for at least 60 per cent of seats (30 per cent for parties representing national minorities) in the local council.

¹⁴ Instructions for Carrying Out of Elections of the Representatives to the National Assembly called for 16 March 2014, adopted on 3 February; Instructions for the Work of Polling Boards for Coordinated Conduct of Elections of the Representatives to the National Assembly and the Elections for Counsellors of the Councils of Local Self-Government called for 16 March 2014, adopted on 8 February.

and spelling of the voter's respective language, the VR was modified to allow the recording the names of voters of national minorities in both Latin and Cyrillic scripts.¹⁵ Still, some national minority parties complained that the names on the VR extracts in Cyrillic were misspelled to the extent that it was hard to locate the respective voters in the voter lists.

Discrepancies between the VR and the census data became the subject of discussion in the media during the last weeks of campaign. The MoJ explained to the OSCE/ODIHR LEOM that the discrepancies are due to different methodologies of data collection: census data does not include information about those who live abroad for an extended period of time and did not take part in census data collection, people who live in Kosovo¹⁶ as well as members of the Albanian minority who boycotted the census. The VR, on the other hand, contains data of all eligible voters, including those living abroad.

Given the importance of public trust in the voter register, the authorities should strive to improve it further. In accordance with the legal framework, names of all voters of national minorities should be entered in the voter register in their respective languages.

The Law on Personal Data Protection currently restricts public display of any personal data. This prevents public scrutiny of the VR and thus limits transparency.¹⁷ Although the VR was not publicly displayed, in the period from 30 January to 28 February voters could review their personal details through the MoJ webpage,¹⁸ via phone, or in their municipalities, and request changes if applicable. The OSCE/ODIHR LTOs noted a relatively low interest from voters in verification of their records.

In accordance with international good practice, to ensure public scrutiny of the VR and to increase transparency, efforts should be made to allow for partial data of the VR to be made available for public scrutiny.

Based on the data provided by the MoJ, the REC announced the total number of voters in the VR as 6,767,324, of which 7,169 were registered to vote abroad. All voters were supposed to receive individual notifications about the location of their respective PS at least five days before election day, yet the practice proved inconsistent and many voters did not receive this information.

The system of informing voters about the location of their respective PSs could be improved.

VII. REGISTRATION OF CANDIDATE LISTS

Candidate lists could be submitted by political parties, their coalitions or groups of citizens. Despite previous OSCE/ODIHR and Council of Europe recommendations, the LER does not expressly provide

¹⁵ According to the MoJ, there are still about 50,000 names of people from the Albanian national minority to be entered in the VR in Latin transcription.

¹⁶ This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

¹⁷ Art. 8 of the Law on Personal Data Protection stipulates that none of the personal information can be made public without expressed consent of the person that it could lead to; that includes ID number, address, etc. On the other hand, Paragraph 1.2.iii of the Venice Commission Code of Good Practice in Electoral Matters (CDL-AD (2002)23) provides that "electoral registers must be published."

¹⁸ See the web page of the MoJ: <http://www.mpravde.gov.rs/electoralroll.php>.

for self-nomination by an individual independent candidate, which is contrary to OSCE commitments and international good practice.¹⁹

As stated in previous OSCE/ODIHR and Venice Commission recommendations, the LER should be amended to expressly provide for self-nomination by an individual independent candidate.

Candidate lists needed to comply with a minimum gender quota of 33 per cent, with at least every third candidate being from the less represented gender. Each submitter of a candidate list needed to present verified signatures of at least 10,000 voters, with the provision that each voter can support only one candidate list, which could unduly restrict political pluralism.²⁰

The legal framework should be amended to allow voters to sign in support of more than one prospective electoral contestant to further promote pluralism.

Electoral contestants with more developed support structures did not have problems collecting the required number of signatures, whereas some smaller parties and groups informed the OSCE/ODIHR LEOM that they overcame the requirement by entering into coalitions with stronger political organizations. Support signatures were certified by the clerks of the lower-level courts and entered in the Court Register as required by law.²¹ Certification of signatures is subject to a fee of RSD 50 per signature, putting the cost of registering a candidate list at a minimum of RSD 500,000 (some EUR 4,300). As pointed out in previous OSCE/ODIHR reports and despite the recommendations contained therein, the requirement of both collecting support signatures and paying for their certification is excessive, may limit the opportunity for participation, and is at odds with Paragraph 7.5 of the 1990 OSCE Copenhagen Document and other international standards.²²

The REC had 24 hours to consider each nominee's application. It tasked the MoJ with verification of support signatures. The MoJ checked if a given identification number corresponded to the voter in the VR and annulled signatures of those who were either not found in the VR or had already signed in support of a previously registered candidate list. The procedure of signature collection and verification has been criticized by some electoral contestants as laborious, expensive and overly bureaucratic.

The authorities could explore measures to simplify the process of signature certification and verification.

¹⁹ See OSCE/ODIHR and Venice Commission Joint Opinion on Draft Laws on Electoral Legislation of Serbia, which recommended that "the law be amended to expressly provide for self-nomination by an individual independent candidate," Paragraph 54, p.13, available at: <http://www.osce.org/odihr/elections/serbia/39946>. Paragraph 7.5 of the 1990 OSCE Copenhagen Document commits OSCE 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."

²⁰ 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." See also Paragraph 3 of the 1990 OSCE Copenhagen Document, which states that the OSCE participating States "recognize the importance of pluralism with regard to political organizations."

²¹ See the Law on Verification of Signatures, Manuscripts and Transcripts, Official Gazette of Republic of Serbia No. 39/93.

²² Paragraph 7.5 of the 1990 OSCE Copenhagen Document commits OSCE 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 Article 25(c) of the International Covenant on Civil and Political Rights (ICCPR).

