



Office for Democratic Institutions and Human Rights

MONTENEGRO

**PRESIDENTIAL ELECTION
19 MARCH AND 2 APRIL 2023**

**ODIHR Election Observation Mission
Final Report**



Warsaw
11 December 2023

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I. EXECUTIVE SUMMARY

Following an invitation from the authorities of Montenegro, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Observation Mission (EOM) to observe the 19 March presidential election. For election day, the ODIHR EOM was joined by delegations of the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament to form an International Election Observation Mission (IEOM). The ODIHR EOM remained in the country to observe the run-off on 2 April and was again joined by the PACE and the European Parliament. The ODIHR EOM assessed compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections, as well as national legislation.

In its Statement of Preliminary Findings and Conclusions on the first round of the election issued on 20 March, the IEOM concluded that “the election was competitive and adequately managed, and fundamental freedoms were respected in the campaign. The legal framework has numerous gaps and ambiguities that undermine its effectiveness. The election administration worked transparently; however, politicisation and the lack of inclusiveness in the candidate registration process reduced public trust. Registered candidates enjoyed equal opportunities in the campaign. The election was held against the backdrop of an institutional crisis and political impasse, while the lack of a functioning Constitutional Court for most of the process left key aspects of the election without judicial review. Concerns about the potential impact of foreign television programming on the election campaign remained. Campaign finance regulations allow for circumvention, limiting accountability. The media environment is free and well-regulated, and the public broadcaster met legal requirements and offered balanced campaign coverage; however, the limited visibility of its programming and the bias displayed in private media detracted from voters’ ability to make an informed choice. Election day was calm, and the voting process was assessed positively in the overwhelming majority of polling stations observed, although the secrecy of the vote was not always protected. The counting process was assessed less positively, mainly due to omitting important reconciliation procedures, but the tabulation process was assessed positively.”

The IEOM’s Statement of Preliminary Findings and Conclusions issued on 3 April concluded that “in a competitive run-off, candidates were able to campaign freely and enjoyed equal opportunities to reach out to the voters; however, their harsh rhetoric and biased coverage of the campaign by some media did not contribute to the ability of voters to make an informed choice. The law lacks explicit regulation on almost all aspects of the second round, and important clarifications were not given on the regulation of campaign finances and the media, detracting from legal certainty. Still, the election administration implemented provisional solutions on a number of procedural issues, which addressed some of the legislative gaps and adequately managed the process. In general, election day proceeded orderly, and the voting process was well administered.”

The president is elected in a single nationwide constituency for a five-year term. To be elected in the first round, a candidate must receive over 50 per cent of the valid votes cast. Otherwise, a second round is held two weeks later between the two candidates with the most votes.

¹ The English version of this report is the only official document. An unofficial translation is available in Montenegrin.

The election took place during an ongoing institutional and constitutional crisis and amidst a political impasse. After the 2020 parliamentary elections, two successive governments resigned following no-confidence votes, although the second remained in office due to the inability to form a new government. In September 2022, the parliament threatened to dismiss the President, who in turn threatened to dissolve parliament, both citing breaches of the Constitution. The Constitutional Court was without a quorum from September 2022 until 27 February 2023, negatively impacting the resolution of election appeals, including from the local elections and review of the constitutionality of newly adopted legislation. On 16 March, three days prior to the election day of the first round, the president dissolved parliament and, on the next day, called early parliamentary elections for 11 June.

The legal framework provides a basis for the conduct of democratic elections, but contains several gaps and ambiguities that undermine its effectiveness and need to be addressed for it to be fully sound. It has remained unchanged since 2014, except for regulating campaign finance. Long-standing ODIHR recommendations remain unaddressed, including those pertaining to undue restrictions on voting and candidacy rights, mechanisms of dispute resolution, and oversight of campaign finances and media. In addition, the law lacks sufficient regulation on many key aspects of the second round, undermining legal certainty. Further, the timeline for reviewing complaints does not ensure that the first-round results are finalised in time for the second round. The State Election Commission (SEC) implemented provisional solutions to regulate some aspects of the second round, which safeguarded the integrity of the process.

While the SEC ensured transparency of its work, members voted along political lines on key decisions, including candidate registration, undermining stakeholder confidence in its independence. While the law provides for politically-balanced election commissions, the Democratic Party of Socialists had a significant majority among members and chairpersons of lower-level election commissions in the first round. The SEC maintained the same composition of election commissions for the second round, including the authorised representatives of all first-round candidates, which reversed the political balance in lower-level election commissions in favour of the opposition candidate, given his endorsement by three first-round candidates. The observed training sessions were neither comprehensive nor interactive, and no additional training was organised ahead of the second round despite some procedural shortcomings identified in the first round.

Voting rights are granted to all citizens 18 or older, provided they have a permanent residence in Montenegro for at least 24 months preceding election day, a lengthy residence requirement contrary to international standards. However, the law on residence lacks clear and objective criteria for acquiring and losing permanent residence and allows diaspora communities permanently residing abroad to maintain their permanent residence status in Montenegro. Some election stakeholders raised long-standing issues with the accuracy of the register, mainly regarding the inclusion of the diaspora, including those who died abroad. The final voter register included 542,154 voters, and it was not updated for the second round, as there is no such legal requirement.

To stand as presidential candidates, voters must have had permanent residence in Montenegro for at least 10 of the last 15 years, an undue restriction not in line with international standards. Insufficient regulation of the signature collection and verification did not ensure the integrity of this process, and some citizens alleged their signatures were misused. The SEC received nine applications and ultimately registered seven candidates, including one woman. Overall, candidate registration was not inclusive. The SEC denied registration to Mr. Spajić, citing contradictory information pertaining to his citizenship and permanent residence, despite the submitted documentation required by law. This decision was inconsistent with national legislation, and the manner in which his application was handled is at odds with international standards.

In a competitive campaign, fundamental freedoms were respected, and all candidates enjoyed equal opportunities to convey their messages. The rhetoric focused on personalities, corruption and national

identity, while no campaign included messages specifically addressing women. In the run-off contest between Mr. Đukanović and Mr. Milatović, the campaign took on a more negative tone, with mutual accusations. Extensive regulations were put in place with the aim to prevent inducing voters through new public employment and excessive spending but circumvention was possible due to a lack of verification tools available to the regulator. The Agency for the Prevention of Corruption (APC) referred several cases of alleged abuse of state resources to the court, all of which remained pending after the elections.

Most previous ODIHR recommendations on campaign finance remained unaddressed, including on the use of loans, effective oversight and sanctions. The APC, mandated with oversight, does not have effective powers to verify the legality of donations and no sanctions are foreseen for inaccurate reporting. The law lacks explicit regulation on the second round, including on the reporting requirements, and the APC issued no clarifications. Candidates' donation and expenditure reports were submitted and published promptly, thus contributing to the information available to voters. However, the high expenditure limit of EUR 1.7 million does not foster a level playing field, and the law does not state whether the limit applies to one or both rounds. Some eliminated first-round candidates endorsed and campaigned for a run-off candidate; more broadly, third-party campaigning remains unregulated. Overall, the deficiencies of the regulatory framework detracted from transparency and accountability of campaign finances.

The media environment is diverse but polarised along political lines, and limited financial viability makes media vulnerable to influence from corporate and political interests. The media legal framework is comprehensive and provides adequate guarantees for freedom of expression. The election law regulates the coverage of the campaign by the media but contains no explicit regulation on the second round, which caused legal uncertainty. The Agency for Electronic Media (AEM) lacks the mandate and effective sanctioning powers to enforce election-related legal provisions. The national public broadcaster offered candidates free airtime under equal conditions and held two debates, contributing to the voters' ability to make an informed choice despite choosing a channel with low viewership to broadcast most of the first-round coverage. The broadcaster of the Municipality of Podgorica and three out of the four monitored private TV channels displayed clear bias in their coverage. During the campaign, several ODIHR EOM interlocutors raised concerns over the potential impact of foreign TV programming on the campaign, but such interference remained limited during this election.

National minorities are generally well represented by their own political parties and are integrated into larger political parties, with a notable exception of Roma, who have their own party but face difficulties in protecting their rights, as they are targets of undue pressure and inducement, including from their own community leaders. Bilingual ballot papers and other election materials were produced in polling stations in municipalities with over five per cent of the population from among the Albanian minority.

Women remain generally underrepresented in elected and appointed offices, holding only 18 out of 81 seats in Parliament and 4 of the 20 ministerial posts. Women were also underrepresented in the election administration management positions, as only three of the 11 permanent SEC members and five of the 25 MEC chairpersons were women. All three newly appointed judges of the Constitutional Court are women, and the court is currently comprised of two men and four women. Further, women were less present as speakers and in the audience in campaign events observed by the ODIHR EOM, and campaign messages did not address issues of particular importance to women.

At odds with international standards, several types of SEC decisions are exempt from judicial review, and voters can only file complaints about their voting rights. The Constitutional Court does not review complaints in public sessions or ensure an expedited review. The SEC dismissed four of the five received complaints as not being under its competence and rejected one on merits. The Constitutional Court lacked quorum until 27 February, significantly impacting the possibility of seeking final legal

remedy on appeals. The court did not review complaints received ahead of the first round before election day, thus failing to provide a timely and effective remedy. The APC has wide discretionary powers to decide whether to refer complaints on abuse of state resources and campaign finances to the court and no deadline to do so, which does not provide for expedited review. Of the 99 complaints received, the APC dismissed 33 as inadmissible and rejected 31 on merits, while 35 were still pending review as of July. Acting *ex officio*, it referred 31 cases to the court and one to the prosecutor. Most institutions mandated to adjudicate disputes are susceptible to political influence due to the lack of security of tenure or the mechanism by which they are appointed. Overall, the election dispute resolution mechanisms, as implemented, failed to ensure an effective and timely remedy.

The law provides for citizen and international election observation. The SEC accredited six citizen observer groups and nine international organisations. By law, observers should have access to all stages of the electoral process, but the SEC did not grant the observers' requests to scrutinise the verification of voters' support signatures, citing personal data protection.

Both election days were calm, and the voting process was assessed positively in the overwhelming majority of polling stations visited. The process was well-organised, and procedures were largely followed, but the secrecy was not always ensured due to the polling stations' layout and positioning of voting screens and in some cases, voters did not mark their ballots in secret. More than half of the polling stations observed were not accessible for independent access by persons with disabilities. The extensive presence of authorised candidate representatives and observers contributed to the overall transparency. Some 36 per cent of the polling board (PB) members at polling stations observed were women, including 27 per cent of the PB chairpersons. The counting was assessed negatively in one-third of the observations, mainly due to the omission of important reconciliation procedures.

The Municipal Election Commissions (MECs) did not receive any challenges of PB voting results for either of the election days. According to the SEC and the Constitutional Court, no challenges may be filed against the MEC tabulated results, which are viewed as arithmetical calculations, thus limiting the accountability of the process, at odds with international standards and good practice. Eight MECs did not publish any results, and only some MECs published results disaggregated by polling stations on their websites, as required by law, thus detracting from transparency. While the tabulation was assessed positively in most MECs, the SEC did not publish partial results on election night, further limiting transparency and the accountability of the election process.

This report offers a number of recommendations to support efforts to bring elections in Montenegro in line with OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations relate to the need for comprehensive electoral legal reform, regulation of the second round of elections, review of the mechanism of nomination and appointment of election commissions, not making the signed voter lists publicly available, review of the procedures for candidate nomination and registration, and the introduction of explicit regulation of the publishing of election results and criteria for the invalidation of results. ODIHR stands ready to assist the authorities to improve the electoral process and to address the recommendations contained in this and previous reports.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Speaker of the Parliament and based on the recommendation of a Needs Assessment Mission conducted from 24 to 27 January, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 8 February. The EOM, led by Tamás Meszerics, consisted of a 13-member core team based in Podgorica and 14 long-term observers (LTOs) deployed on 17 February to 7 locations throughout the country. For

the first-round election day, the ODIHR EOM was joined by the delegation of the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP) to form an International Election Observation Mission (IEOM). Mr Joe O'Reilly headed the PACE delegation in both rounds, while Mr Tonino Picula headed the EP delegation in the first round and Mr Georgios Kyrtos in the second round.

For the first-round election day, 185 observers from 41 countries were deployed, including 132 long-term and short-term observers deployed by ODIHR, a 23-member delegation from the PACE and a 13-member delegation from the EP. Mission members were drawn from 25 OSCE participating States, and 42 per cent of mission members were women. For the second-round election day, 11 ODIHR EOM core team members and all 14 LTOs remained in the country, while no short-term observers were deployed due to the limited number of secondments by the OSCE participating States. They were joined by a 3-member delegation from the PACE and a 7-member delegation from the EP. IEOM observers in the second round came from 27 countries, and 42 per cent of mission members were women. The ODIHR EOM remained in the country until 14 April. All institutions involved in the IEOM have endorsed the 2005 Declaration of Principles for International Election Observation.

The ODIHR EOM assessed the compliance of the election process with OSCE commitments, other international obligations and standards for democratic elections, and national legislation. This Final Report follows the two Statements of Preliminary Findings and Conclusions, which were released at press conferences held on 20 March and 3 April in Podgorica.²

The ODIHR EOM wishes to thank the Speaker of the Parliament for the invitation to observe the elections and the Central Election Commission and the Ministry of Foreign Affairs for their assistance and co-operation. It also expresses its appreciation to other institutions, candidates, political parties, media, civil society organisations, and the resident international community for their co-operation and for sharing their views.

III. BACKGROUND AND POLITICAL CONTEXT

Montenegro is a parliamentary republic with a mixed parliamentary and presidential political system. Both institutions are elected by popular vote. The president is the head of state and has limited powers.³ On 16 January 2023, the Speaker of the Parliament (*Skupština*), in keeping with the legally prescribed timelines, called a presidential election for 19 March.⁴ The election took place amidst an ongoing institutional and constitutional crisis, a political impasse and calls for early parliamentary elections to resolve the crisis.

In the 2020 parliamentary elections, the ruling Democratic Party of Socialists (DPS) won the most seats but could not secure a majority. The three coalitions which stood against it formed a government, replacing the ruling DPS for the first time since 1990.⁵ This government had to resign due to a vote of no confidence, as did its successor in August 2022, but the latter remained in office as another could

² See the previous [ODIHR reports with regard to elections in Montenegro](#).

³ The competencies include nominating candidates for prime minister, representing the state, commanding the army based on the decisions of the Defence and Security Council, appointing ambassadors, accrediting diplomats, and nominating two of the seven judges of the Constitutional Court.

⁴ The Speaker calls a presidential election at the latest 120 days before the expiry of the incumbent's mandate, which ended on 20 May 2023. The election must be scheduled between 60 and 90 days after the announcement.

