



## **“Implementing Quotas: Legal Reform and Enforcement in Serbia and Montenegro”**

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### **The Implementation of Quotas: European Experiences**

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#### **Women’s Political Participation**

There are numerous mechanisms to increase women’s participation in political life which have met with varying degrees of success. They include reform of political parties, quotas and other forms of positive action, training to develop women’s skills and to heighten gender sensitivity, working with the women’s sections of political parties, supporting institutions focused on gender equality and the creation of women’s political organizations.

Quotas have so far been used in Serbia to increase women’s representation in political party leadership and on parties’ lists of electoral candidates. Quotas may be the only way to ensure a degree of representation for women in countries where the rate of participation is very low. They can also be effective in countries where women already have some political power, as in the Nordic countries.

Increasing the level of political participation of women, however, is not just about increasing the number of women in formal politics. Women in politics may be members of the social elite; they may hold certain positions because of their personal connections with male politicians and consequently may be unable to represent the interests of women at the grassroots. It is important, therefore, to ‘feminize the power spaces effectively’, meaning that it is necessary to strengthen simultaneously the women’s movement and local institutions focussed on gender equality, so that they are able to initiate a dialogue with political power structures. This case study examines the use of electoral quotas in the Republic of Serbia and how they have affected the political representation of women. There is no quota regulation in Macedonia or in the Federal Parliament of Serbia and Montenegro

## **The Introduction of Quotas in Serbia**

Only 1.7 percent of women were elected in the first multiparty elections for the Serbian Parliament in 1992. Under the regime of President Slobodan Milosevic, the largest proportion of women in parliament was 5.5 percent. Following the democratic changes of 2000 and subsequent elections, the representation of women stands at around 11 percent and between six and seven percent in the national parliament and the local assemblies, respectively.

### ***Local-level elections***

Local (and national) elections were held in most of Serbia in September 2000, introducing overall, sweeping democratic changes. Elections were, however, delayed in three municipalities in southern Serbia – Bujanovac, Medvedja and Presevo – where instability due to ethnic conflict prevented conditions for the holding of democratic elections. Later on, when the situation was improved and the armed incidents stopped, in December 2001 the question of local elections and electoral legislation was raised.

In 2000, none of the electoral laws included quotas. It was since proposed that a new law for local elections be drafted that included mechanisms to guarantee fair representation for the majority of the population (as opposed just for privileged Serbs). In addition, a quota system for the under-represented gender was introduced. The Law on Local Elections of 2002 included a 30 percent of the less-represented gender on all local election candidates' lists. Without a quota system, it would probably be the case that no women would be represented in the three municipalities of southern Serbia. This is an economically and politically backward area, with patriarchal and militaristic traditions.

The main reason for introducing the quota, therefore, was not to provide women with better mechanisms to secure political representation and access to decision-making positions, but rather to establish a more peaceful and cooperative atmosphere in future local representative bodies. This was to be done by increasing the number of women in these fora who were believed to be less belligerent and less revengeful.

While the new law on local elections, which included quota provisions, was prepared principally for the local elections in three aforementioned post-conflict municipalities of southern Serbia, it was stressed that it would also be applied to all future local elections in Serbia, the first of which were scheduled for September 2004. The fragile political situation, common in many Serbian municipalities, resulted in the holding of extraordinary – and early – local elections in 16 municipalities prior to the regularly scheduled elections in September 2004. In all 16 municipalities, the new quota provisions were applied.

In September 2004, the quota system, specifying that 30 percent of the under-represented gender must be included on candidate lists, was introduced nationwide. As a result, women won between 15 and 25 percent of the seats in local assemblies.

### ***National-level elections***

While a national-level electoral quota is among the recently adopted amendments to the law on parliamentary elections ('Act Amending and Modifying the Act on the Election of Deputies'), adopted in 25 February 2004, it has not been put into practice to date. A quota for the under-represented gender, along with some other affirmative action measures to protect minority interests, was included in the law because only Serbs (90 percent men) were elected to the National Assembly of

Republic of Serbia in the last parliamentary elections held in November 2003 This is despite the fact that more than one-third of the population of the Republic of Serbia is not ethnic Serb and women make up 52 percent of the electorate.

### **Quota Enforcement Mechanisms in Serbia**

The law not only provides for a 30 percent quota, but also defines placement so that women are not relegated to the bottom of party lists for both local and national elections. If a candidate list does not comprise 30 percent of the under-represented gender, placed in at least every fourth position, it is to be returned to the respective party for correction. If it still does not satisfy the 30 percent criterion after being revised, the list will not be approved by the Electoral Commission. The Election Law states:

'For every four candidates on the electoral list (first group of four places, second group of four places and so on until the end of the list) there shall be one candidate of the gender less represented on the list, and the number of candidates of the gender less represented on the list shall be at least 30% of the total number.

'If an electoral list should not meet the conditions set forth in Paragraph 1 of this Article, it shall be deemed incomplete for proclamation, and the submitter of the list shall be called to remedy the deficiencies of the list, in accordance with the present Act.

