

**INTERIM REPORT**  
**8 February – 1 March 2023**

**3 March 2023**

**I. EXECUTIVE SUMMARY**

- On 16 January 2023, the Speaker of the Parliament (*Skupština*), in keeping with the legally mandated timeline, called a presidential election for 19 March. The president is elected in a single nationwide constituency 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. Otherwise, a second round is held two weeks later between the two candidates with the highest number of votes, and the candidate who obtains the largest number of votes cast is elected.
- The upcoming elections take place in a highly polarized environment as well as during an ongoing institutional and political crisis. In September 2022, the President and the majority in the parliament accused each other of breaching the Constitution and threatened to dismiss each other by invoking constitutionally available tools. In October 2022, municipal elections were held in 14 of the 25 Municipalities, but results are still pending in four of them. Since September 2022, the Constitutional Court has lacked the quorum necessary to be operational and make decisions. Following lengthy negotiations and a political agreement, on 27 February, the parliament voted to fill three out of the four vacancies in the court, providing the Court with a quorum. All three newly appointed judges are women.
- The electoral legal framework has remained largely unchanged since the last elections. Most prior ODIHR recommendations remain unaddressed, including those related to the comprehensive reform and harmonization of election legislation, restrictions of voting and candidacy rights, transparency and mechanisms of dispute resolution, and oversight of the campaign finance and media.
- Voting rights are granted to all citizens 18 or older, provided they have a permanent residence in Montenegro for at least 24 months before election day. Voters can check their data online or in person and make requests for corrections. Candidates, parliamentary parties and citizen observer groups have the right to inspect the voter register. On the day the election was called, the voter register included 543,175 voters. Some ODIHR EOM interlocutors questioned the accuracy of the voter register, mainly related to the permanent residence data.
- The State Election Commission (SEC) and the 25 Municipal Election Commissions (MECs) are permanent bodies with four-year terms, while the approximately 1,200 Polling Boards are appointed at the latest ten days before the election. Women are underrepresented in the election administration, only 3 of 11 SEC members and 39 per cent of MEC members are women. The candidates may nominate authorized representatives with full voting rights to the electoral bodies of all levels. To date, SEC sessions were open to observers and media, agendas were posted in advance and the sessions' minutes were published. SEC members voted along political lines on a key candidate registration decision, a concern that many ODIHR EOM interlocutors met in the reporting period have raised about the SEC decision making.

- Voters are eligible to stand as candidates, provided they have permanent residence in Montenegro for at least 10 of the last 15 years and their candidacies are supported by the signatures of at least 8,101 voters. Nine individuals submitted their candidacies, and the SEC registered six of them, including one woman (one registration is pending SEC decision). The SEC verified the citizenship and permanent residence of two prospective candidates, which is not foreseen by law. It offered four nominees an opportunity to correct shortcomings in their applications. However, it denied registration to one nominee without offering him this opportunity, citing contradictory information pertaining to his citizenship and residence, despite the submitted documentation.
- Prospective candidates may start campaigning after the call of elections, but they may campaign on media only after their registration. The election law contains comprehensive campaign regulations aiming at preventing the abuse of state resources, including prohibiting new employment in public institutions after the call of elections. However, a number of ODIHR EOM interlocutors raised concerns about such abuse in the run-up to the election by parties in control of state institutions. To date, campaign activity has been limited. Anti-corruption efforts and the country's geopolitical orientation are emerging as key campaign issues, though the rhetoric also focuses on personalities and appeals to national identity.
- In addition to public funding, candidates may receive private donations from individuals and legal entities. Each candidate may spend up to EUR 1,7 million. Several ODIHR EOM interlocutors expressed the opinion that such a high expenditure does not foster a level playing field. Reporting requirements are applicable prior to and after the election day. The Agency for Prevention of Corruption (APC) oversees campaign finance, and publishes the financial reports of candidates, but the law does not prescribe sanctions for inaccurate reports.
- The media environment is diverse, but media outlets are operating in a limited advertising market, which affects their financial viability and makes them vulnerable to influence from corporate and political interests. Candidates are entitled to an equal amount of free airtime on the Public Service Broadcaster. Both public and commercial broadcasters are required to separate the election campaign coverage in *ad hoc* news blocks. Paid advertising is allowed and should be clearly labeled as such. The Agency for Electronic Media (AEM) monitors the compliance of the broadcasters with the legal provisions on campaign coverage but it does not have effective sanctioning powers.
- Complaints may be filed with election commissions, and an expedited process is applicable for all instances. The Constitutional Court is mandated with the judicial review of SEC decisions, but it has not reviewed any cases since due to a lack of quorum before 27 February. Complaints on abuse of state resources and campaign finance violations are filed with the APC. To date, three complaints were filed with the SEC, while the APC has received 52 complaints pertaining to the use of state resources by public institutions.
- By 1 March, the SEC accredited four citizen observer groups with 346 observers and one international organisations with 26 observers. The SEC did not grant the possibility for observers to scrutinize the signature verification process justifying this decision on the basis of personal data protection.

