



INTERNATIONAL ELECTION OBSERVATION MISSION Montenegro – Parliamentary Elections, 16 October 2016

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

The 16 October parliamentary elections were held in a competitive environment and fundamental freedoms were generally respected. The campaign was characterized by a lack of distinct policy alternatives, with the exception of geo-political orientation, and permeated by personalized attacks. While pluralistic, the media did not exercise editorial independence. Election administration met all legal deadlines, however, despite increased operational and human resources, the professional capacity of election administration remains inadequate. Election day proceeded in a calm and orderly manner, with few cases of procedural irregularities.

The elections were conducted under a revised legal framework. The majority of amendments addressed prior recommendations. Some remain unaddressed, including the ones concerning the right to run independently, the residency requirement for the right to vote and stand as a candidate. In addition, the legal framework continues to lack comprehensiveness and some inconsistencies led to occasional misinterpretations.

The election administration, led by the State Election Commission (SEC), worked largely in a transparent manner and met all legal deadlines. However, despite increased operational and human resources, the SEC still lacks a professional capacity and a strong collective leadership, which at times led to technical mistakes and political tensions. A new formula for the composition of lower level commissions allowed for a broad representation of political parties. The representation of women in the electoral administration is low, with 3 women out of 11 SEC permanent members and 37 of 115 permanent members of the Municipal Election Commissions (MECs).

The new centralized and permanent electoral register is maintained by the Ministry of Interior based on information extracted from three civil registries. In total 528,817 voters were registered for these elections. A number of OSCE/ODIHR EOM interlocutors expressed continuing concerns about the accuracy of the electoral register. For the first time, a system for electronic voter identification was introduced. OSCE/ODIHR EOM interlocutors expressed support for the system as providing safeguards against multiple voting.

All 17 submitted candidate lists were registered by the SEC in an inclusive process that gave an opportunity to correct errors to those who did not comply with the legal requirements. Although no candidate list was led by a woman, in a positive development 32 per cent of candidates were women. In line with previous OSCE/ODIHR and Council of Europe recommendation, voters no longer had to sign in support of a candidate list in front of representatives of the election administration.

The campaign was competitive, characterized by respect of fundamental freedoms. NATO membership was a key issue in the campaign. Electoral contestants conveyed general messages on the necessity to conduct economic, social and political reforms, to create jobs, reduce youth emigration and to fight high level corruption. Concerns were raised about foreign funding of the campaign. There was often little detail in terms of policy to support broad campaign promises. Several interlocutors stated to the OSCE/ODIHR EOM that significant differences on policy

positions of electoral contestants were not discernible and the campaign was characterised by personalized attacks.

While new campaign finance legislation improved accountability of public institutions, it did not ensure adequate transparency of campaign expenditure disclosures, and its effectiveness remains to be seen. Contestants are not obliged to report campaign expenses before election day, which limits the transparency of the process. Availability of public funding for political parties created a more equal playing field.

The diverse media environment remains politically polarized and lacks political, investigative and in-depth reporting, along with editorial independence, limiting the analytical information available to voters. Electoral contestants had the opportunity to present their views on public and private media through numerous talk shows, debates and round-tables. Campaign rallies were also actively covered. The media was hampered by the absence of an effective regulatory or self-regulatory body, capable of actively monitoring media.

The limited number of complaints filed with law enforcement and the judicial bodies was attributed to lack of trust, as well as the effectiveness and impartiality of these institutions. The lack of detailed guidelines, as well as current deadlines for electoral dispute resolution does not ensure an effective remedy, despite previous OSCE/ODIHR recommendation.

Members of national minorities were afforded a fair opportunity to participate in the electoral process, both as candidates and as voters. Linguistic difficulties were minimal as most national minority representatives are proficient in the State language. In certain regions, ballot papers were also printed in Albanian language.

The election law provides for observation by citizen and international organizations, as well as representatives of candidate lists. The participation of three citizen observer groups at all stages of the electoral process contributed to the transparency of the electoral process.

Election day generally proceeded in an orderly manner, with only some isolated cases of tension. While voting and counting was assessed as positive, in a small number of polling stations procedures were not always followed. Some technical problems were observed with a system for electronic voter identification due to sporadic power cuts. Tabulation was assessed as generally positive except in one MEC where protocols in 58 cases did not reconcile. Citizen observers and authorized representatives of the candidate lists were present in almost all polling stations.

PRELIMINARY FINDINGS

Background

In May 2016, after months of negotiations between the parliamentary parties, the law implementing the Agreement for Creating Conditions for Free and Fair Elections came into force, which paved the way to holding elections in October.¹ On 11 July, President Filip Vujanović called elections for 16 October.

