



Office for Democratic Institutions and Human Rights

REPUBLIC OF MONTENEGRO
(SERBIA AND MONTENEGRO)

PRESIDENTIAL ELECTIONS
22 December 2002 and 9 February 2003

OSCE/ODIHR ELECTION OBSERVATION MISSION REPORT



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REPUBLIC OF MONTENEGRO (SERBIA AND MONTENEGRO)
PRESIDENTIAL ELECTIONS
22 December 2002 and 9 February 2003
FINAL REPORT OF THE OSCE/ODIHR ELECTION OBSERVATION MISSION¹

I. EXECUTIVE SUMMARY

The presidential elections in the Republic of Montenegro were generally administered in line with international standards. However, both rounds of voting failed to produce the 50% voter turnout required for valid elections.

Eleven candidates were registered. With the opposition boycott, the elections were *de facto* uneven contests with only one strong candidate. Apart from the acting President Filip Vujanovic, the other ten candidates lacked public recognition, organizational structures, and adequate campaign funds.

Statements by Democratic Party of Socialists (DPS) officials, prior to the 9 February election, that public employees were obligated to vote went beyond acceptable norms of campaigning, supporting the opposition's allegations that some citizens were coerced into voting against their will.

After the failed 22 December 2002 poll, major political parties scrutinized and copied election materials, to record information on individual voter participation. While not against the law, this action compromised citizens' privacy. With only one strong candidate in the contest, the mere act of entering a polling station or abstaining from the vote potentially revealed a voter's choice, thus exposing citizens to pressure and further fuelling allegations of coercion.

Overall, the election framework created the conditions to hold democratic elections. However, the 1992 Presidential Election Law contained shortcomings that the previous Parliament failed to address before this election was announced. Most notable were:

- The requirement that 50% of registered voters must turn out for a valid first round election, otherwise the process must be repeated. This resulted in a cycle of unsuccessful elections;
- Including invalid votes in calculating whether a candidate has secured a "majority of votes";
- The requirement that an unsuccessful first round election be immediately repeated with the same candidates. This lacks rationale, as the voters have already expressed their will; and
- Neither the timeframe nor the body responsible for calling the repeat election were specified in law. Thus, the scheduling of the repeat election became a contentious issue.

The following positive elements in the election process, among others, remain noteworthy:

- Representation of political parties on election commissions at all levels;
- Conduct of elections by REC in a transparent manner and in accordance with the legal framework, notwithstanding financial difficulties.
- Largely accurate and transparently produced voter registers; and
- Broad access for non-partisan domestic observers.

Free airtime and space was allocated according to the law in the highly regulated State media. Outside the free airtime, the main public and private media devoted negligible space to the election

¹ This report is also available in Serbian. However, the English version remains the only official document.

and candidates' campaigns, which generally were low key and lackluster. After the December 2002 election, the main election issue became whether the 50% turnout would be met and there was a marked absence of substantive debate. Overall, voters lacked sufficient information on most candidates' platforms.

Observers reported an overwhelmingly positive assessment of proceedings on both election days. However, the number of "homebound" voters continued to rise and inconsistencies and irregularities in the application of the provisions regarding voting at home became a cause for concern.

Following the December election, allegations of two significant violations were reported in the media. If confirmed, these cases of potential fraud set a precedent in Montenegro. Authorities should investigate such cases fully to establish if criminal acts occurred.

Following the failure of the 9 February election, the Parliament adopted a new Presidential Election Law, which removes the 50% turnout requirement and addressed a number of other recommendations made by the OSCE/ODIHR in its Statements of Preliminary Findings and Conclusions and other documents. The OSCE/ODIHR stands ready to assist the authorities and civil society of Montenegro to remedy the shortcomings identified in this and earlier reports and to consolidate the advances made in previous elections.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the President of the National Assembly, on 28 November 2002, the OSCE/ODIHR established an Election Observation Mission (EOM) in the Republic of Montenegro to monitor the 22 December 2002 presidential election (hereafter "December election"). Nikolai Vulchanov (Bulgaria) was appointed Head of the EOM, leading 18 election experts and long-term observers from 12 OSCE participating States based in Podgorica and four regional centres. In December, the EOM deployed 99 election observers from 29 OSCE participating States. The Parliamentary Assembly of the Council of Europe (PACE) deployed a four-person delegation, led by Mr. Andreas Gross, MP (Switzerland). Observers reported from some 500 polling stations out of the 1,100 around the Republic.

After the December election, a small team of election experts remained in Podgorica to follow developments and to prepare for the return of other EOM staff on 18 January 2003. The 9 February 2003 repeat election (hereafter "February election") was monitored by 65 election observers from 22 OSCE participating States who reported from some 310 polling stations.

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

III. POLITICAL CONTEXT

In 1992, the Democratic Party of Socialists (DPS) emerged as the successor to the Montenegrin branch of the former League of Communists of Yugoslavia. At national level, the DPS has retained power in all subsequent elections, although since 1997 it has relied on coalition partners or the support of other parties to form a parliamentary majority. In 1997 the party presented two candidates for the presidential election with Milo Djukanovic defeating incumbent Momir Bulatovic by a narrow margin. Bulatovic and his supporters did not accept the election result and left the DPS to form the Socialist People's Party (SNP). Since then, the two parties have remained the largest and most influential in Montenegrin political life. However, relations between the two have remained mostly acrimonious, at times abusive, and are marked by a deep political rivalry and an absence of trust, including in the field of elections.

The 20 October 2002 parliamentary election resulted in an absolute majority of seats for the coalition comprising the Democratic Party of Socialists (DPS) and the Social Democratic Party (SDP).² On 25 November 2002, Milo Djukanovic resigned the Republic Presidency to become Prime Minister designate. Simultaneously, Filip Vujanovic, the newly elected Speaker of the Parliament and still serving Prime Minister, assumed the presidential duties in addition to other functions. Following Milo Djukanovic's decision not to run, Filip Vujanovic was chosen as the DPS presidential candidate. Such a concentration of powers was criticized by the main opposition coalition comprising the Socialist People's Party (SNP), the Serbian People's Party (SNS) and the People's Party (NS) who called upon Mr. Vujanovic to resign all official positions to contest the elections only in his capacity as vice-President of the DPS.

Predrag Bulatovic, leader of the SNP, declined to stand in the election against any candidate other than Milo Djukanovic, who had previously announced he would not run. The SNS encouraged its coalition partners to support an independent, non-party candidate, but the SNP and NS did not agree. Close to the registration deadline, the SNP announced the coalition would not be fielding a candidate at all, a decision the SNS regretted, but accepted. Senior SNP politicians justified its action, claiming that conditions for democratic elections did not exist.³ However, since 2000, the OSCE/ODIHR observation missions in Montenegro have repeatedly concluded that generally elections in Montenegro have been conducted in accordance with OSCE commitments and international standards.

