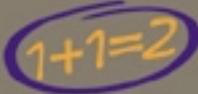


CeSID MINI SERIES

GUIDE
ELECTORAL **THROUGH**
CONTROL **VERSIES**
IN **SERBIA**

 **CeSID**
CENTAR ZA SLOBODNE IZBORE I DEMOKRATIJU



CeSID MINI SERIES

GUIDE
ELECTORAL
IN
THROUGH
CONTROVERSIES
SERBIA

CeSID MINI SERIES

GUIDE THROUGH ELECTORAL

published by
**CENTAR ZA SLOBODNE IZBORE
I DEMOKRATIJU**

for the publisher
Slobodanka **Nedović**, Ph.D.

translators
Vladimir B. **Zimonjić**
Slobodan S. **Štetić**

design & layout
Branko **Gavrić**
TOTAL DESIGN

printed by
Tipografic Beograd

printrun
500 issues

Beograd
july 2000

CeSID

Kralja Milutina 21/V, 11000 Beograd, Yugoslavia

(381 11) 32 35 436, 33 42 762, 33 42 771, 33 43 553 • <http://www.cesid.org.yu> • e-mail: cesid@cesid.org.yu • cesid@bits.net

CeSID MINI SERIES

CONTROVERSIES IN SERBIA

 **CeSID**
CENTER FOR FREE ELECTIONS AND DEMOCRACY

*

PREFACE

Cesid offers this Guide through Electoral Controversies in Serbia to the interested public, primarily representatives of international organisations, diplomats and journalists who are interested in political occurrences in Serbia. The Guide represents a concise, analytical overview of electoral events in the past decade.

It is our wish to contribute to better understanding of problems and controversies marking all the multiparty elections held so far in Serbia. Those were of such proportion that we could say with great reliability that Serbia has remained the only country in the region where the free and fair elections have not been held so far. This fact characterises the entire political life in Serbia. The absence of free and fair elections explains to the great extent some particularities of Serbian political life compared to other post-communist countries in the region. Out of those particularities, as the most important one, stands the survival of the Socialist Party in power, since it ruled (as the League of Communists of Serbia) even in the communist period.

Just like all other CeSID projects, this one was accomplished with the intention of strengthening the long-lasting demand of the democratic public for holding the first free and fair elections in Serbia. We believe this Guide shall help the representatives of international community, who are supporting this demand, to recognise the problems, get acquainted with the arguments and define the most adequate forms of their engagement in support for free and fair elections in Serbia.

The team of experts who prepared this Guide included:

Mr. Vladimir Goati, Ph.D.,
Mr. Dragor Hiber, Ph.D.,
Mr. Lav Ivanovic, Ph.D.,
Mr. Zoran Lucic, Ph.D.,
Mr. Srecko Mihailovic, Ph.D.,
Ms Snjezana Milivojevic, Ph.D.,
Ms. Slobodanka Nedovic, Ph.D.,
Ms. Marijana Pajvancic, Ph.D.,
Ms. Zorica Radovic, Ph.D.,
Mr. Slobodan Vucetic and
Mr. Milos Zivkovic, M.A.

Belgrade, June 30th, 2000

Slobodanka Nedovic, Ph.D.
CeSID Director

T A B L E O F C O N T E N T S

PREFACE	5
INTRODUCTION	9
NONEXISTANCE OF CONSENSUS ON ELECTORAL CONDITIONS	15
Contents and the Means of Establishing a Desired Consensus	16
Initiatives to Reach the Consensus	17
Conclusion: Disputes and Distrust instead of Consensus	20
ELECTORAL BODY IN SERBIA: LOYALTY VERSUS CHOICE	21
Indirect and Direct Choice	23
Absolute Value Opting: Socialist Nationalism and Nationalist Socialism	24
From Indirect to Direct Choice	25
LEGAL REGULATIONS ON ELECTIONS	26
Regulations on Elections are not codified	29
Regulations on Elections are Frequently being altered	29
Electoral Legislation was Frequently Altered by Violation of Rules of Legislative Process	30
General Inconsistencies in Legal Regulations on Elections	30
Regulations on Evidence of Voters - Incomplete Electoral Registers	31
Contents of Material Voting Right are not provisioned by Constitution	31
The Process Voting Right is incompletely regulated	32
Regulations on Electoral Districts do not provide completely for many important issues of Electoral Geometry	33
Rules of Electoral Technique are not precise and are frequently used for post-factum alterations of basic Regulations on Elections	35
BODIES FOR HOLDING OF ELECTIONS: ELECTORAL COMMISSIONS AND ELECTION BOARDS	37
REGISTER OF VOTERS: ELECTORAL REGISTERS	41
Who maintains the Electoral Registers?	42
Abstracts from Electoral Registers	42
Uniqueness of Electoral Registers and Multiple Voting	43
Insight in Electoral Registers	44
Inequality of Voter's Right	45
POLITICAL PARTIES	45
Renewal of Political Pluralism	45
Valid Regulations on Political Parties	46
Founding of Political Parties - Conditions and Procedure	47
Territorial Principle of Organisation and Publication of Activities of Political Parties	47
Termination of Activity of Political Party	48
Jurisdiction for Issuing the Measures of Prohibition of Activities of Political Parties	49
Financing the Activities of Political Parties	49
ELECTORAL SYSTEM AND ELECTORAL MATHEMATICS - IMPACT ON ELECTIONS RESULTS	55
Two-rounds majority system	55
Single-round majority system	55
Proportional System	56

GUIDE THROUGH ELECTORAL CONTROVERSIES IN SERBIA

Mixed system	56
System of greatest ratios (d'Hondt system)	56
d'Hondt formula	56
Nimayer formula	56
Number of Electoral Districts	56
Eliminatory Census	57
Calculation of Number of Votes into Mandates	57
Electoral Geometry	57
Results of Federal Elections	58
Table of Federal Elections	58
Results of Republican Elections	59
Table of Republican Elections	59
Results of Presidential Elections	59
Table of Presidential Elections	60
INFORMATION ON ELECTIONS AND MEDIA IN ELECTION CAMPAIGN	63
Media and Elections: Discrimination under Government Protection	63
Electoral Significance of Media	63
Production of Information	63
Specialised Electoral Production	64
Free Media and Fair Elections	64
Law on Public Information of Serbia	65
Contents of Law	65
Application of Law	67
Allocation of Frequencies to Electronic Media	68
Problem of Competence	68
Problem of Foundation of Electronic Media	68
Problem of "Pirate Stations"	69
Problem of Fees	69
Problem of Foreclosure of Stations	69
Goals to be achieved by the Government	70
PROTECTION OF ELECTORAL RIGHT	70
Procedure for protection of Voting Right before Municipal Administration	71
Protection of Voting Right in the procedure before Electoral Commissions	72
Protection of Voting Right before the Court	73
ABBREVIATIONS	75
ADDENDUM I: Chronology of multiparty elections in Serbia	77
ADDENDUM II: Chronology of the attempts to unify the opposition in Serbia 1992-2000	78
ADDENDUM III: Conclusions of the Round Table of Democratic Opposition (October 14 th , 1999)	81
ADDENDUM IV: Documents adopted by the Round Table of Democratic Opposition (January 10 th , 2000)	84



INTRODUCTION

Serbia is different from all other post-communist countries of South-Eastern Europe because, in the period from 1990 to 2000, not single free and fair elections were held. It is true that, within that period of time elections were held; four times republican elections (1990, 1992, 1993 and 1997), three times federal elections (May 1992, December 1992, 1996) and two times municipal elections (1992, 1996), but it was their common characteristic that the position of the ruling SPS (or election coalitions whose backbone was SPS) was incomparably more favourable than the position of the opposition parties.

Superiority of the ruling SPS over the opposition, from 1992 to 2000 has permanently been expressed in institutional, media and economic field. Superiority of SPS in institutional field was reflected in the fact that the party has unilaterally, leaning on the majority in the Parliament and with no respect for disagreement of the opposition, has been proclaiming and changing the rules for the election contest (primarily the law on elections and the law on electoral districts). Besides, SPS has been creating and stimulating uncertainty in the field of electoral rules by the fact that the Assembly, under SPS conduction, has frequently altered important electoral rules immediately prior to the elections (i.e. number of electoral districts was increased from nine to 29 two months before the parliamentary elections in 1997, in spite of objection of the opposition parties), adopted electoral rules with retroactive effect (i.e. alteration of the Law on the Election of Deputies for the Chamber of Republics, adopted in January 1993 after the elections had already been held) and had arbitrarily interpreted its previous decisions.

In the state controlled media, especially electronic, SPS was - according to the results of numerous empirical researches - convincingly superior over the opposition, both during the election campaign and in the off-elections periods. The superiority of SPS over the opposition parties in this field is even more obvious in the late than the early 90s.

In the economy, the superiority of SPS is not a result of market reality but of the system as it stems from domination of so-called social (in fact state) ownership in Serbian economy. Under the circumstances, the ruling party has, in fact, the role of „general manager“ of the state owned economy and

provides in more or less visible way, its partial economic interests.

However, all the aforementioned were not always sufficient to secure the election victories to SPS, so the ruling regime in Serbia had to use electoral manipulations that violated regulations adopted by the regime itself. Among the manipulations - that have been pointed out by the OSCE missions, CeSID, opposition parties and independent election experts - the most important are: double voting en-masse, „voting“ of persons being permanently absent or deceased, the pressure on employees to vote for SPS candidates made by the management of „socially owned companies“, organised planting of already prepared voting ballots into the polling boxes (1996 municipal elections, particularly in the town of Nis), forging of electoral records and election board records, alteration of the election results made by electoral commissions and the large-scale annulment of the election results by courts rulings (particularly in 1996 municipal elections) and finally „rewriting“ of number of voters in order to secure the victory for the ruling party's candidate and/or fulfil the legal requirements for the validity of the elections (presidential elections in December 1997).

The absence of free and equal elections between 1990 and 2000 explains to the great extent some specifics of political life in Serbia compared to other post-communist countries in this region. Out of those specifics, the very important one is survival of SPS in power, since it ruled (as League of Communists of Serbia) even in the period of „self-management socialism“. However, after the elections held in 1997, SPS was forced to form on March 24th 1998, with SRS and JUL, a coalition government („red and black“ coalition), but in spite of that, up to the end of this period SPS has withheld all the relevant leverages of power in its hands, above all the control over the state apparatus, economy and the official media. In fact, together with SPS almost entire ruling political elite of „the old regime“ remained in power in Serbia.

Since 1990, democratic opposition parties have striven to obtain the equal election conditions, particularly the equal representation in official media and with such goal occasionally organised peaceful protests (1991, 1992) and boycott of elections. However, the protests were „short-winded“ and not successful in forcing the ruling SPS to ease, whereas the boycott of elections for Serbian National Assembly (1997) organised by twelve opposition parties (among others: DS, DSS and GSS) failed since one of the most important opposition parties, SPO, sustained from boycott. This is just one illustration of the chronic disunity of the democratic opposition parties, which has been obvious since 1990 and has also eased SPS' remain in power.

Before federal and municipal elections held in November 1996, it seemed that the most important democratic opposition parties (SPO, DS and GSS) had overcome previous misunderstandings since they joined in the coalition „Zajedno“. This coalition was also joined by DSS but only for federal and not for the municipal elections held at the same time. Coalition „Zajedno“ failed in federal elections but in the municipal elections managed to win the power

INTRODUCTION

in about forty municipalities and cities in Serbia including the city of Belgrade. Serbian ruling regime attempted to prevent the opposition to take the power by a series of manipulations, using electoral commissions and courts, that resulted in protests of hundreds of thousands of citizens of Serbia. Faced with increasing tide of protests and the pressure of international public, in February 1997 the regime reluctantly recognised the electoral victory of the opposition. That victory encouraged hopes and expectations of citizens for democratic transformation of Serbia, that were confirmed by results of the research performed in May 1997 by the Institute for Social Sciences, showing that majority of citizens would vote in eventual elections for the coalition „Zajedno“. However, at the very peak of its influence, this coalition fell apart because of personal animosities of the leaders of SPO, Vuk Draskovic and DS, Zoran Djindjic, causing deep disappointment of democratic oriented public.

This disintegration of the alliance „Zajedno“ was followed by getting closer of SPO and ruling SPS, that was reflected in the assistance provided in the Autumn of 1997 by SPS that enabled SPO to take over all key positions in the Municipal Assembly of Belgrade from DS, its most recent former partner from the coalition „Zajedno“. Furthermore, in January 1999, SPO even became the coalition partner of SPS, JUL and SNP CG in the Federal Government. To tell the truth, SPO participation in government only lasted by the end of April the same year, when this party was eliminated from the government for its strive to resolve by compromise the military conflict between the NATO and FRY (March 24 to June 9, 1999).

After the end of NATO air strikes on FRY, the process of closer affiliation of democratic opposition parties started. The first political goal that united the disintegrated opposition in Serbia was the demand for free and equal elections at all levels. In the Conclusions of the Round Table of Democratic Opposition on Minimum Conditions for the early, free and fair elections at all levels, adopted on October 14th 1999, the opposition parties have put up the following demands: proportional electoral system with maximum of 8 electoral districts, revision of electoral registers, control of all stages of electoral procedure and presence of international monitors, agreeable formation of electoral commissions, annulment of the Law on Public Information of Serbia (1998), adoption of the new law on political parties and strict control of financial dealings of the parties. The models of laws (on election of deputies, on political parties and on financing of political parties), used as the basis for definition of demands, were made by the expert group of CeSID.

An important step in improvement of relations between the opposition parties is also their agreement from January 10th 2000 on joint appearing in the elections, cancellation of mutual public conflicts and rejection to make separate agreements with the parties of ruling coalition (SPS-JUL-SRS). The demand for early, free and fair elections at all levels was repeated by Serbian democratic opposition parties in the big protest rally held in Belgrade on

April 14th, attended by about 200.000 citizens.

Simultaneously with closer affiliation of opposition parties, there is an irresistible decrease in political support of citizens of Serbia for the parties of the ruling „red and black“ coalition. Such judgement has been supported by findings of numerous empirical researches conducted between September 1999 and March 2000 by various organisations (IDN, National Democratic Institute, Agency „Medijum“, Agency for public opinion research „Strategic Marketing“, Centre for studies of alternatives and United Branch Unions „Nezavisnost“), indicating that the electoral body of Serbia gives more support to democratic opposition parties as a group than to the parties of the ruling coalition. As a matter of time, electoral chances of the ruling „red and black“ coalition are less favourable, since it should be expected with great certainty that a part of extremely large group of undecided (40 to 55 percent, according to some surveys) shall opt for the opposition parties because of the inevitable decrease in standard of living of the population, caused by the total economic isolation of Serbia. Besides, according to empirical surveys conducted in August and September 1999 by Centre for studies of alternatives and UBU „Nezavisnost“, the democratic opposition parties have one more, extremely important advantage over the ruling parties. *This is the fact that the supporters of the opposition are much more homogenous among themselves than the supporters of SPS, JUL and SRS, indicating better chances to form successful electoral coalitions among the opposition parties than among the three ruling parties.*

Faced with the „tide“ of support for democratic opposition, the ruling regime in Serbia strongly opposed the demand for free and fair elections. The relentlessness of Serbian ruling regime is the consequence of the high risk that such elections might bear for its most influential officials, primarily for the President of the FR of Yugoslavia, Slobodan Milosevic, and the President of Serbia, Milan Milutinovic, who were indicted in 1999 by the International Tribunal in Hague. *In their case, the electoral failure would not only mean the loss of power and the move to the opposition, but also the probability to be extradited to the International Tribunal and eventually sentenced.*

The regime in Serbia has not only rejected the unified demand of the opposition for the free and equal elections, but has also deteriorated the existing, already unequal electoral conditions, at the opposition's expense, by adopting the „Law on Local Self-government“ in the National Assembly of Serbia (November 11th, 1999). This law practically suppressed already minimal local autonomy and, in that respect, narrowed the space for the activities of the opposition, which won the power in about forty municipalities and towns in the Republic. On top of that and in spite of the firm resistance of all democratic opposition parties, the named law introduced the single-round majority electoral system for the election of municipal governing bodies that, by the balance of power within the electoral body, suits the ruling „red and black“ coalition completely. By stipulations of the Article 146 of this law

INTRODUCTION

„The elected Deputy in the electoral district is the candidate with the majority of votes“. The named law, just in case, also has another mean for „re-insurance“ against the non-desired elections result; this is the case in which the first degree municipal courts make valid decisions in case of electoral disputes, by which act the constitutional principle of two degrees court process is being violated. The adoption of the named law is probably the result of Serbian ruling regime’s intention to, by organising municipal elections in the year 2000, take over the government and the local media from the opposition in a part of municipalities and towns of Serbia. The parties of the „red and black“ coalition would, in that way, improve their prospects in regular federal elections, that are to be held by the end of year 2000, and the republican elections to be held in 2001.

Holding of the first free and equal elections at all levels, the opposition is striving for, would enable peaceful way out from the present „political dead-end street“, in fact the complete polarisation of the political scene in Serbia into the two, totally confronted political blocks. At the same time, such elections would open the road to the radical democratic changes and establishment of the democratic regime in Serbia that would be „compatible“ with regime of the other Republic in FR of Yugoslavia, Montenegro, as well as with regimes of all other European countries. The government that stems from democratic elections in Serbia might have all prerequisites for accomplishment of the political reconciliation with Montenegro and, consequently, provide for the survival of the political union of the two republics. Finally, free and equal elections, as well as democratic transformation of Serbia being initiated by them, should contribute to preservation, within the borders of FRY, of the Province of Kosovo and Metohija presently being under actual tutorage of the UN. The UN Security Council Resolution N° 1244 (June 10th, 1999) speaks of that Province as „the autonomy within Yugoslavia“. To the contrary, the survival of the authoritarian regime in Belgrade increases the probability of disintegration of the FR of Yugoslavia that would force the international community to look for alternative - from Serbian point of view definitely less favourable - solution for Kosovo and Metohija.



