

INTERIM REPORT No. 1
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I. EXECUTIVE SUMMARY

- The presidential election is taking place on 7 April, some six months after the October 2012 early parliamentary elections from which the Coalition for European Montenegro, the previous ruling coalition, emerged again as the ruling party.
- Two candidates, incumbent President Filip Vujanović and opposition leader Miodrag Lekić, are competing in this election. A third potential candidate, Rade Bojović, was not registered as he failed to collect the required number of support signatures. The requirement that citizens can sign in support of only one candidate, and to sign in front of politically-appointed election officials raised concern among a number of OSCE/ODIHR LEOM interlocutors.
- The presidential election is regulated by a comprehensive legal framework that generally provides an adequate basis for the conduct of democratic elections. A limited number of appeals have so far been heard by the Constitutional and Administrative courts.
- The election is administered by a three-level election administration, comprising the State Election Commission (SEC), 21 Municipal Election Commissions, and 1,165 Polling Boards. Membership is based on the political composition of the parliament and municipal councils. The SEC has held regular sessions, open to the public and observers. Sessions attended by the OSCE/ODIHR LEOM have been conducted in a professional and collegial manner.
- Allegations of inaccuracies in the voter register persist, although officials have made some efforts to build public confidence in its veracity. In line with legal provisions, authorities are currently removing non-citizens from the voter register. While some civil society groups raised concerns with the OSCE/ODIHR LEOM about the notification procedures for those removed, authorities reported that all procedures were being followed. For the first time, citizens are required to possess a biometric identification card in order to vote.
- The election campaign officially commenced following the registration of each candidate and has been competitive and visible throughout the country. Mr. Vujanović's message focuses on the need for continuity of government to ensure further economic development and European Union (EU) integration, while Mr. Lekić is focusing on the lack of progress by the government in fighting corruption and organized crime. Nonetheless, the campaign has so far lacked substantive debate, rather focusing on personal accusations.
- The political division of the media and influence of the political and business interests of their owners are evident. The Agency for Electronic Media is the sole authority with the competence to review media complaints related to the election campaign.

- The OSCE/ODIHR LEOM commenced its activities in Podgorica on 8 March with a 10-member core team. On 13 March, 12 long-term observers were deployed throughout the country. The OSCE/ODIHR LEOM media monitoring of four television channels and four newspapers began on 12 March.

II. INTRODUCTION

Following an invitation from the parliament of Montenegro to observe the 7 April 2013 presidential election, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established a Limited Election Observation Mission (LEOM) on 8 March 2013. Given that a previous election observation activity has taken place within twelve months, the OSCE/ODIHR deployed a mission of a similar format to the one for the 2012 early parliamentary elections. The LEOM, headed by Ambassador Boris Frlec, consists of a 10-member core team based in Podgorica and 12 long-term observers deployed on 13 March throughout the country. The mission members are drawn from 15 OSCE participating States. In line with the OSCE/ODIHR methodology for LEOMs, the mission will not undertake a comprehensive observation of election day proceedings, but will visit a number of polling stations across the country.

III. BACKGROUND AND POLITICAL CONTEXT

On 18 January, the speaker of parliament called the presidential election for 7 April, in line with legal and constitutional provisions. This election will take place some six months after the 14 October 2012 early parliamentary elections. The results of the parliamentary elections allowed the Coalition for European Montenegro, which won 39 of the 81 seats, to maintain control of the parliament through the formation of a coalition government with the Bosniak Party (BS) and the Croatian Civic Initiative (HGI).¹ The newly-established coalition, Democratic Front (DF), led by Miodrag Lekić, became the main opposition bloc in the parliament.

