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Observation of the Parliamentary elections in Montenegro (29 March 2009)

Election observation report
Ad hoc Committee of the Bureau
Rapporteur: Mr Andreas GROSS, Switzerland, Socialist Group

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1. Introduction

1. On 30 January 2009, the Bureau of the Parliamentary Assembly decided to set up an Ad hoc Committee to observe the parliamentary elections in Montenegro (29 March 2009), subject to receipt of an invitation. Following an invitation from the Speaker of the Parliament of Montenegro, the Ad hoc Committee was set up and, further to the Bureau's authorisation of 30 January 2009, the President of the Assembly appointed me as its Chair.

2. Based on the proposals by the political groups of the Assembly, the Ad hoc Committee was composed as follows:

– **Mr Andreas Gross, Head of Delegation**

– **Group of the European People's Party (EPP/CD)**

- Mr Renato Farina, Italy
- Mr Jean Charles Gardetto, Monaco
- Mr Jean-Claude Mignon, France

- Mr Dariusz Lipiński, Poland

– **Socialist Group (SOC)**

- Mr Andreas Gross, Switzerland
- Mr Jean-Claude Frecon, France
- Mr Maximiano Martins, Portugal
- Mr Fidias Sarikas, Cyprus

– **Alliance of Liberals and Democrats for Europe (ALDE)**

- Mr Bernard Marquet, Monaco
- Mr Mark Oaten, United Kingdom

– **European Democrat Group (EDG)**

- Mr Øyvind Vaksdal, Norway
- Ms Tatiana Volozhinskaya, Russian Federation

– **Secretariat**

- Mr Bogdan Torcatoriu, Administrator
- Ms Anne Godfrey, Assistant

3. The Bureau also authorised a pre-electoral mission. Its members were: Andreas Gross (Switzerland, SOC), Head of delegation, Jean-Charles Gardetto (Monaco, EPP/CD), Andrej Zernovski («the former Yugoslav Republic of Macedonia», ALDE), Øyvind Vaksdal (Norway, EDG). The secretariat of the pre-electoral mission was ensured by Mr Vladimir Dronov, Head of secretariat, Interparliamentary co-operation and election observation and Ms Danièle Gastl, assistant.

4. The pre-electoral mission took place from 23 to 25 February 2009. It concluded that, with the necessary political will, Montenegro was capable of holding elections in line with European standards, despite the discrepancies that remained between the Constitution and the electoral legislation. It noted that the election administration demonstrated efficiency and represented a plurality of political views. The delegation was pleased with the active involvement of civil society and the print media in the process and praised the quality of their work.

5. The delegation expressed its concern over the fact that the Montenegrin authorities had not taken corrective action in line with recommendations made by the Parliamentary Assembly and other international observers in the wake of elections held in the country earlier. This concerns, in particular, the continuing possibility of changes to fifty percent of the order of the candidates on proportional lists after the closure of the polls, which contravenes Council of Europe standards in respect of democratic elections and the principles of parliamentary democracy. The delegation underlined that this possibility needed to be expressly prohibited by law. The delegation welcomed the assurances it received from the Speaker of the parliament that this concern would be duly addressed when the relevant legislation is revised. Another concern related to a rather vague constitutional provision regarding authentic representation for people belonging to national minorities. The delegation stressed that Montenegro would be well advised to work on these legal issues with the European Commission for Democracy through Law (Venice Commission) of the Council of Europe.

6. The programme of the pre-electoral mission is reproduced in Appendix 1 and the statement of the delegation is in Appendix 2.

7. The Ad hoc Committee which observed the elections worked as part of an International Election Observation Mission (IEOM) alongside the election observation mission of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and a delegation from the OSCE Parliamentary Assembly (OSCE PA).

8. The Ad hoc Committee met in Podgorica from 27 to 30 March 2009 and held meetings with the Head of the OSCE Mission to Montenegro, the Head of the OSCE/ODIHR Mission, OSCE/ODIHR analysts, the Head of the State Election Commission of Montenegro (SEC), representatives of political parties, as well as with representatives of civil society and the media. The programme of the meetings of the Ad hoc Committee appears in Appendix 3.

9. On Election Day, the Ad hoc Committee split into seven teams which observed the elections in and around Podgorica, Kolasin, Danilovgrad, Niksic, Bar, Ulcinj, Cetije and Kotor.

10. The Ad hoc Committee concluded that the parliamentary elections in Montenegro on 29 March 2009 met almost all international commitments and standards, but that the process again revealed the need for further democratic development. In the press release issued after the elections, as well as during the press conference organised on Monday 30 March, I took the opportunity to stress that "the organisation of the elections was remarkably efficient. But to gain legitimacy and build confidence among the entire electorate, especially among voters supporting those who lost the elections, the winners have to be more inclusive, pluralistic and fair". The press release appears in Appendix 4.