¹ Among other issues, the agreement led to the allocation of four ministers and one deputy prime minister to the opposition parties. This includes Ministry of Interior (MoI), Ministry of Finance, Ministry of Agriculture and Rural Development and Ministry of Labour and Social Welfare.

The last parliamentary elections were won by the coalition For a European Montenegro, led by the Democratic Party of Socialists (DPS) and including the Social Democratic Party (SDP) and the Liberal Party (LP). The runner-up, the Democratic Front (DF), together with the Socialist People's Party (SNP) and Positive Montenegro (PCG), constituted the opposition. DPS, led by the current Prime Minister Milo Đukanović, has been in power since 1991. In January 2015, the governing coalition underwent a number of changes after the withdrawal of the SDP. A new ruling majority was formed when the PCG offered its support to the DPS. The parliament was also impacted by splits of parliamentary factions and the emergence of new parties, most notably *Demos* and the civil initiative United Reform Action (URA).

Montenegro saw a number of opposition protests following the narrow victory of Filip Vujanović in the 2013 presidential election. From September 2015, protests continued when the DF called on the prime minister and his government to resign. The protests were also perceived as directed against NATO membership, after Montenegro received an invitation in 2015 to join the Alliance.²

Electoral System and Legal Framework

Montenegro's unicameral parliament consists of 81 members elected directly for a four-year term from a single nationwide constituency under a proportional representation system with closed lists. The Constitution provides for free, universal and equal suffrage by secret ballot. Candidate lists are eligible for mandates if they surpass the three per cent threshold of valid votes. Special rules apply for candidate lists representing national minority communities.³ In addition, in line with a previous OSCE/ODIHR recommendation, the election law further aims to define the allocation of mandates for minority lists.⁴

Parliamentary elections are primarily regulated by the revised legal framework that includes the Law on Election of Councillors and Representatives (election law), the Law on the Electoral Register, the Law on Financing Political Entities and Election Campaigns as well as by regulations and opinions promulgated by the State Election Commission (SEC). Considerable efforts were made to improve the electoral legal framework in advance of these elections. The new legislation addresses a number of prior OSCE/ODIHR and Council of Europe recommendations, including efforts to improve the quality of the voter register, allocating greater resources to SEC, and designating an independent and sufficiently-resourced authority to oversee campaign finance regulations. The residency requirement for the right to vote and stand as a candidate remains in place and candidates cannot stand independently, despite previous recommendations and contrary to paragraph 7.5 of the 1990 OSCE Copenhagen Document and other international obligations and standards for democratic elections.⁵

While the electoral legislation provides basic regulation for the conduct of democratic elections, it is neither coherent or comprehensive. Inconsistencies in the legal framework have led to occasional

² The protocol for NATO accession was signed on 19 May 2015.

³ In case no minority list passes the required 3 per cent threshold, but some lists gain 0.7 or more per cent of the valid votes, the latter are entitled to participate in the distribution of up to 3 seats. The most successful candidate lists representing the Croatian minority is entitled to 1 seat if they obtain at least 0.35 per cent of the valid votes.

⁴ A minority nation or a minority national community with a share of the total population of up to 15 per cent countrywide or 1.5 per cent in each municipality acquires the right to participate in the allocation of seats.

⁵ Paragraph 7.5 of the 1990 OSCE Copenhagen Document states that the participating States will "respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination." See also Paragraph 14 of the United Nations Human Rights Committee General Comment No. 25 to the International Covenant on Civil and Political Rights and section I.1.6.c of the Council of Europe's Commission for Democracy through Law (Venice Commission) [Code of Good Practice in Electoral Matters](#)

controversies and misinterpretations.⁶ The election law is silent on salient issues, such as the official start of the electoral campaign, special provisions for prison voting and procedures for tabulation and recounts of ballots. The lack of detail and clarity in many provisions created challenges in application, and the SEC did not always supply sufficient guidance to address these omissions.⁷

Election Administration

Elections are conducted by three levels of election administration: the SEC, 23 Municipal Electoral Commissions (MECs) and 1,206 Polling Boards (PBs). While the SEC and MECs are permanent bodies that serve a four-year term, the PBs are appointed for each election. The SEC is composed of a chairperson and ten standing members.⁸ Each MEC is composed of a chairperson and four standing members appointed by municipal assemblies. The new formula for the composition of the MECs allowed for a broad representation of political parties, but does not provide for minority representation, as previously recommended by the OSCE/ODIHR and the Council of Europe's Commission for Democracy through Law (Venice Commission).⁹ PBs are composed of a chairperson and four members, as well as their deputies, based on the nominations of political parties and coalitions represented in the municipal assemblies. The representation of women in the electoral administration is low, with 3 women out of 11 SEC permanent members and 37 out of 115 permanent MEC members.¹⁰

Twenty days prior to election day the permanent members of SEC can be joined by authorized representatives of each submitter of a candidate list. For these elections, out of possible 17 representatives, 14 were appointed. The level of understanding of the procedures and the participation of party representatives in the decision-making varied.

