



INTERNATIONAL ELECTION OBSERVATION MISSION Montenegro – Presidential Election, 15 April 2018

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

Fundamental freedoms were respected in the 15 April presidential election, although the candidate nominated by the governing party held an institutional advantage. Candidates campaigned freely and the media provided the contestants with a platform to present their views. The lack of analytical reporting and the absence of the frontrunner in the televised debates, reduced voters' opportunity to make an informed choice. The technical aspects of the election were adequately managed, although the transparency and professionalism of the State Election Commission (SEC) remain issues of concern. Election day proceeded in an orderly manner despite a few procedural irregularities observed.

Seven candidates, six men and for the first time a female candidate, ran in this election. After the SEC introduced an online application for voters to check if their name appeared in support of a candidate, over 1,000 complaints were filed alleging that voters' signatures had been forged. Although candidate registration was impaired by procedural irregularities, it was inclusive and all candidates who submitted nomination documents were registered by the SEC.

The legal framework overall provides a sound basis for the conduct of democratic elections and the recent amendments that incorporated a number of ODIHR and Council of Europe Venice Commission recommendations signal a general willingness to engage in electoral reform. However, omissions and ambiguities in the legal framework, such as the lack of regulations on verification of supporting signatures and sanctions for violations, dispute resolution procedures, tabulation of results, and campaign finance, undermined the integrity of the electoral process. Attempts by the SEC to clarify some aspects of the legislation through instructions and decisions lacked consistency.

The campaign started three weeks before election day and the activities of the candidates were generally low-key. Many IEOM interlocutors from the opposition and civil society groups voiced concerns about the institutional advantage enjoyed by the candidate nominated by the governing party which holds the power for the last 27 years. They also alleged widespread hiring of public employees despite the restriction on doing so during election period, vote-buying, and collecting identification documents to prevent voters from voting. These recurrent and at times credible allegations of pressure on voters to support the ruling party candidate had a negative impact on the campaign environment. Such practices are at odds with paragraph 7.7 of the 1990 OSCE Copenhagen Document and Council of Europe Venice Commission Code of Good Practice in Electoral Matters (Code of Good Practice).

The SEC met most of the legal deadlines but lacked transparency as decisions were not published and its sessions were not open to the media. Although SEC sessions were regular, they were insufficiently prepared. The election law does not contain provisions on impartiality and professionalism of election management bodies, and several SEC opposition members and representatives of media and citizen observers expressed concerns that decisions were made along party lines. The Municipal Election Commissions (MEC) sessions were mostly open for observers and some MECs posted decisions.

Public scrutiny of the voter list started on 21 January and ended on 31 March. The voter list was closed 10 days before election day, and the SEC announced that the total number of voters was 532,599. The accuracy of the voter list continued to be a concern among many ODIHR EOM

interlocutors, including opposition parties and civil society organizations, who alleged that it contains voters living abroad and those deceased, and can be potentially used to inflate the turnout. However, no evidence of such practices was produced and no complaints were filed.

The media monitored by the ODIHR EOM provided candidates sufficient opportunities to address voters, but a lack of analytical reporting marked their election coverage. The public broadcaster fulfilled its duties to provide candidates with free airtime; in addition, it organized interviews with candidates and aired two debates, although the candidate nominated by the governing party did not attend the debates. The monitored private media were aligned along political lines. With no legal limits on the amount of paid advertising, candidates who could afford purchasing more airtime had an advantage. The Agency for Electronic Media did not receive any media-related complaints.

Candidates could use public and private funds for campaigning, and receive monetary and in-kind donations from individuals and legal entities. Candidates must report regularly during the campaign and submit final reports within 30 days of election day which are published online. The Agency for the Prevention of Corruption supervises compliance with campaign finance regulations and initiates sanctioning proceedings for breaches. Candidates have received private donations mostly from individuals, and to a lesser amount from legal entities, and predominantly spent the funds on campaigning in the media.

Voters, candidates, and the entities who nominate them may challenge actions and decisions of election commissions at higher-level commissions. Voters filed over 1,000 complaints alleging forgery of signatures or misuse of personal data in the supporting signatures lists. In the pre-election period, one complaint was submitted to a MEC and three to SEC regarding the appointment of PBs chairpersons. In practice, election dispute resolution depends on the discretion of different public authorities which at times failed to ensure effective legal redress, at odds with paragraph 5.10 of the 1990 OSCE Copenhagen Document and Code of Good Practice.

Election day generally proceeded in an orderly manner despite a few procedural irregularities observed. Voting and counting were assessed positively in almost all polling stations observed. The tabulation process was assessed positively in the 17 MECs observed. IEOM observers reported indications of vote buying and the use of lists to track which voters had already voted, and MECs received six complaints alleging such violations. For the first time, the SEC made polling station results available online in real time.

