

PRESIDENTIAL ELECTIONS 2017



**CRTA**

**ELECTION OBSERVATION MISSION**

**CITIZENS ON WATCH**

**FINAL REPORT**



**WE THANK ALL OBSERVERS, PARTNER CIVIL SOCIETY ORGANISATIONS  
AND DONORS, WITHOUT WHOSE SUPPORT THE ELECTION OBSERVATION  
MISSION CRTA “CITIZENS ON WATCH” WOULD NOT BE POSSIBLE.**

**BELGRADE, MAY 2017**

## SUMMARY

<b>SUMMARY</b>	<b>3</b>
<b>ABBREVIATIONS</b>	<b>5</b>
<b>SUMMARY</b>	<b>6</b>
PRE-ELECTION PERIOD	6
ELECTION DAY	7
POST-ELECTION PERIOD	7
KEY RECOMMENDATIONS	8
<b>“CITIZENS ON WATCH” IN NUMBERS</b>	<b>9</b>
<b>OBSERVATION METHODOLOGY</b>	<b>11</b>
<b>ELECTION ADMINISTRATION – AUTHORITY AND LEGAL FRAMEWORK</b>	<b>13</b>
<b>ANALYSIS AND FINDINGS</b>	<b>14</b>
POLITICAL CONTEXT	14
OVERSIGHT MECHANISMS	17
REGULATORY AUTHORITY FOR ELECTRONIC MEDIA	17
ANTI-CORRUPTION AGENCY	20
OVERSIGHT COMMITTEE OF THE NATIONAL PARLIAMENT	21
<b>MEDIA</b>	<b>22</b>
MEDIA ENVIRONMENT	22
MEDIA MONITORING	23
<b>VOTERS LIST</b>	<b>28</b>
VOTING ACCORDING TO THE PLACE OF RESIDENCE AND DOMICILE	28
IDENTIFICATION OF VOTERS	29
PROBLEMS WITH SUBSEQUENT ENROLMENT IN VOTERS LIST	29
NOTIFICATIONS TO VOTE	29
VOTING ABROAD	29
NUMBER OF CITIZENS AND NUMBER OF VOTERS ENROLLED IN THE VOTERS LIST	30
<b>PRE-ELECTION PERIOD</b>	<b>31</b>
ELECTION ADMINISTRATION	31
PHENOMENON “CAMPAIGN BEFORE CAMPAIGN”	36
NOMINATION OF ALEKSANDAR VUČIĆ	37
NOMINATION OF SAŠA JANKOVIĆ	38
POLITICAL RECOMMENDATIONS, TOPICS AND COMMUNICATION CHANNELS	39
NEGATIVE CAMPAIGN AND HATE SPEECH	40
VOTE-BUYING, PRESSURE ON VOTERS AND PUBLIC RESOURCES MISUSE IN THE CAMPAIGN	41
<b>ELECTION DAY</b>	<b>42</b>
ELECTION ADMINISTRATION	42
POLLING STATIONS OPENING	43
VOTING PROCESS	43
CLOSING OF POLLING STATIONS AND VOTE COUNTING	45
<b>POST-ELECTION PERIOD</b>	<b>46</b>
TURNOUT AND RESULTS – CRTA/REC	46
ELECTORAL FORENSICS	48
ELECTION ADMINISTRATION	48

<b>GENERAL RECOMMENDATIONS</b>	<b>53</b>
<b>COMPLAINTS SUBMITTED TO REC</b>	<b>54</b>
<b>TRANSPARENCY OF THE ELECTORAL PROCESS AND DATA AVAILABILITY</b>	<b>55</b>
<b>UPDATING THE VOTERS LIST</b>	<b>56</b>
<b>A MORE EFFICIENT WORK OF THE REC</b>	<b>57</b>
<b>THE WORK OF POLLING BOARDS</b>	<b>58</b>
<b>VOTING ABROAD</b>	<b>59</b>
<b>PUBLIC RESOURCES ABUSE AND PUBLIC OFFICIALS' CAMPAIGN</b>	<b>59</b>
<b>PRESSURE ON VOTERS</b>	<b>60</b>
<b>EFFICIENT MEDIA REGULATION</b>	<b>61</b>
<b>ABOUT CARTA</b>	<b>63</b>
<b>APPENDIX 1 - OVERVIEW OF COMPLAINTS FILED TO THE REC</b>	<b>64</b>
<b>APPENDIX 2 – COMPLAINTS SUBMITTED TO THE ANTI-CORRUPTION AGENCY BY THE CARTA ELECTION OBSERVATION MISSION “CITIZENS ON WATCH”</b>	<b>68</b>
<b>APPENDIX 3 – DIFFERENCES IN INSTRUCTIONS FOR THE WORK OF THE POLLING BOARDS 2016/17</b>	<b>75</b>
<b>APPENDIX 4 – DIFFERENCES IN THE INSTRUCTION FOR THE VOTING IN KOSOVO*</b>	<b>79</b>
<b>APPENDIX 5 - COMPLAINTS SUBMITTED TO THE ANTI-CORRUPTION AGENCY BY THE CARTA ELECTION OBSERVATION MISSION “CITIZENS ON WATCH”</b>	<b>82</b>



## Abbreviations

<b>Agency</b>	Anti-Corruption Agency
<b>PB</b>	Polling board
<b>VL</b>	Voters list
<b>CRTA</b>	Centre for Research, Transparency and Accountability
<b>CRTA-GnS</b>	CRTA election observation mission "Citizens on Watch"
<b>DS</b>	Democratic Party
<b>DSS</b>	Democratic Party of Serbia
<b>CC</b>	City Committee
<b>LSGU</b>	Local self-government Unit
<b>USP</b>	United Serbia Party
<b>LSV</b>	League of Social Democrats of Vojvodina
<b>LTO</b>	Long-term observer
<b>MDULS</b>	Ministry of Public Administration and Local Self-Governments
<b>MSP</b>	Ministry of Foreign Affairs
<b>MUP</b>	Ministry of Interior
<b>NARS</b>	National Assembly of the Republic of Serbia
<b>OSCE</b>	Organisation for Security and Co-operation in Europe
<b>REC</b>	Republic Electoral Commission
<b>REM</b>	Regulatory Authority for the Electronic Media
<b>RTS</b>	Public service broadcaster Radio Television of Serbia
<b>RTV</b>	Public service broadcaster Radio Television of Vojvodina

## SUMMARY

Serbia held regular presidential elections on April 2<sup>nd</sup> 2017. The CRTA observation mission “Citizens on Watch”, monitored the entire electoral process (pre-election period, Election Day and post-election period) on the territory of Serbia, as a local independent non-partisan observer. The electoral process observation methodology was based on the highest international election observation standards and on the Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organisations<sup>1</sup>.

Eleven candidates ran for the presidential race, one of them being the current Prime Minister.<sup>2</sup> This particular circumstance is very important when it comes to evaluation of presidential candidates’ equality. Electoral conditions were affected by (self-)restricted capacities of independent institutions that play an important role in the electoral process control: the Anti-Corruption Agency (the Agency) and the Regulatory Authority for Electronic Media (the REM). A precedent was set by the REM that had announced that it would not be actively monitoring the work of electronic media during the presidential campaign, but that it would only exercise its competences following citizens’ complaints about perceived irregularities. An Oversight Committee of the National Assembly of the Republic of Serbia had not been formed for these elections either, although it was supposed to exercise “general oversight over the actions of political parties, candidates and mass media during electoral process”. International observers monitored elections in extremely restricted capacities, as well. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) did not observe the elections either, not even at a restricted level during last year’s extraordinary parliamentary elections, but uniquely through the presence of the six-member expert team for monitoring of the electoral process. Representatives of different embassies and international institutions did observe these elections, but not in a systematic and comprehensive manner.

### PRE-ELECTION PERIOD

The pre-election period, i.e. the campaign was marked by inequality in media reporting, government officials campaigning and allegations on pressures and vote buying. Apart from inequality in media reporting, there was inequality caused by pressures and corruption that are very difficult to prove, primarily because they are criminal offenses. On the other hand, the intensity of visible inequality in the media, and covert, but also open support of public officials to a single candidate, as well as the campaigning from the Prime Minister position suffice to describe the pre-election period as unfair in accordance with international democratic standards. Up until the most restrictive legal deadline for presidential elections calling, the public wild guessed which elections would be called. That is why in Serbia there was an atmosphere of extraordinary elections, with utterly unnecessary pressure forced onto all participants in the electoral process, from electoral administration to the very candidates.

Bearing in mind the impact and the scope of the media, equality in media coverage is of an enormous significance for every campaign. The analysis of the work of the media and also of the institutions regulating their work, showed that this particular segment of the elections was neither legal nor fair – especially having in mind the conduct of the Regulatory Body for Electronic Media. This reflected in the fact that Aleksandar Vučić had had a significant advantage in media performance intensity compared to other candidates as well as in the manner the media had reported about presidential candidates’ activities, where, once again, Aleksandar Vučić had attracted the highest positive media attention. Feature stories about other candidates were neutral or negative, rarely positive.

Besides omnipresent media coverage, public officials’ campaign contributed to the fact that one presidential candidate had a convincing head start over all other candidates. Not only was it hard to differentiate activities of the Prime Minister from those of the presidential candidate, but there were also numerous irregularities regarding public function and resources abuse in Aleksandra Vučić’s campaigning. Having fewer observers on the field, the Anti-Corruption Agency failed to timely use its powers to influence the participants in the election process and to allow for more equitable electoral environment.

The number of allegations regarding a wide range of abuses of public authority, funds, social programmes, agricultural subsidies, grants to sports clubs, pressures and so-called “certain” votes, etc. associated with

<sup>1</sup> GNDEM - Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations

<sup>2</sup> The very fact that the presidential candidate Aleksandar Vučić still held his position of a Prime Minister was not a violation of law, nevertheless it was not either in the spirit of international practice for free and fair elections, because it was not possible to perceive a difference whether the candidate acted or was represented in the media as a Prime Minister or as a presidential candidate.

support to the presidential candidate was rather large in this electoral cycle. It is hard to conclude to what extent such irregularities influenced the outcome of elections, particularly without an ambiguous position of competent institutions, i.e. without prosecution of numerous allegations by the prosecutor's office, police, agencies, REM, inspections, etc. Despite all that, it convenes to emphasise that even if all allegations of abuse and pressures were untrue, consequences for the trust of citizens in the electoral process and the atmosphere, which is essential for free elections, were obvious and caused great damage to the democratic potential in Serbia.

The unique voters list was at the centre of public attention. The CRTA observation mission "Citizens on Watch" established that the disorganisation of the voters list characterised this electoral process, too, and that it had a significant impact on the decline in public confidence in the electoral process. Unlike the 2016 elections, this time citizens came forward asking about the possibility to vote abroad, to change the place of voting between two electoral rounds, as well as about the notifications for voting and the possibility to enter modifications in the voters list.

## ELECTION DAY

The Election Day quality analysis is based on the information gathered from 900 accredited and trained observers deployed to 450 polls on the basis of a representative random sample, short-term observers deployed to 30 polling stations outside the sample, as well as from 60 mobile teams that observed electoral occurrences outside polling stations in all districts in Serbia.

Election Day in Serbia was held in accordance with established procedures with individual irregularities that did not decisively affect the regularity of the process during the Election Day, or the outcome of elections. However, the observed irregularities, some of which had also been noted in previous election cycle, require that competent authorities commence to solve them in post-election period.

Irregularities on the Election Day were recorded in three percent of polling stations (totalling to approximately 250 polls), which is one percent less than during Parliamentary Elections in 2016. Such irregularities included, as in the previous election cycle, voting without identification documents, not using the invisible spray on people who had voted, keeping of parallel voters lists and records of voters who had casted their votes, pressure on voters outside polling stations, campaigning within 50 metres of the polling station. During the day, a positive trend was observed, sparked by the polling boards' initiative: a decrease of campaigning less than 50 metres from the polling stations. At the end of the day, such campaigning took place in less than one percent of cases.

This year, too, the public was upset by the inaccuracy of the voters list. The CRTA observation mission "Citizens on Watch" determined that at 16 percent of polling stations, there were cases where people reported to have been registered in the electronic voters list, but could not be found in the excerpt. Nonetheless, such irregularity concerned 0.2 percent of cases. Furthermore, at 11 percent of polling stations, there were isolated cases of people who were unable to find their name in the voters list excerpt, which indicates isolated problems with voters register in 27 percent of polling stations in Serbia.

During the Election Day, the CRTA observation mission "Citizens on Watch" received information about activities that were suspected to be vote buying. There were credible information gathered for three cases for suspicion of a criminal offence bribery at elections. The CRTA observation mission "Citizens on Watch" filed three criminal charges to the Prosecutor of Novi Sad against N.N. persons.

## POST-ELECTION PERIOD

In the post-election period, the CRTA observation mission "Citizens on Watch" primarily monitored the work of the REC particularly in the area of appeals taken into consideration, annulment of the results at certain polling stations, public opening of bags with election material and repeating of the elections at several polling stations, as well as declaration of the final election results. In the opinion of the CRTA observation mission "Citizens on Watch" legal team, the REC proceeded in accordance with its authorities and the law. On several occasions, the members disagreed on decision proposals. There were also discussions outside the scope of REC's competence (political arguments, member qualifications and speaking from the perspective of a party affiliation).

Following allegation of a potential electoral fraud advanced by representatives of Saša Janković's election headquarter on Election Day regarding 300.000 "stolen" votes, the CRTA observation mission "Citizens on Watch" filed on April 10<sup>th</sup>, a request to examine the records from 450 polling stations that were kept in the

observation mission sample, in order to compare them with photos of the records made by “Citizens on Watch” observers. (although the CRTA observation mission “Citizens on Watch” determined by a statistical analysis that the results published by the REC corresponded to its results projection based on a random representative sample – c.f. *CRTA and REC results comparison and election forensics section*). The REC did not respond to the aforesaid request, nor allowed the access to polling board records until the closure of this report.

Deciding on voters’ complaints, the REC annulled elections on 8 polling stations. Voting was repeated on April 11<sup>th</sup>. Additionally, pursuant to the decisions passed on by the REC and the Administrative Court, the elections were annulled on three more polling stations, where the voting was repeated on April 17<sup>th</sup>.

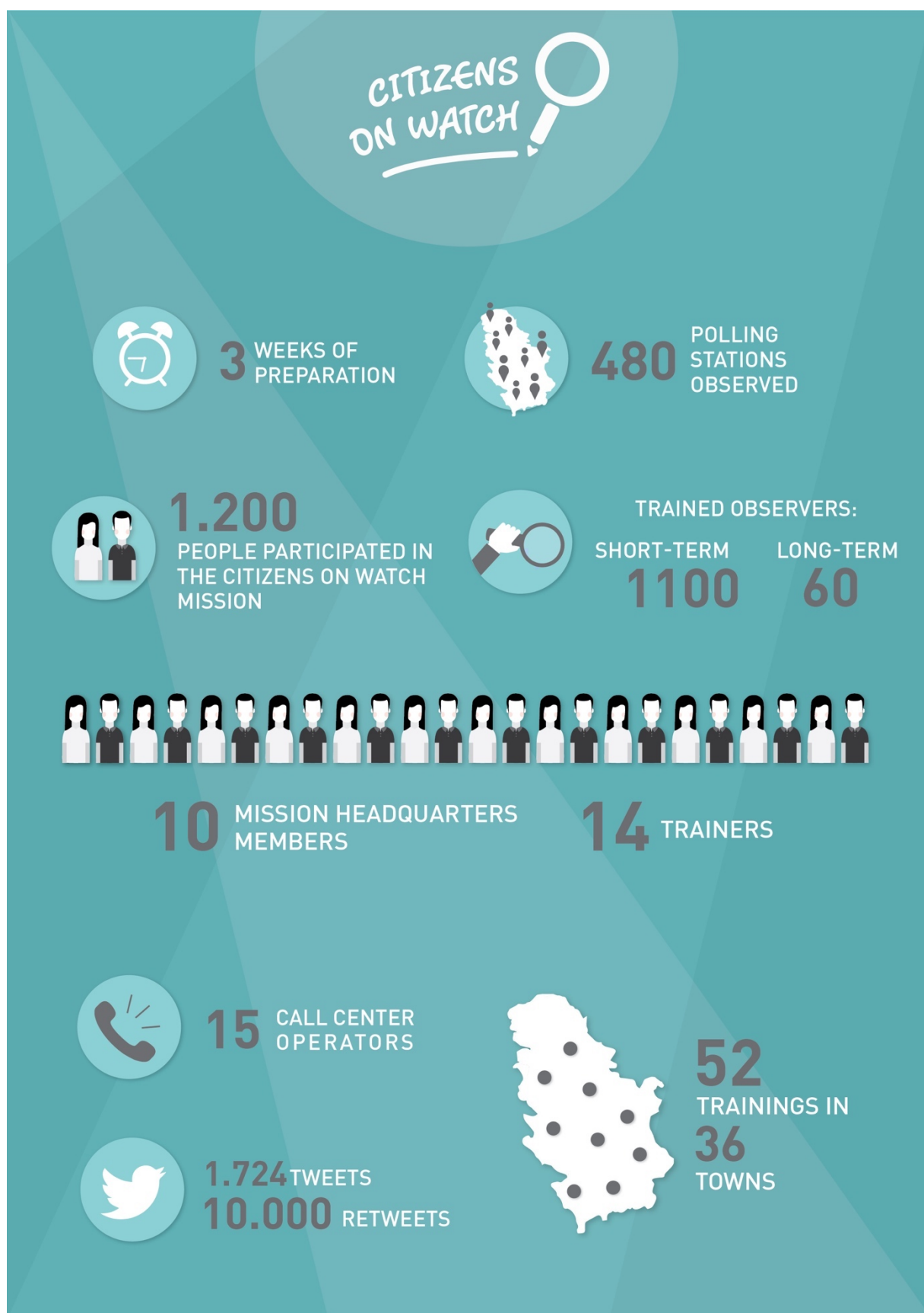
Following the repeated elections, the Republic Electoral Commission determined that Aleksandar Vučić had been elected president having won 2 012 788 votes, i.e. the majority of 3 654 014 casted votes, which has also been confirmed by the results of the CRTA observation mission “Citizens on Watch” parallel vote tabulation (PVT) based on a representative random sample of 450 polling stations.

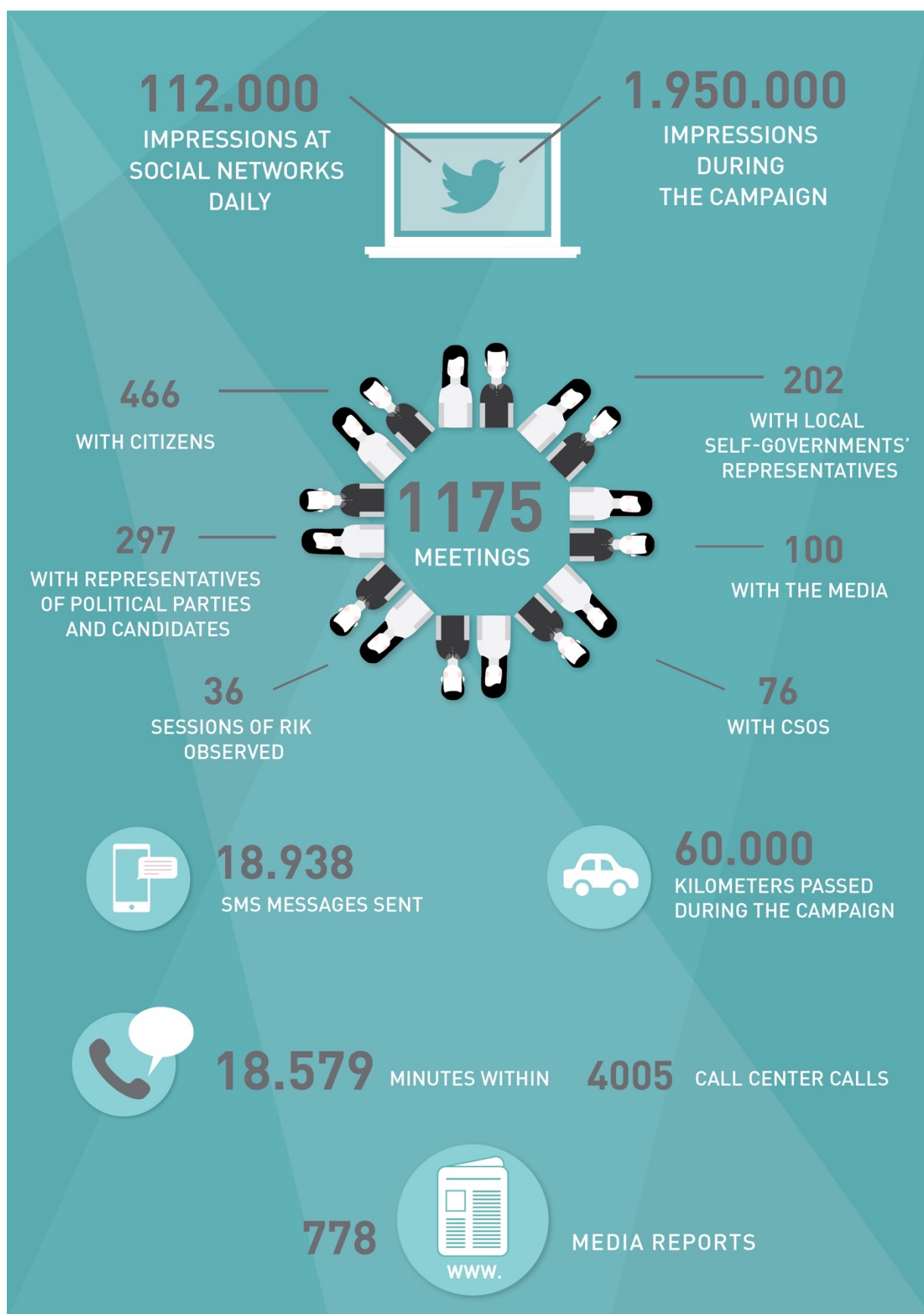
## KEY RECOMMENDATIONS

- Reform the REC into an independent and professional institution for the implementation of elections;
- Reorganise the system of electoral administration;
- Systematise electoral legal subject matter through one unique electoral law;
- Update the voters list;
- Improve the oversight of persons managing the voters list;
- Improve the coordination between registrar’s offices and offices in charge of voters list;
- Separate the process of candidacy announcement and the official beginning of the electoral campaign;
- Repeat elections in case of discrepancy between the polling board records and the determined factual state;
- Prescribe by the Law obligatory trainings and exams for the members of polling boards;
- Forbid ulterior modifications of the polling board records;
- Introduce short deadlines for the Anti-Corruption Agency and the REM to act on complaints;
- Introduce sanctions prescribed by the Law for misuse of property, names and activities of public companies in political purposes;
- Prohibit the participation of all public officials in the electoral campaign;
- Introduce legal prohibition of pressure on employees in public companies and public administration;
- Oblige the REM to inform the public on the work of broadcasters during and after the election campaign;
- Introduce clear indicators for evaluation of the work of the REM board.

All the recommendations of the CRTA observation mission “Citizens on Watch” can be found on the page 53.

## "CITIZENS ON WATCH" IN NUMBERS







## OBSERVATION METHODOLOGY

The CRTA is monitoring the entire electoral process under observation mission “Citizens on Watch”, as the level of democracy, freedom and fairness of the electoral process can be assessed only through systemic monitoring of pre-election period, Election Day and post-election period.

### PRE-ELECTION PERIOD

During this period, the team of long-term observers was assessing several aspects of the electoral process: election campaign (general information related to the campaign; major topics addressed in the campaign; general campaign climate; possible frauds and major violations of election laws during the campaign), the performance of the election administration, the use of public resources in the campaign and the reporting of the media about the candidates and the campaign.

The essential role of long-term observers is to monitor and assess the efficiency and impartiality of the election administration, the implementation of election laws and regulations, the nature of election campaign and political climate. To that end, the long-term observers established and maintained contact with the presidential candidates’ elections headquarters and representatives of the civil society, institutions and media.

CRTA’s election observation methodology is based on the highest international election observation standards (The Declaration of Principles for International Election Observation, the Code of Conduct for International Election Observers, the Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organisations and the Code of Conduct for Nonpartisan Citizen Election Observers), which enables the reporting on the quality of the actual electoral process.

### ELECTION DAY

For the Election Day monitoring, CRTA used the Parallel Vote Tabulation and statistic assessment of electoral process quality (PVT) methodology<sup>3</sup>. PVT methodology for elections monitoring enables the assessment of the entire voting process by the civil society and the reliability of official election results published by the election administration.

The PVT methodology uses a randomly selected sample of polling stations (PS), which means that the results are representative for the entire country. CRTA observers were deployed to a random representative sample of 450 polling stations throughout Serbia, whereas the observers deployed to the Republic Electoral Commission monitored this institutions’s activities on the Election Day.

This methodology enables the assessment of the entire voting process on the Election Day – opening of the polling stations, voting and vote count – in an unbiased and systematic manner. The mere monitoring and reporting on the election results do not always provide correct information on the results if all processes preceding voting have not been assessed, as the final results can emanate from irregularities or from inadequately collected data. Based on a representative sample, PVT enables detection of irregularities and violations of election procedures on the Election Day and provides information about regularity of the election process for the entire country.

The PVT methodology implies a constant observers’ presence at randomly selected polling stations, from the opening of polling stations until the records on the election results are compiled and the information sent via advanced technologies – mobile phones, SMS and 3G internet.

The PVT enables an independent assessment of official results and determines elections turnout and results with a very small margin of error. According to fundamental statistical principles, in case of regularly conducted elections, election turnout and results announced by the election administration should not significantly differ from those obtained by the PTV methodology used by the CRTA observation mission “Citizens on Watch”.

The reliability of statistical monitoring of the elections is 95%, which is very high and adopted by statisticians worldwide as a standard. The PVT does not enable the assessment of the legal framework nor of the voters’ motives and preferences. The PVT does not allow the evaluation of different events and developments that took place in the pre-election period that may have had certain effect on the outcome of the elections.

<sup>3</sup> More about the Election Day monitoring methodology [Sample Based Observation](#) and [Parallel Vote Tabulation](#)

#### POST-ELECTION PERIOD

The CRTA observation mission “Citizens on Watch” monitored the work of the Republic Electoral Commission until it declared official results, as well as resolution of electoral complaints about the performance of polling boards and the Republic Electoral Commission.



## ELECTION ADMINISTRATION – AUTHORITY AND LEGAL FRAMEWORK

The presidential elections are held in Serbia as one single constituency, by application of a majority rule, by voting for a presidential candidate. The candidate who wins the majority of votes shall win. If no candidate receives the required number of votes, an absolute majority of more than 50% of votes, the second round shall take place no more than 15 days later, between the two candidates who won the most votes. The winner is the one who receives the most votes in the second round.

A total of 6.724.172 voters had the right to cast their votes on 8396 polling stations in Serbia and abroad. The electoral campaign officially started on March 2<sup>nd</sup> 2017 when the elections were called. The electoral process ended on April 20<sup>th</sup> when the final results were announced by the Republic Electoral Commission (the REC).

The period for undertaking of concrete electoral activities started as of March 2<sup>nd</sup> 2017. Such activities are defined by the Schedule on electoral activities passed on by the REC within the scope of its competence.

The presidential elections of the Republic of Serbia are mainly regulated by the Law on Electing the President of the Republic of Serbia (ZIPR), while the issues that are not specifically defined by this law are stipulated by the Law on the Election of Members of the Parliament (ZINP). Apart from laws there are also bylaws of the Republic Electoral Commission (REC) that define more precisely the electoral process and the very Election Day - The Instructions for the Conduct of the Presidential Elections and the Instructions for the Work of Polling Boards for Presidential Elections Conduct. The REC also passes on the Instruction for the Conduct of Elections in Kosovo and Metohija.

Bodies in the parliamentary elections process are the Republic Electoral Commission (the REC) and Polling boards (PSC) that work in a permanent and in an extended composition. The work of polling boards is conducted at polling stations determined by the REC, in accordance with Law on the Election of Members of the Parliament and the Instructions for the Conduct of the Elections. In order to make the electoral process more legitimate and efficient, the REC passed on the the Rules on the Work of the Polling boards, that define more precisely the work of the polling boards in the conduct of the elections.

On the other hand, the Law on the unified voters list and the Instructions for the Conduct of the Elections stipulate how the voters list should be kept up-to-date. The unified voters list is a public document which contains a unified register of citizens of the Republic of Serbia who are eligible to vote. The contents of the voters list and its maintenance are within the competence of the Ministry of Public Administration and Local Self-Government (MDULS).

## ANALYSIS AND FINDINGS

### POLITICAL CONTEXT

The regular presidential elections in Serbia took place on April 2<sup>nd</sup> 2017. This was the fourth time in the last five years that citizens of Serbia went to polls.<sup>4</sup>

Serbia welcomed the presidential elections as a candidate country for accession to the European Union with eight open chapters. Moreover, Serbia entered these elections with an obligation to amend the Constitution as defined by the Action Plan for Chapter 23<sup>5</sup> that should have to be undertaken by the end of 2017.

The society of Serbia is still excessively polarised. Surveys<sup>6</sup> show that a majority of citizens is in favour of membership of the European Union, but that they are also satisfied with the existing cooperation with Russia and against NATO membership. Nevertheless, according to the researches that are regularly undertaken by the European Integrations Office, the citizens' support for European Integration decreases. When asked whether they would vote for Serbian EU membership, less than 50% of citizens responded affirmatively and that trend has been observed for the last three and a half years.<sup>7</sup> At the same time, one notes the strengthening of anti-European and pro-Russian forces in Serbia, which witnesses the voters' growing sentiment (that is even more widespread than reflected by the number of seats won at the Parliament)<sup>8</sup>. This is also supported by the fact that during the extraordinary parliamentary elections 2016, parties and movements that had openly advocated pro-Russian and anti-Western political options won seats at the parliament, which had not been the case in the 2014 elections, when they had not crossed the threshold<sup>9</sup>.

These presidential elections took place less than a year after the extraordinary parliamentary elections and a mere eight months after the forming of the Government. The new Government of the Republic of Serbia, led by the old-new Prime Minister Aleksandar Vučić, had been formed just before the expiration of the legal deadline following the extraordinary parliamentary elections, on August 11<sup>th</sup> 2016. This fact is even more significant if we bear in mind that the candidate of the most powerful party, the Serbian Progressive Party, was exactly the current Prime Minister Aleksandar Vučić. Additionally, this fact caused concern as it enabled the presidential candidate Aleksandar Vučić to access the media and other resources thanks to his current function, which could put other candidates in an unequal position. The very fact that the presidential candidate Aleksandar Vučić still held his position of a Prime Minister was not a violation of law; nevertheless it was not in the spirit of international practice for free and fair elections.

In the period preceding the calling of elections, pro-government media indicated that Saša Janković allegedly abused the function of the Ombudsman, as he was recognised in the public as a potential candidate at the upcoming presidential elections. In November 2016, one hundred public figures in Serbia petitioned for Janković to run for president of Serbia. Saša Janković tendered his resignation to the National Assembly on February 7<sup>th</sup> and announced that he would run for president.<sup>10</sup>

After the extraordinary parliamentary elections in 2016, the picture of Serbia changed drastically – nearly all local self-government units and the Parliament of the Autonomous Province of Vojvodina were taken over by the Serbian Progressive Party. Such change of the political map occurred in two ways: in a direct electoral game, but also in a massive reconfiguration of local self-government compositions after the completion of the electoral process, when certain party committees or groups of citizens got to the side of the ruling party even

<sup>4</sup> 2012 presidential and parliamentary elections, 2014 and 2016, extraordinary parliamentary elections and 2017 ordinary presidential election.

