

## CRTA Analysis: Measures proposed by the co-facilitators in the EP mediated Inter-Party Dialogue will not ensure conditions for fair and free elections

### Introduction

CRTA analyzed the Measures to Improve the Conduct of the Electoral Process, proposed by the co-facilitators in the course of the Inter-Party Dialogue mediated by the European Parliament<sup>1</sup>, published on 18 September 2021. One segment of the proposed measures comes as a result of a political agreement - these measures constitute temporary solutions, and go beyond the existing legal and institutional framework. Assessing their enforcement will, therefore, require analyzing their actual effects in practice, during the observation of the upcoming elections. The following analysis is strictly focused on legal solutions which are in line with the existing legal and institutional framework, and their possible reach and compliance with domestic legislation, as well as with international standards and recommendations by domestic and international observers.

Should the proposed measures be fully implemented, that would constitute a limited improvement, but would be insufficient to enable conditions for free and fair elections according to international standards. Taking into consideration the preconditions for fair elections – equality of campaign participants and equal media presence – **CRTA is of the opinion that these measures would not have an effect on achieving the equality of election participants.** One of the proposed measures, regarding the conduct of commercial broadcastformulatededers during the campaign, could even lead to the lowering of the existing standards, contrary to current law. Finally, it is not possible to assess the effects of a certain number of measures, relating to the abuse of state office and resources, as well as pressure on voters, due to their insufficiently accurate definitions.

### Analysis Summary

The proposed measures are defined at various levels of precision, ranging from very broad to very particular, which is why it is not possible to assess in advance the effectiveness of each individual measure. Where the solutions were defined in detail, it was possible to give a more comprehensive assessment, while the broad proposals leave plenty of room for various forms of their implementation.

One of the main conclusions of this analysis is that the proposed measures, from the viewpoint of improving the quality of conditions for free and fair elections, address the urgent problems identified by domestic and international observers **in a limited manner** – above all in relation to media inequality, abuse of public office and resources, and pressure on voters – and in that respect, CRTA assesses them as insufficient to improve electoral conditions.

One part of the measures refers to implementation of the already existing laws or statutory regulations and legal instruments. These measures refer, above all, to use of the existing Law on Electronic Media<sup>2</sup>, as well

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<sup>1</sup> Available on the National Assembly of the Republic of Serbia's website:

[http://www.parlament.gov.rs/Inter-Party\\_Dialogue:\\_Improving\\_conditions\\_for\\_political\\_competition\\_in\\_Serbia.42694.537.html](http://www.parlament.gov.rs/Inter-Party_Dialogue:_Improving_conditions_for_political_competition_in_Serbia.42694.537.html)

<sup>2</sup> Law on Electronic Media: [https://www.paragraf.rs/propisi/zakon\\_o\\_elektronskim\\_medijima.html](https://www.paragraf.rs/propisi/zakon_o_elektronskim_medijima.html)

as the current instruction by the Ministry of Public Administration and Local Self-Government<sup>3</sup> which envisions the publication of data from the Voters Register before and after their completion. This group also includes the measure which envisions the independent verification of the Voters Register following international methodology, and on which the Working Group for the Verification of the Voters Register started work already in 2019, however that work was halted on an institutional level at the beginning of 2020. Still, it is necessary to revise the bodies which would be responsible for this process, and which is envisioned in the adopted measure, since the independent revision of the Unified Voter Register could not be simultaneously carried out by the same body which is in charge of maintaining it – the Ministry of Public Administration and Local Self-Government. Or rather, the revision implemented as such could not be called independent.

We stress that one of the measures would even have the **negative effect on election conditions because it lowers the already existing standards and is contrary to the Law on Electronic Media**. The reason for it is that, instead of a legally binding bylaw, which closely defines the way to secure equal and non-biased representation of electoral candidates, the behaviors of commercial media services providers would be subject only to recommendations by the Regulatory Authority for Electronic Media (REM). Recommendations, as a form, do not invoke legal obligations and consequences, and are therefore not legally binding, meaning that commercial media service providers could implement them, but are not obliged to. Also, what we are seriously concerned about is that this is the second time that the Inter-Party Dialogue relativizes the legal obligations of commercial media. CRTA's media analysis shows that commercial TV networks with national coverage are for the most part vehicles of biased reporting to benefit the authorities. We bring to your attention the fact that the Ministry of Culture and Information in January of 2020 published an opinion which pointed out that REM was acting against the law by adopting statutory regulations for only public service broadcasters, while issuing non-binding recommendations for commercial broadcasters.

