

INTERIM REPORT
9–24 August 2006

Executive Summary

- The election observation mission (EOM) opened its office in Podgorica on 9 August, with 10 core-team analysts based in Podgorica and 17 long-term observers deployed throughout the country.
- Members of Parliament will be elected on 10 September, as will mayors and municipal councilors in 14 of the 21 municipalities. However, the EOM observes the parliamentary elections, and will comment on the local elections only to the extent they may impact on the conduct of parliamentary elections.
- The Parliament will be elected under a proportional system with a three-per cent threshold. Five of the total 81 seats will be contested in 70 specially-designated polling stations located in areas where Albanian minority voters are concentrated.
- Twelve candidate lists were submitted for the upcoming elections. All lists were approved by the Republican Election Commission (REC). A total of 747 candidates will be competing for the 81 seats, 14.6 per cent of them women.
- The issue of whether contestants would receive campaign funds from the state budget was controversial, with the government arguing that parties had spent all earmarked funds during the referendum campaign. The issue appears to have been partially resolved by a decision of the Finance Ministry to equally distribute € 205,000 among the contestants.
- The election campaign has thus far been low-key, and most parties said they plan to conduct a short and modest campaign. No overriding campaign issue has emerged. Following the referendum on state status, the political dialogue has developed a new dynamic, with former partners now competing for votes, especially in the former pro-union camp.
- Recent amendments to the Election Law, which were passed after the elections were called, limit the right of speech and expression and constitute a step backwards. Regrettably, the amendments did not address the method of allocation of mandates to candidates from the lists, as recommended by the previous OSCE/ODIHR EOMs¹.
- The upcoming elections are administered by a three-tiered election administration, including the REC, 21 Municipal Election Commissions (MECs) and around 1,130 Polling Boards (PBs). All election-administration bodies have a “permanent” composition, which will be augmented by “extended” members representing submitters of candidate lists.

¹ All previous OSCE/ODIHR Final Reports related to elections in Montenegro can be found at <http://www.osce.org/odihr-elections/14207.html>.

- Under the legislation, the public broadcaster is required to provide equal access to all contenders. However, public Radio-Television Montenegro adopted rules which provide for free access based on a party's strength in the outgoing Parliament. On 10 August, the EOM started its monitoring of the campaign coverage in the media, including six television stations and four daily newspapers.

Introduction

On 11 July 2006, the President of the Republic of Montenegro called parliamentary elections for 10 September 2006. In addition to electing Members of Parliament, citizens in 14 of the country's 21 municipalities will also be voting for mayors and municipal councilors. Following an invitation from the Ministry of Foreign Affairs, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 9 August. The EOM, headed by Mr. Jørgen Grunnet (Denmark), consists of a ten-member core team based in Podgorica and 17 long-term observers based in seven locations throughout the country. Core team members and long-term observers are drawn from 16 OSCE participating States. Participating States have been requested to second 150 short-term observers to observe voting and counting.

The Election System

The Republic of Montenegro has a unicameral Parliament elected for a four-year term. The Constitution provides there shall be one Member of Parliament for every 6,000 voters. Based on the number of registered voters, the Parliament adopted a decision calling for the election of 81 MPs in these elections.

Lists of candidates are submitted by registered political parties, either separately or in a coalition, as well as groups of citizens. Although the same lists of candidates are on the ballot in all polling stations in Montenegro and each voter has one vote, there will be two separate allocations of mandates. The first allocation is for 76 mandates and is based on the results in all polling stations in Montenegro. The second allocation is for five mandates and is based on the results in polling stations which are specified by the Parliament before each election.² In order to participate in the allocation of the 76 mandates, a list of candidates must have obtained at least three per cent of the votes cast in all polling stations.

In order to participate in the second allocation of the five mandates, a list of candidates must have obtained at least three per cent of the votes cast in the 70 polling stations specified by Parliament. However, a list that participates in the allocation of these five mandates may use its nationwide vote total as the basis of its allocation if it did not reach the three-per cent nationwide threshold. A list that has won one of the 76 mandates uses the vote obtained in the 70 specified polling stations as its vote basis for the allocation of the five mandates. Both allocations are proportional and use the *d'Hondt* formula for seat allocation.

