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REPORT ON PRELIMINARY FINDINGS AND CONCLUSIONS

Report on Preliminary Findings and Conclusions
Podgorica, March 20, 2023

The opinions and views expressed in this report represent the opinion of the authors and do not necessarily reflect the official positions of the British Embassy Podgorica.

CeMI - Montenegro Election Monitoring - Presidential Elections 20th March 2023

Report on Preliminary Conclusions and Findings

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The Center for Monitoring and Research (CeMI) accredited a total of 1,283 observers for the monitoring of the electoral process for both rounds of the presidential elections, while 450 observers monitored the electoral process in the first round. The mission consisted of a core team composed of: (1) the head of the mission, (2) the deputy head of the mission, (3) an election expert, (4) a legal expert, (5) an electoral administration expert, and (6) a network coordinator of observers. CeMI also engaged a network of local coordinators.

As part of the presidential election monitoring project, CeMI developed a web and mobile application called “Fair Elections” (www.ferizbori.me), through which citizens and observers could report observed irregularities or violations of their voting rights. The application also enabled citizens to follow live projections of election results and to be informed about their voting rights.

The Center for Monitoring and Research CeMI wishes to express its gratitude to the British Embassy in Podgorica for financially supporting the citizen monitoring project of the presidential elections and enabling the implementation of this mission. CeMI also wishes to express its gratitude to all representatives of the electoral administration, state authorities, political parties, international observer missions, and domestic non-governmental organizations with whom cooperation was established in carrying out this mission.

The findings presented in this report represent the views of the authors and CeMI, and not necessarily the views of the aforementioned donors.

The Center for Monitoring and Research CeMI is a non-governmental organization established in March 2000 that has continuously conducted citizen election monitoring since 2000. CeMI has observed all national elections since 2001, except for the presidential elections held in 2013. Additionally, CeMI is a founding member of the European Network of Election Monitoring Organizations (ENEMO) (www.enemo.eu), which it chaired from 2017 to 2022. The President of CeMI is a member of the Executive Board of the Global Network of Domestic Election Monitors (2018-2023) (www.gndem.org). Through ENEMO and OSCE ODIHR, CeMI members and experts have participated in numerous international observer missions as experts, long-term and short-term observers, and CeMI’s expert has been the head of international observer missions eight times (Moldova, Ukraine, Serbia, Armenia, and Kosovo).

PRELIMINARY CONCLUSIONS

Election day proceeded in a peaceful atmosphere, and the nature and extent of irregularities did not jeopardize the overall integrity of the electoral process. The elections were competitive with seven confirmed candidacies for the President of Montenegro, conducted without major organizational problems, while the fundamental rights of candidates and voters to freely present their programs and exercise their voting rights were largely respected.

The elections were held according to the rules of an unreformed set of election laws, the implementation of which is chronically plagued by problems that recur from one electoral cycle to another. Long-standing recommendations from the Venice Commission, OSCE ODIHR missions, and domestic observer organizations have not been taken into account or incorporated into electoral legislation. A comprehensive and inclusive electoral reform has been absent due to a lack of political will, despite announcements by the parliamentary majority and executive authorities that it would be a key priority after taking power following the victory in the parliamentary elections of August 30, 2020.

The current legal framework contains numerous legal gaps that require interpretation when applying certain key norms, illogicalities, inconsistencies, and contradictions that diminish its effectiveness. The body responsible for conducting elections, the State Election Commission of Montenegro (DIK), is not professionalized, and the majority for decision-making is still held by representatives of political parties who, when making key decisions, predominantly follow the interests of the parties they represent, which does not always imply public interest. Incomplete transparency in work and a lack of public broadcasting of sessions have not contributed to increasing public confidence in the decision-making process.

Candidates were required to submit 8,101 voter signatures. However, for the first time, DIK did not allow international and domestic observer missions to access candidate applications and support signatures, due to a legal interpretation by the Agency for Personal Data Protection (AZLP) that this would jeopardize the right to protection of personal data of Montenegrin citizens. In this way, the legally guaranteed rights of observers to monitor the legality of the electoral administration's work were limited. DIK received nine candidacy proposals and ultimately confirmed seven candidates, including one woman. The State Election Commission established and published preliminary election results within the legal deadline. DIK's decision to enable citizens to verify signatures through electronic verification on their website only after confirming candidacies is belated and dysfunctional because, despite numerous reported abuses by citizens, a confirmed candidacy cannot be disputed, even if potentially based on unlawfully collected support signatures.

The presidential elections were held in the context of a political and institutional crisis, with strong political polarization in Montenegrin society. There was high concern about the influence of external factors on the electoral process, as well as fear of potential cyberattacks, in response to which international partners, primarily the NATO alliance, offered their support to protect the Montenegrin system during election day.

The media market is pluralistic, with a large presence of traditional media. However, private media are predominantly controlled through a foreign ownership structure that affects their editorial policy. Of all television stations with national coverage, only one has a predominantly Montenegrin ownership structure. In this way, a greater presence of a number of candidates in the public space was ensured. On the other hand, the national public broadcaster RTCG respected the legal conditions and provided balanced coverage, however, the outdated approach to the conception of political debates and the rigidity of the rules did not provide candidates with the opportunity to meaningfully and substantially present their programs or directly engage with each other's arguments. This limited the citizens' ability to obtain complete information before making an informed decision.

Participants were able to campaign freely, albeit within a short campaign period, and basic freedoms were respected. The campaign was competitive, and voters were offered a diverse choice. The tone was primarily neutral and focused on promises of economic prosperity and acceleration of the European integration process. Regarding the electoral silence, political parties' propaganda on social media became prominent on March 18th. The main reason for this discrepancy is the inconsistency between relevant laws, i.e., the Law on Election of Councilors and Deputies (electoral propaganda lasts until 24 hours before the election day) and the Law on Financing of Political Entities and Electoral Campaigns (electoral propaganda lasts until election day). There has been an increase in covert advertising, or promotional activities without legally prescribed features, mainly carried out in daily news programs.

Campaign rules prohibit religious organizations, among others, from campaigning on behalf or for the political needs of a party or candidate. However, despite the clear legal ban, the Metropolitanate of Montenegro and the Littoral of the Serbian Orthodox Church in Montenegro directly intervened in the electoral process by calling on citizens not to vote for opposition presidential candidates. In addition, some representatives of the Serbian Orthodox Church dioceses in Montenegro directly participated in promotional activities and called on citizens to vote for specific candidates. Religious communities should refrain from participating in the pre-election activities of presidential candidates and from interfering in the electoral process.

The Agency for Electronic Media (AEM) demonstrated a proactive approach despite legal limitations in the part of unenforceability of penal provisions that do not allow them to penalize electronic media violating prescribed legal obligations. For the first time, AEM published a preliminary media monitoring report, accurately showing the representation of individual candidates in the media and making it available to the public. The preliminary report confirmed the advantage and greater presence of a number of candidates in private electronic media.

The control mechanism for supervising the work of the media during the electoral campaign was not established, contrary to the legal provisions of the Law on Election of Councilors and Deputies. The Committee for Monitoring and Supervision of the Application of the Law in the part of media obligations in the pre-election campaign, which the Parliament of Montenegro was obliged to form, was not established, and the control mechanism was absent.

Regulations on campaign financing allow for circumvention of restrictions and reduce accountability. All candidates submitted their donation and expense reports on time. The reporting conditions and control relying on the accuracy of data provided by the candidates do not fully ensure transparency in financing electoral campaigns. The Agency for the Prevention of Corruption (APC) has a mandate to supervise, but does not have investigative powers, and the law does not provide sanctions for inaccurate reporting. In the part of misuse of state resources during the electoral campaign, APC received 55 complaints, 28 were dismissed, 10 rejected, and 17 cases are pending.

