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Technical Election Assessment Mission in Serbia

Report



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Cover photo: A Serbian actor casts her ballot as part of a public service announcement ahead of the 2020 elections.

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Acronyms and Abbreviations

APC	Agency for the Prevention of Corruption
CEDAW	Convention on the Elimination of Discrimination against Women
CeSID	Center for Free Elections and Democracy
CIL	Center for Independent Living
COVID-19	Novel Coronavirus Disease 2019
CRTA	Center for Research, Transparency and Accountability
DICON	Disability-Inclusive Consultation Group
DPO	Disabled Persons' Organization
EDR	Election Dispute Resolution
EMB	Election Management Body
ENEMO	European Network of Election Monitoring Organizations
GRECO	Group of States Against Corruption
IDSCS	Institute for Democracy Societas Civilis–Skopje
LGBTQ	Lesbian, Gay, Bisexual, Transgender, or Queer
MDULS	Ministry of Public Administration and Local Self-Government
ODIHR	Office of Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
REM	Regulatory Authority of Electronic Media
RIK	Republic Electoral Commission
SNS	Serbian Progressive Party
TEAM	Technical Election Assessment Mission
USAID	United States Agency for International Development
UVR	Unified Voter Register

Executive Summary

Since the first elections in Republic of Serbia held under the Law on the Election of Members of Parliament in 2000, the electoral process has advanced to meet international standards and practices. However, there are long-standing unimplemented recommendations and concerns posed by the international community. These gaps are exacerbated by democratic backsliding, especially in the electoral process; during the 2020 parliamentary elections in Serbia, citizen and international observers noted a number of challenges and barriers to genuine and democratic elections.¹ Such issues contribute to the stagnation of Serbia's progress toward European Union integration and the overall quality of the country's democracy.²

To determine both the strong suits and vulnerabilities of the Serbian electoral process, the International Foundation for Electoral Systems (IFES) employed its Technical Election Assessment Mission (TEAM) methodology to implement an overarching assessment of core elements of the electoral process that is central to election administration delivery, reflective of inclusion and accessibility and regulated by robust legal and regulatory frameworks. This assessment covers pre-determined categories based on a preliminary evaluation of needs and gaps in the electoral process. Through face-to-face and online interlocutor interviews, coupled with extensive desk research, the evaluation team used the findings enumerated in this report to identify key recommendations to inform targeted assistance interventions for electoral stakeholders. Those recommendations were designed to improve election administration, management, access and adjudication.

The assessment found that the election environment in Serbia is riddled with redundancies, decentralization, exclusionary practices and a lack of clarity. While the electoral legal framework is extensive, it spans a number of separate laws, which obfuscate the framework itself and has paved the way for a multitude of gaps and inconsistencies. In parallel, the legal framework in Serbia provides robust protections for marginalized populations, including women and the LGBTQ community, persons with disabilities, young people and national minorities. However, a number of obstacles require additional protections to remedy discrimination and underrepresentation.

Electoral operations in Serbia are a microcosm of the issues of the wider electoral process. The voter registration process is complex, opaque and decentralized, and the accuracy of the UVR remains a persistent concern for both observers and the public. Efforts to improve the process include the government's establishment of the Working Group for the Verification of the Voter List,³ but further improvements can be made. Polling station operations are the most visible component of electoral operations; they require significant resources and capacity to protect election integrity. Serbia's polling stations face challenges in accessibility and defending against violations of voting procedures, including fraud practices and voter discrimination. The first-line defenders of election integrity in polling stations are polling board members, yet selection and training criteria have deficiencies that threaten the delivery of democratic elections.

¹ Citizen and international observation missions include the Organization for Security and Cooperation's Office of Democratic Institutions and Human Rights (OSCE/ODIHR), CRTA and CeSID.

² "Commission Staff Working Document: Serbia 2020 Report," (October 6, 2020). *European Commission*.

³ For more details on the Working Group, visit <https://www.srbija.gov.rs/dokument/422955>.

The counting and tabulation process in Serbia, while well laid out, is very complicated. The process does not provide for solutions when voters make mistakes on ballots and involves numerous entities, which leads to opaque practices and confusion among responsible officials. The quality of training for polling board members and election administrators and security of the process itself is indicative of the need for greater clarity and more resources.

As noted above, Serbia's electoral process is highly decentralized. This is especially evident in electoral management and leadership. The national-level election management body, RIK, administers national elections, along with local elections when they take place during national elections. RIK is an independent institution with standing board members as well as extended composition members appointed during election periods. RIK relies on an *ad-hoc* secretariat staffed by civil servants from the National Assembly and other government agencies, many of whom work in a Working Group format rather than a permanent secretariat in line with international standards. RIK is also supported by municipal-based Working Bodies, a structure that further complicates election management and muddles lines of authority. As a result of the non-permanent structure of RIK's secretariat, institutional knowledge differs with every election period, and commission-wide training and capacity-building is insufficient, including at the leadership level. While training resources are available, consistent and comprehensive approaches to election administration are lacking.

Electoral and political participation among marginalized populations, including women and the LGBTQ community, persons with disabilities, young people and national minorities leaves much to be improved, especially in relation to consistent and meaningful consultative mechanisms with interest groups. National minorities, particularly those from the Roma community and those who identify with the above populations, encounter intense discrimination. While women make up a significant proportion of elected officials in Serbia, proper implementation of legislation and entrenched cultural norms and beliefs about gender roles limit women's meaningful participation in politics and election administration. Strides have been made to increase election access for persons with disabilities, including provisions for special voting services, the creation of the DICON at RIK and the development of national election information in accessible formats. However, DICON is not permanently institutionalized, and local election and campaign information is often not available in accessible formats. Young people also face barriers to meaningful participation. Disillusionment with politics and government in general, together with a lack of comprehensive and mandatory civic education, has alienated young people's will and interest in electoral participation.

Advancing participation and understanding of the electoral process for the general public and marginalized populations is integral to sustain an engaged electorate. In Serbia, civic and voter education lacks a standardized approach and continuity. Formal civic education in the school system is offered via an ungraded elective course which, assessment findings show, does little to impact students' democratic attitudes. Moreover, educators lack resources and training to teach the course. Voter education is characterized as *ad-hoc*, and RIK does not have the institutional infrastructure or resources to conduct regular voter education, particularly targeted toward women, persons with disabilities, first-time voters and young people, and national minorities.

Observers have noted widespread alleged corruption in Serbian elections, particularly as it pertains to political and campaign finance and the abuse of state resources. The political finance framework has been criticized for its lack of transparency, which would benefit from improved pre-election reporting requirements. There is also room to improve formal procedures for complaints review and government oversight of political finance violations. This extends to abuse of state resources, which often are not effectively monitored or counteracted, and political will to address the issue is limited.

In the post-election period, electoral dispute resolution was determined to be constrained by time and resources. In particular, rules and procedures for investigating and resolving complaints was identified as a priority area for reform to address indications of significant challenges in ensuring procedural due process stemming from short timelines for resolving disputes, as well as significant gaps in procedures for complaint adjudication and investigation. Additionally, there is a need to introduce training and public outreach to increase the credibility of the electoral dispute resolution process overall.

As a result of this assessment, IFES recommends significant investment in comprehensive training and capacity-building for government and independent institutions and bodies tasked with the administration, management and adjudication of elections. Consultative and inclusive mechanisms must be introduced to engage diverse stakeholders and marginalized groups in the electoral process. RIK and local election management bodies must also improve coordination, collaboration and delineation of responsibilities to effectively deliver genuine and democratic elections in Serbia. For RIK, this means institutionalizing its secretariat, public consultation platforms and procedures to promote election integrity and credibility while also ensuring public trust and confidence in election administration.

Technical Recommendations Summary

In the table below, summary recommendations (discussed in more detail in the rest of this report) in the first column are organized by assessment category. Primary actors are listed in the middle column, and the third column identifies the priority level of the recommendation by timeframe to inform relevant stakeholders' strategic planning processes. These time periods relate to the next anticipated national elections in April 2022. Short-term is defined as one to six months, medium-term as seven to 18 months (anticipating the next elections), and long-term is 19 months or longer. The table includes recommendations for each of IFES' core service lines (as defined in its methodological framework), that the assessment report considers. The context of each recommendation is described in relevant sections below.

Recommendations	Actors	Timeline
Electoral Legal Framework		
Conduct a review of the electoral legal framework with the aim of filling gaps in legislation and harmonizing rules and standards; adopt a unified electoral code.	National Assembly/Election Reform Process	Medium- to long-term
Ensure meaningful public consultation for all substantive changes to the legal framework and make substantive changes at least a year in advance of elections. The	National Assembly/Election Reform Process	Medium- to long-term

Recommendations	Actors	Timeline
processes around the initial proposed reforms and feedback from stakeholders should be transparent and open to the public.		
Remove restrictions on the right to vote on the basis of perceived or actual psychosocial or intellectual disability to bring the law in line with international human rights standards.	National Assembly/Election Reform Process	Medium- to long-term
Establish clear criteria for registration of national minority political parties for parliamentary elections.	National Assembly/Election Reform Process	Medium-term
Amend the Law on Members of Parliament to include a gender quota for RIK commissioners.	National Assembly/Election Reform Process	Long-term
Electoral Operations		
<i>Voter Registration</i>		
Further develop the website interface for voter scrutiny of the UVR to include additional voter awareness information and to enable voters to directly identify corrections and generate forms with supporting materials to facilitate correcting or updating their details.	MDULS	Medium-term
Conduct a verification and audit of the UVR.	Working Group for the Verification of the Unified Voter List	Short-term
Assess the potential value and impact of the Central Population Register on future updates and maintenance of the UVR, including potential improvements to the quality, accuracy and harmonization of citizen source data and processes used for the UVR.	MDULS	Long-term
Consider regular electronic publication of UVR statistics disaggregated by Local Self-Government area, including summarized statistics on the updates applied.	MDULS	Medium-term
Publish gender-disaggregated voter registration data.	MDULS	Medium-term
<i>Polling Station Operations</i>		
Investigate the effectiveness of current practices in sealing ballot boxes and consider alternatives.	RIK	Short-term
Consider revising ballot design to increase voter-friendliness.	RIK	Medium-term
Establish minimum criteria (e.g., related to size, accessibility, building conditions) for potential polling station venues.	RIK	Medium-term
Create and maintain a unified database of all locations frequently used as polling stations across the country, including the extent to which they meet minimum criteria.	RIK	Medium-term

Recommendations	Actors	Timeline
Conduct periodic analyses of accessibility audit data and use the data to update polling station selection.	RIK	Medium-term
Standardize the accessibility assessment checklist with metrics such as ramp grades and door widths in centimeters.	RIK	Long-term (before the next audit)
Introduce specific criteria for the selection of polling board members and require all members to participate in trainings and pass post-training tests.	RIK	Medium-term
During polling board member training, include sessions on electoral violations, emphasize members' role in reporting such violations and instruct them on how to report them.	RIK	Medium-term
Consider offering online training for polling board members in addition to in-person sessions.	RIK	Short- to medium-term
Schedule polling board member training sessions closer to election day and complete all modifications to instructions before the training. Alternatively, introduce short "refresher" sessions closer to election days.	RIK	Medium-term
Develop instruction booklets for polling board members, condensing information and emphasizing procedural changes since previous elections.	RIK	Medium-term
Gather consistent, standardized data from polling board training sessions and draw lessons learned to enhance engagement.	RIK	Medium-term
Limit the number of voting booths in smaller polling stations to respect the principle of voting secrecy.	RIK	Medium-term
Provide clearer signage for polling stations, especially in areas with several polling stations. Assign polling board members or other staff to help voters identify their polling stations.	RIK	Medium-term
Provide clearer signage on ballot boxes for different races and ensure polling board members monitor voting, helping voters place their ballots in the right boxes.	RIK	Medium-term
In consultation with DPOs, pilot tactile ballot guides to enable persons with visual disabilities to vote independently and in secret.	RIK	Medium-term
Counting and Tabulation		
Improve training for polling board members on counting and aggregation of results by polling boards.	RIK	Medium-term
Revise the design of the results form' and supporting form to be more user-friendly.	RIK	Short-term
Introduce a correction form for use when mistakes in the original results protocols are found.	RIK	Short-term
Include results process information in voter information efforts.	RIK	Medium-term

Recommendations	Actors	Timeline
Special Voting Services		
Enfranchise voters in hospitals who are not able to go to a polling station on election day by expanding mobile teams or setting up new polling stations.	RIK	Medium-term
Continue good practices from adjustments as a result of the COVID-19 pandemic, such as the ability to request a mobile ballot box up to 48 hours before the election.	RIK	Medium-term
Increase voter information efforts on the mobile team option for voters with disabilities or other conditions that hinder their access to a polling station.	RIK	Medium-term
Electoral Management and Leadership		
Establish a permanent RIK secretariat with core election officers to support drafting regulations and procedures, developing voter education campaigns, preparing manuals and polling board member trainings, designing results systems and conducting other election administration activities.	National Assembly/Election Reform Process	Medium-term
Change the appointment process for the RIK Secretary so RIK Commissioners make the decision.	National Assembly/Election Reform Process	Medium-term
Develop a detailed operations plan for election administration.	RIK	Medium-term
Election Management Body Training and Capacity-Building		
Assess RIK and local election commission' capacities to plan and implement electoral processes.	RIK	Medium-term
Develop a capacity-building plan for RIK Commissioners, <i>ad-hoc</i> Secretariat staff and local election commissions.	RIK	Medium-term
Develop a detailed training plan for RIK's Working Bodies, including updated manuals and adult pedagogical approaches.	RIK	Medium-term
Introduce codes of conduct for election officials and technical staff.	RIK, local election commissions	Medium-term
Inclusion, Access and Participation		
Identify focal points for youth, disability and gender, and institutionalize existing working groups, such as DICON.	RIK	Short-term
Develop first-time voter strategies, including communications, voter registration and voter education.	RIK	Medium-term
Develop a gender equality and social inclusion policy to respond to opportunities to mitigate barriers to the participation of women, young people and persons with disabilities throughout the electoral cycle.	RIK	Medium- to long-term
Develop policies on equal employment opportunities and reasonable accommodations.	RIK	Medium-term

Recommendations	Actors	Timeline
Collect and disaggregate voter data by age, gender and disability.	Statistical Office and RIK	Long-term
Update the poll worker manual with good practices such as priority queuing, which is currently a recommended practice but has not been formalized.	RIK	Short-term
Ensure that citizen observation efforts include gender considerations and gender analysis, as well as accessibility.	Civil society organizations	Medium-term
Build partnership and cooperation mechanisms between government and civil society to support civil society groups, (such as women's civil society organizations and DPOs), especially in rural areas, to enable them to advocate more robustly on issues important to them during the campaign period.	Independent state institutions, government, civil society	Medium-term
Establish a partnership with the Ministry of Education and the Ministry of Youth and Sports to better strategize and coordinate efforts to increase the inclusive political participation of young people.	RIK	Medium-term
Civic and Voter Education		
<i>Civic Education</i>		
Support making the civic education elective course mandatory and graded or integrate basic principles of civic education into primary school curricula.	Ministry of Education	Medium-term
Re-engage with civil society and education experts to update civic education curricula continuously and ensure that topics taught cover the full range of civic participation.	Ministry of Education	Short-term
Support robust development of student parliaments with learning materials.	Ministry of Education	Short-term
Provide more support to national minority communities by ensuring civic education teaching materials and resources are consistently available and updated in local languages.	Ministry of Education	Short-term
Make civic education materials available in formats such as braille, audio and easy-to-read so they are accessible to students with disabilities.	Ministry of Education	Short-term
Increase the capacity of civic education educators by revising and strengthening teacher training certification programs.	Ministry of Education	Medium-term
<i>Voter Education</i>		
Establish a formal voter education strategy incorporating research, feedback and recommendations from diverse stakeholders, including local young leaders, women's groups, DPOs and other rights groups.	RIK	Medium-term

Recommendations	Actors	Timeline
Establish, staff and fund a dedicated voter education unit or Working Group to ensure adequate implementation of comprehensive voter education; identify gaps in messaging or within key groups.	RIK	Medium-term
Consider partnering with the Ministry of Education to develop voter education materials targeting first-time voters for use in civic education classes.	RIK	Medium-term
Conduct an accessibility audit of RIK's website and update it to ensure voter education and information is accessible.	RIK	Short-term
Encourage political parties to share information on their party platforms and campaigns in accessible formats.	RIK	Medium-term
Political Finance and Corruption in Elections		
<i>Political Finance</i>		
Mandate political parties to spend 15 percent of their public funding on initiatives related to gender equality.	National Assembly/Election Reform Process	Long-term
Carefully consider pre-election reporting requirements to avoid burdens for campaigns and oversight institutions.	National Assembly/Election Reform Process	Medium-term
Consider establishing a formalized procedure for the receipt and review of complaints about political finance violations.	APC	Medium-term
Identify how cross-checking financial reports with external data sources can improve oversight and continue to build on positive engagement with public institutions and civil society entities.	APC	Medium-term
<i>Abuse of State Resources</i>		
Review the regulatory framework against abuse of state resources, including pressure put on staff in public institutions and misuse of public premises and social media accounts. This review must include all relevant actors and focus on how to monitor compliance with provisions being introduced and sanction potential violations.	National Assembly/Election Reform Process	Medium- to long-term
Include local and marginalized populations in anti-corruption oversight and implementation of anti-corruption plans.	APC	Medium-term
<i>Independence and Accountability of the Agency for the Prevention of Corruption</i>		
Work to ensure that procedures and policies are formalized in writing and published to build trust and maintain accountability to the public.	APC	Medium-term

Recommendations	Actors	Timeline
Consider submitting reports to the National Assembly to highlight critical areas of concern or recommendations, particularly related to political finance and abuse of state resources, to help build a stronger oversight relationship with the National Assembly.	APC	Short-term
Consider proactively engaging and collaborating with civil society organizations, especially those involved in monitoring money in politics.	APC	Short-term
Electoral Dispute Resolution		
Conduct an inclusive, consultative review of the legal and regulatory framework to guide a reform process to fill gaps and ensure consistency.	National Assembly/Election Reform Process with RIK, APC and Administrative Court	Medium- to long-term
Establish consistent rules of procedure to resolve electoral complaints; introduce a robust, transparent and secure case management system.	RIK, APC	Medium-term
Update filing and decision-making timelines to protect due process and meet international standards.	National Assembly/Election Reform Process	Medium-term
Increase the capacity of election commissions on EDR and investigations.	RIK, Administrative Court, Prosecutor's Office	Medium-term
Conduct voter education and public outreach on how to use and access the complaint adjudication process.	RIK, Administrative Court	Medium-term

Background

Democratic progress in Serbia is stalled, in part due to a polarized and insufficient electoral environment.⁴ The recommendations for electoral reform posited by a number of international and domestic institutions and civil society groups remain unimplemented and hamper advancement in the European Union accession process. Despite efforts to address recommendations, elections in Serbia have been characterized by state capture, alleged political corruption and a diminishing civil society and media space. This assessment provides a multi-categorical analysis of the electoral process to determine key gaps and vulnerabilities that threaten election integrity, as well as opportunities and relationships that can be leveraged to secure reforms. IFES developed targeted recommendations across designated sectors of the electoral process for relevant election institutions and for the government to implement in pursuit of inclusive, genuine and democratic elections in Serbia.

At the center of the political stage in Serbia are President Aleksandar Vučić and the SNS, which has steadily become the most influential political entity in the country, with widespread influence over the government.⁵ In the June 2020 parliamentary elections, the SNS secured an absolute majority, as one of only three parties passing the threshold of 3 percent (the two others, the Socialist Party of Serbia–United Serbia and Serbian Patriotic Alliance, formed a post-election coalition with SNS).⁶ With this mandate, the SNS is poised to remain the dominant decision-maker in Serbia, with little or no robust opposition that effectively challenges the status quo in the political sphere.

Election administration in Serbia is highly decentralized. The national-level EMB, the RIK, is by law an independent, permanent institution whose members serve a four-year mandate; it is supported primarily by National Assembly civil service employees. In addition to RIK, election legislation recognizes polling boards and election commissions as election bodies responsible for the administration of the election process.⁷

In addition to the RIK, other electoral institutions include municipal election commissions and provincial election commissions; the APC, which is mandated to oversee political and campaign finance and the use of state resources; and the REM, which observes the electronic media environment, including during the election period, to ensure compliance with legislation on electronic media. Additionally, MDULS is responsible for maintenance of the voter registry, and the Administrative Court of Serbia adjudicates the complaints and appeals process, as prescribed by law. The electoral process is also subject to an oversight body housed within the National

⁴ “Commission Staff Working Document: Serbia 2020 Report,” (October 6, 2020). *European Commission*; “Serbia, Parliamentary Elections, 21 June 2020: ODIHR Special Election Assessment Mission Final Report,” (October 7, 2020). *OSCE/ODIHR*, herein “OSCE/ODIHR Final Report.”

⁵ “Freedom in the World 2020: Serbia,” *Freedom House*. Retrieved from <https://freedomhouse.org/country/serbia/freedom-world/2020>

⁶ In addition to the three political parties mentioned here, four other political parties also entered the National Assembly on the basis of the threshold for ethnic minority parties provision.

⁷ Law on the Election of Members of Parliament, Law on Local Elections and the Provincial Assembly Decision on the Election of Deputies to the Assembly of the Autonomous Province of Vojvodina.

Assembly, the Supervisory Board,⁸ which was defined in law in 2000 but was established for the first time for the June 2020 parliamentary elections.

While Serbia has a vigorous citizen observation environment and a well-organized civil society infrastructure, the space for meaningful public consultation and inclusive responses to identified risks and challenges is limited. Public consultations do not follow a specified structure or approach, and recommendations made during consultations often are not integrated into policies or procedures. Efforts to expand consultation have increased in recent years, including through the Working Group for the Verification of the Voter List established in 2019, but recommendations for further public engagement, especially among marginalized populations, are left unimplemented.

Traditionally marginalized populations, including women and the LGBTQ community, persons with disabilities, young people and national minorities,⁹ have faced barriers to meaningful participation and access to the political and electoral process, relating to civic and voter education, equal representation and considerations for voting procedures. The COVID-19 pandemic has exposed and exacerbated election integrity challenges and obstacles for inclusive participation among marginalized groups. The government's implementation of an effective COVID-19 response ahead of and during the June 21, 2020, parliamentary elections was marred by delayed decision-making, limited public communication and limited compliance by election officials, reflecting the need for greater capacity and resources among election administration.¹⁰

The analysis and recommendations described in the following sections are designed to be addressed through the election reform process and relevant institutions, but also with tailored assistance interventions facilitated by IFES for its program beneficiaries through technical assistance and support, training and capacity-building and civic awareness and advocacy.

Methodology

The TEAM methodology is a standard model that IFES applies in overarching assessments of an electoral environment. The TEAM methodology approach is framed around core elements of the electoral process that are central to election administration delivery, contribute to ongoing debates in the democracy and governance community and underpin a democratic electoral process. The TEAM methodology harnesses this framework to draw on institutional knowledge from assessment conception through implementation.

The TEAM methodology also mainstreams inclusion of marginalized and underrepresented groups into analysis throughout the assessment process. A comprehensive election assessment will use inclusion as a cross-cutting analysis tool to explore barriers to the electoral process and highlight good inclusive practices. Specifically, integrating an inclusion analysis informs IFES' understanding of the country context in which the assessment is conducted by looking at who has access to and control over resources and services; who makes decisions in the community; and

⁸ Law on the Election of Members of Parliament, Articles 99 and 100.

⁹ This selection of marginalized populations will be the subject of references to inclusion throughout this report.

¹⁰ "Serbia COVID-19 and Elections Response Analysis," (December 18, 2020). IFES.

how people of all gender identities, persons with disabilities, young people and national minorities are uniquely impacted by barriers to political life.

