

**INTERIM REPORT**  
**7 – 26 March 2018**

**29 March 2018**

**I. EXECUTIVE SUMMARY**

- The presidential election was called for 15 April by the president of parliament. The president is elected in a single nationwide constituency for a five-year term. If no candidate wins an absolute majority in the first round, a second round between the top two candidates is held within two weeks.
- In December 2017, the legal framework was amended addressing some previous ODIHR recommendations. The changes introduced further measures to protect the privacy of voters' data and additional obligations to report on campaign finance and to disclose sponsors of campaign in the media. However, a number of amendments to address other ODIHR recommendations were not passed as they did not secure the required two-thirds majority in the parliament.
- The election is administered by the State Election Commission (SEC), 23 Municipal Election Commissions (MECs) and 1,214 Polling Boards (PBs). The SEC and MECs are permanent bodies with a four-year term, while the PBs are appointed for each election. So far, the SEC has met the legal deadlines. Sessions of the SEC are open for observers but not to the media. The SEC publishes regulations but not its decisions and minutes on its website.
- Citizens who turn 18 by election day, have a registered residence in the country for at least 24 months before election day and with a valid identification document are allowed to vote unless they have been declared legally incapacitated by a court. The voter list is permanent and maintained by the Ministry of Interior (MoI). Citizens can check their data on the MoI website or in person at the municipal branch offices of the MoI and make requests for corrections. Political parties and accredited citizen observer groups have the right to inspect the voter lists upon request.
- Voters with residence in the country for at least 10 of the last 15 years are eligible to stand. Political parties and citizens' groups can nominate candidates and are required to collect supporting signatures from at least 1.5 per cent of the total number of voters. Each voter may only sign in support of one candidate. Seven candidates were registered, including, for the first time, a female candidate. On 12 March, after the registration of three candidates, the SEC introduced an online application for voters to check if their name appeared on signature lists. A significant number of citizens found their names on the lists for those who they had not signed for.
- The election law does not specify a date for the beginning of the campaign and candidates can start campaigning once registered. The campaign ends 24 hours before election day. So far, the electoral campaign was barely visible. Most ODIHR EOM interlocutors expect a low-cost campaign conducted through traditional and social media, as well as billboards, rallies and door-to-door canvassing.
- The Agency for the Prevention of Corruption supervises campaign finance obligations by candidates and initiates sanctioning for breaches. Reports on donations are submitted every 15 days during the campaign; an interim report on campaign expenses is filed five days prior to election day and final reports on income and expenses must be submitted within 30 days after election day.
- Voters, candidates, and those who nominate candidates may file complaints to the responsible election commission, with the Constitutional Court being the final appellate instance. After the SEC launched the application for signature verification, 837 complaints alleging forgery of voters'

signatures and misuse of personal data were filed. The Basic State Prosecutor's office in Podgorica initiated criminal investigations concerning these complaints.

- The media sector is diverse, yet marked by political polarization. In accordance with the election law, the public broadcaster provides candidates with free airtime and organizes debates. The Agency for Electronic Media (AEM) monitors media compliance with legal provisions. The AEM can issue warnings and temporarily or permanently suspend licenses; however, it lacks the authority to impose financial sanctions.

## II. INTRODUCTION

Following an invitation from the Montenegrin authorities, and based on the recommendation of a Needs Assessment Mission conducted from 15 to 19 January 2018, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 7 March to observe the 15 April presidential election.<sup>1</sup> The EOM, headed by Tana de Zulueta, consists of an 11-member core team based in Podgorica and 16 long-term observers deployed throughout the country on 14 March. Mission members come from 14 OSCE participating States. Participating States have been requested to second 100 short-term observers to observe election day procedures.

## III. BACKGROUND AND POLITICAL CONTEXT

On 19 January 2018, the president of parliament called the presidential elections for 15 April. This presidential election will be the third since independence. The incumbent president, Filip Vujanović, who has been in office since 2003, cannot run for re-election.<sup>2</sup>

In the most recent 2016 parliamentary elections, the Democratic Party of Socialists (DPS) won 36 out of 81 seats.<sup>3</sup> With the support of the Social Democrats of Montenegro (SD) and three parties representing ethnic minorities, DPS continued to have the majority in parliament, which it has enjoyed since 1991.<sup>4</sup> Immediately after the elections, the parliamentary majority elected Duško Marković as the Prime Minister, while Milo Đukanović retained his position as president of DPS.

