



# CRTA-CITIZENS ON WATCH

ELECTION OBSERVATION MISSION FINAL REPORT

## EXECUTIVE SUMMARY AND RECOMMENDATIONS

EARLY PARLIAMENTARY ELECTIONS 2016

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## EXECUTIVE SUMMARY

The 11th parliamentary elections since the introduction of a multi-party system in 1990 were held in Serbia on April 24, 2016. This snap parliamentary vote was held concurrently with provincial elections in Vojvodina and regular local elections. Irregularities were reported at 15 polling stations, where repeat voting was conducted on May 4. The State election commission (RIK) pronounced the final results of the early parliamentary elections on May 6.

CRTA observed the entire parliamentary vote under "Citizens on Watch" (CRTA-GnS) observation missions, that is, it observed the quality before, on and after election day. The observation mission comprised long-term observers in all districts of Serbia and the RIK, and also short-term observers, who observed the quality of the electoral process on election day, April 24, on a representative and random sample of 450 polls and at all 15 polls where repeat voting was conducted on May 4, 2016.

## ELECTION CAMPAIGN

The campaign was marked with the absence of concrete proposals by political options, clear political messages and accessible election platforms. What could be seen and heard were mainly leader-focused campaigns, which left very little room for democratic debates and dialogue.

Public appearance of political leaders mainly addressed economic topics and infrastructure projects (the Serbian Progressive Party - SNS), social topics and care for the elderly, workers and pensioners (the Socialist Party of Serbia - SPS), transparency of political parties, expert personnel and "new solutions" (the Democratic Party - DS), reform of the education and healthcare systems and Vojvodina's autonomy (the Social Democratic Party, the Liberal Democratic Party, the League of Social Democrats of Vojvodina - SDS-LDP-LSV), calls for consistency, economic recovery program and closer ties with Russia and China, the protection of domestic products (the Serbian Radical Party - SRS), rural and agricultural development, protection of family values, population growth and opposition to NATO membership (the Democratic Party of Serbia, the Dveri movement - DSS - Dveri).

The SNS, along with other parties that were represented in then caretaker government, left other contestants far behind by campaign scale and intensity and media presence.

Observers reported of alleged politically-motivated incidents involving endangering of personal safety and property.

The campaign environment was also marked with the allegations of intimidation and vote-buying, particularly among the Roma community and socially vulnerable groups.

Misuse of administrative resources mainly involved the participation of representatives of state bodies, local governments and public utility companies in rallies and other election activities of parties, and the use of official events, such as the opening and reconstruction of various facilities, for promotional purposes. There were reports of pressure on public sector employees to attend rallies of certain political parties. The campaign was also marked by numerous welfare initiatives, which was also remarked by the Anti-Corruption Agency<sup>1</sup> and OSCE/ODIHR election observation mission.<sup>2</sup>

<sup>1</sup> Anti-Corruption Agency, Activities of political stakeholders in election campaign, <http://archive.is/Epqxq>

<sup>2</sup> OSCE/ODIHR Limited Election Observation Mission, *Interim report*.

<http://www.osce.org/odihr/elections/serbia/256926>

## CONTROVERSIES WITH FORGERIES AND STATUS OF STATE ELECTION COMMISSION'S PRESIDENT

The forgery of more than 15,000 supporting signatures for seven of 29 submitted election tickets and verification of the election ticket which contained forged supporting signatures brought the legality and credibility of the electoral process into question.

The campaign environment was overshadowed by a matter involving RIK's President Dejan Djurdjevic with regard to the posts he discharges. Within the prescribed deadline, on March 7, 2016, Djurdjevic informed the Anti-Corruption Agency of his posts as RIK's president and director of the State Secretariat for Legislation, seeking a permission from the agency to discharge these posts. On May 11, 2016, the agency decided not to give him the go-ahead, after which Djurdjevic quit the post as RIK's president on June 9, 2016.

### RIK'S WORK IN ELECTORAL PROCESS

Although the RIK carried out its activities in line with the law, it failed to adequately respond to all attempts of circumventing the law and irregularities with the submission of candidate lists due to deficiencies in the legislation, short deadlines to act in official capacity and insufficient expert service resources. Considering that no complaint was filed by citizens at the polls where irregularities were detected through the inspection of polling boards' protocols, the RIK did not have the opportunity to annul ex officio the elections at the polls where irregularities could affect the outcome of the vote were detected. The existing legal framework envisages that the RIK has the right to consider only complaints filed by citizens and consequently possibly annul the vote at that polling station and order repeat voting.

