



OSCE/ODIHR
ELECTION OBSERVATION MISSION
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(Serbia and Montenegro)
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STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Podgorica, 12 May 2003 – The OSCE Office for Democratic Institutions and Human Rights (ODIHR) Election Observation Mission (EOM) for the 11 May 2003 election of the President of the Republic of Montenegro (Serbia and Montenegro) issues this statement before the official announcement of results, before election day complaints and appeals have been addressed, and before a complete analysis of the election day observation findings. This statement should be considered in conjunction with the statements of preliminary findings and conclusions issued on 23 December 2002 and 10 February 2003, after the previous presidential election contests.

PRELIMINARY CONCLUSIONS

The 11 May 2003 presidential election in Montenegro was conducted generally in accordance with international standards for democratic elections. After two void elections, Montenegro succeeded in electing a president. However, the failure of the major opposition parties to field a candidate narrowed voters' choice and influenced the campaign.

Significant strengths in the conduct of elections were observed, specifically:

- important improvements in the electoral legislation;
- experienced and politically balanced election commissions;
- accurate voter lists;
- requirements that State media provide equal and balanced reporting on the campaign, and
- broad access for independent domestic observers to monitor the process.

However, deep-rooted problems in the election environment remain, including:

- lack of confidence by opposition parties in the impartiality of certain State institutions
- incomplete separation of State and party functions at all levels; and
- perception that livelihood of public employees depends on incumbents.

The new presidential election law removed the 50% voter turnout requirement which had previously led to failed elections; it also remedied other shortcomings. While the new candidate registration procedure enhances the integrity of the process, it potentially reveals voters' political affiliation and creates unequal access to signature collection.

The administration of elections was marked by financial problems. The Republic and the Municipal Election Commissions carried out their tasks impartially, transparently and in a largely efficient manner. Although the extension of the election commissions' mandates ensured continuity in administering the process, it provides only a short-term solution.

The election campaign was uneventful and low-key. Only a few minor complaints were lodged with the competent bodies prior to the election. Allegations by the two opposition parties that police assisted one of the candidates in collecting nomination signatures were not substantiated.

While the State media covered the candidates mostly in line with the existing legislation and in a generally balanced manner, some private media gave significantly more coverage to Filip Vujanovic, Speaker of Parliament. Outside the highly regulated election programs on State media, little coverage was granted to campaign. The Parliament did not establish the media supervisory board, leaving candidates without an appeal body for media related complaints.

Preliminary results indicate that voter turnout on election day remained relatively low. In 95% of cases, observers assessed the conduct of the poll positively, with 65% of reports characterizing the voting process as “excellent”. Only minor irregularities were reported, including privacy of vote not uniformly guaranteed.

The following recommendations are offered for the general revision of the election legislation:

- procedures for candidate registration should be reconsidered to ensure voters’ privacy and equal access to signature collection;
- a durable solution should be identified to guarantee politically balanced and competent election administration; and
- rules on campaign funding should be introduced to provide for transparency and accountability of campaign expenditures.

The ODIHR encourages the Montenegrin authorities to address the issues identified in this statement and in the previous OSCE/ODIHR reports in the framework of the ongoing process of institutional reform in Montenegro. The OSCE/ODIHR stands ready to assist the authorities and civil society of Montenegro to remedy the remaining shortcomings and challenges.

PRELIMINARY FINDINGS

Political Context and Candidates

Following the failure of the 22 December 2002 election and the 9 February 2003 repeat first round election to meet the minimum 50% voter turnout required for valid elections, a new election was called for 11 May. A combination of factors contributed to the failure of the previous elections, including outdated legislation and a boycott by the main opposition coalition.

In general, elections in Montenegro are marked by incomplete separation of State and party functions at all levels, and the perception that some citizens, notably public employees, are dependent on the ruling party. In addition, the opposition parties continue to express a lack of confidence in the impartiality of certain State institutions.

