

2023 Montenegro Parliamentary Elections

Report





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Key conclusions of election monitoring

Parliamentary elections in Montenegro were held in a peaceful atmosphere, and procedures were adhered to for the most part. The very Election Day went by without major irregularities that could affect the final outcome.

The work of the State Election Commission was yet again marked by decisions that were unlawfully being tailored to cater for partisan interests. This practice was observed during the submission of objections and complaints, when the SEC rejected five objections by a majority vote of representatives of political parties, despite the indisputable irregularities which Article 89 of the Law on the Election of Councilors and MPs defines as the grounds for a mandatory election rerun. In some of the earlier elections, the SEC would resolve the very same legal situations by issuing decisions that were completely opposite. The sessions of this institution were open to the public, its decisions were published on the website in a timely manner, and citizens were also able to verify their signatures of support to particular electoral lists by accessing a secure application. The SEC also adopted rules for livestreaming its sessions, but unfortunately this functionality was not put into use during this election process.

The competitive campaign was for the most part conducted in line with democratic standards contained in the Code for Fair and Democratic Elections, which was proposed by the CDT and signed off by the majority of election participants.

The most evident violation of standards and good practices in the pre-election period was the substantial misuse of public resources through pre-election recruitments, payouts from state budget, and intensive campaigning activities by state employees, which were then passed off as part of their regular work duties.

The last week ahead of the elections witnessed an abuse of authority and security institutions meant to discredit the main candidate on the Europe Now list, Miloško Spajic. And while serious allegations of illicit funding and other affairs should indeed be effectively investigated by the competent prosecutor's office, putting spotlight on this issue as a national security concern in the very last days of the campaign is an evident abuse of institutions.

For some inexplicable reason, the Parliament of Montenegro had issued a late invitation to the Office for Democratic Institutions and Human Rights (ODIHR) to observe parliamentary elections, thereby risking the absence of international observers. Only after repeated direct interventions and public appeals did the parliament send out the invitation on April 28, after which ODIHR set up election observation mission on May 5.

Following an opinion issued by the Agency for the Protection of Personal Data and Free Access to Information (AZLP), both domestic and foreign observers were restricted in exercising their right to observe the election, as they were denied insight into the process of verifying signatures of support for electoral lists.

Institutional and Legal Framework

On March 17, one day after he had issued a decree on the dissolution of the Parliament of Montenegro, the president of Montenegro called snap parliamentary elections to be held on June 11 2023. In the decree, Djukanovic had referred to Article 92 of the Constitution of Montenegro, which defines the manner in which national assembly can be dissolved – by a presidential decree, but the decree itself did not contain any explanation of the grounds for dissolution. It was later interpreted that this decision had been prompted by provisions of the Law on President, which was pending a constitutionality review, following a broad agreement in the legal community about this act being an unconstitutional one.

Some political parties were persistent in seeking legal and political options for postponing the elections, and some members of the professional public also believed that the president had no right to dissolve the parliament. The parliamentary majority submitted an initiative before the Constitutional Court to review the decree on the dissolution of the parliament, but the court could not reach a decision, as it currently has only six judges, and there was an equal number of both those in favor and those opposed.

This way, the Constitutional Court missed the opportunity to strengthen its own credibility in the public, and contribute to the integrity of the electoral process, and instead opted to avoid making a decision by postponing the constitutionality review of the Law on President of Montenegro.

Some petitioners were abusing the system of voting rights protection by lodging a large volume of unfounded objections, and stalling the receipt of responses issued to them. Also, the Constitutional Court continued its earlier non-transparency practice, so the public was not informed in a timely manner about the number and status of complaints received, as well as whether they had been immediately referred to the competent election commission and awaiting their opinion, given the urgent nature of election petitioning process. As a result, the process of determining the final election results was unduly prolonged.

This was yet another election process carried out as based on electoral laws that are long overdue for reforms and alignment with the universally accepted standards governing democratic elections and recommendations that are repeatedly being voiced by domestic and international observation missions.

