



Office for Democratic Institutions and Human Rights

**REPUBLIC OF MONTENEGRO
FEDERAL REPUBLIC OF YUGOSLAVIA**

**PARLIAMENTARY ELECTION
22 April 2001**

OSCE/ODIHR Election Observation Mission Report



**Warsaw
12 June 2001**

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OSCE/ODIHR Election Observation Mission Report¹

I. EXECUTIVE SUMMARY

The early election to the National Assembly of the Republic of Montenegro, Federal Republic of Yugoslavia, held on 22 April 2001 was conducted generally **in accordance with OSCE commitments** for democratic elections and the Council of Europe standards.

The **early Assembly election** was precipitated by the withdrawal of one of the parties from the governing parliamentary coalition elected in 1998, leaving the remaining coalition partners without a majority in the Assembly. The coalition split over Montenegro's future within the Federal Republic of Yugoslavia, an issue that also dominated the election campaign.

An important element contributing to the generally positive assessment of this election was the **broad participation** of political parties and coalitions in the process, including parties representing national minority interests. In addition, a large **variety of media** provided voters access to a broad range of information and opinions to make an informed choice.

The **legislative framework** provided a satisfactory base for democratic elections, including an inclusive representation of political parties and coalitions on **election commissions** at all levels, and a broad access for non-partisan **domestic election observer** organisations. Moreover, the **voter registers** were considerably improved over past elections, providing political parties and citizens an exceptional level of access to and scrutiny of the registers.

On **election day**, 82% of eligible voters participated in the event, indicating a high level of confidence in the democratic process. This level of confidence was matched by the international observers' overall positive assessment of election day and the transparent process for the vote count and tabulation of results.

While noting the overall strengths in the electoral environment, the following **shortcomings** were also observed:

- undemocratic control of elected mandates by political parties;
- insufficient transparency for the allocation of five Assembly seats reserved for specially designated polling stations serving the Albanian minority;
- questionable interpretation of laws relating to the composition of municipal election commissions and polling boards in some municipalities; and
- evidence of pressure on State employees and involvement of police in the campaign.

¹ This report is also available in the Serbian language, but the English text remains the only official version.

In view of the findings, the OSCE/ODIHR makes the following **key recommendations** that should be considered prior to any future electoral event:

- the electoral legislation should be amended to repeal provisions that give political parties control over elected mandates;
- undue influence on government employees during elections must be curtailed, penalties for violations detailed, and an appropriate code of conduct for police defined and fully enforced;
- the remaining small number of errors on voter registers should be corrected; and
- the electoral legislation should be amended to remedy other concerns detailed in this report.

The OSCE/ODIHR stands ready to continue the long-standing dialogue with the authorities and civil society of the Republic of Montenegro with a view to further improving the electoral process.

II. INTRODUCTION

On 28 March 2001, the Office for Democratic Institutions and Human Rights (OSCE/ODIHR) opened an Election Observation Mission (EOM) for the early election of Representatives to the Assembly of the Republic of Montenegro, Federal Republic of Yugoslavia, held on 22 April. The EOM was headed by Mr. Nikolai Vulchanov (Bulgaria) and supported by six international experts based in Podgorica, and 10 long-term observers (LTOs) from nine participating States. LTOs were deployed in teams of two to five regions - Podgorica, Herceg Novi, Niksic, Mojkovac and Berane - to observe the pre-election campaign period and administrative preparations leading to election day.

For election day, an International Election Observation Mission (IEOM) was established. The IEOM was a joint effort of the OSCE/ODIHR, the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe, and its Congress of Local and Regional Authorities in Europe. Mr. Tiit Kabin, Vice President of the OSCE PA, was appointed by the OSCE Chairman-in-Office as the Special Co-ordinator for the Election Observation Mission in Montenegro to lead the OSCE short-term observers. Mr. Claude Frey lead the Parliamentary Assembly of the Council of Europe delegation, and Mr. Tomas Jirsa headed the Congress of Local and Regional Authorities' delegation.

The observation of polling and vote counting processes involved the deployment of 58 Parliamentarians and 174 short-term observers who reported their findings based on visits to 738 (67.7%) of the total of 1,090 polling stations across all of the Republic's 21 Municipalities.

III. POLITICAL BACKGROUND

The early Assembly election was precipitated by the withdrawal of the People's Party (NS) from the governing parliamentary coalition elected in 1998. The withdrawal of the NS left the coalition partners, the Democratic Party of Socialists of Montenegro (DPS) and the Social Democratic Party (SDP), without a majority in the Assembly.

The NS withdrew as a result of its rejection of a new platform adopted by DPS and SDP, calling for a redefinition of Montenegro's relationship with the Republic of Serbia as a union of two independent and internationally recognised States. The NS rejected the platform in

favour of a reformed federation. The Assembly was dissolved in February 2001, followed by a call for new elections. Thus, the future status of Montenegro dominated the election campaign.

A total of 16 parties and coalitions registered candidate lists. The major contestants in this election were the following pro-independence and pro-federation blocks respectively: (1) the “Victory for Montenegro” coalition of the DPS and SDP; and (2) the “Together for Yugoslavia” coalition of the NS, the Socialist People’s Party (SNP) and the Serbian People’s Party (SNS). Individually registered parties took a more radical stance on each side of the pro-independence/pro-federation divide, shadowing the coalitions. The Liberal Alliance (LSCG) was committed to unqualified independence while the newly formed People’s Socialist Party (NSS), an offshoot of the SNP representing former Prime Minister of FRY Momir Bulatovic, was strongly pro-federation.

Contestants representing national minority interests included the Bosniak-Muslim Democratic Coalition of Montenegro, made up of the Party of Democratic Action (SDA), the International Democratic Union (IDU) and the Party of National Equality (SNR). Albanian parties running individually were the Democratic Union of Albanians (DUA), the Party for Democratic Prosperity (PDP), and the Democratic Alliance in Montenegro (DSCG).

IV. LEGISLATIVE FRAMEWORK

The legislative framework for these elections consisted of the Constitution, the Election Law (hereinafter “the law”), the Law on the Register of Electors (amended 2000), and other laws of the Republic of Montenegro. Shortly before the Parliament was dissolved, the Election Law was amended to introduce provisions for the election of five seats in special polling stations, serving Albanian minority voters.² In general, the legislative framework provides a satisfactory base for democratic elections.