NONEXISTANCE OF CONSENSUS ON ELECTORAL CONDITIONS

There was no discontinuity of power in Serbia. The same party (League of Communists, later named the Socialist Party of Serbia), adopted in 1990 the decision to enable the multiparty democracy, adopted the Constitution (in one party Parliament), the electoral regulations and decision on calling the multiparty elections. At the same time, using all state and socially owned institutions, this party kept the complete control over almost all, electronic and printed media. The control over private media, founded later, has been attempted by means of repressive regulations on public information. Finally, this party has also grabbed extremely big properties of former League of Communists, as well as of the Socialist Alliance, "broad popular front" controlled by the League of Communists. Those properties, particularly numerous real estates in all municipal centres in the country, were previously financed directly or indirectly from the state budget. The newly formed opposition has entered the election contest without any financial assets.

Ever since the first multiparty elections in Serbia/FR of Yugoslavia, the question of conditions for their preparations and holding arose. The newly formed opposition parties, at the last moment, have sustained from the boycott of the first elections. But the following elections for the Assembly of the newly formed Federal Republic of Yugoslavia (May 1992) were boycotted. Since those times, the opposition permanently claims there are no elementary conditions for the fair elections. Independent monitors, both domestic and international, also did not judge as satisfactory the elections they were monitoring. The attempted rigging of the municipal elections results in 1996, led to the massive protests that lasted several months up to the recognition of the results, whereas the significant part of democratic opposition boycotted the republican parliamentary and presidential elections in Serbia in 1997.

There are numerous complaints of opposition (and independent monitors and analysts) related to the conditions under all the elections were held. All those complaints were addressed to the regime, the unchanged government being impersonated in the very same persons at the top.

These circumstances, up to the great extent, derive from the fact that the

whole system is octroyed both in political and sociological sense. The basic institutions, from constitutional framework, over electoral laws, and up to media regulations (for the first elections), were all set up by the bodies of the one-party system. The permission for organisation of political parties and democratic institutions was preceded by long and persistent resistance of the same bodies, accompanied by persecution of those who demanded them. The multiparty elections, like something being imposed, are institutionally and, if that is not sufficient, extra-institutionally controlled by the government.

Ever since the first elections, opposition asked for the improvement of electoral conditions, fair and honest elections, conditions for control of elections, in fact it's incorporating into the institutions of the political system. With respect to the other countries of Central and Eastern Europe that opted for transition, this demand has most often been set out as demand for having the Round Table of the government and the opposition, the institutionalised negotiations resulting in obligatory decisions.

With the exception of certain attempts, these demands have been decisively rejected, whereas this segment of the battle for democratisation of Serbia turned into the process of extorted cessions, most often after the massive citizens protests (along with simultaneous pressure of the international community) and further deterioration of conditions whenever the regime considered itself being strong enough to afford it.

The process however, progressed under very complex political circumstances. The main characteristics of those circumstances were the blood-stained wars in the process of disintegration of former FRY. Therefore, the political platforms on democratisation process were, by appealing the need for "unity" of state and people in war conditions, conditions of the alleged national jeopardy etc., qualified as anti state and non-patriotic. The real discussion on prerequisites for democratisation has been avoided in that way and its political initiators have been proscribed and legally prosecuted.

These circumstances climaxed after the Kosovo crisis and NATO air strikes on Serbia/Yugoslavia; apparently, the dialogue has been burdened up to the point of impossibility and the question of consensus contents on electoral conditions was raised in a new way.

Contents and the Means of Establishing a Desired Consensus

There are two groups of questions that make the necessary contents of consensus:

- Establishment and realisation of the electoral rules system enabling the fair and honest elections (electoral system, means of establishment and scrutiny of the electoral registers, means and control of voting process, protection of voting right, media rules, means of registration and financing of parties...), and

NONEXISTANCE OF CONSENSUS ON ELECTORAL CONDITIONS

• Consensus on the general idea on functioning of democratic institutions and particularly on the changeableness of power, in other words peaceful transition of power in accordance with the election results.

The first multiparty elections in Serbia were prepared and held in the way that led towards complete distrust of the election candidates, divided in two, almost irreconcilable blocks.

Furthermore, not much has been done in the past ten years, to make a stable electoral system. Elementary electoral rules, i.e. majority-proportional and half-proportional system (too many electoral district) were often altered on purpose and most frequently prior to elections. (Sometimes, the rules have not covered even the mandate of the Parliament itself, as well as mandates of MPs and deputies. So, the possibility of revocation of MPs and deputies, on the grounds of expulsion or withdrawal from the party was introduced retroactively). Even the registered violations of such electoral rules, as well as electoral thefts, were not sanctioned in proper way by recalling the responsibility of those who committed them! Practically, there are no media regulations; there are no sanctions even for the existing ones, except for the very repressive Law on Information that is practically applied only to media that are not government controlled. General legal insecurity creates a great distrust in possibility of legal regulation of the problem.

The result was that the opposition permanently attempted to put pressure on the regime to provide for more equal electoral conditions. In this struggle, the result of which has never exceeded minor and often-provisional success, the gap was growing larger, so the analysts have even raised a question on probability of peaceful transition of power and recognition of the election results in case the regime loses the elections.

Therefore, the electoral consensus neither can comprise only the electoral rules nor the related fields like media freedoms and media rules, but has to represent much more, the firm attitude that democratic rules of the game are to be respected.

The Round Table with obligatory decisions is most frequently emphasised as means for accomplishment of consensus. The regime, however, answered to the demands of the Round Table - with one little exception in case of the Federal Government of Milan Panic - by redirecting them to the existing institutions, above all to the majority controlled Parliaments, with no chance for a real debate. The Parliaments decided on all issues by mere outvoting.

Therefore, as an alternative to the real consensus, appears the insisting on rules that enable maximal control, neutral monitors and mechanisms providing for the transfer of power.

Initiatives to Reach the Consensus

Since the first parliamentary multiparty elections, held in 1990 by the majority system, without participation of the representatives (of the opposi-

tion, for the position parties were represented through the regime bodies) of the parties in the electoral bodies with totally controlled media scene and severe anti opposition campaign of the state-owned TV, the opposition has tried, on several occasions, to implement the projects of the electoral system reform and the improvement of general electoral conditions. In most cases, it was a question of combination of the institutional and extra institutional means of pressure. This shall be presented chronologically in brief.

The big opposition demonstrations were held in Belgrade on March 9th 1991, asking for liberation of state-owned electronic media and particularly the replacement of executives and editors of the state-owned TV who exceptionally stood out in opposition mocking and manipulations of the pre-electoral campaign. After police attempts to break the demonstrations the riots started, ending only after the turnout of the armed forces with tanks in the streets of Belgrade, and by arrest of many of the opposition leaders. However, when two days later the students' protests broke out as well, the mentioned editors and the Minister of Interior resigned.

In May 1992, elections for the Assembly of FRY, established by the new Constitution of the FR of Yugoslavia, were held by the new, mixed electoral system. Since everything has been prepared without participation of opposition (also including the adoption of the Constitution and electoral regulations by former incomplete Parliament of the SFRJ), the opposition has boycotted the elections. The general strike of Belgrade University students and the big rallies, lasting for many days in Belgrade ("Vidovdan Meeting"), followed in June 1992. The Federal Government of Prime-minister Milan Panic accepted the talks with representatives of parliamentary opposition parties on electoral conditions in a form of mini Round Table (to the extent that the topic of talks was narrowed to the electoral system). Besides other things, the opposition asked for proportional electoral system in which Serbia would represent one electoral district. The proportional electoral system was adopted but with 9 electoral districts that, besides other things, practically enabled the ruling party to have 27 Deputies from Kosovo electoral district in advance, since only the citizens of Serbian nationality voted and the control was not possible, so the electoral commissions had a vast space for manipulation. In media sphere, a foundation of Media Council has been planed, later seen as a body without any real competence. The early elections, at all levels, including the elections for the President of the Republic of Serbia, were held in accordance with the new system. Numerous imperfections were found, among others the illegal involvement of the municipal electoral commissions in the electoral procedure for the President of the Republic.

In 1996/1997, after the federal elections (held in the Republic of Serbia by the new system, with 29 instead of previous 9 electoral districts - the change should have provided, by use of d'Hondt system, the additional advantage to the position, wining the odd mandates in as many electoral districts as possible) and the municipal elections, a great scale of annulments of the munic-

NONEXISTENCE OF CONSENSUS ON ELECTORAL CONDITIONS

ipal elections results by court decision took place in the municipalities where the opposition won. Simultaneously with the marathon court proceedings, the largest massive demonstrations of citizens started all over Serbia, demanding recognition of their electoral will and fair elections in the future. The problem analysis was made by the OSCE Commission headed by Felipe Gonzales. Besides the statement on the real election results, suggestions of this Commission emphasise the need for alteration of the electoral process. Control of the elections and essential change of media situation were particularly pointed out. When president Milosevic proposed and the National Assembly adopted the special Law, mostly recognising the results of the municipal elections, the opposition has pointed out the suggestions as its demand to the regime, asking for the Round Table dedicated to the electoral conditions.

Since the regime, in 1997, has done nothing that would lead towards the acceptance of the Gonzales report suggestions but in contrary the electoral system has been adopted for the federal elections of 1996 (29 electoral units in Serbia) and also for the elections for the National Assembly of Serbia, breaking up by violent expulsion from the parliamentary session a group of Deputies that by legal parliamentary obstruction (proposing hundreds of amendments) tried to stop the adoption of the law, a group of democratic parties (DS, GSS, DSS, DC and others) has adopted a document named Minimal electoral conditions for presidential and parliamentary elections 1997. The document repeated the standard demands: stable democratic electoral legislation, control of the electoral process by international standards, including international monitoring, equal treatment of electoral contestants in state controlled media, transparent financing of parties. The document was sent to all relevant state institutions. Prime minister of the Republic of Serbia even held (formal) meetings with representatives of signatories but not a single demand has been accepted. Consequently the parties who signed it (except DC, in case of presidential elections) have boycotted the elections and conducted an active anti election campaign. The boycott was partly successful. According to the official information, disputed by certain NGOs that were monitoring the elections, the turnout was hardly above 50% whereas the second round of presidential elections failed and they were repeated.

The demands for the fair elections were repeated in 1999/2000. Representatives of all relevant opposition parties in Serbia gathered in October 1999 and adopted, once again, more detailed proposition for the minimal electoral conditions along with the demand for early elections on all levels. The plan was to use the Round Table as a form for accomplishment of consensus (including the nomination of electoral bodies by the new system). Models of laws (on election of MPs and deputies, on political parties and on financing of political parties) that were prepared by CeSID were used as basis for definition of demands. In the National Assembly of the Republic of Serbia,

SPO demanded the discussion on those propositions and, as requested by Committee in charge, even submitted the proposal of electoral regulations (slightly altered CeSID model). This initiative was rejected and the National Assembly adopted the new Law on Municipal Self-government with single-round majority system and limited judiciary control of electoral process legitimacy. These demands were repeated in the meeting of allied democratic opposition (January 10th, 2000) as well as in the big rally held in Belgrade on April 14th 2000, and they represent one of the basic opposition meeting points.

Conclusion: Disputes and Distrust instead of Consensus

Serbia has missed the chance to enter the process of transition, at least by elementary democratic compromise. Today, more than ever, it is divided into the two, in many ways, irreconcilable blocks. Repression and the political violence have become the every day reality.

These circumstances are not favourable neither for acceptance of forms of communication that were customary in other states in transition, nor for democratic compromises that shall ground the political fights to normal scopes.

Some issues being the potential subject of compromises should, therefore, be resolved by regulations as much as possible in compliance with internationally accepted standards, as well as by provisions for their obedience.

However, there are the issues that might without compromise jeopardise the possibility of holding the democratic elections. In the first place that is the issue of the elections in Kosovo, also related to the elections for bodies of Republic of Serbia and FR of Yugoslavia.

The compromise, no matter how necessary is hard to achieve in this moment. Inevitable is the effect of the long-lasting political and economic crises, wars and atrocities.

ELECTORAL BODY IN SERBIA: LOYALTY VERSUS CHOICE

Why do the elections in Serbia support the political party that forms a government whose work is very dissatisfactory for citizens of Serbia? How does Socialist Party of Serbia manage, alone or in some pre-elections or post-elections coalition, to obtain the support of citizens even though the people are discontented with its rule?

Both of these are obvious. It is obvious that, with the exception of first republican elections in 1990, that SPS has never ever managed to obtain the electoral majority that would enable it to rule on its own. However, in the elections of 1992, 1993 and 1997, this party has individually won the most of votes, and by entering into certain coalitions managed to keep the power. On the other side it is obvious that all public opinion surveys, beginning from 1992, expressed widespread and always over superficial discontent of citizens with a work of the government, various political institutions, numerous activities, economy and personal standard above all.

It is obvious at first sight and may also be stated by argument that there is no retrospective voting in Serbia. More precisely, the voting in Serbia is very seldom based on the government performance, that is, however, one of the forms of the so-called "rational choice"! In other words, putting it bluntly the government in Serbia can do whatever it wants, arbitrarily and voluntarily, but for some reasons, the party behind such government shall always have enough support from the citizens to go on doing it. How can that be explained?

It is beyond dispute that a part of explanation derives from electoral thefts. However, those cannot explain this phenomenon completely and are not the major subject of the possible explanation. Anyhow, we can always ask the question: Why the opposition has not won sufficient number of votes by which it would annul the electoral thefts of the ruling party, once already not being capable to prevent the thefts?

Among several possible explanations of this absurd phenomenon (voting in favour of those whose work is dissatisfactory), we shall concentrate here on the one that significantly explains that absurdity. This is the matter of voters' qualification, in other words the matter of the question: *How do the citizens vote and why do they vote the way they do*, since the answer to: *whom do*

they vote for is already known!

All the electoral legislation, in one way or the other, treat the question of citizens' capacity (qualification) for participation in the elections, even if that issue is limited to the question of maturity as prerequisite. Sociologists as well as other analysts of the political scene, led by the idea of evaluation and the range of the elections generally, may take a step further and focus their attention to: *capacity of voters to make rational decisions!*

The choice undertakes at least two fulfilled prepositions: First, the knowledge (or at least the idea of knowledge) on essence and important characteristics of the contents (of the candidate for example) that are the subject of choice; and second, freedom to choose what one prefers.

The knowledge (being informed) on contents that are subject of choice is the necessary prerequisite for the choice. Although, it is quite enough even to think that one knows. Therefore, this is not the question of the authenticity of knowledge per se, but the presence of procedure that might produce also the authentic comprehension of phenomena, or the protagonists being chosen. This knowledge may as well be based on manipulated information. The point is the existence of procedure in which the voter, before the elections, is trying to gather certain information (real or manipulated, irrelevant at this moment) and opts on basis of that information.

Therefore, the questions preceding are the following: are citizens of Serbia capable of following the procedure of gathering the knowledge necessary for rational choice¹, are they sufficiently interested in politics² to confirm their choice by casting their votes to certain party or candidate, are they capable of resisting the strong social pressure to vote³ for one or the other (that is extremely strong in particularly confronting political situations such as ours)... Lack of information and interest in politics are also the main factors

¹ Citizens may make a choice in the elections on the basis of a colour or of a symbol (donkey, elephant), but the question is whether it is a choice at all? Bearing in mind the fact that the census from 1991 showed that almost two thirds of mature population of Serbia has only the elementary education if any, that it is really the question whether or not we can speak of a rational choice. Some analysis even mention one third of the population being functionally illiterate, in other words the number of people not being able to read a part of the text from daily papers and interpret its meaning, so it is a question of the meaning of elections for citizens of such 'literacy'.

² One public opinion analysis, from September 1999, showed that 31% of citizens were not interested in politics, whereas other 35% were interested 'a little, not particularly'. Another information from the same analysis should be added here: 10% of the citizens expressed their total indifference regarding the results of the elections, whereas 18% expressed the insignificant concern, that are substantially high percentages accompanying those 7% who could not even know whether they cared or not who would have won in the elections [Mihailovic, S (ed.) *Public Opinion in Serbia, Between the disappointment and the hope*, Belgrade 2000].

³ Casting of vote, dictated from outside, forced - irrespective of whether the citizen has or not the voting will. In case of absence of the voting will, i.e. of the older, semiliterate or illiterate woman in a country family - the interested family members 'take granny for a vote', and she 'votes' as told by her husband, son or a granddaughter... In second case, the worker gets in his firm the ballot paper already marked in favour of 'the candidate who should be marked', and has the obligation to drop this paper into the ballot box and return the blank ballot paper to his firm (so that the manipulators would know that the worker 'fulfilled his obligation'). The strong social pressure in certain communities, to vote in one or the other way, should be added to this!

of electoral abstinance. But, we put all those question aside and concentrate on citizens knowing whom to vote for, turning out at the elections and casting their votes to preferred parties and candidates, doing it by their own will and not under the pressure of one or the other political or social power!