Electoral roll and its accuracy and transparency

With yet another election cycle, the Ministry of Interior (MoI) failed to display the necessary level of transparency in managing the electoral roll.

After calling of the elections, the Ministry of Interior violated the legal requirement to publish data on changes made to the electoral register within 48 hours from the date of the announcement of elections.

They consequently published the data which, according to their statements, also included voters that would turn eighteen and thus reach voting age by Election Day. Since MoI did not in due course communicate this fact and how this would change the number of voters from the first cycle of presidential elections, suspicions around voter-registration fraud arose in the public, which had a negative impact on trust in the electoral process.

Although the elections were called on March 17, the Ministry of Interior did not announce a public call for NGOs to nominate their representatives as members of the Joint team for monitoring the completeness and accuracy of the electoral register before April 21. Then on May 11, one member was proposed to be the representative of the NGO sector, but the decision on the establishment of the Joint Team is not available on the MoI website, there is no information available about its composition or its work. The call had previously stated that the Ministry of Interior would select the candidate that garnered most support from NGOs within five days from the publication of the list of candidates nominated to represent the NGO sector in this working body.

In a situation where there are no conditions and possibility for reforming the electoral roll and the original registers it draws information from, the establishing of such working bodies can be important for performing at least basic controls and checks into the electoral register. This has been proven through the work of the previously established teams ahead of the 2016 and 2020 elections. However, this time around, the team was not set up in a timely manner, which must have limited its scope of work. It is not clear whether this team has been informing the public about its activities and potential results of its work.

The lack of transparency continued as, contrary to the Law on Free Access to Information, MoI remained silent to CDT's request for access to statistical data on the number of persons that acquired Montenegrin citizenship through economic investment program in the course of 2022 and 2023, as well as to information on whether any of those persons were now registered as voters.

Voters were able to check the www.biraci.me web portal and contact the "call-center" to directly check whether they were entered into the electoral register and what polling station they were assigned to.

The candidacy posting process

The process of confirming electoral lists was carried out without the controversies that had marked presidential elections. The SEC took a completely different approach, and decided not to pursue claims about dual citizenship and place of residence of certain candidates. Thus, Miloško Spajic, who was not deemed an eligible presidential candidate in an earlier unjust decision rendered by SEC, was now confirmed as the main candidate on one of the electoral lists. This time, SEC acted in accordance with its legal powers, but this is not reflective of them being more legally savvy or of its members from political parties adopting a different legal stance in the meantime, but rather points to a change of the political directive that steers their decision-making.

Non-governmental organizations and international observation missions accredited for monitoring elections were yet again denied the right to observe the process of verification of signatures of support, under the pretext of personal data protection.

Although the SEC-issued official authorization for election observation guarantees that election observers can monitor the course of the election and the work of electoral authorities, the Agency for the Protection of Personal Data and Free Access to Information (AZLP) maintained that the law does not grant observers the right to inspect signatures of support. This way, the right to observe elections, otherwise an international standard, is curbed, as observers are prevented from checking whether the candidacy posting process was carried out in line with the law.

Verification and confirmation of signature-supported candidacies is an essential segment of work of electoral administration, and by denying insight into signatures, the SEC prevents observers from doing the essential part of their work.

Citizens once again submitted several reports to the CDT about their signatures having been forged, and this information was forwarded to the prosecutor's office. There were far fewer of these reports compared to presidential elections.

The CDT called on the AZLP to use the supervisory powers granted to them by the Law on Personal Data Protection, and proactively and in a timely manner check whether political entities are entering parliamentary elections by collecting signatures of support in a legal manner. AZLP announced that it does not have the capacity to perform these checks, and called on political subjects to comply with the law, but only after all the signatures were collected and submitted to the SEC. By doing so, AZLP demonstrated that the law applies only to those that voluntarily agree to abide by it, while massive data abuses, including rumors about existence of a “market” where signatures of support are being traded, are ignored and go unpunished.

Code for fair and democratic elections

Following the initiative by the CDT, the electoral lists signed the Code for Fair and Democratic Campaign (the Code) for the first time since 2014. The code was signed by 14 out of 15 lists that competed in the elections, and the signing ceremony was attended by representatives of relevant state institutions with electoral competencies, the OSCE/ODIHR mission, non-governmental organizations active in the election-related area and representatives of international organizations in Montenegro.

