



Doc. 11618
29 May 2008

Observation of the Parliamentary elections in Serbia (11 May 2008)

Election observation report¹

Bureau of the Assembly

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1. Introduction

1. The Bureau of the Parliamentary Assembly decided, at its meeting on 13 March 2008 and subject to receipt of an invitation, to set up an ad hoc committee to observe the parliamentary elections in Serbia, scheduled for 11 May 2008, and authorised a pre-election mission to that country. Following the receipt of an invitation from the Speaker of the National Assembly of Serbia, the Bureau, at its meeting on 14 April 2008, appointed me as the chair of the ad hoc committee.

2. On 4 October 2004, a co-operation agreement was signed between the Parliamentary Assembly and the European Commission for Democracy through Law (Venice Commission). In conformity with Article 15 of the agreement: "When the Bureau of the Assembly decides to observe an election in a country in which electoral legislation was previously examined by the Venice Commission, one of the rapporteurs of the Venice Commission on this issue may be invited to join the Assembly's election observation mission as legal adviser", the Bureau of the Assembly invited an expert from the Venice Commission to join the ad hoc committee as adviser.

3. Based on the proposals by the political groups of the Assembly, the ad hoc committee was composed as follows:

- Mr Jean-Charles Gardetto, Head of Delegation

1. Approved by the Bureau at its meeting on 29 May 2008.



- Group of the European People's Party (EPP/CD)
 - Mr Pedro Agramunt, Spain
 - Mr Ignacio Cosidó Gutiérrez, Spain
 - Mr Jean-Charles Gardetto, Monaco
 - Ms Anna Lilliehöök, Sweden
 - Mr Kimmo Sasi, Finland
 - Mr Egidijus Vareikis, Lithuania
 - Mr Piotr Wach, Poland
- Socialist Group (SOC)
 - Mrs Meritxell Batet, Spain
 - Mrs Maria Emilina Fernandez Soriano, Spain
 - Mr Andreas Gross, Switzerland
 - Mrs Sinikka Hurskainen, Finland
 - Mr Geert Lambert, Belgium
 - Mr Maximiano Martins, Portugal
 - Mr Vasile Ioan Dănut Ungureanu, Romania
- European Democrat Group (EDG)
 - Mr Igor Chernyshenko, Russian Federation
 - Mr Morten Messerschmidt, Denmark
 - Mr Robert Walter, United Kingdom
 - Mr David Wilshire, United Kingdom
 - Mr Vladimir Zhidkikh, Russian Federation
- Alliance of Liberals and Democrats for Europe (ALDE)
 - Ms Doris Fiala, Switzerland
 - Mr Michael Aastrup Jensen, Denmark
 - Mr Morten Østergaard, Denmark
 - Mr Andrea Rigoni, Italy
 - Mr Andrej Zernovski, "The former Yugoslav Republic of Macedonia"
- Group of the Unified European Left (UEL)
 - Mr Tuur Elzinga, Netherlands
- Secretariat
 - Mr Vladimir Dronov, Head of Secretariat, Interparliamentary Co-operation and Election Observation Unit Mr Yann de Buyer, Head of the Administrative and Finance Unit
 - Ms Farida Jamal, Administrative Assistant, Interparliamentary Co-operation and Election Observation Unit Mr Serguei Kouznetsov, Venice Commission
 - Ms Nathalie Bargellini, Press Officer Ms Christine Willkomm, Assistant

4. The pre-election delegation visited Belgrade on 9 and 10 April 2008. Notwithstanding the Bureau decision that this was to be a cross-party delegation composed of members of the five political groups of the Assembly, only the EPP/CD and ALDE were represented in the delegation. The delegation had an extensive and intensive programme of meetings and held discussions, *inter alia*, with the head of the Republic Election Commission, a cross-section of media and civil society representatives, as well as of political parties not represented in the parliament. The delegation also met the head of the Office for Democratic Institutions and

Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) Limited Election Observation Mission (LEOM) and the delegation of the European Commission in Belgrade. Unfortunately, a meeting planned with members of the Serbian delegation to the Parliamentary Assembly did not take place.

5. The pre-election delegation, generally, was satisfied with the state of preparations for the parliamentary elections. It particularly welcomed the widespread public confidence in the electoral process. As a result, the delegation concluded it had grounds to believe that the elections would be organised and conducted properly.

