



**ELECTIONS IN THE
FEDERAL REPUBLIC OF YUGOSLAVIA
24 September 2000**



PRELIMINARY FINDINGS AND CONCLUSIONS

Warsaw, 25 September 2000 — The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) was denied entry to conduct a technical assessment and subsequently deploy an election observation mission to monitor the 24 September federal and municipal elections in the Federal Republic of Yugoslavia.

Consequently, in accordance with its mandate, the OSCE/ODIHR publishes this report of Preliminary Findings and Conclusions without the benefit of an in-country observation mission. Instead, this report is based on information compiled from other reliable sources.

This report is released before the official results of the elections were published, before electoral complaints and appeals were addressed, and before the OSCE/ODIHR could complete the analysis of all information received on these elections.

Preliminary Conclusions

The 24 September elections in the Federal Republic of Yugoslavia were fundamentally flawed. In particular, these elections fell far short of the minimum standards for transparent, accountable, secret, fair and free elections. Under such circumstances, initial reports that the opposition presidential candidate Vojislav Kostunica was in the lead indicate a strong will for change.

While the official election results are not yet published, the election day developments nonetheless raise serious concerns. The day was marked by reports of opposition representatives on election commissions, including the Federal Election Commission, expelled and the secrecy of the ballot seriously compromised. Other violations were also reported, including an atmosphere of fear and intimidation. Moreover, the elections in Montenegro and Kosovo were conducted in an environment fraught with possibilities for manipulation.

Already, the months leading to election day were characterized by severe restrictions on fundamental freedoms, harassment of and attempts to suppress the independent media, persecution and intimidation of non-governmental organizations, and the disappearance of a former President of Serbia.

The laws and environment for these elections provided considerable scope for manipulation, with the Federal Government controlling the entire process, from the formation of election commissions to the tabulation of election results. The authorities' decision to bar the local non-governmental organization Center for Free Elections and Democracy (CeSID) from monitoring the process, their denial of visa to the OSCE/ODIHR, the European Parliament,

and three election-specialist NGOs from Bulgaria, Slovakia and Romania to observe the elections further increased the opportunity for fraud.

These elections were called after hasty constitutional amendments without any public debate. The Government of Montenegro questioned the legitimacy of the amendments and refused to assist in the organization of the elections.

The legislative framework for these elections raises serious concerns about the transparency of the process, the formation of election commissions, the provisions of ineffective legal remedies for the violations of fundamental rights, and inadequate provisions to ensure a level playing field. As a result, in significant respects, this legal framework failed to comply with international standards of democratic elections.

With the adoption of the October 1998 Law on Public Information, the media in Serbia has come under severe institutional limitations, repression, and self-censorship. The law provides for exorbitant penalties based on vague and broadly defined “misdemeanors”, breaching basic notions of the due process of law. This law remained in force during the election period and the media came under further pressure from a Supervisory Board set up by the Government to monitor the adherence to media-related election laws. In addition, a highly biased State-controlled media further skewed the playing field.

The voter registers, a source of significant concern during past elections in Serbia, presented again an opportunity for serious manipulation.

Preliminary Findings

Constitutional & Legislative Framework

On 6 July 2000, the Federal Assembly of the FRY was convened in extraordinary session and adopted constitutional amendments: (1) changing the election of the Federal President from a vote in the two Chambers of the Federal Assembly to a direct popular vote and extending the term of office to two four-year terms; and (2) changing the election of the Deputies to the Chamber of Republics from a vote regulated by each of the two republics to a direct popular vote regulated by Federal law. The amendments were adopted within a few hours after introduction, without consultations with Montenegro – one of the two Federation partners, but with the participation of representatives from Montenegro whose mandates were revoked by the Republic in 1998, and without a meaningful parliamentary or public debate.

A further concern was raised by an announcement of the FRY Prime Minister a few days before the election that a provision in the amended Constitution permits the current President to continue in office until July 2001 when his term expires, regardless of who wins the 24 September presidential election. Such an interpretation and delay in assuming office would be contrary to the purpose of elections.

On 8 July, the Republic of Montenegro rejected the amendments as unconstitutional. On 10 July, President Milo Djukanovic of Montenegro announced that the Republic will not participate in “illegitimate” elections called under the 6 July disputed constitutional amendments.