It is beyond any doubt that the electoral choice is being effectuated at the elections by voting for the specific party and/or the specific candidate. The knowledge of reasons why the vote is being cast to that specific party and that candidate and not to some other is of crucial importance. There is also a question: when does the individual really make a choice? Is that the time of the electoral campaign and is the choice based on the parties available, therefore right before the appearing at the polling station, or the choice has already been made long ago, leaning on the specific party, or by some other choice, made in the past or relatively earlier.

Therefore, we could basically speak of deeper meaning of the electoral behaviour⁴. In one case we have the real choice - whereas person chooses whom to cast his vote on the basis of specific criteria and at the time of electoral campaign, almost at the moment of turnout at the polling station. In the other case, the act of turnout at the polling station and casting the vote to the specific party or candidate is nothing else but confirmation of the choice previously made, irrespective of the criteria applied in formation of preferences.

Indirect and Direct Choice

In the analysis of the electoral preferences of this social group (people who know and who vote, doing it by their free will), it is important to introduce certain innovations as well as re-styling of standard theories on models of voting, thus based on the electoral experience of Serbia. In that sense, we begin to differentiate the indirect and direct choice.

1. Indirect choice is present if all later choices are determined by one previous choice. All later choices are the confirmation, expression and description of already made determination. We could say that this is the case of only one choice, whereas every subsequent choice is in fact the expression of *loyalty to the first choice*. This is the case of profound loyalty, long lasting feeling of bond, identification with the strong psychological charge or specific political protagonist or certain social group, or the specific political concept. In this case we have a lack of real choice and surplus of devotion to the one or the other; lack of rationality and surplus of faith. The bearers of this type of choice are the "believers", more than free citizens.

1.1. Choice is also a choice if upon already chosen political party (not nec-

⁴ „Is voting an act of affirmation or of a choice? This is the fundamental question on which models of voting disagree“ (Harrop and Miller, Election and Voters, A Comparative Introduction, Macmillan, 1987: 130)

essarily important how the first choice was made) each time we are in the same or similar situation, we repeat the choice already made. For example, we always vote for Republicans! - Literature recognises this type of choice as a voting based on the *party identification*.

- 1.2. It is a matter of choice even in case there is an absolute criterion for all electoral preferences - in this case the general principle is accepted and the conclusion is made by deduction on the party or the candidate to cast the vote for. If I accepted the *absolute value opting* than my vote would be cast for the party, in my opinion the most capable of fulfilment of that absolute value. Naturally, that could be the nation or anything else of "such immensity"! - Literature hardly pays attention to this type of choice and, even if it did, it was usually comprehended as a part of issue voting.
- 1.3. The choice of political party or a candidate, as consequence of self-positioning in political continuum of left-right. - This type of voting is recognised in literature as *ideological voting*.

2. Direct choice is a case whenever the electoral preferences are being formed in the course of the electoral campaign, based on criteria deriving from summarisation of the one's own interests and the programme options and the actual policy of parties and candidates. We could say that this is the case of what literature refers to as rational voting. As stated by Harrop and Miller "... voters choose the party which comes closest to their own interests, values and priorities. They make rational choices by working out which party is the best means to achieve their ends"⁵. "Essentially, rational voting consists in supporting the party which is most likely to achieve the voters political goals"⁶. However, it is the prerequisite that the voter recognises his own self-interest and that he is capable of establishing the appropriate link between his own interests and parties or candidates being able to successfully pursue their fulfilment. The model of rational choice originates from economy, thus being often referred to as an „economic model“.

- 2.1. The observed social and personal problems, as criteria for vote casting for a party or a candidate. Vote is cast for the party estimated to be the most successful one in resolution of the actual problems. Literature recognises this type of voting as the *issue voting*.
- 2.2. Choice based on government performance. "Elections can be used by voters to register their approval of the performance of their government, or their lack of approval for its failures. When satisfied, they may be expected to support the government party or parties, when not, they vote for the opposition". - Literature recognises this type of choice

⁵ Harrop, Miller, *op. cit.* page 130

⁶ *op. cit.* Page 145

as voting based on *government performance*.

The basic thesis of this paper is that, in Serbia, from 1990 we partly had the indirect choice, whereas starting from 1999 we may count with the prevailing of indirect choice. From the point of the choice made, loyalty, fidelity, devotion (to the party, socialism, nation...) there is a gradual transition to the real choice, rational criteria, and self-interest. The fewer are believers (in socialism, a nation, in a party) and the greater are the choosers, deciding on their votes on the basis of real facts.

Absolute Value Opting: Socialist Nationalism and Nationalist Socialism

Two rifts have shaped the political scene of Serbia at the end of the eighties and in the nineties: *communism/socialism vs. capitalism/anti-socialism and national vs. civil principle of social organisation*.

The rifts related to pro and con of socialism, as well as those related to national vs. civil, have slowly been transformed into the watershed - having socialist and nationalist on one side, and civil and not being socialism, on the other side. Along the banks of this demarcating gully of such complete cleavage, voters are being polarised, parties shaped, public opinion structured and state strategies created... Founded, on one bank, is the up to now dominating model of indirect choice, whereas on the other one rests the recently arising model, the direct choice.

The electoral body of Serbia has been formed during the twelve-year war (1988-2000) that brought the cancellation of private life and almost the cancellation of publicity, making the elections senseless since they have been given the unnatural and inappropriate collectivist basis. That established "non-alternative politics" that does not tolerate any real choice and any "distinctiveness".

Duality of party scene in Serbia (neo-communists vs. democratic opposition) that only could have generated the changing of the power, has not been established in this period of time, except for up to the certain extent during the municipal elections in 1996. The party has been dominated by neo-communist coalition confronted to the fragmented opposition.

Competition of the parties was occasionally fading and almost completely disappearing under unison totalitarianism of ideological opting or under compulsion of single-polar ideological opting. The first **absolute value opting** was **socialist nationalism** (reaching its peak in 1988 and 1989), and later it was the case of **nationalistic socialism** (peak in 1993). In first case it is the matter of priority of the socialistic in amalgam of "socialism + nationalism" and in later case there is a priority of nationalism in the amalgam of "nationalism + socialism".

In 1990 it was already possible to win the power in the elections (first elections on December 9 and 23 1990) by help of **security** of socialism, whereas

GUIDE THROUGH ELECTORAL CONTROVERSIES IN SERBIA

at second republican elections (December 20th 1992) it was already obvious that in order to win and keep the power it was necessary to add nationalism to socialism. The power formula ever since is "former communists + neo-nationalists" or "socialist security + nationalism" (see table). As the data shows, this formula constantly provides for winning the votes of one third of electoral body. - Bearing in mind the fact that "socialist security" in this electoral formula is a form of specific support (citizens get minimum security for their votes, no matter what and how big it is) and that nationalism is a form of dispersed support, the changes are to be expected in the later scope.

	SPS, f	SPS, %	SRS, f	SRS, %	Total, f	Total, %
1990	2,320,587	32.9	-	-	2,320,587	32.9
1992	1,359,086	20.1	1.066.765	15.7	2,425,851	35.8
1993	1,576,287	22.5	595.467	8.5	2,171,754	31.0
1997	*1,418,036	19.7	1.162.216	16.1	2,580,252	35.8

*Coalition of SPS-JUL-ND

Within the scope of ideology of socialism, the greatest manipulative interventions have been (and still are) accomplished by social security used to "buy" the lower social classes as well as those feeling uneasy with prospects of expected market competition⁷. In ideology of nationalism, the major breakthroughs were being accomplished through the stories on endangered nation and patriotism as response to comprehensive imperilment of the country. - While the pro-socialist orientation, almost from the very beginning reduced⁸ to the story on security and protection of the poorest, "socialism" is being protected by preserving, at any cost, the *status quo*. On the other side, more and more naked and penetrable nationalistic story is being reshaped and re-routed towards patriotism, whereas the process of "ethnic grouping" has grasped the entire social life and, above all, politics; ethnic identity has become the superior criterion and measure for everything.

From Indirect to Direct Choice

Public opinion surveys, made in Serbia at the end of 1999 and the beginning of 2000, show the significant turn in the fundamental preferences of cit-

⁷ Among supporters of SPS, 58% of citizens are security-oriented and 18% risk-oriented, whereas among the supporters of democratic opposition parties, 23% are security-oriented and 57% are risk-oriented (Source: IDN; JJM 129/96).

⁸ It may be said that classical socialist terminology has been avoided because of certain animosity of the people towards it. In fact, citizens have divided opinion both of socialism and capitalism. One analysis from 1997 showed that 29% of citizens react negatively and 44% react positively to the word socialism, whereas 31 reacts negatively and 32% positively to the word capitalism. In fact, a great number of citizens is hesitant, 27% in respect with socialism and even 37% in respect with capitalism. (See: Slavujevic and Mihailovic, Two Experiments on Legitimacy, Belgrade, 1999).

ELECTORAL BODY IN SERBIA: LOYALTY VERSUS CHOICE

izens. These surveys conclude gradual *abandoning of one of the two absolute value options*, - nationalism is lesser the preoccupation of citizens therefore indicating, along with other changes, the crucial change of a type of choice, move from indirect to direct choice.

Out of several indicators of decrease in volume of the nationalism, we hereby quote one - dropping of identification with the nation⁹! While for example in 1996 50% of the citizens believed that *pertinence to the nation* was "very important" or "important", this share dropped in autumn 1999 to 37%¹⁰ and in February 2000 to 30%¹¹.

The said turn indicates high probability of basic restructuring of political power, to realigning election. Citizens see as prerequisite the formation of the opposition as a single-issue group, leading the single-issue politics, in other words a global direction to the change of power!

⁹ Stating that only 11% of the people give priority to the nation as "a group being mostly attached to" as opposed to some other social groups, Mirjana Vasovic points out: "In competition with the others, the pertinence to the nation is the second last on the scale of importance. To the national, ethnical pertinence, the citizens prefer the pertinence to the groups of people of same interests (33%), of same generation (26%), and then profession (14%) and confession (13%). (Vasovic, M. "Characteristics of group identity and attitude towards the social changes", in Mihailovic *op. cit.* Page 21)

¹⁰ *ibid.*

¹¹ Research of the Institute of Social Sciences, JMS 137/2000



LEGAL REGULATIONS ON ELECTIONS

R

egulations on Elections are not codified

Regulations on voting right are contained in numerous and different legal regulations. This subject is being arranged by: the Constitution of the FRY, constitutions of both federal units, federal laws, laws of the federal units, great number of legal rules of different nature and legal capacity adopted by different bodies (bodies in charge of holding the elections, bodies of territorial autonomy, bodies of local communities, legislative bodies etc.). For example, the Analysis of municipal elections held in 1996 showed that legal issues relevant for municipal elections have been arranged by as many as 17 different laws and tens of accompanying regulations.

Great number of regulations arranging the elections is impeding their application. Participants in the electoral process are forced to manage themselves in the labyrinth of different rules providing for their right in the electoral process.

Regulations on Elections are Frequently being altered

Regulations are most often being altered before the elections and directly prior to elections. Alterations of regulations have essentially changed the electoral conditions relating to the type of electoral system, size and number of electoral districts, contents of electoral legislation etc.

For example, the Law on election of members of parliament was adopted on November 3rd 1992 and the elections were held in December of the same year; the law that increased the number of electoral districts from nine to twenty-nine was adopted on July 22nd 1997 just three days prior to the decision on calling the elections (July 25th 1997) and not even the full two months before holding the elections (September 21st 1997); the law on election of president of the republic (November 3rd 1992) stipulated new conditions for obtaining the passive voting right and the presidential elections were held in December the same year.

Frequent alterations of electoral regulations, prior to the elections, indicate that the electoral conditions are insecure and uncertain for participants

in the elections. They are something unknown almost to the very beginning of the elections.

Electoral Legislation was Frequently Altered by Violation of Rules of Legislative Process

This has been testified by numerous requests for judgement of constitutionality of these laws, initiated before the constitutional courts. For example, the Law on election of federal deputies for chamber of republics was adopted with numerous violations of rules of the legislative process. We hereby point out just one - the law was adopted and applied in the course of the same session of Parliament and became effective even before being published.

On the occasion of adoption of disputed laws the rules of legislative process are often violated whereas the outcome of the disputes initiated before the Constitutional Court points out that the Constitutional Court in such cases is guided primarily by political and not by legal criteria.

General Inconsistencies in Legal Regulations on Elections

Scrutiny of legal regulations arranging the voting right indicates several general inconsistencies in these regulations. The most significant ones refer to:

- Nonconformity of the Constitution of the Republic of Serbia with the Constitution of the FRY particularly related to the material voting right and the protection of citizens' voting rights.
- Inadequate distinction of the constitutional and legal matters in the field of elections. There is an identical problem in relation between the laws and sub-legal regulations. The particular consequent problems are: Different arranging of the same issue and the legal vacuum in case none of the regulations arranges certain issue.
- Inconsistency, nonconformity of contents and form of regulations arranging the elections, creating great difficulties in application of regulations, requiring interpretation and enabling arbitrariness.
- Great number of legal vacuums, particularly in the field of process electoral right, enabling different acting upon the same matter and violating the principle of equality of citizens and participants in the electoral process.
- Contradictory legal regulations and different arrangements for the same issue lead to confusion and arbitrariness in application.
- Often use of the institute of appropriate use of stipulations of the other laws and regulations, particularly in the field of process electoral right, provoking the need for interpretation that necessarily accompanies the institute of appropriate use.

General consequence of such situation in the field of regulations arranging the

voting right of the citizens is the uncertainty and legal insecurity, both for citizens and other participants in the electoral process. Great number of legal vacuums, contradictory legal regulations, frequent application of the institute of the appropriate use of some other regulations etc. are causing the need for interpretation and make space for arbitrariness. Legal regulations in this field are often made post facto. The law is not the law anymore in this important field (abstract rules related to earlier- indefinite number of cases) and has turned into a great number of non-interlaced, contradicted orders causing confusion and hesitation in application.

Regulations on Evidence of Voters - Incomplete Electoral Registers

Regulations arranging this field have not or have incompletely arranged numerous important issues related to the evidence of electoral registers. For instance:

- The instruments of control and supervision of the electoral registers are not provided.
- The law establishes the competence of central electoral commission to supervise the evidence of electoral registers but the accompanying regulations do not provide the means for execution of such competence.
- It is not clear who is responsible if the electoral register is not updated or correctly kept.

Listed inconsistencies are significant bearing in mind the unaccountability of data on total number of voters [i.e. "The Official Gazette of Republic of Serbia" No.37/1992 in three official reports - presidential, parliamentary elections and referendum - publishes three different figures on total number of voters (6,848,247; 6,946,140 and 6,930,574) whereas the elections were held on the same day].

Contents of Material Voting Right are not provisioned by Constitution

The voting right of citizens is not guaranteed as one in series of basic constitutional rights. Electoral legislation stipulates the additional conditions for gaining of voting capacity (business capacity, residence in electoral district).

In contrary with the constitution, stipulating that active and passive voting rights are obtained under equal conditions, the law establishes the different conditions to obtain them. Residence in the electoral district is stipulated as prerequisite to obtain the voting capacity (active voting right) whereas the residence on territory of the Republic is prerequisite to obtain the passive voting right.

The legislator has arranged the contents of electoral right more broadly than the constitution itself. The Constitution defines this right as the right of citizens to vote and be elected, whereas the law defines the electoral right as

a set of individual freedoms and rights of citizens and other participants in the electoral process (right of nomination; right to be objectively informed on candidates, their programmes and programmes of political parties; right to elections control etc.).

The institute of parliamentary incompatibility (deputy capacity) is not established by the Constitution, although it is the one of the important contents of material voting right. The provisions for this institute remained to be made by the legislator. Among the electoral laws, there are differences in respect with the reasons for parliamentary incompatibility. Republican regulations stipulate more reasons (bearer of judiciary or other function, being elected by the parliament; the executive or other person being employed by the administrative office) whereas the federal law stipulates only one (can not be the deputy in both chambers of parliament at the same time).

The obtaining of the passive voting right for the President of the Republic of Serbia is conditioned, in contrary with the Constitution, by census of one-year dwelling on the territory of the Republic of Serbia.

The Constitution does not stipulate the contents of the material voting right of the citizens. The constitution is not the basic guarantee of this right nor is it the guarantor of its direct constitutional and legal protection.

The Process Voting Right is incompletely regulated

The process voting right is explicitly incomplete. Only some, most remarkable examples of inconsistencies in legal regulations arranging this field shall be presented.

Process regulations suffer from great number of legal loops. Legal loops in process matters bring uncertainty, insecurity and arbitrariness that are contrary to the nature of process regulations requiring the preciseness and accuracy. Legal loops are particularly characterising the processes of: nomination; compilation and scrutiny of electoral registers; formation and pronouncement of the voting lists; counting and publishing of voting results; voting of voters out of their electoral districts (soldiers; persons serving the prison sentence; etc.); verification of mandates; working procedure for bodies in charge of holding the elections, particularly the electoral commissions etc.

Legal uncertainty in the field of process voting right is being contributed by frequent instructions to appropriate application of process regulations from other fields of law (i.e. Administrative Law). That requires interpretations assumed by the institution of the appropriate application of other process regulations. Quite often it is not possible to reliably establish which process regulations shall be appropriately applied in given case (i.e. establishment of the state of facts and presentation of evidences upon which the electoral commission decides on violations of voting right and electoral process). The experience of municipal elections held in 1996 showed that, ruling on electoral disputes, the courts applied different procedure regula-

tions (administrative dispute, litigious process, summary proceedings etc.), permitted by the inconsistent legislation, based upon the institute of appropriate application of other regulations. The competence of certain bodies participating in the electoral process is not precisely established, additionally burdening the application of process regulations, since different process regulations are being applied before the different bodies.

