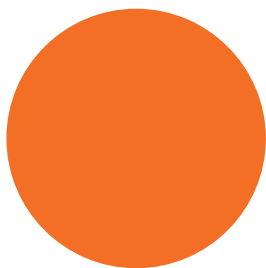
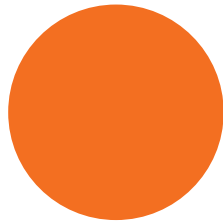
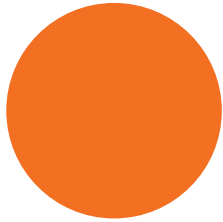


# CRTA: RECOMMENDATIONS FOR FAIR AND FREE ELECTIONS

VERSION 1



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## How to achieve fair and free elections?

Citizens of Serbia have the right to elect representatives in fair and free elections. Every time the regime organises the elections that do not meet democratic standards, it denies them this right. Therefore, the citizens of Serbia have the right to demand from the state to enable them to express their will in free and fair elections, to which the state is obliged. Principles and standards for holding democratic elections are contained not only in the Constitution and laws of Serbia, but also in international documents that Serbia has signed while joining international organisations.

The Constitution of Serbia guarantees citizens general and equal suffrage, the right to vote/elect and to be elected, in free and direct elections, by secret and personal voting, while several laws specify the manner in which suffrage is exercised. Electoral rights are also enshrined in the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (1952), to which Serbia has committed itself as a member of the United Nations and the Council. Europe.

Serbia's participation in the Organisation for Security and Co-operation in Europe (OSCE) is of particular importance for the elections. Having signed the OSCE core documents in 2000, at a meeting of the OSCE Ministerial Council in Vienna, Serbia accepted the obligation under the Charter of Paris and the Istanbul Document to hold free and fair elections, and to hold them in line with OSCE standards, in particular the Copenhagen Document from 1990.

In addition to the obligation to hold fair and free elections, by accepting Article 25 of the Istanbul Document, Serbia undertook to accept election observation, but also to react quickly to OSCE recommendations, which would bring the elections in Serbia closer to the standards applicable to all participating countries. Unfortunately, this was not the case in the previous period when the quality of the election process degraded, while the key recommendations of both foreign and domestic organisations aimed at stopping and reversing this process of decline were ignored.

The purpose of these recommendations is to help the authorities in fulfilling the undertaken obligations, but also to bring closer to the citizens and political organisations the concrete measures that need to be taken in order for the elections in Serbia to become essentially, and not only formally democratic. Democratic elections are our right, and fighting for them is our obligation.

The path to democratic elections is neither easy nor simple, significant progress must be made towards greater equality of participants, more balanced media representation, ensuring freedom of choice, protection of suffrage and a professional election administration that would preserve the integrity of the electoral process. These recommendations define concrete steps that could lead to fair and free elections, to elections as an event that promotes democracy, instead of regressing it.

## Political context

After the elections for the National Assembly in 2020, democracy in Serbia has reached the deepest institutional crisis in the last two decades. The deteriorating state of basic democratic institutions, parliament and elections, led to a boycott of the Parliament by some opposition MPs in early 2019, and then of the regular elections in 2020.

After a period of dialogue on electoral conditions, which did not yield satisfactory results, the ruling majority changed elements of the electoral system right before the elections, which is contrary to international standards, to encourage greater participation in elections. Despite that, the lowest turnout has been recorded since the beginning of the multi-party parliamentary elections. With only three non-minority lists that shared the mandates entered the Government together, we can no longer talk about pluralistic institutions in Serbia. In these conditions, it is necessary for political actors in

Serbia to accept the scale of the institutional crisis and take responsibility for overcoming it by enabling fair and free elections, and restoring legitimacy to democratic institutions.

The CRTA founds its analysis of the election process on the systematic observation of the general elections held in the last five years: early parliamentary elections in 2016, presidential elections in 2017, elections for the Belgrade City Assembly in 2018 and regular parliamentary elections in 2020. Within each of these observation missions, the CRTA made detailed [recommendations](#) for their improvement. At the end of the 2020 elections, there was a total of eighty recommendations. After five years, there is a need to revise these recommendations and to summarise the existing ones in order to make them more accessible and transparent.

During 2019, the CRTA participated in a dialogue between representatives of the government and the opposition on the elections organised by the Open Society Foundation and the Faculty of Political Sciences at the University of Belgrade. At the beginning of that year, the CRTA singled out from the existing recommendations, those that in our opinion might have been implemented until the 2020 elections, with a political will and understanding, namely [the CRTA recommendation for the improvement of election conditions by 2020](#), the adoption of which might be a step towards a systematic and comprehensive improvement of the quality of the election process. Following the 2020 election process, there was a need to revise the recommendations, especially bearing in mind the need to link the dialogue on the quality of the election process more closely with the standards of holding free and fair elections.

## Recommendations structure

The recommendations of the CRTA for the improvement of electoral conditions by 2020 were organised in five areas and the structure of new recommendations partially follows this structure, but goes a step further, broadens the horizon over a longer period, and directly links compliance with the recommendations for achieving the standards for holding fair and free elections. In advocating the recommendations so far, the CRTA has insisted that it would be necessary to meet a sufficient number of recommendations from each of the five areas in order to improve the election conditions.

Nevertheless, [analysing the recommendation fulfilment](#) after the 2020 elections, it turned out that the focus of the competent institutions was on fulfilling the narrow set of recommendations advocated by the CRTA, and that simpler recommendations were fulfilled, which did not interfere with systemic changes. The way in which the new recommendations have been arranged enables the continuation of the analysis of the fulfilment of the previous ones, but also to gain a broader picture of the connection of each specific recommendation to the essential realisation of fair and free elections standards.<sup>1</sup>

The basis of all the CRTA recommendations lies in the common standards for holding elections, to which Serbia has committed itself as an OSCE participant and a member of the Council of Europe, primarily in the 1990 Copenhagen Document on the CSCE Human Dimension Conference and the Code of Good Practice in Electoral matters of the Council of Europe Commission for Democracy through Law (Venice Commission), 2002. Therefore, all recommendations refer to these documents and to the specific principles, standards and obligations that Serbia has accepted by joining these international organisations.

Although the CRTA recommendations are compatible with the OSCE recommendations, they do not fully coincide. There are OSCE recommendations that the CRTA does not advocate, and vice versa, there are CRTA recommendations that are not covered by OSCE recommendations. Nonetheless, in most cases, our recommendations can serve as a concretisation and a detailed explanation of the elements of the OSCE recommendations. Therefore, the new Recommendations for Fair and Free Elections provide an overview of the compliance of the CRTA recommendations with the OSCE recommendations.

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<sup>1</sup> Items in the recommendations that were transferred from the previous period are marked with a number, e.g. # 14. Fully fulfilled recommendations from the previous period that were not transferred to the next: # 20, # 23, # 53, # 54, # 69, recommendations # 65 and # 67 have been merged with the already existing recommendations # 39 and # 12, respectively.

The CRTA recommendations for fair and free elections bring another novelty. In the previous period, the CRTA advocated a comprehensive reform of the election administration, as a necessary step towards ensuring the integrity of the election process. Currently, seven laws are being applied to the election process, which contributes to legal uncertainty, i.e. to occasionally wrong and contradictory interpretations of legal provisions, so one of the key recommendations was to systematise as much of the electoral legal matter into one law.

In the previous period, we worked on the development of the Unified Electoral Law, which we believe would be a step towards a better election process. In the upcoming period, in addition to the CRTA Recommendations for Fair and Free Elections, the adoption of the proposal of the Unified Electoral Law will be publicly advocated, and for easier linking, all recommendations specifically addressed in the Bill have been marked, including the article in which they were treated.

Finally, compliance with these recommendations, as well as adherence to the standards of free and fair elections, is completely independent of the type of electoral system. The CRTA believes that, due to its numerous shortcomings, public debate on electoral system reform would be welcome, but that dialogue on recommendations for improving electoral conditions in the current political circumstances should be a priority and should not be connected to possible changes to the electoral system. Ensuring the quality of the electoral process must be a permanent endeavour that cannot wait, nor can be replaced by reforming the electoral system.

## FAIR ELECTIONS: EQUALITY OF ALL PARTICIPANTS IN THE CAMPAIGN

In order for the elections to be fair, the condition is that the participants in the election campaign race from approximately equal positions. By signing the Copenhagen Document (CD), Serbia has committed itself to respecting the rights of its citizens to participate in the power either directly or through representatives, freely elected through a fair election process (CD 6). The laws of the state must allow political campaigns to be conducted in a fair and free climate in which political parties and candidates will not be prevented from freely presenting their views and opinions (7.7). In order to achieve this, it is necessary to: ensure equality of participants in the candidacy process, prevent abuses in the financing of the election campaign, and especially the misuse of public resources in the election campaign, as well as to improve the actions of the Anti-Corruption Agency in the election process.

### 1 / ENSURE EQUALITY OF ALL PARTICIPANTS IN THE CANDIDACY PROCESS

Citizens have the right to run for political and public office, as individuals or representatives of political parties and organisations, without discrimination (CD 7.5). The Venice Commission's Code of Good Practice in Electoral Matters (VC) states that when submitting candidacies, there must be clear rules for signature verification (VC I.1.3.iii), and that signature verification must be completed before the start of the election campaign (I.1.3.c). Special rules for national minorities foreseeing derogations from normal procedures are in principle not contrary to equal suffrage (I.2.4.b). In order for these standards to be met, it is necessary to undertake the following:

#### *a. Introduce the obligation that the holder of the list be a candidate in the local elections #6*

In order to realise the principle of accountability of political representatives towards voters it is necessary to change the provision of the Law on the Election of Members of Parliament (article 42) as

well as the provision of the Law on Local Elections, article 22, paragraph 4 in the direction of introducing the obligation that the holder of the list in the elections must be a candidate in those same elections. (See article 47, 69-71, and article 72. of the Unified Electoral Law.)

*b. Return collection of voters' supporting signatures to the jurisdiction of notaries and courts #78*

In order to prevent possible abuses during the verification of voters' signatures by local self-government bodies, it is necessary to amend the relevant provisions of the Law on the Election of Members of the Parliament and the Law on Local Elections, which prescribe the verification of signatures supporting the electoral list by harmonising these provision with regulations governing the work of notaries. This would mean that a voter can support by their signature only one list and that their signature must be verified by a notary. In cities and municipalities where there are no notaries appointed, signatures can be verified in a first instance court, court unit or reception office of the first instance court. The possibility of verification of signatures in the municipal or city administration should be excluded from the Law on the Election of Members of the Parliament.

