



Office for Democratic Institutions and Human Rights

MONTENEGRO

EARLY PARLIAMENTARY ELECTIONS

14 OCTOBER 2012

OSCE/ODIHR Limited Election Observation Mission Final Report



**Warsaw
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I. EXECUTIVE SUMMARY

Following an invitation from the parliament of Montenegro to the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE/ODIHR deployed a Limited Election Observation Mission (LEOM) for the 14 October 2012 early parliamentary elections. The OSCE/ODIHR LEOM assessed compliance of the electoral process with OSCE commitments and other international standards for democratic elections, as well as with Montenegrin legislation.

The early parliamentary elections took place in a peaceful and pluralistic environment, further consolidating the conduct of democratic elections in line with OSCE commitments. However, the high number of allegations of state and party confluence and election irregularities expressed by interlocutors indicated a lack of public confidence in the electoral process. Key issues need further improvement, including the compilation of voter lists, the oversight of campaign finances and the review of complaints in order to instill greater public confidence in the electoral process.

Parliamentary elections are regulated by a comprehensive legal framework that generally provides an adequate basis for the conduct of democratic elections. The Law on the Election of Councilors and Representatives (electoral law) was amended in 2011. The introduction of a gender quota in candidate lists represents a marked improvement in the law. However, OSCE/ODIHR and Venice Commission recommendations regarding the removal of the 24-month residency requirement were not implemented, and the application of the provision lacked uniformity.

To harmonize the electoral law with the Constitutional provision for ‘authentic representation’ of minorities, key reforms were adopted in 2011. The amendments removed reserved minority seats, instead providing a reduced threshold for all minority parties. Those parties who previously benefited from reserved seats were critical of the new provisions and challenged the seat allocation method.

Elections were administered under a three-level system, which following the recent amendments to the electoral law enjoys greater political pluralism. The State Election Commission (SEC) met all legal deadlines and operated in a professional and transparent manner, although often with a limited interpretation of its authority. The formation of Municipal Election Commissions (MECs) and Polling Boards (PBs) led to complaints in some municipalities. The ruling coalition had a majority of permanent members in 17 of 21 MECs and in 64.7 per cent of the PBs. Although all electoral contestants have the right to appoint authorized representatives with voting privileges to all commissions, this right was not fully exercised at the PB level due to parties’ stated limited financial and human resources.

In total, 514,055 voters were registered to vote in these elections. Due to a lack of provisions for removing voters that no longer meet residency requirements, many Montenegrins that are long-term residents abroad remain on the voter register. To ensure the enfranchisement of approximately 60,000 voters with expired identification cards, the parliament decided to extend the validity of these

cards. Electoral contestants were provided with a copy of voter lists for verification and responsible ministry officials took concerted efforts to respond to public allegations of irregularities.

The candidate registration process was inclusive and transparent, with 13 candidate lists and a total of 841 candidates standing. A total of 264 women contested these elections, equal to 31 per cent of all candidates, an increase compared to 14.7 per cent in the previous election.

Electoral contestants were able to campaign freely, and access to public space was generally provided without limitations. The campaign was personalized and negative in tone. Allegations of electoral irregularities and discrepancies in the voter register emerged as prominent campaign issues. Allegations of abuse of state resources and reported violations of the public sector recruitment ban during the campaign blurred the line between state activities and the campaign of the ruling coalition.

The newly amended Law on Political Party Financing was applied for the first time in these elections. The current reporting framework, along with insufficient resources of both the SEC and the State Audit Office to review reports, limited the transparency of political party financing.

The media environment is diverse, but polarized and divided along political lines. The recent establishment of two self-regulatory bodies with similar objectives but conflicting political views reflects this divide. The effectiveness of the newly established parliamentary board for monitoring media elements of the electoral law was limited due to its partisan composition and a lack of authority to directly sanction media.

The main source of public information is television. Despite limited rates of circulation, there is also a lively print media sector. Numerous public and private news sources provide a wide range of viewpoints. The OSCE/ODIHR LEOM's media monitoring indicated that television stations offered extensive coverage of the elections in a variety of styles of programs, which provided voters with the possibility of making an informed choice. However, although not required by law, a lack of voter education programming was noted.

The dispute resolution process allows for complaints to be filed with the election administration and appeals to the Administrative and Constitutional Courts. A lack of confidence in the complaints system and adjudicating bodies was adduced when contestants chose not to file formal complaints in the majority of cases. The few pre-election day complaints filed in relation to the composition of MECs and PBs were decided by the Administrative and Constitutional Courts. The election administration received eight election day and post-election complaints that were either denied for procedural or jurisdiction reasons or referred to the prosecutor or the court for further action.

On election day, voting in the limited number of polling stations visited by international observers generally proceeded in an orderly manner, although the new rights of authorized representatives with voting privileges to the PBs were often neglected. The SEC promptly addressed one complaint received during the voting. Both counting and tabulation appeared to have been conducted in a transparent and efficient manner in the limited number of polling stations visited.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the parliament of Montenegro to observe the 14 October 2012 early parliamentary elections and based on the recommendations of a Needs Assessment Mission conducted from 14 to 16 August 2012,¹ the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on 14 September deployed a Limited Election Observation Mission (LEOM). The OSCE/ODIHR LEOM was headed by Ambassador Geert-Hinrich Ahrens and consisted of a 10-member core team based in Podgorica and 12 long-term observers deployed throughout the country. The mission members were drawn from 12 OSCE participating States.

In line with standard OSCE/ODIHR methodology for LEOMs, the mission did not include short-term observers and did not undertake a comprehensive and systematic observation of election day proceedings. However, mission members visited a limited number of polling stations and followed the transmission of results in some municipalities. The mission followed electoral proceedings on 14 October jointly with delegations from the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE). Roberto Battelli (Slovenia), Head of the OSCE PA delegation, was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator to lead the short-term observer mission. Christopher Chope (UK) headed the PACE delegation. The OSCE/ODIHR LEOM remained in Montenegro until 24 October and followed post-election developments.

The OSCE/ODIHR LEOM assessed compliance of the electoral process with OSCE commitments and other international standards for democratic elections, as well as domestic legislation. This final report follows a Statement of Preliminary Findings and Conclusions released on 15 October 2012.

The OSCE/ODIHR LEOM wishes to thank the authorities of Montenegro for the invitation to observe the elections and the State Election Commission (SEC), the Ministry of Foreign Affairs and European Integration, the parliament, other state and local authorities, and political parties as well as civil society for their assistance and co-operation. The mission also wishes to express appreciation to the OSCE Mission to Montenegro and to diplomatic representations of OSCE participating States and international organizations for their co-operation throughout the course of the mission.

III. POLITICAL BACKGROUND

On 29 June 2012, the European Union opened accession negotiations with Montenegro. The governing coalition, comprising the Democratic Party of Socialists (DPS), the Social Democratic Party (SDP), the Bošnjak Party (BS) and the Croatian Civic Initiative (HGI), then stated that it needed a fresh mandate for a full, four-year term to proceed with these negotiations. On 26 July, a motion in favor of early elections was passed with 47 votes from the governing coalition, against 27 votes from the opposition, and parliament was dissolved. On 31 July, President Filip Vujanović called for 14 October elections that had been due to take place in the spring of 2013. These were the third parliamentary elections since independence was declared on 3 June 2006.

¹ All previous OSCE/ODIHR reports with regard to Montenegro can be found at: <http://www.osce.org/odihr/elections/montenegro>.

