**State Election Commission in Montenegro - a failed experiment**

**Necessary steps to create a credible institution**

**Authors: Dragan Koprivica, Milica Kovačević**

**Podgorica, June 2018**

**Introduction**

Since the introduction of the multi-party system in Montenegro, an efficient model of election administration work is being sought. All previous attempts have one common denominator: no “electoral authority” has emerged, which, by the authority of a strong institution, defends democratic principles and increases citizen trust in the electoral process.

In this election cycle, the SEC has made certain steps forward in some areas of its work, but there were considerably more steps backward.

In addition to the lack of transparency, questionable independence, clear politicization and unbuilt capacities, the SEC has also made decisions whose ethics and legitimacy is, at the very least, problematic. So we had the situation where the opposition does not vote for the opposition proposals when it has the majority within the SEC, but it boycotts the sessions. The “other party” responded to it by introducing the rule of deciding by majority not of the extended but of the standing composition, which is contrary to the rules and procedures. One good example is also that, instead of filling the book of electors as prescribed by the law, the SEC accepted statements of notaries that voters voted, although their signatures were not in the only valid document that is filled at the polling station.

With this document, we wanted to continue our efforts in creating an independent and professional electoral administration, by providing a precise roadmap and solutions for the necessary and urgent changes.

For the purpose of an objective assessment of the SEC’s work, all the relevant segments were analyzed through 36 criteria based on international standards.

The fact that the SEC fulfills just over a third of the set parameters tells us that we must finally start a dialogue in this area, and put a considerable effort to pass the Law on Election Administration, i.e. build an efficient, independent, transparent and professional institution.

Below is the assessment of the work of the SEC on the basis of 36 parameters with relevant ratings and explanations, followed by a “roadmap” for changing the current state.

We remain open to all well-intentioned criticism, suggestions and exchanges of opinions both on this document and on the topic of the quality of work of the election administration.

**CDT TEAM**

**36% integrity - need for urgent action**

CDT monitored and analyzed the work of the SEC in the last two national election cycles, through its election monitoring projects, and based on the 36 assessment indicators grouped into four areas: independence, capacity, information and transparency.

The indicators are defined on the basis of the methodology used to produce the report for the Election Integrity Project - Building a Professional Election Management[[1]](#footnote-1), and adapted to the Montenegrin electoral system and context. Each of the indicators was rated by a five - point scale, where the worst rating is 0, and the best 1.

**Independence that does not exist - only 21.4% of the set parameters met**

*The State Election Commission (SEC) is not independent - neither from political parties, nor from executive and legislative authorities. Most of its members are nominated at the proposal of political parties after each election, and its members are also senior officials of the Government and the Parliament of Montenegro. Criteria and procedures for election of the SEC chairperson do not provide guarantees of expertise and political impartiality of the elected person. The manner of election, term of office, and dismissal do not guarantee durability and stability of this institution, nor protect its members from arbitrary dismissal. This SEC is an institution that is completely politically controlled.*

*Is the SEC completely independent of the Government?*

Fulfillment of this indicator was estimated at 0.25, because there is no limitation for SEC members to be prominent Government and other officials, as is the case in practice.

Montenegro, at the principle level, has opted for the so-called “independent election administration model”, which implies that electoral administration is autonomous and independent of the executive power, and that its members are not representatives of the executive power, but come from the ranks of political representatives and experts.

However, this model is not being implemented in practice because political parties have no restrictions when proposing their representatives, except that they have to be graduated lawyers. This has led to the SEC members being also public officials and employees in the legislative and executive power.[[2]](#footnote-2)

*Does the SEC have a non-party structure?*

Fulfillment of this indicator was estimated at 0.25, because within the SEC, at least at the formal level, two members must be non-partisan, although for fulfillment of this requirement there is no formal guarantee that there is no party influence.

The State Election Commission (SEC) is composed of a chairperson and ten standing members and one empowered representative of each of the submitters of electoral lists. Two members of the SEC, a chairperson and a member of civil society, are appointed by the Parliament after a previously conducted open competition. The remaining nine members are appointed by the Parliament, four members are proposed by the parliamentary majority, four by the parliamentary opposition, and one member is appointed as a representative of the parties from a national minority.[[3]](#footnote-3) Thus, nine out of 11 standing members are proposed by political parties and they are accountable to them. Empowered representatives of political parties and candidates, with the same rights and obligations as the standing members during the electoral process, may be revoked at any time and replaced by those who have proposed them.