One-half of the mandates won by a list are allocated to candidates in the order in which they appear on the list. Political parties are free to allocate the other half of the mandates to the remaining list candidates as they deem appropriate. This particular aspect of the allocation system was criticized by the previous OSCE/ODIHR election observation missions.

² These polling stations are located in areas where Albanian minority voters are believed to be concentrated.

The Legal Framework

The legal framework for the election has become less certain due to amendments to the Law on the Election of Representatives and Councilors (the Election Law), which were adopted by Parliament on 28 July, i.e. after the elections were called, and as a result of two recent decisions by the Constitutional Court. Further, the rules on the coverage of the election campaign of the 10 September parliamentary elections issued by public Radio-Television Montenegro (RTCG) do not provide all electoral lists with free equal access for campaign purposes.

Key provisions of the 28 July amendments to the Election Law constitute a step back from OSCE Commitments and international standards for democratic elections: one amendment prohibits campaign speech that is offensive, slanderous, or breaches the rules of decency. A second amendment increases the blackout period for the publication of opinion poll results from seven to ten days, and imposes a ban on the publication of any preliminary results based on exit polls or parallel vote tabulation for three hours after polls close. These limitations on the rights of speech and expression appear excessive.

In a case challenging the recently enacted Law on Minority Rights and Freedoms, the Constitutional Court ruled that the provisions in the law granting representation in Parliament to each national minority which constitutes at least one per cent of the population were unconstitutional. The Constitutional Court ruled in another case, challenging the formula for distribution of public funds for campaigns of political parties, that part of the formula was unconstitutional as it gave parliamentary parties an advantage over other parties.

The issue of campaign finance came to the forefront due to the Government's initial announcement that campaign funds from the State budget may not be available to political parties. The government argued that all funds earmarked for election campaign purposes had been spent on the referendum campaign, at the insistence of the parties involved in that campaign. On 22 August, however, the Minister of Finance announced that a total of €205,000 would be distributed equally among the submitters of the 12 registered lists. It remains unclear, however what funds, if any, will be available for distribution after the elections, as envisaged by the Law on the Financing of Political Parties. The funding situation is aggravated by the legal provision which limits the expenditure of private campaign funds to 40 per cent of the public funds to which a political party is entitled. This means, under the legal formulas, that a political party may be significantly limited in its campaign expenditures.

In addition to restrictions on campaign funds, restrictions were introduced by the nationwide public broadcaster (RTCG) on the free access to be provided to political parties and coalitions participating in the elections. Although the Election Law stipulates that all submitters of candidates' lists will be provided equal access, RTCG issued rules that provide for free access to be allocated proportionally, based on a party's strength in Parliament. This does not appear to be consistent with the decision of the Constitutional Court, regarding the public finance formula, that it is unconstitutional to give one political party preference over another political party.

The limitations on funding, combined with the amendments limiting campaign speech and the publication of opinion poll results, and the rules for proportional free access to RTCG based on Parliamentary mandates, may result in a more subdued campaign than could have occurred under the pre-July legal framework.

The Election Administration

The 10 September 2006 parliamentary elections will be conducted by a three-tiered election administration: the Republican Election Commission (REC), 21 Municipal Election Commissions (MECs), and about 1,130 Polling Boards (PBs). The REC and MECs are appointed for a term of four years, by the Parliament and the Municipal Assemblies respectively, while Polling Boards are appointed by the MECs for each election and each polling station, no later than ten days prior to election day.

All election administration bodies have a “permanent” composition reflecting the political composition of the body that appoints them, and an “extended” composition including one authorized representative from each of the submitters of electoral lists. All election administration members have deputies. The REC “permanent” composition includes a chairperson, a secretary and nine members. The MECs’ “permanent” composition includes a chairperson, a secretary and five members, while the PBs’ “permanent” compositions will include a chairperson and four members.