The deadline for submitting documentation required for registration of a candidate list expired on 28 February, almost a month after the election campaign commenced. This sequence of events and the overlap of the candidate registration period with the election campaign is not in line with international good practice for elections as it disadvantages those candidates and parties who are registered late.²³

Legal deadlines for candidate list registration should be set before commencement of the official electoral campaign, in line with international good practice.

The REC registered 19 candidate lists with a total of 3,020 candidates in an inclusive process. During the registration process, the REC ordered some candidates to correct deficiencies in the submitted documentation within 48 hours.²⁴ All applications for registration were approved but one. The list of the “None of the Above” (NOPO) was rejected by the REC as the party submitted its registration documents after the deadline and presented fewer than 10,000 support signatures. The Administrative Court upheld the REC's decision upon NOPO's appeal.

While all registered electoral contestants complied with the gender quota requirements upon the submission of the registration documents, after the registration, three female candidates withdrew from the DS list, making the number of female candidates drop below the required 33 per cent. There are no legal provisions to protect the gender quota requirement after the registration of candidate lists.

The legal framework should be amended to protect the gender quota requirement after the registration of candidate lists and to include relevant sanctions for non-compliance.

The order in which contestants appear on the ballot was determined by the order in which they had submitted their documents to the REC. Before election day a total of 6,801,161 ballots were printed, including a reserve of 0.5 per cent over the number of registered voters.²⁵ Multilingual ballots were printed for polling stations in minority areas identified by the REC.

VIII. ELECTION CAMPAIGN

The election campaign started on 29 January and concluded on 13 March, 48 hours before election day, as foreseen by law. The 19 candidate lists, of which 7 were coalitions consisting of several parties, offered voters a genuine choice. Most electoral contestants ran active campaigns that often focused more on the personalities of list leaders than on political programmes. They used a variety of tools to reach voters, such as public rallies, indoor gatherings, door-to-door campaigning, billboards, and posters. OSCE/ODIHR LEOM interlocutors from smaller parties and civic movements noted their lack of financial resources to run a visible campaign.

²³ See Paragraph 8 of the Guidelines and Explanatory Report of Venice Commission Code of Good Practice in Electoral Matters (CDL-AD (2002)23).

²⁴ The LDP, the Serbian Radical Party (SRS), Party of Democratic Action – Riza Halimi (PDD), Russian Party – Slobodan Nikolić; Coalition of All Peoples and Nationalities (RSD-SDS); Patriotic Front Borislav Pelević; It was Enough – Saša Radulović.

²⁵ On 18 March the REC decided to print additional 2,383 ballots for the 23 March re-run of the elections in a PS in Novi Pazar. See ‘Complaints and Appeals’ section of this report.

In general, the campaign was low-key and peaceful, but isolated incidents of election-related violence were noted. Cases of physical assaults on parties' activists took place in Indija, Jelašnica, Priboj, Prijepolje, Stara Pazova, Vranjska Banja and Zaječar. Arsons and attacks on party premises were reported from Kruševac, Požarevac, Topola and Užice. These incidents were, however, of a limited impact and did not disturb the campaign in the localities concerned. No complaints were lodged with the relevant authorities.

The country's economic situation, especially employment and various investment issues, the reforms necessary for EU integration, and the fight against corruption²⁶ were the main topics of the campaign. The majority of electoral contestants declared their commitment to European values and EU integration. Opinion polls showed a distinct lead for the SNS. Thus, few electoral contestants criticized the party as many saw themselves as SNS's prospective coalition partner.

Some OSCE/ODIHR LEOM interlocutors raised concerns about the misuse of administrative resources by different parties in power at the local level. The OSCE/ODIHR LEOM received credible reports about cases of intimidation of voters during door-to-door campaigning and of public sector employees. As well, serious concerns were expressed about violation of personal data protection, pre-election activities in children's facilities, and abuse of public resources such as state-owned vehicles. Such actions contravene paragraph 7.7 of the 1990 OSCE Copenhagen Document.²⁷

Practices of vote-buying, such as delivery of food packages and other goods, as well as offers of free-of-charge medical check-ups, were observed by OSCE/ODIHR LTOs. On 28 February, the Ombudsperson, the Commissioner for Information of Public Importance and Personal Data Protection, and the Anti-Corruption Agency (ACA) issued a joint statement urging contestants to respect the legislation and refrain from misusing public resources, conducting aggressive door-to-door campaigning, and campaigning in educational institutions for children.²⁸

Authorities and law enforcement bodies should take more resolute steps to prevent, identify, investigate and prosecute instances of vote-buying, pressure and intimidation of voters and misuse of state resources for campaign purposes. The legislators may also consider clarifying the definition of political and campaign activities in order to prevent distribution of electoral gifts and services.

One third of the candidates were women, in line with the legally stipulated gender quota, but the female candidates were hardly visible in the election campaign. The contestants did not specifically address women's issues in their programmes. Some OSCE/ODIHR LEOM interlocutors stated that despite the gender quota there is a lack of meaningful representation of women in politics and that political parties could consider introducing internal gender equality measures.²⁹

²⁶ Several corruption cases that involve, either directly or indirectly, key political figures were brought to public attention during the campaign. Consequently, doubts about the political impartiality of the fight against corruption were raised by a number of OSCE/ODIHR LEOM interlocutors.

²⁷ Paragraph 7.7 of the 1990 OSCE Copenhagen Document provides for the conduct of the campaign in an atmosphere "in which neither administrative action, violence nor intimidation [...] prevents the voters from [...] from casting their vote free of fear of retribution."

²⁸ See 'Appeal of Independent Control Authorities to Political Parties in the Election Campaign', 28 February 2014, available at <http://www.ombudsman.rs/index.php/lang-sr/2011-12-25-10-17-15/2011-12-25-10-13-14/3212-2014-02-28-09-34-10>.