6. At the same time, the delegation identified some deficiencies that needed serious attention from the authorities. These included lack of effective provisions and enforcement mechanisms covering party and campaign funding, inadequate powers of the Republic Election Commission, which resulted in its lack of control over the entire electoral process, including the compilation and maintenance of voters' lists, as well as media monitoring during the campaign period. The delegation was also concerned over the excessive control the party leaderships have over candidates' lists which enables party leaders to change the order of the candidates in the list or even remove candidates from the list after the election, so that the persons that voters thought they would be electing may end up not being given a mandate to be members of parliament by their parties.

7. The delegation was conscious of the fact that the aforementioned shortcomings could not be remedied before the 11 May 2008 vote and regarded them as challenges for the future.

8. The delegation encouraged greater involvement of persons belonging to national minorities in the political process, with a view to ensuring better representation of them in the National Assembly.

9. The press statement issued by the delegation at the end of its mission in Belgrade is reproduced in Appendix I.

10. The ad hoc committee, for its part, worked as part of an international election observation mission (IEOM) alongside the Election Observation Mission of the OSCE Parliamentary Assembly and the LEOM of the OSCE/ODIHR. A delegation from the Congress of Local and Regional Authorities of the Council of Europe, for its part, observed the local and provincial election conducted on the same day.

11. Following the debates at the April 2008 part-session in which the question was raised regarding interinstitutional relationships in election observation and visibility in election observation, the ad hoc committee sought and achieved recognition of its central role in the IEOM, as reflected in the IEOM press release and the LEOM statement of preliminary findings.

12. The ad hoc committee met in Belgrade from 8 to 12 May 2008 and held, *inter alia*, meetings with a representative cross-section of political parties, the chair of the Republic Election Commission (REC), the head of the LEOM of the OSCE/ODIHR and his staff, the Head of the European Commission delegation in Belgrade, members of the diplomatic corps, as well as representatives of the civil society and the mass media.

13. On election day, the ad hoc committee was split into 14 teams which observed the elections in and around Belgrade, Novi Sad, Novi Pazar and Presovo Valley. Altogether, more than 200 polling stations were covered by members of the ad hoc committee on election day.

14. The ad hoc committee concluded that the parliamentary elections in Serbia on 11 May 2008 were, overall, in line with Council of Europe commitments for democratic elections. The citizens of Serbia could freely make their choice on election day from a pluralist range of political platforms. The press release issued after these elections appears in Appendix II.

2. Political and legal framework, candidates' lists registration

15. On 13 March 2008, the President of the Republic of Serbia dissolved the parliament and called early parliamentary elections on 11 May 2008. The move followed a political crisis that ensued in the wake of Kosovo's unilateral declaration of independence and disagreement in the ruling coalition over the issue of co-operation with the European Union.

16. Parliamentary elections in Serbia are governed by the 2006 Constitution and the Law on Election of Representatives, as last amended in 2004. In addition, individual aspects of the process are regulated by decisions of the REC, as well as other pieces of legislation.

17. On the whole, the legal framework provides a credible basis for the conduct of democratic elections. However, certain aspects of the process need improvement, as underscored, *inter alia*, in the statement of the Assembly pre-election delegation (Appendix I), as well as in the joint Venice Commission-OSCE/ODIHR assessment of the electoral legislation in Serbia.

18. The National Assembly of Serbia comprises 250 members elected for a four-year term in a single, nationwide constituency. Seats are distributed proportionally among lists which have received more than 5% of all votes cast. The 5% rule does not apply to minority parties. Political party leaderships, however, have excessive control over their respective lists in that they can, after elections, change the order of the names on the lists or even remove certain candidates from the lists altogether.

19. Registration of candidates' lists was generally inclusive, with 22 lists of parties, coalitions and groups of citizens registered by the REC. Those lists included 10 lists of people belonging to national minorities. Two lists were rejected by the REC.

20. Although minority parties criticised the new requirement that parties must collect 10 000, rather than 3 000 signatures of support (as was the case in the 2007 elections), they were able to meet this new legal requirement. Nevertheless having to obtain a greater number of signatures might complicate and make more difficult the involvement of the minorities in the country's political life and, in particular, in the parliament, with a risk of isolation for such minorities and a possible negative effect on the whole region. Minority parties participated in these elections both on their own and in coalitions with mainstream parties.

