

Civic Monitoring of the Parliamentary and Local Elections – Montenegro 2016



Britanska ambasada
Podgorica



Kingdom of the Netherlands



Final Report



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The 2016 Parliamentary and Local elections in Montenegro were held in accordance with the electoral legislation and the majority of international standards in this area, although the electoral process was marked by orderliness of the electoral register, politicisation, inefficiency and a lack of transparency in the work of the State Election Commission.

I Summary of conclusions

The overall impression is that neither the new electoral legislation, nor the Government of Electoral Trust, the State Election Commission, the Ministry of Internal Affairs, nor any of the other bodies or political entities responsible for restoring trust to the electoral process caused an increase in trust in the electoral process among the overall population; on the contrary, these led to even greater degree of distrust of citizens.

The legal framework is inadequate, inconsistent and outdated. Continuous and numerous amendments and changes to the basic law made clear the need for a comprehensive electoral reform, for both the legal and institutional frameworks, which will guarantee the full integrity of the electoral process and the restoration of the public's trust in it.

The existing electoral system, which has one national multi-seat constituency, without the possibility of preferential voting, minimises the impact of voters on the election of MPs, thereby significantly weakening the relation between citizens and their representatives, as well as diluting MPs' responsibilities for their actions.

In the decision-making process and in the regular work of the State Election Commission (SEC), it was evident that the members of the SEC were driven by party interests and not by respect for the legal regulations. Some of the SEC's important decisions were highly politicised and adopted by outvoting, even though they were not opposed in the legal procedure.

The work of the SEC was not open enough for the public, and at some moments completely non-transparent. This problem was clearly exposed after the adoption of the preliminary results of the election, and it was expressed through the unwillingness for full cooperation with the accredited domestic observers. The decisions of the SEC were not regularly updated and later completely removed from the website, while the SEC did not meet the requirements of observers to have access to required documents after adopting the preliminary results.

It is important to emphasise the commitment and dedication of the operating staff of the SEC, which completely met expectations regarding their professional attitude towards the work, in accordance with the possibilities that were available, and to some extent this improved the overall impression of the functioning of the work of the SEC.

Some Municipal Election Commissions (MECs) were not constituted in accordance with the law.

In the MEC of the capital Podgorica and MEC Herceg Novi, domestic observers encountered problems during the collection of data because of the unwillingness of the president of the commission to cooperate.

The number of members of the electoral administration with the right to vote during the parliamentary elections is concerning and makes the work of the electoral administration, especially the decision-making process, extremely difficult. In some situations, especially in the work of

Polling Boards, it was nearly impossible to determine the exact number of appointed members (e.g. in municipalities where the local and parliamentary elections were being held at the same time, the number of members of the Polling Boards in its expanded composition could vary between 29 and 33, without deputy members). It is questionable whether Article 43 of the Law on the Election of Councillors and Representatives was respected during the decision-making process, especially bearing in mind that many appointed members of the expanded composition of the Polling Boards did not turn up at their polling station during the election day.

Although the consistency of the training of the Electoral Committee was jeopardised by lack of interest within the SEC to eliminate all the uncertainties and respond to the key questions of the training participants in a timely manner, we believe that the organisation of the training for members of the Polling Boards was useful and therefore should become the regular practice of the SEC before every electoral process.

The Ministry of Internal Affairs did not manage to efficiently remove people from the electoral register who did not meet the requirements of being voters, not even in cases when they had evidence, due to unclear procedures and the non-existence of effective legal mechanisms for their removal from the register of residents, in the Law on Registers of Temporary and Permanent Residents.

The Minister of Internal Affairs did not sign the Decision on the closure of the electoral register, thus expressing his position regarding the deficiencies that the electoral register contained. The Government of Montenegro authorised the Secretary of the Ministry of the Internal Affairs to issue a Decision on the closure of the electoral register, which was submitted to the State Election Commission within the statutory deadline.

Due to alterations to the existing legal regulations, almost 120,000 voters had their polling stations changed in the process of preparing the electoral register. Most of the voters were informed in time about the changes by the Ministry of Internal Affairs through Montenegrin postal service, therefore no major problems occurred with voters being unable to find their polling station, especially given that several mechanisms for checking their polling station were established by the Ministry of Internal Affairs.

The political effect that is mirrored through the composition of the council of Anti-Corruption Agency, as well as the method of the election of the director of the Agency in this electoral process, significantly affected the inability of the Agency to deal with the obligations it has, according to the Law on the Financing of Political Parties and Election Campaigns.

During the electoral process, the Agency did not take a proactive role in removing legal uncertainties regarding the obligation of political entities to open a special bank account for financing the election campaign, nor towards a unified respect for the obligation of political entities to submit biweekly reports on funds collected from private sources and the expenses incurred during the election campaign.

The Agency's reports on the implemented monitoring of the work of political entities and bodies of state administration, which it published during the electoral process, did not show the details, methods or specific conclusions of the audits that had been carried out.

New amendments to the Law on the Election of Councillors and Representatives led to a greater participation of women in the Parliament of Montenegro. However, it is shown that the legal decision was inadequate, and although the obligation that one-third of the candidates on the list must be from the less represented gender exists, this decision has yielded a low percentage of actual participation of women to only 23%.

Illegal actions by the SEC and the Parliament of Montenegro when it comes to the replacement of candidates of the less represented gender are of great concern, since the legal procedure was not respected, and male candidates were favoured on the list of the Democratic Party of Socialists.

The political campaign for the 2016 parliamentary elections was significantly more dynamic, and in some segments more aggressive compared to the previous electoral cycles. The campaign had a negative tone on both the local and national levels, it started long before verification of the electoral lists and more techniques of campaigning were used than during the previous elections.

II Introduction and acknowledgements

The Centre for Monitoring and Research, CeMI, is a non-governmental organisation that was established in May 2000 with the aim to provide infrastructure and expert support for the continuous monitoring of the overall process of transition in Montenegro.

Bearing in mind the significance of the elections for all citizens of Montenegro, CeMI has been continuously organising the civic monitoring of elections since 2000. Through the realisation of this project of civic monitoring of elections, CeMI aims to contribute to democratic conditions for the implementation of transparent, free and fair elections through civic monitoring of the electoral process in parliamentary and local elections.

CeMI's observer mission accredited a total of 1,463 observers for monitoring the electoral process for these elections. The mission consisted of core team members: (1) the head of mission; (2) the deputy head of mission; (3) an election expert; (4) a legal expert; (5) a parallel vote tabulation expert; (6) a short-term observer coordinator; (7) a long-term observer coordinator; and (8) a logistics and finance coordinator. CeMI also enlisted a team of six long-term observers and a network of local coordinators and mobile observers.

CeMI would like to thank *the British Embassy in Podgorica, the Embassy of Federal Republic of Germany in Podgorica and the Embassy of the Kingdom of the Netherlands in Belgrade*, which financially supported the project of civic monitoring of the elections and made this mission possible.

CeMI would also like to express its gratitude to all the representatives of the electoral administration, state bodies, political parties, international observers' missions and domestic non-governmental organisations, with whom cooperation on conducting this mission was established.

CeMI realised a range of activities within the civic monitoring of the elections. One part of those activities was focused on enhancing the capacities of the state bodies. In order to provide support for police officers and state prosecutors in the implementation of more efficient protection of voters' rights, CeMI organised training for police officers and state prosecutors by engaging reputable experts from the region. Supervision of the extent to which the electoral legislature was abided by was organised through monitoring the work of the State Election Commission (and of the Municipal Election Commissions) in relation to proper implementation of the Law on the Election of Councillors and Representatives and the Law on the Electoral Register, monitoring of the Anti-Corruption Agency's work regarding implementation of the Law on the Financing of Political Parties and Election Campaigns and supervision of misuse of state resources in the pre-election period. Also, special attention was paid to supervision of the work and reporting of the media during the election campaign and supervision of the electronic voter identification system. CeMI was actively involved in the work of the Coordinating Body for Supervision of the Implementation of the Electoral Process, as well as in the process of monitoring the electoral register, its alteration and updating.

CeMI formed teams of long-term observers that carried out monitoring of the overall

pre-election campaign process, and it accredited the largest mission of short-term observers. On the election day, observers reported the voter turnout percentage and any irregularities to the legal team and computing centre, and at the end of the election day, they reported the results of the voting. By using a web application, social networks, regular press conferences and direct links to the media, citizens had the opportunity to follow live data collection and they had an insight into the turnout, results and irregularities. Projections of the results that CeMI presented during the election night did not deviate from the allocation of seats that was carried out by the State Election Commission.

After the election day, CeMI presented its Preliminary Report with key analysis, and in this Final Report, a general assessment of the election process is given.

III Political context

In the 2012 parliamentary elections, the pre-election coalition European Montenegro (made up of the Democratic Party of Socialists, the Social Democratic Party, the Liberal Party and the Democratic Party) won a total of 46.33% of the votes, and subsequently formed a post-election coalition along with the Bosniak Party, the Croatian Civic Initiative and FORCA, which entered the composition of the new government. The post-election coalition had 44 seats.

During the previous convocation of the Government of Montenegro, a reconfiguring of the political landscape occurred, caused by the SDP's voting against a motion of confidence in the government in January 2016. After the SDP party congress at which Ranko Krivokapic was re-elected president, a significant part of the leadership and members left the party to form a new one – the Social Democrats of Montenegro, with Ivan Brajovic, the Minister of Transport at the time, as the party's leader. The Democratic Front (DF) – the largest opposition coalition in the convocation of the Parliament of Montenegro – was abandoned by its leader Miodrag Lekic, along with several other DF MPs, with whom he formed a new political party called DEMOS. Several MPs and members of the leadership of Positive Montenegro formed the Civic Movement URA with Zarko Rakcevic, the former president of the SDP who had resigned in 2001 as party leader. The second largest opposition party, the SNP, also divided into two parties as a result of internal disagreements. Separating itself from the SNP, Democratic Montenegro was formed, with Aleksa Becic, a councillor in Podgorica Municipality, as party leader, who had been affirmed as the head of the SNP's list at the local elections in Podgorica in 2014.

The term of office of the previous government was marked by several events which influenced the creation of political instability and the reduction of public trust in the integrity of the election process. In April 2013, after presidential elections were held, both candidates for president claimed victory. In October 2015, the Democratic Front organised protests against the ruling party, in order to form a transitional government made up of opposition political parties. The protest ended in open conflict between the protestors and the police, and a parliamentary dialogue was initiated after these events, in order to achieve confidence in the election results for the subsequent election cycle. In the meantime, the motion of confidence in the government of Milo Djukanovic was passed and Positive Montenegro suggested the formation of a government of electoral trust, which DPS accepted and offered the opposition the opportunity to become a part of the executive branch of the government by giving control over the realisation of the election process to the opposition. The offer was defined through the **Agreement on Creating Conditions for Free and Fair Elections**, which was signed by

DEMOS, SDP, URA, Positive Montenegro, SD, the Bosniak Party, and DPS, and which was carried out according to a *lex specialis*, the **Act on the Implementation of the Agreement on Creating Conditions for Free and Fair Elections**¹.

Based on the proposal from the opposition parties DEMOS, URA and SDP, and the mentioned Act, **the government of electoral trust** was appointed, in which opposition political parties obtained the positions of Deputy Prime Minister, Ministers of Finance, Internal Affairs, Labour and Social Welfare, as well as Agriculture and Rural Development. The jurisdiction of the opposition representatives in the Government and authorities of central and local government, public corporations and companies with major national capital, was limited to monitoring and controlling the usage of state resources, the resources of municipalities, the capital city and Cetinje, and the engagement and termination of public service employment with individuals appointed by the Agreement. The function of the members of the government of electoral trust that were appointed based on the Agreement began on the day when the **Act on the Implementation of the Agreement on Creating Conditions for Free and Fair Elections** came into force and ended on the day of the determination of the final results of the elections for MPs in the Parliament of Montenegro.

Political debate was mostly marked with the theme of Montenegro joining NATO, more precisely, the engagement of Russian citizens during the electoral process. The statements of some Russian officials were noticeable, as well as accusations from the ruling Montenegrin structures that part of the opposition was financed from Russia, in order to stop the ratification of the accession protocol that Montenegro signed with the NATO alliance.

On 11 July 2016 the President of Montenegro called parliamentary elections, and the elections were scheduled for 16 October. The State Election Commission confirmed 17 electoral lists, which is the most since the elections held in 1998. Simultaneously, local elections were called in Andrijevica, Budva, Gusinje and Kotor.

The election results led to significant changes at the local level. The ruling party, DPS, lost elections in the municipalities of Budva and Kotor, while it won the election in Andrijevica.

At the national level, DPS was able to form a ruling majority with SD and minority political parties, with a total of 42 MPs. On the other hand, in spite of the fact that the election results were not challenged on the night of the elections, nor the day after, they were questioned at the later stage. The reason behind the opposition political parties disputing the election results were the actions taken by the Chief Special Prosecutor (CSP) in order to prevent, as stated by the CSP, terrorism and a series of actions aimed at taking over power in a violent manner. According to the opposition, the issuing of this information on the election day and its exploitation by the media resulted with lower turnout of the electorate, which enabled DPS to reach the majority with its coalition partners. Moreover, the opposition political parties came to the same conclusion in the case of decision of the Agency for Electronic Communications to block the usage of the applications Viber and WhatsApp in the territory of Montenegro. The Supreme State Prosecutor, Ivica Stankovic, and the CSP, Milivoje Katnic, held a press conference aimed at informing the public about the actions undertaken during the election day. The opposition political parties are currently boycotting the work of the Parliament and requesting a rerun of the elections.

The opposition political parties do recognise the election results at the local level. Hence, they have formed a local government in Budva and are in the process of forming a local government in Kotor.

All the political parties, both those that are participating in the work of the Parliament and those that are boycotting it, receive money from the state budget for their work, while all MPs receive monthly salaries and benefits. The only exception is the Democratic Front, as

¹ Official Gazette of Montenegro, No 32/16, available on <http://www.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/1076/1129-7212-23-3-16-1.pdf>.

the Anti-Corruption Agency has blocked it from receiving funds for campaigning, to which they are entitled based on their election results. The reason behind this decision, according to the Anti-Corruption Agency, is violation of the Law on the Financing of Political Parties and Election Campaigns by this coalition electoral list. This is the first time any political subject has been this rigorously punished by an authority in Montenegro.

IV Legal framework and electoral system

A. Legal framework

The Constitution and the Law on the Election of Councillors and Representatives represent the basic legal regulations which regulate the manner of exercising suffrage and the procedure of organising elections at all levels in Montenegro. The Constitution of Montenegro states that every citizen of Montenegro, who is 18 years old and has at least two years' residency in Montenegro, has the right to vote and be voted for, in Article 45. Suffrage is to be exercised in elections, according to the Constitution. The Law on the Election of Councillors and Representatives also regulates: the method and procedure for the election of councillors in local government, municipalities, the capital and in Cetinje; the election of MPs in the Parliament of Montenegro; the organisation, composition and jurisdiction of the authorities in charge of the implementation of elections; the determination of the voting results and the distribution of seats; the protection of suffrage and other questions of importance regarding the organisation; and the implementation of elections.

Besides the Constitution and the Law on the Election of Councillors and Representatives, a range of laws in the field of election legislation is also constituted of: the Law on the Financing of Political Parties and Electoral Campaigns; the Law on the Electoral Register; and the Law on Political Parties. Also of importance are the laws in the field of broadcasting – the Law on Electronic Media and the Law on the Public Broadcasting Services of Montenegro.

Electoral legislation, in particular the Law on the Election of Councillors and Representatives and the Law on the Financing of Political Parties and Electoral Campaigns, is incomplete, inadequate and often contradictory. As such, it causes issues in the realisation of the election process. First of all, the core legislation does not define some of the basic concepts addressed throughout the legislation, which caused a large number of problems and inconsistencies during the 2016 parliamentary elections. Some of the most important issues were: **imprecise usage of the term “biometric ID”** in the Law on the Election of Councillors and Representatives, despite the fact that Montenegrin citizens do not have biometric IDs – this situation made it possible for anyone to challenge any vote based on biometric ID voter identification²; **imprecise definition of an invalid ballot**, which defines an invalid ballot as a ballot filled out in such a way that it is impossible to determine which list was voted for, whereas Article 73 of the same law stipulates that voting can be conducted only by circling a certain list – thus, the issue of voting for a certain list by use of any other symbol remains

2 CeMI has publicly advocated for an initiative for changing the Law on the Election of Councillors and Representatives related to the provisions regarding voters' identification, where voters could use their rights, with an ID that is not biometric, in an urgent Parliamentary procedure. However, this initiative was ignored by political and decision making entities, which have silently decided to ignore the fact that legal requirements were not respected, i.e. the Law was interpreted in an arbitrary manner.

open; **imprecise definition of a “political subject”** in the Law on the Financing of Political Parties and Electoral Campaigns has created a dilemma regarding deadlines for reporting on campaign expenditures and political subjects’ obligation to open separate bank accounts prior to the campaign; an **overly generalising definition of election monitoring**, which has to a certain extent limited the accredited observers in exercising their right to have insight into election materials, etc.

B. The electoral system

A proportional party list system (List PR) is used in Montenegro. The candidate lists are closed and blocked, without the possibility of preferential voting. Montenegro is a single constituency where 81 seats are allocated for 81 elected representatives of a unicameral parliament.

All registered parties, coalitions or groups of citizens have the right to nominate their candidates for the electoral list: at least two-thirds (54) of the members, up to a maximum of 81, the number of members of Parliament, except for groups of citizens or political parties representing minority nations or minority national communities, which are required to nominate a minimum of one-third (27) of the total number of candidates to be elected, can be on the electoral list.

Pursuant to Article 39a of the Law on the Election of Councillors and Representatives, 30% of the candidates from each electoral list must be from the less represented gender in such a way that at least one out of every four candidates on the list must be from the less represented gender.

Despite several amendments to the Law on the Election of Councillors and Representatives, independent candidates and individuals are still not allowed to participate in the elections, although this was a recommendation of the Venice Commission, and the various missions of the OSCE and ODIHR.

For the allocation of seats to political parties, the D’Hondt formula is used, with the use of a differentiated legal electoral threshold. Only those lists that exceed the projected electoral threshold will be included in the process of seats allocation using this method.

An electoral list must receive at least 3% of the valid votes, which is the legal electoral threshold in Montenegro, in order to participate in the distribution of seats. A legal electoral threshold does not exist for the lists of minority people groups. The right of positive discrimination, defined by Article 94, paragraph 2 item 1, is used by the lists of members of a certain/the same minority, or a certain/the same minority national community, which constitutes up to 15% of the total population in the constituency, according to the data from the most recent population census. The legal electoral threshold, in the case of minority parties, is set as a requirement to win the seat in the case of the Croatian minority, or to include the result of a minority list in the collective list of the same minority nation or minority community (used within the Albanian minority).

The provisions of the Law on the Election of Councillors and Representatives that govern the distribution of seats are rather imprecise and incomplete, especially when it comes to minority representation.

