Office for Democratic Institutions and Human Rights

REPUBLIC OF MONTENEGRO
FEDERAL REPUBLIC OF YUGOSLAVIA

EARLY PARLIAMENTARY ELECTIONS
20 October 2002

OSCE/ODIHR ELECTION OBSERVATION MISSION REPORT

Warsaw
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OSCE/ODIHR ELECTION OBSERVATION MISSION REPORT[1]

I. EXECUTIVE SUMMARY

The 20 October 2002 early parliamentary elections in the Republic of Montenegro, Federal Republic of Yugoslavia, and concurrent municipal elections in Podgorica and Tivat were conducted generally in accordance with international commitments and standards for democratic elections.

The parliamentary elections were precipitated by a collapse in the support for the minority Government and the formation of a working alliance between opposition parties to create a new parliamentary majority. After the elections were announced, changes were introduced to the election and other related laws without either broad consensus or due consideration for the consequences to the administration of the elections and international standards. These steps led to a stalemate in the election process, until negotiations between political parties led to compromise amendments being passed to the election law to allow the elections to proceed, albeit with a postponed date.

Positive features of these elections included:

- An overall legal framework that was adequate for democratic elections;
- A transparent electoral process that involves the full participation of all political parties and coalitions in the elections, including parties representing national minorities;
- The representation of all participating political parties on election commissions at all levels;
- A well-organised and effective administration of electoral processes by election commissions;
- Election day procedures that generally were conducted in accordance with the legal framework;
- The continued improvement in accuracy and quality of voter registers; and
- Broad access for non-partisan domestic observers to monitor the polling and counting.

While noting the strengths and improvements in the electoral framework in Montenegro, shortcomings remain, some of which have already been noted in previous elections, including:

- Provisions in the election law which allow political parties and coalitions to control the mandates of elected representatives and councillors that are undemocratic and contrary to international standards;
- The failure to distinguish properly between State, municipal and political party functions;
- Candidates holding incompatible positions on election commissions;
- No provision for citizens to stand as independent candidates;

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[1] This Report is also available in Serbian. However, the English text remains the official version.

- Minority representation in Parliament limited in effect only to parties from the Albanian community and not other national minorities;
- Significant delays in the distribution of public funds for election administration costs and political party campaign expenditure; and
- A low level of participation by women as candidates.

The election campaign, which focused mainly on the record of the President and previous DPS Government, was mostly calm, although it was at times blemished by abusive rhetoric between opposing politicians. Also, two minor incidents of violence were noted. There were several allegations – none of which were substantiated - of attempts to buy votes or influence voters.

A broad range of electronic and print media, including a State TV channel devoted exclusively to the election campaign, provided voters with sufficient information. The State media coverage of the campaign was more balanced than on previous occasions. However, some of the private media generally failed to provide objective reporting.

Voter turnout was high at around 75%, indicating voter interest and confidence in the process. OSCE/ODIHR observers gave an overwhelmingly positive evaluation for the polling activities on election day, although group voting was reported as a continuing problem in some areas. The vote count was evaluated in equally positive terms. Training for polling board members was inconsistently provided.

The OSCE/ODIHR is prepared to assist the authorities and civil society of Montenegro to remedy the shortcomings and challenges identified in this report, especially in relation to the forthcoming review of the current system of representation of national minorities in Parliament.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

On 17 September 2002, the Speaker of the National Assembly of the Republic of Montenegro (Federal Republic of Yugoslavia) invited the Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the early parliamentary elections scheduled for 20 October 2002 and the concurrent municipal elections being held in Podgorica and Tivat. The OSCE/ODIHR established an Election Observation Mission (EOM) on 18 September and opened offices in Podgorica on 23 September.

Mr. Nikolai Vulchanov (Bulgaria) was appointed Head of the OSCE/ODIHR EOM, which included 19 long-term observers (LTOs) from 13 OSCE participating States. The LTOs were based in Podgorica, Budva, Niksic, Bijelo Polje and Berane. For election day, an International Election Observation Mission (IEOM) was established. The IEOM was a joint effort of the OSCE/ODIHR and a delegation from the Parliamentary Assembly of the Council of Europe (PACE), led by Mr Rein Voog (MP, Estonia).

The observation of polling and vote counting processes on election day involved the deployment of 116 short-term observers from 30 OSCE participating States, including five representatives from the PACE. Observers visited over 530 of the 1,101 polling stations

across the Republic. On 21 October, the OSCE/ODIHR and the PACE issued a joint statement of preliminary findings and conclusions. The EOM offices in Podgorica were closed on 25 October.

During its observation of these elections, the EOM compared all stages of the electoral process with international commitments and standards for democratic elections formulated in the 1990 Copenhagen Document, United Nations and Council of Europe instruments, the case law of the European Court of Human Rights, and other documents. These criteria required that the vote was universal, secret, accountable, transparent, free, fair, and equal.

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

III. POLITICAL BACKGROUND

The 20 October 2002 early parliamentary elections were the second such elections to take place in the Republic of Montenegro, Federal Republic of Yugoslavia (FRY) in as many years. The April 2001 early elections had failed to produce any conclusive results. The bloc which won the largest number of seats – the "Victory for Montenegro" coalition of the Democratic Party of Socialists (DPS) of President Milo Djukanovic and the Social-Democratic Party (SDP) – was able to form a minority government only with the parliamentary support of the Liberal Alliance of Montenegro (LSCG).

The signing in March 2002 of the agreement on the redefinition of relations between Serbia and Montenegro (the "Belgrade Agreement") had considerable impact on the domestic politics of Montenegro and, in particular, the pro-independence parties. The SDP removed its ministers from the Government, leading the DPS Prime Minister, Mr Filip Vujanovic, to return his mandate. Moreover, the LSCG withdrew its support for the Government.