PRELIMINARY FINDINGS

Background

On 19 January 2018, the president of parliament called the presidential election for 15 April. According to the Constitution the legislative powers are exercised by the Parliament, the executive powers by the Government and the judicial by courts.¹ This is the third presidential elections since independence in 2006. In the most recent 2016 parliamentary elections, the Democratic Party of Socialists (DPS) won 36 out of 81 seats and, with the support of four other parties, maintained the

¹ The President represents the country abroad, proposes candidates for prime minister, president and judges of the Constitutional Court and is supreme commander of the army.

majority it has enjoyed since 1991.² Following the elections opposition parties refused to accept the results and initiated a parliamentary boycott.³

After the calling of the election, opposition parties held negotiations aimed at reaching a consensus on a joint presidential candidate. Notwithstanding the calls for unity, the Social Democratic Party (SDP) and United Montenegro (UCG) left the talks. On 5 March, SDP announced their own candidate, and UCG supported the joint candidate of the Democratic Front (DF), Democratic Montenegro (DCG), United Reform Action (URA) and Socialist People's Party (SNP) announced on 9 March.

The election took place against the background of renewed expectations for accession to the European Union (EU), continued debates on NATO membership, and ongoing discussions on the international alignment of the country.⁴ The general security situation became a campaign issue after several non-election related violent incidents occurred in various locations across the country.⁵

Electoral System and Legal Framework

The president is elected directly from a single nationwide constituency. If no candidate receives more than 50 per cent of the valid votes cast in the first round, the two candidates who received the highest number of votes compete in a second round two weeks later. The term of office is limited to two consecutive five-year terms.

The presidential election is regulated by the Constitution, the Law on Election of Councillors and Representatives (election law), the Law on Election of the President (LEP), and other relevant legislation.⁶ The legal framework overall provides a sound basis for the conduct of a democratic election. Recent amendments incorporated a number of ODIHR and Council of Europe Venice Commission recommendations signalling a general willingness to engage in electoral reform.

Changes to the electoral framework included measures for protecting the privacy of voters by restricting access to and copying of personal data from the electoral register, additional obligations to report on campaign finance and disclose sponsors of campaign advertisement in the media. However, a more comprehensive package of electoral reforms failed due to the lack of the necessary two-thirds majority in the parliament.⁷

Omissions and ambiguities in the legal framework, including SEC instructions and decisions, undermined the cohesion and integrity of the electoral process. This includes the lack of regulations on verification of supporting signatures and sanctions for violations, dispute resolution procedures, tabulation of results, and campaign finance. In line with international good practice, these issues

² Social Democrats of Montenegro (SD) with 2 seats, and three parties and coalitions representing ethnic minorities: Bosniak Party (BS) 2 seats, the coalition Albanians Determined and Croatian Civil Initiative with 1 seat each.

³ Democratic Front (DF), Democratic Montenegro (DCG), Social Democratic Party (SDP), Socialist People's Party (SNP), Demos, and United Reform Action (URA), with a combined total of 39 seats supported the boycott. In December 2017, 20 members from DF and the newly created United Montenegro (UCG) – a split from Demos – returned to the parliament although they do not participate in the legislative process.

⁴ The recently published [EU strategy for enlargement](#) offers prospective accession by 2025.

⁵ Several explosions and shootings related to criminal activities, according to the police, took place in Podgorica, Bijelo Polje and Berane in the past few weeks, resulting in at least three fatalities.

⁶ This includes the Law on Voter Register, the Law on Financing of Political Entities and Election Campaigns, the Law on Political Parties, the Law on Public Assemblies and Public Events, laws on media, and provisions of the Criminal Code.

⁷ At the time the amendments were introduced, the opposition was boycotting the work of parliament.

should preferably be regulated by statutory provisions.⁸

Election Administration

The election is conducted by a three-tier election administration, comprising the SEC, 23 Municipal Election Commissions (MECs) and 1,214 Polling Boards (PBs). The SEC and MECs are permanent bodies with a four-year term while the PBs are appointed ahead of each election.

The SEC chairperson and its 10 members are appointed by the parliament, while the MECs have a chairperson and four members appointed by municipal assemblies.⁹ Presidential candidates can nominate authorized representatives to all levels of the election administration with the right to participate in the work and decision-making in the 20 days before election day.¹⁰ This right was exercised by six out of seven candidates at the SEC and four candidates at MEC level. Two SEC members and six MEC chairpersons are women. The PBs are formed no later than 10 days before election day and are composed of a chairperson and four members nominated by the political parties.¹¹ PB members can be exceptionally replaced until 12 hours before the opening of polling stations. Many PB members were changed closer to election day.

SEC met most of the legal deadlines and managed the operational arrangements for the election. It held regular sessions, however, they were often chaotic due to insufficient preparation. This resulted in discussions that were not always structured and lacked necessary information and documentation.¹² On several occasions, deficiencies in the management of the SEC sessions led to lack of clear instructions on election day procedures, verification of signatures, election dispute resolution and appointment of PB members by the MECs. Despite previous ODIHR recommendations, the election law does not contain any provision on impartiality and professionalism of election management bodies.¹³ On a few occasions, SEC opposition members expressed concerns that decisions were made along party lines.