11. The Ad hoc Committee wishes to thank the Montenegrin authorities, the OSCE/ODIHR, as well as the SRSG and the staff of the Council of Europe Office in Podgorica for their co-operation and their support.

2. Political and legal framework

12. Early parliamentary elections were called by the President of Montenegro on 27 January 2009, the day after the parliament voted to shorten its mandate. These were the first parliamentary elections held under the new Montenegrin Constitution, which was adopted in October 2007. Although elections were expected before the end of 2009, certain groups in the opposition criticised the timing and some parties challenged the legal framework.

13. The Montenegrin Constitution establishes a unicameral parliament of 81 deputies, elected for four-year terms. The Law on the Election of Councilors and Representatives (Election Law) provides for the allocation of mandates, with a 3 per cent threshold, on the basis of a proportional list system, within a single nationwide constituency. Five of these mandates, however, are allocated to a 'special' constituency comprising 70 polling stations designated for these elections by parliament; these are in areas populated primarily by ethnic-Albanians.

14. By law, one half of the mandates won by an electoral list must be awarded to candidates in the order in which they appear on the list, while the other half can be allocated to the remaining list of candidates in any order by the party leadership. This mechanism has already been criticised both by the Assembly and the OSCE/ODIHR, as it limits transparency and may be misleading to voters who cannot be certain which candidates will represent them. This way of a "party leaders parliamentary seats administration" is inacceptable because it is in contradiction with the principle of a free mandate and undermines the potential of parliamentary democracy.

15. The 2007 Constitution generally guarantees fundamental civil, political, and human rights and freedoms. The Constitution provides that the right to elect and stand for office shall be granted to every Montenegrin citizen (*državljanin*) aged 18 years or older, with at least two years of residence in the country. The two-year residency requirement, inherited from the pre-independence period, is, however, not consistent with the principle of universal suffrage. The right to elect and be elected should be granted to all citizens as a fundamental human right, and any practical considerations for the implementation of this right should be addressed in legislation.

16. Parliamentary elections are regulated by a comprehensive legal framework that generally provides an adequate basis for the conduct of democratic elections. However, the legal framework has yet to be fully harmonised with the Constitution, and most issues in the recommendations made in the past by the Assembly and other international observers have not been fully addressed. Concerns included issues with voter lists, candidate registration, voter education, voting, count and tabulation, complaints and appeals, campaign financing and the blurring of state and party structures.

17. The Election Law is the primary piece of legislation regulating parliamentary elections. It was initially adopted in 1998 and amended several times, most recently in 2006. Discussions to harmonise the Election Law with the Constitution, which requires a two-thirds parliamentary majority, stalled in the parliamentary working group, mainly due to a lack of consensus over implementation of the Constitutional provision for "authentic representation" of national minorities in parliament. Political parties have disparate views of the mechanism that would best enshrine this principle. The current deadline for finalising this harmonisation process is October 2009, but this is an extension from the initial deadline of January 2008.

3. Election administration

18. Elections are administered by three levels of election commissions; the State Election Commission (SEC) and 21 Municipal Election Commissions (MECs) are professional bodies, while some 1,155 Polling Boards (PBs) were appointed just prior to the elections. All bodies have a 'permanent' composition, which includes a minority nominated by opposition parties and that generally reflect the political composition of the body that appointed them and to which they are responsible: the SEC to Parliament and the MECs to municipal assemblies. By law, these commissions are appointed for four-year terms, although in practice they are reappointed after each election. Although not prohibited by legislation, some permanent members concurrently held local government appointments, or were members of the judiciary, which could lead to potential conflicts of interest.

19. Submitters of candidate lists can appoint authorised representatives as 'extended' members of election administration bodies. This promotes inclusiveness and transparency, although these members join SEC and MECs after many decisions have already been made. The law does not require remuneration for these members; however, in the last elections, the SEC took a decision to do so. In these elections, the SEC determined that there were insufficient public funds to pay these members.

20. The elections were professionally organised and there is confidence in the election administration bodies. SEC sessions were open to domestic and international observers; on occasion, lively discussions took place among SEC members. There was a high degree of transparency regarding commission activities, such as ballot printing. Election commissions at all levels met most deadlines required by the law. As was the case in past elections, there were no information programmes organised by the SEC regarding citizens' electoral rights.