21. Signatures in support of a candidate's list had to be put in person, or through a proxy, and upon presentation of an ID document and proof of payment of RSD 50, in front of a court clerk. This requirement arguably could compromise the concept of the secrecy of the vote. At the same time, it offered guarantees of signature authenticity. The REC's responsibility was to establish that the number of signatures in support of a list was, in fact, at least 10 000 and that the voter concerned signed in support of one list only.

3. Election administration

22. Serbia has a multi-tiered election administration, which consists of the REC, one provincial electoral commission in Vojvodina, two city electoral commissions in Belgrade and Niš, 161 municipal electoral commissions (MECs) and some 8 246 polling boards. In addition, some 30 members or deputy members of the REC operate as regional co-ordinators.

23. The REC set up five MECs and a number of working groups to take care of elections in Kosovo. On 9 April 2008, according to the OSCE/ODIHR, the United Nations Interim Administration Mission in Kosovo indicated that it did not object to parliamentary elections being held in Kosovo.

24. The REC is composed of its president and 16 members and their deputies appointed by the National Assembly. The National Assembly also appoints a nonvoting secretary and a non-voting member representing the Republic Statistical Office. The expanded composition also includes one representative of each submitter of a registered candidates' list.

25. The overwhelming majority of the interlocutors met by the ad hoc committee expressed general support for, and confidence in, the work of the REC.

26. According to the law, a uniform, electronic national voters' register is to be established. This task has not yet been accomplished. In practice, there exist municipal computerised voters' registers compiled in different electronic formats.

27. The Ministry for State Administration and Local Self-Governance supervises the maintenance of the registers which are updated on an annual basis. Municipal authorities, together with the Ministry of the Interior, are jointly responsible for keeping the voters' register up to date. Voters were called on to check their data in the voters' registers between 14 March and 25 April 2008. Voters abroad could apply for registration to embassies and consulates up to 20 April 2008.

4. The media environment

28. Serbia's media landscape is diverse. Media are freely operating in a loosely regulated environment. Television is the most important medium in terms of public outreach and the most important source of information. Print media circulation remains low.

29. The legal framework for the media coverage of the election campaign is established by the Law on Election of Representatives and the Broadcasting Act. The Broadcasting Act set up a regulatory authority, the Republic Broadcasting Agency, with broad powers in a variety of media-related areas.

30. On 4 April 2008, the Council of the Republic Broadcasting Agency issued general binding instructions to radio and television stations on the conduct to be observed in local, provincial and parliamentary elections in 2008. Under those instructions, all election-related programmes, reports, advertisements and polls must be marked as an "election programme". Paid airtime must bear the logo "paid time". Public broadcasters are to provide all electoral contestants with an equal amount of free airtime.

31. Articles 90 and 100 of the Law on Election of Representatives provide for the establishment of a supervisory board appointed by the National Assembly for general supervision of the actions of political parties, candidates and mass media during the campaign. Those provisions have not been implemented.

32. Overall, the media, as monitored by the LEOM, provided a balanced and diverse coverage of the campaign. The tone of campaign coverage was, overall, neutral, with the exception of one tabloid (the *Kurir*), which was criticised by associations of journalists for aggressive and unprofessional reporting.

5. Complaints and appeals

33. Complaints regarding irregularities of the electoral process or infringements of voters' rights can be lodged with the REC. Appeals against the rulings of the REC are adjudicated by the Supreme Court.

34. Altogether, 48 complaints were lodged, including a complaint by the Radical Party of Serbia (SRS) contesting the REC instruction whereby minority parties were obliged to collect only 3 000 signatures, and not 10 000. The Supreme Court upheld that complaint on the grounds that the REC decision was in contradiction with the law requiring all parties to collect 10 000 signatures, and the instruction was revoked. As a result, minority parties had to collect 10 000 signatures which they managed to do despite complaining about this requirement. Other complaints covered a broad range of issues including, *inter alia*, membership of polling boards, rules for accreditation of foreign observers, alleged distribution of gifts and other material incentives to voters by election contestants, failure by the National Assembly to establish a supervisory board and the REC's failure to provide timely and objective information about candidates to the voters. All of these complaints, however, were dismissed as unfounded or rejected on the grounds of late submission.

35. The Supreme Court delivered 11 decisions on 11 appeals against REC decisions and upheld only one (see paragraph 34 above).