SEC also suffered from a lack of transparency as decisions and minutes were not published on its website and sessions were not open to the media. The transparency of the work of the MECs varied. Sessions were regularly held and were mostly open for observers, but were often informal.¹⁴ The MECs have a legal obligation to open a website and provide information to the public. Although some MEC posted decisions, others did not share information with the public on their websites.¹⁵

The SEC educated training personnel who subsequently trained PB members on election day procedures. The training sessions were evaluated positively by ODIHR EOM LTOs. Voter

⁸ Section II.2.a of the [Code of Good Practice](#) provides that “apart from rules on technical matters and detail – which may be included in regulations of the executive – rules of electoral law must have at least the rank of a statute.”

⁹ The majority and the opposition in the parliament each propose four SEC members, the minority representative who won the highest number of votes in the previous elections proposes one member and one member is a representative from the civil society. The position for the representative of civil society has been vacant since November 2016. While the composition of the MECs allows for a broad representation of political parties, it does not provide for national minority representation, as previously recommended by ODIHR and the Venice Commission.

¹⁰ Authorized representatives to the PB can participate five days before election day.

¹¹ The majority and opposition parties in the municipal assemblies each appoint two PB members and the chairperson positions are split proportionally to the seats held in the municipal assemblies.

¹² According to the electoral law, the SEC President and the Secretary are in charge of the administrative and operational matters. In addition, internal SEC regulations task the Secretary with preparing sessions, providing materials and managing the service staff.

¹³ See Section II.3.1 of the [Code of Good Practice](#).

¹⁴ The MEC in Bar did not always allow LTOs to observe sessions.

¹⁵ MEC in Gusinje did not open a website and the MEC in Kolasin did not post information related to this election.

information campaign of SEC consisted of two videos broadcast by public and private televisions, flyers distributed through newspapers and posters. Printed materials were available also in Albanian language, although the videos were prepared only in Montenegrin.

Voter Registration

Voter registration is passive. The voter list is permanent and centrally maintained by the Ministry of Interior (MoI) based on information from four different registers.¹⁶ Citizens who turn 18 by election day with legal capacity have the right to vote. Those declared legally incapacitated by a court decision are deprived of the right to vote, a restriction that is at odds with OSCE commitments and other international obligations and standards.¹⁷ The Constitution gives citizens the right to vote if they have resided in the country for at least two years, and the election law further narrows this requirement to persons with a residence for the last two years before election day.¹⁸ Previously, ODIHR and the Venice Commission have criticized the residency requirement as not being in line with international standards.¹⁹

Public scrutiny of the voter list started on 21 January and ended on 31 March. During this period, citizens could make requests for corrections in their data on the MoI website or in person at their municipal offices.²⁰ A total of 12,282 requests for corrections were made including 1,353 request to change residence. Even though this information was publicized by MoI on its website and in media, it was presented in a format that lacked clarity or coherence.

Political parties and accredited citizen observer groups have the right to inspect the voter lists at the office of the MoI upon request.²¹ On 2 April, the Centre for Democratic Transition (CDT) requested that the MoI check a separate fingerprint database against the data in the voter list to determine if more than one fingerprint was linked to several identification documents, which might allow for multiple voting. The MOI run a crosscheck between the databases and 89 voters fingerprints were linked to several identification documents. According to the MOI these voters will be allowed to vote but the matter will be investigated further after the election day. The voter list was closed 10 days before election day and the SEC announced that the total number of voters is 532,599 voters.

The accuracy of the voter list continued to be a concern among many ODIHR EOM interlocutors. Despite the use of Electronic Voter Identification Devices (EVID) to identify voters' documents on election day, opposition parties and civil society organizations alleged that the voter list contains voters living abroad and deceased, and can be potentially used to inflate the turnout on election day.²² However, no evidence of such practices was produced to the ODIHR EOM and the public and no complaints were filed.

¹⁶ Registers for citizenship, residence, birth and death.

¹⁷ Paragraph 7.3 of the [1990 OSCE Copenhagen Document](#) commits participating States to "guarantee universal and equal suffrage to adult citizens". Deprivation of the right to vote on the basis of legal incapacity is also inconsistent with Articles 12 and 29 of the Convention on the Rights of Persons with Disabilities. Paragraph 9.4 of the [2013 CRPD Committee's Communication No. 4/2011](#) provides that "an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability."

¹⁸ The law does not allow for out of country voting.

¹⁹ See previous [ODIHR reports on Montenegro](#). Paragraph I.1.1.c.iii of the [Code of Good Practice](#) states that a length of residence requirement may be imposed on nationals solely for local or regional elections. See Also ODIHR and Venice Commission 2011 Joint Opinion on the Draft Law on amendments to the law on Election of Councillors and Members of Parliament.

²⁰ Individuals or their authorized representatives can submit requests for corrections.