²⁹ Paragraph 23 of the 1999 OSCE Istanbul Document commits participating States to "making equality between men and women an integral part of our policies."

The LER provides that the campaign shall end 48 hours before election day. As a punitive measure for violating the electoral silence, the Republic Broadcasting Agency (RBA) ordered cable operators to stop broadcasting two television channels for two hours on 14 March. Despite the REC explanation that the electoral silence applies to activities on the internet, the OSCE/ODIHR LEOM monitoring showed that campaigning continued on Facebook and Twitter profiles of electoral contestants throughout the electoral silence period, including on election day.

IX. POLITICAL FINANCE

The LFPA regulates both private and public sources of financing of political entities. It specifies public sources as “funds and services provided by the Republic of Serbia, autonomous province and local government, their organs as well as organizations founded by them”; and private sources as membership fees, donations, inheritance, income from properties and loans. Anonymous donations and those coming from foreign states, public institutions and public companies are prohibited. The LFPA distinguishes between regular political activities and those for campaigning.

The LFPA establishes limits on annual private contributions for the campaign³⁰ but not for campaign expenditures.³¹ Public funds for campaign activities constitute 0.1 per cent of the state budget, 20 per cent of which is distributed equally among all electoral contestants that request public funding.³² A political entity wishing to use public funds to finance its campaign must match them with an election bond of the same amount to be deposited with the Ministry of Finance (MoF). The bond is to be returned to the political entity if it wins a minimum of one per cent of the valid votes cast.³³ The public funds must be returned if the contestant fails to reach this threshold. Eighteen of the 19 candidate lists contesting these elections applied for public funding (approximately EUR 77,000 each). The remaining 80 per cent is disbursed to contestants after the elections proportionally to the results obtained.

The MoF was in charge of disbursing public funds to the electoral contestants, upon their request to use funds from public sources and submission of the electoral bond. Two electoral contestants (the Montenegrin Party – Josip Broz, and the Patriotic Front – Dr. Borislav Pelević) filed complaints before the REC alleging that public campaign funds had not been released by the MoF within the legal deadlines. This could not be verified by the OSCE/ODIHR LEOM, as the competent ministry failed to publish relevant information on its web site in a timely manner, which decreased transparency of the campaign finance. The REC rejected the complaints arguing that the matter did not fall under its competency.

Additional efforts could be made by the Ministry of Finance to make public all aspects and stages of public funding of the electoral campaign as a measure to enhance transparency of political finance.

³⁰ The LFPA sets limits of 20 average monthly salaries for an individual (approx. EUR 7,600) and 200 average salaries for a legal entity (approx. EUR 76,000).

³¹ According to paragraph 196 of the OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation, “it is reasonable for a state to determine a maximum spending limit for parties in elections in order to achieve the legitimate aim of securing equality between candidates.”

³² Some EUR 1.4 million for these elections.

³³ For national minority parties, the relevant threshold is 0.2 percent.

The LFPA tasks the ACA with the oversight of political financing. Political entities must submit to the ACA their annual financial reports, and, in an election year, reports on campaign financing 30 days after the publication of final election results. The LFPA does not require the ACA to publish its conclusions on parties' campaign financing reports, nor does it set a deadline for publishing such reports on the ACA's website. The ACA cannot impose sanctions but can issue warnings and initiate misdemeanour proceedings against a party or its authorized representative. Sanctions for violations of the LFPA can be imposed by courts and include fines and the party's loss of public funding during the next calendar year.

During the campaign, the ACA may request relevant information from contestants. The ACA deployed 151 observers to monitor campaign activities throughout the country to collect the information to verify contestants' campaign finance reports. A number of OSCE/ODIHR LEOM interlocutors welcomed the more pro-active attitude of the ACA during these elections.

Although the LFPA covers fundamental issues of political and campaign finance, most OSCE/ODIHR LEOM interlocutors stated that the lack of transparency of campaign financing remained an issue of concern. A number of interlocutors also highlighted significant difference between the resources available to the main parties and the other contestants provided the former with an important advantage.³⁴

To enhance a level playing field among contestants during the campaign and in line with good electoral practice, establishing by law reasonable and justifiable limits to campaign expenditures should be considered.

X. THE MEDIA

A. MEDIA LANDSCAPE

The Serbian media landscape is diverse and comprises a large number of public and private broadcast, print and digital outlets.³⁵ The main television operators broadcasting nationwide are the private TV channels TV Pink, TV B92, TV *Prva* and Happy TV and the public service broadcasters Radio Television Serbia with two television (RTS1 and RTS2) and four radio channels, and Radio Television Vojvodina, which also has two television (RTV1 and RTV2) and three radio channels. Radio Television Vojvodina is a regional broadcasting service in the ethnically-mixed province of Vojvodina and its second channel produces programmes in ten ethnic minority languages. The most important newspapers according to distribution numbers are the partly state-owned *Večernje Novosti* and *Politika* as well as *Blic*, *Kurir*, *Danas*, *Informer* and *Alo!*. In addition, Serbia has three national news agencies: the state-run agency *Tanjug*, and private *Fonet* and *Beta*. According to the RSO, internet was used in 55.8 per cent of the households in 2013.³⁶

Despite the variety of media outlets and information available to the public, several OSCE/ODIHR LEOM interlocutors see media pluralism and independence of journalists jeopardized by the influence

³⁴ See Transparency International Serbia Report: http://www.transparentnost.org.rs/index.php?option=com_content&view=article&id=452%3Amonitoring-finansiranja-izborne-kampanje-2014-&catid=14%3Avesti&Itemid=40&lang=en.

³⁵ As of April 2013, there were 1,196 media outlets registered in the Serbian Business Registry Agency.

