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Observation of the parliamentary elections in Montenegro (16 October 2016)

Election observation report
Ad hoc Committee of the Bureau
Rapporteur: Mr Aleksander POCIEJ, Poland, Group of the European People's Party

Contents **Page**

1. Introduction 1
2. Political environment 2
3. Legal framework 3
4. Electoral system 4
5. Election administration and registration of lists and candidates 4
6. The election campaign and the media environment 6
7. Polling day 7
8. Conclusions and recommendations 8
Appendix 1 – Composition of the ad hoc committee 10
Appendix 2 – Programme of the election observation mission (Podgorica, 14-15 October 2016) 11
Appendix 3 – Statement by the International Election Observation Mission 13

1. Introduction

1. At the invitation of Mr Darko Pajović, President of the Parliament of Montenegro, the Bureau of the Assembly decided at its meeting on 26 May 2016 to set up an ad hoc committee to observe the parliamentary elections in Montenegro on 16 October 2016. On 24 June, it appointed Mr Joseph O'Reilly (Ireland, EPP/CD) to chair the ad hoc committee. However, Mr O'Reilly informed the secretariat of the Assembly that he would not be able to participate and the Bureau, at its meeting on 14 October 2016, appointed Mr Aleksander Pociej (Poland, EPP/CD) as chair of the ad hoc committee (the membership of the ad hoc committee is set out in Appendix 1).

2. In accordance with Article 15 of the agreement of 4 October 2004 between the Assembly and the European Commission for Democracy through Law (the Venice Commission), the Bureau of the Assembly invited an expert from the Venice Commission to join the ad hoc committee as an adviser. The Venice Commission appointed Mr James Hamilton (Ireland) to accompany and advise the Assembly delegation.

3. The ad hoc committee formed part of the International Election Observation Mission (IEOM), which included the election observation mission of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR) as well as a delegation from the OSCE Parliamentary Assembly (OSCE PA).

4. The ad hoc committee met from 14 to 17 October in Podgorica, where it met the Head of the European Union delegation, the Acting Head of the OSCE mission, the Head of the OSCE/ODIHR election observation mission and members of his team, the Chair of the State Election Commission (SEC), political party representatives and representatives of civil society and the media. The ad hoc committee's programme of meetings is set out in Appendix 2.

5. On polling day, the 14 members of the Parliamentary Assembly delegation split into seven teams to observe the election in Podgorica, Tuzi, Nikšić, Cetinje, Kolesin, Ulcin, Bar, Danilovgrad, Budva and their surrounding areas.

6. The ad hoc committee observed that on polling day "Montenegrin citizens were able to express their choice in a free and dignified manner". In the press release published following the elections and at the press conference held on 17 October, the Head of the Assembly delegation underlined that, "The high turnout reflected the hopes that the people of Montenegro had in these elections. Allegations of corruption, foreign funding, political tension and inconsistencies in the legal framework tainted the electoral environment. Despite this, the verdict of our observers is that the elections represented the will of the people." The Head of the PACE delegation concluded: "It is now up to the newly elected parliament to work with the mandate the voters have given it, in order to realise the full democratic potential of the country." The press release issued after the elections appears in Appendix 3.

7. The ad hoc committee wishes to thank the Montenegrin Parliament as well as the OSCE/ODIHR and OSCE PA teams and the Venice Commission for their co-operation and support.

2. Political environment

8. These elections were the fourth parliamentary elections since the country declared its independence in June 2006. The Parliamentary Assembly has observed all four of these elections.

9. Montenegro is a parliamentary republic with some elements of semi-presidentialism. The executive power lies with the government, but the President of the Republic is democratically elected every five years.

10. The previous parliamentary elections in October 2012 were won by the coalition for a European Montenegro (45.60% – 39 seats), led by the Democratic Party of Socialists (DPS) and composed of the Social Democratic Party (SDP) and the Liberal Party (LP). The minorities' parties supported the coalition in forming a government. The opposition was composed of the Democratic Front (DF, 22.82% – 20 seats), the Socialist People's Party (SNP, 11.06% – 9 seats) and Positive Montenegro (PCG, 8.24% – 7 seats).

11. Mr Milo Đjukanović, the incumbent Prime Minister at the time of the elections (he subsequently resigned from the post), was one of the longest serving leaders in Europe since the collapse of communism. He held the post of Prime Minister for some 17 years and that of President of Montenegro for almost five years. His party, the Democratic Party of Socialists, has been in power since 1991. The concentration of power for nearly two decades in the hands of one dominant political party has created some frustration in the population over alleged corruption, nepotism, economic stagnation, social difficulties and restrictions of certain freedoms. On the one hand, the country has moved stably towards the Euro-Atlantic integration, on the other hand, certain sectors of the economy are dominated by mostly Serbian and Russian capital. The country is drawn into a larger geopolitical interests game, which also affects the population.

