



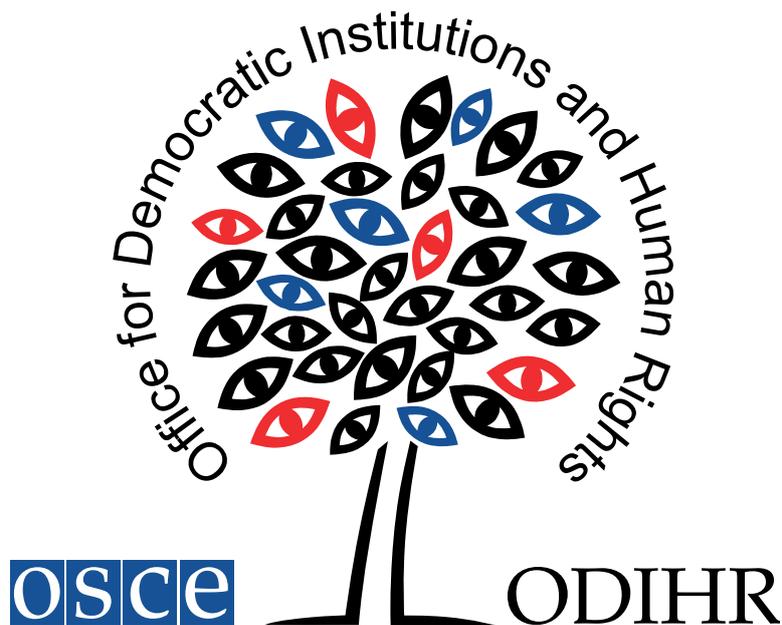
Office for Democratic Institutions and Human Rights

MONTENEGRO

PARLIAMENTARY ELECTIONS 30 AUGUST 2020

ODIHR NEEDS ASSESSMENT MISSION REPORT

6-10 July 2020



Warsaw
21 July 2020

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**MONTENEGRO
PARLIAMENTARY ELECTIONS
30 August 2020**

ODIHR Needs Assessment Mission Report

I. INTRODUCTION

In anticipation of an official invitation to observe the upcoming parliamentary elections to be held on 30 August 2020 and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 6 to 10 July. The NAM included Vladimir Misev, Senior Adviser on New Voting Technologies, and Oleksii Lychkovakh, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the elections. Based on this assessment, the NAM should recommend whether to deploy an ODIHR election-related activity for the forthcoming elections and, if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions, as well as with representatives of political parties, media, civil society, and the resident international community. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs, as well as the OSCE Mission to Montenegro for their assistance and co-operation in organizing the NAM. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM.

II. EXECUTIVE SUMMARY

On 20 June 2020, the president called the parliamentary elections for 30 August. Concurrently, local elections were called in five municipalities to be held on the same day. The elections are taking place against the backdrop of overall public distrust in state institutions, growing division within the society over the national identity issues and the outbreak of COVID-19 pandemic. On 15 March 2020 in reaction to the outbreak of COVID-19 the government introduced special measures, which limited freedom of movement and assembly. It also created the National Coordination Body for Communicable Diseases (NCB) to coordinate fight with the COVID-19 outbreak and recommend respective actions and limitations, including possible cancellation or postponement of these elections.

The electoral legal framework remains essentially unmodified since the last parliamentary elections. In November 2018, the parliament established the Committee for the Comprehensive Reform Electoral to address ODIHR electoral recommendations. Opposition parties only occasionally participated in the work of the Committee. In December 2019 the parliament amended four election-related laws, aiming to protect personal data in the voter lists and to clarify definitions, including of political entities, financial operations of political entities and of election campaigns. Draft Law on Elections of Councilors and Members of Parliament has not been adopted. A number of ODIHR NAM interlocutors noted that the current electoral legal framework needs further improvement.

The elections are managed by the State Election Commission (SEC) and some 1,200 Polling Boards (PBs) which are supported by 21 Municipal Election Commissions (MECs). The SEC and MECs are permanent bodies that serve four-year terms, PBs are appointed for each election. The SEC has adopted a calendar of activities for these elections. SEC raised concerns about the challenges caused by the COVID-19 pandemic to ensure legality, integrity and transparency of the electoral process.

These challenges include transparency of the decision making by election administration, collection and verification of signatures, as well as training for lower-level commissions. The SEC expects NCB to provide further guidance and resources to tackle these issues.

