

# **I N S T R U C T I O N**

## **for the implementation of the Electoral Assembly for the election of members of National Councils of National Minorities\***

(consolidated text)

### **Article 1**

(1) This instruction regulates the manner of conducting an Electoral Assembly in the election procedure for members of National Councils of National Minorities.

(2) The Electoral Assembly elects members of the National Council if the conditions for direct elections of members of the National Council of a National Minority are not met, and if, in case of dissolution of the National Council of a National Minority, new elections are called within 60 days of the dissolution of the National Council of a National Minority.

### **Article 2**

(1) Elections at the Electoral Assembly shall be conducted by a committee of three members, appointed by the Republic Electoral Commission from among the ranks of experts versed in electoral procedures (hereinafter: the Committee).

(2) The Republic Electoral Commission (hereinafter: The Commission) appoints the members of the Committee within three days from the date when the Ministry, under whose competencies are the tasks related to human and minority rights (hereinafter: The Ministry), receives a notification that a sufficient number of electors prescribed by law has been confirmed for the Electoral Assembly.

(3) The members of the Committee are entitled to remuneration for their work in the Committee, with the amount being determined by the Commission.

(4) The work conditions of the Committee, including the funds used for remuneration referred to in paragraph 3 of this Article and other expenses of the Committee, shall be provided by the Commission.

### **Article 3**

(1) Electoral acts of the Electoral Assembly shall be registered in the Register kept by the Commission.

(2) The acts of the Committee are certified by the seal of the Commission.

### **Article 4**

(1) The Electoral Assembly is held if the Ministry has confirmed the minimum number of electors prescribed by the law, as follows:

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\* "Official Gazette of the RS", No. 60/18

1) at least 20 electors with national minorities whose number, according to the last census, amounts to less than 10,000 persons;

2) at least 30 electors with national minorities whose number, according to the last census, amounts to more than 10.000 persons but less than 20,000 persons;

3) at least 45 electors with national minorities whose number, according to the last census, amounts to more than 20.000 persons but less than 50,000 persons;

4) at least 60 electors with national minorities whose number, according to the last census, amounts to more than 50.000 persons but less than 100,000 persons;

5) at least 100 electors with national minorities whose number, according to the last census, amounts to more than 100,000 persons;

(2) In the event that the minimum number of electors referred to in paragraph 1 of this Article is not confirmed, the Ministry shall reach a decision on termination of the procedure for election of the members of the National Council, which shall be published in the "Official Gazette of the Republic of Serbia", 25 days before the day of holding the Electoral Assembly.

#### **Article 5**

If the Ministry has confirmed a sufficient number of electors in terms of Article 4 of this Instruction, i.e. if the requirements for holding the Electoral Assembly are fulfilled, in order to hold the elections for the members of the National Council within the Electoral Assembly, it is necessary that at least one half of the confirmed electors attend the Electoral Assembly, and not less than the minimum number referred to in Article 4 of this Instruction.

#### **Article 6**

(1) After the opening of the Electoral Assembly, the Committee shall note and communicate the number of electors present, based on the list of electors whose electoral application has been confirmed, which the Ministry has submitted to the Commission.

(2) The Committee establishes the identity of the electors by examining his/her ID card.

(3) In addition to his/her ID card, the elector can prove his/her identity with a valid travel document (passport).

(4) The present elector is considered to be an elector that arrives at the Electoral Assembly and announces its presence up to the time determined for the opening of the Electoral Assembly.

(5) After establishing the number of electors present, it will no longer be possible to announce the presence of an elector.

(6) If the conditions for the holding of the Electoral Assembly are not met, in terms of the required number of electors present, the Committee concludes the Electoral Assembly and immediately thereafter reaches a decision on suspension of the procedure of election of the National Council.

(7) In the event that a sufficient number of electors are present, the Committee notes that the conditions for the election of members of the National Council are fulfilled, and communicates the number of members of the National

Council to be elected and the minimum number of electors who may propose a list of candidates. After that, the Committee invites the electors to submit their lists of candidates for the members of the National Council and sets a break for proposing a list of candidates.

(8) A pause for submitting a list of candidates may not last longer than four hours.

#### **Article 7**

(1) The list of candidates for members of the National Council of a National minority (hereinafter: The list of candidates) may be proposed by at least one fourth of the present electors.

(2) The list of candidates shall be submitted on the form prescribed by the Commission, and the data shall be entered in Serbian language, according to the Serbian orthography. The name and surname of the candidates may also be indicated according to the orthography and script of the national minority.