⁵ DPS won 30 of the 81 seats. The government was formed by the coalitions "For the Future of Montenegro", with 27 seats; "Peace is Our Nation", 10; and "In Black and White", 4. The Social Democratic Party (SDP), 2; Social Democrats (SD), 3; Bosniak Party (BS), 3; while the Albanian coalition "Unanimously" and the Albanian List won 1 seat each and remained in the opposition.

not be established. On 19 September, the president refused to accept the nomination of a new candidate for prime minister, instead requesting that the parliament shorten its mandate, allowing for early elections. In response, the ruling majority requested the Constitutional Court to assess whether the president violated the Constitution. Further, the parliament adopted amendments to the Law on the President, allowing the parliament to nominate a prime minister supported by the majority of MPs if the president declined to do so.⁶ The amendments were adopted despite the urgent opinion of the Venice Commission, which acknowledged the gaps but cited that these required constitutional reform rather than legal amendments.⁷

In September 2022, a new party, the Movement Europe Now (PES), was established and contested the October 2022 municipal elections held in 14 of the country's 25 municipalities. While a DPS-led coalition won the most votes in Podgorica, the opposition led by PES announced it secured a majority and its intention to nominate the Mayor. By March 2023, the municipal election results in four municipalities, including Podgorica, were still not finalized by the respective Municipal Election Commissions (MECs) due to pending complaints largely viewed as frivolous and considered to be aimed only at delaying the establishment of new municipal assemblies.⁸

The Constitutional Court was without a quorum since 13 September 2022, as the parliament failed to elect new judges on multiple occasions.⁹ As a result, several important cases remained pending ahead of the elections, including the impeachment process, appeals pertaining to the municipal elections, and the constitutional review of the legal amendments to the Law on the President. Following a political agreement, on 27 February, the parliament filled three of the court's four vacancies, restoring its quorum.

Efforts to form a new government continued during the election campaign until the president decreed the dissolution of the parliament on 16 March and, on the next day, called early parliamentary elections for 11 June.¹⁰

Women remain underrepresented in political life. Despite the election law requiring gender quotas for party lists, only 18 out of the 81 members of the parliament (MPs) and 4 of the government's 20 ministers were women ahead of this election.

⁶ The new article 7.f.1. of the Law on the President stipulates: "If the President does not perform his duties with regard to the procedure of determining the Prime Minister-designate pursuant to the present Law, for the sake of protecting the public interest the candidate who has received support of majority of the total number of MPs, as established by a petition with signatures, shall be considered a Prime Minister-designate."

⁷ Following a request by the President, on 9 December 2022, the Venice Commission issued an [Urgent Opinion](#) that stated, *inter alia*, that "While the Commission acknowledges that the Constitution would benefit from additional regulation on the formation of the government, in particular, to prevent deadlocks, and understands that the law under consideration represents a pragmatic attempt to solve the institutional impasse, it reiterates that any complementary provisions which affect the system of checks and balances foreseen by the Constitution should be added by means of constitutional revision, following the procedure described in Art. 156, which requires a qualified majority."

⁸ In Podgorica, Plav and Pljevlja, this was due to requests for invalidation of results in some polling stations on the grounds that they were inaccessible for persons with disabilities and in Šavnik due to interruption of the voting process in one polling station.

⁹ The Constitutional Court comprises seven judges but was left with only three. Parliament made six unsuccessful attempts to elect new judges prior to 27 February.

¹⁰ The presidential decree cited article 92.3 of the Constitution, which states that the president dissolves parliament by decree without specifying the grounds. Article 92.1 of the Constitution stipulates that the parliament shall be dissolved if it fails to elect a government "within 90 days from the date when the President of Montenegro proposed for the first time the candidate for the position of the Prime Minister". The new articles 7e and 7f of the Law on the President prescribe the same grounds and timeframe if the prime minister is nominated by the parliamentary majority, and article 24a states that the 90-day deadline starts the day the amended law entered into force (16 December 2022). In his address to the nation, the President noted he took into consideration that the Prime Minister-designate and the parliamentary majority failed to establish a government within 90 days and that the Law on the President does not comply with the Constitution, but that this law is a part of the legal system until the court deems it unconstitutional.

To enhance women's participation in public life, comprehensive legal, institutional, and educational efforts addressing existing gender stereotypes should be undertaken by the authorities.

IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The president is directly elected from a single nationwide constituency for a five-year term. To be elected in the first round, a candidate must receive over 50 per cent of the valid votes cast or a second round is held between the two frontrunners and the candidate who receives the most votes is elected. A President may not serve more than two terms.¹¹

Montenegro is a party to the major international and regional instruments on democratic elections.¹² The legislation for the presidential election primarily consists of the 2007 Constitution, the Laws on the Election of the President (LEP, 2007), on the Election of Councilors and Representatives (election law, 1998), and on Financing of Political Subjects and Election Campaigns (LFPSEC, 2020). The legal framework is supplemented by the SEC regulations.

The parliament has not amended the election law since 2014 and the LEP since its adoption in 2007.¹³ As a result, several deficiencies in the election legislation persist, and a number of election stakeholders have repeatedly called for a comprehensive reform. An *ad hoc* parliamentary committee for electoral reform, established in 2018, elaborated a draft law; it was re-established in 2021, but it could not agree on draft legislation.¹⁴

The Constitution requires a two-thirds majority in parliament for amendments pertaining to the electoral laws. As the result of a prolonged lack of political agreement for an effective electoral reform, most previous ODIHR recommendations remain unaddressed, including on harmonisation of the election legislation, undue restrictions on voting and candidacy rights, transparency and procedures for dispute resolution, and media and campaign finance oversight.

The electoral legal framework provides a basis for the conduct of democratic elections; however, it contains several gaps and ambiguities that undermine its effectiveness and need to be addressed for it to be fully sound. The gaps and ambiguities include the election dispute resolution, the grounds for annulment of election results by the Constitutional Court, and the tabulation and publishing of results.

As previously recommended, the authorities should engage decisively in a comprehensive reform well ahead of the next elections to remove legal gaps and ambiguities and harmonize the electoral legal framework in an inclusive process that includes public consultation.

¹¹ In 2013, the Constitutional Court issued an opinion that the declaration of independence in 2006 and the adoption of a new Constitution created a discontinuity in the legal status of Montenegro as a country and, therefore, presidential terms served before 2006 do not count towards the limit of maximum two mandates. This interpretation allowed Mr. Dukanović to stand as a candidate for the presidency for a third term since he held the office of the president for one term prior to 2006 and an additional term after 2006.

¹² This includes the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 2006 UN Convention on the Rights of Persons with Disabilities (CRPD), 2003 Convention against Corruption and 1950 European Convention on Human Rights. Montenegro is a member of the Council of Europe's Venice Commission and the Group of States against Corruption (GRECO).

¹³ Amendments on specific issues were made by Constitutional Court decisions in 2016, 2018, 2020, 2022.

¹⁴ The Committee held two sessions in 2022, and its mandate ended in July 2022 without its work being finalized. The DF-led opposition boycotted to a varying extent the work of the Parliamentary Committee before the August 2020 parliamentary elections, while the DPS-led opposition boycotted its work afterwards.

The election law and the PEL further lack sufficient regulation on almost all aspects of the second round, including the composition and the work of the election commissions, voter registration, accreditation of observers, the conduct of the campaign, campaign finance and media, thus undermining legal certainty in the second round.¹⁵

To ensure legal certainty and the integrity of the process, the law should be amended to regulate all aspects of the second round of presidential elections.

V. ELECTION ADMINISTRATION

The presidential election was managed by a three-tiered election administration comprising the State Election Commission (SEC), 25 Municipal Election Commissions (MECs) and 1,162 Polling Boards (PBs). Women constituted 40 per cent of the total MEC members but remained underrepresented in management positions, as only 3 of the 11 permanent SEC members and five of the 25 MEC chairpersons were women. All registered candidates used their right to nominate authorised representatives with full voting rights to the SEC; most candidates nominated representatives to most MECs and PBs.

The SEC is a permanent body with a four-year mandate, composed of a chairperson elected by the parliament following an open competition and ten members, including four nominated by the parliamentary majority and four by the opposition.¹⁶ The SEC sessions were open to observers and media, agendas were posted in advance, and minutes of the sessions were published, contributing to transparency. The SEC adopted some new regulations, including on the independent voting of persons with physical disabilities and on the work of PBs. However, in the absence of clear legal provisions related to the SEC's supervision function over the lower-level commissions, the SEC considered that the MECs are accountable to the municipal councils that appoint them, and it did not sufficiently exercise a supervisory role over them.¹⁷

To ensure the accountability of election administration, the election law should explicitly prescribe the supervisory function of the SEC over the MECs.

To ensure the integrity and transparency of the election process, the SEC should collect and publish information on the composition of lower-level commissions, including gender-disaggregated data.

Overall, the election administration managed the electoral preparations efficiently and transparently and met most legal deadlines.¹⁸ While the SEC decided on technical issues collegially, it voted along political lines when considering a key decision on candidate registration, which undermined stakeholder confidence in the capacity of the election administration to organize elections without politically-motivated decision-making (see *Candidate Registration*).

¹⁵ The LEP regulates the electoral system, candidate registration, the content of the ballots, invalidation of ballots, and establishment of results, while all other aspects of the presidential election are regulated by the election law. The election law contains second-round regulation only with respect to the electoral system, the timing of holding a second round and the distribution of public funds to candidates.

¹⁶ In addition, one member is nominated by civil society and academia and one by the national minority party that won the most votes in the last parliamentary elections, currently the Bosniak Party (BS).

¹⁷ The SEC was neither required by law, nor it took the initiative to collect information on the composition of MECs and PBs and complaints filed with them, did not issue any instruction on the review of complaints, including on the PB results, by the MECs, did not prescribe a format for MECs to publish election results and criteria for re-location or merging of polling stations.

¹⁸ As an exception, the SEC missed the deadline for announcing the final list of candidates for the determination of the order of the candidates on the ballot.

MECs are composed of a chairperson and four permanent members appointed by the municipal councils, reflecting the results of the municipal elections.¹⁹ PBs consist of a chairperson and four members appointed by the MECs in proportion to the representation of the parties in the municipal councils.²⁰ At the time MECs had to start preparations for the presidential election, the October 2022 municipal elections were pending finalisation in four municipalities due to challenges of the results, which were largely perceived as frivolous and considered to be aimed at preventing the change of power in those municipalities.²¹ As a result, these municipalities retained the previous MEC composition, which distorted the balance of political representation in the permanent composition of the MECs and, subsequently, of the PBs.

The formula for the nomination of MECs and PBs chairpersons and other members aims to provide a level of political balance in their composition in each municipality. By law, the MEC chairperson is nominated by the party list with the highest number of councillors; the PB chairpersons are nominated by the lists in the municipal assembly proportionally to their number of councillors, whereas the strongest opposition party nominates the MEC secretary.²² As a consequence, the DPS benefited from being the strongest party and, at the same time, being in opposition in several municipalities, thus obtaining a significant majority of chairpersons, secretaries and members of lower-level commissions.²³

The law lacks regulation on almost all aspects of conducting the second round of elections, resulting in the SEC lacking a legal basis for adopting relevant decisions and instructions. After extensive discussions, the SEC formally concluded that both rounds of elections constitute a single electoral process, and thus the location of polling stations, the composition of MECs and PBs, including PB Chairpersons, and the format of the ballot and the numbers assigned to candidates on the ballot remained unchanged.

The SEC also decided to retain the mandates of the authorised representatives of all seven candidates that contested in the first round, which is consistent with the SEC's interpretation of the law that the election administration composition remains unchanged.²⁴ As a consequence for the second round, the political balance based on political representation in most MECs tipped in favour of Mr. Milatović, as he was endorsed by three first-round candidates.²⁵ This illustrates that neither the manner in which the permanent compositions of the election bodies are formed nor their extended memberships that include

¹⁹ MEC chairpersons are nominated by the party that won most seats in the municipal elections in the respective municipality; two members are nominated by the majority in the municipal council, while two members by the two biggest opposition parties in the municipal council, upon proposals by the opposition in the national parliament.

²⁰ PB chairpersons are nominated by the parties in proportion to their representation in the corresponding municipal council; two permanent PB members are nominated by the majority in the council, and two by the opposition.

²¹ The October 2022 municipal elections were pending finalisation in Podgorica, Plav, Pljevlja and Šavnik due to complaints filed by voters requesting invalidation of the results in several polling stations, citing reasons that do not constitute legal grounds for invalidation of results. The Constitutional Court rejected the complaints for Plav on 9 March and for Pljevlja and Podgorica on 16 March, thus finalising the results. On 7 March, a new MEC was formed in Tuzi, following municipal elections on 5 March.

²² While the MEC secretaries do not have voting rights, they have significant organizational responsibilities.

²³ DPS nominated 15 of the 25 MEC chairpersons and thirty per cent of all MEC members countrywide. DP, DF and SNP nominated two MEC chairpersons each and the Albanian Alternative, BS, DNP and SD-one each. Of 125 MEC members, 44 were nominated by DPS, 18 by DF, 10 by DCG, 7 each – by SD and SNP, 6 – by BS, 5 – by SDP, 4 each – by DP and URA, 2 each – by PES, *Evropski Tim u Crnoj Gori* and *Narod Pobjeđuje*, and one each by 8 other parties and coalitions.

²⁴ By law, the mandate of the authorized representatives of candidates expires when the final results are announced. The SEC did not proclaim the final results of the first round but only of the second round.

²⁵ For the first round, Mr. Milatović's party, PES, had nominated only 2 of the 125 permanent MEC members and 19 authorised representatives, and Mr. Đukanović's party, DPS, had 44 permanent MEC members and 18 authorised representatives. Following the endorsements of both candidates by other candidates, in the second round, Mr. Milatović had the perceived support of 52 permanent MEC members and 53 authorised representatives, while Mr. Đukanović had 66 permanent MEC members and 23 authorised representatives. Only seven of all permanent MEC members were nominated by parties which did not publicly endorse any of the two candidates.

all contestants' authorised representatives ensure against situations in which one political option is dominant in a number of election commissions.

To provide sufficient safeguards for the institutional impartiality of the election administration and to avoid situations in which one political option is dominant in the decision-making processes, the mechanism of nomination and appointment of election commissions should be reviewed. An increased role in the nomination and appointment of members by non-political bodies or based on open competition could also be considered. At the same time, providing full voting rights to authorized representatives of the electoral contestants could be reconsidered.