In the case of the Croatian minority, the law states that in case none of the electoral lists for the election of representatives of the Croatian people in Montenegro passes the 3% threshold, the most successful of them, if they have at least 0.35% of the valid votes, shall gain the right to one seat. However, if one of them wins at least 0.7% votes, it shall lose that right, therefore its status is equal to that of other minority people groups.

When it comes to other minorities, there is no such mechanism. The Croatian minority is an important exception. For other minorities the provision is that if more than one list exceeds the legal census of 0.7% their individual results are treated as a single list that then enters the process of seat allocation along with the other lists that have qualified. The effect of addition is limited in a way that the calculation of seats may provide up to three seats.

Such inadequate solutions might undermine the concept of positive discrimination towards minority people. Namely, in the case of the Croatian minority, if a list has a result better than 0.7%, then it loses its right to get a seat on the basis of gaining 0.35%, therefore, the d'Hondt formula applies with hardly any possibility for it to win a seat. In the case of minority lists, the maximum number of seats a joint list can win is limited to three. There is a possibility that a joint list may deserve a far larger number of seats, but it is deprived of that right – the citizens who vote for them are deprived of their representatives.

It is important to notice that the legal framework puts members of the Roma minority population into an unfavourable position compared to minority communities with similar numbers of members. Although the Roma people, according to the national census, constitute 1.01% the total population and Croats 0.97% of the total population, Croats have the right to use the mechanism of positive discrimination in order to get an adequate representation in parliament of a minority community, while the Roma people do not have that right.

On a local level, more precisely the election of minority-list councillors, in case none of them meets the requirement of the legal electoral threshold of 3%, they are eligible to participate in the distribution of seats separately, with the number of valid votes obtained, whereas, the legal threshold will not be applied to them, but they will directly qualify for the process of distribution of seats according to the d'Hondt formula.³

Article 95, paragraph 3 of the law regulates how the seats will be distributed between the parties within the joint list of minority people. The distribution occurs in a similar way to the one that is used to distribute seats for the other candidate lists.⁴ At the 2012 elections, three Albanian minority parties won two seats using this mechanism.

An unresolved issue remains regarding the criteria to determine minority status for a list which carries privileged status, and therefore this is open to abuse. The law only provides guidance determinants of minority people in the electoral registration or the name of the electoral list.

The lack of an order of status and participation of minority lists is reflected in the case where a coalition is formed of minority parties and a party that is not a minority one, or two or more minority parties, which belong to minorities that have different rights (Croatian parties have the right to a particular type of reserved seat if they meet the legal threshold of 0.35%, others have the right to joint if they meet the legal threshold of 0.7%, while other parties that are not minority ones must meet the legal threshold of 3%). These possible cases are not legally regulated. In practice, cases of mixed coalitions have not been reported, so there has not been a problem regarding the interpretation of their status. Article 94, paragraph 5 regulates that if minority lists appear in coalition with other parties, which are not exercising their right to a joint list, the right for the minimal legal threshold of 0.35% for Croatian minority lists and the right from article 94 paragraph 2 for other lists of minorities are not abolished. It

3 “The right referred to in paragraph 2, item 3 of this article shall be exercised by electoral lists of members of a certain/the same national minority, that is a certain/the same minority ethnic community, that constitutes up to 15% of the total population at the state level and between 1.5% and 15% of the level of the total population of the capital or historical capital in accordance with the data from the most recent census.” (Article 94, paragraph 4, Law on the Election of Councillors and Representatives)

4 “The distribution of seats won by a cumulative electoral list to the individual electoral lists that make up the cumulative electoral list is done by dividing the total number of votes cast for each individual electoral list which constitutes the final electoral list by 1, 2, ... up to the total number of seats won by the cumulative electoral list. The resulting quotients are classified by size, being taken into account as many as the largest ratio of seats was won by cumulative electoral list.” (Article 95, paragraph 3 of the Law on the Election of Councillors and Representatives)

remains an open question whether this provision⁵ prohibits the use of a privileged position for coalitions created in that way. This remains unclear, and it is still not clear how it would be applied since there has not been any opportunity to interpret this norm.

Table 1: The main elements of an electoral system in Montenegro 2016

Number of MPs	Electoral system	Number of constituencies	Threshold	Electoral list type	Preferential vote	Electoral formula
81	Party list system	1	3% 0.7% 0.35%	Closed Blocked	No	D'Hondt

The existence of a single national, multi-seat constituency without the possibility for preferential voting reduces the impact of voters, i.e. citizens, on the election of their representatives. In a situation where the minimum number of democratic procedures that party needs to meet, especially when it comes to selection of candidates for MP and the election of party leadership, is not legally determined, parties remain in the zone of exclusive decision making by a narrow circle of people from the party leadership.

V Electoral administration

The composition and jurisdiction of bodies for the implementation of elections is regulated by the Law on the Election of Councillors and Representatives. The organs of the electoral administration are: the State Election Commission (SEC); Municipal Election Commissions (MECs) and Polling Boards (PBs). The work and decision-making process of the members of some MECs and the SEC is dominated by the party affiliation of the members of these bodies, and all decisions must be passed by a majority of the total number of members at each level of the electoral administration, including the authorised representatives of political entities which have an equal right to vote.

The highest body of the electoral administration is the **State Election Commission (SEC)**. It is composed of eleven members – the president, secretary and nine members of the standing composition⁶ – and one authorised representative of the submitter of each electoral list, who all have the same rights and obligations, but whose terms of office run from the day of their appointment by the confirmed list until the day of presentation of the final election results. All members, except the president and representative of the civil sector have the right to have a deputy, each member must have legal background, and a citizen of Montenegro and must have passive voting rights.

The State Election Commission, after the appointment of 13 authorised representatives of

5 “Participation in an electoral list by members of a certain minority nation or minority national communities in a pre-election coalition along with electoral lists consisting of members of another minority nation or minority national community, or electoral lists of political parties or groups of citizens who do not exercise their right under paragraph 2 of this article shall not prevent other submitters of electoral lists of that minority nation or minority national communities exercising the right referred to in paragraph 2 of this article.” (Article 95, paragraph 5 of the Law on the Election of Councillors and Representatives)

6 The president is directly elected by the Parliament of Montenegro, four members are from the ruling coalition and four from opposition parties determined by the number of seats won in Parliament, while one member is elected as a representative of minority parties and one member, for the first time in Montenegro, is elected as a representative of the civil sector.

electoral lists, numbered 24 members until the election day. One authorised representative was appointed on the election day,⁷ and three more authorised representatives of electoral lists were appointed after the elections.⁸ During the calculation of the final election results, the number of members of the SEC who participated in the decision-making process was 28, which is a record number of full members of one body for the implementation of elections in Montenegrin electoral practice, and at the same time it constitutes a very unpractical way of making decisions, because it requires a majority of 15 votes to adopt any decision. The work of the authorised representatives of electoral lists of the SEC is additionally complicated by frequent changes of the authorised members⁹ of electoral lists, as well as by insufficient human resources and space for the professional and smooth functioning of this body.

The institute and purpose of the authorised representatives of electoral lists additionally came under question after complaints from some political entities that after the election day, the additionally authorised representatives of electoral lists were controlled by the representatives of the two largest political entities: the Democratic Party of Socialists and the Democratic Front, instead of being true representatives of their electoral lists, especially because they had not been involved in work of the SEC during meetings, except during the voting process. This composition of the SEC during the electoral process and after the election day made the work of the SEC harder and the decision-making process more complex.

The decision made by the SEC regarding the preliminary and final election results confirms this statement. Namely, in the decision-making process and regular work of the SEC, the party-affiliated leadership of the SEC members was evident. When deciding on the preliminary election results, the standing members and authorised representatives ignored the necessity to respect the institutional and legal framework in order to provide a legitimate electoral process and on most occasions they voted guided by party interests. Obstruction of the work of the SEC and refusal to accept the election results by representatives of the opposition political parties is a clear example of voting based on party interests in the SEC, if we take into consideration that almost all the reports were signed by the majority of MEC members, representatives of both the ruling coalition and the opposition.

The process of determining the final results did not pass without obstacles, again caused by political manipulation. Namely, at the session where the decision regarding the declaration of the final election results was made, representatives of the Democratic Alliance of Albanians (DSA) created a chaotic situation.¹⁰ The particular legal and administration complication, to which we still do not have a final conclusion regarding possible abuses regarding the dismissal and appointment of the authorised representative of the Democratic Alliance of Albanians, actually confirmed that the work of the SEC during this process, and especially at the time of making decisions on the results, was an arena of political fighting and confrontation between political interests, and it did not work towards the legality of the entire process. The only exception to the politicisation of the voting of the SEC members was the representative of the civil sector, who was often under strong pressure from members of both the ruling and opposition parties. That was unfortunately the only example of professional decision making in the work of the SEC.

The presence of observers during the regular meetings of the SEC was a great opportunity for

⁷ Representative of the Alternative Montenegro Party.

⁸ The Party of Pensioners, Disabled and Social Justice, the Party of Serb Radicals and the Bosniak Democratic Alliance of Montenegro.

⁹ HGI, Alternative Montenegro, Positive Montenegro, etc.

¹⁰ Besides the high political tensions and long-lasting breaks, the process of voting for final results of elections was marked by the so far unseen situation in Montenegro, where a SEC member of one Albanian electoral list submitted a „formal“, written request for withdrawing of SEC members of another Albanian party list (DSA), on their behalf. However, during the session, the leader of the DSA list personally came to SEC, claiming that this request was falsified and their deputy SEC member, his son, continued to attend the session. After another long break, the primary DSA member has appeared at the session instead of the DSA deputy member and voted in favour of election results.

more serious analysis of the manner this body functions and makes decisions. The managing of the meetings was unprepared and extremely confusing, to the extent that some members of the SEC received the materials and agenda after arriving at meetings, and the observers from the civil sector were often informed about meetings immediately before they were to begin. Also, the premises for holding meetings became completely unsuitable once the representatives of political parties arrived.¹¹ Only after several meetings were the representatives of the civil sector included among those who received the materials needed for the meeting, and that happened only when the civil sector representatives in the SEC complained. Some meetings of the SEC lasted several hours, often late into the night, and the president of the SEC stopped meetings in many instances, without an explanation or the need for a break, while some breaks lasted several hours. Much attention was paid to formal and technical details, which significantly affected the concentration of members on carrying out quality work.¹² Due to the lack of professional management of the meetings, they were often marked by political tensions, walkouts by some members and even conflict situations between the president and representatives of the opposition. Also, the mechanism of managing and approving minutes was completely inefficient and unprofessional, since the minutes were prepared after the meeting, based on the memory of the secretary of the SEC and approved at the next session (sometimes a week later); therefore discussions regarding who said what very often sapped the time and energy of the SEC members. Also, an inadequate rulebook on the work of the SEC and the lack of good practice in its work led to many mistakes and delays.

Due to the undefined way of putting specific issues to a vote, especially complaints, situations would come about where some complaints that occurred in practice were dealt with differently and sometimes in a completely opposite way.¹³

The State Election Commission did not carry out regular and updated auditing of the electoral register. During the electoral process, the lack of regular communication and coordination of activities between the Ministry of Internal Affairs and the State Election Commission concerning auditing of the electoral register was evident. The SEC did not receive the updated electoral register on a regular basis, and it was necessary to send several urgent requests to the Ministry of Internal Affairs in order to get a CD with the latest updated version of the electoral register in order to audit the signatures of support. Also, the capacity of the SEC to carry out the audit of the electoral register was very limited.

The public had limited information about the activities of the SEC. During the most important part of the electoral process, the interested public could not find relevant information on the implementation of the electoral process on the SEC's website, nor on the decisions of the SEC that were directly related to the electoral process, which represents a violation of Article 32 of the Law on the Election of Councillors and Representatives. The SEC did not allow the presence of the media at the meetings. Some important decisions of this body during the electoral process were pushed through by majority voting,¹⁴ which is not a good

11 Observers were seated behind the members of the SEC, and later they sat with the authorised representatives of electoral lists, without the possibility to write notes at the table.

12 The meeting of the SEC that started on 6 September 2016 was interrupted and restarted three times. Some of the specific situations were: smoking being allowed during meetings, a situation where the president of the SEC put an opinion on biometric identification card on the agenda, but only presented it directly at the meeting; a discussion on "how many times an opinion should be read at a meeting" lasted three hours; basic formulations of the agenda items took up to one hour.

13 In some situations it was voted that a complaint should be accepted, and if the complaint did not receive a majority of the votes, a vote for a rejection of the complaint occurred, while in other situations only the acceptance of a complaint was put to a vote. Several times, none of the ways of voting gained a majority, which legally led to the complaint being "unadopted", which jeopardised the process of the legal protection of electoral rights.

14 For example, the decision on the opinion regarding the biometric identification card, described in CeMI's previous reports: the representative of the NGO sector asked for the session where this opinion was adopted to be open to the media, which was denied. This was also the case with the decision on criminal charges against political entities due to alleged abuses during the process of collecting the signatures of support for

basis for making decisions during the electoral process and it arouses suspicions about the integrity of the SEC's decisions. The process of tabulating and announcing the results was also not transparent to both the observers and the majority of the State Election Commission members, and mistakes during the processing of results during the first presentation to the SEC members were evident.

The SEC, in cooperation with the Organisation for Security and Co-operation in Europe (OSCE), carried out training of members of the polling boards, in order to prepare them for novelties in the electoral law, and especially for operating the new devices for the identification of voters. After the selection of trainers for the educators was carried out successfully and on time, the process of selecting educators for training the polling boards started relatively late. Several sessions of the SEC were dedicated to this essentially technical question. Although the training could not start before the polling boards were constituted, it seems that the process of selecting and training the educators should have started earlier and it should have been more transparent and carried out in more professional manner by the SEC. A particular problem was the inconsistent answers by the educators to the polling boards members' questions¹⁵ during the training, due to the SEC's lateness in adopting opinions on the most important aspects of the electoral process, which surfaced as doubts during the training. Namely, the SEC did not react in time to clarify specific uncertainties that arose during training sessions, and an opinion on valid and invalid ballots was only adopted immediately before the election day, after exhausting discussions during the SEC's meetings. CeMI's long-term observers were present at most of the training sessions. Their reports state that not all the polling board members attended the training, nor did their deputies. On the other hand, the duration of many training sessions was shortened at the request of the polling board members, while a similar situation occurred due to a lack of interest and inattention among the polling board members and their deputies. CeMI appealed on several occasions to the polling board members to approach this process responsibly and to start the process as soon as possible.

There are Municipal Election Commissions in 23 municipalities in Montenegro. The reconfiguration of the political landscape in many municipalities led to problems in constituting the Municipal Election Commissions (Article 25 of the Law) because due to new circumstances it was not always possible to determine which party/list represented the ruling party or the opposition.

For example, Ulcinj's MEC was not constituted in accordance with the Law on the Election of Councillors and Representatives, bearing in mind that the president and three members were representatives of the current ruling coalition in Ulcinj municipality, and one member (a representative of the SNP) was a representative of the opposition. According to the reports of CeMI's long-term observers, this situation had an impact on determining the Municipal Election Commissions in Kotor and Budva. Not one representative of SDP was included in the composition of Budva's MEC, even though SDP were governing in that municipality according to the previous local elections results, while in Bar SDP had a seat on the MEC from the ruling-party coalition quota, although it was in opposition in the local parliament. Representatives of the SEC and OSCE visited each MEC in order to determine their readiness for continuing preparation activities for the election day. Most problems occurred in Andrijevica's MEC,¹⁶ which did not manage to carry out the guidelines that were appointed by the SEC on many occasions.

The SEC at first provided €243,500 for the MECs in order to carry out the activities of the

the electoral lists.

15 One of those issues was what kind of ballot would be considered valid or invalid, which was pointed out by CeMI's long-term observers. Based on their reports, CeMI reacted and invited the SEC to make an opinion for polling boards to implement the Law on the Election of Councillors and Representatives in a consistent way, which would prevent the possibility of different interpretation of the same situation.

16 On several occasions, it has been proposed to the SEC to take over the responsibilities of Andrijevica's MEC (this was also the case with Petnjica's MEC).

electoral process, and later it provided additional means to some MECs at their request, in order to adequately carry out the electoral process.

The activities of the electoral process were carried out by 1,206 polling boards whose standing composition numbered more than 12,000 members and deputy members (five at each polling station). In the extended composition of polling boards, the authorised representatives of all 17 electoral lists (in four municipalities there were additionally between seven and 11 representatives of electoral lists for local elections) were included, although the electoral lists did not appoint all their representatives in the majority of polling stations. A particular problem during this electoral process was the fact that each authorised representative of the extended composition of the polling board and their deputy elected by each confirmed electoral list had the same voting rights as the standing composition. Taking into consideration that some polling stations were allowed to have up to 33 members with voting rights – for instance Kotor¹⁷ – the question arose as to whether all the polling boards were familiar with the exact number of its members and whether every decision by the polling boards was made by a minimum majority of the total number of its members (Article 21 of the Law), especially because in practice some members, although they were appointed by their political entities and confirmed by the MEC, did not turn up at their polling station during the election day, nor did they sign the reports on the work of polling boards.

The legal norms that determine the right to membership of polling boards (Article 35) are completely contradictory (they treat the ruling parties and opposition differently) and imprecise (they regulate parties but not lists, and they do not state whether they apply to the current composition of the parliament, or the composition after previous elections). In our view, the illegal opinion of the SEC that a party can be considered a member of a coalition¹⁸ (although the legislator stipulated that in case of parties having the same number of seats, the party, i.e. list, that won more votes at the previous election has that right) produced a number of problems and inconsistencies in practice as well as several complaints/objections for the SEC, in particular from SDP, whose status was interpreted differently by various MECs (e.g. in Niksic and Andrijevic).

During the election day, at 4% of the polling stations (around 50) problems with using the devices for the electronic identification of voters occurred. The reason was mainly a lack of training or a lack of preparedness by polling board members for using the device for the electronic identification of voters.

A legal solution¹⁹ whereby the election material was taken 48 hours before the election day by the president of the polling board, led to the situation where the election material, including the device for the electronic identification of voters, was “kept” at the president of the polling board’s home, without specifying any serious protection of this important material. The Law on the Election of Councillors and Representatives is full of unclear and insufficiently detailed provisions, even with regard to the functioning of polling boards, so more timely reaction by the SEC is necessary in order to clarify important aspects of the electoral process related to the work of polling boards. The law is vague in the part relating to the composition of polling boards. The law gives the right to two opposition parties to appoint members of the polling board on the basis of the results from the previous local elections, but not to coalitions or the lists of groups of citizens.²⁰ And in this part the valid reaction by the SEC was lacking in

17 There were five members in the standing composition, 17 members in the extended composition of electoral lists for parliamentary elections, and 11 members in the extended composition for local elections.

18 The Law states that “the standing composition of polling boards must have one representative of the two opposition political party in the parliament which received the highest number of seats, or in case of the parties having the same number of seats, the highest number of votes”.

19 Article 75, paragraph 3 of the Law on the Election of Councillors and Representatives, <http://dik.co.me/wp-content/uploads/2016/10/Zakon-o-izboru-odbornika-i-poslanika.pdf>.

20 Article 18, paragraph 5, Law on the Election of Councillors and Representatives.

order to clarify and facilitate the work of the MECs and polling boards, because the burden of the decision making was left to the MECs.

Also, Article 20 of the Law, which states that a candidate in the election lists may not be part of the electoral commission, was also controversial because the polling boards do not fall under the definition of an electoral commission in Article 7 of the Law. Therefore, according to the remarks by CeMI's observers, it happened in practice that candidates from electoral lists were also members of the polling board,²¹ which is contrary to other legal provisions relating to election campaigns and election silence, and the ordinance on the organisation of polling stations, and it could have had a direct impact on voters.

VI Registration of electoral lists

A. Parliamentary elections

The President of Montenegro, Filip Vujanovic, took the official decision to call elections for representatives in the Parliament of Montenegro on 11 July 2012, when the deadlines for implementation of activities were determined in the framework of the election process. In accordance with the deadlines determined by the Law, the period for the submission of electoral lists to the State Election Commission started on 1 August and ended on 20 September. The provisions of Article 43, Paragraph 1 of the Law on the Election of Councillors and Representatives state that the list for the election of representatives is determined with the signatures of at least 0.8% of voters, therefore, political entities needed to collect the signatures of 4,091 voters in order to have their electoral list confirmed during this electoral cycle. The provisions of Article 43 Paragraph 2 of the Law on the Election on Councillors and Representatives state that political parties, or groups of citizens who represent minority populations, or minority communities need at least 1,000 signatures of voters in order for their electoral list to be confirmed.

The procedure for the declaration of electoral lists was manifested by political parties in their collecting of signatures to support their electoral lists. The State Election Commission (SEC) was not able to determine the authenticity of the signatures of support for the electoral lists, which jeopardised the process of verification of the electoral lists. CeMI expresses serious suspicions that some political parties provided the formal requirements for participation in the parliamentary elections only through the misuse of the personal data of citizens and the falsification of signatures.

The manner of the verification of the signatures in support of electoral lists is an additional dysfunctional element of the SEC's work. The SEC did not verify all the signatures following their delivery, but instead checked only whether the exact number of signatures needed for the lists to be verified were present. During the process of verification, the SEC confirmed the presence of about 57,000 signatures. However, their authenticity was not subject to verification. Moreover, over 3,000 signatures were classified as duplicates, which implies that there were legal grounds for pressing charges against people who provided their signatures in favour of two or more electoral lists. On the other hand, it is also necessary to investigate suspicions about the possible abuse of citizens' personal data by certain electoral lists. The

representatives of the civil society proposed the introduction of a secure web application which would provide citizens with insight into the signature database, thus enabling them to check whether their signature had been forged. The SEC did not show understanding for this proposal. This led to a situation in which those electoral lists which provided a larger number of signatures than the total number of votes in elections, gained voting and decision-making rights within the SEC structure. In addition to that, they also became entitled to receive funds from the budget for their electoral campaigns.

After deadline expired, the SEC determined the following order of the electoral lists on the consolidated electoral list by drawing lots on 25 September 2016:

1. ALBANCI ODLUČNO FORCA-DUA-AA SHQIPTARËT TË VENDOSUR FORCA-UDSH-ASH (Albanians Determined FORCA-DUA-AA)
2. SDP – Ranko Krivokapić – Država svima (Social Democratic Party - Ranko Krivokapic)
3. Albanska koalicija „SA JEDNIM CILJEM“ DP, GI, DS u CG i Perspektiva Koalicioni Shqiptar „ME NJË QËLLIM“ DP-IQ-LD në MZ dhe Perspektiva (Albanian Coalition “With One Goal”)
4. ALTERNATIVA CRNA GORA (Alternative Montenegro)
5. „POZITIVNA CRNA GORA – DARKO PAJOVIĆ – JER VOLIM CRNU GORU“ (Positive Montenegro - Darko Pajevic)
6. Sigurnim korakom! DPS – Milo Đukanović (Democratic Party of Socialists - Milo Djukanovic)
7. Hrvatska građanska inicijativa – HGI od srca (Croatian Civic Initiative)
8. MR ALEKSA BEČIĆ – DEMOKRATE – POBJEDE, A NE PODJELE (Democrats - Aleksa Becic)
9. „VELIKA KOALICIJA – KLJUČ – DEMOS, SNP, URA – NAJBOLJE ZA CRNU GORU“ (Big Coalition - Key - DEMOS, SNP, URA)
10. Srpska stranka – prof dr Milovan Živković (Serb Party - Milovan Zivkovic)
11. Stranka penzionera, invalida i socijalne pravde Crne Gore – dr Smajo Šabotić „Za bolji standard penzionera i razvoj sjevera Crne Gore“ (Party of Pensioners, Disabled and Social Justice - Smajo Sabotic)
12. „Lista Demokratskog saveza Albanaca – Lista e Lidhjes Demokratike të Shqiptarëve“ (List of Democratic Alliance of Albanians)
13. „DEMOKRATSKI FRONT – MI ILI ON“ – (Nova srpska demokratija, Pokret za promjene, Demokratska narodna partija Crne Gore, Radnička partija, Demokratska srpska stranka, Pokret za Pljevlja, Srpska radikalna stranka, Jugoslovenska komunistička partija Crne Gore, Partija udruženih penzionera i invalida Crne Gore i Grupa birača – Otpor beznađu) (Democratic Front)
14. BOŠNJAČKA STRANKA – RAFET HUSOVIĆ – NAŠA SNAGA (Bosniak Party - Rafet Husovic)
15. Bošnjačka Demokratska Zajednica u Crnoj Gori – Hazbija Kalač (Bosniak Democratic Alliance of Montenegro - Hazbija Kalac)
16. „Socijaldemokrate Crne Gore – Ivan Brajović – Dosljedno“ (The Social Democrats of Montenegro - Ivan Brajovic)
17. Stranka srpskih radikala – „Crnu Goru u sigurne ruke“ (Party of Serb Radicals)

The SEC initially published the consolidated electoral list which was incomplete, in the way that it did not contain all changes that were made based on the corrections sent by the political entities and which was not in the accordance to the Law on the Election of Councillors and Representatives, since it did not satisfy the criteria for the representation of the less represented gender on the same electoral list. The corrected list was disclosed two days later.

B. Local elections

CeMI noticed problems in the procedure for determining and declaring the lists that participated in the elections for councillors in the municipalities of Budva and Andrijevica.

The Budva Municipal Election Commission, contrary to the provisions of Law on the Election of Councillors and Representatives, confirmed the electoral list “Civic action - Bozidar Vujicic”, even though it did not have enough candidates for councillors. Namely, this list was confirmed even though it consisted of only 11 candidates, which represented a serious formal shortcoming, since Article 39 paragraph 3 of the Law on the Election of Councillors and Representatives prescribes that an electoral list must have candidates for at least two-thirds of the total number of representatives and councillors that are being elected in the respective assembly. Taking into consideration that the local assembly in Budva has 33 seats, it is evident that this list did not meet the criteria for confirmation, which could have caused Budva’s MEC to seriously violate the electoral legal framework had this list won at least one council seat.

Andrijevica’s MEC confirmed the electoral lists of the DPS, DEMOS and SNP political parties, even though they did not meet the legal obligation regarding the representation of women on their electoral lists. This irregularity was solved when all the political parties added one more woman to their lists.

The MECs confirmed and declared the following electoral lists that participated in the local elections in four municipalities on 16 October 2016:

ANDRIJEVICA

1. Demokratska partija socijalista (Democratic Party of Socialists)
2. Socijalistička narodna partija (Socialist People’s Party)
3. Demokratski front (Democratic Front)
4. DEMOS (DEMOS)
5. Socijaldemokratska partija (Social Democratic Party)
6. Socijaldemokrate Crne Gore (The Social Democrats of Montenegro)
7. Pozitivna Crna Gora (Positive Montenegro)

BUDVA

1. Koalicija “Bura budi Budvu” – SNP-DEMOS (Coalition SNP-DEMOS)
2. Budva sigurnim korakom! DPS – Milo Đukanović (Democratic Party of Socialists - Milo Djukanovic)
3. Crnogorska demokratska unija: Volimo Budvu! – Dragan Purko Ivančević (Montenegrin Democratic Union)
4. Grupa birača “Uzdignimo Budvu” – Radomir Glendža (Voter group - Radomir Glendza)
5. Građanska akcija – Vujičić dr Božidar (Civic action - Bozidar Vujicic)
6. Mr Aleksa Bečić – Demokrate – Pobjede, a ne podjele (Democrats - Aleksa Becic)
7. Koalicija Budva mora! (Coalition Budva must!)
8. Pozitivna Crna Gora – Miloš Bato Vukčević (Positive Montenegro - Milos Bato Vukcevic)
9. Demokratski front – Budva ili on (Democratic Front)
10. Socijaldemokrate Crne Gore – Žarko Radulović – Dosljedno za Budvu (The Social Democrats of Montenegro - Zarko Radulovic)

GUSINJE

1. Demokratska partija socijalista (Democratic Party of Socialists)
2. Socijalistička narodna partija (Socialist People’s Party)

3. Socijaldemokrate Crne Gore (The Social Democrats of Montenegro)
4. Partija za Gusinje (Gusinje Party)
5. Socijaldemokratska partija (Social Democratic Party)
6. Bošnjačka stranka (Bosniak Party)
7. Demokratski savez Crne Gore (Democratic alliance in Montenegro)
8. Koalicija demokratska unija Albanaca – Albanska alijansa (Coalition DUA - Albanian Alliance)

KOTOR

1. URA – Sačuvajmo Kotor (URA)
2. Bokeljski, crnogorski, evropski Kotor može bolje – Andrija Pura Popović (Liberal Party - Andrija Popović)
3. DEMOS - Vratimo Kotoru dostojanstvo (DEMOS)
4. ”Za bolji Kotor” – HGI od srca (Croatian Civic Initiative)
5. Nama možete vjerovati. SNP – Dr Branko Bačo Ivanović (Socialist People’s Party - Branko Baco Ivanovic)
6. Stranka srpskih radikala – Crnu Goru u sigurne ruke (Party of Serb Radicals)
7. SDP – Ranko Krivokapić – Kotor svima (Social Democratic Party - Ranko Krivokapic)
8. Mr Aleksa Bečić – Demokrate – Pobjede, a ne podjele (Democrats - Aleksa Becic)
9. Pozitivna Crne Gora – Marko Kampe (Positive Montenegro - Marko Kampe)
10. Kotor sigurnim korakom! DPS – Milo Đukanović (Democratic Party of Socialists - Milo Djukanovic)
11. Socijaldemokrate Crne Gore – dr Andrija Lompar (The Social Democrats of Montenegro - Andrija Lompar)
12. Demokratski front – Kotor ili ON (Democratic Front)

VII Registration of voters

The electoral register was created as a new database derived from the main registers managed by the Ministry of Internal Affairs in a procedure that included the unification and “cross-referencing” of data from many registers, in order to get a collection of the personal data of Montenegrin citizens who have the right to vote. The electoral register, managed this way, did not provide a sufficient level of trust in integrity of the electoral process.

The coordinating body for monitoring the implementation of the electoral process encountered many obstacles right from the beginning. Its institutional capacity was disrupted due to the refusal of ruling coalition members to participate in its work. Also, members of the coordinating body were prevented for a long period of time from supervising the electoral register in a special room designed for that, as a consequence of the lack of support for the work of the coordinating body by some specific offices of the Ministry.

The Ministry of Internal Affairs informed the public that there were to be changes to the polling station for more than 120,000 voters during the process of preparation of the electoral register. The Ministry opened up a free call centre and telephone line for the purpose of

informing voters about the change. The plan to inform citizens about the change of polling station was carried out very late on, only a month and a half before the day of the election.

The final number of polling stations was defined after the deadline, which proposed that the polling stations should be determined at the latest 20 days before the day of the election. By an audit of the electoral register carried out on 28 September 2016, CeMI determined that five polling stations had not been constituted in accordance with the Law on the Election of Councillors and Representatives – they had more than 1,000 voters. These problems had been solved by the day provided for closure of the electoral register.

The Minister of Internal Affairs did not sign the Decision on the closure of the electoral register, thus expressing his position regarding the deficiencies that the electoral register contained. The Government of Montenegro authorised the Secretary of the Ministry of the Internal Affairs to issue a Decision on the closure of the electoral register, which was submitted to the State Election Commission within the statutory deadline. The decisions on the closing of the electoral register for the municipalities of Budva, Kotor, Gusinje and Andrijevica were submitted to the State Election Commission together with this decision.

The electoral register for parliamentary elections contained 528,817 voters. The electoral register for the local elections in Budva contained 16,195 voters, while in Kotor there were 17,964 voters, in Gusinje 4,528 voters and Andrijevica had 4,207 voters.

VIII Election Campaign

During the election process, the election campaign is regulated by the Law on the Financing of Political Parties and Election Campaigns, Article 2 of which stipulates that the election campaign starts on the day elections are called and lasts until the final elections results are announced.

In comparison to almost every previous electoral cycle, the campaign for the 2016 parliamentary elections was much more intense when it comes to its duration, the activities undertaken by political subjects and the variety of campaigning techniques. The vast majority of political subjects initiated their campaigning activities prior to verification of their electoral lists – some even held their campaign-opening conventions before their lists were verified. The campaign was dominated by foreign policy topics, primarily Euro-Atlantic integration and relations with Russia. The political subjects mostly used the following campaigning techniques: videos, billboards, door-to-door canvassing and pre-election rallies.

During the campaign, there was a significant increase in the number of activities on social media, where political parties sponsored their announcements in order to reach a larger number of users. Apart from Facebook's "boost" option, political subjects also used Google Ads, YouTube and Facebook accounts for the purpose of promoting their programme. Such a manner of campaigning, which lacks the control and regulation that traditional media are subject to, leaves room for the expression of views and opinions that conflict with the principles of national and religious tolerance, respect for differences, democracy and personal dignity. The campaign periodically had negative manifestations at both national and local levels.

In addition to breaching the aforementioned principles, political subjects also violated electoral silence on social networks. In this way, they also violated the principle of not exercising any influence over voters on the day before the elections, which is not regulated by the Law on the Elections of Councillors and Representatives.

When it comes to the abuse of state resources, CeMI's long-term observers received numerous allegations about political campaigning through different forms of employing people, the writing off of debts and realisation of infrastructural projects. In Plav, the use of official vehicles for political parties' purposes was noted. In the northern region (Plav, Rozaje, Berane and Gusinje), there were allegations of employment promises to the people who were voluntarily engaged in public health and education institutions during the campaign. Roads were reconstructed in Gusinje, Andrijevica and Bijelo Polje and the water supply was brought to certain rural areas. In Bijelo Polje and Andrijevica there were allegations about the electricity supply not being turned off to certain households, despite them having electricity bills amounting to as much as several thousand euros.

When it comes to campaign financing, it was noted that the Law on the Financing of Political Parties and Electoral Campaigns does not define precise deadlines for reporting on campaign expenditures, which is a major problem for the financial monitoring of political subjects during the campaign. Namely, according to Article 2 of this Law, an election campaign is a set of activities of a political entity from the day of the calling of the elections until the day of the declaration of the final election results. However, the same Law defines political entities as political parties, coalitions, groups of voters and candidates for the election of the President of Montenegro. Since coalitions and groups of voters can only be considered as political entities once their lists are verified, their obligation to report on campaign expenses starts on the day of verification of their lists, whereas political parties have this obligation from the day the elections are called.

IX Financing of the election campaign

The Anti-Corruption Agency is responsible for monitoring the financing of political entities' election campaigns. The Agency derives its jurisdiction from the Law on the Financing of Political Parties and Election Campaigns. The director and the Council of the Agency manage the work of the Agency. Election of the members of the Agency was marked by a number of controversies, while the election of the Agency's director was highly politicized. Political pressure, which was noticeable through the work of the State Election Commission and caused by the composition of this body, can be seen through the composition of the Agency's Council (three DPS loyalists, one SNP loyalist and one representative of the NGO sector) and the method of appointment of the Agency's director. This mode of constituting the Council and the election of the director of the Agency in this electoral process significantly influenced the inability of the Agency to cope with the obligations it had under the Law on Financing Political Parties and Election Campaigns.

The legal obligation for political entities to submit biweekly reports on funds gathered from private sources and election campaign expenses was fulfilled by only seven²² political entities by the end of the electoral process. It is evident that only 41% of political entities respected (even partially) this legal obligation. Also, the reporting periods were not unified, which led to discrepancies in the reports, with some political entities submitting reports for one

22 The Bosniak Party (last report filed on 25 September), Democrats (last report on 24 September), the Democratic Front (only for the period 25 September to 9 October), the Democratic Party of Socialists (last filed on 6 October), Positive Montenegro (24 September to 10 October), Social Democrats of Montenegro (last report filed on 24 October), the Social Democratic Party of Montenegro (23 October), data available at <http://antikorupcija.me/me/kontrola-politickih-subjekata-izbornih-kampanja/registri/petnaestodnevn-izvjestaji-prilozima-kampanji/>.

fifteen-day period and others fulfilling that commitment only after the election day. This legal requirement is linked to the period of the electoral campaign²³. Not a single political entity submitted fifteen-day reports from the date of the announcement of the election (11 July), and only two political entities did that for the period after the election day. The statutory penalty for contempt of this standard is a fine for a political entity of between €5,000 and €20,000 (Article 53, paragraphs 7 to 13).

The lack of a deadline for the opening of a special bank account led to an arbitrary interpretation of the provisions of the Law on the Financing of Political Parties and Election Campaigns.²⁴ Interpretation of the law follows that political entities have this duty from the day of the announcement of the election (the official start of the campaign), while on the other hand, the obligation for a particular coalition runs from the date of confirmation of its electoral list, when it is formally established. These ambiguities in the law make its implementation illogical, bearing in mind that certain political entities opened special bank accounts 20 days before the election day, while before that they had been conducting an active election campaign.

The Agency supervised the fulfilment of obligations related to: the submission and publication of prices for media advertising, opening a special bank account and determining the person responsible for the spending of funds and for submitting reports, including biweekly reports on contributions. A total of 66 misdemeanor processes were initiated against political entities – 12 for not publishing and not submitting prices of media advertising, 13 due to their failure to open a special bank account to finance the campaign, 13 due to not determining the person responsible for the effective use of funds, two for failing to pay the costs of the special account, 11 for failure to determine the membership fee and 15 for failing to report on the contributions of legal and physical entities, and the request was sent to the Ministry of Internal Affairs to verify the 903 people who gave donations to political parties.²⁵ The Agency said that most political entities did not comply with the provisions of the Law on the Financing of Political Parties and Election Campaigns. Unfortunately, announcements by the Agency during the election process were scarce, so the public had only general information.²⁶

Audits by the authorities resulted in the launching of 10 infringement procedures for failure to publish analytical cards and failure to submit them to the Interim Committee (cumulative offence) within the prescribed period, and 247 infringement procedures for not publishing the travel expense records.

For a more detailed review of the allocation of budget funds for financing the activities of the campaign, see Table 2.

