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Observation of the presidential election in Montenegro (15 April 2018)

Election observation report
Rapporteur: Mr Jonas GUNNARSSON, Sweden, Socialists, Democrats and Greens Group

Contents **Page**

1. Introduction 1
2. Political context and legal framework 2
3. Election administration 4
4. Voter list and candidate registration 4
5. Election campaign, funding and the media 6
6. Voting and counting 7
7. Conclusions and recommendations 8
Appendix 1 – Composition of the ad hoc committee 10
Appendix 2 – Programme of the International Election Observation Mission (IEOM) 11
Appendix 3 – Press release issued by the International Election Observation Mission (IEOM) 13

1. Introduction

1. On 19 January 2018, the Speaker of the Parliament of Montenegro, Mr Ivan Brajović, set the date for the presidential election for 15 April 2018. The same day, he sent the Parliamentary Assembly an invitation to observe the election. At its meeting on 22 January 2018, the Bureau of the Assembly decided to set up an ad hoc committee composed of 12 members from the different political groups in the Assembly in accordance with the D'Hondt system (EPP/CD: 3, SOC: 3, EC: 2, ALDE: 2, UEL: 1, FDG: 1), as well as the two co-rapporteurs of the Monitoring Committee. The Bureau approved the composition of the ad hoc committee and appointed Mr Jonas Gunnarsson (Sweden, SOC) as head of delegation at its meeting on 26 January 2018. The list of members appears in Appendix 1.

2. In accordance with the co-operation agreement signed between the Parliamentary Assembly and the European Commission for Democracy through Law (Venice Commission) on 4 October 2004, a representative from the Venice Commission was invited to join the ad hoc committee as an adviser.

3. The ad hoc committee went to Montenegro from 13 to 16 April 2018 to observe the presidential election on 15 April. It operated as part of an international election observation mission (IEOM) together with delegations from the European Parliament and the electoral observation mission of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) that had been in the country since 7 March 2018. The programme of the delegation's meetings is set out in Appendix 2.

4. On polling day, the Assembly's ad hoc committee split into eight teams which observed the election in Podgorica and the surrounding areas, as well as in the regions and municipalities of Nikšić, Danilovgrad, Cetinje, Bar, Ulcinj, Tivat and Kotor. The ad hoc committee concluded that the presidential election on 15 April 2018 in Montenegro respected fundamental freedoms, that voting was well organised, and that voters made their choice from among a wide range of candidates. As regards the election campaign, there were reported cases of the misuse of State resources and credible allegations of pressure on voters in favour of the ruling party candidate. The ad hoc committee pointed out that regrettably those problems were recurrent in Montenegro, as well as credible allegations of vote buying and hiring of public employees during the election period. The absence of the ruling party candidate in the two televised debates reduced voters' opportunity to make an informed choice. The press release by the International Election Observation Mission is set out in Appendix 3.

5. The ad hoc committee wishes to thank the Montenegrin authorities and Parliament as well as the Council of Europe Programme Office in Podgorica for the support provided to the delegation, as well as the OSCE/ODIHR observer mission for their outstanding co-operation.

2. Political context and legal framework

6. This was the third presidential election since the country declared its independence in June 2006. The Parliamentary Assembly has observed all presidential and parliamentary elections in Montenegro since 2001.

7. On 17 December 2010, the European Union granted Montenegro the official status of candidate country. On 27 January 2015, the Assembly decided to close the monitoring procedure and to engage in a post-monitoring dialogue, but stressed at the same time that it would be necessary to re-open the monitoring procedure should the country not manage to complete a series of reforms concerning the electoral process, the independence of the judiciary, the fight against corruption and organised crime, and the situation of the media.[1]

8. Montenegro has a mixed parliamentary and presidential political system, with both institutions elected by popular vote. The president is elected for a five-year term and may serve a maximum of two consecutive terms. The incumbent president was Filip Vujanović (Democratic Party of Socialists, DPS), who was re-elected in the first round of the 2013 presidential election with 51.2% of the votes. The independent candidate, Miodrag Lekić, endorsed by all opposition parties, did not recognise the results because of accusations of electoral fraud.

9. In 2013, the Assembly, in its observation report, concluded that on polling day the citizens of Montenegro made their choice in a free manner between the two presidential candidates. In practical terms, further improvements were required to ensure an electoral process free from the misuse of State resources.

10. In the October 2016 parliamentary elections, the DPS won 36 out of 81 mandates. With the support of the Social Democrats and national minority parties, they continued to have the majority in parliament which they have enjoyed since 1991. Following the elections, long-serving political leader Milo Đukanović[2] voluntarily withdrew from the government and his deputy, Duško Marković, took over the post of Prime Minister.