Citizens of 18 years or older by election day and permanently residing in Montenegro for at least 24 months prior to election day have the right to vote. There is no out-of-country voting. The voter register is permanent and regularly updated and maintained by the Ministry of Interior (MoI). According to the MoI, the 2019 amendments aimed to enhance the protection of personal data. Several parties expressed their dissatisfaction with the amendments claiming that they limit their access to the voter lists. Some 541,000 citizens have a right to vote in these elections, an increase of over 8,000 compared to 2018 presidential election. ODIHR NAM interlocutors from the opposition parties alleged that the lists have been artificially inflated by issuing fake ID cards and that an unrealistically high number of voters are registered in a number of properties around the country.

All voters are eligible to stand as candidates. Candidate lists can be put forward by political parties, their coalitions and groups of voters. Candidate lists have to include at least 30 per cent of candidates of either gender, and each four candidates in the list should include at least one candidate of a less represented gender. Parties met by ODIHR NAM stated that they have no difficulties in fulfilling these requirements. Several ODIHR NAM interlocutors, including SEC, noted that collection of supporting signature and fulfilling other requirements for candidate registration might be a challenge due to the COVID-19 pandemic.

The election law and the law on campaign finance provides for different campaign periods, 23 days and 80 days, respectively. A number of ODIHR NAM interlocutors were uncertain which law prevails and referred to different laws depending on their role in electoral process. Most of the parties met by the ODIHR NAM expressed concerns about limitations on campaigning caused by the measures introduced to tackle the impact of the COVID-19 pandemic. They also opined that the ruling party is using its institutional advantage to campaign under the umbrella of the NCB and other state institutions. Concerns were also expressed about potential misuse of the special state budget fund created to assist those most affected by the COVID-19 pandemic. The campaign is expected to primarily focus on the fight against the pandemic and economic situation caused by it, as well as national identity issues.

The changes made to the campaign finance legislation address some previous ODIHR recommendations including the introduction of gender equality requirements for allocation of public funds, definition of several terms and the obligation to open an election account within a well-defined timeframe. Other ODIHR recommendations, including those related to in-kind contributions and the use of loans, remain unaddressed. New provisions increase donations limits from individuals to EUR 5,000 and from legal entities – to EUR 20,000, which was criticized by some ODIHR NAM interlocutors. The National Audit Office oversees political party finance and the Agency for Prevention of Corruption (APC) supervises campaign finance. Overall, most ODIHR NAM interlocutors expressed low level of confidence in transparency of the campaign finance and the independence and impartiality of the oversight institutions.

The media are pluralistic and offer diverse views, but the lack of financial autonomy undermines their independence and contributes to polarized reporting. Several ODIHR NAM interlocutors expressed concern over the impact of foreign media on the electoral campaign, which, in their opinion, has significantly accelerated with the adoption of the Law on Freedom of Religion. Television remains the primary source of election related information. The pandemic further boosted the development of online media and increased campaign activities and political discussions on social networks. The public broadcaster decided to discontinue broadcasting live sessions of the Parliament in the electoral

period, a decision which is widely criticized by a number of opposition parties that considered parliamentary sessions as their additional campaign platform.

The election law provides for citizen and international election observation. Several citizen observer organizations indicated their plans to observe the elections, including with long and short-term observers, and some will focus on the media coverage. The SEC underlined their concern about the increased risk of contracting COVID-19 with the large number of observers and authorised representatives in the premises of election commissions.

Complaints about infringements of electoral rights may be filed by voters, candidates and submitters of the candidate lists to the responsible election commission, with the Constitutional Court being the final appellate instance. Complaints related to voter registration are submitted to the MoI and appealed to the Administrative Court. Contrary to previous ODIHR recommendations, the electoral dispute resolution procedure is insufficiently regulated.

Overwhelming majority of the ODIHR NAM interlocutors expressed the opinion that a large-scale election observation activity is needed. They underlined that the assessments of the potential ODIHR election observation mission will be particularly valuable due to growing polarization and would contribute to the confidence in the electoral process. While number of ODIHR recommendations remain unaddressed, it will be beneficial to see the implementation in practice of those that were addressed in the laws. The issues that would require additional scrutiny are the work of the election administration, campaigning and potential misuse of administrative resources, the implementation of the amended campaign finance legal framework, and election day procedures, particularly under the circumstances caused by the COVID-19 pandemic.

Based on the findings of this report, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) for the upcoming parliamentary elections. In addition to a core team of analysts, ODIHR would request the secondment by OSCE participating States of 16 long-term observers to follow the process countrywide, as well as 100 short-term observers for the observation of election day procedures. In line with ODIHR's standard methodology, the EOM would include a media monitoring element.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Montenegro has a mixed parliamentary-presidential political system, where both the Parliament (*Skupština*) and the President are directly elected. In the 2016 parliamentary elections, the Democratic Party of Socialists (DPS) won 36 out of 81 seats and with the support of five other parties, maintained the majority.¹ The opposition includes Democratic Front (DF) with 17 seats, Democrats – 8 seats, coalition “For the Benefit of all” (DSI) – 7 seats, Social Democratic Party – 4 seats, Demos – 2 seats and United Reform Action with 1 seat.