In practice, this leads to a situation of voting along party lines on all the sensitive issues. Moreover, practice has shown that empowered representatives are most often not interested in the work of the SEC, except when they need to raise their hands for a decision in favor of their list/candidate. The work of the SEC is characterized by political tactics, including boycott, blockade and disabling quorum. Even in legally clear situations, instead of applying the law, legal gaps are sought to avoid unwanted political outcomes.

*Is the SEC a permanent institution (not an occasional body)?*

Fulfillment of this indicator was estimated at 0.5, because the last amendments to the Law stipulate that the State Election Commission has the status of a legal entity, thus creating the preconditions for setting up a professional service.

However, it cannot be said that the SEC is a permanent institution. The mandate of nine members nominated at the proposal of political parties is bound by the mandate of the Parliament, as the Law prescribes that representatives of candidate lists are nominated in proportion to the number of seats won in previous elections. In practice this means that composition of this body changes at least once in a four-year period, individual changes of members occur more often, since only chairperson and secretary of the SEC are performing their duties professionally, while other members have their permanent jobs and obligations.

*Is chairperson of the SEC elected independently by an independent panel or body (e.g. members of the election administration or judges)?*

Fulfillment of this indicator was estimated at 0, because chairperson of the SEC is not elected by an independent body.

Chairperson of the SEC is appointed by the Parliament at the proposal of the Administrative Board, after a previously conducted open competition.[[4]](#footnote-4) The open competition is being carried out and no decision is made by an independent panel, but by the working body of the Parliament reflecting the political proportions in the Parliament. Having in mind the insufficiently defined requirements that the candidate needs to fulfill, this manner of election allows the candidate to be elected under the influence of politics.

*Is a chairperson elected on the basis of professional qualifications (rather than a party status)?*

Fulfillment of this indicator was estimated at 0.25, because the requirements to be fulfilled by a candidate for the SEC chairperson are very low. Namely, chairperson of the SEC must be a graduate lawyer and have at least 10 years of working experience in that line of work, which is not a sufficient guarantee of expertise.

The other member of this body elected on the basis of an open competition, a civil society representative, has to fulfill much more stringent requirements to prove his expertise in electoral law matters.[[5]](#footnote-5) Thus, a civil society representative should be a person who published scientific papers and expert articles on the topic of the election process, has gained public recognition in this field and has took part in national or international monitoring of the election processes. In addition, the Law requires that, when endorsing proposals, the Administrative Board shall take into consideration recommendations of organizations which were involved in drafting electoral legislation and monitoring election processes over the past five years.

It is a very unusual and unjustified solution that foresees more stringent requirements for election of a member than a chairperson of a body. In addition, such a legal solution enables the SEC chairperson to have no knowledge of electoral legislation or electoral process.

*Is it legally forbidden for a SEC chairperson to belong to a political party?*

Fulfillment of this indicator was estimated at 0.25, because the existing legal solution, although it is addressing this issue, does not guarantee political impartiality of the SEC chairperson.

Namely, this person may not have been a member of a political party managing body during the last three years. This means that the SEC chairperson can be a member of a political party, even its official; he only must not be a member of the managing body. Likewise, the three-year period is too short to guarantee political neutrality of the SEC chairperson. On the other hand, persons who performed the office of a political party body member during the previous 10 years may not be appointed member of the SEC composition from civil society. The question here is why a member must meet more stringent requirements than a chairperson.

*Is there a constitutional or legal guarantee that protects the SEC chairperson from arbitrary dismissal?*

Fulfillment of this indicator was estimated at 0 because there is no constitutional or legal guarantee that protects the SEC chairperson from arbitrary dismissal.

The chairperson's dismissal procedure is not prescribed, but the analogy leads to the situation where the one who appoints also dismisses in the same procedure. Thus, the SEC chairperson can be dismissed by the Parliament, by simple majority, at any time. This refers also to other members of the SEC.