Voter registration

21. The 2008 Law on Registers of Electors (LRE) does not fundamentally alter the voter registration procedures, nor does it provide for the creation of new electoral registers. However, it does provide that *državljanin* (citizens) rather than *građanin* (residents), are eligible for registration as electors. This brings the LRE into line with the Constitution and the Law on Citizenship.

22. After the adoption of the new LRE, four municipal authorities began to delete entries of people who had not acquired Montenegrin citizenship but who had previously voted, causing several individual appeals to be filed to the Administrative Court. In all cases, the court upheld the appeals on grounds including that the LRE does not provide explicitly for deletion of pre-existing entries. Thus, a significant number of people who are not citizens of Montenegro remain on the voter registers and were able to vote in these elections. There is also a large number of people whose citizenship is unknown.

23. There is a high level of confidence in the accuracy of the voter registers. The 2008 LRE retains provisions that afford a high degree of transparency in the registration of electors and election contestants' access to voter registration source data, the latter of which raises concerns over data protection. The LRE improves procedures for resolving registration-related complaints and appeals. Very few appeals were filed with regard to voter registration. On 19 March, the day after the closing of the registers, it was announced that 498,305 electors were registered to vote; an increase of some 1.6 per cent since the April 2008 presidential election.

Candidate registration

24. Political parties and groups of citizens may register to contest elections separately or in coalition on the basis of election (candidate) lists. Lists must be supported by the signatures of 1 per cent of the electorate, except for lists who "represent Albanians in Montenegro", who are required to provide only 1,000 supporting signatures. The Election Law does not require the SEC to scrutinise the lists of signatures. SEC only has to confirm that the required number was submitted.

25. All major parties contested the election. Ten parties and six coalitions were registered by the SEC. In total, 24 parties and 970 candidates contested 81 parliamentary seats. The SEC took an inclusive approach in the registration of all candidate lists and no political contestants were rejected; the provision allowing for corrections of errors within 48 hours was applied reasonably by the SEC.

Participation of women

26. According to the Constitution, members of both genders enjoy equal rights, freedoms and opportunities. The 2007 Law on Gender Equality provides measures for achieving balanced representation of women and men at all levels in the legislative and executive branches of the state. No legally established electoral quotas for women are currently in place.

27. Political party membership is predominantly male. In the outgoing parliament, only 11 per cent of all deputies were women (9 of 81). The Vice Prime Minister for European Integration is the only woman currently in government. Women were under-represented on the candidate lists for these elections (15 per cent, overall). The majority of parties / coalitions had no female candidates in their top five places on the lists and only five lists contained more than one woman among their top ten contestants.

28. In the election administration, 3 of 11 SEC members were women. In polling stations visited on Election Day by observers, 19 per cent of polling board chairpersons were women and there were only two female MEC chairpersons.

Participation of national minorities

29. Montenegro's ethnic composition, according to the 2003 census, is 43 per cent Montenegrin, 32 per cent Serbian, 8 per cent Bosniak, 5 per cent Albanian, 4 per cent Muslim, 1 per cent Croat, and a further 7 per cent of people belonging to other ethnic groups. The ethnic Albanian population is concentrated mainly in the municipalities of Ulcinj, Plav and the Tuzi district of Podgorica. The Bosniak population lives predominantly in the northern part of the country in the municipalities of Berane, Rožaje and Bijelo Polje. A sizeable population of Roma also exists, spread throughout the country, with the biggest concentration around Podgorica.

30. A large percentage of Roma still do not possess personal identity documents; the situation is even more complicated when it comes to the Roma, Egyptians and Ashkali who fled Kosovo. On 8 November 2007, the government endorsed the Strategy for the Improvement of the Position of Roma Population. The participation and integration of national minorities in Montenegro into the country's electoral and political processes has generally been positive.

Domestic observers

31. The legislative framework provides for access of international and domestic observers to observe the preparation and the conduct of the election. Two domestic non-party observer organisations – the Centre for Democratic Transition (CDT) and the Centre for Election Monitoring (CEMI) – engaged in election observation activities during the election period. This included observation of the pre-campaign period, the campaign and Election Day, as well as a partial parallel vote tabulation. Domestic non-party observers were present in 40 per cent of polling stations visited by IEOM observers.

4. The media environment

32. Montenegro has a diverse media environment, offering voters a wide range of political views. However, there are a number of unresolved issues, such as the downgrading of the competences and autonomy of the broadcast media regulator, unresolved cases of violence against media professionals and disproportionately high fines in defamation cases.