³⁶ RSO report "The use of ICT in Serbia in 2013" is available at <http://webzrzs.stat.gov.rs/WebSite/repository/documents/00/01/14/03/PressICT2013.pdf>.

exerted on media by political parties and the private sector.³⁷ They perceive political and economic pressures as the main reasons for self-censorship among journalists and media outlets, both nationally and locally.³⁸ The lack of transparency of media ownership previously noted by the OSCE/ODIHR remains unaddressed and prevents an effective check on media concentration. Several interlocutors expressed concern with regard to the lack of regulation and monitoring of state funding of media, which leaves room for discretionary funding (in form of subsidies or paid public-service advertising) that ultimately influences media professionals' conduct, and is, thus, counter to international good practice.³⁹

In 2011, the government adopted a Media Strategy⁴⁰ which aims to increase the independence of media outlets and protect them from improper influence by referring to international standards for media and public service broadcasting, defining public interest, transparency of media ownership, media concentration as well as the role of the state in the public information system. The Action Plan of the Media Strategy foresees development of new media laws but the original deadlines were not respected. In the context of Serbia's EU integration process, in March 2014, the draft Law on Public Information and the draft Law on Electronic Media were sent to the EU Directorate-General for Enlargement for expert review; the draft Law on Public Media Service is being prepared.

B. MEDIA REGULATORY FRAMEWORK

Freedom of opinion and expression are protected by the Constitution. The LER provides the legal framework regulating media conduct during election campaigns.⁴¹ The RBA elaborated on the LER provisions with its General Binding Instructions of 9 March 2012, according to which all public broadcasters are required to allocate free, balanced and non-discriminatory coverage to all candidates. In a positive development, a supplementary instruction to enable viewers with hearing impairments to follow the electoral campaign was published by the RBA on 29 January 2014. Additionally, the Law on Advertisement applies to campaign materials, television and radio spots, and the Public Information Act prohibits political advertising outside the election campaign and establishes principles of equal representation and non-discrimination in the media.

The parliament did not appoint the members of the Supervisory Board that, in accordance with the LER, should be responsible for supervising the campaign and media coverage during elections. Consequently, the RBA took up the responsibility of monitoring whether broadcast media provided equal conditions to

³⁷ See for example: Ombudsperson's 2013 Annual Report, available at http://www.ombudsman.rs/attachments/3237_Godisnji%20izvestaj%20Zastnika%20gradjana%20za%202013%20%20godinu.pdf.

³⁸ See also "Soft Censorship: Strangling Serbia's Media" (Centre for International Media Assistance and World Association of Newspapers and News Publishers), available at <http://cima.ned.org/sites/default/files/WAN-IFRA%20Soft%20Censorship%20Serbia%20Report.pdf>.

³⁹ Council of Europe, Recommendation No. R (99) 1 of the Committee of Ministers on measures to promote media pluralism, *Appendix to Recommendation No. R (99) 1, Chapter I. Regulation of ownership: broadcasting and the press*, available at http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec%281999%29001&expmem_EN.asp. *notes that* "support measures [for the media] should be granted on the basis of objective and non-partisan criteria, within the framework of transparent procedures and subject to independent control." Council of Europe, Doc. 11683, 7 July 2008, *Indicators for media in a democracy*, available at <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta08/eres1636.htm>, *highlights that* "if media receive direct or indirect subsidies, states must treat those media fairly and with neutrality".

⁴⁰ Strategy of Development of System of Public Information in Serbia until 2016: <http://www.osce.org/sr/serbia/88325> [in Serbian].

⁴¹ See Articles 5 and 48–51 of the LER.

all electoral contestants. The RBA received and considered 28 complaints during the election campaign and, in a welcome step, published its decisions on its webpage.⁴² The criteria the RBA used to decide on some of those complaints were not always clear. Several media interlocutors expressed doubts about the immunity of the RBA Council, the RBA decision-making body, from political pressures.⁴³ Minutes of the RBA Council meetings were not published, despite this being provided for by the RBA statute and the RBA Council's Rules of Procedure. In his annual report submitted to the parliament on 15 March 2014, the Ombudsperson stressed that the RBA should intensify its activities of supervision of media conduct and act *ex officio* in cases of violations of the legal framework regarding media coverage.⁴⁴

In order to enhance public confidence in its actions, the RBA could take a more pro-active approach to investigate and sanction cases of breaches of legislation. The RBA should also provide information to the public about its work by publishing the minutes of its meetings on its website as required by its own statute.

C. MEDIA COVERAGE OF THE CAMPAIGN



As approximately 85 per cent of population obtain information from television, this was by far the most influential media in the election campaign.⁴⁵ The OSCE/ODIHR LEOM conducted quantitative and qualitative monitoring of the media coverage of the campaign from 18 February until 16 March.⁴⁶

Both public and private media offered extensive coverage of the elections in a variety of formats, such as news, current affairs programmes, talk shows, debates, interviews, and paid advertising. The OSCE/ODIHR LEOM media monitoring findings show, however, that voter education content was scarce and lack of critical and analytical reporting was evident in all the media monitored. Particularly, television stations broadcasted blocks of campaign spots provided by the electoral contestants as part of their news programmes, which limited journalists' pro-active role in reporting on campaign matters, and could damage the credibility of media reporting, undermine the autonomy of the media from the political sphere, and weaken the diversity of media outlets.

The tone of the coverage of the political campaign on television was largely neutral.⁴⁷ The tone of coverage was sharper in print media and their editions available online, whose coverage of the campaign was not subject to any binding regulation. Tabloids played an important role in the campaign, covering

⁴² In 20 cases the RBA ruled in favour of the complainants, in 5 cases the complaints were rejected and in the 3 remaining cases the complaints were considered but the imposition of punitive measures was suspended. In 3 out of the 5 rejected cases, the complaints were declined without substantial explanation. Furthermore, on 2 occasions, the RBA warned the broadcasters that they were obliged to guarantee equal representation of all electoral contestants in their programming, in accordance with the law.

