

Electoral Conditions in Serbia 2019

An Overview of Measures Undertaken by the Serbian Government in relation to ODIHR and CARTA Recommendations

Summary Overview	2
Area: Misuse of Public Resources and Public Officials Campaigning	3
Area: Election Administration	6
Area: Voter Registry	7
Area: Media	9
Area: Protection of the Rights of Voters	12

Summary Overview

	CRTA 2020 Recommendations	OSCE/ODIHR 2014-2017 Recommendations complementary to CRTA's 2020 Recommendations
ACCEPTED, implemented:	5	0
PARTIALLY ACCEPTED, implemented:	3	1
ACCEPTED, implementation underway:	9	5
ANNOUNCED:	1	1
REJECTED:	13	5
<i>TOTAL</i>	<i>31</i>	<i>12</i>

An Overview of Measures Undertaken by the Serbian Government in relation to ODIHR and CRTA Recommendations

Area: Misuse of Public Resources and Public Officials Campaigning

Measure Undertaken	ODIHR Recommendation	CRTA Recommendation	Status of CRTA recommendation
<p>Public resource defined in amendments and supplements to the Anti-Corruption Agency Act, as immovable property, movable property or other property in the public domain..</p>	<p>To guarantee a level playing field among contestants, the separation between party and state activities needs to be strictly abided by. (2017:2, 2016:4)</p>	<p>#22 More precisely define the matter of public resources and appropriate sanctions in the event of their misuse during the campaign.</p>	<p>ACCEPTED</p>
<p>A five-day deadline for the decision-making of the Anti-Corruption Agency was introduced into the amendments to the Anti-Corruption Agency Act.</p>	<p>/</p>	<p>#47 Introduce short deadlines (no more than five days) for Anti-Corruption Agency decision on the complaints regarding the misuses during the campaign.</p>	<p>ACCEPTED</p> <p><i>CRTA submitted a proposal for an amendment to the MPs, which was adopted in the final text of the law.</i></p>
<p>The election campaign is defined in relation to the activities of political entities, which are covered by the amendments to the Law on Financing of Political Activities.</p>	<p>Party and campaign finance provisions stand to be further improved in line with previous OSCE/ODIHR recommendations with a view to tighten regulation and enhance transparency (2017:3)</p> <p>...The legislators may consider clarifying the definition of political and campaign activities in order to prevent distribution of electoral gifts and services (2014:3)</p>	<p>#23 Define which activities could be included in the costs of the election campaign.</p>	<p>ACCEPTED</p>

<p>The ban on the use of public resources for political purposes is specified in the amendments to the Law on Financing of Political Activities, and it also concerns property, name and activities of public enterprises.</p> <p>For misuse of public resources (property of public enterprises), a responsible person in a public company, a political party and a responsible person in a political party may be held accountable.</p> <p>The amendment to the Code of Conduct for Civil Servants prohibits the use of public gatherings and public resources for political purposes also by civil servants.</p>	<p>To guarantee a level playing field among contestants, the separation between party and state activities needs to be strictly abided by. (2017:2, 2016:4)</p>	<p>#24 Predict sanctions for the misuse of the property, names and activities of public enterprises for political purposes.</p>	<p>ACCEPTED</p>
<p>A dismissal of a director of a public company before the expiry of the period for which they were appointed is foreseen if they misused the public resources of the company for political purposes, put pressure on employees or if they knew that employees were being pressured and did not do anything to prevent that.</p>	<p>Authorities should take decisive action to prevent pressure on voters, including employees of state or state-affiliated institutions. Cases of alleged coercion need to be investigated and individuals responsible held accountable. (2017:15, 2014:3)</p>	<p>#45 Prohibit any pressure to the employees in public enterprises and public administration concerning the support for political parties or candidates in the elections.</p>	<p>ACCEPTED</p>
<p>Public officials' campaign inadequately regulated by amendments to the Anti-Corruption Agency Act.</p> <p>The adopted solution represents a slight modification of the former one. Public officials are prohibited to use public gatherings to promote political entities, which in practice has not been efficient so far and has prevented a clear separation of public and party activities.</p>	<p>To guarantee a level playing field among contestants, the separation between party and state activities needs to be strictly abided by. (2017:2, 2016:4)</p>	<p>#25 Prohibit participation of public officials and public servants at public events organised by public institutions.</p>	<p>REJECTED</p> <p><i>CRTA submitted proposals for two amendments to MPs, to which the Government, as a proponent of the bill, issued a negative opinion. Also, the amendments submitted by MPs on the basis of the CRTA's proposals were not adopted in the plenary.</i></p>