*c. Separate the process of the electoral lists submission and the official commencement of the election campaign #4*

Amendments and supplements to 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. In this way, the campaign can officially start only when the Electoral Commission adopts the collective electoral list. Submitting electoral lists would be a special process which takes place independently from the electoral campaign (duration from 30 to 60 days) and lasts for a definite period of time. While submitting the electoral lists, all activities within the conduct of the election campaign would be prohibited and in that way the equality of all participants in the campaign would be improved. (See Chapters 6-7 of the Unified Electoral Law.)

*d. Define more clearly the position of national minority parties in the election process #57*

In order to avoid abuses of the status of minority parties in the election cycle, it is necessary to amend the Law on Political Parties to change the manner of registration of parties regarding the status of national minority parties in the election cycle. Although the provision of the Law on the Election of Members of the Parliament allows the REC not to recognise the status of a national minority party on the basis of its discretionary decision, the application of this provision has no effect as jurisprudence has shown that the status of a national minority party has been recognised to each party (by the Administrative Court following a complaint lodged by parties) which is registered as a party of a national minority in the register of political parties at the Ministry of Public Administration and Local Self-Government.

## **2 / PREVENT ABUSES IN ELECTION CAMPAIGN FINANCING**

By accepting the Copenhagen Document, the state undertook to provide the necessary legal guarantees that would enable political parties and organisations to compete with each other on a basis of equal treatment before the law and by authorities (CD 7.6). The Venice Commission's Code of Good Practice states that the financing of political parties, candidates and election campaigns must be transparent (VC I.2.3.d), and that the principle of equality may sometimes lead to a limit on funding for political parties. (I.2.3.e). In order for these standards to be met, it is necessary to undertake the following:

*a. Forbid the use of funds for the regular operation of political entities for the purposes of the election campaign #28*

Amendments to the Law on Financing Political Activities from 2014 enabled political entities to use the funds they receive for their regular work for election campaign expenses. In this way, the possibility was introduced to use taxpayers' funds for a purpose other than initial. In addition, this legal possibility leads to inequality of political entities and the creation of large differences and gaps between political parties that have many years of experience in the Assembly, and newly formed groups of citizens and other political entities that do not have their representatives in the Assembly. Therefore, it is necessary to delete the provision from the Law on Financing Political Activities that allows spending funds intended for regular work to finance the campaign. (deletion of article 24, paragraph 4)

*b. Mandatory submission of provisional reports on the cost of the election campaign during the very campaign #29*

Amendments to the Law on Financing Political Activities should introduce the obligation of political entities to submit interim statements to the Agency for the Prevention of Corruption during the campaign. Since according to current regulations, political entities have only the obligation to submit reports 30 days after the end of the election, citizens are not allowed to get acquainted, in a transparent way, with the costs of political entities during the campaign but only after the election process. In the suggested way, political entities would submit to the Anti-Corruption Agency interim statements that the Agency would publish on its website.

### **3 / PREVENT MISUSE OF PUBLIC RESOURCES IN THE ELECTION CAMPAIGN**

The Copenhagen document provides for a clear separation of the state and political parties (CD 5.4). The Code of Good Practice emphasises the principle of equal opportunities, ensuring equality of parties and candidates (VC I.2.3.a). In order to achieve this, it is necessary for the state authorities to have a neutral attitude towards the participants, especially in relation to the election campaign (I.2.3.a.i) and the public financing of the parties and the campaign (I.2.3.a.iii). In order for these standards to be met, it is necessary to undertake the following:

*a. Ensure consistent interpretation of legal provisions on misuse of public resources #22*

Although amendments to the Anti-Corruption Agency Act (the Law on Prevention of Corruption), adopted in December 2019, defining the concept of public resources more precisely, and introducing short deadlines to undertake actions in the campaign, somewhat improved the Agency's actions on complaints, the interpretation of these provisions by the Agency remained controversial in certain proceedings against public officials.

*b. Consistent sanctions for the misuse of property, names and activities of public companies for political purposes #24*

Through amendments to the Law on Public Companies made in December 2019, the accountability of the director who uses the resources of the public company for the promotion of political parties, i.e. political entities, is specified, which especially refers to the use of official premises, vehicles and inventory of the public company free of charge. The changes also stipulate that directors be dismissed if they were aware that employees or otherwise employed personnel are abusing the public resources of the company for political and party purposes, and they do not take actions to prevent it. In order for these changes to yield results in practice, it is necessary for the Agency to consistently sanction persons accountable for non-compliance with the Law.



*c. Prohibit all public officials and civil servants of all levels to appear at public events in the election campaign which promote the plans or results of the work of public bodies, organisations and public services #25*

Amend the Anti-Corruption Agency Act so that all public officials and civil servants are forbidden to participate in public gatherings during the election campaign, promoting plans and results of public authorities, organisations and public services, with the primary objective 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 addition, it is necessary to find an adequate solution that would prevent officials from abusing resources during the campaign. In case of violation of this legal provision, it is necessary to prescribe adequate fines for public officials and civil servants.

*d. Ban on the extraordinary allocation of budget and other public funds during the election campaign, as well as in the period of 30 days before and after the campaign #27*

Amendments to the Law on Prevention of Corruption should prohibit extraordinary disposal of budget and other public funds during the election campaign, as well as 30 days before and after the campaign. This prohibition would specifically refer to extraordinary payments of salaries, pensions, social benefits, payments of annual or one-time transfers, allocation and payment of resources from public funds, grants. Besides, it is necessary to prohibit legal entities whose founder, partial and/or majority owner is the state or local self-government units or which is financed in whole or in part by budget funds, to write off various debts to citizens during this period (e.g. bills for consumed electricity, water, garbage collection or other types of public utility services).

*e. Define the status of public sector employees who are not public officials nor civil servants #72*

The implementation of this recommendation requires the amendment of article 23, paragraph 2 of the Law on Financing Political Activities, in such a way that the prohibition of misuse of public resources by political entities would be extended to funds available to employees of public services established by the Republic of Serbia, an autonomous province, municipality, city or city municipality (for example: doctors), as well as to employees in public companies and companies established to perform activities in areas where public services are established (for example: employees in the Public Company Electric Power Industry of Serbia).

## **4 / IMPROVE THE ACTION OF THE ANTI-CORRUPTION AGENCY**

The Code of Good Practice obliges public authorities to respect neutrality, which refers to the campaign and financing of parties and candidates (VC I.3.1.a.iv) and requires legal sanctions in cases of violation of the obligation of neutrality (I.3.1.c). In order for these standards to be met, it is necessary to undertake the following:

*a. The agency should use statutory powers ex officio in order to protect the public interest #26*

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.

*b. Ensure timely acting of the Agency upon complaints #47*

Amendments to the Anti-Corruption Agency Act (Law on Prevention of Corruption) and the Law on Financing Political Activities introduced short five-year deadlines for making decisions on complaints submitted due to violations of the law during the election campaign. In order for the control of the election campaign to be effective, it is necessary that the Agency interprets and acts in practice in accordance with the intention of this legal provision.

*c. Publish all decisions of the Anti-Corruption Agency on the web-site #73*

In order to achieve better transparency in the work of the Anti-Corruption Agency, it is necessary to publish all decisions on the Agency's website. In that sense, it is necessary to amend the Law on Prevention of Corruption by introducing the obligation for the Agency to publish its decisions on the web-site within 24 hours during the election campaign when deciding on an objection related to the implementation of that Law in the election campaign. An identical obligation is already prescribed by the relevant provisions of the Law on Financing Political Activities.

## **FAIR ELECTIONS: EQUAL MEDIA REPRESENTATION**

Another important aspect of the equality of participants in the election campaign refers to their equal representation in the media. The Copenhagen document requires the government to allow political parties and organisations to compete with each other on a basis of equal treatment before the law and by authorities (7.6). The document further stipulates that state laws must allow political campaigns to be conducted in a fair and free atmosphere, both for political parties and candidates, who will not be prevented from freely presenting their views and opinions, and for voters, who cannot be prevented from learning and discussing them (7.7). Voters must have the freedom to form an opinion, and state bodies must respect the obligation of neutrality in relation to the media (VC I.3.1.a.i). In order to achieve these standards, it would be necessary to: prevent discrimination against campaign participants in the media and provide them with equal access to political advertising, to clearly define the REM's obligations during the election campaign, and to introduce clear mechanisms for selecting and determining the REM's Council responsibilities.

## **5 / PREVENT DISCRIMINATION OF CAMPAIGN PARTICIPANTS IN THE MEDIA**

The Copenhagen document requires to provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process; (CD 7.8). The Code of Good Practice of the Venice Commission emphasises that equality of parties and candidates must be guaranteed, in relation to the election campaign and media coverage, and especially to the public media (VC I.2.3.a.i, ii), as well as access to privately owned media (I.2.3.c). In order for these standards to be met, it is necessary to undertake the following:

*a. Improve the regulatory framework in order to prevent discrimination against campaign participants #70*

It is necessary that the REM fulfils its legal obligation to regulate the obligations of all media service providers by a binding by-law, including those related to the representation of election participants without discrimination, and to adopt a new Rulebook on obligations of media service providers during the election campaign covering both public service media and commercial media service providers. (See article 141. of the Unified Electoral Law.)

*b. Specify the obligation of media service providers to ensure representation in all types of programme content without discrimination during the election campaign*

It is necessary that the REM specifies the legally prescribed obligation of media service providers to provide “non-discriminatory representation” to election participants with a new by-law. It is necessary to prescribe that this obligation applies to the entire MSP programme, and not only to the programme marked as the election one. Media service providers should be obliged to apply the principle of strict equality of participants in the election programme, while the adoption of a special set of rules should neutralise the advantage that representatives of the ruling parties receive during the election campaign, especially in the news programme.

