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Observation of the presidential election in Montenegro (19 March and 2 April 2023)

Election observation report
Bureau of the Assembly
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1. Introduction

1. On 23 January 2023, the Speaker of the Parliament of Montenegro, Ms Danijela Đurović, invited the Parliamentary Assembly to observe the presidential election in Montenegro on 19 March 2023. The same day, the Bureau of the Assembly decided to observe this election, as the country is under the post-monitoring procedure with the Assembly, to set up an ad hoc committee composed of 20 members (SOC-6; EPP/CD-6; ALDE-4; EC/DA-3; UEL-1), as well as the two co-rapporteurs of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), and to conduct a pre-electoral mission. At its meeting on 27 January 2023, the Bureau approved the composition of the ad hoc committee (see Appendix 1) then the Presidential Committee appointed Mr Joe O'Reilly (Ireland, EPP/CD) as Chairperson.

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

3. A pre-electoral delegation was in Podgorica on 23 and 24 February 2023 to assess the pre-electoral climate. It met with presidential candidates or their representatives, leaders and representatives of the main parliamentary groups, the Chairperson and members of the State Election Commission (SEC), the Minister of Public Administration, members of the delegation of Montenegro to the Assembly, representatives of civil society and of the media, the election observation mission of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (ODIHR) and diplomats present in Podgorica. The programme of the pre-electoral mission is set out in Appendix 2 and its statement in Appendix 3.

4. The full Assembly's ad hoc committee (hereafter the "PACE delegation") worked from 17 to 20 March 2023. It operated as part of an International Election Observation Mission (IEOM) together with a delegation from the European Parliament and the electoral observation mission of the ODIHR. The programme of the delegation's meetings is set out in Appendix 4.

5. The IEOM concluded that the first round of the Montenegro's presidential election was competitive, with candidates able to campaign freely and fundamental freedoms for all citizens respected, but that the candidate registration was not inclusive and longstanding shortcomings in the legal framework and campaign finance regulations remained unaddressed. The joint press release is set out in Appendix 5.

6. Members of the PACE delegation returned to Montenegro from 31 March to 3 April 2023 to observe the second round of the presidential election, in the framework of the IEOM. The programme of the delegation's meetings is set out in Appendix 6.

7. The IEOM concluded that the second round was competitive and that as in the first-round candidates were able to campaign freely with fundamental freedoms respected, but that the tone was increasingly negative and the gaps in the legal framework became ever more apparent. The joint press release is set out in Appendix 7.

2. Political context

8. Montenegro is a parliamentary republic with a mixed parliamentary and presidential political system, with both institutions elected by popular vote. On 16 January 2023, the Speaker of the Parliament called a presidential election for 19 March. The elections took place amidst an ongoing institutional and constitutional crisis, a political impasse and calls for early parliamentary elections as the way out of crisis.

9. In the 2020 parliamentary elections, the Democratic Party of Socialists (DPS) won most of the seats, but the three coalitions which stood against it formed a government, replacing the ruling DPS for the first time since 1990.

10. The Assembly praised this peaceful shift of power but regretted that the electoral legal framework remained largely unchanged during the 2020 general elections, despite the repeated recommendations of the ODIHR to address its flaws and limitations, and the fact that practices contrary to ODIHR principles were once again observed during these elections, notably in the fields of abuse of State resources, independent media coverage and campaign financing.[1]

11. This government had to resign following a vote of no confidence as did the last government in August 2022, but the latter remained in office to date due to the lack of a newly appointed government.

12. Women remain underrepresented in political life. In spite of gender quotas for party lists, only 18 out of the 81 members of the current parliament and 4 of the government's 20 ministers are women.

13. In September 2022, the president refused to accept the nomination of a new candidate for prime minister and requested that the parliament shorten its mandate and allow for early elections. In response, the parliamentary majority requested the Constitutional Court to assess whether the president violated the Constitution with a view to initiating his dismissal. Further, the parliament adopted amendments to the Law on the President, allowing the parliament to nominate a prime minister that is supported by the majority of members of parliament if the president declined to do so. The amendments were adopted despite the urgent opinion of the Venice Commission advising against their adoption.[2]

14. In September 2022, the Constitutional Court lost the quorum necessary to make decisions, as the parliament was repeatedly unable to elect new judges. As a result, several important cases remained pending, including those related to the October 2022 municipal elections (resolved on 16 March 2023) and the constitutionality of the president's decisions and of new legislation. In December 2022, the Assembly co-rapporteurs, Mr Damien Cottier (Switzerland, ALDE) and Mr Nicos Tornaritis (Cyprus, EPP/CD), called on all stakeholders to act responsibly and overcome division to find a compromise enabling the election of judges to the Constitutional Court. They stressed that a fully functional Constitutional Court must be in place without delay in order to break the political deadlock, given the fact that this institution is vital for the functioning of democracy, especially ahead of [the 2023] elections.[3] Following a political agreement on 27 February 2023, the parliament voted to fill three out of four vacancies, providing the Constitutional Court with a quorum. All three newly appointed judges are women.

15. During the electoral campaign, the negotiations over forming a new government continued. At the same time, the current prime minister was seeking to secure parliamentary support to restore his government. On 16 March 2023 the president dissolved parliament and on the next day called early elections for 11 June 2023. This was immediately challenged by the opposition and a decision is expected from the Constitutional Court.

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1. Resolution 2374 (2021) "Post-monitoring dialogue with Montenegro".
2. See CDL-AD(2022)053, "Montenegro – urgent opinion on the Law on amendments to the Law on the president".
3. https://pace.coe.int/en/news/8921/montenegro-a-fully-functional-constitutional-court-must-be-put-in-place-without-delay-say-pace-co-rapporteurs

3. Electoral system and legal framework

16. The president is directly elected in a single nationwide constituency for a five-year term. A president may not serve more than two terms. To be elected, a candidate must receive over 50% of the valid votes cast. Otherwise, the two frontrunners compete in the run-off held 14 days later.

17. The legislation for the presidential election primarily consists of the 2007 Constitution, the Laws on the Election of the President (2007), on the Election of Councillors and Representatives (election law, 1998), and on Financing of Political Subjects and Election Campaigns (2020). The process is further regulated by the SEC instructions. The parliament has not amended the election law since 2014 and the law requires comprehensive reform. Most previous Venice Commission and ODIHR recommendations remain unaddressed, including those related to harmonisation of the election legislation, restrictions on voting and candidacy rights, transparency and procedures for dispute resolution, and media and campaign finance oversight.

18. The electoral legal framework overall constitutes an adequate basis for the conduct of democratic elections, but at the same time contains several gaps and lacks clarity on a number of issues that undermine its effectiveness. The election law does not contain, *inter alia*, sufficient regulation of the second round of the election, grounds for annulment of election results by the court, procedures for the tabulation of results and election dispute resolution, the liability of election commission members for violations of the law and of candidates for falsifying supporting signatures. In addition, the law lists grounds for the optional invalidation of results at the polling station level allowing for arbitrary and inconsistent decisions of municipal election commissions (MECs).

4. Election administration, voters lists and registration of candidates

19. The presidential election was managed by a three-tiered election administration comprising the SEC, 25 MECs and 1 162 Polling Boards (PBs).