The OSCE/ODIHR observed the 2012 parliamentary elections and concluded in its final report that “the elections were conducted in a peaceful and pluralistic environment though the high number of allegations of state and party confluence and election irregularities indicated a lack of public confidence in the electoral process.”²

Opposition calls for electoral reform, improved implementation of the rule of law, strengthened legislation, and for a stronger fight against corruption continue to shape the political landscape, especially in light of the continued accession talks with the European Union. The recent leak of tape recordings from Democratic Party of Socialists (DPS) meetings, held in preparation for the 2012 early parliamentary elections, in which party members allude to the possible abuse of state resources in efforts to get more voter support, has been widely covered in the media.

National minorities continue to play an important role in the political context of Montenegro, mainly aligning with the governing coalition. For this election, ethnic Albanian parties have linked their support for incumbent President Vujanović to the possibility of holding a

¹ Coalition for European Montenegro comprises the Democratic Party of Socialists (DPS), Social Democratic Party (SDP), Liberal Party (LP) and is led by Milo Đukanović, Leader of DPS.

² All previous OSCE/ODIHR reports on Montenegro are available at:
<http://www.osce.org/odihr/elections/montenegro>.

referendum on the municipality status of the city of Tuzi, potentially at the same time as the upcoming presidential election.

IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The presidential election is regulated by a comprehensive legal framework that generally provides an adequate basis for the conduct of democratic elections. The Constitution, the Law on Election of the President (presidential electoral law), and the Law on Election of the Councillors and Representatives (electoral law), are the primary pieces of legislation regulating the presidential election. They are supplemented by various laws, including the Law on the Voter Register, the Law on Political Parties, the Law on Financing the Presidential Election Campaign, the Law on Political Parties Financing, as well as media-related legislation and instructions and decisions of the State Election Commission (SEC).

The presidential electoral law, adopted in 2007, includes only specific provisions related to the presidential election, whereas the electoral law, adopted in 1998 and last amended in 2011, includes common provisions for presidential and parliamentary elections, including candidate registration, the establishment and responsibilities of election administration bodies, polling procedures and the complaints and appeals framework.³

All citizens who are 18 years or older on election day, have permanent residence in Montenegro for at least 24 months prior to polling day, and who have not been declared mentally incapacitated by a court, have the right to vote. The residency requirement has been noted in past OSCE/ODIHR reports as overly restrictive, with a recommendation that it be removed from the Constitution and the electoral law.

The president is directly elected by popular vote for a five-year term. To be elected in the first round, a candidate must receive more than 50 per cent of the valid votes cast. Otherwise, a second round is held within two weeks between the two candidates who received the highest numbers of votes. The candidate who receives the highest number of votes in the second round is elected. The right to stand as a candidate is granted to every voter who has permanent residence in Montenegro for at least 10 of the past 15 years. No person can be elected to the office of president for more than two terms. The candidacy of the incumbent president was challenged by a group of citizens in the Constitutional Court on the grounds that he had already been elected twice, once prior to independence in 2006 and then re-elected in 2008; the court dismissed the appeal.

V. ELECTION ADMINISTRATION

The presidential election will be administered by a three-level election administration that includes the SEC, 21 Municipal Election Commissions (MECs) and some 1,165 polling boards (PBs). The SEC and MECs are permanent bodies appointed for four years, while PBs are formed for each election. Members at all levels are nominated by political parties. The 11-member SEC and 7-member MECs are appointed according to the political composition of the parliament and municipal councils, respectively. The MECs must also ensure that PBs have political representation as provided by law, reflecting the political composition of the

³ The OSCE/ODIHR and the Council of Europe's Commission for Democracy through Law (Venice Commission) concluded in a 2011 Joint Opinion that the amendments to the law generally represented a positive development, while some further improvements were recommended; see at: <http://www.osce.org/odihr/elections/93229>.

respective local council. In addition to the permanent members, each presidential candidate has the right to appoint an authorized representative with full voting rights to election commissions at all levels. The ruling coalition currently has 6 out of 11 members in the SEC and is in the majority in 17 out of 21 MECs.

