

**INTERIM REPORT**  
**5-24 May 2023**

**26 May 2023**

**I. EXECUTIVE SUMMARY**

- On 16 March 2023, the former President Milo Đukanović dissolved parliament and on the following day called early elections for 11 June. A challenge to the constitutionality of the presidential decree calling for early elections was heard by the Constitutional Court on 7 April, but the Court failed to reach a decision due to a tied vote. Another constitutional challenge related to the 2022 amendment of the Law on the President, which provided the basis for dissolution of the parliament, is currently with the Court. These cases created some legal and political uncertainty regarding the holding of the early polls, but the elections remain scheduled for 11 June.
- The 81-member parliament is elected for a four-year term from closed candidate lists under a proportional representation system. Candidate lists are eligible for seats if they obtain at least 3 per cent of the valid votes cast. Preferential rules apply for lists representing national minorities not exceeding 15 per cent of the total population. There is a gender quota of 30 per cent for the parliament. In the out-going parliament, 23 (28.4 per cent) members were women.
- While a new political finance law was adopted in 2020, the parliament has not amended the election law since 2014. Most prior ODIHR recommendations remain unaddressed, including on residence requirements for voting and candidacy rights, registration of candidate lists representing national minorities, campaign finance oversight and sanctions, invalidation of results, media oversight and election dispute resolution.
- The election administration structure for the parliamentary elections comprises three levels, headed by the State Election Commission (SEC), with 25 Municipal Election Commissions (MECs). Both the SEC and MECs are permanent bodies with four-year terms. There will be some 1,200 Polling Boards (PBs), which are to be formed by 31 May. Technical preparations are ongoing according to established deadlines. In the reporting period, SEC sessions observed by the ODIHR EOM have been open to observers and media and session minutes have been published. The SEC has issued a number of resolutions supplementing the election law, including on enhancing the participation of persons with disabilities in the electoral process.
- All citizens aged 18 or over, who have permanent residence in the country for at least two years prior to election day, have the right to vote. The Ministry of Interior (MoI) compiles the voter list, which includes some 543,600 voters. The MoI closes the voter list 10 days before election day. Long-standing concerns about the accuracy of the voter register were raised during these elections by some election stakeholders, notably regarding the number of voters living abroad and deceased voters included in the register.
- All eligible voters may stand as candidates. Political parties, coalitions, and groups of voters may nominate candidates as part of a closed party list, each of which requires 4,338 supporting signatures. There is a lack of clarity regarding the criteria for defining national minority lists. Lists are checked by the SEC and voters can check online their names in the SEC database as supporting one of the candidate lists, but only after registration has been confirmed. The SEC

raised concerns with the ODIHR EOM regarding time constraints and possible logistical challenges in the verification process. Out of a total of 17 lists submitted 15 were registered. Two lists were rejected due to insufficient number of supporting signatures or associated documentation.

- Contestants can start campaigning after the call for elections, provided they have opened a designated bank account. Campaigning in the media can start after registration of the candidate list. Due to legal and political uncertainty regarding the date of the elections and last-minute registration of contestants, the campaign so far has been low-key. While some contestants started campaigning online before completing the registration process, the first larger campaign events took place on the occasions of the official inauguration of President Jakov Milatović on 20 May, and the celebrations of Montenegro's independence on the following days.
- A total of EUR 3.2 million public funding is made available to be shared by registered lists, which may also receive private donations. Each list may spend up to EUR 3.2 million. Reporting requirements apply but the law does not prescribe sanctions for inaccurate reports. The Agency for the Prevention of Corruption (APC) has oversight authority and is required to publish campaign finance reports. As per established practice, it has hired a private company to collect information on campaign expenditure.
- The media environment is diverse, but several ODIHR EOM interlocutors noted that media outlets operate in a limited advertising market, affecting their financial viability and making them vulnerable to influence from corporate and political interests. Contestants are entitled to an equal amount of free airtime on national and local public broadcasters. The Agency for Electronic Media monitors compliance of broadcasters with some legal provisions on campaign coverage, but its sanctioning power is limited to either issuing warnings or to revoking the license of broadcasters breaching the law.
- As a rule, electoral contestants may file complaints on most election-related issues, while voters on issues pertaining to their voting rights. Citizen observers can file complaints on specific matters, including on issues related to misuse of administrative resources. An expedited dispute resolution is prescribed for MECs and the SEC. Judicial review is provided by the Constitutional Court for SEC decisions, but only in case of a rejected complaint. The APC reviews complaints on the use of state resources but without an expedited process. The APC may refer cases to the Misdemeanour Court and these decisions may be appealed to the Administrative Court. To date, the ODIHR EOM is not aware of any election-related complaints being filed.