Following the 2016 parliamentary elections, opposition parties refused to accept the results and initiated a parliamentary boycott, which considerably limited the political dialogue and possibility of

¹ They include the Social Democrats (SD) – 2 seats, the Bosnjak Party – 2 seats, New Democratic Force (Forca) – 1 seat, the Croatian Civic Initiative – 1 seat and the Liberal Party – 1 seat. The DPS has been in power since 1991. The DPS leader Milo Đukanović won 15 April 2018 presidential election in the first round with almost 54 per cent of votes.

adoption of laws, including those related to the electoral framework. Due to these circumstances, several key state institutions, including those with significant role in the election process, such as the Constitutional Court, Agency for Prevention of Corruption (APC), Prosecutor General and Judicial Council are run by acting managers, instead of heads with the mandates based on parliamentary approval.

In December 2019, the Parliament adopted the Law on Freedom of Religion or Belief and the Legal Status of Religious Communities (hereinafter, Law of Freedom of Religion), which additionally charged the political divide.² Significant societal tensions arisen and numerous protests have been taking place since adoption of the law.

On 15 March 2020, in reaction to the outbreak of COVID-19, the government introduced special measures that limited freedoms of movement and assembly. It also created the National Coordination Body for Communicable Diseases (NCB) that includes representatives of government institutions and civil society organisation to coordinate fight with the COVID-19 outbreak and recommend respective actions and limitation, including on possible cancelling or postponement of these elections.³

On 20 June, the president called the parliamentary elections for 30 August. Concurrently, local elections were called in five municipalities to be held the same day.⁴ Several political parties and civil society organizations publicly stated that a decision on calling the elections for 30 August is unconstitutional and warned that the mandate of the parliament should have been shortened before the elections were called.⁵

ODIHR has observed seven elections since Montenegro declared independence from the State Union of Serbia and Montenegro in 2006.⁶ Most recently ODIHR deployed an Election Observation Mission for the 15 April 2018 presidential election. The final report that was issued in June 2018 contains 22

² The law sets a date of 1918 for religious communities to show proof of previous ownership or face nationalization of their property to the Montenegrin state and appears to limit the influence of Serbian Orthodox Church. Serbian Orthodox Church in Montenegro pointed out that the law is “discriminatory and unconstitutional,” and accused the Montenegrin authorities of “inciting divisions and hatred”. The Montenegrin Government stated that Serbian Orthodox Church would still be able to use its property but that it should be known what state property is, and also warned that the Serbian Orthodox Church is undermining the statehood of the state of Montenegro. Before its adoption, the Council of Europe’s European Commission for Democracy through Law (Venice Commission) provided legal [opinion](#) on the draft.

³ The NCB informed ODIHR NAM that all decisions for eventual postponement of elections will be based on empirical and scientific evidence from the relevant health institutions in relation to COVID-19 developments, and that the recommendations for canceling or postponing the elections will be discussed in the parliament. Representatives of four civil society organizations are members of the working group within the NCB responsible for drafting these recommendations. Several ODIHR NAM interlocutors pointed out that the work of the NCB is not transparent and that it does not include representatives from opposition and is not operating transparently.

⁴ These municipalities are Andrijevica, Budva, Gusinje, Kotor and Tivat. Elections in Tivat have being postponed earlier this year due to COVID-19 outbreak. ODIHR NAM only assessed developments related to local elections to the extent they impact the conduct of the parliamentary elections.

⁵ They opine that since the current convocation of the parliament was constituted on 7 November 2016, the mandate of the members of the parliament (MPs) is set to last until 6 November 2020. With the elections being scheduled for 30 August, the mandates of new MPs would have to be confirmed within 30 days of the elections by 1 October. Therefore, the new convocation of the parliament would be confirmed 36 days before the expiration of the mandate of the current convocation prescribed by the Constitution. By the time of the publication of the report no complaint has being submitted to the Constitutional Court on the matter.

⁶ See [previous ODIHR reports](#) on Montenegro.

recommendations, including 8 priority ones, for the authorities to improve electoral process and bring it closer in line with OSCE commitments.⁷

B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The 81-member parliament is elected in a single nationwide constituency for a four-year term under a proportional representation system with closed lists. If the list passes the 3 per cent threshold of valid votes it is eligible for the allocation of seats. All seats won by the list are awarded on the basis of the order of candidates, including for filling vacant seats with preserving gender representation in the parliament.