The SEC was able to make all technical arrangements for the elections and met all legal deadlines. Despite the increased operational and human capacity of the SEC compared to the last election, the heavy workload and short deadlines put a lot of pressure on the staff, which sometimes led to technical mistakes.

SEC met regularly, but the lack of strong collective leadership, deficiencies in management, and political tensions often led to inefficient and unproductive sessions. SEC sessions were open for international observers and civil society, however, the SEC denied media access to all sessions despite the legal obligation. Not all minutes were posted on the website, and agendas and other information were not always available to members in due time. While some MECs were transparent in their work and held public sessions, others were reluctant to provide requested information to the public and observers. A number of permanent members and authorized representatives of political

⁶ For example, the reference in one article of the election law to a "biometric identification card" had to be interpreted by the SEC after the Ministry of Interior (MoI) announced that national identification cards were not biometric.

⁷ For example, the law gives the right to appoint PB members to two opposition parties based on the results of last local elections, but not to coalitions or lists by citizen groups. SEC discussed this issue and left it to Municipal Election Commissions (MECs) to decide.

⁸ Four SEC members are proposed by the parliamentary majority, four by the parliamentary opposition, one member is appointed from the minority representative who won the highest number of votes in the previous elections, and one member is a representative from the civil society. The chairperson is appointed by the parliament with the majority of votes.

⁹ MEC president is appointed from among the nominees of the political party that won the highest number of seats in the relevant local council at previous elections. Two members are appointed at the proposal of the opposition parties, with priority given to those who have won the highest number of seats in the previous municipal elections. There are 21 political parties represented in the permanent composition of the 23 MECs.

¹⁰ Out of 23 MEC presidents only 3 are women.

parties criticized the SEC for not taking all necessary steps to ensure the transparency in the work of election administration.

The SEC organized a series of training sessions on election day procedures and the use of the electronic voter identification devices. The training for trainers was praised by the participants and civil society as being comprehensive and interactive. However, training sessions for PBs observed by the OSCE/ODIHR EOM, were often inconsistent, provided diverging information, and at times lacked training material. In addition, inadequate skills and knowledge of some educators, as well as lack of interest from the participants were noted.

Voter Registration

All citizens over the age of 18 and residing in the country for at least the last 24 months prior to elections are eligible to vote. While the election law requires that the 24-month residency be immediately prior to election day, the provision goes beyond that of the Constitution, which does not have such a requirement and only requires a minimum of 2 years without any specification of when this residence must take place. The residency requirement is not in line with international standards, as previously noted by the OSCE/ODIHR and the Venice Commission.¹¹ In addition, the election law requires legal competence for suffrage rights.¹²

Voter registration is passive. The new centralized and permanent electoral register is maintained by the Ministry of Interior (MoI), based on the information extracted from three civil registries. The SEC has a supervisory role over the process. For the first time, a system for electronic voter identification (EVID) was introduced. OSCE/ODIHR EOM interlocutors expressed support for the system as providing safeguards against multiple voting, however some voiced concerns about the operational challenges of the devices on election day.¹³

There are 528,817 voters registered for these elections. More than 132,000 changes were made to the electoral register and each affected voter was sent a notification by the MoI. Notifications were also sent to all voters informing them of the place and time to vote. According to the MoI, some 10,000 citizens possess invalid identification documents and would not be able to vote.¹⁴

During the verification process of the electoral register, using the Automated Fingerprint Identification System (AFIS), the MoI identified problems with 168 fingerprints, representing 0,03 per cent of the total number of registered voters. Despite the small number of errors found during this process and based on earlier concerns about the quality of the electoral register, the Minister refused to sign the decision on closing the register by the 5 October legal deadline. This, however, did not influence the process.¹⁵

The MoI established a co-ordination body for monitoring the implementation of the legislation pertaining to the electoral register.¹⁶ Although this initiative was praised by many OSCE/ODIHR EOM interlocutors, the Minister publicly expressed concern that the lack of support of certain departments within the MoI had an impact on the exchange of information. In addition, while civil

¹¹ See paragraph I.1.1.c.iii of the Venice Commission [Code of Good Practice in Electoral Matters](#).

