

Comments of Transparency Serbia in relation to the Draft law amending the Law on the unified voter register (English version) from 12 September 2025

General observations:

Lack of consultative process:

Process of drafting the Law during 2025 should be assessed as non-inclusive – even when there was public call to submit comments, published by the Parliament (e.g. in July), there was zero effort to provide feedback to the proponents about acceptance or rejection of their proposals following announcement pretended to be consultative process. For example, TS elaborated comments and proposals published [here](#). Furthermore, Parliament even failed to answer whether and in which way proposals upon that public call were considered.

General recommendation of TS to ODIHR

TS believes ODIHR **should abstain from providing any opinion to the draft before receiving detailed explanatory note, about key issues that are not sufficiently clear.** This would be also in line with previous remarks in ODIHR opinions. **Should ODIHR decide to proceed with the assessment, we believe that its opinion should clearly note that the draft provided was insufficient for a comprehensive evaluation of potential effects of legislative provisions, if adopted.**

Comments in relation to specific article:

Article 14. para 1 (and other provisions): Introducing of information on municipality / country of previous residence of voter (variation: information about the municipality where specific voter was registered in previous local elections, which would in most cases reflect municipality of previous residence) for public scrutiny.

In the context of suspicion on pre-electoral migrations of voters, it would be of extreme importance for the public to have an insight in that type of data (e.g. to see that registered voter in Zaječar had previous registration in another city or in foreign country, ie. that did not have

residence in Serbia). As it is relevant for local elections mostly, specific information here may be for example.

Article 22b: Introducing equal number of proponents from ruling parties and opposition (e.g. 3-5 from each group) and in addition 2 or 3 members from CSOs. As elaborated in details in previous TS comments, it is essential to provide for balanced opportunity of ruling parties and opposition groups to propose Committee members, having in mind necessity to obtain confidence of political opposition in the process. Furthermore, while position of ruling parties on various issues is in almost all instances the same, this is not the case with opposition groups. Finally, expert CSOs are neither part of government nor opposition, and their representation should be ensured in the process to the maximum possible extent. Ideally, it should include possibility for all CSOs that are eligible (we believe that their number is not higher than 3) to take part in the process.

In explanatory note, it is necessary to specify, based on data in possession of RIK, what is the number of NGOs that are eligible to propose candidates for Commission.

Article 22c, para 2: Introducing of mechanism of holding of parliamentary collegium with all MP groups present to acknowledge the status of parliamentary groups and resolve any potential dispute around it.

It is insufficiently clear what MP groups will be considered as government supporters or opposition, nor how the potential dispute about such status will be resolved. Such disputes are quite possible, as there is no legal definition in the Draft or any other regulation of Serbia to define status of MP groups, and there are numerous examples in Serbian parliamentary practice where position of various MP groups towards government was controversial.

Article 22e, para 2: Erase “the last”.

Addition is not fully logical: why only three latest elections, if those having observers on any elections are qualified?

Article 22f, para 1 and 2: Introduction of procedure where Committees decision on eligibility of candidates may be questioned.

Practice of proposing candidates for REM Council shows that such procedure is extremely important (where committee considered some candidates eligible, even if they were not and vice versa).

Article 22f, para 4: Proponent addressed remark when it comes to the request / invitation issue to CSO. Other remained non-addressed.

Article 22k, para 1, item 10:

*The wording in the item 10) remained the same, even after “initiate” is replaced by “submit request”. Submission of request might be formal step, conducted in some procedures (e.g. misdemeanour), but not applicable for criminal investigation, for example. So, there should be clear what procedures and what types of responsibility under 10) are envisaged, and wording should be the one that ensures that responsible body will act upon it. This is one those provisions where explanatory note would explain whom Committee will address in which case and whether the addressed one will have to act upon etc. It is necessary that legal provisions would guarantee that request of the Committee is executed as requested, in timely manner. In that sense, potential effects of this provision should be assessed in the context of other provisions of this law and other legislation in order to assess properly whether powers of Commission and accountability mechanisms applicable to those obliged to act upon Commission’s requests are sufficient to ensure audit of Voter register or not. **Missing of explanatory note here (with explanation of effects of Committee’s requests makes is impossible to understand to which extent proponent is aware of potential problems and how proponent foresee possible resolution of such problems.***

Article 22k, para 1, item 22:

*What is missing regarding deliberation upon citizens’ remarks is whether it would be mandatory to consider them and if not, how the selection will be made on what will be considered. It is not clear whether there are other applicable rules when it comes to this issue and how it would be applied. It should be necessary, at least, from TS perspective that each member of Committee is informed by the staff about each such complain, and for example, that Commission will have to address remark on the basis of proposal of any of its members, or any member supported by another member of the Committee proposed by another “cluster” (i.e. CSO, ruling parties, opposition). Furthermore, Serbia also has Law on whistleblower protection, that might make mandatory for Commission to inform complainer about the outcome of the case, as Committee may be considered as “authorized body” to act upon “external whistleblowing”. **Explanatory note is necessary to elaborate what duties Commission will have in such cases and to make more visible if further interventions in the text of the Law are needed.***

Article 22k, para 2: The Commission shall not adopt separate decisions for the exercise of the powers referred to in paragraph 1, item 8.

*There is no change when it comes to the decision making of Commission to conduct field control (para 1, item 8) – it will be required to have qualified majority even for that. This might become major channel for obstruction of audit. As TS is not an expert organization in the field of voter register audit, we stress that there may be as well other issues and potential problems when it comes to the specific areas of work and powers of Commission. However, this one is visible on the first glance – if qualified majority is necessary even to ask for field control to be conducted in concrete case, Commission might end up its job, not only without decisions and conclusions (through potential obstructions or lack of consensus), but also without some of the basic data collected about potential misuses. **Explanatory note is necessary where proponent would make it clear, whether such voting majority will be required even to initiate basic fact checking in individual cases (e.g. if there is a person with registered residence on address where such person do not reside). Such explanation would make it clear that mechanism of audit might be easily blocked under current provisions of the Draft).***

*More generally, for all powers and areas of Commission work, where it is envisaged that Commission shall not adopt separate decisions for the exercise of the powers, it is unclear how the decisions will be made: based on some “general decision” (if so, which one), by individual work of members or in some other way? **Again, explanatory note would be necessary to understand proponent’s intent and to assess effectiveness of legal provisions thereafter.***

Article 22s:

There are no guarantees that Secretary general of Parliament will allocate sufficient budget and staff for the Commission etc. Not even the role of Commission in proposing of their budget, number of staff etc is prescribed, not to speak about (hypothetically) possible obstruction by not accepting such plans or not approving execution of budget appropriation – e.g. engagement of external expert (even if they are provided in the overall budget for specific year) or engagement of dedicated staff on other duties (they will remain Parliament service employees) and a like.

Explanatory note should make it more visible – what steps are necessary and how it will be ensured that there is sufficient budget and staff. Also, an intervention in transitional provision of the Law is necessary to ensure implementation of what is already stated in the draft.

Article 6: This provision has no sufficient potential to ensure compliance. There is no even provision that would authorize Commission to submit request to the Misdemeanor Court, not

to speak about provision that would guarantee that Commission submits such request in all cases where applicable (as Commission will have to vote about it and reach qualified majority)

Person may pay that fine and continue to ignore request, so the ultimate goal would not be reached. Moreover, procedure before the court may take months or even a year as well and end up with warning (instead of fine). Furthermore, duty “to decide upon Commissions’ request” includes possibility to act by rejecting such request (for example, for terrain control), so there will be no legal basis for misdemeanor fine in such instances.

In normal circumstances such provisions might be considered usual or even sufficient for cases of incompliance. But circumstances are all but normal in Serbia. We are not sure that even introducing of criminal liability for non-compliance or introducing of measures on the basis of execution of administrative orders (subsequent issuing of greater and greater fees in case of non-compliance), that would be more appropriate here as an enforcement model, would resolve the problem. In recent weeks Serbia entered the phasis where Police (that is expected to be one of key institutions to act upon Commissions’ requests) may not be trusted even about quite easily checkable things (e.g. whether people in uniforms are really policemen) and where Police management denied cooperation with much more powerful institutions than Commission would be (e.g. State Prosecutor for Organized Crime). It is therefore reasonable to expect that Police management, that is openly politically biased in favor of ruling parties, would not act properly based on Commissions request in cases that are considered as politically sensitive for interests of ruling parties (e.g. if there was some manipulation with Voter Register or residence data).

*Generally we believe that there should be other provisions to provide greater guarantees of compliance, such are mechanism of “administrative enforcement” or even through introducing of criminal offence (we have in a Criminal Code provision that is related to the failure to implement court decision, so similarly, it may be criminalized failure to implement decision of such Commission). **Proponent of the draft should explain what are legal consequences in case of non-compliance (including administrative, criminal or political only).***

Article 9: Member or a substitute member of the Commission who fails to attend Commission sessions for more than three months shall relieve of duty.

This Article shouldn’t refer only to the first convocation of the Commission.

Article 10: Substantial reduction of the proposed timeframe.

*Deadline of 5 months is not justified, having in mind long period of preparation for adoption of the Law. **Explanatory note is missing, in particular having in mind common knowledge on intended legislative changes and alleged prioritization of adoption of these amendments by the Government .***

Article 11: Same as for Article 10.

Explanatory note is missing, in particular having in mind common knowledge on intended legislative changes and alleged prioritization of adoption of these amendments by the Government .

Article 15: Substantial reduction of the proposed timeframe for entry into force of Article 2.

*Absolutely unacceptable long deadline for entry into force of Article 2 - one year following the date of entry into force of this Law. **Explanatory note is missing, in particular having in mind common knowledge on intended legislative changes and alleged prioritization of adoption of these amendments by the Government .***

Transparency Serbia

25. September 2025.