Report on the Alignment of Amendments to the Law on Election of Councillors and Members of Parliament with OSCE/ODIHR Recommendations

*The publication was produced as part of the project **"Electoral Reform in Focus: It's Time!"**, which the Centre for Democratic Transition (CDT) implements in cooperation with the Association for Responsible and Sustainable Development (UZOR) and the Association of Youth with Disabilities of Montenegro (UMHCG), with financial support from the European Union, through the EU Delegation to Montenegro, and co-financing from the Ministry of Public Administration. The content of this publication is the sole responsibility of the Centre for Democratic Transition and does not necessarily reflect the views of the European Union or the Ministry of Public Administration.*

Introduction

Electoral reform, which should represent one of the key elements of democratisation and the alignment of Montenegro with European standards, has, over the past two years, unfolded in complex and unstable political circumstances. Although political actors declared their agreement on its necessity, in practice the process was characterized by a lack of continuity, passive resistance to changes that affect entrenched party monopolies, frequent boycotts, rare sittings, and the absence of concrete proposals. Substantive commitment to improving the system was demonstrated by only a small number of MPs from different political options, but not sufficient to ensure a stable and consistent course of reform.

Despite these circumstances, in July this year the process nevertheless resulted in a step forward - the adoption of amendments to the Law on Election of Councillors and Members of Parliament (LECMP) and the Law on Financing of Political Entities and Election Campaigns (LFPFEC), with the support of both governing and opposition parties.

The amendments introduced new rules for the financing of political entities, a significantly higher state funding allocated to parties, new solutions that position the State Election Commission (SEC) as a depoliticised and professionalised institution, partial professionalization of municipal election commissions, the introduction of a 40% quota for the underrepresented gender, i.e. women, and the establishment of general local elections. These amendments represent significant, but still limited, progress, since many substantive issues and recommendations of international and domestic observers remained outside the scope of the reform. In addition, it is concerning that the scope and content of the reform were determined predominantly by party interests rather than by the needs of the electoral system.

Final solutions were not negotiated through an extensive public consultation process or through obtaining opinions from relevant international partners - the Venice Commission, ODIHR, the European Union, and others. This was also confirmed in the 2025 European Commission Report, which concludes that additional amendments are necessary in order to fully align the legal framework with the EU acquis and European standards for inclusive, transparent and resilient electoral processes. Namely, the report highlights the need for further improvement of the LFPFEC so as to increase transparency and control of political party spending and prevent the misuse of state resources, including through dissuasive sanctions. All of this clearly confirms that the

amendment process was neither sufficiently high-quality nor inclusive enough. Nevertheless, the second reform stage, which according to announcements was supposed to start as of September, has not achieved the expected momentum. The Committee for Comprehensive Electoral Reform resumed its work only in late October, when the process was divided between three working groups responsible for the remaining segments of the LECMP, amendments to the Law on Voter Register and accompanying registers, and amendments to the Law on Political Parties, Law on Election of the President, and the Code of Ethics. However, working groups convened only a few times, without palpable progress in designing concrete solutions.

This report seeks to provide an overview of the achieved level of fulfilment of recommendations for fair and democratic elections and to identify areas that still require systemic improvements. The report follows the recommendations of the ODIHR Opinion on the Law on Election of Councillors and Members of Parliament and the Law on Election of the President from June 2025, and, in preparing it, broader recommendations of relevant international organisations and domestic election observers were considered, primarily those of the Centre for Democratic Transition (CDT).

The general assessment is that a significant number of OSCE/ODIHR recommendations have remained unimplemented or only partially addressed, which further result in serious shortcomings in the regulatory framework and limits the full applicability and coherence of the LECMP in practice.

This confirms that the reform has not been fully carried out and that it is necessary to initiate the next round of amendments, which will address the structural weaknesses of the electoral system that recur from one electoral cycle to another.

We emphasize that it is necessary to continue work on a number of intertwined processes - from introducing open lists, enabling individual candidacies and the direct election of bodies of local communities, through ensuring an accurate and up-to-date electoral roll, to regulating the second round of presidential elections, addressing the problem of disinformation in the electoral process, strengthening sanctions for abuses and protecting voting rights in line with international standards. Not until all these measures - which by their nature are complex, institutionally demanding and impossible to implement overnight - are taken into account, will it be possible to speak of a truly comprehensive, high-quality and sustainable electoral reform.

For this reason CDT called on the MPs who make up the Committee for Comprehensive Electoral Reform to propose extending the deadline for completing its work until 15 June 2026, in order to enable the comprehensive implementation of this reform in accordance with the decision establishing the Committee, and international recommendations.

We remain dedicated to overseeing the reform of electoral legislation, anticipating that the process will proceed based on the principles of inclusiveness, transparency and alignment with international standards.

Project team

RECOMMENDATION 1

To consider the unification of the entire electoral legislation into one law that would regulate all types of elections and all aspects of the electoral process, while at the same time removing conflicting provisions and aligning the new electoral law with international standards and good practice regarding democratic elections, as well as acting upon previous ODIHR recommendations.

The Parliamentary Committee for Comprehensive Electoral Reform was established in late December 2023, while the selection of members from the non-governmental sector and the academic community was completed in March 2024. The first session in its full composition was held on 2 April 2024, and the Committee is expected to complete its work by 31 December 2025.
Although the reform processes created room to consider consolidating electoral legislation into a single, coherent law—which would enable greater consistency, close legal gaps, and address existing contradictions—the Committee nevertheless did not opt for such an approach. Instead, different segments of the electoral process continue to be regulated through a large number of laws and by-laws, resulting in a fragmented normative framework and increasing the risk of inconsistent application of regulations.

The issue of a single law also has an important political dimension. Adoption by parliamentary consensus, particularly by a two-thirds majority, would further strengthen the legitimacy of the electoral system and prevent any governing majority from making unilateral and selective changes to the rules. This would ensure stability, predictability, and greater trust in the electoral process.

However, it can no longer be expected that electoral matters will be regulated in this manner.

The Committee's mandate is defined by its Decision on Establishment and encompasses the implementation of the recommendations of the European Commission and OSCE/ODIHR missions, as well as work on the following: the Law on Election of Councillors and Members of Parliament, the Law on Voter Register, the LFPEEC s, the Law on Registers of Residence and Temporary Residence, and the Law on Election of the President of Montenegro. The Committee is also tasked with analysing the implementation of the Law on Identity Cards, the Law on Montenegrin Citizenship, and the Law on Political Parties, with the possibility of preparing amendments if they prove necessary. In addition, the Committee has assumed the obligation to draft a Code of Ethical Conduct in Election Campaigns and to define a model for holding local elections on a single day.