<sup>5</sup> Action plan for chapter 23 adopted at the government session on April 27<sup>th</sup> 2016, <http://www.mpravde.gov.rs/tekst/12647/akcioni-plan-za-pregovaranje-poglavlja-23-usvojen-na-sednici-vlade-srbije-27-aprila-2016.php>

<sup>6</sup> Belgrade Centre for Security Policy research „[Stavovi građana o spoljnoj politici Srbije](#)“

<sup>7</sup> In December 2013, 51% of citizens supported EU, but it has been in constant decline ever since. Source: European Integration Office

<sup>8</sup> The media monitoring performed by the CRTA, that includes eight dailies, four weeklies, five online media, as well as prime shows on three most viewed televisions, shows domination of the contents of pro-Russian orientation – mainly those that eulogise the Russian military force, but also its diplomacy and its alleged benevolence towards Serbia. The contents advocating values of the European Union or the USA are far less represented.

Additionally, the research performed by IPSOS for CEAS reveals that 71% of citizens think that a potential union with Russia would imply Russian military bases deployed on the territory of Serbia, which is supported by 80%.

<sup>9</sup> The Serbian Radical Party, the Democratic Party of Serbia and the movement Dveri won a total of 13% votes at the 2016 parliamentary elections. Also, the Democratic Party of Serbia, the movement Dveri and the Serbian People's Party signed with the ruling coalition in Russia – the United Russia – the Declaration of military Neutrality.

<sup>10</sup> [article on N1 portal](#)

though they were its harsh opponents before the campaign. By “party switchover” the voters’ will is altered and such political scenery set that it does not matter who the voter votes for, as post-electoral political games may crucially alter the result. In panoply of political circumstances that have a negative effect on a democratic nature of the elections, we include also changes on all levels, ranging from leadership to journalist positions in the public broadcast service of the Autonomous Province (RTV). After the extraordinary parliamentary elections in 2016, the picture of the parliament changed drastically in comparison to the previous Parliament convocation. A nearly two-third majority of the Parliament convocation of 2014 has significantly decreased<sup>11</sup> whereas the opposition block, although unconsolidated, strengthened. Although formed on June 4<sup>th</sup> 2016, the Parliament operated effectively only for three months, with frequent sessions interruptions and numerous discussions showing the lack of democratic culture and dialogue. The opposition often complained about the abuse of the Rules of Procedure of the National Parliament and about the fact that they were repeatedly prevented from voicing their attitudes. A regular spring session of the Assembly that begins on the first working day in March lasted only 15 minutes after which it was decided that the Assembly would not be in session during the presidential campaign<sup>12</sup>.

The pre-electoral atmosphere in this presidential campaign began rather early. Speculations about potential presidential candidates began as soon as the new Government was formed, in August 2016. On the other hand, up until the very last legal deadline for presidential elections calling, the public wild guessed whether in spring 2017, the citizens of Serbia would vote only in presidential elections or also in the new extraordinary parliamentary elections, and even in the extraordinary election for the Assembly of the City of Belgrade. There were also speculations about the election date, which paralysed all state institutions and even the entire society in view of any constructive political dialogue.

Although some opposition candidates announced their candidatures and began their campaigns before the elections were called, the public waited up until the very last moment to find out who would be the presidential candidate of the strongest, ruling party. The public was given the answer after a number of dramatic turns of events, when the current president Tomislav Nikolić declared not to run for a re-election. On the other hand, the current Prime Minister Aleksandar Vučić, decided to run for Serbian presidency although he had previously declared many times that he did not intended to be a candidate. He accepted the nomination “in order to secure the stability of the country”.

For a while, it had been indicated in the public that the opposition should unite behind a joint candidate. Nonetheless, the opposition failed to achieve consensus about it due to different ideological positions and individual interests that prevailed. One of the features of these elections is that the opposition candidates who have more chance to succeed according to opinion polls are nonpartisan candidates. This phenomenon, which many interpret as the saturation of the electorate with party activities and actions and the lack of faith in the ability of classical parties to solve the accumulated problems of citizens, reflected in the appearance of Preletačević Beli, a fairly unknown candidate from a small town in Serbia, whose campaign is a hilarious parody of current political practices. Although the strongest opposition candidate had the support of one of the major opposition parties, he entered the presidential race as a representative of a group of citizens. This is a sharp cut compared to earlier presidential elections when candidates were mostly party leaders.

These elections were held in a referendum-like atmosphere: on one side, there was a Prime Minister running for presidency and on the other everybody else.

Publicly accessible opinion polls (Ipsos Strategic Marketing<sup>13</sup>, Demostat<sup>14</sup>, Faktor Plus<sup>15</sup>) showed that the Prime Minister and the leader of the Serbian Progressive Party Aleksandar Vučić had more than 50 percent support and a big chance of winning in the first round. “The imperative” of the first round victory was being publicly repeated by the close associates and coalition partners of the current Prime Minister. Furthermore, the opposition believed the second round to be a victory, inviting voters to go to the polls in the largest possible number.

During the extraordinary parliamentary elections held in spring 2016, irregularities were registered in the work of the election administration, negative campaigning, discriminatory media coverage, frequent allegations of vote-buying and intimidations, as well as visible misuse of public resources in the campaign, which exhibit a

<sup>11</sup> Although the coalition gathered around the Serbian Progressive Party won approximately 100,000 votes more, nevertheless, as the coalition DSS/Dveri and LDP/LSV/SDS had passed the threshold, the SPP won 27 MPs less

<sup>12</sup> Article in the daily Danas.

<sup>13</sup> Article in the daily Politika.

<sup>14</sup> Article in the daily Danas.

<sup>15</sup> Article in the daily Blic.

whole range of issues requiring a systemic solution. The public opinion survey performed for the CRTA by Ipsos Strategic Marketing in July 2016 showed that 44 percent of citizens believed that there were irregularities during the extraordinary parliamentary elections in 2016.

Although national (CRTA<sup>16</sup>, CESID<sup>17</sup>) and international (OEBS/ODIHR<sup>18</sup>) observers came up with a number of recommendations as to how to improve the electoral process, in the one-year-period, between the parliamentary and presidential elections, administrative authorities were not ready to open a public debate on this topic.

The new composition of the Republic Electoral Commission (REC), established in August 2016, held only seven sessions until the calling of elections on March 2<sup>nd</sup> 2017 and mainly passed on decisions on the assignment of the deputy mandates.

The Oversight Committee of the National Assembly of the Republic of Serbia had not been formed for these elections either, although it was supposed to exercise "general oversight over the actions of political parties, candidates and mass media during electoral process"<sup>19</sup> and also to launch initiatives to initiate proceedings before the competent authorities "if any participant in the electoral campaign calls to violence, spreads national, religious or racial hatred by their conduct, or encourages gender discrimination". Even if the Law on the election of representatives of the Republic of Serbia explicitly stipulates that an Oversight Committee must be formed during the elections in order to engage in the electoral campaign, no government has done so since 2000.

Serbia welcomed the presidential elections with restricted capacities of independent institutions that play an important role in the electoral process control: the Anti-Corruption Agency (the Agency) and the Regulatory Authority for Electronic Media (the REM).

The Anti-Corruption Agency has the power to exercise control of the electoral campaign financing and the so-called government officials' campaign that marked the parliamentary elections in 2016, according to international observers' OSCE/ODIHR reports. For the first time, Serbia faced an unusual situation – the current Prime Minister was a presidential candidate at the same time. Aleksandar Vučić's decision to hold his position of a Prime Minister while running for presidency was not a violation of law, nevertheless the citizens could hardly perceive a difference whether the candidate was represented in the media as a Prime Minister or as a presidential candidate. The Anti-Corruption Agency had no director, or deputy director, but only an acting director on account of the failed first round in the new director recruitment process. Moreover, the Board of the Agency worked within its restricted composition, as it only has six out of nine members. At the beginning of April, the term of office expired for four more members of the Board which indicated that this authority was not able to pass on the decisions. Furthermore, the Anti-Corruption Agency had less funds from the budget for this campaign monitoring and nearly three times less observers than during the parliamentary elections.

The media influence is undeniable, particularly bearing in mind the fact that a vast majority of voters gets informed about social and current issues from the electronic media. Between two election campaigns, the rhetoric used by and about the media became more combative, raising concerns about their role and influence on the outcome of elections. By interpretation of the freedom of media issue in Serbia, journalists are divided into "hack writers" and "fawning journalists". "Soft censorship" and economic pressure on the media and journalists are mentioned in this context. Serbia dropped several places on the relevant world's lists that deal with media freedom<sup>20</sup>. The reports prepared by observers' missions of OSCE/ODIHR and the CRTA observation mission "Citizens on Watch" regarding extraordinary parliamentary elections indicate unequal presence in media of different political options. Privatising of local media, that was supposed to democratise this part of the media scene, failed completely, as the local media passed into the hands of people close to the ruling parties. Besides, they are financed from the local self-government budget, which reduced the objective and critical work of the local media to the minimum.

At the beginning of the presidential campaign, the Regulatory Authority for Electronic Media (the REM) announced that it would not be actively monitoring the work of electronic media during the presidential campaign, but that it would only exercise its competences following citizens' complaints about perceived irregularities. When the campaign ended, this point of view turned out to be rather contestable, as the REM

<sup>16</sup> <http://izvestaj.gradjaninastrazi.rs/>

<sup>17</sup> [http://www.crnp.org.rs/wp-content/uploads/CeSID-preporuke\\_03.06..pdf](http://www.crnp.org.rs/wp-content/uploads/CeSID-preporuke_03.06..pdf)

<sup>18</sup> <http://www.osce.org/sr/odihr/elections/serbia/259021>

<sup>19</sup> [Law on Election of Members of Parliament](#), articles 99 and 100.

<sup>20</sup> [Reporteri bez granica](#); [Irex - Indeks održivosti medija](#); Evropski parlament - "Zapadni Balkan: Trendovi slobode medija".

refrained from any analysis of the justification of citizens' and interested parties' complaints, and basically delegated the editors of the accused media to provide replies. The REM did not want to interfere in their decisions despite the Law. The REM has not published the last year's report on pre-electoral programme monitoring, although the Council of the REM considered several statistic overviews of the campaign.

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) did not observe these presidential elections in its full capacities. Unlike the 2016 observation mission when the ODIHR had long-term observers, too, only one mission for evaluation of the electoral campaign was sent to Serbia in 2017. The ODIHR mission was composed of six experts (in the field of media, politics, elections and rights) who analysed the electoral process in Serbia.

All this highlighted once again the need to initiate a dialogue about the way that democratic institutions envisaged for the election and the entire election process oversight, especially in its media work, as well as in the part relating to the state's participation in the campaign of government representatives (the so-called public officials' campaign) or relating to the misuse of public resources for the purpose of campaigning for individual parties or candidates, return to democratic frameworks and thus establish an institute for free and fair elections.

## OVERSIGHT MECHANISMS

### REGULATORY AUTHORITY FOR ELECTRONIC MEDIA

The Regulatory Authority for Electronic Media (the REM), established by the Law on Electronic Media, is an independent regulatory organisation as a legal entity that exercises public authority for the purpose of: the effective implementation of the defined policy in the provision of media services in the Republic of Serbia, improving the quality and variety of electronic media; contribution to the preservation, protection and development of freedom of opinion and expression, in order to protect the public interest in the field of electronic media and the protection of electronic media users, in accordance with the provisions of this law, in a manner suitable for a democratic society.

The Regulatory Authority for Electronic Media issued a statement that it would not examine on its own initiative whether the TV and radio stations would allow advertising under the equal financial conditions. Although it has not done it before, during previous campaigns, the REM even took one step back this time – stating that it would not gather statistical data on proportion of representation of certain candidates in commercials and news programmes. A review of that kind was prepared for the 2016 elections, but it was not published.

The REM did not pass a special decision on presidential campaign monitoring, but it only announced that it would only exercise its competences following citizens' complaints. The REM issued a warning to all media services providers that have an editorial responsibility for the choice of audio-visual contents and that determine the programme contents organisation methods to provide their services during elections in a way prescribed by the law and bylaws. The REM also warned that they were held to ensure equal representation without discrimination of all candidates during pre-electoral programmes that were destined to inform about electoral activities, their representation or political advertising.

#### How the REM acted on citizens' complaints

The Law on Electronic Media and the Rulebook on Pronouncing Measures to Media Service Providers determine different measures in relation to complaints referring to the violation of general interest and personal interest.

In cases of the violation of personal interest, the REM shall initiate the procedure (if it concludes that the complaint refers to the violation of personal interest), whereas in cases of the violation of general interest, there is no such obligation (there is an obligation of examining and collecting the viewpoints of broadcasters, but not the obligation of initiating a procedure).

During the electoral campaign, in the period from March 16<sup>th</sup> 2017 until April 5<sup>th</sup> 2017, the REM received 58 citizens' complaints which refer to the violation of general interest – so far the REM has acted on 9 of them (six of them received the "notification including the broadcasters' statement" ("complaint-related notification") and three of them received "response to the letter of complaint"). Other complaints are being processed and waiting for the receipt of the statement from the reported broadcaster. Besides, ten complainants received the order to modify the complaints because of their irregularity. The REM has not initiated a single formal procedure for pronouncing measures to media service providers.



**Table of received complaints according to data available on the REM website is in Appendix 1 on page 64.**

Notifications sent to complainants are not decisions based on the procedures the REM initiated against broadcasters – they are results of the REM examining and establishing the state of affairs (which precedes the initiation of procedure against broadcasters). The notifications sent to broadcasters are signed by the REM Professional Service officers.

Issues of dispute in complaints:

- Does the RTS have the obligation to organise public confrontation of electoral programmes of the submitters of candidate electoral lists?

The REM says no. According to Article 50 of the Law on the Election of Members of Parliament, referred to by citizens in their complaints, the REM claims that “the regulation that you refer to implies the obligation of the TV presenters and editors of such programmes to present candidates in an independent, objective and unbiased way, which includes their public confrontations in electronic media, if there is such a programme. In the Republic of Serbia there is not a single regulation obliging any media service provider to organise confrontation of electoral candidates.”

- What is informative, and what is pre-electoral programme?

On several occasions, the Professional Service of the Regulatory Authority has rejected complaints regarding broadcasting of pre-electoral programme disguised in the form of informative programme because, according to the Service, “the editor of the informative programme has the freedom to choose which news is of public interest” (the complaint referring to the broadcasting of the convention of the Serbian Progressive Party within the informative programme). Regarding the complaint referring to the selective presentation of candidates in “OKO” programme, the REM replies that the RTS synchronises its informative programme with editors’ evaluations. According to what has been mentioned, the REM has no authorisation to control the content of the informative programme because the editor has the full freedom to control it.

- Reports on the presidential candidate or prime minister?

Following the citizens’ complaint referring to RTS reports on the presidential candidate’s visit to Russia, the Professional Service determines that this disputable programme is not related to pre-election activities, but to a foreign affair activity of the president of the Government of Serbia.

### **Comparative analysis of decisions based on complaints reported in electoral processes of 2016 and 2017**

In the electoral process in 2016, the REM made decisions in the form of solutions or decisions adopted in Council meetings by necessary majority of votes. In the reasoning of the solution, the Regulatory Authority referred to reports made by its own Professional Service. In notifications delivered so far, decisions have relied on the statement of the reported broadcaster rather than on research. According to the phrase itself – “notification about the statement”, it is not clear whether the Council has made any decisions at all. In 2016, decisions were signed by the Council Chairman Deputy, whereas in 2017 all notifications were signed by the Executive Director of the Regulatory Authority. On the other hand, in 2016 the REM often rejected complaints as unfounded without explaining the decision or without the broadcaster’s statement, whereas in the current process of decision-making there have been no such procedures. However, in notifications including broadcasters’ statements, there was no clear and reasoned REM’s view of the complaint which made it look as a dialogue between citizens and a broadcaster.

### **Overview of the REM Council sessions**

In the period between March 8<sup>th</sup> and 24<sup>th</sup>, there were four extraordinary sessions of the Regulatory Authority Council. In all four sessions, Council members participated via telephone. Elections were on the agenda in two meetings – on March 17<sup>th</sup> and 24<sup>th</sup>.

At the session on March 17<sup>th</sup> 2017, the REM discussed the contents of the pre-election video of the presidential candidate Aleksandar Vučić with offensive contents. After the reaction of non-governmental organisations protecting the rights of LGBT population, the decision was made that all media service providers should abort broadcasting of this video.

At the session on March 24<sup>th</sup> 2017, there was a discussion about requests made by RTS, PRVA TV, HAPPY TV and N1 that the REM Council should state their view of the advertisement of the presidential candidate Vuk Jeremić. The next session was held on March 31<sup>st</sup> 2017 (183<sup>rd</sup> regular meeting) where there was a discussion about information provided by the Monitoring and Analysis Service in relation to the number of filed complaints during the electoral campaign for the election of the President of the Republic of Serbia, as well as

to the Service's actions.

In 184<sup>th</sup> regular session held on April 26<sup>th</sup> 2017, the Professional Service was ordered to create the final report for the next session regarding the number of filed complaints during the electoral campaign for the election of the President of the Republic of Serbia which will contain the entire procedure based on the complaint. At the session decisions were made related to citizens' complaints – 16 complaints were rejected as unfounded and 8 were rejected as incomplete.

### **Decisions made by the REM Council in relation to the videos of Aleksandar Vučić and Vuk Jeremić**

During the pre-election period, the public's attention was drawn by the REM Council's decision regarding the videos of presidential candidates Aleksandar Vučić and Vuk Jeremić. The CRTA observation mission "Citizens on Watch" has analysed decisions made by the REM Council in the following situations:

At the session held on March 17<sup>th</sup> 2017, the REM Council discussed the contents of the pre-election video of the presidential candidate Aleksandar Vučić. After the reaction of the civil society organisations protecting the rights of LGBT population, the decision was made that all media service providers should abort broadcasting of this video.

On March 17<sup>th</sup> 2017, the Council of the Regulatory Authority for Electronic Media issued an announcement ordering media service providers to abort, within 24 hours, broadcasting of the video of the presidential candidate Aleksandar Vučić where choral repetition of "Vučić is the fag!" can be heard.

The REM acted on the complaint of the Association "Let it be known" which emphasises that "the word "fag" is offensive and used only in the negative context and as such undoubtedly offends members of LGBT population. The complaint states that broadcasting the video encourages sexual discrimination."

As stated in the REM announcement, even though offensive words used in the video refer to an individual, such content violates the regulation of article 6, paragraph 3 of the Law on Advertising which prescribes that *an advertisement must not contain announcements or visual presentations that can be interpreted as offensive.*

The REM has warned broadcasters that, in case of the violation of this prohibition, measures may be pronounced in accordance with the Law on Electronic Media so after the issuing of this announcement, the video was broadcast in a shorter version, excluding the disputable content.

In this case, bearing in mind the basis of the complaint filed by the Association "Let it be known", the CRTA observation mission "Citizens on Watch" has concluded that the REM acted in accordance with the law.

RTS, PRVA TV, HAPPY TV and N1 asked the Council for their view on the political advertisement of the presidential candidate Vuk Jeremić. The request was discussed in the meeting on March 24<sup>th</sup> and the decision was made that the disputable advertisement is in conflict with the regulation of article 14 of the Law on Advertising.

After the Council session, the REM issued an announcement warning the media service providers that pre-election videos of the presidential candidate Vuk Jeremić violated the regulations of articles 14 and 15 of the Law on Advertising.

Since there are photographs with Aleksandar Vučić in the video named "Friends", the REM warned the media service providers of the regulations of Article 15 of the Law: "If the advertisement contains a personal good (which, among other things, is a photograph of a certain individual) based on which we can recognise the facial identity, the advertisement cannot be published without the previous consent of the person the personal good refers to."

Regarding other videos, the REM informed media service providers of the decision that broadcasting of those videos is in conflict with article 14 of the Law on Advertising. In disputable videos, the advertiser says, among other things, the following: "Truth, and not lies. Vuk, and not Vučić." Application of article 14 in the domain of political advertising is open to discussion. Parameters for determining which forms of comparative advertising are allowed and which ones are not serve for prevention of disloyal competition in the market, which makes them almost useless for identifying prohibited comparative political advertising. However, despite evident flaws of the regulations of the Law on Advertising, the general goal of the prohibition of certain forms of comparative advertising is violated by such emphasising competitors' names in the negative context. It is a form of a negative campaign that the Regulatory Authority has tried to subdue in earlier campaigns.

Thus, the REM acted preventively and it informed media service providers that this way of advertising is considered unacceptable comparative advertising in reference to article 14 of the Law on Advertising.

### Decisions made by the REM Council – the case of disrespecting the report of the Oversight and Analysis Service

According to the findings of the REM Monitoring and Analysis Service, the contents of programme “Cirilica”, broadcast on TV Happy on March 30<sup>th</sup> 2017, and of “TV debata”, broadcast on TV Pink on March 26<sup>th</sup> 2017, potentially violate the Rulebook on Media Reports in the Electoral campaign. Despite the findings, the REM Council decided not to initiate the procedure of pronouncing measures against aforementioned TV stations.<sup>21</sup>

Without discussing arguments the Council’s decision is based on, but acting only on complaints and procedures of pronouncing measures prescribed by the Law on Electronic Media and the REM Rulebook on Pronouncing Measures to Media Service Providers, we can conclude that the REM did not act in accordance with regulations.

Namely, when acting on complaints referring to the violation of general interest, the REM acts in accordance with the official duty rules. That means that the complaint is examined by the Oversight and Analysis Service, which creates the report. The Rulebook on Pronouncing Measures to Media Service Providers prescribes that *the Regulatory Authority initiates the procedure of pronouncing measures by its official duty according to an elaborate report which confirms violation of liabilities referring to the programme contents prescribed by Articles 47-71 of the Law*. Therefore, since the complaint itself is not sufficient for the initiation of the procedure, there must be an elaborate report confirming that there has been a violation. In this specific case, there is such a report related to the programme contents of the both aforementioned TV stations. We think that the Rulebook regulation is precise enough and that it obliges the REM Council to initiate the procedure of pronouncing measures after the Service confirms the violation.

Since it is not very clear from the given text whether the procedure for pronouncing measures has not been initiated or whether it has been initiated but the measure has not been pronounced, we will present the analysis of process regulations regarding the REM actions.

Namely, even when it initiates the procedure on the basis of an elaborate report, the Council is not obliged to pronounce the measure, but it is obliged to determine all facts and circumstances relevant for the decision-making and to make the decision of certain relevance, which goes without saying. In accordance with the Rulebook, if the Council determines that the media service provider has not violated the obligation referring to the programme contents, it makes the decision which aborts the procedure of pronouncing measures. Last year, in situations similar to this one, the REM Council made solutions which rejected complaints as unfounded and we emphasise this because the existence of such a decision, which is composed in writing and delivered to the complainant, enables the complainant to use the legal remedy, which means initiate the administrative dispute.

In this specific case, even if we assume that the Council acted in accordance with the Rulebook and that it initiated the procedure, the Council did not submit any kind of decision to complainants.

Besides, by not publishing on their Internet page information about acting on complaints, the REM also violated the regulation of article 38 of the Law on Electronic Media which prescribes that the work of the REM is public and that it must publish on its website and without compensation acts and other complete and updated data and information related to its area of work listed in the Law and including decisions related to complaints filed by physical and legal entities.

### ANTI-CORRUPTION AGENCY

As an independent state institution, the Agency has one of the most important roles in the electoral process in terms of controlling the conduct of political subjects during the electoral campaign and controlling the conduct of state officials who are also members of certain political parties and the abuse of public resources.

The challenge in this electoral campaign in terms of controlling the election participants, the conduct of the ones who proposed them and representatives of political subjects reflected in the reduced capacities of the Agency.

Unlike previous elections, the Agency organised a network of observers whose number was a lot smaller than during the elections in 2012 and 2016 (at the time there were parliamentary, local and presidential elections). During 2017 elections, the Agency had 49 observers deployed in 26 towns in Serbia, but the majority of them

<sup>21</sup> Article on *Insider* portal



were in Belgrade. The observers' reports including the data gained by control should be compared to the data submitted in the reports created by political subjects.

The Director of the Agency was not elected so the activities prescribed by the Law, according to the Agency's announcement, were carried out by the Acting Director as well as the Professional Service in charge of oversight over the financing electoral campaign and public officials' compliance with legally-determined obligations.

According to the Law, the Agency Board consists of nine members, but during the campaign there were six members, whereas after the election in April there were only two members and the Acting Director.

### **Analysis of the way the Agency acted on complaints**

During the electoral campaign, long-term observers of the CARTA observation mission "Citizens on Watch" registered that public officials and political subjects potentially represented the public officials' campaign and abused public resources and performed activities prohibited by the Anti-Corruption Agency Act and the Law on Financing Political Activities. Between March 15<sup>th</sup> 2017 and April 1<sup>st</sup> 2017, 21 complaints were submitted to the Agency and by May 22<sup>nd</sup> 2017 the Agency responded to two complaints in the form of "notification regarding the outcome of the complaint". The Agency did not initiate the procedure for determining the violation of the Anti-Corruption Agency Act regarding any of these complaints; having examined the proof attached with the complaints, it decided that there should be no procedure regarding these complaints. The table illustrating complaints submitted by the CARTA observation mission "Citizens on Watch" is in [Appendix 2 on page 64](#).

- Regarding the complaint filed against Dragan Stašević, the president of the municipality of Bač and a high state official of the Serbian Progressive Party who, during the electoral campaign, on March 14<sup>th</sup> 2017 provided socially deprived citizens with heating briquettes acquired with the means of the Municipality of Bač, which was published on the profile of the Serbian Progressive Party in Bač on Facebook, the Agency took the stand that no procedure should be initiated because it is an activity of the president of the municipality published on the Internet presentation of the municipality of Bač and taken from there by the Municipality Committee of the Serbian Progressive Party in Bač. Although a certain political subject got promoted by such behaviour of the aforementioned state official, the Agency took the stand that his behaviour is not punishable in accordance with the Anti-Corruption Agency Act.

- After the president of the municipality of Čuprija Ninoslav Erić invited fellow citizens to vote for the presidential candidate Aleksandar Vučić on March 29<sup>th</sup> 2017, the Agency received a complaint regarding the abuse of public resources by a public official and performing a public officials' campaign. The president of the municipality invited fellow citizens via a video broadcast on TV Pomoravlje, recorded during the working hours in the municipality premises. The complaint refers to the fact that the president of the municipality of Čuprija failed to inform the interlocutors and the public whether he was expressing the viewpoint of the institution where he is officially employed or the viewpoint of the political party (which is an obligation prescribed by article 29, paragraph 4 of the Law on the Anti-Corruption Agency) and that he undoubtedly supported the presidential candidate from the position of a state official (president of the municipality). Despite quotations stated in the complaint, after the video published on RTV Pomoravlje has been examined, the Agency took the stand that Erić "was not" announced in the programme as the president of the municipality and that no procedure should be initiated.

Based on the provided facts, the CARTA observation mission "Citizens on Watch" concludes that the Agency interpreted legal regulations in a way that is not appropriate for the basic objective which is preventing public officials from promoting political subjects by abusing their public official authority.

### **OVERSIGHT COMMITTEE OF THE NATIONAL PARLIAMENT**

The Law on the Election of Members of Parliament, whose relevant regulations also apply to the presidential elections, prescribes that the Oversight Committee should perform general oversight of the activities of political parties, candidates and means of public informing during the elections. Also, the Law prescribes that the Oversight Committee should have ten members, whereby five of them should be appointed by the National Assembly of the Republic of Serbia at the suggestion of the Government of the Republic of Serbia and five should be representatives of eminent public workers proposed by parliamentary groups at the National Assembly of the Republic of Serbia. The president of the Oversight Committee is elected through secret ballot by members of the Oversight Committee.

The regulations of the Law on the Establishment of the Oversight Committee have not been followed since 2000 when the committee was established for the last time, and electoral process in 2017 is no exception.

Unlike parliamentary elections in 2016, when the Regulatory Authority for Electronic Media asked for the Oversight Committee to be established at the very beginning of the electoral cycle<sup>22</sup>, during the electoral process in 2017 there was not a single record of an initiative of any participants in the electoral process for the Oversight Committee to be established. In this way, relevant participants in the electoral process once again violated the Law on the Election of Members of Parliament and finalised another electoral cycle without an adequate oversight mechanism.

## MEDIA

### MEDIA ENVIRONMENT

At the moment when the presidential elections were called and before that, the situation in Serbia regarding the media was not favourable in terms of the freedom of the speech and information. In its Annual Report on Serbia for 2016<sup>23</sup>, the European Commission evaluated that there had been no improvement in the media sector, that the laws on the media did not apply to the full extent and that there were doubts about the independence of the Regulatory Authority for the Electronic Media (the REM) and public broadcasters. According to the “index of the freedom of the media for 2017”, published by the organisation Reporters Without Borders, Serbia holds 66<sup>th</sup> place out of 180, which represents a decline by seven positions in comparison with the year before<sup>24</sup>. The analyses of the Print Council have shown a drastic decline of professional standards. The analysis of daily editions has shown that in 2016 there were by 49% more of the media contents violating the Code of the Journalists of Serbia in comparison to 2016.

The media scene in Serbia is clearly divided into pro-government media and a small number of media where dissonant tones can be heard (a critical view of the Government). The best-selling printed media (tabloids Informer, Kurir and Alo), as well as the most influential private TV station TV Pink openly support the Government and its president. In the case of public broadcasters RTS and RTV, the support is obvious but it is presented in a far more professional way. Unlike private TV stations, hosts and journalists of public broadcasters did not express open admiration for the Prime Minister, but the questions they asked him as well as the content of the programme were undoubtedly in the favour of the Prime Minister. For example, the family members of Aleksandar Vučić were guests at TV Happy and on TV Pink there was a “debate” where only those who support the Prime Minister participated, whereas the affinity of RTS journalists was “hanging in the air”. For example, during the interview with presidential candidates, journalist Ivana Kconjevic asked Vučić about the choice of the closest associate: “Will he have to be as hard-working as you are?” At the end of the interview, she had a “slip of the tongue”: “And what kind of message can we, I mean you send to the citizens of Serbia?”.

When it comes to the pre-election period, the situation was made even worse by the decision of the Regulatory Authority for Electronic Media<sup>25</sup> not to monitor the electronic media reports. For the first time since that institution was established, local and national TV and radio stations were completely left to their own devices, i.e. to their own evaluations of the reporting methods – there was no control or organised monitoring. Civil society organisations monitored the media but they had the capacity to monitor only national, not the local media. Thus, there was no continuity in monitoring the reports within electoral campaign, there was no possibility of sanctioning or at least reprimanding the media which broke the law and for the first time there was no material which would officially show the behaviour of broadcasters (now or in the following years).

Such conditions have created a media and political electoral race characterised by unequal presence of candidates, media manipulation, open political media categorisation and extremely negative presentation of candidates not supported by the governing political structures.

<sup>22</sup> More precisely, the request for the establishment of the Oversight Committee was sent to Maja Gojković, the Speaker of the Parliament. The following day, the Speaker of the Parliament sent a letter to parliamentary asking them to propose candidates for the Oversight Committee. However, the Serbian Progressive Party (the Unique Serbia supported the proposal of the Serbian Progressive Party) and the parliamentary group of the Democratic Party replied to this letter with their proposals. The Government of Serbia and other parliamentary groups did not propose anyone <http://www.politika.rs/sr/clanak/349833/Politika/Ne-moc-nadzornog-odbora>.

<sup>23</sup> [European Commission Annual Report for Serbia for 2016](#):

<sup>24</sup> Index of the freedom of media for 2017, Reporters Without Frontiers: <https://rsf.org/en/serbia>

<sup>25</sup> <https://insajder.net/sr/sajt/tema/3268/>

## MEDIA MONITORING

When it comes to democratic and fair elections (especially because mass media play a major role in the implementation of the electoral campaign), it is very important to know that all candidates and political parties have equal access to mass media.