Some MECs did not fully ensure the transparency of their work. While the law requires MEC sessions to be open to observers and media, MECs often did not announce their sessions, and some MECs did not post all election-related information and decisions on their websites, as required by law, including the preliminary results.²⁶ (see *Tabulation and Announcement of Results*)

The SEC conducted a training for MEC representatives, which then trained the PB members; however, the training is not mandatory.²⁷ The training sessions for PBs observed by ODIHR EOM were neither comprehensive nor interactive. Some MECs did not conduct training sessions but only distributed the training manuals to PB members. The law allows political parties and coalitions to change their PB members up until 12 hours before voting starts and does not prescribe sanctions in case of no-shows on election day. The SEC voter education campaign was limited to video spots explaining voting procedures.

Despite procedural shortcomings identified on election day, particularly pertaining to counting, there was no coordinated effort to enhance the performance of PBs for the second round. Most MECs maintained that there was no need for additional training for PBs, as its membership remained the same for the second round. However, the deficiencies identified in the observation of both the first and the second round of elections, especially related to the secrecy of the vote, counting procedures and the reconciliation of results, indicate a need for a more robust approach to training (see *Election Day*).

To ensure the integrity of the election day procedures, the election administration should undertake comprehensive training, mandatory for all MEC and PB members, including on ensuring secrecy of the vote, counting, reconciliation of result protocols and tabulation of votes.

VI. VOTER REGISTRATION

Voter registration is passive. The right to vote is granted to all citizens at least 18 years of age, provided they have permanent residence in the country for at least 24 months before the election day. This lengthy residence requirement to be able to vote in the presidential election is contrary to international standards and prior ODIHR and Venice Commission recommendations.²⁸ Moreover, the law does not prescribe

²⁶ While some MECs, including Podgorica, Pljevlja, Šavnik and Žabljak, updated their websites regularly, others, including Kolašin, Mojkovac, Andrijevića and Gusinje, informed the ODIHR EOM that they do not consider it mandatory.

²⁷ The training sessions focused on the novelties, troubleshooting and consulting the MECs on challenges and questions raised during the training.

²⁸ Paragraph 7.3 of the 1990 OSCE Copenhagen Document commits the participating States to “guarantee universal and equal suffrage to adult citizens”. Paragraph 11 of the 1996 UN Human Rights Committee (UNHRC) [General Comment No. 25 to the International Covenant on Civil and Political Rights \(ICCPR\)](#) provides that “if residence requirements apply to registration, they must be reasonable”. Paragraph I.1.1.c.iii of the 2002 [Council of Europe’s Venice Commission Code of Good Practice in Electoral Matters](#) states that “a length of residence requirement may be imposed on nationals solely for local or regional election. ii. residence in this case means habitual residence.”

clear and objective criteria to determine how a citizen acquires or loses permanent residence.²⁹ By law, citizens who live permanently abroad are not obliged to deregister their permanent residence, and they generally do not do so in practice.³⁰ Addressing a prior ODIHR recommendation, in November 2020, the Constitutional Court abolished the provision which disenfranchised persons with intellectual and psychological disabilities.

The lengthy residence requirement for voting in national elections should be reviewed in line with international standards. The law should prescribe clear and objective criteria to determine how a citizen acquires and loses permanent residence.

The voter register is a permanent database maintained by the MoI and based on the residence, citizenship, births and deaths registers. Voters could verify their personal data on a dedicated website or in person at local MoI offices and request amendments until ten days before election day.³¹ By law, MECs, parliamentary parties, candidate representatives and observers have the right to inspect the voter register online prior to election day.³² After election day, the political parties have the right to obtain, among other election materials, copies of the signed voter lists, and some did so between the two rounds of the election.³³ Along with compromising voters' privacy, which includes a systematic disclosure of who voted and who did not, this may lead to compromised secrecy of the vote, at odds with international standards and good practice.³⁴

To protect the privacy of whether a voter has voted and safeguard the secrecy of the vote, the signed voter lists should not be made available to political parties and their representatives, including those serving in MECs. The signed voter lists should be accessible only within a limited scope for precisely defined purposes, such as when considering complaints and appeals.

On 9 March, the SEC announced that 542,154 voters were registered. Several ODIHR EOM interlocutors raised concerns about the accuracy of the voter register, questioning the accuracy of permanent residence records and procedures for changing residence, possible duplicated entries and entries of deceased persons. While the MoI made some efforts to improve the voter register, including eliminating several overlaps and errors in voters' fingerprint data, it did not effectively address the longstanding election stakeholders' concerns about voter list accuracy.³⁵

The law is silent on whether the voter lists should be updated between the two rounds of the election, further indicating the need for legal clarification of the second round (see *Legal Framework and*

²⁹ Citizens living abroad maintain their permanent residence in Montenegro unless they request to be deregistered. In January 2023, amendments to the Law on Permanent and Temporary Residence prescribed that the MoI may decline citizens' registration of change of residence if police visits do not verify that the citizens reside at the declared address. The MoI explained that these amendments were adopted due to alleged voter migration in the October 2022 local elections and do not result in citizens losing permanent residence. Some ODIHR EOM interlocutors noted that these amendments were adopted without a public debate.

³⁰ Paragraph 1.1.6.c of the [Venice Commission Code of Good Practice](#) states: "Registration could take place where a voter has his or her secondary residence, if he or she resides there regularly and it appears, for example, on local tax payments; the voter must not then of course be registered where he or she has his or her principal residence."

³¹ Over 52,000 voters verified their data at the voter register for this election.

³² They are granted full access to the VR data, including filtering it by any parameter. It is, however, forbidden to make copies of any data. The parliamentary parties are granted this access also outside of the election period.

³³ The ODIHR EOM was informed that multiple parties submitted such requests in at least half of the municipalities.

³⁴ Paragraph 4.c of the [Venice Commission Code of Good Practice](#) states that "the list of persons actually voting should not be published"; paragraph 54 states, "Moreover, since abstention may indicate a political choice, lists of persons voting should not be published."

³⁵ The MoI informed the ODIHR EOM that, since 2020, it had conducted a comprehensive test of the fingerprint data in the citizens' register and identified several overlapping entries, but explained that they were due to errors at the time of collecting the fingerprints or cases when parents were leaving their fingerprints instead of underaged and that it had invited the affected citizens to rescan their fingerprints.

Electoral System). The MoI informed the ODIHR EOM that they did not update the voter register before the second round, applying the same approach as prescribed by the legal provisions prohibiting updating the voter lists ahead of a repeat voting.

VII. CANDIDATE REGISTRATION

The right to stand as a presidential candidate is granted to all voters who have permanent residence in Montenegro for at least 10 of the last 15 years. This lengthy residence requirement is an undue restriction on the right to stand, contrary to international standards.³⁶

The existing residency requirements for presidential candidates are overly restrictive and should be reconsidered.

A presidential candidate may be nominated by one or more political parties or coalitions or a group of at least two voters. Nominations must be supported by signatures of at least 8,101 voters (1.5 per cent of the voters registered for the last parliamentary elections), which is higher than the recommended international good practice.³⁷ Voters may sign in support of only one candidate, which unduly restricts the freedoms of association, at odds with international good practice and prior ODIHR and Venice Commission recommendations.³⁸

As previously recommended, consideration should be given to removing the restriction to sign in support of only one candidate and decreasing the number of support signatures required to stand for office to a maximum of one per cent of the total electorate.

At odds with international standards, the law does not regulate signature verification clearly and unambiguously.³⁹ On 10 February, three weeks after the start of the nomination period and after one candidate was already registered, the SEC adopted an instruction to partly regulate the signature verification process. Adhering to the established practice, the SEC verified only whether the data of voters who provided signatures corresponded to their data in the voter register.⁴⁰ Voters could check online if their names were included in the SEC database as supporting one of the candidates, but only after candidate registration was finalised, thus not effectively safeguarding the integrity of the signature

³⁶ Paragraph 15 of [General Comment No. 25 to the ICCPR](#) states that “any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation.” See also paragraph 24 of the [1990 OSCE Copenhagen Document](#) and section I.1.1.c.iii. of the [Code of Good Practice in Electoral Matters](#).

³⁷ Paragraph I.1.3.ii of the [Code of Good Practice in Electoral Matters](#) states that “The law should not require collection of the signatures of more than 1 per cent of voters in the constituency concerned.”

³⁸ Paragraph 196 of the 2020 [ODIHR and Venice Commission Guidelines on Political Party Regulation, second edition](#), states, “a requirement that a citizen be allowed to sign in support of only one party should be avoided, as such a regulation would affect [their] right to freedom of association and could easily disqualify parties despite their attempts in good faith to fulfil this requirement.”

³⁹ Paragraph 96 of the 2020 [ODIHR and Venice Commission Guidelines on Political Party Regulation](#) states that “[w]hile lists of signatures can be checked for verification purposes, experience has shown that this practice can also be abused. These types of processes should thus be carefully regulated, should foresee the publication of lists and specify who has the standing to challenge them and on what grounds. If legislation includes verification processes, the law should clearly state the different steps of the process and ensure that it is fairly and equally applied to all parties and feasible in terms of implementation. Such processes should also follow a clear methodology, may not be too burdensome (e.g., by requiring a disproportionately high number of signatures), and should be implemented in a consistent manner.”

⁴⁰ The SEC verified the signatures until it reached the legally required number of valid signatures; the remaining signatures were not checked. If the SEC identified that a voter had already given support to a previously registered candidate, only the signature for the first verified candidate was deemed valid.

verification. Following candidate registration, the SEC received over 80 reports and numerous phone calls from voters alleging they found their names in the database even though they did not support any candidate or signed in support of a different candidate. The prosecutor initiated investigations on 30 such cases, but the law does not prescribe liability for the forgery of voters' support signatures and does not provide for an expedited adjudication, failing to ensure accountability and disincentivize electoral wrongdoing.⁴¹

To ensure the integrity of candidate registration, the authorities should review its procedures and deadlines. To ensure transparency and accountability, the law could mandate that the prospective candidates be identified and clearly indicated on signature forms before collecting support signatures and prescribe liability and proportionate sanctions for the forgery of supporting signatures. Alternative good practices for candidate registration could also be considered, including a reasonable deposit refundable to the candidates upon receiving a certain number of votes.

The law requires nominees to submit certificates of citizenship and permanent residence issued by the MoI. On 3 February, the SEC decided to make inquiries about possible permanent residence and voter registration in Serbia of two prospective candidates based on their stated intention to contest elections prior to their applications being submitted to the SEC.⁴² The law does not provide the SEC with the competency to make such inquiries. On 18 February, the SEC denied registration to Mr. Spajić, citing contradictory information pertaining to his citizenship and permanent residence, despite the submitted documentation required by law.⁴³ The SEC did not offer Mr. Spajić the legally prescribed 48 hours to correct the shortcomings in his application, while it did so for four other nominees who submitted documents containing deficiencies.⁴⁴ The SEC's decision to deny Mr. Spajić's registration is inconsistent with the national legislation,⁴⁵ and the manner in which his application was managed is discriminatory, at odds with international standards.⁴⁶ On 24 March, Mr. Spajić filed a lawsuit against the SEC, alleging the denial of his registration as a candidate was discriminatory and at odds with the Constitution and the national legislation.⁴⁷

⁴¹ The prosecutor's office publicly stated that it will investigate these complaints. Similar investigations initiated following the 2018 presidential election were closed four years later due to the expiration of deadlines.

⁴² The SEC, by a majority of six votes, adopted a decision to request information from the Republican Election Commission (REC) of Serbia whether Mr. Andrija Mandić and Mr. Miloško Spajić have permanent residence and are registered voters in Serbia. On 14 February, the REC of Serbia responded that Mr. Mandić was not found in their records while Mr. Spajić had a registered permanent residence in Serbia. According to the Serbian authorities, on 15 February, Mr. Spajić applied to renounce his Serbian citizenship and residence. Mr. Mandić submitted his nomination on 6 February, and Mr. Spajić on 14 February.

⁴³ The SEC decision to deny the registration stated that Mr. Spajić formally meets the prerequisites for the candidacy and submitted all legally required documents, including the required number of valid signatures, certificates of citizenship and permanent residence, but noted that the evidence was contradictory as Serbian authorities informed the SEC that he also holds permanent residence in Serbia.

⁴⁴ Mr. Mandić was offered an opportunity to add his name, which was not included in the candidate's name field in several sheets of supporting signatures that he submitted. Mr. Danilović and Mr. Radulović were given the opportunity to collect the missing number of valid support signatures and the latter also the missing certificate of the nominating group of voters. Mr. Danilović alleged that signatures disappeared from the signature sheets he submitted to the SEC, and the SEC referred the issue to the prosecutor.

⁴⁵ Article 2 of the Law on Citizenship stipulates that "a Montenegrin citizen who has citizenship status also in another state shall be considered a Montenegrin citizen in a procedure before Montenegrin bodies unless otherwise provided by international treaties". The Constitution, the election law and the LEP do not stipulate any limitations related to suffrage rights for holders of any citizenship in addition to Montenegrin citizenship.

⁴⁶ Paragraph 15 of the 1996 UN Human Rights Committee (UNHRC) [General Comment No. 25 to the ICCPR](#) states that "persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation". Article 14 of the [ECHR](#) states that "the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status".

⁴⁷ The complaint was submitted to the Basic Court of Podgorica; it alleges a breach of article 96.2 of the Constitution, article 6 of the LEP and article 2 of the Law on the Prohibition of Discrimination.

Overall, the SEC's arbitrary decision on denial of registration to Mr. Spajić, the inconsistency in decision-making and the lack of transparency in verifying support signatures and other nomination documents significantly undermined the inclusiveness of the candidate registration process and reduced confidence in the election administration. In total, nine prospective candidates submitted candidacies.⁴⁸ The SEC registered seven candidates unanimously, including one woman, and two were denied registration.⁴⁹

To ensure inclusiveness and exclude bias in candidate registration, the SEC should determine the candidates' eligibility based strictly on compliance with the existing legal requirements applied equally to all prospective candidates.

VIII. ELECTORAL CAMPAIGN

The campaign was calm and peaceful, with the exception of a small number of isolated incidents.⁵⁰ The election was competitive, fundamental freedoms were generally respected, and candidates could reach out to the electorate. By law, prospective candidates can begin campaigning after the call of elections, but they can campaign on broadcast media only after their registration by the SEC. Candidates are obliged to cease campaigning through traditional media and public gatherings 24 hours prior to election day, a prohibition they all respected in both rounds of the election.

