



INTERNATIONAL ELECTION OBSERVATION MISSION Republic of Montenegro — Presidential Election, 6 April 2008

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Podgorica, 7 April 2008 – Following an invitation from the authorities of the Republic of Montenegro, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) to observe the 6 April 2008 presidential election. From 4 April, the OSCE/ODIHR EOM was joined by a delegation from the Parliamentary Assembly of the Council of Europe (PACE), which included both country co-rapporteurs for monitoring Montenegro.

The election is assessed on the basis of OSCE and Council of Europe (CoE) commitments and standards for democratic elections and national legislation. This statement of preliminary findings and conclusions is delivered prior to the completion of the election process, including the tabulation and announcement of final results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, approximately two months after the completion of the election process. The delegation of the Parliamentary Assembly of the Council of Europe will present its report at the next plenary session of the Assembly on 14 April.

The election of the President of Montenegro coincided with local elections in Tivat and Herceg Novi. These local elections were followed by the OSCE/ODIHR EOM only to the extent that they affected the conduct of the presidential election.

The OSCE/ODIHR and the PACE thank the Montenegrin authorities for their co-operation and stand ready to continue to support them, the civil society and the citizens of Montenegro in the conduct of democratic elections.

PRELIMINARY CONCLUSIONS

The 6 April 2008 election was Montenegro's first presidential election since independence in 2006 and was held under a new Constitution, adopted in 2007. Nearly all aspects of the election were found to be in line with OSCE Commitments and Council of Europe standards for democratic elections. The continued evidence of a blurring of state and party structures, however, remains contrary to the 1990 Document of the Copenhagen Meeting of the Human Dimension of the CSCE and the CoE Code of Good Practice in Electoral Matters.¹

¹ Paragraph 5.4 of the 1990 Document of the Copenhagen Meeting of the Human Dimension of the CSCE states that the participating States agree on "a clear separation between the States and political parties". Paragraph I.2.3 of the Council of Europe Code of Good Practice in Electoral Matters states that authorities must have "a neutral attitude" to the election campaign, media coverage and campaign funding.

The election campaign took place in a calm environment. Candidates campaigned actively, with a focus on substantive policy issues. Basic rights of freedom of movement and assembly were respected and all candidates were able to campaign freely. The registration of four candidates offered voters a genuine choice.

The election administration worked in an open and collegial manner throughout the course of the election and met all legal deadlines. There are significant oversight and transparency measures, including pluralistic political representation in election administration bodies, that help increase confidence in the election process.

The media offered voters a substantial degree of information on candidates, so that they were able to make an informed judgement about all candidates. Media in Montenegro are active and varied and there are no formal restrictions on their activities. However, the media could have provided voters with more rigorous assessment and analysis in relation to candidates and the election.

The legal framework was generally adequate for the conduct of democratic elections. However, not all aspects of the electoral legislation have been fully harmonized with the new constitution adopted in 2007.

Positive aspects of the election process also included:

- A campaign whose overall tone was constructive, with candidates focused on fundamental issues of domestic and foreign policy,
- An inclusive approach by all candidates towards voters from national minority groups,
- Inflammatory language or strong nationalist rhetoric was largely absent during the course of the campaign,
- Significant safeguards to ensure the secrecy and integrity of the ballot,
- Continuous efforts to improve voter lists, which require further regularization.

However, the following issues also raised concern:

- A campaign environment coloured by persistent, unsubstantiated allegations of electoral malpractice, and an absence of clear and firm actions by the authorities to address such allegations in order to allay suspicion,
- A lack of clear oversight procedures for the election campaign,
- Campaign finance regulations not sufficiently delineated in law as well as a lack of adequate transparency and oversight,
- An absence of voter education programmes from election commissions and from civil society.