⁴³ The RBA Council is composed of nine members appointed by the parliament from candidates proposed by different institutions, civil society organizations and religious communities. It holds periodical sessions and acts in line with the Statute of the RBA and the Rules of Procedure of the RBA Council. It considers complaints on the media coverage of the election campaign filed with the RBA.

⁴⁴ Ombudsman Annual Report 2013, *op.cit.*

⁴⁵ See the summary of the European Journalism Centre: http://ejc.net/media_landscapes/serbia.

⁴⁶ Monitored media comprised public service broadcasters *Radio Television Serbia* (RTS1) and *Radio Television Vojvodina* (RTV1), and privately owned *TV PINK*, *TV B92* and *TV PRVA*, as well as newspapers *Politika*, *Blic*, *Večernje Novosti*, *Danas* and *Kurir*.

⁴⁷ For more details, see the Annex 'Media Monitoring Results'.

the election-related contents mostly in a sensationalist tone. Additionally, several parties and candidates used the social networks Facebook and Twitter as campaign tools.

Several OSCE/ODIHR LEOM media interlocutors reported that government officials increased their public activities during the campaign to boost their visibility in the media. OSCE/ODIHR LEOM media monitoring results confirm the large amount of coverage of government officials in the media in the period of monitoring: monitored television channels allocated 50 per cent of their political and election-related primetime news to government officials, who also received 33 per cent of the total political coverage in the monitored print media. The distinction between coverage of state officials in their institutional roles and their election-related appearances within the news programmes was often not clear.

Concerns with regard to the media bias towards the SNS were expressed by multiple OSCE/ODIHR LEOM interlocutors both at central and local level and were confirmed by the analysis of visibility of the electoral contestants on the monitored media. Monitored public TV channels allocated 27 per cent of their political and election-related news coverage to the SNS, 16 per cent to the SPS, 10 per cent to the DS, and 5 per cent to both the LPD and DVERI; private broadcasters gave 40 per cent of such coverage to the SNS, 15 per cent to the SPS, 7 per cent to the DS, 6 per cent to both the LPD and the DSS. Similarly, monitored print media devoted 34 per cent of the news and editorial political coverage to the SNS, 16 per cent to the SPS, 13 per cent to the DS, 6 per cent to the LDP, 5 per cent to the New Democratic Party (NDS), and 4 per cent to the Third Serbia party.

Analysis of media campaign coverage from a gender perspective showed that women's visibility was limited both in broadcast and print media. Despite the 33 per cent gender quota for candidate lists, only 7 per cent of television coverage was devoted to women candidates, while 74 per cent was allocated to men, and 19 per cent to parties and coalitions. Taking into consideration only the news programmes, the picture was even more illustrative: 5 per cent of coverage was devoted to women candidates, 89 per cent to men, and 6 per cent to parties and coalitions. In the print media, women candidates received 6 per cent of the attention, while 68 per cent was given to men, and 26 per cent to parties and coalitions.

XI. COMPLAINTS AND APPEALS

The LER grants the right to redress to voters, candidates and electoral contestants and provides that the protection of suffrage rights shall be guaranteed by the REC, the Administrative Court and relevant lower-level courts. Complaints against decisions, acts or omissions of PBs are filed with the REC. Complaints against the REC are resolved by the Administrative Court, whose rulings are final. Although the electoral dispute resolution mechanism generally complies with the OSCE commitments and international good practice,⁴⁸ some shortcomings remain.

A complaint may be filed within 24 hours of the irregularity having occurred. Representatives of smaller parties and other OSCE/ODIHR interlocutors assessed the deadline as too short to adequately substantiate a complaint and pointed out that, in the case of an omission by the PB or the REC, it is unclear when the

⁴⁸ Paragraph 10 of 1990 OSCE Copenhagen Document provides that “everyone will have an effective means of redress against administrative decisions.” See also Paragraph 3.3.b of the Venice Commission Code of Good Practice in Electoral Matters (CDL-AD (2002)23), which states that the electoral dispute resolution system “must be simple and devoid of formalism, in particular concerning the admissibility of appeals.”

timelines commence. According to the LER final results shall be published 96 hours after voting ends. According to the same law, however, the resolution of election-related complaints and appeals can last twice as long.

It is recommended that the deadlines for election dispute resolution be reviewed. The timeframe to submit a complaint could be extended to allow voters and contestants to properly substantiate their case. Additionally, the deadlines for the resolution of electoral disputes should be harmonized with the election calendar, to ensure that all cases are resolved before final results are published.

As noted in previous OSCE/ODIHR reports, the complaints and appeals mechanism was characterized by the absence of public hearings before the REC and the Administrative Court, which contravenes OSCE commitments, other international standards, and due process and fair trial principles.⁴⁹

As a step towards greater transparency of the electoral process, the Administrative Court and the REC could take additional measures to notify the complainants and invite them to attend sessions when their complaints are on the agenda.

Overall, a relatively small number of complaints were submitted during these elections. The REC received a total of 15 complaints. Of six complaints that were submitted before election day, four pertained to candidate list registration. These were rejected by the REC as ungrounded and appealed before the Administrative Court which upheld the REC decisions. Complaints of two electoral contestants concerning late disbursement of public funds for the campaign were rejected by the REC on jurisdictional grounds. Nine complaints received by the REC on and after election day referred to the composition of PBs, inaccuracies in the VR and other irregularities detected on election day. All were rejected but the one lodged by the SDA-Sandžak with the REC against a PB decision of not opening a polling station in Novi Pazar as it had received 12 ballots less than the number of registered voters there. The REC granted the complaint and announced that elections in that polling station would be conducted on 23 March 2014.

