



**REPUBLIC OF MONTENEGRO
Federal Republic of Yugoslavia
Early Parliamentary Elections
20 October 2002**

Parliamentary Assembly
Assemblée parlementaire



INTERNATIONAL ELECTION OBSERVATION MISSION

Statement of Preliminary Findings and Conclusions

Podgorica, 21 October 2002 – The International Election Observation Mission (IEOM) for the 20 October 2002 early parliamentary elections in the Republic of Montenegro, Federal Republic of Yugoslavia, is a joint effort of the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Parliamentary Assembly of the Council of Europe (PACE).

Concurrently with the parliamentary elections, municipal elections also took place in Podgorica and Tivat.

PRELIMINARY CONCLUSIONS

The 20 October 2002 early parliamentary elections in the Republic of Montenegro, Federal Republic of Yugoslavia, were conducted generally in accordance with international commitments and standards for democratic elections. However, shortcomings noted in previous elections persist and new challenges raise additional concerns.

A new parliamentary majority composed of hitherto opposing political groups was formed in July, precipitating early parliamentary elections. After the elections were announced, the new majority introduced unilateral changes to the election and related laws without due consideration for the consequences. Additional legislative amendments later changed the parliamentary representation system of the Albanian minority without adequate consultation. The amendments also prompted changes to the membership of election commissions long after the electoral process had started. Moreover, candidates were allowed to hold incompatible membership positions on election commissions.

Despite these emerging challenges, a number of features contributed to the overall positive evaluation of these elections, including:

- An overall legal framework adequate for democratic elections;
- Elections conducted in accordance with the legal framework;
- Broad participation of political parties and coalitions in the elections, including parties representing national minorities;
- Representation of political parties on election commissions at all levels;
- Effective administration of electoral processes;
- Continued improvement of the accuracy and transparency of voter registers; and
- Broad access for non-partisan domestic observers to monitor the polling and counting.

While noting the strengths of the electoral framework in Montenegro, shortcomings noted in the context of previous elections remain, including:

- Provisions in the election law permitting political parties and coalitions to control electoral mandates undemocratically and contrary to international standards;
- Provisions for minority representation in Parliament in effect limited only to the Albanian minority; and

- Long-standing practice of commingling State and political party functions.

The election campaign was mostly calm, though it was at times blemished by verbal abuse against individual politicians. Also, two minor incidents of violence were noted. A broad range of electronic and print media, including a State TV channel devoted exclusively to the election campaign, provided voters with sufficient information. The State media coverage of the campaign was more balanced than on previous occasions. However, private media generally failed to provide objective reporting.

Voter turnout was an estimated 77%, indicating voter confidence in the process. Observers gave an overwhelmingly positive evaluation for the polling activities on election day, with group voting reported as a continuing problem. The vote count was evaluated in equally positive terms.

The OSCE/ODIHR and the PACE are prepared to assist the authorities and civil society of Montenegro to remedy the shortcomings and challenges identified in this statement.

PRELIMINARY FINDINGS

Background

The 20 October 2002 early parliamentary elections in the Republic of Montenegro, Federal Republic of Yugoslavia (FRY), took place in a contentious political environment. The elections were precipitated by the collapse of the Government and the development of a new parliamentary alliance between the “Together for Yugoslavia” coalition and the Liberal Alliance of Crna Gora (LSCG). These two groups, previously political opponents, joined together to vote against the minority Government, headed by the Democratic Party of Socialists (DPS) of President Milo Djukanovic, and to shorten the mandate of the Parliament.

The early parliamentary elections of April 2001 produced no conclusive results. Following the signing in March 2002 of the agreement on the redefinition of relations between Serbia and Montenegro (the “Belgrade Agreement”), the pro-independence LSCG withdrew its earlier agreement to provide Parliamentary support to the Government.

Elections in 19 municipalities on 15 May 2002 gave the LSCG a pivotal role in determining the controlling majority in a number of key municipal assemblies, such as Niksic and Budva. Negotiations led to the development of a *de facto* coalition at municipal level between the LSCG and their former opponents, the main parliamentary opposition and pro-Federation “Together for Yugoslavia”. The informal pact was soon replicated in Parliament, which ensured the defeat of a Government motion of no confidence in the LSCG Speaker of Parliament and created what has been termed the “New Majority”.