Following the 2016 parliamentary elections opposition parties refused to accept the results and initiated a parliamentary boycott.<sup>5</sup> The leaders of the main opposition coalition, Democratic Front (DF), are currently facing criminal charges for their alleged participation in a failed coup attempt on the eve of the parliamentary elections.<sup>6</sup> Montenegro joined NATO on 5 June 2017, which triggered street protests from some of the opposition forces.

After the calling of the election, opposition parties held negotiations aimed at reaching a consensus on a joint presidential candidate. Notwithstanding the calls for unity, the SDP and UCG left the talks and announced their own candidates. On 9 March, DF, DCG, URA and SNP agreed to support a joint candidate.

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

<sup>2</sup> The Constitution provides that the same person may be elected maximum of two times.

<sup>3</sup> Nineteen members of parliament are women.

<sup>4</sup> The SD 2 seats, Bosniak Party 2 seats, Albanians Determined 1 seat and Croatian Civil Initiative 1 seat.

<sup>5</sup> Democratic Front (DF), Democratic Montenegro (DCG), Social Democratic Party (SDP), Socialist People's Party (SNP), Demos, and United Reform Action (URA), with 39 seats supported the boycott. In December 2017, 20 members from DF and the newly created United Montenegro (UCG) – a split from Demos – returned to the parliament although they do not participate in the legislative process.

<sup>6</sup> The trial against Mandić and Knežević commenced in July 2017 and is still ongoing. They have been indicted along with thirteen other persons, including two Russian nationals, on charges that include "conspiracy against the constitutional order and the security of Montenegro" and an "attempted terrorist act." On 20 March 2018, Knežević voluntarily went to prison to serve a four-month sentence for attacking a police officer during the anti-government demonstrations in 2015.

#### IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The president is elected directly from a single nationwide constituency. If no candidate receives more than 50 per cent of the valid votes cast in the first round, the two candidates who received the highest number of votes compete in the second round two weeks later. The candidate who receives the majority of votes in the second round wins the election.

The legal framework for the presidential election consists of the Constitution, the Law on Election of Councillors and Representatives (election law), the Law on Election of the President (LEP), the Law on the Voter Register and other relevant legislation.<sup>7</sup> In addition, the SEC issues instructions and decisions to clarify specific aspects of the electoral process.<sup>8</sup>

After the 2016 parliamentary elections and based on ODIHR recommendations, the Law on Voter Register, the Law on Financing of Political Entities and Election Campaigns and the Law on Electronic Media were amended in December 2017. The changes introduced further measures to protect the privacy of voters by imposing restrictions on the right of parties and civil society organizations to access and copy personal data from the electoral register, as well as additional obligations to report on campaign finance and to disclose sponsors of campaign advertisement in the media. However, a number of amendments to address other ODIHR recommendations were not passed as they did not secure the required two-thirds majority in the parliament.

#### V. ELECTION ADMINISTRATION

The election is conducted by a three-tier election administration, comprising the State Election Commission (SEC), 23 Municipal Election Commissions (MECs) and some 1,214 Polling Boards (PBs). The SEC and MECs are permanent bodies with a four-year term while the PBs are appointed for each election.

The chairperson and 10 members of the SEC are appointed by the parliament, while the chairpersons and four members of the MECs are appointed by municipal assemblies.<sup>9</sup> Two SEC members and six MEC chairpersons are women. Presidential candidates have the right to nominate authorized representatives to all levels of the election administration 20 days before election day. These representatives have the right to participate in the work and decision-making of the commissions. The PBs are formed 10 days before election day and are composed of a chairperson and four members nominated by the political parties; the parties can replace their PB members until 12 hours before the opening of polling.<sup>10</sup>

So far, the SEC has met legal deadlines. Despite a previous ODIHR recommendation and while open to the observers, sessions of the SEC remain closed to the media. The SEC publishes regulations but not its decisions and minutes on its website. The SEC organized training on election day procedures for trainers and educators who will, in turn, train the PBs members. In addition, a voter information campaign is planned closer to election day.

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<sup>7</sup> This includes the Law on Financing of Political Entities and Election Campaigns, the Law on Political Parties, the Law on Public Assemblies and Public Events and laws on media.

<sup>8</sup> The SEC published 12 instructions related to this election regulating candidate nomination, collection of supporting signatures, rules on polling stations, election materials, mobile voting, established forms templates, and issued the code of ethics for the election administration. Crucially, procedures related to resolution of complaints and tabulation of results, remain thus far unaddressed.