However, the aforementioned laws do not cover all areas on which the conditions for fair and democratic elections depend. The Criminal Code, the Law on the Constitutional Court, the Law on Local Self-Government, the Law on the Prevention of Corruption, the Law on the State Audit Institution, and numerous media laws remain outside the Committee's mandate—although these are the exact ones that regulate important aspects of the electoral process. Although the Committee in principle accepted CDT's recommendation to expand its mandate, the amendment to the Decision covered only the Law on Election of the President.

The Committee bases its work on the aforementioned Decision, but in the absence of a precise methodology, the process is marked by a lack of systematic approach, unpredictability, and ad hoc decision-making. Although the Reform Roadmap, prepared with CDT support as a proposed work plan and timeline for the Committee, was considered on several occasions, it was also not adopted. This made it clear that the pace and substance of electoral reform would, to a large extent, depend on inter-party relations and political agreements.

The working process was organized in working groups, but these did not operate in parallel, nor did they report regularly to the Committee. During the first year and a half, only the working group on amendments to the LFPEEC was active, while the working group on amendments to the LECMP, in less than a month, prepared proposed solutions regarding the composition and function-

ing of the election administration, holding all local elections on a single day, and improving gender quotas.

Amendments to the LECMP and the new LFPEEC were adopted in late July 2025. The process, however, was seriously undermined by a lack of transparency and inclusiveness: key solutions were negotiated behind closed doors, without public debate and without consultations with the expert community, the European Union, the Venice Commission, and ODIHR.

RECOMMENDATION 2.

In order to align the electoral law as much as possible with international good practice, it is recommended that the rule on changing the number of seats in municipal assemblies prior to each local election be replaced with a system that would provide for longer intervals between reallocations, thereby allowing the demographic situation to be adequately reflected, while at the same time preserving legal stability.

Councillors are elected under a proportional representation system, from a single electoral constituency encompassing the entire municipality. Thirty councillors are elected to the Municipal Assembly, plus one additional councillor for every 5,000 voters. The amendments to the Law stipulate that general local elections shall be held simultaneously in all municipalities every fourth year, on the second Sunday in June. The term of office of councillors elected in regular elections lasts from the day their mandates are confirmed at the first session of the Municipal Assembly following the elections until the day the mandates of councillors of the new convocation are confirmed. In the case of early elections, the term of office of councillors lasts until the expiry of the current term of councillors elected in the general local elections.

The Venice Commission, in the Code of Good Practice in Electoral Matters, states that, “in order to preserve equality of votes, the allocation of seats must be reviewed at least every ten years, preferably outside electoral periods.” However, in Montenegro the number of councillors is determined prior to each election. ODIHR has warned that “such a solution may undermine public trust in the electoral process, creating the impression that the number of councillors is adjusted through voter migration in order to serve political interests and create political majorities.[1]”

[1] ODIHR Opinion on the Law on Election of Councillors and Members of the Parliament and the Law on Election of the President of Montenegro, Warsaw, 2 June 2025. Available at: https://www.osce.org/sites/default/files/f/documents/2/3/592840.pdf

RECOMMENDATION 3.

The provisions in the Constitution and the electoral law that govern the dissolution of parliament, the shortening of its term, and the calling of early parliamentary elections should be reviewed in order to ensure clarity and provide legal certainty, including clarification of the concept of "prolonged inactivity." Consistent, coherent, and good-faith application of the existing legislation is a key component of the rule of law, which Montenegro has committed to uphold as part of the obligations arising from the OSCE's human dimension, and it should be ensured at all times. Although it is acknowledged that such a change would require an amendment to the Constitution, this option should be borne in mind should constitutional reform be carried out in the future.

As for the calling of parliamentary elections, the dissolution of parliament, and the resolution of inter-institutional crises, there have been no changes to the current regulatory framework. Electoral reform has not addressed these issues, although they have been recognized as important for system stability and for strengthening legal certainty. The key problems remain the same: the deadlines for holding and confirming elections are not aligned in a way that always guarantees respect for the length of parliament's term; the constitutional provisions on shortening the term and dissolving parliament are not sufficiently precise; the procedure in the event of a no-confidence vote is not regulated; and the legal wording on parliament's "prolonged inactivity" remains undefined.

RECOMMENDATION 4.

Prescribe clear and objective criteria for the early dissolution of municipal assemblies and the calling of early local elections.

RECOMMENDATION 5.

Consider the possibility of aligning regular local elections dates so they take place simultaneously nationwide.

The amendments to the law have introduced the calling of general elections, i.e., all local elections on a single day, which is a key reform that puts an end to a years-long cycle of frequent and fragmented elections illustrating, in that

sense, the fulfilment of recommendations by domestic and international organizations—from the European Union to the OSCE.

However, the decision to hold the first general elections on 13 June 2027 has raised a number of concerns, particularly with regard to protecting voting rights and respecting democratic standards. The key question CDT raised in this process was whether the selected date is the one that causes the least possible harm to citizens' electoral rights.[2]

Shortening the term of municipal assemblies is not problematic from this perspective, since it does not undermine citizens' right to elect their representatives at the local level or to stand for election. By contrast, extending the term of elected representatives, in the opinion of the Venice Commission, can be justified only in exceptional circumstances (war, a state of emergency, natural disasters, or institutional blockages) or in the public interest—provided that three cumulative conditions are met: that the decision is grounded in law, necessary, and proportionate.

Political parties that decided on the election date did not focus on these rules and recommendations; instead of seeking the most democratic solution, they chose a date that suited their political interests. Citing the need for an "election-free" period in order to devote themselves to European integration, they denied voting rights to citizens in 16 municipalities, thereby prioritizing partisan interests over the principle of protecting voting rights and democratic equality.

ODIHR recommended that a transitional mechanism for aligning electoral cycles between municipalities be developed through a transparent and inclusive consultative process, involving all relevant stakeholders—political parties, civil society, and the academic community—which did not materialize in practice.

The decision to hold the elections in June 2027 also potentially implies holding local and parliamentary elections in parallel, which would further side-line local emocracy. Even now, local issues in Montenegro are being marginalized in favour of national ones, and such a merger would further strengthen that trend. International institutions (the Council of Europe, the European Parliament, and ODIHR) point out that holding local and parliamentary elections on the same day diverts attention from local issues, increases the risk of abuses, and places a burden over the election administration.

[2] For further detail please visit „Comprehensive or all-upending electoral reform" - https://www.cdtmn.org/analize/sveobuhvatna-ili-sveobrlatna-izborna-reforma-2/.

General and early local elections are called by the Central Election Commission (CEC), as opposed to the previous arrangement under which elections were called by the President of Montenegro. Early elections are held if the councillors' mandates for the new term are not confirmed within 30 days of the proclamation of the final results of the general local elections, or if the municipal assembly is dissolved or its term is shortened.