11. In 2016, the Assembly, in its observation report on the parliamentary elections, noted the following shortcomings: allegations of corruption, misuse of administrative resources again, intimidation by the governing party, as well as vote buying and foreign funding in both camps. 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.

12. The post-electoral period was marked by political tension as all opposition parties refused to accept the result and boycotted the parliament alleging widespread corruption and irregularities in the electoral process. They also demanded an immediate and thorough investigation of alleged abuses as well as resolution of the so-called attempted "coup" on election day.[3]

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1. See Resolution 2030 (2015) and Doc. 13665 on the honouring of obligations and commitments by Montenegro.
2. Mr Đukanović held the post of Prime Minister for some 17 years and that of President of Montenegro for almost five years from January 1998 to November 2002, being one of the longest serving leaders in Europe since the collapse of communism.
3. See Doc. 14203, report on the observation of the parliamentary elections in Montenegro (16 October 2016), and document AS/Mon (2017) 31.

13. On 5 June 2017, despite many protests during the accession process and continued opposition boycott of the parliament, Montenegro joined the North Atlantic Treaty Organization (NATO). This debate on NATO membership and beyond, on the international alignment of the country, continued during the present presidential campaign.

14. In December 2017, 21 opposition members (18 from the Democratic Front, 2 from United Montenegro and 1 independent) returned to the parliament but did not take part in the legislative process. On 19 January, in line with the Constitution, the speaker of the parliament called the presidential election for 15 April.

15. Montenegro has a mixed parliamentary and presidential political system, with both institutions elected by popular vote. The President of Montenegro is elected on the basis of a general and equal electoral right, through direct and secret ballot from a single nationwide constituency. The president is elected for a five-year term and may serve a maximum of two consecutive terms. A candidate must receive more than 50% of the votes cast to be elected in the first round. Otherwise, a second round is held within 14 days between the two candidates who received the highest number of votes.

16. The ad hoc committee recalls that Montenegro signed and ratified the European Convention on Human Rights (ETS No. 5) and its Additional Protocol (ETS No. 9), which enshrine a number of principles crucial for an effective and meaningful democracy, such as the right to free elections (Article 3 of the Additional Protocol), freedom of expression, freedom of assembly and association, as well as prohibition of discrimination (Articles 10, 11 and 14 of the Convention).

17. The Constitution, the law on Election of the President of Montenegro[4] (presidential election law) and the law on Election of the Councillors and Representatives[5] (election law) are the main pieces of legislation governing the conduct of the presidential election. The presidential election law contains specific provisions including candidate registration, design of ballot papers and eligibility criteria, with other aspects being covered by the election law. They are supplemented by various other laws and regulations, including the Law on the Voter Register,[6] the Law on Financing Political Entities and Election Campaigns,[7] and the law on Electronic Media,[8] and the instructions and decisions of the State Election Commission (SEC).

18. The election law was substantially amended in 2014, incorporating a number of previous Venice Commission and OSCE/ODIHR recommendations, notably with regard to the composition of the election administration and its competencies, and new provisions on voter registration, candidate registration and home voting were introduced.

19. On 29 December 2017, the Law on the Voter Register, the Law on Political Parties, the Law on Financing Political Entities and Election Campaigns and the Law on Electronic Media were amended by simple majority. The changes introduced further measures to protect the privacy of voters by imposing restrictions on the right of parties and civil society organisations to access and copy personal data from the electoral register, as well as additional obligations to report on campaign financing and to disclose sponsors of campaign advertisements in the media.

20. Amendments to the election law were also proposed by the relevant parliamentary working group but were not passed by parliament; the necessary two-thirds majority could not be obtained because of the opposition boycott, leaving a number of recommendations unaddressed.

21. The Venice Commission and ODIHR, in their recommendations, pointed out a number of omissions and ambiguities in the legal framework, including in the SEC instructions and decisions, which could undermine the cohesion and integrity of the electoral process. This includes the lack of regulations on verification of supporting signatures and sanctions for violations, dispute resolution procedures, tabulation of results and campaign financing.

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4. The Law on the Election of the President of Montenegro (*Official Gazette of the Republic of Montenegro*, Nos. 17/07, 8/09 and 12/16).
5. The Law on Election of Councillors and Representatives (*Official Gazette of the Republic Montenegro*, Nos. 4/98, 17/98, 14/00, 9/01, 41/02, 46/02, 48/06, 46/11, 14/14, 47/14 and 12/16).
6. The Law on the Voter Register (*Official Gazette of the Republic Montenegro*, Nos. 010/14, 020/15 and 092/17)
7. The Law on Financing Political Entities and Election Campaigns (*Official Gazette of the Republic Montenegro*, No. 52/14), as amended in 2017.
8. The Law on Electronic Media (*Official Gazette of the Republic Montenegro*, Nos. 046/10, 040/11, 053/11, 06/13, 055/16 and 092/17).