On 19 July, the Parliament voted for its early dissolution. All parties in Parliament were generally in favor of these early elections in order to determine a new parliamentary majority.

In Podgorica, the municipal assembly elected in early elections in June 2000 had failed to approve its annual budget. In Tivat, the results of the municipal elections of May 2002 had produced no majority in its assembly. The situation required renewed elections in both municipalities.

On 20 July, the President announced parliamentary elections for the Republic and municipal elections in Tivat for 6 October, the day on which early municipal elections had already been scheduled in Podgorica. After the announcement of this date, the New Majority in Parliament introduced amendments to the election and related laws, including the media laws. These new laws did not have the support of four parliamentary parties, and the President refused to sign them until a second vote by Parliament required him to do so on 29 July.

Intense political disagreement followed on the applicability of the new laws, with the threat of the possible application of different laws in different municipalities, and of election boycotts. Further complications arose from the fact that all five members of the Constitutional Court, the final court of appeal on electoral complaints, had resigned or retired with a refusal by the New Majority to approve the nominated replacements.

In early September, following lengthy round-table discussions between parliamentary parties, facilitated by international interlocutors, including the OSCE/ODIHR and the Council of Europe, agreement was reached between the political parties on steps to be taken to clarify the applicable laws for elections and related media laws. On 10 September, a series of new laws were adopted that amended, and effectively repealed, the July legislation. On 11 September, following a petition by the Parliament for the postponement of the date of elections, the President announced that the elections would be re-scheduled to take place on 20 October. The outstanding issue of membership of the Constitutional Court continued to produce threats of boycott, until it was resolved after further international mediation, on 25 September, the last date for submission of candidates.

These elections also took place against the background of imminent presidential elections, subsequently scheduled for 22 December, and the debate over a new Constitutional Charter for Serbia and Montenegro, which may also lead to elections for an Assembly for the new State replacing the Federation.

Legislative Framework

The legislative framework for parliamentary and municipal elections, consisting of the Constitution, the Law on the Election of Councilors and Representatives (hereinafter the “Election Law”), the Law on the Voters’ Register, and other laws, provides an overall adequate basis for democratic elections.

The international commitments and standards for democratic elections are formulated in the 1990 Copenhagen Document, the case law of the European Court of Human Rights, and UN resolutions and other instruments. These criteria require that the vote be universal, secret, accountable, transparent, free, fair, and equal.

The election law was amended twice by Parliament after the announcement of these elections on 3 and 20 July. The initial amendments, which significantly changed the election and related media laws, came into effect on 10 August and had been adopted without due consideration for the consequences or adequate parliamentary consultation. The second series of amendments, adopted on 10 September with a broad consensus of Parliament and in line with Article 109 of Montenegro’s Constitution allowing the retroactive application of laws “in the public interest”, repealed a number of the July provisions that were contrary to international standards.

In general, it is accepted international practice that election laws should not be changed once an election is called, unless needed in order to clarify legislative ambiguity and accepted by most parties. The July amendments did not meet these criteria.

However, contrary to international advice, the September amendments reduced the number – from 5 to 4 – of parliamentary seats allocated on the basis of the votes cast in specially designated polling stations in Albanian communities, and also reassigned a number of such polling stations. This step, taken without sufficient consultation with political parties representing those communities, was not conducive to the development of a transparent and inclusive electoral process.

Moreover, during the period preceding the announcement of early parliamentary elections, the Parliament failed to address key and repeated recommendations of previous OSCE/ODIHR election observation missions in relation to areas where the legal framework could be improved. In particular, the election law continues to give control of elected mandates to political parties and coalitions, rather than to individual MPs and Municipal Councilors. Such undemocratic control of election mandates is contrary to international standards for democratic elections, in particular paragraph 7.9 of the 1990 Copenhagen Document. The requirement in the law that independent candidates can take part in elections only as part of citizens' list also violates the Copenhagen Document paragraph 7.5.

The election law should be further revised to prohibit persons standing as candidates in an election from also holding positions as permanent members of election commissions. The inherent conflict of interest with the requirement for election commissions to be impartial makes such a dual function highly inappropriate and unacceptable.

Election Administration

A generally well-organized system of election administration exists in Montenegro, consisting of the Republican Election Commission (REC), 21 Municipal Election Commissions (MECs), and Polling Boards in the 1,101 polling stations. The election law has introduced transitional provisions that guarantee representation in the composition of election commissions by all parliamentary parties and electoral lists. Such plurality ensured a higher degree of transparency and confidence in the electoral process. In general, the administration of these elections has taken place in a regular and efficient manner.

Nevertheless, contrary to international advice, the September amendments to the election law replaced many of the existing members of the REC and MECs more than 50 days after the elections were called and before their mandates expired. In particular, the new membership of the Podgorica MEC was significantly delayed in its preparations for the elections. Moreover, by establishing an even number of permanent members of election commissions, the election law has unnecessarily created the possibility of "tied" votes, although none has so far occurred in practice. A number of Commissions were required to work with inadequate facilities and uncertain finances.

The term of office for the members of the REC and MECs expires on 31 December. In the context of the 22 December presidential election, the second round of which provisionally has been scheduled for 5 January, consideration should be given to extending their term.

Election Campaign

Ten election lists with a total of 619 candidates took part in the parliamentary elections, six lists with 307 candidates in the Podgorica municipal elections, and seven lists with 194 candidates in Tivat, offering voters a real choice at both republican and local levels.

The two major players were coalitions formed in a continued reflection of the political cleavage seen during the 2001 elections. The DPS and Social-Democratic Party (SDP) were registered as “Democratic List for a European Montenegro – Milo Djukanovic”. The previous “Together for Yugoslavia” coalition of Socialist People’s Party (SNP), Serbian People’s Party (SNS) and the People’s Party (NS) contested the elections as “Together for Changes”. The LSCG chose again to participate as a stand-alone party.

For the first time, three parties from the Albanian community, including two parliamentary parties – the Democratic Union of Albanians (DUA) and the Democratic Movement for Montenegro (DSCG) - joined in coalition to form a single list, “Democratic Coalition – Albanians Together”. Eight parties from the Bosniak community were again divided into two coalitions, the “Bosniak Democratic Coalition” and the “Bosniak Coalition”. The “Patriotic Coalition”, consisting of the NSS and a number of radical pro-Yugoslavia parties, also entered the competition.

Following the political debate surrounding the calling of the elections, the resulting campaign was quiet and calm. All parties ran generally peaceful campaigns, although the language used by some politicians to describe opponents often went beyond acceptable levels of rhetoric into personal abuse. A possible confrontation in relation to the dates of political rallies in Podgorica was resolved when the SDP offered their scheduled date at the end of the campaign to the SNP. Two minor incidents of violence – in Niksic and Berane – were reported.

All major groups supported Montenegro’s further integration with Europe. While national concerns, such as the economy, work stoppages, employment and privatization, were discussed, the key focus was on President Djukanovic and his government, as well as on the role of the members of the “New Majority”. The Belgrade Agreement pushed the decisive issue of the April 2001 elections – independence – off the agenda.

Political campaigning sometimes blurred the line between State, municipal and party functions. For example, a political advertisement featuring the Government-owned airline appeared to be in breach of the election law. Another example was a brochure published by the municipality of Bar, which is controlled by the DPS/SDP, implicitly urging support for the “Democratic List for European Montenegro – Milo Djukanovic”.

The OSCE/ODIHR EOM received one complaint from the LSCG alleging vote buying. A written statement attached to the complaint alleged that the DPS had offered to open a bank account and pay 100 Euro into the account of a voter if he voted for DPS. The EOM advised the LSCG to refer the matter to the proper authorities for investigation.

The shortened 24-hour period of “electoral silence” was reportedly breached only by *Glas Crnogorska*, a newspaper that supports the SNP.

Media Coverage of the Pre-Election Period

As in previous elections, there was a wide range of electronic and print media, providing comprehensive coverage of the election campaign.

State media generally complied with the laws on the coverage of submitters of electoral lists, which were established by Parliament in the September amendments. The rules enabled most lists to receive roughly equal levels of free airtime on the State television Parliamentary Channel and radio broadcasts, and free space in the State newspaper, although smaller parties tended to have less coverage than the larger parliamentary parties or coalitions.

The Parliament's appointment of new multi-party editorial boards for the State media on 11 September aimed to ensure a better balance in the coverage of incumbents than was the case in previous elections. To further improve performance, the OSCE Mission in FRY was invited to appoint international advisors to the three State media outlets. In addition, in an attempt to de-politicize the appointment process, the Public Information Act – also amended in September – required that the editorial boards attempt to appoint these editors-in-chief through consensus decisions, or two-third majority if a consensus was not possible, and a simple majority as a last resort. In the end, reflecting the deep divisions in Parliament, the divided editorial boards appointed the editors-in-chief with simple majority decisions.

In previous elections, the State TV (RTCG1) favored the incumbents in terms of the amount of coverage, in particular when the coverage of the President is taken into account. Since the editorial boards and editors-in chief were changed in September, media monitoring revealed slight adjustments, except for a sharp overall programming drop in the coverage of the President and an equivalent increase in the coverage of Together for Changes, formerly Together for Yugoslavia (TfC/TfY below). As during previous elections, the tone of coverage remained largely neutral.

| <u>Media Outlet</u> | <u>Coverage</u> | <u>All Programs-----▶</u> | | <u>News-----▶</u> | |
|-----------------------|-----------------|---------------------------|-------------|-------------------|-------------|
| | | <u>Parliament</u> | <u>Muni</u> | <u>Parliament</u> | <u>Muni</u> |
| <u>RTCG1</u> | Government | 32.12% | 35.72% | 28.80% | 35.12% |
| | President | 15.11% | 34.70% | 21.54% | 27.59% |
| | DPS/SDP | 8.29% | 11.13% | 11.82% | 13.57% |
| | TfC/TfY | 26.75% | 8.70% | 13.13% | 11.18% |
| | LSCG | 13.24% | 9.75% | 18.30% | 12.53% |
| | | <u>All Pages-----▶</u> | | | |
| <u>Pobjeda</u> | Government | 10.81% | 11.97% | | |
| | President | 9.01% | 10.86% | | |
| | DPS/SDP | 20.08% | 22.07% | | |
| | TfC/TfY | 16.71% | 25.64% | | |
| | LSCG | 11.33% | 8.55% | | |

Almost all private media were explicitly in support of one party or another and often failed to provide objective reporting on the campaign. Paid advertising was only submitted by the largest two coalitions in the media monitored.

The “Board for Mass Media Supervision during the Pre-Election Campaign” was established by Parliament in September as a transitional body to monitor compliance by the State and private media with the rules on coverage of election campaigns. In addition, the OSCE Mission to FRY was invited to assist the Board with advice and monitoring of media performance. The Board enabled parties to file complaints on media coverage to an independent, multi-party body, requiring the media to publish its findings. On the basis of complaints received and its own findings, the Board adopted over 50 decisions and recommendations, ordering the media to publish its findings of violations. However, the Board did not impose any fines.

Voter Registers

A remarkable level of transparency continues to characterize the voter registers in Montenegro. This level of transparency could be further improved if the draft registers were displayed at the polling stations for public scrutiny. The maintenance of the voter registers at both Republic and municipal levels appears to have been further improved, with steps taken to remedy most of the few deficiencies identified during the May 2002 municipal elections.

As an issue of political contention, the voter register has had a significantly lower profile in these elections than previously, with considerably fewer complaints being received from political parties. However, those that were received identified some remaining inaccuracies. A limited number of deceased persons also continue to be registered on lists.

Nevertheless, while further improvements are possible, the accuracy of the voter register remains well within acceptable parameters.