¹² Article 24 of the Constitution provides that “[g]uaranteed human rights and freedoms may be limited only by the law, within the scope permitted by the Constitution [...]”. In addition, deprivation of the right to vote on the basis of mental disability is inconsistent with Article 29 of the United Nations Convention on the Rights of Persons with Disabilities.

¹³ These include electricity outage, device malfunction, as well as the limited training of polling staff.

¹⁴ These citizens do not possess identification documents.

¹⁵ The electoral register was signed the next day by the Secretary of the MoI.

¹⁶ This body is composed of representatives of MoI, SEC, Special Prosecutor, civil society, as well as members of parliament.

society representatives were granted full access to the electoral register, some expressed their disappointment that it was provided too late to conduct a comprehensive review.

A number of voter education materials were prepared by the SEC and the MoI.¹⁷ In addition, the MoI established a website, a text message service, as well as a toll free number where voters could check their registration and identify the polling station they were assigned to.

Candidate Registration

Groups of citizens, registered political parties and coalitions can nominate electoral lists, supported by the required number of voter signatures.¹⁸ To promote women's participation, candidate lists are required to include at least 30 per cent of candidates of the less represented gender, as well as at least 1 among each 4 candidates from this gender.

In an inclusive process, SEC received and confirmed 17 lists containing a total of 1,120 candidates, out of whom 360 were women (32 per cent). Several lists were initially returned for corrections in order to comply with the legal requirements.¹⁹ No candidate list was led by a woman.

The election law stipulates that voters may only sign for one candidate list, which could limit political pluralism.²⁰ In a positive development and in line with the Constitutional Court decision, voters no longer had to sign in front of the MEC representative. The SEC cross checked lists for duplicate signatures and found them on all lists.²¹ In addition, the SEC expressed concerns about the misuse of voters' personal data by some political parties during the signature collection process. Similar concerns were expressed by citizen observer groups. No mechanisms were put in place for voters to verify if their signatures were misused.

Campaign Environment

The campaign was competitive and took place in an atmosphere generally characterized by respect of fundamental freedoms. The campaign environment was permeated by opposition and civil society disenchantment with the ruling DPS party. It also manifested itself in broad pre-electoral coalitions. With few exceptions, no impediments to campaigning were reported to the OSCE/ODIHR EOM.²²

The election law does not specify when the official campaign period begins; it only states that the right to free air time on public broadcaster starts on the day the candidate list is confirmed. The

¹⁷ Starting from 4 October two videos were broadcasted on the public broadcaster; 35,000 flyers distributed with national newspapers; voter education posters displayed at polling stations.

¹⁸ A political party or a coalition is required to submit signatures of at least 0.8 per cent of the voters based on the data on the number of voters in the previous elections. Political parties and groups of voters representing a national minority community are required to submit at least 1,000 support signatures. For those representing a minority constituting up to 2 per cent of the population, the requirement is 300 signatures.

¹⁹ Some did not meet the gender quota. Others did not have complete sets of properly signed and stamped documents or had signatures missing.

²⁰ Paragraph 3 of the 1990 OSCE Copenhagen Document, which states that the OSCE participating States "recognize the importance of pluralism with regard to political organizations." See also Paragraph 77 of the 2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation recommends that "in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party."

²¹ Some 3,000 duplicate signatures were found among the verified 60,000 signatures.

²² On 14 September in Budva and on 27 September in Podgorica, DF alleged that they did not receive the permission from the municipal communal service to erect a stage; DF, however, used a mobile stage. Despite having permission, municipal police attempted to remove DF's stand in Rozaje on 27 September.

campaign started long before the elections were called, according to OSCE/ODIHR EOM interlocutors. In the absence of a specific legal provision, billboards of several contestants appeared even before they had submitted their lists to the SEC.²³

Most electoral contestants campaigned through rallies, stands, as well as door-to-door canvassing.²⁴ With one exception, there were no special electoral platforms aimed at female voters, but women attended campaign events and addressed most of the rallies.²⁵ Some political parties campaigned only on traditional and social media, stating that they lacked funding to organize rallies. NATO membership was a key issue in the campaign. While electoral contestants conveyed general messages on the necessity to conduct economic, social and political reforms, to create jobs and reduce youth emigration, there was often little detail in terms of policy to support broad campaign promises. Several interlocutors opined to the OSCE/ODIHR EOM that, with the exception of NATO membership, significant differences on policy positions of electoral contestants were not discernible.

