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# OPINION ON DRAFT LAW ON AMENDMENTS TO THE LAW ON THE UNIFIED VOTER REGISTER

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## SERBIA

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This Opinion has benefited from contributions made by Ms. Marla Morry, International Lawyer and Electoral Expert.

Based on an English translation of the Draft Law provided by the National Assembly of the Republic of Serbia.

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## EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

The proposed amendments present an effort to partially address two key ODIHR recommendations put forward in its election observation reports related to the transparency and accuracy of the Unified Voter Register (UVR).

The Draft Law prepared by the Serbian Progressive Party (SNS) introduces articles that mandate the Ministry of Public Administration and Local Self-Government (MPALSG) to publish the voter lists for public scrutiny and detail the scope of personal data to be published while adding further provisions on personal data protection. It also further regulates the access of political parties and other actors to the UVR. The Draft proposes establishing an *ad-hoc* commission to audit, verify and control voter registration data.

Specifically, the Draft touches on the following aspects of previous ODIHR recommendations:

- Publishing partial data from voter lists for public scrutiny;
- Ensuring that the law specifies which voter data should be made available for public scrutiny and ensuring lawful and secure access to this data;
- Periodic publishing of voter registration data, disaggregated by different types of updates;
- Facilitating the audit of the UVR by independent experts with the participation of various stakeholders, including political parties and civil society, while enabling access to the voter registration data for auditing purposes;
- Proposing certain elements of a Civil Registry Audit (although a full Civil Registry Audit is not envisaged).

To avoid obstacles in the eventual implementation of the amended law, it is recommended to give additional consideration to further harmonizing it with the personal data protection laws and to introduce explicit provisions that would eliminate ambiguities about compliance with personal data protection laws and thereby enable a greater understanding of the rights and obligations carried out by different actors accessing and scrutinizing voter registration data.

The Draft Law does not address the issue of regulating the enfranchisement of Serbian citizens without permanent residence in Serbia, to guarantee their universal suffrage and prevent undue disenfranchisement or unequal treatment of voters, as previously recommended by ODIHR. It is therefore recommended to consider this aspect during the consultations.

Prior to preparing this Opinion, ODIHR provided Informal Comments on the working versions of the Draft Law in response to requests by the Working Group for Improvement of the Election Process (Working Group) established by the Committee on Constitutional and Legislative Issues, as part of ODIHR's Support to Electoral Reforms in the Western Balkans Project. In its Informal Comments to the parliamentary

Working Group, ODIHR had recommended to align the texts of the SNS and the Center for Research, Transparency and Accountability (CRTA's) draft amendments, as some positive features were considered to be included in each of the drafts, and to conduct the harmonization in a collegial and inclusive manner through a meaningful consultation process.

Regrettably, the members of the Working Group were unable to work in a collegial and constructive manner to reach a unified text for consideration by the relevant parliamentary committee and interested stakeholders. ODIHR reiterates its call for harmonization of the Draft Laws and for the Draft Law(s) to be subjected to inclusive, extensive and effective consultations, including with civil society to increase public confidence in the process. Moreover, number of procedural irregularities in the implementation of the public consultation process challenged the timely, inclusive and genuine nature of the process.

Overall, the Draft Law is in line with ODIHR's previous recommendations in its election observation reports and, if implemented, provides a solid basis for addressing them. However, ODIHR notes that while the current version of the Draft Law addresses some recommendations offered in its Informal Comments to the parliamentary Working Group on an earlier version, it leaves several recommendations unaddressed and includes a problematic redraft of an earlier provision on the decision-making process of the Audit Commission that had been previously positively evaluated by ODIHR.

Further, ODIHR encourages the relevant stakeholders and authorities to consider the recommendations put forward in this Opinion for possible incorporation into the Draft Law to amend the Law on the Unified Voter Register (LUVR). More specifically, and in addition to what is stated above, ODIHR makes the following recommendations to further enhance the proposed amendments to the LUVR:

- A. To widen the scope of authorization for verification of the UVR to include civil society organizations and observer groups; [par. 22]
- B. To enhance the clarity of the Draft Law in regulating the auditing process by either proposing a new chapter in the LUVR or indicate where to insert the proposed articles and to reorder and renumber the Articles; [par. 25]
- C. To amend provisions on the composition of the Audit Commission and decision-making requirements to have a greater potential to increase public confidence in the audit and the actual and perceived independence of the audit; [par. 28]
- D. To consider a decision-making mechanism that would require at least one vote from each member group in the Audit Commission (government, opposition and citizen groups) so as to mitigate the risk of blockage of a minimum two-vote requirement; [par. 32]
- E. To further broaden the list of areas to be audited, such as including an audit of the legal and regulatory framework on the UVR and an audit of public communication and voter education around the voter registration process; [par. 33]

- F. To consider participation of the members of the Audit Commission in the parliamentary committee meetings that consider its Audit report and recommendations; [par.35]
- G. To provide for the participation of observers in the Audit Commission's work and to provide for plenary presentations where details of the work of the Commission are regularly discussed with the wider group of stakeholders; [par. 36]
- H. To establish a permanent mechanism for the periodic audit of the UVR or mandating the Audit Commission to conduct periodic audits, with the frequency and scope clearly defined in the law and regulations. [par. 38]

***These and additional Recommendations, are included throughout the text of this Opinion, highlighted in bold.***

***As part of its mandate to assist OSCE participating States in implementing their OSCE human dimension commitments, ODIHR reviews, upon request, draft and existing laws to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement.***

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## **I. INTRODUCTION**

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1. On 10 February 2025, the Chairperson of the Committee on Constitutional and Legislative Issues of the National Assembly of the Republic of Serbia, sent to the OSCE Office for Democratic Institutions and Human Rights (hereinafter “ODIHR”) a request for a legal review of the Draft Law on Amendments to the Law on the Unified Voter Register (LUVR) submitted to the Parliament by a Member of Parliament Mr. Ugljesa Mrdic’s on 23 January 2025 (hereinafter the “Draft Law”).
2. Prior to preparing this Opinion, ODIHR provided Informal Comments on working versions of the Draft Law in response to requests from the Working Group for Improvement of the Election Process (Working Group) established by the Committee on Constitutional and Legislative Issues, as part of ODIHR’s Support to Electoral Reforms in the Western Balkans Project.<sup>1</sup> At that time, ODIHR noted that it stood ready to provide a formal review of the newly proposed election-related legislation that the Working Group would present to the National Assembly.
3. ODIHR’s Informal Comments assessed two alternative proposed draft laws to amend the LUVR; one drafted by the Serbian Progressive Party (SNS) - which is the subject of this opinion in an updated version - and one drafted by the Centre for Research, Transparency, and Accountability (CRTA). These proposals partially overlapped but also included significant differences on certain issues, including on provisions regulating the status, composition, and decision-making process of a new audit commission.
4. Following submission of ODIHR’s Informal Comments on 28 November 2024, the SNS and CRTA separately amended their respective draft laws.<sup>2</sup> However, upon voting on each of the updated draft proposals, the Working Group was unable to reach the required two-thirds majority on either draft, nor was it able to draft a harmonized text. Consequently, on 16 January 2025, the Chairperson of the Working Group submitted the two amended drafts to the Committee for Constitutional and Legislative Issues for further action.
5. Subsequently, the Chairperson of the Working Group requested ODIHR to provide further Informal Comments on the updates made to the two draft proposals; ODIHR provided its updated comments on 31 January and 4 February 2025. While the updates to the two draft proposals in part addressed ODIHR’s recommendations for improving the initial drafts, ODIHR recommended to align the texts of the drafts as some positive features were considered to be included in each of the drafts. ODIHR further recommended that this harmonization be conducted in a collegial and inclusive manner through a meaningful consultation process.
6. On 27 January 2025, the relevant parliamentary committee initiated a public hearing process on the two proposed drafts. At the end of January and start of February 2025, representatives of five opposition parties and civil society members, including the

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<sup>1</sup> The Working Group was established by the Committee’s formal decision in order to draft proposed laws as part of the electoral reform process. The Decision establishing the Working Group provides for the adoption of legal solutions to implement all ODIHR recommendations by 1 July 2025, the revision and adoption of appropriate regulations to implement key ODIHR and Council of Europe recommendations, and the conducting of a thorough revision of the voter register in accordance with ODIHR recommendations, as planned in the reform Agenda adopted by the Government of Serbia. The proposals for amendments to the LUVR were the first acts to be considered by the Working Group and Committee for Constitutional and Legislative Issues as part of this electoral reform agenda.

<sup>2</sup> The SNS’s updated draft was dated 26 December 2024 and the CRTA Association’s updated draft was dated 19 December 2024.

Chairperson of the working group, withdrew from the group, citing irregularities in the public consultation process, and resulting lack of trust in the process.