The Ministry of Interior (MOI) formed a Coordination Team for monitoring the implementation of obligations arising from electoral laws; however, contrary to previous practice, members of domestic observer missions were not included in the team's work. The Ministry of Interior published a numerical tabular display of data on changes in the voter list, in its entirety and by local government units, compared to the voter list used in the previous elections. Access to the voter list was granted to representatives of the CeMI observer mission after submitting a letter and request to the MOI.

Collisions of legal norms concerning the beginning of the electoral campaign hinder the precise determination of the campaign's start and supervision by competent institutions, primarily the Agency for the Prevention of Corruption (APC). Deficiencies in the regulatory framework had a negative impact on transparency and accountability for campaign financing. Some candidates took advantage of this unenforceability to start campaigning before official confirmation of their candidacy and without opening a separate account for financing their electoral campaign, thus preventing control over the origin of financial resources needed for conducting the campaign. Throughout the campaign, all candidate promotion techniques were utilized, with video spots, billboards, and social media advertising being dominant, which continued even during the pre-election silence period.

The final voter list included 542,154 eligible voters. Election day was peaceful, and the voting procedure was positively assessed at most observed polling stations. Irregularities were numerous, but mostly resulted from an imprecise legal framework, initial confusion among polling board members, and partial endangerment of the voting secrecy due to the use of electronic devices, numerous reported instances of ballot photographing at polling stations after voting, and parallel record-keeping by political party representatives during election day. Overall, these irregularities did not significantly compromise the voting procedure.

Political Context

On January 16, 2023, the President of the Parliament of Montenegro, in accordance with the law, called for presidential elections to be held on March 19, 2023. The President is elected in a single electoral unit for a five-year term. To triumph in the first round, a candidate must secure over 50% of valid votes. If this does not occur, a second round is held two weeks later between the two candidates with the most votes, with the winner being the one who receives the most votes.

The presidential elections, the fourth since the restoration of Montenegrin independence, were held amidst a political crisis and institutional blockade, with most key institutions in an acting capacity. Additionally, deep social polarization driven by the political crisis raised concerns.

The political crisis was further exacerbated by a dysfunctional Constitutional Court and protracted negotiations between political party representatives in the Parliament of Montenegro. After lengthy negotiations and political agreement, the Parliament voted on February 27th to fill three of the four vacant positions, ensuring a quorum for the Constitutional Court's operation. All newly appointed judges are women.

In the last parliamentary elections held on August 30, 2020, the Democratic Party of Socialists (DPS) won the most seats, but three opposition coalitions formed a government, ousting the ruling DPS for the first time since 1990. The first so-called expert government was voted out of confidence in the Parliament of Montenegro. After that, a minority government was formed with the support of the DPS, led by URA leader Dritan Abazović. However, this government also faced a vote of no confidence.

In September 2022, the President did not appoint a prime minister-designate and asked the Parliament to shorten its term and allow for early elections. In response, the Parliament adopted amendments to the Law on the President, allowing the Parliament to appoint a prime minister-designate supported by a majority of MPs if the president refuses to do so. The amendments were adopted despite the Urgent Opinion of the Venice Commission, which recommended not adopting the amendments. The constitutionality of this law remains before the Constitutional Court, which has not yet decided on this issue.

During the campaign, negotiations on forming a new government continued but were unsuccessful. On March 16, the president dissolved the parliament, and the next day called early parliamentary elections for June 11.

Election Administration

The work of the election administration in the final phase of the electoral process was mostly characterized by the implementation of electoral actions in accordance with the law. Election administration bodies in Montenegro belong to the independent model of election administration with a combined type of membership, which means that the conduct of electoral processes is under the jurisdiction of bodies that

are institutionally independent and autonomous from the executive branch¹, but members of the election administration are selected among representatives of political parties and independent experts². The composition and jurisdiction of election administration bodies are regulated by the Law on the Election of Councilors and Members of Parliament.

The election administration structure is three-tiered and consists of: the State Election Commission, municipal election commissions in 25 municipalities in Montenegro, and polling boards. Election administration bodies at all three levels make decisions by a majority of the total number of members, including authorized representatives of political entities, who have an equal right to vote.

A. State Election Commission

The most significant election commission body is the State Election Commission (SEC). The SEC is a permanent body composed of a president and ten members in a permanent composition and an authorized representative of each electoral list submitter or presidential candidate. The President of the SEC is appointed by the Parliament, on the proposal of the working body of the Parliament responsible for elections and appointments, after a public competition has been conducted. Four members of the permanent composition of the SEC are appointed on the proposal of the parliamentary majority, and four members of the permanent composition of the SEC, one of whom serves as the secretary, are appointed on the proposal of the parliamentary opposition³.

A member of the permanent composition of the State Election Commission (SEC) is also appointed as a representative of a political party or a submitter of an electoral list for the authentic representation of members of a minority nation or minority national community that received the most votes in the previous elections. Their deputy should be a member of another minority nation or minority national community. One member of the permanent composition of the SEC is appointed by the Assembly, upon the proposal of the Assembly's working body responsible for elections and appointments after a public competition has been conducted, from among representatives of civil society, the non-governmental sector, or universities, who are experts in electoral legislation. This means that the combined type of membership in Montenegro implies that only two of the 11 permanent members of the SEC are selected among independent experts, while the other nine members are chosen by political parties. This majority composition of the SEC is reflected in the decisions of this body. Due to the reconstruction of its premises, the SEC holds its sessions in the old government building. From the day of the announcement of the elections to election day, the SEC held 26 sessions. The short timeframes in this election cycle, i.e., the fact that the period from the day of the announcement of the elections to election day was 63 days (20 days less than during the 2018 presidential elections), also affected the work of the SEC, and the Commission failed to meet all deadlines prescribed by the Calendar of deadlines for the implementation of electoral work published by the SEC on January 19. The deadline for determining the list of candidates for the President of Montenegro was exceeded due to objective circumstances related to the date of submission

1 Vujović, Z., et al., "Electoral Legislation Reform in Montenegro," Center for Monitoring and Research CeMI, Podgorica, 2021, p. 10, available at: <https://cemi.org.me/storage/uploads/ggUyB02gbtds9VI9dlyEKjazGWYvvRwgBUplQ9Vg.pdf>

2 Ibid, p. 15

3 Law on the Election of Councilors and Deputies, ("Official Gazette of the Republic of Montenegro", No. 16/2000 - consolidated text, 9/2001, 41/2002, 46/2002, 45/2004 - decision of the Constitutional Court, 48/2006, 56/2006 - decision of the Constitutional Court, and "Official Gazette of Montenegro", No. 46/2011, 14/2014, 47/2014 - decision of the Constitutional Court, 12/2016 - decision of the Constitutional Court, 60/2017 - decision of the Constitutional Court, 10/2018 - decision of the Constitutional Court and 109/2020 - decision of the Constitutional Court), Art. 30 (hereinafter: ZiOP)

of Jovan Radulović's candidacy and due to the deadline for appealing to the Constitutional Court against the SEC's decision to reject Željko Matijašević's candidacy. The SEC regularly publishes all decisions, agendas of sessions, and minutes from the same on its website, and by amending the Rules of Procedure, the SEC this year enabled accredited media representatives to attend SEC sessions, thus increasing the transparency of the Commission's work in line with one of CeMI's long-standing recommendations and other domestic and international organizations dealing with election observation. However, the SEC still has not enabled live streaming of sessions, and the argumentation of some members as to why this option should be left for some future elections is not convincing but raises suspicions that the SEC does not want the public to have full insight into how some of the most important decisions of this body are made. Namely, the SEC had the opportunity to use the premises of the Parliament of Montenegro, which are equipped for live streaming of sessions via the internet, but decided not to use that possibility. In favor of the fact that the SEC is still not ready to fully open its sessions to the public, there is also the information that was not known to the public, which is that at the first of the two sessions held on February 18, one of the SEC members initiated an initiative to exclude the public from the session at which the candidacy of Mr. Spajić was to be decided, which was held on the same day in the evening hours. Of the 10 present members, five voted to exclude the public.

