



Britanska ambasada
Podgorica



Kingdom of the Netherlands

B | T | D The Balkan Trust
for Democracy
A PROJECT OF THE GERMAN MARSHALL FUND



Norwegian Embassy
Belgrade

CIVIC MONITORING OF PARLIAMENTARY AND LOCAL ELECTIONS

Montenegro

2020

FINAL REPORT



**Civic monitoring of Parliamentary
and Local Elections
Montenegro 2020**

FINAL REPORT

Civic monitoring of Parliamentary and Local Elections Montenegro 2020

FINAL REPORT

The Centre for Monitoring and Research CeMI

Bul. Josipa Broza 23A
81000 Podgorica
Email: info@cemi.org.me
www.cemi.org.me

Editor:

Zlatko Vujović

Authors:

Zlatko Vujović
Boško Nenezić
Milorad Marković
Ivana Vujović
Ana Nenezić
Teodora Gilić
Ivan Vukčević
Maja Bjelić
Vladimir Simonović
Milica Zrnović

Circulation :

100



NOTE: The opinions and views expressed in this report represent the opinion of the authors and do not necessarily reflect the official views of the donors.

I SUMMARY	8
II INTRODUCTION AND ACKNOWLEDGEMENTS	14
III POLITICAL CONTEXT	14
IV LEGAL FRAMEWORK AND ELECTORAL SYSTEM	18
A. Legal framework	16
B. Electoral system	21
V ELECTION ADMINISTRATION	23
A. State Election Commission (SEC)	23
B. Municipal Election Commissions (MECs)	25
C. Polling boards (PBs)	27
D. Activities of the State Election Commission aimed at epidemiological protection of voters	27
VI REGISTRATION OF ELECTORAL LISTS	31
A. Parliamentary Elections	32
B. Local Elections	33
VII VOTER REGISTRATION	36
A. Electronic identification of voters	39
B. The work of the Expert Team for monitoring the accuracy and up-to-dateness of the voter register from the date when elections were called to the proclamation date of the final election results	39
C. Voting with invalid identification documents	40
D. Difference between the number of inhabitants according to the population census and number of voters registered in the voter register	41
IX ELECTION CAMPAIGN FINANCE	48
X PARTICIPATION OF WOMEN	56
A. Participation of women in the Parliament of Montenegro after the 2020 Parliamentary elections...	59
B. Participation of women in local elections	60
XI PARTICIPATION OF MINORITIES	62
XII ELECTION DAY	64
A. Conducting the electoral procedure	64
B. CeMI's estimates of the voter turnout and elections results	69
C. Official announcement of election results	73
D. Communication with the public	75
XIII MEDIA	77
A. Traditional media	77
B. Online media and social networks	80
XIV INTERNATIONAL AND DOMESTIC OBSERVERS	83
A. International observers	83
B. Domestic observers	83
XV COMPLAINTS AND CONSTITUTIONAL INITIATIVES	84
XVI CONCLUSIONS AND RECOMMENDATIONS	87

Due to an unsuccessful electoral reform, the Law on the Election of Councillors and Members of Parliament (MPs) remained unchanged. Hence, elections were held against all those ambiguities and shortcomings within the law, which were recognised by the Centre for Monitoring and Research (CeMI) and other observation missions in several previous electoral processes. There were some minor changes in the legislation connected to elections, although there mainly occurred during last year.

The necessity to introduce, implement and inform citizens about new COVID-19 prevention measures, aimed at protecting the health of citizens, has created difficulties in the rules for conducting the electoral process. This phenomenon has led to great pressure on the legality and constitutionality of the election administration, primarily the State Election Commission (SEC).

The SEC has mainly respected all legal deadlines for administration of electoral activities. Neither the SEC nor the National Coordination Body (NCB) demonstrated an adequate level of responsibility when adopting overall and clear recommendations for holding safe elections in terms of health protection. The adoption of regulations and documents that were later abolished by the Constitutional Court as unconstitutional is an indicator of insufficient competencies of SEC members, as well of their political irresponsibility, because they consciously adopted unconstitutional regulations, as stated by the SEC's PR Officer. Abolition of certain provisions of the SEC's Technical Recommendations led to the postponement of certain activities planned by the Commission.