**Capacities that are just being built - 28.6% of the set parameters met**

*After several years of inactivity, the SEC began building its capacity. It started with trainings for the employees and lower levels of electoral administration, as well as voter education campaigns. The coverage of the training program is still inadequate, it includes a small number of topics and its beneficiaries are solely from the electoral administration, not from the political parties, candidates, media and NGOs. These activities are carried out with the donor and professional support of international organizations and their sustainability after project closure is uncertain. The SEC has improved its ICT capacities, but still relies on the support of the Service of the Montenegrin Parliament.*

*How often does the SEC organize training programs for its employees?*

Fulfillment of this indicator was estimated at 0.5, because the SEC occasionally organizes training programs for its employees.

The SEC Plan for 2018 envisages “Continuous Professional Training of the Professional Service”. However, when you need to identify what are the specific training activities, the response can only be found in the part of the document describing the activities that are being implemented within the OSCE Support Program. This program envisages workshops for preparation of the Election Operational, Strategic and Communication Plan, as well as training on gender equality.

*How often does the SEC organize training programs for electoral administration at lower levels?*

Fulfillment of this indicator was estimated at 0.5, because the SEC organizes trainings for polling boards during the election period.

After numerous requests by domestic and international organizations, in 2016, before the parliamentary elections, the SEC conducted for the first time a training program for the chairperson and members of the polling boards. The training program and supporting materials have been prepared with the support of the OSCE. The SEC chose a group of trainers and educators in an open competition who, after the training, conducted further training on the field. The SEC repeated this approach for the 2018 presidential elections.

However, training is organized only in periods immediately before the elections, and only for members of the polling boards on voting procedures. The SEC does not have mechanisms to provide the presence of invited members of the electoral administration. Moreover, after the training has taken place, no verification of the knowledge or certification of the training participants is carried out so the effects of this activity are not known.

There are even fewer training programs for the MECs. The SEC Work Plan for 2018 provides for a workshop on development of an operational plan and training on gender equality with MECs.

*How often does the SEC organize training programs for political parties and candidates?*

Fulfillment of this indicator was estimated at 0, because the SEC does not organize trainings for political parties and candidates.

*How often does the SEC organize training programs for NGOs and the media?*

Fulfillment of this indicator was estimated at 0, because the SEC does not organize trainings for the media and NGOs.

The SEC is not establishing relations with NGOs except in their capacity of authorized election observers, within the period from the day of obtaining the authorization until the day of the proclamation of official results.

*Does the SEC have a special department for organization of trainings?*

Fulfillment of this indicator was estimated at 0, because the SEC has no special department or officer for organizing trainings. During the election period, one officer is made responsible by an internal decision for coordinating and implementing the training program for the polling boards.

*Does the SEC offer a wide range of training topics?*

Fulfillment of this indicator was estimated at 0.5, because it can be concluded from the available plans and practice that the SEC does not offer a wide range of training topics. The SEC has developed only a training program on voting procedures for polling boards, and training is carried out sporadically on a limited number of other topics for members and services of the SEC.

*Is the SEC independently servicing technical support for elections when it comes to electoral technology?*

Fulfillment of this indicator was estimated at 0.5, because the SEC has improved the capacities of its ICT department, but it still has to rely on the support of the ICT service of the Montenegrin Parliament or to engage external companies when it comes to certain complex matters.

After the 2016 elections, a new internet site was launched, thus the SEC finally got a decent presentation on the Internet. During the 2018 elections, the SEC offered the public for the first time an internet application through which the citizens could check if any of the candidates abused their candidacy support data.[[6]](#footnote-6) Furthermore, for the first time in the election night the SEC had an Internet site allowing real-time access to the processed results from all polling boards.[[7]](#footnote-7) The public could relatively quickly see all voting results at all polling stations, which has made a major step forward with respect to the transparency of the electoral process.

**Informing without information - 40% of the set parameters met**

Although there are laws and by-laws on the SEC website which contain rules for defining the rights of citizens in the electoral process, the SEC does not pay enough attention to informing voters. The SEC does not provide information on alternative voting methods, information relevant for voting of persons with disabilities, information for voters residing abroad, nor information about what constitutes electoral irregularities and instructions on how to complain in the event of violations of electoral rights. The only thing that the SEC has on its website is information on the voting procedure, through materials prepared within an internationally supported project.