The 11 May event took place in the context of reforms related to the implementation of the Constitutional Charter of the State Union of Serbia and Montenegro. The assassination of the Prime Minister of Serbia, Zoran Djindjic, and the resulting state of emergency in Serbia did not significantly affect the pre-election atmosphere in Montenegro. However, the election campaign was marked by more intensive public discussion on organized crime and corruption.

While eleven candidates contested the December/February election, only three registered for the May event, including the previous top two scoring candidates: Filip Vujanovic, Speaker of Parliament and acting President, the candidate of the ruling coalition of Democratic Party of

Socialists (DPS) and Social Democratic Party (SDP), and Dragan Hajdukovic, independent candidate. In the last elections, Mr Vujanovic and Mr Hajdukovic secured 83% and 7% of the votes respectively. The third candidate, Miodrag Zivkovic, represented the Liberal Alliance (LSCG), an opposition party with four seats in Parliament. The LSCG did not contest the previous presidential election.

Three other prospective candidates failed to garner the required number of nomination signatures, including Aleksandar Vasilijevic of the Serbian Radical Party (SRS - Vojislav Seselj) who received 4% of the vote in February.

The main opposition coalition “Together for Changes” comprising the Socialist People’s Party (SNP), the Serbian People’s Party (SNS) and the People’s Party (NS) considered a variety of potential candidates but could not agree on a joint nominee. As none of the coalition partners chose to field an individual party candidate, the main opposition bloc did not take part directly in the election. Notably, the discussions on selecting a candidate have significantly weakened the cohesion of the “Together for Changes” coalition.

The NS officially declared their support for Mr Zivkovic shortly before election day. The SNP and SNS did not officially support any of the candidates. However, some SNP officials favored Miodrag Zivkovic as the “only opposition candidate”. Along with the LSCG, the SNP/SNS/NS continued the sharp criticism of the DPS/SDP Government and Filip Vujanovic.

The Democratic Union of Albanians (DUA) announced its support for Filip Vujanovic on the last day of campaign. Other political parties seeking to represent national minorities did not endorse any candidate.

Legislative Framework

On 27 February, Parliament adopted a new Presidential Election Law (PEL) that dispensed with the 50% voter turnout requirement, which had resulted in a cycle of failed presidential elections. The new legislation also addressed other shortcomings identified by the OSCE/ODIHR. The most notable improvements were:

- Stipulating that candidates require a majority of valid votes to be elected;
- Removing several inconsistencies between the presidential and the parliamentary election laws;
- Introducing measures to improve the integrity of voting by homebound citizens; and
- Proscribing the copying of used election material by political parties and presidential candidates after the election.

The new PEL enjoys broad consensus between the two major political blocs and, overall, the legislative framework provides an improved basis to administer democratic elections.

The candidate nomination procedure was amended in two key aspects. Firstly, candidates were required to gather petitions containing the signatures of 1% of the electorate or approximately 4,500. Previously 2,000 signatures were required. Secondly, petitions for presidential candidates could now be signed only in the premises of the 21 Municipal Election Commissions, and

witnessed by two MEC members nominated by two different political interests. While presidential candidates can be nominated by “group of citizens” the legal status of citizens’ groups is left unregulated, which at times led to confusion in MECs as to who is authorized to represent independent nominees.

Advocating the change of signature collection procedure, the SNP argued that the process required scrutiny to ensure its integrity. However, after experience with registering their candidates, both the LSCG and the DPS criticized the amendment. As petitions are signed in public, and a voter may sign for one candidate only, collecting of signatures can potentially reveal citizens’ political affiliation. Limiting the number of locations for signature collection created an unequal access for voters living in rural areas. In addition, the new procedures may have contributed to the reduced number of small party or independent candidates.

The OSCE/ODIHR recommends that the candidate nomination process be reconsidered to ensure procedural integrity and citizens’ privacy.

Election Administration

The election administration has a well-balanced, multi-party composition, agreed shortly before the October 2002 early parliamentary elections. Although the mandate of the Republican Election Commission (REC) and the 21 Municipal Election Commissions (MEC) was due to expire on 31 December, it was extended to ensure continuity in administering the repeat February election and, for a second time, through provisions in the new PEL, which enabled the same personnel to administer the 11 May election. This provided a short-term solution to an immediate problem. However, the issue had been previously politically contentious, and a durable solution is required.

Candidates may appoint their representatives as “extended” members at all levels of the election administration. While the two party candidates made these appointments, Dragan Hajdukovic, nominated few representatives. Overall, the administration of elections was transparent, with all parliamentary parties and presidential candidates able to follow the process to the extent they desired.

Repeating a pattern noted in previous elections, the election administration confronted financial difficulties and complained that it did not receive in a timely manner funds from the Ministry of Finance. Indeed, the REC only recently cleared its financial obligations from the February election, including the MEC salary payments. Financial difficulties created operational problems and a number of MECs threatened to stop election preparations unless the issue was resolved. Notwithstanding these difficulties, once again the REC and MECs administered the process impartially, largely efficiently and according to legally established deadlines.

Despite an overall positive assessment of the election administration, some procedural inconsistencies, legislative ambiguities and other problems were noticed. There was also a lack of uniformity in the delivering of voting invitations as in some municipalities these are sent to voters by post and in others hand-delivered or not delivered at all.

By introducing new and improved rules on voting by “homebound” persons, the REC simultaneously addressed OSCE/ODIHR recommendations and recent legislative amendments.

Following changes in the legislation, a voter unable to visit a polling station in person due to age or illness, had to sign a personal request to vote at home, on an approved form. The new procedure lessened the potential for abuse. However, the REC did not provide sufficient public information on this procedural change.

Over the last four years, the authorities have undertaken a systematic effort to produce reliable and transparent voter registers that generally enjoy the confidence of political parties. As required by law, voter registers were finalized ten days prior to election day, with 458,339 citizens registered as eligible to vote, an increase of some 1,400 voters. Of these, 32 were added in accordance with decisions of the Supreme Court, following appeals.

The Campaign

The election campaign was generally uneventful and low-key. Notwithstanding the failure of the opposition coalition parties to field a candidate, the campaign was more substantively contested than in December and February. However, the absence of a main opposition coalition candidate once again narrowed the choice available to voters from among the established political alternatives, thus influencing the nature of the campaign.

While the resources available to the candidates varied, Filip Vujanovic and Miodrag Zivkovic were able to call on established party structures. Both conducted numerous campaign events, which were widely reported in the media. Mr Vujanovic was blamed by the opposition for using State resources to support his campaign, and there was some confusion in the State media regarding whether Mr Vujanovic's public appearances were as candidate or Speaker of Parliament. Mr Hajdukovic held few public meetings, relying mostly on appearances in the media.

The election campaign focused on organized crime, corruption, the Government's record, the environment and the economy. Compared to the recent presidential elections, more emphasis was placed on substantive political issues.

The two parties nominating candidates have in recent years made numerous statements advocating Montenegrin independence. While Filip Vujanovic announced during the campaign that a referendum was required in three years, Miodrag Zivkovic refrained from advocating a referendum. Dragan Hajdukovic favored independence with "a Schengen like" agreement with Serbia.

Campaign Finance

In a positive development, the new legislation reduced from 10% to 5% the number of votes candidates require to receive reimbursement of campaign expenses from public funds. This amendment may in the future serve to encourage candidates from smaller parties to contest presidential elections. However, the Government failed to announce the size of the fund 30 days prior to election day, as the law requires. A fund of €45,000 was established but the decision was only published in the official Gazette on 5 May, over three weeks late. This created uncertainty and thereby lessened the positive effect of the legislative amendment.

In general, the election legislation does not adequately regulate campaign finance issues. Previously, the OSCE/ODIHR recommended that the election legislation establish a ceiling on campaign expenditure and rules on the disclosure of donations. In addition, candidates should be required to account for their privately raised funds and publicly provided campaign funds, and sanctions for breaches of the regulations should be introduced.

The Media

On 11 April, the EOM began monitoring the political and campaign content of a variety of print and electronic media. Five TV channels and four newspapers were analysed daily in order to assess the media coverage of candidates and relevant political actors during the electoral campaign, including State-owned televisions RTCG1 and Parliamentary Channel, the private TV IN, TV MBC and TV PINK, and print dailies - *Pobjeda*, *Dan*, *Vijesti* and *Publika*.

In general, the media outlets monitored by the EOM carried extensive coverage of Government officials, concentrated on the relationship between Serbia and Montenegro, the divisions within the “Together for Changes” coalition, and speculations about irregularities in the electoral process.

The “Rules for the Media’s Presentation of Presidential Candidates During the Pre-election Campaign”, adopted by Montenegrin Parliament on 2 December 2002, were extended to cover the 11 May election. These required the State-owned media to provide equal and objective access to all contestants and provided detailed regulation of the quantity of airtime, space and format of both the free and paid coverage available to candidates. Private media are less regulated, as they are only required to be “objective and timely” in their reporting, respect the pre-electoral silence and clearly indicate paid campaign advertisements.

While the rules for electoral coverage in the State media aim to ensure fairness during election time, the EOM reiterates that the stringency of the regulations reduces the capacity of State media to analyse the political campaign and to present interesting political programming.

On 22 April, the campaign in media officially began with candidates using the free airtime on State owned TV Parliament and free space on daily *Pobjeda*. TV Parliament broadcast two debates, enabling voters to compare election platforms and political views of the candidates, and giving candidates the opportunity to discuss issues directly with their rivals. Notably, only Filip Vujanovic placed paid advertisements in the media monitored by the EOM.

Overall, the election coverage in the State media conformed to the regulations and only minor violations in the allocation of the free space were noted in the print media. The State electronic media provided a balanced coverage of the two party candidates, with RTCG1 devoting to Mr Vujanovic and Mr Zivkovic respectively 38% and 44% of the political programs. The remaining 18 % was dedicated to Mr Hajdukovic.

The media covered the activities of Filip Vujanovic in his role as Speaker of Parliament, sometimes confusing campaign and official events, giving him more coverage than the other two candidates. *Publika* failed to comply with the requirement to clearly indicate which slots were paid campaign advertisements.

Outside the election programs on the State media, little coverage was granted to candidates. Media monitoring data indicates that during peak viewing time, other than the regulated special election programs, the candidates received only 7% of the time devoted to politics on television. The private TV IN and TV PINK devoted respectively 88% and 77% of their political coverage to Filip Vujanovic and the content of coverage was mainly positive, giving significantly less coverage to Miodrag Zivkovic.

Despite its being required by law, Parliament did not appoint the Board for Mass Media Supervision, which during previous elections to monitor compliance by State and private media with campaign coverage rules. Its absence during this election created the possibility of arbitrary application of the media rules during the campaign, and left candidates without an appeal body for media-related complaints.

The EOM noted that Vijesti appeared to violate the 24 hours campaign silence; it also received a complaint concerning MBC but it was not possible for the EOM to verify this.

Disputes, Complaints and Appeals

Only a few minor election-related complaints were lodged with the competent authorities and a small number of appeals on procedural issues were lodged with the REC. Indeed, the absence of complaints concerning coercion of citizens to participate as voters or allegations of voters being offered inducements to vote for a particular candidate contrasted sharply with the previous contests.

During the candidate registration process, the LSCG and SNP alleged that police personnel was involved in collection of signatures for Dragan Hajdukovic. However, these allegations lacked precision and evidence, and no complaints were lodged with the competent authorities. EOM observers followed the candidate registration process and interviewed members of the MECs, who witnessed the signature collection process. None reported uniformed police signing for any candidate, and senior municipal level police officers questioned by the observers denied instructing their subordinates to support Mr Hajdukovic's nomination. Nonetheless, the EOM noted that approximately 2,000 signatures for Mr Hajdukovic were collected in the final three days and long queues were even observed in front of MECs in Podgorica.