The ruling party used the campaign to underline their achievements, promised stability and European standards of living. The opposition tried to capitalize on public discontent over the ruling party's long political dominance, and on growing unemployment and high-level corruption. In general, the campaign was largely personality-driven rather than focusing on policy alternatives.²⁶ The tone of the campaign was confrontational, and personal attacks were launched by both the opposition and, to a lesser degree, the ruling party. In the last week of the campaign, opposition contestants, DF, Key and Democrats, engaged in negotiations over forming a post-electoral coalition with an aim to preclude DPS governance. In response to these talks, the prime minister accused the opposition of serving foreign interests.²⁷ Also, several OSCE/ODIHR EOM interlocutors alleged that the high quality and quantity of DF campaign materials is due to them receiving foreign funding, in violation of law.

Some OSCE/ODIHR EOM interlocutors suggested that the misuse of administrative resources had been prevented in this campaign by the establishment of the Government of Electoral Trust. However, a number of opposition political parties and civil society representatives that the OSCE/ODIHR EOM met with maintained that the ruling party enjoyed an institutional advantage after 25 years in power that the interim government would not be able to effectively change the situation.²⁸

Campaign Finance

The Law on Financing Political Entities and Election Campaigns increased accountability of public institutions by requiring them to regularly disclose their spending, welfare benefits, use of official cars and employment decisions during an election. The law also provides for public and private

²³ These were DF, DPS, Key and Croatian Civil Initiative (HGI).

²⁴ The OSCE/ODIHR EOM observed 58 rallies across the country, of which 16 rallies of the Big Coalition - Key, 12 of DPS, 11 of DF, 7 of SDP, 3 of SD and Democrats 2 of PCG and HGI, and 1 of BP and LP.

²⁵ On 11 October, DF rally in Herzeg Novi focused on women's issues.

²⁶ DF's electoral list and campaign materials contained the phrase "Mi ili On" (Us or Him) with some of them featuring the prime minister. In response, DPS's youth branch introduced the slogan "Mi smo On" (We are Him).

²⁷ On 13 October, in an interview with Reuters, the prime minister said that "Russia has engaged a serious financial potential, which is I assume, made possible through its oligarchs and funneled through secret channels through Serbia and Republika Srpska." In addition, the OSCE/ODIHR EOM was informed on this issue by DPS officials.

²⁸ See the OSCE/ODIHR and Venice Commission [Joint Guidelines For Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#).

funding of election campaigns, defines permitted donations and contributions, and puts a high limit on campaign spending.²⁹

Twenty per cent of the budget funds for financing electoral campaigns are distributed equally to all registered electoral lists before the elections.³⁰ The remaining 80 per cent are disbursed to the winners of parliamentary mandates, in proportion to the number of seats obtained.³¹ Private donations (monetary or in-kind) may be raised during the electoral period from individuals and legal entities.³² All campaign finance transactions must be carried out through a specially designated bank account but the law does not specify when these accounts should be opened.³³ Some parties opened campaign accounts late or reported little or no donations.³⁴

The Agency for Prevention of Corruption is tasked with the overall supervision of compliance with campaign finance regulations. All electoral contestants are obliged to submit reports to the Agency every 15 days on their campaign donations, but there is no requirement to file campaign finance reports until 30 days after the election. The Agency carried out inspections and instituted proceedings for non-compliance with the law against some parties.³⁵ Overall, new legislation did not ensure the adequate transparency of campaign expenditure disclosures before election day.³⁶

Media

The country has a diverse media environment with outlets divided along political lines. It is also impacted by the absence of an effective regulatory or self-regulatory body, capable of actively monitoring media. In the past years, concerns were raised about the attacks and forms of pressure on journalists and media outlets. The OSCE Representative on Freedom of the Media (RFoM) has drawn attention to several such instances.³⁷

The election law provides general requirements for the coverage of the electoral campaign in the media. The Electronic Media Law does not specifically regulate electoral campaign coverage but provides for general rules for content of programmes and paid advertisements. These requirements are further supplemented by general rulebooks issued by the Agency for Electronic Media (AEM) and require the news to be presented objectively, accurately and in an impartial manner. In addition, the broadcast media are legally obliged to adopt and adhere to internal rulebooks based on the principle of equality. The private broadcasters have largely disregarded this requirement, as there were no sanctions for not adopting or not following such rulebooks. Every broadcaster is obliged to

²⁹ Political entity may spend up to the amount of the total budget allocation for election campaigns (some EUR 1,930,000) plus the maximum amount for privately raised donations (some EUR 680,000).