3. Election administration

22. The presidential election was administered by a three-tiered election administration comprising the State Election Commission (SEC), 23 municipal election commissions (MECs) and 1 214 polling boards (PBs). The SEC and MECs are permanent bodies that serve four-year terms, PBs are appointed for each election. Despite previous Venice Commission recommendations, the election law does not contain any provision on the impartiality and professionalism of election management bodies.[9]

23. The SEC is composed of eleven members. Its chairperson is appointed by the parliament as are the ten standing members: four are proposed by the parliamentary majority, four by the parliamentary opposition (one of them has the function of Secretary in charge of the administrative service), one member is appointed from a national minority (the minority political group that won the most votes in the previous elections), and one member is a representative from civil society (this position has been vacant since November 2016).

24. The MECs are composed of a chairperson and four members appointed by the corresponding municipal assemblies: two are appointed by the majority and two by the opposition. The chairperson is appointed by the party who won the highest number of mandates in the previous municipal elections. The secretary is appointed following a proposal by the opposition. The composition of the MECs does not provide for national minority representation, contrary to a recommendation by the Venice Commission.

25. The PBs are formed no later than ten days before election day and are composed of a chairperson and four members, as well as their deputies, based on nominations by political parties represented in the municipal assemblies. Exceptionally, the composition of a PB can be amended, at a specific request of a candidate, up until 12 hours before the opening of a polling station.[10] Many PB members were changed close to election day.

26. In addition to the above-mentioned compositions of the SEC, MECs and PBs, each presidential candidate can nominate one authorised representative to all levels of the election administration with the right to participate in the work and decision-making in the 20 days before election day (five days in the PBs). Of the seven presidential candidates, six exercised this right at the SEC level and four at MEC level. The mandates of the authorised representatives expire after the election results are published.

27. The SEC met most of the legal deadlines. It held regular sessions but they were insufficiently prepared, sometimes chaotic, and, on several occasions, led to a lack of clear instructions on election day procedures, verification of signatures, election dispute resolution. Although SEC sessions were open to observers, they remained closed to the media despite previous Venice Commission and ODIHR recommendations.

4. Voter list and candidate registration

28. Voter registration is passive. The electoral register is permanent and centrally maintained by the Ministry of the Interior based on the registers for citizenship, residence, births and deaths. The SEC has a supervisory role over the implementation of legal provisions pertaining to the voter register and is granted electronic access. The Administrative Court is mandated to review any voter register complaints.

29. The Ministry of the Interior informed citizens, through its website and the media, that they could check their data on its website from 21 January to 31 March, and make requests for corrections. Despite this information being presented in a format that lacked clarity or coherence, a total of 12 282 requests were made (2.3% of the total number of voters in the register).

30. The 2017 amendments to the Law on the Voter Register aim to enhance the protection of personal data of voters by limiting access to the voter register to political parties and civil society organisations at the premises of the Ministry of the Interior and by preventing the copying of the data.[11] [12]

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9. See Section II.3.1 of the Venice Commission's Code of Good Practice in Electoral Matters.
10. At the substantiated request of a political party or group of voters which acquired the right to propose representatives to the permanent PB composition.
11. The Constitution guarantees the protection of personal data, prohibits the use of personal data for purposes other than those for which they were collected and provides that everyone shall have the right to be informed about the personal data collected about him/her and the right to "court protection" in case of abuse.
12. Two organisations have requested insight into the voter register: the Centre for Democratic Transition (CDT) and the Network for the Affirmation of the NGO Sector (MANS).

31. All citizens who are 18 years or older by election day, have had permanent residence in Montenegro for at least 24 months prior to election day, and who have not been declared mentally incapacitated by a court, have the right to vote. The residence requirement has been consistently criticised in the previous opinions and recommendations of the Venice Commission and OSCE/ODIHR. It goes in particular against the principles set forth in the Venice Commission Code of Good Practice in Electoral Matters.[13]

32. The voter list was closed 10 days before election day and the SEC announced that the total number of voters registered was 532 599, while the population of Montenegro was estimated in July 2017 to amount to 642 550 inhabitants[14] thus a difference of approximately 110 000. Based on these figures, the electoral body represents over 80% of the population which is a relatively high figure. According to the statistics from the 2011 census, the population between 0-19 years was 162 844. Many of the interlocutors of the Assembly's ad hoc committee questioned the accuracy of the voter register, alleging that the voter list contained voters living abroad[15] or deceased. Minorities represent approximately 18% of the electoral body.