ODIHR has pointed out that the early dissolution of a municipal assembly can be justified only in extraordinary circumstances, recommending a revision of the legal framework to protect against political manipulation in procedures for dissolving municipal assemblies. However, the reform did not address this issue.

RECOMMENDATION 6.

To ensure compliance with international standards on democratic elections, the legal requirement of two years' residence to exercise the right to vote should be abolished from the legal framework for national elections. For all remaining residence-related obligations, clear and objective criteria may be introduced to determine when a citizen has habitual residence in the country, such as filing tax returns or owning or renting real estate.

In the course of the electoral reform to date, no work has been done on the long-standing problem of the integrity of the residence and temporary residence registers, as well as other registers that directly affect the accuracy and timeliness of the electoral roll.

The Constitution of Montenegro conditions the right to vote on residence in the country for at least two years, contrary to international practice.[3]

Although ODIHR and the Venice Commission repeatedly state that this requirement is restrictive, amending it under the current circumstances in Montenegro is practically impossible—it requires a two-thirds majority in parliament and confirmation by three-fifths of voters in a referendum.

[3] The Code of Good Practice in Electoral Matters states that "a residence requirement may be imposed on nationals only for local or regional elections" and that, "in that case, residence means habitual residence" for a period of up to six months.

CDT has repeatedly pointed out the problem that, for an as-yet undetermined number of citizens, there is fictitious residence registered in Montenegro; that is, they are listed in the Residence Register and thus in the electoral roll, even though they left the country long ago and exercise all political rights in their country of actual residence. In addition, with regard to the electoral roll, a problem is further deepened by the fact that a certain number of voters, contrary to domestic law, hold dual citizenship.[4]

RECOMMENDATION 7.

Further strengthening of temporary special measures to achieve greater gender representation in legislative bodies should be considered, in line with the recommendations of the Committee on the Elimination of Discrimination against Women.

Amendments to the LECMP introduced a requirement that at least 40% of candidates on an electoral list must be of the less represented gender, instead of the former 30%. In addition, among every three candidates on the list there must be at least one candidate of the less represented gender, replacing the earlier provision that required one among every four candidates. These are positive changes that strengthen the principle of gender equality. Practice has shown that, although slowly and sometimes only symbolically, quotas do have a positive effect: the percentage of women in representative bodies generally increases after quotas are introduced, even though it still remains below a satisfactory level.

General Recommendation No. 40 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) from 2024 takes a step further, calling on states to improve the regulatory framework towards institutionalization of 50:50 parity between women and men in all instances of decision-making.

Although the law provides for the possibility that lists which do not meet these requirements may subsequently be brought into compliance, it does not govern instances in which non-compliant lists are nonetheless proclaimed, nor does it provide clear sanctions for such cases. This shortcoming surfaced in

[4] For further detail please see „How to ensure a high-quality voter register?“ - https://www.cdtmn.org/wp-content/uploads/2023/01/Kako-do-kvalitetnog-birackog-spiska.pdf

2022, when some municipal election commissions allowed electoral rolls that had not complied with the mandatory percentage of candidates of the less represented sex to compete in local elections.

RECOMMENDATION 8.

The laws should cover a broader range of measures aimed at encouraging women's political participation and parliamentary representation, including additional publicly funded initiatives and incentives, capacity-building activities, and awareness-raising programs.

ODIHR has pointed out that the types of activities eligible for support through the regular funding of women's organizations should be specified; oversight of the use of these funds should be further strengthened; and proportionate and dissuasive sanctions should be applied in cases of non-compliance with the rules.

Although the LFPEEC rightly stipulates that funds intended for financing women's organizations may be used only in accordance with the statutes of those organizations, this provision is weakened by the fact that no misdemeanour liability is foreseen for such violation. This continues to leave room for the misuse of these funds.

RECOMMENDATION 9.

Electoral legislation should provide clear and objective criteria for granting the status of a national minority list, ensure an objective assessment of whether the conditions are met, and provide safeguards against abuse. It is recommended that the electoral law stipulate that, if a list does not meet the conditions for obtaining national minority status, it should be assessed in accordance with the criteria for registration without preferential conditions.

LECMP provides for certain preferential, affirmative measures for electoral lists representing national minorities, with the aim of stepping up their representation and strengthening political participation. Under the law, electoral lists representing minorities or minority national communities take part in the allocation of seats even if they win less than 3% of the valid votes. The threshold for minority lists is 0.7%, and in case of representatives of the Croatian

nationals, the most successful list that wins at least 0.35% of the valid votes may win one seat.

These legal provisions were neither amended nor improved as part of the electoral reform, even though this would have been necessary in view of practical problems.

During the most recent parliamentary elections, disputes arose over the interpretation of the legal provisions relating to affirmative action for lists representing the Croatian minority. Based on a linguistic interpretation of the provision and a check of its logical coherence, a Croatian minority electoral list is entitled to one guaranteed seat if it wins between 0.35% and 0.7% of the valid votes. If the list were to receive more than 0.7% of the valid votes, it would enter the regular seat-allocation process based on its vote total, without any guarantee of securing a mandate.

Contrary to that interpretation, the State Election Commission (SEC) took the position that a list with a minimum of 0.35% of the votes is, in any case, entitled to one seat. SEC justified its decision by invoking what it described as a purposive interpretation of the provision, arguing that the intent of the law is to ensure minority representation in parliament.

In addition, for more than a decade CDT has advocated extending the threshold applied to electoral lists representing the Croatian nationals to electoral lists representing the Roma community as well, given that according to census results Croats and Roma make up almost the same share of the population.

RECOMMENDATION 10.

Consider introducing measures that facilitate access for persons with disabilities to political office and improve their electoral prospects, including financial, infrastructural, and non-monetary measures that enhance their visibility during election campaigns, as well as public-speaking training and broad awareness-raising campaigns.

In the absence of specific measures to facilitate the participation of persons with disabilities, the exercise of their rights is not ensured in line with the obligations undertaken under Article 29 of the UN Convention on the Rights of Persons with Disabilities. States have committed to guaranteeing the right of persons with disabilities to “participate in elections” and to “effectively hold

public office and perform all public functions at all levels of government, (…) including by facilitating the use of assistive and new technologies, where appropriate." Furthermore, the same article provides that Parties should actively promote "an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs."[5]

RECOMMENDATION 11.

Consider deleting the restriction in Article 44 of the Law on Election of Councillors and Members of Parliament, under which a voter may sign in support of only one electoral list, and introduce the possibility for a voter to support multiple lists in parliamentary and local elections, in order to encourage pluralism and align the Law with international good practices.