33. Television is, by far, the most important source of news and information. Publicly funded Radio Television Crna Gora (RTCG1), in particular, offered voters an opportunity to compare contestants on four televised debates and with free coverage, provided equally as per adopted rules to all registered contestants and often with political parties criticising the government. Private broadcasters aired talk shows and special election programmes attended by different political parties and candidates. Paid advertising was used extensively by a number of contestants, although some complained to the IEOM about high advertising prices.

34. Despite the pluralistic media environment, most outlets remain strongly influenced by their owners and questions exist about the broadcast media's independence from political influence. In primetime news, all monitored TV stations provided extensive coverage of the activities of the authorities, many of who were standing as candidates, outside of the campaign context. There was a notable tendency to cover their work and activities positively, often pointing out results achieved and successes. Critical and independent opinions on the authorities' performance were generally absent in the news programmes of monitored broadcast media.

35. During the media monitoring of the four weeks preceding the elections, Public TV devoted 61 per cent of its political and election prime time news coverage to governing bodies. This included 40 per cent of time going to the government, 3 per cent to the president, 4 per cent to the speaker of the parliament and 14 per cent to the ruling coalition. 80 per cent of the government's coverage was positive in tone. By comparison, the coalition "For a Different Montenegro", PzP and SNP received 6 per cent respectively. This coverage was mainly positive or neutral in tone.

36. Private broadcasters monitored adopted a similar approach and devoted extensive, favorable coverage to the incumbents. The most popular private broadcaster, TV IN, devoted 67 per cent of its political and election prime time news coverage to governing bodies. This included 37 per cent of time going to the government, 1 per cent to the president, 3 per cent to the speaker of the parliament and 26 per cent to the ruling coalition, which was mainly positive or neutral in tone. The second most-featured political party was the SNP (11 per cent, mainly positive coverage), followed by the "For a Different Montenegro" coalition (10 per cent, mainly positive coverage).

37. Other private TV stations devoted more than half of their political and election-related prime time news to the activities of government ministers, all of which was overwhelmingly positive or neutral in tone. On the other hand, regular talk shows and special programmes provided contestants with the opportunity to inform voters of their policies and platforms.

38. The Broadcasting Agency, which deals with media-related complaints, received only one official complaint on media coverage of the campaign.

39. Print media provided lively coverage of the election campaign and a plurality of views. State-funded *Pobjeda* supported the government and their coalition parties. By contrast, the private newspapers *Dan* and *Vijesti* provided their readers with more analysis and critical reporting of the government. Opposition parties (especially NOVA and SNP) received the bulk of coverage in *Dan*, whereas *Vijesti* gave comparable coverage to opposition and incumbent parties.

5. Complaints and appeals

40. The Election Law does not comprehensively and clearly address the mechanisms for processing complaints about various electoral violations and there is an apparent confusion among interlocutors as to the procedures for filing complaints on certain issues.

41. A number of challenges to the legal framework's constitutionality were brought by the SNP. They included legal arguments that the extension of the deadline for harmonisation of the Election Law with the Constitution by a simple majority was not legitimate and that the Election Law was, thus, unconstitutional. These cases, as well as others challenging the constitutionality of the LRE and the five mandates for the ethnic Albanian areas, were all rejected by the Constitutional Court.

42. Two complaints were filed by opposition parties to the SEC challenging MEC appointments of PBs in Kolašin and Herceg Novi. The parties argued that they were not given representation on PBs, as was their apparent right under the Election Law. The SEC held that the issue was beyond its competence, although in the Kolašin case the SEC recommended that the MEC act on the proposal of the complaining party. In this case, the Constitutional Court confirmed the SEC decision on 20 March. The Administrative Court also held that it had no jurisdiction over this complaint, a decision confirmed by the Supreme Court on 27 March. The substance of these complaints was left unconsidered before the election, thus limiting the ability to seek legal redress against actions of the election administration. Furthermore, the fact that the SEC was found not to be responsible for such complaints underscores its lack of oversight of lower level election administration bodies.

43. Hearings of the Constitutional Court and Administrative Court were not always open to parties in the dispute, the public or election observers. This was in apparent contravention of the Law on the Constitutional Court and the Election Law and undermined important principles of transparency and due process in the adjudication of electoral disputes.

44. No election-related criminal conduct was reported to the authorities. Political parties and NGOs told the IEOM that citizens feared for their economic security (i.e., losing jobs in public institutions) if they were to come forward as witnesses. Certain opposition parties also expressed a lack of confidence in the election administration, law enforcement bodies and courts to effectively protect their rights.