³⁰ The disbursement of these funds was delayed by the Ministry of Finance by a week due to unavailability of tax identification numbers.

³¹ In 2015, a total of EUR 4,075,005 has been allocated to parliamentary political parties, of which EUR 1,207,409 was allotted to DPS, EUR 895,495 to DF, EUR 452,778 to SNP, EUR 412,531 to SDP, EUR 372,284 to PCG, EUR 211,296 to BS, EUR 171,049 to FORCA, EUR 130,802 to HGI, and EUR 130,802 to the LP.

³² Individuals are limited to donating EUR 2,000 and legal entity EUR 10,000 per year to a political entity.

³³ As the election law is not clear on the start of election campaign, some contestants argued that they had no obligation to open campaign accounts until their list was registered by the SEC.

³⁴ Agency for Prevention of Corruption published two reports from BP (contribution total EUR 5,500), one from DF (EUR 10,275), four from Democrats (EUR 2,260), four from DPS (EUR 680,025), one from PCG (EUR 500), one from SD (EUR 16,910) and two from SDP (EUR 4,000).

³⁵ Proceedings were initiated against Key, DF and SD.

³⁶ The OSCE/ODIHR previously recommended strengthening the transparency of campaign finance reports and to consider addressing the gaps and ambiguities identified by the Council of Europe's Group of States against Corruption (GRECO).

³⁷ See, Press Releases of the OSCE RFoM on [18 October 2015](#) and [19 October 2015](#).

approve content of advertisements. Each should be limited to nine minutes per hour. The AEM disregarded this requirement during the campaign.³⁸

The AEM is obligated by law to oversee the media's compliance with the legal framework. It has the right to issue warnings, impose fines or suspend licenses temporarily or permanently. In two cases AEM reacted to DF campaign advertisements negatively targeting DPS.³⁹ In addition, it has officially warned the public broadcaster for misbehaviour of DF candidate during a debate. The AEM informed the OSCE/ODIHR EOM that it increased its monitoring capacity during the campaign period but has yet to publish results. In addition, a temporary parliamentary committee was established to monitor the application of electoral legislation related to the media, but with no mandate to sanction.

The national public broadcaster Radio and Television Montenegro (RTCG) has complied with the legal obligations to provide contestants with free time for the presentation of rallies and election advertisements, and has organized seven debates.⁴⁰ While not legally required, RTCG has provided every party with 30 minutes for the presentation of their programmes and 60 minutes for an interview with their leaders thus providing an additional free platform to present their views.⁴¹

The OSCE/ODIHR EOM media monitoring results indicate that while media has provided the contestants with the opportunity to present their views through interviews and debates, the news mainly focused on the campaign-related events by major political parties, providing little in-depth coverage about their platforms.⁴² In particular, the RTCG decided to refrain from editorial coverage of campaign activities. Instead they accepted and broadcasted footage of campaign rallies and other campaigning events prepared and submitted by the parties. This decision prevented RTCG from detailed reporting on the campaign.

The media monitoring results also indicate that *Pink M* displayed a clear bias in the news, favoring the DPS, and maligning the opposition parties. DPS has received 17 per cent of politically relevant news coverage during the campaign, largely positive in tone, while the DF and Key received 32 and 11 per cent respectively that was negative in tone. In the reporting, the comments of journalists were mixed with selective presentation of facts and rarely allowed contestants to reply. By contrast, TV *Vijesti* displayed a different approach by providing DPS, DF and Key with 17, 14 and 14 per cent of coverage respectively, with more critical attitude towards DPS.

TV *Prva* and *Atlas* largely focused on the coverage of campaign rallies of some contestants. However, while TV *Atlas* has provided DF, Key and DPS some 18, 18 and 16 per cent, respectively,⁴³ TV *Prva* devoted its coverage to DPS, with 17 per cent, and SD, with 8 per cent, while Key and DF were allotted 10 and 8 per cent, respectively. The coverage of the campaign in the print media was similar to that on television. Daily *Dnevne Novine* and *Pobjeda* were largely presenting the government and DPS in a positive manner, while sharply criticising DF. Daily *Dan*

³⁸ OSCE/ODIHR EOM media monitoring has identified a number of political advertisement exceeding the legal limit, including a DPS advertisement that lasted 110 minutes and 50 seconds.