(3) The list of candidates must contain at least one third of the candidates of the number of members of the National Council to be elected, with the maximum number of candidates being the exact number of members of the National Council to be elected.

(4) The elector who is the list leader for the list of candidates must be designated on the list of candidates.

(5) The list leader for the list of candidates shall be deemed to be the representative of the proposers of the list of candidates.

(6) On the list of candidates, at least one candidate (a member of the sex that is less represented on the list) must be among each of the three candidates in the order on the list (the first three positions, the second three positions, and so on until end of the list).

(7) The elector can participate in proposing only one list of candidates.

(8) If the same elector is present among the proposers of more than one list of candidates, it will be considered that he had participated in proposing a list of candidates that has been submitted at the earliest date.

#### **Article 8**

(1) A candidate for a member of the National Council that is present on the list of candidates can be an elector or a voter registered in a special voter register of a national minority whose National Council is elected.

(2) If there is a voter or elector who is not considered to be present on the list of candidates in terms of Article 6, paragraph 5 of this Instruction, a certified statement of the voter, i.e. the elector shall be attached to the list of candidates on the acceptance of a candidature for a member of the National Council on the form prescribed by the Commission. With this statement, the voter. i.e the elector accepts that a particular elector shall include him on the list of candidates in the proposal of which the said elector participates.

(3) Electors that are deemed to be present in terms of Article 6, paragraph 5 of this Instruction do not submit a statement of accepting the

candidature, since their signature among the proposers of the list of candidates shall be considered to be acceptance of the candidature.

(4) If there is an elector on the list of candidates that is considered to be present, yet his signature as one of the proposers of the list of candidates is missing, the list of candidates shall be considered to contain a defect which is an obstacle to its announcement.

### **Article 9**

(1) Upon the expiration of the break set for the proposal of the list of candidate, the Committee shall note the number of submitted lists of candidates and, on that occasion, communicate the names of the candidates per the lists of candidates, as well as the names of the electors who have supported each of the lists of candidates. The Committee shall then call on the present electors to submit any objections to the submitted lists of candidates.

(2) If there are no lists of candidates submitted, the Committee concludes the Electoral Assembly and immediately reaches a decision on suspension of the procedure of election of the National Council.

(3) If at least one list of candidates is submitted, the Committee shall set a break for the purpose of verifying the fulfilment of the requirements for the submission of the list of candidates to be announced.

(4) In the procedure of the check-up referred to in paragraph 3 of this Article, the Committee shall be assisted by a representative of the ministry responsible for keeping a special electoral list of the national minority, in order to check whether the candidates for members of the National Council are registered on a special electoral list of a national minority whose National Council is being elected.

### **Article 10**

(1) After checking the submitted lists of candidates, the Committee announces which list of candidates meets, i.e. does not meet the conditions for announcement.

(2) After the announcement referred to in paragraph 1 of this Article, it is no longer possible to withdraw the candidature, i.e. the signature of support to the list of candidates.

### **Article 11**

(1) In the event that a list of candidates contains a shortcoming that prevents its announcement (the list of candidates has not been proposed by a sufficient number of electors; the list of candidates does not meet the requirements regarding the number of candidates and/or the representation of the less represented gender on the list of candidates; the certified statement of the voter, i.e. the elector on accepting the candidature has not been submitted, or the submitted statement has not been duly filled in and/or certified, or the proposed candidate has not been registered on a special electoral list of the national minority whose National Council is elected, or the elector who is on the list of candidates is deemed to be present but is not among the proposers of the list of candidates), the Committee reaches a decision with which it orders the list leader for the list of candidates to resolve the noted shortcomings within one hour.

(2) The shortcomings of the electoral list are eliminated by supplementing the list of electors which propose the list of candidates, by supplementing the list of candidates up to the required number of candidates, by changing the order of candidates on the list of candidates, or by withdrawing the candidates from the list of candidates.

(3) Upon the expiration of the deadline for the elimination of shortcomings, the Committee shall determine whether the list leader for the list of candidates has acted upon the decision for the elimination of shortcomings, and shall reach a decision on the announcement of the list of candidates or a decision on its rejection.

#### **Article 12**

(1) The Committee shall announce the lists of candidates that meet the requirements for announcement, in the order of their submission, and shall reach a decision which it shall determine the ordinal number of each list of candidates.

(2) When announcing the list of candidates, the Committee shall announce the names of candidates on the list of candidates.

(3) After the announcement of the list of candidates, it is no longer possible to withdraw it.

#### **Article 13**

If the number of candidates on the announced lists of candidates is lower than the number of members of the National Council which is elected, the Committee concludes the Electoral Assembly and immediately reaches a decision on suspension of the procedure of election of the National Council.