Between 11 July, when the elections were called, and 24 August, the REC held eight sessions, meeting all election-related deadlines established by the Election Law. On 3 August, the REC adopted the Regulation for the Work of Polling Boards, which is prescribed by the Election Law. It will make a copy available to all “permanent” members of election administration bodies.

Candidate Registration

A total of five parties, six coalitions and one group of citizens submitted candidate lists within the legal deadline, which expired on 16 August. The REC asked three submitters to rectify deficiencies on their lists, which they did within the 48 hours provided by the Election Law. Thus, the REC registered all 12 lists submitted for the parliamentary elections. Overall, 747 candidates will be competing for the 81 seats in the Assembly.

On 22 August, the REC drew lots to determine the order of lists on the ballot. During the same session, the REC adopted the General Electoral List, which contains the names of all candidates and was published on 24 August and will be displayed in polling stations on election day.

Voter Registration

Voter registration in Montenegro is passive, and eligible voters are included in the voter register based on information provided *ex officio* by the Ministry of Interior and municipal registrar offices. The period of public inspection of voter registers ended on 16 August, and the voter registers were closed on that day. On 18 August, the REC published the total number of registered voters, which is 484,189. Until ten days before election day, changes to the voter register are possible, but only through a decision of the Administrative Court.

The Campaign Environment

With the overriding political issue of the past years resolved by the 21 May referendum on state status, new dynamics are becoming apparent in Montenegrin politics³. Following the demise of the pro-independence and pro-union camps, former partners are now competing for votes, and

³ The OSCE/ODIHR Final Report on the 21 May Referendum can be found at http://www.osce.org/documents/odihr/2006/08/20077_en.pdf.

the former pro-union camp in particular appears to be subject to internal competition and fragmentation.

The ruling parties, the Democratic Party of Socialists (DPS) and the Social Democratic Party (SDP), have again formed an electoral coalition, “For a European Montenegro”, which is also supported by the small Croatian Civic Initiative (HGI). The coalition’s aim is to defend its absolute majority of seats in Parliament. The moderate opposition camp comprises the Socialist People’s Party (SNP), the People’s Party (NS) and the Democratic Serb Party (DSS), which have maintained their co-operation from the referendum. This coalition tries to defend its current position as the second-strongest political force in Montenegro against the more radical part of the former pro-union camp which has united in the so-called Serb List. The Serb List is led by the Serbian People’s Party (SNS), which split from the NS, and includes several smaller pro-Serbian parties. The inclusion of the Montenegrin branch of the Serbian Radical Party (SRS) has been widely commented upon by other parties and the media and has received some criticism.

After years of internal strife, the former pro-independence liberals have reorganized in the Liberal Party (LPCG), which has formed a coalition with the Bosniak Party (BS) with the aim of breaking the absolute majority of the ruling parties. The Civic List (GL) uniting the Civic Party and the Green Party is seen as a potential partner of the ruling parties if it overcomes the three-per cent threshold. The Movement for Changes (PzP), a new political party which evolved out of the Group for Changes non-governmental organization, is seen as a potential challenger of the ruling coalition but could also gain the votes of supporters of other opposition parties. The number of political parties representing ethnic Albanians has increased from two to four, which may result in the fragmentation of this section of the electorate.

The election campaign thus far has been low-key, although politicians have been more present in the media since mid-August. Most parties said they plan a short and modest campaign, focusing on door-to-door campaigning rather than big rallies. The summer holiday season, financial constraints, and the proximity of the elections to the referendum are given as reasons for this approach. In the early part of the campaign period, the Serb List and PzP have been most active.

The campaign thus far appears to lack an overriding issue. Opposition parties are focusing their campaign on the economy, employment and environmental issues while also challenging the policies of the government and the ruling parties. The DPS and SDP, for their part, try to capitalize on the successful referendum and the restoration of independence and present themselves as the guarantors of Montenegro’s integration in Euro-Atlantic structures.