On 24 July, existing laws were amended and new laws adopted to conduct elections in accordance with the constitutional amendments adopted earlier. On 27 July, simultaneous elections were announced for 24 September for the President of the Federation, Deputies to the two Chambers of the Federal Assembly, and the Municipal Assemblies of Serbia.

On 30 August, the OSCE/ODIHR published a review¹ of the laws for the election of the President of the FRY, the Deputies to the Chamber of Citizens (lower chamber) and the Chamber of Republics (upper chamber) of the Federal Assembly, and the members of Municipal Assemblies in the Republic of Serbia. These laws raise serious concerns, including:

1. Far too little provision is made to promote transparency in the organization and conduct of the elections. There is no adequate provision to ensure effective monitoring by the mass media. There are no provisions for election observers.
2. The rules on the formation of electoral commissions at all levels effectively hand control of these bodies to the political party with a majority in the Federal Assembly.
3. There are no provisions to ensure a fair hearing and an effective remedy where a voter or a candidate seeks to challenge unlawful acts or omissions of electoral commissions.
4. There is inadequate provision to ensure a level playing field for participants in the elections.

Because these laws allow considerable scope for abuse, the legislative framework governing the 24 September elections does not comply in significant respects with international standards for democratic elections, or with OSCE commitments.

This is all the more troubling as the OSCE/ODIHR pointed to similar concerns when it observed the 1997 parliamentary and presidential elections in Serbia. Since then, the authorities have done nothing to remedy any of the concerns.

Media Legislation & the Election Campaign

With the adoption of the 22 October 1998 Law on Public Information in Serbia, the media situation in that Republic deteriorated rapidly. In addition, while some 400 electronic media outlets were broadcasting without a license and were therefore not authorized under the Telecommunications Law, they were nonetheless able to function, albeit under the threat of sanctions.

The Law on Public Information provides, *inter alia*:

1. A supposition of guilt based on vaguely and broadly defined “misdemeanors”;
2. A ban on the transmission in Serbian and the languages of national minorities in Serbia of political broadcasts from “organizations founded by foreign governments”;
3. A requirement of prior permission from an individual whose voice, image or name is broadcast or printed;

¹ *Assessment of Election Legislation in the Federal Republic of Yugoslavia and Serbia*, OSCE/ODIHR, 30 August 2000. This report can be accessed on the OSCE/ODIHR web site at www.osce.org/odihr.

4. A requirement that information broadcast or printed must “publicize the truth” and prevent the violation of “the honor and dignity of the individual”;
5. An abridged process for the prosecution of journalists and the media for violations of this law, breaching basic notions of due process of law, including that such proceedings should be completed within 24 hours, that the court was not obligated to inform the journalists and the media of the institution of proceedings, and providing for proceedings in absentia; and
6. Exorbitant penalties for the violation of this law, requiring that such penalties be paid within two days of the initiation of the proceedings, otherwise the personal and business property of the subject media or journalist would be confiscated, their work banned until the fine was paid, or if the fine is not paid, a jail sentence of up to 60 days.

Despite these severe limitations, the conduct of the media in Serbia was not uniform. Although most editors and journalists abided by the rules, a few violated the rules and were fined heavily or were jailed, and one prominent journalist, Slavko Curuvija, was gunned down. During the past two years the courts in Serbia have repeatedly sanctioned the independent media, invoking the law more than 50 times, imposing fines totaling over 30 million dinars, and closing at least three independent newspapers and ten radio and television stations (as of May 2000). By contrast, the State controlled media was never sanctioned under this law.

Against this background, the election legislation imposed a duty on editors and broadcasters to present all candidates in an independent and objective manner, provide equal representation to all contestants in the election, and for the state-controlled media and representatives of political parties to settle by agreement the modalities for equal presentation.

The monitoring of and supervision over the media-related election laws were entrusted to a Supervisory Board composed of seven members nominated by the Government and appointed by the Federal Assembly. As such, the independence and impartiality of this Board was at issue from the outset. On 16 August, the Board promulgated media regulations for the media, candidates and political parties, reiterating some of the prohibitions of the Law on Public Information, and adding other vague requirements. Further, the Board ordered that the media “were not allowed to doubt the objectivity of election bodies or the legitimacy of the elections”. The regulations also included some provisions in line with international standards.