In the first round, four of the seven candidates campaigned more actively, touring the country and holding open rallies. ODIHR LTOs observed 33 campaign events in 17 municipalities held by 5 candidates during the first round, which were well-attended and peaceful. As Mr. Mandić was registered on 7 February, more than three weeks earlier than most candidates, he was the only candidate who campaigned via media in this period. Mr. Radulović was visible only on social media, raising concerns among ODIHR EOM interlocutors about his genuine intention to contest the election.⁵¹ Ahead of the second round, Mr. Milatović held smaller rallies in nine municipalities, while Mr. Đukanović resorted almost entirely to a number of smaller, closed gatherings across the country.⁵² Both candidates also actively appealed to the Montenegrin diaspora.⁵³

During the first round, candidates solicited the support of the electorate through door-to-door visits, flyers, posters, billboards and advertising via TV, radio, and the internet; some campaigns also operated call centres, making phone calls and sending messages to voters, which raised privacy concerns. The two run-off candidates relied almost entirely on pre-existing billboards and advertising. The law does

⁴⁸ Six were nominated by political parties, one by a coalition and two by groups of voters.

⁴⁹ The SEC registered Aleksa Becić (Democratic Montenegro), Goran Danilović (United Montenegro), Milo Djukanović (DPS), Andrija Mandić (Coalition "For the Future of Montenegro"), Jakov Milatović (PES), Jovan Radulović (group of voters), Draginja Vuksanović Stanković (SDP). Mr. Matijašević did not submit the required documents and was subsequently denied registration.

⁵⁰ On 1 March and again on 26 March, the Democrats' campaign office in Nikšić was vandalized by unknown perpetrators. On 10 March, Mr. Milatović was physically accosted while entering the venue of a campaign rally in Cetinje; eight individuals were investigated for this incident, and a decision on prosecution was due within 90 days of the start of the investigation.

⁵¹ Mr. Radulović obtained public funding for the campaign and nominated an authorized representative in the SEC, which had an impact on the political balance.

⁵² DPS informed the LTOs in Berane, Petnjica and Rozaje that the campaign meetings were closed. LTOs were denied access to a campaign event of Mr. Đukanović in Bijelo Polje on 27 March.

⁵³ For instance, on 25 March, Mr. Đukanović appeared alongside the Bosniak Party leader Ervin Ibrahimović at an Iftar meal organised by the diaspora community in Hanover, Germany. Both candidates issued letters to diaspora communities.

not require print campaign materials to identify their sponsor, and some anonymous billboards appeared at the start of the campaign featuring a slogan later taken up by one of the candidates.⁵⁴

To enhance transparency and accountability, all election campaigners should be required to label their print campaign materials and online advertisements with information on who ordered and paid for the production and publication.

Campaign topics included foreign policy and the fight against corruption, but the campaign discourse focused on personalities over policies. In the first round, with the exception of Mr. Danilović, all candidates declared their support for the Euro-Atlantic integration of the country. The incumbent stressed the need for continuity, while opposition candidates focused primarily on corruption and the economy. Both candidates indicated their support for the country's accession to the EU and pledged to work to restore its economic prospects. To distinguish themselves, they both turned to negative campaigning. Mr. Milatović alleged that Mr. Đukanović embodied a 30-year-old divisive regime promoting national discrimination; President Đukanović alleged that Mr. Milatović was a proxy for Serbia and the Serbian Orthodox Church and that the country had been subjected to crippling debt while he served as the Minister of Economy.

Facebook was the dominant forum for campaigning online, with Twitter and Instagram also used by candidates to promote their campaigns.⁵⁵ The tone of online discourse was generally neutral during the first round, while it became somewhat more heated in the second. The ODIHR EOM observed some isolated instances of disinformation, including seemingly staged or doctored videos circulating on messaging apps and inflammatory speech from accounts without any official affiliation with the candidates.

After the first round, Mr Milatović drew support from elements historically opposed to DPS, including DEMOS, United Reform Action (URA), as well as three candidates, Mr Mandić, Mr Bečić, and Mr Danilović, with the former two replacing their campaign billboards with new ones expressing support for him.⁵⁶ The Serbian Orthodox Church in Montenegro published on its website two statements calling on “believers and other people of goodwill” not to support “the political forces which have led the country until 2020”, criticising the incumbent's “open anti-Church campaign” and urging voters to return to the polls. While the Serbian Orthodox Church in Montenegro seemingly limited its involvement in the campaign to two public statements against the incumbent, some ODIHR EOM interlocutors noted their concern about the potential involvement of the Church in the campaign due to a polarizing effect in the society owing to its considerable political engagement in recent years.⁵⁷

⁵⁴ On 20 February, numerous unlabeled billboards appeared in Bar, Budva, Kotor, and Podgorica featuring anti-election content with the slogan “I swear on my honour” (“*Časti mi*”), e.g. “I will get crazy if I hear more about elections, I swear on my honour”; similar advertisements appeared online. After registration, Mr. Bečić subsequently adopted the same slogan for his campaign.

⁵⁵ The mission monitored a number of actors, including all seven first-round candidates, across Facebook, Twitter, and Instagram.

⁵⁶ The other two candidates, Mr. Radulović and Ms. Vuksanović-Stanković, both appeared at the final rally of Mr. Đukanović, who was also endorsed by SDP and the Social Democrats. Parties representing the country's national minorities have historically aligned with DPS, and the Bosniak Party (BS), the Croatian Citizens' Initiative (HGI), the Democratic Party of Albanians and the Democratic Union of Albanians backed Mr. Đukanović. However, the Justice and Reconciliation Party, formerly the Bosniak Democratic Union of Sandžak and the Albanian Alternative endorsed Mr. Milatović. Other political parties representing these communities did not publicly endorse either candidate.

⁵⁷ In 2019 and 2020, the Serbian Orthodox Church organised protests against the Law on Freedom of Religion or Belief and the Legal Status of Religious Communities adopted in 2019, which led to a review of its property ownership. The protests were attended by opposition leaders ahead of the 2020 early parliamentary elections.

In the campaign events observed by ODIHR EOM observers prior to the first round, women were under-represented among the audience and among speakers, with the exception of the sole woman who contested the first round, Ms Vuksanović-Stanković. Between the two rounds, women were featured as speakers in all nine campaign events of Mr. Milatović observed by the ODIHR EOM, at which women were an estimated 30 per cent of those in attendance; the percentage of women in attendance was higher in the three observed events held by the incumbent, although they did not feature as speakers. Only a single candidate raised issues of concern for women during the first round, and neither candidate did so during the second.

Campaign regulations aim to prevent the abuse of state resources for campaign purposes, including a ban on contracting new public employees after the call of elections and the use of office or budgetary resources. However, the ban on new hires does not include temporary service contracts, and new hires by publicly-owned companies are not reported to the Agency for Prevention of Corruption (APC) at any time. Also, public institutions are not allowed to spend more than the average spending in the past six months, but the regulations do not fully prohibit spending which indirectly favours a candidate, including through charity events. Some ODIHR EOM interlocutors raised concerns about the misuse of state resources by political parties in control of publicly funded institutions through close ties with their managements.⁵⁸ The APC, mandated with oversight of campaign regulations, published information on public employment introduced after the call of the election, as required by law, but not in a user-friendly format.⁵⁹

To enable meaningful public scrutiny, the APC should consider publishing relevant information on public employment in a user-friendly format, with due protection of personal data.

IX. CAMPAIGN FINANCE

The campaign finance legal framework has remained unchanged since the LFPSEC was adopted in 2020. Most previous ODIHR recommendations remain unaddressed, including on verifying the legality of donations, the use of loans, effective oversight and effective sanctions for violations. At odds with international standards and good practice, the law lacks regulation on third-party campaigning, candidates' use of their own funds and funds from the nominating political party, and a comprehensive methodology for evaluating in-kind donations.⁶⁰ Overall, the deficiencies of the regulatory framework, including the lack of clarity on reporting requirements during the second round, had a negative impact on the transparency and accountability of campaign financing.

To enhance transparency and accountability of campaign finance, the law should be amended to comprehensively regulate the use of loans by contestants, candidates' own funds and funds from the nominating political parties, in-kind donations and third-party campaigning.

⁵⁸ A screenshot on the newspaper *Pobjeda* led to allegations that employees of Solar, an affiliate of the state electricity company, EPCG, collected signatures for candidate nomination. On 23 February, the government announced that EPCG was reopening the ironworks Željezara Nikšić and planned to hire some 500 workers. On 10 March, EPCG made a EUR 100,000 donation to the Serbian Orthodox Church. A campaign spot featured Mr. Mandić with the EPCG's chair of the board of directors, stating that "our people" provided solar panels for many homes.

⁵⁹ The APC publishes the full texts of the individual employment contracts, which does not enable the easy identification of the number of new contracts per public institution and other relevant summary information and, on the other hand, reveals the personal data of new employees. From the call of elections until 12 April, the APC published 6,990 new employment contracts, including 293 permanent term contracts, 3,729 definite term and 2,944 temporary service contracts.

⁶⁰ See paragraph 8(f) [Council of Europe, Parliamentary Assembly Recommendation 1516 \(2001\)](#), paragraphs 3a and 6 of the [Council of Europe, Committee of Ministers Recommendation 2003\(4\)](#) and paragraphs 210, 216, 226-227, 255-256 of the [ODIHR and Venice Commission Guidelines on Political Party Regulation](#).

Candidates were entitled to public funding totalling EUR 884,549 for this election. In line with the law, the first allotment of EUR 25,272 per candidate (20 per cent of the total allocated fund) was distributed only a week before the 19 March election day, which does not contribute to balancing the financial opportunities for the candidates.⁶¹ After the publication of the final election results, 40 per cent was distributed proportionally to all candidates who received more than 3 per cent of the votes and 40 per cent (EUR 353,819) to the two second-round contenders. Each candidate may spend up to EUR 1,7 million, which was considered by many ODIHR EOM interlocutors to be an unreasonably high expenditure limit that does not foster a level playing field.⁶² The law does not state whether this expenditure ceiling is applicable only to the first or also to the second round.

The APC is mandated with the oversight of campaign finance. Candidates are obliged to open dedicated bank accounts in order to start campaigning at the latest one day after their official registration and start submitting donation reports every two weeks, and all seven registered candidates did so until the publication of final results. However, the law does not prescribe any sanctions for inaccurate reporting.⁶³ The law does not prescribe reporting requirements for the second round, and the APC did not issue any written clarifications. The different deadlines for submitting biweekly donation reports and the seven-day deadline for the APC to publish them do not ensure full transparency and possibilities for public scrutiny. All candidates submitted their interim expenditure reports five days before the 19 March election day, as required by law. The APC informed the ODIHR EOM that no expenditure reports were

due prior to the second round.⁶⁴ All candidates continued submitting bi-weekly donation reports after the first round and submitted their final reports within 30 days after the second round election day, considering the two rounds as a single electoral process.⁶⁵ After the first round, most candidates who did not reach the second-round actively campaigned in favour of one of the run-off candidates with billboards and on social networks.⁶⁶ However, while third-party campaigning is prohibited, the law does not foresee sanctions detracting from transparency.

To eliminate legal uncertainty, the law should clearly prescribe that all campaign finance regulations are applicable in the second round, as well as provide an expenditure limit and timeframes for reports taking into account the possible second round.

⁶¹ Paragraph 239 of the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#) states that “allocation should occur early enough in the electoral process to ensure an equal opportunity throughout the period of campaigning”.

⁶² Paragraph 19 of the [1996 General Comment No. 25 to the ICCPR](#) states that “Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party.” Article 9 of the [Council of Europe, Committee of Ministers, Recommendation 2003\(4\)](#) stipulates that states should consider adopting measures to prevent excessive funding needs of political parties, such as establishing limits on expenditure on electoral campaigns.

⁶³ Paragraph 272 of the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#) states that “[s]anctions should be applied against political parties found to be in violation of relevant laws and regulations and should be dissuasive in nature.”

⁶⁴ Mr. Milatović reported donations EUR 24,261, a loan EUR 40,000, public funding EUR 338,151 and expenditure EUR 372,535; Mr. Đukanović donations EUR 213,649, public funding EUR 298,640 and expenditure EUR 523,436; Mr. Bečić donations EUR 1,200, own funds EUR 91,000, public funding EUR 65,404 and expenditure EUR 537,371; Mr. Mandić donations EUR 87,694, public funding EUR 95,137 and expenditure EUR 616,652; Ms. Vuksanović donations EUR 20,000, public funding EUR 36,671 and expenditure of EUR 56,407; Mr. Danilović donations EUR 12,100, public funding EUR 62,646 and expenditure EUR 28,977; Mr. Radulović public funding EUR 25,273 and expenditure EUR 486.

⁶⁵ The law stipulates the submission of final reports on donations and expenditures within 30 days after election day, but it is not clearly stipulated whether it refers to the first round or second round of election day. That caused confusion among stakeholders, including the APC.

⁶⁶ For instance, Mr. Bečić advertised on Facebook, and both he and Mr. Mandić placed billboards in favour of Mr. Milatović; URA placed Facebook advertisements in favour of Mr. Milatović and against Mr. Đukanović.

To further improve transparency and accountability, the campaign finance regulations, including limits and reporting on donations and expenditures, should be applicable to all organizations campaigning in favour of or against a candidate.

However, the APC does not have effective tools to verify the legality of received donations.⁶⁷ In line with an established practice, the APC contracted a private agency to collect information on campaign money spent on media, social networks and billboards. The APC published the received donation reports within the legal deadline. The APC is required to publish conclusions 60 days after the election results are published.

The APC can initiate misdemeanour proceedings for possible violations against political entities and state bodies but not against groups of voters nominating a candidate. The APC does not have the tools which are necessary for effective oversight. The APC cannot impose sanctions for inaccurate reports, which, along with the lack of investigative powers, undermines the mechanisms for holding political entities accountable for campaign finance violations. Before the election day of the first round, the APC conducted field visits to campaign offices in order to check their campaign finances. However, these visits are not explicitly foreseen nor regulated by the law, and the practice may be susceptible to misuse.⁶⁸ Pursuant to a field visit, the APC referred to the misdemeanour court a case against the party Democratic Montenegro for donating EUR 35,000 to Mr. Bečić, which exceeds the EUR 20,000 limit for donations from legal entities.⁶⁹

To enhance the accountability of campaign finances, the APC should have effective tools to verify the legality of donations, including by means of cross-checking donors against comprehensive databases of legal entities and public procurement contractors. The law should prescribe effective, proportionate and dissuasive sanctions for all irregularities, including inaccurate reports and third-party campaigning. To ensure effective remedy, the APC should be mandated to review breaches of campaign finance rules in a timely manner.