Different rules apply for seat allocation for the lists representing national minorities.⁸ In case no minority list passes the required 3 per cent threshold, those that gain 0.7 or more per cent of the valid votes are entitled to participate in the distribution of up to 3 seats as a list. The lists representing Croatian minority are entitled to one seat each if they obtain at least 0.35 per cent of the valid votes. In addition, a national minority with a share of the total population of up to 1.5 per cent countrywide or 15 per cent in each municipality has the right to participate in allocation of seats separately with its obtained number of valid votes.

The legal framework regulating elections remains uncodified and essentially unmodified since the last parliamentary elections. Primary legal acts include the 1992 Constitution, the 1998 Law on Elections of Councillors and Members of Parliament (hereinafter – election law), the 2014 Law on Voter Register and the 2008 Law on Financing of Political Entities and Election Campaigns (LFPPEC). These acts are complemented by other relevant legislation and State Election Commission (SEC) instructions and regulations.⁹ Montenegro is party to the major international and regional instruments on democratic elections, and is a member of the Council of Europe’s European Commission for Democracy through Law (Venice Commission) and Group of States against Corruption (GRECO).¹⁰

In November 2018, the parliament established the Committee for the Comprehensive Reform Electoral to address ODIHR electoral recommendations in legislation. Opposition parties overall boycotted the Committee and only occasionally participated in its work. ODIHR provided the Committee with informal comments to the draft laws on Elections of Councilors and Members of the Parliament, on Representation of Political Entities during Election Campaigns and on Financing Political Entities and Campaign, and to the draft Code of Ethical Conduct in Election Campaigns.

Despite the lack of consensus and support of the opposition parties, on 27 December 2019 the parliament with the votes of the governing majority amended four laws regulating the conduct of elections – the LFPPEC, the Law on Voter Register, the Law on Amendments to the Criminal Code and Law on Amendments to the Law on the Territorial Organization of Montenegro. The changes

⁷ In paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations.”

⁸ The Constitution defines “peoples and national minorities who live in Montenegro” as “Montenegrians, Serbs, Bosniacs, Albanians, Muslims, Croats and the others.”

⁹ Another applicable laws are the Law on Political Parties, the Law on Public Assemblies and Public Events, laws on media, the Law on Free Access to Information, the Law on the Constitutional Court, the Criminal Code, the Law on General Administrative Procedures, the Law on Administrative Disputes, and the Law on Misdemeanors.

¹⁰ This includes the 1948 Universal Declaration of Human Rights, 1966 International Covenant on Civil and Political Rights (ICCPR), 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 2006 UN Convention on the Rights of Persons with Disabilities (CRPD), 2003 Convention against Corruption, and 1950 European Convention on Human Rights.

address or reflect some previous ODIHR recommendations, including those for improving personal data protection while accessing the voter lists, and clarify definitions of political entities, the costs of the regular operation of political entities and of the costs of election campaigns. The draft election law, adoption of which requires a two-thirds majority of the parliament, was not put to a vote and, therefore, was not adopted. The mandate of the Committee expired the same day, the 27 December 2019.

Following several written commentaries on the draft election law and expert visits provided by ODIHR to the Committee and upon request from the vice president of the parliament, on 3 July 2020 ODIHR and the Venice Commission issued a formal joint legal opinion. In the opinion, ODIHR and the Venice Commission stressed that “an open and transparent process of consultation and preparation of the draft increases the confidence and trust in the adopted legislation and in the state institutions in general”. The preparation of this draft election law unfortunately did not comply with these criteria, including because the opposition essentially did not participate in the drafting process.¹¹

A number of ODIHR NAM interlocutors, including from the governing and the opposition parties noted that the electoral legal framework needs further improvement. They also noted the lack of dialogue and necessary consensus between the political parties for changes in the legal framework.

C. ELECTION ADMINISTRATION

The elections are managed by the SEC and some 1,200 Polling Boards (PBs) which are supported by 21 Municipal Election Commissions (MECs). The SEC and MECs are permanent bodies that serve four-year terms, while the PBs are appointed ahead of each election.

The SEC is composed of a chairperson and 10 members; in addition, for the election period, one authorized representative for each contesting entity joins the SEC. Four SEC members are proposed by the parliamentary majority, four by the parliamentary opposition, one by the minority political group that won the most votes in the previous elections, and one by the civil society.¹² The SEC is responsible for candidate registration, handling complaints, providing sub-legal regulations, as well as aggregating and establishing the final results.