6. The campaign

45. For these elections, the governing Democratic Party of Socialists (DPS) – the Social Democratic Party (SDP) remained in coalition, joined by the Croatian Civic Initiative (HGI) and the Bosniak Party (BS) under the banner, "European Montenegro–Milo Đukanović". The Democratic Centre (DC) entered a coalition with the Liberal Party (LP) to contest the vote as "For a Different Montenegro" coalition. New Serb Democracy (NOVA) ran separately from a new Serb National List (SNL) coalition composed of the Serb Radical Party (SSR) and the Party of Serb People (SSN). The Socialist People's Party (SNP) and the Movement for Change (PzP) also ran independently. The Montenegrin Communists, a new Party of Pensioners and Invalids (SPI) and a coalition between the People's Party (NS) and the Democratic Serb Party (DSS) also stood. Four parties and two coalitions from national minority groups also participated in the elections.

46. Overall, the campaign environment was peaceful and parties/coalitions campaigned freely throughout the country. The campaigns of most contestants focused on the economy, crime and corruption, and the financial crisis. Local issues also featured prominently. Political parties seemed to have largely reached a consensus over the desirability of Montenegro's movement towards EU integration. Positions regarding membership in NATO remained ambivalent. The recent recognition of Kosovo's independence by the Montenegrin government did not appear to be a major feature of the campaign. Rallies ranged from 50 to 1,000 participants and parties reported that they were focusing on door-to-door campaigning.

47. Small opposition parties tended to advertise themselves through local broadcasters, while the large parties ran their media campaigns centrally, on national TV stations. Billboards were used extensively by a number of different parties and coalitions. Most appeared after the drawing of the list order by the SEC on 11 March and featured the contestants' list number.

48. Many opposition parties complained to the IEOM about the new campaign financing system, established by the 2008 Law on Financing of Political Parties; certain parties noted their income had been reduced by some 30 per cent. Although the law provides an initial state subvention (17,000 euro in these elections) to each electoral list, parties could also expect 13,500 euro in additional subvention for each mandate won. Also, the new law establishes criteria for soliciting individual and corporate donations for campaigns.

49. Financing of political parties has, however, been a longstanding concern among the opposition. They believe that they are at a disadvantage vis-à-vis the ruling parties, as the DPS rents its party building to the government for a reportedly substantial fee. This also creates a blurring between state and party structures, contradicting Montenegro's commitment under paragraph 5.4 of the 1990 OSCE Copenhagen Document. It is expected that the new Law on State Property, which took effect on 28 March 2009, should remedy the issue in the future.

50. As in previous elections, some opposition parties claimed that vulnerable groups (including teachers, students and state workers) were intimidated by the governing DPS. A news report by Vijesti on teachers being pressured to support the DPS resulted in the Ministry of Education issuing a letter to all educational establishments stressing that such actions are illegal and that appropriate measures would be taken in any such cases. In a national interview, the Parliamentary Speaker did not rule out that isolated instances of intimidation may have occurred. However, to the knowledge of the IEOM, no official investigations over the allegations were conducted.

51. Allegations that the authorities engaged in buying ID cards from opposition supporters and undecided voters to suppress voting were common among certain opposition parties and were covered by certain newspapers. The IEOM looked into the matter extensively, with only one individual stating first-hand that she had been approached as part of such a scheme. Although these allegations (which are a regular opposition concern) are notoriously difficult to quantify and mostly not substantiated, the authorities again failed to take sufficient measures to properly address such allegations, which would have enhanced public confidence in the electoral process.

7. Election day

52. Election day was well organised with very few incidents reported. IEOM observers attended 60 opening procedures and all observers evaluated the overall conduct of the openings as good or very good. Voting was observed in some 700 polling stations and observers evaluated the conduct of voting as good or very good in 98 per cent of them. The process of closing and counting was observed by 67 observer teams and was evaluated positively in all but one case.

53. Certain problems during the opening of polling stations included mainly procedural issues such as not drawing lots to determine responsibilities of polling board (PB) members, ballot boxes not being sealed in the presence of the first voter, and control slips not being signed by all PB members and the first voter.

54. The voting process was also evaluated in highly positive terms by observers with only limited irregularities noted. Authorised party representatives were noted in 93 per cent of polling stations visited. However, the legal requirement to have two PB members appointed from opposition parties was not respected in 5 per cent of cases. As well, ballot boxes were reported not to have been properly sealed in 5 per cent of polling stations visited. Procedural issues were again not always followed in the order established by law, especially regarding the signing of voter lists, inking, and receipt of ballots. Group voting was observed in 6 per cent of cases, giving rise to some concern. Proxy voting and identical signatures in the voter lists were both noted in 3 per cent of polling stations observed. Three instances of tension or unrest were noted inside polling stations, as were two cases of voters taking photographs of their ballots. Very positively, observers reported high levels of transparency in all aspects of election day procedures.