*c. Prevent favouring of government representatives by prescribing clear rules on the manner of media reporting on the activities of public officials*

It is necessary to amend the Law on Electronic Media and prescribe that media service providers in all their programme content during the election campaign are obliged to respect the ban on programme favouring of officials or parties in power and determine clear criteria for determining the privileged position of election participants who are also public office holders. In this regard, it is necessary to stipulate that a privileged position will be considered to exist, if the media service provider reports during the campaign on the activities of officials that are not announcements of public authorities that are urgent and related to endangering life, health, safety or property; if the duration of the media content related to the activities of officials is of such a scope that it does not justify the exercise of the right of citizens to information in terms of the law governing public information; if the media service provider makes a live transmission or delayed broadcast of ceremonial events attended by the official and if the media service provider organises a show during the campaign in which the official who is a candidate or a prominent representative of a political entity participating in the election race promotes the results of the Government. Moreover, it is necessary to provide that information on regular activities of officials for which there is an editorial justification, within the news programme, will be done textually, without audio and video, in short reports (for example: no longer than two minutes).

*d. Guarantee opposition political entities the right to express their views on topics discussed by the government officials*

In order to achieve the necessary objectivity in reporting, it is necessary for the REM to specify in its by-law the statutory obligation of media service providers to provide free, truthful, objective, complete information during the election campaign including providing opportunities for opposition participants to present their standpoints within the news programme on topics of public interest on which the media service provider reported, presenting the views of government officials.

*e. Prohibit live transmission or delayed broadcasting of integral pre-election rallies of political entities*

The REM Rules of procedure should clearly prohibit live transmission or delayed broadcasting of election rallies of political entities participating in the elections, and instead prescribe the possibility for media service providers to broadcast an election feature from the election rally lasting two minutes at the most during the campaign.

*f. Oblige public service media to adopt a Code of Conduct during the election campaign*

In order to further affirm the standard of equal and impartial treatment of electoral participants, it is necessary for public media services to adopt codes of conduct that would regulate the implementation of the principle of equal representation in the media service provider programme, prohibition of programme favouritism or discrimination (negative campaigns) of individual political entities, minimum access to media service provider in connection with advertising during election campaigns. The main purpose of the Code would be to further strengthen the professionalism of media service provider in the direction of encouraging political pluralism. In addition, it is recommended that media service providers adopt codes that would be valid outside the election campaign and which would further define their obligations regarding the exercise of their programme functions in the field of encouraging political pluralism.

## **6 / ENSURE EQUAL ACCESS TO POLITICAL ADVERTISING**

According to the Code of Good Practice, administrative bodies have the obligation to enable voters to get acquainted with the lists of candidates (VC I.3.1.b.ii). Also, in accordance with the freedom of expression, the minimum access to privately owned audio-visual media, when it comes to the election campaign and advertising, should be legally ensured for all candidates participating in the elections. (I.2.3.c). In order for these standards to be met, it is necessary to undertake the following:

*a. Improve the normative framework in the field of political advertising*

Although the current Law on Advertising applies accordingly to election campaigns, the provisions of the Law are so focused on commercial advertising that it is practically impossible to determine their meaning in the context of political advertising. This problem was noticeable during all election campaigns after the adoption of the Law on Advertising in 2016. During that period, REM repeatedly issued opinions about the contents of the videos of presidential candidates and interpreted the provisions of the Law on Advertising. However, due to the lack of clear regulations, the way in which REM interpreted the existence of comparative and misleading advertising was inconsistent. In order to overcome these obstacles, it is necessary to adopt amendments to the Law on Advertising or to pass a special law that would have the regulation of political advertising as unique subject.

*b. Clearly define the circle of entities that are allowed political advertising during the election campaign*

It is necessary to amend the Law on Electronic Media and the Law on Advertising and clearly prescribe that political advertising is allowed only during the election campaign and only to those political entities whose electoral list or candidate proposal has been announced by the competent election commission.

*c. Prohibit the broadcasting of advertising messages in which public resources are misused for the purposes of political promotion*

Due to the lack of a precise normative framework that would prevent unpunished broadcasting of advertising messages in which a political entity abuses public resources for the purposes of its promotion, during the 2020 election campaign, the REM did not sanction media service providers who broadcast advertising messages in pre-election blocs for which the Anti-Corruption Agency, earlier in the campaign, found that they were an illegal way of political promotion. For that reason, it is necessary to unequivocally prohibit the broadcasting of advertising messages of this content by amending the Law on Advertising or by adopting a special law that would have the regulation of political advertising as unique subject.

*d. Prohibit the broadcasting of rented terms of political entities outside the election blocs*

Neither the Law on Advertising, nor any by-laws, allow media service providers to offer election participants the possibility to advertise their electoral lists in terms longer than those prescribed by law for the purposes of the election campaign. During the 2020 election campaign in the programmes of certain media providers, twenty-minute programme contents were broadcast in which, for a fee, the political subject was promoted. Since allowing political entities to rent terms longer than those prescribed by law additionally affects the inequality of election participants, as “renting” terms is by nature only possible for economically more powerful campaign participants, it is necessary to amend the Law on Advertising and prohibit media service providers to promote political entities outside the election advertising blocks for a fee.

*e. Improve the transparency of political advertising financing*

In order for all segments of election campaign financing to be transparent, and in particular the financing of advertising in electronic media, as over the years, incomparably more funds have been allocated in this field than in all other activities in the election campaign, it is necessary to amend the Law on Advertising and oblige media service providers, who decide to broadcast election advertisements, to publicly announce the price lists of their marketing services during the campaign before they start contracting the provision of political advertising services during the election campaign. Furthermore, it is necessary to prescribe that media service providers may contract the service of political advertising only directly with a political entity whose electoral list or candidate proposal has been announced by the competent election commission. In addition, it is necessary to prescribe the obligation of the REM to include in the reports on advertising during election campaigns the data on the number of leased seconds of each political entity and the date of broadcasting the advertising message.

*f. Determine indicators of unequal access to advertising*

In order for all election participants to advertise under equal conditions in the programme of media service providers, it is necessary to specify that the following will be considered creating of unequal position: a) providing one electoral list with more than one quarter of the total number of terms offered to political parties, coalitions and organisations for the promotion of a particular program of media service providers; b) different prices of political advertising for different parties, coalitions or organisations participating in the elections; and c) more favourable or less favourable terms for publishing political advertising.

## **7 / CLEARLY DEFINE REM’S OBLIGATIONS DURING THE ELECTION CAMPAIGN**

Voters must have the freedom to form an opinion, and public authorities must respect the obligation of neutrality in relation to the media (VC I.3.1.a.i). Administrative bodies must be obliged to implement legal sanctions for violations of the obligation of neutrality and freedom of voters to form an opinion. (I.3.1.c) The Code provides for an effective system of appeals in the electoral process (I.3.3), in which there must be the possibility of a final appeal to the court (I.3.3.a). In order for these standards to be met, it is necessary to undertake the following:

*a. Establish the exclusive competence of the REM in the process of monitoring the electronic media during the election campaign*

In order to avoid the negative effects of the parallel competence of the Oversight Committee and the REM in the process of overseeing of electronic media during the election campaign, it is necessary to amend the Law on the Election of Members of the Parliament and exclude the oversight of electronic media from the competence of the Oversight Committee. At the same time, it is necessary to amend the Law on Electronic

Media and explicitly oblige the REM to perform the oversight of the programme content of media service providers within its competence, which it conducts ex officio following a pre-published monitoring plan, and to publish written reports on the monitoring and analysis of electronic media during the election campaign periodically (for instance, once a fortnight) and to publish the final Report on the oversight of electronic media during the election campaign no later than one month from the announcement of the final election results.

*b. Oblige the REM to adopt a monitoring plan and specify the mandatory elements of the MSP oversight report during the campaign*

It is necessary to amend the Law on Electronic Media in order to oblige the REM to adopt a MSP monitoring plan before each election campaign, which will designate the media service providers and the types of programme contents to oversee, as well as the methodology according to which the data will be collected and systemised. The oversight must be carried out on public media services, all commercial media service providers with national frequencies, and on an appropriate sample of MSP with local and regional coverage. In addition, it is necessary to prescribe that reporting is done on the basis of conducted qualitative and quantitative analysis of programme content and reports must contain the findings of the REM expert service regarding equal representation of candidates, i.e. electoral lists in the media, media reporting on candidate activities, records of public election appearances, actors in the role of public officials and candidates, the context in which a particular election participant is mentioned, as well as other important aspects of the work of the media that may have an impact on objective and comprehensive information of citizens about candidates and their election programmes.

*c. Ensure transparency of collected data*

In order for the public to have access to all data collected by REM through monitoring, it is necessary to oblige the REM by the Law on Electronic Media to publish the data collected by monitoring in the form of an open database on its website on a daily basis.

*d. Enable judicial review of all REM decisions made upon complaints*

It is necessary to amend the Law on Electronic Media and prescribe the obligation of the REM to initiate proceedings and make a reasoned decision on each complaint submitted during the election campaign, including those alleging a violation of the general interest, which may be subject to judicial review.

*e. Include the report of the expert service for oversight and analysis in the reasoning of the decision*

It is necessary to introduce the obligation to include the report of the expert service for oversight and analysis in the reasoning of the decision on complaints, so that complainants can be aware of the facts and circumstances that were decisive for making a particular decision.

*f. Provide short deadlines for the REM to decide on citizens' complaints*

In order for the control of the election campaign to be efficient, it is necessary to amend the Law on Electronic Media and oblige the REM to make a decision in the procedure on complaints of natural or legal persons during the campaign within 96 hours of receiving the complaint.

*g. Expand the range of penalties imposed by the REM to broadcasters who do not follow the rules during the campaign #59*

In order for the REM to impose sanctions on media service providers to have a greater effect on media service providers who violate the law, it is necessary to enable the REM to impose fines in a fixed amount, in addition to the measures currently available.

## **8 / INTRODUCE CLEAR MECHANISMS FOR THE SELECTION AND DETERMINATION OF RESPONSIBILITY OF THE REM COUNCIL**

The Code of Good Practice obliges public authorities to ensure respect for neutrality, which refers to the election campaign (VC I.3.1), and the body in charge of law enforcement must be independent (II.3.1.a). In order for these standards to be met, it is necessary to undertake the following:

### *a. Improve the mechanism for electing members of the REM Council*

Numerous violations of procedures and non-compliance with statutory deadlines by the National Assembly during the previous period marked the election of members of the REM Council. For that reason, the implementation of this recommendation implies, first of all, a change in the practice of the National Assembly and consistent adherence to the procedure and deadlines for the election of members of the REM Council provided by the Law on Electronic Media. In addition, in order to achieve a higher degree of independence of the Council of REM, it is necessary to amend the provisions of the Law on Electronic Media governing the election of members of the Council. In that sense, it is necessary to consider the change of the structure of authorised nominators, and especially the possibility of excluding the Committee of the National Assembly and the Assembly of AP Vojvodina from the circle of nominators of candidates for a member of the REM Council. In addition, it is necessary to specify by law the education, work experience and other conditions necessary for candidacy for a member of the Council.

