

On behalf of the participants in the #1in5million protests, the Expert group concludes conditions for free and fair elections do not exist due to a lack of freedom of speech and communication in the public domain and inequality in the election process and proposes the following:

Demands

1. The President must respect the Constitution of the Republic of Serbia, whereby he serves as the expression of state unity, and does not participate in election campaigns on the side of any electoral list or political party.
2. The Minister and the State Secretary of the Ministry of Culture and Information must resign, for they bear political responsibility for the decline in media freedom, the government's passive attitude towards the collapse of the media system, delays in adopting the national media strategy, and a neglect of their duty to monitor the work of the media in the public interest.
3. The members of Council of the Regulatory Authority of Electronic Media (REM) must be relieved of their posts for violating their legal obligations, the non-performance of duties under their jurisdiction, the inactive implementation of their legal authority to monitor the work of broadcasters, and their passive attitude towards the dominant increase of programming detrimental to the public interest and the cultivation of media pluralism.
4. Key changes must be made to the news and informative programs of Radio Television of Serbia (RTS) and Radio Television Vojvodina (RTV) that will ensure the respect of high standards of political pluralism, equal access to different views on important social problems, and equal and impartial treatment of all electoral actors.
5. More active involvement must be endeavored of all state bodies in charge of overseeing and control of the election process and the role of media in elections—the Supervisory Board, REM, the Anti-Corruption Agency—and the implementation of all available legal means to assure the conditions for free and fair elections.
6. More active and transparent activity of all state bodies that are involved in the process of conducting elections as well as those affect the quality of the election process—the Republic Electoral Commission, the Ministry of Public Administration and Local Self-Government, the Republic Public Prosecutor's Office—as well as the revision of regulations relevant for organizing free and fair elections.

Reasoning

The three basic requirements of the participants in the #1in5million protests indicate deep dissatisfaction with the work of the media, caused by a constant decline of media freedom, its inefficient regulation, its evident political control and other undemocratic media abuses, all of which directly threaten the quality of the electoral process and the development of democratic standards and institutions.

Free elections and free media are highlighted as problems by international political institutions (European Parliament, Council of Europe, European Commission) as well as organizations that regularly monitor and rank-order democratic and media development in the world.

The 2019 Freedom House *Freedom in the World* report indicates that, for the first time since this index has been measured in Serbia, the country's status has downgraded from Free to Partly Free. According to the *Economist Intelligence Unit Index*, the level of freedom in Serbia in 2018 was lower than it was in 2013 after the Vucic regime came to power, and it has been declining steadily since 2015.

Serbia has seen the biggest drop in the media freedom category. The latest report of the international organization *Reporters without borders* indicates that Serbia dropped 14 places on the World Press Freedom Index over a course of a single year.

Since 2012, all indicators of media freedom record a downward trend. Such conclusions are also being drawn by national researchers, experts, and the general public. According to most of the findings, the key reason for the collapse of media freedom is the growing authoritarianism of the political system, prohibition of public criticism, and categorization of independent media as a political opponent, together with the opposition, independent institutions, and non-governmental organizations. This hostility is dictated by the President and the ruling coalition, which is then accepted as ordinary behavior by state institutions, as well as media close to the government.

The roles performed by the media close to the government fall into distinct categories. The public broadcasters, namely RTS and RTV, ignore and minimize critical developments in political and public life. Events of public importance are mainly presented from the perspective of the authorities, while opposing views are mainly presented as coming from those who indirectly support the government or cooperate with it in various areas. Leading commercial broadcasters are either vocal carriers of campaigns aimed to discredit individuals, parties, NGOs, media, or independent institutions critical of the government, or open and unduly supporters of the ruling party, state institutions and the President. Print media outlets with the highest circulation lead the smear campaigns of targeted individuals, the spread of false news, and the atmosphere of fear and insecurity in society.

During election campaigns, such pre-cooked reporting makes it easy to discredit the political programs and ideas of the opposition. Smear campaigns and attacks on government critics and opponents during the non-election period, in fact constitute negative campaigns that benefit the government. During the election period, they are supplemented by the blending of campaign events and government events, as well as the abuse of public resources that serve to positively promote the ruling parties and candidates. Limiting such forms of political abuse of media is important for the establishment of a level electoral playing field for all participants and actors.

The current situation is directly stimulated and facilitated by inactive, weak, and inconsistent state institutions (National Assembly, Ministry of Culture and Information, Public Prosecutor's Office) and regulatory or control bodies (REM, Anti-Corruption Agency, The Commissioner for the Protection of Equality) that do not undertake action within their jurisdiction, nor any action

aimed at affirming their reputation and mobilizing public support to change the existing media environment.