A. ELECTION ADMINISTRATION STRUCTURES

The administration of elections is decentralised with no single authority ultimately responsible for the co-ordination and conduct of the election and voter registration processes. A hierarchy of election commissions and polling boards is provided for, with a linear chain of command authorising the Republic Election Commission (REC) to “co-ordinate and supervise” the work of Municipal Election Commissions (MEC), which in turn, appointed and supervised the Polling Boards. The Republican Election Commission and Municipal Election Commissions are appointed for a term of four years providing the potential for continuity in the administration of the elections. The two opposition parties earning the most votes in the previous election have their members in the permanent composition of the election commissions and boards. The law requires that “permanent” members of the commissions and boards must be graduate lawyers whilst submitters of electoral lists may each have their representative on the “extended” composition of each commission during the election period. Such political balance is intended to safeguard transparency and ensure overall neutrality and fairness in the administration of the elections.

However, a conflicting legal provision stipulates that “bodies administering the election shall be responsible for their work to the body that appointed them”. As Municipal Election

² The establishment of special polling stations was originally introduced as a temporary measure in the 1998 elections.

Commissions are appointed by the Municipal Councils, participation of political parties in the municipal commissions and boards has, in a number of cases, been interpreted to mean membership based on the political balance within the Municipal Councils. The split in the former ruling coalition also had its effect on some Councils. In response to shifts in political will since the elections in 1998, some Councils side-stepped the law by prematurely interrupting the four-year terms of commission members to reappoint members along new political lines. Where such strategies have occurred, even minor issues or practical matters have been decided along political lines with political minority members overruled on every issue. Such politicising of election commissions jeopardises the very safeguards set in place by the law. The REC was reluctant to intervene claiming no authority over Municipal Councils. However, when the MEC was not approved by the Municipal Council in Plav, the REC took over its functions.

Another issue that may warrant reconsideration in the legal framework is the failure of the law to distinguish between the rights and responsibilities of permanent members and party or coalition representatives making up the extended membership of MECs and Polling Boards, including clarification as to who is authorised to submit issues for discussion or to demand a vote of the commission.

B. CERTIFICATION OF ELECTORAL LISTS AND FORMATION OF COALITIONS

Every party or coalition that submitted an electoral list was successfully certified to appear on the ballot. In three cases, the applications were returned for corrections by the REC and accepted after the deficiencies were removed.³

The law provides an avenue for registered parties to join together in a coalition for the purposes of submitting a joint electoral list. However, the law does not provide any guidance regarding the status of coalition partners during the campaign in terms of their media access, funding and expenditures, or conditions and subsequent rules which are to be applied when a coalition ceases to exist. For example, having filed as a coalition, each party within a coalition retains its individual identity for campaign purposes, including receipt of equal funding from the government and equal airtime as parties running individually. These conditions give coalitions significant advantage over parties running alone.

C. PARTY CONTROL OVER ELECTED MANDATES

The OSCE/ODIHR continues to be concerned about legal provisions for allocating and terminating the mandates of elected representatives. The Election Law stipulates that half the seats won by a party will be allocated to the first names on the candidate list and the remainder will be subject to a decision of the electoral list submitter. The practice misleads voters and reduces their ability to choose candidates.

³ The Bosniak Democratic Party of the Sandjak was rejected registration as a party by the Ministry of Justice (MOJ). Registration is a requirement for submission of an electoral list. Despite two successful appeals to the Supreme Court over the past year, the application for registration continues to be rejected in a legal battle between the Supreme Court and the MOJ. The MOJ argues that the party does not meet the requirements of law since their membership includes individuals outside the territory of Montenegro, and their program and activities would cover the Sandjak which extends into Serbia. Claiming a lack of clarity in the Court's order, the MOJ has not acted on the direction to register the party, thereby retaining the agency's legal recourse to appeal the Court's decision to the plenary session of the Supreme Court. In the meantime, the party has not been allowed to participate in elections.

The Election Law also provides that the term of office for an elected representative shall be prematurely terminated if he/she ceases to be a member of the political party on whose electoral list he/she was elected. This provision is triggered regardless of whether the loss of party membership is voluntary through resignation or follows expulsion from the party. This provision conflicts with Article 77 of the Constitution of the Republic of Montenegro, which stipulates: "Every deputy shall vote according to his own beliefs and may not be recalled". Furthermore, this provision contradicts the commitment formulated in paragraph 7.9 of the 1990 OSCE Copenhagen Document: "candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures".

In general, these provisions of the law make elected representatives less accountable to voters. Moreover, party discretion over one half of the seats won, and post-election control over a mandate, contradict transparency standards normally associated with democratic systems. The OSCE/ODIHR has repeatedly brought these issues to the attention of the authorities and the political parties in Montenegro for revision, but to no avail.

V. SYSTEM OF REPRESENTATION

The Republic of Montenegro Assembly is elected according to a system of proportional representation. The law stipulates that one representative is to be elected for every 6,000 voters. For these elections, 77 representatives were elected. In order to participate in the allocation of seats, an electoral list must gain at least 3% of the votes cast.

A. DESIGNATION OF SPECIAL POLLING STATIONS

The law provides that the Republic of Montenegro is a single electoral constituency, with the exception that five seats are elected by the voters at special polling stations, designated by the Assembly. For the 2001 election, the Assembly designated 70 special polling stations serving the Albanian minority, estimated at about 7% of the population. The five seats allocated also represent close to 7% of the total number of seats in the Assembly. The ballot for the Republic-wide "at large constituency" and the minority "sub-constituency" are identical in content, except that in the latter, each ballot paper includes text in both the Serbian and Albanian languages. Voters at the special polling stations are free to choose between ethnically based parties and coalitions or mainstream parties.

B. ALLOCATION OF SEATS

The REC, with technical assistance from the Secretariat for Development, determines both in the "at large constituency" and in the "sub-constituency", which electoral lists meet the 3% threshold. If a party or coalition passes the 3% threshold for the five seats, but not among the votes cast in all other polling stations, the votes for lists falling short of the threshold are transferred and added to that list's votes in the grouping where the 3% threshold was surpassed. This rule applies in either direction between the five seat special polling station votes and votes cast at all other polling stations for the 72 seats. If the electoral list does not meet the 3% threshold in either group, no votes are transferred; nor is that electoral list considered for the allocation of seats in either case. If an electoral list meets the 3% threshold in both, no votes are transferred but that electoral list is considered in the allocation of seats in both groupings.

Once calculations are made to determine which electoral lists are eligible to participate in the allocation, the mandates are distributed using the d'Hondt formula.

C. LACK OF TRANSPARENCY IN THE ALLOCATION OF SEATS

The Law describing seat allocation is not clear, and is thus vulnerable to varying interpretations. First, one provision of the law dictates that the Republic is a single constituency, while other provisions create the basis for *de facto* two constituencies in the form of a “sub-constituency”. OSCE/ODIHR urged the REC to adopt formal guidelines before election day, clarifying how the vague provisions of the law would be implemented. However, the REC did not take such measures.

OSCE/ODIHR also stressed its concern about the lack of transparency in this process. The list of candidates selected to fill the mandates in the “sub-constituency” is not published separately. This omission should be rectified.

VI. VOTER REGISTERS

The right to vote or to be elected is guaranteed to citizens of the Republic of Montenegro who have attained the age of 18 by election day, have “business capacity” (not ruled incompetent or unable by a court), and who have been registered as a permanent resident within the territory of Montenegro for 24 months prior to polling day.

A person's name is added to the register on the basis of civil records of a person's permanent residence. The process of voter registration does not require specific application by the voter, although there is a public scrutiny period during which voters can confirm their inclusion on the rolls. Authorities responsible for recording births and deaths, maintaining other records on citizens, and issuing identity documents are required to transmit information from the originating municipality to other relevant municipalities in order that the information on the voter register can be updated appropriately. If a voter's name does not appear on the extract of the voter register for the polling station corresponding to his/her permanent residence, the voter is not allowed to vote.

A. DECENTRALISATION OF RESPONSIBILITY

The REC has no responsibility for the preparation of the voter registers. Duties relating to the registration of voters are shared by the Ministry of Internal Affairs (MUP), responsible for maintaining the data on the identity documents and permanent residence and Municipal Registrars who use the data from the civil status books maintained by the municipal administration. The Secretariat for Development (SFD) compiles the Republic-wide voter register by merging municipality registers. The Ministry of Justice (MOJ) supervises the work of municipal officials in updating their registers based on investigation of claims and challenges. The Supreme Court has sole authority to rule on appeals regarding the register in the final two weeks before the register is closed.

B. ROLE OF POLITICAL PARTIES IN IMPROVING THE VOTER REGISTERS

A key feature of the Law on the Register of Electors is the extraordinary level of transparency afforded to political parties. All contesting political parties receive electronic and paper copies of the Republic-wide register at a very early stage of the process, affording them full

opportunity to investigate and file claims and objections regarding individual entries, omissions or errors. In addition, parties have the right to investigate and receive copies of documents related to individual voters from the civil records maintained by municipal offices and the MUP. In the investigation process, citizens' right to privacy regarding personal data held by authorities is severely compromised. Moreover, under the law, parties may act on behalf of voters without informing them of the party's interventions.

C. COMPLAINTS REGARDING THE ACCURACY OF VOTER REGISTERS

As in prior elections, the voter registers came under political criticism, though overall, the registers have greatly improved since 1998. The EOM received over 60 formal complaints regarding the registers, the majority of which were submitted by the SNP/"Together for Yugoslavia" coalition. Most complaints were also filed with appropriate authorities. The EOM investigated these complaints with the full co-operation of the parties, municipal offices, the Ministry of Internal Affairs and the Secretariat for Development.

One of the complaints alleged that some 4,700 voter register records were duplicates. The complaint was generally unfounded. A search of individual records by the EOM in various municipalities demonstrated that, in the majority of cases, the individuals suspected of having duplicate records were in fact different persons. Thus, the number of actual duplicate records among the 4,700 suspect pairs of records submitted was around 350. The exaggerated claim was subsequently acknowledged by the complainant in a letter dated 13 April.

Another major complaint related to some 12,000 records of suspected "phantom" voters on the register. According to the complainant, in around 1,400 cases (approximately 12%) out of the 12,000 records, MUP offices could find no supporting record of individuals. The complainant contended that these represented "phantom" voters. The EOM investigated this allegation through the electronic and paper archives of MUP, and established that some of these cases were already corrected, while others remain to be addressed. The EOM also determined that sometimes the local MUP had incorrectly determined that no local record existed. When checked against the central records, some of those reported as not found in the local files, were found in the data recorded for the same municipalities.

Yet another complainant alleged that persons known to have passed away remained on the voter register. The Supreme Court rejected the complaint on the basis of insufficient evidence provided. The EOM investigated the allegation and found that the persons referenced in the complaint were not recorded as deceased in the municipal records.

The EOM received allegations that the Montenegrin Ministry of Internal Affairs had ordered 50,000 blank identification cards and these cards might be handed fraudulently to ineligible individuals. The EOM investigated the allegation exhaustively, met with the Ministry, inspected the computer system for the issuing of ID cards, verified the number of ID cards issued in prior years, and concluded that the allegation was groundless. In fact, the Ministry had received 12,000 blank ID cards, well within the limits of normal use by the Ministry. Additional allegations that counterfeit ID forms were in circulation were also extensively investigated. There was no convincing evidence to support the claims.

D. VOTERS OMITTED OR REMOVED FROM THE VOTER REGISTERS

An issue that will warrant attention before any future elections relates to voters who were omitted or deleted from the voter register. Although some instances can be attributed to the

failure of voters to scrutinise the register and take appropriate measures to ensure their names were included, a fundamental shortcoming in the methodology may have excluded others in error.

The EOM researched a limited number of voters who filed formal complaints, among them voters who had moved to Herzeg Novi or Podgorica in a period of less than 12 months prior to the early elections held in those municipalities in 2000. In the cases investigated, the voters were correctly excluded from the voter register for 2000 municipal elections since they had not been registered as municipality residents for the requisite 12 months. Unfortunately, they were not reinstated for the 2001 parliamentary elections although they had been permanent residents in Montenegro for over two years.

Another omission related in some cases to those attaining the age of 18. At least in Podgorica, the EOM received reports that the voter register from the 2000 election had been used as the basis for the registers for the 2001 election. In a few instances, the EOM found that such individuals were not entered in the register upon coming of age. Rather, officials indicated that, had voters scrutinised the list according to their legal right and applied to be added to the register, they would have been. In a passive system ostensibly built upon data contained in records maintained by the municipalities and the MUP, it is rational that people rely heavily on the assumption that authorities have taken care to ensure their presence on the list.

E. REINSTATEMENT IN THE VOTER REGISTER

Once removed from registers for any election, the only way a person can be reinstated is if he or she applies anew and submits the appropriate documents, including proof of their identity and age, place and duration of registered permanent residence, and citizenship. It should be noted that the law is silent on this issue and provides no rules as to what documents must be provided to be included on the voter register.

Authorities and the courts place the burden on the voter (or a political party) to fulfil these requirements. However, a lack of understanding of these rules by individuals as well as political parties, may have disenfranchised some voters. In one case submitted to the Supreme Court, a party appealed on behalf of 54 persons omitted from the register. The party provided copies of their Identity Documents (*licna karta*), but the court denied the appeal on the basis that the *licna karta* does not specify a person's citizenship and, therefore, could not be the sole document supporting a person's addition to the voter list.

F. ROLE OF THE SUPREME COURT

After the closure of the period when the Ministry of Justice and Municipal Registrars can affect administrative changes in the register, parties and citizens can only bring additional challenges or complaints to the Supreme Court. Municipal registrars are required to make final adjustments to the register based on the Supreme Court decision. The information entered into their databases is automatically transmitted to the Secretariat for Development so that the central database is updated accordingly and the official voter register finalised.

During the period from 28 March to 12 April, the Supreme Court ruled on 4,238 appeals involving 7,200 individuals. Some three-fourths of these appeals were satisfied.

G. CONCLUSIONS REGARDING THE VOTER REGISTERS

Based on investigation of complaints received, the EOM estimated that the number of duplicates, errors and other omissions in the entire register of 447,673 voters was below 1% and that most errors appeared to be residual from prior years.

Although significant effort was undertaken to improve the registers during the past year, errors still exist. However, the degree of accuracy of the voter register in Montenegro falls within the parameters of established democracies with similar registration systems. More significantly, the EOM found no evidence to support allegations that a deliberate attempt was made to manipulate the voter register. On the contrary, on 18 April, the Secretariat for Development published in the State newspaper *Pobjeda* a list of duplicates and other omissions remaining in the database in an attempt to prevent any possible electoral abuse. Nonetheless, errors must be remedied before any future polls in Montenegro.

The EOM concluded that the unusual degree of transparency in the scrutiny of voter register by voters and political parties has contributed significantly to the accuracy of the voter lists.⁴ However, the extraordinary transparency afforded to political parties compromises the privacy of citizens. Legitimate questions arise as to parties' right to initiate changes to the register without the knowledge or consent of voters. Particular concern exists relative to the removal of voters from the register without informing them and without granting them the opportunity to challenge the action.

The timetable provided in the laws for the submission of claims, research of documents and issuance of final decisions is too constrained to satisfy both the administrators and interested parties. According to the MUP record, 13,850 individual records were researched by political parties and an accumulated 435 hours were devoted to this purpose. In addition, copies of nearly 113,000 documents were provided in response to SNP requests while 12,148 were provided to NS. Nonetheless, parties complained that their access was limited by rules established regarding the number of hours per day they would be accommodated.

Additionally, the administrative procedures for marking the names of the deceased in the municipal records require improvement. Although the Secretariat of Development has the mandate to identify deficiencies in the register, it does not have the legal authority to direct Municipal Registrars to take steps necessary to implement corrections. This restriction on their authority should be reconsidered.

Finally, just four days prior to the election, the REC issued a non-binding recommendation to polling boards that minor typographical errors in the name or unique personal identification numbers (JMBG) in the voter register should not cause the voter to be turned away. Although the recommendation offered a practical solution to ensure that voters were not disenfranchised due to clerical error, the non-binding nature of the recommendation resulted in inconsistent practices meaning that in some polling stations such voters were allowed to vote, while at others, they were turned away.

⁴ The EOM was also granted full access to the Republic register and provided with hard copy of all polling station voter lists, which allowed EOM observers to verify whether the polling station extracts on election day corresponded with the records of the central register.

VII. PARTICIPATION OF NATIONAL MINORITIES

Montenegro has a positive record on inter-ethnic relations and the integration of national minorities in public life. Minority rights are guaranteed in the Constitution and secured in the electoral system through the designation of special polling stations. In addition to parties formed specifically to represent the interest of Albanian and Bosniak Muslim communities, both have also integrated into the main parties, particularly the DPS, as voters and to some extent as candidates. Many members of ethnic groups in Montenegro have voted for the main parties, particularly DPS rather than for national minority parties. Two seats were held by minority parties in the Parliament elected in 1998, one each by the Democratic Union of Albanians (DUA) and the Democratic Alliance of Montenegro (DSCG).

According to the census of 1991, the proportion of ethnic groups in Montenegro is as follows: 61.7% Montenegrins, 9.3% Serbs, 14.5 % Muslims, 6.5% Albanians, 8% other, including 1% Croat. The Roma population is estimated to be around 20,000 including IDPs and refugees. The Albanian population is concentrated mainly in the municipalities of Ulcinj and Bar and the Tuzi district of Podgorica, while the Bosnian Muslim population resides in the northern part of the country, particularly in the municipalities of Plav, Berane, Rozaje and Bieljo Pole.

There are three parties representing the Albanian population: the established DUA and DSCG and the newly founded Party of Democratic Prosperity (PDP). The Bosnian Muslim Democratic Coalition was established just prior to the election, and included the Party of Democratic Action of Montenegro (SDA), the International Democratic Union (IDU), and the Party for National Equality (SNR). The primary aim of the coalition was to secure representation for Bosnian Muslims in Parliament.

VIII. PARTICIPATION OF WOMEN

Approximately 51% of voters in Montenegro are women. However, representation of women in public life remains generally low in comparison to other OSCE participating States. Only four out of 78 (5.1%) members of the outgoing Parliament were women (two from DPS, one from LSCG and one from SNP). Only 32 out of the 760 members (4.2%) of Municipal Councils are women; none is headed by a woman. There were no women in the outgoing government. Of the 738 polling stations visited, only 8.2% were chaired by women and in only 5.5% women were the majority of members.

On 23 February 2001, the major political parties in Montenegro signed an agreement to increase the representation of women to 30% in the next Parliament. The agreement was the outcome of a program of sustained lobbying and training conducted by the Women in Politics Project within the framework of the Gender Task Force under the Stability Pact. The increase in women's participation was to be implemented through the assignment of women in 30% of the places on the electoral lists, and through the allocation of seats following results. The agreement was signed by the DPS, LSCG, SDP, DUA, and supported by the NS and SNP. The SDP fulfilled this commitment in their original list prior to forming a coalition and submitting a joint list with DPS. However, among the electoral lists certified for the election, most were unable to meet their commitment as examples in the following table illustrate.

Victory for Montenegro Coalition	14 women out of 77 candidates	18%
LSCG	17 women out of 74 candidates	23%
Together for Yugoslavia (SNP/NS/SNS)	2 women out of 77 candidates	2.6%
NSS (Not a signatory to the Agreement)	15 women out of 77 candidates	20%

Of those lists appearing on the ballot, only LSCG included women in approximately 30% of the top ten places on their list, commonly considered the most “electable” positions.

Although most parties and coalitions fell short of the commitment, most notably the Together for Yugoslavia Coalition, the Agreement nonetheless represents a positive step in the advancement of women in the political process. Failure to fully implement the Agreement, and low levels of women on the lists of non-signatory parties reflect the barriers faced by women and the need for sustained work in this area. The understanding of the agreement among municipal party branches was limited, as was the general recognition of the need to increase the role of women in politics. Indeed, most parties do not have specific women’s wings or organisations associated with them. References to issues related to women were largely absent from the campaign, as were attempts by parties to attract women voters.

IX. ELECTION CAMPAIGN

The campaign was characterised by a narrow focus on the central question of Montenegro’s legal status and relationship with Serbia, polarisation and lack of extensive discussion on substantive policies. The campaign period presented the first opportunity for parliamentary electoral contest over the pro-independence versus pro-Yugoslav divide. Other issues, such as the economy, tended to be discussed with reference to the Republic’s future status. Moreover, the central issue was discussed largely in principle and with reference to historical significance rather than detailed implications for economics and governance.

Generally, the campaign environment remained calm. However, campaigning was characterised by the use of negative rhetoric and exchange of allegations between the two main coalitions. These related both to the negative intentions of each side regarding Montenegro’s future status and to personal slurs directed at the leadership. The EOM noted escalation in such rhetoric during the latter stages of the campaign that reached unacceptable limits. Opposition parties alleged voter registration manipulation and expressed concerns about the potential of electoral fraud as another theme of their campaign.

The EOM also noted the extensive occurrence of defacing of campaign materials. A number of attacks on party activists on both sides were reported. Tension emerged in one municipality on the eve of the election following the arrest of an SNP member for an alleged attack on the DPS official.

Such behaviour and campaign rhetoric is counter to the principles of fair campaign practices associated with democratic elections. It is also contrary to the Rules of Conduct During the Election Campaign signed by the leadership of 10 political parties, including DPS, SNP, SDP, NS, DUA, NSS, and SNS.⁵

The issue of inter-ethnic relations also emerged during the campaign in the context of Montenegro’s future status. Opposition parties made a number of alarmist statements

⁵ The Code of Conduct was developed by the domestic election observer organization, the Center for Democratic Transition (CDT).

highlighting the possibility of ethnic fragmentation and Albanian separatism should independence gain favour. Unfortunately, as the public debate ensued, some members of the opposition made illegal statements urging Albanian and Bosniak Muslim minorities not to vote should a referendum be called due to the negative consequences for stability that could be expected if their votes constituted the decisive margin on the issue. The tone of the opposition campaign also stressed the Orthodox identity.

A. CAMPAIGN REGULATIONS AND CAMPAIGN FINANCE

On 19 February 2001, the Parliament adopted a decree regulating the election campaign and its coverage in the media. Under the election law and the decree all contestants were entitled to timely and objective coverage of their campaign. There was a two-day campaign silence period immediately prior to election day, and a seven-day blackout for opinion polls.

Free access to the Montenegrin Radio and Television (RTCG) Parliamentary Channel, special campaign broadcasts on State-owned Radio Montenegro, and to special supplements of the daily *Pobjeda* was granted to all participants on an equal basis. The length and format of various kinds of information (i.e. on rallies and other campaign events, press conferences, or announcement of upcoming events) was laid down in minute detail in the decree. In addition to free coverage, parties and coalitions could place a limited amount of paid advertisement in these media outlets. The decree limited live political programs and special broadcasts to these three State media. Temporary program councils established in each of them included representatives of the submitters of electoral lists.

According to the 1997 Law on Financing of Political Parties, all parliamentary parties and parties registered to contest the elections receive funding from the Republic budget for campaign activities. The total amount allocated for 2001 parliamentary election was 517,000 DEM, a figure decided by the Ministry of Finance based on the estimated needs for campaigning and the amount allocated for previous elections. One third of the money from the State budget was distributed equally among the parties who were represented in the outgoing Parliament if they had “declared their intention” to run in the elections. The second third was distributed among all parties and coalitions that registered electoral lists. The last third was distributed among those parties who received mandates in the elections, based on their share of the total number of seats. Parties within coalitions were allotted the same funds as parties running alone. For these elections, the non-parliamentary parties were allocated 7,500 DEM.

Generally, parties can also finance their activities from other sources as long as they do not contravene the law. The total amount of a party’s or coalition’s campaign expenditures is limited to 250 average monthly salaries. Parties are required to maintain records of campaign revenues and expenditures that can be audited by the authorities, although there is no specific campaign oversight agency or commission to monitor funding and expenditures.

As in prior elections, the release of campaign funds to the various parties and coalitions was delayed until only about a week to 10 days before the election, compromising the ability of some small parties to campaign as planned. In fact, funding for the REC was also delayed until very late in the process. Steps should be taken to ensure more timely release of State funds in the future.

B. BLURRING OF GOVERNMENT AND POLITICAL ACTIVITIES

The EOM received complaints about political pressure on government workers to secure their allegiance to the governing party. Generally, such allegations are difficult to prove, although private individuals as well as political parties expressed concerns in virtually all regions. However, in some cases related to police, such pressures were more explicit. Two police officers claimed that they were dismissed as a result of their political affiliation. Other police officers interviewed complained that their political preferences and religious affiliations have come under attack by their superiors.

Use of this kind of influence has no place in a democratic society. Such cases directly contravene the election law which emphasises the voter's right to the secrecy of vote by specifically prohibiting anyone from asking a person about his choice, why he/she did not vote or using their voting as a basis of "taking them into account".

The evidence also supports allegations that some police have actively engaged in campaign activities in support of the ruling party at the local level. In at least two confirmed instances, special police in plain clothes were involved in violent incidents against supporters of the opposition. In one case, a victim who had reportedly shouted a derogatory remark at a political rally, was assaulted by police and hospitalised. In another case, the offices of the NS in Bijelo Polje were vandalised, members of the branch were held at gunpoint, and one person was hospitalised. Calls to local police for assistance went unheeded. According to party representatives and published news reports, two of the eight officers involved were suspended from duty, although such reports could not be substantiated and these officers continued to be seen in the company of other officers in the community.

Corroborating reports from neutral sources confirmed by the EOM have indicated that plain-clothes police officers were seen at DPS rallies on more than one occasion. In addition, evidence substantiates complaints that campaign material supporting the DPS were on display in police stations in several municipalities.

The EOM also took note that political parties in the coalitions governing the specific municipalities maintained their offices in government, or government-owned buildings, but those in the opposition in those municipalities did not enjoy the same privileges. Thus, the DPS and SDP have their party offices in government buildings in Podgorica, while the SNP has similar privileges in Herceg Novi. Such practices undermine the principles on which democratic elections are based, and blur the distinction between political party and government functions.

The EOM investigated a news story in *Politika* of 31 March, claiming that the DPS was involved in the distribution of food assistance in an attempt to "buy votes". The EOM confirmed that such distributions had indeed taken place as an ongoing practice for an extended period of time, but records on such distributions were not maintained. The assistance, related to private donations and consignments to the DPS from companies and individuals, was distributed through private party channels. There was no indication that DPS markings appeared on any of the goods distributed. However, those conducting the distribution were known party members.

The EOM also has evidence that the DPS distributed coupons, clearly marked with the party logo, offering free blood typing services in at least one municipality. Citizens must provide a

certificate costing 7.50 DEM indicating their blood type before they can obtain the new Identity Card. Staff members from the local hospital and other offices were used in a door to door campaign to facilitate this DPS sponsored program, which also involved taking fingerprints, required for obtaining an Identity Card.

While these activities are not prohibited by law, they create the perception of undue influence and misuse of office during an election campaign, especially when the process is not transparent. These perceptions can be avoided if such activities are regulated by law.

X. MEDIA COVERAGE

Voters in the Republic of Montenegro have access to a broad range of print and broadcasting media. State-owned and private media from Montenegro as well as print media from Serbia are widely available. In addition, some broadcasting media (including the 3rd Channel of State TV) rebroadcast television and radio news from Serbia. The availability of numerous and diverse media provides voters with access to a wide variety of information and views and enables them to make an informed choice on election day.

State media only partly respected their obligation to provide balanced and unbiased campaign coverage. Most private media were openly supporting one of the major political parties or coalitions. Moreover, all print media violated the 48-hour campaign silence period.

Under regulations adopted by the Montenegrin Assembly in February 2001, State TV set up a special Parliamentary Channel in March, which was well accepted by all parties, while State radio and *Pobjeda* had special programs and pages devoted to the election campaign. Most parties made use of the free access to State media, and the coverage within the special formats was equitable. However, some of the smaller parties took very limited advantage of the State media's special coverage. Generally, the main parties and coalitions received more coverage due to the larger amount of material submitted and the higher number of campaign events.

A. TELEVISION COVERAGE OF THE ELECTIONS

The EOM monitored four television stations (1st Channel of State television, Parliamentary Channel, TV Elmag and YU Info) and five newspapers (*Pobjeda*, *Vijesti*, *Dan*, *Blic Montenegro*, and *Politika*) for a period of four weeks prior to election day. The media-monitoring team prepared a quantitative analysis of political communication in these media as well as qualitative analysis of the tone and context of the coverage.

In keeping with the parliamentary regulations, reporting on parties and their campaign activities was almost absent from the regular news of State media. In the main news, which last 30–40 minutes daily, only an average of 8 minutes were devoted to domestic political issues. Around 41% of this time was dedicated to Montenegrin authorities, and another 34% to federal. Coverage of Montenegrin authorities was almost exclusively positive, while over 35% of the coverage of federal authorities was in a negative context. This was particularly apparent in news connected to relations between Montenegro and Serbia. However, State TV news did not give the incumbents undue coverage – on average, the main evening news devoted just over two minutes to Montenegrin officials and authorities.

On the Parliamentary Channel, coverage of the individual parties and coalitions was divided quite evenly, and editorial interference was virtually absent. The two main coalitions made

most use of the opportunity to appear on the Parliamentary Channel, followed by the Serbian Radical Party and the NSS. Not a single party or coalition used the maximum amount of airtime afforded to them under the parliamentary regulations.

Private TV Elmag as well as YU Info, which broadcasts from Yugoslav Army facilities, had rather limited news coverage of the election campaign. TV Elmag in its news focused on the Montenegrin and federal authorities (19% and 25%) and the two main coalitions (32% for Victory for Montenegro, and 13% for the pro-Yugoslav coalition). Elmag news did not report in a negative context. In other programs, including discussions and talk shows, TV Elmag gave airtime only to parties who paid. The EOM noted that some of the paid airtime was not clearly marked, which blurred the distinction between promotional material and editorial content.

In YU Info's news, around 56% of the relevant time went to the federal authorities, and another 22% to the Coalition "Together for Yugoslavia", while the Montenegrin authorities and the ruling coalition received 14% and 4% respectively. In the overall programming, this trend was similar, with 60% for federal authorities and 25% for the Coalition Together for Yugoslavia. YU Info was critical of the ruling parties and to a lesser extent of the Montenegrin authorities.

B. COVERAGE IN THE PRINT MEDIA

While the incumbents enjoyed a slight advantage on State TV, *Pobjeda* gave them much more pronounced coverage, devoting 59% of its editorial contents (outside the special supplement) to Montenegrin authorities, and another 14% to the ruling coalition. Most of this coverage was positive. On the other hand, there was a fairly high amount of negative news about the "Together for Yugoslavia" and the federal authorities, which received 11% and 12% of the overall coverage. In the case of the federal authorities, around 30% of the coverage was negative, and 50% in the case of the "Together for Yugoslavia".

In *Pobjeda's* special pages, all contestants enjoyed access under equal conditions. However, the distribution was less even than on the Parliamentary Channel. The "Victory for Montenegro" and the "Together for Yugoslavia" received most coverage (26% and 20%), followed by the SRS and the NSS. While *Pobjeda* followed the letter of the parliamentary regulations, the monitoring team noticed that reports on campaign events of the Coalition "Victory for Montenegro" invariably appeared in the best position, and announcements of their upcoming campaign events were almost always listed first.

Among the private print media, *Vijesti* followed a similar editorial policy as *Pobjeda*, but its pro-government stance was less pronounced both in quantitative and qualitative terms. Montenegrin authorities received 38% of the overall coverage in *Vijesti*, and the Coalition Victory for Montenegro another 17%. Some 21 % of all analyzed news was devoted to the pro-Yugoslav coalition, and 11% to the federal authorities. Around one quarter of the news on the pro-Yugoslav coalition was in a negative tone or context, as were 30% of the references to federal authorities.

XI. POLLING DAY

Nearly 82% of registered voters participated in the election, a positive indicator of their level of confidence in the process. Although slightly lower than for the population at large, voter turnout in the special polling stations was nonetheless high, at close to 75%.

A. OBSERVATION FINDINGS

International observers monitoring the voting process in 738 (67.7%) out of 1,090 polling stations in all 21 municipalities characterised the conduct of the poll positively in 87% of cases, “fair” in 7% of cases, and “poor” in only 1%. In general, this positive rating was shared by domestic observers.

Citizens were able to exercise freely their right to vote. In only four cases, international observers noted “undue influence” on voters in polling stations, with local administration officials “assisting” or “directing” voters in two cases, and police or other security officers involved in another case. However, in 66 additional cases, party supporters were “assisting” or “directing” voters. “Tension” was noted in 3.8% of polling stations observed. An angry voter destroyed the ballot box in a polling station in Niksic and the voting there was repeated.

In over 90% of polling stations visited, the voting procedures were administered correctly, with “serious violations” noted in less than 1% and “minor violations” noted in less than 2% of stations evaluated. Where violations were noted, they involved letting some voters vote without having to show a proper ID or neglecting to have all voters sign the Book of Electors. In a few cases, voters refused to have the indelible ink applied to their finger and at one polling station voting was suspended temporarily for this reason. The secrecy of voting was violated in 3.8% of observations, group voting was permitted in 10.5% of cases, and proxy voting in 1.8%.

The most significant issue on polling day related to individuals who were turned away without voting. In about one third of these cases, individuals could not produce proper identification documents. Most other cases involved individuals who could not be found on the voter registers. These cases did not appear to be linked to any particular group, but were isolated individual cases. Some voters were turned away because of minor errors in their data on the voter registers. The non-binding nature of the recommendation of the REC that such errors should not prevent from voting resulted in an inconsistent implementation at polling stations.

As for the vote count, international observers rated the process “poor” in only 1.4% of cases observed, with the organisation of the counting rated “poor” in 2.8%. As a technical matter, it was noted that there was no provision for voters who spoiled their ballots. The Record of the Work of the Polling Board had no space on which to record such instances. In addition, although Polling Board Members are required to count the coupons torn from voted ballots, there were no guidelines or methods of reporting if this number fails to match the number of ballots found in the ballot box. The tabulation of the vote count at the MEC level was also rated positively, with only three cases of disorganisation reported.

B. DOMESTIC OBSERVERS

Three domestic observer groups were accredited to observe the elections – the Montenegrin Helsinki Committee for Human Rights, the Centre for Democratic Transition (CDT), and the Centre for Monitoring Elections (CEMI) in co-operation with the Centre for Free Elections and Democracy (CeSID) from Belgrade. No problems were reported with the accreditation process for domestic observers. CDT and CEMI accredited 1,486 and 1,207 observers respectively, providing for an exceptional level of scrutiny in the electoral process. CDT monitored the campaign activities according to a code of conduct signed by political parties. CEMI in co-operation with CeSID monitored the media. Both groups conducted civic

education programs and observed the election day proceedings. Domestic observers were present in 83% of polling stations visited by international observers during polling and in 67% during the vote count, with a slightly higher presence of CDT than CEMI. With the exception of some isolated incidents, they had full access to the voting and counting processes.

XII. RESULTS

When the Mission closed, final results of the election were yet to be certified, although “temporary” results were released to members of the REC and the press, pending the integration of results from four polling stations where repeat voting was required.⁶ Repeat voting was caused by technical omissions or errors, including: failure to have all voters sign the Book of Electors at one polling station; issuance of a ballot to someone not on the voter register in another; and envelopes containing the votes of disabled voters voting at home being delivered to the wrong polling station in a third case. In the fourth case, a disgruntled voter had knocked over and broken the ballot box. Although all repeat elections had been conducted by 30 April, the REC was required to wait until the deadlines for appeals to pass at both polling station and MEC levels before certifying the final results.

On 5 May, the REC released the following final results of the election:

1. Out of 447,673 voters on the Republic-wide Voter Register, 366,152 voted.
2. For the election of five seats in the Assembly 3% of the 19,188 votes cast was 576 votes.
3. For the election of 72 seats, 3% of the 366,152 votes cast was 10,985 votes.⁷
4. The votes and mandates won by parties or coalitions were as follows:

Party or Coalition	Votes Won	%	72 Seats Distribution	5 Seats Distribution	Total Mandates Allotted
Victory for Montenegro-Democratic Coalition Milo Djukanovic	153,946	42,044	33	3	36
Together for Yugoslavia	148,513	40,560	33		33
Liberal Alliance of Montenegro	28,746	7,851	6		6
Peoples' Socialist Party of Montenegro-Momir Bulatovic	10,702	2,923			
Serbian Radical Party “Dr. Vojislav Seselj”	4,275	1,168			
Democratic Union of Albanians	4,232	1,156		1	1
Bosnian-Muslim Democratic Coalition in Montenegro	4,046	1,105			
Democratic Alliance In Montenegro - Mehmet Bardahi	3,570	0,975		1	1
Communist and workers Parties-For Yugoslavia	1,640	0,448			
Osman Redza – Party for Democratic Prosperity	1,572	0,429			
Party of Foreign Currency Investors of Montenegro	639	0,175			
Party of Natural Law of Montenegro	512	0,140			
LDP Voice for Montenegro	354	0,097			
Dr. Novak Kilibarda People's Union of Montenegro	268	0,073			
Party for Protection of Bank Investments and Social Safety	199	0,054			
Yugoslav Left in Montenegro	190	0,052			

⁶ The polling stations were in different municipalities, including Tivat, Podgorica, Zabljak, and Niksic. The total number of voters affected was 1,353.