The respectful uncertainty in application of process regulations puts the participants in the elections into unequal position, since it facilitates unequal treatment in identical cases.

In case of setting the terms for particular election activities, especially in case of establishing the moment as of which the process term begins for some of the election activities, it is unclear whether the terms are subjective (as from the moment of knowledge of violation) or objective (as of the moment of violation occurrence). Since the terms are linked to fulfilment of series of rights in the electoral process, uncertainty related to the moment as of which begins the term in which the participants of the electoral process may fulfil their right is often an obstacle to fulfilment of the right itself. These inconsistencies cause specific problems in the course of ruling on violations and protection of the voting right.

Legal regulations do not often provide for consequences (sanctions) arising in case of overdue preclusive terms etc.

Legal loops, subsidiary applications of regulations of other processes, non-precise distinction of competencies among the bodies participating in the electoral process, are particularly evident in several crucial issues of electoral process (i.e. when does the obligation for calling the elections arise; what process regulations are the bodies in charge of holding the elections deciding upon; how to vote by means of mail; what process regulations are applied for delivery of the election materials etc.)

There are no obvious rules on characteristics, character, legal nature and capacity of different documents and papers comprising the election materials. That causes problems in the process electoral law, beginning with the procedure of deliverance of documents and papers, up to the regulations applied for safekeeping, handling and use of documents and other election materials. This inconsistency has specific weight in the process of ruling on electoral disputes, since the power of particular documents, as the means of evidence is not explicit (i.e. it is not explicit whether records of election boards and electoral commission are public documents or not; what is the character of ballot papers etc.).

Regulations on Electoral Districts do not provide completely for many important issues of Electoral Geometry

Formation of electoral districts is provided by law (federal and republican elections) or by subsidiary acts of territorial communities (provincial and munic-

ipal elections). The inconsistencies of these legal regulations are numerous.

Criteria for formation of electoral districts are not provided by the Constitution, whereas the electoral legislation has not established more specific criteria for their formation. The only measure taken into consideration is the number of voters. However, problems arise in application of this criterion. They are caused by unreliability of data on evidence of voters in the electoral registers and the absence of regulation on means of scrutiny and supervision of evidence of voters.

The contents of laws and subsidiary legal regulations, providing for the electoral districts is reduced exclusively to quotation of names of municipalities, towns or parts of towns, making the electoral district. It is not obvious from legal norms what standards guided their creator in defining the area of the electoral district, nor it is possible to define upon them the influence of the specific distribution of electoral districts on the outcome of the elections. Therefore, the electoral conditions were not transparent enough for the participants in elections and under such circumstances the elections could not have been free and fair. For example, alteration of the Law on electoral districts, increasing the number of electoral districts from nine to twenty-six prior to federal elections (1996) and republican elections (1997) has significantly changed the electoral conditions in favour of the biggest political group. The influence of distribution of electoral districts on electoral conditions could have not been foreseen by reviewing the legal regulation on formation of electoral districts.

Regulations do not establish the methodology (mathematical rules) to be applied to allocation of seats to particular electoral districts. This methodology might indirectly affect the equality of voting right (so-called hidden inequality of voting right caused by unequal size of unanimous electoral districts) as well as the principle of proportionality in representation (in small electoral districts the index of proportionality is low), therefore may endanger the two fundamental principles and assumptions of equal-rights elections: one man - one vote and the principle that allocation of mandates is decided upon the percent share in number of votes. For example, in the elections of 1990, the ratio of votes in particular electoral districts, bearing in mind their size, was 1:3.9. In parliamentary elections (1997) in electoral district with about 339,000 voters, 11 deputies were being elected, whereas in electoral district with 331,000 twelve deputies were being elected. Thus the borders of these electoral districts allowed corrections.

The distribution of electoral districts did not respect the fact that FRY was a multiethnic community. Members of national minorities were divided in numerous electoral districts and some chances to win the mandate were only given to minorities whose members were concentrated in certain areas - electoral districts bunkers (i.e. Hungarians), whereas the chances to win the mandate were practically excluded for representatives of minorities and ethnic groups living in wider areas (i.e. Slovaks and Roma).

Rules of Electoral Technique are not precise and are frequently used for post-factum alterations of basic Regulations on Elections

Regulations of electoral technique are mostly provided by subsidiary acts brought by the central electoral commission on the basis of legal authority. These regulations have a series of inconsistencies:

- Numerous practical issues of electoral technique are not regulated. Acts of the electoral commissions that should regulate this matter do not provide legal provisions for electoral technique whereas legal norms are only rewritten with minor amendments.
- Concretisation of legal regulations in the accompanying rules is being reduced to the adoption of standardised forms for particular electoral activities and electoral matters.
- Special problem is partial regulation and even the absence of technical rules related to series of significant electoral activities (i.e. scrutiny, means of take-over and delivery of elections materials, handling of elections materials, safekeeping of elections materials); means and methodology of capture of data on the elections results from the elections materials collected from polling stations and electoral districts and particularly the methods and instruments of scrutiny of this part of the electoral process; means of verification of authenticity of voters signatures supporting certain candidacy and provisions for protection of possible fraudulent use of personal data accessible to numerous sources (working place, health institutions, personnel evidence etc.).
- Since the rules on electoral technique, as subsidiary rules, are being adopted after adoption of the electoral law, and the up to now experience shows that these laws are being altered several months prior to holding of elections, consequently, the technical rules on elections are even more in delay, and are frequently amended and altered immediately prior to elections, even during the electoral activities (i.e. in the course of early elections in 1992, these rules were being altered on the very day of elections, when the election boards were instructed to deliver the elections materials from polling stations to the municipal administration centres instead of electoral district centres).



BODIES FOR HOLDING OF ELECTIONS: ELECTORAL COMMISSIONS AND ELECTION BOARDS

Nomination, rights and duties and form of work of the bodies for holding of elections (electoral commissions and election boards) are provided by law, standing orders for electoral commissions' work and rules on the work of election boards respectively provided by electoral commission (federal, republican and municipal). The practice shows a great number of inconsistencies in electoral regulations related to the position and work of the electoral bodies.

In accordance with currently valid legal provisions, members of the electoral commission (and their deputies) are being appointed for the term of four years. In order to strengthen the autonomy and independence of their work, half the members of the electoral commission should be elected every second year. For the same reason, the same person should not be a member of the same electoral commission for more than two subsequent terms or a president of the same electoral commission for more than one term.

Due to extreme importance of lawful and efficient work of electoral bodies, as well as due to the frequent alterations of electoral regulations, the law should provide for compulsory, brief expert in advance training of members of electoral commissions and election boards and their deputies. That would prevent or at least significantly reduce numerous problems, irregularities and illegalities in the activities of electoral bodies. Consequently, that would also increase not only the lawfulness of their activities but also the citizens' trust in them.

Currently valid electoral laws stipulate rights and obligations of electoral commissions only during the period of holding of elections (nomination and election process). In respect with the fact that mandate of electoral commissions lasts four years, the law should provide for certain number of competencies and duties of these bodies between the elections. For example, to evaluate already completed electoral processes and problems in functioning of the electoral system and to submit to the parliament the propositions and suggestions for alteration of electoral regulations, as well as to inform the public respectfully; to control the keeping of the electoral registers, maintain and at least once a year control the promptness and accuracy of the electoral register; to establish the educational programmes for voters and expert

training for members of electoral bodies and to pursue its accomplishment.

Members of electoral commissions in extended constituency (representatives of candidates or voting lists) are taking part in the activities once the candidacies and voting lists have been confirmed. Consequently, numerous preparatory activities (i.e. adoption of instructions for application of electoral law) are being done without their participation and remain beyond control of political parties participating in the elections.

Federal and republican laws stipulate that standing constituency of the federal and republican electoral commissions (president, secretary and five members as well as their deputies) is formed by judges, whereas the persons being part of extended constituency (proxies of bearers of voting lists) have to be lawyers. The law on self-government stipulates different solution - president and members of municipal electoral commission must be lawyers. These solutions are basically good with respect to the necessity that members of the electoral commissions pursuing the lawfulness of the electoral process are to be expertly qualified. However, speaking about nomination of judges for members of federal and republican electoral commissions, the law should explicitly stipulate that those judges should not also participate in the court processes of protection of voting right.

Speaking about the bilateral relations of the electoral commissions at different levels (i.e. relation between the republican electoral commission and the electoral commission of the electoral district), the law should stipulate the authority of federal or republican electoral commission to exercise the administrative supervision of work of electoral commissions in electoral districts, to co-ordinate their work, to exercise expert control and give instructions for holding the elections in accordance with the law.

The relation between electoral commissions and election boards should also be more completely stipulated by law. According to the current legal solution, the electoral commissions appoint permanent constituency of the election boards and decide upon complaints against decisions and acts of the election boards.

The practice shows the necessity for the law to establish the right of the electoral commission to control, by authorised member (or his deputy), the work of the election board during the voting. Furthermore, that the member of electoral commission, once having noticed the irregularity in work of the election board, is obliged to indicate the irregularity and order the election board to rectify it immediately. If the election board does not comply with the order, the member of the electoral commission would be obliged to immediately advise the electoral commission so that the electoral commission could apply the respective measure of administrative supervision. This would timely rectify the irregularities and illegalities in holding of elections and, consequently, avoid their later annulment and repetition.

New Law on Municipal Self-government stipulates that in case of simultaneous holding of municipal elections and the elections at the level of

BODIES FOR HOLDING OF ELECTIONS: ELECTORAL COMMISSIONS AND ELECTION BOARDS

Republic and Federation, the function of the election board for municipal elections is executed by the election boards formed for purpose of holding of republican or federal elections. This solution significantly questions the autonomy of municipal governing bodies in holding of municipal elections. Therefore, the more adequate legal solution would be if municipal electoral commission simultaneously acted as the first-degree body for election of deputies for the republican and federal parliament. Consequently, its extended constituency would encompass the representatives of political parties represented in the extended constituencies of the republican or federal electoral commission.



REGISTER OF VOTERS: ELECTORAL REGISTERS

The right to vote for deputies belongs to the citizen of Republic of Serbia being at the same time the citizen of Yugoslavia, being over 18 years of age, having the business capacity and residing on the territory of the electoral district where he fulfils his voting right (ZINP, Article 12 Para.1).

Based on such definition, it is clearly obvious that speaking in sense of data processing, the source of voting right is contained in the data on Yugoslav citizens, data on residencies and data on court rulings on deprivation of business capacity of certain persons.

According to ZINP (Article 14 Para.1), the electoral register is a register of voters whose residencies are located on the territory of one municipality, meaning that the number of electoral registers equals the number of municipalities in the Republic of Serbia or the Federal Republic of Yugoslavia. Electoral registers are being kept in volumes, whereas each volume is being kept for one populated settlement (ZINP, Article 17 Para.1-2).

The data kept in electoral registers are: Sequence number, personal name, gender, date of birth, place of residence (street name and number, village, hamlet, settlement) and space for remarks (ZINP Article 17 Para.3).

The importance of promptness of electoral registers reflects in the following:

- Non-up-to-date electoral register may deprive the voter of one of the basic rights, the voting right, and may also provide this right to those persons who have not gained this right for various reasons.
- Inconsistent electoral register may provide for some voters a possibility for multiple voting that is prohibited by law.
- The electoral geometry is a direct consequence of the electoral registers so it is possible that it is not correctly defined.
- Number of mandates in electoral districts is usually established on the basis of number of voters entered in electoral registers. Therefore, the non-up-to-date electoral registers may lead to incorrect distribution of mandates among electoral districts.
- Methodology for establishment of the elected candidates may, thus does not have to, depend on ratio of number of voters turning out at elections and number of voters entered in the electoral registers.

Consequently, non-up-to-date electoral registers may significantly affect that ratio and disturb the defined methodology.

Each law providing for the elections contains the articles stipulating the means for maintaining the electoral registers and respective bodies responsible for maintaining the electoral registers. Analysis of laws, both of the Republic of Serbia and the Federal Republic of Yugoslavia, defining the competence and the means of maintaining of electoral registers, may indicate a number of problems,

Who maintains the Electoral Registers?

The electoral register for the territory of the municipality is being maintained by the municipal administration as the entrusted duty ZINP, Article 14 Para.1).

The up-to-date maintenance of electoral registers requires exceptionally good data processing support. Bearing in mind the fact that our country is not developed enough in the field of data processing, legislation also permits the possibility of maintenance of the electoral registers by hand. Such solutions, however, represent enormous and possibly impassable obstacle to the fulfilment of basic principles of maintaining the electoral registers being the promptness and uniqueness.

As concluded before, databases on Yugoslav citizens and residencies of citizens are main sources of compilation of electoral registers. Existing legislation does not clearly indicate the means of communication between the municipal and state administrations maintaining the evidence on citizenship and residencies.

One of the basic imperfections of legal provisions is the absence of definition of responsibility for promptness of electoral registers. The problem of responsibility is naturally imposed since a number of bodies participate in compilation of electoral registers.

Abstracts from Electoral Registers

The elections are held at the polling stations being established and announced by the electoral commission of the electoral district (ZINP, Article 42). The list of voters who are to vote at the certain polling station is called the abstract from the electoral register. Republican electoral commission adopts more precise instructions on the contents of the abstract from the electoral register, its form and means of verification (ZINP, Article 26 Para.3). The body maintaining the electoral registers is also competent for the formation of abstract from the electoral register.

The electoral registers are concluded by the decision of the body maintaining them (ZINP, Article 22 Para.2). The abstracts from the electoral registers are being delivered, within 24 hours, to electoral district respectively for

all polling stations (ZINP, Article 26 Para.1) whereas the electoral commission delivers them on the record to the respective election boards (ZINP, Article 42).

The question is whether partitioning of the electoral register into the abstracts from electoral registers has been correctly provided for, in other words, whether the union of all abstracts from the electoral registers is equal to the electoral register and whether the voter is listed in one particular abstract from the electoral register.

It is not clear whether the persons interested have the right to review the abstracts from the electoral register like they have the right to review the electoral registers. In case such review is not permitted and the principle of - one voter listed on one abstract from electoral register - is violated, there are broad possibilities for multiple voting since the polling stations are located on relatively small distance.

Uniqueness of Electoral Registers and Multiple Voting

The electoral register is unique and permanent (ZINP, Article 14) but the level of its uniqueness is not precisely defined (municipality, electoral district, republic, federation), and it may be concluded, on the basis of definition of the electoral register, that ZINP stipulates its uniqueness only at the municipal level. If the notion of *unique electoral register* is being defined at the municipal level, than the municipal administration is also responsible for its uniqueness.

Since the matriculate number is not compulsory data in the electoral register, technically it is very difficult if not impossible to preserve the principle of uniqueness of the electoral register as well as the principle of one voter being listed in one electoral register only.

However, if uniqueness is being self-understood at the level of republic or federation, in that case the legislation does not precisely provide for competence of those being responsible for the uniqueness of electoral register, and due to the aforementioned problems it is easy to suspect that the process of unification, if existing at all, is beyond legal provisions.

The principle of one voter being listed in one electoral register only (ZINP, Article 15 Para.2), whereas that law defines the electoral register at municipal level, understands the existence of uniqueness of electoral registers at the republican level as well, consequently causing that the Republican Institute for Statistics maintains a unique electoral register at the republican level, and such solution is not provided by law.

This can be concluded since the Republican Institute for Statistics gives complete data processing support to the Republican Electoral Commission on the basis of prescribed forms.

It should be pointed out that unification of electoral register, both at level of electoral district and level of republic, signifies a serious data processing work, since many tasks have to be defined and realised by fieldwork for its

resolution. All these data processing problems should precisely be resolved and it should be particularly pointed out what institution is competent for it. Besides, this institution should be obliged to publish its data processing solutions and make them available to all persons interested (particularly the submitters of the voting lists).

The absence of central electoral register, besides other inconsistencies, leaves the possibility for some voters to be entered in several electoral registers and if they wish so, the possibility of multiple voting. The only way to detect voters being entered in several electoral registers is the computerised data processing that is not stipulated as compulsory by law.

Insight in Electoral Registers

Citizens, authorised representative of the submitter of the voting list and candidate have the right of insight into all electoral registers and the right to demand their alterations (ZINP, Article 14). Based on the possibility of insight into the electoral registers, defined in such way, it is clearly obvious that the persons interested are not able to have any detailed insight. It is not clear whether the persons interested have the right of insight into the electoral registers in form of database on magnetic media, in case the electoral register is kept in this form. In case this is prohibited, it is very difficult, if not impossible, to have the insight into all electoral registers, although the law provides it.

The Law on Electoral Registers of Montenegro, quoted in the following, may serve as a sample of good solution of insight into the electoral registers.

The body in charge of maintenance of the unique electoral register (the central one) is obliged to deliver the electoral register in form of file computer diskette, to the submitter of voting list and upon his request, within 48 hours from the date of submission (Article 12 Para.3, "The Official Gazette of the Republic of Montenegro", No.4/98).

Legislation of the Republic of Serbia does not define the central electoral register, whereas the competent municipal body is not obliged to deliver for purpose of insight the electoral registers in form of file on computer diskette.