²¹ Two organizations have requested insight into the voter register; Centre for Democratic Transition (CDT) and MANS.

²² Voters living abroad cannot be removed from the voter list if they maintain a residence in the country.

Candidate Registration

Voters with residence in the country for at least 10 of the last 15 years are eligible to stand. Political parties and citizens' groups can nominate presidential candidates by collecting supporting signatures from at least 1.5 per cent of the electorate. This is not in line with established good practice which states that signatures should not exceed one per cent of the electorate.²³ Despite previous ODIHR recommendations, the election law still requires each voter to sign in support of only one presidential candidate which could limit political pluralism.²⁴

The candidate registration process started on 19 January and ended on 26 March. In an attempt to improve transparency, on 12 March the SEC introduced an online application allowing voters to check if their names appeared on a signature support list. A number of media and some candidates criticized the SEC because the application was introduced after three candidates had already been registered. Over 1,000 complaints alleging forged signatures were filed with the prosecutor offices. (*See Complaints and Appeals*)

On 16 March, a candidate requested the SEC to provide him with the official decision on development and use of the application. The SEC rejected his request as, despite a public announcement by the SEC, there was no written decision or instructions on the use of the application. Late decision and the lack of legal clarity led to the signature verification process being at odds with international good practice which requires that the rules for verification of signatures be applied fairly and equally to all parties.²⁵

Seven candidates, six men and one a female candidate ran for this election. The candidate registration, although impaired by some procedural challenges that cast doubts on the process, was inclusive and the SEC registered all candidates who submitted nomination documents.²⁶

Campaign Environment

The campaign started three weeks before election day and the activities of the candidates were generally low-key. Fundamental freedoms of assembly, movement and association were respected. The authorities granted access to public places on an equal basis, and contestants were able to campaign without restrictions. A number of ODIHR EOM interlocutors viewed the upcoming local elections as more important than the presidential campaign.²⁷

²³ See paragraph I.13.ii of the [Code of Good Practice](#).

²⁴ Paragraph 3 of the [1990 OSCE Copenhagen Documents](#) states that the OSCE participating States "recognize the importance of pluralism with regard to political organizations." See also Paragraph 77 of the [OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation](#) which 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."

²⁵ See paragraph I.13.iii of the [Code of Good Practice](#), "Checking of signatures must be governed by clear rules, particularly concerning deadlines"; Paragraph 77 of [OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation](#), states that "While lists of signatures can be checked for verification purposes, this practice can be abused and as such should be carefully regulated, including concerning the publication of lists and who has standing to present challenges to them. If verification is deemed necessary, the law should clearly state the process for such verification and ensure it is fairly and equally applied to all parties."

²⁶ Mr. Vasilije Miličković, nominated by a Citizen Action Group; Mr. Hazbija Kalač, nominated by the Party of Justice and Reconciliation (SPP); Mr. Marko Milačić, nominated by True Montenegro (PCG); Ms. Draginja Vuksanović, nominated by SDP, Mr. Dobrilo Dedeić, nominated by Serb Coalition; Mr. Milo Đukanović, nominated by DPS; and Mr. Mladen Bojanić, nominated by DF, DCG, URA, SNP.

²⁷ Local elections will take place in 11 municipalities and in Podgorica on 27 May.

The campaign focused on the topics of the fight against corruption and organized crime, rule of law and EU integration, while the opposition also criticized the long-term ruling of the governing party. DPS has been the main governing party for the last 27 years. Other messages conveyed by the candidates referred to employment, foreign investments, migration, security, and local and municipal issues. Although the tone of the campaign was largely respectful, some candidates occasionally used discriminatory or nationalistic rhetoric.²⁸

The campaign was mostly visible through a significant number of billboards in urban centers, predominantly featuring the ruling party candidate, and to a lesser extent other candidates. Rallies and meetings with voters, door-to-door canvassing, advertisements in traditional media and campaigning in social networks also took place. Only Mr. Đukanović held large scale rallies, with abundant promotional materials, while all other candidates organized mostly small-scale events.²⁹

Many IEOM interlocutors from opposition and civil society groups voiced concerns about the institutional advantage enjoyed by the candidate of the governing party. They claimed that there is a public perception that DPS party structures have merged and coexist with those of the public administration. In addition, a number of IEOM interlocutors made allegations of widespread hiring of public employees despite the restriction on doing so during the election period, vote-buying, and collecting identification documents to prevent voters from voting.³⁰ These recurrent and at times credible allegations of pressure on voters to support the ruling party candidate negatively affected the campaign atmosphere.³¹ Such practices are at odds with paragraph 7.7 of the 1990 OSCE Copenhagen Document and Code of Good Practice.³²

Women were noticeable at a majority of campaign events, but always in smaller numbers than men, both as speakers and as part of the audience. Candidates did not give particular attention to issues related to gender equality or women's participation in political life. During rallies, candidates often referred to national minorities in an inclusive manner. Parliamentary national minority parties publicly announced their support for Mr. Đukanović as part of the ruling coalition agreement, and committed to mobilize their voters, however their participation in the campaign remained limited.³³

²⁸ On 24 March during a rally in Bijelo Polje and on 3 April in Herceg Novi, Mr. Milačić exclusively addressed voters who identify themselves as Serbs but did not use inflammatory or xenophobic language. On 2 April, Mr. Dedeić made use of his free air time on the public television to talk about what he described as “aggressive LGBT propaganda”, defining homosexuality as “infection of the soul, which is a combination of depression, suicidal tendency and deviance.” On 7 April, Mr. Đukanović, used terminology (*Cetnik Vojvoda*) for one of his opponents which was considered as offensive and discriminatory.