If the electoral process is viewed through the work of election bodies, primarily the RIK and the Administrative Court (as the second-instance body for handling complaints), it is obvious that the existing legal framework contains conflicting provisions for granting or denial of national minority status in the elections (the Law on Political Parties<sup>3</sup> and the Law on the Election of Representatives<sup>4</sup>).

RIK's work during election night was burdened with the presence of contestants from the opposition ranks, who, having doubts in the regularity of vote counting, appeared on RIK's premises, and were exerting pressure on the work of RIK's members with their presence and media statements. The RIK enabled live streaming of data processing via a web application of the Statistics Office for opposition representatives, at the National Assembly's hall.

### IRREGULARITIES AT POLLS

On election day, April 24, incidents, serious omissions and irregularities were registered at 4% of the polls, which by their scale under ordinary conditions, could not affect the regularity of the entire electoral process. However, considering that these elections saw a rare case of one ticket being short of crossing the threshold by a single vote, while other two tickets were on the verge of crossing the threshold,<sup>5</sup> these irregularities could have affected the final results for the tickets in question. As CRTA-GnS observed only the early parliamentary

<sup>3</sup> Provisions of Article 9, Article 24, Paragraph 4, and Article 26 of the Law on Political Parties, pertaining to the registration of a political party as a national minority party.

<sup>4</sup> Article 81 of the Law on the Election of Representatives, and Article 42, Paragraph 1, Item 3, defining the RIK's competences in granting or denial of national minority status in the electoral process.

<sup>5</sup> According to preliminary results of CRTA-GnS, during election night, tickets DSS-Dveri, Enough Is Enough and SDS-LDP-LSV were on the verge of crossing the threshold, and within the margin of error that could take them both ways, below and above the required 5% threshold.

elections, it is not in the position to assess whether the reported irregularities also affected the provincial or local elections.

## CONTROVERSIES SURROUNDING VOTER REGISTER

The distribution of a large number of poll cards at a number of addresses, addressed to persons who do not reside at those addresses ahead of elections, undermined public confidence in the state's ability to conduct credible elections. Additionally, on election day, the observation mission was addressed by a large number of citizens complaining that they could not vote as they were missing from voter lists at their respective polls, although they confirmed their registration in the voter register through earlier inspection of the database, available on the website of the Public Administration and Local Self-Government Ministry. CRTA-GnS has looked into these instances on a representative and random sample during election day, establishing that the problem with voter lists arose at 20% of the polls, yet affecting a mere 0.32% of the voters, and that thereby it could not have affected the outcome of the vote. The voter register (maintaining and controlling the accuracy of data) is among the topics which require an urgent engagement of relevant bodies and the civil society in the period until next elections to enable citizens to exercise their suffrage rights, guaranteed under the Constitution.

## OBSERVATION HAMPERED FOR CITIZENS OBSERVERS

Although cooperation with the RIK in these elections was professional, citizen observers were denied inspection of certain election materials (primarily relating to controversial cases of forged supporting signatures, polling boards' protocols as well as other election materials which could have enabled observers to conduct control in a timely manner). Also, under restrictive instructions for carrying out of elections, citizen observers are limited to only one observer per organization per polling station, which disables full and independent control in line with international good practice.<sup>6</sup>

## PRIORITY RECOMMENDATIONS

With a view to boost public confidence and enhance the electoral process toward endorsing international good practice for carrying out of fair and free elections, CRTA-GnS observation mission believes it is necessary to introduce a number of changes, with the following being identified as most important:

- Adopt a single unified election law, which would unify all election related provisions currently contained in the Law on the Election of Representatives, the Law on the Election of the President of the Republic and the Law on Local Elections, and partially in the Law on General Administrative Procedure, the Law on Political Parties, the Law on Financing Political Activities and the Law on the Anti-Corruption Agency;
  - Define cases when it is possible to use emergency legal remedies by the institutions administering the conduct of elections;
  - Update the voter register and improve control and accountability measures for the accuracy of data;
  - More precisely define the status of a national minority party in an election cycle or change the registration rules for granting the status of a national minority party;

<sup>6</sup> In order to overcome this limitation, CRTA has set up association of citizens "Citizens on Watch," thereby ensuring two observers per polling stations, one on behalf of CRTA, and the other from Citizens on Watch. .