7. These concerns were reiterated in the letter of the Chairperson to the Committee on Constitutional Affairs and Legislation on 30 January, which called for the Committee to align with the prescribed procedural steps, in particular to invite interested members of the public to comment on the draft laws that were the product of the Working Group, to organize new public hearing(s) where all interested citizens may participate, and to benefit from ODIHR's Informal Comments on the updated drafts which were expected soon. The Committee held a number of public hearings in several cities on the two draft laws, concluding on 20 March.
8. On 10 February, the Chairperson of the Committee on Constitutional and Legislative Issues of the National Assembly requested ODIHR to provide a formal legal opinion on a further updated version of the draft submitted by the SNS to the parliamentary committee on 23 January 2025.
9. On 14 February, ODIHR responded to the request of the Chairperson of the Committee on Constitutional and Legislative Issues, confirming the Office's readiness to prepare a legal opinion on the compliance of the Draft Law with international human rights standards and OSCE human dimension commitments. This Opinion was prepared in response to the above request. This Opinion references some of ODIHR's Informal Comments with respect to both the SNS and CRTA's working drafts, as applicable to the updated Draft Law currently under review.
10. ODIHR conducted this assessment of the Draft Law within its mandate to assist the OSCE participating States in the implementation of their OSCE commitments, in particular, related to the electoral process. ODIHR welcomes the readiness of the Serbian authorities to follow up on the electoral recommendations provided herein and stands ready to assist the authorities of Serbia to further improve the electoral process.<sup>3</sup>

## **II. SCOPE OF THE OPINION**

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11. The Opinion does not constitute a full and comprehensive review of the entire legal and institutional framework regulating elections in Serbia. It focuses on the conformity of the Draft Law with international standards and good practice in electoral matters and highlights proposed changes that might address previous ODIHR election-related recommendations. As such, this Opinion should be read in conjunction with the recommendations made by previous ODIHR election observation activities, and in this connection, it must be stressed that the pending ODIHR recommendations remain valid.<sup>4</sup>
12. The Opinion raises key issues and provides indications of areas of concern. In the interest of conciseness, it focuses more on those provisions that require amendments or improvements than on the positive aspects of the Draft Law. The ensuing legal analysis is based on international and regional human rights and rule of law standards, norms and recommendations, as well as relevant OSCE human dimension commitments. The Opinion also highlights, as appropriate, good practices from other OSCE participating States in this field.

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<sup>3</sup> In paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE Participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations".

<sup>4</sup> See all previous [ODIHR election-related reports on Serbia](#).

13. Moreover, in accordance with the Convention on the Elimination of All Forms of Discrimination against Women<sup>5</sup> (hereinafter “CEDAW”) and the 2004 OSCE Action Plan for the Promotion of Gender Equality and commitments to mainstream gender into OSCE activities, programmes and projects, the Opinion integrates, as appropriate, a gender and diversity perspective.<sup>6</sup>
14. This Opinion is based on an unofficial English translation of the Draft Law provided by National Assembly of the Republic of Serbia, which is attached to this document as an Annex. Errors from translation may result. Should the Opinion be translated in another language, the English version shall prevail.
15. In view of the above, ODIHR would like to stress that this Opinion does not prevent ODIHR from formulating additional written or oral recommendations or comments on respective subject matters in Serbia in the future.

### **III. LEGAL ANALYSIS AND RECOMMENDATIONS**

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#### **1. RELEVANT INTERNATIONAL HUMAN RIGHTS STANDARDS AND OSCE HUMAN DIMENSION COMMITMENTS**

16. The main relevant international standards and best practices related to the Draft include:
  - Paragraph 6 of the 1990 OSCE Copenhagen Document, which stipulates the free expression of the will of people through periodic and genuine elections and the respect for the rights of the citizens to take part in the governing of their country either directly or through freely chosen representatives and Paragraph 7 that underscores the universal and equal suffrage of the adult citizens.
  - International Covenant on Civil and Political Rights, Article 25 and General Comment 25, “[s]tate must take effective measures to ensure that all persons entitled to vote are able to exercise the right.”
  - International Convention on the Elimination of All Forms of Racial Discrimination, Article 5c, “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the [...] political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.”
  - The European Commission’s for Democracy through Law (the Venice Commission) Code of Good Practice in Electoral Matters calls for a) maintaining a permanent voter register and updating it regularly and continuously, b) publishing the voter list, and developing administrative procedures, subject to judicial control, to allow for corrections of the voter register.
  - The United Nations (UN) Resolution No. 45/95: Guidelines for the Regulation of Computerized Personnel Data Files, and the ODIHR Handbook for the Observation of

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<sup>5</sup> The [UN Convention on the Elimination of All Forms of Discrimination against Women](#) (hereinafter “CEDAW”), adopted by General Assembly resolution 34/180 on 18 December 1979 and ratified by Serbia on 31 July 2003.

<sup>6</sup> See Paragraph 32 of the [OSCE Action Plan for the Promotion of Gender Equality](#), adopted by Decision No. 14/04, MC.DEC/14/04 (2004).

Voter Registration provides additional details and guidance on voter registration issues and its observation.<sup>7</sup>

## 2. BACKGROUND

17. The LUVR was adopted in 2009 and it regulates a single register of citizens of the Republic of Serbia who have the right to vote. The proposed draft amendments pertain to Articles 14, 17, and 21 of the LUVR, related to the public display of, access to, and publication of information concerning the unified voter register (UVR), and introduce new articles on personal data protection and auditing of the UVR.
18. The UVR has been the subject of a number of long-standing ODIHR recommendations put forward in election observation reports, based mainly on findings of a lack of accuracy and transparency in the voter lists. The recommendations pertain to, directly or indirectly, the overall need to enhance public confidence in the accuracy of the voter lists. In summary, ODIHR repeatedly recommended that the authorities facilitate a comprehensive audit of the UVR and to an extent the civil register to improve voter list accuracy and enhance public confidence. ODIHR recommended that such audit be undertaken by independent experts and involve relevant stakeholders, including representatives of relevant ministries, political parties and civil society. Additionally, to increase public confidence in the accuracy of voter lists, ODIHR recommended the publication of voter registration data that is sufficiently detailed to allow for a meaningful verification of its accuracy.
19. Specifically, ODIHR recommended that:
  - Concerted efforts are required to address persistent issues with voter list accuracy. Consideration could be given to re-organizing voter lists in a more practical manner (*ODIHR priority recommendation 7/2017*). This was assessed as partially implemented in 2023.
  - To enhance public trust in the voter register, consideration could be given to publishing the partial data from voter lists for public scrutiny in line with the law and international good practice (*ODIHR recommendation 13/2017*). This was assessed as partially implemented in 2023.
  - Voter lists should be made available for public scrutiny. The laws on UVR and on Personal Data Protection should be harmonized and should detail the scope of personal data of voters made public, and the secure and lawful access to these data (*ODIHR priority recommendation 6/2020*). This was assessed as partially implemented in 2023.
  - To address concerns over the accuracy of voter lists, the authorities should conduct an audit of the UVR as soon as practically possible (*ODIHR priority recommendation 10/2020*). This was assessed as not implemented in 2023.
  - To increase the transparency of voter registration and confidence in the voter list, the authorities could consider periodical publishing of voter registration data, disaggregated by different types of updates, and the number of voters registered per municipality (*ODIHR recommendation 16/2020*). This was assessed as partially implemented in 2023.

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<sup>7</sup> See also the Council of Europe Convention 108 ([CoE Convention 108](#)): Guidelines on the protection of individuals with regard to the processing of personal data for the purposes of voter registration and authentication and well as Guidelines on the Protection of Individuals with regard to the Processing of Personal Data by and for Political Campaigns.

- To address concerns over the accuracy of voter lists and increase public confidence, the authorities should facilitate the conduct of a full audit of the UVR and the civil register as soon as practically possible, with the participation of relevant stakeholders, including political parties and civil society (*ODIHR priority recommendation 3/2022*). This was assessed as not implemented in 2023.
- To guarantee universal suffrage and prevent undue disenfranchisement or unequal treatment of voters, consideration should be given to introducing objective, reasonable and non-discriminatory procedures for inclusion in the voter lists of citizens without permanent residence and opportunities for these citizens to exercise their voting rights. (*ODIHR recommendation 13/2022*). This was assessed as not implemented in 2023.
- To address concerns over the accuracy of voter lists and increase public confidence, the relevant laws, regulations, and practices should be reconsidered to enable access to voter registration data and facilitate the conduct of a meaningful audit of the UVR with the participation of relevant stakeholders, including political parties and civil society, in line with data protection standards (*ODIHR priority recommendation 4/2023*). This was assessed as not implemented in 2024.
- To improve voter list accuracy and enhance public trust, the authorities should facilitate a full audit of the UVR and the civil register, undertaken by independent experts and with the participation of relevant stakeholders, including representatives of relevant ministries, political parties and civil society (*ODIHR priority recommendation 3/2024*). The implementation of this recommendation will be evaluated by the subsequent ODIHR election activity.
- To increase public confidence in the accuracy of voter lists, the Ministry of Public Administration and Local Self-Governance should publish voter registration data that are sufficiently detailed to allow for a meaningful verification of the accuracy of voter numbers (*ODIHR priority recommendation 4/2024*). The implementation of this recommendation will be evaluated by the subsequent ODIHR election activity.