## **II. INTRODUCTION**

Following an invitation from the authorities, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 5 May.<sup>1</sup> The ODIHR EOM, headed by Nina Suomalainen, consists of a 11-member core team based in Podgorica and 12 long-term observers deployed on 13 May across the country. Mission members are drawn from 18 OSCE participating States and 45 per cent of current mission members are women. ODIHR requested participating States to second 100 short-term observers to observe election-day proceedings.

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<sup>1</sup> See previous [ODIHR election observation reports on Montenegro](#).

### III. BACKGROUND AND POLITICAL CONTEXT

Montenegro is a parliamentary republic with a mixed parliamentary and presidential political system, both elected by popular vote. Elections to the 81-seat unicameral parliament (*Skupština*) are held every four years. In the last parliamentary elections, held in 2020, the Democratic Party of Socialists (DPS), which ruled the country since 1991, moved to the opposition despite having won the largest number of seats. A slim parliamentary majority of 41 members of parliament (MPs) was formed by a broad coalition of political parties united in three different political blocks.<sup>2</sup>

The government of Zdravko Krivokapić from the Democratic Front (DF) fell in February 2022, to be followed by a government headed by the United Reform Action (URA) leader Dritan Abazović, which was toppled by a no-confidence vote in August the same year. In response to the former President Milo Đukanović's refusal to accept the subsequent prime ministerial nomination of Miodrag Lekić from the Democratic Alliance (DEMOS), the parliament amended the Law on the President in November 2022 to allow nomination of a prime minister that is supported by the majority of MPs if the president declines to do so and the government of Mr. Abazović remained in office. The amendments were criticized by, among others, the Venice Commission, and their constitutionality was appealed.<sup>3</sup>

On 16 March 2023, the former President Milo Đukanović dissolved the parliament and consequently called for early elections to take place on 11 June.<sup>4</sup> Questions regarding the constitutionality of the provisions that underpinned the call for early parliamentary elections brought legal and political uncertainty to whether the elections would take place on the set date. Some political parties reportedly explored legal and political possibilities for postponing the electoral process. The Constitutional Court initiated the review of the constitutionality of the amendments to the Law on the President on 12 May, four days before the deadline for submission of candidate lists to the State Election Commission (SEC), leaving little time for the decision to be taken within the context of the elections called for 11 June. The early parliamentary elections will take place almost immediately after the presidential election, held on 19 March and 2 April 2023.<sup>5</sup>

In the period leading up to the elections, three of the key opposition parties in the outgoing parliament - DPS, the Social Democratic Party (SDP), and the Social Democrats (SD) - changed their leaders. The Democratic Front (DF) – a three party opposition bloc established in 2012 and comprising the New Serb Democracy (NOVA), the Democratic People's Party (DNP) and the Movement for Changes (PZP) - announced its dissolution. The party led by the Prime Minister Dritan Abazović, the United Reform Action (URA), created a centrist block with Democratic Montenegro (DCG). Some smaller parties also changed their alliances.

In the 2020 parliamentary elections, 18 women were elected, but due to the later termination of office by some MPs, there were only 23 women (28.4 per cent) in the outgoing parliament. Out of the current

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<sup>2</sup> The DPS won 30 of the 81 seats. The government was formed by For the Future of Montenegro, with 27 seats; Peace is Our Nation, 10 and In Black and White, 4. The Social-Democratic Party (SDP) won 2 seats; Social Democrats (SD), 3; Bosniak Party (BS), 3; the Albanian coalition "Unanimously" and the Albanian List of Genci Nimanbegu won 1 seat each.