- Amend the Law on the Election of Representatives to provide for RIK's authority ex officio to rectify, change or overturn decisions taken by polling boards;
- Transform the RIK into a permanent and independent body for carrying out of elections;
- Set up a standing expert service within the RIK, while in parallel strengthening its human and technical resources;
- Regulate under the legal framework the status of short-term and long-term citizen observers at national and local levels;
- Amend the Law on Criminal Proceedings to envisage that special rules of evidence are also applicable to breaches of suffrage rights;
- Standardize and publish in a timely manner all election data in an open format;
- Organize and conduct mandatory training for all members of polling boards and also of members of lower level commissions (municipal and city);
- Amend the Law on the Election of Representatives to extend deadlines for verification of election tickets from current 24 hours to 48 hours to allow for more thorough verification of registration documents;
- The Electronic Media Regulatory Authority (REM) should be proactive in ensuring a level playing field among all contestants.

## CONCLUSION

During the electoral process, the observation mission registered irregularities in the work of election administration, negative campaigning, bias, that is unequal access to media, frequent allegations of bribery and intimidation, and misuse of administrative resources in campaigning, which exhibits a whole range of problems requiring a systemic solution.

Relaying on principles of international election observation in analyzing the electoral process and conduct of all stakeholders, CRTA-GnS assesses that the registered irregularities were not to the extent that they could dispute the integrity of the early parliamentary vote. However, bearing in mind that two election tickets were close to crossing the threshold and that every ballot could have been deciding,<sup>7</sup> the number and extent of the recorded irregularities imply that they could have impacted the outcome of the elections and the balance of power in the National Assembly of the Republic of Serbia.

Taking into account all the circumstances, CRTA-GnS observation mission is of the opinion that the 2016 snap parliamentary elections in Serbia were carried out by insufficient and often conflicting legal provisions, exhibiting a series of mistakes and deficiencies of relevant bodies and institutions, along with the obvious absence of professional resources required for credible conduct of elections, but that nonetheless the final election results reflect the will of the voters.<sup>8</sup>

<sup>7</sup> Having counted votes in the April 24 elections, and before repeat voting at 15 polls on May 4, the RIK announced preliminary results based on 99.82% of the votes counted, according to which election ticket DVERI - DEMOCRATIC PARTY OF SERBIA - SANDA RASKOVIC IVIC - BOSKO OBRADOVIC was short of the threshold, literally by a single vote. Another ticket which was within the margin of error was BORIS TADIC, CEDOMIR JOVANOVIC - ALLIANCE FOR A BETTER SERBIA - the Liberal Democratic Party, the League of Social Democrats of Vojvodina, the Social Democratic Party, which, by RIK's figures collected 5.02% of ballots (GnS: 5.04% of ballots, with the margin of error of 0.30%).

<sup>8</sup> CRTA-GnS has conducted a histogram analysis of the parliamentary election results, which confirmed this conclusion.

## RECOMMENDATIONS

### REGULATING VOTER REGISTER

#### DEFINE POLL CARD DELIVERY METHOD

In regard to frequent instances of poll cards being delivered to voters at addresses where they do not reside, CRTA-GnS notes that it is due to an inaccurate voter register as well as the absence of a clearly defined method for delivering poll cards. It is the job of local governments to provide information about voting and deliver poll cards in line with voter lists. In practice, it is possible that some voters do not receive poll cards or receive them at wrong addresses. Voters are not required to present their poll cards to be able to cast ballots, but they are required to present an identification document containing their photo and a personal ID number so that poll boards can verify their identity. This method of poll cards delivery does not meet the requirements prescribed by the law for other forms of proceedings/procedures (the Law on Civil Procedure and the Law on Criminal Procedure).

It is exactly why it is needed to define a method for delivering vote invitation cards in line with the existing procedural laws as examples of good practice (the Law on Civil Procedure and the Law on Criminal Procedure).

#### VOTER REGISTER UPDATE AND DATA CONTROL SYSTEM UPGRADE

During election day, the observation mission was addressed by a large number of citizens, complaining that they could not vote as they were missing from voter lists at their respective polls, although they confirmed their registration in the voter register through earlier inspection of the database, available on the website of the Public Administration and Local Self-Government Ministry. The observation mission, through its observers at the polls, looked into these allegations. Based on the input from the observers, at 20% of the polls, voters claimed that before arriving at their respective polls they had checked whether they were included in the voter register (through inspection of the electronic database on the Public Administration and Local Self-Government Ministry's website), but that their names were not on voter lists at the polling stations. Owing to personal effort of eligible voters, various discrepancies were established between data in the electronic database and voter lists at the polls (non-corresponding data about polling stations, different last names for same persons, inaccurate data that a person is eligible to vote while he/she is missing from voter lists). A total number of such instances reported by CRTA-GnS observers involve only 0.32% of the voters included in the voter register, but 20% of the polls in Serbia. This problem implies serious deficiencies of the voter register, its administration and updating.