20. Women remain underrepresented in the election administration, especially in management positions, as only 3 of the 11 permanent SEC members and 5 of the 25 MEC chairpersons are women.

21. The SEC is a permanent body with a four-year mandate and has a chairperson elected by the parliament following an open competition and ten members, including four nominated by the parliamentary majority and four by the minority. The SEC sessions were open to observers and media.

22. For this election, the SEC adopted some new regulations including on the independent voting of people with physical disabilities and on the work of PBs. However, it did not sufficiently regulate other aspects necessary for the proper implementation of the law and failed to provide comprehensive guidance to the lower-level election commissions, despite several requests from MECs. While the SEC functioned collegially when considering technical issues, most members voted along political lines on key decisions, including on the denial of registration to a prospective prominent candidate, which undermined stakeholder confidence in the election administration.

23. The MECs are composed of a chairperson and four permanent members appointed by the municipal councils, reflecting the results of the municipal elections. As a result of the October 2022 municipal elections not being finalised in four municipalities, including Podgorica, the affected MECs retained their previous compositions, which distorted the balance of political representation in the MECs. Further, some MECs did not fully ensure the transparency of their work. While the law requires MEC sessions to be open to observers and media, MECs often did not announce their sessions, and some MECs did not post all election-related information and decisions on their websites, as required by law.

24. The PBs consist of a chairperson and four members appointed by the MECs, in proportion to the representation of parties in the municipal councils. The formula for the MECs and PBs compositions aims to provide some political balance, but it does not prevent the majority membership of one party or coalition in lower-level commissions. In practice, nationwide, DPS has far greater representation on the election commissions than any other party or coalition. Due to a reduction of the overall number of polling stations, several polling stations across a number of municipalities were relocated or merged, which could negatively affect voter participation.

25. The election administration managed the electoral preparations efficiently and met most legal deadlines. As provided by law, all registered candidates nominated authorised representatives with full voting rights to the SEC and most candidates to the majority of the MECs, and some candidates nominated PB members. The SEC conducted a training for the MEC representatives, which then trained the PB members.

Some MEC did not conduct training but only distributed the training manuals to PB members. The law allows political parties and coalition to change their PB members up until 12 hours before voting starts and prescribes no sanctions for no-shows on election day. The SEC voter education campaign was limited to video spots explaining voting procedures.

26. Voter registration is passive. The right to vote is granted to all citizens at least 18 years of age, with permanent residence in the country for at least 24 months preceding the election day. The lengthy residence requirement is contrary to international standards and a prior Venice Commission and ODIHR recommendation to lift the requirement remains unaddressed. Moreover, the law does not prescribe clear and objective criteria to determine how a citizen acquires or loses permanent residence. This allows for arbitrary determinations and may result in the disenfranchisement of eligible voters, contrary to international standards. In November 2020, the Constitutional Court abolished the provision that disenfranchised the persons with intellectual and psychosocial disabilities.

27. The voter register (VR) is a permanent database maintained by the Ministry of Interior (MoI) and based on the residence, citizenship, births and deaths registers. By law, MECs, accredited observers, parliamentary parties and candidate representatives have the right to inspect the VR online. Voters had the opportunity to verify their personal data in the VR through a dedicated website or in person at local MoI offices and, until ten days before an election, could request corrections or amendments.

28. On 9 March 2023, the SEC informed that the VR for this election included 542 154 voters. Several IEOM interlocutors raised concerns about the accuracy of the VR, questioning the accuracy of permanent residence records and procedures for changing residence, raising the issue of possible duplicated entries and entries of deceased persons. While the MoI made some efforts to improve the VR, including eliminating some duplications in biometric data, it did not effectively address the longstanding concerns of the VR accuracy.

29. The right to stand as a presidential candidate is granted to any voter, provided that they have permanent residence in Montenegro for at least 10 of the last 15 years. This residence requirement is an undue restriction on the right to stand, contrary to international standards. A presidential candidate may be nominated by one or more political parties or a group of at least two voters. Nominations must be supported by signatures of at least 8 101 voters (1,5% of the voters registered for the last parliamentary elections), which can be seen as an excessive requirement according to international standards. Unduly restricting freedoms of association and expression and despite a prior Venice Commission and ODIHR recommendation, voters may sign in support of only one candidate.

30. The law does not prescribe detailed rules on signature verification, which is at odds with international good practice. On 10 February 2023, three weeks after the start of the nomination period and after the registration of one candidate, the SEC adopted an instruction on signature verification, partly regulating the process. The SEC verified whether the data of voters who provided signatures corresponded to their data in the VR. As in previous elections, voters could check online if their names have been registered in the SEC database as supporting one of the registered candidates, but only after candidate registration was finalised. As of 13 March 2023, the SEC had received 86 reports and numerous phone calls from citizens alleging their names were included in the database even though they did not sign in support of a candidate or signed in support of a different candidate. The prosecutor in Podgorica is investigating 30 such cases. As of election day, these cases were pending. The lack of an expedited mechanism to address such violations limited the effectiveness of this remedy, and if violations are left unsanctioned, it can have a detrimental impact on election stakeholders' trust in the integrity of the process.

31. The law requires nominees to submit certificates of citizenship and permanent residence issued by the MoI. On 3 February 2023, prior to the submission of applications for registration, the SEC decided to gather information about the permanent residence and voter registration status abroad of two prospective candidates based on their public statements that they intend to contest elections. The law does not provide the SEC with the competency to make such inquiries and only prescribes the SEC verification based on the MoI issued documents. On 18 February 2023, the SEC denied registration to Mr Spajić, citing contradictory information pertaining to his citizenship and permanent residence, despite the submitted documentation required by law. The SEC took this decision with a split vote: 8 votes in favour of not registering, 4 against and 4 abstentions. The SEC decision to deny Mr Spajić's registration is inconsistent with the national legislation and the manner in which his application was managed is at odds with international standards. The SEC did not offer Mr Spajić 48 hours to correct the shortcomings in his application, as prescribed by law, while it did so for four nominees with deficiencies in their nomination documents.

32. Overall, the SEC's denial of registration to Mr. Spajić, the inconsistency in decision-making and the lack of transparency in verifying support signatures and other nomination documents significantly undermined the inclusiveness of the candidate registration process and impacted confidence in the election administration. In total, nine prospective candidates submitted candidacies. The SEC registered seven candidates unanimously, including one woman, and two were denied registration.

5. Election campaign and its financing

33. Fundamental freedoms were respected and candidates were able to reach out to the electorate. By law, prospective candidates could begin campaigning after the call of elections, but they could campaign on media only after they were registered by the SEC. Campaign regulations prohibit religious organisations, among others, from campaigning on behalf or for the needs of political parties or candidates. Certain campaign regulation provisions are also applicable to campaigning on social networks, including the prohibition of the use of intolerant language by candidates. Candidates were entitled to equal access to public premises for organising campaign events and designated locations for placing campaign materials and no impediments were reported or observed. The law does not require print campaign materials to identify their sponsor, which limits accountability for negative campaigning or disinformation.

34. The campaign was competitive, with four candidates campaigning more actively, including the incumbent president who, like some other candidates, toured the country holding open rallies or closed meetings with their supporters. Other candidates were less visible while one was visible only on social media, raising concerns about his genuine intention to contest the election. Due to his registration already on 7 February 2023, one candidate (Mr Mandić) started campaigning in media more than three weeks earlier than the others. Several IEOM interlocutors thought that some candidates participated in the presidential election with the primary aim of gaining visibility for the upcoming early parliamentary elections.

