**Institutions must protect the constitutional right of every citizen**

The Center for Democratic Transition (CDT) has been monitoring all the important segments of the election process since the calling of the elections.

The CDT's core team, together with six regional and 25 municipal coordinators, have been monitoring the work of the election administration, the work of the Agency for the Prevention of Corruption (ASK), the funding of political parties and their campaigns and the accuracy and completeness of voter register. Citizens are provided with channels through which they can report pressures and abuses.

These preliminary conclusions were drawn up as based on analyses into legal framework and information collected during the monitoring activities, which cover the period from the day of calling the elections until August 20, 2020.

**Conditions for holding elections during a pandemic**

After the failed final attempt to implement a comprehensive electoral reform late last year, Montenegro embarks on these elections with unresolved legislative and institutional shortcomings amid a political situation that is far more complex than in the previous elections.

In addition, elections held amid the coronavirus (SARS-CoV-2) epidemic put a restriction on all stakeholders, especially political parties, as a matter of course. These conditions demand an increased flexibility and a change of the conventional campaigning methods.

The authorities in charge of implementing these restrictions amid a complex environment need to do so in a timely and high-standard manner. The CDT drew public attention to these challenges, and consequently a working group was established in early July, consisting of representatives of the National Coordination Body, the State Election Commission, the Agency for the Prevention of Corruption and civil society representatives. After a good start and consultations held with political parties, the majority of participants were excluded from the process without any explanation. Only a month later, the State Election Commission adopted technical recommendations that triggered significant public reaction and were subsequently partially repealed by the Constitutional Court.

The late adoption of the rules for conducting elections during a pandemic calls into question the key electoral principles, which entail that rules are established in advance and call for reliability of future elections. Although the preparation of such a document is not a legal obligation nor is there a legally prescribed deadline for doing so, this significant delay nevertheless caused an even greater uncertainty for representatives of electoral lists, election observers and citizens and prevented them from adequately preparing for the elections.

**The work of the election administration**

The State Election Commission (SEC) managed to organize its work in a satisfactory manner amid difficult working conditions. It has conducted all the election-related activities thus far in accordance with the prescribed legal deadlines.

The SEC has been showing greater transparency in this election process, primarily by publishing on its website the calls for convening sessions and minutes thereof, as well as all the relevant decisions. Accredited observers have been granted direct access to all election materials.

A step forward has been made with the selection of a spokesperson and the periodical publication of press releases following the sessions. However, this institution became less accessible to the media after parts of the public challenged their recommendations on voting during the pandemic, and several media outlets told the CDT that they could not get the statements they had requested from SEC representatives. This type of enclosure is evermore concerning given that the challenging operating environment that marks this election cycle yet again prevented the SEC from fulfilling the long-standing ODIHR recommendations to open all of its sessions to the media.

it is particularly concerning that conditions and guarantees for the exercise of voting right have not been secured for all those citizens who find themselves in self-isolation, quarantine or hospitals on election day. In this case, the SEC has opted for seeking legal and practical obstacles to the exercise of voting rights instead of finding viable solutions. The Constitutional Court repealed some of the provisions of the Technical guidelines on the epidemiological protection of voters in the electoral process, which tackle voting under quarantine and voting outside the polling station. In addition, the Constitutional Court has taken on board the CDT's initiative to launch a procedure for assessing the constitutionality and legality of the Rules on Voting by means of Letter, whereby the exercise of the right to vote this way is restricted to the municipality of residence.

The guidelines for epidemiological protection of voters during elections were adopted with undue delay and are therefore being subjected to constitutional review right before the elections, which may cause delays and uncertainties as to how they are to be practically applied at polling stations.

The transparency of Municipal Election Commissions (MECs) has not improved significantly and they did not familiarize the public sufficiently with their work. Following the CDT's public criticism after the first round of monitoring, the repeated monitoring showed that some of the documents and decisions had been put up on the MEC websites, but did not offer a transparent insight into the situation. Very few election commissions have taken on board our recommendation to publish calls for convening sessions and minutes thereof; instead, most of them have tried to circumvent the issue by taking down the entire session-related sections from the home pages of their websites.