With a view to primarily establish public confidence in the voter register and the electoral process, it is necessary to implement several important measures. **Oversight of the voter register should be improved and all institutions should engage in an open dialogue to improve the accuracy of data in the voter register, with the engagement of all stakeholders.**

Further, a full update of the voter register is needed. This recommendation particularly refers to "cleansing" the electronic database of wrong data (spelling errors and similar), deletion of deceased voters from the database and entering accurate addresses of persons who are in the database registered at more than one polling station.

**Adequate application of sanctioning provisions of the Law on the Unified Voter Register** is also important. Namely, Article 25 of this law envisages public liability of the responsible person at the institution in charge of voter register updates. Also, **this sort of liability should also be prescribed for citizens who fail to report**

**changes of certain personal data contained in the unified voter register to relevant municipal administration or the ministry handling administration matters.**

It is needed that **coordination on the voter register related matters is maintained between relevant bodies.** Coordination should be intensified during an election cycle. Bodies relevant for this coordination involve municipal and city administrations, representatives of the Interior Ministry's regional departments and representatives of the ministry handling administration matters.

Finally, it is necessary to **supplement the Law on the Unified Voter Register to enable display of voter lists for public scrutiny**, atop the existing right of citizens to inspect the voter register.

## ELECTION ADMINISTRATION

### ADOPT SINGLE UNIFIED ELECTION LAW

One of the most remarkable characteristics of the 2016 electoral process is nonconformity of provisions contained in the legal framework and procedures, particularly the provisions relating to the conduct of elections. Because of this and also for the fact that a number of recommendations refer to changes and supplements to the existing rules (mainly to the Law on the Election of Representatives), **it is needed to adopt a single unified election law which would incorporate all laws regulating different types of elections in a single electoral code.** In question are the Law on the Election of Representatives, the Law on the Election of the President of the Republic, and the Law on Local Elections, and partially the Law on General Administrative Procedure, the Law on Political parties, the Law on Financing Political Activities and the Law on the Anti-Corruption Agency.

### USE OF EXTRAORDINARY LEGAL REMEDIES IN ELECTORAL MATTERS

**Define conditions when it is possible to use extraordinary legal remedies by institutions administering elections.** CRTA-GnS observation mission believes that it is necessary to have in place certain clearly defined, restrictive conditions, when it would be possible to use extraordinary legal remedies. The official position of the Administrative Court is that the use of extraordinary legal remedies is not allowed in the electoral procedures. In order to prevent certain unlawful acts in future elections, we believe that it is necessary to establish restrictive conditions, when all other remedies have been exhausted, to make the use of extraordinary legal remedies possible for to remove previously established irregularities in election activities/electoral process, and thereby preclude cases where "unjust acts can create law" (Ex factis jus oritur). It is this election cycle that exhibited the incapability of institutions to prevent certain forms of abuses, for which even the credibility of the electoral process could be disputed. Bearing in mind the aforementioned, **it is necessary to enable relevant institutions (the Administrative Court and the RIK) to, under certain restrictive conditions, use extraordinary legal remedies. The use of extraordinary legal remedies requires amendments to the Law on the Election of Representatives, whose Article 97 explicitly prohibits the use of these remedies.**

### MORE CLEAR DEFINITION OF NATIONAL MINORITY STATUS

It is needed to more clearly define the status of a national minority party in an election cycle or change the registration requirements in the part relating to national minority status. Although the Law on the Election of Representatives stipulates RIK's discretionary power to deny national minority status, the application of this



provision is not meaningful as in judicial practice, national minority status is granted to any party (by the Administrative Court upon an appeal filed by a party) entered as a national minority party in the register of political parties with the Public Administration and Local Self-Government Ministry.

## PROFESSIONALIZATION OF RIK

The conduct of the 2016 early parliamentary elections displayed a number of deficiencies and problems that require systemic changes at both, legislative and administrative levels. According to the existing legislation, the RIK is an “ad hoc” body made up of representatives of political parties (proportional to the number of seats held in the National Assembly of the Republic of Serbia). Transformation of the RIK into **a permanent and independent body for administering elections, education of election administration staff and improvements of electoral procedures could considerably upgrade the quality of the electoral process.**

## PROFESSIONALIZATION OF RIK'S EXPERT SERVICE

Considering the frequency of elections held in the Republic of Serbia and also the volume and types of matters, **it is necessary to also professionalize RIK's expert service.** This electoral process showed that RIK's current expert service, comprising employees of the National Assembly of the Republic of Serbia, was unfit to respond to challenges it faced. Further, it is needed to extend the description of the qualifications required for RIK's members (Article 33 of the Law on the Election of Representatives) to include qualifications relating to professionalism, ethics and employment record in state institutions. Along with professionalization of the expert service, **also necessary is to significantly boost RIK's human and technical resources.**