The SNP/NS/SNS coalition did not support any of the 11 registered candidates. Initially, the opposition coalition carefully avoided terming their action an election "boycott". However, later they actively encouraged their supporters not to participate, with some party representatives stating publicly that even casting an invalid ballot "would be in the interest of the ruling coalition". The Liberal Alliance (LSCG), also in opposition to the DPS/SDP coalition, demonstrated no interest in the election and decided not to register a candidate or to support other candidates.

² Election results: "Democratic List for a European Montenegro – Milo Djukanovic" won 39 seats, "Together for Changes" coalition, comprising the Socialist People's Party (SNP) the Serbian People's Party (SNS) and the People's Party (NS) won 30 seats, the Liberal Alliance of Montenegro (LSCG) won 4 seats and the "Democratic Coalition – Albanians Together won 2 seats. The National Assembly is a 75-seat chamber.

³ For example, Momcilo Vucetic, Secretary of the SNP Executive Board stated on RTCG1 News (19:30 November 30, 2002) "I think, it is more than, I would say obvious, that in Montenegro today there are no democratic conditions for fair and honourable elections".

The presidential elections took place in the context of the agreement on the Constitutional Charter transforming the Federal Republic of Yugoslavia into the union of Serbia and Montenegro. The main campaign issue became whether the election would meet the turnout requirement and controversies related to allegations of pressure applied to citizens, in particular public employees, to vote or not to vote. Other relevant events during the pre-election periods included the arrest of the Deputy Public Prosecutor on charges of trafficking in human beings and disagreement between the DPS and SDP on the composition of the new Government, with the SDP dissatisfied with the decision not to reappoint the outgoing Minister of Interior.

Following the failure of both cycles of elections, they must now be repeated. A combination of factors contributed to this failure. They include the requirement to repeat the elections if the 50% voter turnout requirement is not achieved, as well as the opposition's election boycott, which deprived voters of a genuine choice and undermined the democratic process for the sake of narrow party interests.

IV. LEGAL FRAMEWORK

A. APPLICABLE LEGISLATION

In addition to the Constitution of the Republic of Montenegro (1992), the presidential election is regulated by three main acts: the Law on the Election of the President of the Republic (1992), hereafter Presidential Election Law – PEL; the Law on the Voters' Register (2000) and the Law on the Election of Councillors and Representatives (1998, amended in 2000, 2001 and 2002), hereafter Parliamentary Election Law – PaEL. The PEL stipulates that the PaEL shall regulate: suffrage, verifying and proclaiming the candidate list, candidate media presentation, organizing the elections, polling procedures and the protection of suffrage, on condition that the provisions of PEL do not specifically set the rule. Other laws and Administrative Decisions issued by the Republic Election Commission (REC) are also applicable.

B. ELECTION, MANDATE AND PERFORMANCE OF PRESIDENTIAL DUTIES

The President of Montenegro is directly elected for a five-year term by secret ballot. The election shall be held 60-90 days after the call for elections.⁴ However, in contrast with the PaEL, neither the Constitution nor the PEL stipulate the timeframe by which elections must be held or called prior to the expiration of the term of office of the president.⁵

If the presidential term of office is terminated, the Speaker of the Assembly assumes the presidential duties until the election of a new president. However, the Constitution also fails to stipulate a timeframe for holding elections in such case.

C. DETERMINING THE ELECTION RESULT

⁴ Inconsistently, Parliamentary Elections are scheduled between 60-100 days after the call for elections.

⁵ The term of the office of President Djukanovic would have expired on 14 January 2003. On 16 October 2002, four days prior to the holding of early parliamentary elections, the former Speaker of Parliament, Vesna Perovic of the LSCG called for presidential elections to be held on 22 December. At the time the LSCG had a "parliamentary alliance" with the SNP/NS/SNS to form the "new majority"

Article 16 of the PEL provided that “If less than half of the total number of the citizens of the Republic, registered within the list of electors, voted at the elections for the President of the Republic, the voting shall be repeated”. “Should less than half of the total number of the citizens [...] vote at the repeated voting, the entire election procedure shall be repeated”. Article 17 provided that the successful candidate needs to receive the majority of votes of electors who voted. Article 18 provided that if no candidate secures a majority, voting shall be “repeated” (i.e. a second round) in 14 days between the two candidates who gained the largest number of votes. In the second round, the candidate winning most votes is elected.

The legislation was ambiguous concerning: (i) the number of voters required to participate in a repeated first round election for it to be considered “valid” and (ii) whether a second round run-off contest is subject to a turnout requirement (PEL, articles 16 & 18). To address these shortcomings, on 2 December 2002, the Parliament adopted an “Authentic Interpretation” of Article 16 paragraph 2 and Article 18 paragraph 4 of the PEL.⁶ This clarified the requirement that a majority of the registered voters (i.e. over 50%) must turn out for a repeated first round election to be valid. In a “second-round” election, the two contesting candidates would require only a simple majority of votes cast to be elected, disregarding voter turnout. Whilst no MPs from the opposition participated in the parliamentary session that adopted the Authentic Interpretation, some criticized the interpretation's reasoning of the clarification regarding the second-round contest.

D. EVALUATION OF THE LEGAL FRAMEWORK

The legal framework for presidential elections generally provides an adequate basis to administer democratic elections. Nevertheless, the Presidential Election Law has remained largely unchanged since its adoption in 1992, while the Parliamentary Election Law has been significantly amended in the intervening period. Thus, a number of inconsistencies have appeared between the two acts, including:

Article 2 of the PEL provides that all Yugoslav citizens aged 18 or over, with a minimum one year registered residence in Montenegro prior to the “holding of elections”, are eligible to be elected President. However, the PaEL stipulates that voters are required to be permanently resident in Montenegro for minimum 24 months (Article 11). Thus, theoretically, a presidential candidate might not be an eligible voter.

Article 5 of the PEL which provides that the signatures of 2,000 electors are required to support candidate nominations whereas Article 43 of the PaEL requires candidate lists to be supported by 1% of the total number of electors; which amounts to some 4,500 signatures, more than double the amount required in presidential elections.

In presidential contests only those candidates receiving at least 10% of votes are eligible to “equal compensation” of electoral campaign expenses (PEL Article 21), whereas the Law on the Financing of Political Parties entitles all submitters of verified electoral lists to receive public funding for the cost of their election campaign, with funds being distributed equally between parties.⁷

⁶ Article 94 of the Book of Regulations [Rules of Procedure] of the Parliament of Montenegro provides for the issuance of an “Authentic Interpretation”.

⁷ Article 6, Law on Financing Political Parties (1998).

Other inconsistencies concern: the valid method of marking ballot papers (PEL article 12 and PaEL articles 82.2 and 89.7), timeframe for candidate nomination and (PEL article 7 and PaEL article 46), candidate withdrawal and differences in the timeframe for Polling Boards to deliver the results to Municipal Election Commissions (PEL article 14 and PaEL article 91).