### *b. Introduce clear indicators for the evaluation of the work of the REM council #38*

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 Assembly 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

### *c. Improve the mechanism for reviewing the responsibilities of members of the REM council #71*

In order to determine the responsibility of the REM Council members in a timely and efficient manner, it is necessary to amend the Law on Electronic Media in order to redefine the grounds for dismissal of REM Council members, to precisely determine the body responsible for conducting the dismissal procedure preceding the decision-making at a plenary session of the National Assembly and to clearly define deadlines for the implementation of all phases in the procedure of dismissal of members of the REM Council.

## FREE ELECTIONS: FREEDOM OF CHOICE AND SUFFRAGE

Pursuant to the Constitution of the Republic of Serbia, elections are free and voting is secret (article 52). The Copenhagen document obligates countries to organise free elections by secret ballot or by equivalent free voting procedure, under conditions which ensure in practice the free expression of the opinion of the electors in the choice of their representatives (CD 5.1). Suffrage shall be universal and every citizen of age and working ability of the Republic of Serbia shall have the right to vote and be elected. (article 52 of the Constitution). The Copenhagen document also foresees universal and equal suffrage to adult citizens (CD 7.3), whereas law and public authorities' work must permit to voters to cast their ballots free of fear of retribution (7.7). Therefore, pressure on voters should be prevented and their freedom of choice ensured, and in order for that to be possible, a more active role of the public prosecutor's office in the election process is needed, all categories should be guaranteed equal voting rights, and the Voters' Register must be updated and verified.

### 9 / PREVENT PRESSURE ON VOTERS AND ENSURE FREEDOM OF CHOICE

The Code of the Venice Commission establishes the mandatory secrecy of voting (VC I.4). Any control of one voter over another must be prohibited, and the records of voters must not be published (I.4.b, c), while violation of the secrecy of the ballot must be punished. (I.4.d). In order for these standards to be met, it is necessary to undertake the following:

*a. Directly prohibit by the law parallel evidence at the polling station as they jeopardise the secrecy of voting #48*

It is necessary to supplement article 55 of the Law on the Election of Members of the Parliament by a provision stating that it is forbidden at the polling station to keep records of persons who casted their votes other than the official excerpts from the voters' register (by writing down names or ordinary number from the excerpt from the voters' register of people who voted or who did not vote), and putting into penal provisions of the same Law that whoever violates this provision would be fined with 10.000 to 30.000 dinars.

*b. Additionally improve legal provisions relating to the prohibition of pressure on employees in public companies and public administration #45*

Article 49, paragraph 4 of the Law on Public Companies has been amended by specifying that unscrupulous conduct of directors is the basis for dismissal. Another cases have not been foreseen, it is necessary to do so. Also, amendments to article 49 consider exerting pressure on employees and otherwise engaged personnel in a public company in connection with support to political entities or candidates in the elections as unscrupulous conduct of a director. The amendments also include situations in which a director was aware that an employee or otherwise employed personnel used the resources of the public company or used pressure to promote political entities or candidates in the elections, but took no action despite his/her competence to prevent it.

*c. Improve the protection of personal data of citizens in order to prevent electoral pressure #46*

It is necessary to ensure an adequate protection of citizens' personal data in order to prevent them from pressures they are exposed to by various political entities. This pressure is reflected in disturbing phone calls and other types of disturbances. It is therefore indispensable to prevent and stop this unacceptable type of political entities' acting. It is necessary that obligees of the Law on Personal Data Protection cease to transfer citizens' data base and that political entities stop using this data base for any other purposes that those intended for in the first place.



## 10 / ENSURE A MORE ACTIVE ROLE OF THE PUBLIC PROSECUTOR'S OFFICE IN THE ELECTION PROCESS

The state must ensure the freedom of voters to express their wishes and must fight against election rigging (VC I.3.2), i.e. it must punish any type of election rigging (I.3.2.xv). In order for these standards to be met, it is necessary to undertake the following:

### *a. Introduce the practice of adopting the general mandatory Instructions of the Republic Public Prosecutor for elections*

A more active role of the public prosecutor's office in monitoring the conduct of elections and the protection of the electoral rights is needed. The Republic Public Prosecutor could issue in writing the general mandatory instructions for the actions of all public prosecutors in order to achieve legality, efficiency and uniformity in the conduct of criminal proceedings related to criminal offenses against electoral rights from Chapter XV of the Criminal Code. With these general mandatory instructions of the Republic Public Prosecutor, it would be necessary to a) introduce an obligation for the competent prosecutor's offices to act urgently, and that the Deputy Republic Public Prosecutor decides on appeals against the decision to reject criminal charges, which can be submitted by any voter, b) to designate, by an internal act, prosecutors with the most professional experience and personal and professional integrity who will act in these cases, introduce optimal work load and work in shifts or on-call; and to form independent groups in the existing special departments of higher public prosecutor's offices for the fight against corruption, to detect and prosecute crimes against election rights. Members of these groups would be appointed from all bodies involved in the conduct and oversight of the elections, and c) ensure greater transparency of work, through the obligation to timely and fully inform the public about the procedures, through holding regular and extraordinary press conferences during the election campaign, informing about any attempt to influence the work of the public prosecutor's office, and publishing excerpts from decisions on the website of the competent prosecutor's office.

### *b. Improve coordination between competent institutions in monitoring the conduct of elections*

Competent institutions should act in a coordinated manner, proactively, and should inform the public in a timely and complete manner about the initiated actions and actions taken. The existing legal framework envisages the possibility of concluding a Memorandum of Cooperation between the Republic Public Prosecutor's Office, the Ministry of Interior, the Republic Electoral Commission, the Provincial Electoral Commission, the Ministry of Public Administration and Local Self-Government, the Anti-Corruption Agency, courts of general and special jurisdiction, and others, which would provide for the establishment of a Coordination Body for the Oversight of the Conduct of Elections. The memorandum would prescribe special protocols on cooperation between these bodies during the election campaign, and especially on the Election Day, which would provide for shorter deadlines for acting and submitting the necessary information and data to the public prosecutor's office, regular meetings and efficient and timely exchange of information between signatory bodies. On the basis of the Memorandum, a Coordination Body would be established, headed by the Deputy Republic Public Prosecutor, and the members would be representatives of all the above-mentioned bodies. The Prosecutor who would be the head of the Coordination Body would coordinate their activities with the institutions signatory to the Memorandum of Cooperation, inform the public about the number of complaints and actions taken by the competent public authorities at regular and extraordinary press conferences.

## 11 / ENSURE EQUAL VOTING RIGHT FOR ALL CATEGORIES OF VOTERS

The general suffrage in principle means that each individual has the right to vote and to be elected (VC I.1.1) and must be equal, i.e. each voter has one vote (I.2.1). Residence may be prescribed as a condition of the right to vote (I.1.1.c), and the right to vote and to be elected may be granted to citizens living abroad (I.1.1.c.v). In order for these standards to be met, it is necessary to undertake the following:

### *a. Introduce educational campaign for citizens about election rules and procedures #60*

It is necessary that all relevant institutions that organise and conduct the elections in Serbia launch a comprehensive campaign to inform citizens about the most important election rules and procedures that ensure the legality and integrity of the process, as well as voter rights and ways to protect voters' rights. Although in the previous period some institutions had educational campaigns (the REC, public media service), other institutions that have election-related powers (the REM, the Agency) did not conduct visible voter education campaigns.

### *b. Define the method of submitting notifications to vote #56*

Due to the frequent occurrence of delivering notifications to vote to addresses where voters do not live, it is necessary to more clearly define the manner of delivering these notifications in accordance with the conditions prescribed by procedural laws for some other types of proceedings (Civil Procedure Code/Criminal Procedure Code). There may be another way to submit a voting notification that would be depersonalised, and that would contain key information about the date and place of the election where the tenants of a particular housing unit (buildings/gates/houses) vote.)

### *c. Unify election rules on holding elections on non-working days #66*

In order to establish the obligation to hold parliamentary and local elections on non-working days (Saturdays and Sundays), it is necessary to amend the Law on the Election of members of the Parliament and the Law on Local Elections. This obligation in the current legal framework exists only in the provision of article 5, paragraph 2 of the Law on the Election of the President of the Republic. (See article 8. of the Unified Electoral Law.)

### *d. Set up standards for voting of blind and visually impaired persons #49*

In the previous practice of conducting the elections, by-laws and the accompanying regulations did not contain provisions on the implementation of standards that would allow voting of blind and visually impaired persons. The Instruction for the Conduct of Voting and the Rulebook on the Work of Polling Stations Committees have been supplemented with recommendations for the implementation of unhindered voting for persons with physical and sensory disabilities. The Ministry of Public Administration and Local Self-Government enabled both blind and visually impaired people to check the data in the Unified Voters' Register on the website. It is necessary to continue to regularly include standards in the adoption of by-laws that would ensure that blind and visually impaired persons can exercise their right to vote in an appropriate manner.

### *e. Suspend deletion of voters from the voters' register with passivated place of residence #76*

Since in the previous period, the Ministry of the Interior submitted reports to the Ministry of Public Administration and Local Self-Government on the basis of which voters whose address of residence was passivated were deleted from the Unified Voters' Register, it is necessary that this practice, since there are no solid grounds in the law, be stopped. In the current laws in Serbia, passivation of the address of residence does not represent a legal basis for deregistration of residence, but only the record

data of the competent authority that the citizen does not live at the address of registered residence, based on which emanates the citizen's obligation to register residence, or if they fail to do so, the obligation of the competent authority (Ministry of the Interior) to determine the address of residence. Citizens whose addresses have been passivated should, from the standpoint of the voter's right, remain registered in the Voters' Register with the last known address of residence, until the moment of change of residence or allocation of residence by the competent authority. In the event that the Ministry of the Interior determines the residence of citizens whose residence is passivated, such a change would entail a change of residence in the Voters' Register, which means that the citizen could exercise their right to vote at another polling station (to which the new residence address belongs).