The proposed amendments in the Draft Law currently under review relate to the aforementioned recommendations.

### **3. Proposed amendments to Chapter II Procedure for Keeping the Electoral Roll, Section 4 – Publicizing parts of the Electoral Roll and Electoral Roll Closure**

20. The Draft Law adds paragraph 3 to Article 14 which regulates the publication of the electoral roll and adds paragraphs 2 and 3 to Article 17 which regulates the closure of the electoral rolls. The proposed Article 17.3 provides access to voters' personal voter information by entering the unique citizen identification number and the identity card number, ensuring lawful access to these data.<sup>8</sup> The proposed Article 17.2 requires the Ministry of Public Administration and Local Self-Government (MPALSG), upon the UVR's closure, "to provide access to voter registration data on its website." The data to be published should be disaggregated by polling stations in the territorial-administrative unit and include name and surname, name of one parent, the indication of whether the voter is entered in the voter list at a polling station on the grounds of their permanent or temporary residence, as well as information on the number of voters per household, i.e. address and apartment number. This proposal is positive as it clearly specifies which voter data are to

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<sup>8</sup> See part 4 of this Opinion regarding the Draft Law's proposed provisions on access to voter list data by nominators of proclaimed candidate lists and members of the Election Commission.

be made available for public scrutiny. In addition, the proposed Article 14.3 ensures the publication (every seven days until closure of the UVR) of changes to voter registration data, disaggregated by the different types of updates.

21. Public access to the UVR data promotes transparency, accountability, inclusiveness and trust in the electoral process by giving citizens and, to some extent, contestants and election observers, the possibility to verify its accuracy. The current LUVR does not specify any voter list data to be shared for public scrutiny; in practice, when voter lists are provided for public scrutiny, they only include the names and surnames of the voters, which does not allow for effective verification. Positively, the Draft Law provides a list of a wide range of data which is required to be published, as noted above, as well as information on changes to the voter list, which would allow for more efficient public scrutiny and analysis of trends in the UVR. Such trends are important for audits of the UVR but also for assessing and detecting possible irregularities, hence contributing to the accuracy and trust in the UVR.
22. These amendments stipulated in the Draft Law are in line with previous ODIHR recommendations, specifically 13/2017, 6 and in part 16/2020, 4/2023 and 4/2024.<sup>9</sup> These amendments also align with the Code of Good Practice in Electoral Matters of the Venice Commission, which provides that “electoral registers must be published”.<sup>10</sup> However, the amendments do not address the ODIHR recommendation to publish the total number of voters registered per municipality (16/2020). To compare, the draft proposal of the CRTA’s addressed this issue by requiring the total number of voters registered per municipality to be published every seven days. *To further increase the transparency of voter registration and confidence in the voter list, consideration could be given to including in the draft proposal periodic publication of the number of voters registered per municipality. Further, access to the UVR should be permitted both during the regular maintenance of the civil and voter register and during the pre-electoral period, not only at the time of closure of the voter register as proposed in the Draft Law.*<sup>11</sup>

#### 4. Proposed Amendment to Chapter IV: Special Rights of Participants in Elections – Right to Perusal and to Filing Request for Change in the Electoral Roll and New Chapter VIA on Personal Data Protection

23. The Draft Law proposes to amend Article 21 of the LUVR. The proposed amendment clarifies that the members of the Republic Electoral Commission (REC) and nominators of an electoral list proclaimed legally valid (political party, coalition, or group of citizens) have the right to access all data on voters in the UVR, except for the unique citizen identification numbers. The nominator can also submit requests for changes in the UVR, which must be accompanied by the authorization of the voter concerned and appropriate evidence. In the implementation of this provision, emphasis should be placed on preventing any potential misuse of data, in particular with respect to the targeting of voters by political parties. Nominators of electoral lists (through an authorized person) and members of the REC can access voter data via a special module on the website requiring two-factor identification. The person accessing the data is required to sign a written data confidentiality protection statement and confirm that they are familiar with and will act in

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<sup>9</sup> In summary, previous ODIHR recommendations suggested that in order to enhance public trust in the voter register, it should be made available for public scrutiny, in line with the international good practices. The law should entail the scope of personal data of voters to be made public and provide for a lawful access to these data. Periodic publication of voter registration data, disaggregated by different types of updates was recommended to increase the transparency of the voter register.

<sup>10</sup> Section I.1.3.iii of the Venice Commission [Code of Good Practice in Electoral Matters](#).

<sup>11</sup> See the ODIHR [Handbook](#) for the Observation of Voter Registration, 2012, pp. 7-8.

accordance with the laws governing personal data protection and will access the data solely for the purpose stipulated in the law. In addition, a proposed new Chapter VIa on Personal Data Protection, with only one Article 24a, stipulates that all persons entitled to access personal data in the UVR will handle the data in accordance with the law regulating the protection of personal data and exclusively for the purpose of exercising the powers entrusted to them in the law. It also provides that the personal voter data must not be used for political purposes, to conduct election campaigns or otherwise misused.

24. Positively, the proposed amendment allows for the verification by the members of the REC and electoral contestants and specifies which data they can access. Not in line with good practice, however, the Draft Law does not extend the possibility for verification to observers.<sup>12</sup> ***For legal certainty, it is recommended to establish which possible actions the REC can or should take if it identifies irregularities when accessing the UVR and voter data.***

#### RECOMMENDATION A.

***In line with international good practice, it is recommended to widen the scope of verification to include civil society organizations and citizens observer groups. In case this is regulated, the law should specify any criteria such organizations would need to comply with.***

25. At the same time, it is important to find the balance between reasonable public disclosure and the protection of personal data. The proposed amendment includes multiple safeguards to increase the transparency of the voter list while protecting personal data. These safeguards include anonymization and redaction of the unique personal identification number and access control through two-step verification. Allowing accessibility on the basis of a personal identification document and ID number is an important element to ensure data security. Maintaining a log of stakeholders accessing the voter registration data could be considered. Furthermore, the inclusion of proposed Article 24a on the application of the law regulating personal data protection and the explicit reference to prohibited uses of personal voter data, as well as the requirement that persons accessing the UVR data sign the aforementioned data confidentiality protection statement further strengthen personal data protection, in line with international good practice.<sup>13</sup> While the proposed amendments do not lead to full harmonization of the LUVR with the personal data protection laws as recommended by ODIHR in 2020, the addition of safeguards against the manipulation of data represents a positive step.<sup>14</sup>

<sup>12</sup> OSCE commitments for democratic elections provide for voter lists to be accessible for verification by voters, electoral contestants and observers, subject to the protection of personal information. ODIHR [Existing Commitments for Democratic Elections in OSCE Participating States](#), p. 62: “Voter lists should be current, accurate, complete, easily accessible for inspection by qualified voters and – subject to the protection of personal information – possibly by others (such as election contestants and scientific researchers) with a legitimate reason to access them. No matter what system is employed for creating and maintaining a voter list, it is necessary for the system to be transparent and open to verification by voters, political contestants, and election observers. While there are important privacy considerations, which may be weighted differently by different countries, access to the voter lists for verification exercises should be provided. In many countries, political contestants and election observers are not only allowed to inspect the voter lists but are provided copies of the list.”

<sup>13</sup> The 1988 UN [Guidelines for the Regulation of Computerized Personal Data Files](#), Article 3a stipulate that “[all] the personal data collected and recorded remain relevant and adequate to the purpose specified.”

<sup>14</sup> See also the [CoE Convention 108](#).

**RECOMMENDATION B.**

*To further strengthen personal data protection and prevent unauthorized use of the data, consideration could be given to expanding the proposed new chapter on personal data protection by adding explicit provisions that would eliminate ambiguities about compliance of the Draft Law with personal data protection laws and thereby enable a greater understanding of the rights and obligations carried out by different actors accessing and scrutinizing voter registration data.*

26. Furthermore, it is necessary to implement voter education and targeted initiatives informing citizens and stakeholders of their right to access and scrutinize the data – on the one hand, and their rights (and obligations) regarding data protection safeguards – on the other. In some OSCE participating States, legal provisions may prescribe the specifics of voter education, especially, which information must be included and forms in which the voter education is to be provided (e.g. local languages).<sup>15</sup>

**5. Proposed New Chapter/Articles to Law on the Unified Voter Register Regarding Audit and Maintenance**

27. The Draft Law introduces additional Articles (5-24) regarding the audit, maintenance, management and accuracy of the UVR. It is, however, unclear to which part of the LUVR these articles would be inserted. For the purpose of this Opinion, the articles will be analyzed as per the numbering stipulated in the Draft Law. In addition, while there was similar wording for many parts of the SNS and CRTA’s earlier draft proposals on the subject of auditing as assessed by ODIHR’s Informal Comments, the wording of the latter proposal offered a legally more comprehensive version as it clearly stated that the Chapter on the establishment of the Audit Commission will be added after Chapter V as a new Chapter Va. The CRTA’s draft also appeared clearer on the ordering and numbering of the Articles and the logical order of the Articles.<sup>16</sup>

**RECOMMENDATION C.**

*For clarity, it is recommended to either propose a new Chapter on auditing in the LUVR or indicate where to insert the proposed articles and that the order and numbering of the proposed Articles on the auditing process be reviewed and restructured as needed.*

28. ODIHR has repeatedly recommended the conduct of an independent comprehensive audit to improve voter list accuracy and enhance public trust.<sup>17</sup> Positively, the Draft Law refers to the full audit of the UVR by a specially appointed commission.