IFES determined the categories for this analysis after an initial evaluation of the electoral environment and consistent challenges faced in Serbian elections. The evaluation considered observation reports from international organizations—specifically, the OSCE’s ODIHR—and national civil society and citizen observers. The findings from these reports supported identification of priority issue areas and existing recommendations to strengthen the electoral process in Serbia. Based on this initial evaluation, the IFES assessment team, composed of senior electoral technical experts, identified gaps in priority areas that the TEAM implementation would address while avoiding duplicative efforts. The categories examined in this report are:

- *Electoral Legal Framework;*
- *Electoral Operations;*
- *Electoral Management and Leadership;*
- *Election Management Body Training and Capacity-Building;*
- *Inclusion, Access and Participation;*
- *Civic and Voter Education;*
- *Political Finance and Corruption in Elections; and*
- *Electoral Dispute Resolution.*

The assessment team held a series of face-to-face and online meetings with Serbian stakeholders, arranged based on the categories selected for analysis and gaps in knowledge identified during the preparatory phase. Interlocutors during this assessment mission included national and local election management bodies, oversight institutions, political parties, citizen observer organizations, civil society and interest groups and other local experts. Discussions with interlocutors were guided by protocols developed in advance of the meetings that mapped key informant interview questions across stakeholder and analysis categories. These questions were designed to answer a series of inquiries that measure the extent to which Serbia’s electoral legal, regulatory and procedural frameworks are in compliance with international standards and good practices.

As this TEAM took place amid the ongoing COVID-19 pandemic, deployment took on a hybrid format. While part of the assessment team deployed to Serbia and met in person with select interlocutors, the majority of meetings took place remotely to include assessment team experts based in the United States as travel possibilities were reduced. As a result, the TEAM relied on shortened stakeholder meetings and remote interpretation in collecting data. While this limited to some extent the depth to which discussions covered relevant inquiries, the remote format enabled the assessment team to organize a greater number of stakeholder meetings, including some conducted with interlocutors residing outside the national capitol area.

Assessment

In the following sections, IFES draws on its established institutional and global comparative knowledge to assess how the Serbian electoral process measures up to international standards;

good practices; and recommendations for the administration, management and oversight of inclusive, genuine and democratic elections. By framing the analysis around principles of good governance in the electoral process, these sections offer an overview of expectations for a democratic electoral process, challenges and successes in the Serbian context and present recommendations to bridge potential gaps between international standards and practices and the reality in Serbia.

As described above, the analysis is based on data collected from desk research and stakeholder consultations. The data was used to additionally inform understanding of laws, regulations, practices and procedures in the electoral process and to support the design of targeted recommendations.

Electoral Legal Framework

The Serbian electoral legal framework is established primarily in the Serbian Constitution and a collection of individual laws pertaining to different electoral processes—the Law on the Election of Members of Parliament, Law on the Election of the President, Law on Local Elections and Law on Referendum and Civil Initiative. These are supplemented by other laws, including the Law on the Unified Electoral Roll, Law on the Councils of National Minorities, Law on the Financing of Political Activities, Law on the Prevention of Corruption, Law on Administrative Disputes, Law on Public Companies¹¹ and Law on Basic Principles of the Educational System,¹² as well as regulations from relevant institutions, such as election management bodies including RIK, MDULS, APC and REM.

Clarity of the Legal and Regulatory Framework

Many election observers and interlocutors consulted during this assessment indicated a need for a comprehensive review of the electoral legal framework to address gaps and inconsistencies.¹³ Some noted, in particular, a need to harmonize the Law on the Election of Members of Parliament and Law on Local Elections,¹⁴ while others, including CRTA, have advocated for the introduction of a unified electoral code to replace numerous laws governing different electoral events in order to resolve a lack of harmonization and inconsistent regulation.¹⁵

Some gaps in the legal framework have been filled through rule-making processes. For example, the OSCE/ODIHR Final Report on the 2020 Parliamentary Elections noted that, based on the findings of a working group, the “government issued instructions and recommendations to various state agencies” on important measures related to “voter registration, post-election inspection of the voter list by voters, election observation, misuse of state resources, and work of the media regulatory body,” which were implemented through secondary legislation.¹⁶ Acknowledging that these were positive measures, the report found that “their introduction by government instructions

¹¹ Article 70 prohibits the use of property, activities, name and visual identity of a public company for use in an election campaign.

¹² Article 46 prohibits the use of educational institutions for political organizing or activities.

¹³ Interlocutor interviews with citizen observers; OSCE/ODIHR Final Report.

¹⁴ Interlocutor interviews with election administration.

¹⁵ Interlocutor interview with citizen observers.

¹⁶ OSCE/ODIHR Final Report, page 6.

and recommendations, rather than through amendments to laws, raised concerns about legal certainty.”¹⁷

To ensure legal certainty, it is important that electoral rights and key policies are enshrined in the law, whereas delegated legislation (regulations, rules and bylaws) provide the “administrative and technical detail to carry out the purpose of the statute.”¹⁸ Procedures should be used to detail steps necessary to complete processes.¹⁹ In addition to filling gaps and ensuring consistency, a comprehensive review of the electoral legal framework should aim to ensure that appropriate legal instruments are used to clarify and reinforce the validity of the legal framework.²⁰ This could also serve to clarify the roles and authorities of relevant institutions—RIK, electoral commissions at the local level, APC and REM.

Additionally, interlocutors consistently voiced concern about the amendments to the Law on the Election of Members of Parliament passed just months ahead of the start of the campaign period in February and March 2020.²¹ These amendments introduced significant changes, including lowering the electoral threshold from 5 to 3 percent, increasing gender quotas on electoral lists and introducing weighted quotients for minority parties.²² Some changes, like lowering the election threshold, were not discussed previously in any forum or requested by any stakeholder; others, including expanding the power to certify signatures for electoral lists, occurred after the election process had already begun.²³ Making amendments to the legal framework so close to an election is contrary to international standards;²⁴ in addition, many interlocutors noted that these changes were sudden and unexpected to many stakeholders, and some remained unaware of the changes.²⁵ This may have been due in part to the fact that no effective public consultation process was held ahead of the changes.²⁶ Interlocutors indicated that this eroded trust in the election process.²⁷

Protection of Fundamental Political Rights and Equal Participation

Serbia is a state party to the International Covenant on Civil and Political Rights, a legally binding treaty that commits states to ensure that every citizen has the right to participate in public life. The Constitution of Serbia enshrines the protection of electoral rights, including the right to vote and be elected in free and direct elections by secret ballot²⁸ and the right to participate in the

¹⁷ OSCE/ODIHR Final Report, page 6.

¹⁸ Clegg, Michael, Katherine Ellena, David Ennis and Chad Vickery. “[Hierarchy of Laws.](#)” (2016). *IFES*, page 14.

¹⁹ Clegg, Michael, Katherine Ellena, David Ennis and Chad Vickery. “[Hierarchy of Laws.](#)” (2016). *IFES*, page 14.

²⁰ Clegg, Michael, Katherine Ellena, David Ennis and Chad Vickery. “[Hierarchy of Laws.](#)” (2016). *IFES*, page 1. Examples of the differences between constitutions, laws, regulations and procedure as they relate to electoral topics are included on page 20.

²¹ “Preliminary findings and conclusions,” (2020). *ENEMO*, herein “ENEMO.”

²² “Parliamentary Elections 2020: Final Report with Recommendations (Summary),” (2020). *CRTA*, herein “CRTA Report,” page 4.

²³ OSCE/ODIHR Final Report, page 4.

²⁴ Fundamental elements of an electoral code should not be changed within a year of an election. “Opinion No. 190/2002, II(2)(b),” (2002) *Venice Commission*. Opinion No. 190/2002, II(2)(b).

²⁵ Interlocutor interview with citizen observers.

²⁶ Interlocutor interview with citizen observers.

²⁷ Interlocutor interview with citizen observers.

²⁸ Constitution of Serbia, Article 52.

management of public affairs.²⁹ The right to vote is granted to all citizens who have permanent residence³⁰ and who reach 18 years of age by election day. However, the right to vote is denied to those who have been stripped of legal capacity by court order.³¹ This is contrary to international human rights standards—specifically, the United Nations Convention on the Rights of Persons with Disabilities, to which Serbia is a party, which guarantees equal enjoyment of political and public rights for persons with disabilities.³² These provisions prevent “the exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability.”³³

Serbia has also ratified the Convention on the Elimination of All Forms of Discrimination Against Women, and the Constitution guarantees gender equality.³⁴ In addition, Serbia has a Gender Equality Law, which has a section dedicated to equality in political and public life, including requirements for political parties to take special measures to ensure gender equality, requires local government bodies to ensure gender equality and requires public institutions to collect gender-disaggregated data, among other stipulations. According to interlocuters, however, implementation of these provisions is lacking.³⁵

Serbia’s Constitution guarantees “equality and representation of different genders and members of national minorities shall be provided, in accordance with Law” in the National Assembly.³⁶ Consistent with international guidance³⁷ and European standards,³⁸ Serbia’s Law on the Election of Members of Parliament established a zippered gender quota, which stipulates that 40 percent of an electoral list must be made up of candidates from the underrepresented gender and that two of every five candidates on an electoral list must be representatives of the less represented gender on the list (which in all cases would be women).³⁹ If a party does not comply with this requirement after being provided an opportunity to remedy deficiencies, the list is rejected and is not eligible for the election. Similarly, the Law on Local Elections stipulates a 40 percent quota for the underrepresented gender with zippered placement requirements (two of every five candidates must be of the underrepresented gender) with the same penalties as for the quota for the National

²⁹ Constitution of Serbia, Article 53.

³⁰ Permanent residence is not a requirement to vote for president. Law on the Election of the President, Article 2.

³¹ Law on the Election of Members of Parliament, Article 10; Law on Local Elections, Article 6; Law on the Election of the President, Article 2; OSCE/ODIHR Final Report, page 9.

³² United Nations Convention on the Rights of Persons with Disabilities, Articles 12 and 29.

³³ United Nations Convention on the Rights of Persons with Disabilities Committee’s Communication No. 4/2011, paragraph 9.4.

³⁴ Constitution of Serbia, Article 15.

³⁵ Law on Gender Equality, Section 5.

³⁶ Constitution of Serbia, Article 100.

³⁷ Committee on the Elimination of Discrimination against Women, Article 4, specifically notes that temporary special measures – such as gender quotas – can accelerate de facto equality between women and men.

³⁸ European standards set by the Council of Europe Committee of Ministers defines “balanced” representation as the proportion of women or men in any decision-making body not falling below 40 percent and urges the adoption of legislative reforms that include parity thresholds for elections. Recommendation Rec(2003)3. A case for higher thresholds and/or parity is also established in the Venice Commission Code of Good Practice in Electoral Matters which notes that “If there is a specific constitutional basis, rules could be adopted guaranteeing some degree of balance between the two sexes in elected bodies, or even parity.” The Code also identifies good practices for quota design and implementation, such as a “zipper” system (a system that requires lists to alternate between women and men).

³⁹ Law on the Election of Members of Parliament, Article 40(a).

Assembly.⁴⁰ In the 2020 parliamentary elections, 38.8 percent of candidates elected to the National Assembly were women, ranking Serbia 28th of 190 countries for which there is data on the proportion of women in parliaments.⁴¹ This proportion puts Serbia above the global average (25.2 percent) and the European regional average (30.3 percent).⁴² There is no legal stipulation that a member of parliament who leaves office must be replaced by a member of the same gender or the underrepresented gender, meaning that there is no guarantee that a woman member who leaves office would be replaced by another woman. While the quota is critical to ensure women's representation and descriptive representation, improvements still need to be made in substantive representation, as discussed further in the "Inclusion, Access and Participation" section below.

Article 3 of the Law on Youth, adopted in 2011, defines young people as ages 15 to 30, outlines the principles for youth participation, identifies young people's rights and responsibilities, and calls for meaningful opportunities for their active participation at all levels of society. The Law on Youth notes the importance of equality and non-discrimination, recognizing that all young people, regardless of age, disability, sex, gender identity, minority background or social group affiliation have the same rights and shall enjoy equal participation in civic and political life.⁴³ Further, Article 8 directly calls for all actors to create environments for and empower young people to be an active part of decision-making processes that contribute not only to their development, but also to the social development of Serbia.⁴⁴ The Law on Youth laid the groundwork for the establishment of the Ministry of Youth and Sports and the National Youth Council, an advisory body drawn from local and provincial youth councils, as it relates to implementing the youth policy set forth in the Law on Youth. The law states that the National Youth Council should be composed of state and provincial administrative bodies, representatives from the National Minorities Council and respected experts.

Finally, the Serbian legal framework includes robust protections for national minorities, including specific rights for political and cultural association; equality in administering public affairs; and "self-governance in the field of culture, education, information and official use of their language and script."⁴⁵ Through recent legal amendments, the thresholds for electoral lists for national minority parties were removed and a formula to enhance the representation of national minority lists was introduced—votes cast for electoral lists are multiplied by 1.35 during the distribution of mandates.⁴⁶ While this would seem to increase minority representation in the National Assembly, interlocutors have suggested that these changes were intended to minimize the impact of the opposition boycott of elections by increasing the number of political parties and further fragmenting the opposition.⁴⁷

⁴⁰ Law on Local Elections, Article 20.

⁴¹ "Monthly ranking of women in national parliaments," *Inter-Parliamentary Union Online*. Retrieved from <https://data.ipu.org/women-ranking?month=10&year=2020>.

⁴² "Global and regional averages of women in national parliaments," *Inter-Parliamentary Union Online*. Retrieved from <https://data.ipu.org/women-averages>.

⁴³ Law on Youth, Article 5.

⁴⁴ Law on Youth, Article 8.

⁴⁵ Constitution of Serbia, Articles 14 and 75–80.

⁴⁶ Law on the Election of Members of Parliament, Article 81 (2).

⁴⁷ OSCE/ODIHR Final Report, page 7; ENEMO.

RIK is tasked with determining which parties qualify for national minority status when applying for participation in elections based on the criteria for minority lists—or determining those parties whose “main objective is to represent and advocate the interests of the national minority and to protect and improve the rights of the members of the national minority, in accordance with international legal standards.”⁴⁸ However, as the OSCE Final Report notes, there are no clear criteria for making this determination.⁴⁹ Additionally, interlocutors have noted that national minority party status could be misused for its related benefits.⁵⁰

Recommendations

1. *Conduct a review of the electoral legal framework:* The legal framework’s gaps in relation to international standards and discrepancies between provisions across laws positions it for a thorough review and subsequent series of amendments to fill gaps and harmonize rules and standards into a unified electoral code. Any such substantive changes must ensure achievement of political consensus and meaningful public consultation and must take place at least a year in advance of elections. The process should involve feedback from stakeholders.⁵¹
2. *Ensure inclusive and representational provisions in the legal framework:* Laws comprising the existing legal framework includes (or does not include) provisions that permit exclusionary practices. To ensure the meaningful participation of marginalized populations in Serbia, the relevant government institutions, such as the Commissioner for Equal Protection and Human Rights, and the designated working group in the National Assembly should remove restrictions on the right to vote on the basis of legal capacity to bring the law in line with international human rights standards and should establish clear criteria for the registration of national minority political parties for parliamentary elections. To improve representation in election administration, election legislation should be amended to ensure gender balance among the members of the election commissions.

Electoral Operations

Voter Registration

Voter registration in Serbia is conducted under the provisions of the Law on The Single Electoral Roll. The law outlines a voter registration process based on a permanent register, the UVR, which is updated continuously and maintained *ex-officio* by MDULS. The law states that the register shall be maintained as an electronic database with voter information entered by municipal administrations, reflecting each voter’s permanent residence. Separate and additional provisions are made in the law for absentee voters residing abroad and for internally displaced persons. There are currently no provisions that require the collection and/or publication of gender-disaggregated voter registration data.

Digitization of the source registers for the UVR was completed in January 2019. Since that date, all changes made at the municipal level to citizens’ records of permanent and temporary address,

⁴⁸ Law on the Election of Members of Parliament, Article 81.

⁴⁹ OSCE/ODIHR Final Report, page 19.

⁵⁰ OSCE/ODIHR Final Report, page 19; Interlocutor interviews with citizen expert.

⁵¹ “Background Document on Public Consultation,” *OECD*. Retrieved from <https://www.oecd.org/mena/governance/36785341.pdf>

or to citizen's civil registration records, have been consolidated into central databases maintained by the Ministry of Interior and MDULS, respectively. Under the law, MDULS is obligated to forward this information to the relevant municipal administrations to enable the administrations to formulate a "decision" and make corresponding changes to the UVR. All changes to the UVR must be based on a relevant decision that may be made *ex-officio*, or upon a citizen's request based on data contained in birth, death or marriage registers or other official records and public documents.

Following the digitization of the source registers in 2019, MDULS compared and verified data across the digitized registers to identify potential duplicate voter registrations and any obsolete or deceased voters. Previously the removal of a deceased voter from the UVR required the receipt of an original death certificate. However, with the digitization of all registers, practices have been adopted allowing decisions based on electronic records.⁵²

In 2019, the Ministry of Interior conducted nationwide verification of the accuracy of residential addresses,⁵³ resulting in some addresses determined to be invalid. Following a process outlined in the Law on Permanent and Temporary Address, the addresses of a number of citizen's were deactivated, resulting in these citizens being removed from the UVR upon notification from the ministry and decisions by municipal administrations.

Discussions with MDULS and municipal administrations revealed that, while facing some technical limitations, the organization generally has the skills and capacity to maintain the UVR. Local Self-Government administrations have broadly sufficient human resources and skills to process and update the UVR for their local areas, although they can be challenged in peak periods such as during the lead-up to elections. The level and effectiveness of computer equipment available in these administrations varies; some offices use outdated equipment and operating systems that could delay or disrupt UVR processing and expose the systems to cybersecurity threats.

2020 Parliamentary Elections

For the 2020 parliamentary elections, RIK announced that 6,584,376 voters were registered for the elections,⁵⁴ a decrease of approximately 2 percent from those registered for the 2017 presidential elections. This was reported to be the largest decrease in registration between elections in decades.⁵⁵ The reduction in the number of voters may be attributed to the cross-checks and removal of duplicate and obsolete voters conducted by MDULS, and the administrative actions taken by the Ministry of Interior following the verification of residential addresses.⁵⁶ However, OSCE/ODIHR and CRTA question the legality and transparency in the relevant 2020 election reports.⁵⁷

⁵² Interlocutor interview with MDULS.

⁵³ Interlocutor interview with MDULS; OSCE/ODIHR Final Report, page 9.

⁵⁴ "Decision on determining the final number of voters in the Republic of Serbia," (June 19, 2020) *Republic Electoral Commission*.

⁵⁵ CRTA Report.

⁵⁶ OSCE/ODIHR Final Report, page 9.

⁵⁷ OSCE/ODIHR Final Report, page 10, states that the Law does not foresee the permanent loss of residence unless requested by citizens abroad, and that interlocutors raised concern that voter list entries were removed through this

Interlocutor discussions did not highlight any specific concerns regarding the completeness and inclusiveness of the UVR for the 2020 parliamentary elections. Consistent with the findings of the CRTA Audit of Political Engagement 2018,⁵⁸ some distrust of the UVR continues due to the perceived inclusion of deceased voters and voter's living abroad, and the effectiveness of the overall UVR administrative procedures.

MDULS enables voters to verify their own UVR details using their personal identification numbers. The MDULS website provides the basic ability for voters to review and verify their UVR data within the parameters of the Law on Personal Data Protection but does not provide guidance or enable voters to initiate actions to update their details.

In June 2020, it was reported that 392,627 voters checked their details online, including 101,537 on election day.⁵⁹ Observer reports referenced the mechanism on the MDULS website, but they additionally refer to lack of transparency in the overall process because the voter list is not made available for public perusal at the municipal level, as required under Article 14 of the Law on The Single Electoral Roll.⁶⁰ Furthermore, Article 21 requires that the UVR be made available for perusal by the "submitter of the electoral lists" after the proclamation of the electoral lists.

In November 2018, Serbia adopted a new Law on Personal Data Protection that effectively aligned Serbia's data protection legal framework with the provisions of the General Data Protection Regulation (GDPR).⁶¹ While articles 20 and 21 of the law allow citizens to access, review, and copy their own personal data, the law restricts wider access to any data enabling the identification of citizens without the citizen's prior consent. The provisions of the Law on Personal Data Protection are inconsistent with Articles 14 and 21 of the Law on The Single Electoral Roll and prevent the implementation of the public scrutiny process for the UVR.

Working Group for the Verification of the Voter List

On September 26, 2019, the government established the Working Group for the Verification of the Unified Voter List, tasked with considering methods for verifying the accuracy of the UVR, including developing a detailed methodology and action plan. The Working Group is composed of representatives of government and civil society organizations and includes subgroups for statistical support and legal affairs.

The Working Group developed a methodology for verification of the UVR, which includes three steps: (1) statistical analysis of the data on the UVR, including demographic and geographic analysis and verification against other databases; (2) field-level verification of sample data from the UVR through household visits; and (3) verification of sample data collected from households against the UVR.

process; CRTA Report, page 5, states that if it had been done in accordance with the law, it might be a step in the right direction. However, the lack of transparency in this process only further nourishes already deep-rooted suspicions of one part of voters about manipulations in the Voters' List.

⁵⁸ This audit indicates that only 25 percent of those surveyed believe that the UVR is accurate and up to date, 31 percent believe that the UVR is not accurate due to administrative reasons and 28 percent believe that it is not accurate due to political manipulation.

⁵⁹ OSCE/ODIHR Final Report, page 10.

⁶⁰ OSCE/ODIHR Final Report, page 10; "Report on the Quality of the Election Process: Parliamentary Elections" (June 2020). CeSID, herein "CeSID Report," page 64.

⁶¹ Regulation (EU) 2016/679.

Under the Law on Personal Data Protection, the Working Group was required to develop an impact assessment on data privacy for the verification methodology, and to submit the assessment to the Commissioner for Information of Public Importance and Personal Data Protection for review and approval. As of the date of this TEAM, the Working Group had submitted the impact assessment to the Commissioner.

A schedule for implementing the verification process cannot currently be determined due to uncertainty over the timing, feedback and requirements that the Commissioner may impose and over the impact of the COVID-19 public health crisis on field activities. Feedback from interlocutors indicates that CRTA is currently developing a COVID-19 mitigation strategy.

Central Population Register

In March 2019, the National Assembly passed the Law on the Central Population Register, which came into effect on September 1, 2020. It outlines the framework for the implementation of a central register for the population of Serbia. The register is administered by MDULS with the objective of establishing a single, centralized and reliable state database containing accurate and up-to-date data on the both citizens and foreigners residing in the country and to enable trusted authorities to perform their tasks based on a single source of data. Under the law, MDULS is authorized to determine the list of authorities and agencies that will have the right to receive or download data from the Central Register.

The Central Register is to aggregate data from different official databases including citizenship, birth/death certificates and other civil records, personal ID numbers, permanent and temporary residence, temporary residence abroad, ID and passport records, social security and taxpayer data, refugees, asylum seekers and foreigners with temporary and permanent stay permits. The agencies that maintain the original official records are obliged by law to transfer relevant data to the Central Register.⁶²

Recommendations

1. *Improve the transparency of the UVR process:* A number of stakeholders have noted the lack of transparency in the voter registration process due to non-display of the UVR for public scrutiny at the Local Self-Government level prior to elections. While the Law on the Single Electoral Roll requires the UVR to be displayed for perusal by the public and submitters of electoral lists, this is prohibited under the Law on Personal Data Protection. To ensure clarity and consistency in legal provisions and expectations of the UVR process, efforts should be made to harmonize the legal provisions while ensuring all legally feasible transparency processes are available for the UVR process. Adding to distrust in the UVR process and the perceived lack of transparency is the limited or late publication of UVR statistics. To increase transparency in the UVR update process, MDULS should consider regular electronic publication of UVR statistics disaggregated by Local Self-Government area, including summarized statistics on the updates applied.
2. *Improve mechanisms for voter scrutiny of the UVR:* The online mechanism allowing voters to review their UVR details was widely utilized during the 2020 election period. It is

⁶² Law on the Central Population Register, Article 7, states that the minister in charge of administrative affairs shall determine by a decision the list of receiving bodies which have the right to directly download data from the Central Register, in the procedure prescribed by the Law.

recommended that MDULS further develop its website interface to include additional voter awareness information, and that it enable voters to directly identify corrections and to generate forms with supporting materials to facilitate correction or updating of their details.