On election day, voting took place in an orderly and peaceful manner. Observers visited 654 polling stations and evaluated the process as good or very good in 98 per cent of cases. No incidents were noted of anyone trying to influence voters whom to vote for. Procedural points were generally followed, with voters being checked for ink in more than 99 per cent of cases, and identification documents checked in nearly 100 per cent of cases. However, ballot boxes were noted as not being properly sealed in some 20 per cent of polling stations visited and unauthorized persons were observed in nearly 9 per cent. The OSCE/ODIHR EOM observed the closing and counting process around 60 polling stations. Some procedural problems were observed during the counting process, with observers reporting the count as good or very good in some 87 per cent of cases. Observers assessed the overall conduct of the tabulation at Municipal Election Commissions positively in all cases.

Background

The 6 April 2008 presidential election was the first to be held since the country's 2006 independence vote and under a new Constitution, adopted in October 2007. The campaign focused on the economy, European integration, investment and development, and social welfare issues. This has reflected a level of political maturity on the part of candidates and their campaigns.

Mr. Filip Vujanović, the incumbent president from the governing Democratic Party of Socialists (DPS), was challenged by three other candidates. Mr. Nebojša Medojević stood for the Movement for Change (PzP), which emerged after the 2006 parliamentary elections as a major opposition party; Mr. Andrija Mandić ran for the Serb List (SL), a group of parties traditionally oriented toward the Serb population in Montenegro, and Mr. Srdjan Milić for the Socialist People's Party (SNP), a political party that has been active in Montenegrin politics since the late 1990s.

Shortly after the calling of the presidential election by the Speaker of Parliament on 17 January 2008, the then prime minister, Mr. Željko Šturanović, resigned for health reasons. He was replaced by Mr. Milo Djukanović, of DPS, a former president and prime minister. DPS has been the principal party of government in Montenegro's since 1991.

Legal Framework and Election System

The legal framework was generally adequate for the conduct of democratic elections. A new Law on the Election of the President (LEP) was passed in December 2007 and important aspects of the electoral process are governed by the Law on the Election of Councillors and Representatives (LECR), last amended in July 2006.²

The president is elected by an absolute majority of valid votes cast. If no candidate receives the requisite number of votes, a second round of elections takes place 14 days after the first round between the two candidates who received the highest number of votes. In the second round, the candidate who receives the highest number of votes cast is elected.

The Montenegrin parliament adopted a new Constitution in October 2007. However, not all aspects of the legal framework for the presidential election have yet been fully harmonized with the new Constitution.

One of the laws which remains to be harmonized is the Law on the Register of Electors (2000). The constitution grants voting rights only to citizens of Montenegro, but the Law on the Register of Electors provides for all eligible permanent residents in Montenegro to be on the voter register, including those with citizenship in the former Yugoslavia. The parliament took a consensual decision not to disenfranchise voters registered for previous elections. Thus, the voter register for the current election contained the names of some 25,000 citizens of Serbian nationality residing in the country. However, some 60 residents who were not citizens of Montenegro and who were not already on the voter register were not added to the voter register and had their complaints rejected by the Administrative Court.

² Other legislation regulating the presidential election includes: the Constitution of the Republic of Montenegro (2007), the Law on the Register of Electors (2000), the Citizenship Law of the Republic of Montenegro (1999), Media and Broadcasting Laws (2002, 2004) and applicable regulations and decisions of the State Election Commission.

Questions not related to harmonization with the Constitution have also been noted. Campaign finance regulations are not sufficiently delineated in law and the financing of the campaign lacks adequate transparency and oversight. The date the electoral campaign begins, especially with regard to state media coverage, could also be made explicit in legislation.

Candidate Registration

Any potential candidate could be nominated on the basis of the collection of supporting signatures of at least 1.5 per cent of the total electorate, calculated against figures from the last election (7,266 signatures). Potential candidates had to open support books, lodged at Municipal Election Commissions (MECs), and voters who wished to support them had to sign at their respective MECs, in front of two MEC members.