Bearing in mind the way elections are being held, apparently, the crucial problem is the insight into the abstracts from the electoral registers, since the voting process itself is based upon these abstracts. This means that the only real insight into the electoral registers is an insight into all abstracts from the electoral registers after the adoption of decisions on conclusion of electoral registers.

However, it may be assumed that most of the municipal administrations maintain their electoral registers by computers, meaning that the abstracts might be reviewed in form of file on computer diskettes or some other magnetic media, which means that, apparently, there are technical prerequisites for real insight into the electoral registers.

Inequality of Voter's Right

The notion of power of mandate is understood as ratio of number of voters and mandates. By more precise definition of number of voters and mandates we get deducted notions like:

- Power of mandate of the electoral body (number of all voters / number of mandates);
- Power of mandate in electoral district (number of voters in electoral district / number of mandates in electoral district);
- Power of the elected candidate in the republic (number of voters turning out in the elections / number of mandate);
- Power of the elected candidate in the electoral district (number of voters turning out in the electoral district / number of mandates in the electoral district);
- Power of voting list (number of voters casting their votes for this list / number of mandates won).

The equality of voting right is being accomplished by provisions for power of mandate in the electoral district being approximately equivalent to the power of mandate of the electoral body, comprising possible tolerance agreed in advance (i.e. +/- 3%).

This means that electoral registers directly affect the power of mandate in the electoral district and in case the tolerance is more significant the principle of equality of voting right is being violated. The Law on Electoral Districts for election of Deputies, by which twenty-nine electoral districts were formed, allows the tolerance of power of mandate in the electoral district of +/-8%, Power of mandate in electoral district of Vrbas is 26,556 whereas in electoral district of Zrenjanin is 30,812. This has significantly violated the principle of equality of voting right.



POLITICAL PARTIES

R

enewal of Political Pluralism

Political pluralism in Serbia has for formally been renewed under the regime of the socialist constitutional system. Except for the short period of time right after the World War II, when citizens were formally granted the freedom of political association, the first law on political organisations was adopted in July 1990, guaranteeing the right of citizens' association in political organisations, being defined as independent and voluntary organisations of citizens (parties, associations, alliances, movements or other organisations) formed in order to fulfil the political goals. The constitution of Serbia has been adopted on September 28th 1990, and this act for the first time guarantees (Article 44 Para.1) freedom of political association without permission upon registration. The same legal situation also exists at the federal level of legal order. The federal law on association of citizens into the associations, social organisations and political organisations..., was adopted on July 25th 1990, and the federal Constitution was adopted on April 27th 1992, almost two years later.

Some political parties in Serbia (beside the already existing League of Communists) commenced with their activities already in 1989 and had been registered by then valid regulations on associations of citizens.

Valid Regulations on Political Parties

The legal regime of political parties is regulated by republican and federal regulations on political parties, as well as by corresponding stipulations of both constitutions. The inconsistencies of both laws with constitutions are quite obvious, whereas is obvious the inconsistency of the republican law with the federal one. There are particular doubts related to the questions of territorial validity of both laws on political parties. Namely, the legal effect of regulations on status of political parties as legal entities is not clear, at both levels of government. Although federal regulations provide for the activities of political parties founded on the territory of FRY, it is not clear whether the political party, not registered by this law, may or may not participate in fed-

eral elections. This particularly is the case, bearing in mind that even the political party registered only at the republican level may, through the mandates won in Republican Parliament, have its representatives in the Chamber of Republics as the other house of the Assembly of FRY, thus being active at the level of federal state. It is also unclear whether the political party registered only by federal law may act in the framework of the federal unit.

This is the reason why the majority of political parties is registered both by federal and republican law.

This part of the paper shall analyse the problem of legal status of political parties at the level of Republic of Serbia only. The situation at federal level (federal regulations and practice) is not essentially different to the situation at the republican level. It is important to point out that, at the end of April 2000, the federal government submitted to the Assembly of FRY the draft of the new law on political parties, partly regulating the question of financing the activities of political parties.

Founding of Political Parties - Conditions and Procedure

Political party may be founded by at least one hundred mature citizens. The founder may not be the person upon whom the sentence of prohibition of public speaking has been imposed, or person convicted for some of the criminal acts against the basis of the socialist self-management social establishment and security of SFRY, for the time of duration of this measure and five years from the moment of effectiveness of sentence imposed on the person found guilty of one of the named criminal offences. The obvious is the inconsistency of these stipulations with the Constitution of Serbia, the state that is not being defined, above all, as self-management and socialist, so it may not be concluded whether the persons, who once were convicted on those grounds whereas the term of prohibition has not yet expired, could appear as founders of parties.

Political party regulates by democratic principles its programme goals and internal organisation by basic general act. This is the only stipulation indirectly providing for the acts necessary for political party. The obligation of political party to have the Articles of Association is explicitly obvious from the Constitution of Serbia, Article 152 Para.1.5, stipulating the competence of the Constitutional Court, by which this court rules on the conformity of the Articles of Association or some other general act of political party, with the Constitution and the law. Political party is being entered into the register on the day of submission of application to the republican administrative body in charge of administrative matters. By inscription in the register, political party gains the capacity of legal entity. The competent administrative body issues the decision on inscription in the register.

The application for inscription in the register is submitted to the competent administrative body by authorised person. The application submitted

should have the act on foundation and the evidence of the required number of founders. The evidence is the founder's statement of wish to found the political party, however in this case the founders submit only the birth certificates or the personal identification card.

The competent administrative body rejects by decision the application if the acts or the evidences from the previous paragraph are not enclosed, as well as if the applied name offends the public morale or if there is another political party already registered by the same name.

If the competent administrative body, within 30 days upon submission of application, does not make a decision on inscription in the register, or does not reject the application by decision, it shall be understood that the political party is registered.

The result of such liberally stipulated conditions for foundation of parties (only 100 founders, system of application) is the existence of about 195 political parties registered by the register of political parties. However, realistically speaking, not more than dozen political parties (including both minority parties and parties being regionally active) do exist and produce the influence on the electoral body - the best indicators are the elections results of all these political parties. Moreover, the requests for increase of census (from 3,000 to 10,000) have already been repeated long ago, both from the ranks of opposition as well as by experts in this field. The results of these „multi-partying“ activities, particularly during the elections, are such that the idea alone of political pluralism is being mocked. Consequently, the critics in the public likely interpret such „liberal“ attitude of legislators more as an intention to discredit the multiparty system, than the intention to guarantee the freedom of political organisation and activity.

Territorial Principle of Organisation and Publication of Activities of Political Parties

Political parties are being organised and active on the territorial principle only. On the basis of this stipulation it may be concluded that political parties active in institutions, enterprises etc., could be banned or at least suffer other legal consequences. However, the ban or imposing of any other penal measure for this kind of activity is not provided for. Some political parties (JUL) are openly acting at the University of Belgrade.

It is stipulated that the activities of political parties are public. This principle also is not served by any kind of legal protection and this stipulation, as well as the previous one has no legal effect, except for the possibility of indirect saying that the secret political organisations are not allowed.

Termination of Activity of Political Party

There are three basic grounds for termination of activity of political party:

whereas the party itself makes the decision on termination of activity; whereas the number of members decreases below the number required for foundation; and whereas its activity has been prohibited by the effective decision.

According to the legislative regulations, the prohibition of activity may be imposed in the following cases: whereas the activity is aimed at the violent destruction of constitutionally established regime or at the encouragement of national, racial and religious hatred and intolerance; whereas its membership encompasses individuals of minor-age or such individuals are abused for political purposes; whereas the assets are being gained from the foreign person (this reason was revoked by adoption of the Law on Financing of Political Organisations, adopted in May 1992, later replaced by the new one, in July 1997).

The Constitution of Serbia, in Article 44 Para 2, as a form of non-allowed political activity and thus the grounds for the ban, however stipulates the following: acting with purpose of violent change of constitutionally established regime, violation of territorial integrity and independence of the Republic of Serbia, violation of constitutionally guaranteed freedoms and rights of man and citizen, provocation and encouragement of national, racial and religious intolerance and hatred.

The violation of the Constitution of Serbia is clearly obvious in case of quoting the reason for prohibition of activities of political parties in accordance with the Law on Political Organisations. According to the Constitution of Serbia, the law may stipulate only the way of fulfilment of freedoms and rights, when it is necessary for their fulfilment (Article 12 Para.2), meaning the process regulations. Law may not add the new conditions, in relation to constitutional norm. This law also contains two new conditions, limiting the freedoms of political association and activity: engagement of minor-age individuals in political parties and their abuse for political purposes (meaning of following formulations is very relative: „engagement in activity“ or „abuse for political purposes“) and gaining the assets from foreign persons. (Regardless of the fact that the later condition has been revoked, while being valid it was in contrary with the Constitution).

Jurisdiction for Issuing the Measures of Prohibition of Activities of Political Parties

According to the Law on Political Organisations, the Supreme Court of Serbia adopts the decision on prohibition of activity, on the basis of motion submitted by the Public Attorney. Upon the attorney's motion, the court may also rule to issue the temporary measure (even before the hearing) of prohibition of activity in case of violent destruction of constitutional regime, encouragement of national, racial and religious hatred, as well as in case of engagement and abuse of minor-age individuals. The entire further proceedings are being conducted before the Supreme Court of Serbia by regu-

lations of the Law on Criminal Process. The sentence of effective decision on prohibition is being published in the Official Gazette of Serbia. Upon termination of reasons for prohibition and upon the motion submitted by the authorised person from the political party, the court shall revoke the decision on prohibition.

According to the Constitution of Serbia, as well as the Law on Constitutional Court of Serbia and legal effect of its decisions, the entire process of prohibition of activity of political parties is being held before this court. Consequently, this stipulation of the Law on Political Parties is not conformed to the Constitution of Serbia and contradicts the Law on Constitutional Court. The jurisdiction of the Constitutional Court comprises both the ruling on prohibition of activity of political party as well as ruling on conformity of the Articles of Association or some other general act of the political party with the Constitution and the law.

Up to this date (May 2000) not a single political party has been prohibited.

Financing the Activities of Political Parties

The issue of financing of political parties has so far been regulated several times. A couple of stipulations on financing, contained in the Law on Political Organisations, were no longer valid after the adoption of the Law on Financing of Political Organisations (May 1992), later being altered twice in 1993 and once in 1994. The currently valid one is the Law on Financing of Political Organisations, adopted on July 17th 1997, regulating the issue of financing, evidence and control of material-financial dealings of political parties.

- The allowed sources of financing are: membership fee, donations, revenues from the property owned, revenues based on the shareholding rights in enterprise, gifts, legacies, inheritances, budget etc.
- The non-allowed sources of financing are: governments and other bodies and organisations of foreign states and other foreign persons; state bodies and bodies of municipal self-government except for the manner stipulated by law, and anonymous entities over the amount equivalent to 3% of the annual net income of the political party in the previous year.
- Budgetary financing of the activities of political parties represented in the national parliament (limited to 500 average per-employee net salaries paid in the Republic for the month preceding the month of establishment of budget) is being provided on monthly bases and distributed equally to parties with respect to the number of deputies.
- Budgetary financing of the election campaign (the total of 2,500 average net salaries in the Republic) is being provided for financing of election campaign, divided in two equal parts. One part is being given to political parties represented in the national parliament respectively to

the number of deputies, whereas the other part is being given respectively to the number of deputies in the newly constituted parliament. The later amounts are given upon verification of mandates.

- Financing by some enterprise, group of enterprises and other legal entity is limited to not more than 50 net salaries of employees in the Republic during one month. Public enterprises as well as enterprises in which the state has more than 20% of the founding capital, may not give donations to political parties.
- The law also stipulates budgetary financing of the election campaign of presidential candidates (the total amount is 1,000 average net-salaries) as well as the respective regulations for financing of municipal elections.
- Political parties are obliged to keep the books on revenues and expenses, specified by types, amounts and sources. The assets spent for financing of election campaign are shown separately, and the sources of income of parties are subject of public knowledge.
- The administrative body competent for public revenues is conducting the control of material-financial dealings of parties, whereas Ministry in charge of finances and the administrative body competent for public revenues are conducting the supervision of application of law.

The obvious inconsistencies of this law are the following:

- The amounts being used for the election campaign are not limited (that is however the practice of European states);
- Transparency of money flows is not provided there is no obligation of public insight in private sources of revenues;
- Private property of candidates and executives serving public rule functions is not being controlled - there is no obligation of presentation of data on personal property;
- Budgetary financing is not sufficient (average net salary is extremely low and there is a tendency of continual decrease) and it is the only way of providing the independence of political parties as well as the publicity in this segment of their activities;
- Budgetary financing is not provided for the parties participating in the elections for the first time;
- There are no provisions for party members to be informed about the sources of financing of the party they belong to.

Under the circumstances of materially extremely unequal starting positions of political parties in the beginning of the nineties, these solutions have led to even more inequality of political parties. SPS, JUL and some other political parties (founded by SPS) have inherited enormous material assets from the League of Communists and, under the circumstances of absolute domination over all managerial and financial flows, those parties as well as their leaders nowadays have the enormous power at their disposal. Members of the establishment are being nowadays the owners of largest enterprises,

P O L I T I C A L P A R T I E S

besides the fact that through the Management Boards they have control over all public institutions and enterprises. Under such conditions it is absolutely impossible to control the extent of use and the amounts of assets used from non-allowed and limited sources. This problem is particularly reflected in possibilities of political influence on citizens and also led to the corruption of some political parties. The adoption of democratic law on financing of political parties would not suite some of those parties that themselves into such manner of „financing“ of parties since they, as well as their leaders, have gained significant assets and power, although limited in comparison with the ruling parties.



ELECTORAL SYSTEM AND ELECTORAL MATHEMATICS - IMPACT ON ELECTIONS RESULTS



Two-rounds majority system

The electoral system providing for the case if none of the candidates participating in the election contest does not manage to win the votes of more than a half of voters turning out in the elections, if the turnout exceeds the half of the electoral body, two or more candidates with greatest number of votes enter the second round of voting in which the candidate with majority of votes wins the mandate. The system with two or three candidates in the second round of elections has been practised in Serbian electoral practice.

In the elections for deputies in the Parliament of Republic of Serbia, held in 1990, as well as in all the elections held for deputies in the assemblies of municipalities and cities in Serbia, the two-rounds majority system was practised, with two candidates winning greatest number of votes entering the second voting round. The result of such practice in republican elections held in 1990 was the imbalance of percentage of votes won by the candidates of some political parties and the number of mandates won in the parliament. With 46.08% of the votes won by candidates nominated by Socialist Party of Serbia, this party won 194 out of 250 seats in the parliament or 77.6%.

In the elections for the Assembly of Autonomous Province of Vojvodina, held in 1996, the two-round majority system was also used. However, in the second round it was different to the electoral system at republican and municipal level, since three candidates winning the greatest number of votes entered the second round.

Single-round majority system (first-past-the-post)

The electoral system in which the candidate, winning in the elections the greatest number of votes, wins the mandate of the MP or the deputy. Under the circumstances of existence of numerous parties and coalitions participating in the elections, this system provides for the advantage of the strongest party or coalition, irrespective of its real strength.

The Law on municipal self-government, adopted in the autumn of 1999, stipulates the use of this system for election of deputies in the assemblies of municipalities and cities of Serbia. The single-round majority system was used in the provincial elections in Vojvodina, up to 1996.

Proportional System

To the contrary of majority system, in which the candidates, nominated by specific parties or groups of citizens, are in contest for votes, in proportional system the electoral lists of parties or coalitions are participating in the contest, whereas the mandates are distributed in respect (proportionally) with the number of votes won by specific electoral lists. The means for calculation of number of votes won into the number of mandates may be different. d'Hondt formula has always been used in Serbia.

Proportional system was tested in the elections for deputies in the Assembly of Republic of Serbia, held in 1992, 1993 and 1997. On two occasions (in 1992 and 1993), the Law on Electoral Districts stipulated the existence of 9 electoral districts, whereas in 1997 that number was increased to 29. The Law on Election of Deputies, applied in 1992, 1993 and 1997, stipulated the distribution of mandates based on the system of greatest ratio.

For the elections for Chamber of Citizens of the Assembly of FRY that were organised for the first time in spring of 1992, the mixed system was provided, by which one part of the Chamber was elected by majority system and the other part by the proportional system. Those elections were repeated at the end of the same year, thus the means for election of deputies in the Chamber of citizens on that occasion was the proportional, in 9 electoral districts, whereas the mandates, like in case of republican elections were distributed by application of the greatest ration system. Four years later in the elections held in November 1996, proportional system was used again, the mandates were distributed in the same manner but the number of electoral districts was increased to 29.

The regime had good reasons to increase the number of electoral districts from 9 to 29, since only 108 deputies were being elected in the elections, and the electoral system came very closely to the single-round majority system.

Mixed system

The electoral system in which one part of mandates is being distributed by the majority system and the other part by the proportional system.

The elections for Chamber of Citizens of the Assembly of FRY (held in spring 1992) were held by the mixed system. In those elections, 108 deputies were being elected for the Assembly of FRY, 54 by majority system and 54 by proportional system. These elections were boycotted by opposition and were repeated by the end of the same year. This electoral system has not been repeated any more in any elections in Serbia.