<sup>15</sup> See the ODIHR [Handbook](#) for the Observation of Voter Registration, 2012, p. 34.

<sup>16</sup> The order of the Articles in the CRTA’s draft proposal on the auditing process was: Audit Commission’s status, election to the Audit Commission, the nomination of Candidates for members and substitute members to the Audit Commission, the first session of the Audit Commission, scope of work, members without decision-making rights, observers, reports to national assembly, publicity of Audit Commission’s work, and conditions of Audit Commission’s work.

<sup>17</sup> See ODIHR recommendations 10/2020, 3/2022, 4/2023 and 3/2024.

29. Article 5 proposes to establish a provisional commission for auditing, verifying and controlling the accuracy and updating of the UVR (hereinafter ‘the Audit Commission’). In line with Article 6 of the Draft Law, the role of this Audit Commission is to audit the UVR and submit a report to the National Assembly within 30 days of completion of the audit, including recommendations for improving the accuracy and updating the UVR. In contrast, the CRTA’s draft proposal as assessed in ODIHR’s Informal Comments, proposed to establish a permanent body responsible for auditing, verifying and controlling the accuracy and updating of the UVR, thereby granting it statutory authority as an independent and autonomous body which would serve to enhance the efficiency of its work, prevent it from being partisan, and enhance transparency and accountability, with high potential to increase trust in the UVR.
30. While Article 10 of the Draft Law proposes that a new Audit Commission may be established by the National Assembly (at its discretion) to carry out a new audit of the UVR, it does not mandate periodic auditing of the UVR, as had been proposed by the CRTA in its draft by way of the establishment of permanent commission, a measure to increase the sustainability of the UVR maintenance process and to maintain public trust beyond a one-off audit.<sup>18</sup>

#### RECOMMENDATION D.

*Consideration should be given to establishing long-term UVR accuracy measures, which are critical to sustaining public trust. In this respect, consideration may be given to either establishing a permanent mechanism for the periodic audit of the UVR or mandating the Audit Commission to conduct periodic audits, with the frequency and scope clearly defined in the law and regulations.*

31. Article 11 provides for the membership of the Audit Commission. It includes independent experts nominated by the National Assembly on the proposal of key electoral stakeholders (main government parties, parliamentary opposition parties, and civil society), in line with previous ODIHR recommendations.<sup>19</sup> The relevant ministries are also included to participate in the work of the Audit Commission (Article 22), without decision-making powers. Selecting auditors within the state administration, designated on an *ad hoc* basis, is one of the ways suitable for conducting the UVR audit. In line with previous ODIHR recommendations, the modalities involving government, opposition and civil society in nominating the experts provide an adequate basis for an independent process acceptable to stakeholders. However, while the proposal allows for an inclusive and possibly independent Commission, involving both government and the opposition, the Draft Law could provide for greater impartiality and balance if it included a similar number of experts nominated by the government and opposition, as provided in the CRTA proposal (referencing three members nominated by each of the ruling majority, opposition and civil

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<sup>18</sup> There is no unified approach towards setting up the audit institutions across the OSCE participating States, and the auditors may be designated *ad hoc* or permanently.

<sup>19</sup> The proposed Audit Commission comprises 10 members and 10 substitutes, out of which 8 members and their substitutes are appointed on the proposal of parliamentary groups (five from the parliamentary majority and three from opposition) and two members and their substitutes on the proposal of citizen groups, which were accredited to observe the last three elections and issued reports with their observations and findings. The member must be a citizen of and have permanent residence in Serbia, and hold a higher education in legal, mathematical, demographic or economic sciences. They cannot be a member of parliament or employee at the MPALSG. The draft amendment also details the nomination procedure, the timeline for nominations, and the term of office. The members are approved by the National Assembly through the public vote.

society organizations).<sup>20</sup> Further, the engagement of reputable civil society stakeholders in electoral reform processes has proven to enhance public trust in those processes; thus, it should be considered that increasing the number of civil society representatives - from the two out of ten members proposed in the Draft Law - may have greater potential to enhance public confidence in the work of the Audit Commission and the actual and perceived independence of the audit. Draft Article 20 proposes the alternation of the Audit Commission's President every three months, with the first person to preside to be a member nominated by associations (citizen groups).<sup>21</sup> The first president being from an association adds an element of neutrality in the Audit Commission's decision-making. While the composition of the Audit Commission proposed in the Draft Law and the composition proposed in the CRTA's draft both provide adequate grounds for the establishment of an independent Audit Commission further safeguards for its independent functioning could be considered.

#### RECOMMENDATION E.

*In order to ensure the actual and perceived independence of the Audit Commission and gain public confidence in its work, it is recommended that prior to reaching agreement on the final composition to be proposed in the draft, the topic should be the subject of inclusive consultations between the government, opposition, and civil society.*

32. Article 12 of the Draft Law details the required professional background of the members of the Audit Commission but does not ensure that the overall composition has a combination of all necessary skills for such a Commission. The Draft Law has sufficient details to ensure that competent experts with adequate skills and backgrounds are nominated for the Audit Commission. However, to ensure that the Audit Commission is competent to conduct a full and meaningful audit, ***it is recommended to mandate that the audit team as a whole includes a combination of all required skills to assess all audit metrics (technological, methodological, communication, Information and Communications Technology (ICT), database and legal)***. The proposal to include international organizations and experts (Article 22) upon invitation of the Audit Commission is positive as such presence may further help to increase public trust in the process and UVR.<sup>22</sup> Articles 13 – 19 detail the nomination procedure.
33. On a technical note, the numbering of the paragraphs within Article 22 should be revised to ensure a clear presentation. The current Article 22 has paragraphs 1, 2 and 3 and again 1, 2 and 3. The modalities of participation of the experts within each set of paragraphs differ and, therefore, consideration may be given to dividing the Article into two parts.

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<sup>20</sup> The CRTA's proposed Audit Commission comprises 9 members and 9 substitutes approved by the National Assembly through the public vote, out of which 6 members and their substitutes are appointed on the proposal of parliamentary groups (three from the parliamentary majority and three from the opposition) and three members and their substitutes on the proposal of citizen groups, which were accredited to observe the last three elections and issued reports with their observations and findings.

<sup>21</sup> The CRTA's draft proposed that the President of the Audit Commission be from among the members proposed by citizen groups.

<sup>22</sup> The practice suggests that the involvement of the international team or international organization to conduct the audit provides for full independence of the audit from national authorities. However, such composition has a higher demand for inclusiveness, requires agreements between various national actors and is often politically complex and often subject to compromises. For that reason, a nationally led team, with adequate consultative mechanisms, inclusive participation in an audit, and international expertise, appears to be a comprehensive format.

34. Article 24 of the Draft Law provides that the work of the Audit Commission will be funded from the national budget, which underlines national ownership of the process. ***It is important to stipulate clearly the funding mechanism and ensure that sufficient funds are available on time for the Audit Commission to complete its work in accordance with the law.*** Article 24 proposes monthly remuneration of the Audit Commission members amounting to the average salary in Serbia. Providing remuneration will facilitate the process of finding qualified and well-trained independent experts to fulfill the Audit Commission’s mandate (compared to the previous version of SNS’s draft which did not provide for any compensation). ***However, consideration can be given to increasing the compensation to bring it in line with the specialized and sensitive nature of such work.***
35. Article 19 of the Draft Law provides that the Audit Commission adopts its decisions by a two-thirds majority vote of all its members, provided that at least two of the five members nominated by the parliamentary majority, at least two of the three members nominated by the opposition, and at least one of the two members nominated by associations, vote in favour. The requirement to have at least two members of each parliamentary group voting in favour to adopt the decision risks blocking of the Audit Commission’s decision-making process. Notably, the previous version of Article 19 required that only one member from each nominating group vote in favour of a decision (not two members of each parliamentary grouping as the current Draft provides), which had been positively evaluated in ODIHR’s Informal Comments.<sup>23</sup> Further, to prevent any deadlocks in decision-making, consideration could be given to adding an additional seat for the opposition on the Commission.