The SEC did not provide full transparency with regard to its performance under the current election process, because the presence of media at SEC sessions and live broadcasting of SEC sessions via the Internet were not enabled, which is the practice of many countries worldwide. The work performed by the SEC Professional Service deserves compliments; these members have demonstrated a high level of professionalism and openness for cooperation with nongovernmental organisations.

All members of the permanent SEC composition participated in the work of the SEC in the final electoral process phase. In addition, all candidate lists appointed their authorised representatives, a factor that strengthened the legitimacy of the decision-making of this body. In the final week of the electoral process, the SEC adopted two opinions about voting by letter. Herewith, more detailed instructions for voting by letter were provided; however, it was still not clear what would happen in case members of the polling board do not manage to administer voting for people with permanent residence in a certain municipality, but who do not reside in the territory of that municipality. This risk was pointed out by CeMI in the press release on election day.

Municipal Election Commissions (MECs) have mainly performed their activities in compliance with the law. Although there were some doubts with regard to the appointment of polling station (PS) members, MEC decisions were mostly in accordance with the law, which was confirmed by the fact that complaints about their work, lodged to the SEC, as well as one appeal to the Constitutional Court, were rejected. The exception is the decision on the distribution of mandates in local elections in Kotor, where the appeal to the decision of the Kotor MEC on the allocation of seats was adopted.

The SEC made most decisions unanimously. One of the rare examples where SEC members did not vote unanimously, or with a large majority of votes, was when deciding not to register the electoral list ‘SNEŽANA JONICA – SOCIJALISTI CRNE GORE – DA ŽIVIMO KAO JUGOSLOVENI’.

A total of 1,217 polling boards (PBs) were established for these elections; and their members were to be trained on administration of elections. The training for the PB members started late due to the above-mentioned abolition of certain provisions of the technical recommendations, and it was held through special television shows recorded in Montenegro, the first time such an approach was needed. CeMI’s observers identified that not all members of PBs had received the same level of training. Namely, there were no instruments provided to check whether all PB members attended online training broadcast via television or downloaded training video material from the SEC website. Many PB members requested printed training materials after the training, while some presidents of MECs expressed their willingness to conduct additional training sessions for PB members.

The Voter Register contained 540,026 voters, which is 7,427 voters more than for the 2018 Presidential election. The total number PSs had been increased by 4, to a total of 1,217. There were 6,288 voters who had old ID cards or passports (issued before 2008) and who did not submit requests for issuing new documents were entered into the voter register, as well as 1,299 voters who did not have any valid identification document and did not submit requests for issuing new identification documents.

The Ministry of Interior demonstrated a high level of readiness to cooperate with representatives of the civil society sector by establishing the expert team for monitoring the accuracy and up-to-dateness of the Voter Register. The Ministry of Interior enabled citizens to check their status in the Voter Register directly and get responses to their questions. A public campaign and an increased level of engagement of competent services provided by the Ministry of Interior resulted in fewer voters who lacked valid identification documents – from more than 50,000 to approximately 23,000 by the date when the voter register was finalised. This issue was definitely solved by the SEC’s decision to allow voters without valid identification documents to vote in the elections.

The possibilities for misusing citizens’ signatures while collecting signatures for electoral lists remains an important issue, as was the case during the previous election processes, due to the lack of procedures for preventing this occurrence.

The SEC decision in relation to the Socialists of Montenegro’s electoral list registration, which was confirmed by the Constitutional Court, has not been adequately elaborated. This issue will cause legal uncertainty and will create grounds for discriminating against minorities.

Election day was held in a relatively calm atmosphere, with sporadic minor incidents, or disagreements among PB members or voters. Turnout, especially in the first half of the day, was extremely high compared to previous elections, despite the risk of transmitting the COVID-19 virus. Election day was marked by numerous irregularities, which appeared in a similar form, at a relatively large number of polling stations. The most common irregularities were: improper use of electronic voter identification devices, violations of procedures for the secrecy of vote, voters’ lack of information about the PS where they vote, and non-compliance with COVID-19 virus prevention measures. Irregularities were in most cases the result of untrained PB members, but ultimately did not call into question the regularity of elections. Through “Fair Elections” service, the legal team of CeMI received 728 reports of irregularities and provided citizens with 70 legal advices.