'If the submitter of the list should not remedy the deficiencies described in Paragraph 2 of this Article, the Republic Electoral Commission shall refuse to proclaim the electoral list, in accordance with the present Act'.<sup>1</sup>

### **The Consequences of the Law on Quotas**

#### ***Discourse and debate***

Despite quotas being included in the Election Law, debate about the quotas and uncertainty about their implementation persisted in the run up to the September 2004 municipal elections. Rumours circulated that the law would be changed and the quota system would not be employed. Leaders of many parties argued that women were not interested in being candidates or that there would simply not be enough women to meet a 30 percent quota on the candidate lists. This argument was supported by evidence that some women candidates were added to party lists at the last minute, many of whom were relatives or friends of male party leaders and activists. In reality, however, political parties did little to support genuine women candidates and neglected their political – and legal – obligations to foster an inclusive process.

Some popular individuals from the sport and culture sectors issued statements to the media in which they argued that the quota system had been imposed on Serbia by the international community in order to humiliate it further. They said that the intention was also to diminish Serbia's decision-making capacity by pushing for the inclusion of 'incapable women' instead of 'capable men'. As a result, there would be fewer people who could take 'proper care' of national interests. Furthermore, it was asserted (wrongly and maliciously) that the quota system demanded representation for 30 percent of women and 30 percent of homosexuals—allegedly a 'European standard, which obviously cannot be accepted in Serbia'<sup>2</sup>.

#### ***The Numbers***

The mandatory quota has led to a significant increase in the number of elected women in all municipalities in Serbia. After the local elections on 19 September 2004, women's participation at the local level rose to between 15 and 25 percent. Only a few municipalities achieved 30 percent, however.

The law states that smaller political parties, with less than four seats in local assemblies, are not legally obliged to nominate women candidates. Additionally, the replacement of women, once they are both nominated and elected, is not regulated by law; it is possible that men might eventually replace women in the assembly. Given these legal gaps, and the reluctance of political parties to promote women, one should not be surprised by the anecdotal public statement made by a senior party official from Zajecar in which he boasted that his party 'invested maximum efforts to keep the number of women minimal'.

### ***Political Parties***

It has also been noted that women candidates were not endorsed by their own political parties. The defeat of independent women has led to the conclusion that, in the current political environment, women can only succeed if they are candidates of popular political parties and if a legally binding quota system is in operation. Hence it has been recommended that political parties should be the main focus of organizations engaged in gender activities. The 'Women can do it 2' training module, developed for members of political parties by the Gender Task force of the Stability Pact, has been highlighted as a possible tool. Cross-party networking with respect to common issues is seen as essential to achieving gender-related objectives. Most political parties agree, but some see networking as a disloyal (and hence unacceptable) form of behaviour.

### ***Professional conduct***

Other creative solutions, which have been raised in the debate on quotas in Serbia, include the introduction of an ethical code of conduct for members of political parties, demanding professional treatment of women, and introducing penalties for harassment, could improve the position of women and the work of political parties. A lack of basic knowledge among members of the public and, particularly the media, about gender-based discrimination, and its importance vis-à-vis the building of democratic institutions, should be addressed by enhancing the capacities of media representatives. Finally, newly elected representatives in local assemblies, woman and men, should receive gender-awareness training.

## **Key Lessons Learned From Serbia**

### ***The involvement of civil society***

Women's non-governmental organizations (NGOs) and other civil society actors consistently promote the quota as a positive action measure to achieve a more equitable gender balance in representative bodies. They help to generate political support for the quota system. While the law was being drafted and debated however, they were not allowed to participate in the procedure. Instead, some prominent women parliamentarians engaged in lobbying behind the scenes, pushing the amendment forward.

### ***Empowerment of women***

The empowerment of women is one of the four essential components of the human development paradigm—the others are productivity, equity and sustainability. Empowerment is defined as people fully participating in decision-making and the processes that shape their lives.

Women's empowerment not only comprises gaining access to decision-making, but also to the processes that lead women to perceive themselves as being able and entitled to representation in the decision-making space. Awareness-raising initiatives, including civil and political education, should be launched, therefore, to encourage women to participate in politics and to assist those who are elected in fulfilling their political duties. The government, the parliament, political parties and organizations, trade unions, NGOs and the media could contribute to this process. There is a great deal of scope for women's NGOs to engage in various kinds of public activities.

Efforts to promote the empowerment of women should concentrate on: encouraging the participation of women in policy and decision-making processes and bodies; establishing income-generating programmes for women; and providing women with access to education and all kinds of training.

### ***Political parties and quotas***

Political parties' programmes should pay special attention to the principle of equality between men and women. They should focus on the benefits to be derived from active partnership between men and women, recognizing differences and similarities. Also, political parties should eliminate from their programmes any language that could directly or indirectly give the impression that men are superior to women. It has been suggested that measures should be introduced to allow equally qualified men and women to become members of decision-making bodies at all levels of a party (local, provincial and national). Whenever a quota system is chosen, it is recommended that it does not refer to women, but instead to the 'under-represented gender'.