<p>Penalty provisions (fines ranging from 100,000 to 150,000) relate uniquely to public officials who discharge duties in a political party, as well.</p> <p>The Code of Conduct for Civil Servants was also amended so that the ban on the use of public meetings and public resources for political promotion also applies to civil servants.</p>			
<p>There is no measure.</p>	<p>/</p>	<p>#27 Prohibit allocation of extraordinary budget and other public funds 30 days before, during and 30 days after the campaign.</p>	<p>REJECTED</p>
<p>There is no measure.</p>	<p>Party and campaign finance provisions stand to be further improved in line with previous OSCE/ODIHR recommendations with a view to tighten regulation and enhance transparency (2017:3, 2016:5)</p>	<p>#29 Introduce the obligation of delivering periodical Anti-Corruption Agency reports on the costs of the election campaign during the campaign.</p>	<p>REJECTED</p>

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Area: Election Administration

Measure Undertaken	ODIHR Recommendation	CRTA Recommendation	Status of CRTA recommendation
REC adopted a Decision on organisation and conduct of trainings for about 500 instructors for permanent board members and a Decision on appointment of members of the training working group.	The election administration could consider implementing comprehensive training covering all stages of election day procedures in a standardized and more effective format for all PB members. (2017:11, 2016:10)	#10 Improve the organisation and content of training for electoral committees' members.	ACCEPTED, implementation underway
REC adopted a Conclusion on the measures it will undertake in order to improve the electoral process, which also foresees the scanning of the minutes of the polling station committees.	To enhance the transparency and trust in the electoral process, the law should provide for the publication of elections results by polling station and results protocols, including those corrected later in the process. (2017:9; 2016:25)	#12 Publish all records on the work of the electoral committee.	ACCEPTED, implementation underway
REC adopted a Conclusion on the measures it will undertake in order to improve the electoral process, which comprises the status of observers.	As previously recommended, the legislation should be amended to explicitly provide for the presence of both citizen and international observers in line with the OSCE commitments. It should unambiguously provide for observers access to all stages of the electoral process and clearly define their rights and obligations. (2017:19; 2016:20; 2014:23)	#30 Enable the presence of accredited observers to all the segments of electoral committees work.	ACCEPTED, implementation underway
There is no measure.	/	#32 Define the manner and deadline for issuing accreditation to observers.	REJECTED
There is no measure.	/	#14 Publish all documents of the electoral committees which are essential for the electoral process, and broadcast live on website the Republic Electoral Commission sessions.	ACCEPTED, implementation underway

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Area: Voter Registry

Measure Undertaken	ODIHR Recommendation	CRTA Recommendation	Status of CRTA recommendation
<p>A Working Group on Voters' Registry Verification is established, involving representatives of civil society, academic society and international organisations</p> <ul style="list-style-type: none"> • Rules of the work of the Working group adopted and the method of decision-making agreed. • Adopted draft methodology for voter registry verification, submitted to the Commissioner for Personal Data Protection. • Mandate of the Working group ended on December 31st, 2019. 	<p>Concerted efforts are required to address persistent issues with voter list accuracy. Consideration could be given to re-organizing voter lists in a more practical manner. 2017:7, 2016:2, 2014:2)</p>	<p>#17 Enable revision of the Voter Registry for the appropriate sample under the international standards and recognised methodologies that would involve representatives of relevant institutions, Parliamentary political parties, civil society organisations and the academic and international community.</p>	<p>ACCEPTED, implementation underway</p>
<p>The Government adopted a Conclusion on September 26th, mandating the Ministry of Public Administration and Local Self-Government to train registrars and clerks authorised to update the voter registry.</p>	<p>/</p>	<p>#18 Organise continual training for the employees who update the Voter Registry.</p>	<p>ACCEPTED, implementation underway</p>
<p>The Government adopted a Conclusion on September 26th mandating the Administrative Inspectorate to perform the inspection surveillance over the implementation of regulations governing the Unique Voters' Registry without ado.</p>	<p>/</p>	<p>#19 Improve and make transparent supervision over the work of clerks who participate in the process of updating the Voter Registry.</p>	<p>ACCEPTED, implementation underway</p>