There have been several changes in the political landscape since the last elections in March 2009. In 2010, Milo Đukanović, a leading political figure for the last 20 years, relinquished the post of prime minister in favor of Igor Lukšić, a former minister of finance. Mr. Đukanović, however, remained the DPS party leader. The SDP was again led by Ranko Krivokapić, speaker of the parliament. The DPS and the SDP remained in coalition, joined by the Liberal Party (LP), under the banner “Forward Montenegro, the Coalition European Montenegro,” led by Milo Đukanović.

The largest single opposition party that contested these elections was the Socialist People’s Party (SNP), led by Srđan Milić, which held 16 seats in the outgoing parliament. The SNP ran independently. However, several prominent SNP personalities joined the Democratic Front (DF), which was formed in July 2012. The DF comprised the New Serbian Democracy Party (NOVA, 8 seats) and the Movement for Changes (PzP, 5 seats) and was led by Miodrag Lekić, a former Montenegrin foreign minister. Another newly formed, centre-left opposition party, Positive Montenegro (PCG), led by Darko Pajović, ran in these elections independently. Three more coalitions, Serbian Unity, Serbian National Alliance and Together (*Zajedno*), formed of the Party of Pensioners and Disabled Workers, and the Yugoslav Communist Party of Montenegro, also contested these elections.

The BS, led by Rafet Husović, fielded 81 candidates. Many members of the Albanian minority ran on lists of four coalitions: the coalition For Unity, including the New Democratic Force FORCA, led by Genci Nimanbegu, Vasel Sinishtaj and Zana Sarvan (39 candidates); the Albanian Coalition including: The Democratic Alliance in Montenegro, Democratic Party, and Albanian Alternative, led by Fatmir Gjeka (43 candidates); the Democratic Union of Albanians (DUA), led by Mehmet Zenka (51 candidates); and the Albanian Youth Alliance (AOA), a group of citizens, led by Anton Lulgjuraj (28 candidates). Many Croats contested these elections under the HGI, led by Ljerka Dragičević (32 candidates).

IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

A. LEGAL FRAMEWORK

Parliamentary elections are regulated by a comprehensive legal framework that generally provides an adequate basis for the conduct of democratic elections. The Constitution and the Law on the Election of Councilors and Representatives (electoral law) are the primary pieces of legislation regulating parliamentary elections. They are supplemented by various laws, including the Law on Political Parties, the Law on Political Party Financing, the Law on the Voter Register, as well as various media and broadcasting legislation, and decisions and regulations of the SEC.

The electoral law was initially adopted in 1998 and amended several times, most recently in 2011. Harmonization of the electoral law with the Constitution was one of the requirements for opening accession talks with the EU. The vote on the amendments was supported by 71 members of parliament present at the time of the vote. The parties representing the Albanian minority did not endorse the amendments due to provisions affecting the reserved seats for a special constituency encompassing several areas populated primarily by the Albanian minority. In June 2011, the OSCE/ODIHR and the Council of Europe’s Commission for Democracy through Law (Venice Commission) concluded in a Joint Opinion that the amendments to the law generally represented a

positive development.² The amendments are commendable in particular for promoting greater gender equality and minority representation.

However, several issues remain to be addressed. Previous OSCE/ODIHR recommendations to remove the 24-month residency requirement to further meet international commitments, has yet to be implemented. The residency requirement overly restricts voting rights and was not consistently applied.³ In addition, the newly amended electoral law does not ensure equal rights for political parties on the one hand, and coalitions, on the other. This was the basis for challenges to the appointment of municipal electoral commission and polling board members in the pre-election period.

In line with previous OSCE/ODIHR recommendations, the legal framework should be amended to eliminate the 24-month residency requirement. Until such an amendment is introduced, uniformity of application of the current provision should be ensured.

The Constitution guarantees gender equality to all citizens.⁴ As part of the 2011 electoral law reforms, a 30 per cent quota for either gender was introduced for candidate lists to be considered valid. The law, however, does not stipulate the ordering of candidates on lists, leading to concerns that female candidates grouped at the bottom of lists would not benefit from the quota.

To ensure greater representation of women in parliament, consideration could be given to supplementing the current quota system with requirements for the placement of women in higher positions on candidate lists. A system of alternating male/female candidates could also be considered.

B. ELECTORAL SYSTEM

The Constitution establishes a unicameral parliament of 81 deputies, who are elected for four-year terms in a single nationwide constituency under a proportional, closed-list system. Parliamentary seats are allocated to lists that receive more than three per cent of the valid votes using the *d'Hondt* method.

Prior to the 2011 amendments to the electoral law, only 50 per cent of allocated seats had to be distributed following the order of the list as presented to voters; the remaining 50 per cent could be distributed as the candidate list submitter determined. In a positive development and in line with previous OSCE/ODIHR recommendations, now seats are distributed following the order of the registered candidate list.

² 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. Available at <http://www.osce.org/odihr/elections/93229>.

³ See Article 25 International Covenant on Civil and Political Rights. Also According to the Venice Commission "Code of Good Practice in Electoral Matters" CDL-AD(2002)023rev, I.1.1 c. iii and iv, a length of residence requirement may be imposed on nationals solely for local or regional elections; and the requisite period of residence should not exceed six months except in order to protect national minorities. Available at [www.venice.coe.int/docs/2002/CDL-AD\(2002\)023-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023-e.pdf).

⁴ Montenegro ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2006.

Where previously reserved seats were held for a minority constituency encompassing several areas predominantly populated by the Albanian minority, following the legal reform of 2011 these provisions were changed in order to ensure broader minority representation and to comply with the constitutional requirement that minorities should receive “authentic representation.”⁵ The law has been amended in two areas, reducing signature requirements and seat allocation thresholds for minority lists.⁶ If a minority population is not represented by a party that meets the national threshold, the threshold is then reduced to 0.7 per cent of the valid votes. A further exception is provided for the Croatian minority, which constitutes less than 2 per cent of the population, the threshold for which is 0.35 per cent. However, the law is silent on how the parties that qualify under minority provisions participate in the seat allocation.

Clear procedures for the allocation of seats to minority lists should be elaborated in the electoral legislation.

V. ELECTION ADMINISTRATION

The early parliamentary elections were administered by a three-level structure of election commissions: the SEC, 21 Municipal Election Commissions (MECs) and 1,165 Polling Boards (PBs).⁷ The SEC and MECs are full-time bodies appointed for four-year terms by the parliament and local councils, respectively, while PBs are formed by MECs for each election.

Amendments to the electoral law ensured representation of the opposition in the election administration bodies at all levels. The parliament is now required to appoint 5 of the 11 permanent SEC members from opposition parties. For MECs, local councils are required to appoint two out of seven members, one from each of the two largest opposition parties in the last local elections. The MECs must also ensure that PBs have political representation as provided by law, reflecting the political composition of the respective local council. The ruling coalition had a majority of permanent members in 17 out of 21 MECs and in 64.7 per cent of PBs. In addition to the permanent composition, all submitters of registered candidate lists can appoint authorized representatives to election commissions. These authorized representatives have the same voting rights as permanent members; however, they receive no compensation from the state budget. At the PB level, many

⁵ According to Article 79.9 of the Constitution, persons belonging to minority nations and other minority national communities shall be guaranteed “the right to authentic representation in the Parliament of the Republic of Montenegro and in the assemblies of the local self-government units in which they represent a significant share in the population, according to the principle of affirmative action.” The Preamble of the Constitution of Montenegro enumerates the “peoples and national minorities” living in Montenegro: “The determination that we, as free and equal citizens, members of peoples and national minorities who live in Montenegro: Montenegrins, Serbs, Bosniaks, Albanians, Muslims, Croats and the others, are committed to a democratic and civic Montenegro.” The Albanian community, who previously held four reserved seats, has been critical of the amendments.