Elections in 19 municipalities on 15 May 2002 gave the LSCG a similarly pivotal role in determining the controlling majority in a number of key municipal assemblies, such as Niksic and Budva. Negotiations led to the development of a *de facto* coalition at municipal level between the LSCG and their former opponents, the main parliamentary opposition and pro-Federation "Together for Yugoslavia". The informal pact was soon replicated in Parliament to ensure the passing of a motion of no confidence in the Prime Minister and the defeat of a Government motion of no confidence in the LSCG Speaker of Parliament.

The parliamentary alliance of LSCG and "Together for Yugoslavia" – known as the "New Majority" – also introduced legislative developments including, on 18 July, the adoption of amendments to the election and related laws, followed on 19 July by a vote for the early dissolution of Parliament.

On 3 July, the President had already announced early municipal elections in Podgorica on 6 October following a failure of its municipal assembly to adopt an annual budget. As a result of the vote for the Parliament's dissolution, on 20 July the President also scheduled early parliamentary elections for 6 October, as well as new municipal elections in Tivat, where the results of the May 2002 elections had produced no majority.

The amendments to the election and related laws did not have the support of four parliamentary parties and had only been passed upon the votes of the New Majority and with a narrow majority of one. The President refused to sign them until a second vote by Parliament required him to do so on 29 July. The amended laws came into effect on 10 August, long after the call of the three elections.

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

In early September, following lengthy round-table discussions between parliamentary parties, facilitated by international interlocutors, including the OSCE/ODIHR and the OSCE Mission to FRY, agreement was reached between the political parties on steps to be taken to clarify the applicable laws for elections and related media laws. On 10 September, a series of new laws were adopted that amended, and effectively repealed, the July legislation. On 11 September, following a petition by the Parliament for the postponement of the date of elections, originally scheduled for 6 October, the President announced that the elections would be re-scheduled to take place on 20 October. The outstanding issue of membership of the Constitutional Court continued to produce threats of boycott, until it was resolved after further international mediation, on 25 September, the last date for submission of candidates.

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

IV. LEGISLATIVE FRAMEWORK

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

A. AMENDMENTS TO THE ELECTION LAW

The election law was amended twice by Parliament after the calling of municipal elections in Podgorica, which was called on 3 July, and the early parliamentary elections and Tivat municipal elections, which were called on 20 July. While the initial amendments were adopted by Parliament by a majority of one on 18 July (the "July amendments"), they did not

come into effect until 10 August. Despite significantly changing the election law, they had been adopted without adequate parliamentary consultation or agreement.

In general, it is accepted international practice that election laws should not be changed once an election is called, unless those changes are needed to clarify legislative ambiguity, preferably agreed by general consensus of political parties. The July amendments did not meet these criteria.

The second series of amendments were adopted by Parliament on 10 September with the broad consensus of political parties. The September amendments, which repealed a number of the July provisions that were inconsistent to other laws and/or contrary to international standards relating to democratic elections, were also in line with Article 109 of Montenegro's Constitution allowing the retroactive application of laws "in the public interest".

B. SYSTEM OF REPRESENTATION

In Montenegro, the Parliament and municipal assemblies are elected according to a system of proportional representation. The Constitution requires that one representative is elected to parliament for every 6,000 voters. A reduction in the total number of registered voters in Montenegro has meant that the number of representatives being elected in these elections was 75, compared to 77 in April 2001.[2] The election law requires a municipal assembly to have a minimum of 30 councilors, with an extra councilor being elected for every 5,000 registered voters in the municipality. In Podgorica, the number of councilors being elected was reduced from 54 to 52, while in Tivat, the municipal assembly remained at 32 seats.

C. CHANGES TO SEATS FROM SPECIALLY DESIGNATED POLLING STATIONS

In parliamentary elections, Montenegro is a single electoral constituency except for a "sub-constituency" that consists of seats allocated on the basis of the votes cast in specially designated polling stations in Albanian communities. The amended election law reduced the number of seats allocated in such a manner from five to four. The law also reassigned which polling stations were to be specially designated, withdrawing from the list 18 polling stations in areas with established Albanian communities such as Bar, Plav and Rozaje.

This step was taken without adequate consultation with the political parties that represent the Albanian community or other minorities in Montenegro. The reduction in the number of seats was against international advice and was not conducive to the development of an inclusive electoral process. During the roundtable on changes in the election legislation, the political parties agreed to undertake shortly after the elections a consultative review of the current system on the participation of all national minorities in the electoral process. The OSCE/ODIHR will assist in this process.

D. PARTY CONTROL OVER ELECTED MANDATES

The OSCE/ODIHR continues to be concerned about the legal provisions allowing for political parties and coalitions to control the allocation of elected mandates to representatives and councilors. Article 96(1) of the election law requires that only half of the seats won by a

[2] In May 1998, 78 MPs were elected to Parliament.

party or coalition must be allocated according to the order of the candidates on its electoral list. The party is free to allocate the remaining seats to any other candidate appearing on its list. This provision is misleading to voters who cannot be certain of which candidates they are electing.

Moreover, Article 101(1)(viii) of the election law provides for the mandate of an elected representative or councillor to be automatically removed upon losing membership, whether voluntarily or by expulsion, of the party upon whose list they appeared. This provision conflicts with Article 77 of the Constitution of the Republic of Montenegro and Article 5 of the election law, both of which guarantee that "Every deputy shall vote according to his own beliefs and may not be recalled".

These provisions of the law are not consistent with international standards of accountability and transparency in a democratic election process. Paragraph 7.9 of the 1990 OSCE Copenhagen Document stipulates: "candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures".

The OSCE/ODIHR has repeatedly brought these issues to the attention of the authorities and the political parties in Montenegro.

E. INDEPENDENT CANDIDATES

The election law makes no provision for a citizen to stand as an independent candidate for parliament or a municipal assembly unless they are part of a joint citizens' list. This requirement in the law is not consistent with the Copenhagen Document paragraph 7.5: "the right of citizens to seek political or public office individually or as representatives of political parties or organisations, without discrimination".