## RIK'S AUTHORITY EX OFFICIO

After the polls closed, the RIK faced the challenge of inaccurate, that is, incomplete data from the polls, in the form of illegible and obscure polling boards' protocols, miscalculations, etc. At the polls where the RIK registered such irregularities, but where citizens filed no complaint (under the existing provisions only citizens can submit complaints to voting results at the polls), the RIK could not annul or rectify the results at these polls as it has no authority ex officio. In the mentioned cases, the RIK looked into irregularities at every polling station individually and accordingly took decisions to acknowledge or “annul” the results (the annulment of the results means that the results of all candidate tickets are- a nil). That is how the RIK found itself in the situation where, despite the existence of elements to annul and/or rectify the election results, it could not do so as no complaint was filed by citizens at the polls in question. This situation arises from the fact that the RIK has no competence to annul results from the polls or change polling boards' result protocols.

For all the abovementioned, the RIK should have authority ex officio to annul voting if irregularities affect the outcome and order repeat voting.

## REGULATING STATUS AND POSITION OF OBSERVERS

**The status of observers, both short-term and long-term, should be regulated by the law.** Under the existing legislation, the status and position of observers is regulated only by the RIK's Rules of Procedure. This document does not represent an adequate solution and does not provide for inclusive observation of RIK's work. Also, regulations of a certain number of lower election commissions do not envisage or regulate the status of observers, which makes work impossible to observe.

It is also needed to change the legal framework to **allow a single organization, accredited for election observation, to appoint two observers per polling stations**. As election day lasts 16 hours, it is not possible to ensure efficient and reliable election observation with only one observer per polling station, without the right of observers to take shifts.

For to ensure more inclusive election observation, it is also important that accreditation of observers is not territory-based, that is, that observers are not bound to a particular polling station (“one observer” - assigned to one polling station ahead of the elections”). It is necessary to change by-laws to enable observers to observe elections on a non-territorial basis.

Extend accreditation to observers accredited to observe RIK’s work to cover the period until after the session at which mandates are assigned to representatives in the National Assembly. The existing legislation stipulates that accreditations for observing the work of election administration expire with the pronouncement of the final election results. The observation mission believes that accreditations should be extended minimum to be valid for the session at which mandates are allocated to representatives in the National Assembly. The observation mission is of this opinion for possible need of extended observers engagement, which was the case in these elections, when the final results were announced at RIK’s 125th session, while the next session dealt with additional complaints filed by standing to sue parties. In such a situation, results from certain polls can be disputed, meaning that the final results can also be challenged. We believe that for the fact that the RIK, from the announcement of the final results on, works exclusively in its permanent rather than extended composition, the presence of independent observers is of particular importance.

## DEADLINE EXTENSION

Extend deadlines for certain activities performed by the RIK, particularly for verification and control of registration documents of the submitters of candidate lists. Under the Law on the Election of representatives, the RIK confirms a candidate ticket right upon the submission of the ticket and related registration documents, and no later than 24 hours of the receipt. Considering that as many as 13 election tickets can be submitted in a single day, which was the case in the last elections, it is difficult to conduct thorough verification of registration documents and detect possible omissions that could have an impact on RIK’s decision to confirm or deny a candidate list. This recommendation is of particular importance in the context of a large number of detected forged supporting signatures and seriously undermined public confidence in the integrity of the electoral process, which is why the deadline should be extended to 48 hours.

## CRIMINAL CODE

Considering that number of the allegations of breaches of suffrage rights is on the rise (chapter XV of the Criminal Code), CRTA-GnS believes that **it would be necessary to facilitate collection of evidence to bodies investigating criminal offenses involving suffrage**. This can be achieved by incorporating breaches of suffrage in the provision of the Law on Criminal Proceedings referring to the use of special rules of evidence, to allow for more efficient and effective investigations and identification of offenders by relevant bodies, that is, the police and prosecutor’s office.