⁶ In these elections, six minority parties took advantage of the opportunity to submit a reduced number of signatures in support of the registration of their candidate lists.

⁷ The SEC was also responsible for administering elections in the three prisons of Montenegro. It appointed special polling boards, consisting of three representatives from the prison administration and two representatives from opposition parties (SNP and DF), as provided by law. The PCG requested a PB seat in one of the prisons, but the request was denied.

electoral contestants failed to appoint their authorized representatives due to parties' stated limited financial and human resources.

The representation of women in the election administration varied across the country. The SEC had five women members. In Podgorica and coastal municipalities, with the exception of Ulcinj, the average representation among permanent MEC members was 40 per cent.⁸ Elsewhere, the average was under 25 per cent.⁹ The representation of women among permanent PB members was 5 to 10 per cent higher.

Following an official complaint by the SNP, the SEC administered elections in the municipality of Andrijevica, replacing a MEC that was not able to be established. The SEC assigned premises for polling stations, appointed PBs and carried out all the necessary procedures. The DF unsuccessfully challenged the formation of PBs in the municipality of Podgorica, where the DF had one permanent member in the MEC but no permanent representation in the PBs. The complaint was rejected by the MEC and dismissed on appeal to the SEC.

The SEC operated professionally and transparently, although often not taking full advantage of its role to ensure proper implementation of the electoral law by denying any authority over the monitoring of political party finances, campaign regulations, and limiting its jurisdiction in the consideration of complaints. In one complaint reviewed by the SEC, the SNP accused the DF of misusing its logo and misleading voters. The SEC took the decision that this matter was not within its jurisdiction and referred the SNP to the court. On another occasion, the civil society organization MANS submitted a complaint regarding violations of the ban on public sector hiring during the election period. The SEC unanimously rejected the complaint, stating that it had no jurisdiction over the matter.

The SEC should exercise its authority more actively to oversee the proper implementation of the electoral law. To do so, the SEC should be allocated sufficient financial and human resources.

The SEC held 23 sessions in preparation for these elections. Sessions were conducted collegially, were open to observers, and all decisions were published in a timely manner. The Commission strictly adhered to all legal deadlines. The printing of ballots and the preparation of other election materials was transparent and took place in the presence of media and observers.

The MECs were responsible for assigning polling station premises, appointing PBs, notifying voters of their voting locations, and for ensuring that voter lists, necessary equipment and election materials were provided to polling stations in a timely manner. The MECs were also responsible for training of PB members. Shortly before the elections, the MECs conducted voluntary PB member training activities based on a manual prepared by the SEC. The training activities were designed separately by the 21 MECs and hence lacked the uniformity necessary to ensure consistent application of the electoral law. Despite limited staff and resources, the election administration at all levels conducted the elections in an efficient manner, within all deadlines.

⁸ There were no women in the MEC Ulcinj.

⁹ Andrijevica MEC is not included, as it was run by the SEC in these elections.

To ensure consistent application of the electoral law, including with regard to the rights of authorized representatives, a uniform training program could be designed by the SEC and held for all PB members prior to the next election.

The OSCE/ODIHR LEOM observed a lack of voter education materials or programs and the SEC did not prepare any informational materials on voting procedures, although neither is required by law. The process could have benefited from a voter education campaign on how to check the location of a polling station, on mobile voting, ID requirements, and opportunities for legal redress.

VI. VOTER REGISTRATION

The Constitution provides that the right to vote is granted to every Montenegrin citizen 18 years or older and resident in the country for at the 24 months prior to elections. However, the law requires no proof of residency and does not provide mechanisms for the verification of its duration. The OSCE/ODIHR LEOM received contradictory interpretations of how the residency requirement had to be applied. The Ministry of Interior (MoI) said that residency is acquired at 18 and that unless citizenship of Montenegro is surrendered, residence is maintained regardless of habitation abroad. In the opinion of the Administrative Court, anyone that has lived abroad for more than two years should be removed from the voter register; this was, however, not the practice.

Citizens were required to switch to new biometric identification cards (IDs). The validity of previous IDs expired on 31 July 2012. However, on 21 September the parliament decided to extend the validity of these IDs until 31 December 2012 to prevent the disenfranchisement of approximately 60,000 voters.¹⁰ Additionally, upon recommendation of the parliament, pre-1993 IDs were also accepted for voting purposes.

Twenty-one separate registers (one for each of the 21 municipalities) are managed by municipal authorities. The voter registration process is passive in that voter data is updated automatically based on information provided to the municipal authorities by the MoI. Following a check for duplicate entries, the MoI provides municipal authorities with weekly updates of information that affects a voter's registration status.¹¹ The updates are also provided to the Ministry for Information, Society, and Telecommunications (MIST), which oversees the maintenance of voter lists by the relevant municipal authorities. Before each election, an excerpt by polling station is prepared and sent to the MECs. In line with the law, the MIST provided electoral contestants with access to voter lists to verify their accuracy, and citizens could check their entries at municipal offices, on a website, or by SMS.¹² However, the highly decentralized voter registration system was difficult for election stakeholders to understand; it lacked mechanisms for timely registration of deaths, and potentially compromised personal data protection.¹³ The system would also benefit from additional measures of transparency, in particular by making the MoI procedures for updating voter information open to public scrutiny.

¹⁰ According to the MoI estimates provided on 27 September 2012.

¹¹ Including full name, date of birth, municipality and address.

¹² The SNP conducted a verification and found only a limited number of inaccuracies.

¹³ Deaths are updated only when information is submitted by the police, hospital or other institutions; if a person dies at home, a death certificate will be issued only if relatives report the death. Therefore, the system allows for the retention of deceased voters in the lists even if the relevant authorities are aware that the person has died.

After the closure of voter registers on 19 September, the data was amended only based on a decision of the Chief Administrator of the municipality or by court ruling. On 27 September, the MoI announced that there were 514,055 registered voters, an increase of some 3.2 per cent since the early parliamentary elections in 2009.

According to the 2011 census, the population of the country was 625,266. Opposition parties and civil society raised concerns over the differences between the census and the voter list data, alleging duplications in the lists and that Montenegrins currently residing abroad remained on the lists.¹⁴ The MoI conducted a verification of the voter lists to clear duplications and deceased voters, and made a concerted effort to alleviate respective concerns. However, a lack of public confidence in the integrity of the voter lists persisted throughout the electoral process.

To enhance public confidence in the quality of voter lists, authorities should remove deceased voters from the voter list and could make more of an effort to inform the public about measures taken to eliminate duplications. While maintaining security of personal data, the MoI could be more open to public scrutiny in its process for updating the voter lists.

VII. CANDIDATE REGISTRATION

To stand for election, a citizen must be entitled to vote and have permanent residence in Montenegro for a minimum of 24 months prior to elections. Political parties may contest elections separately or form a coalition, submitting one candidate list. Candidate lists can also be submitted by groups of voters.¹⁵ Independent candidacy is not provided for, which is at odds with OSCE commitments.¹⁶

The electoral law should be amended to allow for independent candidacy.