35. On 17 March, the Serbian Orthodox Church in Montenegro took an active role in the campaign, by issuing a public statement calling voters not to support "the political forces which have led the country until 2020".

36. Campaign methods included door-to-door visits, posters and billboards and online advertising. Contestants also used social networks as a campaign platform. Some campaigns also operated call centres making phone calls and sending messages to voters, which were perceived by some voters as harassment.

37. Campaign topics included foreign policy and the fight against corruption, but the campaign discourse focused on personalities over policies. All but one candidate declared their support for the Euro-Atlantic integration of the country. The incumbent stressed the need for continuity, while opposition candidates mainly addressed issues concerning corruption and the economy. The tone of online discourse was generally neutral, while some instances of inflammatory speech were noted. Whereas the campaign was overall calm, some isolated incidents of violence and harassment occurred. In the campaign events women were under-represented among the audience and, with the exception of one woman candidate, as speakers. The only woman candidate, who is under police protection, received threats over social networks, which are currently being investigated by the prosecutor.

38. Campaign regulations aim to prevent the abuse of state resources for campaign purposes, including by introducing new public employment and by abusing office or budgetary resources but allow for circumvention. The Agency for Prevention of Corruption (APC), mandated with oversight of campaign regulations, published information on public employment introduced after the call of the election but did not publish any conclusions. Some IEOM interlocutors raised concerns about the misuse of state resources by political parties in control of public-funded institutions. As of 14 March 2023, the APC received 55 complaints, mostly submitted by the citizen observer organisation MANS, alleging that state bodies did not publish in a timely manner the required weekly statements on expenditures. The APC did not refer any of these cases to the court, but it decided *ex officio* to refer to court 31 cases of unreported or unlawful employment after the call of election, which remain pending, and referred one alleged case of collecting supporting signatures in a public company to the prosecutor, which was dismissed.

39. The campaign finance legal framework has remained unchanged since 2020. Most previous recommendations remain unaddressed, including on the process for verifying the legality of donations, the use of loans, effective sanctions for campaign finance violations, and effective oversight, underlining the need for comprehensive legislative reform. Overall, the deficiencies of the regulatory framework had a negative impact on the transparency and accountability of campaign financing.

40. Registered presidential candidates are entitled to public funding. However, in line with the law, the first allotment was distributed a week before election day, which does not contribute to balancing the financial opportunities each candidate has in the campaign. Each candidate may spend up to €1,7 million, a very high expenditure limit which also does not foster a level playing field. Candidates may receive monetary and in-kind donations, while donations from various sources, including anonymous and foreign sources, are prohibited. At odds with international standards and good practice, the law lacks regulation on third-party campaigning, candidates' use of their own funds, the process of taking loans and reporting on them, and a comprehensive methodology for evaluating in-kind donations.

41. The APC is mandated with the oversight of campaign finance. In accordance with the law, all candidates opened dedicated bank accounts and submitted their bi-weekly donation reports, most very close to election day, due to their later registration as candidates. The APC published the six received donation reports prior to election day and ahead of the legal deadline, contributing to the transparency of donations. Within the 14 March deadline, all candidates submitted their expenditure reports which were published by the APC within 24 hours, as the law requires. Candidates are required to report on their expenditures on social networks. Only the Bank statements of the campaign funds are required, with the final reports due 30 days after the election.

42. The APC does not have investigative powers; it can only request relevant ministries to verify whether donors are registered voters and not convicted of organised crime or corruption, but it lacks the means to effectively verify whether any donors are beneficiaries of public procurement contracts. In an established practice, the APC contracted a private agency to collect information on expenditures on media, social networks and billboards, but did not publish their findings before election day. The APC is only required to publish its conclusions on campaign finance sixty days after the elections results are published, which is not fully in line with international good practice. The APC can impose sanctions on candidates, initiate misdemeanour proceedings against political entities and responsible persons of state institutions, but not against groups of citizens who may nominate candidates. However, the APC cannot impose sanctions for inaccurate reports, which along with the lack of investigating powers, undermines the mechanisms for holding political entities accountable for campaign finance violations.

6. Media environment

43. The media environment is diverse. Media outlets operate in a limited advertising market, which affects their financial viability and makes them vulnerable to internal and external influence from corporate and political interests. The media landscape is polarised along political lines. Television remains the main source of information followed by online media. All four private TV channels with a national broadcast license have foreign companies as majority shareholders.

44. The freedom of expression and media freedom are well protected by the legislation. The 2021 legal amendments to the Criminal Code prescribed harsher penalties for attacks and threats against journalists and media professionals. However, cases of threats and intimidation towards journalists still occur and concerns remain over the protracted prosecution of relevant cases. Some IEOM interlocutors voiced concerns over the working conditions and professionalism of journalists, which affect the overall quality of information presented to the public.

45. The legal framework for the media is comprehensive. It was last amended in 2020, and a new set of draft media laws is currently under review to bring it further in line with EU regulations. Broadcast media are primarily regulated by the Law on Electronic Media (LEM), while print and online media rely upon self-regulation. Election campaign coverage by public and private broadcasters is regulated by the election law, the LEM and relevant regulations issued by the Agency for Electronic Media (AEM). By law, voters have the right to be informed about the political platforms of all candidates and public and private media are required to cover them in a balanced manner. The campaign coverage should be presented in election news blocks clearly separated from other news programmes. Paid advertisement is allowed under equal conditions and without time limitations, provided that it is labelled as paid. The Public Service Broadcaster Radio and Television of Montenegro (RTCG) is required to offer free airtime and equal election coverage as well as to organise election debates.

46. Instead of an independent media regulatory body, the election law stipulates an ad hoc parliamentary committee to oversee the coverage of the campaign by all media, but this committee has not been established for neither this election nor for the past three elections. The AEM, the broadcast media regulatory body, is mandated with elaborating election-related media regulations and adjudicating complaints. However, the AEM has no mandate to oversee broadcasters' compliance with the election law. As a result, media related

provisions of the election law are not enforced. Further, the AEM sanctioning powers are limited either to issuing warnings to broadcast media or to revoking their broadcasting license. Positively, the AEM for the first time published a preliminary media monitoring report ahead of the election day, on 13 March 2023.

47. The public broadcaster complied with the legal requirement to offer candidates free airtime and equal access to election coverage. However, it did not positively contribute to enabling voters to make an informed choice due to its decision to air most of its election coverage, including interviews of candidates, on the RTCG Parliamentary TV channel, which has low viewership. Moreover, it provided almost no news or editorial coverage of the election campaign on its main TV channel, RTCG1, besides holding one election debate. Despite a legal prohibition, some local public broadcasters aired political paid advertisement taking advantage of the absence of any institutional body empowered to sanction them.

48. Private TV channels contributed to informing the voters in various formats, including newscasts, talk shows, interviews, and election debates. Vijesti TV offered a rather balanced news coverage and organised interviews with candidates as well as an election debate. Prva TV and Adria TV displayed a clear bias in favour of Mr Mandić, giving the contestant from 54 and 46 per cent, respectively, of their news coverage. Mr Đukanović received the most news coverage from E TV, with 48 per cent. Mr Mandić, whose registration was finalized some three weeks before other candidates and thus could start campaigning on media, purchased 56 per cent of the paid advertisement on the monitored private TV. The news website Borba published and re-published three opinion polls from unverifiable sources which presented two particular candidates, Mr Đukanović and Mr Mandić, as frontrunners.