12. Your rapporteur is particularly concerned that the alleged corruption by the political elite has nurtured a sense of helplessness, particularly among the young educated population in the country. Those who do not want to become part of this institutional network of corruption often leave. Yet by their departure, they give the existing elite a lifeline.

13. These polarisations and tensions in society were largely seen in the run-up to the elections. In 2014, the general dissatisfaction with the political, economic and social situation led to a series of protests calling for the incumbent government to step down and to hold early elections. In October 2015, the crisis escalated further when the police resorted to the use of force against protesters, causing multiple casualties. Strong pressure was put on the government, notably to reform the electoral system and dismantle the alleged mechanisms of corruption, which were accused of having led to electoral fraud in several previous cycles of elections and impaired the conditions for a fair political fight. The opposition repeatedly boycotted the sessions of the parliament and the protests continued throughout 2015.

14. The protests were also perceived as being directed against Montenegro's membership of the North Atlantic Treaty Organization (NATO), after the country had received an invitation to join the alliance. In the meantime, in May 2016, NATO Foreign Ministers signed the Accession Protocol for Montenegro. Protests against NATO continued upon the initiative of the Democratic Front (DF) and the New Serb Democracy right up to the elections, making the idea of putting NATO membership to referendum a major campaign issue.[1]

15. In December 2015, the political parties represented in the parliament started a dialogue in order to find a solution to the political stalemate and to lead the country to "free and fair elections" in October. On 26 April 2016, an Agreement for Creating Conditions for Free and Fair Elections was signed between all the forces. The agreement foresaw the formation of a transition government that would prepare the elections.

16. Among other issues, the agreement implied the resignation of the director and editors of the public broadcaster and envisaged the entry of opposition members into the government with ministerial posts in four ministries – Ministry of Finance, Ministry of the Interior, Ministry of Labour and Social Welfare and Ministry of Agriculture –, a deputy prime minister's post as well as assistant minister posts with special powers in two ministries and a range of lower level positions. On 19 May 2016, the parliament approved the new government composed of members from Prime Minister Đjukanović's DPS, Bosniak, Albanian and Croatian minority parties and three opposition parties. The parliament also voted to remove the Speaker of Parliament, Mr Ranko Krivokapić. Until January 2016, Mr Krivokapić had been the closest political ally of Mr Đjukanović, which ended when Mr Krivokapić's Social Democratic Party backed the failed no-confidence vote against Mr Đjukanović. On 11 July, President Filip Vujanović called elections for 16 October.

17. Although the inclusion of opposition members in the government helped ease the direct confrontation and mitigate earlier accusations of abuse of administrative resources, tensions remained high throughout the run-up to the elections. This culminated in the Minister of the Interior (member of the opposition) refusing to sign the electoral register by the 5 October deadline, citing too many inaccuracies. Although this move did not have any legal consequences, it demonstrated the political tensions within the country.

3. Legal framework

18. Montenegro's unicameral parliament has 81 seats. Members are elected for a four-year term in a single nation-wide constituency under a proportional system (with a seat allocation threshold of 3% of the valid votes). Political parties can submit lists either individually or, if they are part of a coalition, jointly.

19. The parliamentary elections are regulated by the Constitution and the Law on the Election of Councillors and Members of Parliament ("the election law"). Further regulations are provided in the Law on the Voter Register, the Law on Political Parties, the Law on Financing Legal Entities and Campaign, as well as the decisions of the State Election Commission and the media-related legislation.

20. The ad hoc committee was pleased to note that considerable efforts had been made since the last parliamentary elections in 2012 and the presidential election in 2013 in order to improve the legal framework. The latter was substantially revised in 2014, taking into account some recommendations of previous Venice Commission and OSCE/ODIHR joint opinions[2] and final observation reports of the OSCE/ODIHR and Parliamentary Assembly. Key changes included provisions on voter registration and voter identification on election day, new provisions on the allocation of mandates to minority lists, and provisions on gender equality and on the composition and competences of the electoral commissions.

21. Serious shortcomings nevertheless remain, the biggest concern being the 24-month residence requirement as a precondition to vote and to be elected. While for the election law the 24 months should precede the election day, the Constitution does not specify anything. The requirement is very difficult to verify and its operation in practice is unclear.

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1. It should be noted that Montenegrin society is not as divided over the country's European Union aspirations. Already in 2008, only two years after its independence, the country applied for EU membership. Currently, 24 chapters (out of 33) have been opened, while two have already been closed.

2. CDL-AD(2011)011, Venice Commission and OSCE/ODIHR Joint Opinion on the Draft Law on Amendments to the Law on Election of Councillors and Members of Parliament of Montenegro, and CDL-AD(2010)023, Venice Commission and OSCE/ODIHR Joint Opinion on the Draft Law on Amendments and Supplements to the law on the Election of Councillors and Members of Parliament of Montenegro.

22. Other recommendations remained unaddressed, such as defining the official start of the electoral campaign, the clarification of the procedures in place for prison voting, the composition of the municipal election commissions where there is no opposition party in a municipal assembly, the extension of the mandate of the SEC to guarantee that it co-ordinates and supervises municipal as well as national elections.