Four candidates met the signature collection criteria and their order on the ballot was determined by the State Election Commission (SEC) by lot: 1) Nebojša Medojević (PzP); 2) Andrija Mandić (SL); 3) Srdjan Milić (SNP); and 4) Filip Vujanović (DPS). The registration process was inclusive and provided voters with a genuine choice.

Election Administration

This election was administered by a three-tiered election administration: the SEC, 21 MECs and 1,141 Polling Boards (PBs) responsible for as many individual polling stations (PSs). The SEC and MECs are permanent bodies, appointed for a four-year term by parliament and municipal assemblies, respectively, while PBs are appointed by MECs for each election.

All election administration bodies consisted of a core body, reflecting the political composition of the body which appointed them, and an extended composition, including representatives of all candidates. These measures provided for political balance, enhancing confidence and heightening transparency of the administration of the election.

The SEC operated in a collegiate manner and their sessions were open to both domestic and international election observers. The SEC also established a website publishing their decisions. The SEC and MECs met regularly, as necessary, and functioned well, taking all required decisions on issues related to election procedures and administration. Both the SEC and MECs met all election deadlines. No formal complaints were submitted to the SEC in the pre-electoral period.

Neither the SEC nor the MECs planned or conducted any voter education programmes, because they did not consider such activities were not part of their obligations.

Registration of Voters

Voter registration in Montenegro is passive, with the names of eligible voters or those who have acquired electoral rights through their permanent residence added to a public voter register *ex officio* by municipal administrations on the basis of information of their eligibility and data from the Ministry of Interior.

The SEC has no legal responsibility for the compilation and maintenance of the voter register, but does publish a provisional and final voter register. On 29 March, the SEC published the Final Voter Register, according to which the total number of registered voters in Montenegro was 490,412.

During the course of the observation, and contrary to previous elections, interlocutors did not raise the quality of the voter register as a serious issue of concern.

Election Campaign

The campaign environment remained overall peaceful. Only one incident of a confrontation at a rally was reported. The overall tone of the campaign was constructive; candidates focused on fundamental issues of foreign and domestic policy. The issue of Kosovo remained muted throughout the course of the observed campaign. All candidates targeted a wide audience, including voters from religious and ethnic minorities. Inflammatory language was largely absent from the campaign and nationalist rhetoric was limited. Most interlocutors noted progress in the style and quality of the political discourse compared to previous elections and a further development of political maturity.

The campaign was focused on issues of economy and investment, social welfare, and European integration. Mr. Vujanović's campaign, "Without Dilemma", underscored his claim to provide for continued security and stability. He also called for further economic development. The newly re-elected Prime Minister, Mr. Milo Djukanović, played an active role in the Vujanović campaign. It was widely recognized by interlocutors that the president's party, DPS, continues to enjoy the most developed party structure and Mr. Vujanović's door-to-door campaign was very active.

Of the three opposition candidates, Mr. Medojević's campaign was most visible, focused on issues of corruption, crime and EU integration. Mr. Mandić's campaign was also active and dealt primarily with economic development and investment. Mr. Milić's campaign focused mainly on social issues and on the economy. Both Mr. Medojević's and Mr. Milić's campaigns were highly critical of the current government and its policies.

Throughout the campaign, the three opposition candidates made persistent allegations that unspecified individuals were offering potential opposition voters money to surrender their identity documents to prevent them from voting. Any such alleged actions by either individuals offering or receiving a bribe would constitute serious criminal misconduct. The OSCE/ODIHR EOM was approached by two individuals through different opposition parties, who made oral statements of having been part of such schemes. However, corroborating details could not be confirmed. As far as the OSCE/ODIHR EOM is aware, no concrete evidence has been submitted to the authorities in relation to these and other alleged cases. Such pervasive allegations, however, impact upon public confidence. Whilst by their nature, they are difficult to prove or disprove, the authorities took no clear action to allay suspicions. Opposition candidates also claimed pressure was being applied by managers of state-owned enterprises to influence voters, which the OSCE/ODIHR EOM has been unable to confirm.