The independent media faced harassment during the pre-election period. They were barred from the Federal Assembly debate on amending the election legislation; newspapers were denied sufficient supplies of newsprint; radio and television signals were blocked, broadcasters experienced interference, and the transmitter of TV Cacak was confiscated. Nonetheless, a number of independent media outlets continued to operate throughout the campaign, providing a variety of political views to voters.

Media monitoring during the pre-election period show the State-owned or controlled media did not meet its obligation to provide fair and equal coverage. State media showed clear bias in favor of the ruling regime, both in time, space and quality of coverage. The opposition received limited coverage and endured gross misrepresentation of its political program and activities. Round-table public debates were cancelled at short notice, reducing the amount of

direct political discussion available to voters and provoking complaints from political parties. Even the Serbian Radical Party complained of a biased State media.

An independent media monitoring project showed that 70% of the time given to politically significant events on the State-controlled *RTS* news programs was devoted to President Milosevic, the Government and the ruling coalition, without a single critical remark. The coverage of parties outside the governing coalition amounted to only 9% of the total time. When *RTS* mentioned Vojislav Kostunica at all, it did so mostly in a negative light. State owned newspapers *Politika* and *Vecerne novosti* also gave clear and open support to President Milosevic's campaign and, on occasions, *Politika* grossly misrepresented the political program and activities of the opposition.

A few regional media outlets within municipalities controlled by opposition parties and still functioning gave strong support to the opposition, reporting negatively on the governing coalition.

Election Environment

The pre-election environment was characterized by severe restrictions on the freedoms of speech and association. The FRY and Serbia authorities engaged in a campaign of intimidation against domestic NGOs, simultaneously displaying an intolerance of political opposition. Police detained political activists on an almost daily basis, often subjecting the detainees to brutality during interrogation. On 20 September, the Belgrade based Humanitarian Law Center reported approximately 2,500 political activists had been detained since May 2000. Repression was directed against activists from the student movement "Otpor", the campaign "It's Time" working to encourage voter turnout, and the organization "CeSID" planning to observe the elections.

The election campaign took place in an atmosphere of fear and intimidation. Although candidates were able to conduct public meetings largely without overt interference from State bodies, independent media frequently reported instances of police obstructing the legal political activities of the Democratic Opposition of Serbia and the Serbian Renewal Movement (SPO). Opposition party members were detained by police simply for possession of campaign material and on occasion prevented from collecting signatures from citizens in support of potential candidates.

On 25 August, the former President of Serbia, Ivan Stambolic disappeared. The FRY authorities have failed to inform the public on this disappearance.

Election Commissions

There was limited scope for political plurality or independence on election commissions. The functioning of these commissions remained secretive. The Federal Election Commission (FEC) refused to allow opposition representatives access to observe the data processing of election results at the central level, thus fuelling concerns that the tabulation of election results would be subject to manipulation.

Although political parties, including the opposition, were able to appoint members to the election commissions, the controlling majority of FEC members were appointed by the

Federal Assembly, with opposition members joining the process relatively late and unable to assert any control on the process. Since the FEC appoints the 28 intermediate-level commissions which in turn appoint polling station commissions, the independence of election commissions at all levels in the country could be at issue.

The Judiciary

The judiciary in Serbia has become an instrument of the Government to a large extent and cannot be relied for the resolution of election related disputes and appeals. Combined with the Government's total control over election commissions, aggrieved voters, candidates, and political parties cannot expect effective remedies for the violations of their rights.

Voter Registers

On 11 September, the FEC announced that 7,861,327 voters were registered in FRY, of which 444,130 in Montenegro and more than 1,000,000 in Kosovo. The credibility of voter registers were a significant concern during the 1997 elections in Serbia. The authorities of Serbia have failed to remedy the situation since then.

For the current elections, the authorities denied political parties the right to inspect the voter registers. On election day, polling stations received only one copy of the voter list for multiple elections, thus increasing the opportunity of manipulating turnout figures. Furthermore, the election law does not include sufficient safeguards to prevent multiple voting and ballot box stuffing, such as a requirement that voters sign the voter list when receiving a ballot. Combined with the absence of controls on the printing and distribution of ballots, the voting on election day was subject to serious manipulation.

Kosovo & Montenegro Vote

The electoral process in Kosovo and Montenegro was organized on *ad hoc* basis without basic environment required for a democratic vote.