As for the pressure on voters, the document has recognized the need for better coordination amongst competent institutions, to “secure that the authorities have enough of established procedures to prevent and investigate the pressure on voters, including those employed in state-affiliated institutions or enterprises affiliated with the state.” However, it remained unclear which of the institutions would be included in coordination, as well as in which way the coordination would be implemented and what are the expected outcomes.

Even though the problem of abuse of public office and resources was recognized, the document does not offer any concrete solution. The document, then, is not addressing the issue of the elected officials who are also candidates campaigning in the media, although this was recognized as a leading problem in numerous international and domestic reports and recommendations.

And despite the fact that regulating the status of election observers was envisioned by the law, the document does not anticipate what authority will be guaranteed to observers by the law and whether those would be expanded (for example, by granting them rights to file objections) in relation to the observer's authorities which were in existing statutory regulations of Republic's Election Commission (REC).

The agreement envisions the measures that could be connected to only eight of the 29 recommendations from OSCE/ODIHR observers' report on 2020 parliamentary elections. However, the document does not give sufficiently concrete steps in them being carried out. This is foremost in regard to preventing the abuse of elected officials' campaigning, while the problem of pressure on voters was not fully explored by the proposed measure. In area concerning media, the proposed measures explored two of the ODIHR recommendations, and incompletely, primarily because the role of Regulatory Authority for Electronic

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<sup>3</sup> The manual to implement the Law on Consolidated Voter Rolls:  
<https://www.paragraf.rs/propisi/uputstvo-za-sprovodjenje-zakona-o-jedinstvenom-birackom-spisku.html>

Media, and also the reporting by commercial media services providers during the campaign, were not adequately addressed with the measures. When it comes to electoral administration and voter rolls, the adopted measures completely covered the three ODIHR recommendations.

**Measures to improve the conduct of the electoral process**  
**Agreed by the Co-facilitators in the 2nd phase in the Inter-Party Dialogue**  
**18 September 2021**

	<b>Measure</b>	<b>Implementation path</b>	<b>Competent authority</b>	<b>CRTA's Comments</b>
1	<p><b>Establishment of a Temporary Supervisory Body.</b></p> <p><i>Composition:</i> Its composition should ensure political pluralism and professional expertise.</p> <p>Format: 6+6.</p> <p>Six members are proposed by the Regulatory Authority for Electronic Media (REM), and the remaining six members (3+3 format). are proposed by the Speaker of the National Assembly after consultation with IPD co-facilitators.</p> <p>Competences: media monitoring, consultation, report on RTS and RTV rulebook implementation and on recommendations for private broadcasters issue opinions of the work of the independent institutions and their decisions.</p> <p>Inform public on its assessment and work, monitor the use of the recommendation for private national broadcasters.</p> <p>Organize regular press conferences.</p>	<p>Formation of the ad hoc body made by the Ministry of Culture and Information.</p> <p>No one who is a candidate on any electoral list can be a member of this body.</p> <p>Realistic timeframe for having an operational body is 30 days following the 2nd round of the 2nd phase of the IPD.</p>	<p>Government to secure the necessary budget for its functioning.</p>	<p>This measure is the result of political agreement, and assessing it requires analyzing its actual effects in practice.</p> <p>However, CRTA is of the opinion that this measure should be viewed as temporary, and that the independence and quality of work by Regulatory Body for Electronic Media (REM) needs to be strengthened in the long term, being that domestic legal framework recognizes REM as an institution in charge of implementing the independent control of program content by media service providers during election campaign. If, however, the measure's aim was to take away the supervision of media service providers' actions from REM and transfer it to a body that would have more trust by election participants and voters, then it's not clear why establish the body's composition that does not represent more than just expanded already existing REM Council.</p> <p>Additionally, it is necessary to specify in detail the division of oversight between REM and the new Temporary Supervisory Body. From Temporary Supervisory Body's itemized oversight, it stems that REM would still perform its part of the oversight prescribed by the Law on Electronic Media. Namely, in the measure's proposal it is stated that, among other things, the Temporary Supervisory Body is in charge of "issuing opinions on the performances of independent institutions and their decisions." In that respect, we stress that REM reports to National Assembly on performing work from its oversight (Art. 5, Paragraph 8 of Law on Electronic Media), and when viewed from the aspect of division of powers, it is controversial that the executive authority which establishes the body gets the power to oversee the work of this independent institution.</p> <p>Besides that, jurisdiction of this body would also include "media monitoring." The way in which this body will perform this work is not specified.</p> <p>On the other hand, as an institution under whose jurisdiction is the control of media service providers' work, REM has established the expert office for supervision and analysis comprised of media observers and equipped with modern technology which is used to implement supervision. For example, during 2020 election campaign, which lasted for 51 days, REM viewed and analyzed a total of 14.688 hours of programming.</p> <p>In existing system of state institutions, REM is, therefore, the only body that has the infrastructure and at least partial capacity to supervise and analyze broadcaster's programming content during the election campaign. Complete exclusion of REM and its office for supervision and analysis from the</p>