## ELECTRONIC SUBMISSION OF COMPLAINTS

It is necessary to amend the electoral legislation to enable electronic (e-mail) submission of complaints and appeals to relevant bodies. The Law on General Administrative Procedure does not envisage the submission of proposals, supplements, appeals, complaints etc. in an electronic form. CRTA-GnS is of the opinion that an

[www.gradjaninastrazi.rs](http://www.gradjaninastrazi.rs) | [www.crtars.rs](http://www.crtars.rs)

exception should be provided under the electoral legislation to allow for consideration of electronically submitted complaints and objections. This means that the Law on the Election of Representative, the Law on Local Elections and the Law on the Election of the President of the Republic should envisage electronic submission of complaints and possible appeals. This exception is necessary primarily due to extremely short deadlines for matters involving the protection of suffrage rights. Consequently, certain standing to sue entities are frequently denied effective legal redress over missed deadlines as they were not able to submit documents in writing within short deadlines. Also, in an electoral process, deadlines for legal redress are often missed not due to subjective circumstance, but for objective reasons. Another argument for granting an exception is that relevant post offices/election commissions are not available in certain territories (i.e. Kosovo and Metohija). In such territories, eligible voters are denied their right to appeal as they have no other way to submit complaints to the RIK within prescribed deadlines, but to personally travel to Belgrade.

## TIMELY PUBLISHING OF ELECTION DATA AND COMMUNICATION WITH PUBLIC

In order to ensure that public is informed in an inclusive and transparent manner and to facilitate more efficient control and observation of the electoral process, **it is necessary that the RIK publishes election data timely and in an open, machine-readable format** (.xls or .doc formats). For example, the final election results from the polls were published in an electronic form only past the deadline to file complaints. Also, for to increase public confidence in the electoral process, we believe that it is important to start publishing **scanned polling boards' result protocols**. Further, **minutes from all RIK sessions should be published timely on its website, while live streaming of sessions should also be available**.

Bearing in mind that the electoral process is of great importance for the entire society, and that public interest runs high during election campaigns and particularly high during election day until the announcement of the final election results, **the RIK should improve its communication with the public. First of all, the RIK should appoint a spokesperson to regularly communicate with the public, providing credible and timely information, and also answer to media questions**. This would change the so far practice of communication with the public being dependable on the availability of RIK's president. Also, **the RIK should have in place a developed public communication strategy**, with particular emphasis on crisis communication and should also **expand its communication channels to include new, social media**. We believe that in the last elections, slow response along with the absence of official information from the RIK in crucial moments during election night, created room in media coverage for speculations relying on unchecked and unreliable results, which all added to the climate of deep distrust in the electoral process.

## OPEN DATA AND ELECTORAL PROCESS

During the 2016 electoral process, the institutions which administered the electoral process, primarily the RIK, sporadically published data in electronic formats, which implies the absence of a binding standard for publishing data. In that context, we recommend that all election data should be standardized in the format of open data. Election data is data generated in RIK's work during an election cycle as well as all data of relevant institutions who are stakeholders in the electoral process (i.e. the Anti-Corruption Agency, the REM, the Public Administration and Local Self-Government Ministry).

Publishing data in an open format is among key prerequisites for transparency and responsibility of every institution. In other words, **it is necessary to ensure access to election data** as an important precondition for building trust in the work of institutions, that is, in the electoral process.

CRTA-GnS champions the opening of election data in Serbia in line with international principles and good practice.<sup>9</sup>

**Timely** - Election data should be made available as quickly as necessary for it to be useful;

**Granular** - Election data should be available at the finest possible level of granularity or detail (not in an aggregate or modified form);

**Available for free on the Internet** - Data should be free, without any monetary restrictions;

**Complete and in bulk** - Data should be complete and made available as a whole and that it is contained in a file so that the entire dataset can be obtained in one download;

**Analyzable** - Data should be available in a digital, machine-readable format which can be quickly and easily analyzed;

**Non-proprietary** - Data must be in a format over which no entity has exclusive control (i.e. doc, xls are proprietary formats owned by Microsoft);

**Non-discriminatory** - Data is not available only to certain group of people or organizations, but has no usage restrictions;

**License free** - Data is open for re-use and redistribution for any purpose;

**Permanently available** - Data should be available via a stable internet location for an indefinite period of time.

### IMPROVING WORK OF LOWER LEVEL ELECTION COMMISSIONS (MUNICIPAL, CITY)

It is necessary to change rules of procedure of lower level commissions (municipal, city) to facilitate unhindered work to international and citizen observers, including their presence at sessions of these election commissions. Most commission's rules of procedure ensure the transparency through the presence of media representatives, so there is no need to for restrictive interpretation to deny presence at sessions of these commissions to stakeholders or individuals, who have been accredited by lower level commissions. RIK's Rules of Procedure can serve as a good model for ensuring transparency.

It is necessary to prescribe by the law that all polling board members, at least permanent members, undergo standardized training on electoral procedures. Standardized training on electoral procedures for polling board members is envisaged under the Instruction for carrying out of the electoral process. We believe that this obligation should be regulated under the law for we learned in direct communication with RIK expert service that training had been conducted, but not adequately, and that in most cases training involves only the distribution of rules of procedure for polling boards.