*Does the SEC website provide information on the conditions for exercising voting rights?*

Fulfillment of this indicator was estimated at 0.25, because the conditions for exercising the right to vote are defined by the Constitution of Montenegro and the Law on Election of Councilors and Representatives, which can be found on the SEC website. However, this information cannot be found in a form that is better accessible and more understandable to citizens, but the citizens are expected to search for themselves articles of the Constitution and the laws that deal with this area.

*Does the SEC website provide information on alternative voting methods, apart from voting in a polling station (by letter)?*

Fulfillment of this indicator was estimated at 0.25, because library on the SEC website contains a by-law - Rules on voting by letter[[8]](#footnote-8) - which includes a request form for voting by letter. However, closer information on who has the right to vote by letter and how this right can be exercised is not available on the SEC website in a form adapted to citizens.

*Does the SEC website provide information on the importance of voting of disabled persons (accessibility of polling stations, voting assistance, templates etc.)?*

Fulfillment of this indicator was estimated at 0, because the SEC website does not provide information relevant for voting of disabled persons.

In order for persons with disabilities to exercise their right to vote, it is necessary that they be allowed physical access to the polling station, as well as to vote appropriately. Lack of conditions for unimpeded access, movement, stay and work in public use facilities and in premises and areas of public use for persons with disabilities is considered to be discrimination based on disability. Nevertheless, in spite of this, estimates indicate that more than half of the polling stations are completely inaccessible to wheelchair users, and polling stations that meet all accessibility standards for people with disabilities are rare.

There is no information on the SEC website on accessibility of individual polling stations, but also explanations and information regarding the use of templates, or use of the right to assistance in voting.

*Does the SEC website provide information on voting opportunities for foreigners?*

Fulfillment of this indicator was estimated at 0, because the SEC website does not provide information on voting opportunities for people from abroad.

According to Montenegrin electoral legislation, voting is possible only at polling stations in Montenegro, so Montenegrin citizens with voting rights residing abroad can only exercise that right by coming to Montenegro on the election day. Our citizens, who live abroad, however, do not always have this information, as they do not always follow the media and political events. They often address questions about how to exercise their voting right to non-governmental organizations, as this information cannot be found on the SEC website.

*Does the SEC website provide information about the documents required for voting?*

Fulfillment of this indicator was estimated at 1, because information on voting documents, in the format adapted to citizens, can be found in the section Education on the SEC website[[9]](#footnote-9).

*Does the SEC website provide information on the voting procedure?*

Fulfillment of this indicator was estimated at 0.75 because the SEC website contains basic information for voters on the voting procedure, but not about irregularities in the procedure, and how to react to them.

In 2016, for the first time after more than a decade, the SEC conducted a public campaign for educating voters on the voting procedure. In the similar scope and intensity, the campaign was also conducted for the 2018 presidential elections. Video clips and posters have been prepared that explain the voting procedure and the way of checking the polling station. However, the SEC does not provide information to voters about their rights, the manner of protecting these rights and reporting of potential misuse. Furthermore, in the intense campaign of political parties and candidates, these efforts of the SEC remain invisible. These activities are also carried out with expert and financial support from the OSCE.

*Does the SEC website provide information on the procedure for checking the voters' register?*

Fulfillment of this indicator was estimated at 1, because on the SEC website, in the section Educational material, there are information on the procedure of checking the voters' register, via the internet application or phone number of the Ministry of Interior.

*Can citizens check online at which polling station they vote?*

Fulfillment of this indicator was estimated at 0.75, because citizens can check online at which polling station they are voting via the internet application of the Ministry of Interior[[10]](#footnote-10).However, by using this application, voters can get information on the name of the polling station, but not precise information about the polling station address or a map that will help them find their polling station easier.

*Does the SEC website provide information on election rules and about what constitutes electoral irregularities and election fraud?*

Fulfillment of this indicator was estimated at 0, because although the SEC website contains laws and bylaws related to the elections process, it does not provide any information to citizens about election irregularities that would help them understand complex electoral legislation.

*Does the SEC website contain a guide for citizens on how to lodge a complaint in case of violation of electoral rules?*

Fulfillment of this indicator was estimated at 0, because the SEC website does not contain a guide for citizens on how to, in what form and to whom they can lodge a complaint for reasons of the infringement of the electoral rights during the elections. Furthermore, there is no form on the website over which the voter would more easily lodge a complaint to the procedure.