CeMI observers rated the process of opening of polling stations with an excellent or very good rating in 86.2% of cases, while the opening was rated as bad or very bad in only 2.3% of cases. The average score of the opening process was 4.36; The voting process was rated 4.36, while observers rated it excellent or very good in 84.3% of cases, while the voting process was rated bad or very bad in 2.7% of cases. The procedure for closing of polling stations and counting votes was assessed by observers as excellent, or very good in 89% of cases, while closing was assessed as bad or very bad in 2.8% of cases. The average score for this process segment was 4.46. Among polling station members, men made up about 75% of the total number of members, and women only about 25% of the total composition of polling stations. In most cases, CeMI observers found good reception, professional communication and cooperation with PB members. However, several polling stations did not provide CeMI's observers with access to election material or access to the polling station.

Relevant MECs did not indicate the necessity to modify electoral lists: gender quotas were not respected in cases of two electoral lists for elections in Andrijevica and Budva, which was a violation of the Law. If the provisions of the law on the underrepresented sex are not respected, then the legislator's idea behind the adoption of this solution, which is to encourage women to participate more in politics, becomes pointless.

The omnipresence of the 'functioners' campaign' – that is, the intensive presence of high-level public officials during the pre-election campaign – is concerning. This issue refers primarily to promotions and commissioning various structural and infrastructural projects by the President of Montenegro, Prime Minister and most members of the Government of Montenegro, but also by high officials of local self-government bodies. CeMI warns that such activities are a direct violation of article 50a of the Law on Election of Councillors and MPs; these violations endanger the principle of equality of all electoral contestants and create a clear institutional advantage for the ruling coalition, while the existing misdemeanour sanctions for such violations are inadequate to discourage such behaviour.

The election campaign, dominantly conditioned by regulations of the NCB with regard to the COVID-19 pandemic, was of a lower intensity compared with the previous electoral cycles, without many public gatherings organised. The most active part of the campaign, especially in July, was conducted online and it was mainly focused on YouTube and social networks. Later on, the campaign intensified and political entities used almost all techniques to promote their pre-election programmes: audio and visual advertising, billboards, dissemination of campaign materials, contacting voters in the field and door-to-door campaigns.

As the campaign continued, elements of negative campaigning became more visible.

In the second part of the campaign, the Serbian Orthodox Church (SOC), despite its initial announcement that it would not interfere in the election campaign, became an active participant. It justified this position with the need to fight for the repeal of the Law on Freedom of Religion. With the engagement of the SOC, protest walks were renewed, and they were put in the function of the election campaign, against the measures of the NCB. The engagement of the SOC in the campaign also raises the issue of campaign financing, where funding by religious organisations is prohibited. According to the claims of leaders of the coalition 'For the Future of Montenegro', the SOC had its own candidate on this list – the leader of the list. The SOC has played an active and key role in the process of forming the Government, both when it comes to selecting the candidate for the mandatary of the new ruling coalition, as well as selecting certain candidates for ministers.

For the 2020 Parliamentary Elections, 11 electoral lists were confirmed; each list received 43,051.02 EUR in budgetary assets before 12 August 2020, which was the deadline regulated by the law for the distribution of 20% of funds for campaign expenses. There were three confirmed electoral lists for local elections in Andrijevica, each of which received 248.06 EUR in budgetary assets before 12 August. There were seven electoral lists confirmed in Budva, each of which received 1,730.88 EUR in budgetary assets before the abovementioned date. During the same time period, there were six electoral lists confirmed for local elections in Gusinje, each of which received 90.31 EUR in budgetary assets. For local elections in Kotor, there were nine confirmed electoral lists, each of which received 721.02 EUR in budgetary assets before 12 August. There were seven electoral lists confirmed in Tivat, each of which received 759.71 EUR in budgetary assets before the legal deadline.