²⁹ The ODIHR EOM observed 27 campaign rallies.

³⁰ Reported by ODIHR EOM LTOs in Podgorica, Berane, Bijelo Polje, Bar, Pljevlja, Plav and Rožaje.

³¹ For example, on 4 April the political party Demos publicly presented an email with a table containing personal data of 58 public employees from the Centre for Conservation and Archaeological Research in Cetinje, including their supposed political affiliation. According to Demos, the list was meant to be used for pressuring these persons and control their vote. Various interlocutors confirmed to the ODIHR LTOs that two public employees in Bijelo Polje collected signatures to support the ruling party candidate during working hours. The signatures were allegedly collected on pre-printed lists with the employees' unique personal identification numbers. On 10 April, Demos filed a complaint to the Special Prosecutor's Office alleging violation of the freedom of choice in voting and abuse of state powers. A criminal investigation was launched on 12 April. On 4 April, Milo Đukanović held a rally in the Secondary Maritime School in Kotor, while, according to the law, campaigning in the educational institutions is forbidden.

³² Paragraph 7.7 of the [1990 OSCE Copenhagen Documents](#) states that the OSCE participating States should “ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution.” See Section I.2.3 of the Code of Good Practice which states that “Equality of opportunity must be guaranteed for parties and candidates alike.”

³³ BS and parties representing the Albanian community showed their presence at rallies, using flags with party symbols.

Campaign Finance

The Law on Financing of Political Entities and Election Campaigns provides for public and private funding of election campaigns.³⁴ Candidates can receive monetary and in-kind donations from individuals and legal entities.³⁵ The limit for contributions from individuals is EUR 2,000, from legal entities EUR 10,000. Contributions from anonymous donors, trade unions, religious communities, non-governmental and state-funded organizations, and foreign sources are forbidden. All transactions must be conducted through a dedicated campaign account, but the law does not clearly define when it has to be opened.

All candidates must report on their personal finances, including income and property, within 15 days of the registration. Reports on donations are submitted every 15 days and an interim report on expenses is filed five days prior to election day. Final reports must be submitted within 30 days of election day and published online.

The Agency for the Prevention of Corruption (APC) is tasked with the overall supervision of campaign finance regulations and initiates sanctioning proceedings for breaches. It conducts monitoring and field inspections during the campaign, but the control remains formalistic, as it is based on the documentation submitted by the candidates. The law does not distinguish between contributions received from parties and other legal entities.³⁶ The APC informed the contestants on a case-by-case basis that parties may make unlimited contributions as loans.³⁷

Candidates have received private donations mostly from individuals, and to a lesser amount from legal entities. Generally, candidates fail to report in-kind donations. They mostly spent the funds on media advertisement, billboards, and goods and services for organizing public events.³⁸

Media

The media sector is pluralistic and offers content diversity, but the lack of financial autonomy fosters political dependence and results in polarization of media reporting. Due to the small advertising market, most media rely on state funds, corporate owners, or international aid. Selective and non-transparent distribution of advertisements from public institutions which is allocated to some media was raised as a concern by several ODIHR EOM interlocutors.³⁹ Television is still the primary source

³⁴ The state allocated EUR 594,999 of public funds for the campaign. Twenty per cent of the public funding was distributed equally among all candidates but the funds were not transferred within the legal deadline. The remaining 80 per cent is proportionally distributed among the candidates who receive more than 3 per cent of votes after submission of the final reports.

³⁵ In-kind donations must be reported according to the market value. The law requires the APC to determine the methods for calculating and reporting them, but it did not provide any regulation.

³⁶ The law does not differentiate membership fees from other funds channelled from the party accounts to the electoral campaign dedicated account.

³⁷ Parties and candidates indicated that such loans will be reimbursed when the contestants receive the second instalment of public funds.

³⁸ The expenditure limit for this election is EUR 1,189,998 per candidate. Based on the interim reports submitted to the APC the candidates spent the following amounts: Mr. Đukanović EUR 92,905; Mr. Bojanić EUR 58,820; Mr. Milacić EUR 35,234; Ms. Vuksanović EUR 27,443; Mr. Milicković EUR 4,649; Mr. Kalać EUR 14,260.76; and Mr. Dedeić EUR 12,905.60.