#### RECOMMENDATION F.

***To prevent blockage in the decision-making process, consideration should be given to re-introducing a decision-making mechanism that would require at least one vote (not at least two votes) from each member group (government, opposition and civil society).***

36. Article 7 of the Draft Law states which data and processes are to be analyzed, offering an extensive list of areas. These include:
- Legal validity of decisions leading to changes in the UVR;
  - Process of updating and authorizing changes in the UVR;
  - Data on the conducted supervisory inspections and the proposed or ordered measures within the supervisory inspection procedure over the implementation of the regulations governing the UVR;
  - Facts about the management and accuracy of the UVR (if grounds are found for suspicion that a violation of the law has occurred shall report the violation to the competent authorities);
  - Field control of voters (based on UVR analysis) is to be carried out by the Ministry of Internal Affairs, initiated by the Audit Commission;
  - Statistical parameters of the UVR variation and statistical parameters of voter registration variation;

<sup>23</sup> The CRTA’s updated draft proposed that the decision-making of the Audit Commission be by two-thirds vote but that each of the three member groups had to have at least two votes in favour.

- Data in the UVR, Civil Registers, and records of permanent residence, temporary residence and temporary stays abroad at the level of personal data (name, father's name, surname, place and address of permanent residence);
- Actions related to the approval of permanent residence and temporary residence of citizens and following the statistical trends in the UVR and records of permanent and temporary residence;
- MPALSG data on population movements and its reflection in the UVR;
- Conduct other analyses necessary to determine the degree of integrity of the UVR updated process;<sup>24</sup>
- Analysis and comparison of other records relevant to maintaining the UVR;
- Data kept by the state authority in charge of statistics and their comparison with other records relevant to maintaining the UVR, as well as to the data in the UVR;
- Analysis of the actions and powers of voter registration staff and the training they undergo;
- Analysis of the equipment (software and hardware) and security of equipment used to keep records relevant to keeping the UVR;
- Analysis of the security of databases and other records relevant to keeping the UVR, as well as the laws and by-laws on keeping of such databases and records.

In addition, the Audit Commission is authorized to initiate the rectification of irregularities identified in the UVR.

#### **RECOMMENDATION G.**

*Although the Draft Law offers provisions for an extensive audit, consideration should be given to include additional areas, for instance, auditing of the existing legal and regulatory framework on the UVR to ensure its comprehensiveness, legal certainty, and compliance with international standards and good practices and auditing of public communication and voter education around the voter registration process to assess its adequacy, timeliness and sufficiency as critical for ensuring transparency and trust in the voter roll. Explicitly including all areas for auditing will ensure that the Audit Commission is given access to the relevant data and information.*

37. Article 7 of the Draft Law explicitly obliges the relevant state and other authorities to provide all data and information to the Audit Commission, which appears sufficient to ensure adequate access to the records and information, including to ICT applications, necessary to fulfil the Commission's mandate. *As a private data protection safeguard, consideration can be given to explicitly limiting the data accessible to the Audit Commission to that relevant to the conduct of the audit and to fulfilling its mandate.* In line with ODIHR's priority recommendation 4/2023 that the audit process be in line with data protection standards, Article 11 stipulates that the Audit Commission members sign a data confidentiality protection statement and proposed Article 24a provides that all persons

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<sup>24</sup> The CRTA's updated proposal included the duty of the Audit Commission to initiate the adoption of amendments to regulations and give an opinion on draft laws and regulations governing issues within the Audit Commission's scope of work.

entitled to access personal data in the UVR on any grounds provided for in the LUVR must handle the data in accordance with the law regulating the protection of personal data and solely for the purpose of exercising the powers entrusted to them by the law.

38. Articles 6 and 8-10 of the Draft Law stipulate the timeline for the Audit Commission to conduct its work and for the updating of the UVR. Article 6 provides that the Audit Commission is to complete the audit within a nine-month period and to submit a Report to the National Assembly within 30 days of completing the audit. After reviewing the Report, the competent parliamentary committees will, within 30 days of receiving the report, define recommendations for improving the accuracy and updating of the UVR and deliver them to the Audit Commission and relevant authorities and organizations. The relevant authorities and organizations will act upon the recommendations within 120 days and submit a report thereon to the relevant committee and the Audit Commission. The Audit Commission will, via the special module, supervise the updating of the UVR and implementation of the recommendations of the relevant parliamentary committees, during which it will have access to all the data in the UVR except for the unique identification number of the voter. During the supervision process, the Audit Commission is to submit periodic reports to the National Assembly. The relevant committees are obliged to monitor the implementation of their recommendations and submit a report to the National Assembly on their implementation. Once all recommendations have been addressed, the relevant committees are to notify the Audit Commission of such, at which time the Commission's term of office ends. These Articles provide a clear and reasonable timeline for the auditing and updating process. **It is important that the audit be finalized well ahead of the next elections, to provide sufficient time to address the findings while ensuring that the trust in the UVR is improved.**<sup>25</sup>

#### RECOMMENDATION H.

*To provide an opportunity for interpreting the technical aspects of the Audit Commission's recommendations on improving the accuracy and updating of the UVR put forward in its UVR Audit Report, it is recommended that the representatives of the Commission be invited to the proceedings of the relevant parliamentary committees when the Report is discussed, and the recommendations are defined and approved.*

39. The transparency of the audit and steps toward building public trust are ensured by providing that the work of the Audit Commission is public and obliging publication of the work of the Commission on the National Assembly website (Article 23), including convocation of sessions, reports to the National Assembly, work plan, session minutes, and other information from the scope of its work relevant to the public. Provided that personal data protection laws are not breached, the right to information favours the publishing of audit reports which has the potential to promote credibility of the UVR audit.<sup>26</sup> Draft Article 23 provides that the Audit Commission may exclude the public (presumably from its sessions) for "reasons provided for by law", a vague phrase. **For legal certainty, Article 23 should stipulate which law it is referring to with respect to the reasons for holding closed sessions and could explicitly state such reasons.** The Draft Law does not provide

<sup>25</sup> The CRTA's draft proposed that representatives of the Audit Commission be invited to the National Assembly plenary session to participate in the proceedings in the context of its proposal to have a permanent Audit Commission that submits an annual audit report to the National Assembly who votes by majority to approve its conclusions and recommendations.

<sup>26</sup> Regarding personal data protection laws, provided that the information made public does not include personal, religious or political affiliation information, disclosure is permitted.

for the participation of observers in the Audit Commission's work, a measure which would further increase the transparency of the auditing and updating process as had been proposed in the CRTA Draft. Article 7 of the Draft Law requires the Audit Commission in co-operation with other stakeholders, including the REC, relevant ministries and public media services, to initiate voter education regarding the voter lists and their updating and to prepare periodic reports on the status of the Voter Register to be submitted to, and published by, the National Assembly (Articles 9 and 23).

#### RECOMMENDATION I.

*To further enhance transparency, the Draft Law could provide for the participation of observers in the auditing and updating process. It could also provide for plenary presentations, where details of the work of the Audit Commission are regularly discussed with the wider group of stakeholders and the public as a way to support the full involvement of relevant stakeholders in the audit process, increase transparency, and build public trust in its results.*

40. The Draft Law does not mandate the Audit Commission to adopt a legal act to regulate the conduct of the audit, verification and control of accuracy, nor to adopt standard operating procedures. *For legal certainty and to enhance transparency of the Audit Commission's work, it is recommended that the Commission be obliged to adopt a regulatory and procedural framework after it is fully composed and within an established deadline and to promptly publish it. Consideration can also be given to establishing an independent website of the Audit Commission, rather than to have it rely on the National Assembly to publish its decisions, reports and the other relevant information, as provided by the Draft Law.*

## 6. Process of Preparing and Adopting the Draft Law

### 6.1. Impact Assessment and Participatory Approach

41. OSCE participating States have committed to ensure that legislation will be “adopted at the end of a public procedure, and [that] regulations will be published, that being the condition for their applicability”.<sup>27</sup> Moreover, key commitments specify that “[l]egislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives”.<sup>28</sup> The ODIHR Guidelines on Democratic Lawmaking for Better Laws (2024) further elaborate the key principles that should be complied with at each stage of the lawmaking process, with particular emphasis on public consultation and the fact that the public should have a meaningful opportunity to provide input.<sup>29</sup>
42. The ODIHR and the Venice Commission have consistently expressed the view that any successful changes to electoral legislation should be built on at least the following three essential elements: 1) clear and comprehensive legislation that meets international obligations and standards and addresses prior recommendations; 2) the adoption of legislation by broad consensus after extensive public consultations with all relevant stakeholders; and 3) the political commitment to fully implement such legislation in good

<sup>27</sup> See Paragraph 5.8 of the [1990 Copenhagen Document](#).

<sup>28</sup> See Paragraph 18.1 of the [1991 Moscow Document](#).

<sup>29</sup> See ODIHR, [Guidelines on Democratic Lawmaking for Better Laws](#) (2024); See also Venice Commission, [Rule of Law Checklist](#), CDL-AD(2016)007, Part II.A.5.

faith, with adequate procedural and judicial safeguards and means by which to timely evaluate any alleged failure to do so.