				<p>chain of control of media service providers behavior would mean leaving the work which requires a certain expertise and experience to the body that either does not have or has insufficiently trained expert support to implement this supervision.</p> <p>This solution did not directly address any of the OSCE/ODIHR's recommendations.</p>
2	<p><b>Adoption of a binding rulebook</b> for the National Public Broadcaster (RTS and RTV) to better regulate the election campaign coverage.</p>	<p>In line with the ODIHR recommendations and the legal framework, the adoption of the rulebook for the RTS should be followed by public consultation and the draft to be consulted with the Temporary Supervisory Body.</p> <p>The procedure of adoption of the Rulebook to be completed within 30 days following the creation of the Temporary Supervisory Body.</p>	<p>Regulatory Body for Electronic Media in consultation with the remaining members of the Temporary Supervisory Body.</p>	<p>The most significant deficiency of this measure is the fact that the Rulebook <b>does not include regulating the obligations of commercial media service providers</b>, who also inform the public on election campaigns. The proposal that the Rulebook does not cover commercial media service providers with binding legal acts is especially controversial having in mind that all commercial media service providers, as well as National Public Broadcaster, are liable to abide by several general obligations which were envisioned by the legislators themselves. In this manner, among other things, each media service provider is obliged to provide in a timely manner free, honest, objective and complete information, as well as to provide during the election campaign to all the registered political parties, coalitions and candidates media representation without discrimination (Art. 47, Paragraph 1, Items 1 i 5 of Law on Electronic Media). Commercial media service providers are not, therefore, exempt from obligation to provide during the election campaign to all the registered political parties, coalitions and candidates media representation without discrimination. REM has the obligation (Art. 60 of Law on Electronic Media) to use general legislation to specifically authorize the rules for media service providers to execute their legal obligations during the election campaign in providing the registered political parties, coalitions and candidates the media representation without discrimination.</p> <p>Ministry of Culture and Information, which has the oversight to issue opinions on constitutionality and legality of REM's general legal actions, disclosed their position that "the obligations of media service providers, in lieu of stipulations in the Law on Electronic Media, have to be applied on National Public Broadcaster as well as on all the other media service providers."<sup>4</sup></p> <p>This measure partially addressed one of OSCE/ODIHR's priority recommendations<sup>5</sup>.</p>
3	<p><b>All media shall be required to publish</b></p>	<p>Amend the Law on Electronic Media</p>	<p>Ministry of Culture and Information of</p>	<p>We are of the opinion that the proposed measure represents a valuable but not sufficient incentive to</p>

<sup>4</sup> Opinion by Ministry of Culture and Information on the Proposal for Rulebook on The Ways to Fulfill the Obligations of Public Media Services During Election Campaign no. 110-00-4/2020-04 from 24.01.2020.

<sup>5</sup> ODIHR 2020, priority recommendation: 7. *The independence of the Regulatory Authority for 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. The REM should act upon its own initiative, including through timely actions based on systematic monitoring of election coverage and compliance with established regulations.*

	<b>their political advertising rates before the election campaign starts.</b>	Timeframe for finalizing the law changes and entry into force not to be longer than 60 days following the second round of the IPD.	the Republic of Serbia.	<p>improve the transparency of conditions for advertising during the election campaigns<sup>6</sup>.</p> <p>Adoption and implementation of the proposed measure would not lead to a substantial shift in achieving the equal conditions for all participants in elections, nor is the measure sufficiently specified to be able to analyze in detail the potential effects.</p> <p>This solution did not directly address any of the OSCE/ODIHR's recommendations.</p>
4	<b>Adoption of recommendations for private national broad-casters, both terrestrial and via cable. These recommendations refer to presentation of electoral lists' and candidates' programmes during the election campaign.</b>	Recommendation to be prepared by consultation with the Temporary Supervisory Body within 15 days following the creation of the Temporary Supervisory Body.	Regulatory Body for Electronic Media (REM) with prior consultation of the Temporary Supervisory Body.	<p>It is seriously concerning that this measure, which is contrary to the law in Serbia, is offered as agreed upon in Inter-Party Dialogue for the second time.</p> <p>We remind you that in January of 2020 Ministry of Culture and Information published the opinion in which it was pointed out that REM was acting against the law by adopting the regulation pertaining to only National Public Broadcaster, while recommending non-obligatory form for privately owned broadcasters. On problems that arise by introducing this recommendation for privately owned broadcasters, see <b>the comments on measure number 2 in this document</b>.</p> <p>We are of the opinion, however, that the key deficiency of the proposed measures is reflected in the fact that <b>none of the measures regulates the media coverage of public officials' activities, who are at the same time candidates or prominent members of electoral lists, participating in informational, entertainment or other program during the election campaign.</b></p> <p>This problem was pointed out in the years past in ODIHR's own observation whose key recommendation for improving the electoral process in Serbia was directed exactly at regulating media coverage of public officials' activities during the election campaign<sup>7</sup>.</p> <p>One of CRTA's recommendations for improving the electoral conditions refers to prevention of favoring government representatives by prescribing clear</p>