Notwithstanding poor drafting, ambiguous provisions and inconsistencies between applicable legal acts, the 50% turnout requirement and provisions on repeating unsuccessful elections represented the key shortcomings of the election legislation, creating an artificial and unnecessary obstacle to the election of a president. Such a provision could result in an endless cycle of repeated elections, particularly in situations where a major party or group of parties choose to boycott the contest to obstruct the election of the President. While a number of OSCE participating States require a minimum voter turnout in a first round for presidential elections, a second round is held in these States if the turnout requirement is not met and a winner is determined. Only in Serbia and Montenegro, the election was repeated if the turnout requirement was not met in the runoff election.

Other significant shortcomings of the PEL included:

The provision requiring the repeating of a failed first round election with the same candidates, which lacked rationale as the electorate has already expressed its will.

Ambiguity whether the “majority of votes” as employed in Article 17 should be based on a total derived from marked voter lists or ballots in the ballot box.

Including of invalid votes in determining whether candidates have secured a “majority of votes”. As such, this provision creates a second unnecessary obstacle to electing the president, as it is conceivable (particularly in a second-round run off contest) that a candidate may gain a significant majority of valid votes but fail to receive the “majority of votes”.⁸ Such a situation becomes a real possibility if a political party calls upon its supporters to vote with invalidly marked ballot papers.

The PEL and the Authentic Interpretation failed to provide sufficient guidance on scheduling the repeat election and on scheduling a “new election” should the repeat first round also fail.

In the event that a second round candidate should pass away before the election day, Article 19 of the Presidential Election Law required the holding of a new election, but failed to stipulate the timeframe for scheduling the contest.

Shortcomings in the PaEL, relevant to the presidential contest, include Articles 67 (3) and 85, which grant “homebound persons” the right to vote by envelope and delegate the REC with establishing procedural instructions. However, the procedures were open to abuse and inconsistent application.

The law allows candidate representatives and parliamentary parties to inspect, copy and keep used election material, including signed voter lists.⁹ This provision seriously compromises citizens’ privacy and the secrecy of the vote, which is elsewhere protected by legislation.

E. AMENDMENTS TO THE ELECTION LEGISLATION

⁸ In an example with 150 registered electors, of which 100 cast ballots; candidate A receives 49 votes, candidate B receives 46 votes with 5 invalid votes. Thus no candidate is elected, even though the turnout is 66.67%.

⁹ PaEL, Article 77

After the failed elections in February 2003, the Montenegrin Parliament adopted a new Presidential Election Law removing the 50% turnout requirement and addressing a number of other recommendations made by the OSCE/ODIHR, including:

The harmonization of parliamentary and presidential legislation regarding voter and candidate eligibility criteria (Article 2), nomination procedures (Article 5), marking the ballot (Article 12) and the timeframe for delivering results to superior election commissions (Article 14).

Stipulating the timeframe by which elections must be called in advance of the expiry of the Presidential mandate (Article 3).

Unambiguous provisions for the verification of the signatures supporting candidate nominations by MECs (Article 6).

Unambiguous provisions stipulating the action required in the event of the death of a candidate prior to the first and second round (Articles 9 and 20).

The requirement that homebound voters must sign the request to receive a ballot.

Stipulating a reasonable timeframe for the REC to announce preliminary and final results (articles 15 and 16).

Stipulating that candidates require a majority of valid votes to be elected (Article 17).

Proscribing the copying of used election material by political parties and presidential candidates after the election (Article 22).

Reducing to 5% the number of votes a candidate must receive to receive reimbursement of campaign expenses (Article 24).

Introducing penal provisions for specific campaign related violations (Article 24) and for unduly pressuring or coercing citizens to vote or not to vote (Article 25).

Transitional provisions stipulating that the currently mandated REC and MECs will administer the new presidential election contest (Article 26).

V. ELECTION ADMINISTRATION

A. STRUCTURE AND COMPOSITION OF THE ELECTION ADMINISTRATION

The election administration is composed of the REC, 21 Municipal Election Commissions (MECs) and some 1,100 Polling Boards (PBs). With few exceptions, the structure and composition of the "permanent" membership of the election commissions remained identical to the October parliamentary election.

All levels of the election administration have a careful balance of different political interests and no party or coalition is in a position to control the functioning of an election commission in its "permanent composition". The REC members are nominated by the eight parties represented in pre-October 2002 Parliament. The MEC members are appointed by the municipal assemblies, with the largest party in the assembly nominating MEC Chairperson, and the second largest party nominating the Secretary. The key positions of Chairperson and Secretary on Polling Boards (PBs) are allocated between the DPS/SDP and the opposition. All commission members have equal voting rights and all election administration bodies take decisions by the majority vote of the appointed members. These factors contributed to political plurality, impartiality and transparency in the election process.

Each candidate may appoint representatives to all levels of the election administration as "extended members" with full voting rights. However, many of the 11 candidates failed to appoint their

representatives to the various levels of the election administration and where appointments were made, some extended members were passive, behaving more like observers than election officials.

According to Transitional Provisions of the Parliamentary Election Law, the mandates of the REC and MECs were due to expire on 31 December 2002, after the 22 December election day, but prior to a possible second round or repeat election. On 22 November 2002, the Parliament adopted a Decision to extend the mandate period to ensure continuity in administering the elections.

B. THE ORGANIZATION OF ELECTIONS

Drawing on their prior experience, the REC and the MECs organized the process efficiently and transparently. However, the election administration experienced discernible financial difficulties.

Notwithstanding the opposition decision to boycott the election, all commission members worked co-operatively to administer the process in accordance with the legal provisions. The REC complied with legal and administrative deadlines. However, the REC failed to address the OSCE/ODIHR recommendation made after the October 2002 parliamentary election to clarify the rules on voting outside a polling station (homebound voting), which remain open to abuse.¹⁰

On 24 December, the REC announced that from 457,460 registered voters, only 209,598 had voted (45.9%) thus the 22 December election had failed to meet the 50% turnout requirement and the election had to be repeated. However, the timeframe and a body responsible for scheduling the repeat election was not clearly set out in law. The REC assumed the duty and set the new date.

On 26 December, the media reported that the REC had not received sufficient funds to cover its financial obligations for the failed election. On 27 December 2002, the REC decided that the failure to receive sufficient funds necessitated postponing the decision on setting the election date. Finally, on 30 December, controversially, the REC decided to schedule the repeat election for 9 February. This decision was pragmatically grounded with the majority of REC members arguing that after the failure to reach a 50% turnout, candidates required time to prepare more effective campaigns, the electorate needed more time to “reconsider” and the REC required time to administer the process and obtain the Government funding.¹¹ The opposition maintained that the date was inconsistent with the legislation, which in their interpretation required a 5 or 12 January election date and expressed concerns that the application of election deadlines would be confused and the voter register would be too inaccurate.