*f. Liberalise the condition for opening of polling stations abroad #55*

It is necessary to Modify the Law on Election of Members of the Parliament so that there is an obligation to open for voting every diplomatic and consular representation of the Republic of Serbia abroad, regardless of the number of voters registered for the vote. The existing solution in the Law on the Election of Members of the Parliament has a restrictive character for voters living abroad, since it prescribes a minimum of 100 voters to open a polling station, regardless of whether it refers to polling stations abroad or in Serbia. The right of voters to vote abroad should not be limited in practice by this condition.

*g. Conduct elections in Kosovo in accordance with the Law and decisions of the Constitutional Court #50*

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 will acknowledge the Decision of the Constitutional Court from 2016. According to the interpretation of the Constitutional Court, the manner of determining the election results from polling stations in Kosovo, which implies that the material from the polling stations is transferred to Raška and Vranje, where votes are counted and the results are determined, is not in accordance with the Constitution and law. Therefore, it is necessary to form a miscellaneous working group consisting of representatives of the Ministry of Justice, the REC, the Constitutional Court, the Office for Kosovo and Metohija and a civil society that would have to create a legal proposal for organising and implementing the electoral process in Kosovo which would subsequently find its place in the Law on the Election of Members of Parliament.

## **12 / UPDATE AND VERIFY THE VOTERS REGISTER**

The Voters' Register must be reliable (VC I.1.2), permanent (I.1.2.i), and regularly updated (I.1.2.ii). Besides, voters must be able to register and correct incorrect information in the Voters' Register (I.1.2.iv, v). The Code of Good Practice states that the Voters' Register must be published (I.1.2.iii), and this is indicated by the Copenhagen document which seeks to ensure that voting is conducted in secret and the official results are announced publicly. (CD 7.4). In order for these standards to be met, it is necessary to undertake the following:

*a. Continue to update the Voters' Register and make the process more transparent #17 #53*

Thanks to the electronic connection of birth and marriage registers with the Unified Voters' Register, its updating has been improved in terms of reducing the number of possible errors that occur when entering data. This process should be continued in order to improve the transparency of the Voters' Register update process and voters' confidence in the quality of the update and it would be useful to periodically publish changes by type of change (data change, registration, deletion, etc.) by local self-government units. The stated statistical presentation of changes could be published by the Ministry of Public Administration and Local Self-Government on the page of the site dedicated to the Voters' Register. We distinguish the process of updating the Voters' Register from the process of verification of

the Voters' Register, which refers to the independent and systematic verification of data in the Voters' Register. The update process refers to the entry of data to the Voters' Register, while verification means checking the authenticity of already entered data.

*b. Organise a continuous training for officers who update the Voters' Register #18*

Regularly continue with trainings for all employees of the Ministry of the Public Administration and the Local Self-Government and units of the local self-government who update the Unified Voters' Register so that potential problems during the updating or revision of the Voters' Register would be avoided.

*c. Identify practical problems in the Voters' Register updating #75*

It is necessary that the Ministry of Public Administration and Local Self-Government directly and intensively communicate with persons who update the Unified Voters' Register in local self-government units in order to recognise the problems that these persons face in practice and to conduct effective training based on precisely identified problems that will lead to uniformity of their actions.

*d. Continue and improve oversight over the work of persons handling the Voters' Register #19*

Although throughout 2019, the oversight of the Administrative Inspectorate over the work of employees who participate in the process of updating the Voters' Register was noticeable, indicating an important change in practice, it is still necessary to continue and additionally improve the oversight in order to take notice of the improvement in actions that would result in a better organised Voters' Register.

*e. Facilitate citizens' procedures for updating data in the Voters' Register #21*

It is necessary that the Ministry of Public Administration and Local Self-Government, but also all local self-governments, publish the form for registration in the Voters' Register on their websites and inform the citizens about the possibilities to electronically send the completed form with a copy of a valid personal document.

*f. Publish the number of voters in the Voters' Register by polling stations immediately after the determination of polling stations #77*

In order to improve the transparency of the election process and prevent possible abuses, it is necessary to amend the relevant provisions of the Law on the Unified Voters' Register, so that in addition to the obligation of the Republic Electoral Commission to announce the total number of voters in the Republic of Serbia, there would be an obligation to publish a preliminary number of voters in the Voters' Register not only collectively, but also according to polling stations, immediately after polling stations have been determined.

*g. Verify the Voters' Register #74*

It is necessary that the Ministry of Public Administration and Local Self-Government, in a procedure that would include representatives of relevant institutions, political parties, civil society organisations, academic and international community after assessing the impact of data processing within the Voters' Register verification process on personal data protection, verify the Voters' Register on an appropriate sample in accordance with international standards and recognised methodologies. The aim of the verification would be to determine, in the field control procedure on the appropriate sample, the percentage of voters who are registered in the Voters' Register but who emigrated from Serbia or who for another reason do not actually reside at the address entered in the Voters' Register, as well as the percentage of deceased persons still registered and also the percentage of people who have the right to vote but who are not registered in the Voters' Register. In addition, in the verification process, it is necessary that the Ministry of Public Administration and Local Self-Government engage a

thorough statistical analysis by hiring IT experts, who would determine irregularities and illogicalities in the Unified Voters' Register system itself (double entries, incorrect personal numbers, etc.). On September 26<sup>th</sup>, 2019, the Government of Serbia began the process of verifying the Voters' Register, by forming a working group for the verification of the Voters' Register. The mandate of this work group was extended in the second half of 2020.

## FREE ELECTIONS: PROTECTION OF THE ELECTORAL RIGHTS

According to the Constitution of the Republic of Serbia, electoral right shall be protected by the law and in accordance with the law (article 52). The Copenhagen document requires that the activity of the government and the administration, as well as that of the judiciary will be exercised in accordance with the system established by law. (CD 5.5), that everyone will have an effective means of redress against administrative decisions (CD 5.10). The Venice Commission's Code of Good Practice provides for an effective system of appeals in the electoral process (VC I.3.3), in which there must be the possibility of a final appeal to the court (I.3.3.a), the appeal procedure and, in particular, the powers and duties of the various bodies, must be clearly regulated by law, in order to avoid conflicts of jurisdiction (I.3.3.c). Also, the OSCE participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other OSCE participating States and any appropriate private institutions and organisations who may wish to do so to observe the course of their national election proceedings (CD 8). It is therefore necessary to: set such legal deadlines that would enable effective protection of the electoral rights, expand the competencies of the election administration, facilitate the protection of the electoral rights for election participants and voters, and give observers greater powers in monitoring the election process.

### 13 / DETERMINE LEGAL DEADLINES THAT WOULD ENABLE EFFECTIVE PROTECTION OF THE ELECTORAL RIGHTS

In order for the electoral right protection process to be effective, the Venice Commission proposes that the deadlines for filing appeals, as well as deciding on appeals, must be short, i.e. that they should be between three and five days in the first instance proceedings. (I.3.3.g). In order for these standards to be met, it is necessary to undertake the following:

#### *a. Extend the deadline for making decisions and submitting complaints #39*

It is necessary to extend the deadline for submitting complaints, so that the Law on the Election of members of the Parliament would be amended, namely article 95, paragraph 3, so that it reads: Complaint from paragraphs 1 and 2 of this article shall be submitted within 48 hours from the hour when the decision was made or the action, that the complainant considers incorrect, performed. i.e. from the hour when the omission was made. In addition, it is necessary to harmonise the deadlines for decision-making by the competent authorities in accordance with the principles of best international practice (from two to five days). Deadlines need to be extended, such as the deadlines needed to declare a candidacy or electoral list, to determine the final results, to submit election material after the election, to submit an excerpt from the Voters' Register, to decide on a complaint or appeal. It is also necessary to compare the deadline for insight into the election material that the participants in the elections have with the deadlines for submitting objections. According to the existing solution, the deadline for submitting complaints has already expired at the moment when the deadlines for the participants in the elections to inspect the election material begin to run. The current regulations stipulate that the representatives of the submitters of electoral lists and candidates may inspect the

election material within five days from the Election Day. In order for the list submitters and candidates who noticed the irregularities in the conduct of the elections by inspecting the election material and to be able to timely file a complaint to the election commission regarding the observed irregularities In order for the list submitters and candidates who, upon inspection of the election material, noticed the irregularities in the conduct of the elections, be able to submit to the electoral commission a complaint regarding the observed irregularity in a timely manner, it is necessary to enable the election participants to file a complaint to the election commission within a deadline that begins to run at the moment of the inspection of the material. (See article 105 and 142 of the Unified Electoral Law.)

*b. Extend the deadline for filing complaints to the Administrative Court #40*

In the case of local elections, it is necessary to amend article 54 of the Law on Local Elections, paragraph 1 in order to extend to 48 hours the deadline for filing complaints to the Administrative Court, as foreseen in the case of the republic elections. As the republic and the local elections do not have other differences regarding the protection of the electoral right, it is indispensable to harmonise these deadlines knowing that the nature of these two election processes is identical. (See article 145 of the Unified Electoral Law.)

*c. Harmonise election deadlines with deadlines for protection of the electoral rights #68*

Electoral laws should be amended in order to harmonise the deadlines for the protection of the right to vote with the deadlines for announcing the election results. Electoral commissions should determine the final results of the elections after the deadline for submitting complaints and appeals, i.e. upon irrevocability or enforceability of decisions made on complaints and appeals.

*d. Oblige the Constitutional Court to make a decision on the suspension of the application of the act in electoral disputes within five days #52*

The provision amending the Law on the Constitutional Court refers to the introduction of the obligation for the Constitutional Court to suspend the execution of an individual act within five days from the day of submitting the initiative for assessing the constitutionality or legality of a general act, which relates to electoral matters. or actions taken on the basis of a general act which is the subject of normative control.

## **14 / EXPAND THE JURISDICTION OF THE ELECTION ADMINISTRATION IN THE FILED OF ELECTORAL RIGHTS PROTECTION**

The election administration and other appellate bodies in the process of protecting electoral rights must have jurisdiction over matters such as the right to vote, the Voters' Register, the correctness of candidacies, compliance with rules during the election campaign, and determining election results (EC I.3.3.d). The appellate body must have the power to annul elections where irregularities may have affected the results, and in the event of annulment, new elections must be held at annulled polling stations (I.3.3.e). The higher electoral commission must also be able to correct or revoke a decision made by a lower authority (I.3.3.i). In order for these standards to be met, it is necessary to undertake the following:

*a. Expand the possibilities of the electoral commissions and of the Administrative Court to consider the proposed evidence attached to the objection #41*

Change the practice of the electoral commissions and the Administrative Court so that in dealing with citizens' complaints, as well as in appeals to the Administrative Court, in addition to reviewing the minutes of polling station committees, the electoral commissions and the Administrative Court would

investigate the possibility of obtaining other evidence (statements of members of polling stations, accredited observers and, if necessary, official representatives of other institutions). (See article 14 of the Unified Electoral Law.)