55. During the 67 closing and counting procedures observed, all but two teams noted the following of procedures positively, and organisation was also assessed positively in all but two polling stations. Transparency of the count was evaluated as good or very good in all polling stations observed. Procedures were not always followed in the order established by law, but this did not appear to impact the overall transparency of the counts. In a limited number of cases, observer teams reported that people were waiting to vote at closing time but were not allowed to do so. Domestic observers were observed as being present in 55 per cent of cases. There were five cases of special marks on ballots (circles, squares, triangles, etc.) observed. Observers were given unrestricted access in all cases.

56. Although the number of teams that observed the entire tabulation process at MEC was limited, 13 MEC tabulations were followed and all were evaluated as good or very good. In 5 cases, MECs instructed PBs to correct their Records of Work and in one case the MEC itself made a change to a PB Record. However, this did not appear to impact on the overall transparency of the process.

57. According to the preliminary results of the elections, as announced by SEC on 31 March 2009, the 81 seats in the new Parliament of Montenegro will be distributed as follows: DPS-SDP-HGI-BS (Democratic Party of Socialists, Social Democratic Party, Croatian civic initiative, Bosniac party) will have 48 seats; SNP (Socialists People's Party) 16 seats; Nova (New Serb Democracy) 8 seats; PzP (Movement for changes) 5 seats; Albanian party – DUA (Democratic Union of Albanians), DSCG-AA (Democratic alliance, Albanian alternative), Forca, and coalition 'Perspektiva' each 1 seat.

8. Conclusions and recommendations

58. A key challenge in this election was public confidence; frequent allegations of electoral fraud and a blurring of state and party structures created a negative atmosphere among many voters.

59. Other important issues included harmonisation and reform of the electoral framework, lack of adequate legal redress, and insufficient critical reporting by most broadcast media.

60. The election campaign allowed a wide range of electoral lists to present their programmes to voters freely. Meetings, door-to-door canvassing and rallies were common features of the campaign. Again this year, issues regarding party financing and the blurring of state and party resources were raised by most opposition parties, especially in regard to buildings owned by the governing party and rented to the government. However, the recent passage of a new Law on State Property should remedy the issue in the future.

61. As in previous years, allegations of pressure on voters and ID buying were commonly reported by some opposition parties, the media and a number of individuals. Although allegations (which are a regular opposition concern) are difficult to quantify and are mostly not substantiated, the authorities again failed to take sufficient measures to properly address such allegations, which would have enhanced public confidence in the electoral process.

62. The media offered extensive and informative coverage of all contestants in election-related programming, providing voters a wide array of viewpoints, including those critical of the government. However, the news programming on all TV stations monitored predominantly covered the activities of government and state officials, mainly in an uncritical light.

63. Overall, the elections were professionally organised and there is confidence in the election administration bodies. State Election Commission (SEC) sessions were open to observers and there was a high degree of transparency regarding its activities.

64. The parliamentary elections are regulated by a comprehensive legal framework that generally provides an adequate basis for the conduct of democratic elections. However, the legal framework has yet to be fully harmonised with the new Constitution and does not provide adequate mechanisms for processing election-related complaints. The Constitutional requirement of two-year residency is not consistent with the principle of universal suffrage. The right to elect and be elected should be granted to all citizens as a fundamental human right, and any practical considerations for the implementation of this right should be addressed in legislation. Also, the fact that half of the mandates won by an electoral list can be allocated to the candidates in any order by the party leadership is limiting transparency and potentially misleading voters.

65. Positive aspects of the election process included, *inter alia*:

– A variety of safeguards are in place to protect the integrity of the ballot;

– The SEC took an inclusive approach during candidate registration, with no political contestants rejected;

– The voter registration system has benefitted from an improved legal framework, voter registers are generally accurate and the process for registration and review was well organised and transparent;

– Regular debates and talk shows on public and private TV broadcasters provided a broad opportunity for electoral contestants to present their platforms to voters.

66. Shortcomings that were noted included *inter alia*:

– The right to seek legal redress in election disputes was undermined by a lack of clarity in complaint procedures and a failure to substantively consider some complaints;

– The courts' consideration of election cases could have benefitted from a higher degree of transparency and due process by allowing greater access to the proceedings;

– Half of the mandates won by an electoral list can be allocated to the candidates in any order by the party leadership, limiting transparency and potentially misleading voters;

– A general lack of civic information programmes, in particular on the protection of voting rights, either on the part of election commissions or civil society.