²³ It is important to emphasise that, based on Article 2 of the Law on the Financing of Political Entities and Election Campaigns, the election campaign represents the set of activities of a political entity from the day of announcing the elections until the day of presenting the final results of the elections, while the same article lists these political entities: political parties, coalitions, groups of voters and candidates for presidential elections.

²⁴ This can be seen in the report of the Agency about the supervision that was carried out during the election campaign, where it was determined that no reports had been submitted during the first day of reporting (27 July). More at: http://antikorupcija.me/media/documents/Izvjestaj_o_sprovedenom_nadzoru_u_toku_izborne_kampanje.pdf, page 8.

²⁵ Available at: <http://antikorupcija.me/me/kontrola-politickih-subjekata-izbornih-kampanja/aktuelnosti/1610251537-saopstenje-31-sjednice-savjeta-agencije-za-sprjecavanje-korupcije/>.

²⁶ It is necessary to point out that this refers to reports and information published during the electoral campaign. The final report of the Agency contains many more details.

Table 2: Distribution of the budget to participants in the electoral process.

Electoral list	First distribution (20% of total funds)	Number of seats	Second distribution (80% of total funds)	Total of received budget funds
Albanians Determined FORCA-DUA-AA	€ 22,702.72	1	€ 19,059.08	€ 41,761.80
Social Democratic Party - Ranko Krivokapic	€ 22,702.72	4	€ 76,236.32	€ 98,939.04
Albanian Coalition "With One Goal"	€ 22,702.72	-	-	€ 22,702.72
Alternative Montenegro	€ 22,702.72	-	-	€ 22,702.72
Positive Montenegro - Darko Pajevic	€ 22,702.72	-	-	€ 22,702.72
Democratic Party of Socialists - Milo Djukanovic	€ 22,702.72	36	€ 686,126.88	€ 708,829.60
Croatian Civic Initiative	€ 22,702.72	1	€ 19,059.08	€ 41,761.80
Democrats - Aleksa Becic	€ 22,702.72	8	€ 152,472.64	€ 175,175.36
Big Coalition - Key - DEMOS, SNP, URA	€ 22,702.72	9	€ 171,537.72	€ 194,234.44
Serb Party - Milovan Zivkovic	€ 22,702.72	-	-	€ 22,702.72
Party of Pensioners, Disabled and Social Justice - Smajo Sabotic	€ 22,702.72	-	-	€ 22,702.72
List of Democratic Alliance of Albanians	€ 22,702.72	-	-	€ 22,702.72
Democratic Front	€ 22,702.72	18	€ 343,063.44	€ 365,766.16
Bosniak Party - Rafet Husovic	€ 22,702.72	2	€ 38,118.16	€ 60,820.88
Bosniak Democratic Alliance of Montenegro - Hazbija Kalac	€ 22,702.72	-	-	€ 22,702.72
The Social Democrats of Montenegro - Ivan Brajovic	€ 22,702.72	2	€ 38,118.16	€ 60,820.88
Party of Serb Radicals	€ 22,702.72	-	-	€ 22,702.72
Total	€ 385,946.24	81		€ 1,929,731.85

Based on the biweekly reports on contributions from legal and physical entities available on the Agency's website, the political entities collected a total of:

Table 3. Overview of funds that parties collected from private sources²⁷

Political entity	Total of collected funds	Period of last submitted report
Bosniak Party - Rafet Husovic	€ 5,500	11–25 September 2016
Democratic Front	€ 10,275	25 September–9 October 2016
Democrats - Aleksa Becic	€ 2,290	10–24 October 2016
Democratic Party of Socialists - Milo Djukanovic	€ 680,025	22 September–6 October 2016
Positive Montenegro - Darko Pajevic	€ 500	10–24 September 2016
The Social Democrats of Montenegro - Ivan Brajovic	€ 34,297	10–24 October 2016
Social Democratic Party - Ranko Krivokapic	€ 4,500	9–23 October 2016

The total value of monetary and non-monetary contributions was €737,387.50

The legal obligation to submit expense reports during the election campaign up until 30 days after the elections was fulfilled by 15 political entities. No reports were submitted by the Serbian Party and Alternative Montenegro. The report by the Democratic Party of Socialists

²⁷ When it comes to private sources, a political entity can collect funds for the financing of the election campaign from private sources during the election campaign of up to €681,081.81: http://antikorupcija.me/media/documents/Izvjestaj_o_sprovedenom_nadzoru_u_toku_izborne_kampanje.pdf, page 11.

was not published until 25 November 2016 and this party was added to the list of political entities that provided reports on time. Failure to comply with this legal obligation is subject to a fine of between €10,000 and €20,000.²⁸ Due to failure to submit a report within the statutory period, the Agency launched infringement proceedings against two political entities that participated in the campaign for the parliamentary election, as well as five political entities that participated in the campaign for local elections in four municipalities.²⁹

Based on the legal possibilities, the Agency recorded several irregularities and the basis for suspicion regarding collection and spending of funds contrary to the Law after examining the complete documentation of the Democratic Front, and informed the Ministry of Finance about a temporary block on the transfer of budget funds to this political entity.³⁰ The audit found that most of the payments related to the election campaign of this political party were being conducted through regular accounts of parties that were constituent members of the coalition for the purchase of computer equipment, the payment of media services, and for everything for which they submitted incomplete documentation to justify these activities.³¹

For the duration of the infringement procedures, after receiving a summons from the competent court, the authorised officers of the Agency have to attend the scheduled hearing and represent the Agency in the above case. When it comes to items that have been forwarded to the competent prosecutor for further action, the Agency expects feedback from the Special State Prosecutor's Office on the results of the procedure. The Agency has established good cooperation with the prosecution in order to effectively implement its competencies, especially in the submission of the necessary documentation and requested information. Also, the Agency was informed on 30 December about initiating a procedure before the Administrative Court on the basis of the complaint of one of the political entities against the decision adopted by the Agency. The preparation of the Agency's response to the prosecutor's allegations is currently in process.³²

Based on the report of the Agency, the Special State Prosecutor's Office has formed a case against the responsible individuals in the Democratic Front and the case is under investigation.³³

Article 36 of the Law on the Financing of Political Parties and Election Campaigns requires the complete submission of supporting documents that can unambiguously determine the cost structure, as well as the value and the quantity of those services, and the penalty for non-compliance with this standard by a political entity is between €10,000 and €20,000. In this area the Agency has adopted the recommendations of the civil sector to extend its control to the financing of election campaigns being conducted on the internet. In this area, the Agency emphasised, in the case of the Democratic Front, the submission of records relating to the campaign which was launched on the social network Facebook and internet advertising on Google and YouTube. During the election campaign the Agency lodged a complaint

28 The Law on the Financing of Political Parties and Election Campaigns, Article 53, paragraph 23, available at http://antikorupcija.me/media/documents/zakon_o_finansiranju_politickih_subjekata_i_izbornih_kampanja.pdf.

29 During the election campaign, the Agency launched 26 infringement procedures for failing to submit biweekly reports. http://antikorupcija.me/media/documents/Izvjestaj_o_sprovedenom_nadzoru_u_toku_izborne_kampanje.pdf.

30 Article 46 of the Law on the Financing of Political Parties and Election Campaigns stipulates that if the auditors obtain data during the election campaign that indicates irregularities or violations of law, the Agency shall submit an application or initiative to the competent authority. Acting in accordance with Article 46 of the Law, the Agency submitted complete documentation to the competent prosecutor for further action.

31 Law No. 02-02/2539/10086 of 22 November 2016. The Agency informed the Ministry of Finance of irregularities detected in the documentation of the Democratic Front, and then submitted to the Ministry of Finance a decision on the temporary suspension of the transfer of budget funds to the Democratic Front (No. 02-02/3491 of 25 November 2016).

32 The response of the Agency (No. 02-02-210/2) to CeMI's request, received on 26 January 2017.

33 The response of the Special State Prosecutor (No. 10/17, of 26 January 2017) based on the requirement of free access to information.

against the 21 constituents of this political entity on several grounds, mainly for not opening a special bank account and not appointing a responsible individual.

When it comes to monitoring the financing of political parties' campaigns, it would be of utmost importance to obtain reports of this kind for all political subjects, so that the legality of the Agency's actions could be comprehensively monitored and evaluated. Also, proceedings were initiated against the political entity and the responsible person of the Serbian Party and Alternative Montenegro for failing to submit a report, and against the Democratic Front for failing to submit supporting documentation.

At the local level, the Agency adopted decisions and informed the local government authorities responsible for financing operations that, when it came to the elections in Andrijevica, they should suspend the transfer of budgetary resources to the Democratic Front, but when it came to the elections in Gusinje they should suspend the transfer of funds to the Party for Gusinje, the Coalition DUA - Albanian Alternative and the Democratic Alliance of Montenegro, because they did not provide reports on the collected and spent funds for the campaign or supporting documentation by the legal deadline.

An overview of the total expenditure on the election campaigns of political entities that met the requirements to participate in the distribution of seats, can be seen in Table 4.

Table 4. Costs of election campaigns of political entities that will be in the Parliament of Montenegro.

Political entity	Total funds spent on election campaign
Albanians Determined FORCA-DUA-AA	€ 63,794.06
Bosniak Party - Rafet Husovic	€ 71,810.04
Democrats - Aleksa Becic	€ 278,170.85
Croatian Civic Initiative	€ 59,224.04
The Social Democrats of Montenegro - Ivan Brajovic	€ 220,089.58
Social Democratic Party - Ranko Krivokapic	€ 313,199.39
Democratic Front	€ 907,855.45
Big Coalition - Key - DEMOS, SNP, URA	€ 385,881.19
Democratic Party of Socialists - Milo Djukanovic	€ 1,385,901.00

Total of €3,685,925.60

X Participation of women

Voting rights and the right to be elected for representative functions in Montenegro were first given to women in Montenegro in 1946. The right to representation of women has been exercised since the first meeting of the *National Assembly of the Republic of Montenegro*, but seriously outnumbered by men. However, until 1990 elections were held within a single-party, non-democratic system. Women effectively used their right to be elected for the first time in 1990, at the first multi-party elections to be held after the fall of the communist regime.

The previous representation of women in the Montenegrin Parliament was 17.3%, which is

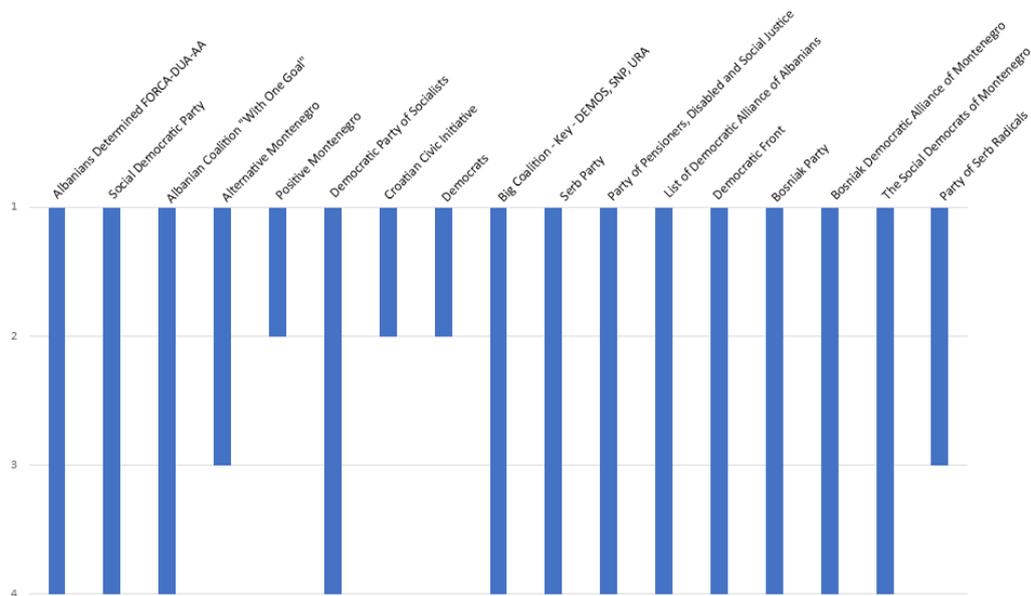
significantly below the world average of 23%³⁴. Regarding the representation of women in the Parliament, Montenegro is in 103rd place out of a total of 217 countries of the world, on the basis of data that is provided by the World Bank³⁵.

The existing Law on the Election of Councillors and Representatives requires that the less represented gender should be presented on the electoral list by at least 30% of the candidates, and that on each electoral list, at least one in four candidates must be a representative of the less represented gender. Normally MPs can be replaced by the next candidate on the electoral list of the same political entity, but MPs from the less represented gender can be replaced only by the next candidate from the less represented gender on the same electoral list (Article 104, paragraph 3 of the LECR).

Based on the processed forms from 950 polling stations, only around 20% of polling boards had a woman as a president.

On all the lists, the participation of women was slightly more than 30%. There are women in one in four places on the list in order to respect the letter of the law, with some exceptions (see Figure 2). On almost all the lists, with the exception of the HGI, only two female names were represented in the top 10 places. None of the 17 lists were led by a woman (see Table 5). Only three parties (the Democrats, HGI and Positive) had a woman in second place on their list. Alternative Montenegro and the Serbian Radical Party, parties which did not gain parliamentary status, have a woman in third place on their list. The remaining 12 parties have a woman as a representative in fourth place behind three men (see Figure 1). On the basis of the final elections results, and based on the blocked order on the list, the Montenegrin Parliament should have 19 women MPs, which is an increase of 6.18% compared to the previous composition, and thus the Montenegrin Parliament, finally, slightly surpassed the world average of participation of women in parliament.

Figure 1: Position of first female candidate on a particular list



³⁴ World Bank, Proportion of seats held by women in national parliaments (%) [Online], <http://data.worldbank.org/indicator/SG.GEN.PARL.ZS>.

³⁵ Ibid.

Figure 2: Percentage of female candidates for representatives

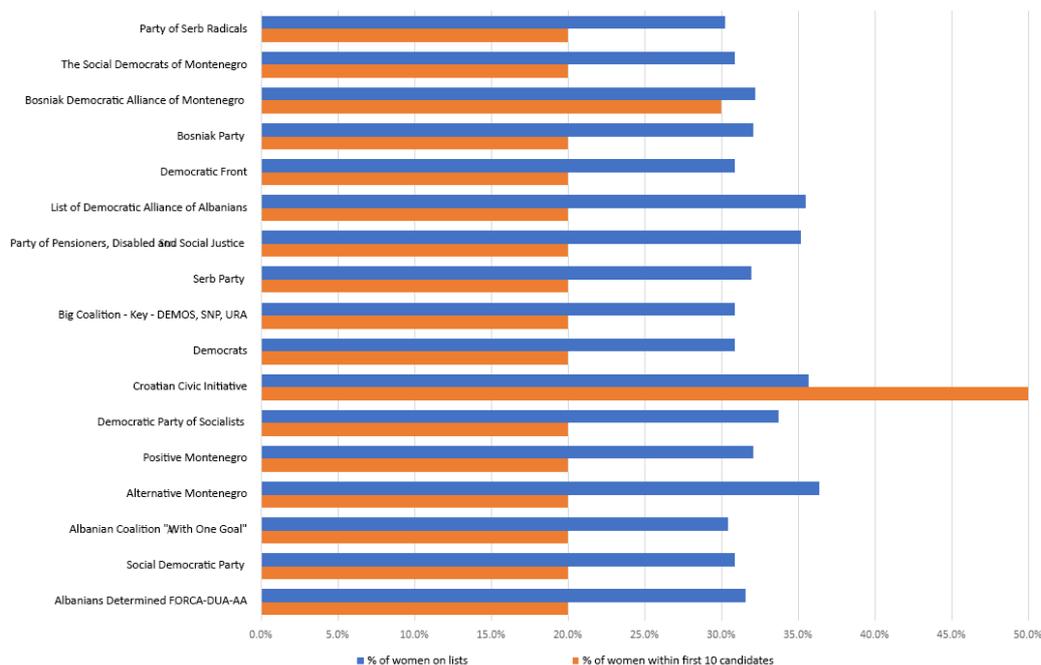


Table 5: Participation of female candidates out of all elected representatives on lists

	No. of candidates	No. of women	% of women on lists	% of women within first 10 candidates	% of women among places 11–20	% of women among places 21–30	% of women among places 31–40	% of women among places 41–50	% of women among places 51–60	% of women among places 61–70	% of women among places 71–80	81st place on the list	No. of women MPs
Albanians Determined FORCA-DUA-AA	38	12	31.60%	20.00%	40.00%	40.00%	33.30%	n/a	n/a	n/a	n/a	n/a	0
Social Democratic Party - Ranko Krivokapic	81	25	30.90%	20.00%	30.00%	20.00%	30.00%	20.00%	50.00%	20.00%	60.00%	n/a	1 (25%)
Albanian Coalition "With One Goal"	46	14	30.40%	20.00%	30.00%	40.00%	30.00%	33.30%	n/a	n/a	n/a	n/a	-
Alternative Montenegro	55	20	36.40%	20.00%	50.00%	50.00%	30.00%	40.00%	33.30%	n/a	n/a	n/a	-
Positive Montenegro - Darko Pajevic	81	26	32.10%	20.00%	40.00%	30.00%	20.00%	20.00%	40.00%	30.00%	50.00%	yes	-
Democratic Party of Socialists - Milo Djukanovic	80	27	33.80%	20.00%	40.00%	20.00%	30.00%	20.00%	30.00%	60.00%	60.00%	n/a	10 (27,78%)
Croatian Civic Initiative	42	15	35.70%	50.00%	40.00%	30.00%	33.30%	n/a	n/a	n/a	n/a	n/a	0
Democrats - Aleksa Becic	81	25	30.90%	20.00%	30.00%	20.00%	30.00%	20.00%	30.00%	40.00%	60.00%	n/a	2 (25%)
Big Coalition - Key - DEMOS, SNP, URA	81	25	30.90%	20.00%	30.00%	40.00%	40.00%	20.00%	30.00%	20.00%	40.00%	yes	2 (22,22%)
Serb Party - Milovan Zivkovic	72	23	31.90%	20.00%	30.00%	20.00%	30.00%	20.00%	40.00%	60.00%	100.00%	n/a	-
Party of Pensioners, Disabled and Social Justice - Smajo Sabotic	54	19	35.20%	20.00%	30.00%	20.00%	30.00%	70.00%	50.00%	n/a	n/a	n/a	-
List of Democratic Alliance of Albanians	31	11	35.50%	20.00%	30.00%	50.00%	100.00%	n/a	n/a	n/a	n/a	n/a	-
Democratic Front	81	25	30.90%	20.00%	30.00%	40.00%	20.00%	30.00%	20.00%	30.00%	60.00%	n/a	4 (22,22%)
Bosniak Party - Rafet Husovic	81	26	32.10%	20.00%	50.00%	20.00%	40.00%	20.00%	30.00%	30.00%	40.00%	n/a	0
Bosniak Democratic Alliance of Montenegro - Hazbija Kalac	59	19	32.20%	30.00%	40.00%	40.00%	30.00%	40.00%	42.90%	n/a	n/a	n/a	-
The Social Democrats of Montenegro - Ivan Brajovic	81	25	30.90%	20.00%	40.00%	30.00%	30.00%	30.00%	30.00%	50.00%	50.00%	n/a	0
Party of Serb Radicals	76	23	30.30%	20.00%	40.00%	20.00%	30.00%	20.00%	30.00%	50.00%	50.00%	n/a	-

After forming the government and implementing the process of filling vacant seats, which was conducted by the State Election Commission after six MPs from the electoral list of the Democratic Party of Socialists resigned from this function, because of their new government positions, CeMI asked the State Election Commission to resolve the consequences of incorrectly filled seats. The SEC carried out the filling of vacant seats on the basis of Article 104, paragraph 2 of the Law on the Election of Councillors and Representatives, which stipulates that seats should be filled as follows: “If on the election list from which the councillor or representative are elected, there remain the same or a higher number of candidates than the number of councillors or representatives whose seat has expired, the candidate who is next in the order on the list shall be elected.” However, the SEC did not act in accordance with Article 104, paragraph 3 of the Law on the Election of Councillors and Representatives which states that “an exception to paragraph 2 of this Article occurs if the seat of a councillor or MP from the less represented gender expires, the next candidate on the list of candidates **from the ranks of the less represented gender** will be elected instead of him/her.”