³⁹ Two DF paid advertisements describing the DPS party as "Milo and his thieving gang" were aired and subsequently removed at the initiative of the broadcasters. Other DF advertisements portraying a campaign worker of DPS robbing a passer-by and a DPS leader benefiting from corruption were aired unobstructed.

⁴⁰ Private broadcasters also organized a number of debates, however, Milo Đukanović did not participate.

⁴¹ All electoral contestants used the time provided for the interviews and 16 used the time for presentation of the programmes.

⁴² The OSCE/ODIHR EOM media monitoring was conducted from 12 September to 14 October, and included the prime-time coverage (18:00 – 00:00) of five TV stations – RTCG-1, *Atlas*, *Pink M*, *Prva* and *Vijesti*, and four daily newspapers – *Dan*, *Dnevne Novine*, *Pobjeda* and *Vijesti*.

⁴³ TV *Atlas* has suspended its newscasts on 25 September due to a strike against six months' salary debts.

and *Vijesti*, on the other hand, were visibly supportive of the Key coalition, while being critical of the government and DPS.

Complaints and Appeals

Complaints about infringements of electoral rights may be filed by voters, candidates and submitters of the candidate lists to the responsible election commission, with the Constitutional Court being the final appellate instance.⁴⁴ Complaints related to voter registration are submitted to the MoI and appealed to the Administrative Court. Timelines for submission and consideration of complaints are short.⁴⁵ OSCE/ODIHR has previously recommended reviewing the current deadlines, as well as introducing detailed guidelines for electoral dispute resolution to ensure effective remedy.⁴⁶

Prior to election day, a small number of complaints have been submitted to MECs, largely related to the formation of the polling boards.⁴⁷ No appeals were made on voter registration to the Administrative Court. In addition, the Special Prosecutor received a number of complaints, related to the inaccuracy of voter lists, vote buying, alleged fraud with the identification documents.⁴⁸ The limited number of complaints filed with law enforcement and the judicial bodies, was attributed to lacking trust, as well as effectiveness and impartiality of these institutions.

Participation of National Minorities

Members of national minorities enjoy opportunities to participate in the electoral process, both as candidates and as voters. Many interlocutors that the OSCE/ODIHR EOM met with, however, noted that significant numbers of national minorities choose to support the larger political parties, rather than specific national minority parties, due to a perceived advantage in accessing employment opportunities.

Campaigning in national minority languages is permitted. Posters in the Albanian language were freely displayed in those areas where ethnic Albanians live in significant numbers. Other national minority parties also displayed their campaign materials, however, none was observed in the Romani language. Both the official scripts of the Montenegrin language, Latin and Cyrillic, were used widely. However, it was noted by many OSCE/ODIHR EOM interlocutors that the use of Cyrillic script was sometimes considered as a badge identifying its user with the Serbian language. At rallies, members of national minorities were actively included in the campaigning of major political parties, however, national minority candidates featured predominantly on the candidate list of DPS. No notable incidents related to the elections were observed that could indicate ethnic tensions or significant discrimination against national minority communities.

The ballot paper was printed in the Montenegrin language, with a bilingual Montenegrin and Albanian language version available in polling stations in areas with significant numbers of Albanian speakers.

⁴⁴ PB decisions, actions or inactions are appealed to MECs, MEC acts are appealed to SEC, SEC decisions are appealed to the Constitutional Court.

⁴⁵ 72 hours to file a complaint or appeal a decision, 24 hours to decide on complaints and appeals for election commissions, 48 hours to decide on appeals for the Constitutional Court. Administrative Court's challenge of short timelines for voter registration appeals was rejected by the Constitutional Court on 14 October 2015.

⁴⁶ Paragraph 5.10 of the 1990 OSCE Copenhagen Document provides that "everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity."

⁴⁷ SDP appealed decisions on the composition of PBs in Andrijevica and Nikšić. SEC rejected both appeals.

⁴⁸ In August, at opposition's initiative, the Special State Prosecutor assumed jurisdiction over electoral offenses.

Citizen and International Observers

The election law provides for observation by citizen and international organizations, as well as representatives of candidate lists. Three major citizen observers groups: Center for Monitoring and Research (CeMI), the Center for Democratic Transition (CDT) and the Network for Affirmation of NGO Sector (MANS) were active in observing the pre-electoral period at all levels of the election administration. The representatives of MANS conducted a comprehensive review of the electoral register and on multiple occasions expressed their concerns about its accuracy. CDT started a campaign "vote free" that focused on informing citizens about their rights.