**The Rulebook on Liabilities of Media Service Providers During the Electoral campaign made by the Regulatory Authority for Electronic Media (the REM) Council in 2015** prescribes that *“when providing information regarding the pre-election activities of the submitters of electoral lists and candidates, media service providers must make sure they are present in programmes without any discrimination.”* Also, the same Rulebook emphasises that *“information provided about these persons must be true, objective, complete and timely.”*

As an important aspect of the quality of monitoring the entire electoral process, the CRTA election observation mission “Citizens on Watch” monitored the media reporting at national and local levels following a specially created methodology.

Media monitoring within the CRTA election observation mission “Citizens on Watch” began on February 15<sup>th</sup> – two weeks before the official beginning of the campaign, but as soon as it became clear that the elections would be held and that the media campaign had already started. In practical terms, it is the moment when the Serbian Progressive Party decided to nominate Aleksandar Vučić as their presidential candidate, whereas the outgoing president Tomislav Nikolić decided not to seek re-election.

Media monitoring on the national level comprised of the following:

1. number and tone of presidential candidates’ appearances on front pages<sup>26</sup> of eight national dailies (Alo, Blic, Večernje novosti, Danas, Informer, Kurir, Srpski telegraf, Politika) and four weeklies (NIN, Vreme, Nedeljnik, Ekspres);
2. number and tone of presidential candidates’ appearances in prime time news programmes<sup>27</sup> (in so-called headlines, sentences that viewers hear first) in RTS, TV Pink and TV N1;
3. morning programmes<sup>28</sup> on RTS, TV Pink and N1 in the contexts of guests chosen in segments devoted to flipping through daily press and topics addressed on that occasion.

**Media monitoring on the local level** comprised of gathering the information about media accessibility on the local level, on local and regional television stations. Monitoring of the CRTA observation mission “Citizens on Watch” that referred to local media was not quantitative, but it rather focused on contents and general impression about the way that local media reported. Observers also reported on the very first news on the most viewed local television stations and on the way that those TV stations represented electoral rallies and different presidential candidates’ activities. This part of monitoring was realised between March 13<sup>th</sup> and the end of the electoral campaign.

## Media Monitoring Findings

Although equal presence of election participants has been guaranteed by a set of media laws adopted in 2014 as well as by the REM Rulebook from 2015, election participants were neither equally present in the printed media nor in the electronic media (at the national and local levels). The most read and the most influential national media were strongly politically polarised (majority of them were pro-government). In terms of the

<sup>26</sup> Front pages of dailies and weeklies are what readers see first and this is why they are a very important segment when it comes to informing of those who actually read newspapers, but also of those who do not. Automatically, persons featuring on front pages pass messages about their presence, importance and reputation they enjoy. The CRTA election observation mission “Citizens on Watch” monitored not only the number of appearances, but also the tone of such appearances, i.e. whether politicians were represented in a positive, negative or neutral light. If they were merely quoted, such appearances were considered neutral, whereby a focus on their achievements or on the other hand, accusations (founded or not) was recorded as a positive or negative appearance.

<sup>27</sup> “Breaking Headlines” in central informative programmes, are what the viewers see or hear first when they decide to watch the news programme. They send the message about people who create country’s politics, who are powerful and who directly affect lives of citizens. Even viewers who do not wish to watch news until the end, decide to stay tuned to see “what there is in the news” and to get quick information. Apart from the number of appearances in breaking headlines in central informative programmes of three television stations, the tone of such appearances was also analysed – the same methodology as in the front pages analyses was applied: it was evaluated whether politicians were represented in a positive, neutral or negative context. If the news began with a politician’s quote, such appearance was considered neutral. All other appearances were evaluated on the basis of the contents of news.

<sup>28</sup> Morning programmes have in recent years become an important and popular TV segment, first of all because what is stated there is later repeated in news programmes, diffused via social networks and sometimes even printed in the next day newspapers. Despite that, morning programmes are not considered breaking news programmes and are therefore out of focus of conventional media monitoring and analyses and that is exactly the reason why they were included in pre-election activities monitoring of the CRTA election observation mission “Citizens on Watch”.

media, these presidential elections were not fair because the media inequality did not allow a fair election race of presidential candidates.

The Regulatory Authority for Electronic Media (the REM), which failed to publish the monitoring report for the parliamentary elections from the last year, went one step further this year by deciding not to monitor electronic media but only to act on citizens' complaints. Mistakes which happened may have been corrected and broadcasters may have officially been warned about them. Instead, the same problems which occurred last year during the electoral campaign for the parliamentary elections happened again: last year all observers said that the presence of representatives of the governing party in the electronic media was disproportionate, special political and propaganda programmes (not designated as advertisements) were broadcast and the method of reporting in recently privatised media was serving the governing coalition and it was in conflict with professional standards and instructions from the REM. New media phenomena during the 2017 electoral campaign, such as "covering" all daily newspaper front pages with the advertisement of one candidate or violation of election silence by a sexist front page, are not even legally regulated and are an addition to a vast range of media manipulation. A day after, seven out of nine national daily newspapers were completely covered by an advertisement of Aleksandar Vučić, a weekly newspaper Ekspres published the front page with large breasts of a woman and a comment "Number 6 is the best" insinuating not only the size of women's breasts but also the number of candidate Vučić on the ballot.

The same thing applies to the interview an underaged child of Aleksandar Vučić gave to the newspaper Blic on 30 March: the case of abusing a child for political purposes is not a violation of any law (there is simply no law regulating this situation), but it is definitely something to be analysed in future.

The CRTA observation mission "Citizens on Watch" monitored the national media for two weeks before the official beginning of the electoral campaign (from the moment Prime Minister Aleksandar Vučić announced his president candidacy) and the findings are completely in agreement with the findings throughout the campaign.

#### Front pages

From February 15<sup>th</sup> until March 30<sup>th</sup>, the CRTA observation mission "Citizens on Watch" monitored front pages of eight daily newspapers (Alo, Blic, Danas, Vecernje novosti, Informer, Kurir, Srpski telegraf and Politika) and four weekly newspapers (Vreme, NIN, Nedeljnik and Ekspres). During these 45 days (15 days prior to the election and 30 days during the campaign), there were 342 front pages and 73% of them (251 front pages), which were further analysed, had election-related topics, i.e. presidential candidates were present.

According to the analysis of the front pages, the presidential candidate and the then Prime Minister Aleksandar Vučić was absolutely dominant on front pages, whereas other presidential candidates were presented to a much lesser extent. Also, unlike other candidates, Aleksandar Vučić was presented on front pages mostly in the positive context and rarely in the neutral context, whereas other candidates were presented mostly in the negative or neutral context.

The Prime Minister at the time and a presidential candidate Aleksandar Vučić appeared on more than a half of 251 front pages (58.8%), which means on 147 front pages. He was presented in the positive context on 80.3% of front pages (118). Vučić appeared in the neutral context on 17 front pages and in the negative context on 12 front pages (8% of the total number of appearances). Since Aleksandar Vučić performed his duties as the Prime Minister during the campaign and he was presented as the Prime Minister as well, such presence in the media comes as no surprise. However, even if we tend to overlook this fact and the fact that the presence on front pages proves that there was a "state official campaign" underway, what really stands out is the tone of the text on front pages. The fact that the Prime Minister was presented on 92% of front pages in the positive or neutral context gives a vivid illustration of the fact that the media have lost their critical role and that they have become a means of political propaganda (in the large number of cases).

The presidential candidate Saša Janković is the next one by the number of front pages he appeared in (79), which is 31.5 % of the total number of front pages related to the elections and which is considerably less than Aleksandar Vučić. He was presented in the negative light on 39 front pages (49.8%), in the positive light on 12 front pages (15%) and in the neutral light on 28 front pages (35.4%).

Still, during this campaign, presidential candidate Vuk Jeremić was the one presented in the negative context more than any other candidate. He appeared on 64 front pages and he was presented in the negative light on 61% of them.

The presence of all other presidential candidates on front pages is almost insignificant. The only exception is Ljubisa Preletačević Beli who appeared in the second half of the campaign and who was mostly presented in the positive or neutral context. Beli appeared on 26 front pages (10.36%) – on 17 front pages in the positive context (65.4%), on 5 front pages in the neutral context (19.2%) and on 4 front pages in the negative context (15.4%).

Of all candidates, only Vuk Jeremić and Aleksandar Vučić had paid advertisements on front pages: Jeremić had 30 paid advertisements and Vučić had 50. The majority of the advertisements of Vučić (32) had no names or photographs – they only contained the campaign symbol (logo) accompanied by a mysterious message.

Although the plan was to monitor front pages until March 30<sup>th</sup> (including that day), which was the last day before the election silence, the front pages of daily newspapers which appeared on that day were not encompassed by the analysis. Out of eight daily newspapers which were monitored, six (except for Danas and Informer) were “covered” by advertisements of Aleksandar Vučić. Under such circumstances, there was no point in analysing the content (who is really presented on the front page and in what way) because on that day, Vučić “reigned” newspaper stands.

On the first day of the election silence, the front page was published and it should be analysed although formally it has nothing to do with elections. On the front page of the weekly newspaper Ekspres (pro-government orientation), the picture of large breasts of a woman was published with the headline “Number 6 is the best”. Knowing that Vučić was number 6 on the ballot, such a front page is actually an explicit message to voters and it violates election silence.

#### Morning programmes

According to the analysis of morning programmes of three TV stations during the 2017 election campaign, they were strictly politically polarised, which is especially alarming in the case of the public broadcaster RTS which should present all political options.

During the entire period of monitoring, in the section called “Prelistavanje” (Flipping through daily press) within morning programmes of the public broadcasters RTS and TV Pink, where public persons analyse current events, pro-government analysts, journalists and editors of pro-government media and representatives of governing parties dominated. Although persons of different political views should be equally present in this programme segment, not one person critical of the Government was the guest of the morning programme of RTS and TV Pink during 45 days of the media monitoring. Journalists of Vreme, NIN or Danas never appeared in the programme and neither did neutral analysts or analysts supporting another opposition candidate. However, the RTS morning programme hosted three times a marketing expert who mostly promotes the governing party; the most eminent analyst of pro-government orientation appeared also three times, as well as the president of the RTS Managing Board, who openly supports the government.

### The presence of candidates and the tone of the content on front pages

February 15th – March 30th 2017

	Total	Positive	Negative	Neutral
Aleksandar Vučić	147 [58.6%]	118 80.3%	12 8%	17 12%
Saša Janković	79 [31.5%]	12 15%	39 49.4%	28 35.4%
Vuk Jeremić	64 [25.5%]	11 17.2%	39 61%	14 21.9%
Ljubiša Preletačević Beli	26 [10.4%]	17 65.4%	4 15.4%	5 19.2%
Vojislav Šešelj	40 [16%]	7 17.5%	15 37.5%	18 45%
Saša Radulović	12 [4.8%]	/	5 41.6%	7 58.3%
Nenad Čanak	9 [3.6%]	/	3 33.3%	6 66.7%
Boško Obradović	17 [6.8%]	/	7 41.2%	10 58.8%
Aleksandar Popović	4 [1.6%]	/	1 25%	3 75%

TOTAL NUMBER OF FRONT PAGES 342

NUMBER OF PAGES RELATED TO THE PRE-ELECTION CAMPAIGN 251

THE MEDIA ENCOMPASSED BY THE ANALYSIS:

8 daily newspapers (Blic, Politika, Večernje novosti, Alo, Kurir, Danas, Srpski telegraf, Informer) and 4 weeklies (NIN, Vreme, Nedeljnik i Ekspres)

\* The total of percentages exceeds 100 because due to the presence of more candidates on a large number of front pages



The situation with TV Pink morning programmes is similar – along with supporters of the governing party and Aleksandar Vučić, the editor of Informer appeared, as well as journalists of (pro-government) Studio B and Srpski telegraf and they did not appear in other morning programmes. The morning programme broadcast on 22 March on this TV station was especially interesting because of what happened one day before – Natasa Jeremić, the wife of a presidential candidate had organised a press conference which was followed closely by the media especially because of the fact that journalists of Informer, STB and Srpski telegraf were not allowed in. The following morning three journalists who had not been allowed to attend the press conference appeared in the studio first and then Ivana Vučićević appeared, the Editor-in-Chief of Studio B: during one-hour programme, there was not a single dissonant tone, i.e. anyone to analyse the incident from a different angle.

Unlike the morning programmes of RTS and TV Pink, in the programme “Prelistavanje” on TV N1, there were journalists of the media critical of the government, public persons who supported one of the opposition candidates, neutral analysts etc. However, it was evident that there were no journalists and editors of openly pro-government media.

#### Headlines

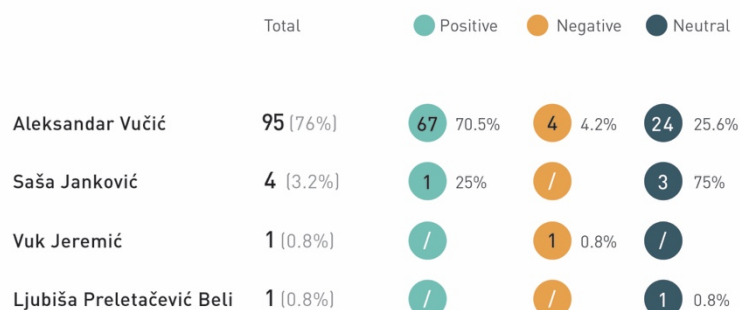
From February 15<sup>th</sup> until March 30<sup>th</sup>, 168 breaking headlines in central informative programmes, such as News of RTS, Pink and N1, were analysed. Other civil society organisations measured the presence of presidential candidates in informative programmes by applying different methodologies, whereas the CRTA observation mission “Citizens on Watch” focused only on what the viewers see when the news begin, i.e. the headlines which determine the flow of the news and what will be heard and seen even by those who “change channels” when the informative programmes start.

Politicians or representatives of parties appeared in 74.4% of headlines (125 headlines). In headlines, just like on front pages, presence of candidates is not equal. However, in headlines, Aleksandar Vučić was presented mostly as the Prime Minister: during this period, he opened bridges, met the most eminent European politicians which practically guaranteed a major position in headlines. However, it is a true example of the state official campaign, which implies combination of two roles which should be separated (role of the Prime Minister and the role of the candidate) and abuse of the media for pre-election purposes.

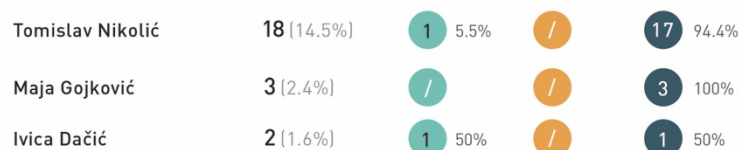
There were 125 headlines and Aleksandar Vučić appeared in 95 (76% of the total number related to the political scene) – in the positive context in 67 headlines (70%), in the neutral context in 24 headlines (25.26%) and in the critical or negative context in only 2 headlines (4.2%). One of those rare examples is the headline of TV N1 broadcast on March 25<sup>th</sup> which states that buses of the City Public Transport Company of Belgrade were used for the pre-election rally of Aleksandar Vučić. (Negative presentations of other candidates in headlines were far more direct: for example, in the News on TV Pink, broadcast on March 9<sup>th</sup>, it was said that “Duda Ivković, Vuk Jeremić and Velimir Ilić are getting ready for a great theft.”)

### The intensity of the appearances of candidates/politicians in the major headlines of RTS, PINK and N1

February 15<sup>th</sup> – March 30<sup>th</sup> 2017



TOTAL NUMBER OF HEADLINES 168  
HEADLINES REFERRING TO THE ELECTIONS OR POLITICIANS 124



The presence of other candidates in the headlines was insignificant if any at all. For example, Saša Janković was the second candidate by the number of appearances in the headlines and he was mentioned in only four headlines referring to politics or elections (3.2%). Vuk Jeremić and Ljubisa Preletačević Beli were mentioned only once each.

In other headlines referring to politics, the former president Tomislav Nikolić was mentioned 19 times (only at the time when it was not certain if he would run for the president), the Speaker of the Parliament Maja Gojković was mentioned three times and the Minister of the Interior Ivica Dačić two times.

#### *Local media*

From the local perspective, according to observers' reports, national newspapers and TV stations are available to citizens in local environments but in some areas there are problems with distribution of the press or availability of TV N1. However, there is a lack of regional and local TV stations broadcasting informative programme. During the 2017 electoral campaign, there were irregularities regarding local media reports in terms of the violation of professional standards and legally guaranteed equal access of all participants in the elections.

The presidential candidate Aleksandar Vučić was conspicuously present in all local media, far more than other candidates who mostly never appeared. Also, TV stations which do not normally have informative programmes broadcast rallies of the presidential candidate Aleksandar Vučić from all parts of Serbia during the electoral campaign. During the second part of the campaign, on local TV stations there were mostly pre-election videos of the Prime Minister and the presidential candidate Aleksandar Vučić.

When it comes to the most important news in central informative programmes on the most influential local TV stations, the statistics say that they mostly referred to local topics and were not concerned too much with the elections. However, the rest of the programme represents an issue in terms of the presence of representatives of one party and a certain candidate.

The reports of Radio Television of Pancevo, owned by Radoica Milosavljevic, a close associate of the Serbian Progressive Party, is an excellent illustration of the situation.

Here is the daily programme of that TV station by the end of the campaign:

- Tuesday March 21<sup>st</sup>: 6 pm – live broadcast of the rally of the Serbian Progressive Party in Kraljevo; 8 pm – recorded video of the debate “Serbia chooses”;
- Wednesday March 22<sup>nd</sup>: 1 am, 1 pm – recorded video of the debate “Serbia chooses”; 6 pm – live broadcast of the rally of the Serbian Progressive Party in Nis; 8 pm – programme “Interview” with the guest Aleksandar Martinović, a member of parliament of the Serbian Progressive Party;
- Thursday March 23<sup>rd</sup>: 2:30 am, 1 pm – rerun of the programme “Interview” with Aleksandar Martinović; 8 pm – programme “In Južni Banat” with the guest Jovan Lazarov, member of parliament of the Serbian Progressive Party in the Assembly of Autonomous Province of Vojvodina and the President of the Budget and Finance Board of the Assembly of Autonomous Province of Vojvodina;
- Friday March 24<sup>th</sup>: 1 am, 1 pm – rerun of the programme “In Juzni Banat” with Jovan Lazarov; 4 pm – live broadcast of the rally of the Serbian Progressive Party in Belgrade;
- Saturday March 25<sup>th</sup>: 11 am – recorded video of the debate “Serbia chooses”; 5:05 pm – recorded rally of the Serbian Progressive Party in Belgrade;
- Sunday March 26<sup>th</sup>: 11 am – rerun of the programme “Interview” with Aleksandar Martinović; 7:40 pm – recorded rally of the Serbian Progressive Party in Belgrade.

Regional Radio Television Kruševac (also owned by Radoica Milosavljević) gave detailed reports about the activities of the Serbian Progressive Party and Bratislav Gašić, a close associate of Aleksandar Vučić and completely ignored the rallies of candidates Saša Radulović, Vuk Jeremić and Saša Janković in Kruševac. As far as the viewers of this TV station are concerned, these rallies never happened.

From the aspect of the media, these presidential elections were neither legal nor fair, especially when it comes to the attitude of the Regulatory Authority for Electronic Media. New media phenomena, such as “covering” all daily newspapers into the advertisement of one candidate or impertinent violation of election silence by a sexist front page are phenomena which have not been even legally regulated and are an addition to a vast range of media manipulation and machinations. The same thing applies to the interview an underaged child of Vučić gave to the newspaper Blic on March 30<sup>th</sup>: the case of abusing a child for political purposes is not a violation of any law (there is simply no law regulating this situation), but it is definitely something to be analysed in future.

We think that because of all that has been stated, the Ministry of Culture and Information should make an

announcement as an institution directly responsible for the media, explain the reporting methods during the electoral campaign and propose measures for improving professional standards and the media scene.

## VOTERS LIST

The unified voters list was this time too in the focus of public attention. The CRTA observation mission "Citizens on Watch" established that the disorganisation of the voters list characterised this electoral process as well, and that it had a significant impact on the decline in public confidence in the electoral process. Unlike the 2016 elections, this time citizens came forward asking about the possibility to vote abroad, to change the place of voting between two electoral rounds, as well as about the notifications for voting and the possibility to enter modifications in the voters list.

All this clearly indicates the necessity to systematically improve the maintenance, up-to-dateness and oversight of the voters list. It is very important to inform the public about methods of improvement of the maintenance, up-to-dateness and oversight of the voters list, especially bearing in mind the voters' trust in institutions and electoral rules. With this in mind, the voters list issue should remain in the focus of attention and in the work of public authorities, but also of the interested public even after the completion of the electoral process in order to make all improvements before the next electoral process.

The unified voters list is a public document which contains a register of citizens of the Republic of Serbia who are eligible to vote. The Law on the unified voters list foresees that "the voters list is permanent, regularly updated and maintained ex officio". In order to cast their votes, voters must be registered in the voters list. The Law stipulates that a voter can be registered only once.

The contents of the voters list and its maintenance are within the competence of the Ministry of Public Administration and Local Self-Government (MDULS). The Law prescribes that the excerpt of the voters list for a certain district should be updated by a municipal, i.e. by the city administration, as a delegated task.

So far, the public has shown the interest mainly in issues regarding voting according to place of residence and domicile, voters' identifications, voting abroad and voters' notifications.

## VOTING ACCORDING TO THE PLACE OF RESIDENCE AND DOMICILE

At the elections, voters cast their votes according to their place of residence. Nevertheless, voters are allowed to vote according to residence in the country or abroad, so that the voters who have place of permanent residence abroad can vote in diplomatic-consular missions of the Republic of Serbia abroad, as well as in specific places determined by the Republic Electoral Commission. The criterion for setting up a polling station is the minimal number of 100 voters. The citizens who did not file a request to vote abroad were able to cast their votes in Serbia, in their place of permanent residence. If, on the other hand, a voter wishes to vote according to his place of temporary residence, he can file a request to the municipal or city administration to enter in the voter register a note that he shall vote according to his place of temporary residence at the upcoming presidential elections. The deadline for such requests expired on March 11<sup>th</sup> 2017.

A considerable number of citizens came forward asking the CRTA observation mission "Citizens on Watch" via social networks about voting out of the place of permanent residence between two (potential) rounds.

Voting abroad in the possible second round drew a great attention of the public. The potential second round would have taken place during the Easter holidays and a great number of citizens would not have been at their place of permanent residence, which raised the issue of voting place modification between the two rounds. A considerable number of citizens came forward asking the observation mission "Citizens on Watch" via social networks about voting out of the place of permanent residence between two (potential) rounds.

Such possibility is stipulated by Law on the unified voters list that provides modifications in the voter register between two rounds. However, the MDULS consider that changing the voting place in the second round of elections is out of their jurisdiction, and that they can only permit the registration in the voter register or modifications concerning voters' personal data (for example: wrong master citizen's number JMBG, first name/last name). In this way, a number of citizens were deprived of their active right to vote, which is also stipulated by the Constitution. Voters had to choose whether to vote in the first round according to their permanent residence or in the potential second round, according to their temporary residence. This solution emanates from the REC's bylaw and the MDULS's interpretation thereof, according to which no change in voting place can be possible after March 11<sup>th</sup> 2017.



## IDENTIFICATION OF VOTERS

The voters in the elections were able to vote with a valid identity card, valid passport, a valid driver's licence which has an identification number and an identity card which had expired, provided they submitted a confirmation of the Ministry of Interior on the request for issuing a new identity card.

During operation of the REC, one of the reported problems that emerged is the question of the right to vote for the people who have the "old" permanent identity cards which expired by the force of law (validity termination December 31<sup>st</sup> 2016). Due to the large number of complaints that there was a delay in the issuance of identity cards and that a number of citizens would not be able to replace the old expired identity cards with the new ones, the REC issued an additional notice relating to article 16 of the Instructions for the conduct of the presidential elections.

Thus, the REC issued an explanation which clarifies that the voters with expired identity cards would be allowed to vote provided they presented a confirmation of the Ministry of Interior Affairs on the request for issuing a new identity card.

## PROBLEMS WITH SUBSEQUENT ENROLMENT IN VOTERS LIST

The voter registration form was not available on the official website of the Ministry of Public Administration and Local Self-Government, but it was only possible to take it at the office in the Ministry building. Such inaccessibility of the necessary documentation greatly complicates the enrolment in the voters list for citizens, especially given the deadlines in the election procedure.

## NOTIFICATIONS TO VOTE

A considerable number of citizens came forward asking the CRTA observation mission "Citizens on Watch" about notifications sent on names of people who had never lived at addresses the notification was sent to, of long deceased people or of people who had long changed their place of residence. Those occurrences were recorded during the previous electoral process as well.

What is particularly concerning is the fact that long deceased people received notifications to vote, although in previous electoral cycles this had not been the case. There were also a few separate cases of people who had moved or officially changed the place of residence but "started" receiving notifications to vote that had not been addressed to them before.

Such occurrences lead to confusion among citizens and to further distrust in the electoral process. The presence of fear of vote abuse is evident, especially of votes of people known to have deceased or unable to exercise their voting rights.

## VOTING ABROAD

During these presidential elections, voting abroad was performed at 53 polling stations in 32 countries, where 11.590 voters had the right to vote. In order to vote abroad, those persons had previously filed a request for registration in the voters list stating that they would vote abroad. Bearing in mind the fact that the number of citizens sojourning abroad is way higher, it is imperative to find the way to enable those citizens to easily realise of one of their fundamental rights.

We shall highlight the most significant obstacles to the exercise of voting rights of people who do not live in Serbia, namely the criterion for setting up a polling station only if there is at least 100 registered voters, as well as an extremely short deadline that those citizens had to file their request to vote abroad. Moreover, the citizens wanted to know whether in the possible second round

### An example of the administration omission

Milan Jovanović, a citizen of the Republic of Serbia with residence in Vienna filed on March 7<sup>th</sup> 2017 a demand for registration in the unified voters list via the Embassy of the Republic of Serbia in Vienne, as well as a request for registration in the voters list stating that he would vote abroad.

On March 20<sup>th</sup> 2017, the voter received a response stating that he could not be enrolled in the voters list as he had no domicile in Serbia. In accordance with article 6 of the Law on the unified voters list, the voter whose temporary residence is abroad is registered in the voters list according to his last permanent residence prior to leaving the country, namely the last residence of one of his parents, and an entry is made also regarding data on his temporary residence abroad. As his last permanent residence was in Kuršumlija, the municipal administration of this municipality had an obligation to register this voter in the voters list, all in accordance with article of the Law on the unified voters list.

they would be able to vote in Serbia although they had filed the request to vote abroad. In addition, we shall consider the issue of out-dated residence records.

1. The criterion for setting up a polling station in Serbia and abroad if the minimal number of registered voters is 100. This condition turned out to be too restrictive, as a number of voters having temporary residence abroad filed a request for registration in the voters list stating that they would vote abroad, and were then unable to realise their right, as less than 100 voters chose this possibility in the country they live in. During these presidential elections, voting abroad was performed at 53 polling stations in 32 countries. By comparison, during the 2016 parliamentary elections in Croatia, 110 polling stations were set up in 49 countries, whereby in some of them there was a single voter. We find that this kind of practice is applicable to the voting abroad of the citizens of the Republic of Serbia.

2. The deadline foreseen for the registration of data stating that the voter would vote abroad expired five days before the closure of the voters list, whereas the voters list was closed fifteen days before the Election Day. Essentially, the deadline prescribed by the Law is sufficient, nevertheless, in this particular case, the presidential elections were called on March 2<sup>nd</sup> 2017. The voters list needed to be closed on March 17<sup>th</sup>. As the deadline for submission of requests to vote abroad according to the place of temporary residence expired on March 11<sup>th</sup>, the voters had actually only eight days to file such request. In that way, certain number of voters who live abroad filed to the consular representations a request for registration in the voters list and a request for registration in the voters list stating that they would vote abroad, before the deadline prescribed for this activity by the Instructions for the Conduct of the Elections. By negligence of the competent authorities, i.e. by a poor coordination between consular representations and municipal authorities and due to short deadlines foreseen for the data modification and registration, those voters were deprived of their right to vote.

3. Although at the completed presidential elections the re-vote (the so-called “second round”) did not take place, a large number of voters wanted to know whether it would be possible to vote according to the place of domicile in Serbia if on April 2<sup>nd</sup> they voted according to the place of temporary residence abroad. Although the Law does not foresee this possibility, we wish to point out that in comparative electoral legislation voters who live abroad do have this option as well. Namely, article 58 of the Law on voters’ registration of the Republic of Croatia stipulates that in the second round of the elections for president of the Republic of Croatia, as soon as the date of the second round is determined, a voter can file a new request for an active registration, previous registration or temporary registration, as well as abandon such request according to dispositions prescribing procedures and deadlines for an active registration, previous registration or temporary registration. We find this disposition very useful that domestic legislators could take into consideration.

4. Finally, the issue of deregistration of the place of residence of citizens who moved abroad is especially pronounced when it comes to the voters list up-to-datedness. This problem is even greater in the case of local elections where only voters who have a permanent residence in the territory of a particular municipality can exercise their right to vote. As they remain enrolled in the voters list, an image of a larger electorate is artificially created. In certain countries, there is a model of a so-called “active registration” of citizens who do not have a permanent residence in their native country and who have to register again for each elections in order to realise their voting rights.

A considerable number of citizens came forward to the CRTA observation mission “Citizens on Watch” stating various problems they encountered when they tried to vote at the presidential elections. Registered cases (Vienna, London, New York, Australia) referred to contradictory information issued by respective embassies and local self-government units where those citizens have a permanent residence. Even though citizens filed timely requests to vote abroad, poor communication between embassies and local self-government units misled them to think that they were not at all enrolled in the voters list, that the servers were down, etc. When these issues were solved, the deadline for registration had already expired and voters were unable to exercise their voting rights.

### NUMBER OF CITIZENS AND NUMBER OF VOTERS ENROLLED IN THE VOTERS LIST

In some municipalities and cities, such as Zrenjanin and Medveđa, there were considerable differences recorded between the number of citizens and the number of voters enrolled in the voters list. Namely, in Zrenjanin, there are 105.982 citizens with the right to vote, whereas in the 2011 Census of Population, a total of 122.714 citizens were recorded in the town and villages. Having in mind the rate of natural increase, the number of citizens decreased, whereas the number of persons enrolled in the voters list increased by 600 compared to the previous year. In the municipality of Medveđa, an issue regarding up-to-datedness was observed. Namely, the voters list had not been up dated (such problem had occurred in several electoral

cycles) so that the voters list for the municipality of Medveđa contained almost double the number of persons having the right to vote. According to the CRTA observation mission "Citizens on Watch" data, more than 10.000 voters are enrolled, whereas in the Municipality of Medveđa, there are 7.438 citizens recorded in the 2011 Census of Population.

## PRE-ELECTION PERIOD

### ELECTION ADMINISTRATION

During the validity period of accreditations issued by the REC for monitoring of the work of bodies engaged in the elections conduct, the CRTA observation mission "Citizens on Watch" monitored a total of 34 session of the REC. The REC adopted a total of 159 decisions, resolutions and other acts.

During the reported period, the REC ran the process of declaration of presidential candidates; brought adequate bylaws requested for the conduct of elections and formed bodies for the conduct of elections in a permanent composition and working bodies.

At the REC's sessions, frequent discussions were noted between the REC representatives from the ruling party on the one hand and opposition candidates' representatives on the other. In spite of frequent discussions and disagreements between the REC members, all decisions were passed unanimously or by vote of a large majority following the pre-determined agenda. The REC's acting in accordance with items on the agenda was in line with applicable regulations. It convenes to emphasise that often members of the extended composition expressed their dissatisfaction because of extremely short deadlines for session scheduling, as well as because the material that was supposed to be decided upon had not been prepared in advance.

The Republic Electoral Commission conducted its duties in accordance with the existing legal framework in the period from the calling of elections on March 2<sup>nd</sup> 2017 to the Election Day on April 2<sup>nd</sup> 2017. In the stated period, the Republic Electoral Commission brought at the session held on March 2<sup>nd</sup> 2017 the Instructions for the Conduct of the Presidential Elections (hereinafter: the Instructions), as well as the Rules on the Work of Polling boards at the session held on March 6<sup>th</sup> 2017.