## **II. INTRODUCTION**

Following an invitation from the Speaker of the Parliament and based on the recommendation of a Needs Assessment Mission conducted from 24 to 27 January, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 8

February.<sup>1</sup> The EOM, led by Tamás Meszerics, consists of a 10-member core team based in Podgorica and 14 long-term observers (LTOs) deployed on 17 February to 7 locations throughout the country. Mission members are drawn from 25 OSCE participating States, and 42 per cent of mission members are women. ODIHR has requested participating States to second 100 short-term observers to observe election-day proceedings.

### III. BACKGROUND

Montenegro is a parliamentary republic with a mixed parliamentary and presidential political system. Both institutions are elected by popular vote. The president is the head of state and has limited powers.<sup>2</sup> On 16 January 2023, the Speaker of the Parliament (*Skupština*), in keeping with the legally prescribed deadlines, called a presidential election for 19 March.<sup>3</sup> The upcoming elections take place in a highly polarized environment as well as during an ongoing institutional and political crisis.

In the 2020 parliamentary elections, the ruling Democratic Party of Socialists (DPS) won the most seats, but the three coalitions which stood against it formed a government led by Zdravko Krivokapić, replacing the ruling DPS for the first time since 1990.<sup>4</sup> In February 2022, the Krivokapić government fell to a vote of no confidence. A new minority government was formed by Dritan Abazović, which in August 2022 also received a vote of no confidence but remains in office due to a lack of a newly appointed government.<sup>5</sup>

Women remain underrepresented in political life. Despite the 2014 amendment of the election law to introduce gender quotas for party lists, only 18 out of the 81 members of the current parliament and 4 of the 20 ministers are women.

In September 2022, President Milo Đukanović refused to accept the nomination of Miodrag Lekić of DEMOS as the candidate for Prime Minister and requested the parliament to shorten its mandate and allow for early parliamentary elections.<sup>6</sup> In response, the parliamentary majority requested the Constitutional Court to assess whether the president violated the Constitution; if a violation is found, the dismissal of the president would be initiated.<sup>7</sup> Further, the parliament adopted amendments to the Law on the President, allowing the parliament to appoint a prime minister supported by signatures of

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<sup>1</sup> See the previous [ODIHR reports with regard to elections in Montenegro](#).

<sup>2</sup> The competencies include nominating candidates for prime minister, representing the state, commanding the army based on the decisions of the Defence and Security Council, appointing ambassadors, accrediting diplomats, and nominating two of the seven judges of the Constitutional Court.

<sup>3</sup> The Speaker had to call a presidential election no more than 120 days before the expiry of the incumbent's mandate, which ends on 20 May 2023, and the election must be held between 60 and 90 days after the announcement.

<sup>4</sup> DPS won 30 of the 81 seats; For the Future of Montenegro, 27; Peace is Our Nation, 10; In Black and White, 4; Social-Democratic Party (SDP), 2; Social Democrats (SD), 3; Bosniak Party (BS) 3, and the two Albanian coalitions "Unanimously" and the Albanian list Genci Nimanbegu won one seat each.

<sup>5</sup> The vote of no confidence was brought about due to the dissatisfaction of several parties with Prime Minister Abazović's signing of a government agreement with the Serbian Orthodox Church on the special rights of the church related to its status, property and other rights.

<sup>6</sup> On 30 September 2022, the parliament voted 41 to 39 against the proposal "to put the shortening of the parliamentary mandate on the agenda of the parliament session".

<sup>7</sup> Due to the lack of quorum in the Constitutional Court, this request remains without consideration.

the majority of MPs if the president declines to do so.<sup>8</sup> The President requested the Venice Commission to provide an opinion on the constitutionality of the amendments to the Law on the President.<sup>9</sup>

In September 2022, a new party the Movement Europe Now (PES) was established and competed in the October 2022 municipal elections. The municipal elections were held in 14 of the 25 municipalities. To date, MECs in four municipalities, including Podgorica, have failed to finalize the election results.<sup>10</sup>

The Constitutional Court has been without a quorum since September 2022, as the parliament failed to elect new judges on multiple occasions.<sup>11</sup> As a result, the impeachment process, the review of the constitutionality of the legal amendments to the Law on the President and appeals pertaining to the municipal elections remain pending. Following a political agreement, on 27 February, the parliament voted to fill in three out of four vacancies in the Court, providing the Court with a quorum. All three newly appointed judges are women, and a total of 4 out of 6 currently appointed judges of the court are women.