In Montenegro, the Government boycotted the elections and regarded the polls as illegitimate. It did not allow voting in public places in municipalities controlled by the Republic's governing coalition and instructed the State-controlled media not to report on the campaign.

The FEC announced a list of 671 alternative sites for polling, most of them located in private buildings and premises belonging to Yugoslav companies. The total was somewhat more than half of what was used for ordinary voting in the Republic. The Government launched a campaign to discourage participation, which it believed gave legitimacy to unlawful changes to the Constitution.

The election process in Kosovo, the territory under transitional United Nations (UNMIK) administration, was somewhat confused. UNMIK has declared that its policy on FRY elections was "not to participate in, organize or in any other way condone or legitimize" the Federal elections. However, UNMIK also announced that it would not "stand in the way" of the elections.

As a result, the electoral process in Kosovo was marked by the ambiguous appointment of polling boards and the uncontrolled movement of election material. Few political rallies that took place sometimes led to violent incidents.

In previous elections, ethnic-Albanians from Kosovo municipalities have overwhelmingly boycotted Serbia and Federal elections, although official results were reported fraudulently to indicate a higher level of participation. Clear examples of such fraud were reported by the OSCE/ODIHR Election Observation Mission during the 1997 Serbia presidential re-run elections, concluding that "blatant election fraud" had been committed in Kosovo. For the current elections, some 600,000 ballots have been printed in the Albanian language when the overwhelming majority of the Kosovo population is likely to boycott the elections. The possibility cannot be excluded that blatant fraud may be committed again in the two constituencies, Prokuplje and Vranje, in which Kosovo voters are included.

Observation of the Elections

The legal framework for these elections did not provide for a non-partisan domestic observation. As noted previously, the activists of various NGOs specializing in electoral matters were arrested and harassed. The Center for Free Elections and Democracy (CeSID) was denied accreditation, its offices were raided by the police and closed, the equipment confiscated and the staff detained and interrogated.

The FRY authorities selectively denied visas to international observers. On 7 August, the OSCE/ODIHR requested entry visas for a team of experts to travel to Belgrade for an assessment of the pre-election conditions. In a letter dated 12 September, the FRY Ambassador to Poland, under instructions from Belgrade, informed the OSCE/ODIHR that the organization was not welcome to observe the elections and that it had no right to make statements about the elections.

The European Parliament attempted to send a team of 25 observers, but were denied visas. Three election-specialized NGOs from Romania, Bulgaria and Slovakia also attempted to organize an observation of the FRY elections, but were denied accreditation.

The Belgrade authorities selectively invited parliamentarians and other delegations from a number of States to observe the elections. However, these observers lacked coordination and an observation methodology.

The absence of any effective election observation, both domestic and international, and the expulsion from the country of some 20 foreign journalists two days before election seriously compromised the transparency of the process and voter confidence.

Election Day

On election day, turnout in Serbia, including some 44,000 in Kosovo, was reported over 70%, and in Montenegro around a quarter of the electorate. While these overall turnout figures do not appear unusual, the number of absentee ballots cast, in particular in Montenegro, appear high.

In an extraordinary decision on the eve of the election, the Federal Election Commission ordered polling commission members to inspect marked ballots before allowing voters to cast their ballots, allegedly to prevent voters from casting multiple ballots. In another significant development on election day, widespread reports were received that representatives of opposition parties on polling station commissions were expelled from polling premises and CeSID activists as well as opposition observers were assaulted or detained.

Other reports of violations were also received on election day, but their extent is not known. There were reports of ballot box stuffing and voters not able to cast their ballots because their names had already been checked by others on the registers as having voted. Already a few days before election, there were reports that pre-marked ballots were discovered and State employees were forced to participate in a scheme to cast pre-marked ballots for the incumbent President. There were also reports of some violence in polling stations, individuals casting multiple ballots, and voting without a proper check of identification documents.

In Montenegro, where the FEC called on the army to “maintain public order” during the voting, the military police were seen harassing activists of an independent NGO Center for Democratic Transition monitoring the poll outside polling stations as they were denied accreditation.

During the night after election day, the expulsion of all opposition and Serbian Radical Party members from the Federal Election Commission session and premises was a further indication of this elections’ fundamentally flawed character. Nonetheless, the first indications point to a lead by opposition presidential candidate Vojislav Kostunica.

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