The decisions that drew the public's attention were the Decision on Declaration of the presidential candidate Luka Maksimović "Ljubiša Preletačević Beli" ("Ljubiša White Turncoat"), as well as the passing of the Instructions for the Conduct of the presidential elections on the territory of Kosovo \*. The work of the REC was in this period marked by the attitude of certain members who claimed that the permanent composition of the REC had not been formed in accordance with the Law on the Election of Members of Parliament.

The current legal framework does not fully guarantee the independence and impartiality and creates suspicion that the elected members of the REC are only "extended arms" of the parties by propositions of parliamentary groups, and not independent experts and lawyers with their own attitudes and integrity.

Regarding the Decision on Declaration of the presidential candidate Luka Maksimović, it can be affirmed that it was brought in accordance with the REC competence, but not with the usual practice in deciding on submitted candidacies. Namely, up until now, if certain faults of formal nature were noticed, the REC determined a supplementary 48-hour deadline for elimination of determined faults by a nominator. In the case of Luka Maksimović, in spite of the Report on reception of the candidacy that indicated certain faults, the majority of the REC members estimated that the said formal faults were not crucial and that his candidacy should be nominated immediately, without passing of the Decision on the supplementary deadline for the elimination of faults. 19 REC members voted in favour of the Decision on Nomination whereas 2 were against it.

The passing of the Instructions for the Conduct of the presidential elections on the territory of Kosovo \* was marked by turbulent reactions of certain REC members. The session ended on March 23<sup>rd</sup> at 2 am by adoption of the proposed Instructions, with 15 votes in favour and 13 against.

By passing of the Instructions for the Conduct of the presidential elections on the territory of the Autonomous Province of Kosovo and Metohija, the REC only partially allowed for the Decision and the attitude of the Constitutional Court<sup>29</sup> estimating that the determination of the results outside of polling stations was unconstitutional. The Instructions for the Conduct of the presidential elections on the territory of Kosovo \* foresee the determination of the results at the polling stations, but also a possibility not to do so, for security

\* This denomination does not prejudice the attitudes about the status and is in line with United Nations Security Council Resolution 1244 and the opinion of the International Court of Justice on Kosovo's declaration of independence.

<sup>29</sup> IUo 149/2014

reasons<sup>30</sup>. As positive electoral laws and other regulations do not recognise safety endangerment as a reason to abrogate from electoral procedures, it can be concluded that there are bases for suspicion that the said Decision is contrary to the Law and to the Constitution of the Republic of Serbia.

The decision to relocate the polling station from Orahovac to Peć (Kosovo\*) only two days before the Election Days, flagrantly jeopardised the passive voting right of 772 voters who are enrolled in the voters list at the polling station that was being relocated. Pursuant to the letter sent by the Office for Kosovo and Metohija, by such Decision, the REC put in subordinate position all voters enrolled in the voters list of the polling station Orahovac, bearing in mind the fact that they could not have been informed on time about the modification of the polling station and that they had to travel more than 60 km to the relocated polling station in Goraždevac in order to exercise their voting right.

There were no incidents in the work of the REC apart from the intrusion of the presidential candidate Saša Radulović at the REC session held on March 13<sup>th</sup> during the discussion about the submitted candidacy of Luka Maksimović (only the REC members, accredited observers and accredited media are allowed to attend the sessions in accordance with the REC Rulebook. In this case, the presidential candidate entered the premises during the session and briefly interrupted the work by his speech).

During the nomination of candidates for the president of the Republic, out of 12 submitted candidacies, 10 were immediately accepted, without a demand for supplementation, whereby two candidates were asked to supplement their documentation. The supplementation was required from the candidate Miroslav Parović who lacked 154 legally valid supporting signatures and from the candidate Predrag Vučetić who lacked all 10,000 supporting signatures. The candidate Miroslav Parović repaired all shortcomings within the legal deadline and his candidacy was therefore accepted, while the candidate Predrag Vučetić did not do so, and his candidacy was rejected.

### Legitimacy of the REC permanent composition

During the work of the REC, the issue of the validity of the current constitution of the REC has been raised in terms of violation of article 29, paragraph 4 of the Law on the Election of Members of Parliament which prescribes that *“No political party, party coalition or other political organisation can constitute more than a half of the permanent members of all bodies in charge of conducting the elections”*. At the same time, in accordance with article 33 of the Law on the Election of Members of Parliament *“Permanent composition of the Republic Electoral Commission shall consist of the President and sixteen members appointed by the National Assembly of the Republic of Serbia upon a proposition of parliamentary groups of the National Assembly of the Republic of Serbia, while the expanded composition shall also include one representative of each submitter of the electoral list”*.

By examination of the available data on the REC website, the CRTA observation mission “Citizens on Watch” concluded that similar situation occurred in previous electoral cycles, i.e. that the “parliamentary majority” gathered around a single candidate always had the majority in the permanent composition of the REC whereas the proportion changed afterwards following the election of the extended composition of the REC.

In time, i.e. following the adoption of new presidential candidacies, the number of the REC members changed considerably, so that upon the declaration of the list of candidates on March 17<sup>th</sup>, there were 28 members of the REC with a voting right (15 being the decisive majority).

The REC's composition, source: REC

No.	The REC's permanent composition	No.	The REC's extended composition
1	chairperson Vladimir Dimitrijević, jurist - deputy chairperson Željka Radeta, jurist	18	member Vesna Rakić - Vodinelić, jurist - deputy member Ljiljana Benać - Šantić, jurist
2	member Dragana Odović, jurist - deputy member Veljko Perović, jurist	19	member Marina Đukanović, jurist - deputy member Srđan Vasković, jurist
3	member Nataša Đukić, jurist - deputy member Nemanja Popović, jurist	20	member Bojana Bojić, jurist - deputy member Uroš Kršić, jurist
4	member Maja Pejčić, jurist - deputy member Sonja Podunavac, jurist	21	member Vesna Čirić, jurist - deputy member Iva Đinđić Čosić, jurist
5	member Marko Janković, jurist - deputy member Miloš Srećković, jurist	22	member Ognjen Đurić, jurist - deputy member Bojan Bajčeta, jurist

<sup>30</sup> Article 10 – After the vote, the polling board shall undertake all actions in accordance with article 74 of the Law on the Election of Members of Parliament and the Instructions for the Conduct of Voting for the President of the Republic called for April 2<sup>nd</sup> 2017, if the safety requirements are met.

On the basis of the information obtained by the OSCE, the Office for Kosovo and Metohija shall inform the Republic Electoral Commission at 19h00 at the latest about security conditions required for actions referred to in paragraph 1 of this article.

6	member Vesna Mizdrak, jurist - deputy member Vesna Stojković, jurist	23	member Ivan Ninić, jurist - deputy member Vojin Biljić, jurist
7	member Nikola Jelić, jurist - deputy member Radoje Malidžan, jurist	24	member Miloš Janić, jurist - deputy member Nikola Todorović, jurist
8	member Miljkan Karličić, jurist - deputy member Zoran Militarov, jurist	25	member Slobodan Popovac, jurist - deputy member Borislav Mitrović, jurist member Borislav Mitrović, jurist * - deputy member Slobodan Popovac, jurist * * from April 13 <sup>th</sup> 2017 to April 13 <sup>th</sup> 2017.
9	member Vladimir Tasić, jurist - deputy member Ivan Todosijević, jurist	26	member Miloš Jančić, jurist - deputy member Petar Mijanović, jurist
10	member Biljana Krasić, jurist - deputy member Branislava Čolović, jurist	27	member Bojan Pudar, jurist - deputy member Jelena Zlojutro, jurist
11	member Vladimir Gajić, jurist - deputy member Miloš Pavlović, jurist	28	member Nikolina Lipovšek, jurist - deputy member Relja Joksimović, jurist
12	member Darija Šajin, jurist - deputy member Dragan Radulović, jurist		
13	member Brankica Jović, jurist - deputy member Jovo Popović, jurist		member dr Miladin Kovačević, representative of the republic organisation in charge of statistics
14	member Vladimir Jestratić, jurist - deputy member Snežana Rakočević, jurist		secretary Srđan Smiljanić, jurist
15	member Marko Danilović, jurist - deputy member Marko Pušica, jurist		deputy secretary Branko Marinković, jurist
16	member Ivana Petrin, jurist - deputy member Dragan Ninković, jurist		
17	member Ladóczki Gyula (Đula Ladocki), jurist - deputy member Gordana Radić-Popović, jurist		

## News in the Instructions of the Conduct of the Elections for the President of the Republic of Serbia

### *Training of the members of the Election Administration and Bodies*

The Instructions give the detail about the training methods for working bodies and polling boards. A special emphasis refers to the procedure of election materials handover from polling boards and working bodies before and after the vote. Moreover, an assiduous attention is to be paid that the members of polling board know the rules regarding the filling of the Minutes on the work of polling boards and the rules regarding the conduct of logical and mathematic operations during the calculation of the elections results.

### *Proposal for appointing the members of the polling board*

The 2017 Instructions explicitly prescribe the obligation of the working body to accept proposals for appointing the members of polling boards before it receives from the REC the list of persons authorised to submit proposals. Further action shall be deferred until the time that a working body receives a lists and determines that the nominator is on the list. Besides, the Instructions foresee (but do not stipulate) to the nominators that the gender structure of the proposed members be equal. Every member of the polling board must have an identification card issued by the REC.

### *Gathering of supporting statements*

Before they start collecting supporting signatures, political subjects must validate the Agreement on coalition, i.e., the Agreement on citizens' group creation. Supporting statements must be validated by notaries, whereas the Magistrate Court does it only in municipalities with no appointed notary, which emanates from harmonisation with the Law on validation of signatures, manuscripts and transcripts.

### *Obligation on voters list display*

Voters must be informed about the voter register display to public through media or in other appropriate ways.

### *Safeguard of the election material by a "security lock" for bag sealing*

In the presence of the working body and polling board members, bags for the election material shall for the first time be sealed by a *security lock*, the serial number of which shall be entered in the minutes about handover of the election material.

### *The number of domestic observers that can monitor the work of the REC and polling boards*

The 2017 Instructions allowed that domestic associations accredit more observers to monitor the work of a polling board/polling station. In contrast to the 2016 extraordinary parliamentary elections, the only limitation now is that two observers ahead of the same association cannot simultaneously observe the work of a single polling board.



*News in Instructions on the Work of the Polling Boards*

At the session held on March 6<sup>th</sup> 2017, the REC adopted the Instructions for the Work of the Polling boards at the 2017 presidential elections in order to more clearly define the work of the polling boards during the conduct of voting.

**In the Appendix 3, on page 71, there is an overview of differences in the instructions for the work of the polling boards in 2016 and 2017.**

*Logical and calculation operations and the REC competence*

The 2017 Instructions for the Conduct of the Elections have for the first time regulated the process of verification and initialing of the polling board records by REC coordinators, although such practice existed in previous electoral cycles after 2000. The Instructions give an authorisation to the REC coordinators to make and initial the change of such omissions observed in the very polling board records, together with representatives of the Statistical Office of the Republic of Serbia, provided that such modifications do not influence the election results from that particular polling station.

The conditions for verifications of the Records have been restrictively stipulated by the Instructions and should not in any way influence the number of votes that candidates received at a polling station. The Records verification is impossible if logic and calculation data regarding the number of votes that candidates obtained do not concur. Furthermore, it is not possible to verify the Records if the number of ballots in the ballot box is higher than the number of persons who casted their ballots, that was determined on the basis of the excerpt from the voters list. Pursuant to the Instructions, the initialing of the Records is possible only in case of logic and calculation discrepancies.

The very article 91 of the Instructions predicts five cases in which it is possible to verify the Records:

- 1) the total number of the registered voters is not recorded;

In this case, the coordinator of the REC only enters the total number of registered voters at the polling station.

- 2) the recorded number of registered voters is lower than the number of voters recorded in the voter register and than the number of voters who voted, and all the other results of the vote are logically and mathematically correct;

At the polling station the above-mentioned situation, that the number of registered voters did not agree with the number of voters from the voters list and the number of votes, is possible. Thus, if the number of votes received by each candidate individually from the list of candidates is correct, and if the number in the sum agrees with the number of voters who voted, the coordinator of the REC is authorised to alter the total number of voters.

- 3) the number of the valid ballots was not recorded, and the sum of the number of invalid ballots and the number of votes which is individually assigned to each presidential candidate is equal to the number of ballots which are located in a ballot box;

In this situation, the members of polling board did not record the number of valid ballots and the sum of the invalid ballots and the number of votes received by each candidate individually is equal to the number of ballots that are in the box. Thus, the coordinator of the REC is not authorised to restate neither the number of invalid ballots, nor the number of ballots in the box and not even the number of valid ballots, but is only authorised to record the number of valid ballots which were clearly omitted by mistake by the members of the polling board.

- 4) the number of invalid ballots is not entered, and the sum of the number of votes that is individually assigned to each candidate for the President of the Republic is equal to or lower than the number of ballots in a ballot box.

Similarly as in the previous case, the coordinator of the REC is authorised only to enter the number of invalid ballots. Such a scenario is only possible if the number of votes received by each candidate is equal to or lower than the number of ballots which are located in a box. Such Records can be accepted although the number of ballots in the box is lower, as it is possible that one voter decides not to realise their voting right (i.e. not to put the ballot into the box) but to take it outside the polling station. It is important to note that in the case of taking out a ballot from one polling station does not compromise the regularity of the electoral process, as in the case of attempting to use the ballot at another polling station, in the polling board records at that polling station

the number of ballots in box will not agree with the number of voters and the results of that polling station shall be automatically invalid.

5) The number of ballots received does not equal the sum of unused ballots and the number of voters who casted their votes, but all other voting results are logically and mathematically correct.

The last situation allows the coordinator of the REC to correct the number of received ballots if the sum of the number of unused ballots and the number of voters who voted does not concur. The Instructions particularly emphasises that the polling board must pay attention to if there is a ballot fixed on the ballot box, that ballot too must be counted as unused.

The process of verifying the Records is necessary because of the electronic system of the Statistical Office of the Republic of Serbia as well, which helps REC to determine the results of elections in due time. At the election night on April 24<sup>th</sup> 2016 the public was stunned by the tardiness of the REC during the announcement of the preliminary results of voting. This scenario is largely the result of the obvious omissions in the polling board records, which were observed by the electronic system of the Statistical Office of the Republic of Serbia. The electronic system is unable to read and process the results from polling stations if all the data from the Records are not logically and mathematically correct. Because of the entire above scenario REC decided to publicly regulate the process of verifying, i.e. initialling the Records.

#### *Publicity of the work and the process of accreditation of observers*

The publicity of the work of the Republic Electoral Commission is guaranteed in accordance with existing regulations. The process of accreditation of domestic observers of the CRTA observation mission "Citizens on Watch" has been successfully realised within short deadlines. Apart from the process of accreditation, regular communication with authorised representatives of the REC and professional service has also been established. Observers received announcements about REC sessions in due time by SMS service.

In the field of the publicity of the work, there are certain limitations restricting the interested public to monitor the work of the REC and polling boards that were observed in the 2017 electoral process, too. Namely, only associations whose goals are achieved through elections can be accredited for monitoring the work of the REC and polling boards. This solution has been prescribed by Article 93. of the Instructions for the Conduct of Elections: "Interested registered associations whose goals are achieved through elections and who want to monitor the work of bodies designated to conduct elections for the president of the Republic shall submit the report to the Republic Electoral Commission by March 27<sup>th</sup> 2017". On the other hand, by changing by-laws of the REC, primarily the Instructions for the Conduct of Elections, easier monitoring of polling boards has been enabled on the very Election Day according to a more liberal principle. Pursuant to the 2017 Instructions, observers have been enabled to accredit more observers for one polling station. Besides, earlier practice of linking observers with a particular polling station has been abolished and now it is possible to accredit observers for the territory of the whole municipality or town which enabled all accredited observers to monitor the work of polling boards in a better and more efficient way.

#### *Conducting elections in Kosovo\**

At the session held on March 22<sup>nd</sup> 2017, the Republic Electoral Commission (the REC) adopted the Instructions for the Conduct of the presidential elections on the territory of Kosovo\* called for April 2<sup>nd</sup>. As the rules prescribed by the Instruction somewhat differ from those applied in 2016, there is an overview of the most important modifications in the Appendix 4, on page 75. There is also a short overview of the most important decisions that oppose the Instructions for the Conduct of the Elections on the territory of Kosovo and Metohija to the general Instructions for the Conduct of the Elections.

The decision of the Constitutional Court has determined incongruity of dispositions between the Constitution, the Law and the Instructions for the Conduct of the Elections for the Members of Parliament called on March 16<sup>th</sup> 2014, in Kosovo\*, referring to the way polling boards acted after the voting was completed. The Court made this decision on June 16<sup>th</sup> in 2016 long after the elections the Instructions referred to were finished, as well as after the extraordinary parliamentary elections held in 2016.

Assessing the disputed regulations of the Instructions, the Constitutional Court found them to be in contradiction with regulations of the Law on Election of Members of Parliament since the Law explicitly prescribes that the polling boards determine the voting result at the polling station and that the Law itself in that respect does not foresee any variations, whereby the disputed regulations determine the municipality of Raška and the town of Vranje as places where voting results shall be determined, and not just the polling station where the voting was conducted. In the reasoning of the Decision, Court also emphasised that the Instructions represented an act of lower legal significance than the Law and thus cannot change the Law regulations but only specify them.

The starting point of the Court was that, even though the disputed Instructions had ceased to be in effect, formally they had not lost their validity and they still had harmful consequences reflected in the fact that the Instructions for the Conduct of Elections in the territory of the Autonomous Province Kosovo and Metohija in 2016 contained the same regulations as the ones the Court declared unconstitutional.

The Court emphasised the significance of decisions issued by the Constitutional Court – they are executive and generally binding for all state bodies, adding that due to its legal effect, the new REC act prescribing identical illegal rules in the future election cannot be issued.

The manner of conducting the elections in the territory of Kosovo\* remained unknown until Thursday March 23<sup>rd</sup> 2017 (10 days before the beginning of the elections). Instructions for the Conduct of Elections in the territory of Kosovo\* foresee the possibility of results from the polling stations being determined in the polling stations themselves, as well as in assembly centres in central Serbia, depending on the safety assessment of the Office for Kosovo and Metohija. Such Instructions left space for different case scenarios during the Election Day, did not contribute to the legal security of persons engaged in the process and additionally endanger the integrity of the election process as a whole.

### **Role of notaries public in the electoral process**

Validation of signatures, manuscripts and transcripts has been completely entrusted to notaries public since March 1<sup>st</sup>, 2017. Taking into consideration the forthcoming election process, on February 14<sup>th</sup>, 2017 the Ministry of Justice adopted the Rule book on the fees for the validation of signatures of the voters supporting the nomination for the President of the Republic<sup>31</sup>. The Rule book stipulates the fee for the validation of signatures in the amount of 50 dinars per the validation of a signature. The Rule book highlights in particular that "the voter's signature should not to be validated before the fee is paid". Given that a certain number of local authorities in Serbia have not appointed a notary public yet, the Rule book envisions that signatures in these local authorities can be validated by competent magistrates' courts<sup>32</sup>.

According to the Law on the Election of the President of the Republic, a nomination is submitted to the Republic Electoral Commission no later than 20 days before the day of elections. Having in mind that the elections were called only 30 days before they were held, presidential candidates had only 10 days to collect all the necessary documentation and required signatures of the support of voters, which can be interpreted as a kind of pressure on all the actors in the election process. The CRTA observation mission "Citizens on Watch" discovered that some candidates had troubles to make an appointment with notaries public, which was also supported by the statements of almost all opposition candidates who emphasised that they had troubles to make an appointment for validating the citizens' signatures. The CRTA observation mission "Citizens on Watch" failed to obtain relevant proofs with respect to the obstruction of the process of validation of signatures by notary public offices, with the exception of individual statements of candidates' headquarters that some notaries public refused to conduct the fieldwork.

### **PHENOMENON "CAMPAIGN BEFORE CAMPAIGN"**

Having in mind that the presidential elections were not called until the beginning of March, different political actors had started the campaign even before the elections were called. According to the Law on the Financing of Political Activities, the election campaign begins with the calling of the elections and lasts until the day of announcement of final election results (Presidential elections were called on March 2<sup>nd</sup>, 2017). Nevertheless, the same Law allows political subjects to propagate their ideas, organise gatherings, as well as print and distribute publications for the purpose of their regular work. All actions potential candidates undertook during the course of "unofficial" part of the campaign remained out of reach of the Anti-Corruption Agency's control, whose authority is limited to the time period clearly specified by the law.

Besides, the Law on Electronic Media stipulates the obligations of the providers of media services with regard to the programme content according to which the provider of the services is obliged to respect the ban on political advertising outside the electoral campaign. Accordingly, it can be concluded that the candidates ranged within what the Law does not prohibit and that they skilfully used the imperfections of the valid regulation.

<sup>31</sup> The original text of the Rulebook is [at this link](#).

<sup>32</sup> The list of notaries public competent in the local self-government units where there are no appointed notaries public is available on the REC's [RIK website](#). There is a total of 76 local self-government units without an appointed notary public.



## NOMINATION OF ALEKSANDAR VUČIĆ

On February 14<sup>th</sup>, 2017, the Presidency of the Serbian Progressive Party made a decision that Aleksandar Vučić should be the party's candidate, what he himself accepted in the following days. Given that he entered the race for the President of Serbia from the position of the Prime Minister, the question arose whether this situation was legitimate i.e. whether Aleksandar Vučić had to tender his resignation before his official entry as a presidential candidate.

The notion of "a public official" is determined by the Anti-Corruption Agency Act, while the article 28 determines the ban on performing another public function: "An official can perform only one public function, with the exception of him being obliged to perform several public functions by the law and other regulation". Exceptionally from the paragraph 1 of this Article, an official can perform another public function on according to the consent of the Anti-Corruption Agency". The mentioned regulations in the practice imply that if he is elected the President, Aleksandar Vučić will have to resign the function of the Prime Minister prior to taking the oath.

In view of the fact that the law does not recognise any activity referring to the campaign i.e. the nomination for any public function, it cannot be concluded that there was any legal obligation according to which Aleksandar Vučić had to resign from the function of the Prime Minister.

However, bearing in mind that the performance of a public function itself enables the use of public resources for conducting regular activities, the question arises to which extent it is possible to prevent the abuse of public resources and make a clear distinction between regular work and a campaign in practice. In this sense, the Anti-Corruption Agency Act defines only the following: "A public official is always obliged to unequivocally present to his interlocutors and the public whether he is expressing the attitude of a body in which he performs a public function or the attitude of a political party, i.e. political subject" (article 29 paragraph 4). The purpose of this article is to ensure that an official is to clearly say in which role he addresses the public so as not to mislead the public at the time when he does not perform a public function and while he conducts other activities.

The data gathered by the CRTA election observation mission "Citizens on Watch" reflect the Prime Minister's "public official's campaign". The level of the Prime Minister's activities was substantially more intense from March 2<sup>nd</sup> when the elections were called until the election silence beginning on March 30<sup>th</sup> compared to the earlier period. During the campaign, the outgoing Prime Minister had 35 activities in 28 days, including factories and plants visits and openings, and meetings with European and foreign officials, sportsmen, etc. Out of 35 activities, 45 percent (16 activities)<sup>33</sup> related to factories visits, openings or other investments and meetings with investors. Those activities were particularly important as they have a significant "campaign" power to influence the voters. This is why in some countries, public officials are forbidden to participate in such activities 20 days before the elections.

The CRTA election observation mission "Citizens on Watch" compared the intensity of the Prime Minister's activities in March 2017 and in December 2016<sup>34</sup>. In December 2016, Prime Minister had a total of seven activities<sup>35</sup> that included visits or openings of different facilities. This shows that in the 2017 campaign this activity was doubled because of the effect that it can have on voters.

Furthermore, during the campaign, Prime Minister had ten meetings with European and other officials including visits to Germany and Moscow when he met with the German Chancellor Angela Merkel and the

<sup>33</sup> In March 2017, the Prime Minister Aleksandar Vučić attended the opening of a repaired section of Koridor 10 from Ristovac to Vranjska banja, the opening of a new plant in the Kontinental factory, the grand opening of the Shared Services Centre of Etihad Aviation group, of the new pupils' area and a gym in a Voždovac primary school "Vojvoda Степа", of the Athletic Stadium in Novi Pazar and the grand opening of a new plant of the Hutchinson factory. Besides, he visited the furniture factory Jela in Jagodina, a hall within the old factory "15. maj Eksporteks" where a Turkish company "Ormo grupa" should open a textile industry factory once the renovation is over; then the chips factory Chips Way and the Weltex company that deals with garment industry in Čačak, an arms industry factory in Velika Plana, where he attended the presentation of an armour vehicle named "Miloš", the farm in Titel "Ćirić Agro MĐŽ", the "Šnajder elektrik DMS" company, where he visited premises and talked to the management of the software IT company, as well as a factory of the Milanović inženjering company near Kragujevac, that deals with aluminum component production for the railcar industry. In March, the Prime Minister had two meetings with the investors: in Leskovac with potential Turkish investors who are interested in investing in the South of Serbia; and in Belgrade with the director of the German company "Grammer AG" for Serbia, Mr Pierluigi Ghione. Source: Fonet agency announcement and website of the Government of the Republic of Serbia, [Prime Minister activities section](#).

<sup>34</sup> December is a month of reference for comparison, as the Government that had been formed in August was able to work with the full capacity. As March 2016 was a period of electoral campaign for parliamentary elections, we did not take that month for comparison.

<sup>35</sup> In December 2016, the Prime Minister Aleksandar Vučić visited the factory "Gorenje", the airport "Nikola Tesla", the construction works on "Belgrade Waterfront" project, the ironworks Smederevo, Tax administration and opened a gym in a school. Source: website of the Government of the Republic of Serbia, [Prime Minister activities section](#)

President of Russia Vladimir Putin.

When attending events in his capacity of Prime Minister, Aleksandar Vučić talked on several occasions about the electoral topics, speaking mostly about his opponents. For example, in Vranje, on March 2<sup>nd</sup>, he participated as Prime Minister in the opening of a repaired section of Koridor 10. On that occasion, he used the “stage” not only as Prime Minister but also to give a speech about the upcoming elections: “What I am asking from you is no windfall as all those liars and swindlers say. I am only asking all of us to work even more... I do not wish to flatter the phony elite. I expect the people’s support. Those who care only about their posts and leisure travels wish to take someone’s head off, but they had no touch with the people... I knew even before whose head they were after...”<sup>36</sup>

Besides, the analysis also showed a pattern in logistics of the presidential campaign that Aleksandar Vučić led from the Prime Minister’s position. The Serbian Progressive Party rallies, where Aleksandar Vučić spoke as a presidential candidate, took place the same day and in the same places that he visited during the day as Prime Minister, or opened factories, or had meeting with local investors.<sup>37</sup>

The fact that one presidential candidate is in an obviously privileged position as a performer of the public function and that he has the state apparatus by his side does not contribute to the fair and democratic election race of candidates at the presidential elections, requiring an additional need for the existence of institutional capacities for monitoring all aspects of the election process. In the absence of an effective control, it is clear that a dominant position of the bearer of a public function in the electoral campaign can violate the integrity of the overall election process.

### NOMINATION OF SAŠA JANKOVIĆ

The presidential candidate Saša Janković was elected the Ombudsman on June 29<sup>th</sup>, 2007, while he took the oath on July 23<sup>rd</sup>, 2007. The National Assembly’s deputies re-elected him on August 4<sup>th</sup>, 2012. He resigned on February 7<sup>th</sup>, 2017, after having performed the function of the Ombudsman for 10 years, whereupon he informed the public he would submit the nomination for the President of the Republic.

A part of the public raised a question whether Saša Janković’s resignation implied the termination of function of the Ombudsman and whether this act implied immediate legal implications it produces.

In accordance with the Law on the Ombudsman (article 9) “The Ombudsman, i.e. his/her Deputies, shall not hold other public office, perform another professional activity, or any duty or task that might influence their independence and autonomy”. It can therefore be concluded that the participation of the Ombudsman could affect his autonomy and independence in performing his primary professional activity - in protecting rights and freedom of citizens through public authorities’ work oversight.

The Law on the Ombudsman stipulates that in the case of termination of function of the Ombudsman the Parliament takes a decision without a debate, which finds that all the conditions are met for the termination of function. By interpreting this provision, the decision of the National Assembly is of a declarative nature and it just states that the resignation has been filed in. the Parliament does not discuss it, therefore this decision is not of a constitutional nature. Its legal implications refer primarily to the obligation of the National Assembly to elect the Ombudsman within the legally stipulated period of six months.

Saša Janković resigned from the position of the Ombudsman, which represent one of the ways to terminate the function of the Ombudsman, prescribed by the Law on the Ombudsman, and named the Deputy who is to perform the function, while the National Assembly is to appoint the Ombudsman not later than six months after the termination of function of the previous Ombudsman, i.e. the day of making the decision which concludes the termination of function of Saša Janković as the Ombudsman<sup>38</sup>.

Regulations governing public officials’ conflict of interest cannot to be applied to Saša Janković’s situation, either as the candidate for the President of the Republic, or in case of possible assumption of the function of the President of the Republic, because he resigned the function of the Ombudsman and does not perform it anymore.

<sup>36</sup> National news programme TV PINK, March 2<sup>nd</sup>: <https://www.klipingmap.com/monitoring?1>

<sup>37</sup> The Serbian Progressive Party rallies: Vranje 2/3, Subotica 7/3, Jagodina 8/3, Leskovac 10/3, Čačak 11/3, Niš 22/3.

<sup>38</sup> Articles 11 and 15 of the Law on the Ombudsman

## POLITICAL RECOMMENDATIONS, TOPICS AND COMMUNICATION CHANNELS

Although the official start for the electoral campaign was announced on March 2<sup>nd</sup> by the presidential elections calling, the campaigning had already been in progress as several candidates had announced their candidacies and started communicating with voters. Precisely this premature start of the informal campaign of certain candidates (the opposition most of all), rose many controversies between the government and the opposition, which marked the first phase of the campaign. The fact that was brought into sharp focus of the public was the vagueness of laws regarding “campaigning before the campaign”. A formal interdiction to engage in pre-electoral activities before the official start of the campaign does not exist; many rules regulating the conduct of the participants in the official campaign do not apply to these activities.

The campaign climate was also denoted by a conflict between the government and the opposition regarding the new method of validation of supporting signatures. In accordance with the Law on validation of signatures, handwritings and copies<sup>39</sup> the said obligation was transferred from courts to notaries public. One of the main communication assignments of all candidates’ headquarters in the first phase of campaigning was gathering of signatures. The communication strategy of the majority was to question this new solution that had come into effect on the eve of the official calling of the elections, because of a fairly small number of notaries. Despite the doubt, notaries public managed to successfully validate over 165.000 signatures in only nine days, so that the fear of potential misuse of the process was proved to be unfounded.

This was a rather specific campaign in which a Prime Minister, who had all the real and operational power in the country, was competing for the office of President of the country, which in itself has no particular formal authority. It was not surprising that the real topic of these elections was the Prime Minister Aleksandar Vučić and his candidacy. While Aleksandar Vučić was using the campaign to boast all virtues of his authority – the financial consolidation, economic recovery, creation of jobs, world power centres support, success in EU integration negotiations emphasising his care for the simple people and the Serbian interest, other candidates were concentrating on certain aspects of Vučić’s politics that they considered unsuccessful or completely void.