The REC could take additional measures to raise awareness of all electoral stakeholders on their right to seek legal redress, as well as to inform them of the technical and legal aspects of the electoral dispute resolution process. The REC could also consider making their decisions on complaints public by posting them on the internet to enhance transparency of the electoral dispute resolution process.

The Criminal Code and the LER specify the violations of electoral rights that are prosecuted through the standard criminal or misdemeanour procedures in lower-level courts and can be sanctioned with fines and up to five-year jail sentences. These include obstruction of voter and candidate registration, bribery and vote-buying. Despite allegations of electoral fraud, intimidation and vote-buying no cases concerning such issues were filed with the courts.

Although OSCE/ODIHR LEOM interlocutors did not express concerns with the complaints and appeals system, many voiced general mistrust about the independence and efficiency of the judiciary, which faces

⁴⁹ Paragraph 12 of the 1990 OSCE Copenhagen Document calls for the “presence of [...] interested persons at proceedings before courts as provided for in national legislation and international law.” See also Paragraph II 3.3.100 of the Venice Commission Code of Good Practice in Electoral Matters. p.32; Article 10 of the Universal Declaration of Human Rights; Article 14 of the International Covenant on Civil and Political Rights. See also Paragraph 76 of the Joint Opinion of the Venice Commission and OSCE/ODIHR on Draft Laws on Electoral Legislation of Serbia, <http://www.osce.org/odihr/elections/serbia/39946>.

a substantial backlog of cases. For instance, in 2013 the ACA initiated 390 procedures for violations of the LFPA. The courts have, up to date, ruled in only 28 instances, imposing sanctions in 25 cases. A new Law on Misdemeanour Offences entered into force on 1 March 2014 with the aim to speed-up adjudication of cases by lower-level courts.

XII. PARTICIPATION OF NATIONAL MINORITIES

According to the 2011 census, there are more than 20 ethnic minorities in Serbia. The largest are: Hungarians (3.53 per cent), Roma (2.05 per cent) and Bosniaks (2.02 per cent). As the Albanian minority boycotted the 2011 census, the data does not reflect their actual numbers. All other ethnic minorities represent less than 1 per cent of the population each.⁵⁰ 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, and the right to elect and be elected.⁵¹ Serbia has ratified the Council of Europe Framework Convention for Protection of National Minorities (in 2001) and the European Charter for Regional or Minority Languages (2006). In addition, Serbia signed bilateral agreements on minority protection with four neighbouring countries: Romania (2002), Hungary (2003), Croatia (2004), and the former Yugoslav Republic of Macedonia (2004).

The Law on Political Parties contains provisions promoting participation of national minorities in public life. Whereas 10,000 signatures are required to register a political party, a national minority can register a party with the support of 1,000 signatures. Nevertheless, the national minority parties needed to comply with the same requirements as other parties to register a candidate list and present at least 10,000 supporting signatures. Some OSCE/ODIHR LEOM interlocutors commented that the legislation leads to a fragmentation of national minority representation, with few parties being able to garner the support signatures needed to run in the elections. Especially the cumbersome and costly procedure of collecting signatures was considered problematic for national minority parties.

The provision that national minority parties have to collect 10,000 support signatures to register a candidate list should be reconsidered and reconciled with the positive measures for registration of national minority parties stipulated in the Law on Political Parties.

Five national minority parties registered their electoral lists independently,⁵² and two coalitions comprised national minority parties only.⁵³ Some national minority parties decided to run jointly with national parties and coalitions.⁵⁴ The ethnic-Albanian PDD decided to run in the elections, whereas the

⁵⁰ See the 2011 census results at <http://popis2011.stat.rs/?pageid=2134&lang=en>.

⁵¹ This is in line with Paragraph 30 of the 1990 OSCE Copenhagen Document, which “guarantees full respect for human rights and fundamental freedoms, equal rights and status for all citizens”.

⁵² The Alliance of Vojvodina Hungarians (SVM), the Party of Democratic Action of Sandžak (SDA- Sandžak), the Montenegro Party – Josip Broz, the Party for Democratic Action (PDD), and the Russian Party – Slobodan Nikolić.

⁵³ The Coalition of Citizens of all Nations and Nationalities (RDS-SDS) and the List of National Communities BDZ, MPSZ-MRM-MEP- Emir Elfić.

⁵⁴ For example, the Bosniak Democratic Union of Sandžak (BDZ-Sandžak) ran with the LDP-led coalition of Čedomir Jovanović; the Association of Croats in Vojvodina (ACV) with the coalition “With the Democratic Party for Democratic Serbia”; the “Together for Vojvodina” (ZZV) and the Democratic Left of Roma in coalition with Boris Tadić – New Democratic Party – Greens.

other five ethnic-Albanian parties chose to boycott them.⁵⁵ After election day, these five parties issued a joint statement alleging that the PDD had garnered a surprisingly high number of votes through fraud.⁵⁶ The parties, however, did not file any official complaints.

Tensions between the Party for Democratic Action of Sandžak (SDA-Sandžak) and the Bosniak Democratic Community of Sandžak (BDZ-Sandžak)⁵⁷ in Novi Pazar resulted in a polling station not being opened.⁵⁸

The 2014 early parliamentary elections gave 12 seats in the National Assembly to three national minority parties, which is a slight increase in comparison with the composition of the previous parliament, where national minorities were represented by ten MPs from five parties.⁵⁹

XIII. CITIZEN AND INTERNATIONAL OBSERVERS

Despite past OSCE/ODIHR recommendations, OSCE commitments and international good practice,⁶⁰ the LER still does not include provisions on domestic and international election observation. Access for observers was regulated by the REC instructions. However, it is at the discretion of a PB chairperson to decide whether observers are allowed to be in a polling station, to observe the ballot count or receive copies of a protocol.