The Law stipulates that each voter, candidate and candidate list submitting entity are entitled to lodge a complaint to the competent election commission for reasons of the infringement of the electoral rights during the election process[[11]](#footnote-11). In practice, this right is often used by political parties and candidates because citizens can hardly get clear information about what is not allowed and how and to whom to lodge a complaint.

**Transparency without media - 45.8% of the set parameters met**

*After the 2016 elections, the SEC technically improved its website but one can still not find some of the most important information on its composition, decisions and activities. A special problem is no obligation to publish a work report. Given the lack of information on the website, sessions closed for the media and poor communication with them, and denial of information to the observers - it can be concluded that the SEC does not allow public oversight over its work to a sufficient degree.*

*Is there an e-mail contact on the SEC website?*

Fulfillment of this indicator was estimated at 1, because there is an e-mail contact available at the SEC website.

*Are there personalized e-mail contacts on the SEC website (of officials and officers)?*

Fulfillment of this indicator was estimated at 0, because there are no personalized e-mail contacts of the SEC officials and officers on the SEC website.

*Are there contacts of departments/organizational units (as opposed to one generic contact) on the SEC website?*

Fulfillment of this indicator was estimated at 0, because there are no contact details of organizational units on the SEC website, nor does the website provide information about the internal organization and the number of employees in this institution as there is no rulebook on systematization of job positions or an organizational chart.

*Is there a contact phone number on the SEC website?*

Fulfillment of this indicator was estimated at 1, because there is a contact phone number on the SEC website.

*Are the results of the last two national elections available on the SEC website? Are the results by municipalities and polling stations available on the SEC website?*

Fulfillment of this indicator was estimated at 1, because the results of the last two national elections, both by municipalities and by polling stations are available on the SEC website.

*Are the names of the members of the SEC and government officials in charge of elections available on the SEC website?*

Fulfillment of this indicator was estimated at 0.25, because names of the standing members are available on the SEC website, but names of the extended members as well as names of the officials in charge of elections are not available always and timely.

During the 2018 presidential elections, the SEC published, with delays, the decisions on appointing empowered representatives, so it was clear to the public who the members of the extended composition were. However, in spite of persistent requests by the non-governmental sector and decisions of the competent institutions, the SEC continued to refuse to disclose information on the empowered representatives who participated in the work and decision-making of the SEC during the 2016 parliamentary elections.

*Are the qualifications, experience or biography of the SEC members available on the website?*

Fulfillment of this indicator was estimated at 0, because the qualifications, experience and biography of the SEC members are not available on the SEC website.

*Is all of the information related to the work of the SEC available to accredited observers?*

Fulfillment of this indicator was estimated at 0.5, because not all of the information related to the work of the SEC is available to accredited observers.

Observers attending the SEC sessions receive the materials discussed at the SEC session. However, accredited observers often do not have access to adjuvant or supplementary materials obtained by the SEC members. In addition, observers are not provided with direct insight into the materials submitted by candidates and lists in order to validate the candidacy. Furthermore, ODIHR observers were denied access to the SEC's operating room where tabulation of results was performed.

*Are sessions of the SEC open to the media?*

Fulfilment of this indicator was estimated at 0.25, because sessions of the SEC are not open to the media. However, this rating was given because the SEC appointed a spokesperson during the last election cycle that, although limited in scope, provided some information to the media.

After the OSCE/ODIHR report on the 2016 elections pointed to this problem[[12]](#footnote-12), in the 2018 elections the SEC did not take an explicit stand that the media were not welcome, as in the previous election cycle, but it offered excuses on limited space capacities. However, the SEC did not notify the media about the sessions, and calls for the sessions were announced either immediately before the session or after the sessions themselves. Therefore, the media could not even know when the SEC sessions are taking place, what they were discussing about and deciding on and there was no way for them to cover and attend those sessions.

*Are the decisions and other materials from the SEC sessions published on the website? Are the reports / information on activities of the SEC available on the website?*

Fulfilment of these two indicators was estimated at 0.25, as only a small amount of materials and information on activities of the SEC are available on the website.

Although the situation was improved during the 2018 elections, the SEC still does not publish systematically, timely and full decisions and other material from sessions on the website. The largest number of documents pertaining to the 2018 elections was published afterwards, following the elections, not when the decisions were made and when they were relevant to the public. The decisions on complaints were not disclosed, nor the views and opinions of the SEC.

In the last election cycle, the SEC has also improved the manner of informing the public of its activities through the website, especially during the election day. However, during the election campaign, a lot of information on meetings, trainings and other important activities of the SEC was missing. Furthermore, during a period not covered by the election campaign, the SEC provides almost no information to the public on its work.

The SEC does not prepare reports on its work during the elections, or at the annual level, and therefore the public is completely denied comprehensive information on the work and results of this institution.

**Roadmap for the creation of independent institution**

In order to contribute to the quality of discussion on this topic, but also to initiate key political actors to action, we present a “roadmap” for the creation of a new institution. It contains a key time frame for adoption of the Law on Election Administration, election of new members of the Commission, the manner of planning the required resources and preparing the institution for the parliamentary elections in 2020.

Although, at first glance, it seems that we have plenty of time until October 2020 that is not really true. If we take into account the need to prepare a new law requiring a qualified majority (which is only part of the necessary changes), adopt new bylaws, announce competitions for new members, provide the necessary resources for work of the institution and give her at least 12 months to prepare for the election process and tune-up - it is clear that this process must be started immediately.

**Launch an urgent public dialogue on the scope of electoral administration and the need to improve the present situation through adoption of the Law on Election Administration**

CDT believes that it is the ultimate moment for political parties to put aside their political strategies and tactics and finally turn to what is undoubtedly the interest of the Montenegrin society - creating a better framework for fair elections.

Therefore, it is necessary to initiate a dialogue in or out of the Parliament that would lead to an agreement on a new solution. If this cannot be done in the Parliament, an additional option should be considered for this dialogue to be initiated by another institution - e.g. the President of Montenegro. This dialogue would take place under the auspices of state institutions, and the political parties that do not want to do so would not have to participate in the work of the Parliament until the very act of endorsing a new law. In addition to this, conversations of the political parties outside the institutions, which should be initiated by the ruling parties, are also possible.

Anyway, this process has to start as soon as possible as there is no time or space for excuses. There can be nothing more negative for democracy in Montenegro than having an institution without integrity conducting the next elections, and all political actors must be aware of it.

**Preparation of a Proposal for the Law on Election Administration**

All significant proposals by CDT for changing the current state of affairs have been given in the document “Depoliticized and efficient election administration - a prerequisite of having trust in elections”, which was published in early 2017[[13]](#footnote-13). Unfortunately, almost nothing has changed since then, so all the proposals remain in effect. For the clarity of the text we give the basic directions of our proposals.

* Adoption of a special law

Work of the election administration is not regulated by a special law but is part of the Law on Election of Councilors and Representatives. During the electoral reform of 2013/14 the preparation of a special law began and then that idea was dropped. We believe that a special law would contribute to more serious treatment of election administration and greatly simplify application of the current provisions.

* Introducing an expert election administration (at least up to the level of polling boards)

The SEC should be composed of members who meet strictly established requirements of expertise and political impartiality. The number of members should be significantly reduced - 5-7 standing members (including a chairperson) with an appropriate technical service would be enough. Fewer members will result in more effective discussions and decision-making. The uneven number of members guarantees that decisions can be made by a simple majority, and that it is not necessary to assign a “golden vote” to a chairperson. Wide representation should be enabled during the election campaign period, through the extended composition of the SEC, comprising representatives of political parties/candidates. They would participate in the work and discussions, but without the right to vote. Municipal election commissions (MECs) should be composed in the same way; only for MEC it would be enough to have three to five members.

* Introducing a new majority for election of its members

There are two options for resolving the issue of election of the SEC members.

The first option would be to introduce a body that would, modeled on Judicial and Prosecutorial Council, be elected by the Parliament, and then it would be electing members of the SEC and MECs. This body would consist of experts who have the best references in this area and would supervise all segments of the SEC's work and adopt its annual plans and reports on work.

The second option would be to have the competent parliamentary committee do this, with introduction of a qualified majority for election.

* Introducing professional criteria for membership

With regard to expertise, candidates for members of the SEC should have a Bachelor's degree in Social Sciences, at least 10 years of working experience in the profession, as well as a good knowledge of the electoral system/election statistics. In terms of impartiality, it should be stipulated that a SEC member must not be a member or activist of a political party, as well as a member of a political party body or a candidate on a political party list in a period of five years. Furthermore, special attention should be paid to the possibility of conflict of interest, and prevent people who are relatives or have business relationships with prominent political representatives from being elected as SEC members.