B. Municipal election commissions

The Municipal Election Commission (MEC) consists of a president and four members in a permanent composition and an authorized representative of each electoral list submitter. The MEC is entirely composed of representatives of political parties. The candidate of the political party that won the most council mandates in the previous elections is appointed as the president of the MEC. Two members of the MEC are appointed on the proposal of the parliamentary opposition, one of whom serves as the secretary, while two are elected on the proposal of the ruling majority.

Municipal election commissions operated in 25 municipalities in Montenegro. Although all municipal election commissions have their own websites, not all of them are up-to-date when it comes to publishing important information for the electoral process. This is the case with the Kotor, Petnjica, Tivat, Ulcinj, and Žabljak election commissions. However, upon CeMI's request, all municipal election commissions provided the requested data in a short period of time.

Additionally, in some cases, polling station addresses did not match the addresses published in the official resolutions on determining polling stations. This was the case, among others, with polling station 17 in Zeta and polling stations 3 and 27 in Ulcinj.

C. Polling Boards

The permanent composition of the polling board includes a president and four members. The duties of polling board members are determined by drawing lots before the voting begins. Apart from permanent members, every electoral list or presidential candidate, depending on the type of election being held, has the right to a representative in the extended composition.

Each political party represented in the corresponding assembly is entitled to a number of polling board presidents proportional to the representation of council seats in that assembly. The municipal election commission determines by drawing lots the polling places at which political parties that are entitled to do so can propose a representative for the president of the polling board.

In the permanent composition of the polling board, two members are appointed at the proposal of the political party or coalition that holds the majority in the corresponding municipal assembly, and one representative each from the two opposition political parties in the corresponding assembly that received the highest number of seats in the previous elections, or the highest number of votes in case of the same number of seats. If there is only one opposition political party in the corresponding municipal assembly, two representatives of that party are appointed to the permanent composition of the polling board.

The polling board is appointed for each polling station no later than 10 days before the election day.

For the 2023 presidential elections, 1,162 polling boards were formed in the following municipalities: Andrijevica - 23, Bar - 67, Berane - 56, Bijelo Polje - 96, Budva - 28, Cetinje - 39, Danilovgrad - 32, Gusinje - 10, Herceg Novi - 47, Kolašin - 34, Kotor - 37, Mojkovac - 20, Nikšić - 134, Petnjica - 18, Plav - 22, Pljevlja - 63, Plužine - 24, Podgorica - 207, Rožaje - 44, Zeta - 26, Tivat - 21, Ulcinj - 38, Šavnik - 23, Žabljak - 20, and separate polling stations (UIKS) - 3.

Registration of presidential candidates

A total of nine nominations for presidential candidates were submitted to the State Election Commission, of which seven were approved. The candidacies of Milojko Spajić and Željko Matijašević were rejected. Instead of Milojko Spajić, the “Europe Now” movement proposed Jakov Milatović, and the SEC decided that the movement could use the signatures of the same citizens who had previously supported the candidacy of Spajić, which was rejected.

All candidates whose candidacies were approved exercised their right to appoint an authorized representative in the extended composition of the SEC.

In this election cycle, the SEC amended the instruction on the method and procedure for verifying support signatures for the electoral list for the election of deputies and candidates.

The State Election Commission (SEC) has modified the instructions on the method and procedure for verifying the signatures of support for the election list for the election of members of parliament and the candidate for the President of Montenegro, in such a way that the support signatures are only verified up to the required number of voter signatures, i.e., until the conditions for declaring the election list or the candidacy for the President of Montenegro are met. This change has received a positive opinion from the Agency for Personal Data Protection and Free Access to Information (APDPA) and has led to a significantly faster processing of the support signatures by the SEC’s Expert Service. To establish a candidacy, the proposed candidates for the President of Montenegro required 8,101 valid signatures of support⁴.

However, this election process was also marked by the collection of signatures of support for candidates and accusations by citizens that presidential candidates have abused their personal data. After activating

⁴ <https://dik.co.me/wp-content/uploads/2023/01/Odluka-o-potrebnom-broju-potpisa.pdf>

the SEC's application solution for verifying voter support signatures, hundreds of citizens addressed CeMI and the media with reports that their data had been abused. CeMI decided to provide free legal assistance to citizens whose data had been abused in this way. The Basic State Prosecutor's Office has initiated several criminal proceedings based on criminal charges for forging signatures of support for candidates, against several candidates⁵. In response to these allegations, the SEC issued a statement stating that the SEC cannot be held responsible for any misuse of voter support signatures by candidates, and that the SEC's Expert Service does not have the ability to assess handwriting on forms, as this can only be the subject of graphological interpretation in a separate procedure⁶.

This was not the only accusation against the work of the SEC in the process of registering presidential candidates. After it was established that Mr. Goran Danilovic was missing 2,263 signatures of support and after the decision was made to correct the deficiencies in the proposal of candidates for the President of Montenegro⁷, Mr. Danilovic made accusations against the SEC's Expert Service that signatures had been intentionally deleted and provided the SEC with copies of the support signatures, from which it is apparent that these signatures exist. It remains unclear how and where the deletion of voter support signatures occurred. At a meeting held on February 24th, the SEC concluded that in order to establish all the circumstances related to this situation, all disputed forms with support signatures from voters should be submitted to the competent prosecutor's office⁸.

Although we previously pointed out that the SEC had taken a step forward in increasing the transparency of its work, the Commission did not have an ear for the rights of observers, but deviated from the practice that existed in previous election cycles by not allowing accredited observers to view the signatures of support for presidential candidates, and instead forwarding requests for access to the documentation submitted by candidates for the opinion of the APDPA, which provided a negative opinion on them. As three organizations filed special requests (CeMI, CDT, and ODIHR), the SEC decided not to make a final decision on all requests until the APDPA provides a separate opinion for each of them. Although the SEC has not yet formally rejected the requests of non-governmental organizations by submitting them to the APDPA, access to the relevant documentation when the registration of candidates has already been completed is meaningless.

Furthermore, in the opinion that AZLP sent to DIK regarding CeMI's request, the special rights of observers during the election were not taken into account. Namely, the role of non-partisan observers in the electoral process is contained in several international instruments, such as the Copenhagen Document (1990)⁹ and the Guidelines on the Internationally Recognized Status of International Observers published by the Venice Commission in 2009, which state that election observers should be given the broadest possible opportunity to participate in the election observation process¹⁰.

With such actions by the State Election Commission (DIK), authorized observers are prevented from monitoring the course of the elections, individual electoral actions, and the work of election implementation bodies, and from timely pointing out the illegalities and irregularities that have been recurring for a number of years.