Picture 1: Request to the State Election Commission



Adresa: Bul. Josipa Broza Tita 23a
81 000 Podgorica
Telefon/Fax: +382(0)20 511 424
E-mail: cemi@com.me
www.cemil.org.me

Podgorica, 09. decembar 2016. godine

DRŽAVNA IZBORNA KOMISIJA
Budimir Šaranović
Predsjednik

PREDMET: Zahtjev za otklanjanjem štetnih posljedica nastalih pogrešnim raspoređivanjem mandata

Poštovani gospodine Šaranoviću,

pošto smo se upoznali sa sadržinom Izvještaja o popuni poslaničkih mjesta nakon što je prestao mandat dijelu izabranih poslanika sa izborne liste „Sigurnim korakom! DPS - Milo Đukanović“ dužni smo da Vas upozorimo da je DIK, kojom predsjedavate, na bazi tačno utvrđenog činjeničnog stanja pogrešno primijenila Zakon o izboru odbornika i poslanika, odnosno član 104. te utvrdila da mandat treba da se rasporedi i licu koje nema na to zakonsko pravo ovom prilikom.

Naime, Vašim aktom broj 1060/8, od 30.11.2016. godine ste predvidjeli da se upražnjeni mandati raspoređuju „kandidatima po redoslijedu sa izborne liste i to Mihailu Anđušiću, Miomiru M. Mugoši, Dragutinu Papoviću, Nadi Drobnjak, Petru Smoloviću i Petru Porobiću“.

Zakon o izboru odbornika i poslanika član 104, stav 2 predviđa da „ako na izbornoj listi sa koje je odbornik, odnosno poslanik izabran preostane isti ili veći broj kandidata od broja odbornika, odnosno poslanika kojima je prestao mandat izabraće se onaj kandidat koji je sljedeći prema redoslijedu na izbornoj listi.“ Kako ste i vi naveli. Međutim, stav 3 istog člana navodi da „**izuzetno od stava 2 ovog člana, ako mandat prestane odborniku, odnosno poslaniku iz reda manje zastupljenog pola, umjesto njega izabraće se prvi sljedeći kandidat na izbornoj listi iz reda manje zastupljenog pola.**“

Stoga ste 6. (24. na izbornoj listi) upražnjeno mjesto koje je nastalo imenovanjem Suzane Pribilović za članicu Vlade Crne Gore, popunili na pogrešan način. Umjesto Petra Porobića (42. na izbornoj listi), koji je naredni na izbornoj listi trebali ste u skladu sa čl. 104 stav 4 rasporediti mandat prvoj na listi pripadnici manje zastupljenog pola. Manje zastupljeni pol na izbornoj listi „Sigurnim korakom! DPS - Milo Đukanović“ je ženski. Odnosno, umjesto Suzane Pribilović treba mandat da dobije Jovanka Laličić (44. na izbornoj listi), prva naredna žena na izbornoj listi.

Molim vas da hitno pokrenete procedure da se ispravi nastala šteta, te otklone štetne radnje nastale pogrešnom primjenom Zakona o izboru odbornika i poslanika. DIK nema pravo da mijenja izbornu volju građana, odnosno da mimo zakona odlučuje ko će biti nosilac poslaničkog mandata.

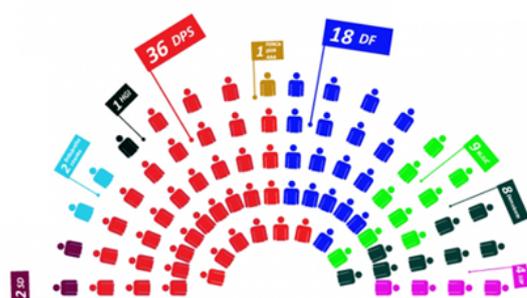
Ukoliko Vašu akt ne preinačite, odnosno sprovedete isti postupak u saglasnosti sa Zakonom CeMI će preduzeti radnje da se štetne posljedice hitno otklone na drugi način. Molim Vas da nas hitno, u toku dana, petak 09.12. 2016. obavijestite o preduzetim radnjama sa Vaše strane.

U tabeli niže, na drugoj strani ovog dopisa, možete naći tabelarni prikaz i poređenje vašeg i ispravnog raspoređivanja mandata.

S poštovanjem,

Zlatko Vujović
Predsjednik Upravnog odbora

Infographic 1: Comparison of ways of distributing seats



Elections 2016

Vacant seats	The way how SEC filled vacant seats	The Correct way of filling vacant seats
2 >> Duško Marković	37 >> Mihailo Anđušić	37 >> Mihailo Anđušić
3 >> Milutin Simović	38 >> Miomir M. Mugoša	38 >> Miomir M. Mugoša
5 >> Mevludin Nuhodžić	39 >> Dragutin Papović	39 >> Dragutin Papović
11 >> Nikola Janović	40 >> Nada Drobnjak	40 >> Nada Drobnjak
22 >> Predrag Bošković	41 >> Petar Smolović	41 >> Petar Smolović
24 >> Suzana Pribilović	42 >> Petar Porobić	44 >> Jovanka Laličić

Incorrect filling of vacant seats of DPS - Milo Djukanovic list

According to a decision made by the State Election Commission, and confirmed by the Parliament of Montenegro, candidate Petar Porobić from the DPS's electoral list unlawfully became a MP.

XI Participation of minorities

Pursuant to the provisions of the Law on the Election of Councillors and Representatives, a participant in the elections is considered to be a representative of minority ethnic community if he/she represents a community the constitutes up to 15% of the total population in the constituency according to the most recent census data. According to the most recent census data, Bosniaks make up 8.65%, Albanians 4.91%, Muslims 3.31%, Roma 1.1% and Croats 0.97% of the population. The legal electoral threshold defines the right of positive discrimination for the electoral lists of members of certain/the same minority nations, that is, of certain/the same minority communities, that constitute up to 15% of the total population in the constituency according to the most recent census data. Regarding the Croatian minority, the Law stipulates that in case none of the electoral lists for the election of representatives of members of the Croatian people in Montenegro exceeds the statutory threshold of 3%, the most successful of them, if it has at least 0.35% of the valid votes, will be awarded one seat. However, if one of them receives at least 0.7% of the votes, they lose that right, and their status is equal to other minority nations. The Law stipulates that, if several lists pass the statutory threshold of 0.7%, their individual results are treated as a single joint list which then enters the process of sharing seats with other lists that have qualified. The effect of joining is limited in the way that the total number of seats will be no more than three.

Five minority electoral lists participated in the parliamentary elections, of which three represented the Albanian minority (Albanians Determined FORCA-DUA-AA, Albanian Coalition "With One Goal", and List of Democratic Alliance of Albanians), two represented the Bosniak minority (Bosniak Party - Rafet Husovic, and Bosniak Democratic Alliance of Montenegro - Hazbija Kalac) and one representing the Croatian minority (Croatian Civic Initiative).

In local elections, Budva's Municipal Election Commission determined and declared the electoral list "Civic action - Bozidar Vujicic" contrary to the provisions of the Law on the Election of Councillors and Representatives, as it did not contain a sufficient number of candidates for councillors. Namely, this list was accepted, although it had only 11 candidates (one-third of the candidates), violating Article 39, paragraph 3 of the Law on the Election of Councillors and Representatives which stipulates that at least two-thirds of the candidates and up to the maximum number of candidates to be elected must be on the electoral list. The only exception is minority list, when one-third of the candidates must be on the electoral list. Since the Municipal Assembly of Budva elects 33 representatives, it is evident that the electoral list did not meet the legal requirements, which could have called into question the legality of the electoral process if the list had won at least one council seat in the election.

In comparison to the 2012 parliamentary elections, when four Albanian, one Croatian and one Bosniak minority list participated, the number of minority lists decreased in these elections. A decrease in the number of representatives of minority lists in Parliament is also noticeable in the final distribution of seats. While minority lists had a total of six seats in 2012 (Bosniaks – 3, Albanians – 2 and Croats – 1), the minority lists won four seats in the 2016 elections (Bosniaks – 2, Albanians – 1 and Croats – 1). The percentage of minority parties in the 2012 Parliament was 7.4%, while in 2016 that percentage was 4.93%. It is evident that the awareness of the growing number of opportunities provided by "giving one's voice" to a large political party leads to members of minorities voting for a larger political party or a coalition, and not for a list that represents a specific minority nation.

It is important to emphasise that the population of Roma, Egyptian and Ashkali people did not have a minority electoral list in these elections that would represent their interests. Also, slogans, billboards and video materials in the Roma language were not seen in the pre-election campaign. This population makes up an important part of the total number of citizens in Montenegro, especially if compared to the Croatian minority, to whom they have a similar number of citizens, even though the Croatian minority has traditionally had a representative in Parliament.

XII Election Day

The Centre for Monitoring and Research (CeMI) conducted election day monitoring in partnership with the PR Centre, where the offices for CeMI's staff, the operations centre, the legal centre and the media were based. Monitoring of the election day was conducted through six types of activities:

1. Observation of the implementation of electoral procedures at polling stations – opening, voting, closing and counting procedures and constant communication of observers with the computing and legal centres for the purpose of collecting data on voter turnout and irregularities.
2. Partial Parallel Vote Tabulation on a representative sample of polling stations, based on which CeMI announced the first projections of election results and the allocation of seats at national level.
3. Parallel Vote Tabulation (PVT), based on the results from all polling stations, which were collected by short-term observers and mobile teams, who visited several polling stations during the day and monitored the tabulation of votes at the level of the municipal election commissions (MECs).

4. Monitoring of the work of MECs and the State Election Commission.
5. Media and public relations: during the election day CeMI provided information about voter turnout and irregularities through five regular press conferences, while the projections of the results of the local and parliamentary elections were presented at another three press conferences held after the polling stations were closed.
6. Live streaming of election results: all the press conferences were broadcast live and CeMI's findings were reported on by 17 media companies, four television stations and 45 journalists. The findings were immediately available on CeMI's website and social network accounts while special software enabled the updating of data collected through PVT on three national TV stations and CeMI's webpage every 60 seconds.

A. Implementation of election procedures

The election day was marked by numerous irregularities which occurred in similar forms, at a relatively large number of polling stations. These irregularities were caused by a lack of expertise among the election committee members in the vast majority of cases, thus they did not bring into question the regularity of the elections. All the irregularities noted by CeMI's observers during the election day can be categorised as follows:

- a. Instances of irregularities related to the realisation of electoral procedures, which refer to:
 - Inadequate usage of the electronic voters identification device (EVID) at a number of polling stations, which resulted in a delay to the voting process at certain polling stations. At Polling Station 5 in Petnjica, the voting process did not start until 7:40 am and was delayed until technical support was provided by the MEC. At Polling Station 75A in Podgorica, voting based on EVID started at 8:15 am, because members of the polling board were not familiar with the process of EVID activation. In addition to that, the EVID was not operational at polling stations 13 and 75 in Podgorica, Polling Station 26 in Cetinje and Polling station 15 in Kotor.
 - At all polling stations in prisons (Kazneno-popravni dom ZIKS-I, Istražni zatvor Podgorica ZIKS-II i Zatvor Bijelo Polje ZIKS-III), voting started with significant delays, due to issues with EVIDs.
 - Violations of voting secrecy took place through taking photographs of ballots, public statements about electoral preferences, acceptance of open ballots by election committees and breaches of procedures that ensure voting secrecy at polling stations. Voters took photographs of their ballots at polling stations 41 and 49 in Berane, Polling Station 12 in Kotor and Polling Station 75 in Podgorica. Citizens showed their ballots publicly at Polling Station 9 in Kotor, Polling Station 7 in Budva, Polling Station 38 in Berane, Polling Station 6 in Pljevlja, Polling Station 70 in Niksic and at polling stations 11A and 60A in Podgorica, where more than 20 cases of voters showing their ballots publicly were registered. At polling station 75 in Podgorica, one voter left the polling station with his ballot, which was accepted after he returned to the polling station.
 - Problems related to the identification of voters, caused by improper voter registration.
 - The existence of campaign materials in the immediate proximity of polling stations and at their entrance.
 - Allegations about vote buying in the near proximity of the polling stations and taking down the information of the voters who came to vote by individuals positioned close to the polling stations.

- b. Instances of inadequate behaviour by polling board members occurred, which represents a breach of Article 37, paragraph 2 of the Law on the Election of Councillors and Representatives, according to which the polling board is in charge of maintaining order at the polling station. A verbal conflict between polling board members happened at Polling Stations 17, 27 and 122 in Niksic, one of which resulted in police intervention, while another resulted in an interruption to the voting procedure for a certain period of time. Voting was interrupted at several polling stations in Rozaje, but was resumed after police intervened. At Polling Station 74 in Podgorica, the voting process was stopped due to a conflict between polling board members and it was not resumed later, as the polling board was unable to provide a majority of votes for voting to continue. This polling station was the only one where elections had to be repeated. The repeat voting took place on 23 October, with minor operational challenges with the voter identification devices on election day, but these challenges did not appear to impact the process.
- c. At the local elections in Andrijevisa, an inadequate number of ballot boxes were used at almost all polling stations. Namely, all these polling boards used only one polling box at their polling stations apart from Polling Station 1, despite the fact that two election processes were being held simultaneously – local and parliamentary elections. Article 75 of the Law on the Election of Councillors and Representatives stipulates that “local authorities are in charge of organising polling stations and ensuring all polling boards have an appropriate number of ballot boxes, the seal and election materials”. In addition to that, it should be noted that electoral procedures were also violated by the ballots being almost the same colour for the two different types of elections.
- d. According to the findings of CeMI’s observers in the field, which were obtained from standardised questionnaires regarding the organisation of the election day and the implementation of voting procedures, the following assessments were made:
 - The opening of the polling stations was rated as good in 97.7% of cases, bad in 1.9% of cases and very bad in 0.4% of cases.
 - Observers found the organisation of voting procedures as good in 97.6% of cases, bad in 1.6% of polling stations and very bad in 0.7% of polling stations.
 - The closing of polling stations and counting procedures were evaluated as good in 97.8% of cases, bad in 1.3% of cases and very bad in 1.0% of cases.

According to data from the field, at least 16.2% of polling stations did not have materials in Braille, while 32.6% were assessed as inaccessible to persons with disabilities. According to data from 950 polling stations, out of all the polling board members 80.5% were men and only 19.5% women.

In the majority of cases, CeMI’s observers had a good reception at the polling stations and enjoyed professional communication and cooperation with the polling board members. However, several polling boards did not allow CeMI’s observers to see the election materials and the MEC of the city of Cetinje limited the timely delivery of information to CeMI’s observer.

B. CeMI’s projections of voter turnout and the election results

The projection of voter turnout by 9:00 am of 6.67% was presented at the first press conference which was held at 9:00 am. By 9:00 am, 6.39% of voters had voted in Podgorica, while the turnout in the central region excluding Podgorica was 7.9%. In the south, 5.8% of voters had voted by 9:00 am, while in the north 8.0% of voters had exercised their voting right by 9:00 am. The turnout in all the regions by 9:00 am was greater than in the parliamentary elections held in 2009 and 2012, except for Podgorica where the turnout had been 6.4% in 2012.

At the press conference held at 11:00 am, it was announced that the turnout until 11:00 am was 20.7%. In Podgorica, 21.5% of voters had voted by 11:00 am, while in the central region excluding Podgorica 25.0% of voters had voted. In the south, 16.7% had voted by 11:00 am, while in the north 20.9% had voted. In the elections held in 2009 and 2012, the turnout was lower in all regions, as well as at the national level.

At the press conference that was held at 1:00 pm, CeMI presented the projection of voter turnout until 1:00 pm. At the national level, the turnout was 39.9%, which is noticeably higher than in the previous election cycles when the turnout until 1:00 pm was 30.7% in the 2009 parliamentary elections and 33.3% in the 2012 parliamentary elections. The turnout was higher in every region than in previous two election cycles and was 40.2% in Podgorica, 45.4% in the central region excluding Podgorica, 34.6% in the south and 41% in the north.

At the press conference held at 5:00 pm, it was announced that the turnout was 61.2% of the total number of registered voters until 5:00 pm. In Podgorica, voting rights had been exercised by 64.0% of voters by 5:00 pm, while in the central region excluding Podgorica, 68.1% of voters had voted. In the south, the turnout was 55.1%, and in the north 59.6%. Compared to the 2009 parliamentary elections, when the turnout was 51.9% and the 2012 parliamentary elections, when 55.9% of voters exercised their voting rights before 5:00 pm, the turnout in the 2016 parliamentary elections was higher at both the regional and national levels for this period.

At the press conference held at 7:00 pm, the turnout results were presented, according to which the total turnout by the time of holding the conference was 71.6%. In Podgorica, voting rights were exercised by 75.6% of registered voters, and in the central region excluding Podgorica by 76.9% of voters. In the south 66.2% of voters had voted by 7:00 pm, and in the north 69% of the total number of registered voters had voted. The turnout was higher than in the 2009 elections when it was 63.0% and the 2012 elections when 66.2% of voters had exercised their voting rights by this time.

CeMI held three press conferences where the projections for parliamentary and local elections were announced. Starting from 8:30 pm, the public could view the result projections at every moment, and these were updated as the data was received from the sample. At a press conference held at 9:30 pm, projections for the parliamentary elections results were presented based on 76.7% of the processed sample, while the preliminary results were announced at 11:00 pm based on 95.2% of the processed sample. Both projections of seats distribution were exactly the same as the seat allocation that was conducted by the State Election Commission.