By blocking communication in the public domain and disabling critical and alternative points of view, public opinion cannot be freely formed, and citizens are deprived from the possibility of reaching an informed judgment on issues of public importance as well as possible ways of resolving them. In such non-democratic conditions, where there is no media freedom, it is not possible to prepare and conduct free and fair elections, so liberating the media from its illegitimate political and economic constraints is a prerequisite for establishing free and fair electoral conditions.

Media reforms in Serbia have not created new institutions that have a high level of autonomy combined with a high level of responsibility; hence they do not work at present in the public interest.

The ongoing, unsuccessful, and difficult process of adopting a new Strategy for the Development of the Media System started in 2016, when the privatization of the media was completed, and project co-financing was applied for the first time. It attests that media freedom and regulations are not a part of the regular process of creating public policies, but rather a battlefield for political conflicts. The more than three-year delay in adopting the strategy is a testament to the unwillingness of the authorities to regulate the work of the media in the public interest, and protect the values of media freedom.

The way in which the privatization of the media was carried out caused significant problems (the concentration of local media ownership in the hands of party members, the purchase of private media with public funds, shutting down and depriving entire regions of local media). The system of co-financing media projects in the public interest is applied with a series of weaknesses. Under political influence, the relevant Commissions mainly channel the money to media under ruling party control; and instead of quality content, private political interest is financed by public funds. Media laws are not enforced, REM does not effectively perform its duties, public broadcasters —RTS and RTV—are not financially independent and work under various pressures, commercial broadcasters are financially supported and politically misused by the authorities, tabloids are financed by public funds and encouraged to attack government critics through negative campaigns.

The new media laws envisaged a high level of autonomy for the regulatory bodies, primarily REM, as well as the public broadcasters, but these neither established standards regarding the responsibility of the aforementioned towards the public nor the control of their work in the public interest. This separation of autonomy and accountability led to a self-proclaimed pardon of all institutions and competent state bodies (the Ministry of Culture and Information, the National Assembly Committee on Culture and Information, REM, the management of RTS and RTV)—absolving them of guilt for the poor state of the media system and the work of the media. It created a climate of irresponsibility in which it is possible to conclude that whilst the legislation is getting better, the media is becoming less free.

The preparation for the establishment of fair electoral conditions therefore begins with the liberation of the public sphere. This means, inter alia: replacement of the individuals in charge within institutions that monitor the implementation of media laws (Ministry, REM); more active and responsible work of all institutions that control the election process and oversee the role of the media in election campaigns; normalization of political communication through respecting standards of quality and professionalism of the media; and enabling a level playing field in politics (free and unencumbered political competition) without which it is impossible to choose freely and an informed manner one's representatives through the electoral process.

By applying pressure on voters (primarily those employed in the public sector, and beneficiaries of social welfare, which together constitute at least the preponderance if not majority of potential voters) and spreading fear, free elections and the rule of law guaranteed by the Constitution are undermined. The imprecision and selectivity in the implementation of election regulations and procedures, as well as the insufficient training of individuals serving in various electoral bodies (primarily polling boards) result in a number of procedural and technical errors during the conduct of elections. These tend to be repeated in every election cycle. Moreover, there is a lack of confidence in the accuracy of the voters list among citizens and political actors, due to the existing disparity between the number of adult citizens living in Serbia and the number of registered voters contained in the Single Electoral Roll. As a consequence, the confidence of citizens and political actors in the election process has diminished, and the legitimacy of election results and the very essence of free and fair elections has been undermined.

Recommendations

President of the Republic of Serbia

1. The President, who according to the Constitution serves as the expression of the state unity of the Republic of Serbia, must not participate in election campaigns on the side of any electoral list or political party. In order to ensure equal conditions for all electoral participants, the President must not be the electoral list leader, nor take part in promotional rallies, or use his official duties for the purpose of directly or indirectly promoting any electoral participant.
2. After the elections, the rule that the President of the Republic cannot participate in the election campaign on the side of any electoral participant should be incorporated in the relevant legislation.

Ministry of Culture and Information

1. The Ministry should actively participate in the creation and implementation of media public policies, monitor and inform the public and the National Assembly about the implementation of the legislation, propose regulations in areas where negative trends are noticed throughout the entire media system (including printed, electronic and online media)

2. In accordance with its legal obligation, the Ministry should monitor the work of the media, and identify problems, such as: concentration OF WHAT???? at the local, as well as the national level, endangering pluralism, excessive commercialization, tabloidization, journalist safety.
3. The Ministry should develop a mechanism to enable public funding only for content that serves the public interest (media that do not violate the code of responsible journalism, clear criteria for quality assessment, reports on the special-purpose spending of the funds, and monitoring the funds are spend in accordance with the criteria of open competition)

Regulatory Authority of Electronic Media (REM)