Separate bank accounts for financing the election campaign were opened by 11 political entities competing in the Parliamentary elections. Progress has been made compared with previous Parliamentary elections, when several political entities did not fulfil this obligation. Ten political entities informed the Anti-Corruption Agency (APC) about opening a bank account within the deadline defined by the law. The Croatian Reform Party was the only political entity that fulfilled this obligation two days after the expiry of the legal deadline.

The APC demonstrated readiness to cooperate with nongovernmental organisations through weekly working group meetings to monitor campaign financing. With regard to the amendments to the Law and due to special circumstances caused by the COVID-19 pandemic, the APC did not pay adequate attention to exerting control over state bodies, business entities whose owner and/or partial owner is the state, as well as to control the area of social welfare transparency. The best examples of insufficient quality control performed by APC are some small municipalities (Andrijevica, Plužine), which have been paid the largest amounts from budget reserves through single social welfare payments.

The ‘umbrella’ Law on Media and the Law on Radio Television of Montenegro (RTCG, a public broadcaster) were adopted by the Parliament of Montenegro at the end of July 2020, after the elections were announced. This change created legal instability and there was not enough time left for the media and political entities to become familiar with solutions contained in the adopted laws. In addition, amendments to the Law on Financing of Political Entities and Election Campaigns that were adopted by the Parliament of Montenegro less than a year ago – which regulate the media conduct during the election campaign, as well as APC competencies in that regard – contribute to instability and do not provide a good indicator for the uniform and equal treatment of all electoral entities.

Montenegro has a diverse media environment. There are over 150 media entities in the market, including 22 TV stations, 53 radio stations, 70 information portals (registered electronic publications), four daily print outlets, one weekly print outlet and one news agency. Although being pluralistic, the media environment is deeply politically divided, with clearly noticeable political preferences with regard to published content.

The Parliament of Montenegro did not establish a Committee for monitoring the enforcement of the Law on the Election of Councillors and MPs with regard to media oversight, which was its legal duty.

The lack of traditional debates in key talk shows was noticeable, both with the public broadcasters and private media. The conceptual design of the Television of Montenegro (TVCG) scenography, which was almost identical to the pre-election campaign design of the ruling Democratic Party of Socialists (DPS), may have been deceiving for voters and falls under a disguised media promotion, contrary to Article 8 of the Agency for Electronic Media (AEM) Rulebook. This was a reason for numerous reactions of representatives of the other electoral lists and accusations of RTCG's bias, which were additionally deepened after the political video of the electoral list 'Black on White' was banned because the hologram of the President of Montenegro was used in the video.

The AEM is authorised to supervise media conduct during the campaign. The AEM adopted the Rulebook on the rights and duties of broadcasters in a timely manner during election campaigns.

Due to the situation related to COVID-19 in Montenegro, social networks played a significant role during the elections campaign. These networks accounted for a high level of political parties' activities, with a rising trend beginning in June, when elections were officially announced. Political parties (Democratic Montenegro, the Democratic Front, True Montenegro, the Socialist People's Party, the Democratic Party of Socialists, the United Reform Action, the Social Democrats and the Social Democratic Party) were dominant on social networks in the pre-election period, while minority parties were slightly less active.

A highly aggressive campaign was conducted through social networks. It is specifically important to note that many campaign materials of political entities available on the Internet contained negative campaign elements, which were not allowed in the traditional media.

Keeping in mind that there is no legislative framework in Montenegro that explicitly regulates online media and social networks, it is important to mention the obligation of respecting Facebook rules on political advertising for all political entities in Montenegro, which has been enforced since 5 August 2020. With regard to that issue, the data on authorised advertisers, or the authors of advertisements submitted to Facebook, will be available in the Ad Library for the next 7 years.

During the pre-election period, the most active media on the Facebook platform was FOS Media, which created and shared the largest portion of the uploaded content, followed by Portal Analitika, Portal Standard, Portal Antena M, Informative Portal IN4S, Kolektiv.me, Vijesti and RTCG Portal. Besides the high activity of political parties and politicians on social networks, various web pages, groups and 'meme' profiles were used during the election campaign, aimed at disseminating political messages to voters.