The provision allowing voters to sign in support of only one electoral list restricts freedom of association and is not in line with international standards nor with ODIHR's earlier recommendations. The electoral reform to date has not produced solutions to regulate the procedure for collecting and verifying supporting signatures, while in practice there are serious problems related to the misuse of voters' signatures. For these reasons, within the electoral reform CDT proposed introducing a specific criminal offence—forging voters' signatures for the purpose of registering an electoral list.[6] The amendments to the Criminal Code in this area are still pending.

RECOMMENDATION 12.

Revise the procedures for appointing election administration bodies to better ensure impartiality and a balanced composition. Consider conducting inclusive consultations to assess the benefits of a merit-based public call and having the election administration appointed by an independent and impartial body.

[5] ODIHR Opinion on the Law on Election of Councillors and the Members of Parliament of Montenegro, Warsaw, 2 June 2025. Available at: https://www.osce.org/sites/default/files/f/documents/2/3/592840.pdf

[6] *CDT reccomendations for the improvement of criminal justice regulatory framework* -https://www.cdtmn.org/analize/preporuke-za-poboljsanje-krivicno-pravnog-okvira/.

RECOMMENDATION 13.

Consider introducing measures to ensure the participation of women and persons with disabilities in the work of the election administration, as well as strengthening requirements for the representation of members of national minorities in election administration bodies.

The electoral reform laid the conditions for a professional Central Election Commission (CEC) (formerly the State Election Commission) by introducing a new procedure and requirements for selecting its members.

This is a very important change in the composition of election management bodies, given that the previous concept of a multiparty election administration—based on the belief that parties would control one another and make decisions that do not favour any political option—has turned into its opposite in Montenegro. In other words, instead of strengthening oversight and citizens' trust in institutions and elections through inter-party consensus, the State Election Commission had often in practice made decisions driven by party interests rather than by the interests of a lawful electoral process, which made changing its model necessary.

Amendments to LECMP prescribe that the CEC consists of a chair and four members, which is a significant reduction compared to the previous arrangement under which the SEC had 11 members. The CEC is elected for a period of six years, and the chair and members of the CEC may serve for up to 12 years in total, i.e., may be elected for only two terms. This term is longer than the term of members of parliament, thereby strengthening the CEC's independence in its work.

The chair and members of the CEC are elected by the Parliament, on the proposal of the Administrative Committee, following a public call.

The Administrative Committee shall initiate the procedure for electing the chair and members no later than six months before the expiry of the CEC's term. The Commission for conducting the selection of the chair and members of the CEC ("the Commission") consists of five members: two representatives of Parliament—one from the largest governing party and one from the largest opposition party—and one representative each from the Judges' Association, the University of Montenegro, and NGOs dealing with the electoral process. This composition ensures even representation and the necessary balance in the Commission's work.

The Administrative Committee launches a call for nominating representatives to the Commission, as well as a public call for selecting the member from among NGOs. However, the law does not stipulate what happens if the proposers fail to nominate candidates for the Commission, which may lead to a blockade in the process of electing the CEC. We have already seen this possibility when the first Commission for conducting the selection of the CEC chair and members was being formed, when the opposition DPS and the Judges' Association failed to submit their nominations within the prescribed seven-day deadline. Although the further process of forming the Commission was not disrupted at that time, this situation serves as a warning that the law should envisage de-blocking mechanisms.

Within five days of the Commission's appointment, a public call for the selection of the CEC is announced. The Commission sets the procedure for objectively assessing candidates and the assessment process based on the predetermined criteria, and it also conducts interviews of candidates. However, the law does not define transparency obligations for the Commission's work and the selection process itself.

The law stipulates that the Administrative Committee may not alter the list of candidates for the CEC chair and members determined by the Commission. However, there is no possibility to appeal the Commission's work or its nominated candidates, which—as the Venice Commission and ODIHR have previously pointed out—is not in line with international standards.[7]

Moreover, they emphasize the importance of a de-blocking mechanism in the decision-making procedure on the proposed list of candidates for the CEC. This recommendation remains relevant, given that the law provides that the list of candidates is adopted by a majority of four out of the Commission's five members, but does not stipulate how to proceed in a situation where the members cannot reach agreement or where one of them deliberately avoids voting. The law provides that the Parliament may accept or reject the entire list of candidates by a simple majority. Deadlines for adopting a decision on the election of the CEC chair and members are specified only in the event that the Administrative Committee fails to establish a single list of candidates based on the Commission's proposal. Bearing in mind that the Parliament can only accept or reject the entire list of candidates, the Venice Commission and

[7] Venice Commission, ODHIR, Urgent joint opinion on the Draft Law on Elections of Members of Parliament and Councilors - https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2020)007-e.

ODIHR have pointed out that such a solution cannot be regarded as a genuine choice. The law does not specify what happens if the Parliament rejects the list—whether the procedure is repeated and how to avoid a stalemate.[8]

Unlike the CEC, the new solutions regarding the composition of municipal election commissions bring only partial professionalization of commissions. A municipal election commission (MEC) consists of a chair and two members, instead of the previous five members. The MEC chair is appointed by the CEC through a public call, while the CEC appoints the two members upon nominations by political parties (the ruling and opposition parties) or groups of voters that won the most seats and/or votes. The term of office of the MEC chair and members is four years, and the same person may be elected as a chair no more than twice.

While the CEC secretary is selected through a public call, the role of secretary of a municipal election commission is performed by the secretary of the municipal assembly. However, the law has not specified which tasks the MEC secretary is supposed to perform.

The law defines the conditions for the election of the chair and members of CEC[9] and MEC[10]. It is a positive development that political independence is explicitly set out as a requirement for appointing the CEC chair and members, as well as the MEC chair. This cannot be a person who, in the past five years, has held or currently holds the office of a Member of Parliament or municipal councillor, a member of the Government of Montenegro, the Mayor or Deputy Mayor of the Old Royal Capital or the Capital City, or the President or Vice-President of a municipality; nor can it be a person who has held or currently holds a position in a political party, or who is a member of a political party.

It is a positive development that political independence is explicitly set out as a requirement for appointing the CEC chair and members, as well as the MEC chair. This cannot be a person who, in the past five years, has held or

[8] Ibid.

[9] A person may be elected as the Chair or a Member of the Central Election Commission if they have: the right to vote; at least an university level qualification in the field of legal sciences; and at least ten years of professional work experience, of which at least five years must be experience in the areas of elections, the electoral system, political systems, the judiciary, and the protection of human rights.