<sup>6</sup> CRTA, in its Recommendations for Free and Fair Elections, gave proposals to improve the transparency of financing political advertising as well as a recommendation to determine indicators of uneven access to advertisement : *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.

<sup>7</sup> "In order to make conditions for all participant equal, the way media is reporting on public officials who are at the same time also participants in the elections should be reconsidered and regulated", [ODIHR Special Election Assessment Mission Final Report](#), Parliamentary Elections in Republic of Serbia 2020, 27

				<p>rules on modes of media reporting on public officials' activities.<sup>8</sup></p> <p>International standards in this area are clear and their aim is to prohibit broadcasters to provide privileged position for public office holders, for what reason we think that surely among the proposed measures should have been room for such measures which would outline the direction for future regulations in this area<sup>9</sup>.</p> <p>This measure is contrary to OSCE/ODIHR's recommendation regarding REM's independence and obligations<sup>10</sup>.</p>
5	<p><b>Defining methodology of media monitoring</b> during the election campaign that will ensure trust and transparency of the monitoring and will be based on quantitative and qualitative parameters, which will reflect the tonality of the reporting and the nature of the broadcasters.</p> <p>The methodology shall be determined in a transparent process by the competent body</p>	<p>Methodology to be prepared by consultation in consultation with the Temporary Supervisory Body within 30 days following the creation of the Temporary Supervisory Body and in line with the best European practices.</p>	<p>Regulatory Body for Electronic Media.</p>	<p>It is not clear whether the methodology would enable any insight into quality of pluralism and equality of various participants in media access and reporting on them.</p> <p>This measure needs to be specified in detail, in terms of defining the key elements of this methodology so that it would:</p> <ul style="list-style-type: none"> <li>- Include National Public Broadcaster and all the other electronic media with national coverage;</li> <li>- Imply 24/7 analysis of their programming during election campaign;</li> <li>- Includes extended prime time (17:30 - 00:00) of programming several months prior to scheduling elections;</li> <li>- Include publishing raw data on REM's website, on a regular basis and without delay, in parallel with performing monitoring.</li> </ul> <p>The proposed solution in principle, but not to a sufficient degree, addresses one of the OSCE/ODIHR's recommendations<sup>11</sup>.</p>

<sup>8</sup> [CRTA - Recommendations for Fair and Free Elections](#): "it is necessary to amend the Law on Electronic Media and prescribe that during the election campaign media service providers are obliged in all of their programming content to respect the ban on programs favoring public office holders, or rather political parties in power, and establish clear criteria for determining privileged positions for participants in elections who are at the same time public office holders. In that respect, it is necessary to prescribe that it would be considered that privileged position exists if during the campaign media service provider is reporting on office holder's activities which are not the public authorities announcements that are urgent in nature and are relating to endangered lives, health, security or property; if the length of media content in connection with office holder's activities is of such scope that it does not justify fulfilling citizens' right to information in light of the law that regulates public information; if media service provider is broadcasting live or delayed transmission of ceremonial events in which the office holder is participating, as well as if media service provider during the campaign produces a show in which the office holder, who is a candidate or high representative of political subject participating in elections, is promoting the results of authorities' activities. Additionally, it is necessary to envision that the information on office holder's regular activities, for which there is an editorial justification, would be conveyed within informational programming in the form of text, without audio and video footage, in short reports (for example, not longer than two records)." Additionally, CRTA, [Draft on the Rulebook on Obligations of Media Service Providers during Election Campaigns](#), Art. 6.

