



## INTERNATIONAL ELECTION OBSERVATION MISSION Montenegro — Presidential Election, 7 April 2013

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### STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

**Podgorica, 8 April 2013** – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Parliamentary Assembly of the Council of Europe (PACE). International observers did not conduct comprehensive and systematic observations of election day proceedings, but visited a number of polling stations around the country.

Ambassador Boris Frlec (Slovenia) is the Head of the OSCE/ODIHR Limited Election Observation Mission, deployed from 8 March 2013. Christopher Chope (UK) headed the delegation of the PACE.

The assessment was made to determine whether the elections complied with the OSCE commitments and Council of Europe standards for democratic elections, as well as with the legislation of Montenegro. This statement of preliminary findings and conclusions is delivered prior to the completion of the electoral process. The final assessment of the election will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, the tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process. The PACE delegation will present its report at its Standing Committee in May 2013.

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### PRELIMINARY CONCLUSIONS

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The 7 April 2013 presidential election, including election day, was professionally and efficiently administered. Candidates campaigned freely and fundamental rights to expression, movement and association were mostly respected. However, the blurring of the line between state and party continued to be at odds with OSCE commitments and Council of Europe standards. Allegations of the misuse of state resources persisted regardless of the veracity of these allegations. Mistrust in public institutions and the judiciary diminished public confidence and should be addressed.

The legal framework regulating the presidential election generally provides an adequate basis for the conduct of democratic elections. However, harmonization of applicable legislation would be necessary to eliminate gaps and provide further clarity on the application of key provisions, particularly in regards to campaign finance and the media.

The State Election Commission operated professionally and despite limited human and financial resources met legal deadlines. The transparency and accountability of lower-level election commissions remained limited with only minimal information on their activities being available to the public.

Candidates were required to submit signatures in support of their candidacy from 1.5 per cent of registered voters despite previous OSCE/ODIHR and Council of Europe's Venice Commission recommendations and contrary to the established good practice. The requirement that citizens can sign in support of only one candidate, and to sign in front of politically-appointed election officials has been raised as a concern in previous OSCE/ODIHR reports and was also questioned by a number of OSCE/ODIHR LEOM interlocutors. The lengthy residency requirement to be eligible to stand as a candidate is also at odds with international obligations.

Two candidates, incumbent president Filip Vujanović and an opposition leader Miodrag Lekić, contested in this election. The constitutional challenge over the incumbent's eligibility to stand again was dismissed by the Constitutional Court, stating that there was a discontinuity in the legal status of the country after the declaration of independence.

Overall, the campaign was competitive, but focused on mutual personal accusations rather than on programmatic issues. In addition to state funding, campaigns were funded by individual contributions and political party resources. Candidates were only required to submit one report in the pre-election period. Legislation on financing of the presidential election campaign requires reform to enhance transparency, to address the lack of independent oversight and the disproportionate reimbursement to the elected candidate.

Authorities made significant efforts to implement necessary changes to the voter registers, however, did not sufficiently address the public's continued concern with regard to its accuracy. The authorities acknowledged that a limited number of discrepancies remain. Allegations of inaccuracies in the voter registers were largely unsubstantiated. For the first time, in line with previous OSCE/ODIHR recommendations, non-citizens were removed from the voter registers, and new biometric identification documents were required in order to vote. OSCE/ODIHR LEOM interlocutors raised concerns that voters were not properly informed of their removal from the registers although only six voters appealed on this basis.

The media monitored by the OSCE/ODIHR LEOM provided voters with a range of information and opinions. The public broadcaster met legal obligations to provide free airtime to the candidates on equal terms. In addition, RTCG organized one face-to-face debate between the two candidates. However, unbalanced reporting of government officials' activities in news programmes was noted with no clear distinction between state activities and party campaigning. For this election, there was no effective independent body with the authority to monitor the media's coverage of the campaign and its compliance with legislation.

The limited number of election-related complaints was attributed by OSCE/ODIHR LEOM interlocutors to the general absence of confidence in the adjudicating bodies. Short deadlines for certain complaints do not fully guarantee effective redress as provided for by paragraph 5.10 of the 1990 OSCE Copenhagen Document. Still, the voter registration cases reviewed by the Administrative Court were heard expeditiously, ensuring effective legal redress.