X. MEDIA

A. MEDIA ENVIRONMENT

The media environment is diverse, but media outlets operate in a limited advertising market, which affects their financial viability and makes them vulnerable to internal and external influence from corporate and political interests. Most of the relevant media outlets are owned by foreign companies. Television remains the main source of information, followed by online media.⁷⁰ In addition to national

⁶⁷ The APC can request the Ministries of Interior and Justice to verify whether donors are registered voters and not convicted of organized crime or corruption, but it cannot verify whether donors were awarded public procurement contracts, as the Ministry of Finance database on public procurement contractors contains only the names of the Directors of public contractors and not their owners or shareholders. See Paragraph 268 of the [ODIHR and Venice Commission Guidelines on Political Party Regulation, which underlines that](#) “legislation should grant oversight agencies the ability to investigate and pursue potential violations. Without such investigative powers, agencies are unlikely to have the ability to effectively implement their mandate.”

⁶⁸ See paragraphs 267-271 of the [ODIHR and Venice Commission Guidelines on Political Party Regulation](#); Paragraph 268 states that “bodies charged with the supervision of political parties shall refrain from exerting excessive control over party activities and limit their investigations to cases where there has been an indication of wrongdoing by an individual party”.

⁶⁹ Democratic Montenegro argued that the limits for donations by legal entities are not applicable to the nominating political parties, which may donate unlimited funds, as is the case in parliamentary elections.

⁷⁰ See the June 2021 survey, “[Media Trust in the Western Balkans: Together Apart](#)”, published by the South-East European Network For Professionalization of Media (SEENPM). According to its survey conducted in Montenegro, television is the main source of information for 43 per cent of the respondents, online media for 30 per cent, social networks for 19 per cent and print media for 2 per cent of respondents.

and local public broadcasters, there are 16 private TV channels, 4 with a national broadcast license; all four of these broadcasters have foreign companies as majority shareholders.⁷¹ The two most popular news websites, *Vijesti* and *CDM*, are also owned by foreign companies.⁷²

The Public Service Broadcaster, Radio and Television of Montenegro (RTCG) runs three national TV channels and two radio stations.⁷³ Following the 2020 amendments to the Law on Public Broadcasting Services, a new RTCG council was appointed in June 2021. Several ODIHR EOM interlocutors noted that since then, the public broadcaster had shown a more balanced editorial line, which fostered public trust in its programming to grow.⁷⁴ However, a lengthy legal dispute concerning the appointment in August 2021 of its current General Director raises concerns over legal certainty and effective remedy pertaining to breaches of the Law on Public Broadcasting.⁷⁵ Public media also includes a considerable number of local media; sixteen local public broadcasters are funded with a discretionary mechanism by municipalities.⁷⁶ According to several ODIHR EOM interlocutors, local public broadcasters are prone to political influence by the ruling municipality majority.

Measures should be taken to ensure the independence and editorial freedom of the public broadcasters. In this respect, the manner of funding of local public broadcasters should be reviewed.

In 2021, the Criminal Code was amended to prescribe harsher punishments for attacks and threats against the press, thus enhancing the protection of journalists and other media professionals. Still, concerns remain over the protracted prosecution of some cases. While the number of physical attacks on journalists has diminished in the last two years, journalists keep receiving threats, including over email and on social networks.⁷⁷ Some ODIHR EOM interlocutors voiced concerns that the working conditions and professionalism of journalists affect the overall quality of information presented to the public.

⁷¹ Fifty-one per cent of *Vijesti TV* and 100 per cent of *Nova TV* are owned by United Media, which is owned by the United Group registered in the Netherlands and managed by the Serbian media mogul Dragan Šolak. *Prva TV* is fully owned by Kopernikus Montenegro B.V., registered in the Netherlands, and it is the sister TV channel of *Prva Srpska TV* operating in Serbia. *Adria TV* is owned by two Serbian citizens.

⁷² United Media is also the majority shareholder of *Vijesti*; *CDM* is owned by a Greek businessman.

⁷³ The Law on Public Broadcasting Services stipulates that the RTCG receives 0.3 per cent of the state's annual budget.

⁷⁴ See also the [RTCG Brand Strength Research](#) commissioned by the OSCE Mission in Montenegro and published in November 2022.

⁷⁵ The RTCG Council has nine members nominated by civil society, academia and public cultural institutions and appointed by the Parliament with a simple majority, and it appoints the RTCG management. The current General Director, Mr. Boris Raonić, was appointed on 6 August 2021. Two unsuccessful candidates challenged his appointment in court. On 4 January 2023, the Podgorica Basic Court ruled the appointment of Mr. Raonić as unlawful, a decision upheld by the Higher Court of Podgorica on 30 May 2023, citing that the Law on Public Broadcasting Services stipulates that being a member of RTCG Council or management is not compatible with other public official positions. At the moment of his appointment, Mr Raonić was a Board member of the AEM, a position that he resigned few days after his appointment to RTCG, arguing that the Law on Prevention of Corruption provides a 30-day window to resign from a public official position if appointed to a new one. On 1 June, the RTCG Council re-elected Mr Raonic as Director General. In response, 18 NGOs and media associations issued a statement arguing that the re-appointment was not in line with the Court decision. On 4 June, the Basic State prosecutor's office in Podgorica opened an investigation on the General Director's re-appointment.

⁷⁶ Paragraph 16 of the [General Comment #34](#) on Article 19 of the ICCPR, among other things, stipulates "States parties should ensure that public broadcasting services operate in an independent manner. In this regard, States parties should guarantee their independence and editorial freedom. They should provide funding in a manner that does not undermine their independence."

⁷⁷ According to the Trade Union of Media of Montenegro, in 2022, there were 28 attacks against journalists, including 6 physical attacks, and 21 of them were reported to the police.

B. LEGAL FRAMEWORK

The Constitution guarantees freedom of expression and the press and prohibits censorship. While defamation against individuals is decriminalised, there are still legal provisions, including on 'defamation of the reputation of Montenegro', 'insult in public space', as well as a provision punishing with imprisonment persons 'causing panic by the dissemination of false news'.⁷⁸ The provisions criminalising defamation are contrary to international standards on freedom of expression, and the provisions on false information are not sufficiently elaborated in the law, which does not safeguard freedom of expression.⁷⁹

To safeguard freedom of expression, defamation should be fully decriminalised, and the legal provisions related to false information should be reviewed in line with international standards.

The media legislation is generally in line with international standards and includes the Law on Media, the Law on Electronic Media (LEM) and the Law on Public Broadcasting Services.⁸⁰ A new set of draft media laws is currently under review to bring the legal framework further in line with EU regulations but is yet to be submitted to parliament.⁸¹ Print and online media rely upon self-regulation.⁸² While few media outlets have an ombudsperson, most of them do not have internal self-regulatory bodies, and due to a media environment divided along political lines, media are not able to gather under a common, widely recognized self-regulatory body.

The campaign coverage by public and private broadcasters is regulated by the election law, the LEM, the LFPSEC and regulations issued by the Agency for Electronic Media (AEM). By law, voters have the right to be informed about the political platforms of the candidates and public and private media are required to cover them in a balanced manner. The campaign coverage should be presented in election news blocks and clearly separated from other news programmes. Paid advertisement is allowed under equal conditions and without time limitations, provided that it is labelled as paid.⁸³ RTCG is required to offer free airtime and equal election coverage to all candidates and organise election debates.⁸⁴

⁷⁸ Article 198 of the Criminal Code prescribes a fine or up to one year of imprisonment for 'public mockery of Montenegro, its flag, coat of arms, or anthem' and article 398 of the Criminal Code up to three years of imprisonment for 'causing panic by the dissemination of false news'; 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.

⁷⁹ Paragraph 47 of the [ICCPR, GC 34](#), stipulates: "States parties should consider the decriminalization of defamation, and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty." Paragraph 25 of [ICCPR, GC 34](#), states that "a norm, to be characterized as a "law", must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public. A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution." The 2017 [UN, OSCE, OAS, ACHPR Joint declaration on freedom of expression and "fake news", disinformation and propaganda](#) states "a. General prohibitions on the dissemination of information based on vague and ambiguous ideas, including "false news" or "non-objective information", are incompatible with international standards for restrictions on freedom of expression, as set out in paragraph 1(a), and should be abolished. b. Criminal defamation laws are unduly restrictive and should be abolished. Civil law rules on liability for false and defamatory statements are legitimate only if defendants are given a full opportunity and fail to prove the truth of those statements and also benefit from other defences, such as fair comment."

⁸⁰ The Laws on Media and on Public Broadcasting were amended in 2020, enhancing the transparency of media ownership, public funding, and allocation of public advertising and establishing a public fund for media pluralism.

⁸¹ A working group composed of representatives of state institutions, including the Directorate of Media within the Ministry of Culture, the media and civil society, contributed to three draft Laws on Media, on Audiovisual Media Services, and on the Public Broadcaster.

⁸² The Law on Media considers online media publications as "media". However, registration with the Ministry of Culture is optional, and in April 2023, there were 97 registered online publications.

⁸³ In total, 60 entities, including broadcast, print and online media, submitted their price lists to the APC for this election.

⁸⁴ The law foresees a minimum of 200 seconds of free airtime daily and three minutes of election campaign coverage twice a day for each candidate.

The election law stipulates that candidates can begin campaigning in the media after their registration by the SEC. The election law does not contain any explicit regulation on media coverage in case of a second round. In its absence, the AEM considered the media-related provisions of the election law and its election regulations issued on 23 January applicable also to the second round. According to the AEM, the campaign for the second round could start in the media on the evening of 20 March, when the SEC announced the preliminary results of the first round. The AEM did not publish any clarifications on this on its website nor communicated it to the broadcasters, claiming there was no confusion among stakeholders and that publishing such clarification was beyond its mandate. Nevertheless, this limited clarity on the regulation related to the run-off election.

The enforcement of media-related provisions of the election law is weakened by the absence of an independent regulatory body mandated to oversee media conduct and sanction violations. At odds with international standards, the election law does not foresee an independent body but stipulates an *ad hoc* parliamentary committee as a primary body to oversee the coverage of the campaign by all media. As this body is political in nature rather than an independent organization, this raises concerns over its impartiality in conducting effective oversight. Furthermore, this committee was not established either for this or the past three elections, indicating that it is perceived as obsolete and there is a lack of political will to implement the legislation.⁸⁵

The AEM is only mandated with elaborating election-related media regulations and adjudicating media complaints, and it has no mandate to oversee broadcasters' compliance with the election law.⁸⁶ As required by law, the AEM monitored the broadcasters' compliance with the Law on Electronic Media (LEM), with its regulations and with other bylaws.⁸⁷ The AEM promptly acted *ex officio* after it detected violations by broadcast media and published reports on its monitoring.⁸⁸ In the run-up to the elections, the AEM identified 34 violations, issued warnings against 17 broadcasters, and decided on 12 complaints.⁸⁹ Unlike the first two reports issued by the AEM, its final report included detailed information on violations, warnings and complaints, which were also partially published on its website, thus providing transparency.⁹⁰ Some of the warnings issued by the AEM did not deter further violations, proving that its limited sanctioning powers were ineffective.⁹¹ While the AEM is not mandated to oversee media-related provisions of the election law, its media monitoring identified some violations.⁹² In general, the AEM media monitoring enhanced transparency over the conduct of broadcast media during the campaign.

⁸⁵ Also, the AEM's sanctioning powers are limited either to issuing warnings to broadcast media or to revoking their broadcasting license, while it may not impose administrative sanctions, including fines.

⁸⁶ Also, the AEM's sanctioning powers are limited either to issuing warnings to broadcast media or to revoking their broadcasting license, while it may not impose administrative sanctions, including fines.

⁸⁷ According to the AEM, 34 broadcasters informed the AEM about their intention to cover the election campaign, as required by law. The AEM conducted a comprehensive media monitoring of 18 TV channels and a random sample monitoring of all broadcasters covering elections. AEM published a [final report](#) on 21 April 2023.

⁸⁸ For the first time, on 13 March, the AEM published a report ahead of the first round election day. It also published a report on 24 March, which was presented at a press conference, and a final report on 21 April.

⁸⁹ Warnings were issued to TV channels for not separating the election block from other news programmes, not submitting their rulebook to the AEM prior to covering the election campaign, unlabeled paid political advertising, placing political advertisements 15 minutes before or after children's programmes and using minors in the campaign.

⁹⁰ The AEM has 30 days to review complaints filed by citizens and civil society; It rejected all 12 complaints related to election coverage filed by civil society organisations and voters. The AEM has 24 hours to review appeals filed by the candidates and the SEC against broadcasters, but no such complaints were filed during this election.

⁹¹ For instance, despite receiving more than one warning, *Srpska TV* and *Jadran TV* covered the campaign of both rounds without submitting their coverage plan and weekly reports to the AEM as required by law.

⁹² AEM monitoring detected that four out of six local public TV channels (*TV Pljevlja*, *TV Herceg Novi*, *TV Rožaje* and *TV Budva*) breached the election law by airing paid political advertising; however, it did not have legal means to sanction them.

The law should prescribe a graduate system of effective, proportionate and dissuasive sanctions for broadcasters breaching the law and ensure effective oversight over the campaign coverage. This could be achieved by mandating the AEM to oversee the compliance of broadcast media with election-related provisions and providing it with sufficient sanctioning and enforcement powers.



C. MEDIA MONITORING FINDINGS [Click Here to Read the Media Monitoring Results](#)

The ODIHR EOM media monitoring showed that the national public broadcaster RTCG complied with the legal requirement to offer candidates free airtime for campaign spots and equal access to free broadcast time covering their campaign activities.⁹³ However, ahead of the first round, RTCG aired most of its election coverage, including interviews of candidates, on the *RTCG Parliamentary TV* channel, which has low viewership, and aired on its main TV channel, *RTCG1*, only the election debate and almost no news or editorial coverage of the election.⁹⁴ This decision of the RTCG did not contribute to enabling voters to make an informed choice. Ahead of the second round, RTCG continued to offer candidates free airtime and equal access to election coverage almost solely on the *RTCG Parliamentary TV* channel, but it hosted interviews with the two candidates and one debate on the main public *RTCG1 TV* channel, enhancing the voters' opportunity to make an informed choice.