System of greatest ratios (d'Hondt system)

The manner of calculation of number of votes won into mandates, according to which the number of mandates won by particular electoral list in proportional electoral system is being established by means of division of the

total number of votes won by each list in the electoral district where n deputies are being elected, by numbers from 1 to n , whereas the ratios calculated in that way are lined up by value from the greatest to the lowest, and every list gets as many mandates as there are its ratios among the first n ratios. d'Hondt way of calculation of votes into mandates provides the irrelative advantage to the party or the coalition winning the relative majority. This imbalance grows with the increase of number of electoral districts since this electoral arithmetic favours the list with relative majority of votes won in every electoral district.

In federal elections held in November 1996, when 108 Deputies were being elected from the territory of Serbia, by the system of greatest ratios in 29 electoral districts, the coalition SPS-JUL-ND, winning 42.9% votes from the number of voters turning out at the elections, won 64 seats in the parliament, in other words 59.26% of mandates. If the d'Hondt system with one electoral district had been used, this coalition would have won 56 seats, in other words 51.85% of mandates. If the mandates had been distributed on the basis of percentage of votes won of the voters turning out at the elections, this coalition would have won only 47 seats in the parliament.

d'Hondt formula

The formula for calculation of number of votes won by particular electoral list into mandates, used by the system of greatest ratios.

Nimayer formula

The means for calculation of the number of votes won by electoral list into mandates, by which the number of votes won by particular electoral list is first multiplied by number of mandates to be distributed, and then divided by the sum of votes won by all electoral list participating in distribution, whereas each list gets the number of mandates equivalent to the number of integers in the result, and the remaining mandates are distributed per decimal values respectively. The distribution of mandates on the basis of Nimayer formula is by far closer to the proportionality requirement than the d'Hondt formula.

If the federal elections held in 1996 were republican, in other words if 250 mandates were distributed in 29 electoral districts, the coalition of SPS-JUL-ND with 42.9% of votes won, would have won by d'Hondt system 137 mandates (54.8%), whereas by Nimayer system 122 (48.8%) mandates.

Following the proposition of CeSID, comprised in the Model of Law on Election of MPs and Deputies, the opposition in Serbia is suggesting the use of Nimayer instead of d'Hondt formula.

Number of Electoral Districts

Electoral districts are the territorial frameworks within which the votes of the voters are being transferred into mandates. The number of mandates

being distributed within one electoral district directly affect proportionality of the electoral system. In the majority electoral system, the number of electoral districts is equal to the number of mandates. Increasing the number of mandates being distributed within one electoral district, in other words decreasing the number of electoral districts on the territory where the elections are being held, the proportionality of the electoral system is being increased. Increasing of number of electoral districts also increases the deviation of proportionality. The electoral system is 'most-proportional' in case of one electoral district only.

Until 1996, Serbia was divided in 9 electoral districts and, since federal elections held in 1996, in 29 electoral districts. For the benefit of great number of electoral districts, the electoral system at the republican level, whereas 250 Deputies are being elected, comes closer to the majority system. The federal elections, where (only) 108 Deputies are being elected in 29 electoral districts on the territory of Republic of Serbia, are being held by the proportional electoral system, the effects of which are identical or very close to the effects produced by the single-round majority system.

Eliminatory Census

The prohibition clause or the eliminatory census is the legally stipulated minimum number of votes, necessary to be won by the electoral list in order to participate in distribution of mandates. The use of eliminatory census decreases the effects of proportionality by eliminating the votes won by small parties and having them concentrated to the big ones.

The eliminatory census has always been high in Serbia, amounting to 5% of the number of voters turning out at the elections for each electoral district. If the census had been applied to the Republic as a whole (not to electoral districts individually), the effects of proportionality would have been higher. In the republican elections held in 1993, the Socialist Party of Serbia had won 123 mandates, whereas if under the same circumstances the census had been 3% instead of 5%, this party would have won 117 mandates. Increasing of census favours the electoral lists with the greatest number of votes won.

Calculation of Number of Votes into Mandates

In the majority electoral system, the candidate winning more votes in the electoral district wins the mandate, whereas in the proportional system it is necessary to calculate the number of votes won into mandates. The results of the elections directly depend on the formula used for calculation of number of votes won into mandates. The effect of greatest proportionality is accomplished by giving up the eliminatory census and by distribution of mandates in one electoral district with respect to the percentage of votes won. Since the number of mandates, that some electoral list should win, calculated in that way is rarely an integer, in this case the mandates are being distributed according to the value of integer, and the remaining mandates are being dis-

tributed according to the value of decimals.

The arithmetic for calculation of number of votes into mandates in Serbia, has always used the system of greatest ratios in the high number of electoral districts (first 9 and later 29) and with the high eliminatory census (5%), that always unevenly favoured the electoral list with the greatest number of votes won. The opposition suggests the use of Nimayer formula.

Electoral Geometry

Definition of boundaries of electoral districts most directly affects the fulfilment of the basic voting right that every vote has the same value. Electoral geometry, in other words fitting of electoral districts to the measurement of political and part interests in order to neutralise the voting potential of political rivals, is one of the manners of re-styling the electoral will of voters. The grouping of the electoral body of political rival to the places where he has explicit advantage, and breaking his voting corpse into a number of electoral districts where he is relatively inferior, upon the distribution of mandates the un-proportional superiority is being accomplished in the parliament and even the election victory may be achieved with number of votes lesser than the opponent's number.

In federal elections held in Serbia in 1996, the proportional system was used in 29 electoral districts, enabling the coalition of SPS-JUL-ND the un-proportional advantage in the parliament. If the electoral system with 9 electoral districts had been used (like in the previous elections) together with the d'Hondt formula, this coalition would have won 59 seats in the Chamber of Citizens, instead of 64.

Results of Federal Elections

The Table presenting the results of federal elections in Serbia includes the official reports published both in the Official Journal and the Official Gazette (SG-SL), publications of the Federal and Republican Institute for Statistics (RZ-SZS) and summaries of results (Σ) from the polling stations, published by the same institutes. Bold letters indicate all inconsistencies in these reports. In federal elections held in May 1992, 108 Deputies were being elected from Republic of Serbia, 54 by majority system and 54 by proportional system. In federal elections held in December 1992 and November 1996, 108 Deputies were being elected for the Chamber of Citizens of the Assembly of FRY by proportional system with use of d'Hondt formula.

Results of Republican Elections

The Table presenting the results of republican elections in Serbia includes the official reports published in the Official Gazette or publications of the Republican Institute for Statistics (SG-RZS) and summaries of results (Σ) from the polling stations, published by the same institutes. Bold letters indicate all inconsistencies in these reports. In all elections held so fare in Serbia, 250

GUIDE THROUGH ELECTORAL CONTROVERSIES IN SERBIA

Deputies were being elected. The first elections were held by the two-round majority system, whereas the others were held by proportional system, using d'Hondt formula - in 1992 and 1993 in 9 electoral districts and in 1997 in 29 electoral districts.

Results of Presidential Elections

The Table presenting the results of presidential elections in Serbia includes

Table of Federal Elections		May 1992	Mandates	Dec 1992	Mandates	1996	Mandates
Total Number of Voters Registered	Σ			6.755.800		7.138.309	
	RZ-SZS	6.946.140		6.967.857		7.141.484	
	SG-SL	6.848.247				7.141.484	
Turnout	Σ			4.694.969		4.306.883	
	RZ-SZS	3.838.371		4.694.969		4.308.502	
	SG-SL	3.833.878				4.308.502	
Turnout percentage		56.00%		69.50%		60.33%	
Valid ballot papers	Σ			4.435.215		4.069.336	
	SZS			4.435.218		4.070.907	
	SL					4.070.907	
Percentage of Valid ballot papers				94.47%		94.48%	
SPS; SPS-JUL-ND*	Σ		74	1.478.918	47	*1.847.898	64
	RZ-SZS	1.665.485		1.478.918		*1.848.669	
	SG-SL	1.665.485		1.478.918		*1.848.669	
SRS	Σ		30	1.024.980	34	764.353	16
	RZ-SZS	1.166.933		1.024.983		764.430	
	SG-SL	1.166.933		1.056.539		779.259	
DEPOS	Σ			809.731	20		
	RZ-SZS			809.731			
	SG-SL			809.731			
DS; ZAJEDNO*	Σ			280.183	5	*969.215	22
	RZ-SZS			280.183		*969.296	
	SG-SL			280.183		*969.296	
DS-RDS	Σ			101.234	2		
	RZ-SZS			101.234			
	SG-SL			101.234			
DS-RDS-GS	Σ			58.505	1		
	RZ-SZS			58.505			
	SG-SL			58.505			
Coalition VOJVODINA	Σ					57.645	2
	RZ-SZS					57.645	
	SG-SL					57.645	
DZVM; SVM*	Σ		2	106.036	3	*81.311	3
	RZ-SZS	106.831		106.036		*81.311	
	SG-SL	106.831		106.036		*81.311	
Independent Candidates			2				
List for SANDZAK	Σ					61.500	1
	RZ-SZS					62.111	
	SG-SL					62.111	
Others		445.858		575.628		287.414	

ELECTORAL SYSTEM AND ELECTORAL MATHEMATICS - IMPACT ON ELECTIONS RESULTS

the official reports published in the Official Gazette (SG), in publications of the Republican Institute for Statistics (RZS) and summaries of results (Σ) from the polling stations, published by the same institutes. Bold letters indicate all inconsistencies in these reports.

Table of Republican Elections		1990							
		1 st Round Mandates	1992 Mandates	1993 Mandates	1997 Mandates				
Total Number of Voters Registered	Σ	7.044.797	6.777.102	6.920.571	7.202.498				
	SG+RZS	7.036.303	6.774.995	7.010.389	7.210.386				
Turnout	Σ	5.035.830	4.723.711	4.300.440	4.133.641				
	SG+RZS	5.030.440	4.723.711	4.300.440	4.139.080				
Turnout percentage			69.70%	62.14%	57.39%				
Valid Ballot Papers	Σ		4.437.904	4.125.609	3.967.657				
	SG+RZS	4.792.090	4.437.906	4.125.609	3.972.468				
Percentage of Valid Ballot Papers			93.95%	95.93%	95.98%				
SPS;	Σ	2.320.587	194	1.359.086	101	1.576.287	123	*1.416.779	110
SPS-JUL-ND*	SG+RZS			1.359.086		1.576.287		*1.418.036	
SRS	Σ			1.066.765	73	595.467	39	1.160.393	82
	SG+RZS			1.066.765		595.467		1.162.216	
SPO; DEPOS*	Σ	794.786	19	*797.784	50	*715.564	45	792.802	45
	SG+RZS			*797.831		*715.564		793.988	
DSS	Σ					218.056	7		
	SG+RZS					218.056			
DS	Σ	374.887	7	196.333	6	497.582	29		
	SG+RZS			196.347		497.582			
DS-RDS	Σ			71.865	2				
	SG+RZS			71.865					
SSS	Σ		2	128.220	3				
	SG+RZS			128.240					
Coalition VOJVODINA	Σ							112.475	4
	SG+RZS							112.589	
DA-SSS-PPS	Σ							60.822	1
	SG+RZS							60.855	
DZVM; SVM*	Σ	132.726	8	140.825	9	112.456	5	*50.938	4
	SG+RZS			140.825		112.456		*50.960	
List for SANDZAK	Σ							49.472	3
	SG+RZS							49.486	
DRS of Moslems	Σ			6.336	1				
	SG+RZS			6.336					
K. P. for DD-DPA	Σ					29.342	2		
	SG+RZS					29.342			
DK Preš.-Bujanovac	Σ							14.178	1
	SG+RZS							14.179	
GG - Arkan	Σ			17.352	5				
	SG+RZS			17.352					
Others			20	653.338		380.855		309.798	

GUIDE THROUGH ELECTORAL CONTROVERSIES IN SERBIA

Table of Presidential Elections		1990	1992	Sep. 21, 1997	Oct. 5, 1997	Dec. 7, 1997	Dec. 21, 1997
Total Number of Voters Registered	Σ		6.949.150	7.187.397	7.210.557	7.226.947	7.225.860
	RZS	7.033.610		7.188.544	7.210.557	7.226.947	7.220.060
	SG	7.033.610	6.949.150	7.188.544	7.210.557	7.226.947	7.225.860
Turnout	Σ		4.747.165	4.130.724	3.531.063	3.812.010	3.683.714
	RZS	5.029.123		4.131.487	3.531.063	3.812.010	3.679.279
	SG	5.029.123	4.457.671	4.131.487	3.531.063	3.812.010	3.683.714
Turnout percentage		71.50%	68.31%	57.47%	48.97%	52.75%	50.98%
Valid Ballot Papers	Σ		4.622.341	3.972.297	3.425.213	3.733.640	3.565.676
	RZS	4.853.497		3.973.029	3.425.213	3.733.640	3.561.243
	SG		4.377.345	3.973.029	3.425.213	3.733.640	3.565.676
Percentage of valid Ballot Papers		96.51%	97.37%	96.16%	97.00%	97.94%	96.80%
SPS							
Slobodan Milosevic	Σ		2.673.375	*1.474.647	*1.691.354	+1.665.822	+2.181.808
	RZS	3.285.799		*1.474.924	*1.691.354	+1.665.822	+2.177.462
Zoran Lilic*	SG	3.285.799	2.515.047	*1.474.924	*1.691.354	+1.665.822	+2.181.808
Milan Milutinovic†	Σ			1.126.734	1.733.859	1.227.076	1.383.868
	RZS	96.277		1.126.940	1.733.859	1.227.076	1.383.781
SRS	SG			1.126.940	1.733.859	1.227.076	1.383.868
Vojislav Seselj	Σ			852.597		587.776	
	RZS	824.674		852.808		587.776	
SPO	SG	824.674		852.808		587.776	
Vuk Draskovic							
GG							
Milan Panic	Σ		1.604.410				
	RZS						
	SG		1.516.693				
Other Candidates			344.556	518.319		252.966	

INFORMATION ON ELECTIONS AND MEDIA IN ELECTION CAMPAIGN

M

Media and Elections: Discrimination under Government Protection

Electoral Significance of Media

Political communication is particularly significant for profiling of the electoral orientation of voters. The equality of representation of election contestants in the media accounts for one of the primary prerequisites for the fair and free elections. Political and media analysts agree that the media scene itself is a source of permanent disputes in Serbia and that its reconstruction is necessary. Media belongs among those public resources, being least accessible to the opposition and therefore affected to the great extent the results of all elections held so far. The part of opposition has decided to boycott parliamentary and presidential elections in 1997 since among other reasons, the expected „de-blocking of media“ did not precede them.

However, the importance and the role of media in the elections are still a part of political dialogue, only in principle. They are being discussed in principle since there are no system pre-requisites for independence of media and since there is no consensus on the meaning of the equal treatment of electoral contestants. Persistent rejection of the regime to create conditions for fundamental media changes is clearly obvious in ritual pre-election signing of rules, for the first time in 1992, that do not set the norms for the most important electoral contents. Thus, the resolving of the two main media problems is avoided: that the changes must commence in state-controlled media and that the equality of representation in media must be provided in production of information and not only in specialised electoral contents.

Production of Information

Since the implementation of multiparty system, many commercial media have enriched the media scene but, anyhow, public discontent was mainly directed at the state-controlled ones and the media close to the regime (RTS-TANJUG-POLITIKA). During the entire decade, the state-controlled media has remained unchanged, openly serving the preservation of the regime instead of informing the citizens. In all the elections held so far, their most influential

programs are the news programmes clearly reflecting the un-permissible difference in treatment of candidates.

The explicit partiality and non-professionalism are particularly expressed in the programmes of state-controlled television and radio (RTS). The continuity is clearly obvious even by simple comparison of air-time dedicated to the election contestants, i.e. in the main evening news programme „Dnevnik 2“. In the period preceding the elections of 1990, the ratio of air-time dedicated to the two biggest parties was 2:1, the same happened in 1992 (SPS=42'; DEPOS=23'), whereas in 1993 this ratio was 18:1 (SPS=227'; DEPOS=12.5'). During the 1997 campaign, in case of parties boycotting the elections and consequently being the real opponents to the ruling coalition which had to provide the legitimacy of the elections above all, this ratio was 65:0. Naturally, the parties declaring their participation in the elections had the better treatment - SPO got „only“ ten times less air-time than SPS. In the presidential contests the un-proportionality was even higher. When Slobodan Milosevic participated in the elections, it appeared as if he was preparing in dignity to receive the function, being given to him by nature, whereas the opponent was „dishonourably and as a traitor“ fighting to win the power. In the final stages of 1992 campaign, one evening news report on the daily activity of candidate Milosevic lasted the whole 33 minutes. That was longer than the total time given to all opposition candidates and parties together in the period of two weeks before the elections. That was the report on his „working visit“ to the province of Kosovo.

Specialised Electoral Production

Presentation of the parties as well as live debates and duels are relevant only in cases where news and information programmes provide for fair and impartial treatment of the election candidates. Wherever the daily selection of news is being made on the basis of ideological and not professional standards, just a few occasions given for „presentation and confrontation“ do not provide prerequisites for equal participation of the election rivals in communications with public. These programmes were mainly turned into monotonous, not interesting party monologues that are possibly interesting for the participants but not for the voters. Potentially much more interesting programmes of parties' debates, by the benefit of media, are turned either into the faceless programme expositions on „front page issues“, or into aggressive and malicious competitions to achieve the victory in TV programme instead of the elections. Even the TV duels of presidential candidates, in some countries being the most interesting for the viewers, when produced for the first time in 1997 between Zoran Lilic and Vojislav Seselj, appeared being totally faceless. Strict rules inhibited the communication and enabled the state-controlled television to do its best - presenting the dialogue of persons with the same opinions.