All candidates campaigned extensively throughout the country, visiting all 21 municipalities. They were able to convey their policies to voters freely, without undue interference and the freedom of movement and assembly were respected. Numerous rallies were held and the average participation was some 350 people. The largest rallies were held by Mr. Mandić and Mr. Vujanović in Pljevlja and Podgorica. All candidates made use of posters and billboards in the campaign. Although some posters were torn down and some billboards defaced, no complaints were lodged to the knowledge of the OSCE/ODIHR EOM.

One problem highlighted in previous OSCE/ODIHR reports and manifest in this election was the continued blurring of division between the Montenegrin state and the governing party, DPS. Mr. Vujanović's official role as incumbent president sometimes overlapped with

activities of his candidacy; occasional use was made of opening state projects during his tours of the country. Mr. Vujanović's final rally took place in a building housing principal government offices and the DPS headquarters. The DPS is reported to receive a substantial rent from the government for the use of these offices.

The Media

Overall, the media offered voters a good degree of information on candidates, helping them make an informed judgement between candidates. A variety of media outlets are active in Montenegro,³ partly due to a transparent and liberal approach to distribution of frequencies and the lack of restrictive licensing or registration requirements. The degree of media diversity and pluralism, however, is limited by the predominant focus on entertainment of the most popular TV stations. There is also a lack of plurality of news and information sources, despite the number of outlets. The lack of transparency over media ownership limits the possibility of voters to judge the balance and objectivity of news coverage.

The process of verifying members to the RTCG Council by the parliament was contentious and politicized. This demonstrates that the transformation of RTCG into a genuinely independent public service is not complete. Media campaign regulations prepared by the RTCG editorial team were adopted late by the RTCG Council on 24 March. They included provisions for free airtime for every candidate and for the airing of a live television debate on 3 April. All candidates made use of the free airtime and all participated in the debate. However, the broadcast of the debate, which RTCG reported as having been viewed by 74 per cent of the population, was delayed by some 13 minutes. In its stead, a paid advertisement featuring Prime Minister Djukanović trenchantly criticizing Mr. Medojević was broadcast.⁴ Concerns were also raised by interlocutors that the amount of free time provided, in particular for debates, was not sufficient.

On 29 March, RTCG stopped broadcasting Mr. Medojević's paid campaign advertisements, arguing that he had not paid outstanding debts of some 200,000 EUR. Following the payment of a quarter of this amount, RTCG resumed their broadcast on 31 March.⁵ Mr. Medojević claimed to the OSCE/ODIHR EOM that this was done for political reasons, as he had agreed with the RTCG director to pay the 50,000 EUR by 1 April. He also stated that in previous elections his party had paid once they had received the subvention after the election.

In its media monitoring,⁶ the OSCE/ODIHR EOM found that coverage of presidential candidates in news programmes on RTCG1 slightly favoured Mr. Vujanović in his role as candidate, with 32.7 per cent of all coverage of the presidential election. The figure was in comparison to 23.7 per cent received by Mr. Milić, 22.0 per cent received by Mr. Mandić and 21.6 per cent by Mr. Medojević. When looking at the more popular of the two nightly news programmes, the prime-time *Dnevnik2*, coverage more strongly favoured Mr. Vujanović at 34.8 per cent, while Mr. Milić received 23.3 per cent, Mr. Mandić 21.1 per cent and Mr. Medojević 20.8 per cent.

³ Including some 15 television stations, 42 radio stations, 45 print outlets and 1 news agency.

⁴ The DPS advertisement showing PM Djukanović ran from 20:51 to 21:18. After this and before the debate, two short paid advertisements for Mr. Mandić (29 seconds) and Mr. Medojević (6 seconds) were also aired.

⁵ According to RTCG, Mr. Mandić and Mr. Milić had both completely paid their outstanding debts, while Mr. Vujanović had paid approximately two-thirds of his debt.