43. On 29 April 2024, the National Assembly's Committee on Constitutional and Legislative Issues formed a Working Group to improve the electoral process. Following ODIHR's review of working drafts from SNS and CRTA, it recommended harmonizing the texts through an inclusive consultation process with all stakeholders, as some positive features were included in each of the drafts.
44. On 16 January 2025, the Working Group submitted two alternative updated draft proposals to the Committee due to its inability to produce a unified text. Subsequently, members of five opposition parties as well as civil society, including the Chairperson of the Group, withdrew, citing irregularities in the public consultation process, and a resulting lack of trust in the process.<sup>30</sup>
45. The Committee was required to organize public hearings on the Working Group's proposals, inviting written input beforehand. According to the members of the Working Group, on 24 January, the Committee announced a hearing by invitation for 27 January without a prior public call for written submissions and lacking sufficient public notice.<sup>31</sup> Additionally, the SNS submitted an updated draft directly to the Committee, which was presented at the hearing in a manner that could be understood as representing a Working Group draft despite not being approved by the Group.
46. During the 27 January hearing, concerns were raised about these procedural irregularities by the Chairperson of the Working Group, which were then reiterated in his letter to the Chairperson of the Committee on Constitutional Affairs and Legislation on 30 January. The Chairperson of the Working Group called for the Committee to align with the prescribed procedural steps, in particular to invite interested members of the public to comment on the draft laws that were the product of the Working Group, to organize new public hearing(s) where all interested citizens may participate, and to benefit from ODIHR's Informal Comments on the updated drafts which were expected soon. The Committee held a number of public hearings in several cities on the two draft laws.
47. Firstly, it is regrettable that the members of the Working Group were unable to work in a collegial and constructive manner in order to reach a unified text for consideration by the relevant parliamentary committee and interested stakeholders, despite ODIHR's extensive and constructive Informal Comments submitted to the Working Group on the initial drafts prior to the withdrawal of most of the opposition and civil society members from the Working Group. Moreover, the recommendations offered in ODIHR's Informal Comments on the updated draft proposals were not fully addressed in the SNS's

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<sup>30</sup> Representatives of CRTA in the [Joint Resolution on the Suspension of Cooperation with the Legislative and Executive Authorities in Serbia](#), signed on 4 February 2025 by 28 civil society groups, stated that grounds for their withdrawal included the government's escalating pressure, intimidation, and targeting of civil society organizations and others who stand up against corruption and abuse of institutions. The Resolution also referred to the "authorities attempting to uphold a false façade of democracy and inclusivity in policy-making by formally involving civil society in decision-making processes. [...] Citizens and civil society have no real opportunity to influence decisions regarding projects and activities that already have or could have a negative impact on their rights [...]". The opposition members listed several reasons for their withdrawal, including dissatisfaction with the Working Group's manner of work, particularly the approach of the ruling party members.

<sup>31</sup> In the Committee's Decision on organization the public hearing and in its invitation to the 27 January public hearing, as well as at the beginning of the hearing itself, the two draft laws were formally presented as having been prepared within the Working Group. The provisions of the the Decision on the Establishment of the Working Group for the Improvement of the Electoral Process mandate the holding of one or more public hearings "on the two proposals that received the highest number of votes but did not obtain the required majority of voters for adoption".

subsequently-updated proposal that it directly submitted to the Committee, particularly to incorporate positive features of the CRTA's proposal, as highlighted in the Informal Comments. Moreover, the final version of SNS's draft backslid on one of the provisions, with regard to the decision-making process of the Audit Commission.

48. Secondly, through its Decision on the Establishment of the Working Group, it is understood that the relevant parliamentary committee intended to publicly consult with interested stakeholders about the draft proposal(s) on amendments to the LUVR. The first public hearing was held on 27 February 2025, and the last on 20 March. This is a welcome approach; however, it is noted that a number of procedural irregularities in the implementation of the public consultation process challenged the timely, inclusive and genuine nature of the process, in the ways described above.
49. Public consultations constitute a means of open and democratic governance as they lead to higher transparency and accountability of public institutions, and help ensure that potential controversies are identified before a law is adopted.<sup>32</sup> Consultations on draft legislation and policies, in order to be effective, need to be inclusive and to provide relevant stakeholders with sufficient time to prepare and submit recommendations on draft legislation; the State should also provide for an adequate and timely feedback mechanism whereby public authorities should acknowledge and respond to contributions.<sup>33</sup> To guarantee effective participation, consultation mechanisms should allow for input at an early stage, from the initial policymaking phase and throughout the process, meaning not only when the draft is being prepared but also when it is discussed before Parliament, be it during public hearings or during the meetings of the parliamentary committees. Given the sensitivity and importance of such a wide-ranging reform, it is fundamental that all voices are heard, even those that may be critical of the proposed initiatives with a view to address the issues being raised and achieve broad political consensus and public support within the country about such a reform. Ultimately, this tends to improve the implementation of laws once adopted and enhance public trust in public institutions in general.
50. While the willingness to organize public consultations throughout the law-making process is welcome, the modalities of such public consultations and the lack of adequate and timely feedback mechanism have raised serious doubt amongst some of those involved in the process as to whether the public consultations have so far been effective and inclusive as mentioned above. This is especially concerning as the draft amendments to the LUVR constitutes the first act to be reviewed as part of the government's electoral reform agenda. It is also noted with concern that on 4 February 2025 a significant number of civil society organizations issued a Joint Resolution on the Suspension of Cooperation with the Legislative and Executive Authorities in Serbia which, in part, generally characterized the government's formal public consultation processes on its decision-making as disingenuous. In this context, ODIHR reminds the reader of key recommendations from its election observation reports following the 17 December 2023 parliamentary elections and 2 June 2024 local elections in Serbia calling for any legislative amendments to be adopted through a genuinely inclusive consultation process.
51. In addition, the legal drafters have not prepared an Explanatory Statement to the Draft Law, outlining the reasons justifying the contemplated reform and referring to the research and impact assessment on which these findings are based. Given the potential impact of the Draft Law on the exercise of human rights and fundamental freedoms, an in-depth

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<sup>32</sup> See [Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes](#) (from the participants to the Civil Society Forum organized by ODIHR on the margins of the 2015 Supplementary Human Dimension Meeting on Freedoms of Peaceful Assembly and Association), Vienna 15-16 April 2015.

<sup>33</sup> See ODIHR [Guidelines on Democratic Lawmaking for Better Laws](#) (2024), Principle 7.

regulatory impact assessment, including on human rights compliance, is essential, which should contain a proper problem analysis, using evidence-based techniques to identify the most efficient and effective regulatory option.<sup>34</sup> In the event that such an impact assessment has not yet been conducted, the legal drafters are encouraged to undertake such an in-depth review, to identify existing problems, and adapt proposed solutions accordingly.

52. In light of the above, *the public authorities are encouraged to ensure that the Draft Law(s) is subjected to inclusive, extensive and effective consultations, including with civil society. According to the principles stated above, such consultations should take place in a timely manner, at all stages of the law-making process, and strictly adhere to established rules. Consideration should be given to undertaking measures to encourage opposition parties and civil society actors to reengage in the consultation process. As an important element of good law-making, a consistent monitoring and evaluation system of the implementation of the Draft Law and its impact should also be put in place that would efficiently evaluate the operation and effectiveness of the Draft Law, once adopted.*<sup>35</sup>

## 6.2. Gender-neutral Legal Drafting

53. It is noted positively that the Draft Law uses gender neutral terminology throughout, in line with established international good practice.<sup>36</sup>

[END OF TEXT]

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<sup>34</sup> See ODIHR [Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan](#) (11 December 2019), Recommendations L and M; and Venice Commission, [Rule of Law Checklist](#), CDL-AD(2016)007, Part II.A.5.

<sup>35</sup> See OECD, [International Practices on Ex Post Evaluation](#) (2010).

<sup>36</sup> See ODIHR, [Guidelines on Democratic Lawmaking for Better Laws](#) (2024), para. 133; [Comments on the Law on the Assembly and the Rules of Procedure of the Assembly from a Gender and Diversity Perspective](#) (2020), pars 105-107; and [Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation](#) (2017), page 63. See also See [UN Guidelines for Gender-Inclusive Language](#) in Arabic, Chinese, English, French, Russian or Spanish English, to reflect the specificities and unique features of each language, recommending remedies that are tailored to the linguistic context; and [UN Disability-Inclusive Communications Guidelines](#), March 2022; [Toolkit on Gender-sensitive Communication - A resource for policymakers, legislators, media and anyone else with an interest in making their communication more inclusive](#), European Institute for Gender Equality (EIGE), (Luxembourg: Publications Office of the European Union, 2019); [Inclusive communication in the General Secretariat of the Council](#), Council of the European Union Publications Office, 2018.

**DRAFT LAW**

**AMENDING THE LAW**

**ON THE UNIFIED VOTER REGISTER**

Article 1

In the Law on the Unified Voter Register (Official Gazette of RS, nos. 104/09, 99/11 and 44/24), in Article 14, after paragraph 2, a new paragraph 3 shall be added, worded as follows:

“Every seven days, until the closure of the Voter Register, the ministry in charge of public administration affairs shall publish on its website the data on the number of changes to the part of the Voter Register referring to each individual local self-government unit, as well as the legal grounds of those changes for the past seven days.”