3. *Verify and audit voter list:* To improve trust and confidence in the UVR, and to address perceptions of a lack of accuracy or manipulation of the UVR, a number of national and international stakeholders including ODIHR/ODIHR, CRTA and CeSID have recommended a verification and audit of the UVR. The Working Group for the Verification of the Unified Voter List is awaiting a response from the Commissioner for Information of Public Importance and Personal Data Protection prior to scheduling the verification and audit process. Due to the importance of verification in addressing current widespread negative perceptions, and to ensure the establishment of a qualitative baseline for the UVR, it is recommended that all required technical support and expertise be made available to the Working Group. This will ensure successful implementation of the proposed verification methodology, a full and comprehensive statistical analysis and determination of outcomes, and effective planning and institutionalization of process improvements. The UVR verification should not be seen as a one-off activity but should be integrated into ongoing verification and data quality assurance procedures.
4. *Consider the potential impact of the Central Population Register:* The UVR is currently maintained based on data from multiple sources, with data received and processed using inconsistent formats, and with municipal administrations at times carrying a heavy processing burden with insufficient technical resources. It is recommended that MDULS assess the potential value and impact of the Central Population Register on future updates and maintenance of the UVR, including any potential improvements in the quality, accuracy and harmonization of citizen source data and processes used for the UVR. The assessment should also identify the potential for simplification of UVR administrative procedures, including any that would reduce technical and administrative burdens on municipal administrations. The provisions of the legal framework should be reviewed to identify any amendments required to accommodate the simplification and harmonization of data exchange processes and administrative procedures.
5. *Publish gender-disaggregated voter registration data:* Gender-disaggregated voter registration data allows for more meaningful analysis of the voter list. For example, if there are areas or regions where women are underrepresented on the voter list compared to the general population, this might indicate errors with the voter list. Publishing the gender-disaggregated data publicly enables other stakeholders to do their own analysis and also is more transparent.

Polling Station Operations

Polling station operations (or voting operations) on election day are often the most visible component of the electoral process, which means that their successes or failures can have a tremendous impact on how stakeholders perceive the integrity of the elections as a whole. The positive experiences of voters, poll workers and observers in polling stations can contribute to increasing confidence in the process as well as encouraging participation. The assessment team evaluated a series of factors that can affect the quality and effectiveness of these voting operations—from the opening to the closing of voting premises, queue management and control, verification of voters' eligibility, ballot casting, counting of votes and transmission of

results. The assessment team also examined the extent to which polling stations were accessible, poll workers were well-trained, integrity measures were respected, policies and procedures were sound and transparent and, if relevant, materials were available.

Polling Site Setup and Management of Voting Procedures

Polling station setups: Polling stations receive ballots, ballot boxes, UV spray and lamps to mark and check voters' fingers, voting booths (cardboard screens mounted on tables), printed markings and flags, relevant excerpts from the voter list, checklists, pens and sealing materials. According to observer reports, polling stations are usually well-equipped,⁶³ but some—especially in rural areas—are too small for the number of polling board members.⁶⁴ As small polling stations sometimes have a large number of polling board members and more voting booths than would be appropriate, the setup might compromise the secrecy of the vote, since polling board members might be able to see voters making their selections. The election administration should consider establishing minimum criteria (related to size, accessibility and building conditions) for the venues that can be used as polling stations and emphasize during training sessions that polling board members should set up only as many voting booths as the polling station can accommodate without compromising the secrecy of the vote. It is also recommended that RIK maintain a unified database of all locations frequently used as polling stations across the country, with detailed information about the extent to which they meet the abovementioned criteria, speeding approval of polling locations.

Another issue frequently raised by interlocutors is poor identification of polling stations, especially in areas where several polling stations are set up, such as classrooms in the same public school, where voters often struggle to find the right station. Clearer and more prominent signage should help voters locate their polling stations, as will assigning polling board members or other staff in those locations to help voters find where they should vote.

Accessibility of polling stations and voting procedures: RIK conducted its first accessibility audit of all polling stations in 2020 and is expected to conduct further audits every two years. The audit questionnaire collected data on parking, ramps, doorways and stairs.⁶⁵ Instituting a periodic practice of auditing polling stations should be lauded, and RIK can improve upon both the quality of data collected and the use of that data to make decisions on polling station selection. The audit questionnaire did not provide metrics (such as grades for ramps or width of doorways) in the checklist to determine whether polling stations meet domestic or international accessibility standards. Instead, questionnaires rely on the judgment of auditors to determine whether polling stations are accessible. The guidelines that accompany the questionnaire should be based on the Technical Standards Rulebook developed by the Ministry of Construction, Transport and

⁶³ According to a report by CeSID, only about 2 percent of polling stations did not receive all required material for the 2016 elections. Given that the 2020 elections required different material, especially due to COVID-19, CeSID could not compare the level of preparedness of polling stations between the two elections.

⁶⁴ As every political party or coalition in the electoral list can nominate members to the extended congregation, the number of polling board members can become very large. During the 2020 parliamentary elections, for example, up to 24 polling members were allowed per polling station (21 from political parties and coalitions and three from the permanent board).

⁶⁵ "Accessibility of polling stations," *Republic Electoral Commission*. Retrieved from <https://www.rik.parlament.gov.rs/tekst/3194/pristupacnost--birackih-mesta.php>

Infrastructure.⁶⁶ This resource is provided as a separate document to support the audit. RIK can further ensure the utility of data collected using the guidelines by connecting the audit questionnaire to standards in this document. Additionally, although RIK required auditors to follow a standard format, some did not follow instructions for entering data, according to an interlocutor. Findings must be entered into Excel spreadsheets by hand, a practice that takes considerable time. In addition, the format of the resulting qualitative data cannot yet be reconciled across districts.⁶⁷ RIK could improve upon this process by building its own capacity to conduct additional trainings with auditors and create a standard online form for submitting findings directly to a RIK database.

Accessibility audit data is publicly available at RIK's website.⁶⁸ Because the government of Serbia does not collect information on where persons with disabilities live, polling station audit results also cannot be prioritized based on where voters are most likely to request accommodations. Collecting the data has prompted the reassignment of around 500 polling stations to replace inaccessible buildings, according to an election administration interlocutor. The RIK has also sent guidelines on accessibility to municipalities, which propose potential polling stations to RIK.

Interlocutors from the election administration pointed to challenges in compliance with ballot secrecy principles for voters with visual disabilities. First, the legal deadlines leave a very short window of time between the closing of the candidates list and election day, making it challenging to produce tactile ballot guides in time for production and distribution. Second, the lists are usually long, containing electoral list names in multiple languages on the same ballot in many municipalities, resulting in varying ballot formats. As a result, it may be difficult to fit the corresponding braille characters on the guide. Finally, RIK does not have records of the number of voters with disabilities, in which precincts they vote, or the accommodations they prefer for voting. Tactile ballot guides do not necessarily require the use of braille characters; many use raised symbols other than braille to identify parties.⁶⁹ Some countries have developed alternative tactile formats to be used with audio recordings, for example.⁷⁰ When tactile ballot guides are developed, education is critical to ensure that voters with visual disabilities know how to use them to vote independently. Polling board member trainings on a newly introduced tactile ballot guide is also important to ensure that staff know the guide exists and can tell voters how to use it. Alternative forms of voting could be considered, in consultation with persons with disabilities and their organizations, such as telephone voting, which can be done at the polling station or, potentially, from home.⁷¹

⁶⁶ Technical Standards of Planning, Design and Construction of Facilities which Ensures Uninterrupted Movement and Access to Persons with Disabilities, Children and Older Persons (2015). Retrieved from <https://bit.ly/3qtfvCc>

⁶⁷ Interlocutor interview with election administration.

⁶⁸ "Accessibility of polling stations," *Republic Electoral Commission*. Retrieved from <https://www.rik.parlament.gov.rs/tekst/3194/pristupacnost--birackih-mesta.php>

⁶⁹ "Tactile Ballot Guide," (December 2014) *Election Access*. Retrieved from <http://electionaccess.org/en/resources/tactile-ballot-guides/150/>

⁷⁰ "Georgia Election Commission Pilots New Tactile Guides," (August 2016) *Election Access*. Retrieved from <http://electionaccess.org/en/media/news/38/>

⁷¹ "iVote online and telephone voting," (January 23, 2020) *New South Wales Electoral Commission*. Retrieved from <https://www.elections.nsw.gov.au/Voters/Other-voting-options/iVote-online-and-telephone-voting>

Verification of voters' eligibility: As shared by interlocutors, common issues during verification of voters' eligibility include voters who changed their names after marriage but whose names were not updated on the voter roll and errors by polling board members. During the 2020 parliamentary elections, polling board members sometimes accidentally marked the wrong names on the voter roll, leading to voters who had not yet voted being informed they had already cast their ballots.⁷² Another issue reported by observers, especially in smaller municipalities where people are more likely to know each other, is that polling board members might skip the verification of voters' documents. Gaps in training of polling board members can lead to these mistakes, and ineffective administration of voting procedures, including during verification of eligibility (more details on this topic are in the following section). However, in some cases, polling board members understand the procedure but feel it is impolite to ask people they know for identification. Training sessions should highlight the importance of applying the procedure in a standard manner to all voters, regardless of how well the polling board members know them.

It is important to note that RIK has reported no formal complaints about discrimination or suppression of voters at polling stations. RIK does, however, receive calls throughout election day from voters encountering issues during voting, and it works with election administration officials and polling board members to resolve them.

Ballot design and ballot boxes: During parliamentary elections, voters make selections by picking the name of an electoral list. The collective electoral lists with candidates' names are displayed in the polling station on election day, but not on the ballots.

During concurrent elections, when voters receive more than one ballot, it is common to see ballots placed in the wrong ballot box, even though the ballots are of different colors. This issue occurred in almost 30 percent of polling stations during the last elections, when voters cast ballots for parliamentary, province of Vojvodina and municipal races. Posting clearer signage and ensuring that a polling board member monitors the ballot casting and that voters are using the right ballot box could mitigate the problem.

Violations during voting procedures: According to interlocutors, several illegal or unethical practices have been observed in polling stations in recent elections in Serbia. Both in 2016 and 2020,⁷³ for example, observers reported people engaging in what is known as "Bulgarian train," in which voters willing or pressured to sell their votes receive a pre-filled ballot before entering the polling station. During the 2020 elections, CRTA reported three cases of Bulgarian train on election day, including in a polling station in the Zrenjanin municipality.⁷⁴ Voters cast pre-filled ballots and bring back the unused ones as proof they cast the ballots they were given. Ballots in Serbian elections use security features (special paper, watermark and stamp) to prevent political

⁷² In polling stations where this problem was observed, elections were annulled and conducted at a later date.

⁷³ "CRTA: Prijavljen slučaj 'bugarskog voza' u Zrenjaninu," (June 21, 2020). *Insajder*. Retrieved from <https://insajder.net/sr/sajt/vazno/19025/Crta--Gra%C4%91ani-prijavili-bugarski-voz-u-Zrenjaninu.htm>

⁷⁴ CRTA equivocally refers to this practice as "carousel voting." The common use of this term, however, refers to the transportation of voters to multiple polling stations to cast multiple votes. The IFES team followed up with CRTA to confirm the group was rather referring to Bulgarian train practices. See "Voter turnout by 2pm 27 percent, another complaint to the police for the case of the 'Carousel Voting'," (June 21, 2020). CRTA. Retrieved from <https://crt.rs/en/voter-turnout-by-2pm-27-percent-another-complaint-to-the-police-for-the-case-of-the-carousel-voting>

actors from producing and filling ballots prior to election day, which indicates that the violation might occur on the day votes are cast. Voters were also seen taking pictures of their ballots, even though the use of cell phones and cameras inside polling stations is prohibited.

Another practice reportedly observed in some municipalities was the transportation of voters to polling stations by political parties to increase turnout.⁷⁵ Undue pressure on voters to turn out was observed in several forms. It was reported, for example, that political actors often identify voters, especially those who work in the public sector, and intimidate them to vote for incumbents at the risk of losing their jobs if they refuse. Parallel recordkeeping inside polling stations contributes to this intimidation, as political parties can receive specific information on who voted.⁷⁶

In “family voting,” family members go to the polling booth with a voter and potentially influence or direct their choices, a practice that is relatively common in Serbia. Women are disproportionately affected by family voting, and male family members often direct female relatives how to cast their ballots.⁷⁷ One interlocutor noted that “women vote how their husbands tell them to,” particularly in more rural areas. In smaller national minority communities, collective voting occurs often; this has limited the equal participation of all individuals who identify as members of national minorities.⁷⁸ For example, according to one interlocutor, in some Roma communities in south Serbia, a coordinator will “collect” voters who travel together to the polling station, creating peer pressure to vote for a certain party. One legal expert commented that national minorities rely on national minority political parties to ensure their representation, as they do not feel represented by mainstream parties.

Finally, despite campaign silence regulations, it is still possible to see individuals trying to influence voters and distributing campaign material in the vicinity of polling stations. According to interlocutors, polling board members tend to turn a blind eye to these violations, which undermine the integrity of the process and voters’ confidence in it.

According to election legislation,⁷⁹ if violations take place, such as multiple ballots cast by the same voter, breaching of vote secrecy, use of non-stamped ballots or campaigning at the polling station, polling shall be repeated in the affected polling stations. During the 2020 elections, RIK decided to repeat elections at 234 polling stations (nearly 3 percent of all polling stations), involving a total of 203,346 registered voters. Most of the repeat elections were due, however, to tabulation errors and other violations of the results management protocol.

⁷⁵ “It is important to note that this transportation sponsored by political parties, combined with other practices that target and identify voters (e.g., parallel recordkeeping), can be perceived as undue pressure on citizens. There is no evidence, however, that voters have been able to cast multiple votes in different polling stations, and thus no evidence of “carousel voting.” See “Voter turnout by 5pm – 38,2 percent,” (June 21, 2020). CRTA. Retrieved from <https://cрта.rs/en/voter-turnout-by-5pm-382-percent>.

⁷⁶ “Election day in Serbia: Massive irregularities even without true competition and uncertainty,” (June 29, 2020). *European Western Balkans*. Retrieved from <https://europeanwesternbalkans.com/2020/06/29/election-day-in-serbia-massive-irregularities-even-without-true-competition-and-uncertainty/>

⁷⁷ “Family and proxy voting,” *ACE Project*. Retrieved from <http://aceproject.org/ace-en/topics/ge/ge5/ge55/family-and-proxy-voting>

⁷⁸ CRTA issued a complaint upon observation of an irregularity during the June 2020 parliamentary elections. “CRTA podnela krivičnu prijavu protiv N.N. lica zbog ‘asistencije’ pri glasanju u Ubu,” (June 25, 2020). *Insajder*. Retrieved from <https://insajder.net/sr/sajt/vazno/19142/>

⁷⁹ Law on the Election of Members of Parliament, Article 55.

Preventing or remedying the violations must be prioritized, and polling board members must be professional in doing so. Based on the training material to which the assessment team had access, polling board members are trained to maintain order in the polling station, but there is no emphasis on electoral violations and how to deal with them. Training sessions should place greater focus on describing and discussing electoral violations, emphasizing polling board members' responsibility to report them and clearly instructing about reporting procedures.

Polling Board Member Capacity and Performance

To a large extent, the quality of the voting procedures, from polling station setup to management of tasks, depends on the performance of polling board members. How these members are selected and trained is thus an important factor to analyze.

Selection of polling board members: In contrast with many countries where poll workers must be unaffiliated individuals, in Serbia these individuals are nominated by political parties. The members of the standing polling board⁸⁰ (chairperson, two permanent members and two deputies per polling station) are appointed by parliamentary groups according to their current representation in the National Assembly (for national and local elections taking place at the same time) or by local assemblies (for local elections). Members of the extended polling board⁸¹ composition are nominated by political parties or coalitions that presented an electoral list for a given election. Every electoral list can nominate a polling board member and a deputy member to the extended polling board composition; there are no specific criteria for this selection besides being adult residents of the district where they are nominated to work. Political party representatives and observers interviewed for this assessment shared that this feature of the Serbian system often undermines professionalism during voting procedures, as polling board members often act in the interest of their parties rather than the interest of voters. To mitigate this issue, consideration should be given to defining specific criteria for the selection of polling board members by political parties and, if possible, making training (even if in abbreviated format) mandatory for all.

Although the Law on Gender Equality calls for attention to gender equality when appointing electoral administration positions, including polling boards, there is no enforceable gender-related requirement for the makeup of polling board members, with sanctions for non-compliance.

Training of polling board members: Training of polling board members follows a cascade approach. For national elections (presidential and parliamentary), as well as local elections taking place concurrently with national elections, RIK organizes seven-hour training-of-trainers sessions to instruct master trainers, who replicate the training to permanent and extended polling board members. The training for polling board members lasts four hours. This approach optimizes resources and allows for the training of large numbers of individuals within a relatively short period.

According to interlocutors involved in the organization of these training sessions, timing is an issue. Permanent polling board members are trained well ahead of election day and may forget some instructions. For example, the module on supporting voters with disabilities is likely to be

⁸⁰ See more on standing polling boards in "Electoral Management and Leadership."

⁸¹ See more on extended polling boards in "Electoral Management and Leadership."

new information that is not retained, according to a civil society representative who expressed concern that polling board members often do not use appropriate etiquette when serving voters with disabilities. A civil society representative noted that a polling board member told a voter with a visual disability to sign the register but did not explain where the document was in relation to the voter or moved the person's hand to the part of the register to sign. Even so, it is encouraging that the test for the training includes specific questions on the right to an assistant of one's choice, which is critical to ensuring access for voters with disabilities. The training sessions also often omit last-minute changes and adjustments to instructions. To avoid these issues, RIK should consider scheduling trainings closer to election day and completing all modifications to instructions before them. Alternatively, RIK could introduce a short "refresher" session closer to the day of elections.

Offering the main training or the refresher session virtually could allow for greater flexibility, especially for members who work full-time or cannot travel to where the training-of-trainers or other trainings are held. Currently, however, no online training for polling board members is offered in Serbia. As recent experiences across the world have shown, online training can help election administrations reach more poll workers, reduce costs of in-person training, and enhance the accessibility of training. During public health crises such as the COVID-19 pandemic, online training sessions also help reduce risks of transmission. Online refreshers can also be provided closer to election day. Given that some polling board members may not have access to the necessary hardware or reliable internet access, or might not feel comfortable participating in online training, in-person sessions should continue.

Participants' level of engagement during the training and on election day also varies considerably, according to interlocutors. Many polling board members are not motivated to do their jobs or to monitor the process and record irregularities. According to observers, less than half of those trained actually fulfilled their roles as polling board members during recent electoral events.⁸² Master trainers are required to submit reports on the sessions they lead, but there is no specific reporting template or form, making the data harder to analyze and compare. Trainees must take a test at the end of training, but their acceptance as polling board members is not conditional on results. Article 17 of the instructions for conducting the parliamentary elections in 2020 mentions only that "the parliamentary groups should give priority to persons who have undergone [RIK]'s training," but does not make the training mandatory.⁸³

Training material: Although there are no formal mechanisms to analyze previous electoral processes and incorporate lessons learned into instructions and training materials, RIK does adjust the procedure documents and manuals before every election. However, the most recent procedures manual is extensive (around 80 pages), and election officials are skeptical that polling board members actually read the entire document. RIK should thus consider shortening the most important instructions, especially new ones, into more easily digestible booklets to which polling board members can refer often. RIK should also consider producing individual leaflets that

⁸² As the elections were held on June 21, 2020, this increased drop-out rate could also have been influenced by fears of being exposed to COVID-19.

⁸³ Instructions for Conducting Election for MPs of the National Assembly, called for 21 June 2020, Article 17.

present instructions for the responsibilities that polling boards members are expected to perform on election day.

Security of Electoral Material

To ensure the security of electoral material, the Serbian police protect the printing of ballots and escort ballots, ballot boxes and other polling station material from RIK to the districts. Cameras also record parts of this process, and observers have access to this material. Every political party represented in the electoral list can also nominate one person to be present during the printing, counting and packing of ballots, and to monitor the delivery of these materials to local electoral bodies. Stakeholders generally perceive this process as transparent and sufficiently secure.

During the 2020 parliamentary and local elections, it was obvious that the wax used to seal ballot boxes was hard to apply and was easily damaged at several polling stations. As ballot boxes are visible and monitored during the entire procedure, suspicions of fraud are mitigated, but the fact that the ballot boxes are not securely sealed remains a problem. Electoral authorities must determine why the wax is not effective and consider replacing or augmenting the material if needed, including, for example, using zip ties for additional security.

Recommendations

1. *Improve the security and voter experience of ballots:* To ensure paper ballots are properly secured and resistant to tampering, RIK and local election commissions should investigate the effectiveness of wax for sealing ballot boxes and consider alternative methods for enhanced security. Additionally, voters have experienced challenges and confusion with the design of the paper ballots, which can lead to errors that cause the rejection ballots and disenfranchising the voter. RIK should consider revising the ballot design to make it more voter-friendly.
2. *Ensure polling stations are appropriate and accessible for voters:* While improvements were made to the selection and auditing of polling stations to ensure accessibility, RIK should establish minimum criteria (e.g., related to size, accessibility and building conditions) for venues that can be used as polling stations. To provide sustainable approaches to the selection of polling stations, RIK and local election commissions should create and update a unified database of all locations frequently used as polling stations across the country, including the extent to which they meet the abovementioned criteria. To maintain accessibility standards in designating polling stations, RIK should conduct periodic analyses of accessibility audit data and use the information to update polling station selections. This could be supported by standardizing the accessibility assessment checklist with metrics, such as ramp grades and door widths in centimeters.
3. *Develop more robust selection criteria and training materials for polling board members:* Polling board members are a critical component of election administration, and their selection and training is integral to the integrity of the electoral process. To improve their capacities and accountability mechanisms, RIK and local election commissions should introduce more rigorous criteria for the selection of polling board members and for mandatory training. The training curriculum should enhance the sessions on electoral violations, emphasizing members' role and responsibility to record such violations and how to address them. To increase access to these trainings, the election administration

should consider virtual training for polling board members while continuing to offer in-person sessions. Election administration might also consider moving training sessions closer to election day and completing all modifications to the instructions before the training or, alternatively, introducing a short “refresher” session closer to the day of elections. The trainings can also be strengthened by developing instruction booklets for polling board members, which would condense information and emphasize procedural changes from previous elections. In any case, RIK and local election commissions should gather consistent, standardized data from these training sessions and draw lessons learned to enhance engagement.

4. *Improve polling station setup and procedures to meet international standards and good practices:* The setup and procedures in polling stations are the most visible elements of the electoral process. To comply with international standards and practices, RIK should limit the number of voting booths set up at smaller polling stations to respect vote secrecy. Polling boards should also provide clearer signage for polling stations, especially in locations with several polling stations, and assign polling board members or other staff to help voters identify their polling stations. This extends to avoiding confusion when depositing marked ballots in the appropriate ballot boxes by providing clearer signage for ballot boxes for different races and ensuring polling board members monitor ballot casting, helping voters place their ballots in correct boxes. Furthermore, to improve the accessibility of polling station procedures, RIK, in consultation with DPOs, could pilot tactile ballot guides to enable persons with visual disabilities to vote independently and in secret.

Counting and Tabulation

According to election legislation, RIK must announce certified election results within 96 hours after the close of an election.⁸⁴ Before RIK does so, the ballots must be counted by hand and results forms completed in the polling stations and then transported to RIK’s *ad-hoc* Working Bodies (WBs) in municipalities for entry into the results database, with assistance from the local-level Statistical Office representative. Results forms are also scanned and sent to RIK for uploading to its website for public access. Once tabulation is completed, the original results forms and other sensitive election material are transported to RIK in Belgrade for second data entry of the original results forms, as a check on the results generated by the Statistical Office representative at the local level.