Election Day

Election day generally proceeded in an orderly manner, with only some isolated cases of tension. While opening and voting was generally assessed positively, in a few polling stations observed procedures were not always followed during counting. Citizen observers and authorized representatives of the candidate lists were present in almost all polling stations contributing to the transparency of the process.

The opening was assessed by international observers as good or very good in 94 per cent of 80 polling stations observed. Polls opened with delays in 18, at times due to technical problems with the EVID and mis-allocation of tasks among PB members. (Neither of these irregularities significantly affected the process. Observers were able to follow the process without restrictions in 97 per cent of cases observed.

The voting was assessed as good or very good in 97 per cent of observations. Identification rules provided by the law were applied consistently in 98 per cent of cases. The EVID was not working properly in 6 per cent of observations largely due to power cuts. In most of those cases the PBs proceeded with voting using manual identification of voters and it did not have a negative effect on the process. In 22 per cent of polling stations observed, voters were not found on the voter list for the particular polling station, however, in 89 per cent of these cases the PB assisted the voter to find the correct polling station. In addition, group/family voting was the most frequent irregularity observed in some 3 per cent of the polling stations, and unauthorized persons were present in 3 per cent of observed polling stations with only 1 per cent interfering. Half of polling stations observed were not accessible for the disabled.

The closing and counting process was assessed as good or very good in 66 out of 74 observations, however, procedural problems persisted in the remaining 8 polling stations observed. These were linked to performance of PBs and members lacking knowledge and understanding of procedures. The procedure of determining the validity of ballot papers was followed in 72 cases of observations.

The transparency of the counting process was assessed as good or very good in 68 polling stations observed. Interference in the work of the PB was noted in 6 polling stations observed.

The tabulation observed by the international observers was assessed positively in all but one case with the majority of procedures followed by MECs. MECs in Podgorica and Niksic had not completed the tabulation by 03:00 and decided to stop and continue later in the day. In addition, MEC in Bijelo Polje identified problems in 58 out of 103 PB protocols that did not reconcile and called in several of these PBs to conduct recounts.

On election day, 117 complaints related to alleged criminal offences, such as buying of identification cards, pressure on and bribing of voters, were filed by citizen observer groups with the Special Prosecutor. In addition, suspension of the internet services Viber and WhatsApp raised concerns. Authorities announced the detention of 20 persons suspected to perform terrorist attacks on election day.

*The English version of this report is the only official document.
An unofficial translation is available in the Montenegrin language.*

MISSION INFORMATION & ACKNOWLEDGEMENTS

Podgorica, 17 October 2016 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE). The assessment was made to determine whether the elections complied with OSCE commitments and other international obligations and standards for democratic elections and with national legislation.

Margareta Cederfelt was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and Leader of the OSCE short-term observer mission. Azay Guliyev headed the OSCE PA delegation. Aleksander Pocij headed the PACE delegation. Roman Jakič is the Head of the OSCE/ODIHR EOM, deployed from 8 September.

Each of the institutions involved in this International Election Observation Mission (IEOM) has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process. The OSCE PA will present its report at its Standing Committee meeting in Vienna in February. The PACE will present its report at its Standing Committee meeting in Nicosia on 25 November in.

The OSCE/ODIHR EOM includes 12 experts in the capital and 12 long-term observers deployed throughout the country. On election day, 198 observers from 39 countries were deployed, including 142 long-term and short-term observers deployed by the OSCE/ODIHR, as well as a 42-member delegation from the OSCE PA, and a 14-member delegation from the PACE. Opening was observed in 80 polling stations and voting was observed in 679 polling stations across the country. Counting was observed in 74 polling stations, and the tabulation in all 23 MECs.

The observers wish to thank the authorities for their invitation to observe the elections, and the State Election Commission and the Ministry of Foreign Affairs for the assistance. They also express their appreciation to other state institutions, political parties and civil society organizations and the international community representatives for their co-operation.

For further information, please contact:

- Roman Jakič, Head of the OSCE/ODIHR EOM, in Podgorica (+382 20 673 924);
- Thomas Rymer, OSCE/ODIHR Spokesperson (+48 609 522 266), or Tamara Otiashvili, OSCE/ODIHR Election Adviser, in Warsaw (+48 695 808 829);
- Iryna Sabashuk, OSCE PA Head of Administration for Election Observation (+45 60 10 81 73);
- PACE Communication Division, PACE (+33 388 41 31 93).

OSCE/ODIHR EOM Address:

Apart Hotel Premier, 6th floor, 81000 Podgorica

Tel: +382 20 673 924

Email: office@odihr.me

Website: <http://www.osce.org/odihr/elections/montenegro/245866>