In this election cycle, the State Election Commission (DIK) has amended the instructions on the method and procedure for verifying signatures of support for the electoral list for the election of members of parliament and candidates for the President of Montenegro. The amendment provides that support signatures will only be verified up to the required number of voter signatures, or until the conditions for

5 https://www.vijesti.me/vijesti/politika/647591/tuzilastvo-istrazuje-potpise-podrske-troje-kandidata?utm_campaign=vijesti

6 <https://dik.co.me/announcement-regarding-abuse-of-support-signatures-for-presidential-candidates-in-montenegro/>

7 <https://dik.co.me/wp-content/uploads/2023/02/Conclusion-on-removing-deficiencies-Goran-Danilovic.pdf>

8 <https://dik.co.me/wp-content/uploads/2023/02/Minutes86.pdf>

9 <https://www.osce.org/files/f/documents/9/c/14304.pdf>

10 [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2009\)059-eng](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2009)059-eng)

declaring the electoral list or candidacy for the President of Montenegro are met. This change received a positive opinion from the Agency for the Protection of Personal Data and Free Access to Information (AZLP) and has significantly accelerated the processing of support signatures by the DIK's Expert Service. In order to determine the candidacy, proposed candidates for the President of Montenegro needed 8,101 valid signatures of support.

However, this electoral process was also marked by the collection of support signatures for candidates and citizens' accusations that presidential candidates had abused their personal data. After activating the DIK's application solution for verifying voter support signatures, hundreds of citizens turned to CeMI and the media with reports that their data had been misused. CeMI decided to provide free legal aid to citizens whose data had been misused in this way. The Basic State Prosecutor's Office initiated several criminal proceedings for falsifying signatures of support for candidates against multiple candidates. Regarding these allegations, the DIK issued a statement stating that it cannot be held responsible for any abuse of voter support signatures by candidates, and that the Expert Service of the DIK does not have the ability to evaluate handwriting on forms since this can only be the subject of graphological interpretation in a separate procedure.

This was not the only accusation against the DIK in the registration process of presidential candidates. After finding that Mr. Goran Danilović lacked 2,263 signatures of support and adopting a decision to eliminate the shortcomings in the candidate proposal for the President of Montenegro, Mr. Danilović accused the DIK's Expert Service of intentionally erasing signatures of support and provided the DIK with copies of support signatures indicating their existence. It remained unclear how and where the erasure of support signatures occurred. At a meeting held on February 24th, the DIK concluded that all disputed forms with voter support signatures should be forwarded to the competent prosecutor's office in order to establish all the circumstances related to this situation.

When it comes to candidate registration, the two decisions made by the DIK drew the most attention from both experts and the general public. The first decision was made at a meeting held on February 3rd and concerned the DIK's decision to send a letter to the Republic Election Commission of Serbia (RIK) requesting information on individuals who announced their candidacy for the President of Montenegro, Andrija Mandić and Miloško Spajić. It is important to note that at that time, Andrija Mandić and Miloško Spajić were not presidential candidates, and that questions regarding residence and citizenship are solely under the jurisdiction of the Montenegrin Ministry of the Interior. With this decision, the DIK put these individuals in an unequal position compared to other candidates and took on the role of the Ministry of the Interior, thereby grossly exceeding its powers.

The DIK used RIK's response as part of its argumentation to adopt a second controversial decision at a meeting held on February 18th, rejecting Miloško Spajić's candidacy with the explanation that the data in the candidate application was contradictory, which was perceived by the public as a politically motivated decision. The decision not to establish Miloško Spajić's candidacy, proposed by the Movement "Europe Now," represents the most controversial decision the DIK has made during this electoral cycle and potentially violates passive voting rights.

The Law on the Election of the President of Montenegro, in Article 1, Paragraph 2, specifies the conditions that every citizen must meet in order to be able to run for the President of Montenegro¹¹: *The right to be elected President is held by a citizen of Montenegro who has reached 18 years of age and has a domicile in Montenegro for at least 10 years in the last 15 years before the day of the election.*

The proponents of the proposal provided all the accompanying documentation prescribed in Article 6 of

¹¹ Law on the Election of the President of Montenegro, ("Official Gazette of Montenegro", no. 017/07 of 31.12.2007, 008/09 of 04.02.2009, 012/16 of 23.02.2016, 073/18 of 19.11.2018)

the Law on the Election of the President of Montenegro¹² to the DIK, thus fulfilling the formal requirement for establishing the candidacy. In the decision of the DIK on the non-establishment of the candidacy, it is also stated that Mr. Spajić meets all formal requirements for the candidacy for the President of Montenegro, but the DIK problematized the fact that Mr. Spajić was still a citizen of Serbia with a domicile in Belgrade¹³ at that time.

In the explanation of the decision on the non-establishment of the candidacy, DIK stated that the inconsistency of documents, the initiation of the procedure for the termination of the citizenship of the Republic of Serbia by the candidate Miloško Spajić himself, as well as the initiation of the procedure by the Ministry of the Interior of Montenegro in accordance with Article 24, which prescribes the loss of Montenegrin citizenship by operation of law, indicate the need to resolve these issues before the competent state authorities, in accordance with legal provisions, and that they are of such legal nature that they cannot be resolved within 48 hours.

Mr. Spajić decided not to file a constitutional appeal against the DIK's decision, but after the decision on the non-establishment of Mr. Spajić's candidacy, the "Europe Now" movement asked the DIK whether it could propose another candidate and whether the same persons who supported Mr. Spajić could give their support to another candidate, to which the DIK responded affirmatively, with the proviso that the support signature forms for Mr. Spajić cannot be used for the new candidate. The signatures of support that citizens gave to Mr. Spajić were deleted from the system by DIK, thus enabling the same persons to give their support signature to another candidate.

In addition to Mr. Spajić's candidacy, there was also a question in the public about the validity of Mr. Andrija Mandić's candidacy. Namely, before establishing the candidacy, Mr. Mandić refused to answer the question of whether he held citizenship of the Republic of Serbia, although his previous statements indicated that he did.

In this regard, it should be emphasized that in its letter to the RIK of Serbia, DIK requested data on the right to vote and domicile, while RIK provided data only in the part related to domicile, which means that Montenegrin state authorities do not have an official record of whether Mr. Mandić holds the citizenship of the Republic of Serbia and when he acquired it. After establishing the candidacy, Mr. Mandić reiterated that he holds Serbian citizenship and that it was acquired in accordance with the law, but did not provide any evidence to confirm it. Moreover, he asked the Ministry of the Interior to officially state the circumstances of acquiring citizenship after the election¹⁴. This circumstance raises doubts about the truthfulness of Mr. Mandić's statement, especially when we take into account the fact that in 2011, when he publicly admitted to holding the citizenship of the Republic of Serbia for the first time, Mr. Mandić expressed a willingness to hide official data about this circumstance from Montenegrin authorities and called on other citizens to do the same¹⁵.

In the meantime, the Ministry of Interior has initiated administrative proceedings against Miloško Spajić and Andrija Mandić, inviting them to provide their statements, while a decision has yet to be made.

12 The proposal of a candidate for President is submitted to the State Election Commission, no later than 20 days before the day set for holding the election. Along with the proposal referred to in paragraph 1 of this Article, the following shall be submitted: 1) a written statement of the candidate accepting the nomination; 2) confirmation of the candidate's voting rights; 3) confirmation of the candidate's residence; 4) a certificate of citizenship; 5) signatures of voters supporting the candidate.

13 <https://dik.co.me/wp-content/uploads/2023/02/rjesenje-o-neutvrđivanju-kandidature.pdf>

14 <https://www.vijesti.me/vijesti/politika/647918/mandic-bi-tek-nakon-izbora-o-drzavljanstvu-trazio-odgadjanje-izjasnjenja-umup-u>

15 <https://www.vijesti.me/vijesti/politika/367395/andrija-mandic-nikad-se-necu-odreci-srpskog-drzavljanstva>

Voter Registration

According to Article 45 of the Montenegrin Constitution, all adult citizens with at least two years of residence in Montenegro have the right to vote. All citizens with voting rights are registered in the voter list, which is an electronic database of personal information of Montenegrin citizens with voting rights. The voter list is a public document used solely for elections and is managed by the Ministry of Interior. The data in the voter list is extracted from the central registers maintained by the Ministry of Interior, by cross-referencing data from these registers to create a collection of personal information of Montenegrin citizens with voting rights.

Montenegro has once again faced these elections with an unregulated voter list. The voter list was finalized on March 8, with 543,154 registered voters, 3,128 more than in the 2020 parliamentary elections and 10,555 more than in the last presidential elections held in 2018.

Although in April 2021, the Ministry of Interior announced that it had initiated proceedings for the loss of Montenegrin citizenship for 2,108 individuals and started verifying 8,000 citizens listed in the voter lists of the Republic of Serbia, Bosnia and Herzegovina, and the Republic of Kosovo, due to the assumption that they hold citizenship of another country¹⁶ in addition to Montenegrin citizenship, the fact that the number of voters registered in the voter list has increased compared to the last parliamentary elections does not indicate proactive action by the ministry in addressing this issue, which CeMI pointed out in the first half of 2021 and which the European Commission has recognized as a problem to be addressed in its last two progress reports.

This year, the Ministry of Interior has enabled voters to check their polling stations through the online service biraci.me. Drawing on experience from previous electoral processes, the Ministry of Interior has implemented new security mechanisms for this service. Access to biraci.me is not possible outside the borders of Montenegro, thereby preventing its use by voters currently abroad. Furthermore, access to the service is no longer based on a unique citizen identification number (JMBG), but requires a personal ID or passport number. A similar solution is required for accessing the voter list in the Republic of Serbia. This measure aims to prevent election observers with authorized access to the voter list from verifying whether voters are registered in the Serbian voter list, or vice versa. Previously, CeMI discovered that 10.55% of the total number of voters registered in the voter list of the Herceg Novi municipality were registered unlawfully. Despite the evidence provided by CeMI, the Ministry of Interior has not deleted these unlawfully registered voters.

An additional security mechanism has been implemented to prevent the service from being overloaded with requests, by blocking more than five queries per second. Unlike previous electoral cycles, the biraci.me service has functioned without significant issues, with only a small number of brief interruptions recorded on election day.

In addition to the biraci.me service, the Ministry of Interior has made 10 operators available to citizens, who could be contacted at 19820 for any questions related to exercising their voting rights. Through the Montenegro Post, the Ministry of Interior sent citizens notifications about their registered polling stations, while a physical delivery check of notifications was carried out three days before election day.

¹⁶ <https://press.co.me/mup-za-2-108-lica-bice-pokrenuti-postupci-za-gubitak-crnogorskog-drzavljanstva-nece-se-oduzimati-po-automatizmu/>

On the other hand, the Ministry of Interior has not continued the good practice of public communication established in 2020, as evidenced by the large number of inquiries CeMI received shortly before election day from citizens who did not know their polling station. CeMI issued a statement containing all relevant information on how citizens can obtain information about their polling station.

It is crucial for Montenegro to address the issues with its voter list and improve its communication strategies for future elections. Ensuring accurate and up-to-date voter lists, as well as providing timely and clear information to citizens, is essential for maintaining the integrity of the electoral process and fostering trust in the democratic system.¹⁷

Election campaign

The election campaign began even before the confirmation of candidates and intensified in its final stages. Candidates used almost all techniques to promote their pre-election programs, including audio-visual marketing, billboards, distribution of promotional materials, direct contact with voters in the field, phone calls, and door-to-door campaigning.

The main reason for this is the inconsistency of solutions in relevant laws, i.e., the Law on the Election of Councilors and Deputies (election propaganda lasts until 24 hours before election day) and the Law on the Financing of Political Entities and Election Campaigns (election propaganda lasts until election day). There has been a noticeable increase in hidden advertising, mainly in daily news programs and regional media campaigns, primarily in Serbia. Since media promotion of candidates outside Montenegro is not subject to domestic regulations, it is impossible to act institutionally on this phenomenon, which can influence voters in their decision-making process, considering the popularity and viewership of Serbian media in Montenegro.

Additionally, candidates led intensive campaigns on social media, and a large number of paid content was recorded on online media and social networks. Election campaigns on social media continued even during the pre-election silence. As the campaign progressed, elements of negative campaigning became more evident. In this regard, it has been observed that a large number of content created and shared by candidates contained elements of discrediting opponents.

In terms of traditional campaigning, candidates could campaign freely, albeit in a short campaign period, and basic freedoms were respected. The campaign was competitive, offering voters a diverse choice. The tone was mostly neutral, focusing on promises of economic prosperity and accelerating the European integration process. Regarding election silence, political party propaganda on social media came into play on March 18th.

The campaign ends 24 hours before election day. After confirmation, all candidates have equal access to public spaces for organizing election campaigns and locations for campaign materials.

Collisions of legal norms related to the start of the election campaign make it impossible to precisely determine the campaign's start and oversight by competent institutions, primarily the Agency for the Prevention of Corruption (ASK). Regulatory framework deficiencies negatively impacted campaign

¹⁷ <https://www.vijesti.me/vijesti/politika/648228/cemi-uvud-u-biracki-spisak-gradjani-mogu-da-ostvare-na-salterima-mup-apatem-portala-ili-call-centra>

financing transparency and accountability. Some candidates took advantage of this situation by starting their campaigns before official confirmation and without opening a separate account for financing their election campaigns, making it impossible to control the origin of funds needed for the campaign. Throughout the campaign, all candidate promotion techniques were used, with video spots, billboards, and social media advertising dominating, which did not stop during the pre-election silence period.

Financing of the election campaign and the abuse of state resources

The financing of the election campaign and the abuse of state resources are regulated by electoral laws and the Law on the Financing of Political Entities and Election Campaigns, which contain provisions on deadlines and campaign methods, especially regarding limiting the abuse of state resources. From the day the elections are called, excessive spending of state funds by the state, public institutions, and local governments is prohibited, as well as employment in those institutions unless previously approved before the elections are called.

Budget funds for financing part of the costs of the election campaign for the President of Montenegro are provided in the amount of 0.07% of the planned total budget funds, reduced by the current budget, amounting to €884,549.16. For comparison, for the 2018 presidential elections, funds were allocated in the amount of €594,999.42. Funds received from the budget are allocated according to Article 28 of the Law on the Financing of Political Entities and Election Campaigns, which also regulates norms concerning financing and reporting. Specifically, funds are distributed in percentage amounts depending on whether the candidate's list is confirmed (20% of allocated funds) or whether they won the required number of votes (a minimum of 3% of voters' votes).

Candidates who achieve the required percentage are entitled to a distribution of 80% of the remaining total budget. If the elections have two rounds, this amount is further divided between the two candidates who enter the second round. In this case, 40% goes to the candidates who won over 3% of the votes in the first round, while the remaining 40% is distributed between the two candidates in the second round.

Presidential candidates can collect funds from private sources only during the election campaign. The amount of funds from private sources that a candidate collects for financing the election campaign cannot exceed the total amount of funds specified in Article 28, paragraph 1 of the mentioned law, meaning it cannot surpass the total allocated budget funds (€884,549.16).

Candidates who have their candidacy confirmed are required to open a separate bank account for campaign purposes and appoint a responsible person. Within fifteen days of submitting the candidacy, they must provide reports on income and assets, and seven days before the election, a report on media advertising during the election campaign.