<sup>3</sup> The initiatives for constitutionality assessment were submitted by the advisor to the President Boris Batijančić and the NGO Center for Democratic Transition (CDT).

<sup>4</sup> The Constitution stipulates that the president dissolves parliament and calls early parliamentary elections, if the parliament failed to elect the government within 90 days from the date when the president nominated for the first time a candidate for prime minister.

<sup>5</sup> In the second round, the former President Milo Đukanović lost to Jakov Milatović, the Minister of Economic Development in the government of Zdravko Krivokapić and one of the leaders of Europe Now (ES), a political movement established in 2022.

17 members of the Government, 3 are women. Women hold some prominent positions, such as the Speaker of the Parliament, Mayor of Podgorica and the Head of the Podgorica Municipal Council, and the acting President of the Supreme Court. Three out of the six sitting judges of the Constitutional Court are women.

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

The 81-member unicameral parliament is elected for a four-year term from closed candidate lists under a proportional representation system in a single nationwide constituency. Candidate lists are eligible for seats if they obtain at least 3 per cent of the valid votes cast. Preferential rules apply for lists representing national minorities not exceeding 15 per cent of the total population. If none of the minority lists surpasses the 3 per cent threshold, all lists representing the same national minority that have obtained each at least 0.7 per cent of the votes are granted up to three seats, jointly, based on the sum of their votes. The frontrunner among the Croat minority lists is granted a seat provided that it has obtained at least 0.35 per cent of the votes.

Parliamentary elections are primarily regulated by the 2007 Constitution, the 1998 Law on Elections of Councillors and Members of Parliament (election law), the 2020 Law on Financing of Political Subjects and Election Campaigns (political finance law) and instructions of the SEC. While a new political finance law was adopted in 2020, parliament has not amended the election law since 2014.<sup>6</sup> Most prior ODIHR recommendations remain unaddressed including on residence requirements for voting and candidacy rights, registration of candidate lists representing national minorities, campaign finance oversight and sanctions, invalidation of results, media oversight and election dispute resolution.

A parliamentary committee for electoral reform was established in 2018 and was re-established after the 2020 parliamentary elections, but it did not table any draft law in parliament. The Constitution stipulates that amendments to laws regulating the electoral system may be adopted with a two-thirds majority in parliament.

#### **V. ELECTION ADMINISTRATION**

The election administration structure for the parliamentary elections comprises three hierarchical levels, headed by the SEC. At the second level, there are 25 Municipal Election Commissions (MECs). Both the SEC and MECs are permanent bodies with four-year terms. Some 1,200 Polling Boards (PBs), to be formed by 31 May, constitute the third level. The SEC is composed of 11 members, MECs and PBs of 5 members. The permanent composition of SEC comprises a chairperson and 10 members. The chairperson, independent of a political affiliation, is appointed by parliament following a public call. Of the remaining 10 members, 4 are nominated by the parliamentary majority, 4 by the parliamentary opposition, one by the national minority group which received the highest number of votes and one by civil society or academia. Each MEC consists of a chair plus four permanent members. A MEC chairperson is appointed by the party/coalition that won most votes in the previous municipal elections, two members are appointed by the majority of the respective council and two by the minority. PB members are appointed by the respective MEC for each election anew on the same basis.

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<sup>6</sup> In 2016, 2017 and 2020, the Constitutional Court amended the election law by repealing the termination of office of MPs in case of incompatibility with another public office, the disenfranchisement of the mentally disabled and the vague obligation of lower-level election commissions to facilitate access of the physically disabled to polling stations.

Three out of 11 permanent SEC commissioners and some 35 per cent of lower-level commission members are women. For a limited time during the electoral period, permanent members of the SEC and MECs are joined by members representing the candidate lists participating in the elections. These extended members enjoy full voting rights.