<sup>9</sup> [Recommendation CM / REC \(2007\)](#) 15 On measures in connection with media reporting on election campaigns it is envisioned that *broadcasters are not allowed to give a privileged treatment to the authorities during such programming*. Additionally, [Resolution 2254 \(2019\)](#) of Council of Europe's Parliamentary Assembly, *the Assembly is calling its member states to re-examine, optionally, their own regulatory frameworks which regulate media reporting on election campaigns, so that they would be in compliance with Council of Europe's standards, especially taking care to (...) adopt strict rules on media reporting of government activities in order to avoid media reporting on ceremonies in which the government representatives are present or which are organized by government, which has a consequence the preferential treatment and unjustified advantages for parties in power and their candidates during the elections*.

<sup>10</sup> ODIHR 2020, priority recommendation: 7. *The independence of the Regulatory Authority for 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. The REM should act upon its own initiative, including through timely actions based on systematic monitoring of election coverage and compliance with established regulations.*

<sup>11</sup> ODIHR 2020, priority recommendation: 7. *The independence of the Regulatory Authority for 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. The REM should act upon its own initiative, including through timely actions based on systematic monitoring of election coverage and compliance with established regulations.*

	following consultations with the relevant institutions, authorities, bodies and organizations.			
6	<b>Establishment of a suitable distribution key</b> regarding political advertisement at the National Public Broadcaster (RTS and RTV).	National Public Broadcaster to adopt a document within 5 days following the call for elections in full respect of Art 7 para 1 item 8 from the Law on Public Service Broadcasters ensuring that all participants get space in the prime time/RTS 1.	National Public Broadcaster	<p>The existing legal framework, in particular Article 7, Paragraph 1, Item 8 of Law on Public Service Broadcasters, which was also invoked by those proposing the measure, already provides free and equal media presentations of participants in the elections during the election campaign in programming of National Public Broadcaster, and is the standard from which National Public Broadcaster cannot withdraw.</p> <p>The mentioned “distribution key” could be implemented exclusively within the frame of strict equality of all participants in the election, which was already provided in the Law itself.</p> <p>This solution did not directly address any of the OSCE/ODIHR’s recommendations.</p>
7	<b>Adopt self-regulation to ensure adequate airtime</b> to express positions and views of the opposition on news related programmes on the National Public Broadcaster.	National Public Broadcaster to adopt a self-regulation in full respect of the existing framework ensuring that all political actors get adequate space in the prime time/RTS 1.	<b>National Public Broadcaster</b>	<p><b>Although the existing legal framework also unequivocally charges the National Public Broadcaster to, as kind of a forum for debates, encourage pluralism of perspectives, we are of the opinion that applying this measure could represent useful implementation of already existing principles.</b></p> <p>Namely, National Public Broadcaster is obliged with the existing legal framework of Republic of Serbia to honestly, completely, impartially, professionally and in a timely manner inform the citizens and to enable its listeners and viewers to freely form and express their opinions (Article 7, Paragraph 1, Item 1 of Law on Public Service Broadcasters). They are, also, obliged to respect and encourage pluralism of political ideas and to enable the public to get familiar with these ideas, as well as to impartially cover various social subject matters, thus enabling equal arguing of various viewpoints (Article 7, Paragraph 1, Items 4 and 7 of Law on Public Service Broadcasters).</p> <p>On the other hand, securing free, honest, objective and complete information in a timely manner is not only National Public Broadcaster’s obligation, <b>but commercial media service providers are also subject to it</b> (Article 47, Paragraph 1, Item 1 of Law on Electronic Media). Having in mind the obligations that the Law is directing at all the media, regardless of their ownership status, there are grounds to consider applying this measure also on commercial media during election campaigns.</p> <p>This solution indirectly, but not completely, addressed one of OSCE/ODIHR’s priority recommendations<sup>12</sup>.</p>

<sup>12</sup> ODIHR 2020, priority recommendation: 7. *The Independence of Regulatory Body for Electronic Media (REM) needs to be strengthened, while its obligations during the periods of campaigning must be strictly defined by the law and expanded to all the aspects of media election reports. REM should be acting on its own initiative, including taking timely actions in systematically following the reports on elections and actions in accordance with the established regulations.*