A citizen observer organization, the Center for Free Elections and Democracy (CeSID) deployed 550 observers throughout Serbia and conducted parallel vote tabulation. A disability rights advocacy group, the Center for Society Orientation (COR), observed the elections in a limited number of polling stations.

The REC accredited the OSCE/ODIHR, the OSCE Mission to Serbia, OSCE PA and PACE observers, as well as others, amounting to a total of 178 international observers.

The legislation does not provide for political party observers as it allows every registered political entity to nominate an extended member and a deputy to the REC and to each PB.

To ensure full compliance with paragraph 8 of the 1990 OSCE Copenhagen Document and with international standards, the legal framework should be amended to include provisions regulating the status of citizen and international observers, their rights and obligations.

⁵⁵ The Democratic Party of Albanians, the Democratic Progress Movement, the Democratic Union of Albanians, the Democratic Union of the Valley, and the Democratic Renaissance.

⁵⁶ The PDD ballot received three times more votes than in 2012 elections despite the boycott by some Albanian voters.

⁵⁷ Part of the LDP-BDZ-Sandžak-Social Democratic Union (SDU) coalition.

⁵⁸ See Complaints and Appeals Section for details.

⁵⁹ In 2014 elections the SVM won seven seats, the SDA-Sandžak – three, and the PDD two.

⁶⁰ See Paragraph 8 of the 1990 OSCE Copenhagen Document. See also Paragraph 46 of the Guidelines and Explanatory Report of Venice Commission Code of Good Practice in Electoral Matters (CDL-AD (2002)23) which states that “[...] the presence of national or international observers should be authorized”.

XIV. ELECTION DAY

In line with OSCE/ODIHR methodology, the OSCE/ODIHR 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. Nevertheless, OSCE/ODIHR LEOM observers visited a limited number of polling stations on 16 March.

No serious incidents were reported on election day. Most polling stations visited opened at 07:00 as prescribed by the law. On few occasions polling stations opened with a slight delay due to organizational issues or inadequate comprehension of the opening procedures by PB members.

In the limited number of polling stations visited by LEOM observers, PB members had solid knowledge of the voting procedures and voting proceeded in an orderly manner overall. In accordance with the law, PBs in these elections could be comprised of up to 44 members, which led to overcrowding of some polling stations where the voting premises were inadequately small. In some polling stations visited, the design of voting screens, combined with the layout of the polling station, did not always ensure the secrecy of vote. Cyrillic transcription of and incorrect spelling of names made it difficult to identify voters from national minorities on the voter lists in some polling stations visited. Only few polling stations provided adequate access for disabled voters.

Protection of the secrecy of vote should be enhanced by providing adequate voting premises, better screens and instructions regarding the polling station layout. Additionally, voting premises should comply with the requirements for persons with disabilities in line with the UN Convention on the Rights of Persons with Disabilities.

There appeared to be little security of the sensitive election materials and official instructions on the matter were lacking. While the OSCE/ODIHR LEOM did not receive reports or complaints on this issue, inadequate security measures could lead to unintentional malpractices and undermine trust in the electoral process.

The REC could consider adoption of consistent procedures regarding safeguards for sensitive election materials.

In the limited number of polling stations visited by the OSCE/ODIHR LEOM, the vote count was carried out in a professional, transparent and orderly manner, with PB staff generally adhering to procedures. Although the OSCE/ODIHR LEOM received allegations of malpractices during the voting process in Preševo and Bujanovac areas, where five Albanian parties boycotted the elections, these were not substantiated further.⁶¹

Following the count, PB protocols were delivered to the WBs, where the tabulation process was conducted in a professional manner in those WBs visited by the OSCE/ODIHR LEOM. The RSO fulfilled its tasks regarding the tabulation process in accordance with the law and all PB protocols were delivered to the REC in a timely manner. The REC started announcing preliminary results a few hours after closing of the polls. Official results were announced and published, broken down to polling station level, on the REC website on 24 March, within the legal deadline.

⁶¹ See 'Participation of National Minorities' Section of this Report.

XV. RECOMMENDATIONS

These recommendations as contained throughout the text are offered with a view to enhance the conduct of elections in Serbia and bring them fully in line with OSCE commitments and other international standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. OSCE/ODIHR stands ready to assist the authorities of Serbia to further improve the electoral process and in following up on recommendations contained in this and previous reports.

PRIORITY RECOMMENDATIONS

1. Consideration could be given to codifying certain provisions included in the REC regulations, which are issued by the REC before every election, with a view to provide lasting legal grounds.
2. Given the importance of public trust in the voter register, the authorities should strive to improve it further. In accordance with the legal framework, names of all voters of national minorities should be entered in the voter register in their respective languages.
3. Authorities and law enforcement bodies should take more resolute steps to prevent, identify, investigate and prosecute instances of vote-buying, pressure and intimidation of voters and misuse of state resources for campaign purposes. The legislators may also consider clarifying the definition of political and campaign activities in order to prevent distribution of electoral gifts and services.
4. To enhance a level playing field among contestants during the campaign and in line with good electoral practice, establishing by law reasonable and justifiable limits to campaign expenditures should be considered.
5. It is recommended that the deadlines for election dispute resolution be reviewed. The timeframe to submit a complaint could be extended to allow voters and contestants to properly substantiate their case. Additionally, the deadlines for the resolution of electoral disputes should be harmonized with the election calendar, to ensure that all cases are resolved before final results are published.

ELECTORAL SYSTEM AND LEGAL FRAMEWORK

6. It is recommended that the legal framework be revised to equip relevant institutions with competencies of control and enforcement of provisions of electoral legislation, including those on the campaign.
7. Legal consequences for non-compliance should be clearly defined.