F. INCOMPATIBILITY OF ROLES BY CANDIDATES

There is no provision in the election law to prohibit persons standing as candidates in an election from also holding positions as members of election commissions, which by their nature are required to be impartial and quasi-judicial bodies.[3] For these elections, one member of the Republican Election Commission and a member of at least one Municipal Election Commission were candidates on parliamentary electoral lists. The inherent conflict of interest between the political role of a candidate and the responsibility of a commission member makes such a dual function highly inappropriate and unacceptable.

G. ELECTION ADMINISTRATION FRAMEWORK AND STRUCTURE

The system of administration for parliamentary elections in Montenegro, consisting of the Republican Election Commission (REC), 21 Municipal Election Commissions (MECs), and Polling Boards (PBs) in every polling station, is generally effective in its structure and efficient in its organization. The amended election law now enables the REC to issue binding

[3] Article 20 of the election law previously prohibited candidates from holding a position on an electoral commission, but this was removed by amendment in 2000.

instructions for MECs and PBs on a wide range of election administration issues. The REC does not have an administrative or coordinative role in municipal elections.

Previous OSCE/ODIHR reports have highlighted concerns relating to the failure of the election law to guarantee political plurality on the permanent membership of election commissions. The election law allows the permanent composition of the election commissions to be determined by either the Parliament or the relevant municipal assembly. This has often enabled an incumbent party, whether at Republican or municipal level, to dominate the membership of an electoral commission, especially in the appointment of PB presidents.

However, for these elections, amendments to the election law introduced transitional provisions relating to the permanent composition of the Republican and municipal election commissions, temporarily providing for all 8 parliamentary parties to be represented equally.[4] All parties represented in a municipal assembly were also entitled to a proportional number of PB presidencies. Combined with the existing system of extended membership, whereby each party or coalition that submits an electoral list is also represented on election commissions and PBs, this development clearly contributed towards a higher degree of political plurality and transparency in the administration of these elections. Nevertheless, the OSCE/ODIHR is concerned that, following the expiry of the mandate of the transitional provisions, the election law will again contain no guarantee of plurality for future election commissions.

The amendments relating to the composition of temporary election commissions also contained the following shortcomings:

- Contrary to international advice, existing members of election commissions were replaced more than 50 days after the elections were called and before the expiry of their mandates;
- New members were required to administer elections within a tight 30-day timeframe. The OSCE/ODIHR notes, for example, that the Podgorica MEC was delayed in its administration of both the municipal and parliamentary elections; and
- In establishing temporary election commissions with an even number of permanent members, the unnecessary possibility of "tied" votes was created. The election law is silent on the manner to resolve a tied vote. In the context of the present election, the EOM noted that no tied vote took place in practice.

In accordance with the recommendations of earlier OSCE/ODIHR EOMs, the REC adopted improved rules of procedure that ensured extended members were accorded equal rights to permanent members after joining the REC. However, the EOM identified a number of occasions where MECs and PBs did not provide equal rights to extended members, effectively treating them as non-active "observers".

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4 The transitional provisions apply to elections to be held in Montenegro up to 31 December 2002. They will therefore also apply to the presidential elections scheduled for the 22 December. It is not clear whether the provisions would apply to a second round of the presidential election which, if required, is scheduled for 5 January 2003.

V. PRE-ELECTION PERIOD

A. ELECTION ADMINISTRATION

During the pre-election period, the work of the REC and the MECs was hampered by a delay from the Republican authorities in confirming issues related to the funding of the costs of the election administration, which was not resolved until late September. A number of MECs also complained of not having received any funds to cover expenses still outstanding from the municipal elections of May 2002.

The EOM also noted that several MECs were required to work in office spaces that were inadequate in size to accommodate all persons entitled to be present, including extended members and accredited observers. It is the responsibility of a municipal assembly to provide space and facilities to its MEC.

B. REGISTRATION OF ELECTORAL LISTS

For the parliamentary elections, the REC accepted electoral lists from ten political parties and coalitions, who between them nominated 619 candidates. One submission, from the recently formed Montenegro Independence Party, was rejected. The amended election law increased the requirement for electoral lists to have a number of candidates that was at least two-thirds of the 75 seats available. The requirement for citizens' groups or political parties representing the Albanian community remains at one-third. No political party complained about the increased requirement.

All submitters were entitled to nominate extended members on the REC, MEC and PBs. All but one party took part as extended members of the REC. The three coalitions from the national minority areas tended not to have extended members on MECs and PBs in areas where the minority was not present.

The two major opponents were the re-named continuations of the political coalitions seen during the 2001 elections. The DPS and SDP were registered as "Democratic List for a European Montenegro – Milo Djukanovic". The previous "Together for Yugoslavia" coalition of Socialist People's Party (SNP), Serbian People's Party (SNS) and the People's Party (NS) contested the elections as "Together for Changes". The other major player in the political scene, the LSCG, once again participated as a stand-alone party.

For the first time, three parties from the Albanian community - the Democratic Union of Albanians (DUA), the Democratic Movement for Montenegro (DSCG) and the party for Democratic Prosperity (PDP) - joined in coalition to form a single list, "Democratic Coalition – Albanians Together".

Political parties from the Bosniak community were again divided into two coalitions. The "Bosniak Democratic Coalition – Harun Hadzic", which supports an autonomous Sandzak region, consists of four parties including the International Democratic Union (IDU) and the Bosniak Democratic Alliance (BDS). The "Bosniak Coalition", also consisting of four parties, supports independence for Montenegro and includes the Party of Democratic Action (SDA) and the Bosniak Muslim Alliance (BMS).

The pro-Yugoslav "Patriotic Coalition" was led by the People's Socialist Party (NSS) and included the "Serbian Radical Party - Dr. Vojislav Seselj" (SRS-VS), the Yugoslav United Left in Montenegro (JUL) and the Party of Foreign Currency Savers (SDS). Another coalition, "The Socialist Party of Yugoslavia with Communists" was formed between four socialist and communist parties. Two other stand-alone parties - the Party for Protection of Currency Savings and Social Safety of Citizens of Montenegro (SZSU) and the Serbian Radical Party – also participated.

In the Podgorica municipal elections, six electoral lists, with 307 candidates, were registered. Seven electoral lists, including one from the Croat Citizens' Initiative, took part in the Tivat municipal elections with 194 nominated candidates.

C. FINANCING OF POLITICAL PARTIES

The Law on the Financing of Political Parties entitles all submitters of verified electoral lists to receive public funding for the cost of their election campaign. Funds are distributed equally between parties, enabling coalitions to receive greater funding than stand-alone parties. During the pre-election period, most political parties complained to the EOM about delays in the receipt of these funds, which were not issued by the Republican authorities until early-October, well after the start of the campaign. The system of determining funding is not transparent and requires clarification, especially in the event of early or unplanned elections. Political parties are not required to submit accounts for the manner in which they expend public funds.

D. SUFFRAGE AND VOTER REGISTERS

Under the election law, the right to vote is granted to citizens of Montenegro who are 18 or older, who possess "business capacity", and who are registered as having permanent residence in the Republic for 24 months. There were 455,791 registered voters for the parliamentary elections in Montenegro. Voters in municipal elections are also required to have been permanently resident in the municipality for 12 months.

The system of voter registration in Montenegro is characterized by its remarkable level of transparency. Information on the voter register is published regularly and all political parties are provided with detailed information on the register and full access to observe the registration process, including access to the records of permanent residence at the Ministry of Interior.

In recent elections, the voter register had been one of the primary issues of political contention. This caused many steps to be taken by the relevant authorities to improve the manner in which the register is compiled, maintained and updated. Most of the few deficiencies identified in earlier OSCE/ODIHR EOM reports have now been remedied. The current voter register is well within acceptable parameters for its quality and accuracy.

Nevertheless, further improvements are possible. In particular, the EOM notes that public access to view the draft voter register during the election period is limited to the central premises of a municipality. Transparency would be further increased if the draft registers were displayed at polling stations during the period for public scrutiny. Inaccuracies also

remain in the number of deceased persons on the register and a new, more flexible system should be adopted to allow for the removal of these names.

In reflection of the improvements to the voter register, the EOM received considerably fewer complaints from political parties than in previous elections. Most of these complaints referred to a small number of inaccuracies. However, the SNP complained that they had been denied access to the Ministry of Interior's (MoI) new centralized electronic register of permanent residence. The EOM established that the MoI had not completed the register, that there was no legal provision enabling access by political parties to its data and that the SNP had been provided with full access to the MoI existing records on residence.
The EOM was also provided with information from the Niksic Municipality relating to a number of registered voters with unclear citizenship status. In all such circumstances, it is the joint responsibility of the MoI and the Municipal Registrar to clarify whether a person registered to vote meets the stipulated criteria. However, the EOM noted that in most cases, the persons concerned were Yugoslav citizens who were registered as permanently resident in Montenegro for at least 12 months.

E. COMPLAINTS

As in previous elections, the EOM was made aware of persistent and repeated allegations of political parties, State authorities or employers offering inducements ("vote-buying") or placing undue pressure ("coercion") on citizens to vote in a certain way. The EOM received one complaint from the LSCG, which alleged that a citizen had been offered to open a bank account by the DPS into which 100 Euro would be paid if he voted DPS. However, the EOM was provided with no verifiable evidence to substantiate such allegations.

Vote-buying and coercion of voters is unacceptable. In Montenegro, the election law and related criminal provisions should clearly prohibit such activity.

To a lesser degree, the making of unsubstantiated allegations can undermine public confidence in the electoral process. The OSCE/ODIHR EOM recommended to all parties making allegations that an official complaint to the public prosecutor should be made to allow a proper investigation to be made. The EOM was not made aware of any party taking such a step.

F. PARTICIPATION OF WOMEN IN THE ELECTORAL PROCESS

There is no legal provision ensuring a minimum presence of women as candidates or election administrators in Montenegro. Furthermore, for these elections and in contrast to April 2001, no significant steps were taken by civil society to improve the participation of women. The gender imbalance in the electoral process therefore continued, with only 100 of the 619 parliamentary candidates (16.2%) being women.[5] The highest proportion of women candidates was found in small parties such as the Serbian Radical Party (33%); the lowest amongst the "Together for Changes" coalition (9.3%) and the two Bosniak coalitions (5% and 6%). Meanwhile, the "European List for a Democratic Montenegro" coalition had 13.3% of women candidates and the LSCG - 17.3%. There was a similarly low level of participation by women in election commissions and polling boards.

[5] Only eight (10.6%) of the 77 outgoing parliamentary representatives were women.

G. PARTICIPATION OF NATIONAL MINORITIES IN THE ELECTORAL PROCESS

The participation and integration of national minorities in Montenegro into the Republic's electoral and political processes has generally been positive. There are a number of political parties representing minority communities, including three from the Albanian community and eight from the Bosniak community, all of which participated in the parliamentary elections. A Croatian Citizen's Initiative also took part in the Tivat municipal elections. Many members of minority communities also support and are represented in mainstream parties, especially the DPS, SDP and LSCG.

However, the recent steps taken to reduce the number of seats allocated from votes cast in specially designated polling stations have highlighted inconsistencies in the system to ensure representation of national minorities in parliament. In particular, the current system is limited only to ensuring representation from the Albanian communities and does not include any other minority in Montenegro, such as the Bosniak community and the Roma. Furthermore, while there is a system of positive discrimination at Republican level, there is none in municipalities with minority communities. This led to the non-participation of Albanian political parties in the Podgorica municipal elections despite there being 23 specially designated polling stations in the municipality. The EOM also noted that the provision of bilingual election materials – in Serbian and Albanian – is only made available in the specially designated polling stations and not in all areas with Albanian communities.

The OSCE/ODIHR welcomes the expressed commitment of all parliamentary parties to undertake, by March 2003, a review of the current system to improve national minority participation in the electoral process.

VI. THE MEDIA AND THE ELECTIONS

The wide range of electronic and print media in Montenegro provided comprehensive coverage of the election campaign. Access to such a diverse variety of information and opinions allowed voters the opportunity to make an informed choice on election day. The media coverage of submitters of electoral lists was governed by a variety of provisions contained in several laws, including the election law, which are supplemented by a set of detailed parliamentary regulations. These provisions are extensive, precisely detailed and occasionally contradictory.

The Media Unit of the OSCE/ODIHR EOM undertook daily monitoring of the following media:[6]

Television[7]	***Newspapers***
RTCG 1 (State)	*Pobjeda* (State)

[6] The monitoring was on qualitative and quantitative bases, except for *Glas Crnogorca* and *Publika* which was qualitative only. Monitoring of newspapers commenced on 26 September while monitoring of television started on 29 September.

[7] Two TV channels based in Serbia – TV Pink (private) and YU Info (Federal State) were also monitored on a daily basis up to 18 October 2002 as part of the media monitoring activities of the OSCE/ODIHR EOM for the presidential elections in Serbia.

RTCG 2 Parliamentary Channel (State)	*Dan* (Private)
TV Montena (Private)	*Vijesti* (Private)
In TV (Private)	*Glas Crnogorca* (Private)
	Publika (Private)

A. THE STATE MEDIA

The State media generally complied with the laws and regulations governing the coverage of submitters of electoral lists. Most lists were provided with roughly equal levels of free airtime on the RTCG2 "Parliamentary Channel" and State radio broadcasts, and also received free space in *Pobjeda*. The onus on providing the information to be included in the State media's free coverage mainly rested on the list submitters. The OSCE/ODIHR noted that this tended to disadvantage the smaller parties, who were given less coverage than the larger parliamentary parties or coalitions. Moreover, the media regulations strictly limited the manner of presentation on the State media, reducing their ability to produce interesting formats for political discourse.

In previous elections, the State media – and RTCG1 in particular - favored the incumbents in terms of the amount of coverage, especially in relation to the coverage of the activities of the President. As part of the agreement related to election law amendments, new multi-party appointments were made to the editorial boards of the State media. The appointments were aimed to ensure a better balance in the coverage of the election campaign in the news and current affairs programs on the State media. Three new editors were also appointed, assisted by independent international advisors from the OSCE Mission to the FRY. Despite legal guidelines contained in the Public Information Act – also amended in September – for the editorial boards to appoint editors through consensus if possible, the new editors could only be agreed upon by majority votes. Although the new appointments were aimed at de-politicizing the role of the State media, the controversy surrounding the appointment and work of the new editors seemed to have a converse effect. The OSCE/ODIHR is concerned at the clearly high levels of political influence over the State media in Montenegro, restricting their ability to operate as public broadcasters.

An OSCE/ODIHR comparative analysis on the levels of news coverage given by the State media to the different political subjects between these elections and the municipal elections of May 2002 revealed noticeable changes. There was a sharp drop in the coverage of the President and an increase in the coverage of "Together for Changes", formerly "Together for Yugoslavia". As during previous elections, the tone of news coverage remained largely neutral, with journalists providing no commentary to the statements of politicians.

B. THE PRIVATE MEDIA

The private media are much less limited in their coverage of the election campaign, although they are required by the media regulations to be "objective and timely". Some private media failed to provide objective reporting on the campaign, often being in support of one party or another in terms of the amount and/or tone of their coverage. TV Montena and In TV devoted more coverage to the "Democratic List for European Montenegro" and governmental activities. In quantitative terms, the newspaper *Vijesti* provided balanced coverage but in tone generally favored the DPS-SDP, as did *Publika*. *Dan* showed a clear anti-DPS orientation, with *Glas Crnogorca* openly supporting the "Together for Changes" coalition.

TV Pink, based in Belgrade but broadcasting throughout Montenego, favored the President and Government, while reporting negatively on the LSCG. Coverage by YU Info was generally negative to the Montenegrin authorities.

Most private media only provided paid advertising space for electoral lists, with only the two largest coalitions taking part. In violation of the legal requirement to do so, not all paid advertisements were marked as such.

C. THE BOARD FOR MASS MEDIA SUPERVISION

The Board for Mass Media Supervision during the Pre-Election Campaign was established by Parliament in September as a transitional body to monitor compliance by the State and private media with the rules on coverage of election campaigns. The mandate of the Board – an independent, multiparty body – enabled it to act upon complaints from political parties. The Board was provided with technical advice and assistance on media supervision by international advisors from the OSCE Mission to the FRY. On the basis of complaints received and its own findings, the Board adopted over 50 decisions and recommendations, ordering the media to publish its findings of violations. However, the Board did not impose any fines.

D. GENERAL MEDIA ISSUES

In contrast to the April 2001 elections, the media silence – reduced to 24 hours in the September amendments – was generally observed with no significant breaches reported, despite the announcement of presidential elections just before it came into effect. The prohibition on the publication of opinion polls within seven days of the election was fully observed.

A recurring issue during the election campaign was related to the coverage in the media of the activities of State authorities. In particular, there was controversy whether activities by the President amounted to an official activity or was part of a political campaign. The EOM established that there was considerable uncertainty on the appropriate coverage of this and other issues amongst journalists in Montenegro, which could be resolved by an increased awareness of methods in other countries.

VII. THE ELECTION CAMPAIGN

The central focus throughout the election campaign was on President Djukanovic and his Government, which intensified upon the calling of presidential elections on 17 October, three days before the election. Supporters of the government highlighted the need for continuity and attacked the integrity of the "New Majority"; opponents stressed the need for change and alleged State corruption. Following the Belgrade Agreement, independence - the decisive issue of the April 2001 elections – was rarely mentioned. In terms of wider policy, there was little to distinguish the political parties, with all major groups supporting Montenegro's further integration into Europe and the need to improve the economy and employment situations.

The election campaign took place in a quiet and calm atmosphere. Although the language used by some politicians to describe opponents often went beyond acceptable levels of rhetoric and into personal abuse, much of the campaigning was undertaken in a peaceful and mature manner. While two minor incidents of violence were reported, it was unclear whether they could be attributed to the elections.

As in previous years, there was a blurring of the line between political campaigning and State or municipal functions. There was a recurrence of unsubstantiated allegations that police officers were involved in campaigning. More tangibly, a campaign advertisement featured the Government-owned airline, while a publicity brochure produced by the municipality of Bar, which is controlled by the DPS/SDP, implicitly urged support for that coalition.

VIII. ELECTION DAY

A. GENERAL ASSESSMENT

The overwhelming majority of OSCE/ODIHR observers on election day reported positive impressions of the voting and counting processes. Generally, these took place in accordance with legal and procedural requirements, reflecting a widespread familiarity of the voting process by voters and PB members alike.

A number of problems and shortcomings in voting procedures were identified. In particular, the OSCE/ODIHR observers noted the high number of security features required on election day. A failure to implement a single feature – no matter how minor the infringement - can allow a PB to vote to dissolve itself or for a MEC to annul its results. In fact, the election law allows 21 possible reasons for a PB to be dissolved or for its results to be annulled. However, on election day no PB voted to dissolve itself and, during the post-election appeals period, no results were annulled.

On election day, approximately 3.5% of all voters voted away from their assigned polling station on the basis of being homebound. The OSCE/ODIHR observers identified inconsistencies and uncertainty in the manner of the organization of homebound voting by PBs. Observers were also informed of instances where "homebound" voters – such as those in a hospital outside of the locality of the polling station – were unable to vote.

Further problems were identified in the size and layout of polling stations. Small polling stations were inadequate to accommodate all PB members and voters and also ensure the secrecy of the ballot. In such cases, this was worsened by an unnecessary requirement for polling booths to be placed so that the voter's back is towards the PB, enabling the manner of voting to be observed. Observers also identified problems arising from the placing of some polling stations in private premises, such as shops or houses, which occasionally had owners with a known political affiliation.

A number of the problems identified by OSCE/ODIHR observers on election day could be addressed through the introduction of standardized training for PB members. Over half of the MECs provided no training for their PBs. Although all PB members were provided with a guidebook of election day regulations by the REC, it was not sufficiently detailed to address issues of procedural uncertainty.

B. TURNOUT

The 74.6% turnout was in line with equally high figures in recent elections and reflects the high level of voter confidence in the electoral process. The OSCE/ODIHR was pleased that the forecast by many political parties of public disinterest was not realised.

C. OBSERVATIONS OF THE VOTING PROCESS

OSCE/ODIHR observers visited 532 out of the 1,101 polling stations (48.3%) in Montenegro, including the three polling stations inside prisons. The large majority of observations characterized the voting process as "excellent" (55.1%) or "good" (35.1%). Only four polling stations were termed by observers as "poor".

Observers noted only a small number of irregularities in the voting process, such as the advance stamping of ballot papers (5.7%), a failure to sign the Book of Electors (9.5%) and a failure to provide adequate secrecy for voting (3.3%). There were six observations (0.9%) of persons being allowed to vote without identification and ten observations (1.6%) of a failure to check for traces of ink spray. New provisions on prohibiting the recording of voter identities were observed in all but four polling stations (0.6%) although there was a wider violation of the prohibition on the use of mobile phones, which occurred in 7.2% of polling stations. The worst level of procedural violations related to "group voting", where there is more than one person in a polling booth at a time, which was observed in 9.9% of visits.

Observers noted that the layout of over 6.2% of polling stations visited prevented an orderly flow of voters and that 4% of stations did not allow all aspects of the voting process to be seen by the full PB. Almost 15% of stations were not easily accessible for elderly or disabled voters. Tension was noted in 3.1% of polling stations, violence or unrest in 0.5%, and unauthorized persons were considered to be interfering in the work of the PB in seven (0.8%) polling stations. Observers were informed of allegations of intimidation in less than 2% of stations.

D. OBSERVATION OF THE VOTE COUNT

OSCE/ODIHR observers attended the vote count in 52 polling stations and characterized the counting process as "excellent" at 24 (46.1%) and as "good" in 22 (42.3%). Only one polling station was assessed as "poor".

Nevertheless, the observers again noted a small number of procedural irregularities. On ten occasions (19.2%), the PB was observed failing to count the number of persons who had voted according to marks on the voter register. A failure to count unused ballots before opening the ballot box was noted in two stations (3.8%) while failing to count control coupons occurred in 5 stations (9.6%). Three PBs (5.7%) had difficulties completing the PB protocol, while initial discrepancies in the tabulation of results also occurred in five stations (9.6%). No PB member refused to sign a results protocol.

Voters waiting to vote at 9.00 pm were observed at only one polling station, where they were allowed to vote. No incidences of unauthorized interference in the count were observed.

E. DOMESTIC OBSERVERS

Observers from two domestic non-governmental organisations received accreditation to observe the elections – the Center for Democratic Transition (CDT) and the Center for Monitoring Elections (CEMI). The latter monitored the elections in co-operation with the Center for Free Elections and Democracy (CeSID) from Belgrade. Between the two organizations, over 2,600 observers covered almost all polling stations. Both organized accurate and reliable parallel vote tabulations, which received considerable media attention. The two organisations also joined together with the REC to produce voter education materials, which were widely distributed in advance of election day. Their activities provided an exceptional level of scrutiny and transparency of the electoral process.

However, the EOM was made aware of a number of occasions when representatives of CDT and CEMI were unable to attend pre-election meetings of election commissions, either because of lack of space or a failure to be invited.

