



Inter-party dialogue under the auspices of the Speaker of the National Assembly

Analysis of the Agreement on Improving the Conditions for Holding Elections

[The Agreement on Improving the Conditions for Conducting Elections](#) (the Agreement) and the accompanying conclusion, resulting from an inter-party dialogue conducted under the auspices of the Speaker of the National Assembly (without the mediation of the European Parliament), provide for significant changes in the electoral process, just three months before the start of the election campaign for the scheduled regular presidential and Belgrade elections and the early parliamentary elections in 2022.

Neither this Agreement nor the [proposed measures created in the inter-party dialogue mediated by the European Parliament](#) recognize or adequately address the key issues with the election process that have been pointed out by international and domestic observers. Namely, pressure on voters, official campaigns, and equal representation of election participants in the media.

The Agreement does provide measures that can generally be assessed as positive and in line with certain ODIHR recommendations - such as improving the transparency of the election process, submitting financial reports before election day, and familiarizing voters with the Unified Voters Register procedure. However, CRTA assesses that the overall improvement of the quality of elections in Serbia that would result from these measures is limited.

The most worrying fact is that the implementation of the Agreement would repeat the bad practice that marked the 2020 elections. Contrary to international standards, just before the next elections were announced, the Agreement proposed changes in the rules of the electoral system, as well as radical changes in the electoral process that we have been accustomed to for the past 30 years. The Agreement primarily addresses the establishment of a "middle level" in the election administration, which the ODIHR does cite in its recommendations, but not as a priority. The announced changes affect the way elections are organized and conducted, which requires significant time for the preparation, implementation, and education of voters and participants in the elections. There was no time for this before the elections were called. The key problem that would arise from the hasty introduction of further complexity into the election administration and the establishment of its new powers, is the uncertainty of the course and outcome of the election process. The time needed to announce the final election results could also be significantly extended. The protection of the right to vote would become more inaccessible for voters by applying this Agreement than it was before, and by applying measures related to the Unified Voters' List, space would be opened for the misuse of personal data of citizens.

Given all this, the Agreement does not contribute to the protection of the public interest or the rights of citizens and all participants in the election process. The potential improvements in electoral conditions that it could lead to are very limited in scope. The complexity of the envisaged intervention in the entire electoral process could, due to the absence of time, cause confusion among election participants.

The implementation of the proposed solutions implies changes in important election laws. This is justified for certain measures, but legal changes aimed at temporary measures – i.e., only for the forthcoming elections - can lead to problems of legal uncertainty and unpredictability for future election cycles.

Finally, the Agreement is a political document that only indicates the path that the signatories want to follow, and the lack of precision in the agreed measures leaves room for different interpretations. As such, the full effects of the measures cannot be entirely predicted before they are implemented.

Summary of key findings

CRTA's assessment is that the implementation of the Agreement would significantly change the character and functions of the institutions responsible for organizing and conducting elections and protecting the rights of voters. The scope of the proposed interventions is troubling because it could lead to legal and procedural uncertainty during the election process. The primary concerns stem from the extremely short deadlines for the introduction of local election commissions, which are a new extra level of election administration, for national elections immediately before the elections. This is even more challenging given that Serbia's capabilities in election administration are well-documented as being weak and insufficient. Time is needed to define clear competencies, provide facilities, and harmonize all levels within the electoral administration system, as well as for all participants in the elections to adjust to the new rules. Under the Agreement this necessary period of adjustment, which is crucial to ensuring a fair election process, would be denied.

There is a clear lack of attention to detail to these systemic changes, this will have a negative impact on the protection of voters' rights. If local election commissions are given the role of deciding on complaints and are also able to view sensitive electoral documents, the process of protecting the electoral rights of citizens could be made more complicated. Given that this is the first major change in election administration since the introduction of the multi-party system, the fear that there will be no time for voters to be informed about it is perfectly justified. Citizens' ability to file complaints with the competent authorities will be reduced and the certainty of concluding the election process will be jeopardized, i.e., the announcement of the final election results could be delayed.

The proposal that a selected circle of political actors will have access to a large amount of personal data from the voter list is also extremely concerning. This, in addition to discriminating against election participants, also creates space for the misuse of personal data that will be available to members of the envisaged working group. It also jeopardizes public confidence as an impartial and independent check on the accuracy of the single voter list will be denied.

Although the text of the Agreement notes that it is not a matter of changing the electoral system, but of "improving the existing one", it still envisages changes in the way in which votes are converted into mandates. It is proposed that for electoral lists that pass the electoral threshold (at least 3% of all votes cast), the electoral list with the highest quotient that does not have any mandate, is assigned a mandate to the detriment of the electoral list with the lowest quotient that has two or more mandates. In addition, several proposed changes substantially change the process and conditions for running as a candidate in elections.

In the area of campaign finance, some of the proposed measures require a change in the legal framework and some do not, but most of them will not significantly affect the equality of campaign participants. The proposed measures will only meet some of the individual ODIHR recommendations. Some of the measures can be found among the measures to improve the implementation of the election process proposed by the co-facilitators during the process of the Inter-Party Dialogue with the mediation of the European Parliament.

As for the ban on the misuse of public resources in the election campaign, an additional restriction is envisaged for the media during the election campaign. Namely, a ban on broadcasting the opening of infrastructure facilities in which public officials participate up to 10 days before the election. It is problematic that the application of this measure is proposed through an amendment to the Law on Prevention of Corruption. The correct way to implement this would be to change laws governing the media. In addition, limiting this provision to the last 10 days of the campaign, while representing a positive shift, would not substantially prevent the misuse of public resources, nor sufficiently reduce the inequality of electoral participants.

Concerning the role of the media in the election campaign, the Agreement largely reflects the Measures to Improve the Electoral Process proposed by co-facilitators during the European Parliament-mediated Inter-Party Dialogue process. CRTA assessed that these measures were [insufficient to ensure fair and free elections](#).

Finally, the proposal to implement the new election measures through legal changes is controversial, especially as officials have announced that these are temporary changes. The officials have thereby introduced legal uncertainty and doubt regarding future election cycles. To understand the planned changes, as well as their harmonization with the existing constitutional and legal framework, it is essential to hold public hearings within a reasonable timeframe. Holding public hearings is additionally important in these circumstances because it would inform the general public, i.e., voters, on what the election process will look like.

An additional cause for concern is that the solutions are not precisely defined, which leaves room for different interpretations. As a result, it is not possible to accurately assess what their impact will be before the announced legal changes are adopted and their implementation begins. In addition, the Agreement does not contain deadlines for the adoption and implementation of measures, nor clear mechanisms for their execution. Finally, the legal nature of the Agreement is still unclear, so it remains to be seen what its eventual implementation will look like in practice.

The measures envisaged by the Agreement relate to 10 of the 27 recommendations sent to Serbia by the OSCE / ODIHR EOM after the 2020 parliamentary elections. However, the relevant international standards, as well as the recommendations sent by the ODIHR to Serbia, clearly state that fundamental aspects of the election process should not be changed less than at least a year before elections are held. This is because such changes bring uncertainty to the election process, leaving consequences for all election actors, voters, and the public.