Political entities are required to submit a report on contributions from legal and natural persons during the election campaign every fifteen days, and a report on the origin, amount, and structure of collected and expended funds from public and private sources for the election campaign, along with supporting documentation, to the Agency within 30 days of the election day.

Candidates have submitted reports within the legally defined deadline. However, the campaign financing regulations allow for circumventing limitations and reducing accountability. Although all candidates submitted their donation and expense reports in a timely manner, the reporting conditions and control relying on the accuracy of the data provided by the candidates do not fully ensure transparency in financing election campaigns. The Agency for the Prevention of Corruption (ASK) has a mandate to oversee, but it lacks investigative powers, and the law does not provide sanctions for inaccurate reporting. In terms of abuse of state resources during the election campaign, ASK received 55 complaints, 28 were dismissed, and 10 were rejected, while 17 cases are pending.

The legal limitation and infeasibility allow candidates, even if irregularities are identified during the submission of the candidacy, such as disputing the legality of the collected supporting signatures, to retain the guaranteed budget funds, which amounted to €28,000 per candidate during this election cycle. This legal provision, as well as the fact that every confirmed candidate, regardless of the voting results, receives a certain guaranteed sum from the budget, has raised suspicions among the public that some candidates enter the race solely for financial gain.

The media scene in Montenegro is deeply polarized, meaning there is a division between so-called pro-Montenegrin and pro-Serbian media, with dominant foreign influence, especially from Serbia. As for the media spectrum in Montenegro, there are various media outlets that offer different points of view. There is a significant difference in the context of media reporting, making it difficult to get an objective overview of the situation in the country through the media. The perception that the Montenegrin media scene is still subject to political influences and pressures can affect the objectivity of reporting and media independence.

In Montenegro, there are several laws regulating media behavior during elections, including: the Law on Electronic Media, which establishes rules for broadcasting and distribution of electronic media, including TV and radio, and the obligations and powers of the Agency for Electronic Media in Montenegro, including control and supervision of electronic media broadcasting during elections. The law defines rules on media plurality, independence, and transparency, and requires that media ensure balance in reporting on political parties and candidates; the Law on Media, which regulates issues related to journalistic ethics, privacy, freedom of expression, the right to reply, and access to information. The law also covers rules on publishing information about political parties and candidates during elections and requires the publication of information relevant to public interest; the Law on Elections, which establishes rules for organizing and conducting elections in Montenegro, including electoral rules, obligations of political parties and candidates, reporting methods during the campaign, and regulation of electoral media; and the Law on the National Public Broadcaster Radio and Television of Montenegro, which defines the activity of the national public broadcaster, providing public audiovisual services for which Montenegro ensures independent financing in accordance with the law.

In addition to these laws, there are other regulations concerning electoral media in Montenegro, including the Regulation on the Rights and Obligations of Broadcasters for the 2023 Presidential Elections, which further regulates the conditions for realizing the rights and obligations of broadcasters during the campaign for the election of the President of Montenegro. The purpose of this regulation is to ensure truthful, timely, and impartial information to citizens about all stages of the procedure and different views during the election campaign, under equal conditions for all participants in the election campaign.

The Agency for Electronic Media (AEM) is an independent regulatory agency that oversees and regulates electronic media in Montenegro, while the Ministry of Culture, Sports, and Media is responsible for overseeing the media and implementing laws. AEM has the mandate to issue and revoke broadcasting licenses, establish rules for broadcasting and distribution of electronic media, control and supervise the content being broadcast, and impose sanctions in case of non-compliance with laws and rules.

Additionally, the Committee for Monitoring and Supervising the Application of the Provisions of the Law on the Election of Councilors and Deputies, which should also apply to the presidential elections in Montenegro, has not been formed even though the Parliament of Montenegro was obliged to form it in accordance with Article 64b of the same law. The Committee was supposed to ensure full and equal representation of all candidates in the media during the pre-election campaign and to react promptly to the competent institutions in case of violation of the law.

The Center for Monitoring and Research CeMI did not conduct systematic media monitoring, so this report does not contain percentages of media coverage about candidates. Instead, the report focuses on information about whether candidates violated the electoral silence, the tone of media reporting on political events, and whether candidates from some political parties were more or less favored on individual portals. Using the CrowdTangle platform, which CeMI used to track the activities of candidates and political parties on Facebook, we have specifically analyzed social media.

Media

A. Traditional Media

The national broadcaster in Montenegro is Radio-Television Montenegro (RTCG), which has a public service mandate and broadcasts television and radio programs throughout the country. During election cycles, RTCG is required by law to provide unbiased and independent reporting on political candidates, offer free airtime, and organize election debates.

Throughout the election campaign, various media channels covered information about presidential candidates and their platforms. There were criticisms that some media outlets were biased toward certain political candidates. Overall, it is possible that some viewpoints were limited, but there were also media outlets that aimed to ensure independent and objective reporting on the election campaign.

As expected, the 2023 presidential campaign took place in both traditional and online/digital media. Candidates relied on various communication channels to reach different segments of the audience, including television, radio, newspapers, social media, online portals, and other digital channels.

The Agency for Electronic Media took a proactive approach and published a preliminary media monitoring report showing the representation of individual candidates in the media, making the report available to the public. However, this was not sufficient to ensure equal representation for all candidates. This is because current legal regulations prevent competent institutions, including AEM, from responding and sanctioning those who violate the law promptly. An example is the decision by several Montenegrin television stations to participate in providing services to presidential candidates without previously

adopted rules, contrary to the law. Two television stations, Serbian TV and Jadran, lead in this regard.

During the electoral process, there was a dispersion of disinformation and spin news that were part of the strategy of political candidates and their parties participating in the elections. It can be said that they created additional tension and polarization among voters, contributing to an atmosphere of mistrust. Additionally, disinformation could have affected undecided voters, who may have been confused and uncertain in their choice, and it is possible that some of them ultimately decided not to vote. However, it should be noted that the first-round election results were relatively clear. This indicates that disinformation and spin did not significantly alter the electoral outcome but certainly contributed to creating an atmosphere of mistrust and polarization.

In previous election cycles, NGOs and international institutions have expressed concerns about biased reporting in electronic and print media in favor of certain parties and candidates. Concerns continue during this electoral process. There is also concern about the inadequate coverage of new candidates, leading to their marginalization and reduced visibility.

Debate organization and other media appearances during election campaigns are regulated by the Law on Electronic Media and other regulations. According to these legal provisions, the media must ensure the right of all candidates to express their political programs and provide equal access to media for all participants in the electoral process. During the campaign, RTCG was to organize two election debates. All candidates, except Mr. Radulović, participated in the first debate. The second debate was canceled by RTCG because the candidates refused to participate in the alternative format offered by RTCG after Mr. Đukanović and Mr. Mandić decided not to participate because they had previously recorded a debate broadcast on two private TV channels at the same time the RTCG debate would have taken place. In addition to organized debates, some media organized various discussions and interviews with candidates during the campaign.

In this regard, the media should provide all candidates with the opportunity to participate in debates and other media appearances, ensuring equal conditions for presenting their views and platforms. However, not all candidates had equal opportunities to participate in these debates, and it is questionable whether the media complied with legal provisions on equal access and impartiality in their reporting.

B. Online media and social networks

In the past, traditional media were dominant in political campaigns in Montenegro, with television and radio serving as key channels for disseminating information about political parties and candidates. However, digital media and social networks have become increasingly significant for political campaigns in Montenegro, particularly for younger audiences.