The SEC has so far held regular sessions that have been open to the public. Sessions attended by the OSCE/ODIHR LEOM during this reporting period were conducted in a professional and collegial manner, however, the minutes of SEC meetings are not published on the SEC website, which would enhance transparency of the process. All legal deadlines have been met, despite the SEC continuing to operate without a secretariat as foreseen by the electoral law.

Following the 2012 early parliamentary elections new MECs were established in Budva, Kotor and Nikšić.⁴ In Andrijevica, where the opposition is refusing to participate in the municipal council, the MEC is currently functioning with only four members from the ruling coalition. MECs have the legal obligation to immediately publish all relevant decisions on their websites. The OSCE/ODIHR LEOM has noted that only a few MECs are posting decisions, and five municipalities currently do not have a website.⁵

As in previous elections, the MECs plan to conduct trainings of the PBs in their respective municipalities.⁶ The SEC stated that the authorized representatives of each candidate are welcome to participate; however, it remains unclear if they will participate, as the candidates may appoint their authorized representatives after the trainings have concluded.⁷

VI. VOTER REGISTRATION

Voter registration is passive. Voter registers are maintained by municipalities based on the relevant citizen registers held by the Ministry of Interior (MoI). The municipal voter registers are subsets of the Central Voter Register (CVR), located at the Ministry of Information Society and Telecommunications (MIST). Any changes made to voter registers at the municipal level are instantly reflected in the CVR.⁸

Allegations of deliberate inaccuracies in the voter register persist from some opposition political parties and civil society. To address the lack of public confidence noted by the OSCE/ODIHR LEOM during the 2012 early parliamentary elections, the MoI and the MIST created an information video to inform citizens on how the voter registers are maintained. Voters were informed of how to check their registration status, including through a website and SMS service, both of which were actively used. Parliamentary political parties also have access to the voter register, a right that is actively used by some parties.

The removal of non-citizens from the voter register triggered by the passage of the 2007 Constitution has been delayed on several occasions. However, the 2011 amendments to the

⁴ Budva MEC was established on 27 December 2012, Kotor on 29 December, and Nikšić on 7 February 2013. Even though municipal elections were held in Andrijevica and Nikšić on 9 March 2013, due to the short time before the presidential election, the MECs were not changed.

⁵ These include MECs in Berane, Plav, Plužine, Šavnik, and Ulcinj.

⁶ The electoral law does not state that the trainings of PB members are obligatory.

⁷ The OSCE/ODIHR LEOM final report on 14 October 2012 early parliamentary elections recommended uniform trainings designed by the SEC for all members, permanent and extended.

⁸ Only the municipal authorities may make changes to the voter registers. The MIST is providing technical assistance as well as analysis of voter register entries and identification of potential inaccuracies.

electoral law required that all non-citizens be removed from the voter register by 31 December 2012. According to the MIST, since the 2012 early parliamentary elections, 10,315 non-citizens were removed, while 2,086 entries for non-citizens that are in the process of resolving their citizenship status remain on the preliminary voter list. While some civil society groups claimed that those removed are not duly informed, the MIST reported to the OSCE/ODIHR LEOM that all changes to the register were made in accordance with legal requirements and two notices were sent to all those to be removed, allowing for a timely legal remedy.⁹ Amendments to the voter list can be made up until 28 March. According to the preliminary voter list, published on 13 March, 512,715 citizens are registered to vote in this election.

Biometric identification (ID) cards were introduced in 2008. The validity of old ID cards was legally extended until 31 December 2012, so that they could be used in the early parliamentary elections. According to the MoI, currently there are some 25,000 citizens in Montenegro without biometric ID cards, which are now required in order to vote.