*b. Identify cases where the electoral commissions are allowed to act ex officio #43*

It is necessary to define the conditions in the Law on the Election of Members of the Parliament and the Law on Local Elections when it is possible and justified that electoral commissions act ex officio. Electoral commissions could act ex officio only in the period from the day of calling of the elections until the expiry of the deadline set for the examination of the electoral material and 5 days afterwards. (See article 141 of the Unified Electoral Law.)

*c. Legally regulate examination of the bags with electoral material #8*

The Law on the Election of Members of the 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 severe logic and calculation errors were previously determined in the Minutes on the Work on the polling station committee. (See article 105 of the Unified Electoral Law.)

*d. Legally impose mandatory repeating of the elections at a polling station whenever there is a discrepancy between the minutes on the work of the polling station committee and the actual state of the electoral material #42*

Supplementing the Law on the Election of Members of the Parliament and the Law on Local Elections towards mandatory repeating of the elections at a polling station when the REC determines that the results from the Minutes on the Work of the Polling Station Committee do not match the actual state of the electoral material. The Instruction for the Conduct of Voting in the 2020 election process envisages cases when elections have to be repeated due to incomplete Minutes of the work of polling stations. However, these cases need to be provided for by law and the electoral commissions should be given the legal authority to decide to repeat the election. (See article 138 of the Unified Electoral Law.)

*e. Provide for the possibility of applying special evidence gathering procedures for acts against the right to vote in the Criminal Procedure Code #58*

It is necessary to make it easier for the investigative bodies to obtain evidence for the investigative procedure when determining criminal acts related to electoral rights. Inter alia, this can be done in such a way that criminal acts against the right to vote would be included in the provisions of the Criminal Procedure Code, which refer to the application of special evidence gathering procedure in order to enable competent bodies, i.e. the police and the prosecution to work more efficiently and effectively on identifying the crime and pinpointing the perpetrators.

## **15 / FACILITATE THE ELECTORAL RIGHTS PROTECTION PROCESS TO VOTERS AND PARTICIPANTS TO THE ELECTIONS**

The process of protection of the right to vote should not only be efficient, but must be simple, and without too much formality, especially with regard to the merits of appeals (VC I.3.3.b). All candidates and all voters registered in the constituency must have the right to appeal (I.3.3.f.), and the right of the appellant to be heard must be protected. (I.3.3.h). In order for these standards to be met, it is necessary to undertake the following:

*a. Enable timely verification of the use of personal data of voters #15*

In the 2020 elections, voters were allowed for the first time to check the excerpt from the Voters' Register in two ways: to perform a direct inspection, and to ask the REC whether they had voted. The REC also responded to voters' inquiries regarding whether the voter had given a supporting signature to any of the lists. It is necessary to continue with this practice, but also to submit the requested information in a timely manner, for which there should be binding deadlines prescribed by the REC Instructions, because non-response to verification requests deepens suspicions of the election rigging.

*b. Enable sending complaints electronically #16*

In the previous period, thanks to the application of the provisions of the new Law on General Administrative Procedure, it was allowed to send complaints electronically, and therefore the CRTA, after the election for councillors of the Belgrade City Assembly, marked this recommendation as fulfilled. The CRTA has no information on whether in 2020 the REC acted on electronically signed submissions, nor whether such submissions were sent to the REC during the election process. The status of the recommendation will be changed if new findings become available.

## **16 / GIVE OBSERVERS GREATER POWERS TO MONITOR THE ELECTION PROCESS**

Domestic and foreign observers should have the widest opportunity to participate in the election process (VC 3.2.a). Observation should not be limited to the Election Day itself, but should include the candidate and voter registration process, as well as election campaigns, and should allow for irregularities to be identified before, during or after elections, especially during the vote count (3.2.b). The observer's access to the voting process should be clearly defined by the law (3.2.c). In order for these standards to be met, it is necessary to undertake the following:

*a. Legally regulate the status of observers and their authority #30*

It is necessary to supplement the Law on the Election of Members of the Parliament by adding a special chapter that would, together with the amendments to the Law on Local Elections, be applied to the local elections as well, and would regulate the status and position of observers. The amendments to the law would contain an itemised list of electoral bodies' actions and activities that observers can monitor – i.e. their authorities. Besides, a separate chapter would explicitly prescribe the number of observers who can monitor the work of the electoral bodies. In accordance with the best international practices, the work of polling station committees and of electoral commissions should not be monitored by more than two observers simultaneously. Furthermore, a special chapter of the law would demarcate the notions of long-term and short-term observers. The notion of a short-term observer would imply a person who monitors uniquely the work of the polling station committee on the Election Day. On the other hand, the notion of a long-term observer would imply a person who monitors the entire election campaign and the work of the electoral commissions. The status and position of observers, actions and activities of election bodies that observers can observe are more precisely prescribed by the Instruction for the Conduct of Voting at the elections for MPs of the National Assembly scheduled for June 21st, 2020, however, these provisions were not included in the law. (See articles 34-39 of the Unified Electoral Law.)

*b. Defining the manner and deadlines for awarding accreditations to observers #32*

In the Instruction for the Conduct of Voting in the 2020 election cycle, the REC foresaw that the applications for observation would be considered at the session following the receipt of the application. Moreover, the Instructions stipulate that accreditations be granted to observers within 48 hours



from the end of the session at which it was determined that the organisation that had submitted the application for observer status met all the conditions prescribed by the Instructions. However, these changes were realised in the form of a by-law that is to be passed before each election cycle and hence does not guarantee uniformity of all election processes. It is necessary to legally define the manner and deadline for granting accreditations to observers in the following way: “The REC establishes that the applicant has fulfilled all conditions imposed for the election observation (domestic and/or international observers) at the first session following the submission of the necessary documents. The day following the establishing of fulfilment of all conditions, the competent service of the REC delivers to the applicant adequate accreditations for observing the work of the electoral bodies.”

*c. Define the conditions that organisations and associations must fulfil in order to observe the election process #33*

According to the current by-laws of electoral commissions, only citizens’ associations the goals of which are achieved in the field of elections can be accredited to monitor the work of election administration bodies. Given the complexity of the electoral process and the fact that the electoral process itself by its nature includes several different processes that permeate different areas of action in society, it is necessary to enable civil society organisations dealing with topics of general, public importance, such as media freedom, struggle against corruption, public administration reform, protection of human rights, etc. to be accredited to monitor the work of election administration bodies. (See article 36 of the Unified Electoral Law.)

*d. Precisely define the time of the observing period for which accreditation is issued #34*

In order to avert uncertainty regarding the time period in which the observers can monitor the work of the election administration bodies, it convenes to formulate a special article which would prescribe the validity period of the issued accreditations. Having in mind the best international practices, it is necessary to allow monitoring of the election bodies until the completion of all procedures of the protection of the electoral right (until the expiration of deadlines for finality and irrevocability of the procedures for the protection of the electoral right) as well as monitoring of the session at which the Report on the Conduct of the Voting is adopted by the electoral commissions. Given that the electoral commissions work uniquely in their standing composition as soon as the final results are announced, independent monitoring of their work is justified and indispensable.

*e. Award authority to observers to enter remarks to the Minutes on the work of the polling station committees #31*

A special authority that observers would have in the election procedure is the right to enter their remarks and observations in the Minutes of the polling station committee, under the same conditions that the members of the Polling Station Committee currently have. Namely, as observers are participants in the election process on the Election Day who monitor the entire work of the polling station committee from the moment the polling station members gather in the morning and prepare the polling station for opening to determine the results at the polling station and publish the Minutes, they need to be allowed remarks and observations in the Minutes. As the Minutes, according to the current practice of electoral commissions and the Administrative Court, have almost unique and main probative force in the procedure of protection of the electoral rights, it is necessary to give observers this right because independent, non-partisan observers guarantee the legitimacy of the election process. (See article 114 of the Unified Electoral Law.)

## PROCESS INTEGRITY: THE WORK OF THE ELECTION ADMINISTRATION

The election administration has a key role to play in ensuring the integrity of the electoral process. Among the procedural guarantees for holding free and fair elections, the Venice Commission mentions in the first place an independent body for organising elections (EC II.3.1). ensure that votes are cast by secret ballot, and that they are counted and reported honestly with the official results made public (CD 7.4). The Copenhagen document requires that the activity of the government and the administration as well as that of the judiciary will be exercised in accordance with the system established by law (5.5), and that legislation will be adopted at the end of a public procedure (5.8), while Venice Commission requires that the election rules be set according to the law (VC II.2). The CRTA suggests to: reform the entire system of the election administration, increase the transparency of its work, harmonise the deadlines for election actions, and increase capacities of polling stations.

### 17 / REFORM THE ELECTION ADMINISTRATION SYSTEM IN SERBIA

An independent body must be in charge of the implementation of election laws (VC II.3.1.a), i.e. independent and impartial election commissions must be established at all levels, from the state to the level of polling stations (II.3.1.b). The Central Electoral Commission must have a permanent character (II.3.1.c), while the members of the commission must be persons who are experts in election issues (II.3.1.d.ii). In addition to the rules on technical matters and details, election regulations must have the force of law (II.2.a), and the basic elements of the election law may be changed one year before the elections at the latest. (II.2.b). The powers and duties of the various bodies, must be clearly regulated by law, in order to avoid conflicts of jurisdiction (I.3.3.c). In order for these standards to be met, it is necessary to undertake the following:

#### *a. Systematising electoral legal subject matter through one unique electoral law #1*

Currently, seven laws are being applied to the election process, which in practice leaves room for contradictory and uneven interpretation of the provisions, which may result in non-sanctioning of election irregularities. An election law that would include provisions on the conduct of elections at all levels and regulate the work of all election administration bodies would contribute to legal certainty and reduce misinterpretations and contradictory interpretations of legal provisions by institutions.

#### *b. Reforming local electoral commissions within the scope of a larger electoral legislation reform #3*

As the selection, composition and generally the position of local electoral commissions are an inseparable part of a wider electoral legislation reform, it is necessary to undertake a systemic and a systematic modification of the manner in which the members of city and municipal electoral commissions are elected, in order to fully ensure independence and impartiality of the decision-making on one hand, and on the other, an adequate professionalism in the work of city and municipal electoral commissions. (See articles 25-29 of the Unified Electoral Law.)

#### *c. Reorganise the election administration system #2*

The Law on the Election of Members of the Parliament and the Law on Local Elections should be modified so that they prescribe a hierarchical structure of election administration bodies. According to the new structure, the REC would be an institution immediately superior to municipal and city electoral

commissions and actually conduct the elections at the local level. Therefore, it is necessary to abolish the REC working groups as local electoral commissions would take over their role. (See articles 11 and 15-25 of the Unified Electoral Law.)

*d. Members of local electoral commissions can only be graduated jurists #5*

It convenes to supplement article 14 of the Law on Local Elections in order to foresee a requirement that all nominated members and deputy members of the CEC, secretary and deputy secretary should have a Law School diploma. (See article 25 of the Unified Electoral Law.)

## **18 / INCREASE THE TRANSPARENCY OF THE WORK OF THE ELECTION ADMINISTRATION BODIES**

The election administration ensures free and fair voting, and publicly announces the official results (CD 7.4). There must be the possibility of monitoring the work of the election administration (VC II.3.1.e) as well as the manner of its decision-making (II.3.1.h). In order for these standards to be met, it is necessary to undertake the following:

*a. Timely publishing of scanned Minutes on the work of the polling station committees on the web-sites of the electoral commissions #12*

By adopting the Conclusion on measures for the improvement of the election process from December 2nd, 2020, the REC has formally undertaken the obligation to publish the Minutes on the work of the polling station committees. However, although the REC published the Minutes on the work of the polling station committees in their entirety, they did not do it a timely manner. In practice, the Minutes were published after the deadline for complaints. The Minutes from all polling stations were published just over two weeks after the Election Day. Given that irregular minutes or minutes containing serious errors can be a basis for repeated elections, and may therefore be a reason to complain about the identified shortcomings, the REC should be constraint by the deadline by which all minutes are published in a timely manner, as soon as possible, immediately upon receipt of the scanned minutes by the Working Body. Given that this action is prescribed by the Instructions for the Conduct of Voting, which are subject to changes for each election cycle, it is recommended to amend Articles 76 or 77 of the Law on the Election of Members of the Parliament in order to determine the obligation of the REC to publish scanned minutes on its website immediately upon receipt from the Working Bodies for each polling station, and no later than 12 hours from the closing of polling stations. The same provision should be implemented in the Law on Local Elections, which would apply to municipal/city electoral commissions. Published minutes should have metadata, or otherwise allow for the search of minutes by polling station. (See articles 115, 127. of the Unified Electoral Law.)

*b. Timely publishing of all documents from plenary sessions and the sessions of working groups on the REC web-site #13*

The REC started publishing the decisions on complaints as well as all adopted documents from the REC sessions. However, the draft working documents, the agenda, the report on voting from the sessions were not published during the 2020 election process. This is why it is necessary to change the practice of the republic, municipal and city electoral commissions so that all materials and documents from the plenary sessions and meetings of the working groups would be published in the format which is appropriate for further use (e.g. CSV, DOC, XLS) on the corresponding web-site of the said commissions. (See article 3 of the Unified Electoral Law.)

*c. Timely publication of shorthand notes and the results of the vote at the commission sessions #14*

In the 2020 election process, the REC has adopted the practice of live coverage of plenary sessions and of the procedure for submitting electoral lists, as well as of publishing footages in the archives on the website. However, the results of the voting and the shorthand notes were not published in any way during the 2020 election process. This is why 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). A necessary precondition for the implementation of this recommendation is the improvement of technical, informational and professional capacities of the Expert Service of the National Assembly of the Republic of Serbia, as well as the general improvement of the internal system for submitting materials for sessions of republic, municipal and city electoral commissions.

*d. Improve the REC online sessions #80*

In order to ensure publicity and discussion of members at electronic sessions of the REC, as well as efficient decision-making, it is necessary to amend the REC Rules of Procedure in order to introduce the use of some of the available video communication platforms (such as “Zoom”). In this way, a more efficient discussion among the REC members would be enabled, and the publicity guaranteed, through the presence of accredited observers.

## **19 / EQUALISE DEADLINES FOR ELECTORAL ACTIVITIES**

Counting votes and reporting about the elections must be honest with the official results made public (CD 7.4). In order for these standards to be met, it is necessary to undertake the following:

*a. Equalise deadlines for conducting elections #51*

The amendment to the Law on the Election of the President of the Republic refers to the amendment of article 4, paragraph 5, so that the amended provision should read “From the day of calling the election, no less than 45 days or more than 60 days may elapse until the Election Day.” In this way, the deadlines for conducting elections for the President of the Republic will be equated with the deadlines for conducting elections for Members of Parliament.

*b. Determine deadlines for announcing the provisional election results, no later than 24 hours from closing of polling stations #79*

In order to achieve greater transparency of the election process, it is necessary to amend the Law on the Election of Members of the Parliament and oblige the REC to publish the provisional election results on its web-site within 24 hours from closing of polling stations. (See article 127 of the Unified Electoral Law)

*c. Timely publish preliminary and final results of the elections by polling stations on the electoral commissions' websites #44*

The implementation of this recommendation implies supplementing the Instruction for the Conduct of Voting adopted by the electoral commissions in the part related to “Statistical processing and publication of election results” where it is necessary to add a provision: “electoral commission publishes preliminary and final election results by polling stations, immediately after they have been determined, on the site in CSV format”. (See article 127 of the Unified Electoral Law.)

*d. Equalise deadlines provided for the announcement of final election results #7*

It is necessary to harmonise the existing solutions from the Law on the Election of members of the Parliament (five days from the end of voting) and the decision from the Law on Local Elections (24 hours from the closing of polling stations). In order to respect the right to protection of the electoral right of all voters, it is necessary to introduce a solution that contains the determinant “within 96 hours from the end of all election activities”. Such a solution would imply that the electoral commissions have a period of five days to determine the final results of the elections from the moment of holding and repeated elections at individual polling stations. This avoids the situation that occurred in the elections for councillors of the Belgrade City Assembly in March 2018, when the City Electoral Commission announced the final results of the elections before considering the complaints. (See article 117 of the Unified Electoral Law.)

## **20 / INCREASE CAPACITIES OF THE POLLING STATION COMMISSIONS**

Electoral commission members must undergo standard training (VC II.3.1.g), and must be expert on election issues (II.3.1.d.ii), while political parties must be equally represented in electoral commissions (II.3.1.e). In order for these standards to be met, it is necessary to undertake the following:

*a. Introduce a legal obligation to issue licenses to members of permanent compositions of polling station committees #63*

In order to achieve the necessary level of competence of members of polling station committees, it is necessary to amend the relevant provisions of the Law on Election of Members of the Parliament and the Law on Local Elections and condition membership in the polling station committee with an appropriate license issued by the Republic Electoral Commission. (See article 31 of the Unified Electoral Law.)

*b. Announce the composition of polling station committees immediately after the formation of a permanent composition, with information on training and licensing #64*

It is necessary to amend the Law on Election of Members of the Parliament and the Law on Local Elections and oblige the electoral commissions to publish the Decision on the appointment of a permanent polling station committee on its website immediately after its adoption. The Decision should contain the names of members of all permanent polling station committee members and other information relevant for their appointment, including information on the acquired license to perform the duties of a member of the polling station committee. Since an objection to the improper composition of the polling station committee can be submitted to the electoral commission only within 24 hours from the time of the Decision on the appointment of the members of the polling station committee, the adoption of this recommendation would enable efficient use of this legal remedy. (See article 3 of the Unified Electoral Law.)

*c. Prescribe by the law obligatory trainings and exams for the members of electoral committees #9*

Amend article 34 of the Law on the Election of Members of the Parliament and article 15 of the Law on Local Elections prescribing new competencies to the REC, and to the MEC/CEC, to organise in the pre-election period, a compulsory training for all members of polling station committees about rules and procedures for the work of polling station committees. It is particularly important to establish an exam system for candidates for permanent composition of a polling station committee, as this should result in a larger capacities of polling station committees to conduct the elections. It is foreseen by a Conclusion dated December 2nd, 2019, i.e. a by-law, that trainings for work in polling stations should be

held, while the process of organising and conducting trainings is specified by the Decision on organising and conducting trainings for work in the permanent composition of polling stations dated December 20th, 2019. A training programme, a manual, a presentation accompanying the manual, as well as exercises to check the knowledge of the participants were conceived. There are no data on the number of people who successfully completed the training. Since the obligation to train and test polling station members was implemented through a by-law, and since no obligation was introduced that only trained persons could be members of polling stations, this element should be defined by a law. (See article 30 of the Unified Electoral Law.)

*d. Adopt the rulebook for educators for trainings of members of polling station committees who conduct local elections #10*

The Decision on the organisation and implementation of trainings for work in the permanent composition of polling stations and the Training Programme were adopted by the REC on December 20th, 2019, the manner of hiring educators for the training of members of polling station committees was regulated, however, there is no information that local electoral commissions have assumed this recommendation. It is therefore necessary that all electoral commissions adopt, as a by-law the Rulebook on procedures and criteria for selection and engagement of consultants, trainers and educators for polling stations committees' members training. The adoption of the said Rulebook is indispensable in order to conduct such training by independent experts in the field of electoral legislature.

*e. Reorganise the composition of the polling station committees – parties that do not have members in the permanent composition cannot have members in the extended composition #11*

Bearing in mind that the current composition of polling station committees cannot respond to the request to conduct the Election Day in accordance with established rules and procedures, it is necessary to reorganise their composition. The suggested modifications of the electoral legislation would prevent political entities that have a representative in the standing composition of the polling station committee from having/realising that right in the extended composition of the committee. Moreover, due to a large number of members, the current composition of the polling station committees cannot respond to the need to improve their work through timely and quality education of committee members. On the other hand, the reduction of the members of the polling committee, without denying electoral lists the right to have their representatives on the Election Day, shall provide significant monetary savings in the election process.