The electoral silence began at midnight on March 18 and lasted until the closing of polling stations. During this period, the number of content published by political candidates/parties on

Facebook was 74. Individually, candidate Jovan Radulović had 11, Milo Đukanović 4, Democratic Front 20, Aleksa Bečić 22, Draginja Vuksanović 6, Jakov Milatović 1, and United Montenegro 10. These posts generated a total of 79,798 Facebook interactions, with as many as 44,529 interactions on Jovan Radulović's posts alone and 11,163 interactions on the Democratic Front's posts. The data suggest that all candidates and their parties were active on the Facebook platform during the period of electoral silence, engaging in self-presentation through communication on social networks. They primarily communicated through photos (44.0%), videos (46.7%), and Facebook live (9.3%).

Regarding political campaigns on social networks, there was a high level of activity from political candidates and parties, which had been on the rise since February 1. Among the presidential candidates on Facebook, Jovan Radulović had the most followers (142,701), followed by the Democratic Front (99,861), Milo Đukanović (86,801), Aleksa Bečić (84,898), Draginja Vuksanović Stanković (30,049), Jakov Milatović (13,671), and United Montenegro (11,382).

In the observed period (February 1 - March 20), political candidates published 1,133 pieces of content, generating a total of 1.47 million interactions on the Facebook platform. It is interesting to note that 1.15 million or 78% of the total number of interactions during this period were generated by just four candidates: Jovan Radulović, Milo Đukanović, Draginja Vuksanović Stanković, and Jakov Milatović. In the same period, the Democratic Front and Aleksa Bečić were among the most active pages on Facebook. Jovan Radulović, on average, published 3 pieces of content per day, Milo Đukanović 3, Aleksa Bečić 4, Democratic Front 6, Draginja Vuksanović Stanković 3, Jakov Milatović 2, and United Montenegro 2.

During the 2021 local election campaign in Nikšić, CeMI identified the existence of 18 meme pages that shared political content and were directly linked to websites of questionable credibility. CeMI observed that the percentage of published posts was much lower after the local elections in Nikšić. Greater timeliness and activity of meme pages were noticed in the period immediately before the elections. These same meme pages published a total of 377 pieces of content and generated 32,770 interactions from February 1 to March 20, 2023. Graphical representations of the meme pages' activity will be shown in the final report.

Objections and Complaints

Provisions of the Law on the Election of Councilors and Members of Parliament, which, among other things, relate to the protection of voting rights, are accordingly applied to the election of the President of Montenegro. The Law on the Election of Councilors and Members of Parliament, in Article 107, stipulates the procedural possibility of protecting voting rights, so that every voter, candidate, and electoral list submitter has the right to file an objection with the competent election commission for violation of voting rights during the election. The objection is submitted to the competent election commission within 72 hours from the moment the decision was made or the action was taken.

Article 108 of the same law provides that an objection against the decision, action, or omission of the electoral board is submitted to the municipal election commission, while an objection against the decision, action, or omission of the municipal election commission is submitted to the State Election Commission.

In accordance with Article 109 of this law, the competent election commission shall issue a decision within 24 hours from the moment of receiving the objection and shall deliver it to the person who filed the objection. If the competent election commission accepts the objection, it will annul the decision or action, and if the competent election commission does not issue a decision on the objection within the specified deadlines, the objection shall be considered accepted.

Furthermore, Article 110 of the Law provides that an objection may be filed with the State Election Commission against the decision of the municipal election commission by which an objection has been dismissed or rejected, while, as a final legal remedy, an appeal against the decisions of the State Election Commission may be filed with the Constitutional Court of Montenegro.

The authorities responsible for conducting the election are obliged to inform voters about their voting rights and the manner of protecting those rights during the electoral process.

In addition, every citizen has a constitutional right to initiate a procedure for assessing the constitutionality and legality, both in terms of compliance of the law with the Constitution and ratified and published international agreements, as well as the compliance of other regulations and general acts with the Constitution and the law.

A citizen filed an objection with the State Election Commission regarding the decision to accept the candidacy of Milo Đukanović for the President of Montenegro. The State Election Commission rejected this objection as unfounded.

A citizen filed an objection with the municipal election commission in Budva due to the violation of the pre-election silence by circulating a bus used in the campaign of the presidential candidate of the Democratic Front, Andrija Mandić. This objection was accepted, and the mentioned irregularity was rectified.

A citizen filed an objection with the municipal election commission in Kolašin. This objection was rejected as unfounded.

Election Day

Monitoring of Election Day was carried out through four groups of activities:

1. Monitoring the implementation of electoral procedures at polling stations – opening, voting, closing polling stations and counting votes, and continuous communication of observers with operators and the legal center to collect data on turnout and irregularities during Election Day;

2. **Partial Parallel Vote Tabulation (PPVT)** on a representative sample of 400 polling stations, based on which CeMI announced the first forecasts of results and allocation of mandates at the national and local level;

3. **Monitoring the work of municipal election commissions and the State Election Commission;**

4. **Relations with the media and the public.** Data on turnout and irregularities during Election Day were announced through eight regular press conferences, while data on election results estimates were presented through three conferences held after the closing of polling stations. All conferences were broadcast live, and a total of 22 media houses, 4 television stations, and 70 journalists reported on our findings. The findings were also available simultaneously on CeMI's social networks and website.

Implementation of the Electoral Procedure

CeMI established the “Fair Elections” service to monitor irregularities in the electoral process, primarily enabling observers, but also citizens and voters, to report irregularities and violations of voting rights in real-time directly to CeMI's Legal Team. At the same time, voters were able to obtain free legal assistance, legal advice on whether a voter's rights were violated in a specific situation, and how a voter could protect their rights through the same services during Election Day.

Android and iOS applications, a web portal, and two open lines for direct communication with CeMI's Legal Team were available to citizens throughout Election Day.

Regarding turnout, CeMI informed citizens at time intervals, specifically at 9:00 AM, 11:00 AM, 1:00 PM, 5:00 PM, and 7:00 PM.

Through the “Fair Elections” services, CeMI's Legal Team received 150 reports of irregularities.

In parallel with processing the received irregularities, CeMI's Legal Team made the most characteristic ones available to the Montenegrin public through the web portal and the “Fair Elections” application, contributing to the transparency of the electoral process and pointing out the most common irregularities and rights violations so that citizens could recognize future violations and report any irregularities. The number of submitted reports indicates that the availability of the “Fair Elections” service and real-time publishing has encouraged citizens/voters to freely report possible irregularities and rights violations.

Election Day was marked by numerous irregularities that appeared in a similar form at a relatively large number of polling stations. In most cases, these irregularities were the result of untrained electoral boards, but ultimately did not call into question the regularity of the elections.

Based on the findings of CeMI observers directly from polling stations, obtained through standardized questionnaires on the organization of Election Day and the voting procedure, the following assessments can be made:

- » The process of opening polling stations was rated as excellent or very good by observers in 92% of cases, while the opening was rated as poor or very poor in 2.4% of cases. The average rating is 4.6.
- » The voting process was rated as excellent or very good by observers in 90% of cases, while voting was rated as poor or very poor in 3.3% of cases. The average rating is 4.5.
- » The procedure of closing polling stations and counting votes was rated as excellent or very good by observers in 92% of cases, while closing was rated as poor or very poor in 3% of cases. The average rating is 4.6.

According to field data, Braille materials were not available at least 13.3% of polling stations, while 27.5% of polling stations were estimated by observers to be inaccessible to people with disabilities. Among electoral board members, men were the chairpersons of electoral boards at 73.7% of polling stations, while women held this position at 26.3% of polling stations. CeMI observers encountered a good reception, professional communication, and cooperation with electoral board members.