The SEC has adopted a calendar of activities for these elections. ODIHR NAM interlocutors from the SEC noted that, due to COVID-19 restrictions, they enhanced a volume and timeliness of information published on their website. At the same time, the SEC raised concerns about the challenges caused by the COVID-19 pandemic to ensure legality, integrity and transparency of the electoral process. These challenges include transparency of the decision making by election administration, collection

¹¹ See [3 July 2020 ODIHR and Venice Commission Urgent Joint Opinion of the draft law on Elections of Members of Parliament and Councillors](#). It noted that the draft contains such improvements as: dropping of legal competency requirements for suffrage rights, the lowering of the number of signatures required in support of lists of candidates, enhanced gender representation, better accessibility to persons with disabilities, banning persons with political responsibilities from applying to SEC membership, the requirement to adopt a Code of Ethics for election administrators. At the same the Joint Opinion recommended: to improve procedures for dismissal or replacement of members of election commissions, to define a dispute settlement mechanism in order to prevent and/or to counteract any abuse of the Parliament’s right to dissolve the SEC to ensure adequate representation of national minorities in membership of election commissions, to establish detailed rules for signature collection and verification and sanctions for violations, including for forgery of registration documents and breaches of voters’ personal data integrity.

¹² In March 2020 the parliament appointed a new Chairperson of the SEC, as the previous one reached the retirement age at the end of 2019. Several ODIHR NAM interlocutors from the opposition parties noted that the SEC Chairperson was elected with the votes of the governing majority and that the opposition parties did not give their support.

and verification of supporting signatures, as well as training for lower-level commissions. The SEC expects NCB to provide them guidance and resources to tackle these issues. They also consider trainings for the lower-level commission to be conducted online or on television.

The MECs comprise a chairperson and four members appointed by respective municipal assembly proportionally to its composition. PBs are composed of a chairperson and four members, as well as their deputies, proposed by parties represented in the corresponding municipal assemblies. The composition of a PB can be amended until 12 hours before the opening of a polling station. The contestants may appoint authorized representatives to election administration bodies at all levels. All political parties, met with by the ODIHR NAM stated that they intend to nominate their representatives.

Most ODIHR NAM interlocutors expressed low level of confidence in SEC, reasoning their assessment by the political nature of its composition. At the same time, the parties met by ODIHR NAM expressed their readiness to nominate members to the lower-level commissions as requested, despite the challenges caused by the COVID-19 pandemic.

D. VOTER REGISTRATION

Citizens who are 18 years or older by election day and permanently reside in Montenegro for at least 24 months prior to election day have the right to vote.¹³ Citizens who have been declared mentally incapacitated by a court do not have the right to vote, contrary to international standards and good practice.¹⁴ The voter register is permanent and regularly updated and maintained by the Ministry of Interior (MoI) based on data from the registers of permanent residence, citizenship, deaths and births. The SEC is granted electronic access to the voter register. On election day, electronic devices are used to verify the identity of voters at the polling stations.

According to the government, the December 2019 amendments to the Law on Voter Register aim to enhance the protection of personal data and prescribe SEC to develop regulations detailing procedure for the scrutiny of the voters lists ensuring personal data protection. Several parties met by ODIHR NAM expressed their dissatisfaction with limiting their access to the lists to a few authorized representatives and only inside premises on the MoI as well as the ban on photocopying them.¹⁵ The December 2019 changes to the Law on Territorial Division of Montenegro prescribe to improve address system of the country, by unifying system of street names and numbering all buildings. This, however, according to the authorities, has not been implemented prior to these elections, due to the COVID-19 pandemic related restrictions.

According to the MoI, some 541,000 citizens have the right to vote in these elections, an increase of over 8,000 compared to 2018 presidential election. Some parties met by ODIHR NAM alleged that the lists have been artificially inflated by issuing fake ID cards and that an unrealistically high number of voters are registered in a number of properties around the country.

¹³ ODIHR has previously recommended eliminating this residency requirement, as being at odds with international good practice. See Section I.1.1(c) of the Venice Commission [Code of Good Practice in Electoral Matters](#).

¹⁴ Article 29 of [CRPD](#) requires states to “guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others” See also [ODIHR's Handbook on Observing and Promoting the Electoral Participation of Persons with Disabilities](#).

¹⁵ On 9 July 2020 the DF sent a letter to the Head of OSCE Mission to Montenegro, which contained their concerns with regards to the accuracy of the voter lists.

E. CANDIDATE REGISTRATION

All voters are eligible to stand as candidates. Candidate lists can be put forward by political parties, their coalitions and groups of voters.

To promote women's participation, candidate lists have to include at least 30 per cent of candidates of either gender. Each four candidates in the list should include at least one candidate of a less represented gender. Parties met by ODIHR NAM stated that they have no difficulties in fulfilling these requirements.

A political party or a coalition is required to submit signatures of at least 0.8 per cent of the voters based on the data on the number of voters in the previous elections. Political parties and groups of voters representing a national minority community are required to submit at least 1,000 supporting signatures. For those representing a minority constituting up to two per cent of the population, the requirement is 300 signatures. At odds with previous ODIHR recommendations, the voter can sign in support of only one candidate. Signature lists have to be signed in the presence of MEC members. Several ODIHR NAM interlocutors, including SEC, noted that this and other requirements of candidate registration process might be a challenge in the view of the COVID-19 pandemic.