49. Foreign TV channels from the region, broadcasting in languages similar to the national language, are widely available to the public on cable TV, as allowed by law. This raised concerns over foreign interference and the potential impact of their programming on the electoral campaign. On 27 January 2023, a foreign TV channel informed the AEM that it planned to offer paid airtime to candidates in the Montenegrin presidential election. The AEM informed that, based on its monitoring, foreign TV channels from the region offered rather limited coverage of this election to date.

7. Complaints and appeals

50. The SEC and MECs, the Constitutional Court and the APC are the main institutions mandated with election dispute resolution. Several key aspects of the dispute resolution mechanisms are not in line with international standards and good practice, including restrictions on legal standing and limitations on the possibilities for appealing decisions on candidate registration and election results. Several IEOM interlocutors alleged that the institutions mandated to adjudicate disputes are susceptible to political influence, due to the lack of security of tenure or the appointment mechanism.

51. The Constitutional Court is mandated to review some SEC decisions, but the law does not provide for judicial review of most types of election commission decisions, including those upholding complaints and registering a candidate. This could leave election stakeholders without a possibility for legal redress. By law, in case of irregularities affecting the election results, the Constitutional Court may annul the results entirely or partially. However, according to the SEC and the Court, the MEC and SEC decisions on the election results constitute only arithmetical tabulations and may not be appealed. While voters and candidates may file complaints to the SEC or MECs, complaints to the Constitutional Court may be submitted by voters only on violations of their individual voting rights.

52. The SEC reviews complaints in public sessions while the Constitutional Court deliberates on election appeals in closed sessions and neither provides the parties to a dispute an opportunity to be heard, contrary to international standards. The SEC published decisions on complaints on its website, enhancing transparency.

53. Before election day, the SEC received five complaints, dismissed four as not being under its competence and rejected one. The observed considerations of complaints were in open SEC sessions and members were given the opportunity to familiarise themselves with the issues presented. The Constitutional Court lacked the necessary quorum until 27 February 2023, which effectively deprived stakeholders, including a candidate denied registration, of a legal remedy. After gaining quorum, the Court received 11 appeals, including against the SEC decision to verify the citizenship of some candidates and the denial of registration of a candidate. Two complaints to the SEC and five appeals to the Constitutional Court were filed against the incumbent's eligibility for a third term. However, the court prioritised the pending cases from the municipal elections, leaving the presidential election process without judicial review. Further, the law does not ensure an expedited judicial review, as the court may prolong the process indefinitely.

54. The APC receives complaints about the abuse of state resources, including the unlawful use of the state budget and the introduction of new public employment during the election period. Pursuant to complaints as well as *ex officio*, the APC has wide discretionary power to decide whether to refer a case to the Misdemeanour Court. The APC considers these cases *in camera* and did not publish any information about the cases it referred to the court; although not prohibited by law, this is limiting transparency. The law lacks clarity on who may appeal the APC decisions to the Administrative Court. Some IEOM interlocutors alleged that the APC has a selective approach when deciding which cases to investigate, considering more minor and less political cases over more serious allegations of wrongdoing. The Misdemeanour Court does not have expedited deadlines, which is at odds with international standards.

8. Election day

55. As part of the IEOM, the PACE observation delegation split into 12 teams and visited polling stations in Podgorica and the surrounding areas as well as in Cetinje, Budva, Bar, Ulcin, Kotor and Niksic. Their observations were in general similar to the ones of the other IEOM teams.

56. Election day was calm, with a few isolated incidents in and around polling stations. The campaign silence period was generally respected by all candidates on election day, although campaign advertisements were prevalent on social networks, which are not subject to campaign regulations. The election-day process was transparent and well organized, but observers noted that the secrecy of the vote was not always respected by voters. Further, in some polling stations or at their entrance, candidate representatives were observed to be taking note of who was voting, raising concerns about the voters' ability to vote free from pressure.

57. In total, 36% of the PB members of the polling stations observed by the IEOM were women, including 27% of the PB chairpersons.

58. The opening of polling stations was assessed positively in 66 of 68 observations. Fourteen of the observed polling stations did not open on time, but only with minor delays. Some procedural omissions were noted during preparations for voting, including not drawing lotteries to assign roles to PB members (37 cases), and ballot boxes not being sealed in the presence of the first voter (7 cases), and the PB not properly preparing its stamp (11 cases).

59. The voting process was evaluated positively by the IEOM observers in 98% of observations, indicating that most voting procedures were largely respected. The layout of polling stations was assessed as adequate to conduct polling in 97% of observations. However, the IEOM observers noted that, in over half of their observations, polling stations were not accessible for independent access by persons with disabilities, and the polling station layout was not suitable for voters with physical disabilities in 29% of observations.

60. The polling process was assessed as well-managed in almost all polling stations observed. Authorised representatives of candidates were present in 83% of the observed polling stations and citizen observers were present in almost half of the observed polling stations contributing to the transparency of the process. In 5% of observations, unauthorised persons were present in the polling stations.

61. Procedural deficiencies noted by observers included PBs not circling the ordinal number of voters in the voter list (in 14%), the electronic voter identification devices (EVID) confirmation slips not being signed (12%) and slips and control coupons not placed in the designated box (in 3%). In 12% of observations, the IEOM observers noted that several voters were redirected to other polling stations, potentially related to the relocation and merging of polling stations ahead of this election. While the EVID generally functioned well, IEOM observers noted problems with EVIDs in 7% of polling stations observed.

62. The IEOM observers noted that the secrecy of the vote was not respected in a number of cases. The secrecy of the vote was not ensured as a result of the layout of the polling stations (8%, including due to the positioning of voting screens and in 2% of observations, the secrecy of the vote was compromised by voters not marking their ballots in secret, or not folding the ballots or showing them to those present, or stating loudly how they voted. Further, in 3%, indications that voters were taking photos of their marked ballots were observed by the IEOM. In some cases in which voters compromised the secrecy of their vote, the PBs invalidated these ballots, as required by law. In some of the observed polling stations, PBs were loudly announcing the name of voters who voted, which is prohibited by law.

63. After closing, the SEC announced the preliminary voter turnout at 64%. The SEC announced that they would not publish partial preliminary results, limiting transparency.

64. The IEOM assessed the counting negatively in 9 of the 52 observed polling stations, mostly due to PBs not following procedural safeguards, which indicates an insufficient understanding of the procedures by PB members and a need for additional training. In half of the polling stations observed, the EVID turnout data was not used by the PBs to cross-check the number of voters who voted.

65. In over one-third of observations, the PBs omitted important reconciliation procedures before opening the ballot box, including counting the unused ballots, the control coupons, the signed printed slips, and the number of signatures on the voter list, a set of safeguards important for ensuring the integrity of the process. In 14 cases, PBs did not pack and seal the unused ballot papers before opening the ballot box. In over half of the cases, the PBs did not enter these figures into the PB record of work before the opening of the ballot box. In 16 cases, the PBs did not cross-check the sum of valid and invalid ballots against the number of signatures in the voters list. In five polling stations observed, more ballots were found in the ballot box than the number of signatures on the voter list and PBs had difficulties completing the PB protocols in seven observed polling stations.

66. The tabulation was observed in 22 MECs and assessed positively in all but 3 of them. Candidates' authorised representatives were generally present, while citizen observers were only in one. Overcrowding was reported in four MECs, and a poor organisation of the process in two. IEOM observers also reported two instances of tension in or around MECs. While the tabulation process was assessed as well-organised in almost all observations, procedural omissions were reported in some cases, including not always checking if the PB result protocols were completed in full and, in some instances, the PB protocols did not fully reconcile.

67. PACE teams deployed in Podgorica noted that the composition of the PBs being based on the results of previous local elections, and as the validation of the previous local elections in Podgorica was still pending on a decision of the Constitutional Court, their results were not reflected in the composition of the PBs which in most of the cases had both the Chair and the Deputy Chair coming from DPS.

68. PACE observers noted that there were cases of confusion created by having 5 polling stations located in a single hall in a school. Teams reported that in some cases the sealing of the ballot boxes was sometimes not properly done. A team observed a member of a PS deliberately invalidating ballots – the situation being eventually solved with assistance from the MEC.

69. On 20 March 2023, the SEC announced the preliminary results of the first round of the presidential election held on 19 March. The turnout was about 64%. In total, 341 551 votes were cast, of which 338 381 were valid. Mr Đukanović obtained 119 673 votes (35,37%) and Mr Milatović 97 858 votes (28,92%). The third position was occupied by Mr Mandić, with 19% of the votes. None of the candidates questioned the results of the first round. As no candidate received the legally mandated absolute majority to be elected, on 23 March, the SEC announced a second round to be held on 2 April between the two frontrunners, the incumbent Milo Đukanović and Jakov Milatović.

70. Members of the PACE delegation returned to Montenegro from 31 March to 3 April to observe the 2nd round of the presidential election, in the framework of the IEOM. They noted that in a competitive run-off, candidates were able to campaign freely and enjoyed equal opportunities to reach out to the voters; however, their harsh rhetoric and biased coverage of the campaign by some media did not contribute to the ability of voters to make an informed choice. The law lacks explicit regulation on almost all aspects of the second round and important clarifications were not given on the regulation of campaign finances and the media. Still, the election administration implemented provisional solutions on a number of procedural issues, which addressed some of the legislative gaps, and adequately managed the process. In general, election day proceeded in an orderly fashion and the voting process was well administered.

71. The turnout was about 70% and the preliminary results were of about 59% for Mr Milatović and about 41% for Mr Đukanović.

72. On election night, Mr Đukanović gave a concession speech acknowledging the results and congratulating his opponent.

9. Conclusions and recommendations

73. The election was competitive and adequately managed. Fundamental freedoms were respected in the campaign. The legal framework has numerous gaps and ambiguities that undermine its effectiveness. The election administration worked transparently; however, politicisation and the lack of inclusiveness in the candidate registration process reduced public trust. Registered candidates enjoyed equal opportunities in the campaign.

74. The election was held against the backdrop of an institutional crisis and political impasse, while the lack of a functioning Constitutional Court for most of the process left key aspects of the election without judicial review. Concerns about the potential impact of foreign television programming on the election campaign remained. Campaign finance regulations allow for circumvention, limiting accountability. The media environment is free and well-regulated, and the public broadcaster met legal requirements and offered balanced campaign coverage; however, the limited visibility of its programming and the bias displayed in private media detracted from voters' ability to make an informed choice. Election day was calm, and the voting process was assessed positively in the overwhelming majority of polling stations observed, although the secrecy of the vote was not always protected. The counting process was assessed less positively, mainly due to omitting important reconciliation procedures, but the tabulation process was assessed positively.

75. To conclude, the PACE delegation identified the following main aspects further to the election observation:

– The legal framework provides an adequate basis for the conduct of democratic elections but lacks sufficient regulation, *inter alia*, of the grounds for the annulment of election results by the court, the procedures for the tabulation of results and the second round of the election.

– The election administration managed the electoral preparations efficiently and met most legal deadlines.

– Contestants were able to campaign freely and voters were offered a variety of choices.

– However, the parliament has not amended the election law since 2014 and long-standing Venice Commission and ODIHR recommendations to bring legislation further in line with international standards remain unaddressed.

– The Ministry of Interior made some efforts to clean the voter register, but concerns by election stakeholders about its accuracy of the voter register remain. Candidate registration was not inclusive.

– To stand as presidential candidates, voters must have permanent residence in Montenegro for at least 10 of the last 15 years, which is an undue restriction on the right to stand contrary to international standards.

– The campaign finance legal framework has remained unchanged since 2020. Most previous recommendations remain unaddressed. There were concerns about the misuse of state resources by parties controlling state institutions, despite comprehensive regulations aiming to prevent this to happen.

– The APC is mandated with oversight, but it does not have investigative powers, while the law does not impose sanctions on inaccurate reporting. Overall, the deficiencies of the regulatory framework had a negative impact on the transparency and accountability of campaign financing.

– The media environment is diverse. However, political polarisation and limited financial viability make media outlets highly vulnerable to internal and external influence from corporate and political interests.

– Several key aspects of the legal framework for dispute resolution and its current implementation are not in line with international standards and good practice, including restrictions on legal standing and limitations on the possibilities for appealing decisions on candidate registration and election results. These limitations on the right to appeal do not ensure access to an effective remedy. The institutions mandated to adjudicate disputes are susceptible to political influence due to the lack of security of tenure or the appointment mechanism.

– Women remain generally underrepresented in elected and appointed offices and campaign messages did not address issues of particular importance to women.

– The SEC did not grant to observers the opportunity to observe the verification process of voters' support signatures, impacting the transparency of the process.

– The secrecy of the vote was not always ensured.

– More than half of the polling stations observed were not accessible for independent access by persons with disabilities.

76. The PACE delegation stresses that the newly elected President will have to work loyally together with the Parliament to ensure the smooth functioning of the state institutions.

77. The PACE delegation identified a number of irregularities and shortcomings during the whole electoral process of the presidential elections held in Montenegro on 19 March and 2 April 2023. It stresses that key aspects of the electoral process require further reform and implementation.

78. The delegation also feels that concrete measures should be taken by Montenegro in order to improve its electoral legal framework, starting with the electoral code, as well as certain electoral practices (see below). Therefore the delegation encourages the authorities to:

– to address all previous Venice Commission and ODIHR recommendations and to make reforms in the legal framework regulating elections, starting with that of the electoral code;

– in particular to include in the election law sufficient regulation of the second round of the election, grounds for annulment of election results by the court, procedures for the tabulation of results and election dispute resolution, the liability of election commission members for violations of the law and of candidacy applicants for falsifying supporting signatures; to prevent members of the State Election Commission voting along political lines on key decisions;

– to review the permanent residence requirement of voters or candidates and ensure its compatibility with international standards

– to insure the permanent functionality of the Constitutional Court, which is the electoral authority of final appeal;

– to prescribe detailed rules on signature verification in the supporting lists for presidential candidates;

– to undertake a comprehensive legislative reform of the campaign finance legal framework, in particular campaign regulations aiming to prevent the abuse of state resources for campaign purposes, to enable verification of the legality of donations and the use of loans, providing for effective sanctions for campaign finance violations and effective oversight;

– to increase the powers and means of the Agency for Prevention of Corruption;

– to improve the protection of journalists and to ensure the independence of the media, as a crucial element for a balanced coverage of electoral campaigns;

– to take concrete measures against the under-representation of women in political life and in election administration;

– to improve the accessibility of polling stations for persons with disabilities;

– to ensure that all shortcomings observed on election day will be dealt with in an appropriate way.

79. This work should be accomplished within the framework of the Assembly’s post-monitoring dialogue and in close co-operation with the Venice Commission.

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 (* members of the pre-election delegation):

Chairperson, Mr Joe O'REILLY, Ireland

Socialists, Democrats and Greens Group (SOC)

– Ms Lise SELNES, Norway
– Mr Adnan DIBRANI, Sweden
– Ms Margreet DE BOER, Netherlands
– Mr Domagoj HAJDUKOVIĆ, Croatia *
– Mr Gerardo GIOVAGNOLI, San Marino

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

– Ms Zdravka BUŠIĆ, Croatia
– Mr Corneliu-Mugurel COZMANCIUC, Romania
– Mr Joe O'REILLY, Ireland *
– Ms Catia POLIDORI, Italy
– Mr Jacek PROTASIEWICZ, Poland
– Mr Davor Ivo STIER, Croatia
– Ms Jorida TABAKU, Albania

Alliance of Liberals and Democrats for Europe (ALDE)

– Mr Jacques LE NAY, France
– Ms Tamara VONTA, Slovenia *

European Conservatives Group and Democratic Alliance (EC/DA)

– Lord David BLENCATHRA, United Kingdom
– Mr Simone BILLI, Italy *

Group of the Unified European Left (UEL)

– Mr Antón GÓMEZ-REINO, Spain

Co-rapporteurs AS/Mon (ex officio)

– Mr Damien COTTIER, Switzerland *
– Mr Nicos TORNARITIS, Cyprus

Venice Commission

– Mr Michael JANSSEN, Administrator, Venice Commission
– Ms Mirjana LAZAROVA TRAJKOVSKA, Expert, Venice Commission

Accompanying person

– Lady Tara BLENCATHRA, accompanying Lord David BLENCATHRA

Secretariat

– Mr Bogdan TORCĂTORIU, Senior Election Officer, Secretary of the ad hoc committee
– Ms Anne GODFREY, Assistant, Election Observation and Support Division

Appendix 2 – Programme of the pre-electoral delegation of the Parliamentary Assembly

Thursday, 23 February 2023

09:00-09:45 Ad hoc committee meeting
- Welcome by the Head of the delegation, Mr Joe O'Reilly
- Intervention of the co-rapporteur: Mr Damien Cottier
- Practical information from the secretariat

10:00-11:00 Meeting with members of the diplomatic corps
- H.E. Mr Veselko Grubisic, Ambassador of Croatia to Montenegro
- H.E. Ms Andreina Marsella, Ambassador of Italy to Montenegro
- H.E. Mr Gregor Presker, Ambassador of Slovenia to Montenegro
- H.E. Ms Karen Madocks, UK ambassador to Montenegro
- Ms Dubravka Popovic, Conflict, Stability and Security Fund Officer, UK Embassy
- Mr Riccardo Serri, Deputy Head of the EU Delegation to Montenegro
- Mr Vlado Dedovic, Policy officer, EU Delegation to Montenegro

11:15-12:45 Meeting with the OSCE/ODIHR Election Observation Mission
- Mr Tamas Meszerics, Head of Mission
- Ms Elissavet Karagiannidou, Deputy Head of Mission
- Mr Nicholas Jahr, Political Analyst
- Ms Mariam Tabatadze, Legal Analyst (including campaign finance)
- Mr Oleksii Lychkovakh, Election Analyst (including voter and candidate registration)
- Mr Pietro Tesfamariam, Media Analyst

14:00-14:30 Meeting with Mr Marash Dukaj, Minister of Public Administration

14:30-16:00 Meeting with representatives of civil society
- MANS: Mr Dejan Milovac, Director of the MANS Investigative Center
- Human Rights Action: Ms Tea Gorjanc Prelević, Executive director
- Civic Alliance: Mr Pavle Ćupić, coordinator of the Program of Human Rights and Justice
- CEDEM – Centre for democracy and Human rights: Ms Milena Besic, Executive Director
- CDT – Centre for Democratic Transition: Ms Biljana Papović, Deputy Director
- CEMI – Centre for monitoring and research: Mr Ognjen Mitrović, Head of the Legal Department, and Mr Miloš Vukanović, Director of the Department for Public Policy Research

16:15-17:45 Meeting with representatives of the media
- Radio Television Montenegro – RTCG: Ms Bojana Čađenović, Editor of the Parliamentary Channel
- Ms Tatjana Debeljević, Editor of the News Programme at the TVCG, and Ms Ljiljana Savić, Chief of the election pool
- Dan (printed media): Mr Mili Prelevic, Editor in chief

Friday, 24 February 2023

9:00-10:00 Meeting with
- Mr Nikola Mugoša, Chairman of the State Election Commission (SEC),
- Ms Nataša Pešić, Ms Vera Mijatović, Mr Aleksandar Jovićević and Mr Haris Mekić, SEC members

10:00-12:30 Consecutive meetings with candidates to the Presidency or their representatives
- Mr Milojko Spajić, ES! (co-founder), former Minister of Finance (2020–2022), and Mr Vasilije Čarapić, member of the Presidency

– Ms Jelena Božović, MP (on behalf of Mr Andrija Mandić, member of the presidency of the DF, MP, candidate in 2008)
– Ms Draginja Vuksanović Stanković, Social Democratic Party SDP (former president), MP, candidate in 2018
– Ms Tamara Vujović, MP (Democrats), on behalf of Mr Aleksa Bečić

14:00-16:30 Meetings with leaders and representatives of the main parliamentary groups

– Mr Dejan Đurović, Group Democratic Front – New Serb Democracy, Democratic People's Party, Labour Party
– Mr Dragan Krapović, Group “Democrats – Demos – Peace is Our Nation”
– Mr Nikola Bajčetić, Group “Democratic Front – Movement for Changes”
– Mr Dragan Ivanović, Group of the Socialist People’s Party of Montenegro
– Mr Miloš Konatar, Group “In Black and White”
– Ms Daliborka Pejović, Group “Democratic Party of Socialists – DPS”
– Mr Ivan Brajović, Group “Social Democrats of Montenegro”
– Mr Andrija Popović, Group of the Social Democratic Party – Liberal Party LP
– Mr Amer Smailović, Group of the Bosniak Party
– Mr Genci Nimanbegu, Albanian Group

16:30-17:30 Meeting with the delegation of Montenegro to the PACE

– Ms Maja Vukićević, Chairperson of the Delegation
– Ms Kenana Strujić-Harbić
– Mr Maksim Vučinić

18:00-19:00 Ad hoc committee meeting

Appendix 3 – Statement of the pre-electoral delegation of the Parliamentary Assembly

In Montenegro, the PACE pre-electoral delegation hopes that the stalemate of the Constitutional Court will be unblocked in time for the Presidential election.

Podgorica, 24.02.2023 – A delegation of the Parliamentary Assembly of the Council of Europe (PACE) was in Podgorica on 23 and 24 February 2023 to assess the pre-electoral climate of the presidential election scheduled for 19 March 2023.

The delegation*, led by Joe O'Reilly (Ireland, EPP/CD), welcomed the fact that preparations for the election are in progress. However, following its discussions with various interlocutors, it considered necessary to underline a series of shortcomings, particularly the crucial need to ensure that the composition of the Constitutional Court is completed or at least that it has a quorum in order to be able to validate the election result.

Moreover, the delegation was informed about the stagnation of the reform of the electoral legislative framework, the high level of corruption in the country and persistent doubts about the independence of the judiciary.

The delegation was disappointed to note the continued culture of procrastination and lack of political will to take important decisions.

Some interlocutors expressed concern about the politicisation of the decision-making of the State Election Commission leading to an uneven playing field among presidential contenders. One prominent candidate was disqualified further to an allegedly politically-motivated and split vote within the SEC; moreover, the current paralysis of the Constitutional Court left him with no possibility of redress.

The media environment was considered as being generally healthy although highly politicised which in turn led to self-censorship by journalists. Pressure on journalists is unfortunately also not a thing of the past. The delegation was concerned that the ownership and control of a number of media portals are not transparent.

The delegation noted with regret that the misuse of public funds had become normalised and was taken for granted by the electorate.

The voters register was widely criticised as being in disorder, with large numbers of persons having emigrated remaining on the register as a result of the residency criteria being poorly defined.

Greater transparency in campaign funding was also felt to be necessary.

The delegation noted an under-representation of women at all levels of the electoral process.

The delegation fully understands that some of the issues above cannot be dealt with in the short time left before election day, but strongly hopes that at least those which can still be addressed – in particular nominating the 4 missing judges within the Constitutional Court – will indeed be addressed.

The PACE pre-electoral delegation was in Podgorica at the invitation of the President of the Parliament. It met with presidential candidates or their representatives, leaders and representatives of the main parliamentary groups, the Chairman and members of the State Election Commission, the Minister of Public Administration, members of the delegation to PACE, representatives of civil society and of the media, the OSCE/ODIHR election observation mission and with diplomats present in Podgorica.

A full-fledged 22-member delegation from the Parliamentary Assembly of the Council of Europe will arrive in Montenegro prior to the presidential election to observe the vote.

* Mr Joe O'Reilly (Ireland, Group of the European People's Party), head of delegation;

Mr Domagoj Hajduković (Croatia, Socialists, Democrats and Greens Group);

Ms Tamara Vonta (Slovenia, Alliance of Liberals and Democrats for Europe);

Mr Simone Billi (Italy, European Conservatives Group and Democratic Alliance);

Mr Damien Cottier (Switzerland), PACE rapporteur for the post-monitoring dialogue.

Appendix 4 – Programme of the meetings of the International Electoral Observation Mission: 1st round

Friday, 17 March 2023

09:00-09:45 PACE Delegation meeting
- Welcome remarks by Mr Joe O'Reilly, Head of the delegation
- Presentation of the pre-electoral delegation
- Presentation by Ms Mirjana Lazarova Trajkovska, member of the Venice Commission
- Practical information from the secretariat

10:00-10:15 Welcoming remarks by the Heads of Parliamentary Delegations
- Mr Joe O'Reilly, PACE
- Mr Tonino Picula, EP

10:15-12:30 Briefing by the OSCE/ODIHR electoral observation mission Core Team (Part 1)
- Mr Tamás Meszerics, Head of Mission
- Ms Mariam Tabatadze, Legal Analyst (including Campaign Finance)
- Mr Oleksii Lychkovakh, Election Analyst (Election Administration, Candidate Registration, Observers)
- Mr Nicholas Jahr, Political Analyst
- Mr Pietro Tesfamariam, Media Analyst

14:00-15:30 Campaign freedoms and analysis panel
- MANS: Mr Dejan Milovac, Deputy Executive Director
- Civic Alliance: Mr Pavle Ćupić, Program Coordinator, Ms Aleksandra Dubak, Program Coordinator
- CEDEM (Centre for Democracy and Human rights): Ms Milena Bešić, Executive Director
- CDT (Centre for Democratic Transition): Ms Milica Kovačević, Program Director
- CEMI (Centre for Monitoring and Research): Ms Ana Nenezić, Executive Director, Mr Ognjen Mitrović, Head of the Legal Department, Mr Miloš Vukanović, Director of the Department for Public Policy Research
- Institut Alternativa: Ms Milena Muk, Researcher

15:30-17:00 Panel discussion with representatives of the media
- Radio Television Montenegro – RTCG: Mr Marko Vešović, Ms Tatjana Debeljević
- MINA news agency: Mr Milan Žugić, Editor in Chief, Ms Tijana Radulović, Journalist
- Vijesti: Ms Mijana Dašić (TV Reporter); Ms Mila Radulović, Editor – Political Department
- Gradska – TV: Ms Bojana Dabović, Journalist
- CDM: Aleksandra Obradović, Deputy Editor in Chief
- Pobjeda (printed media): Mr Draško Đuranović, Editor in Chief
- Dan (printed media): Mr Mladen Milutinović, Executive Director
- Ms Biljana Jovićević, Journalist & Civic Activist at "Help"

17:00-18:00 Election administration
- Mr Nikola Mugoša, President of the State Election Commission, and SEC members

Saturday, 18 March 2023

09:00-12:00 Consecutive meetings with candidates or their representatives
- Mr Aleksa Bečić, Democratic Montenegro
- Mr Goran Danilović, United Montenegro
- Mr Milo Đukanović, Democratic Party of Socialists (incumbent)
- Mr Andrja Mandić, Democratic Front
- Mr Filip Ivanović, Coordinator for the International Cooperation Europe Now!

12:00-13:20	Briefing by the OSCE/ODIHR electoral observation mission Core Team (Part 2) – Mr Oleksii Lychkovakh, Election Analyst – Mr Anders Eriksson, Statistical Analyst (Election Day procedures and forms) – Mr Davor Ćorluka (Safety and Security)
13:20-13:50	Briefing by the OSCE ODIHR electoral observation mission Long-Term Observers – LTO6 Nicola Busse – LTO6 Valdemar Uruba (Podgorica)
13:00-13:45	Meeting with the Central Election Commission

Sunday, 19 March 2023

Observation of the elections all day

Opening of polling stations: 07:00

Closing of polling stations: 19:00

Monday, 20 March 2023

07:30	Debriefing of the PACE delegation
14:30	Joint Press Conference

Appendix 5 – Press release of the International Election Observation Mission: 1st round

Montenegro's presidential election competitive but negatively affected by an uninclusive process and legal shortcomings, international observers say.

PODGORICA, 20 March 2023 – Montenegro's presidential election was competitive, with candidates able to campaign freely and fundamental freedoms for all citizens respected, but the candidate registration was not inclusive and longstanding shortcomings in the legal framework and campaign finance regulations remained unaddressed, international observers said in a statement today.

The joint observation mission from the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the Parliamentary Assembly of the Council of Europe (PACE), and the European Parliament (EP) found that while the legal framework forms an adequate basis for democratic elections, numerous gaps and ambiguities in areas from election legislation to campaign finances undermine its effectiveness and demonstrate the need for comprehensive reform.

"It was good to see a competitive election take place in a peaceful atmosphere," said Tamás Meszerics, head of the ODIHR election observation mission. "But still there are numerous loopholes and ambiguities in the law. This allows the authorities to make arbitrary decisions and contestants to circumvent the rules. These are issues that need to be addressed as a matter of urgency."

The election took place against the background of an ongoing institutional crisis and a political impasse, leading to the announcement of early parliamentary elections just three days before the presidential vote. While the election administration managed the electoral preparations efficiently and generally met legal deadlines, most members of the State Election Commission voted along political lines on key decisions including candidate eligibility, undermining public trust. The lack of a functioning Constitutional Court in the run-up to the election left a number of key issues without judicial review.

"Whatever the outcome of the election is, the newly elected president will have to work loyally together with the parliament to ensure that all state institutions function smoothly," said Joe O'Reilly, head of the PACE delegation. "The political decision makers need to undertake a series of reforms, beginning with the electoral law. It is also vital to ensure the functionality of the Constitutional Court, which is the electoral authority of final appeal."

In requesting citizenship and residence information for some potential candidates and denying registration on this basis, the election administration was discriminatory and went beyond legal procedures. At the same time, the law requiring at least two years of permanent residence in Montenegro before election day to be allowed to vote is missing clear criteria, while recent legal changes allow for arbitrary decisions that could disenfranchise eligible voters.

While the tone of the campaign in the run-up to the election was mostly neutral, some inflammatory speech was observed, and there were isolated incidents of violence and harassment as well as concerns over the potential use of state resources. The only woman candidate is under police protection and received threats over social networks during the campaign. Overall, women remain underrepresented political life. While there were some cases of disturbance around polling stations and the secrecy of the vote was not always protected, election day was calm and procedures were largely followed.

"The civic spirit of Montenegrin voters has clearly emerged during these elections. Everywhere we observed on election day we were welcomed with warmth," said Tonino Picula, head of the EP delegation. "Polling station workers managed the process well in an overall calm atmosphere. This behaviour is an example that shows the way forward for the elected representatives of citizens, away from divisions and towards a common understanding of a better future for the country and for the socioeconomic wellbeing of all citizens."

There is a diverse media scene in Montenegro. However, political polarisation and the limited advertising market make media outlets vulnerable to internal and external influence from both business and political interests. The public broadcaster's main channel provided almost no news coverage, making an informed choice more difficult for voters. While private TV channels provided extensive coverage ahead of the election, three out of the four private channels monitored by the observation mission displayed clear bias in their coverage. There were also widespread concerns over the potential impact of foreign TV programing on the campaign.

The international election observation to the first round of the presidential election in Montenegro totalled 187 observers from 41 countries, made up of 149 ODIHR experts, long-term, and short-term observers, 24 from PACE, and 14 from the EP.

Appendix 6 – Programme of the meetings of the International Electoral Observation Mission: 2nd round

Saturday, 1 April 2023

09:45-10:00	Welcoming remarks by the Heads of parliamentary delegations – Mr Joe O'Reilly, PACE – Mr Georgos Kyrtsos, EP
10:00-11:30	Meeting with the OSCE/ODIHR Election Observation Mission – Mr Tamas Meszerics, Head of Mission – Ms Elissavet Karagiannidou, Deputy Head of Mission – Mr Nicholas Jahr, Political Analyst – Ms Mariam Tabatadze, Legal Analyst – Mr Oleksii Lychkovakh, Election Analyst – Mr Pietro Tesfamariam, Media Analyst – Mr Anders Eriksson, Statistical Analyst – Mr David Corluka, Safety and Security
11:30-12:00	Mr Milo Đukanović, Democratic Party of Socialists (incumbent)
14:30-15:30	Consecutive meetings with candidates or their representatives:
14:30-15:30	Mr Jakov Milatović, Europe Now!
15:30-16:30	Mr Nikola Mugoša, Chairman of the State Election Commission, and SEC members

Sunday, 2 April 2023

Full day	Observation of the voting (opening of the polling stations, voting, closure of the polling stations, counting, tabulation)

Monday, 3 April 2023

14:30	Joint press conference

Appendix 7 – Press release of the International Election Observation Mission: 2nd round

Montenegro's presidential runoff competitive and well run despite harsh rhetoric and legal uncertainties, international observers say.

PODGORICA, 3 April 2023 – The second round of Montenegro's presidential election was competitive and as in the first round candidates were able to campaign freely with fundamental freedoms respected, but the tone was increasingly negative and the gaps in the legal framework became ever more apparent, international observers said in a statement today.

The joint observation mission from the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the European Parliament (EP), and the Parliamentary Assembly of the Council of Europe (PACE) found that while the legal framework is adequate for democratic elections, regulation is lacking on almost all aspects of the second round. This included the election administration, voter registration, the campaign and campaign finance, and the media, all of which led to considerable legal uncertainty. At the same time, the election administration addressed some legal deficiencies and added important safeguards that increased the integrity of the process as a whole.

"There was a genuine political debate in Montenegro ahead of yesterday's runoff, and both candidates had the opportunity to reach out to voters," said Tamás Meszerics, head of the ODIHR election observation mission. "But to strengthen the democratic process going forward, the country urgently needs to work on its legal framework to close loopholes and ensure transparency and accountability."

Overall, the runoff was well managed. However, observers noted that many of the first-round results remained unpublished, leading to a lack of transparency, and there was no opportunity to effectively challenge the results ahead of the second round. In addition and despite the procedural shortcomings identified on election day in the first round, no further training for relevant election staff was organised. Disturbingly, serious threats were received by a citizen observer organisation ahead of the runoff. Election day itself was generally calm and the voting process well managed.

"The general peaceful atmosphere we have observed during election day on this second round of the presidential elections reconfirms our positive impression of the Montenegrin citizens' attachment to democracy," said Georgios Kyrtsos, head of the EP delegation. "Members of the Polling Boards showed commitment and good cooperation amongst themselves, helping voters along the voting process. This resulted in a smooth voting process in every polling station we observed."

While the campaign ahead of the presidential runoff took place in a generally calm atmosphere, a more negative tone took hold, with the candidates seeking to discredit each other in their campaign messaging. Voters had additional opportunities to learn about the candidates, including through a televised debate.

"By voting in this presidential election in such a relaxed atmosphere, Montenegrins have proved that their country has reached a high level of democratic culture and they deserve congratulations," said Joe O'Reilly, head of the PACE delegation. "It is now crucial that Montenegro continue on its path of European and Euro-Atlantic integration, without outside negative interference. It is also essential that the Montenegrin state institutions collaborate in good faith, in order to facilitate the functioning of the political and legislative structure of the country. We hope that both this presidential election and the coming parliamentary ones will make this possible."

While both candidates had equal access to the public media, it was noted that both local public broadcasters as well as private media were biased in their coverage. In general, the polarisation of the media landscape continued along political lines ahead of the runoff, and media outlets remained highly vulnerable to internal and external influence from corporate and political interests.

The international election observation to the second round of the presidential election in Montenegro totalled 38 observers from 27 countries, made up of 28 ODIHR experts and long-term observers, 3 from PACE, and 7 from the EP.