1. A legally regulated procedure against the members of Council of the Regulatory Authority of Electronic Media should be initiated to relieve them of their posts for the non-performance and dereliction of duties under their jurisdiction, the inactive implementation of their legal authority to monitor the work of broadcasters, inefficient control of their work in relation to those to whom a broadcast license has been granted, ineffective control over the work of public broadcasters, non-enforcement of measures, a passive attitude towards the dominant increase of programming detrimental to the public interest and the cultivation of media pluralism (tabloidization, dominance of reality programs, negative campaigning against critics and political opponents of the government, biased news and information programing), as well as a lack of action to fill vacant positions on the Council.
2. An effective procedure to elect new members of the REM Council should be initiated, with reference to existing procedure, deadlines, and with consideration of the demands made by the participants of the #1in5million protest—to elect members who meet high professional requirements and are proven advocates of freedom of expression.
3. Until the next election is held, REM should supervise and publish quarterly analytical reports on the news and information programs of RTS and RTV, and one report on the programs of national broadcasters.
4. REM should launch various forms of public and professional debates regarding general and election reporting by public and other broadcasters, in order to gather proposals on how to better protect the public interest in electronic media.
5. REM should adopt a Rulebook on News and Information Programing Standards that will be binding for all broadcasters, based on all features and remarks put forward in previous research reports and expert discussions. This Rulebook should prevent smear campaigns and hate speech, and stop the collapse of standards of objectivity, independence, and accountability of the media. It should also establish a specific set of standards for public media broadcasters (pluralism, impartiality, fair treatment of different views).
6. REM should adopt a new Rulebook Regulating the Conduct of Media in Elections, with precise obligations for all types of broadcasters and programs. This Rulebook should prevent the misuse of public authority and resources for the purposes of promoting certain election

participants as well as limit the time of paid political advertising per participant/actor/list, since these are seen as the most profound sources of inequality in mobilizing voter support.

7. During the election campaign, REM should monitor the conduct of the media and publish the results of the national broadcasters' monitoring once a week. The monitoring of the work of local broadcasters should be performed according to an annual plan.

8. Until the next election is held, the National Assembly should organize public debates discussing the work of REM every six months.

Public broadcasters RTS and RTV

1. Until the next election is held, every three months REM should publish reports containing the results of a detailed quantitative and qualitative analysis of the relevant sample of RTS and RTV news and information programs, with particular consideration to public interest and independent editorial policy.

2. The Program Councils of the public broadcasters examine the reports of REM in open sessions and make recommendations to improve their respective news programs in accordance with the findings of these reports.

3. On the basis of the Law on Public Service Broadcasting and the REM Rulebook on News Programming Standards, RTS and RTV should adopt self-regulatory document, Reporting Guidelines, with clear instructions on how to fulfill their legal obligations of thorough and impartial reporting reflecting political pluralism and presentation of confronted views in everyday programs, and during the election period.

4. Based on the best practices of public broadcasters in Europe, RTS and RTV should introduce new debate broadcasts on issues that, according to relevant opinion polls, are of major concern to citizens. The participants in these broadcasts should be renowned academics, experts from state institutions, civil society organizations and opposition parties and selected professionally by the editorial boards in order to ensure the exchange of opposing views.

Supervisory Board

1. A Supervisory Board should be formed as a non-executive body in order to oversee the conduct of all electoral actors (electoral lists, media, state bodies), in accordance with the provisions of the Law on the Election of Members of Parliament.

Anti-Corruption Agency

1. The Anti-Corruption Agency should adopt bylaws that indicate clearly those sorts of public resources, rallies, and meetings that cannot be used by public officials to promote political entities.

2. The Agency should immediately react to any violation of Article 29 by initiating the relevant *ex officio* procedure and issuing a warning as soon as possible.

3. During the election campaign, the Anti-Corruption Agency should publish public reports about the field monitoring of the election campaign every two weeks.

Pressure on voters

1. The current provisions according to which even ballots containing comments, codes, etc. can be considered valid must be changed, as well as the instructions for the polling boards on how to distinguish valid from invalid ballots.

2. More precise prohibitions must be introduced regarding the use of mobile phones at polling stations. The existing fines for violating such prohibition should be larger, and incarceration should also be introduced as a form of punishment.

3. It must be prescribed by law (instead by the current Polling Board Rules for the Conduct of Elections) that it is prohibited to create lists, apart from official records, of the voters turning out to vote (by writing down a name or ordinal number from the excerpt from the Electoral Roll of the voters who turned out or did not turn out to vote). Fines and incarceration provisions should be introduced as sanctions for the offenders, and it should be possible to file a complaint with the Republic Electoral Commission, which should decide whether voting at that polling station should be repeated.