The actual count of ballots follows a well laid-out process in polling stations whereby polling board members first reconcile the number of ballots issued to the polling station and compare the number of used ballots to the voter lists (polling boards are to complete a control form before filling out the actual results form). Commendably, the sole purpose of the so-called Control Form for Logical-Computer Compilation is to avoid mathematical errors in the official results forms.⁸⁵ Once the count is completed, polling board members are required to sign the results forms. One copy is posted outside the polling station, and the four electoral lists receiving the most votes at

⁸⁴ Law on the Election of Members of Parliament, Article 78.

⁸⁵ The election results control form contains instructions and guidance to assist in completing results forms correctly. For details, see *Control Form for Logical-Computer Compilation* at www.rik.parlament.gov.rs

that station receive copies of the official results forms. Polling board members seal the ballots in bags, and they are transported under guard.⁸⁶ Party-nominated polling board members and observers are allowed to accompany the transportation in separate vehicles. Next, municipality-level officials of the Statistical Office of Serbia enter the information on results forms at the Working Body-level.

The counting process in polling stations presents some shortcomings, negatively impacting its integrity. For instance, voters sometimes make mistakes when marking ballots; most countries allow voters to return incorrectly marked ballots and obtain new ones. Also, sometimes the polling board member issuing ballots might tear a ballot, or a voter does so when folding a ballot prior to depositing it in the ballot box, thereby cancelling it. Because neither of these plausible scenarios is foreseen in Serbian legislation, a minor mistake could jeopardize a voter's eligibility should the ballot be incorrectly handled. In addition, RIK's current instructions do not clearly outline how polling boards are to reconcile discrepancies during the count; some might recount ballots to find the error while others might accept the discrepancies, resulting in a non-standardized counting process.

As election results are not reported directly from polling stations but rather from the 166 municipality-level Working Bodies, sensitive materials must be moved from polling stations. Election legislation has introduced several security features, such as the signatures of polling board members, including those representing political parties, on the results form, and transport of materials in sealed envelopes. However, given the importance of these documents, additional security features could be considered in order to reduce the risk of tampering, or even suspicion of the same. For instance, results form NPRS-14/20 lacks a unique serial number, it is not barcoded for easier tracking and it is unclear how to determine whether results forms returned from polling stations correspond with those originally sent. The results form lacks additional common security features, such as being printed on security paper, thereby increasing the risk of results tampering.

Even with a control form in place, the training of polling board members on counting procedures and some written information on how to complete results forms, these efforts proved insufficient. Extensive problems were reported with incomplete and incorrect polling station results forms, indicating that polling board members encountered significant challenges with the count process. The OSCE/ODIHR, which deployed a limited observation mission for the 2020 parliamentary elections, reported an error rate of almost 30 percent for results forms, while CeSID's significantly larger observation effort reported an error rate of more than 10 percent, which raises integrity concerns.⁸⁷

The municipal-based Working Bodies⁸⁸ play a key role in Serbia's election results management system. It is charged with the receipt, review, processing and data entry of polling boards' results forms within their respective areas of responsibility.⁸⁹ Working Bodies are also tasked with scanning and then sending scanned results forms to RIK, where the scans are posted to RIK's

⁸⁶ Manual for Polling Boards, Page 74.

⁸⁷ For details, please see OSCE/ODIHR Final Report, page 22, and CeSID Report.

⁸⁸ Please see more on the Working Bodies under "Electoral Management and Leadership."

⁸⁹ Interlocutor interview with election administration.

website for public review. Any corrections made and adopted by RIK are also posted on its website, along with the original result forms.

RIK issued instructions to the municipal-based Working Bodies outlining how to correctly enter completed results forms.⁹⁰ It is worth noting that an officer from the Statistical Office is charged with entering the results information, once cleared by Working Body members. The Statistical Office develops and manages election results software, including information communications technology and cybersecurity defenses.

In general, except for completing a specific handover form (NPRS-15/20) and inspecting security seals, RIK's instructions to its *ad-hoc* Working Bodies describing how to receive, review and process results forms are limited. The overarching principle guiding the review and correction process for incomplete or incorrectly completed results forms is that the relevant Working Body Coordinator enters the results as per the original polling board form, in collaboration with the Statistical Office representative, but flags results that are incomplete or incorrect. At the RIK level, changes to the results forms are made and signed off on once formally approved by the board of Commissioners. Subsequently, the online results are updated.⁹¹ However, changes that RIK makes to results forms at the national-level can potentially impact the integrity of the results process; such changes will result in discrepancies between the official polling station results released by RIK and the results displayed at the polling stations and shared with local observers and electoral list representatives. These discrepancies might be avoided if electoral lists and observer missions were fully aware of this process, which is not currently the case. A further potentially complicating factor with the results system is RIK's serious delays in correcting and reporting corrections to results, causing confusion among external stakeholders.

RIK resolved to improve transparency during results tabulation by releasing polling stations' scanned results forms on its website. However, citizen and international observer missions reported significant delays in posting scanned protocols.⁹² In fact, it took 10 days after election day before all protocols uploaded, a timeframe that clearly was not in accordance with RIK's declared intentions.

These integrity vulnerabilities could be avoided by introducing an official election results correction form instead of allowing alterations directly to results forms that are already signed and shared. An official correction form would not only better identify who authorized changes to the results but also would detail why a change was deemed necessary. The correction forms would also be shared with polling board members and observers, and as scanned together with the original results form for upload to RIK's website. This would enhance the quality of the electoral dispute resolution process.

As mentioned above, RIK is obliged by law to publish provisional results within 96 hours after the close of polls. Results protocols were tabulated via internal results transmission system set up and operated by the Statistical Office. RIK released its first provisional election results (from 2.32

⁹⁰ For details, please see Instructions for Conducting the Election of MPs to the National Assembly, called for 21 June 2020, Article 86.

⁹¹ Interlocutor interview with election administration.

⁹² For details, please see OSCE/ODIHR Final Report and CeSID Report.

percent of polling stations) only a few hours after the close of polls on election day (22:00, or 10 p.m.) and 70.57 percent the following day; however, it took five days for RIK to announce provisional results from 97.23 percent of polling station results.⁹³

Recommendations

1. *Reduce errors in tabulation of results:* Improving the training of polling board members on counting and aggregation of results by polling boards would increase the likelihood that results protocols will be completed correctly. RIK should consider giving more attention to results management in polling board members' training materials.
2. *Streamline results forms:* A review of the design of the results form⁹⁴ and supporting form is also warranted to make them more user-friendly.
3. *Improve auditability and transparency:* RIK should consider introducing a correction form to be completed by the Working Bodies Coordinator when mistakes in original results protocols are identified. The correction form would be shared with parties and observer missions, entered into the results database and scanned together with the original results form for timely decision by RIK.
4. *Make results process information an integral part of RIK's voter information efforts:* The results, as well as the results process itself, are critical to overall acceptance of elections as a whole. Sometimes even minor results-related mistakes or uncertainties can quickly escalate, threatening RIK's credibility unless its leadership addresses them swiftly, professionally and effectively.

Special Voting Services

Voting from Home

The Serbian legal framework allows voters with disabilities or who are otherwise restricted from going to a polling station on election day to vote from home. Mobile teams of polling board members bring voting materials to voter's homes and return them to the polling station. This is the only accommodation established by election legislation. Special polling stations or mobile teams are not allowed in hospitals. Even during the COVID-19 public health crisis, this prohibition has not changed. According to interlocutors, there is no interest or political will among stakeholders to expand or introduce alternative voting methods. However, during the COVID-19 pandemic, RIK did allow voters to request the ability to vote from home up to 48 hours in advance. Previously, voters were required to request the accommodation before 11:00 a.m. on election day. According to a civil society representative, the extended time to request voting from home enhanced access for voters with disabilities.

As shared by interlocutors and observed during the 2020 parliamentary elections, it was evident that public awareness of the option to request a visit from a mobile team could be improved. Some voters did not request a visit because they did not expect their polling stations to be inaccessible to persons with disabilities, including older voters. In some cases where voters could not reach polling stations on upper floors, polling board members brought ballots to the voters and took them back to the polling station, often violating the secrecy and security of the ballot.⁹⁴

⁹³ CeSID Report, page 39.

⁹⁴ Observed by IFES team during the June 21, 2020 elections.

Voting from Prison

Serbian election legislation allows citizens in prison to vote. In 2020, elections were held in 29 prisons across the country, and turnout was higher in prisons (83 percent) than among the general population (48.9 percent).⁹⁵

Out-of-Country Voting

As established in the electoral legal framework, Serbian citizens living abroad can vote in national (presidential and parliamentary) elections. Voters must submit their application to designated diplomatic missions in their country of residence in person, online or by mail. Registration is open from the day elections are called until 20 days before election day, and at least 100 registered voters must be registered for a polling station to open. Registered voters must appear in person at the diplomatic mission (or elsewhere, if local law allows it) to cast their ballots on election day. Out-of-country voting lasts for two days and ends on the same date and at the same time (in the corresponding time zone) as in Serbia.

For the 2020 parliamentary elections, 43 polling stations were set up at Serbian diplomatic missions around the world. Polling board members at these stations abroad are usually consulate or embassy staff and a representative of the Ministry of Foreign Affairs. Political parties in the electoral list can also propose polling board members to the composition of these polling stations, but parties must fund their participation themselves. No major issues have been reported in the administration of these out-of-country procedures.

RIK works with the Office for Kosovo and Metohija and the OSCE to arrange polling stations and deliver election material to the region. In May 2020, RIK announced that 90 polling stations would be set up for voters to cast their ballots.⁹⁶ Only a few days before election day, RIK published an amended list of polling stations in the two regions that included 140 polling stations. These stations were proposed by the offices in Kosovo and Metohija based on their own criteria, including the security of polling locations.

Recommendation

1. *Expand use and public communication of mobile teams and ballot boxes:* In order to provide special voting services to voters who cannot cast their ballots at polling stations, the election administration should expand the use of mobile teams. This would, for example, enfranchise voters in hospitals who are not able to go to a polling station on election day (this could also be achieved by setting up new polling stations in medical facilities). RIK should also continue good practices from the 2020 parliamentary elections, such as enabling voters to request a mobile team visit up to 48 hours before the election. This expansion could be complemented by increasing voter information regarding mobile teams, especially for voters with disabilities or other conditions that hinder them from voting in person.

⁹⁵ Како се гласало у затворима (June 22, 2020). *PTC*. Retrieved from <http://www.rts.rs/page/stories/ci/story/3121/izbori-2020/3995067/izbori-2020-zatvori-izlaznost.html&prev=search&pto=aue>

⁹⁶ Supplementary Decision on Determining Polling Stations for Voting in the Elections for Members of the National Assembly, scheduled for June 21, 2020 (May 31, 2020). *Republic Electoral Commission*.

Electoral Management and Leadership

Serbia's official election administration for national-level elections is made up of two distinct administrative entities, RIK and polling boards.⁹⁷ These entities each have a core group of officials (also called standing board members) and additional members when RIK and polling boards work in extended composition. RIK's standing board commissioners are nominated by parliamentary groups and appointed by the National Assembly to a four-year term.⁹⁸ Members of the extended composition of RIK are appointed during national elections; they are proposed by electoral lists running for office and appointed immediately after RIK approves the electoral lists. Composition of the polling boards in national elections mirrors the composition of RIK with regard to commissioners.

RIK was supported by municipal-level Working Bodies that were appointed by May 19 for the June 2020 parliamentary elections⁹⁹ and Working Groups, primarily made up of technical staff from the National Assembly Secretariat. Both groups are essential to election preparations for and implementation. It should be noted that Working Bodies are envisioned by the legal framework, while *ad-hoc* Working Groups are established via RIK decision to provide technical support.¹⁰⁰

Local-level elections, such as for councilors of Local Self-Government assemblies, are administered by the electoral commissions of Local Self-Government units and polling boards, and their composition follows similar principles to election administration entities for national-level elections. Local election commissions also work in standing and extended composition. Members of the standing composition are proposed proportionally by counselor groups and appointed by the local assembly; the extended composition includes representatives of each electoral list that has proposed at least two-thirds of candidates from the total number of councilors to be elected.¹⁰¹ The polling boards also operate in standing and extended composition.¹⁰²

Working Bodies

RIK's instructions governing Working Bodies' operations are at different points both detailed and vague. Under the leadership of the head of the Local Self-Government's administration (Working Body Coordinator), 166 Working Bodies are charged with preparing polling stations, facilitating recruitment of poll workers and handling election day logistics and post-election activities such as receiving election material from polling stations during national elections. Depending on the number of polling stations that the Working Body will manage, its coordinator is supported by three to 11 members.¹⁰³ As the information for more than 1,000 applicants can be submitted as late as four days prior to its approval by RIK, their ability to carefully consider and vet the

⁹⁷ Law on the Election of Members of Parliament, Article 6.

⁹⁸ Law on the Election of Members of Parliament, Article 33.

⁹⁹ Instructions for Conducting the Election of MPs to the National Assembly, called for 21 June 2020, Articles 6(1) and 24(5).

¹⁰⁰ Instructions for Conducting the Election of MPs to the National Assembly, called for 21 June 2020, Article 6.

¹⁰¹ Law on Local Elections, Articles 10-14.

¹⁰² Law on Local Elections, Article 16.

¹⁰³ Up to 30 polling stations (three members); 30 to 60 polling stations (five members); 60 to 100 polling stations (seven members); 100 to 140 (nine members); more than 140 polling stations (11 members). Instructions for Conducting the Election of MPs to the National Assembly, called for 21 June 2020, Article 9.

applicants are limited. Interlocutors informed the assessment team that members of the Working Bodies are normally individuals working within the Local Self-Government administration and often had previous election experience in these capacities. Local Self-Government administration is also required to provide the Working Body with office infrastructure, communications capabilities and logistical requirements, and to cover the costs from its own budget. It is important to note here that the Statistical Office is responsible for entering polling stations' results forms into the results software, which is also controlled by the Statistical Office.¹⁰⁴ This is an unusual setup. Independent commissions often perform this sensitive task as foundational to their overarching electoral mandate. However, in Serbia, the Working Body is mandated to receive and scan the results forms and send those electronically to RIK to be posted on its website. Once the original results forms arrive in Belgrade, Statistical Office staff, in a data operation unit set up at RIK, do the second data entry of the results forms to confirm the original results entered by the Statistical Office personnel attached to the Working Bodies at the municipal level.

RIK and Working Groups

The RIK is led by its chairperson who, with 16 other commissioners (eight of whom are women), defines RIK's policies and holds overall operational responsibility for planning and organizing elections.¹⁰⁵ At its meetings, a representative from the Statistical Office and the RIK's secretary are also present as *ex-officio* members.¹⁰⁶ These meetings have the potential to be highly transparent, as observers, parties and media are allowed to attend. The sessions are also streamed live on RIK's website and YouTube channel. However, due to the COVID-19 public health crisis, RIK's leadership decided to move to a mix of online meetings without the possibility for external stakeholders to take part, or to non-transparent e-mail communication and decision-making. This seriously undermined the transparency of RIK decision-making as envisaged in Serbia's regulatory framework at the very end of the election process.

Commissioners generally divide their responsibilities into both geographical and technical areas and have the authority to establish Working Groups to facilitate this work. Yet, because RIK lacks its own secretariat, it has no permanent technical staff assisting in drafting regulations and procedures, developing voter education campaigns, preparing manuals and polling board member trainings, designing results systems and other necessary election administration activities. In addition to the Working Groups, RIK has access to a large number of technical personnel from the National Assembly's Secretariat. To compensate for any lack of technical expertise, RIK can, as per regulations, invite experts from other government institutions to further broaden its technical know-how.¹⁰⁷ In fact, for all intents and purposes, the estimated 100-person staffing resource functioned as RIK's *ad-hoc* and *de facto* secretariat, performing many operational functions normally performed by an EMB's own secretariat.¹⁰⁸ Temporary assignment of National Assembly secretariat staff rather than an established secretariat is contrary to practice throughout the Western Balkan region and beyond.

¹⁰⁴ Instructions for Conducting the Election of MPs to the National Assembly, called for 21 June 2020, Article 72(2).

¹⁰⁵ RIK's substitutes have the very same roles and responsibilities as the permanent commissioners. Rules of Procedure, *Republic Electoral Commission*, Article 6.

¹⁰⁶ Rules of Procedure, *Republic Electoral Commission*, Article 6 and Article 7.

¹⁰⁷ Rules of Procedure, *Republic Electoral Commission*, Article 8.

¹⁰⁸ Interlocutor interviews with election administration.

The actual operations of RIK's Working Groups and the National Assembly's support to RIK are somewhat opaque. There seems to be no public organizational chart outlining the types of Working Groups established, and their membership. The same holds true for the National Assembly Secretariat's significant pool of personnel assisting RIK in preparing and holding elections, as it is unclear to the public which secretariat staff assist the RIK and how this support is organized. Interviews conducted by the assessment team revealed that the National Assembly Secretariat personnel temporarily seconded to RIK are well-versed in election administration, as many are long-term employees and have frequently supported RIK over the years. It is worth noting that even where EMBs elsewhere have their own dedicated secretariats, the work of its technical personnel is rarely known to the public, but at least external stakeholders are aware of how and by whom electoral processes are developed. However, one position seems to be the link between commissioners, Working Groups and the National Assembly Secretariat personnel who support RIK operationally: the RIK Secretary.

The Secretary, as mentioned earlier, has no policy-making authority although he or she is present at RIK's meetings, answering operational questions fielded by Commissioners and ensuring that minutes of the meetings are recorded. The responsibilities of the Secretary also include the coordination of the National Assembly Secretariat's support to RIK and its Working Groups and leading the large number of National Assembly Secretariat technical staff working on electoral matters.¹⁰⁹ Although the Secretary has no explicit policy-making powers, RIK's instructions outline a distinct, high-profile, public-facing role for this role. For instance, the "Commission Secretary shall be authorized to make statements on the technical aspects of RIK's work and the conduct of elections."¹¹⁰ The secretary also functions as RIK's interface to respond to stakeholders' requests for information, update RIK's website and issue press releases.¹¹¹ Consequently, the Secretary has extensive powers to shape the public's perception of RIK and to formulate its public response to election operational issues and the conduct of elections. The Secretary is also responsible for developing RIK's operational budget. Although the regulatory framework states that the Secretary is appointed by the National Assembly, it is of some concern that the law is silent regarding a detailed appointment process for such a critical electoral leadership position.¹¹²

International observers reported fairly severe shortcomings in the quality of RIK meetings and decision-making. Commissioners often had very limited time to digest documents and prepare. As a result, discourse at meetings leading up to the decision-making was deemed to be of limited value.¹¹³ Hence, documents and recommendations prepared by the *ad-hoc* RIK secretariat, under the leadership of the Secretary, tend *de facto* to carry an outsized policy-making role. Given RIK's lack of a detailed operational plan outlining in detail its goals and objectives as defined by the Commissioners, the role of the Secretary and temporary Secretariat as the interpreter of Commissioners' policy-making and operational prioritization is further emphasized.

¹⁰⁹ Rules of Procedure, *Republic Electoral Commission*, Article 9.

¹¹⁰ Rules of Procedure, *Republic Electoral Commission*, Article 39.

¹¹¹ Rules of Procedure, *Republic Electoral Commission*, Article 34–36.

¹¹² For details, see the Law on the Election of Members of Parliament, Article 33(2) and Rules of Procedure, *Republic Electoral Commission*, Article 7.

¹¹³ OSCE/ODIHR Final Report, page 8.

Election officials and those engaged in operational aspects of the electoral process, whether at the national- or local-level, are required to perform their duties in a non-partisan, honest, objective and professional manner. It is good practice to require all election officials and technical staff to acknowledge and commit to adhering to those principles as set forth in the Constitution and the election legislation by signing a code of conduct as condition to their appointment. In Serbia, this group includes members of RIK, national and local election administration and Working Bodies, RIK's Working Groups, Secretariat staff seconded to support RIK and polling board members.

Recommendations

1. *Improve RIK independence and effective organizational structures:* Establish a permanent RIK Secretariat staffed with core election officers who assist RIK in drafting regulations and procedures, developing voter education campaigns, preparing manuals and polling board member trainings, and designing results systems and other necessary election administration activities. These officers could be on long-term secondment from the National Assembly Secretariat, but ideally will be permanently attached to RIK as it further strengthens its independence and professionalism. In addition, the RIK Secretary could be appointed directly by RIK commissioners, thereby reducing the risk of a political appointment instead of one purely based on applicants' election management skills. Should the RIK have permanent staff in the future, it should include individuals responsible for the inclusion of women and the LGBTQ community, people with disabilities, young people and national minorities in the electoral process.
2. *Enhance operational planning:* Irrespective of organizational set-up, RIK could benefit from developing a detailed operational plan, including detailed timelines and resource requirements. This would strengthen its operational readiness, as well as its ability to adjust to sudden and unforeseen election operational challenges, such as the COVID-19 public health crisis.

Election Management Body Training and Capacity-Building

Electoral processes must continuously be reviewed and amended, as stakeholders demand for more accessible and improved services must be met by the EMB. Efforts by malign domestic and foreign actors to undermine election integrity constantly evolve, requiring up-to-date countermeasures by EMBs to safeguard the polls and voters' trust in the election authority itself. As a result, an EMB must be a learning organization that constantly strengthens its capacities across its mandate, whether cybersecurity, impactful voter education and strategic communications, or effective poll worker training programs. In short, to remain a professional EMB, its training and capacity-building efforts should address the competencies of both its permanent officers and *ad-hoc* personnel.

In general, RIK's current organizational structure is not conducive to strengthening its competencies across the board. Many EMBs charge their human resources departments with developing organization-wide capacity-building programs with distinct training for commissioners, secretariat leadership, secretariat officers and field-based managers and officers. Lacking its own secretariat, RIK relies on the National Assembly Secretariat for all its operational and administrative services. However, no Commission-wide capacity-building plan was developed for

the 2020 elections. Secretariat staff who had worked on previous elections capitalize on their experiences, while new staff rely on on-the-job-learning and consult with colleagues.

Over the years, training instructions and a program have been developed and trainers have been prepared to deliver trainings to polling board members of both standing and extended composition.¹¹⁴ However, issues identified during the counting and tabulation process in the 2020 parliamentary elections (see “Counting and Tabulation”) point to the need to further strengthen this training. Plausible explanations for these problems are seen in the focus of the trainings and associated training material. Trainings for polling board members often cover all aspects of the workings of a polling station, which makes sense. However, additional attention should be paid to the more difficult and challenging parts of their work, including filling out results forms. RIK did produce separate materials for practical exercises used for polling board member trainings, but the instructions could benefit from additional attention as they need improvement.

Working Bodies do not seem to receive any election training. Fortunately, just like the National Assembly Secretariat staff supporting RIK, municipalities’ administration staff include those who have served as election officials previously. Still, amendments to regulations and changes to forms and procedures might occur between elections; therefore, it is critically important that even experienced election officials be properly trained prior to each election. Introducing modern adult pedagogical techniques in training programs would increase election officials’ capacity to deliver high-quality elections.¹¹⁵

Recommendations

1. *Undertake an EMB organizational capacity assessment:* Develop a capacity-building plan based on an assessment of RIK’s and local election commissions’ current capacities to effectively plan and implement electoral processes at the national, municipal and polling station levels. Special attention should be paid to the roles and responsibilities of the various election administrative levels. For instance, commissioners have both management and leadership responsibilities requiring the ability to address integrity risks and plan for future challenges and risks. Municipal Working Bodies and polling board members, on the other hand, are primarily tasked with operational aspects of elections, and their capacity-building program should reflect this distinction.
2. *Develop a dedicated capacity-building plan for RIK Commissioners and ad-hoc secretariat staff:* Based on findings from the organizational capacity assessment, develop tailored capacity-building plans for commissioners and RIK’s *ad-hoc* secretariat staff. The latter is particularly important should RIK decide to establish a permanent secretariat. Capacity-building efforts should also include sessions on the roles of various election administrators in ensuring elections are inclusive for women, people with disabilities and young people.
3. *Develop a detailed training plan for RIK’s Working Bodies:* In addition to utilizing a common set of instructions to guide the work of Working Bodies, operational administration of elections could benefit from developing tailored training and manuals that address the

¹¹⁴ For details, see “Training of instructors for work in the permanent composition of polling stations,” *Republic Electoral Commission*. Retrieved from <https://www.rik.parlament.gov.rs/tekst/sr/699/obuke-instruktora-za-rad-u-stalnom-sastavu-birackih-odbora.php>.