³⁹ The [EU 2016 Progress Report](#) also notes these concerns and recommends that “transparency and non-discrimination in state advertising in the media should be ensured.” The Council of Europe (CoE) [JUFREX Media Sector Report](#) recommends that “all kind of State aid to media, including so-called state advertising, should be made transparent and rigorously objective.”

of news. Internet usage is growing and online media has a wider reach than print media.⁴⁰ The public broadcaster (*RTCG*) runs three TV channels and two radio stations.⁴¹

At the end of 2017, in controversial decisions, the parliament replaced two members of the *RTCG* Council and one member of the media regulator, the Agency for Electronic Media (AEM), due to alleged conflicts of interest.⁴² These early dismissals directly challenged the autonomy and independence of *RTCG* and of the AEM. The decisions appeared disproportionate to the gravity of violations that could be remedied by resolving the conflicts of interest.⁴³ At its first meeting on 20 March, the *RTCG* Council replaced its president. The OSCE Representatives on Freedom of the Media (RFoM) underlined the importance of safeguarding the independence of the public broadcaster.⁴⁴

While attacks on journalists have decreased in recent years, on 1 April a bomb exploded in front of the house of a journalist in Bijelo Polje, an act of intimidation police believed was linked to his professional activities but not to the election. Two persons were arrested and brought before the court.⁴⁵

ODIHR EOM media monitoring showed wide election coverage in a variety of formats, including newscasts, talk shows, free and paid airtime, interviews and television debates.⁴⁶ Voters were informed of the political views of all competitors, but there was a noticeable lack of analytical reporting. The monitored media respected the campaign silence period.

The *RTCG*, in accordance with the law, offered equal access to all candidates to free airtime, organized one-hour interviews with each candidate, and two debates. However, not all candidates took advantage of this opportunity. Mr. Bojanić, for example, applied for one third of the available free airtime, Mr. Đukanović did not attend any debates. *RTCG* in the news covered the activities of the contestants, mostly neutral in tone (30 per cent to Mr. Đukanović, 19 to Mr. Milicković, 16 to Mr. Bojanić, 15 to Mr. Milacić, 11 to Ms. Vuksanović, 5 to Mr. Kalać, and 3 to Mr. Dedeić).

The monitored private broadcasters showed bias. *Pink M Tv* and *Prva Tv* largely favoured Mr. Đukanović, with 80 and 66 per cent, respectively, of news coverage; the tone of coverage was mostly positive on *Pink M Tv* and neutral on *Prva Tv*. *Vijesti Tv* devoted 27 per cent of its news coverage to Mr. Đukanović, often negative in tone, and 20 per cent to Ms. Vuksanović, 18 per cent to Mr. Milacić, and 17 per cent to Mr. Bojanić, mostly neutral in tone. *AI Tv* devoted 49 per cent of neutral news

⁴⁰ According to [CISR-IPSOS public opinion poll](#) of October 2017, 46 per cent of respondents considered TV the dominant source of social and political news, 22 per cent online media, and 10 per cent newspapers.

⁴¹ In addition to *RTCG*, the Agency for Electronic Media lists 17 local public broadcasters funded by municipalities, 13 private TV stations, and 35 private radio stations.

⁴² The parliament dismissed the two members respectively on 23 November and 29 December, upon proposals of the Administrative Committee and based on findings of the Agency for Prevention of Corruption. Both dismissed members appealed their dismissals to the Constitutional Court, but the appeals were rejected.

⁴³ The EU and CoE JUFREX [Media Sector Report](#) questioned the easiness and discretion of early dismissals: “the easiness of dismissals of individual members, or the Council as a whole, indicates that the whole management structure, including the Editorial Board, is usually strongly tied and connected to political interests.”

⁴⁴ On 7 February 2018, the [OSCE RFoM stated](#) that “the *RTCG* has the responsibility to cover issues of public interest, to ensure that all voices can be heard fairly, and therefore it needs to remain free from any kind of political pressure.”

⁴⁵ On 3 April, the OSCE Representative on Freedom of the Media (RFoM) issued a [statement](#) condemning the bomb attack outside a journalist’s house. The [2017 IREX Media Sustainability Index report](#) reminded that “although 2016 had no significant cases of attacks on journalists, shadows linger from unsolved cases from the past and lead to self-censorship”.

⁴⁶ Between 12 March and 15 April, the ODIHR EOM monitored political coverage of five television channels (*RTCG 1*, *AI Tv*, *Pink M Tv*, *Prva Tv*, and *Vijesti Tv*), daily between 18:00 to 24:00 hours; four newspapers (*Dan*, *Dnevne Novine*, *Pobjeda*, and *Vijesti*); and two online media (*cdm.me* and *portalanalitika.me*).

coverage to Mr. Đukanović. The broadcast news coverage of Ms. Vuksanović, ranged between 6 per cent on *Pink M Tv* and 20 per cent on *Vijesti Tv*.