33. The candidate registration process started on 19 January and ended on 26 March 2018. All citizens with voting rights and permanent residency in Montenegro for at least 10 of the previous 15 years are eligible to stand for office.

34. Candidates can be nominated by political parties or a group of citizens with the support of at least 1.5% of the total registered electorate which represents almost 8 000 voters. If this is relatively easy for the ruling party DPS, in power for 27 years and with approximately 100 000 members, almost a fifth of the total number of voters, it might prove more difficult for smaller parties. This 1.5% requirement is not in line with the Venice Commission Code of Good Practice in Electoral Matters, which states that signatures should not exceed 1% of the electorate.[16]

35. Furthermore, and despite previous recommendations, voters are still limited to sign only for the support of one candidate, which could in principle limit political pluralism.[17] A single political party or a group of citizens may only nominate one candidate. Two or more political parties may nominate a joint candidate.

36. Several of the ad hoc committee's interlocutors criticised this exercise of collecting signatures, especially in a country such as Montenegro with a rather small population and where, as reported in previous election observation reports, voters, and especially public employees, are subject to pressure and intimidation. Some representatives of candidates mentioned that one or two candidates may receive fewer votes than supporting signatures, something which was confirmed by the results. In a positive development, in line with a Constitutional Court decision, voters no longer have to sign in support of lists in front of an MEC representative.

37. On 12 March, the SEC introduced an online application allowing voters to check if their names appeared on a signature support list. A number of media, and some candidates, criticised the SEC because the application was introduced after three candidates had already been registered. This late decision and lack of legal clarity led to the signature verification process being at odds with the Venice Commission's Code of Good Practice in Electoral Matters which requires that the rules for verification of signatures be applied fairly and equally to all parties.[18] In total, over 1 000 complaints alleging forged signatures were filed with the Prosecutor's Office.

38. Finally, seven candidates, six men and, for the first time, one woman, ran for this election. The candidate registration process was inclusive and the SEC registered all candidates who submitted nomination documents. Following the drawing of lots, the sequence of names on the ballots was the following: Mr Marko Milačić, nominated by True Montenegro (PCG); Mr Mladen Bojanić, nominated by the Democratic Front (DF), Democratic Montenegro (DCG), United Reform Action (URA) and the Socialist People's Party of Montenegro

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13. See the joint opinion of the Venice Commission and OSCE/ODIHR, CDL-AD(2011)011, paragraphs 24-26. See also Section I.1.1.c.iii of the Venice Commission's Code of Good Practice in Electoral Matters, which states that a length of residence requirement may be imposed on nationals solely for local or regional elections.
14. The latest census was conducted in 2011 and indicated a population of 625 266 inhabitants. In the 2013 presidential elections, there were 511 405 voters on the voters list and 528 817 voters for the 2016 parliamentary elections (+3.4% compared to 2013). https://www.monstat.org/eng/page.php?id=393&pageid=57.
15. The law does not allow for out of country voting but voters living abroad cannot be removed from the voter list if they maintain a residence in the country.
16. See paragraph I.1.3.ii of the Venice Commission's Code of Good Practice in Electoral Matters.
17. See paragraph 77 of the Venice Commission's Guidelines on Political Party Regulation which recommends that «in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party".
18. See paragraph I.1.3.iii of the Venice Commission's Code of Good Practice in Electoral Matters.

(SNP); Mr Hazbija Kalač, nominated by the Party of Justice and Reconciliation (SPP); Mr Vasilije Miličković, nominated by a Citizen Action Group; Mr Dobrilo Dedeić, nominated by Serb Coalition; Ms Draginja Vuksanović, nominated by the Social Democratic Party of Montenegro (SDP); and Mr Milo Đukanović, nominated by the ruling party DPS.

5. Election campaign, funding and the media

39. The election law does not regulate the official start and end of the campaign; it only states that the right to free airtime on the public broadcaster starts on the day the candidates are registered and ceases 24 hours before election day.

40. The campaign started three weeks before election day, after the deadline for registration of candidates which was on 26 March. The campaign and activities of the candidates were generally low-key and overall peaceful.

41. The authorities granted access to public places on an equal basis but only the ruling party candidate held large-scale rallies. Other candidates organised mostly small events. The campaign was mainly visible through a number of billboards. But here also, they were predominantly featuring the ruling party candidate. The campaign also took place through door-to-door canvassing, advertisements in traditional media and use of social networks. The tone of the campaign was largely respectful and candidates were able to campaign without restrictions.

42. The election campaign of presidential candidates was mainly focused on the issues of the fight against corruption and organised crime, unemployment, security, migration, as well as foreign policy topics: European Union integration and the question of NATO membership or the pro-Russian and anti-NATO campaign.