[10] A person may be elected as the Chair of a Municipal Election Commission who, in addition to meeting the general requirements for employment in state bodies, has: at least an university level qualification in the field of legal sciences; five years of professional work experience; and at least one reference/opinion on their professional and work qualities from an employer or another entity with which they have had professional cooperation.

currently holds the office of a Member of Parliament or municipal councillor, a member of the Government of Montenegro, the Mayor or Deputy Mayor of the Old Royal Capital or the Capital City, or the President or Vice-President of a municipality; nor can it be a person who has held or currently holds a position in a political party, or who is a member of a political party. With regard to criminal offences that render a person ineligible for membership in the CEC and MEC, the international standards highlighted by the Venice Commission/ODIHR have not been met, since neither the seriousness of the offences nor the period after which this ceases to be a disqualifying condition has been specified.[11]

Under the law, the criteria for selecting the chair and members of the CEC include additional education directly related to the electoral system and electoral processes; experience in previous electoral processes; cooperation with relevant state bodies that have prepared or implemented laws or carried out other activities related to the electoral process; public recognition in the field of electoral processes; cooperation with relevant international institutions and organizations dealing with electoral processes; delivering or attending trainings related to electoral processes; publishing academic papers, professional articles, or publications related to electoral processes; knowledge of electoral laws and procedures; as well as the overall impression candidates for these positions make during the interview with the Commission.

The law unjustifiably restricts participation in the election administration by prescribing that the Chair and Members of the CEC must have a degree in law. In its opinions, ODIHR has pointed out that such a solution is contrary to international standards and that, while it is acceptable for commission chairs to have legal education, requiring all members to hold a law degree creates practical problems in recruiting members. While the position of MEC chair is reserved exclusively for law graduates, MEC members may be selected from among persons holding degrees in the fields of law and humanities.[12]

As the law introduces a merit-based system for selecting the CEC members, the provisions guaranteeing a seat in the election commission to representatives of minority political parties have been repealed. Consequently, the law

[11] Venice Commission, ODHIR, Urgent joint opinion on the Draft Law on Elections of Members of Parliament and Councillors - https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2020)007-e

[12] A person may be elected as a member of a Municipal Election Commission who, in addition to meeting the general requirements for employment in state bodies, has: at least an university level qualification in the fields of law and humanities; and five years of professional work experience.

has not found a way to ensure the representation of national minorities in election commissions, nor of women and persons with disabilities.

Authorized representatives of confirmed and proclaimed electoral lists have the right to participate in the work of election administration bodies; however, unlike before, they do so without voting rights in the CEC and MEC. This is a positive development, since earlier this mechanism could be used to manipulate the securing of a majority within commissions, which is crucial for deciding on complaints and results. ODIHR has noted that the work of expanded commissions was often accompanied by politicization and difficulties in reaching compromise.

Polling boards are still composed entirely of representatives of political parties. They consist of a chair and four members in the permanent composition, plus one authorized representative of each confirmed and proclaimed electoral list. Authorized representatives in polling boards participate in their work with voting rights. The law still does not regulate the procedure for selecting deputy members of polling boards, contrary to international good practice.[13] The Venice Commission and ODIHR have previously also pointed out that late changes in the composition of polling boards must be limited to only the most exceptional circumstances, and that the law should provide for the replacement of polling board members only under strictly prescribed conditions.[14]

RECOMMENDATION 14.

Establish clear and objective criteria and a transparent procedure for dismissing members of election commissions, in order to ensure the stability of their mandates and strengthen their independence.

The law provides that election administration bodies are accountable for their work to the body that elected them. Thus, the CEC is accountable to the Parliament, and municipal election commissions (MECs) are accountable to the CEC.

[13] Venice Commission, ODHIR, Urgent joint opinion on the Draft Law on Elections of Members of Parliament and Councillors- https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2020)007-e

[14] Ibid.

The conditions for dismissing the chair and members of the CEC and MECs are important in the context of strengthening the independence of these bodies and preventing the possibility that they can be easily removed if they act contrary to the expectations of political parties.

The CEC chair and a CEC member may be dismissed if it is established that, during the appointment procedure, they provided inaccurate information about themselves or failed to disclose information and circumstances relevant to the appointment, or if it is subsequently determined that they do not meet the prescribed conditions. The competent committee submits to the Parliament a reasoned proposal for the dismissal of the CEC chair or member. A MEC chair or member, however, may also be dismissed on the grounds of "negligent and unprofessional performance or non-performance of duties," with the decision taken by the CEC. Proceedings for the dismissal of MEC chairs and members are initiated by the CEC upon the proposal of the CEC chair. The law provides that the CEC shall, by virtue of a bylaw, adopt the procedure for appointing and dismissing MEC chairs and members.

In the event that the term of office of the CEC chair or a CEC member ends before the expiry of the period for which they were appointed, Parliament will elect a new chair or member of the State Election Commission following the same procedure, with the term of the newly elected members lasting only for the remainder of the CEC's term. In the assessment of the Venice Commission and ODIHR, this may negatively affect the motivation of potential candidates to apply for membership in the CEC.[15]

RECOMMENDATION 15.

Law should explicitly stipulate the SEC's supervisory function over municipal election commissions in order to ensure their accountability.

Amendments allow the CEC to take over a MEC's responsibilities if the latter fails to carry out its legally defined duties. This is a positive development, since until now this was possible in the case of parliamentary elections, but not local elections. However, the law does not specify how a second-instance review (an appeal or oversight mechanism) is ensured in situations where the CEC assumes the MEC's competences, nor is it clear what such a takeover would

15 Ibid.

look like in practice. In addition, the question arises as to whether the CEC has the capacity to assume these competences if two or more MECs fail to perform their duties, bearing in mind that all local elections take place on the same day.

RECOMMENDATION 16.

Consider introducing a qualified majority instead of a simple majority in decision-making within election commissions, in order to strengthen neutrality and align with international good practice.

Law on Election of Councillors and Members of Parliament sets out the competences of the CEC and municipal election commissions.

The Law expands the CEC's competences and, inter alia, prescribes the obligation to call general and early local elections; the selection of MEC chairs and members; determining the procedure for tabulating election results at all levels; adopting a Code of Ethics for election administration bodies; training for members of election administration bodies; education and information activities for citizens, NGOs, political subjects, and the media on elections and voting rights, etc.

The competences of MECs have remained the same, with the addition that they "perform other tasks in exercising the function of an election commission," without specifying that these are tasks defined by law or another regulation.

Some tasks that by their nature fall within the MECs' remit are not explicitly listed among their competences—for example, oversight of polling boards' work and issuing instructions related to their work are not specifically mentioned.

International practice recommends that election commissions adopt decisions by a qualified majority or by consensus in order to ensure neutrality and impartiality in decision-making.

The Law provides that commissions may work if a majority of the total number of members is present at the session, and that election administration bodies adopt decisions by a majority of the votes of the total number of members—i.e., an absolute majority—which is in line with international practice.

Although the Law introduces short deadlines within which election commissions must publish relevant information and data, it still does not specify which complete sets of data must be made available on their websites.