There are no legal limits imposed on the amount of paid advertising candidates are entitled to purchase and many broadcasters offered forms of discounts in their published price lists for advertising.⁴⁷ As a consequence, candidates who could afford purchasing more airtime had an advantage.⁴⁸

ODIHR EOM media monitoring of print media showed a similar polarization, with *Pobjeda* and *Dnevne Novine* mainly favoring Mr. Đukanović and *Vijesti* and *Dan* the opposition candidates. The online media, *CdM* and *Portalanalytika*, provided generally neutral coverage of the candidates, although devoted more stories to the DPS candidate.

The AEM oversaw the media compliance with the law. During the election campaign, the AEM did not receive any media related complaints and did not notice any violations. Despite the legal requirement, the parliamentary committee mandated to monitor compliance of the media with legal provisions was not established.

Complaints and Appeals

Voters, candidates, and the entities who nominate them may challenge actions and decisions of election commissions at higher-level commissions. The Constitutional Court reviews the SEC decisions. The MoI handles voter registration complaints, while appeals are submitted to the Administrative Court. Nevertheless, the procedure for submitting election complaints is not fully regulated, nor addressed by SEC, contrary to previous ODIHR recommendations. Due to unclear procedures and overlapping jurisdiction election dispute resolution often depended on the discretion of different public authorities to deal with the matters at hand. This failed to ensure effective legal redress, at odds with paragraph 5.10 of the 1990 OSCE Copenhagen Document and the Code of Good Practice.⁴⁹ In addition, despite previous ODIHR recommendations, the deadlines for filing and addressing complaints remain unduly short, hindering the applicants' right to seek effective legal remedy.⁵⁰

⁴⁷ Due to the 2017 amendments to the Electronic Media Law, political advertising is not counted into the allowed duration of advertising.

⁴⁸ According to ODIHR EOM media monitoring of the broadcasting channels, Mr. Đukanović purchased 7 hours and 37 minutes on *Pink M Tv* and *Prva Tv*, Ms. Vuksanović and Mr. Bojanić purchased 9 and 8 minutes, respectively, and other candidates did not buy any paid advertisements. On 28 March, *Pink M Tv* aired as paid-for programme, 1 hour and 50 minutes of the opening rally of Mr. Đukanović in Niksic, and 1 hour and 34 minutes of the final rally in Podgorica on 12 April and rebroadcast the same event on 13 April for one hour.

⁴⁹ For example, the SEC and the Agency for Personal Data Protection and Free Access to Information refused to deal with voters requests to delete information on support signatures from the database. Paragraph 5.10 of the [1990 OSCE Copenhagen Documents](#) states that “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity.” See also Section II.3.3 of the [Code of Good Practice](#), paragraph 18.2 of the [1991 OSCE Moscow Document](#), as well as [Rec\(2004\)20](#) of the Council of Europe’s Committee of Ministers on judicial review of administrative acts.

⁵⁰ The timeframe to file a complaint or to appeal a decision is 72 hours, the relevant election commission has 24 hours to issue a decision, and the Constitutional Court has 48 hours to decide on appeals. Para II.3.3 of the [Code of Good Practice](#), which recommends a time limit of three to five days both for lodging appeals and making rulings, and para 10.3.6 of the [Review of Electoral Legislation and Practice in OSCE Participating States](#) underlined that overly short legal timelines may prevent the due review of complaints and/or appeals, notwithstanding that the pace of the electoral process generally requires an expedient decision on complaints and appeals. See also paras 20 and 21 of the [ODIHR Resolving Election Disputes in the OSCE Area: Towards a Standard Election Dispute Monitoring System](#).

In the pre-election period, one complaint was submitted to a MEC and three to the SEC regarding the appointment of PBs chairpersons. One complaint was upheld automatically when the SEC missed the deadline to review it; others were dismissed because complainants were not represented in the municipal assemblies as required by law.⁵¹ Decisions on complaints were not published on the website of the SEC, and there is no comprehensive register of complaints.

Voters filed over 1,000 complaints alleging forgery of signatures or misuse of personal data in the signature support lists. In addition, voters' requests to delete their personal data from the SEC database or to withdraw their signatures were not considered.⁵² All complaints concerning the allegedly forged signatures were forwarded to the Basic State Prosecutor's Office in Podgorica which initiated criminal proceedings and launched investigations. As the signature template developed by the SEC does not require the identification of the persons responsible for signature collection, the prosecutors could not identify who committed the alleged forgery.⁵³ Forensic expertise is being conducted on all allegedly forged signatures on a case-by-case basis. As the criminal procedure law does not stipulate a specific expedited procedure for resolution of election related cases, the investigation will not be concluded before the election.