¹¹⁵ Knowles, M. S. “The modern practice of adult education: From pedagogy to andragogy,” (1980). Englewood Cliffs: Prentice Hall/Cambridge.

roles and responsibilities of Working Bodies and their members. Combining improved manuals and trainings that use modern adult pedagogical approaches could significantly improve performance of election day operations and aggregation of results.

4. *Introduce a code of conduct for election officials and technical staff:* It is good practice for election officials and technical staff involved in electoral operations to formally adhere to principles of democratic elections and norms of the constitution and election legislation. The development and administration of a code of conduct could be facilitated by RIK and local election commissions, as appropriate.

Inclusion, Access and Participation

“It is important that citizens believe someone will protect their voter rights,” one civil society representative noted during an interlocutor interview. Despite the establishment of the Ombudsman and the Commissioner for the Protection of Equality, who in 2019 issued recommendations to the relevant bodies to take measures to increase election access,¹¹⁶ significant barriers to meaningful participation remain for persons who identify as part of a marginalized population, such as women and the LGBTQ community, persons with disabilities, young people and national minorities. For example, although Serbia instituted a new anti-discrimination strategy and action plan in 2014 to mitigate barriers to inclusion in society through the creation of an enabling environment, the plan overlooked key government interlocutors such as RIK for ensuring equal access to political participation of underrepresented groups.¹¹⁷ This exclusion may be explained in part by a civil society interlocutor who said that RIK “disappears between elections.” In fact, this lack of consistency is detrimental to the inclusion of all Serbian voters in elections and political life because it limits RIK’s ability to build its capacity to reduce barriers to inclusion, particularly in national elections.

Gender Equality and Women’s Participation

While the Serbian legal framework for gender equality is robust, and women make up a significant proportion of elected officials, proper implementation of legislation and entrenched cultural norms and beliefs about gender roles keep women from participating meaningfully in politics. As noted in “Electoral Legal Framework,” women make up 38.8 percent of elected members of parliament.¹¹⁸ Serbia’s first female prime minister, Ana Brnabić, appointed in 2017, is an openly gay woman; in October 2020, after being reappointed to another term, Prime Minister Brnabić nominated women to half of the ministerial posts, including the Minister of Justice, Minister of Economy, and Minister of Mines and Energy— leading ministries usually dominated by men.¹¹⁹ Serbia’s comprehensive National Gender Equality Strategy and Action Plan spanned from 2016

¹¹⁶ “Abridged Version of 2019 Regular Annual Report of the Commissioner for Protection of Equality,” (May 2020). *Republic of Serbia Commissioner for Protection of Equality*. Retrieved from <http://ravnopravnost.gov.rs/wp-content/uploads/2020/05/Skraceni-redovni-godisnji-izvestaj-2019-engl.pdf>

¹¹⁷ Action plan for the implementation of the Strategy for Prevention and Protection against Discrimination for the period from 2014 to 2018. Retrieved from https://ljudskaprava.gov.rs/sites/default/files/dokument_file/akcioni_plan_-_srpski.pdf

¹¹⁸ “Monthly ranking of women in national parliaments,” *Inter-Parliamentary Union Online*. Retrieved from <https://data.ipu.org/women-ranking?month=10&year=2020>

¹¹⁹ Savic, Misha, “Next Serb Government Among Most Gender-Balanced In the World,” (October 26, 2020). *Bloomberg*. Retrieved from <https://www.bloomberg.com/news/articles/2020-10-25/serbia-to-become-one-of-world-s-most-gender-balanced-governments>

to 2020.¹²⁰ The strategy specifically identified women's equal participation in political and public life as a key pillar, and while some of its objectives—like the 40 percent quota for women candidates—were achieved, others that might have a lasting effect on how women in the public eye are treated, like shifts in cultural attitudes and how women are portrayed in the media, lagged behind.

Despite the steps forward for representation, gender advocates in Serbia caution that, regardless of the make-up of elected bodies or government institutions, political party leaders and the executive will still hold the power. One source noted that statistics related to women's participation “are just numbers” and “the actual power lies somewhere else.”

Election Administration

The standing composition of RIK¹²¹ that administered the 2020 parliamentary elections included seven women out of 17 voting members, or 41 percent. Following the expiration of their mandates in August, the National Assembly nominated new commissioners, increasing women's representation to eight among the voting members, or 47 percent.¹²² The Working Bodies established by RIK for the 2020 parliamentary elections included 442 women out of a total of 1,014 members, or 43.6 percent. Slightly over 50 percent of Coordinators of those Working Bodies were women—83 out of 161.¹²³ The Statistical Office has not publicly released gender-disaggregated data on voter turnout, and RIK did not release the gender composition of polling boards. Given that RIK does not have a full-time, permanent secretariat, there is no gender unit, focal point or directorate, and no gender inclusion policy. Although women are well represented in these EMBs, there is a lack of focus and emphasis on the importance of women's participation in elections, and a dearth of policies and initiatives meant to address this issue; gender parity on electoral bodies does not always lead to gender-sensitive election administration.

Women Candidates and Campaigns

Because of the gender quota, women were well represented among candidates in the 2020 parliamentary elections. While electoral lists met the 40 percent gender quota requirement, women candidates headed only two of 21 lists (9.5 percent).¹²⁴ Despite the robust legal framework around the gender quota, there is also no legal requirement for a member of parliament to be replaced with someone of the same gender or with someone of the underrepresented gender. Although these numbers are encouraging for women's representation, women who also belong to other marginalized groups, such as Roma women; women with disabilities; lesbian, bisexual, transgender and queer women; rural women; and women from ethnic minorities, have limited political representation.¹²⁵ At the local level, women are also vastly underrepresented, with only

¹²⁰ National Strategy for Gender Equality for the Period from 2016 to 2020 with Action Plan for the Period from 2016 to 2018 Year. Retrieved [here](#).

¹²¹ 2016–2020 mandate.

¹²² “Decision on termination of mandates and appointment to the Republic Election Commission,” (October 24, 2020). *National Assembly of Serbia*. Retrieved from www.rik.parlament.gov.rs/tekst/149/sastav-komisije.php

¹²³ “Gender structure of working bodies for June 2020 elections,” (May 19, 2020). *Republic Electoral Commission*. Retrieved from <https://www.rik.parlament.gov.rs/extfile/sr/3134/POLNA%20STRUKTURA%20RADNIH%20TELA%20sajt1.pdf>

¹²⁴ OSCE/ODIHR Final Report.

¹²⁵ USAID/Banyan Global Report.

nine women mayors in 169 municipalities, or 5 percent in 2019.¹²⁶ Women are also still hesitant to be politically active because of the sexism and violence they endure, and because politics in Serbia is often characterized by a culture of corruption with which they may not want to be associated.¹²⁷

Although women were well represented as candidates, “issues of women’s participation and specific concerns of women voters did not feature in the [electoral] campaign.”¹²⁸ A group of women’s organizations in Serbia released a statement regarding the lack of discussion of issues important to women during the campaign.¹²⁹ This fact demonstrates an underlying issue: even though women may be well represented among elected officials, issues that are important to them around the country may not be prioritized, as women party members often feel more wedded to the priorities and direction of their party than their women constituents.

Cultural attitudes toward women’s leadership can also present a challenge for women who want to be more active in politics. According to a survey by the Institute for Sociological Research of the Faculty of Philosophy of University of Belgrade, “41 percent of men and 40 percent of women agreed that public activities are more suitable for men, while domestic activities are more appropriate for women.”¹³⁰ As in much of the world, attitudes towards gender equality have been backsliding in Serbia. The CEDAW notes with concern “the potential negative impact of regressionist attitudes and anti-gender discourse.”¹³¹ It calls out “increased instances of anti-gender discourse in the public domain, and the public backlash in terms of the perception of gender equality, and misogynistic statements expressed in the media, including by high-ranking politicians, religious leaders and academics, with impunity.”¹³² There has also been increased rhetoric around the idea of the “traditional” family and women primarily as mothers. Although it is often hypothesized that young people have a more progressive attitude toward gender equality, worryingly, in Serbia, a growing number of young people who espouse more conservative values.¹³³ Culturally, women are still expected—and do—take on the majority of domestic and childcare responsibilities, leaving less time to dedicate to political efforts.

Gender-based violence also remains an ongoing problem. While it creates a barrier toward women’s participation in politics, it more importantly jeopardizes their health and safety across the country. Women in prominent elected or governmental positions often face increased violence, including online, making it challenging for them to meaningfully serve in their roles. A study from the Inter-Parliamentary Union on violence against women in European parliaments found that 85.2 percent of women parliamentarians who participated in the study had experienced some form of psychological violence during their time in office and almost half (46.9 percent) had

¹²⁶ CEDAW Committee Concluding Recommendations.

¹²⁷ USAID/Banyan Global Report.

¹²⁸ OSCE/ODIHR Final Report.

¹²⁹ “Organizations: Even in a campaign like this, the problems of women had to be talked about,” (June 18, 2020). *Danas*. Retrieved from <https://www.danas.rs/politika/izbori-2020/organizacije-cak-i-u-ovakvoj-kampanji-moralo-se-govoriti-o-problemima-zena/>

¹³⁰ USAID/Banyan Global Report.

¹³¹ CEDAW Committee Concluding Recommendations.

¹³² CEDAW Committee Concluding Recommendations.

¹³³ USAID/Banyan Global Report.

been threatened with rape or death.¹³⁴ In addition, the report found that women parliamentarians who spoke out against gender-based violence and gender inequality were specifically targeted for attacks. Sexual harassment, an issue that plagues women who operate in male-dominated spaces, like women politicians, party members and other leaders, was only recognized as a crime in 2017.¹³⁵ Women journalists reporting on political issues also face rampant sexual harassment.¹³⁶ This topic is critical and deserves robust examination, as has been provided by numerous in-depth reports on gender-based violence.¹³⁷ More research is needed to fully understand how women candidates, elected representatives, election officials and voters experience violence in politics in Serbia.

Election Observation

Some election observer missions integrate gender considerations into their data collection, analysis and reporting more thoroughly than others. The report on the quality of elections from CeSID mentions gender only once, when it discusses the role of the Supervisory Board of the National Assembly for the control of electronic and printed media regarding hate speech, and CRTA's final report makes mention of gender only in relation to the existence of the quota. The OSCE/ODIHR and ENEMO integrated gender considerations into their missions, but more analysis could be conducted around the experience of women as voters.

Women's Civil Society Organizations

A shift in the landscape for civil society organizations has greatly affected women's civil society groups in Serbia. Beginning in 2010, funding for women's civil society groups began to decrease, and new organizations with close ties to the government began surfacing and receiving funding regardless of their lack of experience providing support to the communities they are supposed to represent.¹³⁸ This shift—combined with the withdrawal of donor agencies—has had a disproportionately negative effect on women's civil society organizations, especially in less developed and more rural areas of the country.¹³⁹ There has also been negative press about women's civil society representatives in the media, which challenges their ability to promote gender equality.¹⁴⁰ In addition, no formal umbrella organization of women's organizations exists and, because of funding challenges, this lack of partnership has meant that women's groups sometimes operate as competitors rather than collaborators. It is true, too, that different women's

¹³⁴ "Sexism, harassment and violence against women in parliaments in Europe," (2018). *Inter-Parliamentary Union*. Retrieved from <https://www.ipu.org/resources/publications/issue-briefs/2018-10/sexism-harassment-and-violence-against-women-in-parliaments-in-europe>

¹³⁵ Gec, Jovana. "Inspired by #MeToo, Serbian woman speaks out and fights back," (March 7, 2019). *AP News*. Retrieved from <https://apnews.com/article/1db78ef2bdb44226ae46e84def256943>

¹³⁶ "Serbian Women in the Media Face Threats, Intimidation and Harassment," (August 2, 2017). *CIVICUS*. Retrieved from <https://monitor.civicus.org/updates/2017/08/02/women-media-serbia-face-threats-intimidation-harassment/>

¹³⁷ "GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention): Serbia." Retrieved from <https://rm.coe.int/grevio-report-on-serbia/16809987e3>; "OSCE-led Survey on Violence Against Women: Serbia - Results Report," (July 1, 2019). *OSCE/ODIHR*. Retrieved from <https://www.osce.org/secretariat/419750>; "Violence Against Women in Serbia," *Heinrich Boll Stiftung Gunda Werner Institute Feminism and Gender Democracy*. Retrieved from <https://www.gwi-boell.de/en/violence-against-women-serbia>

¹³⁸ USAID/Banyan Report.

¹³⁹ USAID/Banyan Report.

¹⁴⁰ CEDAW Committee Concluding Recommendations.

groups have diverse views on some issues, but one interlocuter noted that the COVID-19 pandemic has caused groups to work together and support each other.

Persons with Disabilities

According to official statistics, 12 percent of Serbian citizens have a disability;¹⁴¹ however, in actuality more than 1 million may be living with disabilities.¹⁴² A civil society representative who cited the selection of a Minister of Social Welfare who is a medical doctor and supports the medical model of disability, noted that disability inclusion in Serbia has been backsliding. Serbians with disabilities continue to encounter numerous barriers to meaningful participation in political life, including inaccessible polling places, lack of information in accessible formats, stigma and discrimination, and legal frameworks that discriminate against persons with intellectual and psychosocial disabilities.¹⁴³ As noted by the CEDAW Committee, Serbian women with disabilities, in particular, lack representation.¹⁴⁴ Even so, Serbian institutions have made efforts to reduce discrimination and increase access to political life, as indicated in the Strategy for Improving the Position of Persons with Disabilities in the Republic of Serbia and Action Plan.¹⁴⁵ The strategy also recognizes the compounded and unique barriers to political participation encountered by persons with disabilities who also identify with another marginalized group, such as Roma persons with disabilities and young people with disabilities. However, although one of the strategy's indicators measures the increase in accessible polling stations and accessible voting materials, Serbia's national disability strategy does not recognize RIK as a government stakeholder responsible for ensuring access to elections.¹⁴⁶ This could be due to RIK's limited mandate, subject only to national elections.

Participation as Voters

A recent report by CIL noted that the COVID-19 pandemic did not create many new barriers to participation of persons with disabilities because participation among this group was already low.¹⁴⁷ Many Serbians with disabilities interviewed by CIL chose to vote in person during the 2020 parliamentary elections, despite barriers; 76 percent of voters with disabilities surveyed cast ballots at polling stations, and 12 percent voted from home.¹⁴⁸ One voter told CIL that he chose

¹⁴¹ "Strategy: Improving the Position of Persons with Disabilities in the Republic of Serbia for the period from 2020 to 2024, Official Gazette of RS," No. 44 of March 27, 2020. Retrieved from <http://www.pravno-informacioni-sistem.rs/SGlasnikPortal/eli/rep/sgrs/vlada/strategija/2020/44/1/reg>

¹⁴² The World Health Organization estimates that 15 percent of the world's population has a disability. For more information, please see WHO World Report on Disability (2011).

¹⁴³ See the "Electoral Legal Framework" section on restrictions based on legal capacity.

¹⁴⁴ "Strategy: Improving the Position of Persons with Disabilities in the Republic of Serbia for the period from 2020 to 2024, Official Gazette of RS," No. 44 of March 27, 2020. Retrieved from <http://www.pravno-informacioni-sistem.rs/SGlasnikPortal/eli/rep/sgrs/vlada/strategija/2020/44/1/reg>

¹⁴⁵ "Strategy: Improving the Position of Persons with Disabilities in the Republic of Serbia for the period from 2020 to 2024, Official Gazette of RS," No. 44 of March 27, 2020. Retrieved from <http://www.pravno-informacioni-sistem.rs/SGlasnikPortal/eli/rep/sgrs/vlada/strategija/2020/44/1/reg>

¹⁴⁶ "Strategy: Improving the Position of Persons with Disabilities in the Republic of Serbia for the period from 2020 to 2024, Official Gazette of RS," No. 44 of March 27, 2020. Retrieved from <http://www.pravno-informacioni-sistem.rs/SGlasnikPortal/eli/rep/sgrs/vlada/strategija/2020/44/1/reg>

¹⁴⁷ Nikolin, Sanja and Gordana Rajkov, "Political Participation of Persons with Disabilities during COVID-19 Pandemic in Serbia," (2020). *CIL*, herein "CIL Report."

¹⁴⁸ CIL Report, pages 25–26. An additional 12 percent of voters cast ballots from residential institutions, but no further details were available on whether these were polling stations set up in such locations or whether a mobile ballot box was brought to the institutions.

to vote at the polling station even though it did not have a step-free entry. A Deaf respondent noted that local elections were less accessible than national elections because broadcasts of election campaign information related to local elections were not available in Serbian Sign Language.¹⁴⁹

Participation as Candidates, Political Party Members and Election Officials

The Committee on the Rights of Persons with Disabilities recommended in 2016 that Serbia “increase its efforts to include persons with disabilities in positions of elected representation and public office.”¹⁵⁰ Little data is available on the participation of Serbians with disabilities in political leadership roles, and no self-identified persons with disabilities currently serve in the National Assembly.¹⁵¹ According to a civil society interlocutor, campaign events traditionally lack accessibility features (sign language interpreters for Deaf participants, for example); nor is online information from political parties accessible. The interests of persons with disabilities also remain underrepresented in political party campaigns.¹⁵²

Stakeholder Collaboration

RIK has made significant improvements to access through the institution of the DICON, comprising RIK staff and representatives of DPOs and civil society organizations. DICON was formed at the behest of the Commissioner for Protection of Equality and RIK after DPOs filed multiple accessibility complaints,¹⁵³ and RIK designated a commissioner as the contact point for the group.¹⁵⁴ Through this group, RIK conducted a polling station accessibility audit, data from which is publicly available, and created three guides for electoral boards and voters.¹⁵⁵ Government and civil society interlocutors interviewed about DICON agreed that the group provided critical opportunities for DPOs to engage with RIK. Because DICON lacks funding and is not institutionalized at RIK, it is unclear how this work will continue in the future, and civil society interlocutors expressed concern that RIK may de-emphasize efforts to increase inclusion. One civil society interlocutor suggested that DICON, which was established in December 2019, could have had a greater impact on the 2020 parliamentary elections if it had been formed earlier. A Working Group member commented that discussions in the DICON included barriers to the political participation of persons with intellectual and psychosocial disabilities. Even so, a civil society representative noted that DICON and its work were not well known by the public, and much work remains to ensure that all persons with disabilities have equal access to vote and serve as political leaders.

¹⁴⁹ CIL Report, page 27.

¹⁵⁰ Convention on the Rights of Persons with Disabilities, United Nations. Retrieved from https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fSRB%2fCO%2f1&Lang=en

¹⁵¹ Interlocutor interview.

¹⁵² CIL Report, page 27.

¹⁵³ Interlocutor interview.

¹⁵⁴ Interlocutor interview with election administration.

¹⁵⁵ “Accessibility of polling stations,” *Republic Electoral Commission*. Retrieved from <https://www.rik.parlament.gov.rs/tekst/3194/pristupacnost--birackih-mesta.php>

Youth Participation

The United Nations Population Fund estimates that approximately 18 percent of Serbia's population is between the ages of 10 and 24.¹⁵⁶ Given that young people are defined as between 15 and 30 years old, it is conceivable to assume that one-fifth of Serbia's population falls into the youth category. While the current legal framework recognizes Serbian youth as important contributors to society, there is still much to be done in order for young people to participate in democratic processes. Serbian actors need to facilitate spaces for young people's engagement and active participation in decision-making processes, and young people should be empowered to engage in opportunities to enhance their knowledge of how to exercise their civic and political rights.

Mechanisms for Youth Participation

According to the 2018 Inter-Parliamentary Union Youth Participation in National Parliaments publication, only 2 percent of members of parliament are under 30 years old.¹⁵⁷ However, there has been a rise in the number of young people elected to the Serbian National Assembly, with 33 members aged 30 or younger (13.2 percent).¹⁵⁸ Further, Serbian law provides for and empowers young people to participate in the National Youth Council as well as councils at the district level. However, based on meetings with interlocutors, and aligning with global youth political participation trends, young Serbians display higher rates of engagement in more informal activities such as activism, including digital activism, protests and service-oriented or volunteer opportunities. Research and interviews substantiate this trend by noting that young people, in particular girls and young women, engage more at the community level than at the regional or national levels.

Challenges to Youth Participation

A 2018 USAID report that collected data from 48 towns found that young people between the ages of 14 and 29 express great dissatisfaction with the state of democracy in Serbia.¹⁵⁹ Some young people feel that politicians are manipulating the system for personal financial gain¹⁶⁰ and that their votes would have little or no impact.¹⁶¹ Interestingly, young people tend to feel more trust in independent institutions such as the Ombudsman and NGOs than the National Assembly and political parties.¹⁶² This lack of trust in formal actors, policies and structures has likely led to the higher observed youth participation at local levels and within their home communities. One

¹⁵⁶ "World Population Dashboard, Serbia," *United Nations Population Fund*. Retrieved from

<https://www.unfpa.org/data/world-population/RS>

¹⁵⁷ "Youth Participation in National Parliament," (2018). *Inter-Parliamentary Union*. Retrieved from

<https://www.ipu.org/our-impact/youth-empowerment/data-youth-participation>

¹⁵⁸ "National Assembly of Serbia: Age Structure," *National Assembly of Serbia*. Retrieved from

<http://www.parlament.gov.rs/national-assembly/national-assembly-in-numbers/age-structure.1746.html>

¹⁵⁹ USAID Serbia Gender Report, page 29.

¹⁶⁰ Tomanovic, Smiljka and Dragan Stanojevic, "Young People in Serbia 2015: Situation, perceptions, beliefs and aspirations," (2015). *Friedrich Ebert Stiftung*, page 104.

¹⁶¹ Tomanovic, Smiljka and Dragan Stanojevic, "Young People in Serbia 2015: Situation, perceptions, beliefs and aspirations," (2015). *Friedrich Ebert Stiftung*, page 107.

¹⁶² Tomanovic, Smiljka and Dragan Stanojevic, "Young People in Serbia 2015: Situation, perceptions, beliefs and aspirations," (2015). *Friedrich Ebert Stiftung*, page 110.

interlocutor explained that young Serbians are more issue-focused and engage in activism at local levels, which they find empowers them to influence change and obtain their desired results.¹⁶³

As evidenced by a report released by Civic Initiatives (*Gradjanske inicijative*)¹⁶⁴ and interlocutor interviews, another main barrier to young people's participation in Serbian political processes may relate to a lack of understanding of the concept and activities that fall under this category. In part, this is likely an outcome of the fact that schools lack a comprehensive and mandatory civic education course and do not offer a democratic atmosphere for learning; more often than not, teachers' communication with students is one-way; the student listens rather than participating in active learning (See "Civic and Voter Education" below). Additionally, voter education campaigns tailored to young people do not exist. Key voter education messages are contextualized to older people; as a result, dissemination methods do not incorporate platforms with which young people tend to engage, such as social media and websites. Further, the messages tend to take a traditional monologue approach to voting based on political party rather than a dialogue approach based on priority areas of importance to voters that resonates more with young people.

Enhancing Youth Participation

One of the best ways to increase the formal participation of young people, especially electoral participation, is through civic and voter education, as this will build young people's knowledge of and how to exercise their civic and political rights. For example, RIK, the Ministry of Education and Ministry of Youth and Sports should build working relationships to inform the current elective civic education and develop opportunities to learn about elections around specific electoral events as relevant to age groups such as first-time voters. With civic space shrinking in Serbia, this is a safe and effective way to reach a diverse and broad youth population. Young people reaching the age of enfranchisement would benefit from learning about voting processes, which could be integrated into course offerings in addition to the civic education course and through student parliaments. Yet there is also a need to increase collaboration between young people and elected leaders, election administration, ministry officials and civil society to ensure an inclusive approach to empowering young people's participation across Serbia.