Free Media and Fair Elections

There are no free and fair elections without equality of representation in the media. For the public, it is equally unacceptable that media are the bulletin of the ruling party as well as of any other that, due to the prevailing balance of powers, gains the right to use them. Therefore, it is very important that electoral conditions also encompass the setting of norms of the media scene, but not to limit the media freedoms. However, the rules do not provide for the quality of media contents but may prevent the discrimination significantly affecting the outcome of the elections. In a country with no experience of fair and democratic elections, the regime itself has to prove the readiness to accept such elections. The best proof is a political consent of equal representation in media expressed through the liberation of state-controlled media.

Law on Public Information of Serbia

The Law on Public Information represents the general normative framework for the activity of printed and electronic media in Serbia. It was adopted on October 20th 1998 („The Official Gazette“ of Republic of Serbia No.36/1998 - 890) under the circumstances of the first serious threat of NATO military intervention in Kosovo. The law was adopted by emergency procedure whereas the (extraordinary) circumstances of its adoption have significantly affected its contents so that, consequently, by the analysis of legal experts of EC: „the law severely deviates from the guaranteed freedom of speech as it is stipulated by European Convention on Human Rights“. It causes the two kinds of problems: 1. Problems related to the wording of the law itself, and 2. Problems related to the application of the law.

Contents of Law

In respect with the contents of law, there are three basic inconsistencies representing the violation of both the Constitution of Serbia and stipulations of relevant international conventions (International Pact on Citizens and Political Rights, European Convention on Human Rights):

Article 27 of the Law, prohibiting the transmission or postponed transmission in Serbia of radio and TV programmes, in Serbian or a language of national minorities living in Serbia, if those programmes were produced by broadcasting organisations whose founders are the governments of foreign states or their agencies, providing that such programmes are of „political or propaganda contents“. This prohibition may be removed only by means of establishing the diplomatic reciprocity. On the basis of this stipulation, the independent electronic media in Serbia are practically prevented to re-transmit the programmes of Voice of America, BBC, Deutsche Welle, Radio France Internationale and Radio Free Europe, in Serbian or the languages of national minorities, as they used to do before the adoption of this Law. Since the

services of these stations in Serbian language were an important source of information and a kind of help for those stations in Serbia not having enough financial assets to organise independent information programmes, the ban has to the great extent limited the potentials of local stations to provide complete and timely information to Serbian public on all issues of its righteous interest. From the legal point of view, this is the case of specific kind of pre-emptive censorship of certain programmes, accomplished in advance by the law itself, that is in contrary with the Constitution of Serbia and the named international instruments.

Articles 67-71 of the Law, stipulating the specific „media misdemeanours“ as well as extremely high fines for their accomplices - the media and the editors. There are the two aspects of problems related to these stipulations: on one side, the formulation itself of certain stipulations is not precise enough and clear, that is the basic legal and political demand related to every penal stipulation, whereas on the other side, the fines stipulated exceed the limits stipulated as maximum fines that may be imposed for misdemeanour by the Law on Misdemeanours, as well as the limits stipulated by criminal law. For example, for criminal offence that is by definition much more socially dangerous (and therefore more severely sanctioned) than misdemeanour, the maximum fine of 250,000 Dinars may be imposed for profit gaining offences, whereas fines imposed for certain media misdemeanours may be as high as 800,000 Dinars. Bearing in mind that media misdemeanours incriminate destruction of constitutional regime (being one of the capital offences), the acting in contrary with prohibition from the Article 27 of the Law as well as „violation of dignity“, it is not difficult to conclude that these stipulations represent a big burden for those media wishing to deal with analytical investigative journalism, particularly bearing in mind the proceedings of misdemeanour process for „media misdemeanours“.

Articles 72-74 of the Law, providing for the named misdemeanour process, often named by journalist as a „Court Martial for media“. According to the aforementioned stipulations, the whole misdemeanour process that may end by imposing of high fine must be completed within 48 hours upon submission of complaint for misdemeanour. The stipulations on calling of the accused media to hearing are a precedent, since even the calling by broadcast is allowed as legal, and the particular problem is the fact that the presumption of guilt is being introduced for the accused media as well as for editors being charged. Finally, the imposed fine has to be executed within 24 hours from the moment of sentencing, that is also a precedent possibly leading to the complete financial devastation of any independent media in Serbia within the term of 72 hours only. These stipulations of Articles 72-74 of the Law are not conformed to the principle of presumed innocence in all penal proceedings, depriving the media of their right of defence. Besides, these stipulations are also hindering the right of fair trial, since the judges in misdemeanour process are administrative organs being appointed for the

term of 8 years by the Government of Serbia, therefore not the judges in the literal meaning of that function, which are supposed to be independent and whose capacity is permanent. Bearing in mind the entire repressiveness of these stipulations, it is clearly obvious that they are aimed at producing the „chilling effect“ upon all media criticising the Government.

Application of Law

The problem of application of this Law is above all the unequal application to pro-government and independent media. So far, the practice shows that pro-government media were fined just a few times, primarily in the first stage of application of this Law, when it was necessary to create the impression that the Law is equally applied to all cases. On the other side, the cases of fining of independent media are numerous, whereas the cases in which the charges against some independent media were dropped are very scarce. The fact itself that, over the period of 18 months of application of this Law, the total amount of fines imposed on the basis of stipulations of misdemeanour of this Law amounted to about 1 million Euros, 95% being the share of fines imposed on independent media and their editors, clearly illustrates the conditions of work of the media trying to be objective and refusing to follow the official government propaganda. It is necessary to emphasise that the amount mentioned should be looked upon in respect with the economic situation in Serbia as a whole, since one million Euros is an enormous amount that can not be earned in one year by all independent media in Serbia.

On the basis of already presented facts, it may be concluded that the Law on Public Information is extremely restrictive law on media that by its contents and application prevents the media of carrying correctly the opinions of all participants in the political contest. By stipulations of this Law, the media trying to criticise the Government may be financially ruined in a very short period of time. Consequently, this Law is completely inappropriate as the general legal framework for the media activities in the course of holding the at least fair and democratic elections.

Allocation of Frequencies to Electronic Media

Regulations on allocation of frequencies to radio and TV stations, as well as on issuing the permissions for their transmitters are also of great importance for unobstructed work of the media, being in that respect the addendum to the general legal framework established by media legislation. Out of several huge problems related to this field in Serbia, the most important ones will be pointed out.

Problem of Competence

It is not clear who is competent for allocation of frequencies to electronic media in Serbia, the republic or the federation. Therefore, the republican reg-

ulations encompass the rules on allocation of frequencies and in practice the frequencies are being allocated by federal administration, although it is only competent for issuing of permissions for transmitters.

Problem of Foundation of Electronic Media

Due to nonconformity of numerous regulations, providing for the area of broadcasting, currently it is not possible to legally found the new radio or TV station. Namely, the regulations comprise a series of „circulus viciosus“, for instance, as an pre-requisite for participation in the tender for allocation of frequencies, it is required that the applicant is the enterprise registered for the activity of transmission of radio and TV programmes, whereas such registration requires the evidence that the frequency has already been allocated, so the legal foundation is impossible.

Problem of „Pirate Stations“

Based on the explained impossibility, one might assume that there are very few radio and TV stations in Serbia. However, the situation is entirely different - the number of radio and TV stations in Serbia is extremely high, since the Government was tolerating the operation of stations without legally allocated frequencies and without proper licences, almost all the way throughout the nineties. Consequently, most of the existing stations represent pirates before the law, although already operating for number of years. It should be pointed out here that most of those stations have participated in the tender, fulfilling all technical requirements, but the Government does not issue the permissions for transmitters or hinders the issuing in order to, above all, treat them as 'pirates' when necessary.

Problem of Fees

During the last tender for allocation of frequencies (February 1998) the federal administration brought the decision introducing very high fees for their use. The fees have been introduced against the law since they are not provided for by any federal law. The particular problem is the fact that payment of fee is not required only from the stations to which the frequencies were allocated by tender, but it is also required from stations already operating, as well as from mentioned „pirate“ stations (!). The case of collection of fees from stations working without permission is also a precedent, not existing anywhere in the world but in Serbia.

Problem of Foreclosure of Stations

The Federal Ministry of Telecommunications quite often attempts, in average once a year, to close all the stations operating without the allocated frequencies and permissions (so-called „pirate stations“) and take away their transmission equipment, in spite of fact that they pay the required fee. Justification of such activities is sought in stipulations of the Federal Law on

Telecommunications System, prohibiting the operation without permission. It is symptomatic that the named activities as well as the practice of non-issuing of permissions, as a rule lead to the prohibition of operation of radio and TV stations criticising the Government activities in their programmes. Therefore, it might be said that this is a case of foreclosure based on political reasons founded upon technical justification.

Goals to be achieved by the Government

Although, all the aforementioned problems at first site appear being completely illogical, they actually represent a coherent system, interconnected by a common goal - Enabling the political control over the operation of electronic media, that undoubtedly are of enormous importance for the orientation of voters. Namely, by means of such activities the Government accomplishes the following goals: collects the fees for use of frequencies from all stations and replenishes the budget, has the permanent possibility to close at its disposal almost all independent electronic media since almost all of them belong to the group of „pirate stations“ (giving only technical and not political explanation) and has the possibility to prevent the foundation of any new electronic media that might not suit its will. This situation also represents the „chilling effect“ for all independent media having the choice between giving up the independent news programmes and the risk that the operation of the station will be prohibited and the equipment taken away. Such legal framework for operation of electronic media, whose effect is often of crucial importance for formation of public opinion during the election campaign, is also completely incompatible with holding of merely fair and democratic elections.



PROTECTION OF ELECTORAL RIGHT

The Constitution of FRY and the Constitution of Serbia guarantee the judiciary protection of freedoms and rights provided by constitution. The protection of electoral right is provided by respective laws of the federation and the Republic of Serbia in three manners: in the process before the municipal administrative body in charge of maintenance of electoral registers; in the process before the electoral commission and in the process before the court. The common characteristic of all forms of protection of electoral right is that processes are urgent, in other words that the terms for rulings of competent bodies are very short (24 or 48 hours).

Procedure for protection of Voting Right before Municipal Administration

It is provided by law (federal or republican) that the municipal administrative body in charge of maintenance of electoral registers is obliged, within three days upon calling the elections, to inform the citizens by public announcement or by means of media that they may have the insight into the electoral registers and demand the inscription, deletion, alteration, amendment or correction of the electoral register. The municipal body is obliged to decide upon such demand of a citizen within 48 hours. Citizen may file a complaint against such decision to the court competent for resolution of administrative processes. The court is obliged to rule within 24 hours upon the complaint has been submitted. The court ruling is effective and executory.

The practice so far has reflected several serious inconsistencies of these legal solutions:

First: current system of maintenance of electoral registers does not provide for maintenance of unique, computerised registers of all citizens - voters at the level of the entire Republic, and on its basis both at the provincial and municipal levels. Therefore, it is a common case that the same voter is being listed in several electoral registers, as well as other errors relating to identification data on voters, leading to the question of regularity of the elections. This requires the appropriate alterations of the electoral law.

Second: the electoral law does not provide for the explicit obligation for

regular updating of electoral registers, at least once a year, always immediately after the decision on calling the elections. In order to provide the promptness and accuracy of electoral registers, the law should stipulate the obligation of the Ministry of Interior, the municipal registrar's offices and the courts to officially supply, regularly every three months, the administrative body in charge of maintenance of electoral registers, with the data relevant for accuracy of electoral registers (changes of residence, deaths etc.).

Third: the obligation should be stipulated for the administrative bodies in charge of maintenance of electoral registers, to inform the citizens, immediately upon calling the elections and by means of state and municipal media, of their right to have the insight in electoral registers, to request the inscription, deletion, alteration, amendment or correction, thus timely protecting their voting right.

Fourth: the legal solution for judiciary protection of the voting right in this phase is not conformed to the constitution and the principle of the two-degree judiciary process. Therefore, it should be amended with the right of citizens to file a complaint against the court decision in first degree with the court in second degree or request extraordinary legal remedy from the Supreme Court of Serbia.

Protection of Voting Right in the procedure before Electoral Commissions

By law, each voter, candidate for MP or deputy as well as submitter of the voting list (political parties and groups of citizens) have the right to file a complaint to the electoral commission for the inconsistencies in the process of nomination of candidates and in the process of holding the elections. This legal solution has several inconsistencies.

First: the inconsistency of this legal solution is the absence of provisions for the right of the member of elections board to file a complaint with the electoral commission for violation of voting right or electoral process that occurred at the polling station.

Second: there are no provisions for written or oral complaint for the records of polling station, during the voting or not later than 12 hours upon closing of polling station.

Third: the huge weakness of the legal solution is that the process of resolution of objections and complaints filed with the electoral commission, closely regulating this process by its standing orders, is regulated only in principle. Due to the importance of voting right and its efficient protection, the entire procedure of ruling in the process before the electoral commissions on violations of voting right should be regulated by law.

Fourth: the major weakness of the current legal solution is the absence of clear definition of significant violations of voting right and electoral process, as well as of the cases in which the electoral commission is obliged to annul

the voting. Those are, above all, the following situations: inscription of voters into the electoral register on the very day of voting; the absence of the control ballot paper from the ballot box; the presence of more ballot papers in the ballot box than the number of voters turning out. The law should precisely stipulate all other violations of the voting right and the electoral process, due to which the electoral commission might declare the voting void upon judging that violations have significantly affected the outcome of the elections. For instance, violation of voting freedom, violation of voting secrecy, violation of the rule that the voter votes personally, explicit inequality of representation of candidates in media, violation of electoral silence, violation of rules on financing of election campaign etc. Without precise definition by law of the types and degrees of violation of the voting right and the electoral process, the efficient protection is not possible in the process of complaint before the electoral commission, and later before the court.

Protection of Voting Right before the Court

As stipulated by the Law on Municipal Self-government, the complaint against the decision of the municipal electoral commission (in respect with holding the elections for municipal self-government bodies) may be filed with the municipal (first-degree) court. The decision ruled upon the complain is effective and no extraordinary legal remedies may be requested against it before the Supreme Court of Serbia. The same solution is essentially implemented in the Law on Election of Deputies and the Law on Election of the President of the Republic, whereas the complaint against the decision of the Republican Electoral Commission is being filed with the Supreme Court of Serbia, against whose decision also no extraordinary legal remedies are allowed. In this manner, the judiciary protection of the most important political right of the citizen is regulated in contrary to the generally accepted principle of the two-degree court process along with the extraordinary legal remedies before the highest court. This is practically the violation of the constitutionally guaranteed judiciary protection of citizen's freedoms and rights.

Huge inconsistency of the current legal solutions is comprised, among others, in the fact that the municipal courts are ruling in cases of electoral disputes related to the election of the municipal self-government bodies. Namely, these courts are not competent by the Law on Courts, and consequently not professionally qualified to rule on administrative disputes comprising the electoral disputes. The administrative disputes are to be ruled by District Courts and the Supreme Court of Serbia, as stipulated by the Law on Courts, (this includes the extraordinary legal remedies), so the system of protection of the voting right should be conformed to that solution.

In case of electoral disputes related to the election of federal bodies, according to the Constitution of FRY, the complaint against the decision of the Federal Electoral Commission is being ruled by the Federal Constitutional

GUIDE THROUGH ELECTORAL CONTROVERSIES IN SERBIA

Court. The inconsistency of this solution is that the decision of the Federal Constitutional Court is final and may not be overruled by any legal remedy. The more adequate solution would be the judiciary protection of voting right before the Federal Court, since it would enable the request for extraordinary legal remedies.

ABBREVIATIONS

FRY Federal Republic of Yugoslavia
SPS Socialist Party of Serbia (Mr. Slobodan Milosevic)
JUL Yugoslav United Left (Mrs. Mirjana Markovic)
SRS Serbian Radical Party (Mr. Vojislav Seselj)
ND New Democracy (Mr. Dusan Mihajlovic)
SPO Serbian Renewal Movement (Mr. Vuk Draskovic)
DS Democratic Party (Mr. Zoran Djindjic)
DSS Democratic Party of Serbia (Mr. Vojislav Kostunica)
GSS Civic Alliance of Serbia (Mr. Goran Svilanovic)
DC Democratic Centre (Mr. Dragoljub Micunovic)

ZINP (Law on Election of Deputies, Official Gazette of Republic of Serbia No.32/97)

UNABS (Instructions for updating of Electoral Registers, O.G. of R. of Serbia No.32/97)



**ADDENDUM I:
Chronology of multiparty elections in Serbia**

Since December 1990, when the first multiparty elections were held after the end of the World War Two, the citizens of Serbia have voted at the following municipal, republican and federal elections:

- Dec. 9th, 1990 Elections for the President of the Republic of Serbia,
- Dec. 9th, 1990 Elections for Deputies in the National Assembly of Serbia
(second round on December 23rd, 1990),
- May 31st, 1992 Elections for the Chamber of Citizens of the Assembly of FRY,
- May 31st, 1992 Municipal elections (second round on June 14th),
- Dec. 20th, 1992 Elections for President of Republic of Serbia,
- Dec. 20th, 1992 Elections for Deputies in National Assembly of Serbia,
- Dec. 20th, 1992 Elections for the Chamber of Citizens of the Assembly of FRY,
- Dec. 19th, 1993 Elections for Deputies in National Assembly of Serbia,
- Nov. 11th, 1996 Elections for the Chamber of Citizens of the Assembly of FRY,
- Nov. 11th, 1996 Municipal elections (second round on Nov. 17th),
- Sep. 21st, 1997 Elections for Deputies in National Assembly of Serbia,
- Sep. 21st, 1997 Elections for the President of Republic of Serbia
(second round on Oct. 5th),
- Dec. 7th, 1997 Elections for the President of Republic of Serbia,
(second round on Dec. 21st),

Provincial elections were held in Vojvodina in May and December 1992 simultaneously with the federal elections, and in November 1996. The multiparty elections have never been held in Kosovo.