Ahead of the second round, the public broadcaster of the Municipality of Podgorica *Gradska TV* had the most extensive news coverage of candidates; it displayed a clear bias in favour of Mr Đukanović, devoting to the incumbent 63 per cent of its news coverage and 22 per cent, often with a negative tone, to Mr Milatović.⁹⁵

Private TV channels contributed to informing the voters in various formats, including newscasts, talk shows, interviews, election debates and paid advertising. Most TV channels often aired within their "election news blocks" footage provided by the candidates, blurring the line between genuine editorial coverage and free promotion. Overall, the candidates were offered access to private broadcast media. However, the election coverage by each private broadcaster reflected the political polarisation. *Vijesti TV* offered a rather balanced news coverage, but on the eve of the run-off, during the silence period, the *Vijesti* news website and daily newspaper published three news articles which, although not directly related to the election campaign, effectively constituted negative coverage for the incumbent president. Ahead of the first round, *Prva TV* and *Adria TV* displayed clear bias in favour of Mr Mandić, giving him 54 and 46 per cent of their news coverage, respectively. For the second round, these two TV channels offered significant coverage to DF representatives, including Mr Mandić, in addition to the news coverage of the two candidates.⁹⁶ *E TV* displayed bias in favour of Mr Đukanović, devoting him 48 per cent of its news coverage ahead of the first round and 59 per cent in the second round.

Mr. Đukanović declined to participate in TV shows of *Vijesti TV*, *Prva TV* and *Adria TV*, appearing only on *E TV*. Other candidates, including Mr. Mandić and Mr. Milatović, also declined to participate

⁹³ From 20 February until 2 April, the ODIHR EOM monitored daily from 18:00 to 24:00 seven TV channels: *RTCG 1*, *Vijesti TV*, *Prva TV*, *Adria TV* and *E TV*, as well as the election-related coverage of *RTCG2* and *RTCG Parliament* and followed election-related content in three online media outlets: *Vijesti*, *CDM*, and *Borba*. Ahead of the second round, *Gradska TV* was also monitored.

⁹⁴ The RTCG was required to hold two election debates during the first round. All candidates except for Mr. Radulović participated in the first debate. The RTCG cancelled the second debate after Mr. Đukanović and Mr. Mandić decided not to participate, and subsequently, other candidates declined to participate in the alternative format offered by RTCG. Mr. Đukanović and Mr. Mandić cancelled participation because they decided to pre-record a one-to-one debate, which was aired on two private TV channels at the same time as the debate on RTCG would be held.

⁹⁵ *Gradska TV* started broadcasting on 30 September 2021 and is funded by the Municipality of Podgorica.

⁹⁶ On *Adria TV*, Mr. Đukanović received 27 per cent of the news coverage, Mr. Milatović - 34 per cent and DF representatives - 31 per cent. On *Prva TV*, DF representatives received 34 per cent of the news coverage, while Mr. Đukanović received 22 per cent and Mr. Milatović 13 per cent.

in TV shows on *E TV* and *Gradska TV*. With these decisions, the candidates contributed to the polarisation of the media and effectively reduced the ability of voters to make an informed choice.

Mr. Mandić, whose registration was finalised three weeks before other candidates and thus could start campaigning in the media, purchased 56 per cent of the total paid political advertisement purchased by all candidates for the first round. Mr. Mandić purchased political advertisements on all monitored private TV channels, except for *E TV*, which was the only TV channel where Mr. Đukanović purchased paid airtime. Ahead of the second round, Mr. Milatović purchased political advertisements only on *Vijesti TV*.

Online media such as *CDM* and *Borba* displayed biased coverage, *CDM* in favour of Mr Đukanović, and *Borba* in favour of Mr Mandić in the first round and of Mr Milatović in the second round, often with negative coverage of Mr Đukanović.⁹⁷ Ahead of the first round, the news website *Borba* published and re-published three opinion polls from unknown and unverifiable sources, which presented two particular candidates, Mr Đukanović and Mr Mandić, as frontrunners.

Some TV Channels from all neighbouring countries are available on cable TV in Montenegro. A few ODIHR EOM interlocutors raised concerns over the potential impact of foreign TV channels' programming on the electoral campaign.⁹⁸ According to the AEM, one foreign TV Channel notified it that it planned to offer paid airtime to candidates in the presidential election.⁹⁹ Based on the AEM monitoring, the foreign TV channels from the region it monitored offered rather limited coverage of this election.¹⁰⁰

XI. PARTICIPATION OF NATIONAL MINORITIES

The Constitution guarantees the equality of all citizens and provides for full political, civil, and social rights for “persons belonging to minority nations and other minority national communities”. The Albanians, Bosniaks and Croats are well-represented by their corresponding national minority political parties, and they are also integrated into larger political parties. National minorities have officially established state-funded national minority councils.¹⁰¹

Among other parties and coalitions, the 2020 parliamentary elections were contested by a number of minority parties and coalitions who altogether won five seats in parliament.¹⁰² The Roma, who, according to the last census, amount to one per cent of the population, formed a political party in 2020 with no representation in the parliament. Roma voters have limited access to voter education, which is already generally limited and concentrated on election procedures rather than the protection of voting rights in general and specifically of minorities and vulnerable groups. Roma face difficulties in protecting their rights and are susceptible to electoral malpractice, such as undue pressure and inducement, including their own community leaders. The current government is led by an ethnic Albanian, while several Ministers are from among national minorities. Municipal elections in 2022 and

⁹⁷ Mr. Đukanović also purchased some paid online streaming of its final campaign rallies for both rounds on *CDM*.

⁹⁸ According to a survey by the Agency for Electronic Communications and Postal Services conducted in April 2022, 93.4 per cent of the citizens access television through cable TV operators.

⁹⁹ Namely, *Pink M TV* registered in Serbia. Mr. Mandić and Mr. Bečić purchased paid advertising on this TV channel.

¹⁰⁰ The AEM informed the ODIHR EOM that monitored *Pink M TV* and *Happy TV*, both registered in Serbia.

¹⁰¹ The Albanian, Bosniak, Croat, Muslim, and Romani national minority councils and the National Council of Serbs.

¹⁰² The Bosniak Party (BS) won 3 seats, while the two Albanian coalitions “Unanimously” and the Albanian List of Genci Nimanbegu won 1 seat each.

2023 saw a number of councillors from the Albanian, Bosniak, and Croat minorities elected to municipal councils.¹⁰³

Election materials, including the signature collection forms, PB poll books and bilingual ballot papers (Montenegrin and Albanian), were made available in all polling stations in two municipalities (Tuzi and Ulcinj) and in some polling stations in the municipalities of Bar, Gusinje and Rožaje, where Albanians exceed five per cent of the population.¹⁰⁴

XII. ELECTION DISPUTE RESOLUTION

The SEC, the MECs, the Constitutional Court and the APC are the main institutions mandated with election dispute resolution. Voters, candidates, nominating political parties and groups of voters may file complaints to election commissions.¹⁰⁵ While the Constitutional Court is mandated to review some types of SEC decisions, the law does not provide for judicial review of most types of election commission decisions, including those upholding complaints and registering a candidate.¹⁰⁶ This leaves election stakeholders without the possibility for legal redress, contrary to paragraph 5.10 of the OSCE 1990 Copenhagen document.¹⁰⁷

To ensure effective remedy, the law should be amended to provide for judicial review over all types of SEC decisions, including those upholding lower-level commission decisions on appeal and SEC actions or failing to act.

Before the 19 March election day, the SEC received five complaints, mainly on candidate registration; it dismissed four as not being under its competence and rejected one.¹⁰⁸ Between the two rounds, the SEC received and granted one appeal against the MEC Berane's rejection of a request by the DPS to obtain photocopies of the signed voting lists of all PBs in the municipality. The SEC did not receive any complaints following the second round. The SEC reviewed the complaints in public sessions and published decisions on complaints on its website in a timely manner but did not publish the texts of the complaints, arguing there is no such legal requirement. The SEC does not maintain a centralised database for complaints, and there are no requirements for MECs to inform the SEC about complaints received or their decisions on them.

¹⁰³ Borders of several municipalities are drawn in such a way that they have majority populations from among national minorities. On 5 March, local elections were held in Tuzi, a predominantly Albanian suburb of Podgorica formally established as a municipality in 2018. A new coalition, the Albanian Forum, led by the Albanian Alternative, defeated a coalition led by DUA, which in 2020 anchored the coalition Unanimously, and DPS.

¹⁰⁴ The Law on Minorities' Rights and Freedoms stipulates that in municipalities in which at least five per cent of the population belongs to a minority, based on two successive censuses, the minority language is in official use along with Montenegrin.

¹⁰⁵ Complaints against the PBs and MECs must be filed to higher-level commissions within 72 hours and must be decided within 24 hours. The election law does not prescribe procedures for handling election complaints.

¹⁰⁶ The law states that MEC actions, inactions and MEC and SEC decisions dismissing or rejecting complaints may be appealed. Other types of decisions, including MEC and SEC decisions upholding complaints as well as SEC inactions, may not be challenged.

¹⁰⁷ Paragraph 5.10 of the [1990 OSCE Copenhagen Document](#) stipulates the right of everyone to "effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity." Paragraph B.2.a of the [Council of Europe, Committee of Ministers, Recommendation \(2004\)20](#) states that a "[j]udicial review should be available at least to natural and legal persons in respect of administrative acts that directly affect their rights or interests. Member states are encouraged to examine whether access to judicial review should not also be opened to associations or other persons and bodies empowered to protect collective or community interests." Paragraph II 3.3.a of the [Code of Good Practice in Electoral Matters](#) emphasizes that "In any case, final appeal to a court must be possible".

¹⁰⁸ Two complaints against the candidate registration of the incumbent president, one alleging late publishing of the SEC decision registering a candidate, one against the lengthy residence requirement for standing as a candidate and one against the composition of all PBs in Kolašin.

To enhance the transparency of the election dispute resolution, the SEC could consider maintaining a publicly accessible database of complaints, including those filed at MECs.

The law does not ensure an expedited judicial review, as the Constitutional Court may prolong the appeals process indefinitely.¹⁰⁹ While voters and candidates may file complaints to the SEC or MECs, they may submit complaints to the Constitutional Court only on violations of their individual voting rights, at odds with international good practice and a prior ODIHR recommendation. The Court deliberates on election appeals in closed sessions, and the law does not guarantee the right to be heard for the parties involved at any level of the dispute resolution process contrary to international standards and a previous ODIHR recommendation.¹¹⁰ The ODIHR EOM was allowed to observe a session of the court dedicated to the review of all 11 complaints pertaining to the presidential election filed prior to the first round.

The Constitutional Court lacked the necessary quorum until 27 February, which effectively deprived stakeholders, including a candidate who was denied registration, of a legal remedy.¹¹¹ After gaining a quorum, the court received 11 appeals before the first round, including seven cases related to candidate registration.¹¹² However, the court did not decide on any of those cases before the 19 March election day, as it prioritised the pending cases from the municipal elections. This decision left the presidential election process without judicial review. On 24 March, after the first round, the court deemed seven appeals as inadmissible, as they were sent by post and rejected five complaints, including three on candidate registration, citing that no complaints were previously filed to the SEC.¹¹³ Denying review of complaints on merits on such technical grounds constitutes a formalistic approach and does not ensure effective remedy.¹¹⁴ In the absence of an explicit legal requirement, decisions of the court were not published, limiting the transparency and integrity of the process.¹¹⁵

To ensure effective, timely and transparent judicial review, the Constitutional Court should review election disputes within three to five days from receipt, in public sessions, whereby the parties have the right to be heard. The Court should publish its decisions within a short, legally-prescribed deadline.

Following the call of the election, the APC received complaints about abuse of state resources and violations of the campaign finance regulations. The APC has 15 days to decide whether to initiate proceedings and inform the applicant and 15 days to refer a case to the court if it identifies irregularities. The APC reviewed such cases in closed sessions, as it is not required by law to hold public sessions. In

¹⁰⁹ The Court has 48 hours to decide upon an appeal after receiving information on the case from the SEC, which has 24 hours to respond. However, there is no legally prescribed deadline for the Court to request information from the SEC.

¹¹⁰ The Constitutional Court may hold oral hearings and public sessions “if it deems it necessary for the public interest”. Paragraph 12 of the [1990 OSCE Copenhagen Document](#) states that “proceedings may only be held in camera in the circumstances prescribed by law and consistent with obligations under international law and international commitments.” Paragraph II.3.3.h of the [Code of Good Practice in Electoral Matters](#) states that “The applicant’s right to a hearing involving both parties must be protected.”

¹¹¹ The PES informed the ODIHR EOM that it did not challenge the SEC decision denying the registration of Mr. Spajić due to the lack of quorum of the Constitutional Court.

¹¹² Three complaints challenged Mr. Đukanović’s eligibility for a third term, other complaints challenged the registration of Mr. Danilović and Mr. Mandić alleging they have dual citizenship, the denial of registration of Mr. Matijašević, the failure of the SEC to publish its decision on the registration of Ms. Vuksanović-Stanković in a timely manner, thus not enabling filing of a complaint within the legal deadline, the determination of the list of candidates, the 10-year permanent residence requirement to stand for election and the permanent composition of all PBs in the MEC Kolasin.

¹¹³ Article 97 of the Law on the Constitutional Court states that complaints must be filed in person or by fax.

¹¹⁴ Paragraph 3.3 b of the [Code of Good Practice in Electoral Matters](#) states that the procedure must be simple and devoid of formalism, in particular concerning the admissibility of appeals.

¹¹⁵ Upon request, the information on the grounds for rejection of the cases was communicated to the ODIHR EOM by email.

the absence of a legal requirement, the APC did not publish information about the complaints received and its decisions on them, including decisions to refer cases to the court, limiting transparency.¹¹⁶ If the APC identifies irregularities through complaints or *ex officio*, it has exclusive power to refer cases to the Misdemeanour Court. However, the Misdemeanour Court does not have expedited deadlines to review these cases.¹¹⁷ Further, the law lacks clarity on who may appeal the APC decisions to the Administrative Court.¹¹⁸

The APC received 99 complaints, mostly submitted by the civil society organization MANS, alleging in more than 59 of them that the state bodies did not publish the weekly analytical financial statements on expenditures within the legal deadlines; the APC rejected 31 of these complaints, decided not to initiate proceedings on 33 of them while 35 cases were still pending in July. The APC also decided *ex officio* to refer to the court 31 cases of unreported or unlawful employment after the call of election. However, in the absence of an expedited procedure, these cases remained pending after the election was finalized.

XIII. ELECTION OBSERVATION

The law stipulates that the election administration bodies shall enable foreign and domestic observers to monitor the course of elections and their work. However, in this election, civil society and international observers were not granted by the SEC an opportunity to observe the process of verification of voters' support signatures at the SEC. This denial was based on an opinion of the Agency on Personal Data Protection and Free Access to Information, which justified it on the grounds of personal data protection.¹¹⁹ Such restrictions to election observation are not in line with international good practice and undermine transparency.¹²⁰

In line with international standards and national legislation, observers should have the opportunity to observe all aspects of the electoral process, including the process of verification of voters' signatures for the nomination of candidates, with due consideration for personal data protection.