## Annex: Compliance of OSCE Recommendations and CRTA Recommendations for Fair and Free Elections

As a participant in the OSCE, the Republic of Serbia undertook to “immediately consider the results of the OSCE’s assessment of the elections as well as the recommendations” (Istanbul Document 1999, paragraph 25). However, this does not happen in practice and OSCE recommendations are in most cases repeated from one election cycle to the next.

In 2020, the OSCE officially assessed the fulfilment of a total of 56 recommendations from the previous period, including those that were repeated from previous cycles. The evaluation shows that, since the parliamentary and presidential elections in 2012, only 6 recommendations have been “partially fulfilled”, while only two are “mostly fulfilled” - all others have the status of unfulfilled, which puts Serbia in the rank of countries in the region where the election process have least been harmonised with standards of this organisation.

The final report of the OSCE Special Mission for Election Assessment, made after the 2020 parliamentary elections in Serbia, contains 29 recommendations, of which 11 priority ones – out of those 29, as many as 20 recommendations were repeated or reformulated from previous election cycles (2012, 2014, 2016, 2017).

The CRTA recommendations for Improving Electoral Conditions are in line with the recommendations of the OSCE Office for Democratic Institutions and Human Rights (ODIHR). The first table lists the CRTA recommendations that are compatible with the 2020 OSCE recommendations. The second table provides a review of earlier OSCE recommendations (2017, 2016, 2014, 2012) that are not repeated in the 2020 report but are still relevant, and comparable to the recommendations of the CRTA.

**Table 1. 2020 OSCE recommendations and CRTA recommendations for fair and free elections**

2020 OSCE recommendations		CRTA recommendations
2	To ensure respect for the principle of legal certainty, a significant number of regulations should be included primarily in laws adopted by the Assembly, while only technical issues and details should be regulated by by-laws, including instructions from the Republic Electoral Commission. (2017:1, 2016:1, 2014:1, 6, 2012:1) *In particular the recommendation no. 1 from 2012: In line with previous OSCE/ODIHR recommendations, the legal framework for elections should be reviewed, consolidated, and harmonised, possibly by introducing a single comprehensive electoral code..	<b>17. Reform the election administration system in Serbia</b>  <b>19. Equalise deadlines for electoral activities</b>
3	The state should undertake measures preventing the misuse of administrative resources and abuse of office. Compliance should be monitored by a competent and independent body and violations should be punished with proportionate and dissuasive sanctions. (2017:2, 2016:4)	<b>3. Prevent misuse of public resources in the election campaign</b>
4	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, 2012:14)	<b>9. Prevent pressure on voters and ensure freedom of choice</b>  <b>10. Ensure a more active role of the public prosecutor’s office in the election process</b>
5	To enhance the transparency, the law could be amended to prescribe the obligation to report and disclose election campaign revenues and expenditures before the Election Day. The possibility of making the ACA conclusions mandatory and publishing them later could be considered.	<b>2. Prevent abuses in election campaign financing</b>

7	The independence of the Regulatory Authority of Electronic Media (REM) should be strengthened, and its responsibilities during the campaign period should be explicitly defined by law and extended to all aspects of media coverage of elections. In addition, the REM should act upon its own initiative, based on systematic monitoring election coverage and compliance with established regulations. (2017:6, 2016:6, 2014:19, 2012:18)	<b>7. Clearly define the REM's obligations during the election campaign</b>
8	In order to ensure the effective resolution of disputes, in line with the best practices, the deadlines for filing complaints and for decisions by the REC and the Administrative Court could be extended. Deadlines for filing a complaint should run from the moment the complainant became aware of the irregularity committed. (2017:8, 2016:7, 18, 2014:5, 2012:6, 19)	<b>13.a. Extend and harmonise the deadlines for making decisions and submitting complaints</b>
9	In line with good practice, the REC should have authority ex officio to rectify or overturn decisions taken by polling station committees/lower electoral commissions, to annul elections if irregularities affect the outcome. (2016:8)	<b>14. Expand the jurisdiction of the election administration in the field of electoral rights protection</b>
10	To increase transparency and contribute to trust in the accuracy of the Voters' Register, the authorities should do a detailed check of the Unified Voters' Register as soon as possible in practice. (2017:7, 2016:2, 2014:2, 2012:2)	<b>12. Update and verify the voters' register</b>
11	To enhance the transparency and trust in the electoral process, the law should provide for the swift publication of Minutes on the work of the polling station committees and elections results by polling station, including those corrected later in the process or determined in the repeated elections. (2017:9, 2016:25)	<b>18.a. Timely publishing of scanned Minutes on the work of the polling station committees on the web-sites of the electoral commissions</b>
12	Consideration could be given to amending the law to formally create all levels of election administration and clearly delineate tasks and responsibilities of the different levels. (2017:10, 2012:3)	<b>17. Reform the election administration system in Serbia</b>
13	In order to increase the capacity of the REC and ensure the ability of its members to make decisions based on sufficient information, all members should be provided with timely and comprehensive information on the agenda for the forthcoming sessions, including all relevant background material, while enabling substantive discussions in all circumstances.	<b>18. Increase the transparency of the work of the election administration bodies</b>
14	All polling station committees' members, including those from the extended composition, should receive timely, effective and uniform training on the Election Day procedures, in particular with regard to counting of votes, logical-computer control of results and completion of minutes of results. (2017:11, 2016:10)	<b>20. Increase capacities of the polling station commissions</b>
16	In order to increase the transparency of the voter registration process and confidence in the accuracy of the Voters' Register excerpts, the authorities could consider periodically publishing Voters' Register data, broken down by different types of updates, and the number of registered voters by municipality.	<b>12.a Continue to update the Voters' Register and make the process more transparent</b>
18	In order to increase the transparency of campaign funding, attention should be paid to previous recommendations of the ODIHR and GRECO, including the reduction of donation limits and the introduction of the obligation to submit and publish financial reports before the Election Day. (2017:3, 2016:5, 2014:4, 18, 2012:15, 16)	<b>2. Prevent abuses in election campaign financing</b>
19	Consideration could be given to introducing a legal obligation to identify suppliers on all printed and digital campaign materials, as well as sanctions for non-compliance with the law and its effective implementation, including confiscation of campaign materials that do not clearly display the supplier's trademark.	<b>6.b Clearly define the circle of entities that are allowed political advertising during the election campaign</b>



21	The law should prescribe a graded system of sanctions according to the principle of proportionality with the effect of deterring the repetition of the sanctioned action, whereas all irregularities should be sanctioned.	<p><b>4. Improve the action of the Anti-Corruption Agency</b></p> <p><b>7. Clearly define the REM's obligations during the election campaign</b></p> <p><b>10. Ensure a more active role of the public prosecutor's office in the election process</b></p> <p><b>14. Expand the jurisdiction of the election administration in the field of electoral rights protection</b></p>
23	In order for the conditions to be the same for all participants, a way of regulating media coverage of officials who are also participants in the elections could be considered. (2017:17, 2016:17)	<p><b>5. Prevent discrimination of campaign participants in the media</b></p> <p><b>6. Ensure equal access to political advertising</b></p>
24	Consideration should be given to setting clear criteria in the law that would allow the status of a national minority to be determined for electoral lists, thus preventing the abuse of special provisions relating to lists of national minorities. (2016:19, 2012:8)	<p><b>1. Ensure equality of all participants in the candidacy process</b></p>
25	The REC could also consider making their decisions on complaints public by posting them on the internet to enhance transparency of the electoral dispute resolution process. (2014:21)	<p><b>18. Increase the transparency of the work of the election administration bodies</b></p>
26	The principle of ensuring access to international and domestic observers at all stages of the election process should be enshrined in law, in line with OSCE commitments. (2017:19, 2016:20, 2014:23, 2012:5)	<p><b>16. Give observers greater powers to monitor the election process</b></p>
27	To facilitate access to all stages of the election process, the law should allow observers to submit new requests and obtain new accreditations to observe repeat elections.	<p><b>16.d. Precisely define the observing period for which accreditation is issued</b></p>
28	In order to ensure the secrecy of the ballot for all voters, including persons with physical disabilities, the disposition of polling stations and the design of polling stations should be reviewed. Consideration should be given to raising public awareness of the importance of secrecy of the ballot, by making targeted efforts in voter education. (2017:20, 2016:21, 2014:24, 2012:21)	<p><b>11. Ensure equal voting right for all categories of voters</b></p>
29	An effective system for filing stakeholder complaints regarding election day irregularities should be established. To facilitate such a procedure, a standardised complaint form could be made available at polling stations, and instructions on how to deal with such complaints could be included in the Election Day Procedures Manual.	<p><b>15. Facilitate the electoral rights protection process to voters and participants to the elections</b></p>

**Table 2. 2012-2017 OSCE recommendations and CRTA recommendations for fair and free elections**

Year and number	2012-2017 OSCE recommendations	CRTA recommendations
2017:4	The ACA should exercise its mandate fully by proactively monitoring and investigating any non-transparent activities in the context of elections.	<b>4. Improve the action of the Anti-Corruption Agency</b>
2017:5	Authorities should refrain from interference in the activities of media and journalists, who should operate free from intimidation or pressure, administrative actions or other types of undue influence.	<b>8. Introduce clear mechanisms for the selection and determination of responsibility of the rem council</b> <b>5.c. Prevent favouring of government representatives by prescribing clear rules on the manner of media reporting on the activities of public officials</b>
2016:3	Rules on candidate registration, including procedures for the verification of supporting signatures, should be clarified to ensure transparency at all stages, consistency and legal certainty.	<b>1. Ensure equality of all participants in the candidacy process</b>
2016:9	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. (2014:f9, 2012:12)	<b>11.a. Introduce educational campaign for citizens about election rules and procedures</b>
2016:22	Procedures governing the inspection of materials should be clearly established allowing for a meaningful and uniform review. Measures should be taken to secure election materials during inspection.	<b>14.c. Legally regulate examination of the bags with electoral material</b>
2014:12	The system of informing voters about the location of their respective polling stations could be improved.	<b>11.b. Define the method of submitting notifications to vote</b>
2014:16	Legal deadlines for candidate list registration should be set before commencement of the official electoral campaign, in line with international good practice.	<b>1.c. Separate the process of the electoral lists submission and the official commencement of the election campaign</b>
2012:20	Measures could be taken to ensure that the size and layout of the polling stations can accommodate not only the voters but also the sizable polling stations, and that they are accessible for elderly and disabled voters.	<b>11.d. Continue to set up standards for voting of blind and visually impaired persons</b>

CRTA: