

INTERIM REPORT
5-15 August 2020

19 August 2020

I. EXECUTIVE SUMMARY

- On 20 June 2020, the president called the parliamentary elections for 30 August. Concurrently, local elections will be held in five municipalities. The 81 members of the parliament will be elected from closed candidate lists under a proportional representation system, in a single nationwide constituency. Candidate lists are eligible for seats, if they surpass a three per cent threshold. Preferential rules are applicable to candidate lists representing national minorities.
- Despite an effort for electoral reform, the electoral legal framework remains largely unchanged since the last parliamentary elections. The draft election law, assessed by ODIHR and the Venice Commission as addressing some prior ODIHR recommendations, is yet to be adopted. In December 2019, the parliament amended four election-related laws, *inter alia* clarifying some definitions, extending the list of campaign misdemeanors and criminalizing campaign funding from impermissible sources. A number of ODIHR recommendations remain unaddressed, including introducing an audit of the Voter Register (VR) and measures against the misuse of state resources as well as reconsidering the requirements for suffrage rights.
- According to the State Election Commission (SEC), its election preparations are well underway. For these elections, it made most of its decisions, instructions and minutes of its sessions available online. SEC sessions are open to accredited observers but not to representatives of the media and are not broadcast online. The SEC adopted recommendations related to the COVID-19 pandemic, providing for mobile voting of voters in private and institutional quarantine, and recommending the use of personal protective equipment in polling stations.
- There are some 540,300 registered voters. Voters may verify the accuracy of their personal data in the VR until 20 August through a dedicated website, or in person at local offices of the Ministry of Interior, and may request amendments. Authorized representatives of candidate lists and accredited observer organisations have the right to inspect the VR online.
- For these elections, prospective candidate lists are required to collect 4,261 signatures from voters, to have at least 54 candidates and to comply with a quota of 30 per cent for candidates of the underrepresented gender. Preferential rules apply to lists representing national minorities. A total of 12 candidate lists applied to contest the elections and 11 of them were registered by the SEC. Of those, five represent national minorities, two Albanian, one Bosniak and two Croat. The SEC rejected one candidate list seeking registration as representing the Yugoslav minority.
- Whereas the campaign started from the call of elections, public gatherings, including political rallies, were completely banned until 23 July, due to the COVID-19 pandemic. In the same period, members of the government inaugurated public infrastructure projects across the country. Key campaign topics

include the national identity, the law of freedom of religion, the geopolitical orientation of the country, the fight against corruption and the pandemic.

- A new political finance law was adopted in 2019, *inter alia* increasing the limit for private donations and decreasing the expenditure ceiling. It was amended in April 2020 to legalize the distribution of welfare benefits throughout an election year in case of a pandemic. In addition to public funding, the campaign can be financed from private sources. Reporting requirements are applicable prior to and after the election day. The Agency for the Prevention of Corruption (APC) oversees campaign finance and the activities of public institutions for potential misuse of administrative resources.
- The media landscape is diverse but it reflects the polarization of political and business interests. A number of criminal and other provisions detrimental to the freedom of expression remain. The Agency for Electronic Media (AEM) is mandated with the oversight of the media coverage of the campaign but it is required to publish its findings only after the elections. Contestants are to be provided with an equal amount of free airtime on the Public Service Broadcaster, and local public broadcasters. AEM regulations require campaign coverage of all broadcasters to be separated from news and labeled as such.
- The law provides for an expedited dispute resolution. To date, five appeals were filed to the SEC, challenging the decisions of MECs on polling board formation and locations of polling stations. Two of them were rejected as inadmissible and three on merits. Whereas the SEC initially denied jurisdiction on complaints from voters who alleged the misuse of their signatures for candidate lists nomination, it eventually invalidated such signatures. Three complaints were filed to the Constitutional Court, including one on candidate registration and two challenging the constitutionality of the SEC's recommendations on epidemiological protection of voters.
- The ODIHR Limited Election Observation Mission opened on 5 August, with an 11-member core team in Podgorica, and 10 long-term observers deployed across the country.

II. INTRODUCTION

Following an invitation from the authorities of Montenegro, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established a Limited Election Observation Mission (LEOM) on 5 August.¹ The ODIHR LEOM, led by Tamás Meszerics, consists of an 11-member core team based in Podgorica and 10 long-term observers (LTOs) deployed on 11 August to five locations across the country. Mission members are drawn from 15 OSCE participating States.

III. BACKGROUND AND POLITICAL CONTEXT

On 20 June, the president called parliamentary elections for 30 August. Concurrently, local elections will be held in five municipalities.² The Democratic Party of Socialists (DPS) has been in power since 1991

¹ See previous [ODIHR election-related reports on Montenegro](#). In its Needs Assessment Mission report in relation to these elections, ODIHR recommended the deployment of an Election Observation Mission (EOM), that would include, in addition to a core team of analysts, 16 long-term observers to follow the process countrywide, as well as 100 short-term observers (STOs) for the observation of election day procedures. However, the deployment of STOs was considered not feasible due to the extraordinary circumstances caused by the COVID-19 pandemic and subsequent travel restrictions across the OSCE region. Therefore, ODIHR changed the format of the observation activity from an EOM to a LEOM.

² ODIHR LEOM follows the developments of local elections in five municipalities only to the degree they affect the process and preparations for the parliamentary elections.

and its leader, Milo Đukanović, has been alternating in the positions of president and prime minister. He was elected as president for a second term in 2018.

Following the 2016 parliamentary elections, the DPS formed a ruling coalition with 42 members of parliament (MPs), with the support of five other parties, including two representing the Bosniak and Croat minorities.³ The opposition parties obtained 39 seats.⁴ However, they refused to accept the election results, due to the arrest on election day of two opposition leaders and other individuals for allegedly planning a coup d'état.⁵ Subsequently, all six opposition parties boycotted parliamentary sessions until October 2017 when four returned but two parties have continued the boycott.⁶ The adoption of the law on Freedom of Religion in December 2019 has deepened the national and political divide and led to the protests by supporters of the Serbian Orthodox Church, also joined by some opposition parties.⁷

The upcoming elections will be held against the backdrop of the outbreak of COVID-19 pandemic and subsequent measures limiting the freedom of movement and assembly. In March 2020, the National Co-ordination Body for Communicable Diseases was established to co-ordinate the government response to the pandemic and recommend actions, including possible cancellation or postponement of the elections.

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The 81-member unicameral parliament is elected for a four-year term, from closed candidate lists under a proportional representation system, in a single nationwide constituency. The lists are eligible for seats, if they obtain at least three per cent of the valid votes cast. Preferential rules apply for lists representing national minorities not exceeding 15 per cent of the total population.⁸ If none of such lists surpasses the three per cent threshold, all lists representing the same national minority that have obtained each at least 0.7 per cent of the votes are granted up to three seats, jointly, based on the sum of their votes. The frontrunner among the Croat minority lists is granted a seat provided that it has obtained at least 0.35 per cent of the votes.

Parliamentary elections are primarily regulated by the 2007 Constitution and the 1998 Law on Elections of Councilors and Members of Parliament (the election law).⁹ These laws are supplemented by SEC

³ DPS won 36 seats (including one seat won by Liberal Party), Social Democrats (SD) – 2, the Bosniak Party – 2, New Democratic Force (Forca) – 1, the Croatian Civic Initiative (CCI)– 1.

⁴ Democratic Front (DF) won 17 seats, Democrats – 8, coalition “For the Benefit of all” (DSI) – 7, Social Democratic Party (SDP) – 4, Demos – 2 and United Reform Action (URA) - 1.

⁵ In June 2017, 14 people were indicted for preparing a conspiracy against the constitutional order and the security of Montenegro and an attempt to organize a terrorist act. In May 2019, the Higher Court of Montenegro convicted 13 persons, including opposition leaders Andrija Mandić (DF) and Milan Knežević (Democratic Peoples’ Party).

⁶ Starting from October 2017, DF, SDP, DEMOS, and SNP returned to parliamentary sessions while URA and Democrats continued abstaining until the last session of the outgoing parliament.

⁷ The law on Freedom of Religion or Belief and the Legal Status of Religious Communities aims at reviewing the property ownership of religious organizations, including the Serbian Orthodox Church, an institution with high degree of influence among the population of Montenegro. On 11 June, the Head of the Serbian Orthodox Church in Montenegro, Metropolitan Amfilohije, called on voters not to vote for the parties that supported the law.

⁸ The Constitution defines Montenegrins, Serbs, Bosniaks, Albanians, Muslims, Croats and others "as the peoples and national minorities who live in Montenegro. Both Montenegrins and Serbs exceed 15 per cent of the total population.

⁹ Other applicable legislation includes the laws on Financing of Political Entities and Election Campaigns, on Political Parties, on Public Assemblies and Public Events, on Voter Register, on Media and relevant provisions of the Criminal Code, and the Law on Misdemeanours.

instructions.¹⁰ The electoral legal framework remains largely unchanged since the last parliamentary elections, with the exception of campaign finance. Notwithstanding, on 27 December 2019, some election-related laws were amended.¹¹ The changes, *inter alia*, transferred the competence for the Voter Register (VR) from the SEC to the MoI, extended the list of election campaign misdemeanors, criminalized campaign funding from prohibited sources, increased limits of campaign donations and decreased the expenditure ceiling. A number of past ODIHR recommendations remain unaddressed, including introducing an audit of the VR, harmonizing election legislation, reconsidering the length of residence and legal competency requirements for voting rights as well as candidate nomination procedures and introducing measures against the misuse of state resources.

In November 2018, a parliamentary Committee for a Comprehensive Reform of Electoral and Other Legislation was established and functioned until December 2019 but, the opposition only occasionally participated in its work. The Committee elaborated a new draft election law, addressing some prior ODIHR recommendations.¹² However, this draft was not put to vote in parliament with an argument that its adoption requires the vote of two thirds of all MPs, which could not be achieved due to the parliamentary boycott.¹³

V. ELECTION ADMINISTRATION

Parliamentary elections are administered by a three-level election administration comprising the SEC, 24 Municipal Election Commissions (MECs) and approximately 1,200 Polling Boards (PBs).

The SEC is a permanent body composed of a chairperson and 10 members. The present composition of the SEC was appointed following the parliamentary elections of 2016, and is headed by its current chairperson since March 2020.¹⁴ Only one SEC member is a woman. MECs consist of a chairperson and four permanent members, who were appointed following the municipal elections held in the respective municipalities.¹⁵ Five of the 24 MEC chairpersons are women. PBs consist of a presiding officer and four members; they are appointed by the MECs no later than ten days prior to election day.¹⁶ Authorized representatives of the contestants may join election commissions 20 days prior to election day, with full voting rights. By 14 August, only eight lists have nominated representatives to the SEC.

¹⁰ To date, for these elections, the SEC adopted some 17 regulations, including on candidate lists nomination, the location of polling stations, rules of procedure for polling boards, storage and handling of election materials, as well the technical guidelines on the epidemiological protection of voters in the electoral process. The SEC also adopted the electoral calendar and issued opinions upon stakeholders' requests.

¹¹ Namely, the laws on Voter Register, on Territorial Organization of Montenegro and relevant provisions of the Criminal Code.

¹² See the [ODIHR and Venice Commission Urgent Joint Opinion on the draft law on election of members of parliament and councilors](#) published in July 2020.

¹³ Article 91 of the Constitution stipulates that a two-third majority of all MPs is required for passing of the laws regulating the electoral system and property rights of foreign nationals, while article 91.2 states that laws regulating the manner of exercising liberties and rights of citizens are to be adopted by Parliament with a simple majority.

¹⁴ Four members are nominated by the parliamentary majority, four by the parliamentary minority, one by the civil society and one by the national minority community that won the highest number of votes in the previous elections.

¹⁵ MEC chairpersons are appointed by the party that won most mandates in the previous municipal elections; two members are nominated by the majority in the municipal council, and two by the opposition.

¹⁶ Presiding officers are nominated by political parties represented in a given municipal council, in proportion to their representation. Of the four PB members, two are nominated by the ruling party or coalition, and two by the opposition. By law, nominating subjects may recall their nominees from commissions up to 12 hours before the voting starts.

According to SEC, election preparations are well underway. For these elections, it has made most of its decisions, instructions and minutes of its sessions available online. SEC sessions are open to accredited observers but not to representatives of the media, and are not broadcast online. Despite an administrative instruction issued by the SEC, some MECs failed to publish their decisions and instructions in a timely manner. On 6 August, the SEC adopted recommendations regarding the applicable measures on election day against the spread of COVID-19 outbreak, including use of personal protective equipment and providing for mobile voting of voters in private or institutional quarantine.

The civic and voter education campaign planned by the SEC on voting procedures and health-related measures applicable on election day has yet to begin. Due to the epidemiological situation, the SEC is planning to train PB members online.

VI. VOTER REGISTRATION

The right to vote is granted to every Montenegrin citizen over the age of 18 years or older on election day and resident in the country for at least 24 months preceding election day, except those declared legally incapacitated by a court decision. Voter registration is passive. The VR is a permanent database maintained electronically by the Ministry of Interior (MoI). Voters may verify the accuracy of their personal data stored in the VR until 20 August through a dedicated website, or in person at local MoI offices, and may request corrections or amendments.

Accredited observer organisations and authorized representatives of the lists have the right to inspect the VR online. According to the MoI, by 12 August, one citizen observer group and no candidate list requested online access to the VR. Voters vote at the polling station where they are permanently registered. Some categories of voters defined by the law may request mobile voting. The SEC recommendations related to the COVID-19 pandemic reinforce the possibility of mobile voting of those in private or institutional quarantine¹⁷

According to preliminary data from the MoI, on 7 August the VR contained 540,315 entries, which constitutes an increase of 7,716 since the 2018 presidential election, and a decrease of 917 since the day of calling the elections. The final data is to be published by the SEC by 20 August. Some ODIHR LEOM interlocutors raised concerns about a high number of citizens with expired ID documents, that may therefore be disenfranchised. The MoI expressed confidence in the public administration's ability to renew all requested documents before election day, despite the challenges posed by the pandemic. On 12 August the SEC extended the possibility of voting for voters possessing expired ID documents, provided that these are machine-readable.

VII. CANDIDATE REGISTRATION

Political parties, coalitions and groups of voters may nominate candidate lists. The law prescribes a gender quota of at least 30 per cent as a prerequisite for registration; moreover, for these elections, candidate lists were to be supported by a minimum of 4,261 voters' signatures, and to include at least 54 candidates.¹⁸

¹⁷ Initially, mobile voting was provided for voters in quarantine, only if they quarantined within the municipality of their registered residence. This requirement was removed, following criticism from political parties and the civil society. However, residence requirements for mobile voting remain applicable.

¹⁸ The lists must include candidates for 2/3 of the 81 parliamentary seats, and to be supported by signatures from 0.8 per cent of the registered voters from the last elections (i.e., the 2018 presidential election).

Preferential criteria apply to the lists representing national minorities, including significantly less support signatures to be submitted, and a lower number of candidates to be presented on the list.¹⁹

Each voter may sign in support of only one candidate list, contrary to a prior ODIHR recommendation. Support signatures that appeared on more than one list were considered valid only for the list that was submitted first to the SEC. After checking the SEC web application on signature collection, a number of voters alleged that their signatures were forged in support of some candidate lists. By 10 August, the SEC invalidated supporting signatures of ten voters, following their complaints.

In accordance with the law, registration of candidate lists took place between 9 July and 4 August. The SEC is responsible to determine if the lists meet legal requirements. The SEC initially returned three lists for corrections, due to incomplete supporting documentation or non-compliance with the gender quota requirements.²⁰ Of the twelve lists, seven were submitted by political parties and five by coalitions. The SEC registered eleven lists and rejected one, arguing that the submitter claimed to represent a community that is not considered a national minority.²¹ Of the eleven registered lists, five represent national minorities; two are Albanian, one is Bosniak and two are Croat.

VIII. CAMPAIGN ENVIRONMENT

Prospective contestants may start campaigning after the call of elections. After their registration, all contestants should enjoy equal campaign opportunities, including equal access to public premises and resources, outdoor and media advertisement as well as designated locations for placing campaign materials.

Based on COVID-19-related safety measures issued by government, all public gatherings, including political rallies, were banned until 23 July.²² At the same time, members of the government inaugurated a number of public infrastructure projects across the country with public attendance, bypassing the prohibition.²³ After the lifting of the ban, the permissible number of participants in political rallies remained limited.²⁴ Extraordinary social aid was allocated by the government with unclear criteria to groups identified as “vulnerable” by authorities; additional benefits were allocated for pensioners and

¹⁹ Political parties and groups of voters representing a national minority are required to submit at least 1,000 support signatures. For those representing a minority constituting up to 2 per cent of the population, the requirement is 300 signatures. National minority lists are required to include 27 candidates only.

²⁰ These were the Albanian Coalition 'Unanimously' Democratic Party, Democratic Union of Albanians, Democratic Union in Montenegro, the “Albanian List - Genci Nimanbegu, Nik Gjeloshaj” and the list of “Snezana Jonica – Socialists of Montenegro – May We Live as Yugoslavs!”.

²¹ The SEC did not register the candidate list of “Snežana Jonica – Socialists of Montenegro – May We Live as Yugoslavs!”, arguing that Yugoslavs are not a national minority.

²² Article 25 of the Constitution provides derogation of human rights and fundamental freedoms in case the state of emergency (SoE) is declared. The Law on the protection of population from communicable diseases entitles the Ministry of Health to decide on limiting the freedoms of assembly and movement after a SoE is proclaimed. However, no SoE was declared in Montenegro.

²³ For instance, between 6 and 12 August, the prime minister (PM) inaugurated the road Bistrica – Podvrh, a hotel in Ulcinj, a Day Care Center for children with disabilities in Tivat, street reconstruction in Plav and electric station in Lastva Grbaljska. The president, the Deputy PM, the Ministers of Health, Labour and Social Care, Education, the Mayors of Podgorica and Cetinje, Danilovgrad, Kotor and Nikšić participated in inaugurations across the country. All activities received extensive media coverage.

²⁴ From 25 June until 23 July there was a complete ban on all public gatherings; the ban was lifted for Podgorica on 16 July; from 23 July until 10 August attendance to public gatherings, including political rallies, was limited to 40 persons outdoors and 20 persons indoors; from 10 August attendance in political rallies was increased to up to 50 persons indoors and 100 persons outdoors.

persons with disabilities.²⁵ Several ODIHR LEOM interlocutors alleged that the undue advantage of incumbency of the ruling party was accentuated by the persistent, systematic practice of offer of state employment in exchange for support for the ruling party and pressure on public employees to vote for it.²⁶

To date, the campaign has generally been peaceful and of low visibility. Due to the COVID-19 restrictions and public health concerns, the contestants significantly modified their campaign strategies with more focus on online and social media rather than traditional campaign methods. However, door-to-door canvassing, campaign buses and cars, billboards and smaller gatherings have also been used. Key campaign topics include the national identity, the geopolitical orientation of the country, fight against corruption and the pandemic.

IX. CAMPAIGN FINANCE

Campaign finance is regulated by the 2019 Law on Financing Political Entities and Election Campaigns (political finance law), amended in April 2020 to legalize the distribution of welfare benefits throughout an election year in case of pandemic.²⁷ The new law defined the campaign activities under its scope, but did not clearly establish unified deadlines for campaign donations, reporting and for opening campaign accounts.²⁸ The law provides for public financing of election campaigns. Twenty per cent of the public funding is distributed in equal amounts to all contestants within eight days after the deadline for candidate registration. The remaining funds are disbursed after the submission of final campaign finance reports, among the lists that obtain seats in parliament, proportionally to the number of seats won.²⁹

In addition, campaigns can be funded from individual donations and the funds of the nominating parties or coalitions. The new political finance law increased donations from individuals from EUR 2,000 to EUR 5,000 and from legal entities – from EUR 10,000 to EUR 20,000.³⁰ A contestant may spend up to EUR 2.3 million during the entire campaign. Campaigns may not be financed from donations by foreign states, public institutions or companies with a share of state capital, anonymous donations and from individuals who are not entitled to vote in the country, trade unions, religious organizations, NGOs, casinos and bookmakers.³¹ Each contestant is required to open a dedicated bank account for all campaign related transactions as soon as they start campaigning and the latest within one day after registration.³²

²⁵ On 19 March, the government established a public fund for donations for the fight against COVID-19 to assist individuals and legal entities most affected by the COVID-19 pandemic. Additional welfare allowances were distributed from the state budget. The list of beneficiaries is not publicly available. On 17 July, the parliament amended the Law on Pension and Disability Insurance, providing benefits for some pensioners.

²⁶ The 2019 [EU Progress Report on Montenegro](#) states that ‘strong political will is still needed to effectively address the de-politicisation of the public service’.

²⁷ The welfare benefits are distributed from the state budget reserve and several ODIHR LEOM interlocutors opined that COVID-related benefits are misused by the ruling coalition for electoral advantage.

²⁸ Contestants are required by law to open campaign accounts and start reporting on received donations as soon as they start campaigning and at the latest within a day after their registration.

²⁹ For these elections, EUR 2,367 million were allocated for campaign financing.

³⁰ Legal entities that donated to a party or campaign may not participate in public tenders for four years.

³¹ The use of prohibited sources for financing election campaigns is criminalized.

³² As of 5 August, the APC announced that campaign accounts were opened by the DPS, the Social Democrats, the SDP, Democratic Montenegro, the Bosniak party, the Croatian Reform Party, and the coalitions: “Black on White”, Albanian Lists, “For the Future of Montenegro”, “Peace is Our Nation”, the Croatian Civic Initiative (HCI, the Albanian Coalition “Unanimous”. Only three contestants reported to have received donations: the DPS – 1,269 individual contributions worth EUR 1,157,737 and EUR 1,000 from an entity; the SDP – an in-kind contribution of EUR 582 from a legal entity, the “Peace is Our Nation” Coalition – EUR 150 from a legal entity.

Campaign finance reporting obligations include disclosure of donations every 15 days from the start of campaign or registration, reports on expenditures five days prior to the election day and the final campaign finance report within 30 days after the election day. The Agency for the Prevention of Corruption (APC) oversees campaign financing, as well as spending and recruitment decisions of public institutions for potential misuse of administrative resource. The APC reviews complaints by individuals on campaign finance violations, and initiates investigations of possible violations, with the prosecution.

X. MEDIA

A high number of diverse media outlets operate within financially insufficient advertising market.³³ The dependence on financing by political and business interests undermines editorial autonomy, investigative journalism and genuine pluralism. The media landscape reflects the polarization of political elites and leaves journalists prone to self-censorship.³⁴

Defamation of individuals is decriminalized since 2011. However, there are still a number of criminal and other provisions detrimental to the freedom of expression including ‘defamation of the reputation of Montenegro’, ‘insult in public space’ and ‘causing panic by the dissemination of false news’.³⁵ Since the beginning of the year, a number of citizens, including three journalists, have been detained and in some cases criminal proceedings were initiated based on these provisions; including at least 11 individuals detained for information posted or shared on social media.³⁶ On 13 August, new laws on Media and on the Public Service Broadcaster came into force.³⁷

The Agency for Electronic Media (AEM) is mandated to monitor election campaign coverage but it is required to publish its findings only after the elections. On 26 June, the AEM issued its *Rulebook* on campaign coverage by public and commercial broadcasters, requiring them to ensure equal conditions for contestants and provide for truthful, timely and impartial information to citizens. RTCG and municipal public broadcasters have to provide an equal amount of free airtime. The coverage of contestants’ campaign, their presentation, including discussion programmes should be clearly separated in programme blocks and labeled as such; both these requirements are applicable to political advertising as well. An institutional advantage of incumbent contestants in news coverage is prohibited.

On 6 August, the ODIHR LEOM started its monitoring of 4 TV stations with a quantitative and qualitative analysis of their political and election coverage.³⁸

³³ Besides the Public Service Broadcaster *Radio and Television of Montenegro* (RTCG) and further five local public TV and 14 radio stations, the Agency for Electronic Media has licensed three active commercial TV stations with nation-wide coverage and 14 local TV stations, 35 radios, four dailies and has registered 82 online media outlets.

³⁴ See [Montenegro Media Sector Inquiry with Recommendations for Harmonisation with the Council of Europe and European Union standards](#) by the European Union and the Council of Europe, December 2017 and the 2019 [EU Progress Report on Montenegro](#).

³⁵ Articles 198 and 398 of the Criminal Code penalize ‘public mockery of Montenegro, its flag, coat of arms, or anthem’ with a fine or up to one year of imprisonment and ‘causing panic by the dissemination of false news’ with up to three years of imprisonment, if committed using media. Article 7 of the Law on Public Order and Peace punishes “harsh insult in public space” with a fine of EUR 250-1,000 or imprisonment of up to 30 days.

³⁶ See, for example, the report [“Monitoring of freedom of expression and the right to privacy during COVID-19 outbreak”](#).

³⁷ See Legal Opinion and Comments on [the Draft Law on Media](#) and [the Draft Law on National Service Broadcaster](#) respectively, commissioned by the OSCE Mission in Montenegro, August 2018

³⁸ This includes the *RTCG1*, *TV Vijesti*, *TV Prva*, *TV Nova M*. The ODIHR LEOM also follows election-related content in 5 online media outlets: *CDM*, *Vijesti*, *Analitika*, *Fos Media* and *IN4S*.

XI. COMPLAINTS AND APPEALS

Election related complaints may be filed by voters, candidates and submitters of the candidate lists to the responsible election commission within 72 hours. The decisions of lower level commissions are reviewed by upper level commissions within 24 hours. The decisions of the SEC shall be appealed within 48 hours to the Constitutional Court that decides on such appeals within 48 hours. Complaints related to voter registration are submitted to the MoI and reviewed at the Administrative Court within 24 hours, until ten days prior to the election day.³⁹ Individuals have the right to file complaints to the Constitutional Court, including on electoral issues.⁴⁰

To date, five appeals were filed to the SEC, challenging the decisions of MECs on polling boards formation and locations of polling stations.⁴¹ Two of them were rejected as inadmissible and three on merits. In addition, the SEC received a number of complaints from voters who alleged the misuse of their signatures for candidate lists nomination. Initially, the SEC denied having competence over such complaints but it subsequently decided to eliminate the contested signatures from the nomination lists. The issue is not regulated by the law and the SEC did not publish any legal opinion or related decisions on these complaints. One complaint was filed to the Constitutional Court on candidate registration.⁴² Two additional complaints challenged the constitutionality of the SEC recommendations on the epidemiological protection of voters in the electoral process.⁴³

XII. PARTICIPATION OF NATIONAL MINORITIES

The Constitution guarantees the equality of all citizens and provides for full political, civil, and social rights for the persons belonging to minority nations and other minority national communities.⁴⁴ Whereas the Albanians, Bosniaks and Croats are well-represented by their corresponding national minority political parties, they are also integrated, as voters and candidates, in major political parties. In these elections, for the first time, a second Croat national minority party will be running. The Roma have no political representation, and limited access to voter education due to lack of targeted awareness programmes provided by authorities. All minority parties in the parliament have been traditionally allied with the ruling

³⁹ The Administrative Court informed the ODIHR LEOM that the judges were on vacations, and no voter registration appeals were received.

⁴⁰ On 18 July 2019, the Constitutional Court revoked Article 39 paragraph 2 of the Law on the Constitutional Court that established the 18-month deadline for case review, as contradictory to the Constitution and the ECtHR case law.

⁴¹ The SEC denied admissibility of two appeals against the decision of the MEC in Pljevlja regarding the location of polling stations due to violation of submission deadlines, rejected two complaints against the MEC in Kotor about procedural deficiencies in allocating party quotas for presidents in polling boards, and declined one complaint against the decision of MEC in Podgorica to merge several polling stations with low number of voters.

⁴² The complaint on candidate registration was filed by the rejected list of “Snežana Jonica – Socialists of Montenegro – May We Live as Yugoslavs!” The party claimed to represent the Yugoslav minority, which under the 2011 census constituted 0.19 per cent of the population. On 8 August, the SEC alleged deficiencies in the party’s charter and the list, and stated that those who self-declared as Yugoslavs in the 2011 census “failed to meet conditions prescribed by the Law on Minority Rights and Freedoms with respect to religion, language or ethnicity differences from the rest of the population”, despite a previous SEC opinion adopted on 29 July 2020, that the Yugoslav minority was eligible for the minority list nomination procedure under the electoral law.

⁴³ The Centre for Civic Education’s initiative filed a complaint against the COVID-19 safety measures on election day and the Centre for Democratic Transition against the instructions on mobile voting.

⁴⁴ According to the last census of 2011, Montenegrins comprise 45 per cent of the population, Serbs 28 per cent, Bosniaks-8, Albanians -5, Muslims- 3, and Roma and Croats around 1 per cent each.

party and have received positions in the government.⁴⁵ By law, bilingual ballot papers in Montenegrin and Albanian have to be available in a number of polling stations. On 9 August, graffiti insulting a national minority was noted on a number of houses in Berane. Several political parties, coalitions, and members of the government denounced the insulting messages and urged the authorities to prosecute the perpetrators.

XIII. CITIZEN AND INTERNATIONAL OBSERVERS

The Montenegrin citizen observer groups, such as the Center for Democratic Transition (CDT), the Center for Monitoring and Research (CeMI), and the Network for Affirmation of NGO Sector (MANS) are observing the campaign, the work of the election administration and political party financing, and conducting media monitoring. Despite the organisational challenges posed by the pandemic, two organisations expressed the intention to deploy observers on election day, and are also preparing for a partial or full parallel voting tabulation.

XIV. ODIHR LEOM ACTIVITIES

The ODIHR LEOM formally opened in Podgorica with a press conference on 5 August. The Head of Mission has met with the SEC Chairperson, representatives of the Ministry of Foreign Affairs and European Integration, several representatives of political parties, media, civil society and members of the diplomatic and international community. The ODIHR LEOM established regular contacts with the SEC, governmental institutions involved in the electoral process, electoral contestants' campaign offices, political parties, civil society, the media and the diplomatic community.

The OSCE Parliamentary Assembly (OSCE PA) intends to deploy a delegation for election day observation.

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

⁴⁵ Currently, the Bosniak Party has three ministers, including one Deputy Prime Minister, and DUA (Albanian minority party) and HGI (Croat minority party) - one minister each. The vice-president of the Parliament is from Forca (Albanian minority party).