F. ELECTION CAMPAIGN

The election law provides that the election campaign starts on the day the candidates are registered and ends 24 hours before election day (23 days). The new provisions of the LFPPEC provide that the campaign starts with the announcement of elections (80 days). A number of ODIHR NAM interlocutors were uncertain which law prevails and referred to different laws depending on their role in electoral process.¹⁶

Most of the parties met with by the ODIHR NAM expressed concerns about limitations on campaign caused by pandemic. They also opined that the ruling party is using its institutional advantage in the campaign. As an example of this advantage they alleged that the ruling party is using the work of the NCB, which, according to them, consists almost exclusively of the ruling party members and affiliates, to move freely around the country and campaign without restrictions. They also alleged that the ruling party is misusing the special state budget fund, created to assist private and legal entities most affected by pandemic consequences.¹⁷ According to them, the criteria for distribution of these funds are not clear, and the list of those who received financial assistance is not publicly available.

The campaign is expected to primarily focus on the fight against pandemic and economic crisis caused by the disease as well as national identity issues in relation to new Law on Freedom of Religion. The parties met by ODIHR NAM mentioned that the restrictions caused by pandemic forced them to significantly change their campaign strategies with minimum emphasis and resources allocated to traditional campaign methods such as rallies, door-to-door campaigning and distribution of posters and materials, and the focus shifting to campaigning online.

¹⁶ For example, the ODIHR NAM interlocutors representing media were referring to election law, while those conducting campaign finance oversight – to the LFPPEC. Most of the political parties met by ODIHR NAM lacked awareness of and certainty on this inconsistency.

¹⁷ In order to use the resources of the fund, the LFPPEC was amended in April 2020 to allow for state support distribution during the electoral period. The amended provision states that “during election years it is forbidden to transfer funds for social care from the state and local budgets, except in cases of state of emergency, epidemic or pandemic”.

G. CAMPAIGN FINANCE

The LFPPEC regulates political party and campaign finance, including rules for donations and expenditures, ban on funding from foreign, anonymous and state sources, and sanctions applicable in case of violations. The December 2019 changes made to the LFPPEC address or reflect some previous ODIHR recommendations, including the introduction of gender equality requirements for allocation of public funds to political entities represented in the elected bodies, definition of political entities, the costs of the regular operation of political entities, the costs of election campaigns, the content of statements and records of spending items, and the obligation to open and an election account within a well-defined timeframe. New provisions in LFPPEC prescribe the adoption of sub-legal regulations by the Ministry of Finance, the SEC and the APC within 60 days of the entry into force of the law.¹⁸

However, some previous ODIHR recommendations or outstanding issues, including the absence of clarity regarding the methodology for calculating the value of in-kind contributions, the issue of the use of loans, the lack of provisions regarding the allocation of adequate capacity and resources to the APC, and the absence of clear guidance as regards reporting template forms and instructions pertaining to political entity reporting requirements, remain unaddressed.¹⁹

Every contestant is required to open a dedicated bank account for all campaign related transactions on the day after their candidacy is confirmed. Public funding is available to all candidates but is only allocated after the elections and in accordance with the number of votes gained. In addition, campaigns can be funded from membership fees and individual donations. New provisions of the LFPPEC raise cap of donations from individuals from EUR 2,000 to EUR 5,000 to each contestant and from legal entities – from EUR 10,000 to EUR 20,000. A legal entity that donated to the party or campaign is banned from participating in public tenders for four years. Several ODIHR NAM interlocutors from the opposition parties underlined that this provision may discourage private businesses to donate to parties and their campaigns. A contestant can spend up to EUR 1.05 million during the entire campaign.

The National Audit Office oversees political party Finance and the APC is tasked with the supervision of campaign finance regulations. During the campaign, which, according to APC, started on the day of announcement of elections, contestants are to submit report to the Agency every 15 days on their income. They are also obliged to submit an interim report on both donations and expenditures five days before election day. Contestants are required to file a final campaign finance report to the APC within 30 days after election day. Failure to submit any report leads to financial sanctions and misdemeanor procedures. The 27 December 2019 amendments to the Criminal Code strengthen sanctions for violation of party and campaign regulations to maximum EUR 200,000 fine or 1 to 5 years' imprisonment.²⁰

Overall, most ODIHR NAM interlocutors expressed low level of confidence in the transparency of the party and campaign finance, noting that none of the previously reported party and campaign financing violations were investigated thoroughly by the relevant institutions.²¹ They have also

¹⁸ The APC informed ODIHR NAM that relevant sub-legislation have being developed and are available online on their [web-site](#).