Noticeably, five candidates were openly pro-Russian and anti-European oriented (Vojislav Šešelj, Boško Obradović, Milan Stamatović, Miroslav Parović and Aleksandar Popović), whereby only one candidate was unreservedly pro-Western (he would recognise the Kosovo’s independency, would welcome Serbia’s NATO membership, its EU integrations at any cost and as soon as possible) - Nenad Čanak. Saša Janković was a candidate who primarily insisted on the rule of law and recovery of institutions, whereas Vuk Jeremić, who more firmly inclined towards the nationalist right wing, harshly criticised Brussels negotiations. He emphasised his experience, knowledge, contacts and international connections and thought that this was the exact profile that Serbia needed in order to realise a swifter economic growth. Saša Radulović essentially claimed that those presidential elections were a referendum against Aleksandar Vučić, i.e. against the decline of Serbia and the one-leader system. His goal and an alternative to the existing system was a regulated system freed from partocracy, encouraging equal opportunities to all citizens of Serbia. Luka Maksimović held a special place (“Ljubiša Beli Preletačević”), who managed to attract attention of the younger population by parodying the deformations of the political life, which was shown in the recent opinion polls, which practically indicated a clear degree of disappointment in the Serbian political offer of a large part of the active electoral body.

All this indicates that the list of topics in the campaign was set rather high and largely surpassed powers of the future president. Moreover, according to findings of the long-term observers of the CARTA observation mission “Citizens on Watch”, the candidates were trying to promote care and better life as one of the key topics during rallies.

### Communication Channels

The campaigning intensity and the appearance of Vuk Jeremić and Saša Janković were noted, but they lagged behind the ruling coalition candidate Aleksandar Vučić who used his Prime Minister function for his presidential campaign. Saša Radulović’s presence was also notable especially on social networks. The campaign of Luka Maksimović, alias Beli Preletačević was outstanding. Interestingly, Dveri that had had a strong campaign on social networks during last year’s extraordinary parliamentary elections were less active in promoting their presidential candidate Boško Obradović. Other candidates appeared sporadically, inter alia in advertising shows dedicated to campaigning in the electronic media, which leads to a conclusion that they were constantly on tour throughout Serbia. According to reports of the long-term observers of the CARTA

<sup>39</sup> [http://www.paragraf.rs/propisi/zakon\\_o\\_overavanju\\_potpisa\\_rukopisa\\_i\\_prepisa.html](http://www.paragraf.rs/propisi/zakon_o_overavanju_potpisa_rukopisa_i_prepisa.html)

observation mission “Citizens on Watch”, some of the candidates opted for environments traditionally inclined to them (Vojislav Šešelj and Nenad Čanak in certain parts of Vojvodina), whilst a fierce competition took place in the municipalities where local elections were held simultaneously<sup>40</sup>.

Two means of communication characterised the presidential campaign: public events – primarily different types of gatherings and rallies – and the internet campaigning. Nearly all presidential candidates used those means of campaigning.

In different parts of Serbia, candidates’ headquarters were reaching voters by just a few means of communication. In Vojvodina, they were using posters, banners, and public gatherings and sometimes stalls. In the Eastern, South-Eastern and Southern Serbia, the campaigning was mostly done via internet (where Preletačević Beli and his young supporters were the most active) and less through billboards and posters. In the Western, Central and South-Western Serbia, the situation was similar, and only the candidate of the leading coalition was using all tools to reach voters (billboards in smaller number than during the extraordinary parliamentary elections, posters, and door-to-door). In this part of Serbia, too, the campaigning was the strongest on the internet, whereas the most visible parts of campaigning were public gatherings.

According to reports of the long-term observers of the CRTA observation mission “Citizens on Watch”, it could be concluded that locally, the campaigns were of a relatively low intensity that culminated before and during the arrival of the candidate in a particular place. Aleksandra Vučić’s campaign provoked the most reactions locally, during gatherings and rallies followed by dozens and dozens of buses with his supporters coming from all over the country. At the same time, those gatherings were broadcasted live in the news of Pink TV and lately Prva TV as well, which was a precedent in our media coverage and represents a flagrant violation of balanced media coverage for all candidates. The least applied tools by the Serbian Progressive Party for communication with voters were SMS messages and debates.

Next by campaign intensity and visibility are Saša Janković, Vuk Jeremić and Luka Maksimović. On the basis of long-term observers’ report, it was concluded that campaigning was on a very low level in Vojvodina and in Pčinj district, particularly in the part mostly inhabited by the Albanian population. Besides gatherings, in certain cities and municipalities, there were also stands (especially in Belgrade).

Moreover, the campaigning was based on massive use of posters, whereas billboards, political marketing on TV, radio and printed media were less visible. This classic political marketing type of campaigning began on March 13<sup>th</sup> when the first billboards appeared and the first TV spots broadcasted and advertisements published in the printed media. This type of campaigning was the most visible in Aleksandar Vučić’s campaign, nevertheless in a narrower scope compared to the last year’s parliamentary elections. Vuk Jeremić also had billboards and TV commercials, but he was considerably lagging behind Aleksandar Vučić. There were just a few billboards showing Vojislav Šešelj and Aleksandar Popović. In relation to that, it was visible that the ruling coalition had notably more capacities than the opposition candidates to cover all communication segments.

While the traditional political marketing was far less represented in the media than in the previous campaigns, the main feature of this campaign was the use of internet. Nearly all candidates communicate their messages through official web-sites and through those created especially for the presidential campaign.

The campaign was particularly intensive on the social networks Facebook and Twitter. Almost all presidential candidates led an intensive campaign on Facebook, but their interactions with followers differed, as well as paid advertisements. Posting on Facebook was the most visible for Aleksandar Vučić and Vuk Jeremić. During the campaign Luka Maksimović, and Saša Janković had a progressively increasing number of “likes”. When it comes to interactions on Twitter, Saša Janković had the most interactions, followed by Saša Radulović, Aleksandar Vučić and Vuk Jeremić.

This year too, the campaigning was marked with the absence of debates, which most certainly did not help the voters to perceive candidates’ attitudes and to decide who to vote for. The presentation of all candidates was broadcasted on the Second national television channel (RTS) that lags far behind the First channel by its ratings.

## NEGATIVE CAMPAIGN AND HATE SPEECH

Negative campaigning was used to discredit other contestants, rather than focusing on own election platforms. Hate speech is any speech that contains messages of hatred or intolerance against a racial, national, ethnic or religious community or its members. Also, hate speech is any speech that constitutes incitement to

<sup>40</sup> Local elections in April 2017 were held in five cities and municipalities: Zaječar, Kovin, Vrbas, Odžaci, Kosjerić

hatred or intolerance on the basis of gender or sexual orientation, as well as intolerance of different political and other opinion and of different ethnic and social background.

The observed period of the electoral process was marked by a negative campaign. Thanks to the ruling coalition's clearly articulated desire to win the elections in the first round shown in the media, government and opposition tried to turn these elections into a referendum about the Prime Minister Aleksandar Vučić's success of work. All this led to overly heated messages that were sent and at certain times transformed into hate speech.

In the observed period, negative campaigning towards other candidates was registered with Aleksandar Vučić, Vojislav Šešelj and Saša Radulović. A blatant example of negative campaigning that sparked off the most reactions was a press release issued by the Progressive Party's vice-president Milenko Jovanov who had accused the wife of opposition presidential candidate Vuk Jeremić of being the head of a narco cartel<sup>41</sup>. It was also registered that Aleksandar Vučić's coalition partners also conducted a negative campaign towards other candidates through public declarations making serious accusations against other candidates without any evidence<sup>42</sup>.

Vojislav Šešelj targeted the largest number of "negative" messages to Saša Janković and Vuk Jeremić stating that they were "DOS candidates" (translator's note: The Democratic Opposition of Serbia commonly referred to as DOS, was a wide alliance of democratic political parties in Serbia, intent on ousting the ruling Socialist Party and its leader, Slobodan Milošević. The term is in this case used pejoratively.) and a "foreign project". Negative campaigning was also noted towards Aleksandar Vučić by Saša Radulović<sup>43</sup> through allegations that "he caught him stealing money, both him and his family" and comments that results of his regime were lethal.

In their campaigns, Saša Janković and Vuk Jeremić had also negative messages referring Aleksandar Vučić, but in a much lesser extent. Boško Obradović targeted mainly Aleksandar Vučić, and occasionally also Saša Janković and Vuk Jeremić.

Vojislav Šešelj most used hate speech in his campaign.

### VOTE-BUYING, PRESSURE ON VOTERS AND PUBLIC RESOURCES MISUSE IN THE CAMPAIGN

Citizens of all districts of Serbia that the CARTA observation mission "Citizens on Watch" talked to in the previous period, showed concerns and fear of pressure into voting for certain parties or candidates. The largest number of information regarding pressure on voters related to the ruling parties at the local and national level, aiming to support the ruling party candidate - Aleksandar Vučić. Door-to-door campaigning and gathering of so-called "certain votes" that are also called "capillary votes" (translator's note: this expression has been invented in Serbia in order to depict votes that shall certainly be casted on Election Day) have been registered by the observers as an organised activity of the ruling SPP.

The CARTA election observation mission "Citizens on Watch" gathered the information about widespread pressure targeting some public institutions' employees (primarily public companies and municipal and city administration), particularly those hired for a definite period. According to some allegations acquired by observers, some employees were forced by their superiors to collect "capillary" votes, where the number of "certain votes" differed depending on the employee's hierarchy – the higher the position, the more "certain votes". Some employees at public institutions, but also in private companies whose business activity depends directly upon public authorities' representatives, i.e. circles of political power, especially the younger ones, were forced to participate in public rallies of Aleksandar Vučić. Pressure was coerced directly by superiors, but also by sympathisers of the party (nearly exclusively of the Serbian Progressive Party and its coalition partners).

Treating and vote-buying are primarily regulated under Article 156 of the Criminal Code. Penalties for these criminal offences include a fine or a prison sentence of up to three years, while cases of aggravated criminal offence (if committed by a polling board member) are punishable by a jail term from three months to five years.

Article 29 of the Anti-Corruption Agency Act states that "the government officials cannot use public resources, rallies in which they participate and meetings that they have as government officials in order to promote political parties, or more precisely political subjects". According to the Law on Financing Electoral Activities in

<sup>41</sup> <https://www.sns.org.rs/novosti/saopstenja/jovanov-najveca-kriminalna-banda-je-u-okruzenju-vuka-jeremica-na-celu-sa-sefom>

<sup>42</sup> <http://pokretsocijalista.rs/news/?id=2203>

<sup>43</sup> <http://dostajebilo.rs/Radulovic-u-kursumliji-uhvatio-sam-vucica-da-krade/>



the Republic of Serbia, political subjects cannot be financed by: public institutions, public companies, economic societies and entrepreneurs performing activities of common interest; institutions and companies which have a share of the state capital; other organisations performing public authorisations; unions; associations and other non-profit organisations; churches and religious communities; organisers of lottery games; exporters, importers and manufacturers of excise products. Article 70 of the Law on Public Companies, in the part referring to the use of resources and activities for political purposes, gives the following definition: "It is forbidden to use the property, activities, name and the visual identity of the public company in all activities related to political parties and election campaigns, as well as to use public companies in any other way for political purposes. A public company without any competition in a line of business of common interest cannot be advertised without agreement of the founder." Also, a legal or a physical person performing activities of common interest according to the contract made with the authorities of the Republic of Serbia, autonomous province and local self-government unit, as well as public services founded by them, cannot finance a political subject as long as the contract is in effect and two years after the effect of the contract expires.

The existence of the described legal framework did not stop the use of public resources in the campaign and CRTA observation mission confirmed its presence even during the electoral campaign for extraordinary parliamentary elections in 2016.

The presidential campaign has shown that this phenomenon has become a part of the political culture applied to a large extent by governing parties.

The CRTA election observation mission "Citizens on Watch" recorded the social and humanitarian programmes initiation as well as other types of donations by the ruling party, and the use of public resources such as premises, vehicles, electrical energy, equipment, etc. There were also cases of public officials who conducted or participated in the campaign of the presidential candidate Aleksandar Vučić during working hours.<sup>44</sup> There is a record of cases where factories were opened, parts of the city and hospitals renovated during working hours. On the same days, after the working hours, electoral rallies were organised.

Detecting and proving these criminal offenses is beyond the capacity and powers of a civil observation mission. However, bearing in mind the number of allegations regarding a wide range of abuses of public authority, funds, social programmes, agricultural subsidies, grants to sports clubs, pressures and so-called "certain" votes, etc. associated with support to the presidential candidate, one can conclude that the electoral campaign was unfair and undemocratic mainly because the institutions that were supposed to protect the public interests were visibly absent.<sup>45</sup> Supposing that all allegations of abuse and pressures were untrue, consequences created in public are negative, i.e. the effects on the trust of citizens in the electoral process and free elections were obvious. It is hard to conclude to what extent, particularly without an ambiguous position of competent institutions.

## ELECTION DAY

### ELECTION ADMINISTRATION

On the Election Day, the Republic Electoral Commission conducted its duties in accordance with the existing legal framework. Comparing to the 2016 Election Day, there were improvements in informing the public about the processed data from polling stations. Such informing was done by a TV set outside the REC conference room. Unlike in 2016 elections, there were no irregularities in the publishing of the processed results observed by the representatives of the Statistical Office. In that sense, it can be concluded that the work of the Republic Electoral Commission (the REC) on the Election Day was lawful and transparent.

On the Election Day, April 2<sup>nd</sup> 2017, the Republic Electoral Commission held a total of five conferences for the media and the public. Conferences took place at 11, 15, 19, 22 and 23h. During the Election Day, voters' turnout at polling stations was conveyed, whereby two last conferences that were held after the polling stations closing were reserved for the announcement of preliminary results. At the last conference it was stated that a total of 56.5% was processed. In comparison to the 2016 elections, the election night passed

<sup>44</sup> The most bizarre type of pressure on voters was recorded in Kikinda. The CRTA observation mission "Citizens on Watch" received the information by a long-term observer that an emergency service doctor provided medical help only to those who supported Aleksandar Vučić. The CRTA observation mission "Citizens on Watch" filed a complaint to the inspection of the Ministry of Health. No reply has been received until the publishing of this report.

<sup>45</sup> The CRTA observation mission "Citizens on Watch" filed two criminal complaints for suspicion of vote buying on the very Election Day. On May 22<sup>nd</sup> 2017, the CRTA observation mission "Citizens on Watch" legal team received a summon from the competent inspector of the police station in Novi Sad in order to give deposition regarding the circumstances and statements from criminal complaints.



peacefully and without major problems. The very REC contributed to such atmosphere thanks to regular reports announcing turnout percentages during the Election Day, as well preliminary results upon the closing of the polling stations. The transparent work of the REC continued the day following the elections when two conferences were held. At the first one at 10 o' clock, the REC announced that 92% of polling stations had been processed and that materials from certain polling stations were still coming.

### POLLING STATIONS OPENING

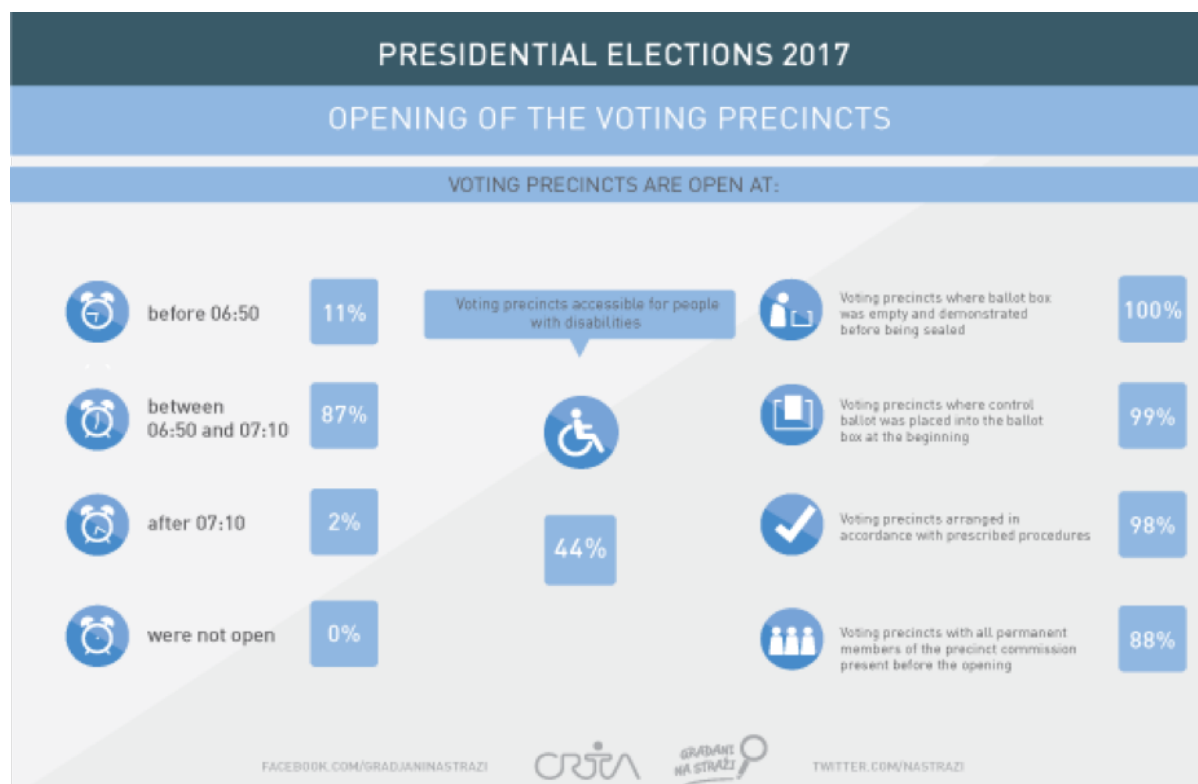
Opening of the polling stations for the presidential elections in Serbia went mainly in accordance with the valid procedures. The CRTA election observation mission "Citizens on Watch" were granted the access to the polling stations.

The total of 87 percent of the polling stations were opened on time, 11 percent were opened before 7 am, whilst two percent of the polling stations were opened with delay. On the basis of the information put forward by the CRTA observers, one polling station in Valjevo was opened with more than two-hour delay.

At all polling stations, bags with election material were secured with the security locks, whereby control ballots were casted into the ballot boxes in all observed polling stations. Two percent of the polling stations were not organised in accordance with the valid procedures, mainly in southern Serbia. All the activities were not recorded in the polling board records at five percent of the polling stations throughout Serbia. Such cases were the most frequent in the South of Serbia, but also in Belgrade and Vojvodina, far above the average in Serbia.

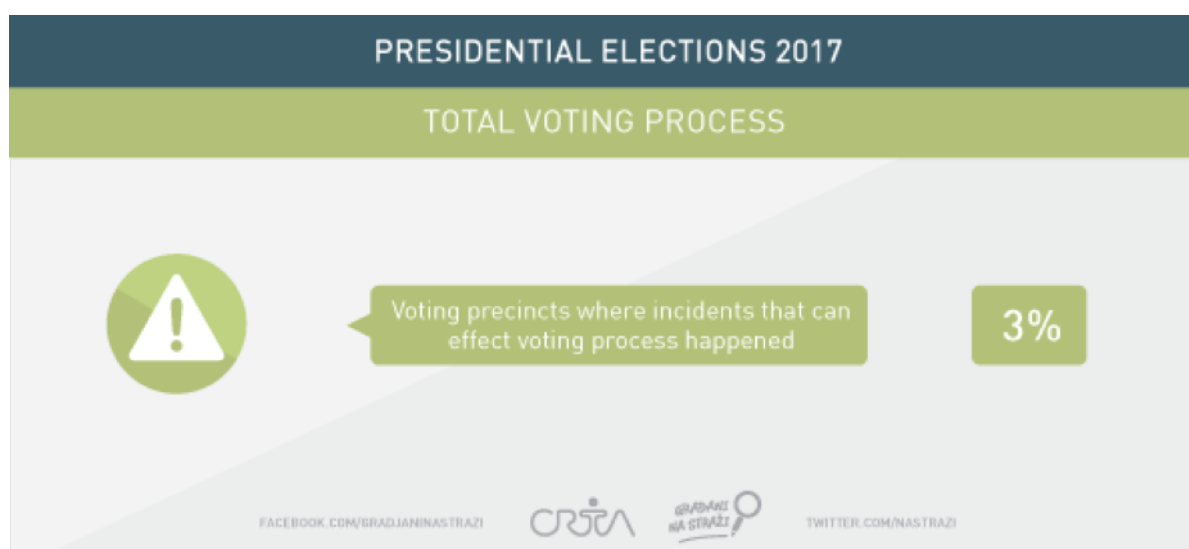
The total of 56 percent of the polling stations were not accessible to people with disabilities, which is three percent less than in the last year's parliamentary elections. This is a positive step forward, but at the moment it is impossible to evaluate whether it is the result of an effort made by the administration upon request filed by organisations that encourage the respect of people with disabilities and a better accessibility for them, or a pure coincidence.

Irregularities such as the lack of control of voters' identification cards, not using the UV lamp and propaganda campaign within 50 metres from polling stations were recorded at one percent of polling stations. These irregularities referred to isolated cases and cannot be perceived as a trend.



### VOTING PROCESS

On the basis of the sample information, the voting process during Election Day passed without major problems, mostly in accordance with procedures. The total of three percent of polling stations was registered with irregularities that can influence the course of voting.



Irregularities during voting were recorded in three percent of polling stations, including voting without identification documents, not using the invisible spray, campaigning within 50 metres of the polling station, as well as keeping of parallel lists containing voters' personal data. During the day, a positive trend was observed sparked by polling boards' initiative: a decrease of campaigning less than 50 metres from the polling stations. At the end of the day, such campaigning took place in less than one percent of cases.

Irregularities recorded until the end of Election Day can only be characterised as isolated cases and cannot be perceived as a trend.

The CARTA observation mission "Citizens on Watch" filed three criminal complaints on the basis of information obtained through mobile teams to the Prosecutor of Novi Sad, due to suspicion of criminal offence bribery at elections. All three criminal complaints were filed in Vojvodina (Temerin, Novi Sad and Beočin).

Moreover, throughout the day, the CARTA observation mission "Citizens on Watch" regularly received information from citizens wishing to report on potential irregularities. Following citizens' reports, the observation mission mobile teams visited polling stations 73 and 75 in Zemun polje and determined that a parallel record of voters was being kept outside the polling stations. Furthermore, an unauthorised person was bringing voters inside to cast their ballots giving them special green-ink pens.

The CARTA observation mission "Citizens on Watch" registered few isolated cases where voters were not allowed to vote since someone else had already voted on their behalf, as evidenced through the voters list. The two such cases were recorded in Leskovac and in Novi Sad and one in Smederevo and Sombor. Voters in Novi Sad, Smederevo and Sombor and one voter in Leskovac, were ultimately allowed to cast a vote by placing the signature at a different place in the voters list.

Citizens also reported several cases of unusually high number of voters who requested to vote outside of polling stations in Kovin, Dolovo, Starčevo, Alibunar and Savski venac in Belgrade.

One incident of physical violence was recorded at the polling station 16 in Leskovac, where a political party activist assaulted the president of the polling board and caused him minor injuries, so the police and the ambulance intervened. The police also intervened at the polling station 67 in Pančevo, due to the gathering of extremist groups in front of the polling station.

Citizens whose identity card expired were allowed to cast their vote provided they submitted a confirmation of the Ministry of Interior on the request for the issuing of a new identity card. In Zaječaru, Alibunar and Knjaževac police stations were opened outside of working hours with the purpose to issue the confirmation that voters without a valid ID card had submitted the request for the issuing of the new ID card. The CARTA election observation "Citizens on Watch" mobile team confirmed that the replacement of ID cards was organised by unknown persons for 50 voters.

### **"Vote-Buying" on Election Day**

During Election Day, the CARTA observation mission "Citizens on Watch" registered several events that potentially represent criminal offence bribery at elections set forth by article 156, paragraph 1 and 2 of the Criminal Law. Criminal complaints were filed to the competent Prosecutor regarding events that highly probably reveal the said criminal offence.

As a matter of fact, during the vote for president of the Republic of Serbia at the polling station 3 in Beočin, an NN person who was in a car (the license plate number is identified) waited for the voters entering and exiting the said polling station and gave them an unknown sum of money.

Also, in proximity of the polling station number 90 Novi Sad, 54 Čenejska Street, there was a person who gave envelopes to people heading for the said polling station.

A similar scenario took place in front of polling stations 1,3 and 4 in Temerin, where between 09:30 am and 10:15 am, a person in a van waited for voters heading for the said polling stations and gave them certain amount of money. In Titel, too, unidentified persons in a vehicle of the known licence plate number gave the voters envelopes with money. At the same municipality, citizens received envelopes with money in a house the address of which was communicated to the competent Prosecutor.

In all abovementioned cases, criminal complaints were filed to the Basic Public Prosecutors' Office in Novi Sad, accompanied with licence plate numbers of the said vehicles, as well as footages/photos of the described events.

On May 25<sup>th</sup> 2017, complainants received a summon from the competent inspector of the police station in Novi Sad in order to further clarify the aforesaid events.

### **Voters list problems on the Election Day**

At 16 percent of polling stations, there were cases where people reported to have been registered in the electronic voters list, but could not be found in the excerpt. Nonetheless, such irregularity concerned 0.2 percent of cases. Furthermore, at 11 percent of polling stations, there were isolated cases of people who were unable to find their name in the voters list excerpt, which indicates isolated problems with voters lists in 27 percent of polling stations in Serbia. Once again, one cannot raise the issue of a large number of voters who were unable to cast their ballots, but rather the issue of prevalence of such problems in the entire country. The CRTA election observation "Citizens on Watch" cannot determine whether the voters had mistaken their polling station or there was a problem with voters list.

The CRTA election observation "Citizens on Watch" received more than 20 citizens' reports on deceased persons registered in the voters list. Some reports were accompanied by photos of personal data from the voters list and death certificates of persons in question.

The CRTA election observation "Citizens on Watch" does not have a confirmation that such persons "casted their votes", which means that it is impossible to determine serious violation of the Law on Election or systematic irregularities that influence the results of voting.

All these cases undeniably imply deficiencies of the voters list that the CRTA election observation mission "Citizens on Watch" indicated after the 2016 parliamentary elections considering that this issue needs to be thoroughly examined and rectified.

During Election Day, a certain number of citizens who live abroad contacted the CRTA election observation "Citizens on Watch" because they had a voting right in Serbia and expressed concern that somebody else might vote on their behalf, as they were unable to come and cast their votes.

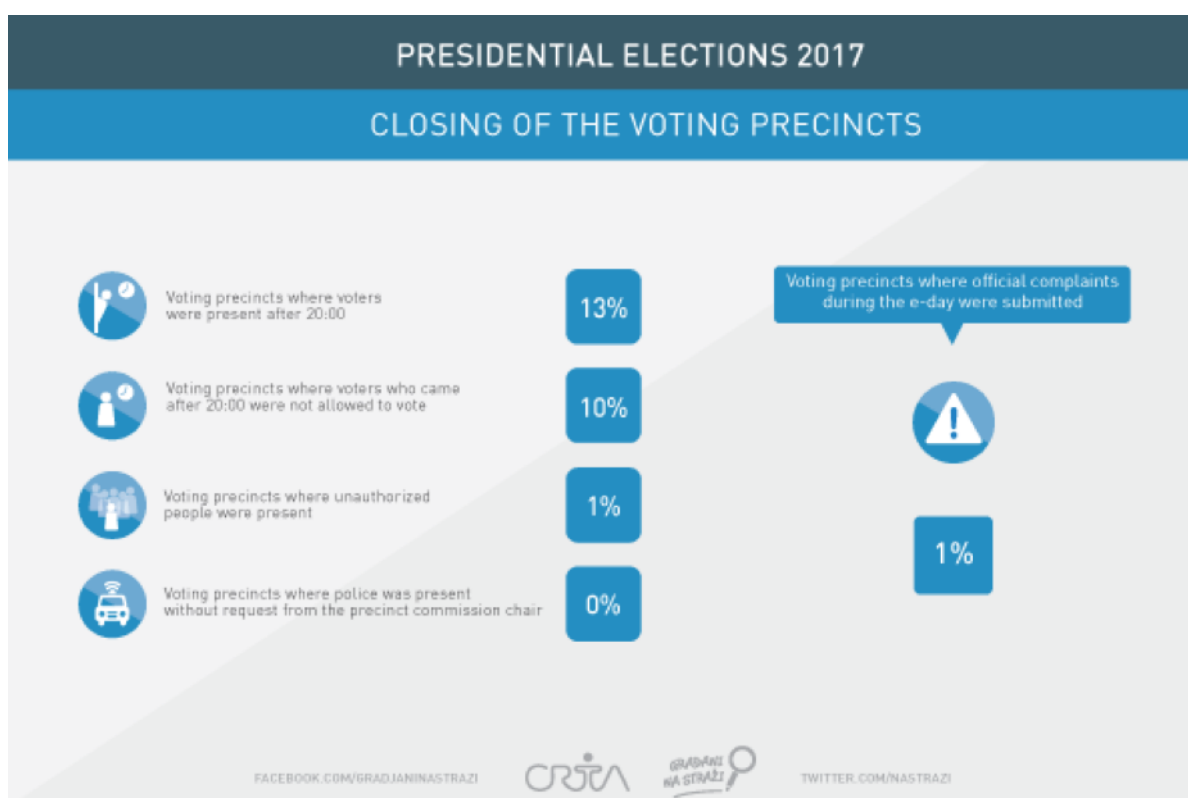
### **CLOSING OF POLLING STATIONS AND VOTE COUNTING**

The closing of polls in the presidential elections in Serbia proceeded generally in accordance with the prescribed procedures. Several cases of serious irregularities were registered, but they do not influence the regularity of the electoral process.

At two percent of polling stations, voter stayed after 8 o'clock pm, but only at 2.9 percent of those polls, voters were allowed to cast ballots after 8 pm.

At 1.3 percent of polls, unauthorised persons were present at one time during the electoral process. At 1 percent of polling stations (4 cases) complaints were filed to polling boards.

The CRTA did not register the presence of the police on the polling stations, nor serious problems regarding the closing of polling stations.



## POST-ELECTION PERIOD

### TURNOUT AND RESULTS – CRTA/REC

In accordance with the REC's decision on determining and announcing of the final number of voters in Serbia adopted at the 33<sup>rd</sup> REC's session held on March 31<sup>st</sup> 2017, a total number of voters for all self-government units as of March 30<sup>th</sup> 2017 was 6,724,949 deployed at 8,396 polling stations.

According to sample results gathered from 450 polling stations, the voters' turnout at the presidential elections held on April 2<sup>nd</sup> 2017 was **54.4 percent** with the margin of statistical error of **+/- 1 percent**. According to the REC, the official number of voters who casted their ballots at the presidential elections was 3,654,014, i.e **54.34 percent of voters**.