6. The campaign

36. During the campaign period the political environment was generally peaceful. The dominant issues were Kosovo, Serbia's position vis-à-vis the European Union, as well as the work of the outgoing government. The latter triggered pointed disputes between former coalition partners, the Democratic Party (DS) of Boris Tadić and his partners from G17 Plus, on the one side, and Prime Minister Koštunica's coalition of his Democratic Party of Serbia (DSS) and New Serbia (NS), on the other. The strongest opposition party, the Radical Party of Serbia (SRS), opted for a low profile.

37. As for the minority parties, the Hungarian parties came forward with a joint platform aimed at improving the status of Hungarians in Serbia. The two Bosnian parties continued infighting leading to some clashes between their activists.

38. Campaigning was mostly calm, despite some negative campaigning by some contestants. In an unfortunate development, certain isolated aspects of the campaign went beyond acceptable limits for a democratic society. Death threats to some senior officials were reported. This culminated with the display, in Belgrade, of a large number of posters that could be interpreted as suggesting the assassination of top state officials. The public prosecutor ordered an investigation into the matter.

7. Election day

39. On election day, IEOM observer teams observed the process at some 600 polling stations, with over 200 polling stations covered by members of the ad hoc committee.

40. Voting and counting were conducted professionally and in a calm atmosphere. Co-operation between polling board members and their knowledge of the voting procedures were reported to be good.

41. Observers of the ad hoc committee reported numerous cases of family voting, which were observed at almost all polling stations visited.
42. Procedures were generally followed; voters were checked for ink in more than 99% of cases, identification documents were checked in nearly 100% of cases.
43. There were a few problems. Ballot boxes were not adequately sealed in some polling stations visited. The design of voting booths – especially the fragile cardboard separations – was regarded by observers of the ad hoc committee as inadequate in terms of ensuring the secrecy of the ballot. However, there were no reports of any attempts to take advantage of this deficiency.
44. The presence of unauthorised persons at polling stations was not reported at these elections.
45. Observers reported cases of ballot papers being placed in the wrong ballot boxes, due to similarities of colours of ballot papers used for parliamentary and provincial and local elections. Misplaced ballots were, however, counted as valid for the respective elections.
46. While the polling boards' broadly inclusive membership contributed to the transparency of and confidence in the process, it led to instances of overcrowding, especially for the opening of ballot boxes and the vote count.
47. Generally the polling stations were not accessible to disabled people. Nevertheless they had the option to choose home voting.

8. Conclusions and recommendations

48. The ad hoc committee concluded that the 11 May 2008 parliamentary elections in Serbia were, overall, in line with the Council of Europe and OSCE commitments for democratic elections, although they were overshadowed, in part, by some negative aspects of the campaign.
49. The elections were administered professionally and in an atmosphere of public confidence in the process.
50. The elections provided a genuine opportunity for the citizens of Serbia to choose from a range of political parties and coalitions, which vigorously competed in an open and overall calm campaign environment.
51. To further improve Serbia's democratic processes, the ad hoc committee invites the Serbian authorities to:
 - a. expand the authority of the REC so as to enable it to have monitoring powers over all aspects of the campaign;
 - b. change the current system, whereby political party leaderships have excessive powers over their candidates' lists, so as to ensure that the electorate knows for which people it is voting;
 - c. introduce additional legislation and procedures to cover all aspects of political parties and campaign funding;
 - d. complete and enforce regulations and procedures for the monitoring of the media during the campaign;
 - e. improve the quality of the seals on ballot boxes; take and enforce adequate measures to avoid family voting;
 - f. improve the design of voting booths to enforce confidentiality of voting;
 - g. use ballot papers of clearly different colours when several elections are conducted at the same time;
 - h. make the polling stations accessible for disabled persons.

Appendix – Press releases

Accreditation of international observers for the Serbian parliamentary elections 'should not be conditional on extraneous issues', 10 April 2008

Belgrade, 10.04.2008 – The accreditation of international observers for the 11 May 2008 Parliamentary elections in Serbia should not be conditional on extraneous issues, concluded the pre-electoral delegation² of the Parliamentary Assembly of the Council of Europe. Serbia should honour its commitments to international organisations of which it is a member; and should not link the accreditation of observers to the issue of Kosovo.