* Regulate more precisely the relations and responsibilities between MECs and SEC

It is necessary to introduce clearer relations and more precisely regulate the scope and powers of the SEC and MECs. In this way, situations that are now common and in which no one is responsible for what is not done properly would be avoided.

* Legally regulate the transparency of election administration and impose penalties for noncompliance with this part of the Law

The SEC must reach high standards of transparency in order to increase trust in the elections and remove doubts about the regularity of the election process.

Therefore, all these principles should be regulated by law and precise penalties for noncompliance with these legal provisions should be introduced.

* Expand competencies of the SEC in terms of performing tasks related to the continuous improvement of the electoral system

Establishment of a professional, expert SEC should be followed by introduction of new responsibilities and obligations for the SEC, which this institution would carry out on a continuous basis, even in the periods between the elections.

It is necessary to prescribe an obligation for the SEC to prepare annual work plans and submit an annual work report for discussion and adoption in the Parliament of Montenegro. Some of the obligations to be prescribed for the SEC are as follows: education of lower level members, election bodies, media, NGOs and citizens; election and appointment of members of the polling boards; obligation to initiate improvement of electoral legislation if necessary; educating and informing citizens on elections and the right to vote; development of its own capacities and capacity of employees; preparing professional publications, improvement of technical aspects of elections by introducing new technologies ...

This work should be completed **by the end of the Spring Session of the Parliament in 2019 at the latest.**

**Plan the associated budget funds in a timely manner**

When discussing the mode of operation and organization of the SEC, it is necessary to take into account that the necessary financial resources for 2019 should be planned in the budgetary reserve and then also the necessary budgetary resources for 2020.

Establishment of democratic institutions requires resources, and the resources to be invested in this type of institution are negligible in relation to the positive effects of the stability of democracy and citizens' trust that this institution can create.

**Plan a period for an institution to “tune-up" at least 12 months before the elections**

Assuming that regular parliamentary elections are scheduled for October 2020, the new SEC should start working from October 2019 at the latest.

Period since adoption of the Law (spring 2019) **until the beginning of the work of the institution (October 2019)** would be used for election and appointment of new members of the SEC, preparation of bylaws, rules of procedure and annual work plan. The new institution would take over employees from the old institution but also engage new ones, depending on the need.

In this way, the institution would have enough time to prepare for the elections, so there could be no excuse for failures and poor quality work.

**Research Center**

**The CDT Research Center (RC)** was established in 2011 with the support of the Think Tank Fund. Aim of the RC is improvement of public policies, adoption of more quality decisions of state bodies, strengthening of the public dialogue and strengthening of institutions.

In its work, the **RC** uses modern research methods and is guided by standards of transparency, objectivity and precision. Relying on comparative examples of good practice and practical results, it defines measures and recommendations for improving the status that are delivered to decision-makers and the general public.

The **IC** is dedicated to continuous training of its own capacities seeing it as a quality control mechanism for its research products, and, in addition to the CDT team, a number of domestic and international experts are involved in its work as external associates.

We recommend the following policy proposals to your attention:

* Please read the following documents on the need for making changes to election legislation and reaching democratic standards of fair elections:

*Recommendations for improving the legislative framework for elections - By fulfilling the OSCE / ODIHR recommendations* <https://www.cdtmn.org/izbori/izbori-analize/preporuke-za-unapredjenje-izbornih-zakona-2017/>

*Depoliticized and efficient election administration - a prerequisite of having trust in elections* <https://www.cdtmn.org/wp-content/uploads/2017/02/DIK-Policy-01022017.pdf>

*Recommendations for improving the work of the Agency for Prevention of Corruption - Review of the conclusions published in the report on the control of parliamentary elections* <https://www.cdtmn.org/izbori/izbori-analize/preporuke-za-unapredenje-rada-agencije/>

* Please read the following documents on how civil society experts see progress of Montenegro in meeting political criteria in negotiations with the EU:

*Assessment of progress of Montenegro in meeting political criteria in negotiations with the EU, Part I: Assessment of progress in the judiciary, fight against corruption and media* <https://www.cdtmn.org/dobroupravljanje/du-analize/procjena-napretka-cg-u-pregovorima-sa-eu-2017-predlog-prakticne-politike/>

*Assessment of progress of Montenegro in meeting political criteria in negotiations with the EU, Part II: Assessment of progress in public administration reform, fight against organized crime and human rights* <https://www.cdtmn.org/dobroupravljanje/du-analize/procjena-napretka-cg-u-pregovorima-sa-eu-2017-predlog-prakticne-politike-ii-dio/>

* Please read the following documents on how the state and local governments plan development, measure the success of their work, and what should they do to improve the practices in this area:

*Planning, measuring, and reporting leveraging success of government policies* <https://www.cdtmn.org/dobroupravljanje/du-analize/predlog-prakticne-politike/>

*Planning, measuring, and reporting leveraging success of government policies - On the example of the municipalities of Nikšić and Kotor* <https://www.cdtmn.org/dobroupravljanje/du-analize/upravljanje-za-rezultate-na-lokalnom-nivou-2017-predlog-prakticne-politike/>

* Please read the following document on how the state recognizes violent extremism and how it counters it:

*How to improve implementation of the Strategy on Countering Violent Extremism?* <https://www.cdtmn.org/eu/eu-analize/kako-poboljsati-sprovodjenje-strategije-suzbijanja-nasilnog-ekstremizma-2017-predlog-prakticne-politike/>

1. Karp, Jeffrey, Alessandro Nai, Miguel Angel Lara Otaola, and Pippa Norris, 2017, *Professional Electoral Management: Building Capacity*, The Electoral Integrity Project, University of Sydney. [↑](#footnote-ref-1)
2. Currently, three members of the SEC perform other public functions as their basic occupation. Members of the current convocation of the SEC are the Secretary General of the Parliament of Montenegro and the Deputy Prime Minister for Political System, Internal and Foreign Policy. [↑](#footnote-ref-2)
3. Article 30 of the Law on Election of Councillors and Representatives, Official Gazette of the Republic of Montenegro, no. 16/2000 - consolidated text, 9/2001, 41/2002, 46/2002, 45/2004 – decision of the Constitutional Court, 48/2006, 56/2006 - decision of the Constitutional Court and Official Gazette of Montenegro, no. 46/2011, 14/2014, 47/2014 - decision of the Constitutional Court, 12/2016 - decision of the Constitutional Court and 60/2017 - decision of the Constitutional Court. [↑](#footnote-ref-3)
4. *Ibid*. [↑](#footnote-ref-4)
5. *Ibid*. [↑](#footnote-ref-5)
6. <http://potpisi.dik.co.me/> [↑](#footnote-ref-6)
7. <http://rezultati.dik.co.me/> [↑](#footnote-ref-7)
8. Available at <http://dik.co.me/wp-content/uploads/2018/01/6.Pravila-o-glasanju-putem-pisma.pdf>, Accessed 7 June 2018. [↑](#footnote-ref-8)
9. Available at <http://dik.co.me/izbori-za-predsjednika-crne-gore/edukacija-biraca/>, Accessed 7 June 2018. [↑](#footnote-ref-9)
10. [www.biraci.me](http://www.biraci.me) [↑](#footnote-ref-10)
11. Article 107 of the Law on Election of Councillors and Representatives, Official Gazette of the Republic of Montenegro, no. 16/2000 – consolidated text, 9/2001, 41/2002, 46/2002, 45/2004 – decision of the Constitutional Court, 48/2006, 56/2006 - decision of the Constitutional Court and Official Gazette of Montenegro, no. 46/2011, 14/2014, 47/2014 - decision of the Constitutional Court, 12/2016 - decision of the Constitutional Court and 60/2017 - decision of the Constitutional Court. [↑](#footnote-ref-11)
12. OSCE/ODIHR, 2017, *Montenegro, Parliamentary elections, OSCE/ODIHR Election Observation Mission Final Report*. Available at <https://www.osce.org/me/odihr/elections/montenegro/295781?download=true>, Accessed 7 June 2018. [↑](#footnote-ref-12)
13. Koprivica D, Kovačević M, 2017, *Depoliticized and efficient election administration - a prerequisite of having trust in elections*, Center for Democratic Transition. [↑](#footnote-ref-13)