F. TABULATION AND PUBLICATION OF THE PRELIMINARY RESULTS

A number of OSCE/ODIHR observers monitored the tabulation of polling station results at MECs in the hours following the closing of polling. The REC published preliminary results of the parliamentary elections, in accordance with its required timeframe, on 22 October following a short delay in the receipt of results from the Podgorica MEC. Otherwise, the tabulation process took place in an orderly and transparent manner.

IX. POST-ELECTION PERIOD

A. POST-ELECTION COMPLAINTS AND APPEALS

Repeat voting was required in just one polling station (Number 35 in Podgorica, which has only 69 voters) as a result of its early closure following a dispute between PB members. The repeat voting took place on Sunday 27 October with no further problems reported.

The Patriotic Coalition lodged six complaints with Podgorica MEC relating *inter alia* to differences between the numbers of ballot papers and control coupons. The complaints were dismissed by the MEC and again by the REC following an appeal after investigation of the election materials from each polling station. No appeal was lodged to the Constitutional Court. No complaints were also reported as lodged in relation to the Podgorica or Tivat municipal elections.

B. FINAL RESULTS

The final results of the early parliamentary elections were published by the REC on 4 November 2002 following the closure of the deadline for complaints to be lodged from the repeat voting. The final results of the Podgorica municipal elections were published on 30 October 2002, while the Tivat were finalized earlier on 25 October.

Seats were allocated to all parties that passed the threshold set by the election law of 3% of all votes cast rather than of all valid votes cast. While no party was prevented from winning

seats using this method for determining the threshold, it is not consistent with international best practice.

The official results of all three elections are annexed below.

The new, smaller Parliament has an absolute majority of representatives from the "Democratic List for European Montenegro". Their gain of three seats reflected a 5% increase in their share of the vote and over an extra 13,500 votes. The "Together for Changes" coalition lost three seats and almost 15,000 votes. The biggest relative losses were suffered by the LSCG, which lost two of their six seats and almost a third of their voters. There was also a significant drop in the support of the Patriotic Coalition. The joint Albanian Coalition did not increase the share of the vote or the parliamentary seats won by the parties when they run separately.

In the immediate aftermath of the elections, the DPS surprisingly announced that Mr. Djukanovic would step down as President of the Republic in order to be nominated as Prime Minister of the Government. The incumbent Acting Premier, Mr. Vujanovic was elected Speaker of the Parliament. Meanwhile, the SNP delayed the announcement of the names of the mandate holders of half of the seats they won. The LSCG indicated that they would boycott the Parliament.

In Podgorica, the DPS-SDP "Democratic List for Podgorica" also won an absolute majority, with a reduced number of seats being taken by the LSCG and the SNP-SNS-NS "Podgorica for Changes" Coalition. As in May 2002, the results in Tivat saw no party or coalition win a working majority. It is likely that the DPS-SDP "Democratic List for Tivat" will receive support in the municipal assembly from the Croat Citizens' Initiative which won 5 seats in their first election contest.

X. RECOMMENDATIONS

The following recommendations, many of which reiterate recommendations of past EOMs to the Republic of Montenegro, should be considered for implementation by the Republican authorities and political parties:

A. GENERAL

1. The election law should be changed to reflect the ownership of electoral mandates by the individual candidates elected as representatives or councillors, in particular:

   (i) mandates should be distributed in the order by which candidates appeared on the electoral list; and
   (ii) a mandate should not be able to be removed if the elected candidate chooses, or is forced, to leave a political party, or if the political party to which they belong leaves a coalition.

2. The election law should be changed to allow citizens to stand as independent candidates.

3. The election law should be changed to prohibit a candidate from holding a position as a permanent member of an election commission.

4. By March 2003, and as stated in commitments made in September 2002, the Republican Parliament and political parties should undertake a consultative review of the current system on the participation of all national minorities in the electoral process.

5. The offering of inducements to vote, or not to vote, in a certain way should be made a criminal offence.

6. The use of undue pressure, influence or intimidation upon citizens (including employees) to vote, or not to vote, in a certain way should be made a criminal offence. A code of conduct for State employees, including police officers, during election periods should be developed and publicised.

7. The 3% threshold for the allocation of assembly seats should be calculated in relation to the total number of valid votes cast.

B. ELECTION ADMINISTRATION

8. Political plurality should be guaranteed in the membership of the permanent composition of the REC, MECs and PBs. Similarly, there should be a proportional representation for national minorities on MECs and PBs in areas where they are present.

9. The rights and duties of all members of election commissions should be clearly defined. In particular, the equal status of permanent and extended members should be guaranteed at all levels.

10. The mandate of the REC should be extended to include a supervisory and coordinative role for municipal as well as republican elections.

11. The election law or REC rules of procedure should be changed to address the circumstances where, in the case of an even number of election commission members, there is a tied vote.

12. The Republican Authorities and the REC should undertake a joint review of the funding structures for elections (Republican and municipal, including early elections) in order to ensure the earlier distribution of funds.

13. The REC and MECs should be provided with meeting space that is adequate and capable of accommodating all permanent and extended members, as well as representatives of accredited observer groups.

14. The REC and MECs should ensure that representatives of accredited domestic observer groups are informed of, and invited to, all meetings.

C. VOTER REGISTERS

15. Draft polling station voter lists should be displayed at polling stations or other local public buildings during the period of public scrutiny of the registers after the announcement of election.

16. The regulations on the registration of deceased persons should be changed to ensure the removal of their names from the voter register. In particular, the municipality where a person was last registered as permanently resident should be informed of their death.

D. ELECTION CAMPAIGNING AND THE MEDIA

17. The separation of State, Municipal and political party activities should be strictly enforced. State facilities should not be used for political party functions.

18. The Republican Authorities and the Republican Parliament should undertake a consultative review of the current funding structures for political parties during election campaigns in order to ensure earlier distribution of the funds to which they are entitled. Political parties should also be required to account for their expenditure of public funds.

19. The Republican authorities should undertake a consultative review of the regulations on the State media during elections in order to clarify current ambiguities, in particular (i) the coverage of State activities, and (ii) a relaxation of the current format limitations.

20. The failure by any media to designate clearly a paid political advertisement as required by the law should be subject to sanction.

21. Political parties, civil society and State authorities should undertake a sustained program to improve the representation of women in parliament, municipal assemblies and the electoral administration.

E. ELECTION DAY PROCEDURES

22. The grounds for the dissolution of Polling Boards and annulment of results should be reviewed and limited only to serious violations.

23. The rules on out-of-polling station voting should be reviewed (i) to clarify the procedures to be followed, and (ii) to extend the right to vote to homebound voters resident e.g. in a hospital.

24. The REC should produce guidelines on the layout of polling stations to provide for a minimum size of space, ease of access and for the placing of polling booths in a position that ensures the secrecy of the ballot. The use of private premises as polling stations should be avoided.

25. The use of bilingual election materials should not be limited only to specially designated polling stations, but extended to all areas where Albanian is spoken.

26. All MECs should provide training to PB members on voting and counting procedures, in particular to prevent group voting.

ANNEX "A" PARLIAMENTARY ELECTIONS RESULTS

Comparative Table of Official Parliamentary Election Results in Montenegro[8] (23 April 2001 and 20 October 2002)

Electoral list	**April 2001**				**October 2002**			
	Votes Won	% of Votes	Parliament Seats	Women MPS	**Votes Won**	**% of Votes**	**Parliament Seats**	**Women MPs**
DPS-SDP Coalition[9]	*153 496*	*42.35%*	*36* DPS 30 SDP 6	4	**167 166**	**47.9%**	**39 DPS 30 SDP 7 Others 2**	**3**
SNP-SNS-NS Coalition[10]	*148 513*	*40.97%*	*33* SNP 19 SNS 3 NS 11	1	**133 894**	**38.4%**	**30 SNP 19 SNS 6 NS 5**	**1**
Liberal Alliance	*28 746*	*7.9%*	*6*	2	**20 306**	**5.7%**	**4**	**1**
Patriotic Coalition	*15 806*	*2.96%*	*0*	-	**9 911**	**2.81%**	**0**	**-**
Albanian Coalition[11]	*9 377*	*2.59%*	*2* DUA 1 DSCG 1	0	**8 498**	**2.4%**	**2 DUA 1 DSCG 1**	**0**
Bosniak Democratic Coalition	*n/a*	*n/a*	-	-	**2 480**	**0.7%**	**0**	**-**
Bosniak Coalition	*4 046*	*1.11%*	*0*	-	**2 173**	**0.6%**	**0**	**-**
Others	*2 979*	*1.3%*	*0*	-	**3 988**	**1.1%**	**0**	**-**
TOTAL	Total Number of Votes	% Turnout	Total No of Seats available	Total No of Women MPs	**Total Number of Votes**	**% Turnout**	**Total No of Seats available**	**Total No of Women MPs**
	366 152	*81.79%*	*77*	*7*	**340 050**	**74.6%**	**75**	**5**

8 Announced by the REC on 4 November 2002

9 Contested in 2001 as "Victory for Montenegro – Milo Djukanovic". Contested in 2002 as "Democratic List for European Montenegro – Milo Djukanovic". In 2002, the Coalition included 1 candidate from the Citizens' Party of Montenegro and 1 independent candidate.

10 Contested in 2001 as "Together for Yugoslavia". Contested in 2002 as "Together for Changes".

11 Contested in 2001 as three separate parties (Democratic Union of Albanians, Democratic League of Montenegro and Party for Democratic Prosperity). Contested in 2002 as "Democratic Coalition – Albanians Together".

ANNEX "B" MUNICIPAL ELECTIONS RESULTS

Comparative table of official municipal election results in Podgorica (June 2000 and October 2002) and Tivat (May 2002 and October 2002)

Electoral list	Podgorica				Tivat			
	June 2000		**October 2002**		*May 2002*		**October 2002**	
	Votes and % of votes	*Seats won*	**Votes and % of votes**	**Seats won**	% of votes	Seats won	**Votes and % of votes**	**Seats won**
DPS-SDP Coalition	**49.6%** 44 121	*28*	**48. 1%** 43 999	**27**	**40.2%** 2 684	14	**36.6%** 2674	**13**
SNP-SNS-NS Coalition	**39.2%** 34 858	*22*	**35.8%** 32 725	**20**	**33.8%** 2 657	11	**36.4%** 2657	**13**
Liberal Alliance	**7. 58%** 6 740	*4*	**6.5%** 5 986	**3**	**15.5%** 1 035	5	**5.8%** 430	**2**
Croatian Citizens' Initiative	-	-	**-**	**-**	-	-	**13.9%** 1015	**4**
Patriotic Coalition	-	-	**4.9%** 4 557	**2**	**4.5%** 303	1	**2.4%** 182	**0**
Others	***2. 71%*** *2 471*		**2.0%** 1 854		**3.8%**	1	**2.8%**	**0**
Total	Turnout 79.1%	**54**	**Turnout** 78.9**%**	**52**	*Turnout* 64.8%	*32*	**Turnout 70.3%**	**32**

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's main 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 Document).

The ODIHR, based in Warsaw, Poland, was created in 1990 as the Office for Free Elections under the Charter of Paris. In 1992, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 80 staff.

The ODIHR is the lead agency in Europe in the field of **election** observation. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following six thematic areas: rule of law, civil society, freedom of movement, gender equality, trafficking in human beings and freedom of religion. The ODIHR implements more than 100 targeted assistance programs, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR **monitors** participating States' compliance with OSCE human dimension commitments. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

The 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. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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

More information is available on the ODIHR website, which also contains a comprehensive library of reports and other documents, including all previous election reports and election law analyses published by the ODIHR.