Technical preparations are ongoing according to established deadlines. In the reporting period, SEC sessions observed by the ODIHR EOM have been open to observers and media, agendas were posted in advance, session minutes were published, and decisions taken collegially. It is noted that in some instances MECs have failed to implement SEC instructions.<sup>7</sup>

The SEC has issued a number of instructions supplementing the election law, including, among others, on enhancing the participation of persons with disabilities in the electoral process. By law, MECs are obliged to identify polling stations taking into consideration facilitated access for persons with physical disabilities and provide equipment for voters with visual impairments.

SEC held a capacity-building training for all MECs, where the inclusion of persons with disabilities was also addressed. MECs are later expected to train their respective PBs. The SEC is producing printed manuals and video material on election day procedures to be distributed to lower-level election commissions. Additionally, the SEC plans to develop voter education content for national television channels.

## VI. VOTER REGISTRATION

All citizens aged 18 or over, who have permanent residence in the country for at least two years prior to election day, have the right to vote. Voter registration is passive. The Ministry of Interior (MoI) compiles the voter list and regularly updates it based on data from the residence, citizenship, and births and deaths registers. By law, MECs, accredited observers, parliamentary parties, and candidate list representatives have the right to inspect the voter list. Voters can verify their data in person or online and may request clarification and corrections to the MoI no later than 15 days before election day.

Mobile voting provisions are in place for voters with health-related issues and assisted voting by a person of choice is possible for people with disabilities and illiterate voters. Special polling stations are set up in prisons and detainee facilities.

According to preliminary data from the MoI, the voter list includes some 543,600 voters. The MoI closes the voter list 10 days before election day. The final data is transmitted to the SEC, which will then publicly announce the official number of registered voters for the upcoming elections. Some ODIHR EOM interlocutors have reiterated longstanding concerns about the accuracy of the voter list, notably regarding the number of voters living abroad and deceased persons included in the register.

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<sup>7</sup> The SEC instructed MEC Šavnik to repeat voting at two polling stations and finalize the 2022 municipal elections. However, the MEC failed to reach a majority vote to proceed with this. As such, the MEC administering the parliamentary elections, in its permanent composition, is not based on the most recent electoral outcome. In Andrijevića, the municipal council appointed an SNP MEC president; however, following a request for an opinion submitted by the president of the Municipal Committee of SDP, the SEC stated that the DPS-SD coalition should nominate the MEC president based on the results of the local elections. At the same time, the SEC noted that both cases are not under its jurisdiction, because the SEC is neither entitled to take over the MECs' competencies for local elections, nor to change a MEC president.

## VII. CANDIDATE REGISTRATION

All eligible voters are allowed to stand as candidates. Political parties, coalitions, and groups of voters may nominate candidates. Lists must comprise a number of candidates equal to at least two-thirds and, at most, equal to the maximum number of seats available.<sup>8</sup> One in four candidates in each list must be of the underrepresented gender, and, overall, the underrepresented gender must comprise at least 30 per cent of the total number of candidates on each list.

Candidate lists have to be supported by a minimum of 4,338 voter signatures.<sup>9</sup> Preferential criteria apply to the lists representing national minorities. Candidacy in more than one list is prohibited, and voters may sign in support of only one political candidate list.<sup>10</sup> Some interlocutors informed the ODIHR EOM about the alleged practice among some parties of obtaining voters' data and forging their signatures. Voters can check online if their names have been included in the SEC database as supporting one of the candidate lists, but only once the lists have been confirmed by the SEC.

Candidate lists had to be submitted to the SEC between 7 April and 16 May. Out of a total of 17 lists submitted overall, 15 lists were registered.<sup>11</sup> The SEC initially returned eight lists for corrections.<sup>12</sup> Two of these lists were rejected also after their resubmission and therefore excluded from the electoral race. The SEC informed the ODIHR EOM about time constraints and logistical challenges while conducting the verification process.<sup>13</sup> This was due to the submission of a majority of lists very close to the deadline.<sup>14</sup> By law, the SEC should make publicly available a general candidate list, compiling all those registered for the upcoming elections, at least 15 days before the elections.

## VIII. CAMPAIGN ENVIRONMENT

There is no legal timeframe for the campaign *per se*, but contestants can start campaigning after the call for elections, provided they have opened a designated bank account. After obtaining registration of their candidate list, they can campaign on electronic media, both public and private. Some contestants started campaigning on social media before completing the registration process.<sup>15</sup> Due to legal uncertainty regarding the date of the elections and last-minute registration of contestants, the campaign so far has been low-key. The official inauguration of President Jakov Milatović on 20 May, and the celebrations of Montenegro's independence on the following days, were the first occasions contestants organized larger campaign events. Contestants informed the ODIHR EOM that they plan to put an emphasis on door-to-door campaigning and small meetings, as well as making use of online

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<sup>8</sup> For parliamentary elections, the minimum and maximum required number of candidates in each list is equal to 54 and 81, respectively.

<sup>9</sup> By law, the required number of signatures is determined based on, and must equal 0.8 per cent of the official number of registered voters in the previous electoral process.

<sup>10</sup> The SEC verifies if the same voter has supported more than one list starting from the second list submitted.

<sup>11</sup> The DPS registered its candidate list in coalition with the Social Democrats (SD), the Liberal Party (LPCG), and the Democratic Union of Albanians (DUA). The ES accommodated on its list the candidates of United Montenegro (UCG), the Justice and Reconciliation Party (SPP), and a number of smaller parties, while the New Serb Democracy (NOVA) and the Democratic People's Party (DNP) run on a joint list with the Workers' Party (RP).

<sup>12</sup> Of these eight, seven were due to incorrect documents and an insufficient number of valid signatures, and one due to an insufficient number of signatures only.

<sup>13</sup> Election administration officials reported to the ODIHR EOM that the software used to identify the voters who signed the lists suffers from overload during working hours as the platform hosts other types of state services used by different state institutions.

<sup>14</sup> By law, the SEC must approve a candidate list or request further adjustments within 48 hours upon its submission. In case of rejection, the submitter of the list is granted 48 additional hours to make the necessary corrections; subsequently, the SEC issues a final decision within 24 hours.

<sup>15</sup> On 15 May, the ODIHR EOM commenced its monitoring of the campaigns in the social networks. Qualitative analysis of the narrative and tone of the campaign discourse on social networks includes the sample of electoral contestants and stakeholders, whose activities are followed on Facebook, Instagram, and Twitter.

platforms, billboards and free airtime on public media. Campaign activities should cease 24 hours before the election day.

Political parties the ODIHR EOM met with informed that they intend to focus in their programs on economic and healthcare issues. The DPS, SD, SDP, and the Socialist People's Party (SNP) spoke about the importance of EU integration, while DCG and URA put great emphasis on combating corruption and organized crime. Although all the contestants reaffirmed the importance of gender equality and the rights of national minorities, few included in their programs concrete proposals to promote these issues.

Both the election law and political finance law provide measures to prevent the misuse of administrative resources. They regulate, among other matters, how public employment, use of official cars, and the introduction of new public subsidies during the electoral period should be managed. The legislation also prohibits public officials from campaigning during working hours, which a number of interlocutors highlighted as difficult to enforce.

## IX. CAMPAIGN FINANCE

Campaign finance is regulated by the political finance law, which was adopted in 2020 and introduced some safeguards.<sup>16</sup> However, most previous ODIHR recommendations remained unaddressed *inter alia* on effective verification of the legality of donations, including from public contractors, an explicit obligation of the Agency for the Prevention of Corruption (APC) to identify and publish unreported finances, the introduction of proportionate sanctions and regulation on the use of loans.

Registered candidate lists are entitled to public funding for the campaign, which collectively amounts to EUR 3.2 million.<sup>17</sup> Each candidate list will receive EUR 42,121 by 1 June while EUR 2.5 million will be allocated after the elections. This second disbursement is proportional to the number of seats obtained in parliament. The allocation is undertaken after the final campaign finance reports have been submitted, provided no sanctions are imposed by the APC.<sup>18</sup> Contestants may also obtain private donations from permissible sources.<sup>19</sup> A donation from an individual may not exceed EUR 5,000 while a donation from a legal entity may not exceed EUR 20,000. Each candidate list may spend up to EUR 3.2 million, which according to several ODIHR EOM interlocutors allows for excessive spending with potentially undue influence on the voters.

Each prospective candidate list is required to open a dedicated bank account before beginning campaigning and at the latest one day after their registration by the SEC. Reporting requirements include bi-weekly donation reports during the campaign, expenditure reports 5 days prior to election day and final reports within 30 days after election day. All but one list opened campaign accounts after their registration by the SEC.<sup>20</sup>

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<sup>16</sup> Including defining campaign activities within its scope and disallowing some commercial activities of political parties.

<sup>17</sup> Parliamentary parties are also entitled to annual public funding; 20 per cent is allocated equally to all parties, 60 per cent proportionally to the number of seats in the parliament and the municipal assemblies and 20 per cent proportionally to the number of women representatives to both institutions.

<sup>18</sup> The total amount of campaign finance represents 0.25 per cent of the state budget. Twenty per cent (EUR 631,820) will be disbursed equally to the registered candidate lists 10 days prior to election day and 80 per cent will be allocated after election day to the candidate lists which obtain seats in parliament proportionally to the number of seats obtained.

<sup>19</sup> There is a ban on donations from foreign and anonymous sources, public institutions and state-funded companies, religious communities, non-governmental organizations, casinos, gambling agencies and trade unions.

<sup>20</sup> Preokret opened its campaign account on 13 April.

The APC is mandated with the oversight of campaign finance and is required to publish the submitted campaign finance reports on its website. The APC informed the ODIHR EOM that it verifies whether the reported donations are made by registered voters, who are not convicted for corruption and are not directors of public contractors. In addition, it cross-checks reported campaign expenditure against information collected by a contracted private agency.<sup>21</sup> The APC is obliged to issue its conclusions on campaign finances two months after the publication of the final election results.

## X. MEDIA

The media environment is diverse but polarized along political lines. Several ODIHR EOM interlocutors reported that several media outlets operate in a limited advertising market, which affects their financial viability and makes them vulnerable to influence from corporate and political interests. Television channels remain the main source of news, followed by online media and social networks, with print media playing a relatively marginal role.<sup>22</sup> Most of the relevant private media outlets across broadcast, print and online media are partially or fully owned by foreign companies, including all four private television channels with a national license.<sup>23</sup> Most national and local TV channels, as well as several TV channels from the region broadcasting in regional languages, are accessible via the main cable TV operators.<sup>24</sup>

The public broadcaster Radio and Television of Montenegro (RTCG) is funded from the state budget and runs three national television channels and two radio stations.<sup>25</sup> In addition, there are 6 local television channels and 16 local radio stations funded by municipalities. On 8 May, the Mayor of Podgorica who took office in mid-April tabled a proposal to replace the management of Gradska TV, a local television channel funded by the Municipality of Podgorica.<sup>26</sup> The proposal was withdrawn on 10 May following a strong reaction from civil society and media associations.<sup>27</sup>

The Constitution guarantees freedom of expression, freedom of the media and prohibits censorship. The Criminal Code forbids speech which incites violence or causes national, racial or religious hatred, divisions or intolerance. In 2021, the Code was amended to enhance protection of journalists and other media professionals by imposing harsher punishments for attacks and threats against them. According to ODIHR EOM interlocutors, while the number of physical attacks on journalists has diminished in the last two years, journalists still receive threats, including by email and on social networks.

Broadcast media coverage of the elections is regulated primarily by the election law and the Law on Electronic Media.<sup>28</sup> Voters have the right to be informed about the political platforms of all lists and

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<sup>21</sup> As in previous elections, the APC contracted “Archimed” to collect information on campaign expenditure on print, broadcast, online media, social networks, billboards, campaign events and print materials.

<sup>22</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).

<sup>23</sup> The majority shares of *Vijesti TV*, *Nova TV*, *Prva TV* and *Adria TV* are owned by Serbian companies or citizens.

<sup>24</sup> According to the Agency for Electronic Communications and Postal Services Survey conducted in April 2022, 93.4 per cent of the Montenegrin population uses cable operators to access television.

<sup>25</sup> The Law on Public Broadcasting Services stipulates that the RTCG receives 0.3 per cent of the state annual budget.

<sup>26</sup> See [Decision on Establishing the Limited Liability Company Local Public Broadcaster Radio Television Podgorica](#).

<sup>27</sup> On 18 May, the Mayor invited several media stakeholders to discuss the case of this television channel, which was established by the previous ruling municipality majority.

<sup>28</sup> In addition, the legal framework for the media includes the Law on Media and the Law on Public Broadcasting Services, both amended in 2020.

the media are required to apply the principle of equality for all contestants. Paid advertising is allowed under equal conditions and without time limitations, provided it is labelled as paid. Both public and private broadcasters are required to separate election campaign coverage into *ad hoc* news segments. As required by law, the public broadcaster started organizing election debates and offering daily free airtime on an equal basis to contestants as soon as their lists were validated by the SEC.

The election law foresees as the primary body to oversee the coverage of the campaign by all media an *ad hoc* parliamentary committee which should be established within 10 days from the call of the elections. However, this committee has not been established for the current or the past four elections. As required by the law, on 23 March 2023, the Agency for Electronic Media (AEM), the broadcast media regulatory body, issued a Rulebook compiling and further elaborating election-related broadcast media provisions. The AEM monitors the compliance of broadcast media with its Rulebook as well as with other media by-laws.<sup>29</sup> While the AEM is also responsible to adjudicate media related complaints, its sanctioning power is limited to either issuing warnings or to revoking the license of broadcasters breaching the law.

On 17 May, the ODIHR EOM commenced its monitoring of 10 media outlets with quantitative and qualitative analysis of their election-related coverage.<sup>30</sup>

## XI. ELECTION DISPUTE RESOLUTION

Complaints may be filed to MECs and the SEC. While SEC decisions may be appealed to the Constitutional Court, some stakeholders, including the SEC and the Constitutional Court, consider that some types of decisions and actions are exempt from judicial review.<sup>31</sup> Candidates and voters may challenge PB results and the Constitutional Court may invalidate election results, entirely or partly, in case of irregularities affecting the election results.<sup>32</sup> MEC and SEC tabulated election results may not be challenged.

Contestants, citizen observers and voters may file complaints to election commissions while voters and citizen observers may file complaints to the Constitutional Court only for violations of their individual voting rights. An expedited process is applicable to the MECs and the SEC; short deadlines are applicable to the Constitutional Court but may be extended.<sup>33</sup> The SEC reviews complaints in public sessions but without the presence of parties to the dispute. SEC does not maintain a publicly available complaints database but publishes minutes of sessions and decisions on complaints. The

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<sup>29</sup> According to the AEM, 31 broadcast media companies informed AEM about their intention to cover the election campaign, as required by law. The AEM conducts a comprehensive media monitoring of 17 television channels and a random sample monitoring of all broadcasters covering elections. The AEM will publish its findings in a report.

<sup>30</sup> The sample includes seven television channels: national and local public TV channels *RTCG 1* and *Gradska TV*, as well as the private TV channels *Vijesti TV*, *Prva TV*, *Adria TV* and 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>31</sup> The election law states that MEC actions, inactions and MEC and SEC decisions dismissing complaints on merits or on technical grounds may be appealed; it does not explicitly mention MEC and SEC decisions upholding complaints nor SEC actions and inactions.

<sup>32</sup> The law lists 13 grounds for optional and 8 grounds for mandatory invalidation of PB results and conditions requests for invalidation upon having recorded the alleged irregularity in the PB protocol. The law does not define which irregularities may impact on the election results.

<sup>33</sup> Complaints against a PB or MEC must be filed within 72 hours and reviewed within 24 hours. A 48-hour deadline is applicable both to appealing and reviewing SEC decisions but the 48-hour deadline for the Constitutional Court starts after the parties make written submissions, which are subject to varying deadlines.

Constitutional Court deliberates in closed sessions. It is not required to publish all its decisions but it publishes some information on the outcome.

Individuals and legal entities may file complaints to the APC on campaign finances and the misuse of state resources, including public employment and expenditure by public institutions after the call of elections. The APC can also review such cases *ex officio*. Pursuant to complaints, the APC has 15 days to decide whether to refer cases to the Misdemeanor Court and its decisions may be appealed to the Administrative Court. The two courts have no deadline to decide on such cases. The APC reviews cases *in camera* while the courts do so in public sessions; none of them is required to publish decisions but the APC publishes some information on complaints.

The Constitutional Court received one complaint challenging the Presidential Decree dissolving parliament and calling early elections. The Court reviewed the complaint on 7 April but failed to reach a decision due to a tied vote.<sup>34</sup> To date, the ODIHR EOM is not aware of any complaints filed pertaining to these elections or any cases dealt with by the police or the prosecutor.

## XII. PARTICIPATION OF NATIONAL MINORITIES

The Constitution recognizes Montenegrin as the state language, allowing for the use of both Cyrillic and Latin alphabets. Serbian, Bosnian, Albanian and Croatian are also recognized as official languages. In municipalities in which at least 5 per cent of the population belongs to a minority, based on two successive censuses, the minority language is in official use along with Montenegrin, which extends also to the election material.

The election law provides for a number of affirmative measures for the candidacy of national minorities. Albanians, Bosniaks and Croats are represented by their respective political parties and also integrated in major political parties. Whereas an electoral list needs to contain at least two-thirds of the total number of candidates for the elections (at least 54 candidates), a candidate list representing a national minority can be registered with no less than one-third of the total number (27 candidates). Moreover, the number of support signatures required of a list representing a national minority is lower and amounts to 1,000 signatures for minorities that constitute less than 15 per cent of the population and 300 signatures for minorities smaller than 2 per cent of the population. Nevertheless, the law does not prescribe any criteria for granting the status of a national minority candidate list.

During the candidate verification process, the citizens' movement *Casa de Papel* submitted registration documents with 29 candidates and 300 support signatures, as the Italian minority candidate list. The SEC, after examining the program of *Casa de Papel*, decided not to recognize the list as a minority list and requested the full number of 4,338 support signatures. The resubmitted documentation was incomplete, and the list was refused to be registered. Overall, SEC registered four lists representing minorities, the Albanian Alliance, the Albanian Forum, the Bosniak Party (BS) the Croatian Civic Initiative (HGI).

## XIII. CITIZEN AND INTERNATIONAL OBSERVERS

The law provides for citizen and international election observers. The SEC accredits both domestic and international organizations; though, international apply for accreditation in the first instance through the Ministry of Foreign Affairs. By law, observers have the right to observe all stages of the

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<sup>34</sup> On 18 March, 41 MPs requested the temporary measure of suspension of the presidential decree of 17 March dissolving parliament until the new president is elected.

electoral process. As of 23 May, three citizen organizations have been accredited by SEC for the elections.

Some citizen groups raised concerns about not being able to access the signature verification phase. The SEC met with the Agency on Personal Data Protection and Free Access to Information in a public consultation with domestic observer representatives in order to discuss the matter. However, the Agency expressed a negative opinion on the request from civil society to scrutinize the signature lists on the basis of data protection concerns.<sup>35</sup>

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

The ODIHR EOM formally opened in Podgorica with a press conference on 5 May 2023. The Head of Mission and team members have met with the State Election Commission, the Ministry of Foreign Affairs, the Constitutional Court, political party representatives, media, civil society, and members of the diplomatic and international community. Long-term observers have been meeting stakeholders at the local level in their respective areas since deployment on 13 May.

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

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<sup>35</sup> Concerns were also raised that identification of voters' signature might disclose voters' political preference.