<sup>9</sup> The majority and the opposition in the parliament each propose four SEC members, the minority representative who won the highest number of votes in the previous elections proposes one member and one member is a representative from the civil society. The position for the representative of civil society has been vacant since November 2016.

<sup>10</sup> The majority and opposition parties in the municipal assemblies each appoint two PB members and the chairperson positions are split proportionally to the seats held in the municipal assemblies.

## VI. VOTER REGISTRATION

Voter registration is passive. Voter register is permanent and is centrally maintained by the Ministry of Interior (MoI) based on information from four different registers.<sup>11</sup> The total number of voters on the preliminary list is 533,089. Citizens who turn 18 by election day have the right to vote, except for those declared legally incapacitated by a court decision. In addition, only persons with a registered residence in the country for no less than 24 months before election day and who possess a valid identification card or biometric passport are allowed to vote.

Public scrutiny of the voter list started on 21 January and will end on 31 March. During this period, citizens can check their data on the MoI website or in person at the municipal branch offices of the MoI and make requests for corrections.<sup>12</sup> Political parties and accredited citizen observer groups have the right to inspect the voter lists at the office of the MoI upon request.<sup>13</sup> The voter list is closed 10 days before election day and the SEC then announces the figures for the final voter lists.

## VII. CANDIDATE REGISTRATION

Voters with residence in the country for at least 10 of the last 15 years are eligible to stand. Political parties and citizens' groups can nominate presidential candidates. They are required to collect supporting signatures from at least 1.5 per cent of the total number of voters.<sup>14</sup> Each voter may only sign in support of one presidential candidate. Signatures that appeared on more than one candidate list were considered valid for the list that was submitted first.

The candidate registration process started on 19 January. On 12 March, the SEC introduced an online application for voters to check if their name appeared on any of the submitted signature support lists. Even though the intention of the SEC was to improve the transparency of the process, a number of media and some already registered candidates criticized the SEC.<sup>15</sup>

On 16 March, a candidate requested the SEC to provide him with the decision on development and use of the application. The SEC rejected the request. Despite a public announcement by the SEC, there was no written decision or instructions on the use of the application, and the initial verbal instruction of the SEC was to enter into the database only the number of signatures collected. Later, on 23 March, SEC decided to enter all of the names submitted by each candidate into the signature database. The candidate registration process ended on 26 March when the SEC registered seven candidates.<sup>16</sup>

## VIII. CAMPAIGN ENVIRONMENT

The election law does not specify a date for the beginning of the campaign and candidates can start campaigning once registered. The campaign ends 24 hours before election day. So far, the electoral campaign was barely visible.

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<sup>11</sup> Registers for citizenship, residence, birth and death register.

<sup>12</sup> Individuals or their authorized representatives can submit requests for corrections.

<sup>13</sup> Four organizations have been accredited to observe by the SEC: Centre for Monitoring and Research (CEMI), (Centre for Democratic Transition) CDT, Network for Affirmation of NGO Sector (MANS) and a women's organization Fenix from Berane. Two have requested insight into the voter register: CDT and MANS.

<sup>14</sup> For this election, the number is 7,933 based on the number of voters in the 2016 parliamentary elections. Two or more political parties may nominate a joint candidate.

<sup>15</sup> The application was introduced after three candidates had already been registered which led to complaints that this distorted the playing field.

<sup>16</sup> Vasilije Miličković, nominated by a Citizen Action Group; Hazbija Kalač, nominated by the Party of Justice and Reconciliation (SPP); Marko Milačić, nominated by True Montenegro (PCG); Draginja Vuksanović, nominated by SDP, the first female presidential candidate; Dobrilo Dedeić, nominated by Serb Coalition; Milo Đukanović, nominated by DPS; and Mladen Bojanić, nominated by DF, DCG, URA, SNP.

Most ODIHR EOM interlocutors expect a low-cost campaign conducted through traditional and social media, as well as billboards, rallies and door-to-door canvassing. Candidates have informed the ODIHR EOM that the campaign messages will focus on such issues as anti-corruption, unemployment and emigration. Topics of the European Union accession process and NATO membership are also expected to feature in the campaign.