Table 6: CeMI's projection of the results and projection of seats

Electoral list	%	Seats
Availability of sample	95.20%	95.20%
Turnout	73.90%	
Albanians Determined FORCA-DUA-AA	1.20%	1
Social Democratic Party - Ranko Krivokapic	5.20%	4
Albanian Coalition "With One Goal"	0.90%	0
Alternative Montenegro	0.20%	0
Positive Montenegro - Darko Pajevic	1.30%	0
Democratic Party of Socialists - Milo Djukanovic	41.50%	36
Croatian Civic Initiative	0.50%	1
Democrats - Aleksa Becic	9.90%	8
Big Coalition - Key - DEMOS, SNP, URA	11.00%	9
Serb Party - Milovan Zivkovic	0.30%	0
Party of Pensioners, Disabled and Social Justice - Smajo Sabotic	0.20%	0

List of Democratic Alliance of Albanians	0.40%	0
Democratic Front	20.30%	18
Bosniak Party - Rafet Husovic	3.30%	2
Bosniak Democratic Alliance of Montenegro - Hazbija Kalac	0.30%	0
The Social Democrats of Montenegro - Ivan Brajovic	3.20%	2
Party of Serb Radicals	0.20%	0

Table 7: CeMI's projection of the results and projection of seats at the local elections in Andrijevica

Electoral list	%	Seats
Democratic Party of Socialists	57.0%	20
Democratic Front	16.6%	5
Socialist People's Party	15.8%	5
The Social Democrats of Montenegro	4.2%	1
DEMOS	2.4%	0
Social Democratic Party	2.4%	0
Positive Montenegro	1.2%	0

Table 8: CeMI's projection of the results and projection of seats at the local elections in Budva

Electoral list	%	Seats
Democratic Party of Socialists - Milo Djukanovic	33.4%	12
Democrats - Aleksa Becic	19.5%	7
Democratic Front	19.2%	7
Montenegrin Democratic Union	8.0%	3
Coalition SNP-DEMOS	6.7%	2
Coalition Budva must!	5.2%	1
The Social Democrats of Montenegro - Zarko Radulovic	3.9%	1
Civic action - Bozidar Vujcic	1.8%	0
Positive Montenegro - Milos Bato Vukcevic	1.2%	0
Voter group - Radomir Glendza	1.1%	0

Table 9: CeMI's projection of the results and projection of seats at the local elections in Gusinje

Electoral list	%	Seats
Democratic Party of Socialists	27.5%	9
Gusinje Party	18.5%	6
The Social Democrats of Montenegro	15.0%	4
Democratic alliance in Montenegro	13.1%	4
Coalition DUA - Albanian Alliance	9.9%	3
Social Democratic Party	7.0%	2
Bosniak Party	5.3%	1
Socialist People's Party	3.7%	1

Table 10: CeMI's projection of the results and projection of seats at the local elections in Kotor

Electoral list	%	Seats
Democratic Party of Socialists - Milo Djukanovic	32.7%	12
Democrats - Aleksa Becic	14.7%	5
Democratic Front	13.5%	5
Socialist People's Party - Branko Baco Ivanovic	8.1%	3
Social Democratic Party - Ranko Krivokapic	8.0%	3
The Social Democrats of Montenegro - Andrija Lompar	5.7%	2
Liberal Party - Andrija Popović	4.4%	1
URA	3.4%	1
Croatian Civic Initiative	3.1%	1
Party of Serb Radicals	2.9%	0
DEMOS	2.2%	0
Positive Montenegro - Marko Kampe	1.4%	0

When it comes to CeMI's projections of electoral results, around 11:00 pm, just a few hours after closing the polling stations, CeMI gave its own projection of the electoral results. The average deviation of its projections of the percentage of votes obtained by the political parties was 0.04% from the official results, which was significantly lower than the announced possible error of $\pm 1.0\%$.

Table 11: Comparison of CeMI's projections of the Parliamentary electoral results with official results

Electoral list	CeMI % 9:30 pm	CeMI seats 9:30 pm	CeMI % 11:00 pm	CeMI seats 11:00 pm	SEC %	SEC seats	Differ- ence in %	Differ- ence in seats
Availability of sample	76.7%	76.7%	95.2%	95.2%				
Turnout	73.5%		73.9%		73.4%			
Albanians Determined FORCA-DUA-AA	1.2%	1	1.2%	1	1.3%	1	0.1%	0.0%
Social Democratic Party - Ranko Krivokapic	5.0%	4	5.2%	4	5.2%	4	0.0%	0.0%
Albanian Coalition "With One Goal"	0.9%	0	0.9%	0	0.9%	0	0.0%	0.0%
Alternative Montenegro	0.2%	0	0.2%	0	0.2%	0	0.0%	0.0%
Positive Montenegro - Darko Pajevic	1.3%	0	1.3%	0	1.3%	0	0.0%	0.0%
Democratic Party of Socialists - Milo Djukanovic	41.6%	36	41.5%	36	41.4%	36	-0.1%	0.0%
Croatian Civic Initiative	0.5%	1	0.5%	1	0.5%	1	0.0%	0.0%
Democrats - Aleksa Becic	9.9%	8	9.9%	8	10.0%	8	0.1%	0.0%
Big Coalition - Key - DEMOS, SNP, URA	10.8%	9	11.0%	9	11.1%	9	0.1%	0.0%
Serb Party - Milovan Zivkovic	0.3%	0	0.3%	0	0.3%	0	0.0%	0.0%
Party of Pensioners, Disabled and Social Justice - Smajo Sabotic	0.2%	0	0.2%	0	0.2%	0	0.0%	0.0%
List of Democratic Alliance of Albanians	0.4%	0	0.4%	0	0.4%	0	0.0%	0.0%
Democratic Front	20.7%	18	20.3%	18	20.3%	18	0.0%	0.0%
Bosniak Party - Rafet Husovic	3.3%	2	3.3%	2	3.2%	2	-0.1%	0.0%
Bosniak Democratic Alliance of Montenegro - Hazbija Kalac	0.3%	0	0.3%	0	0.3%	0	0.0%	0.0%
The Social Democrats of Montenegro - Ivan Brajovic	3.2%	2	3.2%	2	3.3%	2	0.1%	0.0%
Party of Serb Radicals	0.2%	0	0.2%	0	0.2%	0	0.0%	0.0%
Average deviation							0.04%	0%

C. Official announcement of the final election results

Based on the electoral materials from all the polling stations for the elections to the Parliament of Montenegro, the SEC determined the following:

- There were a total of 528,817 voters on the electoral register
- 378,086 voters cast their vote in polling stations
- 10,134 voters voted outside polling stations
- A total of 388,220 voters cast their votes in elections
- A total of 528,817 ballots were received
- There were 140,597 unused ballots
- There were 388,220 used ballots
- There were 5,513 invalid ballots
- There were 382,706 valid ballots

SEC determined the total number of votes the particular electoral lists won.

Table 12: The total number of votes the particular electoral lists won

Electoral list	No of votes	%
1. Albanians Determined FORCA-DUA-AA	4.854	1.27%
2. Social Democratic Party - Ranko Krivokapic	20.011	5.23%
3. Albanian Coalition "With One Goal"	3.394	0.89%
4. Alternative Montenegro	878	0.23%
5. Positive Montenegro - Darko Pajevic	5.062	1.32%
6. Democratic Party of Socialists - Milo Djukanovic	158.49	41.41%
7. Croatian Civic Initiative	1.802	0.47%
8. Democrats - Aleksa Becic	38.327	10.01%
9. Big Coalition - Key - DEMOS, SNP, URA	42.295	11.05%
10. Serb Party - Milovan Zivkovic	1.201	0.31%
11. Party of Pensioners, Disabled and Social Justice - Smajo Sabotic	672	0.18%
12. List of Democratic Alliance of Albanians	1.542	0.40%
13. Democratic Front	77.784	20.32%
14. Bosniak Party - Rafet Husovic	12.089	3.16%
15. Bosniak Democratic Alliance of Montenegro - Hazbija Kalac	1.14	0.30%
16. The Social Democrats of Montenegro - Ivan Brajovic	12.472	3.26%
17. Party of Serb Radicals	693	0.18%

The electoral lists which did not win 3% of the total number of valid ballots did not participate in the allocation of seats based on Article 94, paragraph 1 of the Law on the Election of Councillors and Representatives (Table 13).

Table 13: The electoral lists which did not participate in the allocation of seats

1. Albanian Coalition "With One Goal"
2. Alternative Montenegro
3. Positive Montenegro - Darko Pajevic
4. Serb Party - Milovan Zivkovic
5. Party of Pensioners, Disabled and Social Justice - Smajo Sabotic

6. List of Democratic Alliance of Albanians
7. Bosniak Democratic Alliance of Montenegro - Hazbija Kalac
8. Party of Serb Radicals

Based on Articles 94 and 95 of the Law on the Election of Councillors and Representatives, the electoral lists won the following number of seats in the Parliament:

Table 14: Allocation of the seats in the Parliament

Electoral list	Seats
1. Albanians Determined FORCA-DUA-AA	1 (one) seat
2. Social Democratic Party - Ranko Krivokapic	4 (four) seats
3. Democratic Party of Socialists - Milo Djukanovic	36 (thirty-six) seats
4. Croatian Civic Initiative	1 (one) seat
5. Democrats - Aleksa Becic	8 (eight) seats
6. Big Coalition - Key - DEMOS, SNP, URA	9 (nine) seats
7. Democratic Front	18 (eighteen) seats
8. Bosniak Party - Rafet Husovic	2 (two) seats
9. The Social Democrats of Montenegro - Ivan Brajovic	2 (two) seats

Based on Article 94, paragraph 2, point 1 of the Law on the Election of Councillors and Representatives and the number of votes won in the elections held on 16 October 2016, the following lists took part in the formation of the joint list of the Albanian minority with the following number of votes:

Table 15: The total number of votes of the Albanian minority lists

Electoral list	No of votes	%
1. Albanians Determined FORCA-DUA-AA	4.854	1.27%
2. Albanian Coalition "With One Goal"	3.394	0.89%
3. List of Democratic Alliance of Albanians	1.542	0.40%

Based on Article 94, paragraph 2, point 1 of the Law on the Election of Councillors and Representatives and the number of votes won in the elections held on 16 October 2016, the following lists take part in the formation of the joint list of the Bosniak minority with the following number of votes:

Table 16: The total number of votes of the Bosniak minority lists

Electoral list	No of votes	%
1. Bosniak Party - Rafet Husovic	12.089	3.16%
2. Bosniak Democratic Alliance of Montenegro - Hazbija Kalac	1.14	0.30%

Based on Article 94, paragraph 2, point 1 of the Law on the Election of Councillors and Representatives and the number of votes won in the elections held on 16 October 2016, the following lists take part in formation of the joint list of the Croatian minority with the following number of votes:

Table 17: The total number of votes of the Croatian minority lists

Electoral list	No of votes	%
1. Croatian Civic Initiative	1.802	0.47%

D. Communication with the public

During the election day, CeMI regularly informed the public about irregularities at all polling stations in Montenegro, based on the data collected from observers in the field and citizens who informed our legal centre about irregularities throughout the day. In addition to information about irregularities, CeMI also reported on voter turnout during the 2016 parliamentary elections, with a comparative analysis of turnout trends in the elections held in 2009 and 2012.

When it comes to the election results, the Centre for Monitoring and Research (CeMI) published on its website the data on the election results from all the polling stations. This data was updated in real time, so the public had an insight into the projections of the results and allocation of seats, based on a representative sample and the results from polling stations, at every point during the election night. CeMI announced the projections of the results and allocation of the seats of the parliamentary elections and the local elections in Andrijevic, Budva, Gusinje and Kotor through three press conferences that were held after the polling stations were closed. The information on local and parliamentary election was updated and available in real time on its webpage, which was visited more than two million times during the election day.

XIII Media

The failure of political entities to comply with the legal norms that determine the exact start date and duration of media campaigns caused an uneven application of the norms by broadcasters. Intensive campaigning by certain political entities began long before the confirmation of their electoral lists and led to non-compliant activities by broadcasters in the sphere of media coverage of the election activities of political subjects.

The Law on Electronic Media is not adapted to the technical possibilities of broadcasting political advertisements and other content. Namely, the law does not stipulate the obligation of cable operators to respect the principles of election silence during the retransmission of content. This is very important because, in parallel with the increase in the number of cable operators and the number of users who follow retransmitted content via them, the possibility of influencing voters through rebroadcast content has increased. By monitoring the media coverage, CeMI found that election silence was broken by the CDM portal, which released a video statement by the leader of the Democratic Party of Socialists right at the beginning of the period of election silence.

During the election process, the Agency for Electronic Media (AEM) received 50 complaints about the work of electronic media, of which six specifically referred to the election campaign.³⁶

In the case of Atlas TV³⁷, the Director of the AEM terminated proceedings against the broadcaster after comments on the committed offence of failure to conduct standard procedures for the approval of video material.³⁸ The next morning, Atlas TV again broadcast the disputed

³⁶ The cases relate to the broadcasting of promotional video clips of certain political actors and respect for professional standards in reporting. The procedure for determining the responsibility for broadcasting disputable content takes place in such a way that the monitoring department submits the report to the Director of the AEM, after which the report of the particular media is requested and the AEM makes a decision based on it.

³⁷ Atlas TV broadcast a promotional video of the DF which included the phrase “thieving gang”.

³⁸ Decisions of the AEM on terminating proceedings against Atlas TV 02-1372 13.09.2016

content, and only after 3pm that afternoon removed it from their programme.³⁹ The case of TV Vijesti is identical to the previous one and is related to broadcasting of disputed video. The procedure against the broadcaster was terminated after the decision by the director to suspend the procedure. There were no complaints against these two decisions. With the recent amendments to the Law on Electronic Media, the provision of Article 139 of the AEM's jurisdiction to issue an order to stop the "prohibited broadcasting of political advertisements" was deleted. Therefore, the only thing that the AEM is able to do, if it finds any illegality in the process of monitoring compliance with programming standards (including standards relating to advertising), is to issue a warning and order the broadcaster to "harmonise the broadcasting of radio or television programmes with the granted licence".

From September, the AEM received most complaints about Pink M TV. Almost all them were related to their political and informative forum "Minut, dva" (A Minute or Two). Most of the complaints were submitted by Zeljko Ivanovic, the Executive Director of the independent daily TV Vijesti and Rade Milosevic, the Director of the Employment Agency of Montenegro, on behalf of the Civic Movement URA within the Government of Electoral Trust.⁴⁰ Most of them were rejected by the Director of the AEM as unfounded. In two cases the complaint was accepted and Pink M TV received a warning. In two cases, the AEM Council adopted Mr. Ivanovic's appeal against the decision of the Director of the AEM, and also, in two cases the AEM Council adopted Mr. Milosevic's appeals against the decisions of the Director of the AEM.

The media campaign was marked by an intensive debate among the professional and general public about the appearance of minors in the promotional videos of political entities. There is no positive legal norm in Montenegro that regulates this issue, except the Rules on Programme Standards on Electronic Media, which prohibits "the use of minors for political purposes". Legal gaps in Montenegro's legislation complicate this issue to a certain extent, leaving room for different interpretations and, paradoxically, reinforce the responsibility of broadcasters to pay further attention to broadcasting video content and the use of minors for the purpose of political marketing. Despite the objections of certain members, the AEM Council had a majority opinion that there had been no abuse of minors in the election campaign.⁴¹

Political entities also complained to the AEM about the operations of certain broadcasters. Out of all the complaints, one received from Tarzan Milosevic, the Political Director of the DPS, related to unequal representation during the election campaign in the RTCG programme "Debate". The RTCG Board appealed against the decision. The members did not vote unanimously and the appeal was dismissed.⁴²

In addition to advertising on the internet, which was acknowledged during this electoral process as an additional way in which political entities could reach their target audiences, and which was heavily used with a minimum of €105,472.47 spent on this type of advertising, electronic publications (internet portals) had a significant stake in the election campaign of political entities. According to the Agency for the Prevention of Corruption, 2,676 advertisements were run in the content of portals, worth €144,780. The most commonly used portal was CDM with a total of 1,585 releases, followed by the Vijesti portal with 678 releases. The advertisements most run by portals were from the Democratic Party of Socialists with 810 commercials and the DEMOS-SNP-URA coalition with 530 commercials. In addition to this amount, political subjects allotted €54,398.26 for banner ads on portals.⁴³

39 http://www.ardcg.org/index.php?option=com_docman&task=cat_view&gid=29&dir=DESC&order=-date&Itemid=26&limit=10&limitstart=30.

40 All the decisions of the AEM can be found at http://www.ardcg.org/index.php?option=com_docman&task=cat_view&gid=29&dir=DESC&order=-date&Itemid=26&limit=10&limitstart=0.

41 Minutes 145. meeting AEM 15.09.2016

42 Available at: http://www.ardcg.org/index2.php?option=com_docman&task=doc_view&gid=1994&Itemid=26.

43 Available at: http://antikorupcija.me/media/documents/Izvjestaj_o_sprovedenom_nadzoru_u_toku_izborne_kampanje.pdf.

In the context of portals, during the election campaign hate speech expressed in the comments on specific articles was evident. Pursuant to the Rules on Electronic Media, hate speech includes: all forms of expression that incite, encourage or spread hatred or discrimination based on race, ethnicity, colour, gender, language, religion, political or other opinion, national or social origin, property, trade union membership, education, social status, marital or family status, age, health, disability, genetic heritage, gender identity or sexual orientation.⁴⁴ On the basis of the Rules, the provider of electronic publications is responsible for all its published content, regardless of its origin, as well as for removing all inappropriate content which is not pursuant to the Law and the Rules (Article 14). This obligation to clearly point out the rules for commenting and the requirement to register in order to comment was met by all portals. However, among the comments that were published concerning texts that informed about the activities of political subjects, there could be seen some which more or less clearly spoke against someone's political opinion or affiliation to a particular political party, but also there were some that expressed personal insults. Although the operation of portals is stipulated by the named Law and Rules, the Rules need to be improved, and this area has to be regulated by the Law in detail.

During the media campaign, some problems were observed when certain information from print media was broadcast, which came close to violating, or were evident violations of, professional standards. This relates to a so-called "spill-over" absence of standards, because the print media is far less regulated than the electronic media, so the question is whether the electronic media applies these standards when transmitting such content from the print media, or whether it can just use its right to objectively pass on information. Again, the absence of explicit explanation leaves room for different interpretations.

The election day was also marked by the decision by the Agency for Electronic Communications to **suspend traffic through the mobile apps Viber and WhatsApp**, with its reason being to stop unwanted communication, pursuant to Article 145, paragraph 4 of the Law on Electronic Communications, which allows the Agency to order the operators to suspend internet and telephone communication without limit if it finds that it is justified in cases of fraud or abuse. CeMI believes that through this action, citizens were denied their right to communication and information during the election day, and that this kind of censorship of communication is not in line with democratic standards and is not an adequate response to the problems related to unwanted communication.