#### **IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK**

The president is directly elected in a single nationwide constituency for a five-year term. A president may not serve more than two terms.<sup>12</sup> To be elected, a candidate must receive over 50 per cent of the valid votes cast. Otherwise, the two candidates who received the highest number of votes compete in the second round held 14 days later, and the candidate who receives the highest number of votes is elected.

The legal framework for the presidential election primarily consists of the 2007 Constitution, the 2007 Law on the Election of the President (LEP), the 1998 Law on Election of Councilors and Representatives (election law), and the 2020 Law on Financing of Political Subjects and Election Campaigns (LFPSEC).<sup>13</sup> The election process is further regulated by the bylaws of the State Election Commission (SEC).

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<sup>8</sup> The new article 7.f.1. of the Law on the President stipulates: “If the President does not perform his duties with regard to the procedure of determining the Prime Minister-designate pursuant to the present Law, for the sake of protecting the public interest, the candidate who has received support by the majority of the total number of MPs, as established by a petition with signatures, shall be considered a Prime Minister-designate.”

<sup>9</sup> On 9 December 2022, the Venice Commission issued an [Urgent Opinion](#) stating that “While the Commission acknowledges that the Constitution would benefit from additional regulation on the formation of the government, in particular to prevent deadlocks, and understands that the law under consideration represents a pragmatic attempt to solve the institutional impasse, it reiterates that any complementary provisions which affect the system of checks and balances foreseen by the Constitution should be added by means of constitutional revision, following the procedure described in Art. 156 which requires a qualified majority.”

<sup>10</sup> Namely, in the municipalities of Podgorica, Plav, Pljevlja and Šavnik which altogether comprise one third of the electorate. The composition of the election administration in these Municipalities will not reflect the results of the recent Municipal elections. PES announced they will form a coalition majority in the municipal council of Podgorica to elect a major, after the Podgorica results are confirmed.

<sup>11</sup> The Constitutional Court has seven judges in full composition. Due to retirements, the court was left with only three judges since September 2022. Prior to the 27 February session, the Parliament made six unsuccessful attempts to elect new judges, including on 27 July, 21 October, and 12 December 2022.

<sup>12</sup> In 2013, the Constitutional Court issued an opinion that the declaration of independence in 2006 and the adoption of a new Constitution created a discontinuity in the legal status of Montenegro as a country and, therefore, presidential terms served before 2006 do not count towards the limit of maximum two mandates. This interpretation allows the incumbent to stand as a candidate for the presidency for a third term, since he held the office of the president for one term prior to 2006 and an additional term after 2006.

<sup>13</sup> Other applicable legislation includes the Laws on the Voter Register, on Political Parties, on Public Assemblies and Public Events, on Media, on Free Access to Information, on the Constitutional Court, on General Administrative Procedures, on Administrative Disputes, on Misdemeanours and the Criminal Code.

The legal framework has remained largely unchanged since the last parliamentary elections. An *ad hoc* parliamentary committee for electoral reform, established in 2018, resumed its activities in November 2021 but only held two sessions in 2022 and its mandate ended in July 2022.<sup>14</sup> Most previous ODIHR recommendations remain unaddressed, including those related to comprehensive reform and harmonization of election legislation, restrictions of voting and candidacy rights, the transparency and procedures for dispute resolution, media and oversight of campaign finance and regulation.

## **V. ELECTION ADMINISTRATION**

The presidential election is managed by a three-tiered election administration, comprising the SEC, 25 Municipal Election Commissions (MECs) and approximately 1,200 Polling Boards (PBs), which should by law be formed by 8 March. The SEC is a permanent body with a four-year mandate that is composed of a chairperson and ten members. The current SEC members were appointed following the 2020 parliamentary elections.<sup>15</sup>

The MEC and PB memberships are entirely composed of political nominations and reflect the party representation in the Municipal Councils. The MECs consist of a chairperson, and four permanent members appointed by the Municipal Councils after the municipal elections.<sup>16</sup> The PB consists of a chairperson and four members appointed from the political party nominations by the MECs at the latest ten days prior to election day.<sup>17</sup> Following candidate registration, the presidential candidates may nominate authorized representatives with full voting rights to the electoral bodies of all levels. Women are underrepresented in election administration, constituting 39 per cent of the total number of MEC members. Only three SEC members and four of the 25 MEC chairpersons are women.

For this election, the SEC informed the ODIHR EOM that it updated several of its previous regulations, including on easing the access of people with physical disabilities to independent voting. In the reporting period, SEC sessions were open to observers and media, agendas were posted in advance, and the sessions' minutes were published.<sup>18</sup> SEC members voted along political lines on a key candidate registration decision, a concern that many ODIHR EOM interlocutors met in the reporting period have raised about SEC decision making.<sup>19</sup>

By law, MEC sessions must be open to observers and media; MECs are required to post all relevant election-related information and decisions on their websites. In the reporting period, the MECs'

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<sup>14</sup> A two-thirds majority in parliament is required for the amendments pertaining to laws that regulate the electoral system. The committee comprised representatives of all the parliamentary parties and several civil society organisations.

<sup>15</sup> The SEC chairperson is appointed by the parliament based on open competition. Four members are nominated by the parliamentary majority, four by the parliamentary minority, one by the civil society and academia and one by the national minority group that won the highest number of votes in the last parliamentary elections.

<sup>16</sup> The MEC chairpersons are nominated by the party that won the most mandates in the municipal elections in the respective municipality; two members are nominated by the majority in the municipal council and two by the opposition. In Podgorica, Plav, Pljevlja and Šavnik, where the municipal elections have not been finalised, new MECs have not been formed. In line with an SEC opinion, the previous permanent MEC compositions have remained operational, complemented by two different sets of temporary MEC members for the unfinished municipal and presidential elections.

<sup>17</sup> The PB chairpersons are nominated by the political parties represented in the municipal council, in proportion to their representation. Of the four PB members, two are nominated by the ruling majority and two by the opposition. By law, nominating bodies may recall their nominees from the PBs up to 12 hours before voting.

<sup>18</sup> The SEC informed the ODIHR EOM that it would stream its sessions live on its dedicated YouTube channel, however, this is yet to be implemented.

<sup>19</sup> On the candidacy of Mr. Spajic, the SEC chairperson along with the two members nominated by the Democrats and civil society organizations voted for the candidacy of Mr. Spajić; the four members nominated by DPS and SD voted against while the three members nominated by the DF, SNP and BS abstained.

adherence to this requirement varied.<sup>20</sup> The SEC plans to train MECs, which will subsequently train the PBs on election-day procedures. In addition, the SEC plans to conduct voter education campaigns.<sup>21</sup>

## VI. VOTER REGISTRATION

The right to vote is granted to all citizens over the age of 18 years by the election day with permanent residence in the country for at least 24 months preceding the election day. In line with international standards and addressing a prior ODIHR recommendation, in November 2020, the Constitutional Court abolished the provision that deprived persons with intellectual and psychological disabilities of their voting rights.

Voter registration is passive. 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. Voters may verify their personal data in the VR through a dedicated website or in person at local MoI offices and, until 8 March, may request corrections or amendments. By law, MECs, accredited observers, parliamentary parties and candidate representatives have the right to inspect the VR online.<sup>22</sup>

According to preliminary data from the MoI, the VR includes some 543,100 citizens with the right to vote.<sup>23</sup> The MoI noted that they plan to check the voter register for duplicate entries closer to the election day, in line with past practice. Several ODIHR EOM interlocutors raised concerns about the accuracy of the voter register, questioning the accuracy of permanent residence data, possible duplicated entries and entries of deceased persons.

## VII. CANDIDATE REGISTRATION

The right to stand for president is granted to every voter who has permanent residence in Montenegro for at least 10 of the last 15 years. 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 per cent of the total number of voters).<sup>24</sup> Voters may sign in support of only one candidate, contrary to a prior ODIHR recommendation and international good practice.<sup>25</sup>

The law does not prescribe detailed rules on signature verification. On 10 February, three weeks after the start of the nomination period and after the confirmed registration of one of the candidates, the SEC adopted an instruction on signature verification, partly regulating the process. The SEC verifies whether

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<sup>20</sup> While some MECs, including Podgorica, Pljevlja, Šavnik and Žabljak, regularly update their websites, others, including Kolašin, Mojkovac, Andrijevića and Gusinje, informed the ODIHR EOM that they do not consider updating the websites mandatory.

<sup>21</sup> Including on informing voters how to check their data in the VR, whether their signature is used for candidate nomination and how to vote on election day.

<sup>22</sup> They are granted full access to the VR data, including filtering it by any parameter. It is, however, forbidden to make copies of any data. The parliamentary parties are granted this access also outside of the election period.

<sup>23</sup> The MoI databases include the data of 781,685 citizens, including 633,123 citizens of voting age. According to the MoI, some 300 citizens of voting age will not be included in the voter lists for this election, due to the lack of 24 months of permanent residence prior to election day.

<sup>24</sup> The law requires supporting signatures of 1.5 per cent of the total number of voters registered for the last parliamentary elections (2020).

<sup>25</sup> Paragraph 3 of the [1990 OSCE Copenhagen Documents](#) states that the OSCE participating States “recognize the importance of pluralism with regard to political organizations.” See also Paragraph 77 of the [ODIHR and Venice Commission Guidelines on Political Party Regulation](#) which recommends that “in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party.”

the data of voters who provided signatures correspond to their data in the voter register.<sup>26</sup> As in previous elections, voters can check online if their names have been registered in the SEC database as supporting one of the registered candidates.

The law requires prospective candidates to submit as part of their nomination the certificates of citizenship and permanent residence issued by the MoI. On 3 February, the SEC decided to gather information about the citizenship and permanent residence status abroad of two prospective candidates, prior to their nomination, and based on their public statements that they intend to contest elections.<sup>27</sup> This procedure is not foreseen by law.<sup>28</sup> On 18 February, the SEC denied registration to Mr. Spajić, citing a contradictory information pertaining to his citizenship and permanent residence, in spite of the submitted documentation.<sup>29</sup>

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 other nominees and subsequently registered two of them, while one is pending. Namely, Mr. Mandić was offered an opportunity to add his name missing from the supporting signatures lists.<sup>30</sup> Mr. Danilović and Mr. Radulović were given the opportunity to collect the missing number of valid support signatures.<sup>31</sup> Finally, despite being offered the opportunity, Mr. Matijašević did not submit the necessary valid documentation and was subsequently denied registration. By law, the denial of candidate registration may be appealed to the Constitutional Court; however, nominees in this election were deprived of such an opportunity due to the lack of quorum in the court during the period of candidate registration.

In total, nine prospective candidates, including one woman, applied to be registered as candidates. Of them, six were nominated by political parties, one by a coalition and two by groups of voters. The SEC registered six candidates, including one woman (one registration is pending an SEC decision).<sup>32</sup>

## **VIII. ELECTION CAMPAIGN**

Prospective candidates may begin campaigning after the call of elections but they may campaign on media only after they are registered by the SEC. The law does not regulate campaigning on social

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<sup>26</sup> The SEC verifies the signatures until it reaches the legally required number of valid signatures; the rest are not checked. If the SEC identifies that a voter has already given support to a previously registered candidate, only the signature for the first verified candidate is deemed valid.

<sup>27</sup> The SEC, by a majority of six votes, adopted a decision to request information from the Republican Election Commission (REC) of Serbia if Mr. Andrija Mandić and Mr. Miloško Spajić have permanent residence and if they are registered as voters in Serbia. On 14 February, the REC of Serbia responded that Mr. Mandić was not found in records while Mr. Spajić had a declared permanent residence in Serbia. According to Mr. Spajić, on 15 February, he applied to renounce his Serbian citizenship.

<sup>28</sup> Article 2 of the Law on Citizenship stipulates that "a Montenegrin citizen who has citizenship status also in another state shall be considered Montenegrin citizen in a procedure before Montenegrin bodies, unless otherwise provided by international treaties". The election law and the LEP do not stipulate any provisions related to suffrage rights for holders of any citizenship in addition to the Montenegrin citizenship.

<sup>29</sup> The SEC decision stated that the prospective candidate formally meets the prerequisites for the candidacy and submitted all legally required documents, including certificates of citizenship and permanent residence, but noted that the evidence was contradictory as Serbian authorities informed that he also holds the citizenship of Serbia as well as permanent residence.

<sup>30</sup> The SEC voted unanimously to confirm Mr. Mandić's candidacy.

<sup>31</sup> The SEC stated that Mr. Danilovic submitted some 6,592 signatures and only some 5,832 of them were deemed valid. The nominee alleged that the verification process was not credible and threatened to report to the prosecutor. Subsequently, the SEC granted him an additional 48 hours to collect the missing signatures and submit the certificate of the groups of voters that nominated him.

<sup>32</sup> The SEC registered Aleksa Becić (Democratic Montenegro), Goran Danilovic (United Montenegro), Milo Djukanovic (DPS), Andrija Mandić (Coalition "For the Future of Montenegro"), Jakov Milatovic (Europe Now), Draganja Vuksanovic Stankovic (Social Democratic Party of Montenegro).



media.<sup>33</sup> The campaign ends 24 hours before election day. After their registration, all candidates are entitled to equal access to public premises for organizing campaign events, and designated locations for placing campaign materials.

The election law and the LFPSEC include comprehensive campaign regulations to prevent the abuse of state resources. From the date elections are called, excessive spending of public funds by state, public, and local administration institutions is prohibited, as is new employment by these institutions which has not been approved before the call of elections. Public officials and state employees may not take part in election campaigns or publicly express an opinion concerning the election during working hours. All public institutions are required to inform the Agency for Prevention of Corruption (APC) about new employment contracts during the campaign period.<sup>34</sup> Some ODIHR EOM interlocutors raised concerns about the misuse of state resources in the run-up to the election by several political parties which they claim are in control of public-funded institutions. The APC has referred one case to the Prosecutor.<sup>35</sup>

To date, campaign activity has been limited. Anti-corruption and the country's geopolitical orientation are emerging as key campaign issues, though the rhetoric also focuses on personalities and appeals to national identity. Some parties held press conferences to present their candidates. Mr. Mandić, who got registered on 7 February, placed billboards, posted ads online, and engaged in door-to-door campaigning, including distributing flyers. Some prospective candidates maintained public stands for collecting supporters' signatures. The law does not require print campaign materials to identify the sponsor. In the reporting period, numerous unlabeled billboards featuring anti-election content began appearing throughout Montenegro, limiting opportunities for contestants to use these spaces to promote their candidacies.<sup>36</sup>

## IX. CAMPAIGN FINANCE

The legal framework regulating campaign finance has remained unchanged since the LFPSEC was adopted in 2020. Most previous ODIHR recommendations, including on the verification of legality of donations, the use of loans, and regulation of third-party campaigning and effective sanctions remain unaddressed.

Presidential candidates are entitled to public funding, which collectively amounts to EUR 884,549.<sup>37</sup> In addition, individuals may donate up to EUR 5,000, while legal entities, including the nominating parties, up to EUR 20,000 each. Donations from anonymous, religious, foreign, state-funded, and non-governmental sources are prohibited, as are donations through third-party intermediaries and by

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<sup>33</sup> Since 19 February, the ODIHR EOM has been monitoring on Facebook and Twitter the social network activities of the prospective and registered candidates, political parties and their leaders, as well as other relevant actors.

<sup>34</sup> From the call of elections until 27 February, the Agency reported that state institutions made 1,792 new hires while 150 of them were permanent contracts.

<sup>35</sup> The matter is related to information from a screenshot which appeared in the newspaper *Pobjeda*, that led to allegations that employees of the company Solar, which is an affiliate of the public electricity company, collected supporting signatures for a prospective candidate.

<sup>36</sup> The billboards feature the slogan "I swear by my honour" (*Časti mi*) e.g. "I will get crazy if I hear more about elections"; similar ads appeared and on a [Facebook page](#); the message is also being promoted on vehicles and by teams of young people in public.

<sup>37</sup> Twenty percent of this amount is distributed in equal amounts to all registered candidates, within ten days after the adoption of the list of candidates, i.e. latest by 13 March. The remaining 80 per cent will be given after the election to candidates who obtained more than three per cent of the votes cast, proportionally to the number of votes.



companies with public procurement contracts.<sup>38</sup> Campaigning by unlawful donors on behalf of a candidate is also prohibited.

Each candidate may spend up to EUR 1,7 million. Several ODIHR EOM interlocutors argued that such a high expenditure limit does not foster a level playing field. All campaign-related transactions must be conducted through dedicated bank accounts. Candidates are required to disclose received donations every 15 days after the start of the campaign, report on interim expenditures five days before election day and submit final reports on donations and expenditures 30 days after the election day. While the APC is required by law to publish these reports, the law does not prescribe sanctions for inaccurate reports.

The APC is tasked with the oversight of campaign finance and the use of state resources, including excessive spending, employment, and social welfare payments by the public institutions during the campaign. In line with established practice, the APC contracted a private agency to collect information on campaign expenditures, including broadcast and online media and social networks. The APC does not have investigative powers; it can only request relevant Ministries to verify whether donors are registered voters and not convicted of organized crime or corruption, but cannot effectively verify whether any of the donors have been awarded public procurement contracts.<sup>39</sup> The APC can initiate misdemeanor proceedings for possible violations against political entities and state bodies, but not against groups of citizens.

## X. MEDIA

The media environment is diverse but media outlets are operating in a limited advertising market, which affects their financial viability and makes them vulnerable to influence from corporate and political interests. The media landscape is polarized along political lines. Television remains the main source of information followed by online media and social networks, with print media playing a marginal role.<sup>40</sup>

The public broadcaster (RTCG) is funded from the state budget and runs three national TV channels and two radio stations.<sup>41</sup> In addition, there are 16 commercial TV channels as well as 6 local TV channels and 16 local radio stations founded by municipalities. Most national and local TV channels, as well as several TV channels from the region broadcasting in regional languages are accessible on the main cable TV operators.<sup>42</sup> Several ODIHR EOM interlocutors expressed concern over the impact of some foreign media on the electoral process, including the spread of disinformation.

The Constitution guarantees freedom of expression, freedom of the press and prohibits censorship. The Criminal Code forbids speech that incites violence or causes national, racial and religious hatred, divisions and intolerance. In 2021, the code was amended to enhance the protection of journalists and other media professionals by imposing harsher punishments for attacks and threats against the press. Still, concerns remain over the protracted prosecution of relevant cases. According ODIHR EOM

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<sup>38</sup> There is a ban on donations during a public procurement contract as well for two years before and after the termination of the contract.

<sup>39</sup> The APC informed that the Ministry of Finance does not have a database of public procurement contracts and may only cross-check the names of donors against the names of Directors of public contractors.

<sup>40</sup> See the June 2021 survey, "[Media trust in the Western Balkans: Together Apart](#)" published by the South-East European Network For Professionalization of Media (SEENPM). According to this survey conducted in Montenegro, television is the main source of information for 43 per cent of the respondents, online media for 30 per cent, social networks for 19 per cent and print media for 2 per cent of respondents.

<sup>41</sup> The Law on Public Broadcasting Services stipulates that the RTCG receives 0.3 per cent of the state annual budget.

<sup>42</sup> According to a Agency for Electronic Communications and Postal Services Survey conducted in April 2022, 93.4 per cent of the Montenegrin population uses cable TV operators to access TV.

interlocutors, while the number of physical attacks on journalists has diminished in the last two years, journalists keep receiving threats, including over email and on social networks.

Broadcast media coverage of the elections is regulated primarily by the election law and the Electronic Media Law.<sup>43</sup> On 23 January 2023, the Agency for Electronic Media (AEM), the broadcast media regulatory body, issued a Rulebook compiling and further elaborating election-related media provisions. By law, voters have the right to be informed about the political platforms of all candidates and the media are required to apply the principle of equality for all contestants. Paid advertisement is allowed under equal conditions and without time limitations, provided that is labelled as paid. As required by law, the public broadcaster plans to organize election debates and to provide daily free airtime on an equal basis to candidates.

The AEM monitors the compliance of broadcast media with the legal provisions on coverage of the election campaign.<sup>44</sup> Only registered candidates and the SEC may lodge complaints with a broadcaster and, if not satisfied, file an appeal to the AEM, both of which have 24 hours to adjudicate the complaints. The AEM representatives voiced concerns to the ODIHR EOM over the short deadline. Nevertheless, the regulatory body cannot impose financial sanctions on broadcasters, limiting its sanctioning power either to issuing warnings or to revoking their license. The election law foresees the establishment of an *ad hoc* parliamentary committee to oversee the media coverage of the election campaign, within ten days from the call of the election. However, to date, this committee has not been established and it was not established for the past three elections.

On 20 February, the ODIHR EOM commenced its monitoring of 10 media outlets with quantitative and qualitative analysis of their election-related coverage.<sup>45</sup> Ahead of the candidate registration deadline the media mainly covered inter-party discussions on candidate selection. Mr. Mandić, the first registered candidate, started to make use of free airtime on the public broadcaster and had political advertisement on some commercial TV channels and news portals.

## XI. COMPLAINTS AND APPEALS

Voters, candidates, and nominating political parties and groups of voters may file complaints to election commissions. The law explicitly states that MEC actions, inactions and MEC and SEC decisions dismissing complaints on merits or on technical grounds may be appealed. According to the interpretation of the SEC and the Constitutional Court, other types of decisions, including MEC and SEC decisions upholding complaints as well as SEC inactions, may not be challenged.<sup>46</sup>

Complaints against the PBs and MECs must be filed to higher-level commissions within 72 hours and must be decided within 24 hours.<sup>47</sup> SEC decisions on rejecting appeals can be challenged within 48 hours to the Constitutional Court, as a final instance, which has 48 hours to decide. The Constitutional Court is not obliged to hold oral hearings or public sessions unless it considers it necessary for public

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<sup>43</sup> The legal framework for the media includes the Media Law and the Law on Public Broadcasting Services, both amended in 2020, as well as the Electronic Media Law and the Law on Free Access to Information.

<sup>44</sup> According to the AEM, 34 broadcasters informed AEM about their intention to cover the election campaign, as required by law. The AEM conducts a comprehensive media monitoring of 17 to 20 TV channels and a random sample monitoring of all broadcasters covering elections. A report will be published only after the election.

<sup>45</sup> The sample includes seven TV channels: *RTCG 1*, *Vijesti TV*, *Prva TV*, *Adria TV* and *E TV* monitored from 18:00 to 24:00, as well as the election-related coverage of *RTCG2* and *RTCG Parliament*. The ODIHR EOM also follows election-related content in three online media outlets: *Vijesti*, *CDM*, and *Borba*.

<sup>46</sup> See the 2018 [announcement](#) of the Constitutional Court.

<sup>47</sup> The election law does not prescribe procedures for handling election complaints and, to date, the SEC has not adopted any relevant instruction. The SEC elaborated a template for complaints.

interest. The court has not reviewed cases since September 2022 due to the lack of quorum.<sup>48</sup> Requests related to voter registration may be submitted to the MoI until fifteen days before election day; the MoI has 48 hours to make a decision. Appeals can be submitted to the Administrative Court within 48 hours of the MoI decision; the court has 24 hours to review each case.

Individuals and legal entities may submit complaints to the APC including on the misuse of state resources and campaign finance violations. Pursuant to such complaints, the APC has 15 days to decide whether to initiate proceedings and, subsequently, whether to submit a motion to the Misdemeanor Court or impose sanctions on political entities.<sup>49</sup> The APC decisions may be appealed to the Administrative Court, which does not have expedited deadlines to decide. The APC can also act *ex officio*.

To date, the SEC received three complaints filed by voters and dismissed them citing that they should be filed to the Constitutional Court. The APC received 52 complaints, all but one filed by the Network for Affirmation of the NGO Sector (MANS), alleging in each case that public institutions did not publish the weekly analytical financial statements on their expenditures in a timely manner. The APC initiated proceedings in one case alleging unlawful new employment in a public health center while the remaining complaints are pending to date.

## **XII. PARTICIPATION OF NATIONAL MINORITIES**

The Constitution guarantees the equality of all citizens and provides for full political, civil, and social rights for “persons belonging to minority nations and other minority national communities”. The Albanians, Bosniaks and Croats are well-represented by their corresponding national minority political parties, and they are also well integrated in major political parties in general. The Roma, who according to the last census held in 2011 amount to one per cent of the population, have no political representation in the parliament and do not have a party representing their interests, and have limited access to voter education.

Among other parties and coalitions, the 2020 parliamentary elections were contested by a number of minority parties and coalitions who altogether won five seats in parliament.<sup>50</sup> The current government is led by an ethnic Albanian, while several Ministers are from among national minorities. Following the 2022 municipal elections, several councillors from the Albanian, Bosniak, and Croat minorities were elected to municipal councils.

The Law on Minorities’ Rights and Freedoms stipulates that in municipalities in which at least five per cent of the population belongs to a minority, based on two successive censuses, the minority language is in official use along with Montenegrin. As a result, election materials, including the signature collection forms, PB pollbooks and ballot papers will be available in several municipalities in both Montenegrin and Albanian languages.<sup>51</sup>

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<sup>48</sup> In total, 27 cases related to the 2022 municipal elections are pending before the Constitutional Court.

<sup>49</sup> The APC can only impose a budgetary suspension on political entities for campaign finance violations.

<sup>50</sup> The Bosniak Party (BS) won 3 seats, while the two Albanian coalitions “Unanimously” and the Albanian list Genci Nimanbegu won 1 seat each.

<sup>51</sup> By law, ballot papers should be available in Albanian in municipalities where the ethnic-Albanians constitute over 5 percent of the population.

### **XIII. DOMESTIC AND INTERNATIONAL OBSERVERS**

The law provides for citizen and international election observation.<sup>52</sup> For this election, accredited civil society organisations plan to monitor various aspects of the electoral process, including the campaign environment, campaign finance, and media coverage of the election.<sup>53</sup> By 1 March, the SEC accredited four citizen observer groups with 346 observers and one international organisation with 26 observers. By law, representatives of non-governmental and international organisations have the right to observe all stages of the electoral process and have unobstructed access to all levels of the election administration. However, civil society and international observers were not granted the opportunity to observe the process of signature verification which the SEC, after consultation with the Agency on Personal Data Protection and Free Access to Information (APDFAI), justified on the basis of needing to protect personal data.<sup>54</sup>

### **XIV. ODIHR EOM ACTIVITIES**

The ODIHR EOM commenced its activities in Podgorica on 8 February. The EOM has met with the Ministry of Foreign Affairs, the SEC, the Ministry of Interior, the Constitutional Court, various state agencies, leaders and representatives of political parties, civil society, media, the diplomatic community and international organizations. It has established working relations with relevant stakeholders involved in the election process.

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

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<sup>52</sup> The deadline for the registration and accreditation of citizen observers is five days prior to election day and for international observers 10 days prior to election day.

<sup>53</sup> These include observers from the Centre for Democratic Transition (CDT), the Centre for Monitoring and Research (CeMI), and the Network for Affirmation of NGO Sector (MANS).

<sup>54</sup> On 16 February, after Mr. Mandić had been registered, the CDT requested from the SEC to review the signatures sheets that he had submitted. The SEC forwarded the request to the APDFAI, which on 20 February responded that CDT has no right to review the signatures, citing personal data protection. Subsequently, the SEC denied access to CDT to the signature lists. Requests from the ODIHR EOM and CEMI to observe the process of signature verification are still pending to date with the SEC.