ELECTION ADMINISTRATION

8. As a measure to further increase transparency of election administration, consideration could be given to publishing agendas of the REC sessions in advance.

9. As a measure to maintain public trust in the electoral process, it is recommended that consideration is given for the REC to develop and co-ordinate voter information and voter education materials and for the public media to take measures to actively distribute those.
10. Consideration should be given to introducing additional safeguards to ensure that political representation in the PBs is in line with LER provisions.

VOTER REGISTRATION

11. In accordance with international good practice, to ensure public scrutiny of the VR and to increase transparency, efforts should be made to allow for partial data of the VR to be made available for public scrutiny.
12. The system of informing voters about the location of their respective PSs could be improved.

REGISTRATION OF CANDIDATE LISTS

13. As stated in previous OSCE/ODIHR and Venice Commission recommendations, the LER should be amended to expressly provide for self-nomination by an individual independent candidate.
14. The legal framework should be amended to allow voters to sign in support of more than one prospective electoral contestant to further promote pluralism.
15. The authorities could explore possible measures to simplify the process of signature certification and verification.
16. Legal deadlines for candidate list registration should be set before commencement of the official electoral campaign, in line with international good practice.
17. The legal framework should be amended to protect the gender quota requirement after the registration of candidate lists and to include relevant sanctions for non-compliance.

POLITICAL FINANCE

18. Additional efforts could be made by the Ministry of Finance to make public all aspects and stages of public funding of the electoral campaign as a measure to enhance transparency of political finance.

THE MEDIA

19. In order to enhance public confidence in its actions, the RBA could take a more pro-active approach to investigate and sanction cases of breaches of legislation. The RBA should also provide information to the public about its work by publishing the minutes of its meetings on its website as required by its own statute.

COMPLAINTS AND APPEALS

20. As a step towards greater transparency of the electoral process, the Administrative Court and the REC could take additional measures to notify the complainants and invite them to attend sessions when their complaints are on the agenda.
21. The REC could take additional measures to raise awareness of all electoral stakeholders on their right to seek legal redress, as well as to inform them of the technical and legal aspects of the electoral dispute resolution process. The REC could also consider making their decisions on complaints public by posting them on the internet to enhance transparency of the electoral dispute resolution process.

PARTICIPATION OF NATIONAL MINORITIES

22. The provision that national minority parties have to collect 10,000 support signatures to register a candidate list should be reconsidered and reconciled with the positive measures for registration of national minority parties stipulated in the Law on Political Parties.

CITIZEN AND INTERNATIONAL OBSERVERS

23. To ensure full compliance with paragraph 8 of the 1990 OSCE Copenhagen Document and with international standards, the legal framework should be amended to include provisions regulating the status of citizen and international observers, their rights and obligations.

ELECTION DAY

24. Protection of the secrecy of vote should be enhanced by providing adequate voting premises, better screens and instructions regarding the polling station layout. Additionally, voting premises should comply with the requirements for persons with disabilities in line with the UN Convention on the Rights of Persons with Disabilities.
25. The REC could consider adoption of consistent procedures regarding safeguards for sensitive election materials.

ANNEX: FINAL RESULTS OF THE EARLY PARLIAMENTARY ELECTIONS

Number on the ballot	Candidate List	Number of votes won	Number of mandates won	Percentage of votes won
1	Aleksandar Vučić – “The Future we believe in” Serbian Progressive Party, Social-Democratic Party of Serbia, New Serbia, Serbian Renewal Movement, Socialists’ Movement, United Serbia	1,736,920	158	48.35
2	Ivica Dačić – Socialist Party of Serbia, Party of United Serbian Pensioners	484,607	44	13.49
3	Democratic Party of Serbia – Vojislav Koštunica	152,436	0	4.24
4	Čedomir Jovanović – Liberal-Democratic Party, Bosniak Democratic Alliance of Sandžak, Social-democratic Union	120,879	0	3.36
5	VAJDASAGI MAGYAR SZOVETSEG - PASZTOR ISTVAN – Alliance of Vojvodina Hungarians – Istvan Pastor	75,294	6	2.10
6	Serbian Radical Party – Dr Vojislav Šešelj	72,303	0	2.01
7	United Regions of Serbia – Mladen Dinkić	109,167	0	3.04
8	"With Democratic Party for Democratic Serbia"	216,634	19	6.03
9	Dveri – Boško Obradović	128,458	0	3.58
10	Party of Democratic Action of Sandžak – Dr Sulejman Ugljanin	35,157	3	0.98
11	Boris Tadić – New Democratic Party – Greens, League of Social-democrats of Vojvodina, Together for Serbia, Democratic Community of Vojvodina Hungarians, Together for Vojvodina, Democratic Left of Roma	204,767	18	5.70
12	Third Serbia – For All Hard Working People	16,206	0	0.45
13	Montenegrin Party – Josip Broz	6,388	0	0.18
14	List of National Communities: Bosniak Democratic Community, Civil Alliance of Hungarians, Democratic Community of Hungarians, Movement of Hungarian Hope, Party of Hungarian Unity – Emir Elfić	3,983	0	0.11
15	It has been enough – Saša Radulović	74,973	0	2.09
16	Coalition of Citizens of all People and Nationalities Rusin Democratic Party – Social Democratic Alliance	3,182	0	0.09
17	Group of citizens “Patriotic Front” – Dr Borislav Pelević	4,514	0	0.13
18	Russian Party – Slobodan Nikolić	6,547	0	0.18
19	Party for Democratic Action – Riza Halimi - Partia per Veprim Demokratik - Riza Halimi	24,301	2	0.68

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/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 Summit Document). This is referred to as the OSCE human dimension.

The OSCE/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 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it coordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights** and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/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.

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

More information is available on the ODIHR website (www.osce.org/odihr).