Election commissions, in the limited number of polling stations visited by international observers, were procedurally well prepared and the voting process was administered efficiently. New polling station complaint forms developed by the SEC were used by voters, and complaints were promptly reviewed on election day. Both counting and tabulation appeared to have been conducted in a transparent and efficient manner, without complaints of irregularities, although further regulation of tabulation procedures is needed.

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## **PRELIMINARY FINDINGS**

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### **Background**

In line with legal and constitutional provisions, on 18 January 2013 the speaker of parliament called the presidential election for 7 April 2013. This election took place some six months after the 14 October 2012 early parliamentary elections. The Coalition for European Montenegro, which won 39 of the 81 seats, maintained control of the parliament through the formation of a coalition

government with the Bosniak Party (BS) and the Croatian Civic Initiative (HGI).<sup>1</sup> The newly-established coalition, Democratic Front (DF), led by Miodrag Lekić with 20 seats, became the main opposition bloc in the parliament.<sup>2</sup> The largest single opposition party Socialist People's Party (SNP) remained outside of either coalition.

Party alliances were further solidifying along pre-referendum lines with the exception of the Social Democratic Party (SDP) whose members challenged the eligibility of their coalition partner's candidate; the party decided not to support either candidate.

With the background of continued European Union (EU) accession negotiations, attention has turned toward necessary reform particularly in the areas of rule of law and combating corruption. The ruling coalition continued to emphasize the advantages of stability in government while the opposition continued to call for reforms and bring to light allegations of corruption. Recently leaked tape recordings from DPS meetings, held in preparation for the 2012 early parliamentary elections, in which party members allude to the possible abuse of state resources in efforts to get more voter support, were widely commented in the media and discussed by the public.

### **Legal Framework and Electoral System**

The legal framework regulating the presidential election generally provides an adequate basis for the conduct of democratic elections. The Constitution, the Law on Election of the President (presidential electoral law), and the Law on Election of the Councillors and Representatives (electoral law) are the primary pieces of legislation for the presidential election.<sup>3</sup> The presidential electoral law, adopted in 2007, includes only specific provisions related to the presidential election, whereas the electoral law, adopted in 1998 and last amended in 2011, governs common provisions for presidential and parliamentary elections.<sup>4</sup> Harmonization of applicable legislation would be necessary to eliminate gaps and provide further clarity on the application of key provisions, particularly in regards to campaign finance and the media.

The Constitution guarantees fundamental political, civil and human rights and freedoms. Direct and indirect discrimination on any grounds is prohibited and gender equality is enhanced by providing that the state shall develop a policy of equal opportunity.

The president is directly elected by popular vote for a five-year term. To be elected in the first round, a candidate must receive more than 50 per cent of the valid votes cast. The right to stand as a candidate is granted to every citizen, with voting rights, who resided permanently in Montenegro for at least 10 of the previous 15 years. This provision is at odds with international obligations.<sup>5</sup> A

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<sup>1</sup> The Coalition for European Montenegro comprises the Democratic Party of Socialists (DPS), Social Democratic Party (SDP), and the Liberal Party (LP) and is led by Prime Minister Milo Đukanović, Leader of DPS. DPS has been in power since 1990 and its candidates have been elected as president in the last eight elections.

<sup>2</sup> Democratic Front consists of the New Serbian Democracy (NOVA), the Movement for Changes (PzP), and the Party of Serbian Unity (SSJ).

<sup>3</sup> Supplemented by various laws including the Law on Financing the Presidential Election Campaign, the Law on Financing of Political Parties, the Law on the Voter Register, as well as various media and broadcasting legislation, and decisions and regulations of the State Election Commission (SEC).

<sup>4</sup> The Joint Opinion on the Draft Law on Amendments to the Election Law of Councilors and Members of Parliament of Montenegro (CDL-AD(2011)11) adopted on 17 June 2011 concluded that the amendments to the law generally represented a positive development, while some further improvements were recommended; see at: <http://www.osce.org/odihr/elections/93229>.

<sup>5</sup> General Comment No. 25 of the United Nations Human Rights Committee provides that "persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation."

person cannot be president more than twice. The candidacy of Filip Vujanović was challenged by a group of citizens before the Constitutional Court on the grounds that he had already been president twice, elected once prior to independence and re-elected in 2008. The Constitutional Court dismissed the appeal, stating that there was a discontinuity in the legal status of the country after the declaration of independence.