4. Electoral system

23. In order to participate in the allocation of the seats in the 81-member parliament, candidate lists must surpass the 3% threshold provided for in the Electoral Law. The seats are then assigned in line with the D'Hondt system and allocated on the basis of the order of candidates.

24. There are special rules applicable for the parties representing the minorities of the country. The 2014 amendments addressed a previous recommendation made by the OSCE/ODIHR in 2012, which had asked that clear procedures be introduced for the allocation of mandates for minority lists. Namely, if no minority list reaches the required threshold, but some lists gain 0.7% or more of the valid votes, the latter are entitled to participate in the allocation of up to 3 seats, according to the total number of valid votes received. The parties representing the Croatian minority are entitled to one seat if they gain 0.35% or more of the valid votes.

25. This special provision for the Croats was questioned in the 2011 OSCE/ODIHR–Venice Commission Joint Opinion, quoted above. The opinion stressed that: "It would be preferable to maintain an objective, quantitative criterion in order not to stigmatise one specific group and, more importantly, not to create a possible basis for discrimination in the Constitution, should, in future censuses, the Croats reach a higher percentage or other minority groups reach lower percentages."[3]

26. The latest amendments to the electoral law further defined the allocation of mandates for minority lists: a minority nation with a share of up to 15% of the total population of the country, or with a share of between 1.5% and 15% of the population of each municipality, has the right to participate separately in the allocation of the seats with its obtained number of valid votes.

27. According to the 2011 census, Montenegrins constitute almost 45% of the population, Serbs 28%, Bosnians 8%, Albanians 5% and Muslims 3%. Croats and Roma each account for 1% of the total population. The population of Albanian origin is mainly concentrated in the towns of Ulcinj, Plav and Tuzi in the Podgorica district. The Bosnian population mostly lives in the northern part of the country, in the municipalities of Berane, Rožaje and Bijelo Polje. There is also a considerable Roma population, which is disseminated all over the country although the greatest concentration of Roma is to be found in the vicinity of Podgorica.

28. The ad hoc committee's attention was also drawn to the fact that the latest amendments had also introduced new provisions regarding gender equality. According to Article 39.*a* of the Electoral Law: "In order to exercise the gender equality principle, there shall be **at least 30%** of candidates on the candidate list from the under-represented sex. Among each four candidates in the candidate list order (the first four places, the second four places and so on until the end of the list) there shall be **at least one candidate** who is a member of the under-represented sex." That is to say, every fourth place should be allocated to a woman.

5. Election administration and registration of lists and candidates

29. Elections in Montenegro are administered in the framework of a three-tier system of electoral commissions: a State Election Commission (SEC), 21 municipal election commissions (MECs) and 1 206 polling boards (PBs). The SEC and MECs are appointed after the newly elected parliament is inaugurated, for a four-year term, while the polling boards are appointed for each election of councillors or members of parliament.

30. The 2011 OSCE/ODIHR–Venice Commission Joint Opinion recommended expanding the duration of the mandate of the SEC to guarantee that it co-ordinates and supervises municipal as well as national elections.[4] This recommendation has not been followed.

31. The SEC is composed of a chairperson and 10 standing members. The members are appointed by the parliament on the basis of the indications of the parties and civil society. More specifically, four members are proposed by the parliamentary majority, four by the parliamentary opposition, one by the minority representative who won the highest number of seats in the previous parliamentary elections and one is a

3. CDL-AD(2011)011, op. cit., paragraph 11.
4. CDL-AD(2011)011, op. cit., paragraph 38.

representative from civil society appointed by the parliament at the proposal of the parliamentary working body competent for appointments and elections, following an open competition. The President is appointed by the parliament with the majority of votes, while the secretary is one of four members proposed by the opposition.

32. Despite efforts in this regard, the representation of women in the electoral administration remained low, with 3 women out of 11 SEC permanent members and 37 of 115 permanent members of MECs.

33. In line with previous recommendations from our Assembly, the recent amendments increased the powers and the responsibilities of the SEC, which now also has legal capacity and an increased operational budget, The ad hoc committee was informed by the OSCE/ODIHR long-term observer team that the SEC had been able to make all the technical arrangements for the elections; it had met all the deadlines and had conducted regular meetings. However, a lack of strong collective leadership, deficiencies in management and political tensions had often led to inefficient and unproductive sessions. Some concerns were raised over the lack of transparency, in particular after the media were denied access to those sessions. Criticism was also voiced over the fact that many aspects of the electoral process were now left to the regulation of the SEC, who did not always supply guidance to address the gaps in the law.

34. The 21 MECs are composed of a chairperson and 4 standing members appointed by the municipal parliaments. According to Article 25 of the Election Law, the chairperson of the MEC is to be appointed from the nominees of the political parties that won the highest number of seats in the relevant local council. Two members are appointed at the proposal of the opposition.