In addition, the EOM followed up complaints arising from allegations of pressure to vote during the February election. Two such complaints from Bijelo Polje and Pljevlja are still under investigation by the judicial authorities, and the OSCE/ODIHR will follow developments.

Civil Society

Two domestic civil society organizations, Centre for Election Monitoring (CEMI) and Centre for Democratic Transition (CDT), deployed observers covering a large majority of polling stations on election day. As in previous elections both organizations conducted parallel vote tabulations and announced unofficial preliminary results after the closing of the polls. After the election, CDT plans to give the results of its independent assessment of candidates campaign expenditures.

Election Day

Polling took place in a calm atmosphere and no violent incidents were reported. Preliminary results indicate that voter turnout remained relatively low. In general, the multi-party polling boards carried out their tasks efficiently. However, observers reported a tense atmosphere in 3% of polling stations and a lack of co-operation in 6%.

In 95% of cases, observers assessed the conduct of the poll positively, with 65% of reports characterizing the voting process as “excellent”. In contrast, only 1% described the process as “poor”. Only minor irregularities and isolated violations were recorded, with very few official complaints submitted to date.

The recently amended procedures for voting by the “homebound”, improved the integrity of the election. Fewer citizens voted in this manner, particularly in urban areas, reversing an upward trend noted by previous EOMs. However, some inconsistencies in the uniform application of the procedures remain.

In 20% of polling stations visited, at least one voter was turned away. While mostly this was due to these voters’ forgetting to bring identity documents, the failure of a number of municipalities to deliver invitations to vote to all citizens was a contributory factor, as 6% of observer reports indicated that voters went to the wrong polling station.

Measures to safeguard the integrity of the poll were generally applied in accordance with the legal requirements. However, 12% of observers reported minor violations in the secrecy of the vote, a 5% increase from the February election. Mostly, this was due to badly positioned voter screens, even where situated according to the law. More positively, the number of reports of “group voting” continues to decline. Isolated instances of polling boards announcing voters’ names and unofficially recording their identity were noted.

This statement is also available in Serbian. However, the English version remains the only official document.

MISSION INFORMATION & ACKNOWLEDGEMENT

The OSCE/ODIHR Election Observation Mission (EOM) is headed by Paul O’Grady (United Kingdom). This statement is based on the findings of 17 observers of the OSCE/ODIHR EOM, based in Podgorica and five regional centers throughout the Republic, who have been deployed since 10 April, and 74 observers from 20 OSCE participating States reporting on election day from some 300 out of 1,100 polling stations.

The OSCE/ODIHR will publish a comprehensive report on the presidential elections, including recommendations, within a month after the process is completed.

The EOM wishes to express appreciation to the Montenegrin authorities, including the Ministry of Foreign Affairs, Republic Election Commission, Secretariat for Development, Ministry of Justice, Ministry of Interior and municipal offices for their co-operation and assistance during the course of the observation. The EOM is also grateful for the support from the Ministry of Foreign Affairs of Serbia and Montenegro, OSCE Mission in Serbia and Montenegro and Embassies and Consular Offices of OSCE participating States.

For further information, please contact:

Paul O'Grady, Head of the OSCE/ODIHR EOM, in Podgorica (Tel: +381-81-624-704)

Jens-Hagen Eschenbacher, OSCE/ODIHR Spokesperson (+48-603-68-31-22), or Konrad Olszewski, OSCE/ODIHR Election Adviser, in Warsaw (+48-22-520-0600).

OSCE/ODIHR Election Observation Mission
Brace Zlaticanina 12
Podgorica 81000
Tel. : +381-81-624-704 Fax: +381-81-624-791
E-mail: odihr.mn@cg.yu