## PRESIDENTIAL ELECTION 2017

COMPARISON OF **CRTA** PVT AND **REC** FINAL RESULTS

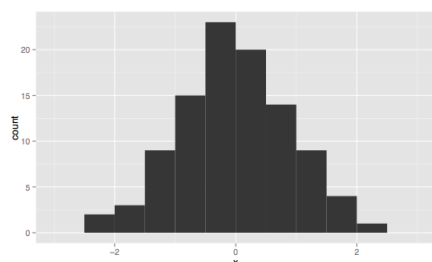
	CRTA-GNS	MoE:	Difference:	REC
1. ALEKSANDAR VUČIĆ – [SNS, SPS, SDPS, JS- PUPS, PS, SPO, Pokret Snaga Srbije, SVM]	54.66%	1,5%	0,41%	55.07%
2. SAŠA JANKOVIĆ – GG "ZA SRBIJU BEZ STRAHA"	16.35%	1,1%	0,01%	16.36%
3. LUKA MAKSIMOVIĆ – GG "LJUBIŠA PRELETAČEVIĆ BELI, BELI- SAMO JAKO"	9.54%	0,5%	-0,12%	9.42%
4. VUK JEREMIĆ – GG "MORAMO BOLJE"	5.77%	0,3%	-0,11%	5.66%
5. VOJISLAV ŠEŠELJ – SRPSKA RADIKALNA STRANKA	4.42%	0,2%	0,07%	4.49%
6. BOŠKO OBRADOVIĆ – SRPSKI POKRET DVERI	2.35%	0,2%	-0,06%	2.29%
7. SAŠA RADULOVIĆ – GG "DOSTA JE BILO"	1.40%	0,1%	0,01%	1.41%
9. NENAD ČANAK – LIGA SOCIJALDEMOKRATA VOJVODINE	1.20%	0,2%	-0,07%	1.13%
8. MILAN STAMATOVIĆ – GG "ZA ZDRAVU SRBIJU - MILAN STAMATOVIĆ"	1.15%	0,2%	0,01%	1.16%
10. ALEKSANDAR POPOVIĆ – DEMOKRATSKA STRANKA SRBIJE	1.15%	0,1%	-0,11%	1.04%
11. MIROSLAV PAROVIĆ – NARODNO SLOBODARSKI POKRET	0.31%	0,1%	0,01%	0.32%
<b>INVALID BALLOTS</b>	<b>1.70%</b>	<b>0,2%</b>	<b>0,05%</b>	<b>1.65%</b>

## ELECTORAL FORENSICS

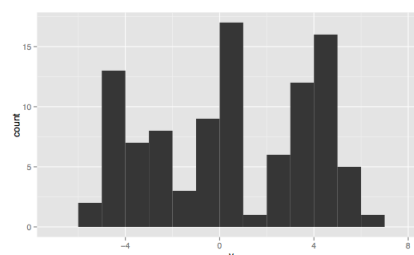
In order to verify whether the officially published data reflect the voters' will and taking into consideration the percentage of polling stations with recorded irregularities that affect the electoral results (three percent), the CRTA observation mission "Citizens on Watch" undertook a statistical analysis of the final electoral results by polling stations.

A histogram test of normal distribution of numerical data was used<sup>46</sup> in uniform intervals.

Normal distribution example



Distribution with deviation example



This method was used in many countries for statistical verification of the electoral results by polling stations<sup>47</sup>, and also in 2016 for the results of the extraordinary parliamentary elections by the CRTA election observation mission "Citizens on Watch".

On the basis of the histogram model of absolute votes won by one candidate at the presidential elections in uniform intervals of **one**

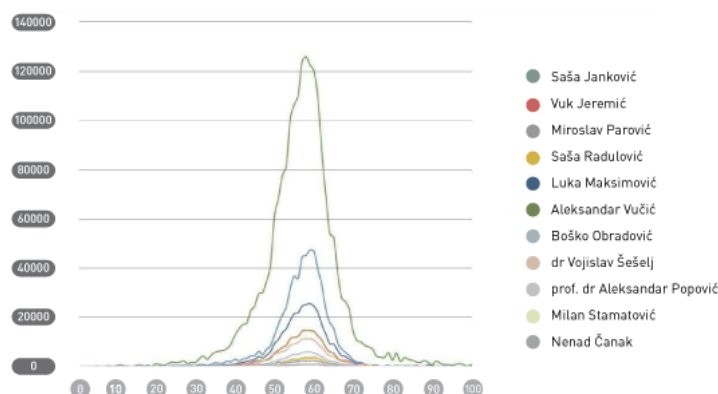
**percent turnout** it can be concluded that the normal distribution envisaged by the histogram model was not perturbed.

Bearing in mind that the normal distribution envisaged by the histogram model was not perturbed, it can be concluded that the statistical analysis of the presidential results confirms the conclusions drawn by the CRTA election observation mission "Citizens on Watch", and that in spite of the recorded irregularities during the Election Day, the results of the electoral process largely reflect the voters' will.

## ELECTION ADMINISTRATION

When it comes to the work of the election administration, the post-election period was marked by: appeals taken into consideration, annulment of the results at certain polling stations, public opening of bags with election material and repeating of the elections at several polling stations, as well as the announcement of the final results at the 2017 presidential elections. In its work, the REC proceeded in accordance with its authorities and the law. On several occasions, the members disagreed on decision proposals. There were also discussions outside the scope of REC's competence (political arguments, member qualifications and speaking from the perspective of a party affiliation).

The CRTA election observation mission "Citizens on Watch" filed on April 10<sup>th</sup>, a request to examine the polling



<sup>46</sup> <https://en.wikipedia.org/wiki/Histogram>

<sup>47</sup> <http://www.pnas.org/content/109/41/16469.full>



board records from 450 polling stations that were kept in the observation mission sample. The REC did not respond to the said request, nor allowed the access to the polling board records.

On the other hand, during the first post-election week, eight REC' sessions and 10 press conferences were held. Media conferences were held in order to inform the public about the vote counting process and the election turnout during the Election Day and the election night and also afterwards in the process of determining of the preliminary election results. Main topics of the REC's sessions in the given period included decision making in complaints on irregularities in the process of conducting of the elections on the very Election Day, as well as deciding about the electoral results from the polling stations where it was impossible to determine the electoral will of voters – *process of results verification and annulment*.

In accordance to the aforesaid, the REC decided about 49 complaints and brought a decision to open bags with electoral material from 70 polling stations. On the basis of the decisions passed by the REC and the Constitutional Court, voting was repeated at 11 polling stations, on two different dates: April 11<sup>th</sup> and April 17<sup>th</sup>.

In addition, on the basis of the process of opening of bags with electoral material, the results from 11 polling stations were annulled. It convenes to mention that in the given period, the REC brought decisions and decrees necessary for the re-vote, the *Decision designating the form, colour and contents of the ballot and of the control ballot* and the *Decree on the establishment of polling boards for the re-vote*. Another event that characterised the entire electoral process was the REC's decision to open bags with electoral material designated as regular. Namely, on the basis of the media headlines and certain presidential candidates' declarations made after they had realised their right to inspect the entire electoral material, the REC decided to open bags from two polling stations in Novi Pazar. In the increased presence of media he REC opened the material from those two polling stations and commenced the process of recounting of ballots. On the basis of the recount of the entire material, it was determined that the candidate listed under number 6 had 4 votes more than stated in the polling board records. However, as the results from those polling stations had already been determined and become irrevocable, it was impossible to match them with the actual situation after the recount of the electoral material. Such situation occurred at another polling station, which raised doubts in the entire electoral process, as numbers from the records did not concur with those that the REC found after the recounting of ballots from that polling station. After that, opposition representatives insisted before every session that all ballots from all polling stations in Serbia be recounted. No propositions were adopted as they had not got the necessary majority for the passing of the decision (15 votes).

In the post-election period, the REC passed on a decision authorising the REC's secretary to forward to the competent authority all complaints about irregularities perceived at polling stations in which the complainant expresses doubt about criminal offence.

Moreover, by the very end of the electoral process, a great attention was also given to the decision to amend the Decree on the establishment of a representative of the submitter Milan Stamatović in the extended composition of the REC. Following Milan Stamatović's request, it was decided that the then deputy member Borislav Mitrović becomes a member, whereas Slobodan Popovac, the then member, becomes a deputy member. Although the Decree was adopted unanimously, this decision was preceded by an acrimonious discussion of the REC members about the influence of political parties on the views that its members express during the work of the Commission. On several occasions, the REC members requested to supplement the agenda that would refer to the REC's obligation to deliver the preliminary results to the members in the electronic form, but those propositions had never won the necessary majority of votes.

### Re-voting

Deciding about voters' complaints, at the 34<sup>th</sup> and 34<sup>th</sup> session, the REC annulled the elections at eight polling stations where the voting was repeated on April 11<sup>th</sup> 2017. The voting at the polling station 18 in Topola was repeated when the REC having inspected the polling board records determined that one voter had been inscribed in the voters list excerpt during the voting. At the polling station 5 in Vrbas, elections were repeated due to violation of a legal provision prescribing that one voter can cast a ballot only once and it was determined that one voter had cast two ballots in the ballot box. At the polling station 11 in Bačka Palanka, the elections were annulled because it was found out that the identity of a voter had not been determined in an adequate manner, as his unique master citizen number indicated in his identity card differed from the one indicated by his name in the voters list excerpt. At the polling station 77 in Mirijevo, there was a discrepancy between the number of received ballots established before the polling station opening and the number of ballots received established by the polling board records, due to which it was impossible to incontestably determine whether the results at that polling station were regularly determined. Acting on citizens'

complaints, the REC inspected the polling board records and the electoral material and determined that the number of ballots in the ballot box is superior to the number of voters who had cast their ballots. The elections were therefore repeated at a polling station 48 in Vršac, 11 in Pančevo, 11 in Zrenjanin and 10 in Kraljevo.

On the basis of the decisions passed on by the REC and by the Constitutional Court following citizens' complaints and appeals, the elections were annulled at three more polling stations where the re-vote took place on April 17<sup>th</sup> 2017. At the polling station 62 in Trstenik, it was determined that the number of ballots were larger than the number of voters who had cast their ballot, whereas at each of the polling stations 75 in Leskovac and 178 in Novi Sad, one voter was not allowed to realise his voting right because there was a signature affixed by their name the voters list excerpt that was not theirs.

### **Announcement of the final results in the presidential elections**

The REC adopted the Report on the final results of the presidential elections at the session held on April 20<sup>th</sup> 2017. 10 REC's members voted in favour of this decision, whereas 9 were against it. The establishing of the Report was preceded with arguments of those members who were against its adoption that referred to the illegality of the conduct of the elections in Kosovo, disclaiming of competence of the REC and of the Anti-Corruption Agency, absence of an Oversight Committee and the illegitimate permanent composition of the REC.

On the basis of the final results, the Republic Electoral Commission determined that Aleksandar Vučić had been elected president having won 2 012 788 votes, i.e. the majority of 3 654 014 casted votes.

After that, the REC's extended composition was dismissed in accordance with the law, and the REC acted in its permanent composition at two remaining sessions. At those sessions, the REC decided about three complaints against the Report on the final results of the presidential elections. All three were rejected as unfounded.

At the last session held on May 11<sup>th</sup> 2017, the Report on the conducted presidential elections was adopted pursuant to which the newly elected president would be given the Certificate of election of the president before his inauguration.

### **Annulment and verification issues**

The Instructions for the Conduct of the elections for the president of the Republic of Serbia called for April 2<sup>nd</sup> 2017, define the detail of the conduct of the voting for the president of the Republic.<sup>48</sup> These Instructions clearly define bodies and their competences in the electoral procedure. These legal acts clearly define the competences of all bodies conducting the voting, the Republic Electoral Commission – the REC and polling boards. By a comparative analysis of these acts, we can notice that the Instructions define the REC's competence that is not mentioned in the said laws, i.e. that is not set forth, thus it is outside the scope of the REC's powers. More precisely, the REC obtained extended powers by the Instructions. That part refers to the determination of the electoral results. In accordance with article 91 of the Instructions the coordinator of the Republic Electoral Commission is authorised to, in co-operation with the Republic Institute for Statistics, carry out and initial the correction of the logic and calculation errors in the polling board records if those errors are an obvious omission in filling of the records and do not influence the election result. The Instructions foresee five situations where such corrections are possible.<sup>49</sup>

Without entering in a detailed analysis of these five situations in which logic and calculation corrections can be made and the justification of such corrections, what is questionable from the standpoint of regularity is the authorisation of the coordinator and representatives of the Republic Institute for Statistics to modify alter in any way the data from the polling board records. Namely, as the Republic Electoral Commission is a collegial body, that makes decisions by a majority of its members' votes, this provision of the Instructions delegates the authority to persons who make amendments in the polling board records regarding logic and calculation data

<sup>48</sup> The Instructions for the Conduct of Voting for the President of the Republic (02 number: 013-63/17). The Republic Electoral Commissions adopted these Instructions on March 2<sup>nd</sup> 2017. These Instructions were adopted by the permanent composition having 17 members. Twelve were from the ruling party which is contrary to provisions of article 29 of the Law on the Elections of Members of Parliament, as a political party, party coalition or any other political organization cannot have more than one half of members in the permanent composition of all authorities that conduct the elections.

<sup>49</sup> Article 91 of the Instructions for the Conduct of the Voting for President of the Republic: 1) the total number of the registered voters is not recorded; 2) the recorded number of registered voters is lower than the number of voters recorded in the voter register and than the number of voters who voted, and all the other results of the vote are logically and mathematically correct; 3) the number of the valid ballots was not recorded, and the sum of the number of invalid ballots and the number of votes which is individually assigned to each presidential candidate is equal to the number of ballots which are located in a ballot box; 4) the number of invalid ballots is not entered, and the sum of the number of votes that is individually assigned to each candidate for the President of the Republic is equal to or lower than the number of ballots which are located in a ballot box; 5) the number of ballots received does not equal the sum of unused ballots and the number of voters who casted their votes, but all other voting results are logically and mathematically correct.

at their own free will, although one must bear in mind that the records are a public document. In relation to this, it convenes to mention that the polling boards determine the results at the polling stations and that all activities provided by the law that they are held to carry out must be entered in the polling board records. The Instructions on the work of the polling board in the presidential elections made a step forward in order to avoid mistakes in the records. Namely, it is foreseen to fill a control form for verification of a logic and calculation exactitude of the results of the voting at a polling stations, prior to filling in the records, in order to avoid, i.e. to reduce to minimum the possibility of mistakes in the records that might cause the repeated voting at a polling station, correction of logic and calculation mistakes by the REC or the annulment of votes at a polling station.

On the other hand, in accordance with the Rulebook on the work of the REC, the members decide by a majority of votes on proposals under various items of the agenda. They made decisions on correcting the logic and calculation errors in the polling board records in the conduct of the voting and the determination of the results of presidential elections. In accordance with the Law and particularly in accordance with the Law on the Election of the Members of Parliament, the REC has a number of authorisations that emanate from its competences during the elections, such as the establishment of rules for the conduct of the voting and the announcement of the electoral results. Article 34, paragraph 1, item 14 foresees that the REC determines and announces the election results. This provision should be interpreted in a restrictive manner, estimating the spirit of the law that stipulates the authority of the REC, as the REC would otherwise take over the competence of the polling boards. This is very important, as the interpretation and reference to this provision causes the extension of the REC's authorities beyond the legal scope, which turned out to be a big issue when it was decided whether to annul the vote at certain polling stations or to inspect the electoral material by opening of bags and recounting the ballots by the REC. Here is an explanation of the actual sequence of events.

At the 37<sup>th</sup> session held on April 6<sup>th</sup>, the Republic Electoral Commission was deciding on logic and calculation errors in the polling board records and decided to open the bags from 70 out of 76 polling stations and to inspect the electoral material. On that basis, coordinators filed a report to the Commission about the determined state of the facts and the Commission decided on a statistical treatment of each polling station. Upon the inspection of the election material from 70 polling stations, it was possible to determine the voters' will from 56 minutes, whereby from 14 it was not possible to do so. The commission coordinators filed reports for each of polling station, so that the Commission decided to accept the results from three polling stations and to annul the results from 11 polling stations.<sup>50</sup>

In relation to this, it convenes to mention that the Constitutional Court annulled the decision of the Republic Electoral Commission by its verdict in one case and at the same time ordered to the REC to inspect the electoral material from one polling station in order to determine the election results and to establish the factual state. Interestingly, according to the Constitutional Court findings, the Republic Electoral Commission founded its decision on the amended polling board records without stating legal grounds for such amendment and without the electoral material control (the amendments was carried out by an initial of the president of the polling board).<sup>51</sup>

The aforesaid annulment is not foreseen in any regulations governing the electoral process. During the previous elections, as well as in 2017 elections, the annulment is an adopted practice although it derogates the voters' will. The most frequent reasons causing the annulment are inconsistent records that contain "serious" mistakes that cannot be acted on, i.e. that do not allow determining of the election results. Article 89 of Law on the Election of the members of Parliament stipulates that repeated elections shall be conducted if the Republic Electoral Commission annuls the voting due to irregularities in implementation of the elections, in the cases foreseen by this law. Such irregularities refer to situations during the voting. However, the law does not specify the procedure that should be implemented in case of inconsistent records. The Instructions apparently solved this issue partially in the area of amendments of the logic and calculation errors.

Pursuant to the abovementioned, evaluating regulations governing the electoral process, procedures and character of the decisions passed on by the Republic Electoral Commission regarding cases in which logic and calculation errors shall be corrected, it remains unclear in which cases the records shall be annulled or verified which causes legal insecurities. Although this issue concerns a small number of polling stations and irregularities in the records cannot influence the final electoral results, it should be pointed out that during the 2016 parliamentary elections it depended on only few ballots whether one political party would participate in the seat allocation in the Parliament or not. Ideally, the Law on the Election of the members of Parliament or

<sup>50</sup> The Republic Electoral Commission official website <http://www.rik.parlament.gov.rs/aktivnosti-sednice.php#a109>

<sup>51</sup> 5 UŽ 21/17 as of April 10<sup>th</sup> 2017

at least the Instruction for the conduct of the voting should define the cases and procedures of the Republic Electoral Commission in situations when the results of the elections at polling stations cannot be determined due to deficiencies in the polling board records. That would considerably facilitate the work and decision-making of the REC members, minimise tensions and increase the public's confidence in the electoral process.

### Inspection of the electoral material

The Law on the Election of the Members of Parliament prescribes that **representatives of submitters of electoral lists and candidates for members of Parliament have the right to inspect the electoral material**, especially the excerpts from the voters list, minutes of the polling boards, minutes of the Republic Electoral Commission and ballots. The inspection of the electoral material is to be carried out in the official premises of the Republic Electoral Commission as well as at the authorities keeping the electoral material. The inspection of the electoral material can be carried out **within five days of the days of the elections** (article 64).

If this deadline is exceeded, the persons authorised for the inspection of the electoral material lose their right to request its inspection. In this particular case, after the elections held on April 2<sup>nd</sup> 2017, the deadline expired at midnight on April 7<sup>th</sup>. However, materials from polling stations throughout the country kept arriving until the afternoon on April 7<sup>th</sup>. The representatives of submitters had only a few hours to inspect the electoral material.

The Law stipulates that upon determining of the results of voting, the polling board shall, without delay and not later than 18 hours after the closing of the polling station, deliver the following to the Republic Electoral Commission: the minutes of its work, the excerpt from the voters list; unused and, separately, used ballots; invalid and, separately, valid ballots; as well as the rest of electoral material (article 77).

No negative legal consequences are foreseen for the deadline exceedance, but naturally, it is very important that the polling stations deliver materials as soon as possible so that the representatives of submitters could make a timely inspection. In that way the Republic Electoral Commission could be able to determine and announce the final electoral results within the deadline stipulated by the law.

**The CARTA election observation mission "Citizens on Watch" filed a total of 18 complaints to the REC. An overview is in the Appendix number 5, on page 52.**

### CARTA – app "Has anyone voted instead of you?"

After the Election Day, an important number of citizens, who had a voting right but who did not vote at the elections, came forward to the CARTA election observation mission "Citizens on Watch" expressing fear that another person voted on their behalf. Besides, as a considerable number of deceased persons is still registered in the voters list, their family members came forward to the CARTA observation mission wishing to find out how to check whether someone had voted on their behalf.

In order to make it easier for citizens to obtain the information from the Republic Electoral Commission (the REC) whether there is a handwritten signature next to the name in the voters list excerpt, the CARTA election observation mission "Citizens on Watch" created an app [RIK.GradjaniNaStrazi.rs](http://RIK.GradjaniNaStrazi.rs) thanks to which a Request for exercising the right of processing of the personal data can be filled with personal data or deceased person's data by their legal successor.

The app users are informed via the app that the REC has a deadline of 30 days from the submission of the Request to deliver the requested information and instructed about the right to lodge an appeal to the Commissioner for information of public importance and protection of personal data in case that the REC does not respond within 30 days or if the response to their request is negative.

The CARTA election observation mission "Citizens on Watch" does not have the information about the number of persons who filed a Request to the REC (as it is impossible to file the request in electronic form, which is one of the CARTA observation mission's recommendation for the improvement in the REC's work efficiency), but there is a great interest in this issue as the Request was downloaded from the app 198 times.

## RECOMMENDATIONS FOR THE IMPROVEMENT OF THE ELECTORAL PROCESS

### GENERAL RECOMMENDATIONS

Apart from the specific recommendations which point to the need to improve the flaws of the current electoral system, the CRTA election observation mission “Citizens on Watch” also suggests general recommendations for the establishment of a better, fair and free electoral process in Serbia.

Above all, it is recommended that electoral legislation should be codified into a unique electoral law which would encompass regulations that comprise the entire positive electoral legislation on one side, and regulations from other laws which refer directly to the electoral process on the other. This way of unifying electoral subject matter into a unique law would contribute to the legal safety within the electoral legislation.

In order to ensure equal participation of all candidates in the elections, it is necessary to distinguish particular phases in the electoral process. Law modifications should clarify specific processes leading up to the Election Day. Also, this solution would make the work of electoral administration more efficient and a lot simpler.

The CRTA election observation mission “Citizens on Watch” also points to the fact that it is necessary to legally regulate the status of short-term and long-term observers, in accordance with the best comparative practice. This would enable accredited organisations to observe the electoral process in a better and more comprehensive way, as well as continuous engagement of observers and observation missions.

Moreover, elections in Kosovo\* take place according to the procedure prescribed by special instructions which deviates from the rules prescribed by the Law on the Election of Members of Parliament, even though such deviations are not permitted by law. Unsustainability of this solution has been emphasised in the verdict of the Constitutional Court<sup>52</sup> which should prompt authorised institutions to start looking for a long-term solution which would not question the legality of Kosovo elections\*.

It is important to emphasise that during the electoral process in 2017, 30 days passed from the announcement of the election until its conduct, which is the shortest period permitted by the Law on the Election of the President. In practice, such a short deadline reduced the deadlines for numerous other electoral activities and it potentially endangered the exercise of both passive and active electoral rights; therefore, the CRTA election observation mission “Citizens on Watch” finds that the minimum duration of electoral campaign should be equal to the deadlines foreseen by the Law on the Election of Members of Parliament (45-60 days of the campaign).

#### #1 - Systematising electoral legislation through one unique electoral law

*The Ministry of Justice and the National Assembly of the Republic of Serbia*

Adoption of a unique electoral law which would unify and systematise electoral legislation which is currently a part of several laws: the Law on the Election of Members of Parliament, the Law on the Election of the President of the Republic and the Law on Local Elections, and in parts the Law on General Administrative Procedure, the Law on Political Parties, the Law on Financing Political Activities and the Anti-Corruption Agency Act.

#### #2 - Separating the process of candidacy announcement and the official beginning of the electoral campaign

*The Ministry of Justice and the National Assembly of the Republic of Serbia*

Modifications and supplements of the Law on the Election of Members of Parliament and the Law on the Election of the President of the Republic should help separate the process of candidacy announcement and collection of signatures from the campaign itself so that the campaign can officially start only when the REC (Republic Electoral Commission) adopts the collective electoral list (when the list of candidates/electoral lists is known). Submitting electoral lists would be a specific process which takes place independently from the electoral campaign (duration from 30 to 60 days) and lasts for a definite period of time (30 days). The objective of this recommendation is to ensure equal representation of all campaign participants. During the period of submitting electoral lists, all campaign-related activities would be forbidden.

<sup>52</sup> [News on the Constitutional Court website](#)



### #3- Regulating the status of observers as a legal category

*The Ministry of Justice, the Ministry of Public Administration and Local Self-Government, National Assembly of the Republic of Serbia and REC*<sup>53</sup>

Supplementing the Law on the Election of Members of Parliament and the Law on Local Elections so that the status of both short-term and long-term observers is regulated (observers of the electoral campaign and of the activities of electoral administration).

### #4 - Implementing elections in Kosovo\* in accordance with the Law and decisions of the Constitutional Court

*The Ministry of Justice, the National Assembly of the Republic of Serbia, the REC and the Constitutional Court*

An open dialogue and debate should help establish a quality solution supported by an electoral legislature for the implementation of elections in the territory of Kosovo\*, which would acknowledge the Decision of the Constitutional Court from 2016. Therefore, it is necessary to form a multi-stakeholder working group consisting of representatives of: the Ministry of Justice, the REC, the Constitutional Court, the Office for Kosovo and Metohija and civil society that would be tasked to develop a legal proposal for organisation and conduct of the elections in Kosovo\*, which would subsequently find its place in the Law on the Election of Members of Parliament.

### #5 - Equalising duration of deadlines for the elections conduct

*The Ministry of Justice and the National Assembly of the Republic of Serbia*

Modifying and supplementing article 4, paragraph 5 of the Law on the Election of the President of the Republic into "The period from the announcement of elections until the Election Day cannot be shorter than 45 days and longer than 60 days."

### #6 - Introducing short deadlines for the Agency and REM to act on complaints

*The Ministry of Justice, the National Assembly of the Republic of Serbia, the Agency and REM*

In order to ensure the effective control of the electoral campaign, it is necessary to determine short deadlines that would enable the Anti-Corruption Agency and the Regulatory Authority for Electronic Media (REM) to act on complaints during the campaign, which can be done by supplementing the Anti-Corruption Agency Act and the Law on Electronic Media.

## COMPLAINTS SUBMITTED TO THE REC

Although electoral processes are receiving higher attention from the public and citizens are losing confidence in the electoral process, the number of complaints submitted to the REC regarding irregularities on the Election Day is not increasing (in 2016 there were 65 complaints, and in 2017 there were 49 complaints).

The CRTA election observation mission "Citizens on Watch" has recognised short deadlines for submitting complaints as one of the main causes for voters to refrain from the protection of their electoral right. Also, so far it has not been possible to submit complaints electronically within the process of the protection of electoral rights which makes this procedure complicated for voters. Since the future Law on Administrative Procedure, which will come into full effect on June 1<sup>st</sup> 2017, recognises this way of submitting applications, it will be possible to submit future complaints to the REC and to the Constitutional Court electronically (along with a qualified electronic signature).

In terms of the assessment of the evidence provided by the REC within the complaint procedure, it is necessary to explore the possibility of acquiring other material of evidence so that the polling board records would not be the only valid proof of irregularities. Therefore, it is necessary to enable the party which has filed a complaint to attend the REC session when the complaint is on the agenda. Also, it is necessary to consider whether the existing legal frameworks for the revote are necessary and sufficient for the legal implementation of elections and whether they enable the electoral commissions to act in relation to irregularities they have found out about independently of complaints filed by authorised persons.

Also, it is important that the Constitutional Court assesses legality and constitutionality of general acts of the REC as specific electoral disputes, which means that it treats such cases as urgent in order to make sure that the constitutional and court control of these acts is timely and efficient.

### #7 - Extending the deadline for decision-making and submitting complaints

*The Ministry of Justice and the National Assembly of the Republic of Serbia*

Changing article 95, paragraph 3 of the Law on the Election of Members of Parliament into: "Complaint from

<sup>53</sup> Institutions competent for the implementation of recommendations



paragraphs 1 and 2 of this article is filed within 48 hours from the moment when the decision has been made, when the reported irregularity has occurred or when the mistake has been made.”

Moreover, it is necessary to synchronise deadlines for decisions to be made by competent institutions in accordance with principles of the best international practice (from 2 to 5 days). Therefore, it is necessary to extend deadlines needed for the announcement of candidacy or electoral list, for determining final results, submitting electoral material after the election, submitting the voters list excerpts and acting on complaints or remarks.

#### **#8 - Enabling electronic submission of complaints**

*The REC*

The Republic Electoral Commission (REC) should allow submitting complaints electronically, which means that all acts related to the electoral process and the new Law on General Administrative Procedure should be synchronised.

#### **#9 - Obliging the Constitutional Court to make the decision related to electoral matters within 5 days**

*The Ministry of Justice and the National Assembly of the Republic of Serbia*

Supplementing the Law on the Constitutional Court with a regulation which would oblige the Constitutional Court to make the decision within 5 days after the day the initiative for the assessment of constitutionality or legality of the general act and which refers to the electoral matter has been submitted.

#### **#10 - Enabling the REC to determine facts proactively within the complaint procedure**

*The REC*

Changing the REC practice so that it can explore the possibility of acquiring other material of evidence (statements of members of polling boards, accredited observers and, if necessary, official representatives of other institutions) when it processes the citizens' complaints other than the polling board records.

#### **#11 - Repeating elections in case of discrepancy between the Minutes of the polling boards and the determined factual state**

*The Ministry of Justice, the Ministry of Public Administration and Local Self-Government and the National Assembly of the Republic of Serbia*

Supplementing the Law on the Election of Members of Parliament and the Law on Local Elections towards mandatory repetition of elections at polling station when the REC or the Constitutional Court determine that the results from the polling board records do not match the actual state of the electoral material.

#### **#12 - Enabling electoral commissions to act in their official authority and extending deadlines for the announcement of the final election results**

*The Ministry of Justice, the Ministry of Public Administration and Local Self-Government, the National Assembly of the Republic of Serbia and the Constitutional Court*

Defining the conditions stated in the Law on the Election of Members of Parliament and the Law on Local Elections which will enable electoral commissions to act in their official authority from the announcement of elections until the expiry of the deadline set for the examination of the electoral material and 5 days afterwards. Furthermore, it is necessary to extend the deadline for the announcement of final results of the election (article 86 of the Law on the Election of Members of Parliament and article 44 of the Law on Local Elections) to 10 days (the Law on the Election of Members of Parliament and the Law on the Election of the President of the Republic).

### **TRANSPARENCY OF THE ELECTORAL PROCESS AND DATA AVAILABILITY**

Electoral processes from 2016 and 2017 have shown that citizens have little confidence in the integrity of the electoral process. One of the ways to restore the citizens' confidence in the electoral process, as well as in the work of the institutions responsible for the implementation of elections is to increase the transparency of the whole process, which implies timely announcement of all relevant data in machine-readable format appropriate for further use. Also, it is necessary to enable all citizens to follow the REC sessions live on the REC website in order to allow full and transparent informing of the public as well as the efficient oversight.

In order to have a transparent electoral process, it is necessary to improve the REC practice when it acts on citizens' petitions related to their active electoral right. Due to an increased interest of citizens in the electoral process, it is necessary to improve the REC's practice to prevent potential abuse of electoral right and citizens' personal data.

**#13 - Timely announcement of preliminary and final results by polling stations on the REC website***The REC*

The following regulation should be added to the section of the Instructions for the Conduct of the Elections “Statistical processing and announcement of the election results”: “The Republic Electoral Commission publishes preliminary and final results of the election by polling stations on the REC website in CSV format immediately after they have been determined.”

**#14 - Timely announcement of scanned polling board records on the REC web-site***The REC*

The following regulation should be added to the section of the Instructions for the Conduct of the Elections “Statistical processing and announcement of the election results”: “After the announcement of preliminary results of the election and after the reception of polling board records from all polling stations, the records are published on the website of the Republic Electoral Commission.”

Published records should have metadata or their browsing should be otherwise enabled at the level of the polling station.

**#15 - Timely announcement of all documents from plenary sessions and the sessions of working groups on the REC website***The REC*

Changing the REC practice so that all materials and documents from the REC plenary sessions and the meetings of the REC working groups would be published in the format which is appropriate for further use (e.g. CSV, DOC, XLS) on the REC website.

**#16 - Live coverage of the REC sessions and timely publication of transcripts and voting records***The REC*

Technical capacities and resources of the REC should be updated so that every session could be available in live edition on the REC website. Apart from the live Internet broadcast, it is necessary to provide an archive of recordings which will be available on the REC website. Also, it is necessary to supplement the REC Rules of Procedure with a regulation which anticipates publication of transcripts from every REC session on the REC website, as well as the results of the election in a format appropriate for further use (e.g. CSV, DOC, XLS).

**#17 - Enabling verification of the use of personal data upon requests of voters***The REC*

The REC practice should be changed so that voters are enabled, upon request, to gain an insight into the voters register excerpt and/or other documents which contain citizens' personal data.

**#18 - Improving an internal system for submitting materials for the REC sessions***The REC*

The process, deadlines and the format of submitting the material for sessions and meetings to the members of the REC and accredited observers should be standardised by supplementing the REC Rules of Procedure.

**UPDATING THE VOTERS LIST**

Although the existing regulations provide a sufficient legal framework for the accuracy and update of the voters list, it has been proven that it is necessary to make an additional effort so that the voters list would be reliable in practice and so that all citizens enlisted in the voters list could fulfil their electoral right. Another problem that has been recognised is inefficient removal of deceased persons from the voters list. In that sense, it is necessary to establish a better coordination between registrars' offices, offices responsible for recording the place of residence and offices responsible for managing the voters list, and apply punitive measures accordingly for those who do not adhere to the regulations prescribed by the Law on Registration Books, the Law on the Citizens' Place of Residence and the Law on a Unique Voters List.

In order to regain the citizens' confidence in the voters list and the electoral process, it is necessary to have an open dialogue between all institutions with the aim of updating and improving the quality of data in the voters list and allow the interested public to participate in it.

**#19 - Updating the voters list***The Ministry of Interior, the Ministry of the Public Administration and Local Self-Government and civil society organisations*

An expert working group should be established which would consist of all relevant participants with the aim of improving the mechanism for regular and comprehensive updating and revision of the voters list. The

aforementioned working group would aim to determine the best solutions that would enable a quality updating of the voters list and a stable and regular communication between all relevant state institutions and services.

## **#20 - Publication of the information related to the updating of the voters list on the website of the Ministry of the Public Administration and Local Self-Government**

*The Ministry of the Public Administration and the Local Self-Government*

The Ministry of the Public Administration and the Local Self-Government should publish on its website information related to the process of entering changes, maintaining and updating the voters list, to the competences of those in charge of the voters list and citizens' rights in terms of reporting the change of data in the voters list, as well as the contact details of the person responsible for the voters list in the Ministry of the Public Administration and the Local Self-Government.

## **#21 - Organisation of a continuous training for officers who update the voters list**

*The Ministry of the Public Administration and the Local Self-Government, the Office for Human Resource Management and civil society organisations*

All employees of the Ministry of the Public Administration and the Local Self-Government and units of the local self-government which update the unique voters list should be trained so that potential problems during the updating or revision of the voters list would be avoided.

## **#22 - Improvement of the oversight of the work of persons managing the voters list**

*The Ministry of the Public Administration and the Local Self-Government and the Administrative Inspectorate*

The work of the Administrative Inspectorate should be improved so that there is a regular and additional administrative oversight of the work of employees who participate in the process of updating the voters list.

## **#23 - Improving the coordination between registrars' offices and offices in charge of the voters list**

*The Ministry of the Public Administration and the Local Self-Government and Administrative Inspectorate*

A better coordination between registrars' offices and offices in charge of the voters list is needed, as well as a consistent application of punitive regulations towards a responsible person within the institution in charge of updating the voters list in case it is not accurate, up-to-date and in accordance with the Law on the Unique Voters list.

## **#24 - Simplifying procedures for citizens to update information in the voters list**

*The Ministry of the Public Administration and the Local Self-Government, local self-government units*

Both the Ministry of the Public Administration and Local Self-Government and local self-government units should publish the form for registration in the voters list on their websites and should inform citizens about the opportunity to electronically submit the form with the copy of the valid identification document.

## **A MORE EFFICIENT WORK OF THE REC**

The work of the Republic Electoral Commission has received different assessments this year from individuals but also from the entire public, especially regarding its members, decision-making and independence.

Therefore, it is necessary to consider reforming the REC so that it is more independent during the elections. Considering the electoral practice in the Republic of Serbia, as well as the scope and the type of work that electoral institutions conduct, **the REC needs to be professionalised**. Also, it is necessary to extend the definition of qualifications that the REC members must have in terms of the level of professionalism, ethics and experience of work in state institutions.

In order to be independent and unbiased and to increase the citizens' confidence in the electoral process, it is necessary to define a clear relation between the Republic Electoral Commission and city and municipal electoral commissions following the principle of direct hierarchy. One of the recommendations is to abolish the REC working bodies and have the municipal and city electoral commissions take over the competences and liabilities in order to implement tasks within restrictive deadlines with quality.

## **#25 - Reforming the REC into an independent and professional institution for the elections conduct**

*The Ministry of Justice and the National Assembly of the Republic of Serbia*

Since members of the REC are crucial for the work of the institution, the CRTA election observation mission "Citizens on Watch" believes that systemic change of the way members of the REC are elected is necessary to enable fully independent and unbiased decision making.

The Law on the Election of Members of Parliament should be changed in order to define the REC as a

professional institution for the elections conduct. Moreover, it is necessary to modify and supplement the Law so that it would define conditions and criteria that every member of the REC should fulfil. On the other hand, in order to respect the principle of independence, it is necessary to define conditions and criteria which the future members of the REC need to fulfil.

With such structure, the REC would be a permanent institution with authority to organise and conduct elections at the local level, and to conduct the training of permanent members of polling boards.

#### **#26 - Legally regulate examination of the bags with electoral material**

*The Ministry of Justice, the Ministry of the Public Administration and Local Self-Government, the Constitutional Court and the National Assembly of the Republic of Serbia*

The Law on the Election of Members of Parliament and the Law on Local Elections should be modified and supplemented with a regulation prescribing that the electoral commission (the REC and a municipal electoral commission/city electoral commission) is authorised to examine the bags with electoral material when the logic and calculation errors were previously determined in the polling board records.

#### **#27 - Reorganisation of the system of electoral administration**

*The Ministry of Justice, the Ministry of the Public Administration and Local Self-Government, the REC and the National Assembly of the Republic of Serbia*

The Law on the Election of Members of Parliament and the Law on Local Elections should be modified so that they prescribe a hierarchical structure of electoral bodies. According to the new structure, the REC would be an institution immediately in charge of municipal and city electoral commissions. Therefore, it is necessary to abolish the REC working groups as local electoral commissions would take over their role.

### **THE WORK OF POLLING BOARDS**

The current obligation for polling boards' members' training is defined by the Instructions for the Conduct of the Elections. The CRTA election observation mission "Citizens on Watch" considers that this obligation must be prescribed by the law because the existing system of trainings and its results do not provide sufficient results in practice. Namely, the existing trainings are conducted in very short time periods (few days before the elections) and by a very restricted number of persons. In spite of the efforts that the REC undertook in the 2017 electoral process aiming for a better organisation of trainings, there is a need to regulate this obligation with more precision and details and to apply the best international practices.

Systematic trainings and testing of the polling boards' members that would be prescribed by the Law on the Election of Members of Parliament has been recognised as a crucial recommendation that may add to the performance of permanent and extended composition of polling boards in the upcoming election cycles. According to new rules, a member of a permanent composition can only be a person who has received training and passed the test.

The election process in 2016 put forward a practice of rectification/initialling of the polling board records by the REC and its coordinators. What casted a shadow on the entire election process in 2017 is the rectification/initialling of the polling board records by the president of the polling board even after their public display at the polling station. It is necessary to cease such practice as it makes it impossible to determine legitimate preliminary and later final results of the elections. Moreover, in this way citizens/voters are misled – in case of an ulterior initialling, the polling board records and the factual situation do not correspond to publicly displayed contents.

#### **#28 - Prescribing by the Law obligatory trainings and exams for the members of polling boards**

*The Ministry of Justice, the National Assembly of the Republic of Serbia and the REC*

Modify and supplement article 34 of the Law on the Election of Members of Parliament prescribing the authority of the REC, by adding new authority to organise in the pre-election period a compulsory training for all members of polling boards about rules and procedures for the work of polling boards. It is particularly important to establish an exam system for candidates for permanent composition of polling boards, as this should result in a larger capacities of polling boards to conduct the elections.

#### **#29 - Adoption of the Rulebook for educators for polling boards members' training**

*The REC*

It is necessary that the REC adopts, as a by-law, the Rulebook on procedures and criteria for selection and engagement of consultants, trainers and educators for polling boards' members' training. The adoption of the Rulebook is needed in order to enable delivery of trainings by independent experts in the field of electoral legislature.

### #30 - Forbidding ulterior modifications of the polling board records

*The REC*

State the following in the Instructions on the work of polling boards: Ulterior modifications of the polling board records by the polling board members are not allowed.

## VOTING ABROAD

During these presidential elections, voting abroad was performed at 53 polling stations in 32 countries, where 11.590 voters had the right to vote. In order to vote abroad, those persons had previously filed a request for registration in the voters list stating that they would vote abroad. It is necessary to apply less restrictive methods for voting abroad in order to permit all citizens of the Republic of Serbia to fulfil their active voting right. Expecting two electoral rounds, an important number of voters was faced with a dilemma whether in the second round they would be able to vote according to their place of domicile in Serbia if in the first round they had voted according to their place of residence abroad and vice versa. Bearing in mind that positive legal regulations provide sufficient grounds to modify the place of voting between the two election rounds, it is necessary to change the practice of the Ministry of Public Administration and Local Self-Governments and the REC and allow those voters to fulfil their voting rights.

### #31 - Liberalising conditions for polling stations opening abroad

*The REC, the Ministry of Foreign Affairs, the Ministry of Justice and the National Assembly of the Republic of Serbia*

Modify the Law on the Election of Members of Parliament so that there is an obligation to open for voting every diplomatic and consular representation of the Republic of Serbia abroad. Furthermore, it is necessary to modify article 53 of the Instructions for the Conduct of the Elections in order to open polling stations abroad in the Embassies and consular representations regardless of the number of voters who submitted a request.

### #32 - Enabling the modification of the voting place between two electoral rounds at presidential elections

*The REC, the Ministry of the Public Administration and Local Self-Government, the Self-Government Unit*

Modify the practice of the Ministry of the Public Administration and Local Self-Government and local self-government units so that the citizens are allowed to change their polling station between the first and the second round of the presidential elections in accordance with the modification of the place of residence.

## PUBLIC RESOURCES ABUSE AND PUBLIC OFFICIALS' CAMPAIGN

In the area of public resources use in the electoral campaign, it is indispensable that the legislative authorities of the Republic of Serbia harmonise with international standards and examples of good practice.

In order to forbid the abuse of public resources in the electoral campaign, it is necessary to define more clearly anti-corruption regulations so that further misuse of taxpayers' money is prevented during the upcoming electoral cycles. In relation to that, and to ensure equality of all participants in the elections, it is crucial to exclude the possibility of public officials' campaigning which is more and more present in the electoral processes.

Finally, it is imperative to establish an efficient mechanism for monitoring and timely reaction in cases of public resources misuse in the campaign, so that all participants in the electoral process could have equal treatment.

The majority of complaints submitted to the Agency and to the REM during the electoral campaign referred precisely to the public resources' abuse and public officials' campaigning. Although the complainants pointed to a number of violations of article 29 of the Anti-Corruption Agency Act prescribing that a public official may not use the public resources and public meetings that he attends in capacity of official for promotion of any political parties, and/or political entities and that an official is required at all times to unequivocally present to his interlocutors and the general public whether he is presenting the viewpoints of the body in which he holds an office or viewpoints of a political party, and/or political entity. On the basis of a small number of decisions that these two authorities passed on regarding the submitted complaints, it turned out that there were no violations.

In order to prevent oversight authorities to make decisions at their own discretion from case to case, in accordance with Venice Commission recommendations and examples from comparative legislations, it is necessary to explicitly forbid by relevant regulations that during the electoral campaigning public officials initiate projects financed by state or local budget resources (commencement of works on the construction of



children's playground, and so on). This issue has already been raised in recommendations. It should also be forbidden that public officials attend public meetings organised by authorities during the electoral campaign, including charity activities financed from the budget, unless they unequivocally present to the general public that it is an activity undertaken by a political party, i.e. by a candidate who participates in the campaigning

### **#33 - Clearly determining the notion of public resources and adequate sanctions in the Anti-Corruption Agency Act**

*The Ministry of Justice, the National Assembly of the Republic of Serbia and the Anti-Corruption Agency*

It is necessary to define more precisely the notion of public resources within the Anti-Corruption Agency Act. Such defined notion would also be in accordance with the best comparative practices in the context of preventing of the misuse of public resources and public functions. In this way, it would be possible to strictly implement article 29 of the Law, and, at the same time, there would be an adequate legal basis for imposing sanctions. In addition to the existing pecuniary fines, heavier fines should be considered the same as the increase in disciplinary action, which would also be possible if the Anti-Corruption Agency Act were amended.

### **#34 - Defining which activities can be integrated at the election campaign cost**

*The Ministry of Justice, the National Assembly of the Republic of Serbia and the Anti-Corruption Agency*

Supplement article 23 of the Law on Financing of Political Activities with concrete cases that prescribe types of activities that can be introduced under electoral campaign costs. Having in mind that the Law prescribes types of costs relating to regular activities of a political entity, it is also necessary to standardise the types of electoral campaign costs.

### **#35 - Introducing sanctions prescribed by the Law for misuse of property, names and activities of public companies in political purposes**

*The Ministry of Justice, the National Assembly of the Republic of Serbia and the Anti-Corruption Agency*

Provide, through an amendment to the Law on Public Companies, sanctions for political entities and accountable persons in public companies in case of violation of article 70 of the Law on Public Companies that prescribes the prohibition of the use of property, activity, name and visual identity of a public company in all activities related to political parties and electoral campaigns, as well as all other use of public companies in political purposes.

### **#36 - Prohibition on participation of all public officials in campaigning**

*The Ministry of Justice, the National Assembly of the Republic of Serbia and the Anti-Corruption Agency*

Modify and supplement the Anti-Corruption Agency Act so that all public officials and employees are forbidden to participate in public gatherings whose primary objective is to announce the commencement of works or the release of use of facilities built from budgetary resources or public funds, or by other legal entities that dispose with the public capital. In case of violation of this legal provision, it is necessary to prescribe adequate fines for public officials and employees.

### **#37 - Agency should exercise its authority ex officio in order to protect the public interest**

*The Anti-Corruption Agency*

It is necessary to modify the Anti-Corruption Agency practices in order to harmonise its actions with legal authorisations and the best international practices. Bearing in mind that, pursuant to relevant regulations, the Agency has a possibility to initiate proceedings in case of violation of the Law even ex officio, it is indispensable that it applies its authorities in practice. Namely, during the electoral cycle, the Agency appoints observers who are focused on electoral campaign monitoring and it is therefore essential that in case of violation of the Law, the Agency initiates proceedings and imposes measures immediately and not after the completion of the electoral process. Moreover, it convenes to periodically publish findings and reports for the observed period of the electoral campaign.

## **PRESSURE ON VOTERS**

Different types of pressure coerced on voters by candidates/participants in the elections represent a growing problem in the electoral processes. In that sense, recommendations of the Venice Commission<sup>54</sup> provide that

<sup>54</sup> <http://www.osce.org/odihr/elections/227506?download=true> , page 10. "Where necessary, public authorities could make clear statements and issue written instructions that no pressure on civil servants will be tolerated and that no civil servant or citizen should fear for their employment or social services as a result of supporting or not supporting any political party or candidate. Civil servants should accordingly benefit from protection against any intimidation or pressure. Civil servants as well as their relatives should be protected against (hidden) sanctions, pressure or intimidation when they disclose an alleged fraud or misuse of administrative resources. If the law



public authorities could make clear statements and issue written instructions that no pressure on civil servants will be tolerated, that no civil servant or citizen should fear for their employment or social services as a result of supporting or not supporting any political party or candidate. Civil servants should accordingly benefit from protection against any intimidation or pressure.

### **#38 - Introducing legal prohibition of pressure on employees in public companies and public administration**

*The Ministry of Justice, the Ministry of the Public Administration and Local Self-Government and the National Assembly of the Republic of Serbia*

Introduce prohibition of pressure on employees in public administration and public companies by an amendment to the Law on Public Companies. Oblige public administration and public companies to additionally prescribe sanctions in case of pressure coerced on employees in their internal acts.

## **EFFICIENT MEDIA REGULATION**

The Regulatory Authority of Electronic Media (REM) announced before the elections that it would not gather statistical data on proportion of representation of certain candidates in commercials and news programmes. No particular regulations or instructions had been adopted in relation to presidential elections monitoring. According to the statement issued by the members of the REM Council, the REM restricted its work to acting uniquely following citizens' complaints.

Pursuant to the Law on Electronic Media, the REM has a clear obligation to ensure equal and non-discriminatory reporting and media coverage of candidates during the election campaign. At the same time, the conduct of the REM Council indicates that this institution did not want to use all the capacities at its disposal to carry out its legally stipulated duty.

The said Law imposes an obligation on the REM in regard to the protection of the principle of equal representation in the media, but does not specify closely in what way this principle shall be protected, which some REM officials use as an excuse to release the REM from its capacity of a regulator. This is the reason why there is a need to determine more precise ways, i.e. activities that the REM must undertake in order to fully perform its duties prescribed by the Law. The CRTA election observation mission "Citizens on Watch" considers that the Law on Electronic Media should be amended and refined so that such REM practice is prevented.

In the pre-election period, it was observed that during the decision-making the REM Council did not take into consideration reports prepared by the Professional Service in charge of oversight and monitoring of broadcasters, and that in such cases a decision was brought stating that there was no grounds for initiating of proceedings or that there was no violation. This way of decision-making raises further doubts of the public in an objective, professional and responsible conduct of members of the REM Council.

When it comes to complaints stating the violation of a general interest, in accordance with the Rules of Procedure, the REM is held to consider such complaints, but not to act accordingly (article 5, paragraph 3 of the Rules of Procedure), i.e. "to take into consideration all statements when initiating proceedings ex officio". In practical terms, this means that statements from the complaints indicating the violation of a general interest should be examined in terms of gathering additional information from the broadcaster. Only after that, the REM decides whether to initiate proceedings to establish the responsibility of broadcasters, or not.

The REM is not obliged by the Law or by any other legal act to initiate proceedings following complaints on grounds of "a violation of a general interest". It is held to take a statement from the broadcaster regarding the allegations. On the basis of the broadcaster's statement and following the contents' review, the REM either initiates proceedings or decides that there are no elements to initiate proceedings and notifies the complainant. Such a legal solution has led the REM to act only as an intermediary between the broadcaster and the citizens, which is far from the initial idea of the legislator that should be the protection of the public interest and the regulation of the electronic media.

Having in mind the previously described method of work and decision-making of the REM that did not contribute to an efficient exercise of legal duties, the CRTA observation mission "Citizens on Watch" recommends the following:

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does not protect whistleblowers in general, there should be specific rules in the context of electoral processes."

### **#39 - Obliging the REM to inform the public on the work of broadcasters during and after the election campaign**

*The REM, the Ministry of Culture and Information and the National Assembly of the Republic of Serbia*

Introduce an obligation to the REM to periodically, ideally once a fortnight, issue written reports about monitoring and analysis of the work of electronic media in the pre-election period. Those reports must contain findings of the Professional Service of the REM regarding the equal representation of candidates, i.e. electoral lists to media, media reporting about the candidates' activities, records of public appearances of stakeholders in their capacity of public officials and candidates, as well as other important aspects of media that may have an impact on an objective and comprehensive informing of citizens about the candidates and the election programmes.

Furthermore, the REM must be obliged to publish the final report on the work of electronic media during the electoral campaign one month after the final results announcement at the latest.

### **#40 - Introducing an obligation to formulate reasoning in the Decision on complaints indicating a violation of a general interest**

*The REM*

Introduce an obligation to the REM to prepare a report with reasoning upon receipt of each complaint indicating a violation of a general interest so that it unveils the reasoning of its attitude – the modification of a Rules of Procedure on methods of imposing of measures to media service providers of the REM.

### **#41 - Introducing an obligation to include the report of the Professional Service for oversight and analysis with reasoning**

*The REM*

Introduce an obligation to the REM to state in the reasoning, notification or decision the report of the Professional Service for oversight and analysis that directly observes broadcasted programmes.

### **#42 - Introducing clear indicators for evaluation of the work of the REM Council**

*The National Assembly of the Republic of Serbia*

Supplement the Law on Electronic Media by introducing the obligation to report about fulfilment of indicators of successful work of the REM Council on a yearly basis. Such legal solution aiming to supplement a compulsory yearly report of the REM can provide reasoned grounds to the National Parliament to evaluate and assess the work of the members of the REM Council. In terms of confidence of the general public, this solution can contribute to increased confidence in this institution.

## ABOUT CRTA

The CRTA is a civil society organisation, which together with citizens engages in an effort for improved transparency and accountability of institutions and officials, through overview and scrutiny of their work. While being a champion of social responsibility principles, the CRTA develops various mechanisms for monitoring and evaluating openness of institutions and accountability of government officials, relying primarily on new technologies and innovative technological solutions. The CRTA researches and educates citizens and decision-makers about the concept of transparency and accountability and urges for the application of these principles as the fundamental values in a democratic society.

The goal of the CRTA observation mission “Citizens on Watch” in the 2017 election campaign was to efficiently monitor and analyse the implementation of the legislation and international standards in preparing for and conducting the electoral process, to inform citizens about the respect of democratic principles and the quality of the electoral process and events during the election campaign and to ensure a swift response to violations of electoral procedures and processes throughout Serbia.

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## APPENDIX 1 – OVERVIEW OF COMPLAINTS FILED TO THE REM

REGULATORY AUTHORITY FOR ELECTRONIC MEDIA - SUBMITTED COMPLAINTS				
DATE	COMPLAINANT	BROADCASTER	VIOLATION	DECISION
16.3.2017.	Dveri	RTS, RTV	Unequal representation of candidates	No Legal Grounds
20.3.2017.	Dosta je bilo	RTS	Unequal representation of candidates, Incomplete information about candidate	No Legal Grounds
23.4.2017.	Danko Manojlović	RTS	No public confrontation of presidential candidates	No Legal Grounds
24.4.2017.	Dveri	RTS, RTV	No public confrontation of presidential candidates	No Legal Grounds
27.3.2017.	Dosta je bilo	RTS	Unequal representation of candidates	No Legal Grounds
27.3.2017.	Milutin Janković	RTS	Unequal representation of candidates	Denied
27.3.2017.	Milan Đekić	RTS	Pre-electoral programme disguised in the form of informative programme	No Legal Grounds
27.3.2017.	Nikola Marković	TV Pink	Pre-electoral programme disguised in the form of informative programme	No Legal Grounds

DATE	COMPLAINANT	BROADCASTER	VIOLATION	DECISION
27.3.2017.	Ranko Španović	TV Pink	Unequal representation of candidates	Denied
27.3.2017.	Stanislav Babin	TV Pink	Pre-electoral programme disguised in the form of informative programme	Denied
27.3.2017.	Snežana Kurjega	TV Pink	Hate speech	In Procedure
27.3.2017.	Vladana Jaraković	TV Palma plus	Pre-electoral programme irregularity	In Procedure
27.3.2017.	Sladana V. Petrović, "Kultura za 5, Požega"	TV Požega	Unequal representation of candidates	In Procedure
27.3.2017.	Dragana Lukać Zečević, Slobodan Osmorović, Milan Novaković	TV Pink	Unequal representation of candidates	In Procedure
27.3.2017.	Aleksandar Gavrilović, Damir Tatalović, Una Draganić	TV Pink	Pre-electoral programme disguised in the form of informative programme	In Procedure
28.3.2017.	Dušan Mirković	TV Požega	Unequal representation of candidates	In Procedure
27.3.2017.	Miroslav Grujić	RTS RTV Pink, B92, Studio B	Bias representation of candidate	Denied
28.3.2017.	Radoljub Tomić	TV Pink	Unequal representation of candidates	In Procedure
28.3.2017.	Mirko Popović	RTS	Pre-electoral programme disguised in the form of informative programme	No Legal Grounds
28.3.2017.	Milica Kralj	Studio B	Unequal representation of candidates	In Procedure

DATE	COMPLAINANT	BROADCASTER	VIOLATION	DECISION
28.3.2017.	Boris Belingar	RTS	Offensive and discriminatory pre-election spot	No Legal Grounds
28.3.2017.	Milica Đorđević	TV Požega	Unequal representation of candidates	In Procedure
28.3.2017.	Milan Đekić	Studio B	Unequal representation of candidates	In Procedure
28.3.2017.	Snežana Boškov	TV Pink	Pre-electoral programme disguised in the form of informative programme	In Procedure
30.3.2017.	Dosta je bilo	TV Pink	No clear indication of pre-electoral program, Pre-electoral programme disguised in the form of informative programme, Unequal representation of candidates	Denied
31.3.2017.	Petar Petrović, Strahinja Stamatović, "Kultura za 5, Požega", Slađana Varagić Petrović, Borko Stefanović	TV Požega	Unequal representation of candidates	In Procedure
31.3.2017.	14 prijava	TV Happy (Emisija Čirilica)	Unequal representation of candidates	Denied
31.3.2017.	Ivan Radojević	TV Pink	Unequal representation of candidates	In Procedure
3.4.2017.	Aleksandar Gavrilović	TV Prva	Unequal representation of candidates	Incomplete Complaint
3.4.2017.	Ivana Pavlović	TV Pink	Unequal representation of candidates	Denied
5.4.2017.	Aleksandra Ivanović	TV Happy, TV Pink	Unequal representation of candidates	Denied



DATE	COMPLAINANT	BROADCASTER	VIOLATION	DECISION
5.4.2017.	Katarina Baletić	TV Prva	Unequal representation of candidates	Denied
5.4.2017.	Radmilo Marković	TV KCN	Unequal representation of candidates	In Procedure
5.4.2017.	Radmilo Marković	TV Pink	Unequal representation of candidates	Incomplete Complaint
5.4.2017.	Katarina Baletić	RTS, RTV	Unequal representation of candidates	Denied

\* The complaints designated as “inconsistent” were rejected as incomplete on May 26<sup>th</sup> 2017. Having considered the Report by the Service for oversight and analysis, the Council passes a unanimous decision at the same session for the “pending” complaints stating that there are no grounds to initiate the procedure. The decisions have not been published at the website in the section envisaged for complaints and decisions, but they are only visible in the minutes from the session.

## APPENDIX 2 – COMPLAINTS LODGED TO THE ANTI-CORRUPTION AGENCY BY THE CARTA ELECTION OBSERVATION MISSION “CITIZENS ON WATCH”

### COMPLAINTS SUBMITTED TO THE ANTI-CORRUPTION AGENCY by the CARTA Election Observation Mission “Citizens on Watch”

**Infraction** Official's campaigning

#### Description

On March 14th 2017 in Bač, the Mayor of Bač and a high official of the Serbian Progressive Party Dragan Stašević **distributed briquettes for heating to the underprivileged.**

Those briquettes had been acquired in a public bid procedure and paid with the resources of the Municipality of Bač. The Municipality Committee of the Serbian Progressive Party in Bač informed the public about that event and other electoral activities via their official website.

**Political stakeholder / other perpetrator** SPP - MC BAČ

**Competence** ACAS

#### Response of the competent authority

The information regarding the complaint submitted on May 9th 2017 – Provisions of articles 27 and 29 of the Anti-Corruption Agency Act have not been violated – it was concluded that the procurement of briquettes had been undertaken in accordance with public procurement procedures and the information about it had only been published on the Serbian Progressive Party website.

**Infraction** Illicit activities of political stakeholders

#### Description

The Municipality Committee of the Serbian Progressive Party in Kruševac organised a **distribution of packages with food staples.** The packages, that were given to the poorest citizens of Kruševac, were wrapped up in posters featuring symbols used in the current presidential campaign by the presidential candidate Aleksandar Vučić. The Serbian Progressive Party youth and a high official of this party, a deputy Ivan Manojlović participated in this event as well.

**Political stakeholder / other perpetrator** SPP - MC Kruševac

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Official's campaigning / Illicit activities of political stakeholders

#### Description

The high officials of the Serbian Progressive Party, Andrea Radulović – member of the SPP main board, Aleksandar Jovičić – vice president of the executive board of the SPP and also president of the city municipality of Palilula, Jelena Mijatović – president of the municipality committee of the SPP on Palilula, Elena Bilić and Dragoslav Šolak **visited two socially vulnerable families in Borča and gave them presents, food and clothes** financed, as stated, from their personal funds.

**Political stakeholder / other perpetrator** SPP - MC Palilula

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Illicit activities of political stakeholders

**Description**

**Daily excursion for 110 retired citizens** was organized on March 11th by the Municipality Committee of the Serbian Progressive Party – Novi Beograd, with the tour of cultural and historical sites in Topola, Bukovička banja and other places. This event was attended by MP Donja Vlahović and vice president of the Municipality Committee of the Serbian Progressive Party – Novi Beograd. During the excursion, participants received promotional material featuring symbols of the Serbian Progressive Party.

**Political stakeholder / other perpetrator** SPP - MC Novi Beograd

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Illicit activities of political stakeholders

**Description**

**An excursion for retired citizens** from the municipality of Zvezdara was organised on March 19th in Jakovo and the forest of Bojčin by the Serbian Progressive Party. The buses of the transportation company Lasta and premises of the Klub S in Jakovo were used for this purpose.

**Political stakeholder / other perpetrator** SPP

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Illicit activities of political stakeholders

**Description**

On March 15th, in 13 Radoja Dakića Street in Belgrade, **a front door replacement on a residential building** was organised by the Municipality Committee of the Serbian Progressive Party. Following the initiative of the Municipality Committee of the Serbian Progressive Party in Novi Beograd, in cooperation with the Public Utility Company "Gradsko stambeno", the door on the building in 13 Radoja Dakića Street was replaced, which is the common property of the owners of separate residential units. The stated activities comprised of costs associated to old door demounting, execution of the new door and its incorporation. It is not known how the work was funded, but it can be presumed that it was funded from resources of the Municipality Committee of the Serbian Progressive Party Novi Beograd, while the question about who concluded the contract with the Public Utility Company "Gradsko stambeno" and how were those services paid remains open.

**Political stakeholder / other perpetrator** SPP - MC Novi Beograd

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Illicit activities of political stakeholders

**Description**

In Belgrade, in the premises of the Municipality Committee of the Serbian Progressive Party – Novi Beograd, on March 11th at 11am, the Municipality Committee of the Serbian Progressive Party organised a charity humanitarian activity voluntary blood donation. The activity was preceded by a call to the citizens of Novi Beograd to come to the premises of the Municipality Committee of the Serbian Progressive Party – Novi Beograd. During this activity, the premises of the Municipality Committee were plastered with symbols of the Serbian Progressive Party.

**Political stakeholder / other perpetrator** SPP – MC Novi Beograd

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Illicit activities of political stakeholders

**Description**

In Belgrade, in the premises of the municipal assembly of Voždovac, on March 13th in the afternoon, the Serbian Progressive Party organised **a debate on cancer prevention and avoidable blindness**. The Health care council of the municipality committee of the Serbian Progressive Party – Voždovac in cooperation with the municipal assembly of Voždovac, local committees Šumice, Dušanovac, Tešića kupatilo, Pašino brdo and Vinogradi organised a health care debate for citizens. Having in mind that the majority of members of this municipality come from the coalition around the Serbian Progressive Party, a direct help of municipal authorities was provided and local self-government capacities engaged in order to promote one political subject, more precisely the Serbian Progressive Party.

**Political stakeholder / other perpetrator** SPP MC Voždovac

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Illicit financing of political stakeholders by a public utility company

**Description**

**The bus** of the transport company Strela Obrenovac, in line with the agreement concluded with the Electric Utility Public Company (the EPS) on charter bus transportation of the EPS workers on a daily basis from Novi Beograd to thermal power plant "Nikola Tesla" in Obrenovac, **has been branded with symbols of the presidential candidate Aleksandar Vučić** since March 1st 2017.