43. Many ad hoc committee interlocutors from the opposition and civil society mentioned cases of misuse of administrative resources, usually in favour of the ruling party's candidate, and widespread hiring of public employees despite the restriction on doing so during the election period, vote buying and collecting of identification documents to prevent voters from voting. These issues had a negative impact on the campaign and reduced voters' trust in the democratic electoral process. They are recurrent in elections in Montenegro and have been mentioned in most of the previous observation reports by the Parliamentary Assembly.

44. The media landscape in Montenegro is pluralistic but reflects the political divisions. As mentioned by some of the ad hoc committee's interlocutors, the media are subject to political and economic pressure due to a lack of financial autonomy. Due to the small advertising market, most media rely on State funds, corporate owners or international aid. This issue of the financing of the media, as well as selective and non-transparent public funding through advertising, is considered to exert an undue influence on the media. Additionally, media ownership is often difficult to determine. Although the use of internet is growing, television is still the primary source of news in the country.

45. The election law regulates media coverage of the election campaign and requires the public broadcaster to provide all candidates with free and equitable access. The public broadcaster (RTCG) offered all candidates equal access to free airtime, in accordance with the law, and organised two television debates. In this regard, the ad hoc committee regretted that the ruling party's candidate did not participate in the debates, which constitute a democratic procedure allowing voters to make an informed choice.

46. A new managerial team of the RTCG was appointed in March 2017. Since then, the RTCG has faced criticism from the ruling party which accused it of promoting opposition parties and views. At the end of 2017, in controversial decisions, the parliament replaced two members of the RTCG Council and one member of the Agency for Electronic Media (which is charge of regulating media) due to alleged conflict of interest.

47. Some ad hoc committee interlocutors voiced concerns about the intimidation of journalists. Since 2004, 76 cases of attacks against journalists have been reported, many of them not yet solved.[19] While attacks on journalists have decreased in recent years, a bomb exploded in front of the house of a journalist on 1 April,[20] and some media representatives expressed concerns for themselves and their relatives.

19. The 2016 European Union progress report recalled that "there has been no progress in the resolution of cases of attacks on journalists".

20. It happened in Bijelo Polje. An act of intimidation police believed was linked to his professional activities but not to the election.

48. The Law on Financing of Political Entities and Election Campaigns forbids contributions from anonymous donors, trade unions, religious communities, non-governmental and State-funded organisations and foreign sources. Any citizen can donate up to €2 000 to each candidate and legal entities up to €10 000. A candidate can spend up to €1.6 million during the entire campaign, which one could consider as a significant amount in view of the size of Montenegro and its population. The law does not distinguish between contributions received from parties or other legal entities.[21]

49. According to many interlocutors, with the exception of the ruling party candidate, candidates had limited resources. Moreover, there is a lack of transparency concerning the funding of the election campaign of some candidates. The Agency for Prevention of Corruption is tasked with the overall supervision of the campaign financing regulations, but its work was criticised by the representatives of civil society and the media. The system of funding for political parties and presidential candidates seems to be very generous compared with the salaries and pensions funded from the national budget of Montenegro.

50. As in previous elections, candidates generally failed to report in-kind donations and this non-compliance has not been properly and efficiently addressed by the Agency for Prevention of Corruption. Many ad hoc committee interlocutors questioned the impartiality and voiced criticisms regarding the functioning and transparency of the Agency as well as its reluctance to co-operate with civil society organisations by publishing or providing them with any information. They regretted that financial reports submitted by candidates to the Agency are superficial and that there is no segregation of costs allowing a better public control of the expenses. They believe campaign expenses are underestimated, including those concerning advertisements in the media as it is not possible to know what prices the different candidates are charged by the media.

6. Voting and counting

51. The members of the ad hoc committee found that, on election day, at the polling stations visited, opening, voting and counting operations were carried out in an orderly and professional manner. The members of polling stations co-operated fully with the eight teams of the Parliamentary assembly deployed throughout the country.

52. According to OSCE/ODIHR statistics, the opening was assessed positively in 48 of the 50 polling stations observed; voting was assessed positively in 97% of the polling stations visited and the work of the PB members was assessed positively in 99%; the closing and counting was assessed positively in 44 of the 46 observations; the MEC members, despite a lack of written procedures, were well organised and the tabulation process was assessed positively in all 17 MECs observed.

53. The following shortcomings, mainly technical, were observed by the members of the ad hoc committee throughout election day and during closing and counting:

– more than half of the polling stations were not accessible to people with reduced mobility, and in 30% the layout was not suitable for voters in wheelchairs;

– secrecy of the vote, although generally respected, could be compromised in 28% of polling stations by the way voting booths were positioned;

– in 16% of the observations, voters were refused the right to vote, but mostly due to not being on the voter list in that polling station;

– in some polling stations, cases were noted of unintentional non-compliance with legally required steps before the opening of the ballot boxes;[22]

– in 10 observations, non-PB members took part in the count and in 16 cases, one or more PB members refused to sign the protocols;

– for future elections, the polling stations should be equipped with transparent ballot boxes.