The SEC confirmed and declared 11 electoral lists in a timely manner. The list of Snezana Jonica - Socialists of Montenegro – Let us live as Yugoslavs was rejected, with an explanation that this electoral list did not submit evidence for their grounds for invoking rights of a minority people or of a national minority community, which was backed up by the Constitutional Court decision. Representatives of this electoral list criticized the decision of the Constitutional Court.

From the very start of the process, the SEC made available an application through which citizens can check whether the database contained their signatures of support for electoral lists i.e. whether their data had been misused. The number of citizens who appealed to the SEC with a request to remove their data from the database as their signatures of support were not authentic has dropped significantly as compared to the 2018 presidential elections. However, after inspecting lists of support signatures, the CDT concluded that a lot of those citizens may have agreed to support an electoral list and provided the data themselves, but did not genuinely sign the list in person, which points to shortcomings of this manner of securing support for submitting candidacy.

**Election campaign highlights**

The campaign in this election process differs significantly from campaigns as we know them, given that the coronavirus pandemic triggered numerous restrictions on public and social gatherings.

Most parties have adjusted their activities to the new circumstances and so the campaign is dominated by media presentations, advertising on web portals and social media and small-scale gatherings. This campaign is marked by a direct involvement of certain religious communities in the mobilization of voters by conveying messages about who the voters should be casting their vote for.

Given the substantially fewer promotional events in the course of this campaign, the so-called election campaigning by public officials came to the forefront. Granted, government officials should be involved in election campaign and there are indeed valid reasons and occasions for organizing visits and attending events in different municipalities. However, many of these campaigning events cannot be said to be in the best interest of the public, as the epidemiological risk calls into question the necessity for organizing them in the first place. According to reports of our coordinators from almost all the municipalities, small-scale and local events are being organized and attended by most senior officials, as rather minor occasions are used as a pretext for hosting municipal festivities practically everyday.

The Agency for the Prevention of Corruption (ASK) improved their control methodology and increased the transparency of its operation. They also established a working group for monitoring the election campaign, which is also open to NGO participation. The ASK boosted its transparency by publishing more extensive content on their website. However, the documents published are for the most part technical and informative, whilst leaving out analytical contents, conclusions on reported abuses and failing to pinpoint those that violate the law.

According to ASK, this institution processed 85 complaints in the previous period. A request for inspection was sent out to the Ministry of Public Administration due to suspected abuse by means of awarding employment contracts in seven municipalities, and another 91 reporting entities whose data are inconsistent with the employment database of the Tax Administration are currently under review. Following the initiative submitted by the CDT, the ASK launched a review of employment contracts entered into in 13 majority or partially state-owned companies.

As many as 135 checks into analytical cards were initiated, with 13 such procedures launched due to the mismatch between the data contained in analytical cards and the corresponding bank statements, and 123 procedures on account of exceeding monthly spending. The control into illicit social welfare payouts was initiated in 15 cases. The ASK initiated 30 proceedings for violating the legal ban on debt write-off during campaign. As many as 253 warnings were sent out to the reporting entities that failed to disclose travel orders on time. Also, 1018 cases of social assistance payouts made as a response to the coronavirus epidemic have been checked into.

The epidemic has put a strain on field control, so fewer reporting entities will be checked into than originally planned. So far, seven controls have been carried out.

The CDT conducted two rounds of monitoring of compliance with provisions of the Law on the Financing of Political Entities and Election Campaigns. Results for the period 20-26 July showed that one-fifth of institutions did not publish data on expenses incurred and travel orders for official vehicles. In the period of 10-16 August, as many as a quarter of institutions failed to meet this legal obligation.

The ASK is still reluctant to clearly and unequivocally disclose to the public the identities of those that violate the Law on the Financing of Political Entities and Election Campaigns. Despite the controls performed, the public remains deprived of the list of those that break the law: by allowing for suspicious employment contracts to be entered into, by failing to publish data on the spending of public funds or travel orders in the pre-election period, by awarding social aid payouts contrary to the law... In failing to do so, the Agency is missing an opportunity to build upon their activities and promote the integrity of election process and publicly speak out so as to prevent the recurrence of these phenomena, i.e. the possible misuse of public funds for campaign purposes.

The monitoring of advertising of political parties on social media, search engines and other online platforms will be particularly challenging for ASK. Due to the nature of this particular campaign, it would be realistic to expect that most of the funds will be spent on advertisements in the media and on Facebook, Google, YouTube, so it is crucial for the control process to obtain accurate and reliable data on ad spending.

In the period observed, the media cited allegations by some political parties on pressure on voters, vote buying and abuses with hiring public employees, which the competent authorities should investigate as soon as possible. The first such procedure was initiated before the Basic State Prosecutor's Office in Podgorica over a reasonable suspicion of the buying of ID cards. Also, an official inquiry was launched into an audio recording leaked to the media, which hears a ruling party's activist citing party affiliation as a precondition for entering employment in the Army.

**Voter register**

The Ministry of Interior set up an expert team for controlling the accuracy and completeness of the voter register, which also includes NGOs representatives that applied to the public call. Thus far, the members of this team were granted the greatest level of access to data, that is, to source registers from which the voter register is generated.

This team also got off to a late start with over a month after the elections were called. All interested parties had the opportunity to send inquiries and concerns as per voter register issues. However, apart from the rare inquiries by political entities and the media, only citizens showed a massive response to this call. Political entities would rather present to the public their own versions of the quality of the voter register instead of having their allegations and analyzes directly put to the test.

The team has created several communication channels through which citizens are able to check their assigned polling stations, which will reduce the number of citizens who might not know where to vote. Following the initiative of the CDT, voter registration status has been checked for about 7,500 citizens that either do not have an identity document or their ID document was issued during the former state union.

The key problem with the register of residence, and thereby the voter register, is not getting resolved in this election cycle either, as many citizens do not comply with the Law on Registers of Temporary and Permanent Residence and deregister their residence after leaving the country, which is why the number of voters disproportionately outgrows the population. This leaves room for abuse in the election process, but also stirs up numerous and incorrect speculations as to how many of those citizens there might actually be. Political parties have yet again decided to solve this problem by giving it media coverage, and a month before the elections, at that. Without amendments to the law that would introduce the possibility of performing field checks of residence and then resolving each individual case, this will remain but a topic for pre-poll outmaneuvering and self-marketing.

**Protection of the right to vote**

The Constitutional Court monitors the implementation of constitutionality and legality, informs the Assembly on the observed instances of unconstitutionality and illegality and may launch a self-initiated assessment procedure.

The Constitutional Court acted on individual initiatives put forward by civil society organizations. However, we have not yet heard their clear stance on whether denying the right to vote to persons suffering from COVID-19 and persons whose movement was restricted by a decision of a competent state authority is in accordance with the Constitution of Montenegro and the ratified and published international agreements.

In performing their function, the Protector of Human Rights and Freedoms of Montenegro acts by way of indicating, issuing warnings, criticizing, proposing or recommending measures for protection against discrimination. In the course of the campaign thus far, there have been no warnings, proposals or recommendations towards the protection of voting rights. A more active participation of this institution would substantially benefit the election process, which is encumbered with issues of whether the SEC's decisions on voting outside the polling station lead to direct discrimination of self-isolated or infected citizens and put them in an unequal position to the rest of Montenegrin citizens.

**The CDT activities**

The Center for Democratic Transition (CDT) has been carrying out a monitoring project that scrutinizes all the important segments of the election process. The CDT central office, six regional and 25 municipal coordinators and election observers have joined forces in this monitoring project. We have so far accredited a total of 381 election observers, 56% of whom are women.

From the day of calling the elections, the CDT team has been monitoring all the relevant segments of the election process. We gain a clear insight into the quality of the conduct of elections by analyzing compliance with the law, monitoring the operation and regularly attending sessions of the State Election Commission, the Expert Team for Controlling the Accuracy and Completeness of the Voter Register, the Working Group for Conducting Elections of the Agency for Prevention of Corruption (ASK), and by engaging field coordinators in collecting information from each Montenegrin municipality. In addition, we will attach particular importance to election day, so the public can expect timely information on voter turnout, possible violations and election results.

The CDT publishes the most important information, activities and conclusions on a special  [live blog on our website](https://www.cdtmn.org/sve-o-izborima-2020/).

The CDT has also launched the "Vote Freely" campaign to promote the inalienable right of citizens to freely exercise their political choice. The aim of the campaign is to remind citizens of their right to vote according to their convictions and that no one has the right to sway their choice by using illegal means.

[The CDT website features an application](https://www.izbori2020.cdtmn.org/) through which citizens can report if their vital rights have been encroached upon during the election process or if they have noticed abuses in the election process.

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