In conjunction with civic education initiatives in the formal education system, targeted voter education campaigns for young people would provide additional avenues to engage them in the electoral process. With the development of voter registration and get-out-the-vote campaigns, public service announcements and online and social media channels, the election administration could more effectively reach young people to encourage their participation and impart knowledge of election day procedures, the complaints and appeals process and the work of polling board members.

¹⁶³ Interlocutor interview with youth activist.

¹⁶⁴ Pavlović, Zoran, Tamara Džamonja Ignjatović, Aleksandar Baucal and Kaja Damnjanović, "Civic Education and Religion Teaching – Equally (Not) Important?" (2020). *Civic Initiatives*. Retrieved from <https://www.gradjanske.org/wp-content/uploads/2020/06/Analiza-Gradjansko-vaspitanje-i-verska-nastava-podjednako-nevazni.pdf>

National Minorities

Equal rights for national minorities in Serbia are guaranteed by the Constitution.¹⁶⁵ The rights and freedoms of national minorities, together with protection mechanisms, are further defined in the Law on the Protection of the Rights and Freedoms of National Minorities¹⁶⁶ and the Law on National Councils of National Minorities.¹⁶⁷ Stipulations in the Law on the Election of Members of Parliament ensure the representation of national minorities in the National Assembly.

Recent changes to the electoral legal framework (see “Electoral Legal Framework”) through the Law on the Election of Members of the Parliament have introduced new amendments for the recognition of an electoral list representing national minorities and a new seat allocation formula, while the threshold exemption for national minority electoral lists remained in place. However, the amendments did not address the longstanding issue of gathering support signatures for national minority electoral lists. No threshold is applied for national minorities as there is for other electoral lists in parliamentary elections, but votes cast for a national minority electoral list are multiplied by 1.35 for the purpose of seat distribution.¹⁶⁸ These legal amendments also introduced a new role to the National Councils of National Minorities in establishing the minority electoral list status. New provisions made RIK, which is tasked with determining the minority status of an applicant, responsible for requesting confirmation of status from the National Councils of National Minorities.

Of the 23 national minorities registered in Serbia, 22 have constituted and exercise their rights through their respective National Minority Councils.¹⁶⁹ There are 123 political parties registered with MDULS, of which 74 are registered as representing national minorities.¹⁷⁰ Article 81 of the Law on the Election of Members of Parliament states that RIK decides whether the submitter of an electoral list has the status of minority party. This process was criticized and was mentioned as an issue in previous observation reports¹⁷¹ and analysis¹⁷² on the grounds that the minority status of a political party is determined during registration, which brings a degree of legal uncertainty for the applicants and because there are no clear criteria for RIK to determine that status. This was also confirmed by the Administrative Court in opinions issued in 2016.¹⁷³

¹⁶⁵ Constitution of Serbia, Articles 75–81.

¹⁶⁶ Law on Protection of the Rights and Freedoms of National Minorities. Retrieved from https://www.paragraf.rs/propisi/zakon_o_zastiti_prava_i_sloboda_nacionalnih_manjina.html

¹⁶⁷ Law on National Councils of National Minorities. Retrieved from https://www.paragraf.rs/propisi/zakon_o_nacionalnim_savetima_nacionalnih_manjina.html

¹⁶⁸ Law on the Election of Members of Parliament, Article 81.

¹⁶⁹ MDULS National Councils Registry. Retrieved from <https://www.srbija.gov.rs/tekst/37/nacionalne-manjine.php>

¹⁷⁰ OSCE/ODIHR Final Report.

¹⁷¹ “Post-Monitoring Mission Report: CRTA Citizens on Guard, Parliamentary Elections 2016,” (2018). CRTA. Retrieved from <http://crtars/wp-content/uploads/2018/02/Finalni-izvestaj-parlamentarni-izbori-2016.pdf>

¹⁷² Milenković, Dejan, “Election Dialogue 2020,” (2020). University of Belgrade. Retrieved from <https://www.fpn.bg.ac.rs/wp-content/uploads/BILTEN-BR-3-IZBORNI-SISTEM-I-ZAKONI.pdf>

¹⁷³ CeSID Report, page 34.

Authorizing RIK to check the minority status of an electoral list from the relevant National Minority Council was criticized by number of national minority representatives¹⁷⁴ and legal experts,¹⁷⁵ arguing that the National Minority Councils are political entities, composed of national minority parties' representatives who could compete in elections with status seekers while deciding on their status. Another area of concern was lack of a clearly defined complaints procedure.¹⁷⁶ Interlocutors note that legal gaps must be closed to prevent misuse of minority status.

Another significant change in the Law on the Election of Members of Parliament introduced a new system for calculating the representation of national minority electoral lists in the National Assembly, diverging from the natural threshold defined in 2004.¹⁷⁷ This new solution keeps the threshold exemption for the national minority electoral lists but permits multiplication of their quotients by 35 percent when allocating seats in the National Assembly. National minority communities offered no distinct reactions to this amendment. However, some experts noted that those provisions violate the principle of the prohibition of (reverse) discrimination, which is the upper limit of the application of affirmative action in a modern democratic society based on equality,¹⁷⁸ while at the same time disrupting equality of suffrage defined in the Constitution. The government adopted an action plan¹⁷⁹ for realization of the rights of national minorities, which includes measures for improving democratic participation. The latest publicly available report on implementation of the plan¹⁸⁰ shows that some key measures defined for improving democratic participation of national minorities, such as conducting comparative legal analysis and identifying best practices and models for the participation of national minorities in the electoral process based on the practices of the European Union member states in the region, were implemented; however, changes in the normative framework, in line with the identified model, still need to be implemented.¹⁸¹

Participation as Voters and Candidates

According to interlocutors and publicly available data, not all election material was available in minority languages. However, materials developed by local election administrations and materials distributed by RIK through Local Self-Governments where minority languages are used officially¹⁸²

¹⁷⁴ "Zukorlic on the SNS proposal: It is wrong for the National Council to confirm the minority list," (January 31, 2020). N1. Retrieved from <http://rs.n1info.com/Vesti/a565462/Zukorlic-protiv-predloga-SNS-o-manjinskim-listama.html>

¹⁷⁵ "National minorities differ on the amendments to the Law on the Election of Deputies," (February 7, 2020). N1. Retrieved from <http://rs.n1info.com/Vesti/a567182/Nacionalne-manjine-razlicito-o-izmenama-Zakona-o-izboru-poslanika.html>

¹⁷⁶ "RP and RPJ: For National Council confirmations and judicial protection," (February 8, 2020). RTV. Retrieved from http://rtv.rs/sr_lat/politika/rp-i-rpj-za-potvrde-nacionalnih-saveta-i-sudska-zastita_1091883.html

¹⁷⁷ Milenković, Dejan, "Election Dialogue 2020," (2020). *University of Belgrade*, page 37.

¹⁷⁸ Milenković, Dejan, "Election Dialogue 2020," (2020). *University of Belgrade*.

¹⁷⁹ "Action plan for exercising the rights of national minorities," *Office for Human and Minority Rights, Government of the Republic of Serbia*. Retrieved from <https://ljudskaprava.gov.rs/sh/node/21793>

¹⁸⁰ "Action Plan for Exercising the Rights of the National Minority," (2019). *Office for Human and Minority Rights, Government of the Republic of Serbia*. Retrieved from https://ljudskaprava.gov.rs/sites/default/files/dokument_file/akcioni_plan_sa_semaforom_broj_4-2019.pdf

¹⁸¹ "Fourteenth report on implementation of the Action Plan for substantiation of the national minorities' rights," (2019). *Office for Human and Minority Rights, Government of the Republic of Serbia*, page 55.

¹⁸² Law on the Official Use of Languages and Scripts. Retrieved from https://www.paragraf.rs/propisi/zakon_o_sluzbenoj_upotrebi_jezika_i_pisama.html

were translated into those languages.¹⁸³ In the period prior to the 2020 parliamentary elections, RIK also produced and translated a number of guides into 11 minority languages.¹⁸⁴ Still most of the mainstream political parties' programs and discussions on media with national coverage were not available in the minority languages. As no disaggregated data on voter turnout is available, it is not possible to determine the level of voter participation by national minority communities throughout Serbia.

A concern raised repeatedly by representatives of national minorities' parties as an obstacle for active voter's right enfranchisement is the support signatures threshold to register to run in parliamentary elections. The Law on Election of Members of Parliament requires electoral lists to collect 10,000 support signatures in order to register in national elections. A number of experts observed that the provision limits the participation of national minority communities, especially dispersed ones. In contrast, the Law on Political Parties requires 1,000 signatures to register a national minority's party, while these parties must receive 10 times more signatures to submit an electoral list for national elections—often a significant barrier to those political entities.

Interlocutors also raised concerns regarding the free participation of the Roma community in elections. CRTA's observation report raised allegations that representatives of the Roma community have been blackmailed, provided with gifts and otherwise coerced to support the ruling party.¹⁸⁵ A case caught on camera recorded representatives of the Roma community in one municipality engaging in what the media called "assisted voting," moving CRTA to file criminal charges regarding the irregularity.¹⁸⁶

Participation as Political Parties

There are currently 74 national minority political parties registered in the MDULS registry, although only five national minority electoral lists participated in the 2020 parliamentary elections—a Hungarian list, two representing the Bosniak minority (one in coalition with the Macedonian Democratic Party), one representing the Albanian minority, and one representing the Russian minority. All lists except the one representing the Russian minority entered the National Assembly, for a total national minority representation of 19 seats. There was no participation from Roma parties in the 2020 parliamentary elections, and although some other national minority representatives participated as candidates on one of the non-minority electoral lists, Roma were largely excluded in major parties' electoral lists.¹⁸⁷

There are significant variations among national minorities' parties' participation in decision-making and policy-making at the national level. The Bosniak-dominated Social-Democratic Party, led by Rasim Ljajic, who until recently served as a minister in various government compositions, traditionally partners with the ruling party in both the legislative and executive branch. Another national minority party traditionally represented in government is the Association of Hungarians

¹⁸³ "Serbia COVID-19 and Elections Response Analysis," (December 18, 2020). *IFES*.

¹⁸⁴ Materials available at RIK's website: <https://www.rik.parlament.gov.rs/tekst/sr/6841/biraci.php>

¹⁸⁵ CRTA Report, page 101.

¹⁸⁶ "CRTA filed a criminal complaint against unidentified persons for 'assisting' in voting in Uba," (June 25, 2020)

Insajder. Retrieved from <https://insajder.net/sr/sajt/vazno/19142/>

¹⁸⁷ Interlocutor interview with legal expert.

from Vojvodina, which gained state secretary seats at the national-level and entered the coalition with the ruling party at the provincial and local-level.¹⁸⁸

While some national minority parties are typically represented in and provide support to the government, others either engage with the opposition or do not participate significantly in consultative processes and discussions on national minority issues. One example is the discussion organized to present the legal amendments to election legislation that changed the natural threshold of national minorities' parties to enter the National Assembly. An interlocutor stated that some of the national minorities' parties learned about the adopted amendments only once they were published in the Official Gazette and were not fully aware of the effects of those changes in advance of the elections, indicating both a lack of capacities of some of the national minorities' parties and the absence of a substantial inclusive approach in consultation processes.

While most national minorities' parties in the National Assembly were supportive of recent electoral legislation changes,¹⁸⁹ others opposed the provision that gives RIK authority to determine the minority status of the applicant electoral list, believing that it is not within RIK's purview to determine whether a party qualifies as a national minority party.^{190, 191}

Recommendations

1. *Dedicate resources and develop policies for inclusive election administration:* As permitted by its mandate, RIK should identify focal points in election administration for youth and gender inclusion, provide additional support to the established disability inclusion focal point, and institutionalize existing Working Groups, such as the DICON. Such efforts capitalize on current initiatives and demonstrate sustainable commitment to the improvement of meaningful political participation of marginalized populations. Complementary efforts can include the development of effective voter education campaigns targeting first-time voters; a gender equality and social inclusion policy to include opportunities to mitigate barriers to the participation of women, young people and persons with disabilities throughout the electoral cycle; and equal recruitment opportunities and reasonable accommodations for election administration. Such initiatives would be supported by the collection, disaggregation and publication of data on the age, gender, and disability of voters, candidates, polling board members and temporary election administration staff. This data would be used to inform the allocation of resources and the development of targeted approaches to inclusive election administration.
2. *Improve election day procedures in consideration of inclusion standards and practices:* Marginalized populations face a number of barriers to their participation in the electoral process, especially when casting their ballots on election day. To mitigate such barriers, RIK could improve procedures in polling stations, within its mandate as laid out in the legal

¹⁸⁸ "Consultation on the forming of the new government continued, Vucic with Zukorlic and Pastor," (July 15, 2020). N1. Retrieved from <http://rs.n1info.com/Izbori-2020/a619852/Nastavljene-konsultacije-o-formiranju-Vlade-Vucic-s-Zukorlicem-i-Pastorom.html>

¹⁸⁹ Training supported by the OSCE Mission to Serbia.

¹⁹⁰ "Zukorlic on the SNS proposal: It is wrong that National Councils confirm the minority list," (January 31, 2020). N1. Retrieved from <http://rs.n1info.com/Vesti/a565462/Zukorlic-protiv-predloga-SNS-o-manjinskim-listama.html>

¹⁹¹ "National minorities differently about amendments of the Law on Election of the Members of the Parliament," (February 2, 2020). N1. Retrieved from <http://rs.n1info.com/Vesti/a567182/Nacionalne-manjine-razlicito-o-izmenama-Zakona-o-izboru-poslanika.html>

framework. For example, RIK could update the polling board member manual with inclusion good practices, such as priority queuing, which is currently a recommended practice but is not formalized. Additionally, to assess the full extent of barriers marginalized populations face in polling stations, election administrations could collect, disaggregate and publish data on the age, gender and disability of voters, candidates, polling board members and election administration temporary staff.

3. *Include gender considerations and gender analysis in citizen observation efforts*, along with questions on accessibility. This would provide a more robust observation mission and result in more defined recommendations for RIK and election administration.
4. *Invest in efforts that aim to shift negative attitudes, behaviors, and norms as they relate to the identity of marginalized populations*: Negative attitudes, behaviors and norms include traditional harmful gender roles, the capacity of persons with disabilities and the participation of young people, including those below the voting age, and national minorities. More concerted efforts to counteract these harmful beliefs and attitudes are needed to support marginalized populations in improved political participation. All stakeholders could be engaged in such efforts, including providing support for men as allies in gender equality efforts, and increasing the visibility of positive examples of women, persons with disabilities and young people in leadership.
5. *Build partnerships across government and civil society through local mechanisms*: Independent institutions should consider providing support for civil society groups, such as women's civil society organizations and DPOs, especially in rural areas, to enable them to advocate more robustly for issues important to them during the campaign period. RIK could also build relationships with key ministries such as the Ministry of Education and Ministry of Youth and Sport to better strategize and coordinate efforts for increasing inclusive political participation of young people.

Civic and Voter Education

Civic Education

Formal civic education in Serbia is available to students beginning in primary school and continuing through the end of high school. Introduced as elective courses in 2001, students must choose to enroll either in civic education or religious education classes and can make their choice on an annual basis.¹⁹² While students can change their selection at the beginning of each year, this flexibility means that they study the same topics over and over rather than building on learnings from previous years. Further, educators report difficulty in motivating their students to engage meaningfully with the material because the course is not graded. Although Serbia has adopted formal civic education in its primary and secondary school curricula for nearly two decades, the impact has been muted by its elective nature and insufficient resources for educators.

The civic education course covers topics such as democracy, human rights and civic participation, but there is limited evidence to prove that it has contributed substantively to creating well-

¹⁹² Pavlović, Zoran, Tamara Džamonja Ignjatović, Aleksandar Baucal and Kaja Damjanović, "Civic Education and Religion Teaching – Equally (Not) Important?" (2020). *Civic Initiatives*. Retrieved from <https://www.gradjanske.org/wp-content/uploads/2020/06/Analiza-Gradjansko-vaspitanje-i-verska-nastava-podjednako-nevazni.pdf>

informed, tolerant citizens or reinforcing democratic norms among young people in Serbia. A 2019 study implemented by Civic Initiatives and Civil Rights Defenders, publicized by Serbia's Social Inclusion and Poverty Reduction Unit, found that, although Serbia is formally in the process of joining the European Union, secondary school students surveyed were more likely to be Eurosceptic than the ratio reflective of the Serbian population at large. Nonetheless, students in civic education classes had a more positive attitude toward the European Union than their counterparts in religious education.¹⁹³ Likewise, although students in civic education classes have a good grasp of concepts such as the division of powers in Serbia, they lack knowledge of active citizenship in a democratic society and the role of international organizations. The report also found that secondary school students overall are "little interested in political events and social engagement and have medium-level familiarity with current political events, mainly informing themselves online or through television."¹⁹⁴

Moreover, the report notes that racism and ethnocentrism are also poorly understood concepts. Students in the study expressed significant prejudice against people with AIDS, members of the LGBTQ community, persons with an intellectual or psychosocial disability, or Albanian ethnic minority, although most would be open to befriending someone of a different religion or with a physical disability. These beliefs did not differ significantly between students in civic or religious education classes. Although students in civic education performed better on questions pertaining to civic topics than did religious education students, both groups performed poorly overall, according to the study. As middling as these results were, they nevertheless reflect progress from a similar study that the same organization conducted 10 years earlier.

Outside of standardized civic education, recognized national minorities, such as Hungarians in Vojvodina, can implement civic education in their languages in local schools and have some freedom in designing curricula to respond to the needs of their communities. Interlocutors felt that this flexibility was almost irrelevant, as most students belonging to these groups choose religious education over civic education. Additionally, not all materials are available in local languages, and none are adapted to the needs of students with disabilities. Other gaps in the curriculum, according to interlocutors, include the lack of mention of the rights of the LGBTQ community and little discussion of the role of civil society and different methods of civic participation.

Another commonly cited reason for ineffective implementation of civic education is the lack of training and resources available to educators. Prior to 2018, textbooks for the civic education course did not exist; teachers had to develop lessons on their own or rely on resources from their peers.¹⁹⁵ There are no formal vocational or university courses to train educators, which is problematic given that many educators have backgrounds in topics other than civic education and lack the nuanced familiarity with the subject matter that would enable them to teach it effectively.

¹⁹³ "Main Findings of Study 'Evaluation of the Effects of the Subject Civic Education-10 Years Later' Presented," (April 5, 2019). Civic Initiatives and Civil Rights Defenders. Retrieved from <http://socijalnoukljucivanje.gov.rs/en/main-findings-of-study-evaluation-of-the-effects-of-the-subject-civic-education-10-years-later-presented/>

¹⁹⁴ "Main Findings of Study 'Evaluation of the Effects of the Subject Civic Education-10 Years Later' Presented," (April 5, 2019). Civic Initiatives and Civil Rights Defenders. Retrieved from <http://socijalnoukljucivanje.gov.rs/en/main-findings-of-study-evaluation-of-the-effects-of-the-subject-civic-education-10-years-later-presented/>

¹⁹⁵ Interlocutor interview with civil society representative.

Currently, civic education educators are licensed by taking one of the short courses offered by the Ministry of Education, although interlocutors described this process as insufficient to prepare them to teach the course material. Finally, the insufficient resources dedicated to civic education contribute to a perception among students, educators and school administrators that the topic is less important than other subjects which could affect the number of students who choose to take the course.

Despite these drawbacks, there have been efforts to encourage active participation and improve upon formal civic education initiatives in Serbia. For example, some schools have established student parliaments; interlocutors comment that their level of activity varies from school to school. With robust support via guidance and activity materials, student parliaments could be impactful forums for young people to build a democratic political culture and better understand how their own actions and participation contribute to wider societal change through formal processes. In 2018, the Ministry of Education introduced curriculum changes, including the addition of research projects, educational films and simulations, to address low student engagement. Some local organizations, such as Civic Initiatives, have assisted in efforts to improve formal civic education. Civic Initiatives developed training courses for civic education educators and received the Ministry of Education's approval for their use in certifying those educators, ameliorating gaps in training by working with teachers' associations. These efforts reflect support to improve the formal civic education process, with additional resources provided by the government in order to do so.

Among the most pressing priority areas to improve civic education in Serbia are training and resources for educators and the establishment of civic education as a mandatory, for-credit curriculum requirement. Although some local actors have been working to address key shortcomings in civic education, durable change can occur only through sustained action by the Ministry of Education. Solutions identified by stakeholders include making civic education mandatory for all and making classes graded, fostering a culture of debate and civic activism among students, integrating civic education concepts into other classes where relevant and providing further training and resources to instructors and school administrators.

Recommendations

1. *Adjust the civic education course to make it mandatory and graded:* The Ministry of Education should take full advantage of its mandate to implement civic education by making classes mandatory for all students in primary and secondary schools and ensuring those classes are graded to emphasize its commitment to developing active citizens. This ensures young people will participate in formal civic education to build key democratic attitudes and beliefs during the early adolescent years, which is most critical to the personal development of children and young people.
2. *Improve the civic education curriculum to encourage deeper understanding of democratic norms and active participation as part of an emphasis on building political and electoral culture, with particular attention to inclusion and accessibility:* The Ministry of Education should re-engage with civil society and education experts to continuously update civic education curricula, including learning materials for student parliaments, and ensure that topics cover the breadth of civic participation, including promoting the full participation of

people from marginalized groups such as women, people with disabilities and the LGBTQ community. People from diverse communities should be shown in active roles in the political process and in civic engagement. Further, to expand marginalized populations' access to civic education, the ministry should provide more support to national minority communities by ensuring teaching materials and resources are consistently available and updated in national minority languages, and are available in accessible formats such as braille, audio and easy-to-read so they are accessible to students with disabilities.

3. *Dedicate resources and training to civic education educators:* The Ministry of Education should engage with civil society and education experts to revise and support certification regimes for civic education educators, ensuring they have sufficient expertise and resources to teach effectively. Further, teaching approaches should be adapted to be more engaging and interactive.

Voter Education

Election management bodies in Serbia currently lack both a formal voter education strategy and the institutional infrastructure needed to provide adequate and accessible voter education. RIK has neither a dedicated voter education unit nor a voter education strategy to guide its efforts. An analysis of election-related content published by major media outlets during the 2020 election period found that only 3 percent of content could be classified as either voter education or information, illustrating the serious need for more intentional efforts on the part of election authorities.¹⁹⁶

Interlocutors observed that RIK does not coordinate consistently with other stakeholders on voter education and, as a result, there is a dearth of proactive voter education or informative materials designed to promote participation of a specific group, such as women, youth or persons with disabilities. However, an interlocutor from the election administration noted that it may produce relevant targeted voter education materials when contacted by a specific stakeholder group, such as a DPO. Although RIK produces information and videos on national elections in accessible formats, such as audio, sign language and subtitles,¹⁹⁷ there is still an information gap in reaching persons with disabilities with election campaign information, according to a civil society representative. For example, campaign information is largely inaccessible to Deaf Serbians because it is not produced in sign language.¹⁹⁸

During the 2020 parliamentary elections, RIK did not conduct targeted outreach to first-time or young voters or those from national minority groups, although CeSID noted that some important materials, guides and election regulations for voters and poll workers were translated into 11 minority languages.¹⁹⁹ Likewise, there is no targeted voter education aimed at addressing barriers to voting for women, such as family voting. Despite a somewhat incomplete approach to voter education, the OSCE/ODIHR noted improvements from the last elections.²⁰⁰ As the 2020

¹⁹⁶ CeSID Report.

¹⁶¹ YouTube Channel, *Republic Electoral Commission*. Retrieved from <https://www.youtube.com/channel/UCjBsJcOKD0qQLWcQghdFDuw/videos>

¹⁹⁸ CIL Report.

¹⁹⁹ CeSID Report.