35. Twenty days before the elections, both the SEC and the 21 MECs were joined by partisan members. Each candidate list, in fact, had the power to nominate one authorised representative to the SEC and to each MEC. This provision was praised in the 2011 OSCE/ODIHR–Venice Commission Joint Opinion, which stated that the "amendment … will allow 'extended representatives' to participate in the work of election administration when important decisions could be made".

36. The PBs are composed of a chairperson and four members based on the nomination of political parties represented in the local councils, proportionate to the number of seats they hold. PBs are formed 10 days before the election day, but Article 35 of the electoral law allows for a "last-minute" composition of a PB, up to 12 hours prior to the opening of the polling station. This raised some concerns among our interlocutors as regards the capacity to train all PB members and the possibility to include at the last minute people specially trained in election fraud.

37. Despite earlier recommendations, the Law does not provide for a proportional representation for national minorities either in the MECs or in the PBs.

38. Every citizen over the age of 18 on election day, and residing in the country for at least the last 24 months, has the right to vote. The same residence requirement has to be met in order to be registered as a candidate. As already mentioned, this residence requirement has been consistently criticised in previous opinions and recommendations. It goes in particular against the principles set forth in the Code of Good Practice in Electoral Matters.[5]

39. The ad hoc committee commends the introduction of the new centralised electoral register, following amendments in 2014 to the Law on the Electoral Register. The register is maintained by the Ministry of the Interior and supervised by the SEC.

40. The accuracy of the register was nevertheless questioned by almost all the stakeholders, especially by non-governmental organisations (NGOs) and opposition parties. Many allegations of dead people and people residing abroad being on the list were reported. The Minister of the Interior, belonging to the opposition, refused to sign the electoral register on the 5 October deadline. The Ministry's Secretary General did it a day later in order not to hamper the entire electoral process.

41. According to the latest Montenegro population census in 2011, the country has 625 266 inhabitants. There were 528 817 voters on the voters register. Moreover, 13 347 voters' records were deleted based on changes in the civil registries. According to the OSCE/ODIHR data, more than 132 000 changes were made to the electoral register, notably due to the change of electoral district boundaries. Changes were possible until 15 days before election day. Each affected voter was sent a notification. Throughout polling day, however, the ad hoc committee observed numerous cases where people had not been informed of the change of the boundaries of their PB.

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5. CDL-AD(2002)023rev, op. cit., p. 5.

42. For the first time, Montenegro used an Automated Fingerprint Identification System (AFSIS), during the verification of which the Ministry of the Interior found problems with 168 fingerprints, representing 0.03% of the total number of registered voters. Nevertheless, this was one of the reasons why the Minister of the Interior did not sign the electoral register.

43. In what the OSCE/ODIHR experts deemed an inclusive process, the SEC received and confirmed 17 lists containing a total of 1 120 candidates, out of whom 360, or 32%, were women. This was a significant increase compared to 2012 when 264 women stood as candidates. No candidate list was headed by a woman.

44. The electoral law stipulates that voters may only sign for the support of one candidate list, which could in principle limit political pluralism. The ad hoc committee was told that, in a positive development and in line with the Constitutional Court decision, voters no longer had to sign in front of the MEC representative.

45. Although the SEC provided training for almost all the polling boards, the training was characterised by inconsistency and lack of co-ordination. Our observation on election day showed many inconsistencies in practice, although in fairness none of these were fundamental.

6. The election campaign and the media environment

46. The legal framework did not specify when the electoral campaign should officially start. Indeed, the campaign began way ahead of the candidate registration, soon after the creation of the coalition in May 2016.

47. The campaign was vibrant, competitive and in broad terms respectful of fundamental freedoms. The figure of Milo Đjukanović, although not participating in any of the broadcasted debates, dominated the electoral campaign. The billboards of the DPS were among the most present in the cities and the villages of the country. The DPS's slogan was "Sigurnim Korakom" (The Safe Step). It promised stability and the continuation of the Euro-Atlantic integration process. The opposition was led by the Democratic Front, an anti-NATO party, which conducted a massive electoral campaign, allegedly based on Russian funding. Its campaign mainly focused on the figure of the incumbent prime minister (its main slogan literally stated "Either us or him") and on the corruption issues. Many billboards of the party were in the Cyrillic alphabet. Two other important opposition parties, the Key Coalition and the Democrats, focused their campaign on the need to hold a referendum on NATO accession and on the figure of the incumbent prime minister.

48. Mr Krivokapić's SDP, a former partner of the Đjukanović government, ran alone, among the opposition parties. The Democrats completed the opposition formation. Positive Montenegro, formally an opposition party, had backed the DPS in forming a government after the splitting of the SDP. Minority parties from the Bosnian, Albanian and Croatian minorities presented lists. Just before the elections, the main opposition parties (DF, Key coalition and Democrats) announced that they would form a coalition after the vote in order to prevent the DPS from forming another government.

49. The electoral campaign was conducted through rallies, door-to-door canvassing, billboards, traditional and social media advertisements and debates. Many stakeholders expressed their concerns to the ad hoc committee that the DPS enjoyed an institutional advantage after many years in power.

50. The campaign lacked a commitment by the parties to undertake social, political and economic reform. Almost all the electoral campaign was focused on NATO accession and on the figure of the incumbent Prime Minister.

51. The campaign financing regulation was improved by the adoption of the Law on Financing of Political Entities and Election Campaigns. In January 2016, an Agency for the Prevention of Corruption was created with the task of controlling the funds and the expenditures of all the parties.

52. The law established reporting requirements for the parties, limits for campaign expenditure and for donations by individuals and legal entities. The Agency for the Prevention of Corruption, which is in charge of the enforcement of the campaign financing rules, did not manage to guarantee adequate transparency of pre-electoral activities and expenditure of the parties. Parties were obliged to submit reports to the Agency every 15 days, but the non-compliance of some parties was not properly and efficiently addressed by the Agency. Further and definitive reporting requirements are only obligatory 30 days after election day, too late to ensure adequate transparency.

53. The media environment in Montenegro is diverse and, although largely DPS-dominated, all the political positions are represented. The most influential outlet is the public broadcaster for radio and television, the RTCG, while the private media outlets are headed by Vijesti, which appeared to be supportive of the opposition parties.

54. The environment was strongly impacted by the absence of a regulatory or self-regulatory monitoring body able to impose effective sanctions on the outlets and binding internal rules. Indeed, although the law provided for the mandatory adoption of internal rulebooks, private outlets have mainly disregarded this requirement and no sanctions were imposed on the outlets that did not comply with it. More generally, the Agency for Electronic Media, the body in charge of monitoring the media's compliance with the legal framework, lacked organisational resources and effective sanctioning power. A temporary parliamentary committee, with no sanctioning powers, completed the media monitoring framework.

55. The electoral law provided for slots of free time for all the contestants on the public broadcaster, in order to present their programmes and rallies. The public broadcaster respected the legal provisions in this sense; it organised seven debates as requested by the law and, although not legally bound to do so, allowed all the parties to express their views in a 30-minute presentation of the electoral programmes. Unfortunately, the public broadcaster completely refrained from editorial coverage of the electoral news.

56. More generally, media outlets lacked critical examination and analysis during the campaign. They simply tended to rebroadcast the messages of the parties, without any significant contribution to the political debate.

57. Despite the apparent media freedom and deregulation, the ad hoc committee was informed of attacks and forms of pressure on journalists and media outlets, a concern also raised by the OSCE Representative on Freedom of the Media.

7. Polling day

58. Despite the tense atmosphere, and apart from a few isolated incidents, polling day was calm. The members of the ad hoc committee found that the opening, voting and counting operations were carried out in a professional manner. The polling stations were mostly well organised and serviced by dedicated and competent personnel.

59. Polling Board members co-operated fully with the international observers, showing documents, explaining the procedures and reporting on some problems which had occurred on election day. The ad hoc committee commended the extensive presence of national observers, both as authorised representatives of the parties and as observers appointed by local NGOs.

60. The ad hoc committee observed some minor irregularities in the voting procedure, most probably due to the inconsistency in the training received by the polling board members. Only in one polling station (in a predominantly Albanian village Tuzi) did our delegation observe a combination of frauds committed by one member of the polling board (distributing ballot papers to non-registered voters, giving a "bought" ID card to a voter, etc.).

61. The ad hoc committee was impressed by the effectiveness of the new electronic voter identification system, which functioned well – according to the information received, altogether only in six polling boards were some technical problems observed. The system provided a modern solution for having a constant overview of the number of voters in each PB and preventing multiple voting. In several PBs, members of local observer organisations – the Centre for Monitoring and Research (CeMI) and the Centre for Democratic Elections (CDT) – pointed out that the system could still be further improved by having a double screen with an ID photo of the voter (without any other data) projected on a screen towards the observers so that the latter could verify that the ID really matched the voter.

62. Outside their own observation, the members of the ad hoc committee received documented information of some irregularities throughout the day: cases of voter intimidation outside polling stations, groups of voters being brought over from Kosovo to vote, recordings of the buying of ID cards, alleged orders to the Agency of Electronic Communication to shut down instant messaging applications (Viber and WhatsApp). All these cases must be thoroughly investigated by the competent independent authorities.

63. Before election day, the ad hoc committee had been informed that many people would encounter difficulties in voting due to the changes in the boundaries of the electoral precincts. Despite expectations of widespread confusion, these predictions did not materialise en masse and all the polling board members helped the voters to find the correct polling station.

64. Outside the polling stations, especially towards closing time, tensions were high: the members of the ad hoc committee had been informed that a major demonstration of the opposition parties would take place if they lost the elections. Fortunately, the situation remained calm after the proclamation of the first preliminary results that saw the DPS leading in almost all the municipalities.

65. Both the incumbent and the opposition parties have alleged that several people had been brought to the country on election day. Indeed, the local observer organisation CeMI noted that seven extra flights from Vienna had arrived in Montenegro on 16 October. The case must be properly investigated.

66. Twenty Serbian citizens were arrested by the Montenegrin authorities on election day over allegations of planning armed attacks against the Prime Minister and the members of his party. Part of the plan reportedly involved the capture of the Prime Minister. While many have accused the DPS and its leader of staging the arrests, on 24 October Serbia's PM Aleksandar Vucić declared that a number of Serbian citizens had been detained over a suspected plot to influence the outcome of the parliamentary elections in Montenegro. This case too must be properly investigated.

67. According to the preliminary results, the turnout was 73.33%, almost 10 points higher than in 2013 and 3 points higher than in 2012. The State Electoral Commission announced the preliminary results on 18 October, one day after the legal deadline set forth in Article 92.5 of the Law on the Election of Councillors and Representatives. According to the results, the party of the incumbent prime minister, the DPS, received 41.41% with 158 301 votes, the Democratic Front, 20.31% with 77 491 and the Key coalition 11.11% with 42 271 votes. Due to the 3% threshold, 8 parties out of 17 did not manage to get a seat in the new parliament. According to the preliminary results, 36 seats went to the DPS, 18 to the DF, 9 to the Key coalition, 8 to the Democrats, 4 to the SDP, 2 to the SD, 2 to the party of the Bosnian minority and 1 each to the parties representing the Albanian and Croatian minorities. 17 women (29.9%) made it into the new composition of the parliament.

68. On Tuesday 25 October, the DPS announced that it would not present Milo Đjukanović as its candidate for the position of prime minister and instead nominated Duško Marković, his deputy as leader of the party. At the moment of drafting, it was not clear whether Mr Đjukanović would remain as leader of the party, after over two decades of governing the country either as prime minister or as president.

8. Conclusions and recommendations

69. The ad hoc committee concluded that Montenegro's parliamentary elections were conducted in a professional manner and that the citizens of Montenegro made their choice freely from a large range of political parties. This notwithstanding, allegations of corruption, use of administrative resources and intimidation by the governing party, as well as vote-buying and foreign funding in both camps, made the playing field far from level for all competitors. The lack of comprehensiveness of the electoral legislation, the alleged inaccuracy of the electoral register and the lack of critical examination by the media were further matters of concern.

70. The high voter turnout reflected the expectations that Montenegrins had placed in these elections, be it for political change, to defend the country's Euro-Atlantic course or other reasons. However, a fortnight after election day, the elections did not seem to have brought the country out of a stalemate. At the moment of drafting, it is not yet clear who will form the government. However, it is essential that the newly elected parliament should start working in good time and with the mandate that voters have given them.

71. The ad hoc committee recognises the efforts that the Montenegrin authorities have made in order to ensure the smooth running of these elections. To this end, we commend the maturity of the political forces in reaching the Agreement of 26 April 2016 for Creating Conditions for Free and Fair Elections and forming the transitional government, which incorporated opposition members in several key positions.

72. The ad hoc committee appreciates the fact that, compared to the previous parliamentary elections in 2012 and the presidential election in 2013, the electoral procedures and capacities of the bodies running these elections (State Election Commission, the Agency for the Prevention of Corruption) were enhanced and important legislative measures adopted in order to eliminate (or at least to reduce) the shortcomings identified by international observer organisations in previous years. In this respect, our observers were impressed by the professional conduct of most of the small cross-party polling board teams and the effectiveness of the electronic voter identification system, which we would recommend be adopted by other member States of the Council of Europe as a modern solution – albeit perfectible – to safeguard against multiple voting and to have a constant overview of the number of voters having done their civic duty.

73. The ad hoc committee also noted with satisfaction the increased proportion of women both in the campaign and in the election administration. It regrets that no female political leader has emerged as yet and that parties applied the electoral law by mostly placing women in fourth position. It is worth noting, however, that 32% of the candidates were women.

74. However, both in electoral legislation and election management, a number of shortcomings remain. The new parliament and government-to-be-formed should address the remaining shortcomings identified by the international observer mission. The Parliamentary Assembly and the Venice Commission stand ready to assist the parliament and other institutions of Montenegro in order to consolidate still further the entire electoral process. In particular, the ad hoc committee calls on the Montenegrin authorities to:

– implement in full the previous recommendations of the Assembly and those of the Venice Commission concerning the legal framework, in order to make it clear, coherent and comprehensive and, in particular, to guarantee the right of universal suffrage for all citizens of Montenegro without the 24-month residence requirement;

– further strengthen the capacities and the professionalism of the State Election Commission, in order to avoid mismanagement of election procedures;

– make sure that the Agency for the Prevention of Corruption gets the proper means to effectively implement the relevant legislation, in order to ensure the adequate transparency of campaign financing, including prior to election day;

– enhance the transparency of the electoral register, removing from it people who have died or who could not participate in the voting due to residence requirements;

– establish a regulatory or self-regulatory body for media monitoring, able to impose effective sanctions and internal rules;

– investigate all the reported cases of irregularities, fraud, foreign funding and corruption, and publish the findings of the investigations.

Appendix 1 – Composition of the ad hoc committee

Based on the proposals by the political groups of the Assembly, the ad hoc committee was composed as follows:

– Chairperson: Aleksander POCIEJ, Poland (EPP/CD)

– **Group of the European People's Party (EPP/CD)**
  - Gabriela PESKOVÁ, Czech Republic
  - Aleksander POCIEJ, Poland
  - Samvel FARMANYAN, Armenia

– **Socialist Group (SOC)**
  - Gülsün BILGEHAN, Turkey
  - Silvia BONET, Andorra
  - Pierre-Alain FRIDEZ, Switzerland

– **Alliance of Liberals and Democrats for Europe (ALDE)**
  - Adele GAMBARO, Italy

– **European Conservatives Group (EC)**
  - Erkan KANDEMIR, Turkey

– **Group of the Unified European Left (UEL)**
  - Matjaž HANŽEK, Slovenia

– **Co-rapporteur of the Monitoring Committee *(ex officio)***
  - Ionuţ-Marian STROE, Romania

– **Venice Commission**
  - James HAMILTON, Expert

– **Secretariat**
  - Ivi-Triin ODRATS, Administrator, Parliamentary Assembly
  - Anne GODFREY, Assistant, Election Observation and Interparliamentary Co-operation Division
  - Domenico VALLARIO, Assistant Lawyer, Venice Commission

Appendix 2 – Programme of the election observation mission (Podgorica, 14-15 October 2016)

Friday 14 October 2016

08:30 – 09:30 PACE ad hoc committee internal meeting:
- Opening by Mr Aleksander Pociej, Head of the delegation
- Outline of political situation by Mr Ionuţ Stroe, Co-rapporteur of the Monitoring Committee
- Recent developments in the field of legal framework of Montenegro by Mr James Hamilton, representative of the Venice Commission
- Information by the secretariat on deployment and logistical questions

10:15-10:30 Welcome and opening:
- Ms Margareta Cederfelt, Special Co-ordinator of the short-term OSCE observers
- Mr Aleksander Pociej, Head of the Assembly delegation
- Mr Azay Guliev, Head of the OSCE Parliamentary Assembly delegation

10:30-11:00 Briefings by OSCE Mission to Montenegro and by the European Union delegation:
- Mr Dan Redford, Acting Head of OSCE Mission
- Mr Aivo Orav, Head of the EU Delegation

11:00-12:30 Briefing by the OSCE/ODIHR Election Observation Mission Core Team:
- Introduction and overview of findings to date: Mr Roman Jakič, Head of Mission
- Political overview and the campaign: Ms Zarona Ismailova, Political Analyst
- Legal framework: Mr Vasil Vashchanka, Legal Analyst
- National minorities: Mr William Romans, National Minorities Expert
- Media landscape and media monitoring findings: Mr Egor Tilpunov, Media Analyst

12:30-13:00 Electoral administration:
- State Election Commission: Mr Budimir Šaranović, President

14:30-16:30 Political parties:
- Democratic Party of Socialists (DPS)
- Democratic Front (DF): Mr Slaven Radunović, Vice-President of the Coalition Party "New Serb Democracy"
- Social Democrats (SD): Ms Mubera Kurpejović, SD Member of the Parliament
- Democratic Montenegro: Mr Velizar Kaluđerović and Mr Neven Gošović, members of the Party Presidency

16:45-18:45 Political parties:
- Big Coalition "The Key": Mr Zoran Miljanić, Member of Parliament, Democratic Alliance (DEMOS) coalition party
- Positive Montenegro (PCG): Mr Aleksandar Ražnatović, Political Director of the Party
- Social Democratic Party (SDP): Mr Ivan Vujović, Chief of Cabinet of the President and Party International Secretary
- Albanians Decisively FORCA–DUA–AA

Saturday 15 October 2016

09:00-10:30 Agency of Electronic Media/Media:
- Agency for Electronic Media: Ms Jadranka Vojvodić, Deputy Director, and Mr Djordje Vujnović, International Relations Adviser to the Director
- TVCG: Ms Adrijana Kadija, Director, and Ms Ljiljana Savić, Head of Electoral Pool
- *Monitor*: Mr Esad Kočan, Editor-in-Chief
- *Daily Dan:* Mr Mladen Milutinović, Editor-in-Chief
- *Analitika*: Mr Predrag Zečević, Editor-in-Chief

10:30-12:00	Agency for the Prevention of Corruption/Civil society – Agency for the Prevention of Corruption: Mr Savo Milašinović, Deputy Director, and Mr Dušan Drakić, Head of the Funding Control Section – Network for Affirmation of the NGO Sector (MANS): Ms Vanja Ćalović, Executive Director – Center for Democratic Transition (CDT): Ms Milica Kovačević, President – Center for Monitoring and Research (CeMI): Ms Dubravka Popović, Project Associate – Center for Democracy and Human Rights (CEDEM): Ms Danijela Vujošević, Project Manager – Center for Civic Education (CGO): Ms Daliborka Uljarević, Executive Director
12:00-13:30	Briefing by OSCE/ODIHR EOM on election administration, election day procedures and observation forms – Ms Adina Borcan, Election Analyst – Mr Don Bisson, Deputy Head of Mission – Mr Hans Schmeets, Statistical Analyst
13:30-14:00	Regional Briefing by OSCE/ODIHR EOM Long-Term Observers based in Podgorica for teams deployed in the capital and Nikšić areas
14:00	Meeting with interpreters and drivers

Sunday 16 October 2016

All day	Opening of polling stations Observation of elections Closing of polling stations – Counting

Monday 17 October 2016

08:00-8:45	PACE ad hoc committee debriefing meeting
15:00	Joint press conference of the Heads of delegation

Appendix 3 – Statement by the International Election Observation Mission

Montenegro elections competitive and fundamental freedoms respected, but campaign characterised by lack of distinct domestic policy alternatives, observers say

Podgorica, 17.10.2016 – Montenegro's 16 October parliamentary elections were held in a competitive environment and fundamental freedoms were generally respected in a campaign characterised by a lack of distinct domestic policy alternatives and permeated by personal attacks, international observers said in a statement issued today. While pluralistic, the media lacked editorial independence.

The election administration met all legal deadlines, but despite increased operational and human resources, the professional capacity of the administration remains inadequate. Election day proceeded in a calm and orderly manner, with few cases of procedural irregularities observed, the statement says.

"Against a campaign background characterised by a divisive debate over foreign policy questions, these elections were held in a competitive environment and fundamental freedoms were generally respected", said Margareta Cederfelt, Special Co-ordinator and leader of the short-term OSCE observer mission. "The positive changes we have observed demonstrate a genuine will to improve the process."

"The high turnout reflects the hopes that the people of Montenegro had in these elections. Allegations of corruption, foreign funding, political tension and inconsistencies in the legal framework tainted the electoral environment. Despite this, the verdict of our observers is that the elections represented the will of the people," said Aleksander Pociej, Head of the PACE delegation. "It is now up to the newly elected parliament to work with the mandate the voters have given it, in order to realise the full democratic potential of the country."

NATO membership was a key issue, with contestants also conveying general messages on the need for economic, social and political reforms, job creation, reducing youth emigration and fighting high-level corruption, the observers said. There was often little policy detail in a campaign that was largely personality driven. Accusations were made of foreign sources of campaign funding.

"The elections have shown the aspiration of the people of Montenegro to be fully engaged in building the stable democratic future of their country. Voters were provided with ample choice", said Azay Guliyev, Head of the OSCE PA delegation. "However, the improvements in election administration and media professionalism would benefit future elections."

The diverse media environment remains politically polarised and editorial independence is lacking, as is investigative reporting. This limited analytical information available to voters, the statement says. Contestants were able to present their views in numerous talk shows, debates and round-tables on public and private media, and campaign rallies were also actively covered. The media landscape is hampered by the absence of an effective regulatory or self-regulatory body. In addition, the blocking of access to Viber and WhatsApp services on election day by the Agency of Electronic Communications caused concern.

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

The SEC registered all 17 candidate lists submitted in an inclusive process that allowed applicants to correct errors to meet legal requirements, the statement says. Although no candidate list was led by a woman, in a positive development 32 per cent of candidates were women. In line with previous OSCE/ODIHR and Council of Europe recommendations, voters were no longer required to sign in support of candidate lists in front of election administration representatives.

Revisions to the legal framework since the last elections addressed a number of prior recommendations, although some, including those concerning the right to run independently and the residency requirement to vote or be a candidate, remain unaddressed. In addition, the legal framework continues to lack comprehensiveness and some inconsistencies have led to occasional misinterpretations, the observers said.

“There have been significant improvements in the legal framework based on prior recommendations, and our hope is that efforts in this direction will continue,” said Roman Jakič, Head of the OSCE/ODIHR long-term election observation mission. “We heard continued concerns about the accuracy of the electoral register, although there was broad support for the electronic voter identification system introduced as a safeguard against multiple voting.”

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

The limited number of complaints filed with law enforcement and judicial bodies was attributed to lack of trust in the effectiveness and impartiality of these institutions, the observers said. Detailed guidelines are lacking, and the deadlines for the resolution of electoral disputes remain to be reviewed to ensure effective remedy.

While new campaign finance legislation improved the accountability of public institutions, it did not ensure adequate disclosure of expenditures. Contestants are not obliged to report campaign expenses before election day, which limits the transparency of the process. The availability of public funding for political parties created a more equal playing field.

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