Apart from setting out the obligation of complying with all the legal provisions governing election process, the Code also addresses numerous legal gaps. The focus of its provisions is placed on conducting a non-violent campaign, preventing voter pressures and misuse of public resources and functions, transparent campaign funding, respect for media freedom, preventing the spread of disinformation, preventing illegal domestic and foreign influences on the election process, cooperation between candidates and representatives of electoral administration, acting responsibly on social media, institutional resolution of disputes, and accepting the freely expressed will of the citizens.

The Code envisaged for the CDT to set up a multidisciplinary team, composed of experts in different areas of the electoral process and a network of regional and municipal coordinators who are to cooperate with the signatories in monitoring the implementation of the Code, analyze each individual report on violation of its provisions and react as adequate. The team monitored compliance with all of the provisions of the Code.

Our general assessment is that all the signatories acted in line with most of the provisions, as electoral lists submitted no official reports of any violations of the Code during the course of elections.

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Signatories abided by provisions on a non-violent conduct of political entities and non-disruption of promotional gatherings, as well as those on campaigning freely i.e. parties being able to freely promote their political ideas and principles.

Also, there were no significant threats to the freedom and privacy of citizens coming from political entities, which used to be very frequent in previous election cycles. Also, there were no insults exchanged between political opponents, nor unjustified raising of tensions, threats or calls to violence. There were no public expressions of intolerance or hatred by representatives of electoral lists towards members of other ethnicities, confessions or minority groups.

The electoral lists received a fair and professional treatment by media outlets, and we did not record any attempts to threaten the freedom of expression, hinder the work of the media or prevent journalists from doing their job and reporting on the campaign.

The provisions of the Code were adhered to during the very Election Day and no systemic violations were recorded, with merely occasional exceptions.

Candidates also adhered to the Code provisions relating to accepting election results — they refrained from lodging fictitious complaints that would hinder the finalization of the election process, and abstained from organizing celebrations before credible election results were published.

However, during the campaign, the CDT team did record several violations of the Code:

- After the “Do Kwon” case was made public, some political actors violated Code provisions on refraining from illegal discrediting of political opponents, as well as exercising undue influence on state institutions to that aim. The role the prime minister had in this case and the convening of the National Security Council session is an evident violation of provisions of the Code. These issues lie within the remit of the prosecution service, not the government;
- State employees have been much more active in election campaigning with the aim of getting the competitive edge for their particular electoral lists. We recorded over 42 cases of political campaigning by public employees, with government officials taking the lead, but there were also several cases recorded with local administrations and managers of state-owned companies;
- The media quoted a report drawn up by the non-governmental organization MANS about over 12,000 employment contracts concluded during the pre-election campaign, which can be characterized as recruitment

intended to gain electoral advantage. Although most of these contracts were concluded before signing of the Code, we believe it is important to call attention to this fact.

- The last 14 days of the campaign have been marked by multiple allegations of illegal campaign financing. An objective assessment as to whether this provision of the Code was breached will require more time and information, so we will take a stand on this matter after the prosecution and the Agency for the Prevention of Corruption take action;
- There has been one case of defacing of billboards of the “Courage counts” coalition and the SDP electoral list;
- Although the volume of disinformation is significantly lower compared to previous election campaigns, the spread of disinformation with the aim of achieving a better result in the elections or undermining the opposing candidates continues to occur in yet another election process, especially with the way some Serbia-based media have been reporting on the “Do Kwon” affair;
- Compared to previous election campaigns, there were fewer evident displays of political and financial influence coming from abroad;
- During the submission of objections and complaints, one electoral list that failed to surpass the electoral threshold sent numerous objections citing violation of voting rights and seeking a repeat vote. It is highly indicative that a repeat vote was requested at all 208 polling stations in Podgorica. These objections were submitted without prior insight into electoral materials, formulated using the usual pre-set pattern, and the applicant did not put forward any serious and well-argued claims that would point to an actual violation of the right to free elections. This approach cannot be interpreted other than as an attempt to obstruct the completion of the election process, which goes against the universal standards for democratic elections and legal standards established by the European Court of Human Rights, and also constitutes a violation of the Code.