8	<p><b>Improve the system of fighting against the abuse of public office and public resources</b></p>	<p>Amendment to the Law on Prevention of Corruption</p>	<p>National Assembly of the Republic of Serbia</p>	<p>Improving the system to fight the abuse of public office and public resources requires more work, being that this is the area where urgent problems of election process in Serbia were detected by domestic and international observers. In connection with this, we are of the opinion that highlighting these problems in the document is the step in the right direction. However, this measure as such is not concrete, and in that regard it is not possible to either foresee or evaluate in which manner it would be implemented. As is with other measures, one of the obvious deficiencies of this document is certainly the fact that along with the measures, timeframes were not proposed, or rather when is the expected beginning and when would be the end of certain processes.</p> <p>Making this measure concrete during its implementation should go in the direction of fulfilling the ODIHR's recommendation, and this is the area for which CRTA developed a set of recommendations which we also submit for consideration.</p> <p>ODIHR detected the problems in these areas even after the adoption of legislative changes invoked by Working Group, during the 2020 elections, which is why it conveyed two priority recommendations to Serbia:</p> <p><i>3. The authorities need to take measures to prevent abuse of public office and public resources. Supervision of compliance with the Law should be efficient, while violations should be sanctioned on the principle of proportionality with the effect of deterrence or repeating the prohibited actions.</i></p> <p><i>4. The authorities should take measures with the aim of preventing putting pressure on voters, including those employed in state-affiliated institutions or enterprises affiliated with the state. The cases of alleged coercion should be thoroughly investigated and those responsible should suffer the consequences.</i></p> <p>In its recommendations, CRTA was also concerned with preventing the abuse of public resources and the actions of the Anti-Corruption Agency (recommendations 3 and 4), as well as with preventing pressure on voters (recommendation 9). CRTA names several potential steps in stamping out these negative practices:</p> <p><i>3a. Secure consistent interpretation of legal provisions on misuse of public resources</i></p> <p><i>3b. Consistent sanctions for the misuse of property, names and activities of public companies for political purposes</i></p> <p><i>3c. Prohibit public officials at all levels from actively participating in public events during the election campaign which promote plans or results of the work of public bodies, organisations and public services</i></p> <p><i>3d. Prohibit extraordinary allocation of budget and other public funds during the election campaign, as well as 30 days before and after the campaign</i></p> <p><i>3e. Extend the ban on the misuse of public resources to public sector employees who are not public officials or civil servants</i></p>
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9	<p><b>Temporary change of the standing REC composition</b> by adding 6 additional members and 6 substitutes to its composition from therank of the overall opposition in the country (3+3 format).</p> <p><b>The REC should operate on the principles of collegiality and it should strive for making decisions with the widest possible consensus.</b></p>	<p>Adopting legal changes which will be followed by parliamentary procedures for election of REC members and substitutes upon proposal from the opposition within 60 days following the second round of the IPD process.</p>	<p>National Assembly of the Republic of Serbia</p>	<p>This measure is the result of a political agreement, and assessing it requires analyzing its actual effects in practice.</p> <p>However, CRTA deems that this measure needs to be viewed as temporary, while in the long run it is necessary to work towards strengthening the capacity, professionalism and independence of Republic's Election Commission (REC). Namely, the change in REC's permanent composition in suggested way could bring short-term modification in dynamic and quality of work of this body, but it still doesn't remove the key problems in REC's activities: professionalization, lack of expert support, the change in ways the commission is selected and REC's authority in the election process. Whether this short-term change would result in REC performing better or worse depends in large part on commission's new and old members and their approach to work.</p>
10	<p><b>Change the financing of election campaign costs</b>, so that 30% of the funds are equally distributed to all submitters of electoral lists who stated that they want to cover election campaign costs from public funds, and that 70% of the funds need to be distributed only to the electoral lists that have won seats in the Parliament, proportionally to the number of seats won.</p>	<p>Amendments to the Law on Financing Political Activities in the part related to the criteria for financing the election campaign costs</p>	<p>National Assembly of the Republic of Serbia</p>	<p>The proposed solution potentially contributes to equalizing the election competition, although it is insufficient to solve the problems of inequality in election. The existing solution envisions that from Republic's budget, the money to finance election campaigns would be allocated as 20% upfront to all the party lists in equal portions, while the reminder of 80% would be allocated after the election's completion, depending on the number of votes won. Having in mind the fact that extra-parliamentary political subjects do not have income from public sources, this is a better solution than the existing one.</p> <p>Along those same lines is CRTA's recommendation 2c:  #2 Prevent misuse in financing the election campaigns  <i>c. Increase the amount of public funds designated for covering election campaign costs, which are distributed in advance to all electoral lists that have opted for it, from the current 20% to 40%.</i><sup>13</sup></p> <p>This solution did not directly address any of the OSCE/ODIHR's recommendations.</p>
11	<p><b>Ensure authorities that have</b></p>		<p>Responsible authorities.</p>	<p>The proposed measure does not specify in which way would the coordination be implemented, nor to which instructions it applies. Also, the solution is not specific in substantial degree so that it would be</p>