VII. CANDIDATE REGISTRATION

Presidential candidates can be nominated by political parties or a group of citizens. All candidates are required to support their candidature with signatures of at least 1.5 per cent of the total registered electorate.¹⁰ Several OSCE/ODIHR LEOM interlocutors stated that this figure is unreasonably high and not in line with established good practice that the number of required signatures should not exceed one per cent of the electorate.¹¹

Prospective candidates were to collect signatures from the day election was called until 18 March. Citizens could sign in support of only one candidate by going to the respective MEC offices and giving their signature in front of two MEC members, one from the ruling coalition and one from the opposition. Limiting citizens to sign in support of only one candidate, and the requirement of signing in front of politically-appointed MEC members has been raised as a concern in previous OSCE/ODIHR reports and was also questioned by a number of OSCE/ODIHR LEOM interlocutors.

Of the three potential candidates, incumbent Filip Vujanović, nominated by DPS, and Miodrag Lekić, nominated by a group of citizens, successfully collected the required number of signatures and were confirmed by the SEC on 13 February and 22 February, respectively. Rade Bojović, who was a potential independent candidate, failed to collect sufficient signatures. Mr. Bojović voiced concern to the SEC that the MECs do not have uniform working hours, and they are not open on weekends for signature collection. At the time of this report, the SEC had not responded to the claim. The electoral legislation does not prescribe how the signature books are secured and kept by the MEC, but according to the SEC all MEC members have access to them.

⁹ On 13 March 2013, the Administrative Court upheld one appeal of a voter removed from the voter register on the ground that the individual was not properly informed of the removal.

¹⁰ For this election each potential candidate needed to collect 7,710 signatures, based on the 514,055 voters registered in the last election.

¹¹ Article 1.3 of the Venice Commission Code of Good Practice in Electoral Matters, available at: [http://www.venice.coe.int/webforms/documents/CDL-AD\(2002\)023rev-e.aspx](http://www.venice.coe.int/webforms/documents/CDL-AD(2002)023rev-e.aspx).

VIII. THE CAMPAIGN AND CAMPAIGN FINANCE

The official campaign starts from the day a candidate is registered¹² and ceases 24 hours before election day. The electoral law establishes a set of rules aimed at ensuring equal campaign opportunities, including access to state premises for campaign events and specially allocated places to display campaign materials.

Political parties that did not put forward a candidate started to declare their support for one of the two registered candidates. The Liberal Party, Albanian Coalition, BS, and HGI declared their support for Mr. Vujanović, while DF and the Socialist People's Party have aligned with Mr. Lekić. Although the SDP is part of the ruling coalition, some of its members challenged the legitimacy of the incumbent president's candidacy and the party has decided not to support either candidate.

The campaign is so far competitive and visible throughout the country. The campaigns of both candidates were launched with rallies. Mr. Vujanović addressed his supporters in Bar on 1 March, and Mr. Lekić held a meeting in Nikšić on 26 February. Mr. Vujanović's message focuses on the need for continuity of government to ensure further economic development and EU integration, while Mr. Lekić is focusing on the lack of progress by the government in fighting corruption and organized crime. Nonetheless, the campaign observed so far by the OSCE/ODIHR LEOM is lacking in programmatic debate and rather focusing on personal accusations from both sides. In addition to traditional means of campaigning, the candidates are relying on the internet and the use of social networks to reach out to voters.

Presidential candidates are required to submit reports on the source and amount of campaign contributions in the pre-election period to the SEC 7 to 10 days before election day. In addition, no later than 45 days after the election, candidates must submit a comprehensive final report of all campaign contributions and expenditures to the SEC. Before submission, the final report must be audited by the Ministry of Finance regarding the use of public funds and by a private auditor when campaign contributions exceeded EUR 50,000. Failure to submit these reports results in administrative fines.

IX. MEDIA

The media landscape is diverse and offers a wide range of information, however, both broadcast and print media are clearly divided along political lines. The content is also influenced by the business interests of media owners, which often leads to biased coverage. In addition, OSCE/ODIHR LEOM interlocutors continue to cite inadequate protection of journalists from intimidation by politicians and business leaders as a primary criticism of the media environment. The majority cases of attacks on journalists from the last five years remain unresolved.

There are currently 6 public and 19 private television channels, 55 radio stations, 5 daily and 3 weekly newspapers. While television is the most popular source of information in the country, the internet is becoming an alternative source of information.¹³ The national public service broadcaster, Radio and Television Montenegro (RTCG), operates three channels. The private *TV Vijesti* is the most popular channel, particularly its news programs. Print media

¹² The campaign started from 13 February for Mr. Vujanović and from 22 February for Mr. Lekić

¹³ According to MIST 50.9 per cent of the population has access to the internet in 2012:
<http://www.mid.gov.me/en/library/document>.

offer a wide range of views and are often critical of the government. However, the influence of newspapers is relatively low due to their limited circulation.

The electoral law contains regulations for the media during the campaign, requiring public broadcast media to grant free airtime, on equal terms, to all electoral contestants during prime time hours. The coverage of the electoral campaign on public television and radio is further regulated by RTCG's internal regulations, which entitle registered candidates to receive, in addition to dedicated news coverage, five minutes a day on both public television and radio for their campaign advertisements.

The Agency for Electronic Media is an independent regulatory body overseeing the conduct and use of mass media during the election campaign. It is also mandated to receive media-related complaints but has not yet received any complaints. The Media Council for Self-Regulation is a self-regulatory body that monitors professional and ethical standards in journalism.

On 12 March, the OSCE/ODIHR LEOM commenced its media monitoring activities, which will produce statistical data on the time and space allocated to candidates through a quantitative and qualitative analysis of the content of the four main television channels and four prominent daily newspapers with nationwide coverage.¹⁴

X. COMPLAINTS AND APPEALS

The electoral law stipulates that election administration bodies, the Constitutional Court and the Administrative Court shall provide protection of suffrage. The Constitutional Court is mandated to adjudicate complaints challenging the legality and constitutionality of the electoral legal framework. Voters, candidates and submitters of candidate nominations have the right to file complaints to higher-level election commissions, with the Constitutional Court acting as a court of last instance.

The electoral law imposes very short deadlines for the submission and adjudication of complaints. Depending on the instance, complaints and appeals must be submitted within 24 to 72 hours from the alleged breach of the law, or decision to be challenged, and the adjudicating body shall issue its decision within 24 to 48 hours. If an electoral body does not issue its decision within the deadline, the complaint is deemed justified.¹⁵

The Administrative Court hears complaints related to the composition of MECs and appeals of decisions of local government officials related to voter registration. Hearings before the court are only open to the public at the request of one of the involved parties. To date, the Administrative Court received two complaints related to the composition of the MECs in Kolašin and Andrijevića, however, the court has not yet reviewed the matters. The OSCE/ODIHR LEOM was informed by the president of the court that ruling would be delayed until after the election, in order to avoid disrupting the electoral process.

In line with a previous OSCE/ODIHR recommendation, the SEC developed a complaint form that will be available in each polling station to facilitate and systematize the processing of election day complaints.

¹⁴ TV: RTCG, *TV Vijesti*, *TV Atlas*, and *TV Prva*. Print media: *Pobieda*, *Vijesti*, *Dan*, and *Dnevne Novine*.

¹⁵ In previous reports, the OSCE/ODIHR noted that the short timeframes may not be sufficient to guarantee due process.

XI. OSCE/ODIHR LEOM ACTIVITIES

The OSCE/ODIHR LEOM commenced its work on 8 March. The Head of the LEOM met representatives of the Ministry of Foreign Affairs and European Integration, the speaker of the parliament, the president of the SEC, the Ministries of Interior and Information Society and Telecommunications, the Constitutional Court and Administrative Court, candidates, political parties, civil society, media, and the international community. The OSCE/ODIHR LEOM would like to thank all of its interlocutors for co-operation. The 12 LTOs were deployed in teams of two across the country and are meeting regional stakeholders and observing the electoral campaign. For election day, the OSCE/ODIHR LEOM will be joined by an observer delegation from the Parliamentary Assembly of the Council of Europe.

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