4. The existing provision forbidding persons who have no rights and duties regarding the carrying out of elections to linger at the polling station should be broadened to include not only the polling station, but also a 50-meter radius from the polling station. Article 58, par. 6 of the Law on the Election of Members of the National Assembly should remain in place, for it prescribes that a complaint may be filed with the Republic Electoral Commission, which shall then decide whether voting at that polling station shall be repeated. Fines and imprisonment for offenders must be introduced by law.

5. Article 19 of the Law on the Protection of Whistleblowers should be amended in the part referring to public whistleblowing to include violations of electoral rights.

6. The Republic Electoral Commission, as a body that ensures the lawful conduct of elections, should launch a comprehensive campaign aimed at educating voters, in particular regarding voting procedures, the importance of voting secrecy, the prohibition against confiscation or concealment of ballots according to the provisions of the Criminal Code, as well as regarding legal mechanisms that protect voters from pressure, including their rights under the Law on the Protection of Whistleblowers.

7. The public prosecutor's office should issue a call for reporting abuses and criminal offenses against electoral rights, electoral bribery, and other related criminal offenses, guaranteeing witness protection in such events. It should also investigate the existence of these criminal offenses even before criminal charges are filed.

Election administration

1. All records on the operations and conduct of polling boards should be published on the Republic Electoral Commission's website immediately after entering the data from the records into the computer system.
2. All subsequent changes to the records on the operation of the polling boards should be prohibited. Existing practice that the entry of results into a control sheet for verifying the logic and calculative concordance of the voting results at the polling station, prior to entering the results in the Records, should continue.
3. Training, testing, and compulsory certification should be a prerequisite for performing duties as a permanent member of the polling board. If the Republic Electoral Commission is unable to organize the said training, this duty should be taken over by the ministry in charge of administrative affairs.
4. Change the existing provisions of the instructions for the conduct of elections, according to which priority for electing the president of the polling board is given to a person with high education and experience in conducting elections. Instead, the instructions should make it mandatory for the president and deputy to be persons employed in public administration.
5. Remuneration for the work of the president and deputy of the polling boards should be increased, but proportional fines should be imposed if the records contain "serious" or "minor" mistakes.
6. Based on best comparative practice, the processing of results should be broadcasted live on the Republic Electoral Commission's website, simultaneously with the entering of the results into the system at the municipal level, by the working bodies and the Statistical Office of the Republic of Serbia.
7. The work of the Republic Electoral Commission must be more transparent. All documents pertinent to the election process, including records from plenary sessions and meetings of working bodies, as well as preliminary and final voting results, should be published. All sessions of the Republic Electoral Commission should be broadcasted live on their website.

Electoral roll

1. The single electoral roll should be compared with the data from the Ministry for Internal Affairs and other state institutions in order to determine the number of "fictive" voters. The process should be modeled on the one conducted in North Macedonia in 2016—the formation of a working group comprised of representatives of all relevant actors from ruling and opposition parties, as well as representatives of foreign and national organizations dealing with election observation.

2. Field monitoring should be conducted on an appropriate sample to determine the accuracy and veracity of the electoral register—potentially in two separate processes—in accordance with international standards and using recognized methods. Representatives of all relevant institutions, ruling and opposition parties, national and foreign civil society organizations, and interested representatives of academia, should be included in the process.
3. Different options should be considered in order to find the best solution with regards to publishing parts of the data from the electoral register (ordinal number in the electoral roll, name and surname, gender and date of birth) for the purpose of making it publicly available in accordance with the law and best international practice, which is also an OSCE / ODIHR recommendation.
4. The total number of registered voters in the electoral roll should be published—including the number of voters according to their place of residence, voters who reside abroad, and the number of voters registered as internally displaced persons.
5. The public should be regularly informed about changes made to the electoral roll by publishing them on the website of the Ministry of Public Administration and Local Self-Government at the end of each month, in accordance with the codes prescribed by the Manual for the Implementation of the Law on A Single Electoral Roll (code 01 – cancelation of the registered permanent residence; 02 – registration of permanent residence; 03 – cancelation of the registered residence; 04 – registration of place of residence; 05 – cancelation of registered residence abroad; 06 – registration of residence abroad; 07 – becoming of legal age; 08 – becoming of legal age on the day of the elections).
6. Frequent trainings should be organized for the employees in municipal/city administrations who are tasked with updating the electoral register. The supervision of the persons handling the electoral register should be improved and strengthened, and penalty provisions should be consistently applied if the responsible persons do not secure the accuracy and veracity of the electoral register. The reports on the conducted supervision and the number of requests for initiation of misdemeanor proceedings before the competent courts should be published on the website of the Ministry of Public Administration and Local Self-Government every month.
7. Following the elections, access to the election register and other documents should be permitted for each registered voter, or successors of a deceased person, in order to eliminate any doubt than somebody else voted on behalf of them, or on behalf of a deceased person.