Election campaign financing

One of the key features of an election campaign is the misuse of state resources for campaigning purposes, with recruitment based on party affiliation and campaigning by public employees being the two most widespread forms.

According to the data that MANS NGO analyzed and submitted to the Agency for the Prevention of Corruption (ASK), nearly 6,300 persons were hired in

state administration and over 12,000 contracts were concluded during the campaign ahead of both presidential and parliamentary elections. More than half of the contracts were concluded on a fixed-term basis, close to 30 percent were service contracts, eight percent were secondary employment contracts, and the remaining percentage refers to other types of employment contracts.

The media also reported that the Ministry of Capital Investments launched public appointment competitions for six directors of directorates i.e. deputy ministers two weeks before the elections.

ASK continues to interpret the Anti-Corruption Law by way of ignoring and condoning party-affiliated recruitment practices that fundamentally undermine the integrity of the electoral process. Namely, ASK said it had no competence over checking into a high volume of open-ended contracts concluded, and gave validation to this negative activity by treating it as legal and legitimate. This institution has once again shown that it lacks the professional courage and responsibility to stand up to abuse of electoral process by political structures.

Between May 26 and June 8, the CDT recorded numerous cases of abuse of state resources and apparatus by public officials that intended to gain institutional advantage and get better positioning ahead of the parliamentary elections. Government representatives took the lead in this respect, but there have been such cases recorded at the local level as well. There were also such cases involving officials at the helm of companies with state as their majority shareholder.¹

Of the 67 recorded cases of state officials performing public affairs and issuing decisions in the indicated period, 42 of them unequivocally contain different types of abuses mentioned. In the said 14-day period, state officials had an average of three activities per day that constitute political campaigning.

Media and Disinformation

Generally speaking, the election campaign was unmarred by any major disinformation, albeit with the ever-present biased reporting, i.e. some media favoring particular electoral lists. The team of CDT's Raskrinkavanje portal that specializes in countering disinformation has been monitoring the media and viral posts on social networks since early May, and recorded significantly fewer disinformation compared to previous two election cycles.

¹ We used two test questions in order to distinguish between actions that constitute abuse and those that are actually necessary for the regular functioning of the government, be it a caretaker government. The first question is whether the activity is an indispensable one and not undertaking it might result in missing an important opportunity for the development of the state. And secondly, could this activity be carried out without public exposure and/or presence of a public official.

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As with previous election processes, there was no way of avoiding attempts to sway voters by publishing fake surveys. The most obvious example was the sharing of an alleged public opinion survey attributed to IPSOS, which Raskrinkavanje confirmed to be a fake one. The Raskrinkavanje team also noted a whole series of dubious public opinion polls that were distributed without information about who conducted them, which made it impossible to determine whether they were fake, although, based on huge variations in percentages of alleged support for parties, one might have reasons to suspect their authenticity.

Then, a statement about potential post-election coalitions was shared and falsely attributed to the leader of the Europe Now Movement, Miloško Spajic, followed by sharing of a photo of a house allegedly owned by Prime Minister Dritan Abazovic, which turned out to have been downloaded from the Internet and is in no way connected to the prime minister. Some second-rate web portals tried to accuse the daily newspaper Dan of being the newsletter of DPS, after they advertised this party's political program, disregarding that these were the usual paid political ads that all the other media feature as well, especially during campaigning period. It was also published that the "La casa de papel" list would stand in elections, two weeks after the SEC rejected their application. There were also records of indirect attacks on individuals and parties.

Although Serbia-based tabloids were eager to report on Montenegro's local and presidential elections, as if they were happening in their own midst, they were much less interested in parliamentary elections; interestingly enough, they had been reporting extensively on the situation in Kosovo and protests staged in Belgrade during the two previous election campaigns in Montenegro. This time around, there were no TV specials dedicated to Montenegro's elections being aired on stations affiliated with the party headed by Serbian President Aleksandar Vucic, as was the case with previous election cycles.