²⁰⁰ OSCE/ODIHR Final Report.

parliamentary elections occurred during the ongoing COVID-19 pandemic, RIK, with support from IFES, launched an outreach campaign to disseminate information specific to voting during the pandemic, which included informational material for voters (including those with disabilities), polling board members and observers. As part of the 2020 campaign, RIK and IFES developed an instructional video, aired by the national TV public service broadcaster, and a public service announcement that aired on radio stations across Serbia. RIK and IFES also produced a leaflet describing preventive measures on election day and RIK's instructions for the voting procedure. Copies of this leaflet were distributed with nine daily newspapers, and the video was promoted on social media to engage Serbian youth. The leaflet design was used for large posters delivered to all 8,253 polling stations across the country to disseminate reminders for voters and polling board members to follow preventive measures. However, several interlocutors in election administration felt that voter education efforts could have been even more visible.

There have also been some efforts to produce accessible voter education targeted to voters with disabilities. RIK created a QR code to direct potential voters with disabilities to accessible information on its website; however, the QR code was not placed on printed materials but was only available on a YouTube video, according to an election administration representative and an analysis of the channel itself. This placement unfortunately reduced the effectiveness of such measures as it was available on a platform that already presented information in audio and visual formats. In the future, RIK can improve information access by ensuring that QR codes are placed on materials that are not otherwise accessible, such as flyers and posters. Additionally, RIK's website includes some accessibility functionality, such as the ability to enlarge the font size. A text-to-speech service has been embedded, according to an election administration interlocutor, but if this functionality exists, it is not easily accessible from the landing page. RIK website accessibility could also be improved by adding other accessibility features, such as by changing the color contrast.

Recommendations

1. *Improve RIK's voter education capacity and approach:* RIK's existing voter education efforts are limited and are constrained by time, resources and capacity. To alleviate the lack of a consistent and inclusive approach, RIK should establish a formal voter education plan, incorporating research and feedback and recommendations from diverse stakeholders including representatives from civil society, national minorities and marginalized groups such as women, persons with disabilities and young people. This would guide tailored outreach and initiatives to reach a broader range of voters and encourage turnout. RIK should also establish, staff and fund a dedicated voter education unit or Working Group to ensure adequate implementation of the comprehensive voter education plan and identify gaps in messaging within key groups. RIK could also consider partnering with the Ministry of Education to develop voter education materials targeting first-time voters, including for use in civic education classes, to encourage students at or near voting age to participate in elections.
2. *Expand the accessibility of voter information:* Most voter information is available via RIK's website, as well as from political parties' messaging channels. However, voter information continues to be largely inaccessible to voters with disabilities. RIK should conduct an

accessibility audit of its website and update it accordingly. RIK should also encourage political parties to share information in accessible formats on their party platforms and campaigns.

Political Finance and Corruption in Elections

Political and Campaign Finance

In its 2010 evaluation of transparency of Serbian party funding, GRECO identified 10 recommendations, including setting a deadline for annual financial reports, clarifying the mandate of the APC and clear criteria for the use of public facilities for political purposes.²⁰¹ In the 2014 second compliance report, GRECO found that all recommendations had been satisfactorily implemented.²⁰² While GRECO congratulated “Serbia on the legislative reforms introduced in recent years,” the body noted that “corruption continues to be a prevalent concern in Serbia” and that

“Time and experience will show whether the recent amendments in law efficiently serve their purpose and prevent corruption..., and whether further improvements, of either a legislative or a practical implementation nature, are still necessary. Moreover, it is crucial that the relevant institutions entrusted with anticorruption responsibilities are provided with adequate resources and powers to effectively fulfil their tasks.”²⁰³

In its report on the 2020 parliamentary elections, the OSCE/ODIHR Special Election Assessment Mission report found that the political finance framework does not ensure the transparency of campaign finance and that the “blurring of the line between the campaign of the ruling party...and the media coverage of the president and government’s activities,... challenged paragraph 5.4 of the 1990 OSCE Copenhagen Document.”²⁰⁴

Regulations on Party and Campaign Finance

The overall regulation on political party and campaign finance in Serbia, mainly contained in the Law on Financing Political Activities (amended in 2011), does not vary significantly from similar regulations in surrounding countries or in Europe as a whole.²⁰⁵ Political parties and election campaigns receive public funding and private income, although financial reports submitted after the 2016 elections indicate that campaigns rely almost exclusively on public funding.²⁰⁶ This information may reflect the reluctance of political parties to report private donations. While the OSCE/ODIHR final report recommends lowering donation limits, political parties have reported

²⁰¹ “Third Evaluation Round Evaluation Report on the Republic of Serbia Transparency of Party Funding (Theme II),” (2010). GRECO, herein “GRECO (2010).”

²⁰² “Third Evaluation Round Second Compliance Report on Serbia ‘Incriminations (ETS 173 and 191, GPC 2),’ Transparency of Party Funding,” (2014). GRECO, herein “GRECO (2014).”

²⁰³ GRECO (2014), page 7.

²⁰⁴ OSCE/ODIHR Final Report, page 13. The Copenhagen document is available at <https://www.osce.org/odihr/elections/14304>

²⁰⁵ For a review of this law, published shortly after its publication, see “The Serbian 2011 Law on Financing Political Activities - Legal provisions and recommendations for enforcement,” (2011). IFES.

²⁰⁶ According to research by Transparency Serbia, parties reported receiving 97 percent of campaign income from public funding. “Kampanja o trošku građana – kada objavljeno ne znači i vidljivo,” (2016). *Transparency Serbia*. While complete data from the 2020 elections is not yet available, it seems to indicate that the official level of campaign income from public sources remains high.

very few donations close to the donation limit in recent years, and GRECO has warned that a low limit “not only seriously hampers the transparency and credibility of the system vis-à-vis the general public, but also makes it very difficult for political parties to comply with the rules.”²⁰⁷

The main activity area for reform in Serbia seemingly lies less with legal changes to public funding and income limits than with activities that aim to improve transparency in how funds are raised and spent, and to counteract abuse of state resources. In this area, legal changes may have a limited role. As GRECO has stated, “[i]t is necessary to connect the legal requirements to the real situation.”²⁰⁸

Disclosure, Oversight and Remedies

Serbian political parties are required to submit financial reports annually and within 30 days after the declaration of election results. There is no reporting by election campaigns ahead of elections, a fact decried by some interlocutors and noted as a weakness by the OSCE/ODIHR.²⁰⁹ Significant pre-election reporting requirements have, however, proved burdensome for political parties in surrounding countries (North Macedonia being a key example). As verifying the accuracy of such reports ahead of election day can be demanding, there is a risk of such systems rewarding political parties that report untruthful information calculated to satisfy the electorate. Smart reporting requirements, in particular those stating that donations received by election campaigns should be reported within a set number of days of receipt, may be more valuable than full-scale reporting requirements for both income and spending.

The mandate to oversee political party and campaign finance in Serbia lies with the APC.²¹⁰ The assessment team noted a significant difference in how political party and civil society interlocutors view the work of the APC. Representatives of political parties perceived an improvement in its work, and generally reported satisfaction with implementation of political finance regulations. In contrast, civil society interlocutors argued that monitoring compliance with existing regulations is largely superficial, and that the APC often does not investigate potential violations.

Since 2012, the APC has hired field monitors to observe election campaigns (120 monitors for the 2020 parliamentary elections), including potential violations and levels of spending. According to the APC, it compares the findings with the financial reports of electoral contestants. This is an unusual approach that, in Europe, seems to be used only in Serbia and Albania. Some interlocutors complained that reports by APC observers are not made public. However, given the unavoidably partial nature of this monitoring, publishing the reports may give an inaccurate impression of overall campaign spending, and it may be preferable to consider them internal

²⁰⁷ OSCE/ODIHR Final Report, page 14; GRECO (2010), page 14. Several donations at the level of the donation limit were made in relation to the 2014 elections, with the funds potentially originating with another source than the official donor. The investigation into this case took several years. “Tužilaštvo za dve godine nije donelo odluku o pokretanju istrage zbog sumnje na pranje novca SNS, SPS i URS,” (2019). *Insider*.

²⁰⁸ GRECO (2010), page 14.

²⁰⁹ OSCE/ODIHR Final Report, page 14.

²¹⁰ This is similar to the institutional approach in Montenegro and to some extent Croatia and North Macedonia. In Albania, Bosnia and Herzegovina and Kosovo, political finance oversight is the responsibility of the EMB. The APC was created in 2009 and was given the mandate to oversee political finance through the 2011 Law on Financing Political Activities.

working documents. According to the APC, one investigation was initiated *ex officio* as a result of this monitoring.

No oversight institution can monitor all aspects of political finance, and in most countries the responsible institution relies mainly on complaints from other stakeholders about inaccuracies in financial reports or other forms of violations. Recent legal revisions to the regulatory framework now require the APC to respond to received complaints within five days.²¹¹ The team's assessment shows that there is disagreement regarding the effectiveness of how complaints are received and reviewed and the sanctioning of detected violations. While the APC states that it has acted on all complaints for which relevant information has been available, civil society actors argue that they have submitted many complaints, including detailed information, on which the APC has not acted.²¹² While the APC can outline the type of information needed for it to act on a complaint, there seems to be no formal procedure for receiving and reviewing complaints. The APC should consider establishing such a policy, including a formal case management system.

It is gratifying to note that political party interlocutors reported improvement in their communication with the APC, with one stating that “[p]arties used to [have] fear of APC; now APC built relationship with parties in preventive manner.” Civil society interlocutors have fewer positive views of the APC's responsiveness and engagement. The APC should continue to build its relationship with political parties to aid in improving regulations and parties' compliance, while striving to further its engagement with civil society groups monitoring the use of money in Serbian politics.

Recommendations

1. *Consider gender equality in political finance regulations:* To promote equal representation and access to opportunities, election legislation should be amended to require political parties to spend 15 percent of their public funding on initiatives related to gender equality (clearly defining what qualifies as such initiatives) and set up a robust monitoring mechanism to ensure parties implement this requirement.
2. *Increase the transparency of ongoing reporting requirements for donations received ahead of elections:* Campaign finance transparency could be increased through carefully considered pre-election reporting requirements. Rather than requiring full-scale reporting that can prove unduly burdensome both to election campaigns and oversight institutions, this reporting can focus on information of special interest to voters, such as reporting larger donations within a set number of days of receipt.
3. *The APC should consider establishing a formalized procedure for the receipt and review of complaints about political finance violations:* While monitors deployed by the APC ahead of elections can collect valuable data, the process for receiving information from outside stakeholders is essential for effective oversight. The APC should build on its current practices for dealing with complaints by establishing a comprehensive procedure for receiving and handling complaints, including the criteria for what constitutes a complaint, and how the APC should act on them. The development of such a procedure should include consultation with political parties, civil society and the judicial system, the

²¹¹ “Elections 2020. Campaign before the campaign, Report for the period February 10th–March 3rd, 2020,” (2020). CRTA, page 8.

²¹² CRTA outlined the handling of the complaints it submitted to the APC in “Elections 2020. Campaign before the campaign, Report for the period February 10– March 3, 2020,” (2020). CRTA, pages 3–4.

latter to ensure that the procedure is conducive to effective sanctioning in case of detected violations.

4. *Continue efforts to increase the effectiveness of APC oversight:* While the APC has taken steps to improve its oversight of political party and campaign finance and of abuse of state resources, this assessment shows that more must be done for the oversight to be effective and increase public confidence. The APC should identify how cross-checking financial reports it receives with external data sources can improve oversight, and it should continue to build on its positive engagement with public institutions and civil society entities. To be fully effective, the APC should demonstrate that it is insulated from political interference and show the political will to take up cases against powerful actors.

Abuse of State Resources

During its 2010 evaluation of money in Serbian politics, GRECO was informed that:

“in practice candidates, who are already elected officials, do use the administrative resources at their disposal (official cars, communication equipment, secretariat services, etc.) for political purposes, especially in the context of campaign activities.”²¹³

The legal framework for the abuse of state resources is dispersed over a number of laws, including some that may seem unrelated to the political and electoral process, such as the Law on Public Companies and the Law on Basic Principles of the Educational System.²¹⁴ Legal amendments aiming to prevent abuse of state resources were introduced in late 2019, although some interlocutors described them as largely superficial. Abuse of state resources remains a significant concern, and the ongoing COVID-19 pandemic created additional challenges to counteracting to abuse of state resources.²¹⁵ CRTA monitored the use of state resources during the election campaign and found pressure put on staff in public institutions, misuse of the premises of public institutions and campaigning by public officials potentially in violation of the Anti-Corruption Agency Act.²¹⁶ Similarly, Transparency Serbia noted the use of public activities in campaign materials, including on the ruling party’s Facebook page.²¹⁷

Civil society interlocutors generally found that little action was taken against abuse of state resources in the 2020 parliamentary elections. The OSCE/ODIHR similarly concluded that “[t]he institutions responsible for monitoring the compliance with the campaign regulations, such as the APC, did not effectively responded to issues and allegations of misuse of office and state resources.”²¹⁸ To effectively counteract abuse of state resources, institutions including the APC require a significant level of political independence, a clearly defined mandate to act against

²¹³ GRECO (2010), page 15.

²¹⁴ See the “Electoral Legal Framework” section.

²¹⁵ The large-scale opposition boycott of the 2020 parliamentary elections meant that even calling for people to vote could be seen as attempts of influencing the process.

²¹⁶ See, for example, “Elections 2020. Campaign before the campaign, Report for the period February 10th – March 3rd, 2020,” and “Elections 2020. Long term observation report May 25th – June 14th, 2020,” (2020). CRTA.

²¹⁷ “Agencija odobrava dvostruku eksploataciju funkcionerske kampanje,” (2020). *Transparency Serbia*. One reported case argued that people were paid by sources close to the then-government party to post information on social media supporting the government and undermining the opposition. “The Castle: How Serbia’s Rulers Manipulate Minds and the People Pay,” (2020). *Balkans Insight*.

²¹⁸ OSCE/ODIHR Final Report, page 13.

possible abuses, the necessary resources and procedures, and the political will to take on powerful political actors.²¹⁹

Effective state intervention against abuse of state resources must not be seen as the responsibility of any one institution. Relevant departments within the police force and the judiciary must also act forcefully to investigate and, as appropriate, act in cases where state resources are abused for political reasons. A comprehensive review of efforts to counteract abuse of state resources is needed in Serbia.

Recommendations

1. *Increase the clarity around the effective monitoring of abuse of state resources:* Further review of the regulatory framework against abuse of state resources is needed, including pressure put on staff in public institutions and misuse of public premises and social media accounts. This review must include all relevant actors and focus on how to monitor compliance with the provisions being introduced and how to ensure potential violations can be sanctioned.
2. *Take comprehensive action to effectively counteract abuse of state resources:* While a regulatory review is necessary in Serbia, effectively counteracting abuse of state resources requires a comprehensive approach by different stakeholders. The judiciary must have the capacity and political will to deal with cases of this kind, and individual public institutions must see how resources under their control can be protected from abuse. Efforts by civil society to expose abuse must be supported.
3. *Consider how marginalized populations may be impacted by anti-corruption initiatives, including the abuse of state resources:* The APC could collaborate with other institutions to include local and marginalized populations, such as ethnic minorities, gender minorities, persons with disabilities, young women and rural women, in anti-corruption oversight and implementation of anti-corruption plans. This could include strengthening gender-sensitive monitoring and evaluation of public officials and government performance to track potential abuses.

Independence and Accountability of the Agency for the Prevention of Corruption

Due to their unique roles providing government oversight or insulating democratic processes from political interference, independent institutions like the APC require autonomy from political leaders so they can withstand attempts at manipulation. They also require appropriate accountability mechanisms to ensure that they do not fall prey to corruption, partisan behavior or poor leadership. The correct balance is important to enable these institutions to effectively fulfill their mandates.²²⁰ This section relies on IFES' *Autonomy and Accountability Framework*²²¹ as a tool to analyze the APC. The framework emphasizes five dimensions of autonomy necessary for an

²¹⁹ See "Joint guidelines for preventing and responding to the misuse of administrative resources during electoral processes," (2016). *Venice Commission and OSCE/ODIHR*.

²²⁰ There are several components to both autonomy and accountability, which are outlined in detail in IFES' [Autonomy and Accountability Framework](#), herein "Autonomy and Accountability Framework."

²²¹ *Autonomy and Accountability Framework*.

independent agency to fully engage in its mandate and three types of accountability measures that enable an institution to achieve public credibility and support.

Autonomy: The independence of the APC is enshrined in the recently amended Law on the Prevention of Corruption.²²² However, *de jure* independence is not sufficient to ensure autonomy in practice—independent institutions must also have access to sufficient resources and personnel, a clear mandate and the ability to set internal policies and priorities, and objective and merit-based appointment processes.

The Law on the Prevention of Corruption includes specific protections for APC's financial independence, including that its budget be sufficient to enable it to complete its work independently and effectively, that it has independence in disposing of its funds and that the government cannot suspend or limit the use of the funds.²²³ These are important legal protections, and there seems to have been a positive trend of budget and personnel increases from 2014 to 2019.²²⁴ However, a report by IDSCS notes that "this trend must continue to enable further development of the APC's capacities."²²⁵

The Law on the Prevention of Corruption also includes several provisions that could help ensure that APC's leadership is impartial and professional, including an open competition process.²²⁶ There are also requirements for the director and the members of the board to hold a legal degree, have nine years of relevant experience and pass an exam adopted by the Ministry of Justice and administered by the Judicial Academy.²²⁷ In addition, by law, both the director and members of the board must not be members of a political party or political entity.²²⁸ However, interlocutors have noted that the actual impact of this requirement is limited, as it is legal to formally rescind party membership before applying for the position. According to the IDSCS report, opposition parties protested the election of the current director because of alleged strong ties to the ruling party, including as a candidate in local elections in 2016, donation of funds and a party appointment to the working body in charge of implementing elections in 2017.²²⁹

While open competition and concrete and objective criteria are important, the IDSCS report notes that the role of the Ministry of Justice in announcing the competition is concerning, as this could provide an opportunity for the government to interfere in the APC's work by postponing or obstructing the selection process. However, the role of the Judicial Academy in conducting the

²²² Law on the Prevention of Corruption, Article 3.

²²³ Law on the Prevention of Corruption, Article 4.

²²⁴ Glušac, Luka. "The Relationship of the National Assembly of the Republic of Serbia to the Agency for Prevention of Corruption," (2020). IDSCS.

²²⁵ Glušac, Luka. "The Relationship of the National Assembly of the Republic of Serbia to the Agency for Prevention of Corruption," (2020). IDSCS.

²²⁶ Law on the Prevention of Corruption, Articles 11 and 22.

²²⁷ Law on the Prevention of Corruption, Articles 10, 12, 21 and 23.

²²⁸ Law on the Prevention of Corruption, Articles 10 and 21.

²²⁹ Glušac, Luka. "The Relationship of the National Assembly of the Republic of Serbia to the Agency for Prevention of Corruption," (2020). IDSCS.

selection procedure, including the exam, may help avoid suspicions of political interference in verification that requirements are met, and testing is administered fairly.²³⁰

Once the Judicial Academy identifies a list of qualified candidates, the Ministry of Justice presents it to the National Assembly to elect candidates for appointment.²³¹ This process has been recently introduced in the law but not yet implemented in practice; however, there may be opportunities for political interference given that the National Assembly previously delayed for several years the appointment of Board members who were not supported by the ruling party majority.²³²

Accountability: The APC is formally accountable to the National Assembly and is required to submit annual reports. The APC can also submit extraordinary reports on its work or the state of corruption on its own initiative or at the request of the National Assembly.²³³ Independent institutions generally have unique relationships with legislatures since they are often directly accountable to them, but their reporting also can help to bolster and inform legislative oversight agendas.²³⁴ That being said, from 2014 to 2017, APC's reports were reviewed only in committee, not examined in plenary as required under the Parliamentary Procedure along, with a formal outcome document, indicating a weak relationship.²³⁵ The report for 2018 was brought before the plenary, which is positive. However, the review was not very substantive, perhaps due in part to the opposition's boycott of the work of the National Assembly at this time.²³⁶

In addition to formal accountability mechanisms, accountability to the public is important for independent institutions to ensure that they remain responsive to the public interest. Public accountability can include proactive use of outreach, public accessibility and transparency measures.²³⁷ As noted above, political party and civil society interlocutors reported differing levels of satisfaction with engagement with the APC. It is important that the APC, and its Department for Control of Financing of Political Activities in particular, continue to build on these efforts with political parties, while increasing outreach and engagement with civil society.

It is also important that there are clear standards and procedures in place that can help to measure performance both within and outside the institution. These should be transparent to the public. The APC should ensure that written procedures and policies are in place for key processes (including complaint processes, as discussed above) to create a framework for internal and external stakeholders to understand and measure its performance.

²³⁰ Glušac, Luka. "The Relationship of the National Assembly of the Republic of Serbia to the Agency for Prevention of Corruption," (2020). *IDSCS*.

²³¹ Law on the Prevention of Corruption, Articles 13 and 24.

²³² Glušac, Luka. "The Relationship of the National Assembly of the Republic of Serbia to the Agency for Prevention of Corruption," (2020). *IDSCS*.

²³³ Law on the Prevention of Corruption, Article 39.

²³⁴ Shein, Erica and Alexandra Brown, "Preserving Independent and Accountable Institutions—COVID-19 Briefing Series," (2020). *IFES*.

²³⁵ De Vrieze, Franklin and Luka Glušac, "Parliament's relationship to anti-corruption agencies: Evidence from Lithuania, Ukraine and Serbia," (July 2020). *Westminster Foundation for Democracy*.

²³⁶ De Vrieze, Franklin and Luka Glušac, "Parliament's relationship to anti-corruption agencies: Evidence from Lithuania, Ukraine and Serbia," (July 2020). *Westminster Foundation for Democracy*.

²³⁷ Shein, Erica and Alexandra Brown, "Preserving Independent and Accountable Institutions - COVID-19 Briefing Series," (2020.) *IFES*.

Recommendations

1. *Improve processes and procedures to build trust in the APC:* The APC should work to ensure that procedures and policies are formalized in writing and published to build trust and maintain accountability to the public. These formalized procedures and policies can also form the basis for internal and external performance monitoring. Further, the APC should consider submitting reports to the National Assembly on its own initiative to highlight critical areas of concern or recommendations, particularly those related to political finance and abuse of state resources, to help build a stronger oversight relationship with the National Assembly. The reports should be transparent and include insights from civil society and other stakeholders to bolster public support.
2. *Engage civil society to build transparency and accountability:* The APC should consider proactively engaging and collaborating with civil society organizations, especially those involved with monitoring money in politics. This would improve relationships between government and civil society on anti-corruption oversight and strengthen trust in the APC as a transparent and accountable institution that is free of political influence.

Electoral Dispute Resolution

Effective resolution of electoral disputes is vital to guaranteeing the integrity and legitimacy of an election. IFES has developed a clear and rigorous methodology to measure the effectiveness and credibility of the electoral dispute resolution process, drawing from internationally accepted standards and grounded in the widely recognized fundamental right to participate in government.²³⁸ This assessment relied on these established standards to analyze EDR mechanisms in Serbia and make actionable recommendations grouped within four sub-categories: (1) the institutional EDR model; (2) rules and procedures for investigating and resolving complaints and disputes; (3) remedies and sanctions for and enforcement of decisions; and (4) public outreach and training.

This assessment found the second element—the rules and procedures for investigating and resolving complaints—a priority area for reform. Interlocutors highlighted the significant challenges to ensuring procedural due process stemming from short timelines to resolve disputes as well as significant gaps in procedures for complaint adjudication and investigation. Additionally, the assessment indicates a need to introduce training and public outreach to increase the credibility of the dispute resolution process.