Citizen and International Observers

The legal framework provides for observation by citizen and international observers. The SEC accredited 333 international (a number which includes some 130 local supporting staff) and 1,682 citizen observers. The Centre for Monitoring and Research (CEMI) deployed some 1,300 observers on election day and conducted a parallel vote tabulation (PVT) with a sample of approximately 1,100 polling stations. The CDT observed the work of the SEC, the candidate registration process, deployed approximately 300 observers on the election day and also conducted a PVT. Network for Affirmation of NGO Sector (MANS) focused mainly on monitoring campaign finance while the Centre for Civic Education (CCE) conducted media monitoring.

Election Day

Election day generally proceeded in an orderly manner despite a few procedural irregularities observed. Citizen observers or authorized candidates' representatives, predominantly from DPS, were present in approximately 70 per cent of the polling stations observed.

Opening was assessed positively in 48 of the 50 polling stations observed by the IEOM. Procedures were mostly followed, however, in 18 cases the distribution of the functions of PB members was not conducted according to the law. In 5 polling stations the ballot box was not sealed in the presence of the first voter. In several cases, the EVID was initially not functioning properly but the problem was solved promptly by the PBs.

Voting was assessed as good and very good in 97 per cent of observed polling stations. The work of the PB members was positively assessed in 99 per cent of the polling stations observed. More than

⁵¹ The complaints were filed by SD with the MEC in Pluzine, and to the SEC by DNP against the MEC in Žabljak and two complaints by SNP against the MEC in Ulcinj. The SEC missed the deadline to decide on the first complaint against the MEC in Ulcinj and it was automatically upheld. Later, the MEC in Ulcinj decided that this did not constitute a sufficient reason to change its initial decision and re-adopted the same decision which was challenged again to the SEC. The SEC rejected the complaint. The election law provides that if the commission fails to adopt the decision within the deadline, the complaint is considered upheld. On 4 April SNP complained to the Constitutional Court, however the Court considered the complaint inadmissible.

⁵² The voters expressed concern that the application could be used by employers or political parties to identify the candidate they were supporting.

⁵³ The ODIHR EOM interlocutors at the Basic State Prosecutor's Office in Podgorica informed that the added caseload was putting a strain on their already limited resources.

half of polling stations were not accessible for voters with disabilities (59 per cent of observations) and in 30 per cent the layout was not suitable for voters in wheelchairs. Secrecy of the vote, although generally respected, could be compromised in 28 per cent of polling stations by the way the voting booths were positioned.

While PB members checked voters ID with EVID in 99 per cent of observations, the confirmation slips were either not signed or not counter signed by an opposition member in 5 per cent of observations. In addition, the ordinal number of the voter in the printed copy of the voter lists was not circled as required (9 per cent of observations). In 16 per cent of the observations voters were refused the right to vote, mostly due to not being on the voter list in that polling station. Many voters reported that they had not received notification from the MoI of the location of their polling station as foreseen by law.

The closing and counting was assessed positively in 44 of the 46 observations. PBs often did not perform legally required steps before opening the ballot boxes, such as counting unused ballots (11 cases), control coupons and signed EVID slips (15 cases) and the number of those marked as having voted in the printed voter lists (17 cases). In 10 observations non-PB members took part in the count. In 16 cases, one or more polling board members refused to sign the protocols.

Despite the lack of written procedures, the MEC members were well organized and the tabulation process was assessed positively in all 17 MECs observed. Authorized representatives of candidates were present in 10 of the MECs observed. IEOM observers assessed the process as transparent in all MECs observed.

For the first time, the SEC made polling station results available on their website in real time using the newly developed software. However, ODIHR observers were denied access to the operational room at the SEC where the tabulation results were being processed.

IEOM observers reported indications of vote buying and the use of lists to track which voters had already voted in several PSs. Similar reports by the authorized representatives appeared in the media. The Basic State Prosecutor's Office in Bijelo Polje received two complaints from the police, one regarding alleged vote-buying and use of voter lists to track voters.

On election day, MECs received six complaints alleging violations of campaign rules, video recording at the polling stations, vote buying, violation of voting procedures and intimidation of voters. One candidate (Mr. Bojanić) submitted a complaint to the SEC in relation to PBs in Niksic refusing to record complaints from his representatives in the polling station journals. The SEC rejected the complaint as inadmissible but instructed the MEC to address the violation.

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

MISSION INFORMATION & ACKNOWLEDGEMENTS

Podgorica, 16 April 2018 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP). 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.

Jonas Gunnarsson headed the PACE delegation, Fabio Massimo Castaldo headed the EP delegation and Tana de Zulueta is the Head of the ODIHR EOM, deployed from 7 March.

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. ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process. The PACE will present its report at its Standing Committee meeting in Zagreb on 1 June 2018.

The ODIHR EOM includes 11 experts in the capital and 16 long-term observers deployed throughout the country. On election day, 152 observers from 39 countries were deployed, including 97 long-term and short-term observers deployed by the ODIHR, as well as a 17-member delegation from the PACE and a 13-member delegation from the EP. Opening was observed in 50 polling stations and voting was observed in 519 polling stations across the country. Counting was observed in 47 polling stations, and the tabulation in all 17 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 their 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.

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