⁷ The threshold was based on the total number of votes cast Republic-wide, including invalid votes and votes cast in special polling stations.

A. NSS COMPLAINT

Following the announcement of the temporary results, the NSS filed a complaint with the EOM and the REC regarding what they believe to be an invalid interpretation of the law resulting in misapplication of the seat distribution formula. In their complaint, they urged that based on the calculation of the 3% threshold for the five seats and then the 72 seats, their party passed the threshold in the latter grouping with 3.016%. They contended that they were denied the two seats they should have been awarded because after the transfer of votes, the REC recalculated a higher threshold for the distribution of the 72 seats on the basis of all votes cast throughout the Republic, including those votes already used in the allocation of the five seats. They further claimed that the votes used in the allocation of five seats were counted twice.

The EOM was informed that, relying on Article 12 that defines Montenegro as a single constituency, the calculation of the 3% threshold on the Republic-wide votes is done first. It is noted that the calculation is done on the basis of the total number of voters participating in the election rather than the valid votes cast. This step is undertaken immediately to determine which parties or coalitions are eligible to participate in the allocation of seats. The secondary calculations of the 3% threshold for votes cast in the special polling stations, and then for the rest of the polling stations, are only used to determine the votes which are to be transferred, and then which parties are eligible for the allocation of the five seats established for the Albanian minority.

However, NSS argued that, notwithstanding the “single constituency” formulation established by Article 12, two separate constituencies are created by Article 94 and 94(a). This Article states that “only electoral lists that have won more than 3% of the votes of the total number of electors who have voted in the constituency shall take part in the apportioning of the seats, unless otherwise prescribed by this law”. They believed that the new amendment contained in Article 94(a) creates the exception by calling for the transfer of votes between two constituencies.

When the NSS’ complaint was raised in a meeting of the REC, the chairman and secretary suggested that the REC was not the venue for such complaints and that it should be directed to the Constitutional Court. However, it was also noted that since no final decision regarding the results had been rendered, there was no basis for submission of the complaint to the Court at the present time. A vote was taken of the members of the Commission and the complaint was set aside on the basis of jurisdiction.

The OSCE/ODIHR stresses again that this controversy could have been avoided had a clarification been formalised in advance of the elections and before results were known.

B. WOMEN ELECTED

Only LSCG met the gender quota agreement allocating two of its six (33%) elected mandates to woman candidates. Only four of the 30 DPS (13%) and one of the six SDP (16%) elected representatives are women. While one woman is among 14 (0.07%) NS representatives, the list of SNP representatives includes no woman.

XIII. RECOMMENDATIONS

The following amendments to the Election Law are recommended:

A. ELECTION COMMISSIONS

1. The mandate of the Republic Election Commission should be expanded to authorise the adoption of binding regulations necessary for clarifying the manner in which the various provisions of law are to be implemented. Issuance of non-binding recommendations should be avoided.
2. The terms of office of permanent MEC members should be respected without premature termination on the basis of political shifts in Municipal Councils.
3. The rights and duties of permanent and “extended” members of commissions should be defined, including their right to raise matters for discussion, call for a vote on important issues, and have advance notice of meetings.
4. The REC should be mandated to adopt rules of procedures for its meetings.

B. CALCULATION OF RESULTS AND ALLOCATION OF SEATS

5. Rules for establishing the 3% threshold and the system for the allocation of five seats elected from special polling stations should be more clearly detailed in the law. The 3% threshold should be calculated with relation to the total number of valid votes cast.

C. RIGHTS OF PARTIES AND COALITIONS

6. The law should require that seats be awarded solely in the order in which they appear on the electoral lists.
7. Provisions that give parties control over the mandates after the elections should be repealed. In particular, an elected official should not forfeit a seat because of a shift in political allegiance or affiliation.
8. New provisions should be enacted to more clearly define coalitions, the rights or restrictions on coalition partners during the campaign period, their funding and access to the media.
9. Provisions should also be enacted to define circumstances under which a coalition ceases to exist, and the official manner in which such a decision is to be reported.
10. The current system for accommodating the interests of minorities should be re-evaluated to determine its effectiveness. Refinements or alternative approaches might be better suited to achieve the intended purpose, to avoid potential anomalies inherent in the current system, and to extend similar advantages to other minorities.⁸

⁸ See OSCE/ODIHR Guidelines on Participation of National Minorities in the Electoral Process, Warsaw, 2000.

D. CAMPAIGN PRACTICES

11. The law should prohibit the use of government-owned buildings by political parties.
12. Undue pressure or influence on government employees must be prohibited by law.
13. A code of conduct for police officers during the campaign period should be clearly defined and enforced.
14. A separation of government and political party activities should be strictly enforced. Activities or programs that blur the distinction between official and political sponsorship should be restricted by law.
15. Campaign material, and campaign advertising in newspapers and on electronic media should fully disclose the sponsor, individual or party that has paid for and placed the advertisements.

E. ELECTION DAY PROCEDURES

16. The grounds for repeat elections should be reviewed to determine the serious violations for which the poll will be repeated in individual polling stations.
17. Voters must be required to sign the voter register instead of a separate Book of Electors, which is redundant.

F. VOTER REGISTERS

In addition to the Election Law:

18. Remaining problems in the voter register must be addressed before any future polls are conducted in the Republic. Some of the shortcomings require legislative changes, such as the development of a single Republic-wide population electronic database from which a voter register could be extracted at any time, and others require the proper implementation of existing legislation.

G. PARTICIPATION OF WOMEN

19. Political parties should make sustained, long-term efforts to increase women's participation.