Problems with exercising the right to vote were recorded at 31.8% of polling stations, due to the fact that the voter was not registered in the voter list at that polling station. Issues with electronic voter identification were observed at 6.8% of monitored locations. Group voting was noticed at 29.4% of locations. A member of the electoral board or observer used a mobile phone at 17.5% of polling stations. Someone was keeping a record of the names of voters who voted at 20.5% of locations. Also, in 2.3% of cases, there were voters waiting outside the polling station at 8 PM, and 57% of these voters failed to exercise their right to vote. At 7.3% of polling stations, ballots signed by the voter were noticed, and at 26.2% of locations, ballots marked by the voter in any other way (triangles, squares, double circles, different colors, etc.) were noticed. At the vast majority of polling stations, these ballots were declared invalid.

CeMI's estimates of voter turnout and election results

Table 1: CeMI's estimates of presidential election results:

| | CEMI ESTIMATE | SOUTH | CENTRE | NORTH |
|-------------------------------|---------------|-------|--------|-------|
| Turnout at 9am | 6.6% | 5.6% | 7.4% | 6.5 % |
| Turnout at 11am | 20.1% | 16.6% | 21.3% | 20.8% |
| Turnout at 13pm | 35.5% | 30% | 37.7% | 37% |
| Turnout at 17pm | 52.4% | 45.4% | 56.1% | 53.4% |
| Turnout at 19pm | 60.5% | 52.8% | 65.5% | 60.8% |
| Total turnout (8pm) | 63.1% | | | |
| Milo Đukanović | 35.2% | 37.4% | 31.9% | 37.3% |
| Jakov Milatović | 29.2% | 23.9% | 35.1% | 26.3% |
| Andrija Mandić | 19.3% | 19.3% | 17.4% | 21.1% |
| Aleksa Bečić | 10.9% | 13.1% | 10.4% | 10.3% |
| Draginja Vuksanović Stanković | 3.2% | 3.6% | 3.3% | 2.8% |
| Goran Danilović | 1.4% | 1.4% | 1.2% | 1.6% |
| Jovan Radulović | 0.8% | 1.2% | 0.8% | 0.6% |

Public Communication

The Center for Monitoring and Research - CeMI regularly informed the public about turnout, irregularities, voting trends, and election results projections after the closure of polling stations through press conferences during Election Day. Press conferences were held at 9:15 AM, 11:15 AM, 1:15 PM, 5:15 PM, and 7:15 PM. At the conferences, CeMI presented to citizens a comparative analysis of the number of voters who voted during the same periods in the 2018 presidential elections, as well as parliamentary elections held in 2020 and 2016. After five regular press conferences during Election Day, CeMI held

three additional press conferences during the election night, presenting projections of election results according to the dynamics of the processed sample. CeMI introduced the first election results based on the PPVT method at 8:30 PM, only half an hour after the closing of polling stations.

CeMI reported publically about irregularities at all polling stations in Montenegro based on the data collected from observers in the field and citizens who informed CeMI about observed irregularities during Election Day via the Fair Elections app (www.ferizbori.me) and by phone at 020 511 513. CeMI's legal team received a total of 150 reports of irregularities by the end of Election Day. The reported irregularities were not intense enough to significantly affect the regularity of voting or the election result.

The Center for Monitoring and Research enabled citizens to follow live estimates of turnout, irregularities, and voting result projections through three national television stations, RTCG, Vijesti, and TV E, which were directly connected to CeMI's software, where data received from observers were processed. Citizens could also follow live projections of election results through the website www.izbori.cemi.org.me and the Fair Elections app (www.ferizbori.me), which also provided citizens with information about their voting rights. The www.ferizbori.me website recorded 16,000 visits during Election Day, and the Fair Elections app was downloaded through this website 7,685 times, additionally 481 times via Google Play store and ___ times via Apple store. Election result projections were accessed 497,400 times. The www.izbori.cemi.org.me website counted 211,700 visits during Election Day, with more than 1,400 visits per minute during the election night. Over 70 journalists, cameramen, and photographers from 22 media outlets, including six regional ones, were accredited to follow Election Day.

CeMI also promoted the opportunity to provide free legal assistance to all citizens whose voting rights were violated through social media (Facebook, Instagram, Twitter), and other media. A few days before Election Day, CeMI released a video about the misuse of state resources. The video is available on CeMI's YouTube profile, as well as on CeMI's Facebook and Instagram pages.

Observers

The activities of independent, domestic, and international election observers are regulated by the Law on the Election of Councillors and Members of Parliament. The law stipulates that authorized representatives of domestic non-governmental organizations registered for monitoring the realization of political freedoms and rights can follow the course of elections and the work of election bodies, in accordance with this law. Domestic non-governmental organizations interested in monitoring elections submit an application to the State Election Commission, which issues official authorizations within 48 hours of receiving the application or denies the authorization by resolution.

However, there is some ambiguity regarding the State Election Commission's decision, as stated in the CALENDAR of deadlines for performing election activities in the election of the President of Montenegro¹⁸. Referring to paragraph 3, Article 111b, which states that "Domestic non-governmental organizations interested in monitoring elections submit an application to the State Election Commission, no later than five days before the election day," the Commission set the deadline for observer registration until March 13, 2023, at 24:00. By this decision, the Commission limited the registration of new observers in case of a second round. After CeMI's appeal, supplementary registration of observers for a potential second round was allowed.

¹⁸ <https://dik.co.me/wp-content/uploads/2023/01/Kalendar-rokova-za-sprovođenje-izbornih-radnji....pdf>

International observers, or as defined by law, the European Union, other international organizations, international non-governmental organizations, and authorized representatives of foreign countries, can follow the course of elections, including the work of election bodies and other state bodies, media coverage of the pre-election campaign, the exercise of voting rights, and other related political and civil rights in the electoral process. International entities submit an application for election observation to the ministry responsible for foreign affairs no later than ten days before the election day. The law specifies that the period of election observation for international observers runs from the day the elections are called and ends with the announcement of the final election results.

Additionally, election bodies are obliged to allow foreign and domestic observers to follow the course of elections and the work of election bodies. The polling board notes the presence of observers at the polling station in the minutes. The State Election Commission, at the proposal of the election body, may revoke the authorization or identification card issued to a person if they do not comply with the rules on maintaining order at the polling station or the rules on the work of election bodies.

Domestic Observers

The State Election Commission granted 1,758 accreditations to domestic observers. Accredited observers are from the following organizations: Center for Monitoring and Research CeMI (1,281), Center for Democratic Transition CDT (439), Association of Youth with Disabilities Montenegro UMHCG (25), Women's Organization Feniks Berane (9), Center for Civic Education (3), and NGO "Network for Universal Progress" (1).

International Observers

Accredited international observers, based on official data from the State Election Commission, are from the following organizations/embassies and in the respective numbers: ODIHR(EOM) (26), Parliamentary Assembly of the Council of Europe (25), United States Embassy in Montenegro (20), European Parliament (14), Parliamentary Assembly of the Mediterranean (13), Central Election Commission of Kosovo (8), British Embassy in Montenegro (7), Embassy of the Kingdom of the Netherlands in Belgrade (3), and International Foundation for Electoral Systems - IFES (3).

There is a significant decrease in international observers compared to the 2018 presidential elections, primarily from OSCE/ODIHR¹⁹.

¹⁹ At the previous presidential elections, observers were present from: OSCE (93), ODIHR (154), Council of Europe (18), European Parliament (14), US Embassy in Montenegro (21), French Embassy in Montenegro (2), Embassy of the Kingdom of the Netherlands (1), State Election Commission of Macedonia (4), Canadian Embassy in Serbia (1), Central Election Commission of the Republic of Kosovo (7), NGO Silba (24).