The SEC accredited six citizen observer groups with 1,758 observers and nine international organisations with 247 observers. The SEC determined that all previously accredited observers may continue to observe the second round, and new observers from already accredited organisations may be accredited, which enhanced transparency.¹²¹ Two citizen observer organisations, the Center for Monitoring and Research (CeMI) and the Center for Democratic Transition, monitored the campaign, media, and election day procedures, while MANS focused on campaign finance and the use of state resources.¹²²

¹¹⁶ The APC published on its website information that it referred a specific number of cases to the Court.

¹¹⁷ By 31 March, the Administrative Court and the Misdemeanor Court had several thousand pending cases each, and there were no rules on prioritising cases.

¹¹⁸ In 2020, the Supreme Court ruled that the CSO MANS, which had filed an appeal against an APC decision, does not have legal standing since it lacks the legal interest in administrative disputes, explaining that complainants have the legal interest when an administrative act leads to a change in their position.

¹¹⁹ The CSO Centre for Democratic Transition (CDT) requested to review the signature sheets for Mr. Mandić. The ODIHR EOM and the CSO Centre for Monitoring and Research (CeMI) requested to observe the signature verification process. The SEC referred all requests to the Agency of Personal Data Protection, which provided a negative opinion. The SEC did not adopt any decision on these requests by election day.

¹²⁰ See paragraph 68 of the [Code of Good Practice in Electoral Matters](#) that states “only transparency, impartiality and independence from politically motivated manipulation will ensure proper administration of the election process, from the pre-election period to the end of the processing of results”.

¹²¹ In total, 15 new international and 119 new citizen observers were accredited for the run-off.

¹²² CDT and CeMI issued reports before and after the election day; their short-term observers were present in half of the polling stations, and both organisations announced projected election results based on parallel vote tabulation.

Prior to the second-round election day, CeMI received threatening emails from an anonymous source, raising some concerns about their ability to conduct their observation activities free from intimidation, contrary to international good practice.¹²³ Despite these emails, CeMI was able to conduct its planned activities undisturbed while the police and the prosecutor initiated an investigation, and CeMI was granted police protection of their office in Podgorica on election day.

XIV. ELECTION DAY OF THE FIRST ROUND

The opening was observed in 70 polling stations, voting in 676 observations in polling stations across the country and counting in 52 polling stations. The election day was calm, with a few isolated incidents in and around polling stations.¹²⁴ In total, 36 per cent of the PB members of the polling stations observed by the ODIHR EOM were women, including 27 per cent of the PB chairpersons. The ODIHR EOM observers noted that several polling stations visited were not independently accessible for persons with disabilities.

A. OPENING AND VOTING

The opening of polling stations was assessed positively in 66 of 70 observations. Fourteen of the observed polling stations did not open on time but opened with only minor delays. Some procedural omissions were noted during preparations for voting, including not drawing lotteries to assign roles to PB members (in 37 cases), ballot boxes not being sealed in the presence of the first voter (7 cases), and PBs not properly preparing their stamps (11 cases).

The voting process was evaluated positively by the ODIHR EOM observers in 98 per cent of observations, indicating that most voting procedures were respected. The layout of polling stations was assessed as adequate for polling in 97 per cent of observations. However, the ODIHR EOM observers noted that, in over half of their observations, polling stations were not accessible for independent access by persons with disabilities, and the polling station layout was not suitable for voters with physical disabilities in 29 per cent of observations.

The voting process was assessed as well-managed in almost all polling stations observed. Authorised representatives of the candidates were present in 83 per cent of the observed polling stations, and citizen observers were present in almost half of the observed polling stations, contributing to the transparency of the process.

Procedural deficiencies noted by ODIHR EOM observers included PBs not circling the ordinal number of voters in the voter list (in 14 per cent of observations), the electronic voter identification devices (EVID) confirmation slips not being signed (12 per cent) and slips and control coupons not placed in the designated box (in 3 per cent). In 12 per cent of observations, the ODIHR EOM observers noted that several voters were redirected to other polling stations, potentially related to the relocation and

¹²³ Section 4.1 of the [OSCE/ODIHR Election Observation Handbook](#) lists minimum conditions for the effective, credible and professional observation, which, among others, include "to have a secure environment in which to operate for a meaningful election process", "establish a mission within a timeframe that permits long-term observation of all phases of the election process" and "have unimpeded access to polling areas, election commissions, and counting and tabulation centres throughout the country".

¹²⁴ The media reported some isolated incidents of physical attacks and disturbances of the peace inside and outside of two polling stations, in Bijelo Polje and Šavnik. Voting was suspended in the PB #6 in Šavnik after a voter who was reportedly registered was not allowed to vote. The prosecutor in Šavnik informed the ODIHR EOM that an investigation was opened against the PB member who stopped the voting for disrupting the process.

merging of polling stations ahead of this election. While the EVID generally functioned well, ODIHR EOM observers noted problems with EVIDs in 7 per cent of polling stations observed.

The ODIHR EOM observers noted that the secrecy of the vote was not respected in a number of cases. The secrecy of the vote was not ensured as a result of the layout of the polling stations (8 per cent), including due to the positioning of voting screens and, in 2 per cent of observations, the secrecy of the vote was compromised by voters not marking their ballots in secret, or not folding the ballots or showing them to those present, or stating aloud how they voted. Further, in 3 per cent, indications that voters were taking photos of their marked ballots were noted by the ODIHR EOM observers. In some cases in which voters compromised the secrecy of their vote, the PBs invalidated these ballots, as required by law. In some of the observed polling stations, PBs were loudly announcing the names of voters who voted. While this practice is explicitly forbidden by election law and may create a potential for voter intimidation, the law does not prescribe liability for such violations.

B. CLOSING AND COUNTING

The ODIHR EOM assessed the counting negatively in 9 of the 52 observed polling stations, mostly due to PBs not following procedural safeguards, which indicates that PB members do not always have a sufficient understanding of the procedures and may need additional training. After closing, in half of the polling stations observed, the EVID-generated turnout data was not used by the PBs to cross-check the number of voters who voted.

In over one-third of observations, the PBs omitted important reconciliation procedures before opening the ballot box, including counting the unused ballots, the control coupons, the signed printed slips, and the number of signatures on the voter lists, a set of safeguards important for ensuring the integrity of the process. In 14 cases, PBs did not pack and seal the unused ballot papers before opening the ballot box. In over half of the cases, the PBs did not enter figures related to used and unused ballots into the PB record of work before the opening of the ballot box. In 16 cases, the PBs did not cross-check the sum of valid and invalid ballots against the number of signatures in the VL. In five polling stations observed, more ballots were found in the ballot box than the number of signatures on the voter list, and PBs had difficulties completing the PB protocols in seven observed polling stations.

C. TABULATION

The tabulation was observed in 22 MECs and assessed positively in all but 3 of them. Candidates' authorised representatives were generally present, while citizen observers were only present in one MEC. Overcrowding was reported by the ODIHR EOM observers in four MECs, and a poor organisation of the process in two. They also reported two instances of tension at MECs. While the tabulation process was assessed as well-organised in almost all observations, procedural omissions were reported in some cases, including not always checking if the PB result protocols were completed in full and, in some instances, the PB protocols did not fully reconcile. The law does not stipulate who is responsible for delivering the PB result protocols and other election materials to the MECs, which does not fully safeguard the integrity of the process, which is at odds with international good practice.¹²⁵

To safeguard the integrity of transferring the voting results, the law should stipulate that the PB result protocols and election materials are delivered to the MEC by the PB Chairperson and two members representing opposing parties, in line with international good practice.

¹²⁵ Paragraph 50 of the Guidelines to the 2002 Venice Commission [Code of Good Practice in Electoral Matters](#) states that “the polling station results can be conveyed to the electoral district (for instance) by the presiding officer of the polling station, accompanied by two other members of the polling station staff representing opposing parties, in some cases under the supervision of the security forces, who will carry the records of the proceedings, the ballot box, etc.”

XV. ELECTION DAY OF THE SECOND ROUND

In the second round, the ODIHR EOM did not observe election day proceedings in a systematic or comprehensive manner; however, mission members visited a limited number of polling stations in 16 of the 25 municipalities.

On the eve of the election day, the police conducted investigations in several municipalities, including Podgorica, Bijelo Polje and Nikšić, pertaining to allegations of buying voter identity cards.¹²⁶ On election day, the DPS issued a statement that several of their party premises were raided by the police and accused the police of attempting to stir riots and intimidate voters. Citizen observers also publicly reported that they observed indications of voters' identity cards being bought on election day. ODIHR EOM observers directly observed voters queuing in DPS offices in Gusinje and Plav on election day, which may be an indication of vote buying.

A. OPENING AND VOTING

The ODIHR EOM assessed the opening in the observed polling stations as orderly. During voting, the atmosphere was observed as calm, and the procedures were followed. Observers noted that, as in the first round, in some instances, the secrecy of the vote was not fully safeguarded, mainly due to the voters' failure to fold their ballots properly or unfolding them while removing the control coupon. In a few instances, individuals outside polling stations were observed to be apparently tracking the voters who came to vote, which may be perceived by voters as intimidation.

B. CLOSING AND COUNTING

The counting process was transparent in the nine ODIHR EOM observations in eight municipalities. ODIHR EOM observers noted that PBs had no difficulty filling in the result protocols and reconciled figures, which may partly be prescribed to a simplified election process with only two contestants. Procedures were observed to be closely followed with a few exceptions, where some important safeguards were omitted, including not counting unused ballots, control coupons, signed printed slips and the number of signatures on the voter list or properly recording these figures. In one case, the PB results protocol was pre-signed.

C. TABULATION

The tabulation was observed in 10 MECs. The reception and verification of PB protocols, as well as the entering of data in the MECs observed, was mostly conducted in an orderly and efficient manner, but the layout of the MECs did not always allow for a meaningful observation by ODIHR EOM observers. ODIHR EOM observers reported that PB protocols did not always reconcile, and MECs at times introduced minor changes to the figures to reconcile them without impacting the overall results for the

polling station.¹²⁷ The law does not foresee recounts nor a formal procedure for correcting PB protocols

¹²⁶ No additional information was made available to the ODIHR EOM during the course of the EOM deployment by police related to the results of the police investigations in this matter.

¹²⁷ The ODIHR EOM studied a random sample of 147 PB protocols from four municipalities. Over 20 per cent of these protocols were corrected, while 7 per cent contained multiple corrections; 73 per cent of the changes were made to the number of voters who voted at the polling station and 22 per cent of the changes to the number of unused ballots and invalid ballots. Four PB protocols were incomplete, while in eight PB protocols, the numbers did not reconcile. The outcome of this exercise indicates that the counting procedures are not applied in the correct order, or some procedures are omitted, at odds with international good practice.

in case PB protocols do not reconcile, which does not ensure the integrity and accountability of the tabulation process.

To ensure the integrity and accountability of tabulation, the law should prescribe an official procedure for amending the PB result protocols when the figures do not reconcile. In case of irreconcilable errors that affect election results, the MECs should be mandated to organize recounts in the presence of party representatives and observers.

XVI. ANNOUNCEMENT OF RESULTS

On the election days of both rounds, the SEC regularly announced the voter turnout per municipality but did not publish this data on its website. The preliminary turnout for the first round was reported at 64 per cent, while for the second round at 69.3 per cent. After the closing and counting in both rounds, as in all previous elections, the SEC did not publish any partial preliminary results as there is no explicit legal requirement; this limited the transparency and accountability of the election results. The SEC only announced complete preliminary results of both rounds within the legal deadline of 36 hours from the closing of polling stations.¹²⁸ The final results were published on 6 April.

Although the legal deadlines for appealing and reviewing the first-round PB results are in line with international good practice, they do not allow for the finalisation of the first-round results in time for the second round.¹²⁹ In the first round, none of the seven candidates obtained over 50 per cent of the votes necessary to win. Subsequently, on 23 March, based on preliminary results, the SEC announced that the second round would be held on 2 April between the contestants who won the most votes, candidates Milo Đukanović and Jakov Milatović.¹³⁰

The timeline for adjudicating complaints against the first-round results and setting a date for the second round should leave sufficient time for calling and administering the second round.

By law, the MECs are required to publish the election results disaggregated per polling station “immediately” after receipt from all PBs, but no specific format is prescribed, and the SEC did not issue any regulation on this matter. Following the first round, out of the 25 MECs, only 12 published the preliminary results disaggregated by polling stations on their websites and those that did so used various formats.¹³¹ An additional five MECs published scanned MEC protocols with aggregate results,¹³² while 8 MECs did not publish any information on the results.¹³³ Following the second round, out of the 25 MECs, only 11 published on their websites the preliminary results disaggregated by polling station and again did so in different formats. The failure to publish disaggregated results within the legal deadlines

¹²⁸ PBs have 12 hours from closing to deliver the PB results to the MECs; MECs have an additional 12 hours to establish, publish and submit the tabulated results to the SEC, which has an additional 12 hours to establish and publish the preliminary results. For the first round, voting results were established in all polling stations except for PB 6 in Šavnik, where voting was disrupted, and a repeat voting was conducted on 26 March.

¹²⁹ Complaints against PB results may be filed with the MECs within 72 hours from the closing of the PSs. The MECs have 24 hours to review them; appeals against MEC decisions on these complaints may be filed within an additional 72 hours to the SEC, which has 24 hours to review them; an appeal against an SEC decision may be filed within 48 hours with the Constitutional Court, which has 48 hours to decide after it receives information from the SEC. The SEC must publish the final results within 12 hours after the expiry of the complaints’ deadline.

¹³⁰ In total, 341,551 votes were cast, of which 338,381 were valid. Mr. Đukanović obtained 119,673 votes (35.37 per cent), and Mr. Milatović 97,858 votes (28.92 per cent).

¹³¹ The MECs in Berane, Budva, Cetinje, Gusinje, Herceg Novi, Kolašin, Mojkovac, Nikšić, Petnjica, Plužine, Podgorica, and Rožaje published the disaggregated data either in scanned excel files or scanned and attached the individual PB protocols. Some scans were illegible.

¹³² MECs in Andrijevića, Danilovgrad, Pljevlja, Tuzi and Žabljak.

¹³³ The MECs in Bar, Bijelo Polje, Kotor, Plav, Šavnik, Tivat, Ulcinj, and Zeta did not post any information on the results.

for challenging the results does not ensure transparency and effective public scrutiny and does not allow for effective legal remedy.

To enhance public confidence and allow for effective remedy, the SEC should publish results disaggregated by polling stations in a consistent format as soon as the results are available to enable public scrutiny and meaningful contestation of results.