Regarding the electoral silence, there was evident advertising from political parties via social networks on 29 August. The most important reason for this issue lies in the discrepancy of norms in the relevant laws: the Law on the Election of Councillors and MPs (election campaign shall cease 24 hours prior to election day) and the Law on Financing of Political Entities and Election Campaigns (election campaign shall last until election day).

While the participation of women on electoral lists was slightly higher than in 2016, in 40% of cases, women were still allocated at every fourth place on the electoral list, which is the legal minimum. On the other hand, there were some irregularities with regard to accepting two electoral lists at the local level, in relation to participation of underrepresented sex. The electoral lists 'For the future of Andrijević – SNP-NSD' and 'New Budva – Ilija Gigović' were not structured in compliance with the law, which regulates that among the four candidates in the electoral list there shall be at least one candidate who is a member of the underrepresented sex, which is a direct violation of the Law on the Election of Councillors and MPs.

The electoral system places representatives of the Roma population in an unequal position, because they do not have an equal status compared with the representatives of a minority community with a similar percentage of representation in the overall population.

A system of differentiated electoral thresholds, which enables privileged status to minorities, contains illogical solutions, which can cause effects that are contrary to the concept of positive discrimination of minority nations.

The 76.7% voter turnout is higher than the turnout at all Parliamentary elections after 2006, even as the 2020 elections were held during the COVID-19 pandemic.

The preliminary results were determined and published by the SEC in accordance with the legal deadline. The results were determined without voting by SEC members, as was the case in previous election processes.

Election day was marked by numerous reported irregularities, with a similar form, at a rather high number of PSs. The most often irregularities were as follows: (1) disrespecting the obligation to remove a mask for identification purposes, (2) breaching the secrecy of voting and (3) disrespecting the SEC Technical Recommendations and NCB measures related to the COVID-19 pandemic. In most of these cases, the PB members' lack of training led to registered irregularities, but these did not influence the overall regularity of the elections.

Election day was held in a relatively calm atmosphere, with sporadic minor incidents, or disagreements among PB members or voters. Turnout, especially in the first half of the day, was extremely high compared to previous elections, despite the risk of transmitting the COVID-19 virus. Election day was marked by numerous irregularities, which appeared in a similar form, at a relatively large number of polling stations. The most common irregularities were: improper use of electronic voter identification devices, violations of procedures for the secrecy of vote, voters' lack of information about the PS where they vote, and non-compliance with COVID-19 virus prevention measures. Irregularities were in most cases the result of untrained PB members, but ultimately did not call into question the regularity of elections. Through "Fair Elections" service, the legal team of CeMI received 728 reports of irregularities and provided citizens with 70 legal advices.

CeMI observers rated the process of opening of polling stations with an excellent or very good rating in 86.2% of cases, while the opening was rated as bad or very bad in only 2.3% of cases. The average score of the opening process was 4.36; The voting process was rated 4.36, while observers rated it excellent or very good in 84.3% of cases, while the voting process was rated bad or very bad in 2.7% of cases. The procedure for closing of polling stations and counting votes was assessed by observers as excellent, or very good in 89% of cases, while closing was assessed as bad or very bad in 2.8% of cases. The average score for this process segment was 4.46. Among polling station members, men made up about 75% of the total number of members, and women only about 25% of the total composition of polling stations. In most cases, CeMI observers found good reception, professional communication and cooperation with PB members. However, several polling stations did not provide CeMI's observers with access to election material or access to the polling station.

II INTRODUCTION AND ACKNOWLEDGEMENTS

The Centre for Monitoring and Research (CeMI) is a nongovernmental organisation that has been monitoring elections in Montenegro, as well as other countries, for 20 years, through membership in the European Network of Election Monitoring Organizations (ENEMO). By implementing the project of civic election monitoring, CeMI strives to contribute to democratic conditions for holding transparent, free and fair elections through civic control of the electoral processes in Parliamentary and Local elections.