However, Serbian tabloids were once again reporting in an absolutely biased way, giving preference and support to the coalition For the Future of Montenegro, while other electoral lists and candidates would almost exclusively be reported on in a negative context. The Belgrade-based tabloids became much more actively involved after the Do Kwon case, evidently favoring the narrative that was accusatory of the leader of the Europe Now Movement, Miloško Spajic, and mainly avoiding to report his and his party's views on this matter.

Election Day

Election Day took place in a peaceful atmosphere, procedures were adhered to for the most part, with only minor, mostly technical, irregularities.

At the very opening of several polling stations, we were informed that there were fewer ballots than registered voters.

Also, our observers noticed at several polling stations that not all members of polling boards were present, and instead, only three or four permanent members were conducting the ballot casting procedure. It is worth recalling that all members of the polling board or their deputies must be present as long as the polling station is open and voting is in progress.

In the course of the day, violations of vote secrecy were observed at a smaller number of polling stations, where voters would say out loud who they voted for or photographed their ballots. We also observed cases where the name of a voter was called out loud, which is not allowed.

Several polling stations in several municipalities experienced short-term power-outs, but this did not impact the voting procedure.

A few polling stations had issues with the functioning of electronic identification devices.

A more serious issue was recorded at polling station number 21 in Tuzi, where voting was

interrupted and the polling station was closed, due to an incident involving polling board members due to the voting by letter procedure.

Results

The CDT and over 459 of its accredited observers were conducting a parallel vote count based on a representative sample both during Election Day and after the closing of polling stations. An hour after the closing of the polling stations, the sample sizes were extensive enough to render a reliable picture of election results.

This way, we have delivered our service to the society, as we carried out vote tabulation in a record time, which election administration is unable to do as quickly, and thereby prevented any candidates from prematurely claiming election victory.

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Electoral list	CDT sample-based projections	SEC preliminary results	Statistical error
It is clear! – Bosniak party- Ervin Ibrahimovic, MSc	6,84%	7,09%	-0,25
HGI – On the right side of the world	0,70%	0,74%	-0,04
“JUSTICE FOR ALL!” – Dr Vladimir Leposavic	2,70%	2,77%	-0,07
SNP - DEMOS – FOR YOU	2,81%	3,13%	-0,32
“People’s coalition – UNANIMOUSLY AND PERIOD” – (Dejan Vuksic - Christian Democratic Movement; Marko Milacic – True Montenegro; Vladislav Dajkovic – Free Montenegro; Dragica Perovic – Democratic Serb Party; Dr. Novica Stanic - Movement for Pljevlja	1,09%	1,20%	-0,11
ALBANIAN ALLIANCE– ALEANCA SHQIPTARE	1,45%	1,50%	-0,05
Turnaround for a safe Montenegro – Srdjan Peric	1,55%	1,60%	-0,05
Movement for Change – MONTENEGRO FIRST – Nebojsa Medojevic – Reforms for salvation of the country	0,67%	0,66%	0,01
YES. WE CAN, FOR A CIVIC MONTENEGRO!	0,51%	0,48%	0,03
TOGETHER! For the future that belongs to you – Danijel Zivkovic (DPS, SD, DUA, LP)	23,00%	23,26%	-0,26
EUROPE NOW – MILOJKO SPAJIC	25,96%	25,55%	0,41
SDP – FOR OUR HOUSE	2,91%	2,90%	0,01
ALEKSA AND DRITAN – COURAGE counts!	12,95%	12,50%	0,45
FOR THE FUTURE OF MONTENEGRO (NEW SERB DEMOCRACY, DEMOCRATIC PEOPLE'S PARTY OF MONTENEGRO, WORKERS' PARTY)	15,15%	14,76%	0,39
Albanian forum – Nik Gjeshaj “BESA for European development” Forumi shqiptar – Nik Gjeshaj “BESA për Zhvillim Evropian”	1,71%	1,88%	-0,17