It is necessary to **amend the Law on Local Elections with regard to the deadline for filing appeals with the Administrative Court**. The Law on Local Elections envisages that an appeal can be filed within 24 hours of the receipt of a decision, while it is 48 hours under the Law on the Election of Representatives. Considering that by both provisions, the court adjudicates within 48 hours, we see no reason for parliamentary elections to be privileged or stand more important than local votes.

It is necessary to **extend the deadline for submitting election materials** (ballots, polling boards' protocols, etc.) **to 18 hours**. The Law on Local Elections envisages only 8 hours for submitting election materials, while it is 18 hours under the Law on the Election of Representatives. This provision is particularly problematic when elections are held at several levels in parallel, as it was the case on April 24, when ballots in the parliamentary elections are counted before those cast in provincial and local votes. We believe that if same deadlines for submitting election materials are prescribed for elections at all levels, it would to some extent discourage the practice of polling boards counting ballots for elections at all levels in parallel (especially would prevent moving ballots cast in the wrong box to another box).

<sup>9</sup> These principles were set out by global Open Election Data Initiative: [www.openelectiondata.net/](http://www.openelectiondata.net/)

## PREVENTING MISUSE OF STATE AND PUBLIC RESOURCES

Serbia's legislation pertaining to the use of state and public resources for campaigning should be aligned with international standards and Serbia's commitments. **It is necessary to precisely define basic terms and clearly regulate which activities officials may and may not engage in while campaigning in order to prevent indirect or selective support to contestants.**

It is necessary to establish effective monitoring of and timely response to the misuse of administrative resources during the electoral process to ensure a level playing field among all contestants.

## MEDIA AND ELECTION CAMPAIGN ENVIRONMENT

Citizens have the right to be informed about the choices in the elections to be able to decide who to vote for. To that end, media coverage of election platforms, opinions of contestants and campaign events need to be timely, professional and accurate.

**It is necessary to enable (guarantee) a level playing field among all contestants in the electoral process.** Discrimination against election tickets or candidates involves: open favoring of one candidate list or candidate, denying airtime or media presence to election tickets or candidates, repeatedly providing airtime to same analysts who support one political option, unequal treatment of election tickets or candidates by reporters/hosts, avoiding topics considered "uncomfortable" or "undesired" by election tickets or candidates, etc.

Although Article 5 of the Law on the Election of Representatives stipulates that "citizens have the right to, through public media services, be informed about election platforms and activities of the submitters of election tickets and other candidates," and that "public media services are obliged to ensure a level playing field among all contestants," **it is necessary to introduce control mechanisms to ensure compliance with this rule, as well as to define methods of reporting to public about the results of control mechanisms.** However, four months after the elections, REM's findings have not been published.

Considering that REM's work is supervised by the National Assembly of Serbia and the parliament's Culture and Information Committee, these bodies should take additional engagement and exercise their respective competences in full.

The Electronic Media Regulatory Authority (REM) should act proactively in regulating a level playing field among all contestants. REM's media coverage monitoring report on the election campaign should be published as soon as possible to remove all possible doubts in its impartiality and professionalism. The REM, as publically announced, monitored the work of nationwide broadcasters, as well as of regional and local TV stations during the election campaign, and we believe that it is of high public importance that these findings be thoroughly analyzed and also compared with the findings of monitoring conducted by non-governmental organizations.

Special attention should be directed at media outlets, whose ownership structures are connected with political structures, that is, individuals who are members of the parties running in the elections. Monitoring these media conduct - particularly those privatized over the past few years, as part of privatization of once state-owned media outlets, revealed that they favored political options connected with their ownership structures.

The REM and the Culture and Information Ministry, as the bodies directly in charge of these media outlets, should be more proactive in exercising their respective competences, which primarily means monitoring compliance with the laws guaranteeing professional reporting of the public on the electoral process and a level playing field among contestants.

The media should actively inform the public about the election campaign and cover all matters relevant to the quality of the electoral process, work of electoral administration, activities of parties and candidates, problems and incidents in campaigning, election day and the pronouncement of election results.

Compliance with this rule should be monitored by the REM, the Culture and Information Ministry, and the parliament's Culture and Information Committee, but also by the Press Council (as the first and only self-regulatory body, which brings together all relevant media associations and societies).