The reports on the costs of the election campaign⁴⁵ showed a continuation of media polarisation when we take in account the paid advertising space of certain political subjects. In fact, apart from the enormous resources which the political entities were spending, it was evident that, on one hand, the Democratic Front spent most of its funds on advertising on TV Vijesti and in the daily newspaper Vijesti (a total of €159,744.41), whereas they spent a total of €7,711.20 on advertising through the media company Nova Pobjeda. The Democratic Front spent €37,460.96 on advertising in the daily Dan, which is traditionally a opposition newspaper and a critic of the Government and the ruling party/coalition. Also, it is evident that the Democratic Front spent €60,000 on internet advertising, several times more than the other political entities. The Social Democratic Party of Montenegro also focused the largest part of its media campaign on the media within the company Daily Press, the daily newspaper Vijesti and Vijesti TV, for which they allocated €140,747.27. The Democrats were also most "advertised" on TV Vijesti and allocated €49,932.64 for the same purpose. The Positive Montenegro, on the other hand, chose Pink M TV for promoting their programme and paid €50,955, while the Grand Coalition Key spent most money on advertising in the daily Dan, €40,221.89 in total. The Democratic Party of Socialists (DPS) opted for Novine Ltd. for advertising and publications, the company which publishes the daily newspaper Dnevne novine, on which they spent €15,113, and for Nova Pobjeda Ltd. and its daily newspaper Pobjeda,

⁴⁴ Available at http://www.ardcg.org/index.php?option=com_docman&task=cat_view&gid=19&Itemid=26.

⁴⁵ Available at: <http://antikorupcija.me/me/registri/izvjestaj-troskovima-izborne-kampanje/>.

for which it allocated €24,133. On the other hand, DPS paid the largest chunk of money for media representation to AST Ltd – €178,500 i.e. Prva TV and also €178,500 to Pink M TV. The report of this political entity shows that it spent €20,064 on advertising on different radio stations, while other entities mostly did not identify radio as a medium through which they would send their messages. Also, to this amount should be added €38,794 which DPS paid to Antena M, but the report is not clear whether this was paid to the portal or the radio station, as the description says “television” and Antena M TV does not exist.

The total assets allocated for media representation, advertising and publications of political entities which make up the current Parliament of Montenegro are shown in Table 18.

Table 18: Reported costs of political entities for media presenting, advertising and publications

Political entity	Total
Albanians Determined FORCA-DUA-AA	€ 5,297.60
Bosniak Party - Rafet Husovic	€ 6,664.00
Democratic Front	€ 120,824.99
Croatian Civic Initiative	€ 3,500.15
The Social Democrats of Montenegro - Ivan Brajovic	€ 125,616.75
Social Democratic Party - Ranko Krivokapic	€ 167,213.96
Democratic Front	€ 676,352.11
Big Coalition - Key - DEMOS, SNP, URA	€ 278,515.47
Democratic Party of Socialists - Milo Djukanovic	€ 536,892.00

Total €1,920,877.03⁴⁶

XIV International and domestic observers

The Law on the Election of Councillors and Representatives provides that the authorised representatives of domestic non-governmental organisations, registered to monitor the exercising of political rights and freedoms may follow the course of the elections and the work of election management bodies in accordance with the Law. Local NGOs interested in monitoring elections should submit their applications to the State Election Commission, which within 48 hours of receiving the application shall issue an official authorisation, or a decision rejecting the issuing of authorisations. Election management bodies are bound by law to allow foreign and domestic observers to monitor the elections and the work of the authorities. Polling boards register the presence of observers at polling stations. At the proposal of the polling board the State Election Commission may revoke the authorisation and identification card of the person to whom it was issued, if they do not comply with the rules on maintaining order at the polling station – the rules on the work of the election administration.

⁴⁶ More detailed information on the political entities that took part in the elections, as well as the funds spent on advertising hoardings, pre-election gatherings and video advertisements can be found at: http://antikorupcija.me/media/documents/Izvjestaj_o_sprovedenom_nadzoru_u_toku_izborne_kampanje.pdf, page 73.

A. International observers

At the invitation of the Parliament of Montenegro, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) engaged an Election Observation Mission for Parliamentary elections.

There were a total of 570 accredited foreign observers. OSCE/ODIHR had the largest mission with 420⁴⁷ accredited observers. Observers were also accredited by the Delegation of European Union to Montenegro (12), the Embassy of the United States (55), the Embassy of Turkey (6), the Embassy of Republic of Kosovo (17), the Embassy of Canada (1), the PSSE (14) and the SILBA (45)

In the parliamentary elections held in 2012, 123 observers from in foreign election monitoring missions were accredited. OSCE/ODIHR engaged 22 observers for monitoring the elections in 2012.

B. Domestic observers

A total of 2,662 observers were accredited to observe the parliamentary elections held on 16 October 2016.

Of that number, 2,092 were domestic observers, of whom the Centre for Monitoring and Research (CEMI) had 1,463 observers, the Centre for Democratic Transition (CDT) had 550 observers, the Network for Affirmation of the NGO Sector (MANS) had 70 observers, the Centre for Democracy and Human Rights (CEDEM) had five observers and the women's organisation "FENIX" from Berane had four observers. CEMI and the CDT conducted parallel voting tabulation and published their projections of the election results.

For sake of comparison, it is worth mentioning that 1,345 domestic observers were accredited for the 2012 elections, of which 1,222 were CeMI's observers.

During the election process, CeMI's access to electoral materials was limited or denied on multiple occasions, at the level of both the MECs and the SEC. Denial of access was usually justified by Article 111 of the Law on the Election of Councillors and Representatives, which stipulates that the authorised representatives of NGOs can only monitor the election process and the work of the election administration. The Law does not define the term 'election monitoring', thus enabling limited insight into electoral materials, which is contrary to international election monitoring standards.⁴⁸

47 The total number of accredited observers from international organisations and embassies is higher than the real number of their STOs, as they had to accredit interpreters for their STO teams in order for them to be able to enter polling stations.

48 Paragraph 11.3 of the Existing Commitments for Democratic Elections in OSCE Participating States calls for observers from qualified international and domestic organisations to be permitted effective access to all election proceedings. According to the Copenhagen Document from 1990, everyone shall have the right to freedom of expression including the right to communication, which the OSCE Election Observation Handbook interprets as the right to have an opinion and receive information without interference from public institutions (paragraph 3.1). The same document, *Conditions for Effective, Credible and Professional Observation*, stipulates access to all election-related information at every level of governance and at any time. Finally, the Handbook provides that "credible, effective and professional observation is essentially undermined where these basic conditions do not exist". Available at: <http://www.osce.org/odihr/elections/68439?download=true>.

XV Complaints and appeals

Montenegrin legislation provides administrative and judicial protection of electoral rights. Through administrative proceedings, it is possible to file complaints to both the municipal electoral commissions and the State Election Commission. Moreover, it is possible to file an appeal against the decisions of the SEC before the Constitutional Court. During the electoral process, interested parties filed complaints and appeals to the MECs and the SEC in compliance with the Law on the Election of Councillors and Representatives.

After the election day, the SEC received a total of 26 complaints related to the realisation of the electoral process, 11 of which were submitted by private individuals, 11 by political subjects and five by the municipal boards of political parties. The SEC upheld nine complaints, the substance of which referred to the decisions of five MECs: MEC Budva, MEC Cetinje, MEC Podgorica, MEC Niksic and MEC Ulcinj, thereby annulling the decisions of three MECs: MEC Niksic's decision No. 174 of 18 October 2016; and MEC Cetinje and MEC Ulcinj's decision No. 02-254/2016 of 20 October 2016. The SEC was mostly consistent when deciding on rerunning elections at certain polling stations.

The Constitutional Court received a total of 12 appeals⁴⁹ against the decision of the State Election Commission and one initiative for the initiation of proceedings aimed at determining the constitutionality of Article 82, paragraph 1 of the Law on the Election of Councillors and Representatives.⁵⁰ In the respective cases, the Constitutional Court decided against eight appeals on the basis of them having no legal grounds and against one appeal for it not being submitted in time. The Court rejected three appeals because the Constitutional Court was not competent to decide on complaints adopted by the SEC⁵¹ and one initiative after it was determined that the disputed matter was in compliance with international standards in its field.

The appeals submitted to the Constitutional Court mostly concerned violations of electoral rights, breaches of material rights by polling boards, municipal election commissions and the State Election Commission and concerning the process of verification of electoral lists at the local elections. The Constitutional Court also received a complaint against the decision of the State Election Commission on the determination of the final results of the election of representatives to the Parliament of Montenegro, filed by the leader of the electoral list Democratic Front, Andrija Mandic, and candidates for MP, Nebojsa Medojevic, Milan Knezevic, Strahinja Bulajic, Branko Radulovic and Predrag Bulatovic. The appeal claims that the aforementioned decision of the SEC violated rights which guarantee that "a government that does not derive from the freely expressed will of the citizens can be neither established nor recognised", arguing that citizens had been prevented from expressing their will freely due to statements made by the Police and the Supreme State Prosecution regarding the arrests of 20 alleged terrorists "who planned to attack citizens". According to this appeal, these circumstances led to a lower turnout and motivated voters without previous preferences to cast their vote in favour of the DPS. The Constitutional Court rejected the appeal on the grounds of Article 110, paragraph 2 of the Law on the Election of Councillors and Representatives,

49 Available at: <http://www.ustavisud.me/>.

50 Article 82, paragraph 1 of the Law on the Election of Councillors and Representatives stipulates that a "voter may cast his/her vote in favour of only one electoral list on the ballot", hence the appeal argues that voters are deprived of their right to elect their representatives to the Parliament of Montenegro directly and without intermediaries.

51 Following Article 110, paragraph 2 of the Law on the Election of Councillors and Representatives, the Constitutional Court determined that the appeals before Constitutional Court could only refer to a decision of the State Election Commission whereby complaints are either dismissed or rejected, not to one whereby complaints are adopted.

which stipulates that “only such a decision of the SEC that either rejects or decides against a complaint” can be subject to an appeal before the Constitutional Court. Furthermore, the Court concluded that the final results of the elections do not have the nature of a decision that either rejects or decides against the decision of the State Election Commission.⁵²

The Constitutional Court was consistent in deciding on appeals against the decisions of the State Election Commission.

At the level of the municipal election commissions, several complaints were filed by political parties and they were decided upon consistently by the MECs. For instance, MEC Kolasin received complaint No. 255 of 22 October 2016 filed by Democrats. The complaint was rejected as it was not delivered on time. MEC Mojkovac received a complaint that referred to a certain individual’s inability to vote because he/she was no longer located near the polling station ZIKS III Bijelo Polje (prison) which is where they had been when the electoral register had been concluded. MEC Mojkovac rejected the complaint for the reason that it was not competent in the matter and suggested the voter ask for protection of their electoral rights before the Ministry of Internal Affairs or the State Election Commission. The voter did not use any of these alternatives.

MEC Zabljak received a complaint filed by the DPS regarding three ballots that were declared invalid in this municipality, due to the specific manner of the circulation of the electoral lists. MEC Zabljak adopted the complaint and declared the ballots valid.

MEC Budva received complaints from the electoral list Democratic Party of Socialists - Milo Djukanovic, concerning the violation of electoral rights at 18 polling stations during the election day (polling stations 1, 2, 3, 6, 7, 10, 11, 12, 13, 13A, 14, 16, 17, 4, 6A, 9, 9A and 14A). At polling stations 4, 6A, 9, 9A and 14A DPS demanded a rerun of the voting procedure. This complaint, together with complaints concerning the remaining 13 polling stations, was rejected by MEC Budva.

XVI Recommendations

Priority recommendations

1. *Electoral reform – It is necessary to implement comprehensive electoral reform that would include the adoption of a new (1) Law on the Election of Councillors and Representatives, as well as the related laws: (2) the Law on the Electoral Register, and (3) the Law on the Financing of Political Parties and Election Campaigns. Also, the reform should include subsequent amendments to a set of related laws: (4) the Law on Electronic Media, (5) the Law on the Registers of Permanent and Temporary Residence, and (6) the Law on the Prevention of Corruption. Comprehensive reform would regulate all the issues from this and the previous electoral processes.*
2. *Professionalisation and depoliticisation of the SEC and the President of the SEC – It is necessary to bring about the complete professionalisation and depoliticisation of the composition of the State Election Commission, which would consist of five professionals from the field of law (preferably with an emphasis on electoral law). The proposed professionalisation of the SEC's composition would significantly improve the serious and efficient functioning of this institution, along with enhancing its capacity and the established procedures necessary for the institution's planning and realisation of work. The representatives of the confirmed electoral lists in the future should not participate in the work of SEC or have the right to vote, but should only have the possibility to observe and review the documentation of the SEC. It is necessary to professionalise the position of president of the Municipal Election Commission, who would be named by the State Election Commission on the basis of legally established criteria and on the basis of open competition. Other members would be determined by the political parties on a similar model.*

Other recommendations

A. To the Parliament of Montenegro

1. *Law on the Election of Councilors and Representatives should be amended in order to provide individuals with an opportunity to submit individual candidacy for MP or councilor position.*
2. *It is necessary to introduce preferential voting, with more preferential votes (3) available to the voter. It will increase the influence of voters on the selection of specific candidates, but also strengthen the link between citizens and their elected representatives.*
3. *Amend the Law on the Election of Councillors and Representatives so as to remove the discrepancies created by the system of differential legal thresholds, which gives minorities a privileged position and can lead to the effect of it being in disharmony with the concept of positive discrimination towards minority populations.*
4. *Through amendment of the Law on the Election of Councillors and Representatives, equality of the members of the Roma people, who do not have equal status with members of minority communities that make up a similar percentage of the total population, should be ensured. The obligation to prepare a certain part of the election material in the Roma language should be established.*

5. *In accordance with the international obligations that Montenegro has accepted, it is necessary to define the scope of election monitoring under the Law on the Election of Councillors and Representatives in a way that it includes free access to election materials by domestic and foreign observers of the election process.*
6. *It is necessary to more precisely and clearly legally regulate the election of members of MECs and PBs, as this would not depend on political turmoil and the decisions of the MECs or the SEC.*
7. *It is necessary to amend the Law on the Election of Councillors and Representatives so that all the aspects of functioning of polling boards would be thoroughly regulated by law.*
8. *It is necessary to amend the Law on the Registers of Permanent and Temporary Residence and find an efficient way of removing from the register of residence those persons who do not meet the legal requirements, as well as the instituting of spot checks of residence in order to remove from the register persons who have falsely reported their residence. This would increase the accuracy of the Central Electoral Register data, whereas part of data is based on information from the register of residence.*
9. *It is necessary to amend the Law on the Financing of Political Parties and Electoral Campaigns in order to put all political entities on an equal footing when it comes to their obligations on reporting the funds collected for election campaigns.*
10. *State financing of regular work and pre-electoral campaigns of political parties shall be legally conditioned by introducing into the statutes and implementing democratic procedure of selection of candidates for MP and councilors office, as well as direct selection of party's leadership by the members of the very party.*
11. *In order to ensure full respect for the principle of election silence, we believe that the law should stipulate that the responsibility for the observance of election silence on social networks should lie with the political entities that are participating in the elections, rather than with social media.*
12. *In order to put all political entities on an equal footing, it is necessary to redefine the terminology of the concept of a political entity and adapt the deadlines for reporting on the costs of ongoing campaigns in such a way that leaves no room for non-compliance with the Law on the Financing of Political Parties and Electoral Campaigns.*

B. To the State Election Commission

13. *In order for the full integrity of election results and to be accepted by all political actors and citizens, it is important for the SEC to take an independent, impartial, professional and transparent role in the decision-making process. The tabulation of results should be fully transparent to all the members of the SEC, so that the observers and interested public can monitor the processing of the results received by the MECs.*
14. *Strengthen the capacities of the SEC and professionals in the field of statistics, so that in the future the SEC would be able to release the preliminary results of the elections on the election night and reduce the possibility of political pressure on its decision.*
15. *It is necessary to adopt new rules of procedure for the SEC that would regulate all disputable situations in this election cycle (recording of sessions, taking down and approving the minutes during the session, the manner of putting certain questions to a vote, adoption of a complaints mechanism, lengths of breaks, the necessary number of members to put proposals on the agenda, the length of and reasons for pauses in work, and similar issues).*

16. *Strengthen capacities of the SEC to audit the electoral register. Strengthen the technical department with IT staff and developers, who would develop and use a specific software for these purposes, preferably automatically associated with the software used in the Ministry of Internal Affairs.*
17. *The degree of transparency in the work of the SEC must be significantly improved, with regular updating of the website, automatic publishing of the minutes of each session, the opening of sessions to the public through the possible presence of media representatives at the sessions of the SEC. The streaming of public sessions of the SEC via the internet and a new website of the SEC, using the model of many other countries in the region and the world should also be considered.*
18. *The SEC should take a more proactive role in clarifying regulation of those issues that are loosely regulated by the law itself, so as not to jeopardise the electoral process.*
19. *The SEC should establish a mechanism for verifying the authenticity of signatures supporting the electoral lists, in order to prevent the possibility of misuse of the personal data of the citizens of Montenegro, and should sanction all instances of supporting multiple electoral lists. Alternatively, the method of collecting signatures in support of the electoral lists should be changed.*
20. *In case there are no amendments to the formation of the MECs, it is necessary for the SEC to proactively and consistently act in cases of disagreement on the composition of the MECs, especially in situations of turbulent political reality and to make a clear decision on the constitution of the MECs.*
21. *It is necessary to establish a new model of handling over the election material, in order to prevent possible abuse, damage, or theft of election materials by the president of the polling committee.*
22. *The MECs should protect the integrity of the electoral process so that the determination and declaration of the electoral lists will be made pursuant to the Law on the Election of Councillors and Representatives and according to pre-established procedures, and exclude from the electoral process all electoral lists that do not meet the formal legal conditions for participation in the elections.*

C. To the Ministry of Internal Affairs

23. *We consider that an extensive field audit of the accuracy of the registration of residence of the Ministry of Internal Affairs should be carried out by the next election process, in order to create an electoral register and verify the requirements for length of residence.*
24. *In our opinion, establishing a coordination entity with the possibility of participation by representatives of civil society represents a good model for future electoral processes. In addition, it is necessary to provide full cooperation of the Ministry's departments with this entity, in order to allow all the members to make their contribution.*
25. *The cooperation of the Ministry of Internal Affairs and the SEC in the election process should be at a much higher level.*

D. To the Agency for the Prevention of Corruption

26. *It is necessary to modify the composition of the Council of the APC in order to make it professional and to eliminate influence from political parties in its decision making.*
27. *Our opinion is that repeating the process of appointment of the Director, through a clear procedure, would contribute to stronger integrity and confidence in the work of the Agency.*

28. *A more proactive role of the APC is necessary in terms of monitoring observance of the Law on the Financing Political Parties and Electoral Campaigns, through warnings and more objective and efficient filing of misdemeanour charges against those political entities that violate the law, in order to ensure transparency in this part of their work and to inform citizens about how their campaigns are financed.*
29. *It is necessary to introduce the obligation to publish reports with all relevant information on the conducted audits, which segments of the work of controlled entities are audited, what deficiencies are observed and with which entity, what methodology is used in the audit and what form of punishment the APC uses. It is necessary to establish an obligation to report to the APC on the conducted analysis of the submitted material by political entities before its final report.*
30. *We believe that the level of transparency in the work of the APC should be increased through unhindered media coverage of Council meetings and of the general activities of the APC. It is necessary for the APC to show its readiness and political will to cooperate with the media.*

E. To political entities

31. *We urge all political entities to reduce the overall level of politicisation of the electoral process and of the bodies for conducting elections, in order to increase the overall level of professionalisation of the electoral bodies and restore public confidence in the elections and the election results.*
32. *Political entities should bear in mind the general public interest and should respect the norms of electoral legislation, and not abuse legal loopholes and legal uncertainties for the personal interests of individuals or parties.*
33. *We believe that political entities should refrain from negative personal campaigns, as well as the use of minors for the purpose of political marketing.*
34. *Political entities and their leaders should also respect election silence on social networks.*

F. About the media

35. *It is necessary to amend the legal framework and remove the obligation of the Agency for Electronic Media to request approval of the annual programme, financial plan and submission of the financial and programme report to the Parliament, which places the independent regulator under political control, contrary to international obligations.*
36. *It is necessary to amend the Law on Electronic Media in order to define the rules for political marketing.*
37. *It is necessary to amend the Law on Electronic Media for the purpose of detailed regulation of programme standards for electronic publications (Internet portals). Establishment of a clear obligation and mechanisms for the prevention of hate speech and defamation from comments posted on portals.*
38. *It is necessary to legally define more precisely all the issues related to election campaigning and harmonise these legal norms with those establishing the rules for media campaigns.*
39. *It is necessary to legally define the division of responsibilities for the content of audio-visual material for broadcasting between broadcasters (solely responsible according to the existing norms) and political entities.*
40. *We believe that special rules for cable operators should be adopted, so that they respect*

the principles of election silence during the retransmission of content.