67. Overall, IEOM observers assessed the voting process positively in 98 per cent of polling stations visited. However, IEOM observers noted a small number of irregularities. Procedures were not always followed in the order established by law, especially regarding the signing of voter lists, inking, and receipt of ballots. Group voting was observed in 6 per cent of cases, and there were three instances of tension or unrest noted inside polling stations, as well as two cases of voters taking photographs of their ballots and then passing on the photographical evidence on their vote to unknown persons outside the polling stations. The process of closing and counting was observed by 67 observer teams and was evaluated positively in all but one case.

68. The Ad hoc Committee recommends to the authorities of Montenegro to take all appropriate measures in order to build confidence across the entire electorate – especially among voters supporting those who lost the elections and in particular to:

– revise the Law on the Election of Councilors and Representatives (Election Law) by harmonising it with the Constitution;

– clarify legal provisions regarding authentic representation for people belonging to national minorities;

– eliminate the possibility of changes to fifty percent of the order of the candidates on proportional lists after the closure of the polls:

– work on all legal issues concerning elections in co-operation with the Council of Europe's Venice Commission;

– investigate all allegations of electoral fraud and violence (not least, those against journalists) and make public the results of investigations;

– draw a clear distinction between the state administration and political parties.

Appendix 1 – Ad hoc Committee to observe the parliamentary elections in Montenegro (Pre-electoral mission)

Pre-electoral mission, 24-26 February 2009 – Programme

Tuesday, 24 February 2009

9.30-10.00	Meeting of the Ad hoc Committee
10.00-11.45	Meeting with Ambassador Vladimir Philipov, Special Representative of the Secretary General, and Ambassador Leopold Maurer, Head of the European Commission in Podgorica and Ms Jana Pavlic, Expert in political and trade section, European Commission delegation
12.00-13.00	Meeting with Mr Branislav Radulović, CEC Chair
13.00-14.00	Meeting with the delegation of Montenegro to the Assembly
14.00 -15.00	Meeting with Mr Ranko Krivokapić, Speaker of the Parliament
16.15-17.15	Roundtable meeting with representatives of the civil society: – Center for Democracy and Human Rights – CEDEM – Center for Monitoring – CEMI – Center for Democratic Transition – CDT
17.15-18.15	Roundtable meeting with representatives of the medias: – Pobjeda daily newspaper – Vijesti daily newspaper – Dan daily newspaper – Monitor weekly

Wednesday, 25 February 2009

8.45-9.00	Departure for the Parliament
9.00-12.30	Meetings with political parties running in these elections: 9.00-10.00: – Democratic Party of Socialists – Social Democratic Party – Croatian Civil Initiative – Democratic Union of Albanians – Bosnian Party 10.00-11.00: – People's Party – Democratic Serbian Party – Democratic Center – Liberal Party 11.00-12.00: – Serbian National List – Movement for Changes – New Serbian Democracy – Albanian Alternative – Democratic Alliance in Montenegro 12.00-12.30: – Socialist People's Party

Appendix 2 – Montenegro: Statement by the PACE pre-election delegation

Strasbourg, 25.02.2009 – The pre-election delegation[1] of the Parliamentary Assembly of the Council of Europe (PACE) took note of the preparations underway for the upcoming early parliamentary elections in Montenegro, to be held on 29 March 2009.

The delegation concluded that, with the necessary political will, Montenegro was capable of holding elections in line with European standards, despite the discrepancies that remain between the Constitution and the electoral legislation. It noted that the election administration demonstrates efficiency and represents a plurality of political views. The delegation was pleased with the active involvement of civil society and the print media in the process and praised the quality of their work.

At the same time, the delegation was concerned over the fact that the Montenegrin authorities have not taken corrective action in line with recommendations made by PACE and other international observers in the wake of elections held in the country earlier. This concerns, in particular, the continuing possibility of changes to fifty percent of the order of the candidates on proportional lists after the closure of the polls, which contravenes Council of Europe standards in respect of democratic elections and the principles of parliamentary democracy. This possibility needs to be expressly prohibited by the election law. The delegation welcomed the assurances it received from the Speaker of the Parliament that this concern will be duly addressed when the relevant legislation is revised. Another concern relates to a rather vague constitutional provision regarding authentic representation for people belonging to national minorities. Montenegro would be well advised to work on these legal issues with the Venice Commission of the Council of Europe.

1. Andreas Gross (Switzerland, SOC), Head of delegation, Jean-Charles Gardetto (Monaco, EPP/CD), Andrej Zernovski («the former Yugoslav Republic of Macedonia», ALDE), Øyvin Vaksdal (Norway, EDG).