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21. The law does not differentiate membership fees from other funds channelled from the party accounts to the dedicated account opened by the candidate.

22. Such as counting the unused ballots (11 cases), control coupons and signed electronic voter identification slips (15 cases).

54. The ODHIR long-term observers also reported indications of vote buying and the use of lists to track voters in several polling stations. Similar reports by the authorised representatives appeared in the media and the State Prosecutor's Office of Bijelo Polje received two complaints from the police. On election day, MECs received six complaints alleging violations of campaign rules, video recording at polling stations, vote buying and intimidation of voters.

55. With regard to the above, ad hoc committee members were concerned by the number of polling stations with less than one hundred voters on the voter list; the secrecy of the vote could therefore be relative and could favour vote buying as it would be easier to have control over the votes cast by the voters.

56. On 28 April 2018, the State Election Commission approved the final results of the elections which had a 63.92% turnout. Mr Milo Đukanović was elected President with 53.90% of the votes, Mr Mladen Bojanić 33.40%; Ms Draginja Vuksanović 8.20%; Mr Marko Milačić 2.81%; Mr Hazbija Kalač 0.80%; Mr Vasilije Miličković 0.48% and Mr Dobrilo Dedeić 0.41%; with 5 997 spoiled votes (1.76%). It should be noted that, together, the last four candidates account for less than 5% of the votes and that three of them received fewer votes than the number of supporting signatures required for running in this election.

7. Conclusions and recommendations

57. The Parliamentary Assembly observation delegation concluded that the presidential election on 15 April 2018 in Montenegro respected fundamental freedoms, voting was well organised, and voters made their choice among a wide range of candidates, even though the candidate and leader of the ruling party enjoyed institutional advantages consolidated over the 27 years in power of his party.

58. As regards the electoral legal framework, overall it provides a sound basis for the conduct of democratic elections, and the recent adopted amendments showed the general willingness of the authorities to engage in electoral reform. However, the lack of regulations on verification of supporting signatures and sanctions for violations, on dispute resolution procedures and on campaign financing, undermined the integrity of the electoral process.

59. With regard to the election campaign, the Assembly's delegation noted that it was peaceful, the candidates were able to campaign freely and the fundamental freedoms of assembly, movement and association were respected. However, credible allegations of vote buying, hiring of public employees during the election period and pressure on voters, which is regrettably a recurrent feature of elections in Montenegro, undermined voters' confidence in the electoral process

60. After the 2016 parliamentary elections, the opposition refused to accept the results and boycotted the parliament. This boycott continued after Montenegro's accession to NATO. In this regard, the ad hoc committee underlines the responsibility of all political stakeholders, including the opposition, to ensure the democratic functioning of the parliament and its legislative work.

61. The election was generally well administered, the SEC met most of the legal deadlines but the continued politicisation of election-related bodies and institutions remain issues of concern. Moreover, there is a need for a clear distinction of responsibilities between the SEC and other relevant institutions concerning voter registration. The Assembly's delegation also welcomed the openness of the members of the polling stations on election day and their spirit of sincere co-operation with the international observers.

62. As for the media coverage of the presidential campaign, the delegation noted that the media landscape in Montenegro is pluralistic but reflects the political divisions and is subject to political and economic pressure due to a lack of financial autonomy. The public broadcaster offered all candidates equal access to free airtime, in accordance with the law, and organised two television debates. In this regard, the Assembly's delegation regretted that the ruling party's candidate did not participate in the debates, which constitute a democratic procedure allowing voters to make an informed choice.

63. With regard to the financing of the election campaign of candidates, the Assembly's delegation was informed by many interlocutors that, with the exception of the ruling party candidate, the candidates had limited resources. The Assembly's delegation is convinced that there is a need for increased transparency and accountability in campaign financing and effective mechanisms for monitoring legal compliance through audits. In this regard, the work of the Agency for Prevention of Corruption was criticised by the representatives of civil society and the media.

64. The Assembly's observation delegation invites the authorities of Montenegro to continue to co-operate with both the Parliamentary Assembly and the Venice Commission in order to resolve the problems noted during the presidential election of 15 April 2018 and to improve the country's electoral legal framework and electoral practices.