⁶ Media monitoring commenced on 3 March. It included RTCG1, privately owned TV IN, NTV *Montena*, MBC and *Elmag* and the daily newspapers *Vijesti*, *Dan*, *Pobjeda* and *Republika*.

TV IN, the commercial channel with the broadest coverage and high audience ratings of the outlets monitored, favoured Mr. Vujanović in its news programmes with the candidate receiving 44.0 per cent of coverage. Mr. Medojević received 22.2 per cent, Mr. Mandić 20.6 per cent and Mr. Milić 13.2 per cent, respectively. Although NTV *Montena*, MBC and *Elmag* were monitored, their capacity to provide information to voters is limited due less extensive geographical coverage and low audience ratings.

The quantitative monitoring of print outlets indicated that the daily newspaper *Vijesti* dedicated 32.8 per cent of its campaign coverage to Mr. Medojević, 28.4 per cent to Mr. Vujanović, 19.8 per cent to Mr. Milić and 19.0 per cent to Mr. Mandić.⁷ The daily paper, *Dan*, gave Mr. Mandić 37.5 per cent dedicated coverage, as opposed to 23.2 per cent for Mr. Vujanović, 20.6 per cent for Mr. Milić and 18.7 per cent for Mr. Medojević. The state-owned newspaper, *Pobjeda*, slightly favoured the incumbent president, Mr. Vujanović, who received 35.1 per cent of campaign coverage. Mr. Milić received 22.9 per cent and Mr. Mandić and Mr. Medojević received 21.1 per cent and 20.9 per cent respectively. The privately-owned newspaper, *Republika*, with a significantly lower circulation rating, provided generally balanced coverage of all candidates.

Paid advertising in both national and local television was used extensively throughout the course of the campaign. At both levels, Mr. Medojević was most visible, presented in some 56.1 per cent of spots on TV stations monitored. OSCE/ODIHR EOM observers also confirmed his high visibility at the local level.

The tone in all monitored media outlets was predominantly neutral. Apart from the campaign coverage in news programmes, there was scant analytical or critical reporting and little in the way of background information for voters in the media.

Complaints and Appeals

Within the legal deadline, 1,306 complaints were received by the Administrative Court, all referring to decisions made by municipal authorities with regard to the voter register. 81 out of 856 complaints regarding inclusion to the voter register were rejected; some 60 of these were rejected on the basis of Serbian citizenship (see section on Legal Framework and Election System).

One of the candidates, Mr. Medojević, submitted a proposal to the Constitutional Court, challenging the process of signature collection on the grounds that the requirement that signatures be made before two MEC members violated the secrecy of the ballot. The court upheld the constitutionality of the existing provisions on 28 February on the grounds that the secrecy of the ballot was not infringed by the separate mechanism for signature collection.

A complaint was also submitted to the Administrative Court on 1 February by an unsuccessful nominee to the RTCG Council, against the parliament for not confirming members of the Council. The court ruled against the complaint and the formation of the Council was subsequently delayed.

Many interlocutors expressed a lack of confidence in the courts and law enforcement bodies. Furthermore, unclear legal procedures made the complaints and appeals process cumbersome.

Participation of Women and National Minorities Voters

⁷ These figures refer to campaign coverage of presidential candidates, excluding paid space.

In Montenegro, women enjoy equal rights, including the right to vote and to contest elections. Gender equality is provided for by the Constitution, and given effect by the 2007 Law on Gender Equality. Nevertheless, participation of women in public life remains limited. In this election, there were no female candidates and only 3 of 11 SEC members were women. In polling stations visited on election day by observers, over 21 per cent of polling board chairpersons were women but there were no female MEC chairpersons.