#### **Article 14**

If none of the lists of candidates are announced, the Committee concludes the Electoral Assembly and immediately reaches a decision on suspension of the procedure of election of the National Council.

#### **Article 15**

Upon the completion of the procedure for the announcement of the lists of candidates, the right to address the Electoral Assembly, by a ten-minute presentation, shall be reserved for all list leaders for the lists of candidates, or the persons authorized by them, in the order of announcement of the lists of candidates.

#### **Article 16**

(1) After the address of the list leaders for the lists of candidates, the voting for the election of members of the National Council is conducted.

(2) The right to vote is reserved for the electors that are deemed to be present in terms of Article 6, paragraph 5 of this Instruction.

(3) The Committee calls upon the electors to collect a ballot paper.

(4) Before collecting the ballot paper, the elector shall put down his/her signature in the appropriate section of the records on the present electors, as evidence that he has received the ballot paper.

(5) The Electoral Assembly elects the members of the National Council by applying a system of proportional, by voting for the lists of candidates.

(6) Voting shall last until all the electors present with the right to vote have voted, and for no longer than 120 minutes.

(7) Voting shall be carried out in secret, on ballot papers prepared according to the form prescribed by the Commission.

(8) The ballot papers are certified by the Commission.

(9) The ballot box used for voting is made in accordance with the Instructions on the shape and dimensions of a ballot box ("Official Gazette of the RS", No. 42/00).

(10) Vote may be cast for only one list of candidates, by entering the name of the list leader, i.e. the number of the list of candidates on the ballot paper.

(11) A ballot paper on which it can not be established with certainty who has received the vote shall be deemed invalid.

#### **Article 17**

(1) Immediately after the conclusion of voting, the Committee shall establish the voting results.

(2) The right to attend the establishing of the voting results is reserved for all the electors that are deemed to be present in terms of Article 6, paragraph 5 of this Instruction.

#### **Article 18**

(1) Establishing the election results involves determining: the number of electors attending the Electoral Assembly, according to the attendance records, the number of electors who have collected the ballot paper, the number of ballot papers in the ballot box, the number of invalid ballot papers, the number of valid ballot papers, the number of votes received by each list of candidates and the number mandates belonging to each list of candidates.

(2) The statistical processing of the voting results is performed by a representative of the Statistical Office of the Republic of Serbia.

#### **Article 19**

(1) The Committee allocates the mandates of members of the National Council by applying the highest averages method (D'Hondt method).

(2) The mandates shall be allocated by dividing the total number of votes received by each list of candidates by numbers from one and concluding with the number of members of the National Council to be elected.

(3) The obtained quotients are sorted by size, while the number of largest coefficients that are taken into account corresponds to how many members of the National Council are elected.

(4) If two or more lists of candidates receive the same quotients on the basis of which one mandate is assigned, and there are no more unallocated mandates, the mandate will be assigned to the list of candidates that has received more votes.

(5) When the list of candidates has more mandates than its number of candidates for members of the National Council, the mandate is assigned to the list of candidates with the next highest quotient.

#### **Article 20**

(1) Immediately after establishing the results of the voting, the Committee shall draw up minutes on the work of the Electoral Assembly, on the form prescribed by the Commission.

(2) The minutes on the work on the Electoral Assembly shall include the remarks of the list leaders for the lists of candidates and electors who did not participate in the proposing of the lists of candidates.

(3) The minutes on the work on the Electoral Assembly shall be signed by all the members of the Committee and all list leaders for the lists of candidates.

(4) If any of the list leaders for the lists of candidates did not want to sign the minutes on the work on the Electoral Assembly, this shall be noted in the minutes.

(5) The right to a copy of the minutes on the work on the Electoral Assembly, certified by the seal of the Commission, is reserved for all list leaders for the lists of candidates.

#### **Article 21**

By serving the copies of the minutes on the work on the Electoral Assembly, the Electoral Assembly is concluded.

#### **Article 22**

(1) Upon the conclusion of the Electoral Assembly, the Committee shall reach a decision on the results of the voting, which shall contain the information referred to in Article 18 of this Instruction.

(2) The decision on the results of the voting is published in the "Official Gazette of the Republic of Serbia".

#### **Article 23**

(1) The mandates belonging to a list of candidates are allocated to the candidates according to their order on the list of candidates, starting from the first candidate.

(2) The mandates for the members of the National Council are allocated by Committee's decision within three days from the establishing the final results of the election.

(3) The Committee reaches a decision on the allocation of the mandates for the members of the National Council to the Ministry, and publishes it in the "Official Gazette of the Republic of Serbia".

(4) Candidates to whom the mandates for the members of the National Council have been allocated shall be issued a certificate on the election for a member of the National Council.

#### **Article 24**

(1) The elector may file an appeal against any decision of the Committee to the Commission within three hours from reaching the said decision.

(2) The Commission decides on the appeal within 12 hours from the receipt of the appeal.

(3) A claim against the decision of the Commission may be filed before the Administrative Court within three hours from the receipt of the decision, while the Administrative Court shall decide on the said claim within 12 hours.

#### **Article 25**

(1) Interested registered associations, whose goals are achieved in the field of election and protection of human and minority rights, who wish to monitor the work of the Electoral Assembly, can submit an application to the Commission no later than five days prior to the day of holding the Electoral Assembly, on the form prescribed by the Commission, with the names of up to two adult citizens Republic of Serbia applying as observers.

(2) A copy from the Register of the association must be attached to the application.

(3) The Chairperson determines the fulfilment of the requirements for monitoring the work of the Electoral Assembly at the session of the Commission, based on the report by the Secretary of the Commission.

#### **Article 26**

(1) Interested international and foreign organizations and associations that wish to monitor the work of the Electoral Assembly shall submit an application to the Commission no later than ten days before the day of the holding of the Electoral Assembly, on the form prescribed by the Commission, with the names of up to two persons applying as observers and with no more than two interpreters who shall accompany the registered observers.

(2) The Commission shall, without any delay, submit the application referred to in paragraph 1 of this Article to the ministry in charge of foreign affairs, in order to receive an opinion, which it is obliged to submit to the Commission within three days from the date of its receipt.

(3) In the event of a favourable opinion by the ministry in charge of foreign affairs, the Chairperson shall, on the basis of the report by the Secretary of the Commission, note that the monitoring of the work of the Electoral Assembly has been granted to an international or foreign organization or association at the meeting of the Commission.

#### **Article 27**

(1) Interested representatives of foreign countries that wish to monitor the work of the Electoral Assembly shall submit an application to the Commission via the ministry in charge of foreign affairs no later than ten days before the day of the holding of the Electoral Assembly, on the form prescribed by the Commission, with the names of up to two persons applying as observers and with no more than two interpreters who shall accompany the registered observers.



(2) The Ministry in charge of foreign affairs shall forward the application referred to in paragraph 1 of this Article with the opinion to the Commission within three days from the date of their receipt.

(3) In the event of a favourable opinion by the ministry in charge of foreign affairs, the Chairperson shall, on the basis of the report by the Secretary of the Commission, note that the monitoring of the work of the Electoral Assembly has been granted to the representatives of a foreign country at the meeting of the Commission.

### **Article 28**

(1) After the statement on the fulfilment of the requirements for monitoring the work of the Electoral Assembly, the Commission issues an appropriate authority to monitor the work of the Electoral Assembly to the applicant, as well as the appropriate accreditations to the observers and interpreters in which the necessary information from the application for monitoring is entered.

(2) The costs of monitoring the work of the Electoral Assembly are borne by the applicants whose observers monitor the elections.

### **Article 29**

(1) In case the elections via Electoral Assembly are held simultaneously with direct elections for members of National Councils of National Minorities, the provisions of the instructions for conducting direct elections for members of National Councils of National Minorities, which regulate the application for monitoring the work of the Commission, shall apply accordingly to the procedure of applying for observers.

(2) Observers whom the Commission has authorized to monitor the work of the Commission in conducting direct elections for members of National Councils of National Minorities have the right to monitor the work of the Electoral Assembly without a special application to the Commission, with the obligation of carrying the appropriate accreditation with them.

### **Article 30**

(1) The Commission shall, by a special decision, prescribe forms for carrying out electoral actions established by the law and this Instruction.

(2) The text of the forms for submitting the list of candidates, the text on the ballot paper, the text of the minutes on the work of the Electoral Assembly and the text of the certificate on the election of a member of the National Council of the National Minority shall be printed in Serbian language, in Cyrillic script.

(3) If the election of members of the National Council of a National Minority, whose language and script are in official use in at least one local self-government unit, is conducted within the Electoral Assembly, the texts of the materials referred to in paragraph 2 of this Article, except for the minutes on the work of the Electoral Assembly, shall be printed bilingually, i.e. in the language and script of the national minority, with the text in the language and script of the national minority printed below the text in Serbian language and Cyrillic script, in the same form and with the same font size.

**Article 31**

This Instruction shall enter into force on the day of its publication in the "Official Gazette of the Republic of Serbia".