<p>The Government adopted a Conclusion on September 26th, mandating the Ministry of Public Administration and Local Self-Government to introduce a new page into its web presentation in order to publish all relevant information regarding keeping and maintaining of the voters' registry.</p>	<p>To enhance public trust in the voter register, consideration could be given to publishing the partial data from voter lists for public scrutiny in line with the law and international good practice. (2017:13, 2014:11)</p>	<p>#53 Make the procedure for changes in the Voters' Registry easily accessible and visible to the citizens.</p>	<p>ACCEPTED, implementation underway</p>
<p>REC adopted a conclusion on the measures it will take to improve the electoral process, which foresees a procedure by which each voter will be able, after the vote, to request information from the REC on whether or not they voted. The procedure involves addressing in writing or by sending an email.</p>	<p>/</p>	<p>#15 Enable citizens to inspect the Voter Registry on the request and thus check if anyone voted instead of them.</p>	<p>ACCEPTED, implementation underway</p>
<p>There is no measure.</p>	<p>To ensure that voters are fully informed of their rights and responsibilities, the REC could intensify its efforts and undertake comprehensive voter education activities sufficiently in advance of the elections. (2016:9; 2014:9)</p>	<p>#60 Organise a campaign to improve voters' knowledge on electoral rules and procedures. Launch broad public campaign so the citizens could check their data in the Voter Registry.</p>	<p>ANNOUNCED</p>

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Area: Media

Measure Undertaken	ODIHR Recommendation	CRTA Recommendation	Status of CRTA recommendation
<p>REM prepared the Draft Rulebook on the manner of fulfilling public media service obligations during the election campaign.</p> <ul style="list-style-type: none"> • Two rounds of public consultations conducted. • Draft Rulebook published at REM website on January 20th 2020. • REM submitted the Draft Rulebook to the Ministry for Culture and Information for an opinion. • The Ministry provided a positive opinion and the Rulebook was adopted on February 11th 2020. <p>REM adopted the Recommendation to commercial media providers on ensuring representation of all registered political parties, coalitions and candidates without discrimination during the election campaign.</p> <ul style="list-style-type: none"> • The document was not subjected to public debate. • The document is adopted on March 3rd 2020. 	<p>/</p>	<p>#61 Open public consultation in preparing the new Rulebook on obligations of media service providers during the election campaign.</p> <p><i>CRTA developed a proposal in a form of Draft Rulebook on obligations of media service providers during election campaign.</i></p>	<p>PARTIALLY ACCEPTED, implemented</p> <p>The form of recommendation for commercial broadcasters is not a good solution given the non-binding nature of such a document. The legislator did not reduce the role of REM to issuing opinions and recommendations. It gave it a real regulatory authority to adopt general by-laws that set forth in more detail the rules under which media service providers must comply with the law. (Article 60 of the Law on Electronic Media).</p> <p><i>CRTA recommended the adoption of a legally binding document that will apply to all broadcasters in the form of the Rulebook on Obligations of Media Providers during the Election Campaign.</i></p>