Article 2

In Article 17, after paragraph 2, new paragraphs 3 and 4 shall be added, worded as follows:

“Upon the Voter Register’s closure, in order to display the Voter Register for public scrutiny, the ministry in charge of public administration affairs shall provide access to voter data on its website (name, first name of one parent and surname and information on whether the voter is registered in the voter list on the grounds of his/her permanent residence or temporary residence), disaggregated by polling stations in the territory of the local self-government unit, as well as data on the number of voters per household, i.e. address and apartment number.

Access to the data referred to in paragraph 3 of this Article shall be made possible by previously entering the data on the unique master citizen number and the identity card number of the interested party who accesses the data on the website of the ministry in charge of public administration affairs.”

Article 3

Article 21 shall be amended to read as follows:

“Article 21

Members of the Republic Electoral Commission shall have the right to access the Voter Register and all the voter data in the VR, except for the unique master citizen number, via a special module on the website of the ministry in charge of public administration affairs, which is accessed by logging in using two-factor authentication.

Once the proclaimed electoral list becomes legally valid, the nominator of the proclaimed electoral list shall also have the right to access all data on voters in the Voter Register, except for the unique master citizen number, through an authorised person, via a special module on the website of the ministry in charge of public administration affairs, which is accessed by logging in using two-factor authentication.

The nominator of the proclaimed electoral list shall also have the right to submit to the competent authority a request for a change in the Voter Register, which must be accompanied by authorisation from the voter to whom the request refers and appropriate evidence.

The right referred to in paragraphs 1 and 2 of this Article may only be exercised upon signing a written data confidentiality protection statement certifying that the person who accesses the data is familiar with the obligation that when accessing Voter Register data they must act in accordance with the

law governing personal data protection and solely for the purpose of exercising the powers entrusted to them by this Law.

The form of the statement referred to in paragraph 4 of this Article shall be prescribed by the Minister in charge of public administration affairs and shall be an integral part of regulations envisaged for the enforcement of this Law.”

#### Article 4

After Chapter VI, Chapter VIa and Article 24a shall be added, worded as follows:

#### „VIa PERSONAL DATA PROTECTION

##### Article 24a

All persons who are entitled to access personal data in the Voter Register on any grounds provided for in this Law shall handle that data in accordance with the law regulating the protection of personal data and solely for the purpose of exercising the powers entrusted to them by this Law.

Personal voter data accessed in the Voter Register must not be used for political purposes, to conduct election campaigns or otherwise misused.”

#### Article 5

For the purpose of auditing and determining the factual situation regarding the management, keeping and accuracy of the Voter Register, controlling the accuracy and the process of updating the Voter Register and contributing to increasing the transparency and trust of citizens in the Voter Register, a temporary Commission for Auditing, Verifying and Controlling the Accuracy and Updating of the Voter Register (hereinafter: Commission) shall be established.

#### Article 6

The Commission’s task shall be to audit the Voter Register within nine months following the appointment of Commission members, and to submit, within 30 days following the completion of the audit, a Voter Register Audit Report to the National Assembly.

The Voter Register Audit Report shall contain proposed recommendations for improving the accuracy and updating of the Voter Register.

#### Article 7

For performing the tasks referred to in Article 6 of this Law, the Commission shall be authorised to:

- 1) analyse data in the Voter Register, as well as civil registers and records of permanent residence, temporary residence and temporary stays abroad (hereinafter: other records relevant to keeping the Voter Register) at the level of personal data (name, name of father, surname, place and address of permanent residence);
- 2) analyse the legal validity of decisions on the grounds of which changes have been made in the Voter Register;
- 3) analyse/monitor statistical parameters of Voter Register variation;
- 4) analyse the process of updating and authorising changes in the Voter Register;
- 5) analyse data on the conducted supervisory inspections and on the measures proposed or ordered within the supervisory inspection procedure over the implementation of the regulations governing the Unified Voter Register;

6) analyse data from the report of the ministry in charge of internal affairs on the movement of the population and alignment with the data in the Voter Register;

7) analyse the actions of the Ministry of Internal Affairs' staff in charge of citizens' affairs (approval of permanent residence and temporary residence of citizens);

8) initiate field control of voters carried out by the ministry in charge of internal affairs, based on the analysis of the Voter Register;

9) initiate the rectification of irregularities identified in the Voter Register;

10) initiate the proceedings to determine responsibility if, in the process of establishing facts about the management and accuracy of the Voter Register, it finds grounds to suspect that a violation of the law has occurred, by reporting the violation of the law to competent authorities;

11) gather data from competent authorities on statistical trends in the Voter Register, permanent residence, temporary residence, passivation and other relevant data related to the Voter Register;

12) prepare periodic reports on the status of the Voter Register;

13) initiate a voter education campaign on updating the Voter Register in cooperation with public media services, the ministry in charge of public administration affairs and the Republic Electoral Commission;

14) initiate the cooperation of relevant institutions for the purpose of efficiently implementing measures to improve the integrity of the Voter Register;

15) conduct other analyses necessary to determine the degree of integrity of the Voter Register updating process.

16) analyse and compare other records relevant to keeping the Voter Register;

17) analyse the actions and powers of the staff keeping the Voter Register, as well as the training they undergo;

18) analyse the equipment (software and hardware) at the level of specifications and the security of the equipment used by the staff to keep other records relevant to keeping the Voter Register;

19) analyse the security of databases based on technical descriptions (premises, servers) and other records relevant to keeping the Voter Register;

20) analyse laws and by-laws governing the manner of keeping other records relevant to keeping the Voter Register;

21) analyse data kept by the state authority in charge of statistics and by other public authorities in charge of statistics and compare them to the data in other records relevant to keeping the Voter Register, as well as to the data in the Voter Register.

All state authorities, authorities of territorial autonomy and local self-governments shall provide to the Commission, upon its request, all data and information relevant to keeping the Voter Register and making changes in the Voter Register, which is related to determining the accuracy of entries or changes made in the Voter Register.

## Article 8

The Voter Register Audit Report containing proposed recommendations shall be considered by the competent committees of the National Assembly within 30 days following the day of its submission to the National Assembly.

Upon considering the Voter Register Audit Report, the competent committees of the National Assembly shall set out, in line with the recommendations of the Commission, recommendations

for improving the accuracy and updating of the Voter Register and submit them to the competent authorities and organisations, as well as to the Commission.

Competent authorities and organisations shall act upon the recommendations referred to in paragraph 2 of this Article within 120 days following the date of receipt and submit a report thereon to the competent committee and to the Commission.

Competent committees shall monitor the implementation of their recommendations referred to in paragraph 2 of this Article and submit a report on their implementation to the National Assembly.

#### Article 9

Following the submission of the Voter Register Audit Report, the Commission shall control the accuracy and updating of the Voter Register and the implementation of recommendations made by competent committees of the National Assembly, and submit periodic reports thereon to the National Assembly.

The Commission shall carry out the control referred to in paragraph 1 of this Article until the reports of competent committees of the National Assembly have been submitted noting that all recommendations referred to in Article 8, paragraph 2 of this Law have been implemented, and the competent committees of the National Assembly shall notify the Commission thereof without delay.

In carrying out the control referred to in paragraph 1 of this Article, members of the Commission shall have the right to access all the voter data in the Voter Register, except for the unique master citizen number, via a special module on the website of the ministry in charge of public administration affairs, which is accessed by logging in using two-factor authentication.

#### Article 10

The Commission's term of office shall cease upon receipt of notification from the competent committees of the National Assembly that the reports referred to in Article 9, paragraph 2 of this Law have been submitted.

Upon cessation of the Commission's term of office, the National Assembly may, upon the proposal of a competent committee, establish a new commission to reaudit the Voter Register.

#### Article 11

The Commission shall comprise ten members and their substitutes appointed by the National Assembly.

Eight members of the Commission and their substitutes shall be nominated by parliamentary groups in the National Assembly, while two members of the Commission and their substitutes shall be nominated by associations that have been authorised by the Republic Electoral Commission to observe at least three election procedures and that have published at least three reports on the election observation findings.

Once appointed, the members and substitute members of the Commission shall sign a written data confidentiality protection statement certifying that they are familiar with the obligation that when accessing personal data in carrying out the Commission's tasks they must act in accordance with the law governing personal data protection and solely for the purpose of exercising the powers entrusted to them by this Law.

The form of the statement referred to in paragraph 4 of this Article shall be prescribed by the Secretary General of the National Assembly.

#### Article 12

A person may be nominated as a member or a substitute member of the Commission only if:

1) He/she is a citizen of the Republic of Serbia and has permanent residence in the territory of the Republic of Serbia;

2) He/she has acquired higher education in legal, mathematical, demographic, information or economic sciences or social and statistical and other related scientific fields and has at least five years of work experience in the profession.

A person who is a Member of Parliament or who is employed, elected, appointed or assigned by the ministry in charge of public administration affairs or the ministry in charge of internal affairs cannot be nominated or appointed as a member or substitute member to the Commission.