Participation of Women in the Electoral Process

A significant gender imbalance in the electoral process continued, with only 100 of the 619 candidates (16.2%) being women. Only 10.6% of the outgoing Parliament were women. The incoming Parliament is unlikely to improve this ratio as most women are in positions on lists too low to be elected.

Participation of National Minorities in the Electoral Process

Political parties from the Albanian and Bosniak communities have stressed their dissatisfaction with the current system for representation of national minorities in Parliament. The IEOM welcomes the express commitment of all parliamentary political parties to undertake a review of the system by March 2003 in order to improve the participation of national minorities in the electoral process. The decision of the Albanian parties not to participate in the Podgorica municipal elections was regrettable.

Domestic Observers

Two domestic observer groups received accreditation to observe the elections – the Center for Democratic Transition (CDT) and the Center for Monitoring Elections (CEMI). The latter monitored the elections in co-operation with the Center for Free Elections and Democracy (CeSID) from Belgrade.

Between the two organizations, over 2,600 observers covered an overwhelming majority of polling stations. Both organized parallel vote tabulations. Their activities provided an exceptional level of scrutiny of the electoral process.

Election Day

The estimated 77% turnout was in line with equally high figures in recent elections, reflecting the high level of voters' interest and confidence in the electoral process.

The overwhelming majority of observers reported positive impressions from the polling stations they visited. Less than 1% of the observation reports characterized the polling day proceedings as "poor". In 83% of polling stations visited, domestic non-partisan observers were present.

In only 5% of the IEOM's observations, campaign material was noted within 50 meters of polling stations, in only 1% of observations unauthorized persons were attempting to intervene in the work of the polling boards and police officers were seen inside polling stations without justification. Tension was reported in 3% of observations, violence or unrest in 0.5%, and intimidation in less than 2% of observations.

Measures to safeguard the integrity of voting were implemented largely in accordance with the legal requirements. Only isolated cases of major violations were noted with regards to the use of the invisible ink (less than 1%), voters not signing the voter register (less than 1%), voters without valid IDs allowed to vote (1%), voters who are not on the list casting ballots (1%), and voters not marking their ballots in secret (only a single case noted). Three provisions added to the voting procedures in the September amendments of the law to improve the integrity of the process prohibited the announcement of voter names when checking their ID, the recording the identity of voters in unofficial documents, and the use of mobile phones in polling stations. These measures were implemented correctly in 92% of polling stations visited, the most frequent infraction being the use of mobile phones. However, group voting was again high at 10% of cases observed. Also, access to polling stations was noted as difficult in 14% of observations.

Observers evaluated the vote count in equally positive terms with only 2% characterizing the process "poor". In an overwhelming majority of cases observed, procedures to safeguard the integrity of the count were implemented properly. Significantly, no unauthorized persons were noted in polling stations during the vote count, no Polling Board member refused to sign the result protocols, indicating an acceptance of the outcome by all members, and there was no intimidation or tension noted.

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

MISSION INFORMATION & ACKNOWLEDGMENTS

Mr. Nikolai Vulchanov (Bulgaria) heads the OSCE/ODIHR Election Observation Mission. Mr. Rein Voog (Estonia) leads the Parliamentary Assembly of the Council of Europe delegation.

The IEOM issues this statement before the final certification of the election results and before a complete analysis of the IEOM observation findings. The OSCE/ODIHR will issue a comprehensive report shortly after the completion of the electoral process.

This statement is based on the observations of 19 long-term members of the OSCE/ODIHR EOM, based in Podgorica and four regional centers throughout the Republic who have been deployed since 24 September. The statement also incorporates the election day findings of 116 observers, including five from the PACE, reporting from some 500 polling stations out of a total of 1,101 around Montenegro.

The IEOM wishes to express appreciation to the Ministry of Foreign Affairs of the Federal Republic of Yugoslavia, and the Ministry of Foreign Affairs, the Ministry of Interior, the Republic Election Commission, and other Republic and Municipal authorities of Montenegro, including the Secretariat for Development, for their cooperation and assistance during the course of the observation. The IEOM is also grateful for the support of the OSCE Office in Montenegro and Embassies of OSCE participating States accredited in Belgrade and their representatives in Podgorica.

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