<sup>13</sup> During regular election years, public funds for covering election campaign costs are provided in the total amount of 0.07% of tax revenues of the budget of the Republic of Serbia for that year, tax revenues of the budget of the autonomous province, or tax revenues of local self-governments. These funds are distributed in equal amounts to all political entities holding declared electoral lists, who have, while submitting the list, stated that they intend to use funds from public sources to cover campaign costs. The remaining amount (80%) is later distributed to political entities who have passed the electoral threshold, proportionately to the number of seats won, within five days from the official announcement of election results. It is necessary to amend Article 21 para. 1 and 2 of the Law on Financing Political Activities, which regulates the distribution of public funds for election campaign financing, so that the percentage of funds allocated before the elections is increased from the current 20 to 40%, and the amount of the remaining funds is reduced from the current 80 to 60%.

	<p><b>sufficient procedures in place to prevent and investigate undue pressure on voters,</b> including employees of state or state-affiliated institutions and enterprises.</p>	<p>Immediate coordination with relevant authorities.</p>	<p>possible to analyze the potential effects or to evaluate its prospects of implementation.</p> <p>ODIHR also detected problems in these areas during the 2020 elections, which is why it conveyed one priority recommendation to Serbia:  <i>4. The authorities should take measures with the aim to prevent exerting pressure on voters, including those employed in state-affiliated institutions or enterprises affiliated with the state. The cases of alleged coercion should be thoroughly investigated and those responsible should suffer consequences.</i></p> <p>In accordance with ODIHR's recommendations is also CRTA's recommendation number 10. <b>“Ensure a more active role for public prosecution in election process.”</b></p> <p>CRTA cites several potential steps:</p> <p><i>a. Introduce the practice of adopting general binding instructions by Republic's Public Prosecutor Office regarding the elections, which would regulate and improve the actions of competent prosecutor offices in election campaigns.</i></p> <p><i>b. Improve the coordination between competent institutions in supervising the management of elections – by signing a memorandum on cooperation between the Republic Public Prosecutor, Ministry of Interior, the REC, Provincial Electoral Commission, Ministry of Public Administration and Local Self-Government, Courts of general and special jurisdictions and other institutions, which would envision forming a coordinating body to supervise the management of elections.</i></p> <p>Also, additional reinforcement of procedures which would prevent exerting pressure on voters needs to be done through strengthening the legal provisions pertaining to prohibition of pressure on the employees of public enterprises and public administration. Along that line is also <b>CRTA's recommendation 9b:</b></p> <p><i>9b. Additionally improve legal provisions relating to the prohibition of pressure on employees in public companies and public administration</i></p> <p>Although Article 49, Paragraph 4 of the Law on Public Enterprises was amended by way of specifying what is defined as unscrupulous behavior of managers in lieu of exerting pressure on employees, which could be grounds for termination, the other examples of pressure are not regulated and that is necessary to do.</p>
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12	<b>Voter registration data to be periodically published, in accordance with the existing legislation and ODIHR recommendations</b>	Implementation of the Instructions for the Implementation of the Law on the Voters List as amended in April 2021.	Ministry of Public Administration and Local Self-Government and its Working Group for verification of Voter Registry	<p>The proposed measure addressed one of the OSCE/ODIHR's recommendations<sup>14</sup>. The stated measure does not represent a new solution but is instead a multiplication of a responsibility that Ministry of Public Administration and Local Self-Government (MDULS) already has. The changes to Directions to Implement the Law on Consolidated Voter Rolls<sup>15</sup> made it clear that MDULS took over the responsibility to periodically publish the number of voters by local self-governed units. This obligation was not fulfilled by conclusion of this analysis.</p> <p>Having in mind the low confidence the voters have in accuracy and up-to-datedness of voter rolls that was present in the years past, realization of this measure could partially contribute to increased confidence in accuracy and up-to-datedness of voter rolls, under condition that the data is regularly published and in such a manner that they could be compared by local self-governed units and in different time periods.</p>
13	<b>Voter Registry Audit</b>	Resuming the process of voter registry audit in conformity with international standards and with independent monitoring.	Ministry of Public Administration and Local Self-Government and its Working Group for verification of Voter Registry	<p>The proposed measure addressed one of the OSCE/ODIHR's recommendations<sup>16</sup>.</p> <p>However, having in mind the development so far in regard to carrying out the revisions of voter rolls, the skepticism concerning the adequate implementation of this measure is justified. Being that in December of 2019 the Government of Serbia established the Working Group for Verification of Consolidated Voter Rolls, and even though independent methodology which meets international standards was adopted, up to this time none of the required steps were taken by state institutions so that the independent revision could be realized, and it is not realistic to expect that the process of independent revision of voter rolls would be conducted before the start of election process. Establishing the MDULS's Working Group for Revision Of Voter Rolls, as well as a new working group for verification of voter rolls' accuracy by the Government of Serbia in April of 2021, additionally cause confusion and deepens the doubt in realization of this measure.</p>