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: Mr Jonas GUNNARSSON (SOC, Sweden)

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

– Ms Boriana ÅBERG, Sweden

– Ms Marie-Christine DALLOZ, France

Socialists, Democrats and Greens Group (SOC)

– Mr Paolo CORSINI, Italy

– Ms Didem ENGIN, Turkey

– Mr Jonas GUNNARSSON, Sweden

European Conservatives Group (EC)

– Mr Oleksii GONCHARENKO, Ukraine

– Mr Suat ÖNAL, Turkey

Alliance of Liberals and Democrats for Europe (ALDE)

– Ms Emilie Enger MEHL, Norway

– Mr Robert TROY, Ireland

Group of the Unified European Left (UEL)

– Mr Marco NICOLINI, San Marino

Free Democrats Group (FDG)

– Mr Fazil MUSTAFA, Azerbaijan

Co-rapporteurs of the Monitoring Committee (ex officio)

– Mr Andrea RIGONI, Italy

– Mr Ionut-Marian STROE, Romania

Venice Commission

– Ms Mirjana LAZAROVA-TRAJKOVSKA, "the former Yugoslav Republic of Macedonia"

Secretariat

– Mr Chemavon CHAHBAZIAN, Head of Division, Election Observation and Interparliamentary Co-operation Division

– Mr Franck DAESCHLER, Principal Administrative Assistant, Election Observation and Interparliamentary Co-operation Division

– Mr Michael JANSSEN, Administrator, Venice Commission

Appendix 2 – Programme of the International Election Observation Mission (IEOM)

Friday 13 April 2018

10:00 – 11:00 Internal meeting of the ad hoc committee:
- Welcome address by the Head of delegation
- Information by the co-rapporteurs
- Legal framework and recent legal developments, Venice Commission
- Information by the Secretariat

11:00 – 12:30 Joint parliamentary briefing

11:00 – 11.15 Opening interventions:
- Mr Jonas Gunnarsson, Head of the Parliamentary Assembly Delegation
- Mr Fabio Massimo Castaldo, Head of the European Parliament Delegation

11:15 – 11:30 Meeting with representatives of the international community:
- Ambassador Maryse Daviet, Head of the OSCE Mission to Montenegro
- Ambassador Aivo Orav, Head of the European Union Delegation to Montenegro

11:30 – 12:30 Briefing by the ODIHR Election Observation Mission Core Team – Part 1:
- Introduction and Overview of Findings to Date – Ms Tana de Zulueta, Head of Mission
- Political Overview and the Campaign – Mr Mauro Calvo, Political Analyst
- Legal Framework, Complaints and Appeals – Ms Yelena Kovalyova, Legal Analyst
- Media Environment – Mr Giuseppe Milazzo, Media Analyst
- Election Administration, Voter Registration – Ms Vania Anguelova, Election Analyst

14:00 – 14:45 Meeting with representatives of the media:
- Agency for Electronic Media – Mr Abaz Džafić, Director
- RTCG – Ms Tatjana Perović, Editor of Informative Programmes
- *Daily Vijesti* – Mr Željko Ivanović, Executive Director
- Pink TV – Ms Ivana Šebek, General Director

14:45 – 15:30 Meeting with the representatives of the NGOs involved in the election observation:
- Center for Monitoring and Research (CeMI) – Ms Nikoleta Tomović, Executive Director
- Network for Affirmation of the NGO Sector (MANS) – Ms Vanja Ćalović Marković, Executive Director
- Center for Democracy and Human Rights (CEDEM) – Ms Milena Bešić, Director

15:30 – 17:50 Meeting with the seven presidential candidates and/or their representatives:

– Mr Mladen Bojanić (DF, DCG, URA,SNP)

– Mr Dobrilo Dedeić (Serb Coalition)

– Mr Tarzan Milošević, DPS Political Director, representative of Mr Milo Đukanović (DPS)

– Mr Hazbija Kalač (SPP)

– Mr Vladislav Dajković, PCG General Secretary and Head of Election Headquarters, representative of Mr Marko Milačić (PCG)

– Mr Vasilije Miličković (Citizen Action Group)

– Mr Ivan Vujović, Head of Campaign Office, representative of Ms Draginja Vuksanović (SDP)

18:00 – 19:00 Meeting with drivers and interpreters

Saturday 14 April 2018

09:30 – 10:00	Agency for Prevention of Corruption – Mr Dušan Drakić, Head of Section for Implementation of Control Measures in Financing of Political Entities and Election Campaigns, and Ms Marina Mićunović, Head of Section Department of International Co-operation and Standards
10:00 – 10:45	State Election Commission – Mr Budimir Šaranović, President
10:45 – 12:15	Briefing by the ODIHR Election Observation Mission – Part 2: – Ms Vania Anguelova, Election Analyst, and Mr Don Bisson, Deputy Head of Mission – Mr Robert Bystricky, Statistical Analyst – Observation Forms – Area-specific Briefing by the ODIHR EOM Long-Term Observers – Digital Pen Training – Mr Kyle Bowers, Operations Expert

Sunday 15 April 2018

07:00	Observation of voting
20:00	Observation of closing and counting at polling stations

Monday 16 April 2018

15:00	Joint press conference

Appendix 3 – Press release issued by the International Election Observation Mission (IEOM)

Fundamental freedoms respected in Montenegro presidential election, governing party candidate had institutional advantage, international observers say

Podgorica, 16 April 2018 – Fundamental freedoms were respected in the 15 April Montenegro presidential election, although the governing party candidate held an institutional advantage, the international observers concluded in a preliminary statement today. Candidates campaigned freely, and the media provided the contestants with a platform to present their views, but the lack of analytical reporting and absence of the frontrunner in the televised debates reduced voters' opportunity to make an informed choice, the statement says.

The technical aspects of the election were adequately managed, although the transparency and professionalism of the State Election Commission remain issues of concern. Election day proceeded in an orderly manner, despite a few procedural irregularities, the observers said.

"It is important that fundamental freedoms of assembly and speech, for example, were respected in this election, and that the candidates were able to campaign freely and to reach voters through the media," said Tana de Zulueta, Head of the long-term election observation mission from the OSCE Office for Democratic Institutions and Human Rights. "At the same time, they were not able to compete on a level playing field, as the frontrunner enjoyed the advantages that the ruling party, which he leads, has consolidated over its 27 years in power."

The campaign activities of the seven candidates who ran in the election – six men and, for the first time, a woman – were generally low-key. Opposition and civil society representatives voiced concerns that, alleged widespread hiring of public employees, despite the restriction on doing so during election period, as well as vote buying and the collection of identification documents to prevent some voters from casting ballots. These recurrent allegations of pressure on voters to support the ruling party candidate had a negative impact on the campaign environment.

The public broadcaster fulfilled its duties to provide candidates with free airtime, organised interviews with candidates and aired two debates, although the candidate nominated by the governing party did not take part. Private media outlets monitored aligned along political lines. With no legal limits on the amount of paid advertising, candidates who could afford to purchase more airtime had an advantage, the observers said

"Yesterday, voting was well organised, and voters made their choice among a wide range of candidates. As for the election campaign, there were reported cases of the misuse of State resources and credible allegations of pressure on voters in favour of the ruling party candidate," said Jonas Gunnarsson, Head of the delegation from the Parliamentary Assembly of the Council of Europe. "Regrettably, those problems are recurrent from past elections in Montenegro. Television debates among presidential candidates are a democratic procedure allowing voters to make informed choice, and the PACE delegation regrets that the ruling party candidate did not take part in the debates."

Candidates could use public and private funds for campaigning and receive monetary and in-kind donations from individuals and legal entities. They must report regularly during the campaign and submit final reports, which are published online, within 30 days of election day. Candidates received private donations mostly from individuals, and predominantly spent the funds on campaigning in the media.

The laws related to elections provide a sound basis for the conduct of democratic elections, and recent amendments incorporating a number of ODIHR and Council of Europe Venice Commission recommendations signalled a general willingness to engage in electoral reform, the statement says. There were, however, omissions and ambiguities, such as the lack of regulations on the verification of supporting signatures or sanctions for violations related to these. The lack of regulations on dispute resolution procedures, the tabulation of results and campaign financing also undermined the integrity of the electoral process. Attempts by the SEC to clarify some aspects of the laws through instructions and decisions lacked consistency.

"While the fundamental freedoms were, indeed, respected, and the management of the election was a positive, work is still needed on the laws governing elections, and on electoral reform in general," said Fabio Massimo Castaldo, Head of the European Parliament delegation. "The relevant political actors in Montenegro will need to work together to effectively address these shortcomings, as a step along the path toward realizing their European aspirations."

Voters, candidates and the entities who nominate them may challenge actions and decisions of election commissions at higher-level commissions, and voters filed over 1,000 complaints, alleging forgery of supporting signatures or the misuse of personal data in lists of these signatures. Three complaints were filed with the SEC and one with a lower commission in the pre-election period, regarding the appointment of polling station chairpersons. In practice, election dispute resolution depends on the discretion of different public authorities, which at times failed to ensure effective legal redress.

The SEC met most of the legal deadlines but lacked transparency, as decisions were not published, and its sessions were not open to the media. Although it held regular sessions, these were insufficiently prepared and organised. The election law does not contain provisions requiring impartiality and professionalism of members of election management bodies, and SEC members from opposition parties, representatives of the media and of citizen observer organizations expressed concerns that decisions were made along party lines. Municipal election commission sessions were mostly open to observers, and some of these commissions posted their decisions.