## TIMELINE FOR IMPLEMENTING RECOMMENDATIONS

ACHIEVABLE  
IN **SHORT-TERM**  
(6-9 MONTHS)


ACHIEVABLE  
IN **MID-TERM**  
(1-1.5 YEARS)

ACHIEVABLE  
IN **LONG-TERM**  
(2-3 YEARS)

Define a method for delivering poll cards in line with the existing procedural laws 


Improve voter register oversight 

Full update of the voter register 

Supplement the Law on the Unified Voter Register to enable display of voter lists for public scrutiny 

Adopt a single unified election law 


Prescribe by the law when it is possible to use extraordinary legal remedies 


More clearly prescribe by the law national minority status for parties in an election cycle or change party registration method 

Establish the RIK as a permanent and independent body 

Professionalize RIK's expert service 

The RIK should have authority ex officio to rectify or overturn decisions taken by polling boards, annul elections and order repeat voting 

Zakonom urediti položaj posmatrača, kako kratkoročnih ("short term observers"), tako i dugoročnih posmatrača („long term observers“) 

Change the legal framework to provide local organizations, accredited for election observation, with two observers per polling station, who could take shifts 

ACHIEVABLE  
IN **SHORT-TERM**  
(6-9 MONTHS)

ACHIEVABLE  
IN **MID-TERM**  
(1-1.5 YEARS)

ACHIEVABLE  
IN **LONG-TERM**  
(2-3 YEARS)

Change the legal framework to enable non-territory based election observation

Extend accreditations to observer for monitoring RIK's work to until after National Assembly's session at which mandates are allocated to MPs

Extend deadlines for certain activities performed by the RIK, especially for verification and control of registration documents of the submitters of election tickets

Facilitate collection of evidence to investigative bodies and investigation into criminal offenses involving suffrage

Enable electronic submission (e-mail) of complaints and appeals to relevant bodies - the RIK

The RIK should publish election data timely and in an open and machine-readable format, in line with international Open Data principles

Publish scanned polling boards' protocols, minutes from all RIK's sessions and provide live video streaming of RIK's sessions

The RIK should appoint a spokesperson


The RIK should develop public communication strategy, by expanding its communication channels to include new, social media





ACHIEVABLE  
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(6-9 MONTHS)

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ACHIEVABLE  
IN **LONG-TERM**  
(2-3 YEARS)


Change rules of procedure of lower level commissions (municipal, city) to enable unhindered work to citizen observers, including presence at sessions of those commissions 

Prescribe by the law conducting standardized training on electoral procedures for all polling board members 


Amend the Law on Local Elections in the part referring to the deadline for submitting appeals with the Administrative Court 


Extend the deadline for submitting election materials (ballots, polling boards' protocols, etc.) to 18h 

Clearly define basic terms and precisely regulate which activities officials may and may not engage in during campaigning, as well as control and sanctioning mechanisms 

Establish an efficient monitoring mechanism and ensure timely response to the misuse of state and public resources in campaigning 

Enable (guarantee) a level playing field among all contestants for media coverage 

The REM should be proactive in regulating the principle of level playing field among contestants in terms of media coverage 

The REM and the information ministry should take more active engagement in exercising their respective competences in the media domain during election campaigns 

## RECOMMENDATIONS BY OSCE/ODIHR LIMITED ELECTION OBSERVATION MISSION

OSCE/ODIHR Limited Election Observation Mission issued a final report on July 29, 2016.<sup>10</sup> Recommendations contained in the final report underline the need for professionalization of the State election commission (RIK), including its permanent composition and administrative resources. Among the listed recommendations one stands particularly important - that the RIK's competences be expanded to include authority ex officio to annual elections at the polls where major irregularities were registered and also to rectify or overturn decisions taken by polling boards.

It is further recommended that standards be introduced for polling boards' protocols and for safekeeping measures of electoral materials from the moment lower level election commissions take materials until it is handed to polling boards. As for civic engagement, consideration could be given to displaying preliminary voter lists for public scrutiny, which is not possible under the existing legal framework (it is possible to scrutinize the voter register, but not voter lists, immediately before election day).

A number of recommendations refer to the extension of various deadlines, suggesting that more time should be allowed for electoral procedures. Extending deadline for verification of candidate lists be extended to allow RIK more time for more thorough verification of registration documents, and the deadline for redress of decisions taken by the RIK and polling boards (currently 24h). It is also necessary to find an effective legal remedy, which would address irregularities during election day and provide for challenging of election results, considering that the existing mechanisms proved insufficiently effective.

Other recommendations refer to election campaign finances (it is recommended that an expenditure ceiling be introduced and a requirement to submit interim financial reports), media (clearer and broader competences of REM in sanctioning breaches of the law), and media (setting up a mechanism that would provide for sufficient funding and reduce their dependency upon the state budget).

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<sup>10</sup> <http://www.osce.org/sr/odihr/elections/serbia/259021?download=true>