The Law states that the State Election Commission shall have its own website where, within 24 hours, it shall publish all acts, relevant information, and available data relating to provisional and final voting results in local, parliamentary and presidential elections, as well as in referendums, for each polling station. It also states that the Municipal Election Commission shall have its own sub-portal within the State Election Commission's website, where it shall publish all acts and data of importance for the conduct of elections immediately, and no later than within five hours, as well as the provisional and final voting results for each polling station.

Significant improvements regarding the transparency of the work of election commissions relate to the provision on the openness of their sessions, particularly because the Law expressly enables the media to attend and follow the sessions of election commissions.

RECOMMENDATION 17.

Ensure a clear and uniform definition of the electoral campaign and its duration.

RECOMMENDATION 18.

The campaign rules in Section VII of the electoral law should be structurally reorganized and simplified in order to improve their coherence, consistency, and clarity. It is necessary to distinguish rules relating to campaigning in the media from rules relating to other forms of campaigning and the general rules applicable to campaigning, and to simplify the rules on media reporting so that it is clearly distinguished which rules apply to all media and which apply exclusively to public media or only to private media.

Regulatory framework still lacks single, harmonized definition of when the electoral campaign begins. LECMP provides that the right to media representation starts only from the day an electoral list is confirmed, while the

LFPEEC defines an electoral campaign as a set of activities that begins on the day elections are called. Although both laws were amended as part of the electoral reform, this issue has not been harmonized.

The recommendation to restructure and simplify the campaign provisions in Chapter VII of the LECMP was not included in the most recent amendments to the Law.

RECOMMENDATION 19.

Update the rules on election silence to clearly define which pre-election campaign activities are prohibited, beyond media coverage and public gatherings. This should cover direct, face-to-face voter outreach, campaigning and promotional events, as well as political advertising in both traditional (TV, radio, and print) and online media.

The issue of election silence has not been addressed in the electoral reform process so far, and the very purpose of this rule has long been called into question due to activity on modern digital platforms, which are not legally considered media. In practice, election campaigning is increasingly moving online, and political content is freely disseminated through social networks, SMS messages, and various regional media outlets that have a wide audience in Montenegro.[16]

In addition to these practical challenges, the provisions on election silence also require terminological improvement. The law does not provide clear definitions of the terms “election propaganda” and “election campaign,” which are used interchangeably and without a clear distinction. As a result, in practice it is difficult to determine precisely what constitutes a prohibited activity, and proving a potential misdemeanour becomes complex and susceptible to arbitrary interpretations.

[16] ODIHR Opinion on the Law on Election of Councillors and Members of Parliament and the Law on Election of the President of Montenegro, Warsaw, 2 June 2025. Available at: *https://www.osce.org/sites/default/files/f/documents/2/3/592840.pdf*

RECOMMENDATION 20.

Reconsider the existing prohibition in Article 63 of the Law on Election of Councillors and Members of Parliament pertaining to publication of public opinion poll results 15 days prior to elections, and instead shorten that period to the interval from 24 hours before election day until the end of voting. The provisions relating to post-voting public opinion research (exit polls) should be simplified and harmonized in order to ensure clarity and legal certainty.

A lengthy ban on publishing opinion poll results limits the scope for informed public debate in the closing phase of the campaign, yet it does little to safeguard electoral integrity, since modern communication channels can easily bypass such restrictions. In practice, rather than seeing polls with clearly identified sponsors and transparent methodologies, the public is confronted with fabricated surveys spread via social media and fringe websites. The most effective antidote to this kind of disinformation is the availability of reliable, verifiable data.

CDT proposed shortening the ban on publishing polls, together with introducing safeguards against potential manipulation and attempts to exert undue influence on public opinion, by defining high transparency standards for commissioners, authors, and poll methodology. However, this has not yet been addressed in the electoral reform.

RECOMMENDATION 21.

Entrust the Agency for Electronic Media with the competence to supervise broadcasters' compliance with electoral provisions, with appropriate powers to impose penalties and enforce the law, and provide for a graduated system of effective, proportionate, and dissuasive penalties for broadcasters that violate the law.

The new Law on Audio-Visual Media Services significantly upgrades the regulatory framework and bolsters the Agency for Audio-Visual Media Services (AMS) by defining oversight more clearly and introducing a more developed sanctions regime. However, the provisions in the LECMP on media presentation have not been revised and still need to be aligned with the media legislation.

The Law on Audio-Visual Media Services sets out AMS's procedure and decision-making in cases of legal violations: proceedings are initiated ex officio, based on AMS's own findings or upon a natural or legal person's complaint. Unlike the former legal solution—under which the sanctioning system was much more limited and in practice largely came down to issuing reprimand or two extreme measures (provisional and permanent revocation of a license)—the new Law also introduces a fine as an intermediate measure, thereby closing the previously identified gap between mild and the most severe sanctions. The Agency oversees broadcasters with respect to election campaigns and political advertising, but its competence in this field is primarily based on the Law on Audio-Visual Media Services and not on the LECMP.

The Law on Audio-Visual Media Services defines political advertising as any advertising—whether paid or unpaid—that promotes the activities, ideas, or views of a confirmed electoral list submitter or a candidate. Unlike the previous legal arrangement, the new Law explicitly limits political advertising to the period of an election or referendum campaign and provides that it must be conducted in accordance with special rules adopted by the Agency's Council. Given that decisions on imposing measures largely depend on the Agency Council's interpretation, and that the special rules on political advertising further regulate how the statutory provisions are applied, consistent implementation and AMS's institutional commitment will be crucial in practice. This is particularly important to emphasize given that the parliamentary majority in the Parliament of Montenegro has for more than a year failed to appoint the two missing members of the Council, which indicates the risks of political influence over the work of this body.

LECMP still contains a problematic provision on the establishment of a special parliamentary committee that would monitor the implementation of media-related portion of electoral legislation. This arrangement has been criticized repeatedly by the European Commission, as well as by the media community itself, which has stressed that politicians must not have a role in media oversight.[17] Experience from previous electoral cycles also shows the unsustainability of such a model: the committee operated only to a limited extent during the 2016 elections; in 2020 it was formally established but failed to hold a single session due to a lack of quorum; and in subsequent electoral processes its establishment was not even considered. All of this clearly shows that this provision has become essentially unenforceable and has no functional purpose in the electoral system.

[17] Dragan Koprivica, Milena Gvozdenovic, Milica Kovacevic, *How to Stop Democracy Downfall: 35 Recommendations for Electoral reform,* Center for Democratis Transition, 2023.

RECOMMENDATION 22.

Consider introducing additional safeguards to prevent the misuse of state resources and incumbency, including extending the employment ban to temporary contracts; improving the transparency of public spending through easily accessible and searchable tools; training public officials, candidates, and voters on ethical standards; introducing effective and swiftly enforceable penalties; and strengthening civil society's oversight capacities, including through the use of information and communication technologies.

The amendments to the LFPEEC addressed the issue of misuse of state resources, while the provisions of the LECMP dealing with these matters remained unchanged.

Under the LFPEEC, the employment ban is expanded, since during the election campaign it is no longer permitted to conclude service contracts and contracts for temporary and periodic work, and a ban on amending staffing systematization is also introduced. These measures now also cover state-owned companies and municipalities, as well as independent, autonomous, and regulatory agencies, thereby expanding the scope of regulated entities. At the same time, however, a key transparency mechanism has been removed by deleting compulsory submission and publishing employment decisions. Thus, although prohibitions and sanctions are prescribed, the Law does not provide for adequate procedural mechanisms that would enable the Agency for the Prevention of Corruption to detect violations in a timely manner and initiate proceedings, which may limit the practical application of these rules. Therefore, the key issue here will be how the Agency plans and organizes, in practice, oversight of hiring and engagement of persons.

RECOMMENDATION 23.

Update the electoral legislation to further specify what constitutes the misuse of public resources and public office, in order to ensure appropriate safeguards against such practices, as well as an effective oversight system and dissuasive sanctions for violations.

The new LFPEEC introduces the concept of a ban on incumbency campaigning. It explicitly prohibits public officials from participating in publicly funded

events, organizing or attending ceremonies and openings of facilities during the pre-election period, as well as using office and public resources for campaign purposes. At the same time, civil servants are prohibited from taking part in any campaign activity during working hours, which strengthens the political neutrality of the administration. Violations of these provisions are subject to fine.

During the reform process, no harmonization was carried out with the relevant provisions in LECMP.

RECOMMENDATION 24.

Fully decriminalize defamation, and revise vague and broadly defined legal provisions on speech content and false information, in order to ensure legal certainty and predictability and to align their application with international standards.

Despite the very broad formulation, prospective amendments to the provisions of Article 52[18] of LECMP were not considered as part of the electoral reform. ODIHR has recommended revising it in order to prevent possible restrictions on freedom of expression.

The provision of the Criminal Code of Montenegro (CCMN), which had previously concerned causing panic and disorder by stating or disseminating false news, and which had been criticized for its potential misuse and for restricting freedom of expression—especially given that the CCMN does not define the concept of "false news" at all—was amended in December 2023.

Numerous universally accepted standards for democratic elections address disinformation through the prism of protection of the right to an informed choice, equality among participants, and freedom of expression. Montenegro now faces the task of incorporating these standards into its electoral and media legislation, while ensuring that any restriction in the area of disinformation is grounded in law and complies with the principles of necessity and proportionality, as required by the European Convention on Human Rights and confirmed by the case law of the European Court of Human Rights.

[18] Pre-election campaign runners are required to observe the Constitution of Montenegro, the laws, and codes of professional ethics, and to commit to fair conduct freed from insults and defamation, breaches of standards of decency, or offending public sensibilities.

RECOMMENDATION 25.

Legally require public institutions, political parties, and the media to provide voter information and information on the election campaign in accessible formats.

The latest amendments to LECMP did not introduce provisions requiring that campaign information be made available to persons with sensory impairments or intellectual disabilities. On the other hand, political parties still do not assume measures to ensure the inclusive participation of persons with disabilities in election campaigns and in political activities in general.

In line with international standards and good practice, as well as previous ODIHR recommendations, the Law should aim to ensure the accessibility of political information and materials for persons with different types of disabilities, including broader availability of election-related information in accessible formats, such as easy-to-read and easy-to-understand versions, sign-language interpretation where needed, subtitles for video materials, and Braille.[19]

The law requires the public broadcaster to provide sign-language interpretation when organizing debates involving the sponsors of confirmed electoral lists and candidates. However, practice has shown that the existing provision should be further strengthened, given its inconsistent implementation. By engaging only one interpreter who is a staff member, RTCG in practice does not fully meet the legal obligation to provide sign-language interpretation during candidate debates. Due to objective constraints, the interpreter is forced to take breaks during the broadcasts, and the absence of a second interpreter means that interpretation is not provided throughout the entire programme, including candidates' rebuttals. This leads to inconsistent interpretation for participants and provides people with hearing impairments only partial access to the information. This situation directly disadvantages voters with hearing impairments, who are not able to exercise their voting rights on an equal footing with other voters.

[19] ODIHR Opinion on the Law on Election of Councillors and Members of Parliament and the Law on Election of the President of Montenegro, Warsaw, 2 June 2025. Available at: https://www.osce.org/sites/default/files/f/documents/2/3/592840.pdf

RECOMMENDATION 26.

Revise and supplement the provisions of the electoral legislations to facilitate independent voting for persons with disabilities, including by abolishing the requirement to submit prior requests to obtain election materials in accessible formats, and ensure the broad availability of accessible election information, with an obligation on the competent authorities to assume steps towards guaranteed accessibility of polling stations and the availability of assistive devices for voters.

The amendments to LECMP did not clarify whether voting outside a polling station must be conducted within the area covered by that polling station, within the territory of the relevant municipality, or anywhere in the country. Meanwhile, existing measures intended to facilitate voting for PwD—including assisted voting and voting outside a polling station—are not sufficient to ensure the independent exercise of the right to vote.

The Law provides for voting with the assistance of an aide, voting by post, and voting with the help of a ballot template. However, all three provisions should be further clarified and strengthened through the principles of accessibility and the availability of multiple options, in order to enable dignified, independent, and secret voting. It is also necessary to remove the obligation to submit a request to notify the ministry responsible for voter registers no later than 15 days before the Election Day, as this is not in line with international standards. In this regard, election information should be widely available online, in a user-friendly format that ensures independent, simple, and non-discriminatory access.

The Law also misses specific provisions regarding the candidacy of persons with disabilities, nor does it encourage the exercise of their passive voting rights. Such arrangements are necessary given the long-standing and deeply rooted social inequality affecting this community. Although the existing legal arrangement on voting rights does not formally impose a barrier to the candidacy of persons with disabilities, it is not in itself sufficient to enable and encourage their participation.

RECOMMENDATION 27.

Introduce effective, proportionate, and dissuasive sanctions for violations at polling stations, along with a mechanism for prompt and efficient enforcement, while ensuring that dissolving polling boards, annulling the vote, and ordering repeat voting are reserved for more severe irregularities that could have affected the election outcome.