Prior to the 22 December election, the political opposition alleged that municipal assemblies they controlled failed to receive the revenues to which they were entitled, thereby impacting election preparations. In the end, most preparations were carried out. However, invitations to electors to vote were not sent out in accordance with the law in Berane, Kotor and Niksic, potentially impacting voter turnout.

After the December election, political parties compiled lists of citizens who voted. Election observers verified that, in 18 out of 21 MECs, sealed election material had been opened at the

¹⁰ On 7 February, on the eve of the repeat election, the REC issued a “decision” on homebound voting, *inter alia*, allowing political parties to submit requests for electors to receive ballots in their homes which did little to improve the integrity of the process. See Chapter XI.

¹¹ The funds to cover expenses and payments to election commissions and Polling Boards for their work in December election were belatedly received by REC on 28 January 2003.

request of parties and the material copied in 15 municipalities, sometimes after the expiry of the legal deadline or without all authorized persons present. While not against the law, such practice may seriously compromise the privacy of citizens and the secrecy of the vote, in particular when boycott was a major political controversy.

Prior to the February 2003 election, severe weather conditions seriously complicated the work of the REC and MECs, in particular in transporting election materials to mountainous areas including the municipalities of Zabljak, Savnik, Pluzine and parts of Pljevlja and Niksic.

C. CANDIDATE REGISTRATION

Eleven prospective candidates each collected the 2,000 citizens' signatures required for registration within the legal time limit. In a departure from previous practice, the REC arranged for the "Secretariat for Development", the body charged with maintaining voter registers, to verify the validity of the personal data of the citizens signing candidates' nomination papers, and to identify errors, omissions, duplicates and discrepancies in the entries. Subsequently, the REC returned nomination papers to three candidates, where additional signatures were required. Finally five "party candidates" and six "independent candidates" were registered as follows:

Candidate	Political Party/Independent Candidate
Obrad Markovic	Yugoslav Communists of Montenegro
Milan-Milo Radulovic	Natural Law Party of Montenegro
Dragan Hajdukovic	Independent Candidate
Filip Vujanovic	DPS/SDP
Milan Sparovic	Independent Candidate
Milivoje Bakic	Independent Candidate
Ilija Darmanovic	Serbian Radical Party (SRS)
Mihailo-Milo Markovic	Independent Candidate
Jovan Pejovic	Independent Candidate
Aleksandar Vasilijevic	Serbian Radical Party – Vojislav Seselj (SRS-VS)
Djordjije Milic	Independent Candidate

The same eleven candidates who ran in December contested the repeated election in February.

D. VOTER REGISTRATION

Voter registers continue to be maintained in a transparent manner. While further improvements are possible, the accuracy of the voter register remains well within acceptable parameters. As stated in previous reports, the level of transparency could be further improved if draft registers were displayed at polling stations for public scrutiny in advance of election day. On 11 December, the REC announced a final total of 457,460 registered voters.

The Supreme Court heard complaints regarding amendments to the voter register, which resulted in the addition of 404 names, the deletion of 154 names, and updates of 152 entries.

After voter registers closed on 12 December no changes were permitted for either the December or February election. Thus, following the REC decision to hold the repeated election on 9 February 2003, almost two months had passed since the closing of the registers, which as a consequence were

less accurate, failing to take account of changes in residence, deaths and the coming of age of new electors during the intervening period.

VI. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES

All eleven candidates were male. None of the parties seeking to represent national minorities in Montenegro fielded candidates. These parties delayed their decisions on formally endorsing any of the registered candidates. However, the Albanian parties and the Bosniak minority in Sandzak largely supported Mr. Vujanovic.

VII. THE ELECTION CAMPAIGN

Traditionally, political parties in Montenegro have contested elections in earnest. Indeed, the polarization of politics and good organization of the major parties contributed to a high turnout in previous elections. The decision by the major opposition parties not to register candidates significantly narrowed the choice available to voters, led to an uncertain pre-election atmosphere and resulted in the 50% turnout requirement becoming the main election issue.

Of the 11 candidates, only Filip Vujanovic represented a political force that had enjoyed previous electoral success in Montenegro and only he could call upon a significant party structure and resources to support his campaign. The four other party candidates and six independent candidates either lacked public recognition or had gained little support when contesting previous elections. As a consequence, both the December and February elections were unusually uneven contests, with Filip Vujanovic being the only candidate to mount a credible republic-wide campaign.

The campaigns of the other ten candidates were low-key and mostly lackluster. Few candidates held rallies and public meetings and with the exception of Mr Vujanovic, whose campaign material dominated public spaces, few displayed election posters. The SNP/NS/SNS coalition urged their supporters not to participate as voters and issued critical statements against the government and Mr. Vujanovic personally.

Overall, the pre-election periods were unusually calm. However, the potential for failed elections and the lack of a campaign counterweight lessened serious political debate. Prior to the December 2002 election, the OSCE and Council of Europe Missions to FRY and some civil society organizations mounted campaigns encouraging citizens to vote.

A. CAMPAIGN FINANCE

On 6 December, eight candidates appealed to the Government for additional campaign resources to be made available to all candidates, adding that, "if basic propaganda expenses are not covered, [the candidates] will consider withdrawal".

On 7 December, fifteen days after the legal deadline, the Government announced its decision to establish a €50,000 fund to reimburse the campaign expenses of candidates. However, according to the Presidential Election Law, only candidates securing 10% or more votes are eligible to receive equal shares of the fund.

After the December election, in a letter addressed to the Government, seven candidates complained that the provisions on reimbursing campaign expenditure were being interpreted restrictively. They argued that all candidates should receive an equal share of the fund, and indicated they might withdraw from the February contest. In the end, only Obrad Markovic attempted to withdraw from the election, but the REC rejected his application, as it was submitted after the legal deadline.¹²

Filip Vujanovic was the only candidate who met the 10% threshold in either contest and thus he received 100% of the campaign fund. However, as the REC did not formally announce the number of votes secured by candidates in either the December or February contest, the decision to reimburse €50,000 to Mr. Vujanovic lacks a clear legal basis.

B. TONE OF THE CAMPAIGN

The participation of both parties and citizens in elections are key elements in the democratic tradition and encouraging voters to exercise their voting right is a common feature of many elections. It is an established principle that voting is a right rather than an obligation, unless so prescribed by law, and in a democracy, elected representatives are accountable to voters rather than the reverse. At times, these principles were disregarded in the run up to the February election.

In a new development in Montenegro, DPS officials made statements, reported in the media, that public employees were obligated to vote, and that their failure to participate may have “detrimental consequences”.¹³ These statements went beyond acceptable norms of campaigning, constituted the exertion of undue influence and are at odds with international standards for democratic elections and possibly international standards relating to discrimination in employment. Furthermore, they supported the opposition’s well-publicized and recurrent accusations that campaigning to participate in the vote was occurring in the workplace and that some citizens, including opposition supporters, were coerced into participating in the vote, ostensibly against their political convictions.

The DPS vehemently denied these allegations, but during the pre-February election campaign some senior party figures reiterated the view that State employees should have an interest in the success of the election as both the election and their salaries are financed publicly. In response to the SNP’s claims, the DPS counter-alleged that as a result of the opposition’s election boycott, its supporters also experienced pressure not to vote, especially in municipalities under opposition control.

Election observers followed the allegations closely, meeting with complainants, most of whom alleged campaigning to vote in the workplace, oblique threats concerning their security of employment and other forms of discrimination resulting from their reluctance to vote. It is of

¹² Djordjije Milic also publicly announced his withdrawal, but did not attempt to withdraw formally.

¹³ For example, On 23 January *Vijesti* reported that a local DPS official in Podgorica had stated that: “all State employees, especially those who are not members of the DPS are to be told that they should vote but that it was up to them to decide who to vote for”. In the same article it was reported that in a follow up interview he denied that any pressure was being exerted on employees to vote but that: “we believe that it is our obligation to tell people that ... each election costs €1.5 million [and] that the failure to cast a ballot would be to their disadvantage”. On the same page *Vijesti* also carried an article alleging that “all employees of institutions financed by the State have been ordered to submit information on their polling stations ... their personal identity numbers and information on their family members eligible to vote. The employees are not threatened, but they are recommended to vote, so that there would be some money left in the budget for their salaries, not only for elections. Some employees were told that their family members were “not active” in the last election”. (*Vijesti*, January 23, page 3. Unofficial translation.)

concern that some sections of the Montenegrin public appear genuinely to fear that one's political affiliation and choices on exercising suffrage rights, can impact on individual livelihoods.

While allegations concerning coercion were made during previous elections, the number of complaints significantly increased during the run up to the February election, they emanated from a broader spectrum of interlocutors and were received across a wider geographical area. While election observers received some evidence to substantiate the allegations that citizens were pressured to vote, these cases fall within the jurisdiction of the competent Republic authorities and should be investigated with a view to possible prosecution. Observers found less evidence to support the assertion that citizens were coerced into not voting. The EOM is not aware of any dismissals from employment arising as a result of electors' political choices after the election.

Regardless of the substance of the allegations, the mutual recriminations raised political tensions, marred the pre-election atmosphere, cast doubt on the political neutrality of certain State structures and lessened the public's confidence in the election process. A statement from Prime Minister Milo Djukanovic on 7 February that "the right to vote is the inalienable right of all citizens and it exclusively depends on their will [with respect to] whether and how they would exercise that right" and that no one will suffer any consequences as a result, was a welcome assurance. However, the print media failed to cover the statement.

VIII. THE MEDIA AND ELECTIONS

A. GENERAL MEDIA ENVIRONMENT

The freedom of the media and speech and the prohibition of censorship are guaranteed by the Constitution. However, in its 28 November 2002 Final Report on the Parliamentary Election, the OSCE/ODIHR expressed its concern at "the clearly high levels of political influence over the State media in Montenegro, restricting their ability to operate as public broadcasters".

The media in Montenegro has expanded significantly in recent years with five daily newspapers, nine weeklies, 12 TV stations and 38 radio stations providing the public with entertainment and information. However, media outlets suffer from financial difficulties and staff shortages. Limited availability of professionally trained journalists often leads to poor quality of media content.

B. THE LEGAL FRAMEWORK

In a positive development, on 12 November 2002, Parliament decided to implement immediately three media laws adopted in September 2002 aimed at converting State-controlled electronic media into public service broadcasters with newly elected management authorities.¹⁴ Provisions of the Law on Public Broadcasting Services put an end to the practice of parliamentary parties appointing members of management and editorial structures in the State media. However, opinions are divided on whether the new legislation can succeed in lessening political interference in the media.

¹⁴ The Media Law, the Broadcasting Law and the Law on Public Broadcasting Services were adopted in September 2002. However, the then parliamentary majority (SNP-NS-SNS together with the LSCG) decided not to implement the laws until May 2003.

The media coverage of candidates is regulated by a variety of provisions contained in several laws, including the parliamentary election law.¹⁵ The legislation was supplemented by a set of comprehensive rules adopted by Parliament on 2 December 2002.¹⁶ These provide that State-owned media are obliged to cover the election campaign and provide equal and objective access to all contestants. In addition, the rules regulate the quantity of airtime, space and format of both the free and paid coverage available to candidates on State-owned media. The Parliamentary TV Channel and State radio, managed by Radio-Television of Montenegro (RTCG) broadcast special electoral programs, and the newspaper *Pobjeda* printed special election-related content. The candidates' "campaign slots" began on 4 December and recommenced on the Parliamentary Channel on January 25. The rules were applied to both the December and February elections.

Private media are less regulated. The law requires only that they respect the pre-electoral silence and clearly indicate paid campaign advertisements, which some media failed to do. Nonetheless, prior to the December election the private TV channel MBC voluntarily introduced free airtime for all candidates.

As in the previous elections, the Parliament established a Board for Mass Media Supervision during the Pre-Election Campaign to monitor compliance by State and private media with the rules on coverage of election campaign. The Board is not entitled to impose fines, but provides a rapid and accessible forum for addressing complaints. In case of violation of the Law, recourse to the Courts is possible. The OSCE Mission to Serbia and Montenegro assisted the Board. Unlike the Parliamentary election, no complaints were addressed to the Board during the campaign.

C. MEDIA MONITORING

From 29 November, the EOM conducted qualitative and quantitative analyses of selected media outlets to assess the coverage of candidates and political subjects prior to election day.¹⁷

In general, the State media fulfilled its legal requirements and all candidates took advantage of the allocation of free airtime/space. However, the stringency of the rules for electoral coverage in the State media created an artificial separation between the election broadcasts and current affairs coverage, lessening journalists' discretion to make interesting political programmes. Most candidates lacked effective campaign teams with knowledge of modern campaign techniques and consequently most presentations were unsophisticated. Their continual repetition was tedious and unlikely to raise public interest in the election contest.

Outside these highly regulated slots, the media as a whole devoted very little airtime and space to the election campaign, thus significantly limiting the amount of information on candidates and their political programs available to voters. On 20 December, an 11-candidate round table discussion took place on the Parliamentary TV channel. Following the failed December election, candidates' media campaigns recommenced on 25 January with the broadcasting of free slots on TV Parliament.

¹⁵ The Presidential Election Law specifically defers to the Parliamentary Election Law regarding the rules on presenting candidates. See OSCE/ODIHR's Final Report on the October 2002 Parliamentary Election, for an analysis of the media environment in Montenegro and an analysis of the applicable legislation.

¹⁶ The Rules for the Media's Presentation of Presidential Candidates During the Pre-election Campaign.

¹⁷ The EOM monitored: TV- State-owned RTCG1, Parliamentary Channel (RTCG) and the privately-owned TV IN and TV MBC. Print dailies - *Pobjeda*, *Dan* and *Vijesti* (monitored by quantitative and qualitative analysis) *Blic Montenegro* and *Publika* (qualitative analysis only).

Media monitoring data indicates that prior to the December election, during the peak viewing time, TV channels devoted 7% of broadcast time to presidential candidates. However, in both elections, if the special election programs on the Parliamentary TV channel are disregarded, only 1% of the monitored airtime was dedicated to candidates. The mass media focused on other news items rather than the election.

The opposition's decision not to register a candidate created an abnormal campaign environment in the media, significantly reducing regular inter-party discourse and lessening political debate on substantive issues. However, the statements advocating an election boycott were reported often.

The private media covered Mr. Vujanovic at length with much of the airtime relating to his role as Speaker of the Parliament raising once again the question of "incumbents" enjoying advantage during electoral campaigns and the difficulty faced by the media in establishing the appropriate manner of covering the activities of State officials who are simultaneously candidates. Other candidates received airtime, but much less frequently.

Overall, the tone of the print and electronic media's campaign broadcasts remained politically neutral. Only Filip Vujanovic and Dragan Hajdukovic placed paid advertisements. Other candidates relied solely on free airtime and space in State owned radio, TV and *Pobjeda*. One candidate complained to the EOM that the cost of political advertising on State TV was considerably more expensive than commercial TV stations. This was verified, but no complaint was lodged with the Media Board.

Prior to the December election *Publika* breached the legal provision, which prohibits the publishing of opinion polls one week prior to election day and *Pobjeda*, *Publika*, and *Vijesti* breached the 24-hour campaign moratorium.¹⁸ Prior to the February election *TV Pink*, *Vijesti* and *Publika* violated the 24-hour campaign moratorium by publishing and broadcasting invitations to the public to take part in the voting.

IX. DISPUTES, COMPLAINTS AND APPEALS PRIOR TO ELECTION DAY

Very few formal complaints were lodged with the competent authorities prior to election day. Persons alleging they had been subjected to undue pressure to vote generally were unwilling to bring formal cases before the competent judicial authorities.¹⁹ Other than publicizing allegations, political parties did little to assist persons concerned. However, the Montenegrin Helsinki Committee announced it would offer free legal advice to anyone wishing to seek legal remedies with respect to election-related complaints. While some opposition parties have expressed lack of confidence in the judiciary's impartiality, it is only through using the established judicial and administrative mechanisms that the veracity of allegations can be assessed and the impartiality of the institutions, tested.

¹⁸ The poll, forecasting the election results was published on 15 December.

¹⁹ Article 2 of the parliamentary election law applicable in this case stipulates that "No one has the right ... to take a citizen to account for voting, or to ask him who he/she has voted for or why he has not voted." Breaches of this provision are punishable by fines or up to one year in prison (article 115). Other related violations are punishable under provisions contained in the Criminal Code and other legislation.

Prior to elections, the media reported that director of the post-office in Plievlja allegedly coerced the employees to vote. The judicial authorities are encouraged to complete the investigation.

On 14 January, a group of four individuals challenged the constitutionality and legality of the REC's decision regarding the date of the repeated election, filing an appeal with the Constitutional Court. On 25 January, the Court rejected the appeal on procedural grounds.

X. CIVIL SOCIETY AND DOMESTIC OBSERVERS

As on previous occasions, two domestic observer groups monitored the elections - the Center for Democratic Transition (CDT) and the Center for Monitoring Elections (CEMI), the latter in cooperation with the Center for Free Elections and Democracy (CeSID) from Belgrade. Domestic non-partisan observers were present in 66% of polling stations visited in December and in 52% in February.

Both organizations conducted partial parallel vote tabulations (quick count) based on a representative sample of polling stations and both announced voter turnout information at two-hour intervals during election day. CEMI also engaged in a pre-election get-out-the-vote campaign prior to the December election. CDT promoted an agreement between presidential candidates on a fair campaign, which seven candidates signed.

XI. OBSERVATION OF VOTING AND COUNTING

A. GENERAL ASSESSMENT

Polling on both election days was conducted in a mostly calm atmosphere. The overwhelming majority of observers reported positive impressions from the polling stations they visited. In December, of the 578 observation report forms submitted by election observers, only two reports characterized the polling day proceedings as "poor". Similar figures were recorded in February.²⁰

However, observers once again pointed to some shortcomings in the process, some of which were noted also during previous elections, including:

In the context of the opposition's election boycott, the mere act of entering a polling station or abstaining from the vote revealed a voter's political choice, potentially exposing the voter to pressure.

The surfeit of legal provisions allowing for the dissolution of polling boards on election day and for cancelling results, regarding what are, in some instances, only minor infractions of the election rules.

A failure to guarantee uniformly the secrecy of the vote. In February, observers reported that secrecy was not assured in 8% of polling stations visited. This was mainly due to multiple voters at the same voting screen, open voting caused by a lack of voting screens and the unnecessary requirement for polling booths to be oriented so that the voter's back is towards the PB, potentially enabling the manner of voting to be observed.

²⁰ Based on some 310 report forms.

Many extended PB members were unfamiliar with their role, with some behaving more like observers than equal members with full voting rights. The EOM noted with concern that the chairperson of the MEC in Bijelo Polje prevented extended members representing Ilija Darmanovic and Jovan Pejovic from serving on PBs in the municipality, thus ignoring a clear and specific instruction from the REC.

The absence of provision for re-issuing a ballot where the voter has inadvertently made a mistake in marking ballot.

Some voters continue to come to polling stations without the required documentation.

Handing the marked ballot to a PB member to remove the “control coupon” (used as a measure to ensure ballot paper security and accounting) jeopardizes the secrecy of the vote.

The use of transparent ballot boxes combined with the failure of voters to fold their ballot papers correctly, caused some marked ballots to be seen by PB members.

In February, severe weather conditions in some mountain areas hampered the organization of the poll on election day and may have contributed to a reduced turnout. Mostly as a result of the weather, some 83 polling stations were not opened in Savnik, Pljevlja, Pluzine, Niksic and Zabljak municipalities. Some 8,000 voters or 1.76% of the total number of registered voters in the Republic were affected.

B. VOTING PROCEDURES

In both elections, measures to safeguard the integrity of voting were implemented largely in accordance with the legal requirements. Indelible ink, used to prevent multiple voting, was generally applied correctly (3-4% failure), and voters’ identity documents were scrutinised properly (1% failure in December, 0% failure in February). However, in a few cases voters’ fingers were sprayed with ink before the PB had verified that the voter was in the correct polling station. This is problematic as voters may only vote at the polling station where they are registered and cannot vote if their fingers show traces of the special ink.

Observers reported that some voters were turned away because their names were not on the polling station’s voter lists’ and in approximately 2% of cases, voters’ names were called out by the PB in contravention of the legislation. In December, the proscription on the use of mobile phones was disregarded in 11% of polling stations visited. In December, campaign material placed within fifty metres of polling stations was noted in 5% polling stations. This fell to 1% in February.

Observers reported that generally PBs carried out their tasks co-operatively and free of interference or intimidation. However, in February some 4% of observer report forms indicated that PBs experienced obstruction in their work. In February, tension was reported in 3% of observations, but violence or unrest in none of the polling stations visited. However, in 2% of polling stations party officials were seen outside polling stations keeping a record of voters entering the premises.

C. “HOMEBOUND VOTING”

In exceptional cases, such as age, disability or serious illness citizens may request to vote at home. According to the PB Rules of Procedure established by the REC, such requests should be made in writing before 12:00 hrs on the day of the election. However, there are no standard, official forms for voters to request a homebound vote, and unlike “regular voters”, those voting at home are not required to sign the “Book of Electors” (the second copy of the voters’ list) when receiving a ballot paper. After receiving requests, the PB chairperson should select two PB members representing

different political blocs to conduct the homebound voting. During recent elections observers have noted a significant increase in the percentage of voters casting ballots in this manner from 3.5% in October 2002 rising to 6% in February 2003.

The provisions for homebound voting remained inadequate and the procedures were applied inconsistently. For example in December 2003:

- 20% of PBs accepted verbal rather than written requests to vote at home;
- 27% of PBs did not record requests in the PB Record of Work (official minutes);
- 4% accepted requests after the 12:00 deadline on voting day.

It is a cause for serious concern that in a few cases the provisions were seriously abused including six instances (recorded by observers) where PBs acted on bogus requests making home visits when credible indications existed that the citizens did not wish to vote. A few similar cases were reported on 9 February. In addition, observers reported a number of instances where unrelated and sometimes unidentified individuals submitted the names of multiple persons purporting to have requested to vote at home. Most of these persons are believed to be DPS party activists.

After receiving numerous requests for clarification of the procedures on homebound voting, on 7 February the REC issued an opinion stating that “it is not of essential importance who submits a request to the polling board, what is important is that a person wants to vote and that the reasons for asking to cast a vote by envelope are in line with the election regulations”. The opinion goes on to state, “establishing the identity of persons who submit a request for [homebound voting] is not a precondition [...]. However, should any of the PB members have any doubts regarding the authenticity of this request, he/she may ask the submitter to present his/her identity documents”. Although clarifying the issue, it remained unclear if the MECs and PBs were required to act on the opinion, the contents of which in effect increased the potential for abuse of the procedures.

In February, voting by the homebound became even more problematic. In Bijelo Polje municipality it is a cause for serious concern that election results indicate that 13% of all votes were cast by the homebound. Some polling stations in this municipality recorded much higher totals, bringing into question the feasibility of making so many home visits in the time available, particularly in adverse weather conditions.²¹ Additionally the EOM received six reports from across the Republic that, contrary to the regulations, PB members visiting homebound voters were drawn from the same political grouping.

Observers reported that at 12% of polling stations visited, requests to vote at home were submitted by party officials. These usually comprised blocks of written requests submitted using unofficial pre-printed forms; mostly lacking the signatures of the voters concerned. Notwithstanding the REC Opinion, disputes between PB members on this issue became more heated, notably the polling station in Bar municipality where a ballot box was destroyed after the deposition of ballot papers from homebound voters.

²¹ In the polling station in Dusan Korac No. 2 (Bijelo Polje municipality) observers accompanied the polling board to follow homebound voting. In 1 hour 45 minutes the PB managed to process 6 voters. In the next 1 hour and 50 minutes they claim to have processed 63 voters; less than two minutes per voter.

Although the collection of homebound voting requests by political parties is not against the REC Opinion, in the Montenegrin context such activities may constitute pressure on citizens reluctant to cast ballots, lessen confidence in the integrity of the process and are best avoided in future.

D. VOTE COUNT AND TABULATION OF RESULTS

As in their overall assessment of the voting process, observers also evaluated the vote count positively. In an overwhelming majority of cases observed, procedures to safeguard the integrity of the count were implemented properly. Nevertheless, in December observers noted a small incidence of procedural irregularities including: failing to count the number of unused ballots, numbers of coupons and electors having voted before opening the ballot box (2-3 cases each). In February the latter two failures has increased substantially to 8 cases each from a small number of observations.²²

After the closing of polling stations, results were transferred to MECs where the municipal level results were tabulated. The two civil society organizations announced the results of the partial parallel vote tabulations on the evening of both election days.

The final result of the presidential election was announced on 24 December and the repeat presidential election result on 14 February 2003, after the expiry of the deadline for submitting complaints. However, the REC did not announce full and final results. Instead it issued decisions giving the number of electors that voted. Thus, results cited in this report are unofficial figures provided by the REC.

The voter turnout figures in December (45.9%) and in February (46.7%) were well below the normal high levels noted in previous elections in Montenegro.²³ The opposition's boycott of the election contributed significantly to the reduced turnout. In both elections turnout varied across the country from some 58% in Rozaje to 27% in Pluzine. The number of voters registered at polling stations in areas affected by severe weather on 9 February, were not sufficient to have affected the result of the election.

Both elections produced unusually one-sided results, with Filip Vujanovic gaining some 82-84% of the vote, while his closest challenger, independent candidate Dragan Hajdukovic, received 6-7%. Nine other candidates shared the remaining few votes.

XII. POST-ELECTION DAY DISPUTES, COMPLAINTS AND APPEALS

Following the 22 December poll, only four complaints were filed with MECs. All four were rejected and none was appealed to the REC. Two serious violations during the 22 December election were reported in the Montenegrin media, but no official complaints were made. One concerned a polling station in Kolasin municipality, where 15 voters signed a statement alleging that, although they did not vote, ballots were cast on their behalf. The SNP supplied the EOM with photocopies of documents relevant to the case. The second concerned a doubtful 95% turnout at a polling station in Podgorica municipality. Since the ODIHR began observing elections in

²² Observers submitted count observation forms from 39 polling stations in December 2002, and from 23 in February 2003.

²³ For example in October 2002, 74.6% of registered voters cast ballots. The figure of 46.7% includes the polling stations closed due to weather conditions.

Montenegro in 1997, cases of fraud are without precedent and thus a cause for serious concern particularly as the EOM is not aware of any action taken by the Montenegrin authorities to conduct investigations.

After the December election, the opposition complained that citizens were telephoned on the election day, urging them to vote and that when entering polling stations, electors' personal details were recorded by party activists. In the context of politically polarised Montenegro, such actions in the vicinity of polling stations may be perceived as threatening and should be avoided in future elections. In fact, the law prohibits such activities within the polling station.

In both election contests, general complaints that were brought to the attention of election observers in polling stations did not translate into formal complaints to the election administration. Some interlocutors suggested that had the election succeeded in meeting the 50% turnout requirement, a much larger volume would have been submitted formally.

On February 14, after protracted discussions, the REC decided by ten votes to seven not to repeat polling at the 83 polling stations where voting did not take place on February 9 (due to severe weather conditions) as this would not change the outcome. Although the SNP argued that holding the election in these areas was a condition "sine qua non" of finishing of the electoral process, the REC announced the failure of elections due to insufficient turnout. One election day complaint was submitted to REC by Jovan Pejovic (independent candidate), which was rejected on procedural grounds. A group of Zabljak residents appealed the REC decision not to hold polling in the closed polling stations to the Constitutional Court, arguing infringement of their right to vote.

XIII. RECOMMENDATIONS

The adoption of a new Presidential Election Law addressed a number of recommendations made by the OSCE/ODIHR to the Speaker of Parliament. However, the election legislation, in particular the parliamentary election law, still requires a thorough review to ensure that presidential, parliamentary and municipal elections are administered consistently. Provisions that conflict with OSCE commitments and other international standards for democratic elections should be removed.²⁴ When conducting the review, Parliament should refer to recommendations contained in previous ODIHR final reports of elections held in Montenegro and FRY.

The following recommendations relating to the presidential election are offered for consideration.

A. LEGAL FRAMEWORK

²⁴ The recommendations contained in this report relate only to the presidential election. Recommendations concerning parliamentary elections are contained in the OSCE/ODIHR Final Report on the October 2002 election and the April 2001 election. Particular attention should be given to ensuring legislation establishes an equitable and durable solution to the question of national minority representation and removing provisions permitting party control over the mandates of deputies elected by popular vote. Recommendations concerning municipal elections are contained in the Final Reports on the June 2000, and May 2002 elections. The OSCE/ODIHR has also published a number of reports that could assist the competent authorities, including 1) Guidelines for Reviewing a Legal Framework for Elections (January 2001), 2) Guidelines to Assist National Minority Participation in Election Processes (January 2001), and 3) Resolving Election Disputes in the OSCE Area (July 2000). The OSCE/ODIHR will publish shortly a comprehensive analysis of the election legislation in Montenegro to assist the authorities in the legislative reform foreseen in 2003.

1. To avoid confusion and ensure consistency between the first and second round of any election contest, Article 18 paragraph 3 of the new Presidential Election Law should be amended to read “In the second round, the winner shall be the candidate who wins the majority of valid votes” or simply “... who wins the highest number of votes”.
2. The presidential election law should include ceilings on campaign expenditure and rules on disclosure of donations. Also, candidates should be required to account for their privately raised and publicly provided campaign funds. Sanctions for breaches of the regulations should be introduced.
3. Election Campaigning in the state-owned enterprises should be prohibited by law.
4. Candidates should be prevented from withdrawing from the contest after the proclamation of the candidate list.²⁵

B. ELECTION ADMINISTRATION

5. While the election administration is experienced in conducting elections, some training of polling boards, particularly candidate nominated "extended members", is desirable.
6. On the termination of the mandates of the current REC and MEC, parliament should ensure that newly appointed permanent commission members and polling boards represent a plurality of political interests. Similarly, there should be an adequate representation for national minorities on MECs and PBs in areas where they reside.

C. MEDIA

7. The public media requires more scope to exercise its discretion in defining the concept and format of the election coverage. This particularly concerns the format of free access programming on Parliamentary Channel.
8. The Parliament’s adoption of different rules governing the coverage of elections in the public media for each new election permits considerable political influence to be exerted. To prevent short-term considerations prevailing, a definitive and universally applicable legal framework for media and elections should be developed.
9. The Parliament or the public and private media should consider developing guidelines on covering the activities of State officials during election periods.

D. RESOLUTION OF ELECTION DISPUTES

10. The competent judicial authorities should consider launching an investigation of publicly reported allegations of serious electoral irregularities without waiting for a formal petition.

²⁵ The PaEL prevents candidates from withdrawing after the proclamation of the candidate list while in presidential contests the deadline for withdrawal is fixed at 15 days before the election, which could be after the proclamation of the final candidate list.

11. The authorities should investigate allegations that citizens suffered coercion to vote or to not vote and, where appropriate, apply existing penal provisions against the culprits.

E. ELECTION DAY

12. The voter list used at the polling station and the second copy, known as the “Book of Electors” could be merged into one document with the second copy used by homebound voters to sign for the receipt of ballots.
13. The REC could design a standard form for homebound voters to request ballot papers. This should be available in advance of the election and signed by the voter.
14. A public information campaign should be conducted in the run up to the election to alleviate problems such as group voting or arrival of voters at polling stations without the required documentation, and to restate internationally accepted principles, including the “freedom” of the ballot.
15. The law should provide for re-issuing a ballot where the voter has inadvertently made a mistake.

ANNEX A – ELECTION RESULTS

The following results are unofficial figures provided by the REC.

	Candidate	December		February	
		Votes	%	Votes	%
1	Obrad Markovic (Yugoslav Communists)	1,747	0.83%	839	0.39%
2	Milan-Milo Radulovic (Natural Law Party)	3,115	1.49%	3,392	1.59%
3	Dragan Hajdukovic (Independent)	12,319	5.88%	15,356	7.20%
4	Filip Vujanovic (DPS/SDP)	175,328	83.65%	174,429	81.84%
5	Milan Sparovic (Independent)	1,229	0.59%	870	0.41%
6	Milivoje Bakic (Independent)	717	0.34%	769	0.36%
7	Ilija Darmanovic (Serbian Radical Party - SRS)	971	0.46%	833	0.39%
8	Mihailo-Milo Markovic (Independent)	437	0.21%	456	0.21%
9	Jovan Pejovic (Independent)	1,704	0.81%	1,097	0.51%
10	Aleksandar Vasilijevic (SRS-Vojislav Seselj)	6,448	3.08%	7,885	3.70%
11	Djordjije Milic (Independent)	489	0.23%	278	0.13%
	Total Valid Votes	204,504	97.57%	206,204	96.74%
	Invalid Ballots	5,094	2.43%	6,938	3.26%

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's main 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 Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections by the OSCE Heads of State or Government at the 1990 Paris Summit. In 1992, the name of the Office was changed to reflect an expanded mandate to include human rights and democratisation. Today it employs over 80 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following six thematic areas: rule of law, civil society, freedom of movement, gender equality, trafficking in human beings and freedom of religion. The ODIHR implements more than 100 targeted assistance programs, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR **monitors** participating States' compliance with OSCE human dimension commitments. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

The 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. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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

More information is available on the ODIHR [website](#), which also contains a comprehensive library of reports and other documents, including all previous election reports and election law analyses published by the ODIHR.