The Institutional Electoral Dispute Resolution Model

The purpose of an electoral complaints process is to maintain credibility and reliability through a clear and consistent right of redress that is available to all injured parties. This right must be clearly established in the law and known to the public. Specifically, political parties, candidates and voters

²³⁸ These criteria include: (1) an established right of redress for election complaints and disputes; (2) a clearly defined regimen of election standards and procedures; (3) an impartial and informed arbiter; (4) a system that judicially expedites decisions, while protecting due process; (5) established burdens of proof and standards of evidence; (6) meaningful and effective remedies; and (7) an effective process to educate relevant stakeholders. These standards are covered in more detail in Vickery, Chad, “Guidelines for Understanding, Adjudicating, and Resolving Disputes in Elections (GUARDE),” (ed. 2011). IFES.

need to know which entity has jurisdiction over specific types of disputes, as well as the procedural and substantive rules that will govern the complaint.

In Serbia, jurisdiction over electoral complaints is relatively straightforward. Administrative complaints and complaints regarding violations to electoral rights can be submitted to the relevant election commission—RIK for national elections and the relevant EMB within the Local Self-Government unit for local elections. No complaint procedures exist in the Law on Election of President of the Republic although, in practice, complaints regarding presidential elections follow the same procedures as those stated in the Law on the Election of Members of Parliament.

Despite including a number of party representatives on its staff, interlocutors generally consider RIK to be more or less neutral in decision-making.²³⁹ However, interlocutors consistently found the EDR process ineffective, primarily due to the very short deadlines and challenges in collecting evidence to prove complaints²⁴⁰ (discussed in more detail in the section below). Additionally, the OSCE/ODIHR Final Report notes, “complaints against RIK decisions are filed with RIK itself, which entails a risk of conflict of interest.”²⁴¹ This model is not uncommon, and the risk can be mitigated by ensuring a right of appeal. While RIK reviews complaints in full sessions, which are open to the public, complainants do not participate in the process. There is also no legal requirement that RIK publish decisions, although it began publishing decisions online for the recent elections. However, interlocutors indicated that those decisions were not published until weeks after election day.²⁴²

There are no official statistics on election complaints filed with RIK; however, decisions are available on its website along with recordings of the session in each decision is taken. CeSID used the information on the RIK website, as well as information collected from observers, to analyze the complaints submitted during the 2020 parliamentary elections cycle. According to CeSID’s estimate, around 6,000 complaints were submitted to RIK during the cycle—a majority regarding resumption of the campaign period following the pause for COVID-19 and irregularities in the work of polling boards.²⁴³ While many were identical or duplicates,²⁴⁴ ultimately CeSID found that only three complaints were upheld.²⁴⁵ This discrepancy hints at the underlying challenges in pursuing a remedy through the formal EDR system. Additionally, according to interlocutors, most complaints are generally submitted by political parties and citizen observer groups (filing as voters), but (aside from the duplicate complaints submitted during the 2020 parliamentary elections) very few by voters.²⁴⁶ This is especially true at the local level, and interlocutors have

²³⁹ Interlocutor interview with civil society expert.

²⁴⁰ Interlocutor interview with civil society expert.

²⁴¹ OSCE/ODIHR Final Report, page 19.

²⁴² Interlocutor interview with civil society expert.

²⁴³ CeSID Report.

²⁴⁴ For example, 2,591 complaints were filed by voters against RIK’s decision to resume the election process due to concerns about the persistent COVID-19 public health risks. These complaints were allegedly copy-and-paste duplicates instigated by a Facebook page. OSCE/ODIHR Final Report, page 20.

²⁴⁵ CeSID Report.

²⁴⁶ Interlocutor interview with civil society expert.

noted that voters may fear blame and repercussions after putting their names on official complaints.²⁴⁷

Complaints regarding political and campaign finance and use of state resources are filed with the APC. The APC also has the authority to initiate proceedings *ex officio* in response to findings during monitoring activities, as mentioned above under “Political and Campaign Finance.” In response to proceedings, the APC can issue warnings and initiate misdemeanor and criminal proceedings for violations of the Law on Financing Political Activities, although it does not prosecute directly.²⁴⁸ As noted above in the “Political Finance and Corruption in Elections” section, political party interlocutors generally viewed the work of the APC more favorably than did civil society. However, interlocutors noted that recent legal reforms had increased the transparency and efficiency of the complaints process.²⁴⁹

Decisions from RIK, local EMBs and the APC²⁵⁰ can all be appealed to the Administrative Court of Serbia, which issues a final decision. During the 2020 parliamentary elections, the court heard 4,912 appeals—the majority of them appeals of decisions by the RIK.²⁵¹ While interlocutors in general seemed to believe that the court is unbiased, they expressed concerns regarding the short deadlines under which cases must be decided.²⁵² Some interlocutors felt that the court does not examine evidence but tends to “copy and paste” RIK’s decisions due to the short timeframe.²⁵³ Positively, though, interlocutors noted that the court produces timely decisions and posts them online, where they serve as an important resource for observers when information is not immediately available from RIK.²⁵⁴

Rules and Procedures for Investigating and Resolving Complaints and Disputes

The existence of clear and consistent standards and procedures to resolve election disputes is critical for building and maintaining trust in the electoral process. They should include clear guidance on legal standing, the burden of proof, standard of evidence, possible remedies and timelines. These standards and procedures must be established well ahead of the start of the electoral process and clearly communicated to stakeholders.²⁵⁵

Taken together, the provisions included in the existing laws, regulations and rules of procedure for the resolution of administrative complaints are quite broad, and there are significant gaps. There is no guidance on the requirements for a valid complaint, the types of evidence that can be considered, the level of investigation needed for different types of complaints or the standard of evidence needed for a complaint to succeed. There is no indication of the burden of proof in the

²⁴⁷ CeSID Report.

²⁴⁸ Law on the Prevention of Corruption, Art. 6; Law on Financing Political Activities, Articles 35–37.

²⁴⁹ See, for example, “Parliamentary Elections 2020: Final Report with Recommendations (Summary),” (2020). *CRTA*, page 6.

²⁵⁰ In cases not involving criminal or misdemeanor offenses (e.g., suspension of the transfer of funds from public sources). Law on Financing Political Activities, Article 43.

²⁵¹ According to consultations with the Administrative Court of Serbia, 4,674 were appeals from the RIK, one from provincial election commissions, 113 from local election commissions, and 112 from municipal electoral commissions.

²⁵² Interlocutor interview with civil society expert and political party representative.

²⁵³ Interlocutor interview with political party representative.

²⁵⁴ Interlocutor interview with civil society expert.

²⁵⁵ Vickery, Chad, “Guidelines for Understanding, Adjudicating, and Resolving Disputes in Elections (GUARDE),” (ed. 2011). *IFES*.

electoral legal framework, although the Law on General Administrative Procedure indicates that the burden falls to the complainant.²⁵⁶ The laws do provide some guidance on legal standing, although this is not entirely consistent between local and national elections.²⁵⁷

The election laws provide a clear timeline for the dispute resolution process; however, the deadlines are unreasonably short and impede both due process protections and effective investigation. While tight and rigid electoral calendars can necessitate prompt dispute resolution proceedings, it is important to ensure an appropriate balance between fairness and efficiency to prevent cases from being dismissed without investigation, violating the right to a fair hearing.²⁵⁸ The OSCE/ODIHR Final Report noted that current deadlines for filing complaints and issuing decisions are “contrary to international good practice” and recommended that the deadlines be extended.²⁵⁹ Interlocutors consistently repeated this finding.

While the Law on the Election of Deputies and the Law on Local Elections list the deadlines separately, they are very similar. Complaints must be submitted to the relevant election commission²⁶⁰ within 24 hours of the contested action, omission or decision; however, the Law on Local Elections states “within 24 hours from the *day*”²⁶¹ while the Law on the Election of Deputies states “within 24 hours from the *hour*.”²⁶² The relevant commission must return a decision within 48 hours of receiving the complaint.²⁶³ The deadlines for filing an appeal are even shorter for local election disputes than those related to national elections—24 hours from the delivery of the decision for local election complaints²⁶⁴ versus 48 hours to file an appeal for national election complaints.²⁶⁵ For appeals on both local election and national election complaints, the Administrative Court must issue a decision within 48 hours.²⁶⁶

The short deadlines do not meet international standards and do not provide sufficient time for complainants to submit their complaints or appeals.²⁶⁷ The deadline to submit complaints is especially short, as the time begins with the decision, action or omission of the election officials rather than when the complainant is made aware of the harm. The OSCE/ODIHR Final Report recommends that “deadlines for submission should run from the moment when the irregularity

²⁵⁶ See Law on General Administrative Procedure, Article 127.

²⁵⁷ For national elections, legal standing is provided to voters, candidates, and those who submit electoral lists for “violations of electoral rights during the election or irregularities in the nomination or election procedure.” Standing for irregularities in counting or complaints related to the results is not explicitly mentioned, although in practice standing is recognized. Law on the Election of Deputies, Article 95. On the other hand, the Law on Local Elections provides standing to voters, candidates or nominators to file complaints due to “irregularities in the procedure of candidacy, implementation, determination and publication of election results,” which seems to encompass more administrative causes of action but does not explicitly include violations of electoral rights. Law on Local Elections, Article 52.

²⁵⁸ “Elections on Trial,” *IFES*, page 30-31.

²⁵⁹ OSCE/ODIHR Final Report, page 19-20.

²⁶⁰ Either RIK for national elections or the relevant EMB within the Local Self-Government unit for local elections.

²⁶¹ Law on Local Elections, Article 52.

²⁶² Law on the Election of Deputies, Article 95.

²⁶³ Law on the Election of Deputies, Article 96; Law on Local Elections, Article 53.

²⁶⁴ Law on Local Elections, Article 54. The relevant commission then has 12 hours to submit all relevant documents and data to the court.

²⁶⁵ Law on the Election of Deputies, Article 97. RIK then has 24 hours to submit all relevant documents to the court.

²⁶⁶ Law on the Election of Deputies, Article 97; Law on Local Elections, Article 54.

²⁶⁷ Opinion No. 190/2002: Code of Good Practice in Electoral Matters, Part II, 3.3(g), *European Commission for Democracy through Law (Venice Commission)*.

came to the attention of the complainant.”²⁶⁸ While there are no official statistics on the number of complaints dismissed for missing a filing deadline, during the 2020 parliamentary elections, voters filed 2,591 complaints against the RIK’s decision to resume the election process due to concerns about persistent COVID-19 public health risks.²⁶⁹ Although these complaints were allegedly copy-and-paste duplicates instigated by a Facebook page, they were summarily dismissed due to failure to meet the 24-hour submission deadline.²⁷⁰

There is also insufficient time for complainants to substantiate their complaints or for election commissions or the Administrative Court to fully investigate claims. While neither the Law on the Election of Deputies nor the Law on Local Elections provides any guidance on types of admissible evidence or the investigation process, the Law on General Administrative Procedure fills the gaps in the law for national elections²⁷¹ and provides that “all resources suitable for the establishment of the facts in a particular case may be used as evidence,” explicitly listing documents, testimony by witnesses, statements by parties, findings and opinions of expert witnesses and onsite investigation.²⁷² The Law on General Administrative Procedures also requires public hearings unless otherwise specified in the law.²⁷³ However, due in part to the restrictive timeframes, interlocutors have noted that the decisions of RIK in practice hinge entirely on the official minutes of the polling station. If there is no mention of an irregularity in those records, complaints are usually dismissed without further investigation.²⁷⁴ CeSID found that this practice has “limited the range of objections raised by voters,” given their capabilities and authority relative to those of polling stations.²⁷⁵ According to interlocutors, it is practically impossible for voters to provide the commission with evidence—all they have is their own word.²⁷⁶

It is not uncommon in election disputes for an imbalance to exist in terms of access to evidence between a complainant and an EMB. This places an extra burden on EMBs to proactively investigate legitimate complaints. Reliance on the minutes from the polling stations as the only source of evidence is especially concerning given the quality of the documentation. The Instructions for Implementing the 2020 Parliamentary Elections included new provisions stating that RIK will annul the results of voting at polling stations when the station’s minutes are not submitted or it is not possible to determine the results of voting.²⁷⁷ This led to RIK calling for repeat voting at 233 polling stations, whereas the results from only one polling station were annulled through the formal complaints process.²⁷⁸

The Administrative Court faces similar challenges stemming from the short deadlines. Administrative Court processes are generally governed by the Law on Administrative Disputes,

²⁶⁸ OSCE/ODIHR Final Report, page 20.

²⁶⁹ OSCE/ODIHR Final Report, page 20.

²⁷⁰ OSCE/ODIHR Final Report, page 20.

²⁷¹ Rules of Procedures, *Republic Election Commission*, Article 24.

²⁷² Law on General Administrative Procedure, Article 139.

²⁷³ Law on General Administrative Procedure, Articles 9 and 144–153.

²⁷⁴ Interlocutor interview with civil society expert.

²⁷⁵ CeSID Report.

²⁷⁶ Interlocutor interview with civil society expert.

²⁷⁷ CeSID Report.

²⁷⁸ CeSID Report.

which, for example, provides for public hearings to determine the facts of the case.²⁷⁹ The court is normally able to decide a case without a hearing if “the matter of the dispute is such that it obviously does not require direct hearing” or if the parties agree to forgo the hearing.²⁸⁰ In any case, the court is required to provide a justification when it does not hold a public hearing.²⁸¹ However, due to the short deadlines, the court has found that public hearings are not appropriate for election disputes, so such hearings are never held for election complaints.²⁸² According to the OSCE/ODIHR Final Report, the court stated that “the 48-hour deadline does not provide adequate time for a thorough review of the case to render a final decision and does not allow time for a public hearing.”²⁸³ Because of the short deadlines for decision-making and the large number of appeals, the Court employs a 24/7 standby for judges and support staff from until post-election day complaints are decided and it suspends adjudication of non-election disputes.²⁸⁴ Additionally, interlocutors have noted that summoning witnesses from across the country within the timeframe would be practically impossible.²⁸⁵ This renders the fundamental right to appeal virtually impossible to uphold in the electoral context in Serbia.

The Law on Financing of Political Activities includes the relevant legal provisions for resolving complaints submitted to the APC regarding campaign finance and use of administrative resources. However, there separate provisions in the Law on the Prevention of Corruption apply generally to complaints regarding corrupt conduct,²⁸⁶ and these include more detail than the provisions in the Law on Financing of Political Activities.²⁸⁷ For example, the Law on the Prevention of Corruption includes explicit standards for a complaint and the responsibility of the APC to attempt to remedy invalid complaints,²⁸⁸ which is not included in the Law on Financing Political Activities. It is unclear why there are separate processes under these two laws or why these legal provisions are inconsistent.

The Law on Financing Political Activities does include some guidance on investigation of complaints, providing that the APC can summon individuals and request data in order to determine if there has been a violation of the law.²⁸⁹ Additionally, the APC has five days to investigate and issue a decision on a complaint, which provides more time to investigate and substantiate complaints, and it is required to publish decisions on its website within 24 hours.²⁹⁰ The Law on General Administrative Procedure governs any gaps in the Law on Financing Political Activities.²⁹¹ The APC also indicated that, while it has internal process for managing complaints based on practice, it would benefit from establishing written processes and procedures.

²⁷⁹ Law on Administrative Disputes, Articles 33 and 35.

²⁸⁰ Law on Administrative Disputes, Article 33.

²⁸¹ Law on Administrative Disputes, Article 33.

²⁸² Consultation with Administrative Court of Serbia.

²⁸³ OSCE/ODIHR Final Report, pages 19–20.

²⁸⁴ Consultation with Administrative Court of Serbia.

²⁸⁵ Consultation with Administrative Court of Serbia.

²⁸⁶ Law on the Prevention of Corruption, Articles 87–92.

²⁸⁷ Law on Financing of Political Activities, Articles 35–37.

²⁸⁸ Law on the Prevention of Corruption, Articles 87–88.

²⁸⁹ Law on Financing of Political Activities, Article 35.

²⁹⁰ Law on Financing of Political Activities, Article 35.

²⁹¹ Law on Financing of Political Activities, Article 36.

Remedies, Sanctions and Enforcement of Decisions

An effective complaints adjudication process must provide meaningful and appropriate remedies. These remedies must be clearly established ahead of the electoral process, and effective mechanisms should exist to ensure enforcement.²⁹²

For administrative complaints, interlocutors consulted during this assessment were primarily concerned with the ability to receive a fair hearing, which is undermined by extremely short deadlines throughout the EDR process that restrict opportunities to substantiate or investigate complaints. Although concerns were raised about the possibility of receiving a remedy through the formal EDR process, no specific concerns focused on the quality of remedy available.

That being said, no specific remedies are outlined for different types of administrative complaints specified in the legal framework, which states only that if a complaint is resolved in favor of the complainant, then the action or decision of the election commission at issue will be “annulled.”²⁹³ The one exception is that annulling election results at specific polling stations is explicitly provided for in the legal framework as a remedy for a list of election day violations, including for example, the presence of more voters than there are spaces available to ensure the secrecy of the vote or the unlawful presence of a police officer in the polling station.²⁹⁴ These are not the only circumstances for which RIK can order repeat voting at a polling station. For example, RIK found for the complainant in a case in which a voter was denied the right to vote because another voter signed in his place on the voters list and ordered the vote to be repeated at a polling station in Belgrade.²⁹⁵

Annulment is a disproportionate remedy for some of these violations, and it is important that clear standards are established for the annulment of election results to avoid disenfranchising voters. While annulments may be necessary under certain circumstances—particularly when irregularities may have impacted the results—they can also stir political conflict or be manipulated to frustrate the will of the voters.²⁹⁶ Interlocutors have noted that, when repeat voting is called for at a polling station, there is usually significantly less turnout than on election day; this could undermine the will of the voters if the results are annulled for isolated violations that did not impact the overall results. To avoid overreliance on annulment of the results of polling stations, it is important that appropriate remedies be provided for in the legal framework that respond directly to the harm caused by specific irregularities.

²⁹² Vickery, Chad, “Guidelines for Understanding, Adjudicating, and Resolving Disputes in Elections (GUARDE),” (ed. 2011). *IFES*, Chapter 1.

²⁹³ Law on the Election of Deputies, Article 96; Law on Local Elections, Article 53.

²⁹⁴ Law on the Election of Deputies, Article 58. The full list includes: (1) members of the polling station committee or their deputies are not present at the polling station while it is open and voting is in progress; (2) a separate room is not provided in each polling station where it is possible to ensure the secrecy of the vote; (3) more voters are present than there are spaces available to ensure the secrecy of the vote; (4) presence of persons in the polling station who do not have a legal right or duty to be there; (5) unlawful presence of on-duty police officers.

²⁹⁵ It should also be noted that the most recent election was the first in which the results of polling stations could be automatically annulled where the minutes of the polling station are not submitted or where it is not possible to determine the results of voting. This led to repeat voting at 233 polling stations. CeSID Report.

²⁹⁶ Vickery, Chad, David Ennis, Katherine Ellena and Alyssa Kaiser, “When are Elections Good Enough? Validating or Annuling Election Results,” (October 2018). *IFES*.

On the other hand, penalties for criminal conduct are explicitly included in legal framework.²⁹⁷ However, similar to administrative complaints or violations of electoral rights, interlocutors expressed concern primarily about the challenges to effective prosecution and enforcement rather than the appropriateness of the penalty. Interlocutors noted that criminal complaints of offenses such as pressure, corruption and vote buying are very difficult to prove and that not many cases are successful.²⁹⁸ Additionally, interlocutors noted that the resolution of criminal complaints can take years, it is difficult to track cases through the criminal system and the public prosecutor is not transparent regarding the selection of cases.²⁹⁹

For complaints on campaign finance or use of administrative resources submitted to the APC, remedies and misdemeanor or criminal penalties are clearly stated in the Law on Financing of Political Activities. However, some interlocutors felt that the APC did not initiate enough criminal proceedings and that complaints were resolved inconsistently or were dismissed due to unnecessarily narrow interpretations of the law.³⁰⁰ CRTA noted that “numerous examples of public officials’ campaigning and misuse of public resources, both by officials and political entities, went unpunished” and that “even in cases where it was found that the law had been violated, the Agency [APC] showed inconsistency in imposing sanctions on various political entities.”³⁰¹ Establishing written standards of procedures for the resolution of complaints, including evidentiary standards, as discussed above, may help to ensure consistency in decisions.

Public Outreach and Training on Electoral Dispute Resolution

Public trust in and understanding of the complaints adjudication system are key elements in a credible electoral process. Targeted training at all levels is critical to ensure that officials are equipped to exercise their mandate within the legal and regulatory framework, and that stakeholders trust officials to exercise this duty. In addition, for a complaints adjudication system to be implemented properly, stakeholders need to be fully informed on how to access it.³⁰²

No training is currently provided to RIK temporary staff, commissioners or polling board members on EDR laws and procedures. Such training could complement training sessions for polling board members focused on recognizing, remedying and reporting electoral violations that was recommended under “Accessibility of Polling Stations and Voting Procedures.” Similarly, there is no public outreach for complaints adjudication, nor are any materials available to guide voters through the process of submitting a complaint. Interlocutors noted that there is insufficient awareness of the process, that some complaints have been submitted that are unrelated to election legislation, and that the development of manuals and other guidance on the topic would be desirable.³⁰³

²⁹⁷ Law on the Election of Deputies, Articles 104-114 (applying to local elections according to Law on Local Elections, Article 58). No crimes or criminal penalties are listed in the Law on Presidential Elections.

²⁹⁸ Interlocutor interview with civil society expert.

²⁹⁹ Interlocutor interview with civil society expert.

³⁰⁰ Interlocutor interview with political finance expert.

³⁰¹ CRTA Report, page 6.

³⁰² Vickery, Chad, “Guidelines for Understanding, Adjudicating, and Resolving Disputes in Elections (GUARDE),” (ed. 2011). *IFES*, Chapters 1 and 5.

³⁰³ Interlocutor interview with election administration.

Administrative Court judges have received some specific training on election law, although the most recent was in 2018.³⁰⁴ Because there is not a sufficient number of judges in the Administrative Court, all judges adjudicate election cases, and no judges specialize in election disputes.³⁰⁵

Recommendations

1. *Conduct an inclusive, consultative review of the legal and regulatory framework to guide a reform process to fill gaps and ensure consistency:* The RIK, APC and Administrative Court should play a central role in electoral legal reform discussions, in consultation with political parties and other stakeholders, to ensure reform discussions align with operational and technical considerations and respond to identified needs. This approach would allow the electoral institutions to identify issues that could be addressed through procedural reforms. In particular, these reform efforts should identify targeted remedies to respond directly to different types of irregularities, provide clear evidentiary and investigation standards and ensure consistency across dispute resolution processes for different elections (local, national assembly, presidential).
2. *Establish consistent rules of procedure to resolve electoral complaints and introduce robust, transparent and secure case management systems in the RIK and APC:* These rules of procedure should fill gaps identified above, including, for example, providing guidance on requirements for complaints, types of evidence to consider and investigation procedures. Rules of procedure are also important for complaint management, as they create clear process for complaint resolution, including registering complaints, assigning cases, collecting and cataloging evidence, providing notice, scheduling hearings and recording decisions.³⁰⁶
3. *Update filing and decision-making timelines to protect due process and meet international standards:* Review and reform filing and decision-making timelines to allow sufficient time for complaints and appeals to be prepared and filed and for due process protections by giving adjudicators the time they need to conduct proper investigations, hold hearings, make well-informed and just decisions, and provide a timely remedy.
4. *Increase the capacity of election management bodies on EDR and investigation:* To ensure uniform standards and consistency in the dispute resolution process, election commissions and polling boards should receive training on the EDR process. Trainings and workshops could be implemented with RIK, the Administrative Court, the prosecutor's office and police and cover international standards for adjudication of electoral complaints and investigation standards and provide comparative examples to guide reform.
5. *Conduct voter education and public outreach on using and accessing the complaint adjudication process:* RIK should develop an outreach plan and work with civil society organizations to enhance awareness and understanding of the election complaints

³⁰⁴ Consultation with Administrative Court of Serbia.

³⁰⁵ "Elections on Trial," *IFES*, page 13.

process among citizens, the media and civil society through increased public outreach, voter education and tailored training. This will empower voters to utilize formal complaints mechanisms and interact professionally with the process.



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