The candidate registration process was inclusive and no party or coalition was rejected. A total of 13 candidate lists were submitted by the 20 September deadline, with 841 candidates contesting 81 parliamentary seats. Following corrections from the AOA and the Serbian Unity, the SEC approved all 13 lists. The SEC granted the parties 48 hours to correct the shortcomings, as provided by law.

All but three registered candidate lists met the 30 per cent gender quota, and all but three candidate lists had at least one woman in the top ten positions on the list.¹⁷ The HGI was the only list led by a woman. A total of 264 women stood as candidates, which was a significant increase as compared to previous elections, although a limited number of them were in winning positions.

¹⁴ DF and MANS provided the OSCE/ODIHR LEOM with excerpts from voter lists, containing data of over 14,000 voters, allegedly causing “reasonable doubt” because of similarities in their names, birth dates or addresses. Selected information on alleged duplications had been published by MANS on numerous occasions.

¹⁵ In these elections, AOA was the only group of voters to submit a list.

¹⁶ Paragraph 7.5 of the 1990 OSCE Copenhagen Document provides for the respect of the “right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.”

¹⁷ European Montenegro, Serbian Unity and AOA had just under 30 per cent of women on their lists. Nevertheless, the SEC agreed to accept their candidate lists. European Montenegro, BS and Together had no women in the top 10 positions on their candidate lists.

There are three different requirements on the number of support signatures that need to be submitted for a candidate list to be registered. A political party or coalition must submit signatures from one per cent of the total number of voters (4,983 signatures for these elections).¹⁸ Parties and groups of voters representing a specific minority or a national minority community of up to 15 per cent of the total population need to submit 1,000 support signatures. Finally, for those representing a minority constituting up to 2 per cent of the population, the requirement is 300 signatures.

The SEC verified signatures in support of candidate lists only to the point that the required number of signatures was met. The law stipulates that a voter can only support one candidate list; this cannot, however, be verified without checking all signatures submitted by each party. The SEC partially addressed previous OSCE/ODIHR concerns in this regard by implementing a new software system that flags a voter's Unique Identification Number (UIN) if it had been used more than once.¹⁹ However, it remains a concern that the wide publicity of voters' UINs in signature lists may compromise personal data protection provisions/principles.

More detailed signature verification procedures could be established to allow for a more thorough review of signature lists submitted by electoral contestants to check the authenticity of voter signatures and to ensure voters have not signed in support of more than one list.

No complaints were submitted regarding the registration of candidate lists or the verification of signatures. The order in which the electoral contestants appeared on the ballot was determined by a lottery conducted in a transparent manner by the SEC and the composite candidate lists were posted on election day at the entrance to all polling stations observed.

VIII. ELECTION CAMPAIGN

A. POLITICAL CAMPAIGN

The campaign began on 20 September following the registration of candidate lists, and ended with 24 hours of silence before the polls opened. The electoral law requires contestants to respect the Constitution, Laws on Professional Ethics, and to refrain from offensive and slanderous statements. Yet, the campaign was personalized and negative in tone. Both the governing coalition and the opposition complained publicly about derogatory language used by their opponents.²⁰

The campaign began with large rallies by the major parties. Milo Đukanović launched the Coalition European Montenegro's campaign in Pljevlja on 20 September. He drew attention to the government's achievement on EU accession negotiations, and launched sharp personal attacks on opposition leaders. The opposition SNP launched their campaign the same day in Mojkovac, where SNP leader Srđan Milić emphasized the economic crisis and corruption. The DF leader, Miodrag Lekić, opened the coalition's campaign with a public meeting in Podgorica on 23 September.

¹⁸ The ruling coalition submitted approximately 82,000 signatures, turning the event into a campaign opportunity.

¹⁹ The SEC would invalidate all entries with that number, should such cases be discovered.

²⁰ The DPS complained in writing to the OSCE/ODIHR LEOM that the media *Vijesti*, *Dan*, and *Monitor*, and *Vijesti TV*, had accused Milo Đukanović of leading a "corrupt criminal dictatorship." The opposition complained about DPS's use of the word "*Chetniks*," a term that has come to mean extreme Serb nationalists.

The governing coalition's campaign centered on the advantages of incumbency and successes in EU accession negotiations. It also promised further efforts to attract investment and to create jobs, and cast doubt on the commitment of their opponents to Montenegrin independence. The opposition called for government change and promised reforms in the economy, social security, and the administration of justice. The DF, SNP, and lists representing Serbs called for Serbian to have equal status with Montenegrin as an official language. In addition, alleged irregularities in voter lists emerged as a prominent campaign issue.

Measures should be undertaken to increase public trust in the integrity of the electoral process. Such measures could include, but are not limited to, a thorough investigation of allegations of electoral irregularities, a public campaign against vote buying and electoral fraud.

Electoral contestants were able to campaign freely, and access to public space was generally provided without limitations. Political parties held rallies and public meetings unimpeded. Freedoms of association, assembly, and expression were respected. Attendance of campaign events was modest and only the PCG had a notable youth following. In addition, parties campaigned through the use of billboards, newspaper and television advertisements. Despite the constant increase of internet users in the country, the role of social media in the campaign was limited.²¹ Most electoral contestants engaged in door-to-door campaigning to get their message across and to persuade their supporters to turn out on election day. Large parties held closing rallies in Podgorica (Coalition European Montenegro, PCG and SNP) and Nikšić (DF).

The OSCE/ODIHR LEOM noted campaign violations that were reported and went uninvestigated during the pre-election period. Few of these incidents resulted in official complaints by the aggrieved party to the relevant authorities. On the basis of allegations by the DF, the OSCE/ODIHR LEOM verified with former employees of the construction company *Genex* that they had been dismissed, as claimed by the DF, for refusing to wear T-shirts during working hours advertising List 11 (Coalition European Montenegro). The OSCE/ODIHR LEOM visited the vandalized offices of SNP and NOVA in Danilovgrad and Podgorica; in both cases, no official police report was filed. Finally, the DF and BS filed official complaints with the MEC in Pljevlja about the misuse of state resources on behalf of the ruling coalition (State Forest Management Authority providing free timber and transporting voters, and BS supporters being harassed by DPS supporters). Both of these cases await criminal investigation.

To ensure an open campaign environment and protect citizens from pressure and intimidation, law enforcement bodies should investigate ex officio all violations of the electoral legal framework.

B. CAMPAIGN FINANCING

The Law on Political Party Financing, which came into force in January 2012, had been amended in an effort to create a comprehensive regulatory framework, taking into consideration previous OSCE/ODIHR recommendations. Political parties are now obliged to submit annual reports for the preceding calendar year by 31 March to the tax authorities, the State Audit Office (SAO), and the

²¹ As of 31 December 2011, almost 50 per cent of the Montenegrin population had access to internet; see: www.internetworldstats.com

SEC. With regard to elections, parties and coalitions are obliged to submit reports containing details of the sources, amounts, and types of funds received, including donations in kind and campaign expenditures, to the SAO within 30 days after the election. The SEC is responsible for publishing reports from political parties submitted to the SAO on its website within seven days of receipt. During the campaign period, political parties are obliged to report to the SEC on donations received and these reports are then published by the SEC. The SEC stated that all parties complied with the law during the campaign.²² However, the reporting period began when a contestant's candidate list had been approved, and not from the date of the call for elections, detracting from transparency and timely accountability for campaign-related spending. The newly amended law introduced a new format for political party reports; however, it was not consistently applied during the 2012 reporting.

To increase the transparency of campaign finances, regulations governing the auditing of financial reports submitted by the political parties, which are currently pending promulgation, should be endorsed. Consideration could also be given to requiring that the time period from the announcement of elections until the registration of contestants be also covered in financial reports submitted by political parties to the SEC.

The SAO is responsible under the amended law for auditing financial reports by political parties for 2012. However, SAO officials told the OSCE/ODIHR LEOM that the Ministry of Finance had not yet promulgated regulations for the full implementation of the new law and concerns were raised with regards to its ability to implement the new regulations. They added that the SAO had not been provided with the necessary resources to complete the tasks assigned to it by the new law, in particular qualified auditors. The SAO also noted that some of the smaller political parties that are not familiar with modern accounting procedures would benefit from training in order to comply with the reporting requirements.

The SAO should be provided with the resources that it requires, in particular qualified auditors, to implement the tasks assigned to it under the law.

The Law on Political Party Financing prohibits recruitment to non-permanent positions in the public sector, including public sector companies, from the date on which elections are called (31 July, in the case of these elections) until election day.²³ The Centre for Democratic Transition (CDT) reported numerous violations of the public sector recruitment ban. The OSCE/ODIHR LEOM identified 45 vacancy notices for temporary positions advertised during the campaign. These violations contributed to a blurring of the line between state activities and the campaign of the ruling coalition. The explanations offered by the Human Resources Management Authority (UzK) suggested that there is a need for further defining permanent employment, and the period during which the ban on temporary recruitment should be in force.

Consideration could be given to defining more clearly the terms of permanent and temporary employment in the public sector, as included in Article 21 of the Law on Party Political Financing. The ban on recruitment to temporary positions and consultancies in the public sector that comes into force when elections are called should be respected.

²² See Article 28 of the Law on Financing Political Parties.

²³ See Article 21, *Id.*

IX. MEDIA

A. GENERAL MEDIA ENVIRONMENT

The media environment is diverse and divided along political lines. Numerous public and private news sources provide a wide range of viewpoints, exposing the voters to candidates and issues that generally allowed the possibility for voters of making an informed choice. Television remains the primary source of information in the country, with over 20 national and local television channels.²⁴ The main television operators are the public service broadcaster Radio and Television Montenegro *RTCG* (*TVCG 1*, *TVCG 2* and *TCCG Sat*) and the private-owned *TV Vijesti*, *TV Pink*, *TV IN*, and *TV ATLAS*. Recent changes in the media landscape included the launch of TV channels *TV Vijesti* and *TV Prva* and the establishment of the newspaper *Dnevne Novine*.²⁵ Despite limited rates of circulation, there is a lively print media sector; daily newspapers *Vijesti*, *Dan* and *Pobjeda* (the only state owned print media) have the highest national circulation rates.

While public media receive state financial support, private media rely heavily on advertising. Both private and public media have suffered from the economic downturn. This year saw the fall of *TV IN*, a nationwide broadcasting channel that was temporarily shut down because of unpaid salaries and taxes,²⁶ and *TV Atlas* has stopped transmitting its programs via satellite transmitters in order to cut costs. During the campaign, the General Director of *RTCG* sent a letter to Montenegrin authorities and a number of international organizations, noting that as a result of amendments to a number of laws regulating media, including the electoral law, *RTCG* would be in risk of bankruptcy.²⁷ A few days before the election, several media expressed discontent with the Centre for Election Monitoring (CEMI) for offered exclusive rights to the results of their parallel vote tabulation to *TV Vijesti*.

Media and civil society representatives expressed concerns regarding the influence exerted on media by political parties, authorities and media owners. The transparency of media ownership has improved in recent years with the requirement that all companies operating in Montenegro register ownership with the commercial court. However, it is widely believed that the actual control over some media is not reflected in the official registration.²⁸

B. LEGAL FRAMEWORK FOR THE MEDIA

The Constitution guarantees the freedom of expression, ensures the freedom of the press and access to information, and prohibits censorship.²⁹ The electoral law contains new regulations for the

²⁴ National TV channels: one publicly owned and nine privately owned; local TV channels: three publicly owned and ten privately owned. See http://www.arcdg.org/index.php?option=com_sobi2&catid=8&Itemid=84.

²⁵ *TV Vijesti* was established in May 2008 but started to broadcast on a national level on 7 May 2010, when they were granted a license. *TV Prva* started to broadcast on 29 August 2012. The first edition of *Dnevne Novine* was published on 10 October 2011.

²⁶ According to OSCE/ODIHR LEOM interlocutors, more than half of journalists and production employees left *TV IN* and the owner had not paid salaries for months.

²⁷ The OSCE/ODIHR LEOM received the *RTCG* General Director's letter on 10 October 2012. The concern referred to the provisional legal requirement for *RTCG* to guarantee coverage of electoral contestants free of charge.

²⁸ See Media Sustainability Index elaborated by the International Research and Exchanges Board (IREX) for 2012 and Freedom of the Press 2011 report for Montenegro.

²⁹ See Articles 47, 49, 50, and 51 of the Constitution.

conduct of the media during the electoral campaign, granting both free and paid broadcasting time for campaigning on equal terms to all electoral contestants. The regulatory framework for the media coverage of elections is also based on the Electronic Media Law and the Law on Public Broadcasting Services. In 2011, provisions on defamation were removed from the Criminal Code and a limit was set for fines in the event of civil suits. While journalists and representatives of the media reported being free from harassment or violence, there was one incident of an assault on two journalists during the electoral campaign,³⁰ and earlier cases of attacks against journalists remained unresolved.³¹

RTCG fulfilled the legal requirement to guarantee coverage of electoral contestants free of charge. Each contestant was allotted an equal amount of time in special blocks broadcast within the news programs, daily up to half hour of free airtime, three brief three-minute reports from candidate rallies, and ten-minute reports from the contestants' opening and closing rallies. In addition, *RTCG* televised six, ninety-minute debates among all 13 contestants. Although all electoral contestants attended the six debates organized by the public broadcaster, many did not take full advantage of the free airtime allotted.

The electoral law established a new parliamentary board tasked with overseeing the compliance of media with the electoral law and to consider media-related complaints. The board is composed of an equal number of representatives from the parliamentary majority and the opposition and its decisions are adopted by the majority vote. However, the partisan composition of the board and the fact that it did not have the authority to directly sanction media for violations of the electoral law limited its effectiveness. The parliamentary board registered two complaints during the election period, one submitted by the DF against *RTCG* alleging unbalanced campaign coverage³² and one complaint of hate speech submitted by the DPS.³³

In addition to the parliamentary board, two national self-regulatory bodies with similar objectives and conflicting political views were established: the Journalistic Self-regulatory Body³⁴ and the Press Council, (a Self-Regulatory Journalistic Body of Printed Media).³⁵ No body exercised effective oversight of media compliance with the electoral law during the electoral campaign.

Effective supervision of media compliance with the electoral law during the electoral campaign could be carried out by a proactive independent body authorized to decide on complaints and take prompt and effective action against infringements of the law. This body could conduct independent media monitoring during electoral campaigns.

³⁰ In Pljevlja on 4 October 2012.

³¹ The South East Europe Media Organization Report on the press freedom mission to Montenegro, 8-10 November 2011 available at http://www.freemedia.at/fileadmin/media/Media_Scene_in_Montenegro_2011.pdf

³² The complaint was submitted by two members of the board and no decision was taken because complainants did not appear at the hearing.

³³ The complaint was submitted on 17 October 2012. At the time of publication of this report, no information on the hearing of this case was available.

³⁴ Set up in March 2012, it has brought together about 20 printed and electronic media and thus far has published two quarterly and a bimonthly reports.

³⁵ Another body, a Press Council, set up in August 2012 by the representatives of the dailies *Vijesti* and *Dan* and the magazine *Monitor* is not yet active.

Provisions in the Law on Electronic Media regulating the allocation of funds to local media give discretion to local authorities to determine the share of their budget to be allocated annually to local public service broadcasters. OSCE/ODIHR LEOM interlocutors noted the possibility of this being misused during electoral campaigns.

C. OSCE/ODIHR LEOM MEDIA MONITORING



The OSCE/ODIHR LEOM conducted qualitative and quantitative analysis of five TV channels,³⁶ and four newspapers with nationwide circulation during the official campaign.³⁷ The media monitoring assessed both the amount of time and space devoted to each electoral contestant and the tone of the coverage. The coverage of state representatives, such as government figures and the president, was also analyzed.

All monitored TV stations provided extensive coverage of the elections in a variety of programs.³⁸ The public broadcaster *RTCG* offered voters an opportunity to learn about contestants in six televised debates. The electoral campaign was also covered by the private media, which held numerous electoral debates and broadcast election-related programs.³⁹ Although not required by law, a lack of voter education programming was noted in all media observed.

National and local public service broadcasters, in co-operation with the SEC, could consider providing the public with civic education and voter information programs.

Although the electoral law bans government officials from taking part in the campaign during working hours, the distinction between their institutional role and election-related appearances was not always made clear to the audience. News programs focused on the activities of state and government officials, many of whom were also candidates in the elections. The media monitoring data shows that *RTCG* devoted 59 per cent of its political and election primetime news coverage to governing figures, showing a lack of analytical and critical reporting and a neutral tone towards the opposition. This included 33 per cent of time going to the government, 1 per cent to the president, 6 per cent to the parliamentary speaker and 19 per cent to the ruling coalition. Private broadcasters monitored devoted in total 57 per cent of coverage to state representatives and the ruling coalition. Among them, the most popular *TV Vijesti* devoted 41 per cent of its political and election prime time news coverage to governing figures, sometimes in a negative tone. This included 13 per cent of time going to government, 1 per cent to the president, 2 per cent to the speaker of parliament and 25 per cent to the ruling coalition. Generally, the OSCE/ODIHR LEOM noted a lack of well-informed analysis and critical journalism that reflected rather low professional standards of Montenegrin media.

³⁶ Publicly owned *RTCG1*; privately owned *TV IN*, *TV PINK*, *TV VIJESTI*, *TV ATLAS* during the primetime hours of 18:00–00:00.

³⁷ Publicly owned *Pobjeda*; privately owned *Vijesti*, *Dan* and *Dnevne Novine*.

³⁸ These included free political advertising (direct access programming), paid advertising, news and current affairs programming, interviews, talk shows and debates.

³⁹ Privately-owned channel *TV Vijesti* held four sixty-minute election-related interview programs and five ninety-minute debates exclusively with four parties, while *TV Atlas* held five special programs on elections with five contestants.

To guarantee a true equality in coverage and access for all electoral contestants, public media should ensure balance in their news and current affairs reporting. Further efforts should be made to draw a clear distinction between official government activities and their campaign appearances.

Monitored newspapers provided wide coverage of campaign events and contestants, taking clear political positions in their reporting. The state-funded newspaper *Pobjeda* showed support for the governing parties, both in the amount of space allocated and the tone of the coverage, while privately owned newspapers were mainly critical of the ruling coalition. *Dan* and *Vijesti* allocated more space to opposition parties, with coverage mostly positive in tone, whereas *Dnevne Novine*'s coverage was more balanced. Generally, the four contestants: Coalition European Montenegro, the DF, the SNP and the PCG benefitted from greater visibility in the media monitored.

Media monitoring of the electoral campaign from a gender perspective showed that opportunities for women to address the electorate were limited: while women accounted for 29 per cent of all the relevant subjects taken into account during the monitoring, they received little coverage in both broadcast and print media.⁴⁰ In general, only 3 per cent of TV news coverage was devoted to women figures, while 83 per cent was allocated to men and 14 per cent to parties and coalitions as groups. Similarly, only 3 per cent of press coverage was devoted to women candidates, while 52 per cent was allocated to men and 45 per cent to parties and coalitions.

X. COMPLAINTS AND APPEALS

The Constitutional Court is mandated to adjudicate complaints that challenge the legality and constitutionality of the electoral legal framework. Additionally, the Constitutional Court hears appeals of SEC decisions. While not limited by law, in practice, the Court only hears cases related to election day activities. Complaints regarding the formation of election commissions are heard by the Administrative Court. The electoral law also outlines the procedures for the filing of complaints against decisions, actions and inactions of election commissions. Voters, candidates and submitters of candidate lists have the right to file complaints to higher-level election commissions (SEC or MECs as relevant), with the Constitutional Court acting as a court of last instance.⁴¹ There was no formalized procedure for submitting complaints with PBs or MECs.

To facilitate access of voters to legal remedies, complaint forms could be developed and made available at polling stations and higher-level commissions on election day.

Timelines for the submission and consideration of complaints are established in the electoral law and the Law on the Constitutional Court. An election commission has 24 hours from the receipt of a complaint or appeal to consider the matter. The Constitutional Court has 48 hours to adjudicate election-related appeals. Timeframes for the submission of complaints are short and may not be sufficient to guarantee effective legal redress as required by the OSCE commitments.⁴²

⁴⁰ Overall, 982 political subjects were monitored during the campaign period, out of whom 285 were women.

⁴¹ See Articles 106-111 of the electoral law.

⁴² Paragraph 5.10 of the 1990 OSCE Copenhagen Document stipulates that everyone should have effective means of redress against administrative decisions. Also see, Article 25 International Covenant on Civil and Political Rights, and the Venice Commission Code of Good Practice in Electoral Matter, Guidelines and Explanatory Report, Section II paragraph 3.3: An Effective System of Appeal.

In line with previous OSCE/ODIHR recommendations, deadlines for the submission and adjudication of complaints should be revised to allow for a thorough review of complaints.

Observed complaint hearings were conducted with respect of the right to be heard, the right to present documentary evidence and the right to appeal. However, the complaints process as a whole would benefit from a more systematic approach to the processing of complaints, with greater accessibility and transparency. The election administration did not provide complaint forms at polling boards or at the MEC level. While the SEC claims that it applied fundamental principles of due process in handling complaints, these procedures are not set out in the law or the SEC rules. In one case, the MEC dismissed a complaint on the basis that the complaint had not been signed, although no procedures for the filing of complaints had been adopted. In addition, OSCE/ODIHR LEOM interlocutors consistently cited an overall lack of trust in the complaint system and adjudicating bodies, a situation that could be alleviated through the adoption of such basic measures.

Dispute resolution system should be reviewed to fully guarantee effective legal redress and relevant procedures should be consistently applied at all levels. The SEC would benefit from the appointment of additional staff, including legal professionals, to assist with the processing of cases in a timely manner.

A. PRE-ELECTION COMPLAINTS

The OSCE/ODIHR LEOM received a number of reports from political parties, including with regard to vandalism on campaign offices and allegations of hate speech against contestants. Complaints relating to these issues were not lodged with the relevant authorities, to some extent supporting earlier statements by interlocutors of a lack of confidence in the complaints and appeals system. Election-related criminal offences, including campaign violations, were handled by the MoI and the State Prosecutor, and were adjudicated by regular courts.

In total, four pre-election day complaints relating to the formation of MECs and PBs were filed. Two complaints concerned the representation of the SNP on MECs in Andrijevica and Kolašin. In both cases, the Court ruled in favor of the complainant. A third case was brought by the DF challenging the formation of PBs in Podgorica; the complainants lost on appeal to the Constitutional Court. The fourth case was unsuccessfully brought to the SEC by the DPS, challenging the composition of the MEC in Pljevlja. The DPS indicated they were unable to appeal due to the tight deadlines.

XI. PARTICIPATION OF NATIONAL MINORITIES

According to the 2011 census, 620,029 people live in Montenegro. Out of this number, 44.98 per cent of respondents identified themselves as Montenegrins, and 28.73 per cent as Serbs. The Bosniaks made up 8.65 per cent of the population, Albanians 4.91 per cent, and 3.31 per cent declared their nationality as “Muslim.”⁴³ Roma made up 1.01 per cent, Croats 0.97 per cent, and 0.33 per cent of the population identified themselves as Egyptians. While members of the Roma and

⁴³ A very small number of people declared themselves to be Muslims-Bosniaks and Muslims-Montenegrins.

Egyptian minorities have identified themselves separately, they are often grouped together, because they face similar problems in Montenegro.

The Bosniaks live predominantly in the northern part of the country in the municipalities of Rožaje, Plav, Bijelo Polje and Berane. The Albanian minority is concentrated mainly in the municipalities of Ulcinj, Plav and the Tuzi district of Podgorica. According to the electoral law, an electoral contestant is considered a minority contestant if it represents a “specific minority” or a “minority national community” that makes up no more than 15 per cent of the population according to the last census. Minority campaign activities including public rallies were primarily observed in the above-mentioned areas. Minority parties relied largely on door-to-door campaigning and local radio and television programs targeted at members of their minority communities. Albanian contestants used Albanian language programs to reach their audience. No party representing Roma or Egyptians contested these elections.

XII. CITIZEN AND INTERNATIONAL OBSERVERS

The electoral law provides for comprehensive observation of the electoral process by both citizen and international observers, in line with OSCE commitments. The observer accreditation process was inclusive and no groups were denied the opportunity to observe. In total, 94 international observers representing international organizations, foreign embassies, and international NGOs observed on election day.

The SEC accredited over 1,200 citizen observers from CEMI. With funding from the Norwegian Government, CEMI trained and deployed 1,200 non-partisan observers and 17 local co-ordinators to approximately 90 per cent of polling stations. CEMI citizen observers also conducted a partial parallel vote tabulation and a parallel count in all observed polling stations. Other organizations that had previously engaged in citizen observation activities, such as the CDT, monitored campaign finances and the use of state resources.

Although not engaged in observation, a group representing the Podgorica State University Faculty of Political Sciences conducted exit polls on election day. This was the first time that exit polls were permitted in Montenegro. The results of the exit polls were made public after the end of voting, as provided for in the amended electoral law.

XIII. ELECTION DAY

A. VOTING

As the OSCE/ODIHR had deployed an LEOM, it focused on the longer-term electoral process without the additional deployment of short-term observers that would have provided the basis for a quantitative assessment of election day. Nevertheless, the OSCE/ODIHR LEOM observers visited a limited number of polling stations on 14 October.

On election day, election commissions conducted the process professionally and transparently, and members demonstrated a good knowledge of voting procedures. PB members were, however, not

trained on the status of authorized representatives and often did not respect their right to participate as full voting members. This affected the political pluralism in election commissions. In addition, some polling stations did not properly implement the requirements for inking and checking of the ink on voters' fingers, restricting access of authorized people and for preventing the use of mobile phones. In one incident, an exchange of identification cards was observed in close proximity to a polling station and in two incidents the OSCE/ODIHR LEOM observers were restricted in their observations. The OSCE/ODIHR LEOM observers were also prevented from looking at the voter list in one polling station and were required to sit out of direct sight of the counting process in another.

Although the OSCE/ODIHR LEOM observed a lack of voter education, voters generally seemed to be aware of the voting procedures. Procedures for requesting to vote outside the polling station (mobile voting) were unnecessarily burdensome and required voters or family members to visit the polling station at least twice to first get the request form and then later submit the signed completed form. Some voters were unaware of where they should vote, and the OSCE/ODIHR LEOM learned that many voter invitations were not delivered on time. In addition, a significant number of voters were turned away or directed to another polling station on election day. Still, the elections took place without serious incidents. Voting in the limited number of polling stations visited by international observers generally proceeded in an orderly manner, although the media reported minor interruptions in the voting process.

To further facilitate access to the ballot, the procedures for mobile voting could be revised and eased.

The secrecy of the vote was compromised in small rural polling stations where there are less than 50 registered voters. There were 106 polling stations with less than 50 registered voters of which 28 polling stations had less than 25 registered voters.

To protect the secrecy of the vote, special voting procedures could be considered for small, remote polling stations, particularly those with less than 50 voters. Consideration could be given to counting votes from small polling stations at the municipal level or accommodating those voters through mobile voting.

In the limited number of polling stations visited, both counting and tabulation appeared to have been conducted in a transparent and efficient manner, without complaints of irregularities.

On election day, the SEC addressed one complaint regarding the conduct of exit polls near polling station premises, permitting voluntary exit polls as long as pollsters stayed at least 50 meters away from the polling station. Multiple violations of campaign silence were observed; the private press covered government officials, including candidates, in a negative light.

B. ANNOUNCEMENT OF RESULTS

Election results by polling station were transmitted from the MECs through a secure network to a central server at the SEC. Following minor delays from remote PBs, the SEC announced preliminary results the following evening, within the legally established deadline. On October 22, the SEC published final results broken down by each PB, which were also posted on the SEC website, contributing to transparency.

In total, eight parties or coalitions won seats in the parliament (see annex for full results). Out of these, minority political parties obtained six seats in the election. The HGI won one seat, the BS won three seats, and two coalitions, the Albanian Coalition and the For Unity coalition, won one seat each bringing the number of seats for contestants representing the Albanian minority to two. In addition, a total of 16 seats were won by women from 5 candidate lists.⁴⁴ This is an increase from the 11 seats previously held and comes close to the 20 per cent of seats that was the aspiration of interlocutors, showing a clear improvement in the level of female representation.

C. POST-ELECTION COMPLAINTS

Five complaints were filed with MEC's and three with the SEC on or after election day. Among the cases filed with MECs, three were regarding polling station procedures: the DF in Budva complained that cameras were filming voters, breaching the secrecy of the vote. The case was dismissed by the MEC as groundless. The BS in Pljevlja complained that a PB member had illegally removed ballot paper tags; the case was referred by the MEC to the regional prosecutor. Finally, the CEMI filed a complaint with the MEC in Podgorica alleging a range of violations including a challenge to the legality of the conduct of exit polls. The complaint was dismissed on the basis that the complaint was filed incorrectly.

The MEC in Pljevlja received two additional complaints from the DF and the BS alleging the abuse of state resources for the purposes of campaigning and coercing voters to vote for the ruling coalition. In both cases, the MEC ruled against a recount or invalidation of the results stating that while the activities did not compromise the integrity of the vote, there was sufficient evidence of criminal acts to refer the matter to the regional prosecutor.

In relation to complaints filed with the SEC, the first complaint was filed verbally by the DF representative to the SEC objecting to the conduct of exit polls by the Podgorica State University Political Science Faculty. The SEC dismissed the complaint on the basis that exit polls are allowed under Article 2(3) of the electoral law and issued a statement in the media that exit polls could take place 50 meters outside of polling stations. The DF subsequently filed a complaint with the State Prosecutor alleging that the conduct of exit polls breached criminal law.

The DUA filed a complaint with the SEC calling for the annulment of results from one polling board on the basis of illegal actions by a representative of the FORCA party. The case was dismissed as groundless. On 18 October, the SEC heard a second complaint from the DUA with regard to the seat allocation method. The DUA claimed that the allocation for minority parties should have been conducted on the basis of a separate *d'Hondt* calculation that would have resulted in the Albanian parties securing another seat. The SEC dismissed the case on the basis that the party did not present the required jurisdiction to address the complaint. An appeal was filed with the Constitutional Court on 19 October. The Court confirmed that the SEC had correctly interpreted the law in relation to the allocation of seats to minorities and that the Albanian minority list benefited from affirmative action through the reduced thresholds. The Court dismissed the appeal as being without foundation.

⁴⁴ Of the five lists, the lowest percentage was found in the ruling coalition's list (DPS), which will have only four women among their 39 mandates.

XIV. RECOMMENDATIONS

The following recommendations are offered for consideration by the authorities, political parties and civil society of Montenegro, in further support of their efforts to conduct elections fully in line with OSCE commitments and other standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. OSCE/ODIHR stands ready to assist the authorities of Montenegro to further improve the electoral process and in following up on the recommendations contained in this and previous reports.

A. PRIORITY RECOMMENDATIONS

1. Measures should be undertaken to increase public trust in the integrity of the electoral process. Such measures could include, but are not limited to, a thorough investigation of allegations of electoral irregularities, a public campaign against vote buying and electoral fraud.
2. To enhance public confidence in the quality of voter lists, authorities should remove deceased voters from the voter list and could make more of an effort to inform the public about measures taken to eliminate duplications. While maintaining security of personal data, the MoI could be more open to public scrutiny in its process for updating the voter lists.
3. In line with previous OSCE/ODIHR recommendations, the legal framework should be amended to eliminate the 24-month residency requirement. Until such an amendment is introduced, uniformity of application of the current provision should be ensured.
4. The SEC should exercise its authority more actively to oversee the proper implementation of the electoral law. To do so, the SEC should be allocated sufficient financial and human resources.
5. To ensure consistent application of the electoral law, including with regard to the rights of authorized representatives, a uniform training program could be designed by the SEC and held for all PB members prior to the next election.
6. To facilitate access of voters to legal remedies, complaint forms could be developed and made available at polling stations and higher-level commissions on election day.

B. OTHER RECOMMENDATIONS

LEGAL FRAMEWORK AND ELECTORAL SYSTEM

7. Clear procedures for the allocation of seats to minority lists should be elaborated in the electoral legislation.
8. To ensure greater representation of women in parliament, consideration could be given to supplementing the current quota system with requirements for the placement of women in

higher positions on candidate lists. A system of alternating male/female candidates could also be considered.

9. The electoral law should be amended to allow for independent candidacy.

ELECTION ADMINISTRATION

10. To protect the secrecy of the vote, special voting procedures could be considered for small, remote polling stations, particularly those with less than 50 voters. Consideration could be given to counting votes from small polling stations at the municipal level or accommodating those voters through mobile voting.
11. To further facilitate access to the ballot, the procedures for mobile voting could be revised and eased.

CANDIDATE REGISTRATION

12. More detailed signature verification procedures could be established to allow for a more thorough review of signature lists submitted by electoral contestants to check the authenticity of voter signatures and to ensure voters have not signed in support of more than one list.

CAMPAIGN ENVIRONMENT AND CAMPAIGN FINANCE

13. To ensure an open campaign environment and protect citizens from pressure and intimidation, law enforcement bodies should investigate ex officio all violations of the electoral legal framework.
14. Consideration could be given to defining more clearly the terms of permanent and temporary employment in the public sector, as included in Article 21 of the Law on Party Political Financing. The ban on recruitment to temporary positions and consultancies in the public sector that comes into force when elections are called should be respected.
15. To increase the transparency of campaign finances, regulations governing the auditing of financial reports submitted by the political parties, which are currently pending promulgation, should be endorsed. Consideration could also be given to requiring that the time period from the announcement of elections until the registration of contestants be also covered in financial reports submitted by political parties to the SEC.
16. The SAO should be provided with the resources that it requires, in particular qualified auditors, to implement the tasks assigned to it under the law.

MEDIA

17. Effective supervision of media compliance with the electoral law during the electoral campaign could be carried out by a proactive independent body authorized to decide on complaints and take prompt and effective action against infringements of the law. This body could conduct independent media monitoring during electoral campaigns.

18. National and local public service broadcasters, in co-operation with the SEC, could consider providing the public with civic education and voter information programs.
19. To guarantee a true equality in coverage and access for all electoral contestants, public media should ensure balance in their news and current affairs reporting. Further efforts should be made to draw a clear distinction between official government activities and their campaign appearances.

COMPLAINTS

20. Dispute resolution system should be reviewed to fully guarantee effective legal redress and relevant procedures should be consistently applied at all levels. The SEC would benefit from the appointment of additional staff, including legal professionals, to assist with the processing of cases in a timely manner.
21. In line with previous OSCE/ODIHR recommendations, deadlines for the submission and adjudication of complaints should be revised to allow for a thorough review of complaints.

ANNEX: OFFICIAL ELECTION RESULTS

Election of Representatives to the Montenegrin Parliament Final Results⁴⁵

Montenegro	Total	
No of Registered Voters	514,055	
No of Ballots Cast	362,714	70.56%
No of Ballots Cast in Polling Stations	347,424	95.78%
No of Ballots Cast Through Mobile Voting	15,290	4.22%
No of Valid Ballots	356,950	98.41%
No of Invalid Ballots	5,764	1.59%

Party/Coalition	No of Seats	No of Votes
1. Albanian Youth Alliance	0	531
2. Serbian Unity	0	5,275
3. Croatian Civic Initiative	1	1,470
4. Positive Montenegro	7	29,881
5. Socialist People's Party	9	40,131
6. Democratic Union of Albanians		2,848
7. Albanian Coalition: The Democratic Alliance in Montenegro, Democratic Party, and Albanian Alternative	1	3,824
8. Democratic Front	20	82,773
9. FORCA For Unity Coalition	1	5,244
10. Bosniak Party	3	15,124
11. Coalition European Montenegro	39	165,380
12. Together (<i>Zajedno</i>)	0	1,384
13. Serbian National Alliance	0	3,085
Total	81	356,950

⁴⁵ Data aggregated according to final results published on the SEC website on 22 October 2012: <http://www.rik.co.me/>.

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States in fulfilling their obligations to promote and protect human rights and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance and non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).