41. *The role of the Agency for Electronic Media should be strengthened and its jurisdiction to impose a ban on the broadcasting of political advertisements should be re-established.*
42. *The concept of “the misuse of minors for political purposes” should be introduced into legal norms, in order to further protect the rights of children, as the current legal vacuum does not allow arbitrary interpretation of such cases.*
43. *Introducing of a special body which would independently, efficiently and professionally monitor, and, if necessary, sanctions the work of the media during the election process should be considered.*

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Processed data
collected from CeMI's
observers

Annex

Opening of polling stations

Were there any physical barriers that prevented people with disabilities accessing polling stations (high doorstep, stairs...)?	Number of answers	%
Yes	228	30.4
No	512	68.2
I don't know	11	1.5
Total	751	100.0

Were there any physical barriers that prevented people with disabilities accessing polling stations (high doorstep, stairs...)? (The following numbers from polling stations where the form "Opening" was filled in include responses from observers who arrived at the polling station after 7am)	Number of answers	%
Yes	312	32.6
No	631	65.9
I don't know	15	1.6
Total	958	100.0

Did the polling board check if all the conditions for voting were provided before opening?	Number of answers	%
Yes	741	98.7
No	2	0.3
I don't know	8	1.1
Total	751	100.0

Were the responsibilities of the members of the polling board defined by the drawing of lots?	Number of answers	%
Yes	631	84.0
No	42	5.6
I don't know	78	10.4
Total	751	100.0

Were there any technical problems during the activation of the device for electronic identification of voters?	Number of answers	%
Yes	37	4.9
No	702	93.5
I don't know	12	1.6
Total	751	100.0

The president of the polling board is:	Number of answers	%
Male	592	79.6
Female	152	20.4
Total	744	100.0
Without answer	7	0.9

The president of the polling board is: (The following numbers from polling stations where the form "Opening" was filled in include responses from observers who arrived at the polling station after 7am)	Number of answers	%
Male	765	80.5
Female	185	19.5
Total	950	100.0
Without answer	8	0.8

Was the device for electronic identification of voters set up so that most members of polling boards were able to see it?	Number of answers	%
Yes	733	97.6
No	18	2.4
Total	751	100.0

Were the packages in which the election material was stored sealed?	Number of answers	%
Yes	711	94.7
No	3	0.4
I don't know	37	4.9
Total	751	100.0

Was the number of voters announced and entered into the protocol of the polling board?	Number of answers	%
Yes	722	96.1
No	6	0.8
I don't know	23	3.1
Total	751	100.0

Were all the ballots stamped by the polling board?	Number of answers	%
Yes	725	96.5
No	12	1.6
I don't know	14	1.9
Total	751	100.0

Were the election materials available in Braille?	Number of answers	%
Yes	544	72.4
No	122	16.2
I don't know	85	11.3
Total	751	100.0

Did the first voter put the ballot in the ballot box?	Number of answers	%
Yes	749	99.7
No	2	0.3
Total	751	100.0

The ballot box...	Number of answers	%
... was properly sealed, the signed control ballot was in the box	750	99.9
... was NOT properly sealed	1	0.1
The control ballot was NOT signed	0	0
...was NOT properly sealed and the control ballot IS NOT signed	0	0
Total	751	100.0

Was the electronic device for identification of voters at the polling station?	Number of answers	%
Yes	751	100.0
No	0	0
Total	751	100.0

Were two eTokens (electronic keys) for activation of the device for electronic identification of voters at the polling station?	Number of answers	%
Yes	750	99.9
No	1	0.1
Total	751	100.0

Was the number of needed ballots provided?	Number of answers	%
Yes	745	99.2
No	6	0.8
Total	751	100.0

Was the number of needed templates for voting provided?	Number of answers	%
Yes	749	99.7
No	2	0.3
Total	751	100.0

Were the joint electoral lists at the polling station?	Number of answers	%
Yes	751	100.0
No	0	0
Total	751	100.0

Were two printed extracts from the electoral register (one for voting by letter) at the polling station?	Number of answers	%
Yes	751	100.0
No	0	0
Total	751	100.0

Were the ballot boxes at the polling station?	Number of answers	%
Yes	751	100.0
No	0	0
Total	751	100.0

Was a portable ballot box for voting by letter at the polling station?	Number of answers	%
Yes	743	98.9
No	8	1.1
Total	751	100.0

Were special and official envelopes for voting provided?	Number of answers	%
Yes	747	99.5
No	4	0.5
Total	751	100.0

Was the form for the protocol of the polling board at the polling station?	Number of answers	%
Yes	750	99.9
No	1	0.1
Total	751	100.0

Opening ...	Number of answers	%
The polling station opened on time (7am)	711	94.7
The polling station opened with a delay of less than 15 minutes	31	4.1
The polling station opened with a delay of more than 15 minutes	8	1.1
I am not sure	1	0.1
Total	751	100.0

Was the ballot box opaque?	Number of answers	%
Yes	743	98.9
No	8	1.1
Total	751	100.0

Were there any complaints/remarks on the opening procedure of the polling station by polling board members, and were they entered into the protocol?	Number of answers	%
There were no complaints	433	57.7
There were some complaints that did not affect the voting process	314	41.8
There were some unreasonable complaints	1	0.1
There were reasonable complaints that seriously affected the process	3	0.4
Total	751	100.0

Evaluation of the polling station	Number of answers	%
VERY GOOD	381	50.7
GOOD	353	47.0
BAD	14	1.9
VERY BAD	3	0.4
Total	751	100.0

2. The voting process

Were the authorised representatives of lists/parties present?	Number of answers	%
Yes	979	97.9
No	21	2.1
Total	1000	100.0

Did all polling board members and all observers have good overview of the voting procedure?	Number of answers	%
Yes	980	98.0
No	20	2.0
Total	1000	100.0

Were you or is anyone else prevented from observing the voting procedure in any way?	Number of answers	%
Yes	12	1.2
No	988	98.8
Total	1000	100.0

Did any observer or candidate inform you about problems during voting?	Number of answers	%
Yes	43	4.3
No	957	95.7
Total	1000	100.0

Did you notice the presence of any uniformed or unauthorised persons at the polling station?	Number of answers	%
Yes	44	4.4
No	956	95.6
Total	1000	100.0

If yes, who was at the polling station?	Number of answers	%
1. Police officer (uninvited)	2	4.5
2. State or local incumbent	2	4.5
3. Uniformed soldier	1	2.3
4. Political party activist	11	25.0
5. Someone else	28	63.6
Total	44	100.0

If the answer to the previous question is YES, did those persons interfere with the election process?	Number of answers	%
Yes	2	4.5
No	42	95.5
Total	44	100.0

Did you notice any campaign activities near the polling station (party symbols are prohibited with a 100m radius)?	Number of answers	%
Yes	33	3.3
No	967	96.7
Total	1000	100.0

Did voters experience difficulties with physical access to the polling station in any way?	Number of answers	%
Yes	41	4.1
No	959	95.9
Total	1000	100.0

Was there a crowd in front of the polling station?	Number of answers	%
Yes	106	10.6
No	894	89.4
Total	1000	100.0

Were there tensions or disturbances of the public order in front of the polling station?	Number of answers	%
Yes	27	2.7
No	973	97.3
Total	1000	100.0

Were there any other problems near the polling station?	Number of answers	%
Yes	18	1.8
No	982	98.2
Total	1000	100.0

Did you notice too large a crowd at the polling station?	Number of answers	%
Yes	52	5.2
No	948	94.8
Total	1000	100.0

Did you notice campaign-related materials at the polling station?	Number of answers	%
Yes	7	0.7
No	993	99.3
Total	1000	100.0

Did you notice anyone trying to influence voters about who to vote for at the polling station?	Number of answers	%
Yes	17	1.7
No	983	98.3
Total	1000	100.0

Did you notice tensions or disturbances of the public order?	Number of answers	%
Yes	38	3.8
No	962	96.2
Total	1000	100.0

Did you notice the presence of any armed persons at the polling station?	Number of answers	%
Yes	1	0.1
No	999	99.9
Total	1000	100.0

Did you notice any other problems at the polling station?	Number of answers	%
Yes	27	2.7
No	973	97.3
Total	1000	100.0

Were there, to this point, any official complaints at the polling station?	Number of answers	%
Yes	26	2.6
No	974	97.4
Total	1000	100.0

Were there problems while using the device for electronic identification of voters?	Number of answers	%
Yes	99	9.9
No	901	90.1
Total	1000	100.0

Were there voters who did not vote because their name was not in the excerpt from the electoral register for this polling station?	Number of answers	%
Yes	422	42.2
No	578	57.8
Total	1000	100.0

If YES, how did the polling board react?	Number of answers	%
a) They let the voter vote	1	0.2
b) They did not let the voter vote	35	8.7
c) They did not let the voter vote and suggested that the voter inquire about their polling station	366	91.0
Total	402	100.0

Was there any group voting (several family members at the same time, for example)?	Number of answers	%
Yes	269	26.9
No	731	73.1
Total	1000	100.0

Did someone vote or try to vote more than once?	Number of answers	%
Yes	6	0.6
No	994	99.4
Total	1000	100.0

Were there situations in which someone voted on behalf of someone else?	Number of answers	%
Yes	57	5.7
No	943	94.3
Total	1000	100.0

Did any polling board members or observers use a mobile phone at the polling station?	Number of answers	%
Yes	201	20.1
No	799	79.9
Total	1000	100.0

Was someone keeping a record of the names of voters who voted?	Number of answers	%
Yes	216	21.6
No	784	78.4
Total	1000	100.0

Were there any cases where a voter said out loud who they had voted for or showed who they had voted for in any other way?	Number of answers	%
Yes	72	7.2
No	928	92.8
Total	1000	100.0

If the answer is YES, was that ballot annulled?	Number of answers	%
Yes	41	56.9
No	31	43.1
Total	72	100.0

Did the polling board follow the procedure of electronic identification of voters?	Number of answers	%
Yes	995	99.5
No	5	0.5
Total	1000	100.0

Was the control coupon that was detached after the electronic identification of voters signed by two members of the polling board (one from the ruling parties and one from the opposition)?	Number of answers	%
Yes	983	98.3
No	17	1.7
Total	1000	100.0

Did voters get a stamped ballot?	Number of answers	%
Yes	995	99.5
No	5	0.5
Total	1000	100.0

Did voters personally sign next to their name in the excerpt from the electoral register?	Number of answers	%
Yes	990	99.0
No	10	1.0
Total	1000	100.0

Were all polling board members or their deputies present all the time?	Number of answers	%
Yes	951	95.1
No	49	4.9
Total	1000	100.0

Was there good cooperation between you and the polling board during the monitoring?	Number of answers	%
Yes	990	99.0
No	10	1.0
Total	1000	100.0

Did a loss of electricity occur at the polling station?	Number of answers	%
Yes	127	12.7
No	873	87.3
Total	1000	100.0

Was visual identification of voters used in the case of a loss of electricity?	Number of answers	%
Yes	67	63.2
No	39	36.8
Total	106	100.0

Was the occurrence of the loss of electricity and visual identification of voters stated in the protocol?	Number of answers	%
Yes	78	74.3
No	27	25.7
Total	105	100.0

How many voters were identified visually in the case of a loss of electricity?	Number of answers	%
0	73	57.5
1 to 5	32	25.2
6 to 10	7	5.5
11 to 20	11	8.7
21 to 45	4	3.1
Total	127	100.0

Evaluation of the polling station	Number of answers	%
a) VERY GOOD	477	49.1
b) GOOD	471	48.5
c) BAD	16	1.6
d) VERY BAD	7	0.7
Total	971	100.0
Without answer	29	2.9

3. Closure of polling stations and vote counting

Were there voters waiting in front of the polling station at 8pm?	Number of answers	%
Yes	6	0.6
No	933	99.4
Total	939	100.0

Was the polling station closed at 8pm?	Number of answers	%
Yes	932	99.3
No	7	0.7
Total	939	100.0

How many polling board members were absent at the moment of closing the polling station?	Number of answers	%
Everyone was present	881	93.8
1	23	2.4
2	9	1.0
More than 2	26	2.77
Total	939	100.0

Did the president of the polling board ask the polling board members if they had any complaints and did he/she enter them in the protocol?	Number of answers	%
Yes	896	95.4
No	43	4.6
Total	939	100.0

Did the polling board at the moment of closing the polling station access the collection of data from the device for electronic identification of voters by choosing the option STATISTICS on the device screen?	Number of answers	%
Yes	899	95.7
No	40	4.3
Total	939	100.0

Were there problems while turning off the device for electronic identification of voters?	Number of answers	%
Yes	13	1.4
No	926	98.6
Total	939	100.0

Was the device for electronic identification of voters packed in the proper state into the box in which it was delivered to the polling station?	Number of answers	%
Yes	934	99.5
No	5	0.5
Total	939	100.0

Did the polling board determine the number of unused ballots?	Number of answers	%
Yes	923	98.3
No	16	1.7
Total	939	100.0

Did the polling board determine the number of control coupons that were detached from the ballots and the number of signed printed confirmations of the electronic identification of voters?	Number of answers	%
Yes	929	98.9
No	10	1.1
Total	939	100.0

Did the polling board, based on the printed excerpt from the electoral register, determine the total number of voters who voted?	Number of answers	%
Yes	921	98.1
No	18	1.9
Total	939	100.0

Was the number of voters entered into the protocol before opening the ballot box?	Number of answers	%
Yes	871	92.8
No	68	7.2
Total	939	100.0

Were the ballots from the portable ballot box for voting by letter immediately put into the regular ballot box after opening it?	Number of answers	%
Yes	916	97.6
No	23	2.4
Total	939	100.0

Was the seal on the ballot box untouched?	Number of answers	%
Yes	926	98.6
No	13	1.4
Total	939	100.0

Was the control paper found in each ballot box?	Number of answers	%
Yes	923	98.3
No	16	1.7
Total	939	100.0

Was the choice on each ballot pronounced out loud?	Number of answers	%
Yes	903	96.2
No	36	3.8
Total	939	100.0

Was the decision on valid/invalid ballots legitimate?	Number of answers	%
Yes	924	98.4
No	15	1.6
Total	939	100.0

Were there ballots that had been signed by the voter?	Number of answers	%
Yes	120	12.8
No	819	87.2
Total	939	100.0

If the answer to the previous question is YES, were those ballots declared invalid?	Number of answers	%
Yes	73	60.8
No	47	39.2
Total	120	100.0

Were there ballots that had been marked by voters in any other way?	Number of answers	%
Yes	219	23.3
No	720	76.7
Total	939	100.0

If the answer to the previous question is YES, were those ballots declared invalid?	Number of answers	%
Yes	185	84.5
No	34	15.5
Total	219	100.0

Was the criterion for the decision on valid/invalid ballots applied consistently?	Number of answers	%
Yes	906	96.5
No	33	3.5
Total	939	100.0

Were there any significant similarities between the invalid ballots?	Number of answers	%
Yes	88	9.4
No	851	90.6
Total	939	100.0

Were all the polling board members able to check ballots?	Number of answers	%
Yes	925	98.5
No	14	1.5
Total	939	100.0

Did the polling board announce the number of invalid ballots and enter that number into the protocol?	Number of answers	%
Yes	921	98.1
No	18	1.9
Total	939	100.0

Were any observers removed (kicked out) from the polling station during vote counting?	Number of answers	%
Yes	4	0.4
No	935	99.6
Total	939	100.0

Were any polling board members unable to check a ballot at their request?	Number of answers	%
Yes	14	1.5
No	925	98.5
Total	939	100.0

Were the protocol signed before the end of the procedure?	Number of answers	%
Yes	26	2.8
No	913	97.2
Total	939	100.0

Did you notice any forgeries in the electoral register, results or the protocol?	Number of answers	%
Yes	0	0
No	939	100.0
Total	939	100.0

Did the polling board have any difficulties with filling in the protocol?	Number of answers	%
Yes	17	1.8
No	922	98.2
Total	939	100.0

Were any numbers altered after they were entered into the protocol by the polling board?	Number of answers	%
Yes	27	2.9
No	912	97.1
Total	939	100.0

Were there any official complaints on the vote-counting process?	Number of answers	%
Yes	16	1.7
No	923	98.3
Total	939	100.0

Did any polling board member refuse to sign off the protocol?	Number of answers	%
Yes	23	2.4
No	916	97.6
Total	939	100.0

Was the sequence of steps of the procedure strictly adhered to?	Number of answers	%
Yes	914	97.3
No	25	2.7
Total	939	100.0

Did all the polling board members agree with the numbers entered into the protocol?	Number of answers	%
Yes	932	99.3
No	7	0.7
Total	939	100.0

Was a copy of the protocol released?	Number of answers	%
Yes	903	96.2
No	36	3.8
Total	939	100.0

Did all the people who asked for a copy of the protocol receive it?	Number of answers	%
Yes	862	91.8
No	77	8.2
Total	939	100.0

Did you receive a copy of the protocol?	Number of answers	%
Yes	652	69.4
No	287	30.6
Total	939	100.0

Were any unauthorised persons present during the vote counting?	Number of answers	%
Yes	10	1.1
No	929	98.9
Total	939	100.0

Did everyone have clear oversight of the vote-counting process?	Number of answers	%
Yes	933	99.4
No	6	0.6
Total	939	100.0

Were any observers deprived of clear oversight of the vote-counting procedure?	Number of answers	%
Yes	7	0.7
No	932	99.3
Total	939	100.0

Did any of the party observers inform you of any problems at the polling station during the vote counting?	Number of answers	%
Yes	47	5.0
No	892	95.0
Total	939	100.0

Evaluation of the polling station	Number of answers	%
VERY GOOD	504	53.7
GOOD	414	44.1
BAD	12	1.3
VERY BAD	9	1.0
Total	939	100.0

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