Appendix 3 – Ad hoc Committee to observe the Parliamentary elections in Montenegro (29 March 2009)

Programme – 27-30 March 2009

Friday, 27 March 2009

10:00-11:00	PACE preliminary meeting
13:00-14:00	Meeting with Mr Branislav Radulović, Head of the Central Electoral Commission
14:00-15:30	ODIHR briefing: – Head of Mission Dr. Artis Pabriks – Deputy Head of Mission Ms Beata Martin Rozumilowicz – Mr Paul O'Grady, Election Analyst – Ms Marla Morry, Legal Analyst; – Mr Rasto Kuzel, Media Analyst; – Mr Hans Schmeets, Statistics Analyst
15:30-16:00	Meeting with Ambassador Paraschiva Badescu, OSCE Mission to Montenegro
16:30-17:00	Meeting with Mr. Srđan Darmanović, PhD, President of the Steering Committee of the Centre for Democracy and Human Rights (CEDEM)
17:00-17:30	Meeting with Mr Dragan Koprivica, Deputy Director of Centre for Democratic Transition (CDT)
17:30-18:30	Meeting with: – Mr Mladen Milutinović, Acting Director and Editor-in-Chief of daily "DAN", – Mr. Mihailo JOVOVIĆ, Deputy Editor-in-Chief of daily "Vijesti" – Ms. Marina VUKOVIĆ, Deputy Director of TVCG

Saturday, 28 March 2009

9:00- 9:30	Meeting with Mr Goran Batrićević, President of Democratic Centre (DC)
9:30-10:00	Meeting with Mr Predrag Sekulić, Political Director and MP of Democratic Party of Socialists (DPS)
10:00-10:30	Meeting with Mr Borislav Banović, Member of Presidency and MP of Social Democratic Party (SDP)
10:30-11:00	Meeting with Mr Predrag Popović, President of the People's Party (NS)
11:00-11:30	Meeting with Mr Goran Danilović, Vice-President, and Veljo Čađenović, Vice-Chairman of the Executive Board of New Serbian Democracy (Nova)
11:30-12:00	Meeting with Mr Nebojša Medojević, President of the Movement for Changes (PZP)
12:00-12:30	Meeting with Mr Srđan Milć, President of Socialist People' Party (SNP)
12:30-13:00	Meeting with the "Democratic Union in Montenegro – Albanian Alternative" coalition: Mr Mehmet Bardhi, President of Democratic League of Montenegro (DSCG), and Mr Nik Gjeloshaj, Member of Presidency of Albanian Alternative
13:15	Meeting with drivers and interpreters; meeting with LTOs in Podgorica, Hotel Crna Gora lobby

LTO team for Podgorica will also be available for questions: Ms Elaine Thro and Mr Randall Harbour

Sunday, 29 March 2009

Observation of the Parliamentary Elections

Monday, 30 March 2009

8:30	Parliamentary Assembly debriefing
14:00	Press conference

Appendix 4 – Montenegro's elections met almost all international standards, but further democratic development is needed, observers say

PODGORICA, 30.03.2009 – Yesterday's parliamentary elections in Montenegro met almost all international commitments and standards, but the process again underscored the need for further democratic development, the international election observation mission concluded in a statement issued today.

Overall, the elections were organized professionally, and political parties were able to present their programmes to voters freely. The voting and counting process was evaluated highly positively by the observers, with very few incidents reported.

The observers noted, however, that lack of public confidence remained a key challenge, as frequent allegations of electoral fraud and a blurring of state and party structures created a negative atmosphere among many voters. Other challenges include the need to harmonize and reform the electoral framework, lack of adequate legal redress, and insufficient critical reporting by most broadcast media.

"I have long watched Montenegro's political and economic development, both before and after its independence. In those years, the country has made steady democratic progress and election day yesterday was truly impressive. There is no doubt in my mind that these elections further strengthened Montenegro's democracy", said Roberto Battelli, Head of the delegation of the OSCE Parliamentary Assembly (OSCE PA) and Special Co-ordinator of the OSCE short-term observer mission.

"The organization of the elections was remarkably efficient. But to gain legitimacy and build confidence among the entire electorate, especially among voters supporting those who lost the elections, the winners have to be more inclusive, pluralistic and fair", said Andreas Gross, Head of the delegation of the Parliamentary Assembly of the Council of Europe (PACE).

"These elections were very well organized. But democracy also needs high public trust in its institutions. It is therefore important to strengthen confidence in the electoral process, in particular by investigating in serious way persisting allegations of fraud and implementing long-standing recommendations. This is particularly important in the context of Montenegro's further democratic development and the process of European integration", said Artis Pabriks, Head of the long-term election observation mission of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR).