

INTERIM REPORT
8– 28 September 2016

30 September 2016

I. EXECUTIVE SUMMARY

- The 81-member parliament is elected for a four-year term from a single nationwide constituency under a proportional representation system. Candidate lists must surpass the three per cent threshold of valid votes, while special rules apply for candidate lists representing national minority communities.
- These elections are conducted under a substantially revised legal framework. Changes include new provisions on the allocation of mandates to minority lists, voter registration and voter identification on election day, candidate registration, including the representation of women in parliament, campaign finance, and the composition and competences of election administration.
- The elections are administered by three levels of election administration: the State Election Commission (SEC), 23 Municipal Electoral Commissions and some 1200 Polling Boards (PBs). In general, to date the SEC has met all legal deadlines and conducted regular meetings. Occasional political tensions were observed among representatives of political parties during sessions. While training sessions conducted by the SEC were praised by a number of OSCE/ODIHR Election Observation Mission (EOM) interlocutors, some expressed concerns on the short timeframe available for PB trainings.
- By the 20 September deadline, the SEC received and registered 17 candidate lists. Several lists were returned for corrections for a failure to comply with the requirements in the election law. To promote women's participation, candidate lists are required to include at least 30 per cent of candidates of each gender, provided that at least 1 among each 4 candidates is from a less represented gender.
- The new centralized and permanent electoral register is maintained by the Ministry of Interior (MoI), based on the information extracted from three different civil registries. The SEC has a supervisory role over the process. Voters can check their data and request changes until 5 October. The MoI is then obliged to notify voters of any changes. Many OSCE/ODIHR EOM interlocutors, however, expressed concern about the capacity and resources of the MoI to inform voters in due time.
- Electoral contestants are using various ways of campaigning, primarily relying on billboards and rallies. Campaign messages, although lacking detail, mainly focus on the necessity to conduct economic, social and political reforms; create jobs and reduce unemployment; to tackle corruption and fight organized crime, as well as the issue of NATO accession. Some statements delivered were characterized by inflammatory language.

- The Agency for Prevention of Corruption is tasked with the overall supervision of compliance with campaign finance regulations. On 19 September the agency announced that only five parties opened the campaign bank accounts and submitted reports, and that it initiated proceedings against four contestants for non-compliance.
- The country has a diverse media environment with media outlets divided along political lines. The legal framework provides for general requirements of the election campaign coverage in media, mainly focusing on the requirements related to the allocation of free air time by the public broadcasters. The Agency for Electronic Media is the regulatory body that oversees the compliance of the broadcast media with the legal framework. A parliamentary committee has been established to monitor the implementation of laws related to the media.

II. INTRODUCTION

Following an official invitation, and based on the recommendation of a Needs Assessment Mission conducted from 16 to 20 May 2016, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 8 September to observe the 16 October parliamentary elections.¹ The EOM, headed by Roman Jakič, consists of a 12-member core team based in Podgorica and 12 long-term observers (LTOs) deployed throughout the country on 15 September. Mission members are drawn from 16 OSCE participating States. Participating States have been requested to second 100 short-term observers to observe election day procedures.

III. BACKGROUND AND POLITICAL CONTEXT

The 14 October 2012 early 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). They were joined by all parliamentary national minority parties in forming a government.² 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.

Following the narrow victory of Filip Vujanović in the 7 April 2013 presidential election, the opposition candidate, Miodrag Lekić, challenged the results claiming electoral fraud. Thousands of opposition supporters rallied in Podgorica to protest against the alleged fraud. The protest ended when the Constitutional Court upheld election results.

In September 2015, protests resumed when the DF called on the prime minister and his government to resign and for the halt of accession talks to NATO. On 24 October 2015, protests turned violent with police dispersing demonstrators using tear gas. The European Commission (EC) called for “all incidents of violence and allegations of excessive use of force during these events” to be investigated, and for political parties to “re-engage in a constructive political dialogue in the parliament.”³

¹ See [previous OSCE/ODIHR reports](#) on Montenegro.

² The Bosniak Party (BP), the Croatian Civic Initiative (HGI), Albanian Coalition and FORCA for Unity Coalition.

³ European Commission 2015 [Enlargement Strategy Report on Montenegro](#).

On 19 May 2016, after months of negotiations, an Agreement for Creating Conditions for Free and Fair Elections was reached between the parliamentary parties. Among other issues, the agreement stipulated the resignation of the director and editorial team of the public broadcaster and the allocation of four ministers and one deputy prime minister to the opposition parties.⁴ On the same day, NATO foreign ministers and the government of Montenegro signed a protocol on the country's accession to the Alliance.

On 2 June, Speaker of the parliament was dismissed and Darko Pajović, the leader of PCG, undertook this role. On 11 July, President Vujanović called elections for 16 October.

IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

These elections are conducted under a substantially revised legal framework. Changes include amendments to the Law on Election of Councilors and Representatives (election law) adopted in November 2014, a new Law on the Electoral Register, a new Law on Financing Political Entities and Election Campaigns, and new Law on Public Assemblies.⁵ The legal framework also includes regulations and opinions for implementation of the election law promulgated by the State Election Commission (SEC).

Key changes to the electoral legislation include new provisions on the allocation of mandates to minority lists, voter registration and voter identification on election day, candidate registration, including the representation of women in parliament, campaign financing, and the composition and competences of election administration. While the new legislation addresses a number of prior OSCE/ODIHR recommendations, specifically regarding voter registration, campaign financing and misuse of administrative resources, a number of previous recommendations remain unaddressed, including those concerning the residency requirement as a precondition to be eligible to vote and the opportunity to run independently.

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. Candidate lists that surpass the three per cent threshold of valid votes are eligible to take part in the allocation of mandates. Special rules apply for candidate lists representing national minority communities.⁶ In addition, the 2014 amendments to the election law further define the allocation of mandates for minority lists: a minority nation or a minority national community with a share of the total population of at least 15 per cent countrywide or 1.5 per cent in each municipality acquires the right to participate in allocation of seats separately with its obtained number of valid votes.

⁴ Ministry of Interior, Ministry of Finance, Ministry of Agriculture and Rural Development and Ministry of Labour and Social Welfare.

⁵ Additionally, to implement the political agreement reached between the government and the opposition, a special Law on the Implementation of the Agreement on Creating Conditions for Free and Fair Elections was adopted on 19 May 2016.

⁶ The Constitution refers to "peoples and national minorities who live in Montenegro" as "Montenegrins, Serbs, Bosniacs, Albanians, Muslims, Croats and the others." 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. Candidate lists representing the Croatian minority are entitled to 1 seat each if they obtain at least 0.35 per cent of the valid votes.

V. ELECTION ADMINISTRATION

Elections are conducted by three levels of election administration: the SEC, 23 Municipal Electoral Commissions (MECs) and some 1,200 Polling Boards (PBs). While the SECs 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.⁷ Three SEC members are women. Each MEC is composed of a chairperson and four standing members appointed by municipal parliaments.⁸ Twenty days prior to election day the permanent members of SEC and MECs are joined by authorized representatives of each submitter of a candidate list. 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 local councils and are established 10 days before election day.

In line with a previous OSCE/ODIHR recommendation, the SEC has increased operational and staff capacity. In general, to date the SEC has met legal deadlines and conducted regular sessions. Occasional political tensions were observed among representatives of political parties during these meetings. While citizen and international observers have unimpeded access to SEC sessions, some OSCE/ODIHR EOM interlocutors questioned its transparency after the media have been denied access. In addition, only some decisions and minutes of the meetings were published on its website. The degree of transparency varied among the MECs visited by the OSCE/ODIHR EOM.⁹

The SEC is organizing a series of interactive training sessions on voting procedures and the use of the electronic voter identification devices on election day. Training sessions will also be organized for PB members. The training observed by the OSCE/ODIHR EOM was highly praised by the participants and civil society. A number of OSCE/ODIHR EOM interlocutors, however, expressed concerns on the short timeframe available for training some 12,000 PB members and their deputies.

VI. VOTER REGISTRATION

All citizens over the age of 18 years on or before election day and residing in the country for at least 24 months are eligible to vote. A voter is also obliged to have a valid identification document in order to vote. The election law contains reference to “biometric identification cards” while the Ministry Of Interior (MoI) publicly announced that national identification cards were not biometric. In response, the SEC adopted an opinion that despite the different terms in the law, it is clear that provisions refer to the same identification card that will be used for voter identification through electronic voter identification devices.

⁷ 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.

⁸ MEC chairperson 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.

⁹ While some MECs open their sessions to media and communicate information via their website or email, others are more reluctant in exchanging information.

Voter registration is passive. The 2014 Law on Electoral Register introduced a centralized and permanent electoral register maintained by the MoI, based on the information extracted from three different civil registries. The SEC maintains a supervisory role over the process. Voters can check their own data until 5 October when the voter register will be closed. According to the MoI, 131,976 changes have been made until 19 September. In addition, 13,347 voters records were deleted based on changes in the three civil registries.

According to the Rules on the Method and Procedure of Controlling the Voters List adopted by the SEC, the SEC should receive weekly reports from its secretariat on changes to the electoral register. To date only one such report has been submitted, which does not include all the documents on which changes are based. In addition, OSCE/ODIHR EOM interlocutors opined that civil society representatives, who can request the data on changes to the electoral register, have thus far only been granted limited access. Some also expressed concerns on the working relationship between the SEC and MoI.

The MoI established a toll-free call centre and a website where citizens can check their registration and the polling station they are assigned to. In addition, the MoI is required to send a notification to all citizens whose data in the electoral register or polling station has changed. Many OSCE/ODIHR EOM interlocutors, however, expressed concern about the capacity and resources of the MoI to inform voters in a due time.

VII. CANDIDATE REGISTRATION

Groups of citizens, registered political parties and coalitions can nominate electoral lists, supported by the required number of voter signatures.¹⁰ Following the Constitutional Court decision in February 2016, voters no longer need to sign in front of the MEC members. To promote women's participation, candidate lists are required to include at least 30 per cent of candidates of each gender, provided that at least 1 among each 4 candidates is from a less represented gender.

The SEC is in charge of registering candidate lists. By the 20 September deadline, 17 lists were received and confirmed. Several lists were initially returned for corrections for a failure to comply with the legal requirements.¹¹ Although the election law specifies that voters may only sign for one candidate list, duplicate signatures were found on all lists.

VIII. CAMPAIGN

The election law does not specifically define when the official campaign period begins. It only states that the right to free air time on the public broadcaster starts on the day that a candidate list is confirmed by the SEC. Parties, however, started the campaign before their lists were submitted or approved by the SEC.¹² The campaign ends 24 hours before election day.

¹⁰ 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.

¹¹ Six lists were returned for corrections because they did not meet the gender quota, did not have complete sets of properly signed and stamped documents or had signatures missing.

¹² Big Coalition - Key and DF had their billboards around Podgorica before they were registered; OSCE/ODIHR EOM observed DF's rallies in Budva on 13 September, in Bijelo Polje on 18 September, in Kolasin on 19 September; Coalition Key rally in Bijelo Pole on 15 September and SD rally in Rozaje on 18 September.

All electoral contestants opened their campaign with large-scale rallies outside the capital.¹³ Campaigning is visible throughout the country mostly through the use of billboards, door-to-door canvassing, advertisements in the media and social media. To date campaign messages mainly focus on the necessity to conduct economic, social and political reforms, to create jobs and reduce unemployment, to tackle corruption and fight organized crime, as well as the issue of NATO accession. The prime minister, as well as lack of employment opportunities and allegations of wide spread corruption rather than policy platforms addressing these issues, have been the focus of the opposition campaign. Several OSCE/ODIHR EOM interlocutors alleged that the high quality of DF campaign materials is due to them receiving foreign funding.

Despite the fact that most contestants' language was by and large moderate, some statements delivered were characterized by inflammatory language. In addition, a number of OSCE/ODIHR EOM interlocutors expressed concern that the ruling party enjoys institutional advantage after 25 years in power.

IX. CAMPAIGN FINANCE

Law on Financing Political Entities and Election Campaigns provides for public and private funding of political entities and campaigns. Twenty per cent of the budget funds for financing election campaigns are distributed equally to all registered electoral lists before the elections. The remaining 80 per cent are disbursed to the winners of parliamentary mandates, in proportion to the number of seats obtained. Private donations during the electoral period may be raised from natural and legal persons.¹⁴

The Agency for Prevention of Corruption is tasked with the overall supervision of compliance with campaign finance regulations. All electoral contestants are obliged to open a special bank account and submit reports to the Agency every 15 days on donations.¹⁵ On 19 September the Agency reported that only five parties fulfilled this legal requirement and initiated proceedings against those who did not submit such reports.¹⁶

X. MEDIA

The country has a diverse media environment with media outlets divided along political lines. The election law provides for general requirements of the election campaign coverage in media, mainly focusing on the requirements related to the allocation of free air time by the public broadcasters. Activities of the broadcast media are regulated by the Law on Public Broadcasting Services and the Electronic Media Law, which are also applicable during the election period, while print and online media outlets are largely unregulated. In addition, the Agency for Electronic Media (AEM) issued several rulebooks that regulate general programme standards for the media and requirements for commercial advertisements. Every broadcast media outlet is also required to adopt and adhere to internal rulebooks on campaign coverage based on the principle of equality.

¹³ To date, OSCE/ODIHR EOM observed 5 rallies of the Big Coalition - Key, 4 of the *With a Safe Step* Coalition and 4 of the DF, 1 - Democrats, 1 - Positive, 1 - SD, 1 - SDP.

¹⁴ Individuals are limited to donating EUR 2,000 and legal entity EUR 10,000 per year.

¹⁵ There is no specific deadline for opening these accounts in the law.

¹⁶ According to the agency, Democrats, DPS, PCG, SDP, and BP submitted reports. Administrative proceedings were initiated against DF, Coalition "Key", Montenegrin Democratic Union, and SD for failure to comply with the law.

The AEM is the regulatory body that oversees the compliance of the broadcast media with the legal framework. In cases of violations the agency has the right to issue warnings, impose fines or suspend license. The AEM has informed the OSCE/ODIHR EOM that it has increased their monitoring capacity for the campaign period. To date AEM has identified and removed two political advertisements.¹⁷

As required by the election law, the National Public Broadcaster RTCG-1 is providing contestants with 200 seconds of free time daily for campaign advertisements. In addition, each contestant receives ten-minutes to broadcast their opening and closing rallies and three three-minute blocks to show footage of three rallies of the party's choice.¹⁸ The RTCG plans to televise seven two-hour debates among all registered contestants.

As per legal requirement, the parliament has established a committee to monitor the implementation of the election law related to the media. While the committee has the authority to consider media-related complaints and give advice to the media, they have no sanctioning power. If the committee establishes a violation, it forwards it to the AEM to take legal action. So far committee meetings have served largely as a platform for parties and media representatives to raise concerns and present their views.

On 12 September, the OSCE/ODIHR EOM commenced qualitative and quantitative media monitoring of five television channels and four daily newspapers.¹⁹

XI. COMPLAINTS AND APPEALS

Voters, candidates and submitters of the electoral lists may file complaints to the responsible election commission, with the Constitutional Court being the final appellate instance.²⁰ 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.²¹ Election law does not prescribe procedures for handling election complains and the SEC has not issued any guidance on this matter. Up to date, no complaints have been submitted to MECs and the SEC and no appeals on voter registration have been filed with the Administrative Court.

XII. PARTICIPATION OF NATIONAL MINORITIES

Montenegrins comprise 44.98 per cent of the population and Serbs 28 per cent, according to the 2011 census. Of the smaller national minorities the largest are the Bosniaks (around 8 per cent), the

¹⁷ The advertisement contained a phrase, which described the DPS party, as “Milo Đukanović, DPS chairman and the Prime Minister and his thieving gang”, which was perceived by the AEM as a violation of Article 85.3.7 which prohibits any advertisement to contain elements that discredit or disparage opponents.

¹⁸ RCTG has so far refused to air two recordings submitted by DF, stating that they were offensive towards other candidates.

¹⁹ This includes RCTG-1, *Atlas*, *Pink*, *Prva* and *Vijesti*, and *Dan*, *Dnevne Novine*, *Pobjeda* and *Vijesti*, respectively.

²⁰ PB decisions are appealed to MECs, MEC decisions are appealed to SEC and SEC decisions are appealed to the Constitutional Court.

²¹ Law provides for 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.

Albanians (around 5 per cent) and the Muslims (around 3 per cent). The Roma and the Croats constitute around 1 per cent of the population each.

There is a reasonable degree of integration of members of national minorities into the political parties. The Albanians, Bosniaks and Croats are all currently well-represented by specific national minority political parties. The Roma have no political party participating in these elections and voter education for this community up to date has been limited.

A ballot paper is in Montenegrin language, however, a bilingual one in Montenegrin and Albanian language will be available in 77 polling stations.

XIII. CITIZEN AND INTERNATIONAL OBSERVERS

There are three major citizen observer groups in Montenegro, Center for Monitoring and Research (CeMI), Center for Democratic Transition (CDT) and The Network for Affirmation of NGO Sector (MANS). CeMI and CDT have already deployed teams in the country and have the intention to deploy observers on election day. In addition, CDT and CeMI have expressed their intention to organize a partial or full parallel voting tabulation.

XIV. MISSION ACTIVITIES

The OSCE/ODIHR EOM commenced its work in Podgorica on 8 September. The Head of Mission met with the President, Ministries of Foreign Affairs and Interior, the SEC, and with representatives of political parties, the OSCE Mission to Montenegro and the international community. The EOM established contacts with electoral stakeholders at all levels. The OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE) intend to deploy observer delegations for election day observation.

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