Montenegro's ethnic composition is given by the 2003 census as 43 per cent Montenegrin, 32 per cent Serb, some 12 per cent Bosniak and Muslim, 5 per cent Albanian, 1 per cent Croat, with other groups accounting for a further 7 per cent. Constructively, the SEC took a decision to provide election materials and ballots in Albanian to 71 PSs with significant Albanian populations.

Domestic and International Observers

The legislative framework provided for unimpeded access by international and domestic observers to observe the preparations and conduct of the election. The SEC accredited 208 international observers and over 1,000 observers from domestic non-party organizations. This included 472 observers from the Centre for Election Monitoring (CEMI) and 557 from the Centre for Democratic Transition (CDT). Domestic observers were present in around 50 per cent of PSs visited.

Election Day and Vote Count

Voting took place in an orderly and generally peaceful manner. Observers were present at the opening of 59 polling stations and evaluated the process positively in 97 per cent of cases. 12 per cent of polling stations observed did not open on time and some procedural points were not always followed. This included not drawing lots for determining responsibilities of polling board members in 31 per cent of cases. Unauthorized persons, generally party activists, were observed in 14 per cent of opening procedures observed.

During the course of voting, observers visited 654 polling stations and evaluated the process as good or very good in 98 per cent of cases. There were only 2 cases noted of voters being denied the right to vote for inappropriate reasons, no one was observed voting more than once, and no incidents were noted of anyone trying to influence voters whom to vote for.

Procedural points were generally followed; voters were checked for ink in more than 99 per cent of cases, identification documents were checked in nearly 100 per cent of cases, and the secrecy of the vote was ensured in more than 99 per cent of polling stations observed. However, ballot boxes were noted as not being properly sealed in some 20 per cent of polling stations visited and unauthorized persons were observed in nearly 9 per cent. The level of homebound voting was noted as being somewhat high at nearly 3 per cent, but this was more prevalent in rural areas. There seemed to be a lack of consistency in the role played by extended polling board members.

The OSCE/ODIHR EOM observed the closing and counting process in 64 polling stations. Observers reported the count as good or very good in some 87 per cent of cases. Control coupons were not counted by the polling board before the ballot box was opened in nearly a quarter of cases and the number of unused ballots was not counted before the ballot box was opened in 19 per cent of polling stations observed. Also, the number of voters who voted was not determined by the polling board before the ballot box was opened in 13 per cent of cases.

10 per cent of observers noted serious irregularities during the counting procedures. Again, unauthorized persons were observed at nearly 10 per cent of polling stations visited.

In no case were more ballots found than the number of voters who had voted, and no polling boards observed were dissolved. In only seven cases observed did disputes arise between polling board members. However, in some 32 per cent of cases, the record of work was not accompanied by the polling board chairperson and two extended members to the MEC.

The tabulation at MECs was observed by 13 OSCE/ODIHR observer teams across all 21 municipalities. Observers assessed the overall conduct of the tabulation as good or very good in all 13 cases. In only 2 cases, was tension in MECs observed and in only 1 case observed was a complaint submitted to the MEC. However, in 7 of the 11 cases observed, there were mathematical inconsistencies in polling boards' records of work.

At the time of writing no official complaints were lodged with MECs, to the knowledge of the OSCE/ODIHR EOM.

*This statement is also available in Montenegrin.
However, the English version remains the only official document.*

MISSION INFORMATION & ACKNOWLEDGEMENTS

The OSCE/ODIHR Election Observation Mission (EOM) opened in Podgorica on 27 February 2008 with 11 experts and 14 long-term observers deployed throughout the country. On election day, some 180 short-term observers were deployed, including a six member delegation from the PACE. In total, there were observers from 42 OSCE participating States. Voting was observed in 654 polling stations out of a total of 1,141, and counting in some 60 polling stations. The tabulation process was also observed in 13 MECs.

Mr. Julian Peel Yates is the Head of the OSCE/ODIHR Election Observation Mission and Mr. David Wilshire headed the delegation of the Parliamentary Assembly of the Council of Europe.

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