The MECs did not receive any challenges of PB voting results related to either election day. According to the SEC and the Constitutional Court, no challenges may be filed against the MEC tabulated results, which are viewed as arithmetical calculations, thus limiting the accountability of the process, at odds with international standards and good practice.¹³⁴ The law lists several grounds for the invalidation of PB results; some irregularities entail a mandatory invalidation of PB results,¹³⁵ while other irregularities constitute grounds for optional invalidation of PB results, allowing for arbitrary and inconsistent decisions of MECs.¹³⁶ Further, the law provides for the invalidation of results in cases when irregularities have no impact on the voting results, which may be a disproportionate measure.¹³⁷ By law, the Constitutional Court may invalidate the election results partially or fully, but the law does not define the grounds for such invalidation.

To ensure the integrity of election results, the law should prescribe clear and objective criteria for their invalidation only in case of significant violations, as well as recounts in case of discrepancies in the PB protocols.

XVII. RECOMMENDATIONS

These recommendations, as contained throughout the text, are offered with a view to further enhance the conduct of elections in Montenegro and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past ODIHR recommendations that have not yet been addressed. ODIHR stands ready to assist the authorities of Montenegro to further improve the electoral process and to address the recommendations contained in this and previous reports.¹³⁸

¹³⁴ Paragraph 3.3.e of the [Code of Good Practice in Electoral Matters](#) states that “it must be possible to annul the entire election or merely the results for one constituency or one polling station”.

¹³⁵ This includes cases when the layout of the PS does not ensure the secrecy of the vote, the voting process was disrupted, voters were not allowed to vote at closing, the control coupon was not found in the ballot box, modification of the VLs, discrepancies between the numbers of ballots found in the ballot box and signatures in the VLs or control coupons, the serial number of several control coupons did not correspond to the particular PS or the numbers of several control coupons were the same.

¹³⁶ The law lists thirteen grounds for the optional invalidation of results and seven for mandatory. In [Riza and others v. Bulgaria](#), the ECtHR reiterated that “the decision-making process on ineligibility or contestation of election results is accompanied by criteria framed to prevent arbitrary decisions. In particular, such a finding must be reached by a body which can provide a minimum of guarantees of its impartiality. Similarly, the discretion enjoyed by the body concerned must not be exorbitantly wide; it must be circumscribed, with sufficient precision, by the provisions of domestic law.”

¹³⁷ The election law stipulates that the PB may be dissolved, and voting shall be repeated in case of multiple voting, casting a non-verified ballot, campaign material displayed at the PS or within 100 meters and failure of a voter to sign the voter list. Paragraph 101 of the [Venice Commission Code of Good Practice](#) states that “powers of appeal bodies are important... they should have authority to annul elections, if irregularities may have influenced the outcome, i.e. affected the distribution of seats...it should be open to adjustment, i.e. annulment should not necessarily affect the whole country or constituency – indeed, it should be possible to annul the results of just one polling station. This makes it possible to avoid the two extremes – annulling an entire election, although irregularities affect a small area only, and refusing to annul because the area affected is too small.”

¹³⁸ In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”.

A. PRIORITY RECOMMENDATIONS

1. As previously recommended, the authorities should engage decisively in a comprehensive reform well ahead of the next elections to remove legal gaps and ambiguities and harmonize the electoral legal framework in an inclusive process that includes public consultation.
2. To ensure legal certainty and the integrity of the process, the law should be amended to regulate all aspects of the second round of presidential elections.
3. To provide sufficient safeguards for the institutional impartiality of the election administration and to avoid situations in which one political option is dominant in the decision-making processes, the mechanism of nomination and appointment of election commissions should be reviewed. An increased role in the nomination and appointment of members by non-political bodies or based on open competition could also be considered. At the same time, providing full voting rights to authorized representatives of the electoral contestants could be reconsidered.
4. To protect the privacy of whether a voter has voted and safeguard the secrecy of the vote, the signed voter lists should not be made available to political parties and their representatives, including those serving in MECs. The signed voter lists should be accessible only within a limited scope for precisely defined purposes, such as when considering complaints and appeals.
5. To ensure the integrity of candidate registration, the authorities should review its procedures and deadlines. To ensure transparency and accountability, the law could mandate prospective candidates to formally commence the nomination procedures before collecting support signatures and prescribe liability and proportionate sanctions for the forgery of supporting signatures. Alternative good practices for candidate registration could also be considered, including a reasonable deposit refundable to the candidates upon receiving a certain number of votes.
6. To enhance the transparency of the election dispute resolution, the SEC could consider maintaining a publicly accessible database of complaints, including those filed at MECs.
7. To ensure effective, timely and transparent judicial review, the Constitutional Court should review election disputes within three to five days from receipt, in public sessions, whereby the parties have the right to be heard. The Court should publish its decisions within a short, legally-prescribed deadline.
8. To safeguard the integrity of transferring the voting results, the law should stipulate that the PB result protocols and election materials are delivered to the MEC by the PB Chairperson and two members representing opposing parties, in line with international good practice.
9. To enhance public confidence and allow for effective remedy, the SEC should publish results disaggregated by polling stations in a consistent format as soon as the results are available to enable public scrutiny and meaningful contestation of results.

B. OTHER RECOMMENDATIONS

Background

10. To enhance women's participation in public life, comprehensive legal, institutional, and educational efforts addressing existing gender stereotypes should be undertaken by the authorities.

Election Administration

11. To ensure the accountability of election administration, the election law should explicitly prescribe the supervisory function of the SEC over the MECs.
12. To ensure the integrity and transparency of the election process, the SEC should collect and publish information on the composition of lower-level commissions, including gender-disaggregated data.
13. To ensure the integrity of the election day procedures, the election administration should undertake comprehensive training, mandatory for all MEC and PB members, including on ensuring secrecy of the vote, counting, reconciliation of result protocols and tabulation of votes.

Voter Registration

14. The lengthy residence requirement for voting in national elections should be reviewed in line with international standards. The law should prescribe clear and objective criteria to determine how a citizen acquires and loses permanent residence.

Candidate Registration

15. The existing residency requirements for presidential candidates are overly restrictive and should be reconsidered.
16. As previously recommended, consideration should be given to removing the restriction to sign in support of only one candidate and decreasing the number of support signatures required to stand for office to a maximum of one per cent of the total electorate.
17. To ensure inclusiveness and exclude bias in candidate registration, the SEC should determine the candidates' eligibility based strictly on compliance with the existing legal requirements applied equally to all prospective candidates.

Electoral Campaign

18. To enhance transparency and accountability, all election campaigners should be required to label their print campaign materials and online advertisements with information on who ordered and paid for the production and publication.
19. To enable meaningful public scrutiny, the APC should consider publishing relevant information on public employment in a user-friendly format, with due protection of personal data.

Campaign Finance

20. To enhance transparency and accountability of campaign finance, the law should be amended to comprehensively regulate the use of loans by contestants, candidates' own funds and funds from the nominating political parties, in-kind donations and third-party campaigning.
21. To eliminate legal uncertainty, the law should clearly prescribe that all campaign finance regulations are applicable in the second round, as well as provide an expenditure limit and timeframes for reports taking into account the possible second round.
22. To further improve transparency and accountability, the campaign finance regulations, including limits and reporting on donations and expenditures, should be applicable to all organizations campaigning in favour of or against a candidate.
23. To enhance the accountability of campaign finances, the APC should have effective tools to verify the legality of donations, including by means of cross-checking donors against comprehensive databases of legal entities and public procurement contractors. The law should prescribe effective, proportionate and dissuasive sanctions for all irregularities, including inaccurate reports and third-party campaigning. To ensure effective remedy, the APC should be mandated to review breaches of campaign finance rules in a timely manner.

Media

24. Measures should be taken to ensure the independence and editorial freedom of the public broadcasters. In this respect, the manner of funding of local public broadcasters should be reviewed.
25. To safeguard freedom of expression, defamation should be fully decriminalised, and the legal provisions related to false information should be reviewed in line with international standards.
26. The law should prescribe a graduate system of effective, proportionate and dissuasive sanctions for broadcasters breaching the law and ensure effective oversight over the campaign coverage. This could be achieved by mandating the AEM to oversee the compliance of broadcast media with election-related provisions and providing it with sufficient sanctioning and enforcement powers.

Election Dispute Resolution

27. To ensure effective remedy, the law should be amended to provide for judicial review over all types of SEC decisions, including those upholding lower-level commission decisions on appeal and SEC actions or failing to act.

Election Observation

28. In line with international standards and national legislation, observers should have the opportunity to observe all aspects of the electoral process, including the process of verification of voters' signatures for the nomination of candidates, with due consideration for personal data protection.

Election Day

29. To ensure the integrity and accountability of tabulation, the law should prescribe an official procedure for amending the PB result protocols when the figures do not reconcile. In case of irreconcilable errors that affect election results, the MECs should be mandated to organize recounts in the presence of party representatives and observers.

Announcement of Results

30. The timeline for adjudicating complaints against the first-round results and setting a date for the second round should leave sufficient time for calling and administering the second round.
31. To ensure the integrity of election results, the law should prescribe clear and objective criteria for their invalidation only in case of significant violations, as well as recounts in case of discrepancies in the PB protocols.

ANNEXE I: ELECTION RESULTS OF THE FIRST ROUND 19 MARCH 2023¹³⁹

	Candidates	Votes	Percentage
1	Milo Đukanović	119,673	35.37
2	Mr Jakov Milatović	97,858	28.92
3	Andrija Mandić	65,386	19.32
4	Jovan Radulović	2,574	0.76
5	Goran Danilović	4,659	1.38
6	Mr Aleksa Bečić	37,562	11.10
7	Dr Draginja Vuksanović Stanković	10,669	3.15
	Total	338,381	

Total number of voters on voter lists	542,154
Number of voters who voted	341,551
Number of valid cast votes	338,381
Number of invalid cast votes	3,169

ANNEXE II: FINAL ELECTION RESULTS OF THE SECOND ROUND 2 APRIL 2023

	Candidate	Votes	Percentage
1	Milo Đukanović	154,769	41.12
2	Mr Jakov Milatović	221,592	58.88
	Total	376,361	

Total number of voters on voter lists	542,154
Number of voters who voted	380,281
Number of valid cast votes	376,361
Number of invalid cast votes	3,920

ANNEXE III: LIST OF OBSERVERS IN THE INTERNATIONAL ELECTION OBSERVATION MISSION

Parliamentary Assembly of the Council of Europe

Joe	O'Reilly	Head of Delegation (1 st and 2 nd round)	Ireland
Jorida	Tabaku	MP	Albania
Domagoj	Hajduković	MP	Croatia
Zdravka	Bušić	MP	Croatia
Davor Ivo	Stier	MP	Croatia
Nicos	Tornaritis	Co-rapporteur	Cyprus
Jacques	Le Nay	MP	France
Michael	Janssen	Venice Commission	Germany
Simone	Billi	MP	Italy
Margreet	De Boer	MP	Netherlands
Mirjana	Lazarova Trajkovska	Venice Commission	North Macedonia
Lise	Selnes	MP	Norway
Jacek	Protasiewicz	MP	Poland
Corneliu-Mugurel	Cozmanciuc	MP	Romania
Bogdan	Torcătoriu	Secretariat	Romania
Gerardo	Giovagnoli	MP	San Marino
Tamara	Vonta	MP	Slovenia
Adnan	Dibrani	MP	Sweden
Damien	Cottier	Co-rapporteur	Switzerland
Lord David	Blencathra	MP	United Kingdom
Lady Tara	Blencathra	Accompanying Lord David Blencathra	United Kingdom
Anne	Godfrey	Secretariat	United Kingdom

European Parliament

Tonino	Picula	Head of Delegation (1 st round)	Croatia
Georgios	Kyrtos	Head of Delegation (2 nd round)	Greece
Christian	Sagartz	MP	Austria
Blagoy	Klimov	Political Group	Bulgaria
Sunčana	Glavak	MP	Croatia
Jörgen	Siil	Political Group	Estonia
Garance	Tardieu	Political Group	France
Sven	Simon	MP	Germany
Fabio Massimo	Castaldo	MP	Italy
Cristina	Castagnoli	Secretariat	Italy
Paul	Ivan	Political Group	Romania
Ursa	Pondelek	Political Group	Slovenia
Jordi	Solé	MP	Spain
Gonzalo	de Mendoza	Secretariat	Spain
Pilar	González	Secretariat	Spain

ODIHR EOM Short-Term Observers

Werner	Rohracher	Austria
Heike	Welz	Austria
Manfred	Aschaber	Austria
Karl	Müller	Austria
Karel	Cappelle	Belgium
Karen	De Dycker	Belgium
Ana	Nikolova	Bulgaria
Justin	Lys	Canada
Nicholas	Krawetz	Canada
Liesl	Mulholland	Canada
Maryna	Prokopenko	Canada
Marko	Babić	Croatia
Sylva	Horakova	Czech Republic
Martin	Jakúbek	Czech Republic
Jiří	Němec	Czech Republic
Iva	Merheim Eyre	Czech Republic
Martin	Scerbej	Czech Republic
Karel	Kovanda	Czech Republic
Dorte	Broen	Denmark
Rina	Simonsen	Denmark
Finn	Nielsen	Denmark
Sven	Tölp	Estonia
Karoliina	Rajala	Finland
Kim	Junna	Finland
Linda	Johansson	Finland
Adeline	Marquis	France
Léa	Maillard Zambrano	France
Maxence	Peniguet	France
Alexiei	Ozeretzkovsky	France
Olivia	Dejean	France
Guillaume	Javourez	France
Claudio	Serafini	France
Philippe	Dardant	France
Dorothee	Le Fraper Du Hellen	France
Paul	Ruotte	France
Marie-Flore	Michel	France
Jasmine	Salhab	France
Salif	Nimaga	Germany
Tanja	Beyer	Germany
Annelie	Koschella	Germany
Jana	Bürgers	Germany
Stefan	Uecker	Germany
Markus	Vogel	Germany

Hans	Doehne	Germany
Rolf	Boehnke	Germany
Karola	Machalett	Germany
Denise	Kupferschmidt	Germany
Anita	Pokoraczki	Hungary
Norbert	Szepvolgyi	Hungary
Péter	Gáspár	Hungary
Máté	Matheisz	Hungary
Estrid	Brekkan	Iceland
Brynhildur	Bolladóttir	Iceland
Deirdre	Grogan	Ireland
Alison	Moore	Ireland
Eilis	Ward	Ireland
Maurizio	Cacucci	Italy
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ABOUT ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 150 staff.

ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE commitments, other international obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights and fundamental freedoms** consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas, including human rights in the fight against terrorism, enhancing the human rights protection of trafficked people, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance and non-discrimination**, ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).