<sup>14</sup> ODIHR 2020, other recommendations: 16. *To increase the transparency of voter registration and confidence in the voter list, the authorities could consider periodical publishing of voter registration data, disaggregated by different types of updates, and the number of voters registered per municipality.*

<sup>15</sup> Section 2 *Maintaining Voter Rolls, Paragraph 3, Item 3* "Up to the time of concluding the voter rolls, Ministry analyzes the data from voter rolls and periodically publishes on its official internet site the number of voters sorted out by local self-governed units"

<sup>16</sup> ODIHR 2020, priority recommendation: 10. *To address concerns over the accuracy of voter lists, the authorities should conduct an audit of the Unified Voter Register as soon as practically possible.*

14	<p><b>Improve procedures</b> including vote count, control of results, completion of the result protocols and election results by polling station and their prompt publication.</p>	<p>Approval of Instructions to enable timely publication of the polling board protocols</p>	<p>Republic Electoral Commission</p>	<p>The Conclusion by Republic's Election Commission (REC) from 2.12.2019.<sup>17</sup> had envisioned the measures which relate to introduction of obligation to publish the records on actions by election boards, which was untimely done during the 2020 election process. The proposed measure did not specify which of the additional activities could be implemented, while they should relate to improved process of vote counting, results control and filling out the records on actions by election boards.</p> <p>This measure partially addressed one of OSCE/ODIHR's priority recommendations<sup>18</sup>.</p>
15	<p><b>The status of observers should be regulated by law.</b></p>	<p>Amend the law on Election of Members of the Parliament in order to recognize the status of the observers, followed by further regulation by the Republic Electoral Commission.</p>	<p>National Assembly of the Republic of Serbia and the Republic Electoral Commission</p>	<p>Regulating the status of observers by law is in accordance with international standards for free and fair elections (Paragraph 8 of OSCE' Copenhagen Document, adopted 1990, and Paragraph II.3.2. of Code of Good Practice), as well as with ODIHR's recommendation: (ODIHR 2020, other recommendations)</p> <p><i>26. TThe principle of providing access for international and citizen observers to all stages of the electoral process should be enshrined in the law, in line with OSCE commitments.</i></p> <p>According to CRTA, amending the Law on Members of Parliament Elections should not be limited to introducing the term observer, but also to define the rights of observers and scope of work. CRTA's recommendation no.16 says that the Law needs to recognize the role and the rights of long-term observers (campaign observers) and short-term observers (polling stations observers), and also to determine in detail the ways to issue accreditations and duration of observers' accreditation. Viewed from the perspective of improving the voting rights protections, CRTA deems introducing the right of accredited observers to enter their objections and comments into records on actions by election boards, and under the same circumstances which are currently valid for members of election boards, very important. According to the current practice of election boards and the Administrative Court, the records have unique and crucial evidentiary power in procedures of voting right protection, and for those reasons it is important that independent, non-partisan observers are able to responsibly disclose their claims and observations on the course of election day at the polling station.</p>
16	<p>Reduce the number of signatures necessary for electoral lists of national minority parties for the parliamentary elections to 5000 signatures and</p>	<p>Amend the Law on Election of Members of Parliament</p>	<p>National Assembly of the Republic of Serbia</p>	<p>CRTA does not have a substantial comment on this measure.</p> <p>With this solution, not a single one of the OSCE/ODIHR's recommendations was addressed, being that the recommendations were directed at status of national minorities in the election process, as well as preventing the abuse of using the right to</p>

<sup>17</sup> Conclusion by the REC available at:

<https://www.rik.parlament.gov.rs/extfile/sr/335/LAT%20Zakljucak%20RIKa%20o%20merama%20za%20unapredjenje%20izbornog%20procesa.pdf>

<sup>18</sup> ODIHR 2020, priority recommendation: 11. To enhance transparency, the law should provide for the prompt publication of all scanned Polling Board (PBs) results protocols and of election results by polling station, including those corrected later in the process or determined by repeat elections

	ensure prevention of the abuse of the law.			maintain the status of national minority party in electoral process by various political actors.
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