The existing legal arrangements still provide for the dissolution of a polling board and repeat voting in a wide range of situations, including those in which the violations are not of such a nature as to affect the integrity of voting or the election outcome. In line with international good practice, repeat voting should be clearly and comprehensively regulated and required only in cases of more serious violations that may partially or fully affect the election outcome and the allocation of seats, with the possibility of appeal.[20] The Venice Commission clearly emphasizes that, as a rule, repeat voting should not be held in case of a minor irregularity that could not have affected the number of seats.[21]

In practice, political actors sometimes invoke mandatory repeat voting in close races in an attempt to influence the final outcome. The latest example is the 2024 local elections in Kotor, when the Constitutional Court, deciding on an election complaint, found that the irregularities at two polling stations were not of material influence on the election result, and therefore the conditions for annulling part or all of the electoral process were not met. The Court also pointed out that not every irregularity is grounds for annulling the electoral process, but only those that could materially affect the election result.[22]

[20] *ODIHR Opinion on the Law on Election of Councillors and Members of Parliament and the Law on Election of the President of Montenegro, Warsaw, 2 June 2025. Available at: https://www.osce.org/sites/default/files/f/documents/2/3/592840.pdf*

[21] Venice Commission, ODHIR, Urgent joint opinion on the Draft Law on Elections of Members of Parliament and Councillors - https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2020)007-e

[22] Constitutional Court of Montenegro, "Appeal on the Kotor elections rejected; the 'Swiss-franc borrowers' case also resolved" Available at: https://www.ustavnisud.me/ustavnisud/objava/blog/7/objava/244-odbijena-zalba-na-izbore-u-kotoru-rijeseni-i-svajcarci

RECOMMENDATION 28.

To safeguard integrity and accountability in vote counting and result tabulation, the Law should establish an official procedure for correcting polling board records when figures do not reconcile. Where discrepancies affect the results, municipal election commissions should be required to conduct a recount—attended by political contestants' representatives and observers—before annulling the vote, and any repeat voting should be limited to the specific polling station in question.

The Law does not provide for a recount of votes or an official procedure for amending polling board records when figures do not reconcile, even though such verification is often necessary before deciding to annul voting. This normative gap has been criticized repeatedly by the OSCE/ODIHR and the Venice Commission, but their long-standing recommendations have still not been implemented.[23]

RECOMMENDATION 29.

Provide in the electoral law for the right of an electoral list and a quorum of voters to challenge special reports on preliminary election results. The body competent for complaints should have the authority to annul elections when it finds that irregularities could have affected the election outcome.

The law still does not stipulate that polling board records and election materials should be delivered by the polling board chair and two members representing opposing political entities, which is an international good practice aimed at preserving the integrity of election materials during transport.

Moreover, the law still does not provide for the right to challenge final election results, and repeat voting is foreseen only for individual polling stations, but not for the territory of an entire municipality or the state, which is contrary to international standards.[24]

[23] ODIHR Opinion on the Law on Election of Councillors and Members of Parliament and the Law on Election of the President of Montenegro, Warsaw, 2 June 2025. Available at: https://www.osce.org/sites/default/files/f/documents/2/3/592840.pdf

[24] Venice Commission, ODHIR, Urgent joint opinion on the Draft Law on Elections of Members of Parliament and Councillors - https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2020)007-e.

The Law on the Constitutional Court provides that where an irregularity in the electoral process has had a material effect on the election result, the Constitutional Court may annul the entire process, specific parts of it—identified in detail—or particular procedural actions that must likewise be precisely indicated. However, the law does not define which irregularities meet this threshold. Cases such as Savnik illustrate how serious violations can therefore go without effective legal protection, leaving this provision largely declaratory rather than a practical safeguard of electoral legality.

RECOMMENDATION 30.

Consider expanding voters' rights to lodge complaints on any aspect of the electoral process, including the possibility of challenging election results subject to a reasonable quorum.

Electoral reform has not addressed the highly complex issue of resolving electoral disputes, which in practice creates serious problems that directly affect citizens' right to democratically choose their authorities. Elections in Savnik—where the MEC could not secure a majority to call repeat voting—and the situation in Kotor, where the Constitutional Court failed to rule on an electoral complaint in a timely manner, underscore the shortcomings of Montenegro's electoral system and its vulnerability to political manipulation.

Despite ODIHR's recommendations, voters' right to lodge complaints is limited only to violations of individual rights, meaning there is no possibility to challenge issues such as candidate registration and election results[25] which is contrary to the OSCE Copenhagen Document of 1990.

The law provides that objections to a polling board's decision, act, or omission are filed with the MEC, while objections to an MEC decision, act, or omission are filed with the CEC. It further allows an appeal to the Constitutional Court against CEC decisions that dismiss or reject objections concerning a polling board or the MEC. However, further objections and appeals are permitted only where an objection has been dismissed or rejected. As a result, a party dissatisfied with a decision that upholds an objection has no avenue to challenge it before the CEC or the Constitutional Court, undermining legal certainty.

[25] ODIHR Opinion on the Law on Election of Councillors and Members of Parliament and the Law on Election of the President of Montenegro, Warsaw, 2 June 2025. Available at: https://www.osce.org/sites/default/files/f/documents/2/3/592840.pdf

The procedure for deciding on electoral appeals is short. However, in practice, a problematic issue remains the Constitutional Court's interpretation of statutory deadlines: it uses a legal loophole and prolongs the proceedings by delaying the delivery of appeals and the request for a response from the competent election commission.

In light of transparency concerns in the handling of objections and appeals, an important recommendation is to introduce rules into the law that would ensure transparency and public access to decisions on electoral disputes.[26]

Amendments to the Law on the Constitutional Court are currently being prepared under the Ministry of Justice's coordination, which may provide an opportunity to address the identified shortcomings through inter-institutional cooperation.

RECOMMENDATION 31.

Ensure that all breaches of electoral law carry with proportionate, dissuasive sanctions, and that misdemeanour provisions comprehensively cover all potential violations and offenders.

Within the electoral reform process to date, the penalty provisions of LECMP have not been amended or improved.

ODIHR has pointed out that the LECMP does not foresee a coherent system of sanctions; that the prescribed penalties are neither dissuasive nor proportionate, and that there are no sanctions for members of election commissions in violation of the law, apart from the possibility of dissolving polling boards.

RECOMMENDATION 32.

Amend the Law on Election of the President to define and govern all aspects of the second round of presidential elections.

[26] Venice Commission, ODHIR, Urgent joint opinion on the Draft Law on Elections of Members of Parliament and Councillors - https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2020)007-e.

During the second round of the 2023 Presidential Elections, numerous practical and legal uncertainties arose, regarding the deadlines for electoral actions, the impact of objections and appeals on the proclamation of first-round results and the holding of the second round, the composition of election administration bodies, the possibility of accrediting observers, etc. Since LECMP does not recognize a two-round model, a legal gap exists that directly affects the clarity, predictability, and legality of the electoral process.

At the time, the State Election Commission (SEC) successfully addressed these ambiguities and, by way of conclusions and instructions, developed a body of practice. These arrangements should have been used and incorporated into the electoral legislation within the electoral reform, in order to complete the legal framework for the second round of presidential elections.