<p>Submission of nominations to the National Assembly's Culture and Information Committee for the lacking three Council members is underway.</p>	<p>/</p>	<p>#62 Publish the open call for candidates for the missing three members of the REM's Council.</p> <p>Initiate the procedure for questioning accountability in work of members of the REM's Council.</p>	<p>PARTIALLY ACCEPTED, implemented</p> <p>The National Assembly appointed the missing three members of the REM's Council on December 27th 2019, while no common understanding was found regarding initiation of the procedure for questioning accountability in work of members of the REM's Council.</p>
<p>REM adopted the Monitoring plan for media providers' programmes during the election campaign for republican, provincial and local elections in the Republic of Serbia in 2020.</p> <ul style="list-style-type: none"> The document was not subjected to public debate. 	<p>Oversight by the REM should be explicitly extended to all aspects of media coverage of elections. The REM could take a more pro-active approach in the performance of its duties, including through timely action based on findings of systematic media monitoring. Amendments to the LEM could be considered to provide for more effective sanctions, including expedited timely remedies during the election campaign. (2017:6, 2016:6, 2014:19)</p>	<p>#35 REM shall undertake to publish reports on media monitoring during the election campaign regularly.</p>	<p>PARTIALLY ACCEPTED, implemented</p> <p>The monitoring and reporting plan, which was not the subject of a public debate, stipulates that the REM publish statistical reviews on a weekly basis, and the report after the elections are over. In addition, entertainment shows and other non-informative programmes, specialised election shows and pre-election advertising messages will be excluded from the monitoring plan. Such solutions will significantly limit the scope of monitoring and reporting on broadcasters' work during the campaign.</p>
<p>There is no measure.</p>	<p>Oversight by the REM should be explicitly extended to all aspects of media coverage of elections. The REM could take a more pro-active approach in the performance of its duties, including through timely action based on findings of systematic media monitoring. Amendments to the LEM could be considered to provide for more effective sanctions, including expedited timely remedies during the election campaign. (2017:6, 2016:6, 2014:19)</p>	<p>#36 REM shall undertake to consider and decide on every complaint which refers to the violation of the general interest.</p>	<p>REJECTED</p>

<p>There is no measure.</p>	<p>Oversight by the REM should be explicitly extended to all aspects of media coverage of elections. The REM could take a more pro-active approach in the performance of its duties, including through timely action based on findings of systematic media monitoring. Amendments to the LEM could be considered to provide for more effective sanctions, including expedited timely remedies during the election campaign. (2017:6, 2016:6, 2014:19)</p>	<p>#37 REM shall undertake to reason any decision and submit the reasoning with the supervision office report included.</p>	<p>REJECTED</p>
<p>There is no measure.</p>	<p>Oversight by the REM should be explicitly extended to all aspects of media coverage of elections. The REM could take a more pro-active approach in the performance of its duties, including through timely action based on findings of systematic media monitoring. Amendments to the LEM could be considered to provide for more effective sanctions, including expedited timely remedies during the election campaign. (2017:6, 2016:6, 2014:19)</p>	<p>#47 Introduce the obligation of REM to make decisions on complaints within five days.</p>	<p>REJECTED</p>
<p>There is no measure.</p>	<p>Oversight by the REM should be explicitly extended to all aspects of media coverage of elections. The REM could take a more pro-active approach in the performance of its duties, including through timely action based on findings of systematic media monitoring. Amendments to the LEM could be considered to provide for more effective sanctions, including expedited timely remedies during the election campaign. (2017:6, 2016:6, 2014:19)</p>	<p>#59 Expand the scope of sanctions REM pronounces to the broadcasters that fail to comply with the rules during the campaign.</p>	<p>REJECTED</p>

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Area: Protection of the Rights of Voters

Measure Undertaken	ODIHR Recommendation	CRTA Recommendation	Status of CRTA recommendation
There is no measure.	In line with good practice, the REC should have authority ex officio to rectify or overturn decisions taken by polling boards/lower electoral commissions, to annul elections if irregularities affect the outcome, and to order repeat voting to avoid disenfranchising affected voters. (2016:8)	#41 Extend possibilities of electoral committees and the Administrative Court for it to consider suggested evidence attached to the complaints.	REJECTED
There is no measure.	As previously recommended, the legislation should be amended to explicitly provide for the presence of both citizen and international observers in line with the OSCE commitments. It should unambiguously provide for observers access to all stages of the electoral process and clearly define their rights and obligations. (2017:19; 2016:20; 2014:23)	#31 Provide observers with the authority to enter objections in the records on the work of polling boards	REJECTED
There is no measure.	/	#48 Prohibit the maintaining of parallel records at the polling station used to establish the identity of the voters.	REJECTED
There is no measure.	/	#46 Improve the protection of citizens' personal data to prevent electoral pressure.	REJECTED
There is no measure.	/	#58 For the offenses referred to in Chapter XV of the Code of Criminal Procedure, the possibility of applying special evidentiary actions should be provided.	REJECTED