All citizens who are 18 years or older on election day, have permanent residence in Montenegro for at least 24 months prior to polling day, and who have not been declared mentally incapacitated by a court, have the right to vote. The residency requirement is overly restrictive and not in line with international standards, as noted previously by the OSCE /ODIHR reports and joint opinions of the OSCE/ODIHR and the Council of Europe's Commission for Democracy through Law (Venice Commission).<sup>6</sup>

### **Election Administration**

The election was administered by a three-level election administration that includes the State Election Commission (SEC), 21 Municipal Election Commissions (MECs) and 1,168 Polling Boards (PBs). The SEC and MECs are permanent bodies appointed for four years, while PBs are formed for each election. Members at all levels were nominated by political parties, which increased the transparency and accountability of the work of the election administration.<sup>7</sup> Approximately 21 per cent of election officials were women. In addition to permanent members, each presidential candidate had the right to appoint an authorized representative with full voting rights to sit on election commissions at all levels, and this right was exercised by both candidates.

The SEC held regular sessions open to election observers and the media. It conducted its work professionally, passing decisions by consensus, and meeting deadlines. The SEC continued to operate with limited financial resources and without a permanent secretariat as foreseen by law. While the electoral law gives the SEC supervisory and monitoring authority over the implementation of the law, the SEC repeatedly took a narrow interpretation of this authority, rather than assuming a proactive approach.

The SEC posted its decisions on its website; however, the minutes of sessions were not published, which could have increased transparency. Furthermore the electoral law requires that MECs publish all decisions on dedicated websites in a timely manner. This was rarely complied with, and four MECs did not have a website at all, which limited the transparency of their work.<sup>8</sup>

PBs were generally formed, in accordance with the law, by the MECs reflecting the political composition of the municipal council and drawing lots for the PB chairperson posts.<sup>9</sup> Training of MEC and PB members is provided by law, however it is not obligatory. In a positive step, following previous OSCE/ODIHR recommendations, the SEC instructed the MECs to invite authorized representatives to the PB trainings, and to instruct all PB members that the authorized representatives have full voting rights on the boards. The MEC trainings of PB members observed by the OSCE/ODIHR LEOM were not uniform in approach or attendance.

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<sup>6</sup> Previous OSCE/ODIHR reports on Montenegro are available at: <http://www.osce.org/odihr/elections/montenegro>. In addition, please also see paragraph I.1.1.c.iii of the Council of Europe Venice Commission Code of Good Practice in Electoral Matters, available at: [http://www.venice.coe.int/webforms/documents/CDL-AD\(2002\)023rev-e.aspx](http://www.venice.coe.int/webforms/documents/CDL-AD(2002)023rev-e.aspx).

<sup>7</sup> The ruling coalition had 6 out of 11 members appointed in the SEC and the majority in 17 out of 21 MECs.

<sup>8</sup> These included MECs in Berane, Plužine, Šavnik and Ulcinj.

<sup>9</sup> In Ulcinj, the MEC decided not to draw lots, and used the same distribution as used in previous elections.

## Voter Registration

A total of 511,405 voters were registered for this election. Voter registration is passive with 21 voter registers (VR) maintained by municipalities based on citizen registers held by the Ministry of Interior (MoI). The MoI provided regular updates with changes to the municipalities, but the lack of reconciliation of the two registers resulted in some discrepancies.<sup>10</sup> The municipal VRs were then compiled into a Central Voter Register (CVR), located at the Ministry of Information Society and Telecommunications (MIST). The MIST provided significant technical assistance to municipalities, as well as detailed VR information to political parties.

The electoral law required that all non-citizens be removed from the VR by 31 December 2012.<sup>11</sup> As a result, 12,964 entries of non-citizens were deleted. While some civil society representatives and opposition parties claimed that many of those removed were not duly informed, the MIST reported that timely notices were sent. With lack of regulations governing the specific procedures for removal from the VR, uniformity in the administrative procedure was not ensured. In addition, for the first time, biometric identification documents (ID or passport) were required to vote.<sup>12</sup> According to the MoI, some 30,000 citizens were without biometric IDs, and would not be able to vote, despite various efforts to assist citizens with the processing, including the deployment of mobile MoI teams.<sup>13</sup>

Voters had the possibility to check their status in the VR, including through a website and SMS, both of which were actively used. By law, the parliamentary political parties are given electronic copies of the voter registers and could request access to relevant data from the MoI. According to the Agency for Protection of Personal Data, the distribution of complete VRs, which includes all personal data, is at odds with the Law on Protection of Private Information.