Serbia is a full member of the Council of Europe, an organisation distinct from the European Union, and is a community upholding the values of human rights, democracy and the rule of law for 800 million people. The Parliamentary Assembly of the Council of Europe (PACE) recognises Serbia's advances along the path of democracy-building. In this connection, based on exchanges it had in Belgrade, the delegation believes that the upcoming elections will be well organised and conducted properly.

They will be of pivotal importance in that they will determine the vector of Serbia's development for the future. The citizens of Serbia deserve the right to unimpeded travel; the younger generation of Serbia should have the right to receive education abroad. PACE stands ready to throw its support behind the Serbian people in their efforts to turn their country into a true 21st century democracy.

While satisfied with the state of Serbia's preparation for the upcoming elections, some issues still need further improvement: there is a need for effective provisions and enforcement mechanisms covering party and campaign funding; the powers of the Republic Election Commission should be expanded to allow it to better monitor the entire process, including the control over the quality of the voters list; media monitoring during campaign periods should be put in place, although the delegation is not aware of any grave problems in the latter area. The delegation understands that such improvements cannot be introduced in time for the May 11 vote and regards these issues as challenges for the future. In addition, the delegation encourages greater involvement of people belonging to national minorities in the political process to ensure their better representation in the Parliament.

The delegation was in Serbia on 9 and 10 April 2008 at the invitation of the Speaker of the Parliament of Serbia, to assess the political framework and state of preparation for the 11 May 2008 parliamentary elections. It had an extensive and intensive programme of meetings and held discussions, *inter alia*, with the Head of the Republic Election Commission, representatives of the Association of Independent Journalists and civil society, and a cross-section of political parties not represented in the Parliament, as well as the Head of the OSCE/ODIHR Limited Election Observation Mission and the Delegation of the European Commission in Belgrade. A thirty-member PACE election observation delegation will arrive in Serbia 8 May 2008 and will be deployed to ensure the maximum possible coverage of the country.

Contact:

Serbia: Vladimir Dronov, Head of the Secretariat of the Interparliamentary Co-operation and Election Observation Service, mobile +33 (0)6 63 49 37 92.

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Serbia's hard-fought and generally well-organized parliamentary elections gave voters a free choice, 13 May 2008

BELGRADE, 12.05.2008 – The vigorously contested early parliamentary elections in Serbia were conducted in an overall professional manner, allowing the country's voters to choose freely among a wide range of political options, the International Election Observation Mission concluded in a statement published today.

The observers welcomed the active participation of voters, testifying to the electorate's high confidence in the democratic process. Voting on election day was conducted efficiently and in an overall calm atmosphere. The campaign environment was pluralistic and open, with extensive media coverage, but also marred by incidents of threats against leading politicians' lives.

2. Jean-Charles Gardetto, Head of Delegation (Monaco, EPP/CD), Andrej Zernovski ("the former Yugoslav Republic of Macedonia", ALDE)

“The Serbian people have expressed their will freely. It is now up to the newly elected parliament to live up to the expectations of the Serbian electorate. This includes the need to forge a workable and effective coalition capable of working for the benefit of all citizens of Serbia”, said Jean-Charles Gardetto, leader of the PACE observer delegation.

“The Serbian elections were a display of a mature democracy in action. We found some minor technical faults and some aspects of the campaign were worrisome, but the elections were carried out in a most impressive fashion with substantive voter turnout and efficiency and calmness of the voting. I would like to congratulate Serbia for this”, said Roberto Battelli, Special Co-ordinator of the OSCE short-term observers and head of the OSCE PA delegation.

“Overall this election was organized professionally. But we are troubled by cases of death threats and perceived incitement to murder of senior politicians. This has no place in a democratic society. Prompt follow-up to the Public Prosecutor’s investigation order will further underscore that there is no tolerance for violence in Serbia”, said Nikolai Vulchanov, head of the OSCE/ODIHR long-term observation mission.

The observers urged the new parliament to close remaining voids in the legal framework and address long-standing recommendations, such as removing provisions permitting parties to allocate mandates in disregard of the order of the candidates’ lists.

Close to 90 international observers monitored the election, including 30 short-term observers from the Council of Europe Parliamentary Assembly (PACE) and 24 from the OSCE Parliamentary Assembly (OSCE PA), as well as 35 long-term observers from the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR). The international election observation mission did not observe the local elections.

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