One issue of dispute between the opposition and the government was the transfer of some 70 police officers to new duty stations. The opposition claimed that the police officers were under pressure during the referendum because of their pro-union stance and were transferred now for that reason. This was categorically rejected by the Ministry of Interior, which stated that only six of these officers filed complaints on “social grounds”. The issue was also the subject of an extraordinary session of the Parliament’s security committee which was called at the opposition’s request. The PzP claimed that its mayoral candidate in Bar was dismissed from his working position in the Port of Bar for political reasons. The EOM is following up on this issue.

Women remain underrepresented among candidates. The 109 women on the lists account for 14.6 per cent of all candidates. Their share on individual lists ranges from 3.7 per cent on the list of the Albanian Alternative to 25.9 per cent on the LP–BP list. Some parties such as the Liberals

and the SDP appear to have met their pledge to have at least 30 per cent female candidates, but the lists of the coalitions that they are part of have an overall lower percentage.

The Media

Some 70 broadcast media and a number of print media, including four daily newspapers, are currently operating in Montenegro. While not all broadcast media provide coverage of political events, citizens have access to relevant information through public broadcast media, especially the RTCG, and through some private TV and radio channels.

The legal framework of the campaign in the media is governed by the Election Law, which provides citizens with the right to be informed about candidates' activities and programs through the media. Contestants are entitled to equal access to public media to inform voters about their electoral programs and activities. If media provide space for paid campaigning and advertising, they are to offer the same conditions to all contestants and clearly mark such material as paid.

Although provisions of the Election Law and the Broadcast Law oblige RTCG to provide equal coverage of all political contestants during the campaign, the rules for campaign coverage adopted by RTCG on 27 July are not consistent with this requirement. With regards to contestants' access to the twelve scheduled debates on RTCG radio and TV channels, as well as special coverage of public appearances of contestants, the RTCG rules favor parties with stronger representation in Parliament over other parties, providing the least amount of access to non-parliamentary parties. On 24 August, RTCG told the EOM that it would provide each competitor with additional time and would also provide more coverage of public events of non-parliamentary parties than envisaged in its rules.

Since 10 August, the EOM has been conducting qualitative and quantitative analyses of primetime broadcasts of six TV stations – public television TVCG1, and private TV channels Elmag, IN, MBC, Montena and Pink M. In addition, four newspapers – privately owned *Dan*, *Republika*, and *Vijesti* as well as the state-owned daily *Pobjeda* – are being monitored.

Media coverage of election-related developments during the reporting period was limited, reflecting the generally low-key campaign. Election-related and political issues received up to 7 per cent of coverage in the primetime broadcasts of televisions IN, MBC and Montena, and up to 12 per cent on TVCG1 and TV Elmag. TVCG aired the first televised debate among a group of contestants on 21 August. Representatives of some parties were addressing campaign issues within regular current affairs and debate programs on private TV channels. While the media provide contestants with an opportunity of paid campaign, parties have yet to make use of paid time and space in the media, with the exception of PzP, which had extensive paid broadcasts on TV Elmag starting on 10 August.

Domestic Observers

At least three domestic non-partisan observer organizations – the Center for Democratic Transition (CDT), the Center for Election Monitoring (CEMI), and the Center for Democracy and Human Rights (CEDEM) – will provide comprehensive monitoring of the election process, including long-term observation, deployment of observers to almost every polling station on election day, media and campaign-financing monitoring, and a parallel vote tabulation.

CDT, supported by the National Democratic Institute for International Affairs (NDI), drafted a Code of Conduct, which obliges parties to a fair and democratic competition in the campaign; most parties participating in the elections signed the code on 23 August.

EOM Activities

The EOM opened its office in Podgorica on 9 August. The Head of Mission has met with the Prime Minister, the Speaker of Parliament, the Minister of Foreign Affairs, the President of the Republic Election Commission and other officials. The EOM has established regular contact with the Ministry of Foreign Affairs, the Republic Election Commission, the diplomatic community, and the main political parties. The EOM has conducted initial meetings with political parties, civil society, election commissions, the media, and other interlocutors. A briefing for representatives of the diplomatic community and international organizations accredited in the Republic of Montenegro was held on 24 August.