The state and local authorities made a serious effort to update the VR within legal deadlines. However, even though significant changes were made prior to this election, the MoI did not conduct a thorough information campaign to dispel any concerns on accuracy of the VR. The MoI and the MIST did create a video on how voter registers are maintained; however, this was not made available in the media. In addition, allegations of inaccuracies in the VRs persisted from some opposition political parties and civil society. In addition, some parties alleged a selective approach by the MoI in resolving citizenship applications potentially impacting voter registration.<sup>14</sup> Most of the allegations received by the OSCE/ODIHR LEOM were unsubstantiated and related to a few individual cases. The LEOM did, however, on two separate occasions, receive credible information that the MoI did not reply in a timely manner to a political party requests for information on the VR, as required by Article 18 of the Law on Voter Register.

## Candidate Registration

Presidential candidates can be nominated by political parties or groups of citizens. All candidates are required to support their candidature with signatures of at least 1.5 per cent of the total

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<sup>10</sup> These discrepancies can be addressed only by full matching of MoI registers with the VRs.

<sup>11</sup> The removal of non-citizens was triggered by the 2007 Constitution, but delayed on several occasions.

<sup>12</sup> The validity of old documents expired on 31 December 2012 after being extended three times, last time in July 2012, so that they could be used in 2012 early parliamentary elections.

<sup>13</sup> The SNP requested from the SEC a legal opinion on the possibility to vote with expired documents. The SEC issued an opinion that such request is not in accordance with the law. This response was appealed to the Constitutional Court and rejected on 5 April.

<sup>14</sup> On 3 April, both presidential candidates submitted documents containing some 7,000 entries of suspected inaccuracies in the VRs, requesting MoI to conduct an inspection of source data. The MoI was not able to address these requests within the legal deadline.

registered electorate<sup>15</sup> According to the established good practice, the number of required signatures should not exceed one per cent of the electorate.<sup>16</sup>

Prospective candidates could collect signatures from the day elections were called until 18 March. Citizens signed in support of one candidate by going to the respective MEC offices in front of two MEC members, one from the ruling coalition and one from the opposition. The requirement of signing in front of politically-appointed MEC members where voters were limited to signing in support of only one candidate has been raised as a concern in previous OSCE/ODIHR reports and was also questioned by a number of OSCE/ODIHR LEOM interlocutors.

Of the three potential candidates, incumbent Filip Vujanović, nominated by the DPS, and Miodrag Lekić, nominated by a group of citizens, successfully collected the required signatures and were registered. Rade Bojović, a potential independent candidate, failed to collect sufficient signatures.

### **Campaign and Campaign Finance**

The election campaign officially started from the day each candidate was registered and ended at midnight on 5 April.<sup>17</sup> The legal framework prescribes equal opportunities for all contestants, including access to state premises for campaign events and space for displaying campaign materials.

Overall, the campaign was moderate but visible throughout the country. Both candidates were able to campaign freely and without undue restriction. Freedom of speech, movement and association were respected, and rallies were well attended, although predominantly by men. In addition to traditional means of campaigning, the candidates utilized the internet and social networks to reach out to voters.

The campaign was highly polarized and focused on mutual personal accusations rather than on programmatic issues. Mr. Vujanović's message focused on the need for continuity of government to ensure further economic development and EU integration, while Mr. Lekić focused on the lack of progress by the government in fighting corruption and organized crime. While both candidates held rallies in areas with large minority populations promising continued respect for minority rights, campaign messages did not specifically address minority needs, and no campaign materials, including TV spots in minority languages, were noted.

Allegations of a widespread practice of favoritism of party members by the state, who is the predominant employer, persisted throughout the campaign. Regardless of the veracity of the allegations of misuse of state resources and vote buying, their pervasiveness diminished confidence in the electoral process. The blurring of the line between the state and party is inconsistent with paragraph 5.4 of the 1990 OSCE Copenhagen Document.<sup>18</sup>

With only two candidates competing in this election, the Liberal Party, Albanian Coalition, BS, and HGI declared their support for Mr. Vujanović, while DF, SNP, Positive Montenegro and Democratic Serbian Party aligned with Mr. Lekić. Prime Minister Milo Đukanović actively supported the DPS candidate by speaking at campaign rallies and in the media.

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<sup>15</sup> For this election each potential candidate needed to collect 7,710 signatures, based on the 514,055 voters registered in the last election.

<sup>16</sup> See paragraph I.13.ii of the Council of Europe Venice Commission Code of Good Practice in Electoral Matters, available at: [http://www.venice.coe.int/webforms/documents/CDL-AD\(2002\)023rev-e.aspx](http://www.venice.coe.int/webforms/documents/CDL-AD(2002)023rev-e.aspx).

<sup>17</sup> The campaign started from 13 February for Mr. Vujanović and 22 February for Mr. Lekić.

<sup>18</sup> Paragraph 5.4 of the 1990 Copenhagen Document provides for "a clear separation between the State and political parties; in particular, political parties will not be merged with the State."



In addition to state funding, campaigns were funded by individual contributions and political party resources. The Law on Financing of the Presidential Election Campaign, adopted in 2009, was not changed following the adoption of amendments to the Law on Financing of Political Parties in 2011. It consequently contained gaps and is at times inconsistent with related legislation. These included varying supervisory authority depending on the election as well as the disproportionate reimbursement from state funds to the elected candidate.<sup>19</sup>

Presidential candidates were required to submit one report to the SEC on the source and amount of campaign donations in the pre-election period.<sup>20</sup> These reports should have included information on expenses incurred after a candidate is registered through election day. Reports were submitted to the SEC and posted on its website within the legal deadlines. The infrequency of reporting and the lack of independent oversight limited transparency.<sup>21</sup> The Ministry of Finance is responsible for overseeing the financing of the presidential campaign and for auditing the post-election reports.<sup>22</sup>

## **The Media**

The media monitored by the OSCE/ODIHR LEOM provided voters with a range of information and opinions. However, the independence and objectivity of the media was often questioned by LEOM interlocutors, who considered the media influenced by political and business interests. Additionally, some private electronic media reported significant financial problems as a result of what media considered to be high broadcasting fees.

The electoral law contains general provisions regarding media conduct during the campaign and requires public broadcasters to grant free airtime on equal terms to the candidates during primetime.<sup>23</sup> In addition, the public Radio and Television Montenegro (RTCG) issued binding internal regulations on the allocation of free airtime to candidates in news programmes, free marketing slots, and rules for a live television debate, and one first face-to-face debate between the two candidates.

Following amendments to media legislation, a Council was established to oversee conduct of RTCG and act upon complaints. The lack of independency of the Council was underlined by many OSCE/ODIHR LEOM interlocutors who mainly questioned its membership as overly being affiliated to state-funded institutions.<sup>24</sup> During the election campaign, the system showed weaknesses and inefficiency due to the lack of a mechanism to promptly approve and enforce decisions. The Council received one official complaint from Mr. Lekić regarding the unprofessional

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<sup>19</sup> The elected candidate receives 50 per cent of all state funds allocated for the campaign in addition to participating in the equal distribution of the other 50 per cent.

<sup>20</sup> Pre-election reports must be submitted to the SEC from 7 to 10 days before election day. Final Report must be submitted no later than 45 days after the election.

<sup>21</sup> The OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulations: <http://www.osce.org/odihr/84499>. Please also see the Council of Europe's Greco Evaluation Report on Montenegro, Greco Eval III Rep (2010) 7E:

[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2010\)7\\_Montenegro\\_One\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)7_Montenegro_One_EN.pdf).

<sup>22</sup> The Ministry of Finance audits the report on expenditures paid from public funds received, the report on private contributions is audited by private auditors, if totaling over EUR 50,000.

<sup>23</sup> See Article 50 of the electoral law.

<sup>24</sup> The Council is established by Article 20 of the Law on Public Services of Montenegro and its membership consists of nine representatives: out of these six are primarily from the state-funded institutions.

conduct of the public broadcaster and biased coverage in news programmes.<sup>25</sup> Mr. Lekić publicly expressed his discontent with RTCG's reporting on multiple occasions.<sup>26</sup>

Whereas public broadcasters considered their individual Councils as the sole authority to deal with election-related complaints, private media considered self-regulatory bodies as competent for these matters. The Agency for Electronic Media (AEM) is an independent institution in charge of overseeing the conduct of electronic media in compliance with the Law on Electronic Media and protection of viewers' rights. Nevertheless, for this election no body was effective in overseeing the compliance of media with the electoral law.

The media monitored by the OSCE/ODIHR LEOM provided adequate news coverage of the two candidates' activities during the campaign, and major private media offered critical reporting on the current political landscape.<sup>27</sup> Paid advertisements were used by both candidates through the course of the campaign. RTCG complied with its legal obligation to provide the candidates with free airtime on equal terms during primetime. In addition, on 5 April, RTCG organized a face-to-face debate between the two candidates. However, in the news programmes, extensive coverage was given to the Prime Minister and other government officials with no clear distinction between state activities and political campaigning.<sup>28</sup> Mr. Vujanović received 13 per cent and Mr. Lekić 16 per cent, while Prime Minister and other DPS officials received 18 per cent and 22 per cent respectively. DF received 10 per cent of coverage.

In contrast, the most popular private broadcaster *TV Vijesti* was less equitable and devoted 8 per cent of its news coverage to Mr. Vujanović and 16 per cent to Mr. Lekić, while Prime Minister received 14 per cent, DPS 16 per cent and DF 10 per cent of coverage.

Print media provided a wide range of views, although often biased along party lines. Private newspapers *Dan* dedicated extensive coverage to the election that was often critical in tone towards the ruling party and the Prime Minister. State-owned newspaper *Pobjeda* dedicated extensive coverage, largely positive in tone, to the activities of the incumbent and other DPS officials during the campaign: Mr. Vujanović received 15 per cent, DPS 31 per cent and Prime Minister 17 per cent of its news reporting.<sup>29</sup> Mr. Lekić and DF received only 7 and 5 per cent of coverage respectively.

## Complaints and Appeals

According to the electoral law, the Constitutional Court, the Administrative Court and the election administrative bodies have jurisdiction over election-related disputes. The Constitutional Court is mandated to adjudicate complaints challenging the legality and constitutionality of the electoral framework, as well as appeals of SEC decisions. The Administrative Court hears complaints related to the composition of MECs and appeals of decisions of the local government officials related to voter registration. There are no official procedures related to the processing of complaints by election commissions, but as previously recommended by OSCE/ODIHR and with the assistance of the OSCE Mission to Montenegro, the SEC developed a complaint form for polling stations.

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<sup>25</sup> On 1 April, the Council reviewed the complaint and made a rather general decision for future reporting without issuing any sanctions.

<sup>26</sup> On 21 March, DF held a Press Conference to express discontent and concern about RTCG reporting which DF considered to be unprofessional and aimed at undermining the program of its candidate.

<sup>27</sup> Media monitoring commenced on 12 March. It included RTCG and privately owned *TV Vijesti*, *TV Atlas*, *TV Prva*. Print media *Pobjeda*, *Vijesti*, *Dan* and *Dnevne Novine* were also monitored.

<sup>28</sup> On 27 March RTCG dedicated a two hour documentary to Prime Minister Đukanović's trial case. A RTCG Council member informed the public that funding of the program was not foreseen in the council's annual plan.

<sup>29</sup> To date, *Pobjeda* is owned by the state of Montenegro (85 per cent). This contravenes Article 47 of the Law on Media which provides for all print media to be privatized by 2003.



The electoral law imposes very short deadlines for the submission and adjudication of certain complaints, including appeal of SEC decisions to the Constitutional Court. These timelines are very short and may not be sufficient to ensure effective legal redress, as provided for by paragraph 5.10 of the 1990 OSCE Copenhagen Document.<sup>30</sup>

The Administrative Court received two complaints related to the composition of Kolašin and Andrijevića MECs. On 20 March, the court upheld a decision of the municipal council affecting the composition of the MEC of Andrijevića. The appeal of the composition of the MEC in Kolašin is still pending. The late decision in the first case and the absence of decision in the second go against OSCE commitments for effective means of legal redress. In addition, the Administrative Court decided on six cases related to deletions from the VRs for lack of citizenship. In all cases, the court overturned the decision for procedural or competency reasons and ordered that the matter be reviewed and a new decision be issued. Voter registration complaints were addressed in a timely manner, allowing effective legal redress.

Police and state prosecutors may initiate investigations and proceedings, *ex officio*, or upon complaint from any citizen. The Supreme State Prosecutor reviewed the allegations arising from the tape recordings affair and concluded that there were no grounds for initiating a criminal investigation. Initiatives to have public hearings before a parliamentary investigative committee on the issue were repeatedly delayed and finally scheduled for after the election.

Despite the numerous allegations of violations of campaign-related provisions,<sup>31</sup> only one official complaint was filed with the election commissions or at the police or prosecutor office.<sup>32</sup> According to many OSCE/ODIHR LEOM interlocutors, the overall lack of trust in the independence and efficiency of adjudicating bodies and the fear of reprisals or other negative consequences for the complainant to some degree explains the absence of formal complaints.

### **Citizen and International Observers**

The election law provides for observation of the entire election process by citizen and international observers.<sup>33</sup> The SEC accredited 113 international observers, from 6 different organizations. However, no citizen organization applied to observe the electoral process. The civil society organizations that previously engaged in observation, such as Center for Monitoring Elections (CEMI) and Center for Democratic Transition (CDT), limited their activity to monitoring use of state resources in the campaign, as well as adherence to campaign finance regulations.<sup>34</sup>

### **Election Day**

Election day procedures, in the limited number of polling stations visited by international observers, were conducted professionally and transparently. Election commissions were well prepared and voting proceeded in an orderly manner. Homebound voters could request to vote through mobile voting, but the current procedures for mobile voting could potentially lead to breaches of secrecy,

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<sup>30</sup> Paragraph 5.10 of the 1990 OSCE Copenhagen Document provides that “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity.”

<sup>31</sup> Misuse of public resources, illegal hiring of temporary personal during the campaign, intimidation on voters.

<sup>32</sup> An appeal of an MEC decision on the composition of one PB in Budva.

<sup>33</sup> The electoral law does not provide for a possibility of political parties or candidates to accredit observers.

<sup>34</sup> During the 14 October, 2012 early parliamentary elections, CEMI had accredited over 1,000 observers.

decreasing the integrity of the process.<sup>35</sup> Additionally, voting in the 116 polling stations where less than 50 voters are registered continued to compromise the secrecy of the vote.

The SEC made efforts to train election officials on the role of authorized representatives; however, they continued to fill the role of observer. On election day, the SEC issued an opinion stating that authorized representatives were allowed to accompany mobile voting teams. The newly adopted complaint forms were available for voters at polling stations and a few complaints were submitted to election commissions at the municipal level and appealed to the SEC.<sup>36</sup> Tabulation procedures are largely unregulated. Both counting and tabulation, in the polling stations observed by international observers, appeared to have been conducted in a transparent and efficient manner, without further complaints.

The electoral campaign silence period, which started 24 hours prior to election day, was not respected by major print media which published partisan electoral messages prohibited by law.<sup>37</sup>

*The English version of this Statement is the only official document.  
An unofficial translation is available in Montenegrin.*

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#### **MISSION INFORMATION AND ACKNOWLEDGEMENTS**

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Podgorica, 8 April 2013 - The OSCE/ODIHR Limited Election Observation Mission opened in Podgorica on 8 March. It includes 10 experts in the capital and 12 long-term observers deployed throughout Montenegro.

On election day, 33 observers from 20 countries, were deployed, including 22 long-term observers and experts deployed by the OSCE/ODIHR, as well as 9 from the PACE. In line with the OSCE/ODIHR methodology for LEOMs, the mission did not undertake a comprehensive observation of election day proceedings, but visited a number of polling stations across the country.

The observers wish to thank the authorities of Montenegro for the invitation to observe the elections; the State Election Commission, the Ministry of Foreign Affairs and European Integration, the Parliament of Montenegro and other state and local authorities for their assistance and co-operation. The observers also wish to express appreciation to the diplomatic community and international institutions for their co-operation and support.

For further information, please contact:

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<sup>35</sup> The mobile ballots are in sealed envelopes when inserted in the ballot box at the polling station, therefore they are not mixed with all other ballots. In addition, the homebound voters do not sign the voter list.

<sup>36</sup> Six complaints largely related to discrepancies in names as written in the VRs versus the identification cards were submitted at the municipal level, using new forms; three were appealed to the SEC.

<sup>37</sup> Breaches of the campaign silence period were monitored in *Pobjeda, Dan, Dnevne Novine, Vijesti*.