**ADDENDUM II:
Chronology of the attempts to unify the opposition in Serbia 1992-2000**

DEPOS (Democratic Movement of Serbia)

DEPOS was formed in May 1992, before the first multiparty elections for the Assembly of FRY, by a group of prominent independent intellectuals and the leaders of largest opposition parties in Serbia (SPO-Serbian Renewal Movement, DSS-Democratic party of Serbia, SLS-Serbian Liberal Party and ND-New Democracy). Its main board consisted of presidents and top officials of opposition parties, whereas the council included the well known intellectuals like Matija Beckovic, Mica Popovic, Slobodan Selenic, Predrag Palaestra, Dragutin Gostuski, Ivo Antic and others.

DEPOS and the most significant opposition parties, both in Serbia and Montenegro, boycotted the federal parliamentary elections held on May 31st 1992.

In the early elections held on December 20th of the same year, DEPOS won 20 seats (17.2%) in the Chamber of Citizens of the Assembly of Yugoslavia and 50 seats (20%) in the National Assembly of Republic of Serbia.

In April 1993, five non-partisan deputies of DEPOS resigned from their positions and the three opposition parties shared those mandates among themselves (Serbian Renewal Movement, Democratic Party of Serbia and New Democracy), instigating by that act the fall-apart of DEPOS.

Just before the new elections for the National Assembly of Republic of Serbia, held on December 19th 1993, the Serbian Renewal Movement attempted to revive DEPOS together with New Democracy. This time the movement was joined by the Civic Alliance of Serbia, whereas the Democratic Party of Serbia decided to run alone, and the Serbian Liberal Party decided to boycott the elections. DEPOS won 45 seats in the National Assembly of Serbia. Finally, the movement fell apart in the beginning of 1994, when the New Democracy decided to take part in the Serbian Government and had left the coalition.

ZAJEDNO (Together)

This coalition „Zajedno“ was formed after several months of negotiations between major opposition parties: Democratic Party (DS), Serbian Renewal Movement (SPO) and Civic Alliance of Serbia (GSS). It was introduced and officially promoted on March 9th 1996, during the opposition rally held in Belgrade, marking the fifth anniversary of the largest demonstrations ever held in Serbia (Belgrade, March 9th, 1991). The announcement of the coalition was followed by numerous rallies all over Serbia, attended by the coalition leaders (Zoran Djindjic, Vuk Draskovic and Vesna Pesic). The efficiency of

such new opposition strategy was verified in the municipal elections held in November 1996, resulting in the landslide victory of „Zajedno“ in about forty major cities and municipalities in Serbia. However, the regime recognized the municipal elections results only after 88 days of protest throughout Serbia. Moreover, „Zajedno“ also won 22 seats in the federal elections for the Chamber of Citizens of the Assembly of Yugoslavia. The Democratic Party of Serbia participated in the municipal elections on its own, whereas in the federal elections it joined „Zajedno“.

In June 1997, the spokesman of the Serbian Renewal Movement, Mr. Ivan Kovacevic, accused the coalition partners, Democratic Party and Civic Alliance of Serbia, of treason and co-operation with the regime, announcing in that manner the termination of the coalition. The partners responded by accusing the Serbian Renewal Movement of trying to provide legitimacy and survival of the ruling regime by participating in the presidential and republican elections held the same year.

Following the break-up of „Zajedno“, the Federal Electoral Commission mediated in the distribution of the coalition's seats in the Chamber of Citizens of the Assembly of Yugoslavia, allocating 16 seats to Serbian Renewal Movement, 3 seats to Democratic Party of Serbia, 2 seats to the Democratic Party and 1 seat to Dragoljub Micunovic, the leader of the Democratic Centre.

ALLIANCE FOR CHANGE and ALLIANCE OF DEMOCRATIC PARTIES

In June 1998, former Prime Minister of Yugoslavia, Mr. Milan Panic, and six leaders of the opposition parties announced the new strategy for unification of Serbian democratic opposition, declaring their common goal as „establishment of modern democratic state, re-construction of the economy and return to the world community“, declaring the birth of the Alliance for Change.

The Alliance initially comprised the Democratic Party, Social Democracy, Democratic Alternative, Civic Alliance of Serbia, Serbia-Zajedno and Democratic Christian Party of Serbia. The first Alliance Co-ordinator to be elected was the president of Civic Alliance of Serbia, Mrs. Vesna Pesic, later succeeded by Mr. Nebojsa Covic of Democratic Alternative and Mr. Vladan Batic of Democratic Christian Party of Serbia.

Several months later, the Alliance was joined by Democratic Centre of Dragoljub Micunovic, Democratic Party of Vojvodina Hungarians of Andras Agoston, the Association of Free and Independent Unions and some twenty other smaller parties and groups of citizens.

In June 1999, the Democratic Alternative of Nebojsa Covic decided to leave the Alliance, while on October 22nd 1999, the Social Democracy of Vuk Obradovic also left it since the Alliance decided to form an election coalition.

In October 1997, the Alliance of Democratic Parties was formed by the

GUIDE THROUGH ELECTORAL CONTROVERSIES IN SERBIA

Social Democratic Union, League of Vojvodina Social Democrats, Reform Democratic Party of Vojvodina, Sandzak and Sumadija coalitions and the Alliance of Vojvodina Hungarians.

In summer and fall of 1999 the leaders of both opposition blocks appeared together in number of rallies held all over Serbia, demanding the resignations of Yugoslav President Slobodan Milosevic and both federal and republican government.

ROUND TABLE OF DEMOCRATIC OPPOSITION

- September 30th, 1999 - The leading Serbian opposition parties participating in the debate at the Round Table organised by Democratic Centre, reached an agreement on joint activities for calling the early elections.

- October 14th, 1999 - At the Round Table of opposition parties of Serbia, held in Belgrade, all the participants signed the agreement on the electoral conditions and the demand that the authorities immediately call the early elections at all levels.

- October 28th, 1999 - The Protocol titled „The Principles for Co-operation of the Democratic Opposition“ was signed by the representatives of 15 opposition parties at the fifth session of the Round Table held in Belgrade.

- December 28th, 1999 - The leader of Serbian Renewal Movement Vuk Draskovic invited the leaders of 16 opposition parties to meet on January 10th, 2000 in order to reach the agreement on joint strategy for demanding the early and democratic elections.

- January 10th 2000 - In the meeting held at the Serbian Renewal Movement offices, sixteen leaders of the opposition parties signed the document on joint strategy providing for scheduling of early elections at all levels in Serbia.

ADDENDUM III: Conclusions of the Round Table of Democratic Opposition (October 14th, 1999)

CONCLUSIONS OF THE ROUND TABLE OF DEMOCRATIC OPPOSITION

After considering the electoral conditions necessary for holding the early elections, the Round Table of Democratic Opposition agreed on the following:

- 1) In accordance with stipulations of the Article 6 of the Constitution of the Republic of Serbia, for republican and federal elections on the territory of the Republic of Serbia, we suggest the proportional electoral system with smaller number of electoral districts (maximum of 8) and respective use of the formula of maximal remaining values (Hare-Nimayer system), with census of 4% of valid votes, along with the positive discrimination of the parties of national minorities.

In case of more than one electoral district, the number of deputies being elected in particular electoral district is proportional to the total number of valid votes in that district. Calculation of number of deputies in electoral districts is being done in such way that, upon holding the elections, the number of deputies being elected in one electoral district is set by use of Hare-Nimayer system, and in respect with such number of mandates, by the same method, the mandates are being distributed among the parties fulfilling the census. The number of candidates in voting lists for particular electoral districts shall be respectively adjusted with this system. All voting lists must be supported by greater number of signatures.

The same system is being suggested for provincial and municipal elections, thus with one electoral district and the census of 4% of valid votes.

- 2) It is necessary to make a revision of electoral registers by means of compilation of the central electoral register (at republican level) in the form of electronic registry, that would be available to all parties participating in the elections.
- 3) It is necessary to ensure the full control of the elections encompassing:
 - a) Control of electoral registers;
 - b) Control of printing of ballot papers;
 - c) Control of the voting process by technique preventing multiple voting by the same voter (signature upon receipt of ballot papers, use of special photosensitive spray and optical readers etc.);
 - d) Control of the counting of votes;
 - e) Control of data processing, comprising the obligation of the Electoral Commission to provide the registered copy of the election records processed electronically;

- f) Possibilities of presence of internationally recognised domestic and foreign monitors, throughout the entire electoral process.
- 4) Formation and constituency of the Electoral Commissions must provide for the equal decision-making. In that respect, we demand that that the permanent constituency of Electoral Commission are not more than three members, nominated from the ranks of prominent lawyers, appointed by the Round Table of the authorities and the opposition.
- 5) a) It is necessary to adopt the law that would repeal currently valid Law on Public Information and re-implement the former Law on Public Information. The participants of the Round Table also oblige themselves to submit, right after the elections, and adopt if they win the parliamentary majority, the new modern and liberal law on public information.
 - b) During the electoral campaign it is necessary to ensure the equal representation of all participants in the political life, particularly in programmes of electronic media. The same legal principle of equal representation of parties must be applied both to the public and private electronic media, to all kinds of programme and not only to the informative ones. The parties would have the right to participate in programmes of state-controlled television and radio in respect with their parliamentary status and the number of voting lists submitted. During the elections campaign public and private electronic media must stick to professional reporting and sustain from publishing comments that might directly affect the disposition of voters. The airtime reserved for reporting on the activities of the government bodies must be limited and must not be used for party propaganda purposes. Publishing of propaganda programmes and political advertisements should be limited in proportion with the time given for the free of charge media promotion, and is allowed only in the media financed from public revenues. The transmission costs may be charged by the lowest rates for transmission of public announcements. Private media may not broadcast paid political advertisements, announcements etc.
 - c) The Media Council, appointed by the Round Table of the authorities and the opposition, shall control the observation of media rules during the elections campaign and shall also have the capacity to impose the respective sanctions.
- 6) We suggest the adoption of the new law on political parties, providing as pre-requisite for registration the minimum of three thousand signatories-founders of the political party, with positive discrimination of the parties of national minorities.
- 7) Parties are financed from the controlled sources of public and private revenues. Regular activities of the party are financed from the public revenues, particularly the pre-elections campaign in such way that part

A D D E N D A

of money is received in equal amounts and the rest is received in proportion with the elections results. The revenues for elections activities are limited. In case of excessive and purposeless spending of funds stipulated, the competent body in charge of financial control has the right and the duty to order the cancellation of all further payments. The payments in contrary with this order are the illegal form of influence on the voters.

- 8) These are the conformed electoral conditions that shall be presented at the Round Table of the authorities and the opposition that has to be called, without further delay, in order to have the early elections called as soon as possible.

Belgrade, October 14th, 1999

ADDENDUM IV: Documents adopted by the Round Table of Democratic Opposition (January 10th, 2000)

The integral version of two documents signed by authorised representatives of Serbian democratic opposition in the meeting of the Round Table held on January 10th, 2000 in Belgrade.

1. Text of the document submitted to the authorities in Belgrade:

We, the leaders of the parties and coalitions that make up the democratic opposition of Serbia, agreed today on January 10th, 2000 upon the following:

The ten-year rule of Slobodan Milosevic's regime has created a veritable wasteland in Serbia. The country is biologically, materially and morally ruined. All the institutions required for society to function democratically have been degraded and destroyed. Serbia has become a single-party state, dominated by brutal repression and state terrorism, the most obvious form of which was the attempted assassination of the president of the Serbian Renewal Movement and the murder of the party's four high-ranking officials on October 3rd 1999.

Leaders and members of the democratic opposition parties are no longer the sole victims of organised state terror and repression, but also journalists, independent media, university professors, judges, students, teachers, pupils, refugees, pensioners, the unemployed, soldiers, reservists, officers, policemen, peasants, invalids, the families of the killed... all those in Serbia who seek democratic changes and the dismissal of the regime that has produced nothing but defeat, refugee convoys, conflicts with the world, misery and the suffering of millions for ten years already.

The only salvation for Serbia and its citizens lies in the departure of the current authorities and comprehensive changes in the system. Although the regime recently rejected the demands of the democratic opposition in Serbia for an agreement on early elections to be organised at all levels in our republic, and turned a deaf ear to the popular will expressed at protest rallies, we have decided once again, all together this time, to present our requests to Yugoslav President Slobodan Milosevic, who is also the president of the Socialist Party of Serbia, as well as to the President of Serbia, the president of the National Assembly and the Prime Minister of Serbia. Our demands are:

1. For an agreement to be reached between the ruling parties and the opposition's parties and coalitions that signed today's agreement on early and democratic elections in Serbia, to be held at all levels by the end of April 2000. The signatories of today's agreement will adhere to the principles adopted by the Round Table of Opposition held on October 14th 1999.

A D D E N D A

2. Putting a stop to all state terrorist acts and lawlessness in all its forms, and bringing to justice those who committed and organised the October 3rd crime on the Ibarska Magistrala highway, along with those who committed and organised the murder of Slavko Curuvija and all other unresolved murders.
3. The repeal of the existing repressive laws that curb the rights of citizens and the antidemocratic laws on public information and the university.
4. In seeking an end to state terror and lawlessness, and offering one more chance for a peaceful and democratic way out of the overall crisis and tensions in Serbia, we assume our responsibility before the state and the citizens.

We call on the responsible people in the ruling coalition to step out in the same direction.

In the coming period, we will use independent and joint round table discussions, local media presentations and public appearances to present to the people of Serbia, the opposition's future voters, our joint strategy and raise their hopes in changes.

The first major joint rally of support to the opposition demands will be held in March.

The participants in today's meeting of the democratic opposition have agreed to co-operate during the preparations for the elections, during and after them, and to respect all agreements on fair play among the parties adopted so far, non-co-operation with the regime and the minimum of electoral conditions. This co-operation will be institutionalised for that purpose.

Belgrade, January 10th, 2000

2. Text of the document sent to the Foreign Ministers of the European Union, the United States of America, Russia and China:

1. We the presidents of parties and coalitions that make up the democratic opposition of Serbia, have met today, on January 10th 2000 to request the following from the governments of your countries:

- (1) The urgent implementation of the provisions of UN Security Council Resolution 1244 on Kosovo and Metohija:
 - Full protection by KFOR forces of the national borders of the Federal Republic of Yugoslavia with Albania and Macedonia and the prevention of all attempts by criminals to infiltrate the territory of Kosovo;
 - Decisive action against Albanian terrorists and thieves in Kosovo, as well as against all forms of lawlessness and crime in the province;
 - Authorisation of local self-government for Serbs, Goranians, Muslims, Roma and other non-Albanian ethnic groups living in Kosovo as an interim solution, under the full protection of KFOR and UNMIK. KFOR is obliged to facilitate the swift return of Serbs and other non-Albanians

forced to leave Kosovo after the arrival of the international peacekeeping forces in this Yugoslav province;

- (2) The urgent lifting of the international ban on air traffic with Serbia and on the export of oil to Serbia;
- (3) An increase in humanitarian aid shipments to over one million refugees in Serbia and Montenegro, as well as to more than two million citizens living on the brink of starvation.

2. In addition to these urgent measures we ask the European Union and the United States of America to agree that, immediately after the signing of an agreement between the government and democratic opposition on early elections at all levels in Serbia, they will lift all sanctions in effect against Serbia and Yugoslavia, that Yugoslavia will be given full OSCE membership, and that Serbian soldiers and police officers will be able to return to Kosovo in accordance with the signed agreements.

The sanctions imposed on Serbia by the European Union and the United States of America are affecting the people, not the regime. They make it possible for the regime to demonise everything that is European and democratic and use flagrant state-sponsored terror against the opposition, news media, judges, citizens and all others who are struggling for democracy in Serbia.

With the acceptance of our requests by the governments of your countries the regime of Slobodan Milosevic would be confronted with the demand of millions of Serbian citizens for early elections. The regime would not be able to refuse this demand and the electoral victory would go to the democratic forces.

The democratic opposition of Serbia advocates equality between Serbia and Montenegro within the state bodies of Yugoslavia, the renewal of diplomatic ties with the U.S., France, Great Britain and Germany, urgent and far-reaching reforms of the political and economic system in Yugoslavia, the harmonisation of our fundamental laws with those of the European Union, and securing conditions, for the inclusion of Serbia and Yugoslavia in the Stability Pact for South-Eastern Europe.

The democratic opposition of Serbia advocates full respect for the special ethnic, cultural and religious rights of the Hungarian, Albanian, Romanian, Slovak, Bulgarian, Croat and all other ethnic communities living in Serbia.

The decentralisation of government and the consolidation of local and regional self-government, in accordance with similar processes in modern Europe, will be one of the key points of our programme.

The democratic opposition of Serbia supports a democratic Serbia and Yugoslavia in Europe, full co-operation with the United States, Russia, China and other countries, particularly our neighbours.

Belgrade, January 10th, 2000