**Political stakeholder / other perpetrator** SPP MC Voždovac

**Competence** ACAS

**Response of the competent authority** /



**Infraction** Illicit party activities in an institution and use of its premises for that purpose / Official's campaigning

**Description**

On March 7th 2017, MPs from the Rasinski district, members of the Serbian Progressive Party: Dragana Barišić, Vesna Rakonjac, Milena Turk and Ivan Manojlović, paid a visit to the primary school "Brana Petrović" from Konjuh – district class in Ljubava, and donated a computer from their own funds. On that occasion, in front of TV cameras Ivan Manojlović stated that **the act of good will of MPs had been initiated by a member of the presidency of the Serbian Progressive Party Bratislav Gašić. The event was accompanied with election posters featuring the presidential candidate Aleksandar Vučić, which was set in the primary school classroom.**

**Political stakeholder / other perpetrator** Primary school "Brana Petrović" from Konjuh-district class in Ljubava

**Competence** Educational inspection – Kruševac, ACAS

**Response of the competent authority** /

**Infraction** Illicit activities of political stakeholders

**Description**

On March 18th and 19th, the Municipality Committee of the Serbian Progressive Party Mladenovac **organised free excursions** to Vrnjačka banja for 222 retired citizens of Mladenovac, as well as visits to Zica and Saint Paraskevi Monastery in Stubat, near Trstenik. After the visit of Vrnjačka banja, participants were provided with free lunch and time for socialising with music. The mayor of Mladenovac and one of the coordinators of the Municipality Committee of the Serbian Progressive Party in Mladenovac, Vladan Gliši

**Political stakeholder / other perpetrator** SPP – MC Mladenovac

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Illicit activities of political stakeholders

**Description**

In the premises of the Municipality Committee of the Serbian Progressive Party, on March 25th, **a charity humanitarian activity voluntary blood donation** was organised. In the statement published on the website of the Municipality Committee of the Serbian Progressive Party – Novi Beograd it was explicated that: "Citizens and the Serbian Progressive Party activists participated in the voluntary blood donation on March 25th 2017, organised at the initiative of the Sava local committee, supported by the Municipality Committee of the Serbian Progressive Party – Novi Beograd. Members of the Serbian Progressive Party have once again shown their humanity and readiness to help those who need it the most. We wish to thank the citizens of Novi Beograd who participated in the voluntary blood donation. The Municipality Committee of the Serbian Progressive Party – Novi Beograd shall continue to support and organise such initiatives."

**Political stakeholder / other perpetrator** SPP – MC Novi Beograd

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Illicit activities of political stakeholders

**Description**

On March 19th 2017, the Union of Women of the Serbian Progressive Party – Mladenovac, organised gift distribution to a socially vulnerable family. The representatives of the Union of Women of the Serbian Progressive Party – Mladenovac visited the vulnerable eight-member family Petrović from Mladenovac and gave them presents such as sweets, cloths, diapers and baby care products.

**Political stakeholder / other perpetrator** SPP – MC Mladenovac

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Illicit activities of political stakeholders

**Description**

In Leskovac, in the premises of the Municipality Committee of the Serbian Progressive Party – Leskovac, on March 21st, **free health examinations were organised (sinuses and hearing examinations)**. The professor Miško Živić from the Medical School and the director of the Otorhinolaryngology clinic in Niš and Vladimir Marković, the head of the Department for otorhinolaryngology of the General hospital in Leskovac performed those examinations. The president of the health committee of the Lead Committee of the SPP Leskovac Mina Cvetanović was also present. During this activity, the premises of the Municipality Committee were covered with symbols of the Serbian Progressive Party and with pictures of the presidential candidate Aleksandar Vučić.

**Political stakeholder / other perpetrator** SPP – MC Leskovac

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Illicit activities of political stakeholders

**Description**

In Leskovac, in the premises of the local community office Hisar, the Health Care Council of the Municipality Committee of the Serbian Progressive Party – Leskovac, on March 25th, organised **free health examinations (sinuses and hearing examinations)**. The professor Miško Živić from the Medical School and the director of the Otorhinolaryngology clinic in Nis and Vladimir Marković, the head of the Department for otorhinolaryngology of the General hospital in Leskovac performed those examinations. The president of the health committee of the Lead Committee of the SPP Leskovac Mina Cvetanović was also present. During this activity, the premises of the Municipality Committee were covered with symbols of the Serbian Progressive Party and with pictures of the presidential candidate Aleksandar Vučić.

**Political stakeholder / other perpetrator** SPP – MC Leskovac

**Competence** ACAS

**Response of the competent authority** /



**Infraction** Illicit activities of political stakeholders

**Description**

In the premises of the Municipality Committee of the Serbian Progressive Party, on March 25th, a charity humanitarian activity voluntary blood donation was organised. In the statement published on the internet site of **the Municipality Committee of the Serbian Progressive Party – Novi Beograd** it was explicated that: "Citizens and the Serbian Progressive Party activists participated **in the voluntary blood donation** on March 25th 2017, organised at the initiative of the Sava local committee, supported by the Municipality Committee of the Serbian Progressive Party – Novi Beograd. Members of the Serbian Progressive Party have once again shown their humanity and readiness to help those who need it the most. We wish to thank the citizens of Novi Beograd who participated in the voluntary blood donation. The Municipality Committee of the Serbian Progressive Party – Novi Beograd shall continue to support and organise such initiatives."

**Political stakeholder / other perpetrator** SPP – MC Novi Beograd

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Public officials' campaign

**Description**

On March 25th 2017, the president of the municipality of Palilula Aleksandar Jovičić, the commissioner of the Municipality Committee of the Serbian Progressive Party Palilula Jelena Mijatović and the director of the Public Utility Company "Gradske pijace" Ivan Soco visited the greenmarket in Palilula. On that occasion, they distributed greenmarket bags as gifts.

**Political stakeholder / other perpetrator** Aleksandar Jovičić, president of the municipality of Palilula, Ivan Soco, director of the Public Utility Company "Gradske pijace"

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Public officials' campaign

**Description**

On March 26th 2017, the director of the Public Utility Company "Gradsko zelenilo" Zoran Stanojević visited Vičnjika banja and talked with citizens about the improvement of living conditions in that particular part of town. This event was shared on the Facebook profile of the SPP-MC Palilula in the section referring to the electoral campaign under the slogan **Faster#Harder#Better 6. Aleksandar Vučić**.

**Political stakeholder / other perpetrator** Director of the Public Utility Company "Gradsko zelenilo" Zoran Stanojević

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Public officials' campaign

**Description**

The director of the Public Utility Company "Mladenovac", certain members of the Lead Committee of Mladenovac, the president of the municipality, the head of the Public Utility Company "Pijace Mladenovac" attended the visit of Milisav Miličković and the city secretary Slavko Gak. On that occasion, they visited the SPP stands and invited citizens to vote for the SPP candidate in the upcoming presidential elections.

**Political stakeholder / other perpetrator** Director of the Public Utility Company "Mladenovac", the president of the municipality of Mladenovac – Vladan Glišić

**Competence** ACAS

**Response of the competent authority** /

**Infraction** Public officials' campaign

**Description**

On March 29th 2017, in his capacity of president of the municipality of Čuprija, Ninoslav Erić invited his fellow citizens to vote for the presidential candidate Aleksandar Vučić in the upcoming elections. This invitation was addressed by a video broadcast on TV Pomoravlje, shot during the working hours in the premises of the municipality.

**Political stakeholder / other perpetrator** Ninoslav Erić – president of the municipality of Čuprija

**Competence** ACAS

**Response of the competent authority**

The announcement on the result of acting on complaint submitted on April 24th 2017 – There is no violation of article 29 of the Anti-Corruption Act. It was determined that "Eric had not been announced as a mayor."

**Infraction** Public officials' campaign

**Description**

During the electoral campaign for president of the Republic of Serbia called for April 2nd 2017, in Sombor on March 30th 2017, the mayor of Sombor Dušanka Golubović used the official internet presentation of the city of Sombor to invite her fellow citizens to vote for Aleksandar Vučić in the upcoming presidential elections.

**Political stakeholder / other perpetrator** Mayor of Sombor Dušanka Golubović

**Competence** ACAS

**Response of the competent authority** /

## APPENDIX 3 – DIFFERENCES IN INSTRUCTIONS FOR THE WORK OF THE POLLING BOARDS 2016/17

### COMPARATIVE ANALYSIS OF THE INSTRUCTIONS FOR THE WORK OF THE POLLING BOARDS during the 2016 extraordinary parliamentary elections and the 2017 presidential elections

#### For which elections do the polling boards conduct the elections?

2017

The polling boards conduct the elections for the President of the Republic.

2016

The polling boards conducted parliamentary, local and provincial elections (if the polling boards were located in the territory of Vojvodina).

#### Identification of members of the polling boards

2017

The members of the polling boards are held to wear identification cards when working at a polling station.

2016

Identification cards were not given to members of polling boards. They were identified only according to the decision on forming of the polling boards.

#### Determining votes

2017

The polling board also gets the control form which serves to help members of the polling board to determine election results through logic and calculation operations at the very polling station. A polling board first has to fill in the control form and only after that the voting results are entered in the polling board records. Moreover, the order of entering data in the polling board records is different.

2016

The polling board enters voting results only in the polling board records.

#### Securing the election material

2017

The election material is sealed and closed with a special safety lock. After the end of the voting, the safety lock must be handed in to the working body of the REC. The serial number of the safety lock is entered in the special record.

2016

The election material is sealed only with wax.



## Banning of political propaganda

2017

Symbols of a presidential candidate for the Republic of Serbia, symbols of candidate proposers (political parties, party coalitions, groups of citizens) and other propaganda material cannot be displayed at the polling station and within the radius of 50 metres around the polling station.

2016

Symbols of submitters of electoral lists (political parties, party coalitions, groups of citizens) and other electoral propaganda material cannot be displayed at the polling station and within the radius of 50 metres around the polling station.

## Presence of members of the polling boards

2017

The chairman of the polling board must enter the names of present members and deputy members of the polling board in the polling board records before the polling station is opened.

2016

All members of the polling board had to be present during the closure of the polling station and the process of counting the votes.

## Determining the identity of voters

2017

Voters can vote with the valid ID card, valid passport and the valid driver's licence where the personal identification number is stated. Besides, voters can even vote with the ID card which has expired provided they can also submit the confirmation from the Ministry of Interior that they have submitted the request for the new ID card to be issued.

2016

The Instructions for the work of the polling boards for 2016 give detailed explanation on what ID card is considered valid:

- ID card on the old form issued before January 27th 2007, with the expiry date which is still valid;
- ID card on the old form issued after January 27th 2007, with the expiry date "July 27th 2011";
- ID card issued on the new form, with the contact micro-controller chip, with the expiry date which is still valid;
- ID card issued on the new form, without the contact micro-controller chip, with the expiry date which is still valid.

## Signing the voters list

2017

Voters who cannot write their own names and surnames in the voters list because of the bodily or sensory disability (disabled voters), sign their names by using a stamp containing data about their personal identity, i.e. the stamp with an engraved signature. Illiterate or disabled voters who do not have the stamp with the data of their personal identity, i.e. the stamp with an engraved signature, do not sign themselves in the voters list; it is done by their aides who came with them to the polling station in order to help them fill in the ballot.

2016

The Instructions on the Work of Polling Boards do not prescribe how disabled or illiterate persons sign themselves in the voters list. However, blind, illiterate and disabled persons can bring to the polling station with them an aid who can help them fill in the ballot.

## The voters list registration

2017

The Instructions on the Work of Polling Boards emphasise that the polling board must not additionally enter in the voters list the name of the person not entered in the list even though they claim that they vote in that polling station or that members of the polling board know them personally.

2016

The Instructions on the Work of Polling Boards do not explicitly ban additional entering of names in the voters list. However, only persons entered in the voters list can vote at the polling station.

## Record of illiterate, disabled or blind voters

2017

The information about the number of blind, illiterate and disabled voters who have casted their vote.

2016

The total number of voters who voted – there is no record of blind, illiterate and disabled voters who casted their vote is entered in the polling board records.

## Voting outside of the polling station

2017

Only weak persons and persons who were prevented from coming can vote outside the polling station (persons who cannot come to the polling station due to health problems, disabled persons and weak old persons). The Instructions on the Work of Polling Boards emphasise that persons who cannot vote at the polling station during the time the polling station is open due to the nature of their work are not considered weak and prevented from coming.

2016

Persons who were not blind, illiterate and disabled could also vote outside the polling station.

## Voting of persons in uniform

2017

The Instructions on the Work of Polling Boards enable policemen in uniform to enter the polling station, where they are registered in the voters list, in order to vote on condition that they are not carrying a weapon and other means of enforcement.

2016

The Instructions on the Work of Polling Boards did not define voting of persons in uniform.

## Logic and calculation operations and determining the results

2017

The polling board must make sure that the control ballot is not registered as a voting ballot. Besides, in case the polling board sticks one voting ballot on the ballot box, that ballot must be counted as an unused ballot after the elections. The polling boards first determine votes through logic and calculation operations and then they determine the election results.

2016

The polling boards first determine the results of the elections and then they determine votes through logic and calculation operations.

## Delivery of the election material after the voting

2017

All members and deputy members of the polling board have the right to attend the receipt and delivery of the electoral material to the working body of the Republic Electoral Committee after the elections.

2016

The Instructions on the Work of Polling Boards do not regulate who has the right to attend the delivery of the material to the working body after the election.



## APPENDIX 4 – DIFFERENCES IN THE INSTRUCTION FOR THE VOTING IN Kosovo\*

COMPARATIVE ANALYSIS –  
DIFFERENCES IN THE INSTRUCTIONS FOR THE ELECTIONS CONDUCT  
AT THE TERRITORY OF THE AUTONOMOUS PROVINCE OF KOSOVO  
during the 2016 parliamentary elections and the 2017 presidential elections

### Elections that the Instructions refer to

#### 2016 INSTRUCTIONS FOR THE KOSOVO AND METOHIJA – PARLIAMENTARY ELECTIONS

THE INSTRUCTIONS DEFINE MORE PRECISELY THE CONDUCT OF THE ELECTIONS FOR THE **MEMBERS OF PARLIAMENT** AT THE TERRITORY OF THE AUTONOMOUS PROVINCE OF KOSOVO AND METOHIJA

#### 2017 INSTRUCTIONS FOR THE KOSOVO AND METOHIJA – PRESIDENTIAL ELECTIONS

THE INSTRUCTIONS DEFINE MORE PRECISELY THE CONDUCT OF THE ELECTIONS FOR THE **PRESIDENT OF THE REPUBLIC** AT THE TERRITORY OF THE AUTONOMOUS PROVINCE OF KOSOVO AND METOHIJA

### How many members are there in the polling boards and what is their composition?

#### 2016 Instructions for the Kosovo and Metohija – parliamentary elections

The polling board has three members.

The polling board is nominated upon a proposal by parliamentary groups of the National Parliament, in proportion to their representation in the National Parliament on the day the elections are called.

The composition of the polling boards: No parliamentary group or several parliamentary groups made from political party coalitions can constitute more than a half of members of each polling board.

#### 2017 Instructions for the Kosovo and Metohija – presidential elections

The polling board has three members.

The polling board is nominated upon a proposal by parliamentary groups of the National Parliament, in proportion to their representation in the National Parliament on the day the elections are called.

The composition of the polling boards whose parliamentary groups have together more than one half of the number of members of parliament can have only one member in each polling board, whereas two remaining places in the polling boards are to be distributed among other parliamentary groups, in proportion to their representation in the National Parliament on the day the elections are called.

### How many members does the working body of the REC has and how are they nominated?

#### 2016 Instructions for the Kosovo and Metohija – parliamentary elections

The working body for each administrative district consists of six members. The working body is consisted of members nominated by parliamentary groups of the National Parliament, in proportion to their representation in the National Parliament on the day the elections are called, whereas no parliamentary group or several parliamentary groups consisting of political party coalitions can constitute more than a half of members of each polling board.

#### 2017 Instructions for the Kosovo and Metohija – presidential elections

The working body for each administrative district consists of 11 members. The working body is formed by the members nominated by the proponent of the candidate for the president of the Republic of Serbia. Each proponent of a candidate can nominate one member of the working body.

## How the electoral material is handed over to polling stations before the elections?

### 2016 Instructions for the Kosovo and Metohija – parliamentary elections

Electoral material for voting in the territory of Autonomous Province of Kosovo and Metohija shall be delivered by the Republic Electoral Commission coordinators directly to the polling boards in Raška and Vranje.

### 2017 Instructions for the Kosovo and Metohija – presidential elections

Electoral material for voting in the territory of Autonomous Province of Kosovo and Metohija shall be delivered by the Republic Electoral Commission coordinators directly to the polling boards in the municipality of Raška, or the town of Vranje.

## How the electoral material is secured before/after the Election Day?

### 2016 Instructions for the Kosovo and Metohija – parliamentary elections

The election material is to be sealed only with wax.

### 2017 Instructions for the Kosovo and Metohija – presidential elections

After the handover of the electoral material to the polling boards before the elections, the electoral material is put in a bag for that purpose. In the presence of the working body and polling board members, bags for the election material shall be sealed by a security lock, the serial number of which shall be entered in the records regarding the handover of the election material. After the handover of the electoral material, the bag must be designated by a sticker containing the name of the city/municipality and a number of the polling station.

## How do the members of the polling board proceed after the voting at the polling station?

### 2016 Instructions for the Kosovo and Metohija – parliamentary elections

After closing the polling station, members of the polling board are obliged to carry out the following actions:

- 1) place the unused ballots for the election of Members of the National Parliament into a special envelope and seal it;
- 2) without delay, transport the sealed ballot box along with all the used ballots, with an excerpt from the voters list and the sealed envelope containing unused ballots, to Raška, or Vranje, where it is to be delivered to the Republic Electoral Commission coordinators.

### 2017 Instructions for the Kosovo and Metohija – presidential elections

After closing the polling station, members of the polling board are obliged to determine the results of voting, if security conditions are met.

On the basis of the information obtained by the OSCE, the Office for Kosovo and Metohija shall inform the Republic Electoral Commission at 19:00 at the latest about security conditions.

If for security reasons the members of the polling boards are unable to determine the results of voting at the polling station on the territory of the Autonomous Province Kosovo and Metohija, the electoral material shall be transported to Raška, or Vranje, where it is to be delivered to the Republic Electoral Commission coordinator.

## Who counts the ballots and where is this done?

### 2016 Instructions for the Kosovo and Metohija – parliamentary elections

The polling boards in Raška/Vranje.

The Republic Electoral Commission coordinators shall organise for the members of the polling boards in Raška and Vranje, to open the ballot boxes, determine the results of the elections for Members of the National Parliament, and complete the polling board records.

### 2017 Instructions for the Kosovo and Metohija – presidential elections

The polling board at the polling station, should the security conditions allow.

If the security conditions are not met, the OSCE representatives shall determine when the electoral material can be securely transported from the polling station to Raška and Vranje. If for security reasons, the members of the polling boards were unable to fill in the polling board records, the polling board and the working body shall fill in the polling board records in presence of the REC coordinator on the basis of the electoral material status.

## What are the OSCE competences?

### 2016 Instructions for the Kosovo and Metohija – parliamentary elections

The OSCE shall take care of the secure transport of the electoral material from the administrative crossing to the polling stations, or from the polling stations to the administrative crossing.

### 2017 Instructions for the Kosovo and Metohija – presidential elections

The OSCE shall take care of the secure transport of the electoral material from the administrative crossing to the polling stations, or from the polling stations to the administrative crossing. Moreover, the OSCE provides the Office for the Autonomous Province of Kosovo and Metohija with the information on security conditions at the polling stations regarding the ballot counting.



## APPENDIX 5 - COMPLAINTS LODGED TO THE ANTI-CORRUPTION AGENCY BY THE CRTA ELECTION OBSERVATION MISSION "CITIZENS ON WATCH"

### OVERVIEW OF COMPLAINTS SUBMITTED TO THE REC by the CRTA election observation mission CITIZENS ON WATCH

#### POLLING STATION 20, Stara Pazova

##### DESCRIPTION OF THE COMPLAINT

Signatories of the polling board records and the Control Paper are not the same persons named in the Decision on the Appointment of Members of the Polling Board.

##### THE REC DECISION AND EXPLANATION

According to the polling board records, all anticipated members of the polling board were present at the beginning and at the end of voting and the complaint was rejected.

##### THE COURT DECISION /

##### SUMMARY OF THE DECISION /

#### POLLING STATION 11, Beocin

##### DESCRIPTION OF THE COMPLAINT

Confirmations of electoral right of some individuals who voted outside of the polling station were not signed.

##### THE REC DECISION AND EXPLANATION

According to the Polling Board Records, there were no complaints and everything was in order. The complaint was rejected.

##### THE COURT DECISION /

##### SUMMARY OF THE DECISION /

#### POLLING STATION 62, Valjevo

##### DESCRIPTION OF THE COMPLAINT

The polling station was opened at 9 am, which was two hours later and it was not prolonged by two hours as it should have been done according to the Instructions of the Work of the Polling Boards.

##### THE REC DECISION AND EXPLANATION

Delay of the beginning of voting cannot be interpreted as interruption. The complaint was rejected.

##### THE COURT DECISION Užice, 20/17 – The complaint was rejected

##### SUMMARY OF THE DECISION

The Administrative Court has made the decision that the law was not violated since the fact that the polling station was not opened at the legally regulated time is not a legal irregularity which requires annulment of the elections at the particular polling station. Also, the voters did not think that the delayed opening of the polling station violated their electoral right and therefore there were no irregularities leading up to the annulment of voting at that polling station.

Although the regulation of Article 57 of the Law on the Election of Members of Parliament prescribes that the polling board should prolong the voting by the length of the delay, the Court finds that these regulations are not relevant enough for a different decision to be made.

## POLLING STATION 62, Trstenik

### DESCRIPTION OF THE COMPLAINT

According to the published Polling Board Records, the number of ballots exceeds the numbers of voters who voted.

### THE REC DECISION AND EXPLANATION

The number of invalid ballots was corrected from 7 to 6 by the Chairman of the Polling Board which means that numbers were synchronised. The correction was made after publishing of the Records. The objection was rejected.

**THE COURT DECISION** Uzice, 17/17 – The complaint was accepted, elections were repeated.

### SUMMARY OF THE DECISION

The Court analysed the ballot bags and determined that the number of voters who voted and the number of ballots were not in accordance (288:286 of signatories). The fact that the number of invalid ballots was corrected and initialled was the reason for the court to demand an analysis of electoral material and due to the way the facts were determined, it annulled the results of the election at that polling station.

## POLLING STATION 36, Novi Sad

### DESCRIPTION OF THE COMPLAINT

According to the published Polling Board Records, the number of received ballots does not match the number of voters who voted and the number of unused ballots. Also, the numbers of valid and invalid ballots do not match.

### THE REC DECISION AND EXPLANATION

The number of votes for Sasa Jankovic was corrected from 266 to 268 and initialled, for Vuk Jeremic from 53 to 54 and for Nenad Canak from 30 to 31, which means there were mismatches. Numbers of received ballots were corrected and initialled, as well as numbers of valid and invalid ballots. The correction was done after the publishing of the Polling Board Records. The complaint was rejected.

**THE COURT DECISION** /

**SUMMARY OF THE DECISION** /

## POLLING STATION 27, Čačak

### DESCRIPTION OF THE COMPLAINT

According to the published Polling Board Records, the number of received ballots exceeded the number of ballots registered in the Records of the Receipt and Delivery (1188 according to the Records of the Receipt and Delivery and 1202 according to the Polling Board Records).

### THE REC DECISION AND EXPLANATION

According to the Polling Board Records, the number of ballots and the number of unused ballots were corrected and initialled and there were no objections. The complaint was rejected.

**THE COURT DECISION** Užice, 22/17 – The complaint was rejected.

### SUMMARY OF THE DECISION

The Administrative Court has made the decision that the law was not violated towards the complainant. Namely, the Court has decided that in sections 12.2 and 12.3 of the Polling Board Records during the election and establishment of the election results, data referring to the number of received ballots and the number of unused ballots were corrected. The correction in section 12.2 was made by crossing out number 1188 and entering number 1202; in section 12.3 the correction was made by crossing out number 450 and entering number 475. The Court has determined that the correction in the Polling Board Records was made by the Chairman of the Polling Board. According to the Administrative Court, no regulations from Article 74 of the Law on the Election of Members of the Parliament were violated and neither can the polling board be dissolved nor can the voting be repeated on this polling station.

## POLLING STATION 18, Topola

### DESCRIPTION OF THE COMPLAINT

Adding information to the voters list excerpt.

### THE REC DECISION AND EXPLANATION

The polling board was dissolved and the voting was repeated on April 11th.

### THE COURT DECISION /

### SUMMARY OF THE DECISION /

## POLLING STATION 68, Novi Sad

### DESCRIPTION OF THE COMPLAINT

The valid ballot was pronounced invalid.

### THE REC DECISION AND EXPLANATION

The REC thought it was exclusively the competence of the polling board to determine what ballots were valid and what ballots were invalid – regardless of objections made by members of the polling board in the Polling Board Records referring to the fact that the criteria used for determining the valid and invalid ballots were not the same (1 for number 6 and 1 for numbers 1 and 5 each). The complaint was rejected.

**THE COURT DECISION** Užice, 23/17 – The complaint was rejected.

### SUMMARY OF THE DECISION

The Administrative Court has made the decision that the law was not violated towards the complainant. The Court has decided that the complainant's statement that ballots were accepted as invalid (valid ballots were not accepted) is unfounded and it has not questioned the situation determined within the process of acquiring the appealed decision.

## POLLING STATION 7, Trstenik

### DESCRIPTION OF THE COMPLAINT

The number of ballots in the ballot box exceeds the number of voters registered in the voters list.

### THE REC DECISION AND EXPLANATION

The REC analysed the Polling Board Records and found no mismatch in numbers. The objection was rejected.

### THE COURT DECISION /

### SUMMARY OF THE DECISION /



## POLLING STATION 7, Gornji Milanovac

### DESCRIPTION OF THE COMPLAINT

Minimum 30 voters voted without the ID card, or the UV lamp was not used to verify whether they had voted or not.

### THE REC DECISION AND EXPLANATION

The REC analysed the Polling Board Records and found that the complainant did not corroborate the circumstance referred to in the complaint. The objection was rejected.

**THE COURT DECISION** Uzice, 19/2017 – The complaint was rejected.

### SUMMARY OF THE DECISION

The Administrative Court has made the decision that the law was not violated and according to the Polling Board Records, the voting at this polling station was in absolute order – no irregularities or events affecting the voting were entered in the special section of the Polling Board Records, observers monitored the polling station, members of the polling board did not enter in the section for objections any objections referring to the procedure of voting on that polling station and the Polling Board Record was signed personally by all members of the polling board without any objections.

The Court has assessed the complaints referring to the fact that voters voted on the designated polling station without valid ID cards and without prior verifying whether they have already voted or not as arbitrary statements which do not question the situation determined within the process of acquiring the appealed decision.

## POLLING STATION 47, Kruševac

### DESCRIPTION OF THE COMPLAINT

Minimum 30 voters voted without the ID card, or the UV lamp was not used to verify whether they had voted or not.

### THE REC DECISION AND EXPLANATION

The REC analysed the Polling Board Records and according to it the complainant did not corroborate the circumstance referred to in the complaint. The objection was rejected.

**THE COURT DECISION** /

**SUMMARY OF THE DECISION** /

## POLLING STATION 6, Krupanj

### DESCRIPTION OF THE COMPLAINT

Parallel entry of members of the polling board outside of the voters list (parallel lists of voters were made).

### THE REC DECISION AND EXPLANATION

The REC analysed the Polling Board Records and according to it the complainant did not corroborate the circumstance referred to in the complaint. The objection was rejected.

**THE COURT DECISION** Užice, 18/17 – The complaint was rejected.

### SUMMARY OF THE DECISION

The Administrative Court has brought the decision that the appealed decision did not violate the law towards the complainant who has stated that members of the polling board made lists of voters who voted, outside the official records, in the excerpt. The Court has decided that according to the case documents and the Polling Board Records during the election and establishment of election results for the election of the president of the Republic at polling station number 6 in the municipality of Krupanj, no legal regulations and the Instruction of the Work of the Polling Board the complainant refers to were violated.

## POLLING STATION 139, Leskovac

### DESCRIPTION OF THE COMPLAINT

It was not verified with a UV lamp whether the voters had voted and they were not sprayed.

### THE REC DECISION AND EXPLANATION

The REC analysed the Polling Board Records and according to it the complainant did not corroborate the circumstance referred to in the complaint. The objection was rejected.

**THE COURT DECISION** Užice, 24/2017 – The complaint was rejected.

### SUMMARY OF THE DECISION

The Administrative Court has made the decision that the law was not violated towards the complainant because in the special section of the Polling Board Records there is no record of irregularities or events which might influence the voting, observers monitored voting at the polling station and in the section for objections there is no record of objections of members of the polling board referring to the procedure of voting on the polling station. On the contrary, the Records were signed personally by all members of the polling board stating that "everything is in absolute order" and that there are no objections. The Court has assessed the complaints referring to the violations of the voting procedure where voters voted without prior verification whether they have already voted or not as arbitrary statements which do not question the situation determined within the process of acquiring the appealed decision.

## POLLING STATION 13, Becej

### DESCRIPTION OF THE COMPLAINT

Presence of electoral posters less than 50 m away from the polling station.

### THE REC DECISION AND EXPLANATION

The REC analysed the Polling Board Records and according to it the complainant did not corroborate the circumstance referred to in the complaint. Enclosed pictures do not provide sufficient amount of information. The objection was rejected.

**THE COURT DECISION** Užice, 25/2017 – The complaint was rejected.

### SUMMARY OF THE DECISION

The Administrative Court has made the decision that the law was not violated towards the complainant because the Polling Board Records did not record any objections referring to the procedure of voting on that polling station as well as because the complainant did not corroborate the circumstance referred to in the complaint. Thus, the Court has decided that at this polling station or near it there were no irregularities that would be the reason enough for annulling the elections. The Court has decided that the complainant failed, enclosing the evidence with the complaint, to corroborate the circumstance that in the close neighbourhood (in the radius of 50 m) of the polling station there was propaganda material in the form of posters with the image or logo of a presidential candidate.

## POLLING STATION 77, Mirijevo

### DESCRIPTION OF THE COMPLAINT

The number of received ballots entered in the Polling Board Records exceeds the number of received ballots when the polling station was opened. The number of received ballots exceeds the number of voters registered at that polling station by 100 and the Polling Board Records evidence that 104 more ballots were received than at the opening of the polling station.

### THE REC DECISION AND EXPLANATION

The REC has decided that it cannot be established how the polling board determined that 2161 ballots were received knowing that at the opening of the polling station 2057 ballots were received. The objection was accepted.

**THE COURT DECISION** / **SUMMARY OF THE DECISION** /

## POLLING STATION 85, Zemun

### DESCRIPTION OF THE COMPLAINT

The number of ballots in the election box exceeds the number of voters who voted, according to the excerpt from the voters list.

### THE REC DECISION AND EXPLANATION

Having examined the Polling Board Records, the REC has decided that all modifications of the Records were initialled and that all logic and calculation operations concur. The objection was rejected.

**THE COURT DECISION** Užice 21/17- The complaint is accepted and the Decision of the REC is rejected.

### SUMMARY OF THE DECISION

The Administrative Court passed on a verdict adopting the complaint and annulling the Decision of the Republic Electoral Commission. The Administrative Court has found that the Republic Electoral Commission founded its decision on the corrected Polling Board Records not stating legal grounds for such correction and without any electoral material control. Moreover, it did not provide reasons on the elements of the complaint and on the submitted Records. The Administrative Court adopted the complainant's complaint and annulled the appealed decision. The Administrative Court adopted the complaint and annulled the REC's decision. The Court ordered to the REC to assess the statements put forward in the complaint, to determine the factual state by inspecting the electoral material from the polling station and to pass on a decision in a new procedure.

## POLLING STATION 10, Kraljevo

### DESCRIPTION OF THE COMPLAINT

The number of ballots in the ballot box exceeds the number of voters who voted, according to the excerpt from the voters list.

### THE REC DECISION AND EXPLANATION

Having examined the Polling Board Records, the REC has decided that there was a surplus, the Polling Board was dissolved and the repeated elections called for April 11th.

**THE COURT DECISION** /

**SUMMARY OF THE DECISION** /