## IX. CAMPAIGN FINANCE

The Law on Financing of Political Entities and Election Campaigns provides for public and private financing of electoral campaigns.<sup>17</sup> Candidates can receive monetary and in-kind private donations from individuals and legal entities.<sup>18</sup> Contributions from anonymous, foreign and state-funded sources are forbidden. Candidates must open a dedicated bank account for campaign.<sup>19</sup>

The Agency for the Prevention of Corruption (APC) is tasked with the overall supervision of campaign finance regulations. In particular, it monitors reporting by candidates and initiates court proceedings for breaches. All candidates must report on their personal finances, including income and property, within 15 days of being registered. Reports on donations are submitted every 15 days during the election campaign and an interim report on election campaign expenses is filed five days prior to election day. Final reports on income and expenses must be submitted within 30 days of election day. The APC has developed reporting templates and must publish all reports on its website. Political actors are generally aware of their campaign finance reporting obligations. However, as of 26 March, only three candidates have submitted their report on donations, as mandated by the law.

## X. MEDIA

The media sector is diverse, yet marked by political polarization. Despite a small advertising market, there are many media outlets. Television remains the most important source of news. Internet usage is growing and online media has overtaken print media.<sup>20</sup>

The public broadcaster (*RTCG*) is funded from the state budget and runs three TV channels and two radio stations.<sup>21</sup> At the end of 2017, the parliament dismissed two members of the *RTCG* Council, due to alleged conflicts of interest, and nominated new members.<sup>22</sup> At its first meeting on 20 March, the Council replaced its president. NGOs voiced concerns that these replacements undermined the *RTCG* autonomy. The OSCE Representatives on Freedom of the Media (RFoM) underlined the importance of safeguards to the independence of the public broadcaster.<sup>23</sup>

The Constitution guarantees freedom of expression, freedom of the press, and explicitly prohibits censorship. The Criminal Code forbids hate speech that causes national, racial and religious hatred,

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<sup>17</sup> Twenty per cent of the total public funding is divided by the number of candidates and is distributed before election day. The remaining 80 per cent is distributed among the candidates who received more than 3 per cent of votes, in proportion with the percentage of the votes won following the publication of election results.

<sup>18</sup> The limit for contributions from individuals is EUR 2,000, from legal entities EUR 10,000.

<sup>19</sup> The law does not determine the deadline for opening the account.

<sup>20</sup> According to [CISR-IPSOS public opinion poll of October 2017](#), 46 per cent of respondents considered TV the dominant source of social and political news, 22 per cent online media, and 10 per cent newspapers.

<sup>21</sup> In addition to *RTCG*, the Agency for Electronic Media lists 17 local public broadcasters funded by municipalities, 13 private TV stations, and 35 private radio stations.

<sup>22</sup> The parliament dismissed the two members on 23 November and 29 December, respectively, upon proposals of the Administrative Committee based on findings of the Agency for Prevention of Corruption. Both dismissed members appealed their dismissals to the Constitutional Court.

<sup>23</sup> [On 7 February 2018, the OSCE RFoM stated](#) that “the *RTCG* has the responsibility to cover issues of public interest, to ensure that all voices can be heard fairly, and therefore it needs to remain free from any kind of political pressure.”

divisions and intolerance. Recent amendments to the Electronic Media Law mandated broadcasters to indicate the sponsors of political advertisements and task the Agency for Electronic Media (AEM) to cease the broadcasting of prohibited advertisements.<sup>24</sup>

Under the election law, voters have the right to be informed about political platforms of all candidates. The law also tasks the media with implementing the principle of equality for all contestants. The public broadcaster must offer free airtime to candidates on an equal basis and organize debates. According to its rules approved on 31 January, *RTCG* will provide each candidate with a 60-minutes interview, two daily 180-seconds reports on campaign activities, and up to 200-seconds of free advertisements. Paid political advertising is allowed on equal conditions and should be clearly marked as paid, while negative ads are banned. Opinion polls can be published until 15 days prior to the election.

The AEM and an ad hoc parliamentary committee are mandated to monitor compliance of the media with legal provisions. Despite the 29 January legal deadline for its establishment, the parliamentary committee has yet to be created.<sup>25</sup> On 26 January, the AEM issued a rulebook on the rights and obligations of broadcasters during the presidential campaign. Candidates may lodge media-related complaints to broadcasters, and a response is required within 24 hours. Appeals against broadcasters' decisions can be filed with the AEM, which, in turn, has a 24-hours response deadline. The AEM voiced concern to the ODIHR EOM over the short deadline for adjudicating complaints. The AEM can issue warnings and temporarily or permanently suspend licenses; however, it lacks the authority to impose financial sanctions.