### Article 13

Five largest parliamentary groups in the National Assembly that are part of the parliamentary majority shall each nominate one member and one substitute member to the Commission.

Three largest opposition parliamentary groups in the National Assembly (parliamentary groups that are not part of the parliamentary majority) shall each nominate one member and substitute member to the Commission.

Associations, by mutual agreement, shall nominate two members and two substitute members to the Commission.

### Article 14

Nominations of candidates for members and substitute members to the Commission shall be submitted to the National Assembly committee in charge of public administration (hereinafter: the competent committee) within 15 days following the date of entry into force of this Law.

The candidate's nomination shall contain:

- 1) candidate's name and surname;
- 2) candidate's date and place of birth;
- 3) candidate's residential address, telephone number and e-mail address;
- 4) candidate's data on educational background;
- 5) candidate's data on work experience.

The candidate's nomination shall be accompanied by:

1) candidate's written consent to accept the nomination for a member to the Commission, which shall contain his/her name, surname and the unique master citizen number and a candidate's statement that there are no obstacles for the appointment to the Commission referred to in Article 12, paragraph 2 of this Law;

2) a document on a read ID card with a microcontroller (chip), or a photocopy of the candidate's ID card without a microcontroller;

- 3) proof of higher education qualifications;
- 4) proof of work experience in the profession.

Along with the candidate's nomination, the associations shall also submit proof of fulfilment of the requirements referred to in Article 11, paragraph 2 of this Law.

Article 15

The competent committee, within seven days following the expiry of the deadline for nominating members and substitute members to the Commission, shall consider the submitted nominations and examine whether the nominations have been submitted by authorized nominators and whether the candidates for members and substitute members of the Commission meet the conditions for the appointment to the Commission.

The competent committee shall not take into consideration the nominations that have not been submitted by authorized nominators within the meaning of Article 11 and 13 of this Law, and it shall inform the concerned nominators thereon in writing.

If a parliamentary group that is an authorized nominator does not submit a nomination of candidates for member and substitute member to the Commission, the competent committee shall address in writing the next parliamentary group that, according to its size, would have the right to nominate a member to the Commission, with a request for that parliamentary group to submit a nomination of candidates for member and substitute member to the Commission within seven days following the date of receiving the request.

If the competent committee establishes that one of the nominated candidates for member or substitute member of the Commission does not meet the requirements for membership to the Commission, it shall send a request to the authorised nominator who nominated that candidate to submit a new candidate nomination within seven days following the date of receiving the request.

Article 16

The competent committee shall make a list of ten candidates for members and ten candidates for substitute members of the Commission (hereinafter: List of Candidates), and submit it to the National Assembly for consideration and approval.

Speaker of the National Assembly shall include the List of Candidates in the Draft Agenda of the first following session of the National Assembly.

The National Assembly shall vote on the List of Candidates in its entirety.

If the List of Candidates does not receive the required majority of votes, the procedure for nominating members and substitute members to the Commission shall be repeated within 15 days following the end of the National Assembly's session at which the vote on the List of Candidates took place.

Article 17

The term of office of a member and substitute member of the Commission shall end by force of law, and the National Assembly shall *ex officio* end one's term of office:

- 1) in case of death;
- 2) if he/she is disfranchised;
- 3) if he/she has been sentenced to incarceration of at least 6 months, by a final court decision;
- 4) if he/she has been deprived of his/her legal capacity;
- 5) if he/she gets elected as Member of Parliament;

The National Assembly shall dismiss a member or substitute member of the Commission:

- 1) if he/she resigns;
- 2) if it is subsequently established that he/she does not meet the conditions for membership to the Commission prescribed by this Law;

3) if he/she fails or refuses to carry out the duties of a member or substitute member of the Commission for a period of at least one month continuously, without a valid reason.

A member or a substitute member of the Commission shall submit their resignation in writing to the Speaker of the National Assembly, and the resigning person's signature must be certified in accordance with the law regulating the certification of signatures.

#### Article 18

The new member or substitute member of the Commission shall be nominated by the authorised nominator who nominated the member or substitute member of the Commission whose term of office has ended by force of law, or who has been discharged from duty, within 15 days following the date of termination of their term of office by force of law, or the date of their dismissal from the Commission.

The National Assembly shall elect a new member or substitute member to the Commission within 45 days following the date of termination of the Commission member's or substitute member's term of office by force of law, or the date of their dismissal from the Commission.

Provisions of Articles 15 and 16 of this Law shall apply to the procedure for electing a new member or substitute member to the Commission, accordingly.

#### Article 19

The Commission shall decide by a two-thirds majority vote of all Commission members. A decision shall be adopted if at least two Commission members nominated by parliamentary groups that are part of the parliamentary majority, at least two Commission members nominated by opposition parliamentary groups, and at least one member nominated by associations, vote in favour.

A substitute member of the Commission shall replace a Commission member in case of his/her absence, termination of office by force of law or his/her dismissal, until the election of a new Commission member.

A substitute member of the Commission shall have the right to vote in the absence of the Commission member he/she is replacing.

A substitute member of the Commission shall have the same rights and duties as the Commission member he/she is replacing.

#### Article 20

The first session of the Commission shall be convened by the Speaker of the National Assembly.

At its first session, the Commission shall:

1) elect three Commission members, one of whom has been nominated by the parliamentary groups that are part of the parliamentary majority, one nominated by the opposition parliamentary groups and one nominated by associations, who shall alternate every three months in the position of the Commission President, and the first President shall be the member nominated by associations;

2) adopt the Rules of Procedure regulating the organization and manner of work in more detail;

3) adopt the Commission's Work Plan.

#### Article 21

The President of the Commission shall convene the Commission's sessions, chair the sessions, ensure order at the sessions as well as the implementation of the Commission's Work Plan, and sign acts passed by the Commission.

In case of absence or inability of the President of the Commission to chair a session of the Commission, the session shall be chaired by the substitute member of the Commission who has been nominated by the same authorized nominator as the President of the Commission.

#### Article 22

The following parties shall participate in the work of the Commission, without decision-making rights:

- 1) three representatives of the ministry in charge of public administration affairs;
- 2) one representative of the ministry in charge of internal affairs;
- 3) one representative of the Commissioner for Information of Public Importance and Personal Data Protection.

The authorities referred to in paragraph 1 of this Article shall appoint their representatives within 15 days following the date of receiving the Commission's written request.

The following parties may also participate in the work of the Commission, without decision-making rights, at the invitation of the Commission:

- 1) representatives of international organizations and experts with the expertise in the field from the Commission's scope of work;
- 2) civil servants with an expertise in the field from the Commission's scope work, employed with public administration authorities and the authorities of autonomous provinces, or authorities of local self-government units, assigned by the head of the authority that employs these persons.

Invited persons referred to in paragraph 3 of this Article shall make available to the Commission all the information necessary for reaching the Commission's goals and carrying out Commission's tasks prescribed by this Law.

#### Article 23.

The work of the Commission shall be public.

Publicity of the Commission's work shall be ensured by publishing the following on National Assembly's website: convocations of Commission sessions, reports submitted by the Commission to the National Assembly, Work Plan, minutes of Commission sessions and other information from the Commission's scope of work relevant to the public.

Exceptionally, the Commission, at the proposal of a Commission member, may decide to exclude the public for reasons provided for by law.

#### Article 24

The conditions for the work of the Commission shall be provided by the National Assembly.

Funds for the work of the Commission shall be provided from the budget of the Republic of Serbia.

Members of the Commission shall be entitled to monthly remuneration for their work in the Commission, in the amount of the average wage paid in the Republic of Serbia net of taxes and contributions, in accordance with the latest data published by the authority in charge of statistics.

Members of the Commission shall be entitled to reimbursement of expenses incurred in connection with their work in the Commission in accordance with the Decree on Cost Reimbursement and Severance Pay for Civil Servants and Support Staff (Official Gazette of the RS, nos. 98/07 - consolidated text, 84/14, 84/15, 74/21 and 119/23), and in accordance with the Decree on compensation and other incomes of elected and appointed persons in public authorities (Official Gazette of the RS, nos. 44/08 - consolidated text and 78/12).

Administrative and technical tasks for the needs of the Commission shall be carried out by the employees in the National Assembly Service designated by the Secretary General of the National Assembly.

#### Article 25

The Ministry in charge of internal affairs shall submit to the Ministry in charge of public administration affairs the data necessary for implementing Article 2 of this Law, within six months following the date of entry into force of this Law.

#### Article 26

The Minister in charge of public administration affairs shall pass the regulations envisaged by this Law for its enforcement within 6 months following the date of entry into force of this Law.

The Minister in charge of public administration affairs shall lay down the form of the statement referred to in Article 3 of this Law within 30 days following the date of entry into force of this Law.

#### Article 27

This Law shall enter into force on the eighth day following the date of its publication in the Official Gazette of the Republic of Serbia, except for the Articles 1 and 2 that shall enter into force one year following the date of entry into force of this Law.