It has been suggested that the key documents of a political party are reviewed in order to eliminate any regulations that explicitly contribute to or justify the discrimination of women, such as those defining the basic policies of the party, its hierarchy, and its rules of procedure.

### ***Participation of women and men in executive bodies***

The equal participation of women in government should be one of the rules of democracy. All governments that are committed to the principle of shared political responsibility should include a certain number of women in all government structures. Men and women are equally competent to serve in government or to work in any of its sectors. Women should not be confined to special sectors, therefore, but rather they should be present in every area, including finance, foreign affairs and defence.

### ***Legal empowerment of women***

Indicators of the legal empowerment of women include: the approval of gender-sensitive legislation, particularly with regard to family protection, anti-discrimination, protection against violence and labour relations; the enforcement of legislation related to the protection of women's human rights; the number of cases related to women's rights that are heard in local courts, and the results of these cases; the number of cases related to the legal rights of divorced and widowed women that are heard in local courts, and the results of these cases; the effect of legislation on the treatment of offenders; the increase/decrease in violence against women; the rate at which the number of local justices/prosecutors/lawyers who are women/men is increasing/decreasing; and the rate at which the number of women/men in the local police force is increasing/decreasing.

### ***Perceptions about the Quota System for Women<sup>3</sup>***

A minor survey of Serbian women prior to the 2004 municipal elections demonstrates that over half of all women support gender quotas.<sup>4</sup> In interviews, however, younger and politically less experienced women are less supportive of the quota system than women politicians and women belonging to an institution, for instance. The latter are more willing to accept political nominations achieved via the quota system.

**Table 1: Response to Question**

*Do you think that the quota system for the under-represented gender is politically justified?*

	<b>Yes</b>	<b>No</b>	<b>Total</b>
1. Women students in their final year in the law and political science schools of the University of Belgrade	45 (62.5%)	27 (37.5%)	72
2. Women senior managers and programme officers in municipal administrations	49 (79.0%)	13 (21.0%)	62
3. Women NGO activists and leaders	65 (85.5%)	11 (14.5%)	76
4. Women members of political parties	35 (94.6%)	2 (5.4%)	37
<b>Total</b>	<b>194 (78.5%)</b>	<b>53 (21.5%)</b>	<b>247 (100%)</b>

**Table 2: Response to Question**

*Would you accept a position acquired as a consequence of a quota election system?*

	<b>Yes</b>	<b>No</b>	<b>Do not know</b>	<b>Total</b>
1. Women students in their final year in the law and political science schools of the University of Belgrade	31 (43.1%)	35 (48.6%)	6 (8.3%)	72
2. Women senior managers and programme officers in municipal administrations	38 (61.3%)	11 (17.7%)	13 (21.0%)	62
3. Women NGO activists and leaders	31 (40.8%)	19 (25.0%)	26 (34.2%)	76
4. Women members of political parties	33 (89.2%)	1 (2.7%)	3 (8.1%)	37
<b>Total</b>	<b>133 (53.8%)</b>	<b>66 (26.7%)</b>	<b>48 (19.5%)</b>	<b>247 (100%)</b>

## Conclusion

*Questions that need to be answered:*

- Is the quota issue to be advanced as an independent political issue or as part of some other issue (concerning minorities, state security or European Union integration, for instance)?
- Who needs women politicians? Their male colleagues, who may manipulate them and exploit their political inexperience? International organizations which implement gender programmes to empower women politically? In other words, what needs to be done to allow women, citizens, political parties and other interested stakeholders to claim political ownership of the quota system?
- What will be the effect of the quota in the Serbian parliament elections? What role should women politicians play who have been elected via the quota system?

There are many challenges and unanswered questions as the quota debate continues in Serbia. Some believe that women candidates do not receive sufficient support from their parties. Others believe that women are exploiting legal provisions in order to occupy places earned by men. Many proponents of the quota recognise the weaknesses of the current system where, although women comprise 30 percent of party lists, the representation of women in Serbian national and local assemblies is less than 30 percent. These challenges demonstrate that, although Serbia has begun the journey to increased representation of women in political life, there is still some way to go before arriving at the final destination.

## Endnotes

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<sup>1</sup> Republic of Serbia. 'Act Amending and Modifying the Act on the Election of Deputies'. 25 February 2004. Quota for the under-represented gender (women) at candidacy lists (art. 8 and a new Article 40a are added)

<sup>2</sup> This comment is attributed to Dusan Savic, popular former football player and in the time of the statement, a high official of the Red Star Football Club, during a popular TV talk show at the beginning of September 2004.

<sup>3</sup> Telephone interviews conducted at the end of August 2004—in advance of the local, municipal elections held on 19 September 2004. This was the first time that the quota electoral system was employed throughout the whole of Serbia. The research was carried out by the Institute of Social Science, Belgrade, and was managed by Zorica Mrsevic.

<sup>4</sup> The 247 interviewees included: 72 female students in their final year in the law and political science schools of the University of Belgrade, 62 female senior managers and programme officers in municipal administrations, 76 women NGO activists and leaders and 37 female members of political parties.