¹⁹ The APC informed ODIHR NAM, that prior to these elections they developed various reporting forms and now reports could be submitted electronically.

²⁰ Some ODIHR NAM interlocutors pointed that these fines are applicable to physical persons (party representatives in charge of finance) only, not the legal entities (parties themselves) and alleged that it could discourage professionals to take such responsibilities.

²¹ In 2019 [large scale protests erupted over alleged corrupted financing](#) of election campaigns involving high level officials from DPS. [ODIHR Final report on 2018 presidential election in Montenegro](#) noted that “criminal

expressed concerns with the independence and impartiality of the ACP, basing their assessment on the fact that it is currently led by the acting director, instead of the one appointed by the parliament, which, in their view, prevents effective oversight of the campaign finance.

H. MEDIA

The media are pluralistic and offer diverse views, but the lack of financial autonomy undermines their independence and contributes to polarized reporting. Due to the small advertising market, most media rely on state funds, corporate owners, or international aid. Several ODIHR NAM interlocutors expressed concern over the impact of foreign media on electoral campaign, which, in their opinion, has significantly accelerated with adoption of the Law on Freedom of Religion.

The public broadcaster, Radio and Television Montenegro (RTCG), operates three TV channels. Major private national broadcasters include *TV Vijesti*, *Prva*, *Nova M*, and *AI*. Print media include private *Vijesti*, *Pobjeda*, *Dan* and *Dnevne Novine*. Television remains the primary source of election related information. The pandemic, however, further boosted the development of online media and increased campaign activities and political discussions on social networks.

The legal framework for the media remains largely unchanged and includes the Constitution, which guarantees freedom of expression and the press and prohibits censorship, the Media Law, the Electronic Media Law, the Law on Public Broadcasting Services, the Law on Free Access to Information, the Criminal Code, and the election law. ODIHR NAM was informed that the new Media Law, and the Law on Public Broadcasting Services are currently under consideration of parliament.

The election law regulates the media coverage of the campaign and requires the public broadcaster to provide all contestants with free and equitable access. As per legal obligations, free-of-charge and equal coverage of promotional videos as well as three-minute coverage of campaign events in the news will be allotted to each contesting entity. The RTCG already adopted its election coverage plan, which includes, among others, organizing two debates weekly in several studios during the campaign. Contestants representing national minorities have a possibility to campaign in native languages on the public broadcaster, which provides subtitles. The RTCG decided to discontinue broadcasting live sessions of the Parliament in the electoral period, a decision which is widely criticized by a number of opposition parties that considered parliamentary sessions as their additional campaign platform.

The Agency for Electronic Media (AEM) is mandated to monitor all broadcast media. For the election period the parliament creates an *ad hoc* committee, which consists of 5 MPs from the ruling coalition and 5 MPs from the opposition to oversee media compliance during elections. Opposition parties did not nominate their members for the committee for these elections. The *ad hoc* parliamentary committee was previously criticized by ODIHR for duplicating the jurisdiction of the AEM on overseeing media coverage of election campaign. The AEM informed the ODIHR NAM that it noted significant increase of election related coverage by Serbian media, and that it lacks mechanisms to prevent what it considers undue interference that may arise from cross-border retransmission. The AEM will monitor compliance of the broadcasters that envisage campaign coverage and political advertisement and adopt election coverage rulebooks as prescribed by the law. Their report, however, will be published only after the elections. Several ODIHR NAM interlocutors pointed to the lack of regulation for online media and social networks despite their significance and growing use during by

investigations were initiated against Mr. Đukanović and Ms. Vuksanović and their proxies for violations of campaign finance law and misuse of administrative resources”

parties. They also underlined that the draft media laws currently under consideration in parliament aim at regulating content in online media, but not on social networks.

I. ELECTION OBSERVATION

The election law provides for citizen and international election observation. Several citizen observer organizations indicated their plans to observe these elections, including with long and short-term observers. Some civil society organizations will focus on media performance during elections, and particularly, on compliance of public broadcaster with its legal obligation for fair and equitable coverage of all registered contestants. The SEC expressed concerns about the increased risk of contracting COVID-19 with a large number of observers and authorised representatives in the premises currently allocated for the work of electoral bodies and under current procedures.

J. COMPLAINTS AND APPEALS

Complaints about infringements of electoral rights may be filed by voters, candidates and submitters of the candidate lists to the responsible election commission, with the Constitutional Court being the final appellate instance. Complaints related to voter registration are submitted to the MoI and appealed to the Administrative Court. Election commissions and the Administrative Court must decide on complaints and appeals within 24 hours; the Constitutional Court has 48 hours. Additional time may be given for appeals requiring further investigation. Contrary to previous ODIHR recommendations, the electoral disputes resolution procedure is not sufficiently regulated in the legal framework.

IV. CONCLUSIONS AND RECOMMENDATIONS

Overwhelming majority of the ODIHR NAM interlocutors expressed the opinion that a large-scale election observation activity is needed. They underlined that the assessments of the potential ODIHR election observation mission will be particularly valuable due to growing polarization and would contribute to the confidence in the electoral process. While number of ODIHR recommendations remain unaddressed, it will be beneficial to see the implementation in practice of those that were addressed in the laws. The issues that would require additional scrutiny are the work of the election administration, campaigning and potential misuse of administrative resources, the implementation of the amended campaign finance legal framework, and election day procedures, particularly under the circumstances caused by the COVID-19 pandemic.

Based on the findings of this report, the ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) for the upcoming parliamentary elections. In addition to a core team of analysts, ODIHR would request the secondment by OSCE participating States of 16 long-term observers to follow the process countrywide, as well as 100 short-term observers for the observation of election day procedures. In line with ODIHR's standard methodology, the EOM would include a media monitoring element.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs and European Integration

Ambassador Veljko Milonjić, Director, General Directorate for Multilateral Affairs
Milena Šofranac – Ljubojević, Director, Directorate for OSCE and Council of Europe
Tamara Ivanović, Attache, Directorate for OSCE and Council of Europe

National Coordination Body for Communicable Diseases

Milutin Simović, Head, Deputy Prime Minister for Economic Policy and Financial System
Dragan Pejanović, State Secretary of the Ministry of Interior
Senad Begić, Deputy Director, Public Health Institution
Vatroslav Belan, Adviser to Deputy Prime Minister
Srđan Kusovac, Adviser to the Prime Minister

Ministry of Interior

Dragan Pejanović, State Secretary
Milanka Baković, General Director, Directorate for Civil Status and Personal Documents
Zora Čizmović, Head, Department for Personal Data Protection and Free Access to Information
Tatjana Drobnjak, Head, Service for Informational Communication

State Election Commission

Aleksa Ivanović, President
Veljko Čađenović, Member
Elisa Nurković, Advisor
Nikola Mugoša, Advisor

Agency for Prevention of Corruption

Savo Milašinović, Acting Director
Dušan Drakić, Head, Department for Control of Financing of Political Entities and Electoral Campaigns

Parliament`s Committee on Comprehensive Reform of Electoral and Other Legislation

Marta Šćepanović, Member, Democratic Party of Socialists
Miloš Nikolić, Member, Democratic Party of Socialists
Predrag Sekulić, Member, Democratic Party of Socialists
Danijel Živković, Member, Democratic Party of Socialists

Agency for Electronic Media

Jadranka Vojvodić, Deputy Director for Legal and Economic Affairs
Đorđe Vujnović, Advisor for the International Cooperation
Sunčica Bakić, Deputy Director For Monitoring
Elvira Ceković, Head of Public Relations and General Affairs Service

Political Parties

Branimir Gvozdenović, Vice President of the Parliament, Democratic Party of Socialists
Genci Nimanbegu, Vice President of the Parliament, Albanians Decisively
Ervin Ibrahimović, Bosniak Party
Adrijan Vuksanović, Croatian Civic Initiative
Milan Knežević, Democratic Front
Nebojša Medojević, Democratic Front

Nikola Rakočević, Democratic Party of Socialists
Zdenka Popović, Democrats
Momo Koprivica, Democrats
Danijela Pavićević, SNP-Demos
Srđan Milić, SNP-Demos
Neđeljko Rudović, SNP-Demos
Miodrag Lekić, SNP-Demos
Jelena Mitrović, Social Democratic Party
Ranko Krivokapić, Social Democratic Party
Boris Mugoša, Social Democrats
Andrija Popović, Social Democrats
Aleksandar Damjanović, Special MP Group
Goran Danilović, Special MP Group
Goran Radonjić, Special MP Group
Anka Vukićević, Special MP Group
Željka Savković, Special MP Group
Dritan Abazović, Civic Movement United Reform Action

Media

Božidar Šundić, General Director of RTCG
Aleksandra Pavićević, Editor of the First Channel RTCG
Ivana Šebek, CEO, Nova M

Civil Society

Goran Đurović, Media Center
Milena Bešić, Center for Democracy and Human Rights, CEDEM
Danilo Papović, Civic Alliance
Nada Bošković, Association of Youth with Disabilities

International Community

Representatives of diplomatic missions of Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Hungary, North Macedonia, Slovenia, Romania, Russian Federation, United Kingdom, United States, as well the OSCE Mission to Montenegro, United Nations and European Union.