On 12 March, the ODIHR EOM commenced its media monitoring of media outlets with quantitative and qualitative analysis of their election-related coverage.<sup>26</sup> Ahead of the candidate registration deadline the media mainly covered inter-party discussions on candidate selection. *RTCG* has aired free advertisements for four candidates to date.<sup>27</sup>

## XI. COMPLAINTS AND APPEALS

Voters, candidates, and the entities who nominate candidates may file complaints to the relevant election commission, with the Constitutional Court being the final instance for election related complaints.<sup>28</sup> The applicant has 72 hours to file a complaint or appeal a decision, the relevant election commission has 24 hours to issue a decision, and the Constitutional Court has 48 hours to decide on appeals.

After the SEC launched the online application for signature verification, voters have filed over 830 complaints alleging signature forgery or misuse of personal data in the signature support lists.<sup>29</sup> Some voters filed requests to delete their personal data from the SEC database or to withdraw their signatures

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<sup>24</sup> According to the Electronic Media Law prohibited ads include those that discredit or disparage competitors, their products or services, prejudice respect for human dignity, promote discrimination based on sex, race, ethnic origin, religion or belief disability, age or sexual orientation etc.

<sup>25</sup> According to the election law, a parliamentary committee composed of 10 members, equally distributed among majority and opposition groups in the Parliament, shall be established no later than 10 days after the election is called.

<sup>26</sup> The sample includes five television channels (*RTCG 1, Atlas Tv, Pink M Tv, Prva Tv, and Vijesti Tv*), monitored daily between 18:00 to 24:00 hours, and four newspapers (*Dan, Dnevne Novine, Pobjeda, and Vijesti*); ODIHR EOM also follows election-related coverage by two online media (*cdm.me* and *portalanalitika.me*).

<sup>27</sup> Vasilije Miličković, Marko Milačić, Draginja Vuksanovic, and Hazbija Kalac.

<sup>28</sup> Polling board decisions are appealed to MECs, MEC decisions are appealed to the SEC, and the Constitutional Court reviews SEC decisions. Voter registration complaints are submitted to the Ministry of Interior and appealed to the Administrative Court.

<sup>29</sup> As of 22 March 2018, 786 cases were registered by the Basic State Prosecutor's office in Podgorica and 51 complaints were received by police and the Prosecutor's offices in other municipalities. All complaints will be forwarded to the Basic State Prosecutor's office in Podgorica who informed the ODIHR EOM that the added caseload was putting a strain on their already limited resources.

as they expressed concern that the application could be used by employers or political parties to identify the candidate they were supporting. The SEC answered that they had no competence under the law to remove a voter's signature from the support lists and forwarded the complaints to the Basic State Prosecutor's Office in Podgorica.<sup>30</sup>

The Basic State Prosecutor's Office initiated criminal proceedings with regard to these complaints and launched preliminary investigations.<sup>31</sup> As the signature template does not provide for the identification of the persons responsible for signature collection, the prosecutors could not identify who committed the alleged forgery. It is expected that forensic expertise will be conducted on all allegedly forged signatures on a case-by-case basis.

## **XII. ELECTION OBSERVATION**

There are three major citizen observation organizations in Montenegro. The Centre for Monitoring and Research (CeMI) and the Centre for Democratic Transition (CDT) are observing the work of the SEC. They will also deploy observers to follow the work of the MECs and observe at the polling stations on election day. In addition, both organizations plan to conduct parallel vote tabulation (PVT) on election day. Another civil society group, Network for Affirmation of NGO Sector (MANS), is focusing on monitoring campaign finance.

## **XIII. ODIHR EOM ACTIVITIES**

The ODIHR EOM opened in Podgorica with a press conference on 7 March. The Head of Mission met with the Ministry of Foreign Affairs, the current President, the Prime Minister, the President of Parliament, the SEC, the Constitutional Court, as well as presidential candidates, representatives of political parties, NGOs, media and the resident diplomatic community. The Parliamentary Assembly of the Council of Europe and the European Parliament have announced that they will deploy observer delegations for election day observation.

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

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<sup>30</sup> The SEC and the Agency for Personal Data Protection and Free Access to Information issued statements claiming lack of jurisdiction over the complaints.

<sup>31</sup> The cases were qualified under Article 412 *Falsification of Document* of the Criminal Code.