CeMI observation mission had accredited a total of 1,355 observers to monitor Parliamentary and Local elections in Montenegro in 2020. In addition to the mission's core expert team, which is responsible for monitoring various segments of the election process and conducting civic election monitoring, CeMI also formed a network of local coordinators in each municipality, who were in charge of supporting the network of CeMI's short-term observers in every locality.

CeMI would like to thank the British Embassy in Podgorica, the Ministry of Foreign Affairs of the Kingdom of the Netherlands and the Embassy of the Kingdom of Norway/Balkan Trust for Democracy in Belgrade, who financially supported the Project of Civic Election Monitoring and facilitated this mission. CeMI also wishes to express its gratitude to all representatives of the election administration, state bodies, political societies, international observation missions and domestic nongovernmental organisations, with whom a cooperation was established in the implementation of this mission.

CeMI implemented several activities as a part of civic election monitoring. Monitoring compliance with election legislation was carried out through monitoring the work of the State Election Commission (SEC) and Municipal Election Commissions (MECs) in relation to the proper application of the Law on the Election of Councillors and Members of Parliament (MPs) and the Law on Voter Register; monitoring the work of the Anti-Corruption Agency (APC) regarding the implementation of the Law on Financing of Political Parties and Election Campaigns; and monitoring the misuse of state resources in the pre-election period. Special attention was also paid to monitor the election campaign from its announcement on 20 June 2020, observing the conduct and media reporting during the election campaign and the electronic voter identification system. CeMI also actively participated in the process of monitoring, changing and updating the central voter register.

CeMI accredited the largest mission of short-term observers, who reported to the legal team and the computer centre on turnout and irregularities throughout election day, and on the results of the voting at the end of the Election day. Using the web application 'Fair Elections', which was designed through this project, the use of social

networks, regular press conferences and direct links with the media, citizens had the opportunity to follow the data collection live and to gain insight into the estimates of voter turnout, election results and observed irregularities at all times. CeMI presented estimates of the results during election night and a Preliminary Report with key findings, which was presented after the Election day. A comprehensive assessment of the election process is given in this Final Report, together with recommendations for improving the electoral framework, in line with international standards.

III POLITICAL CONTEXT

Decision no. 01-1212 on scheduling Parliamentary elections in Montenegro to be held on 30 August 2020 was made by the president Milo Đukanović on 20 June 2020. Besides Parliamentary elections, Local elections for Municipal Assemblies were held on the same day in five municipalities: Andrijevica, Budva, Gusinje, Kotor and Tivat.

After the 2016 Parliamentary elections, all parliamentary opposition parties decided against accepting the election results and started a boycott of the Parliament of Montenegro. This endeavour undermined the Parliament's work, and the consequences presented an additional challenge for holding the next elections. The trigger for the collective boycott was publishing information, and later initiating investigations and trial proceedings against some of the leaders of the Democratic Front (DF), for organising a coup d'état. The coup d'état trial drew the attention of the worldwide public. Apart from the Democrats and the United Reform Action (URA), the boycott of parliamentary sessions was periodically interrupted by the opposition parties, but without a permanent return to the Parliament, although Democrats were involved in the Working Group for the Electoral Reform for some time.

The trial process for the crime of attempted terrorism was followed by numerous street protests against the ruling coalition of the Democratic Party of Socialists (DPS). The closure of the trial process was marked by new political tensions, which reached their peak in December 2019 and during 2020. New tensions were mainly caused by the adoption of the Law on Freedom of Religion, which, due to its polarising nature among the religious believers and political forces, resulted in mass protests in Podgorica and across the country, organised by the Serbian Orthodox Church (SOC) and supported by pro-Serbian opposition parties.

Unlike all previous protests, for the first time a religious institution – the SOC – took over organising protests, formulating them as the 'Church's protest walks'. According to police estimates, the Church's protest walks were on average supported by approximately 20,000 citizens, while the maximum number of protesters who gathered to support a single Church's protest walk was approximately 63,000. Although organised by the SOC, the Church's protest walks were logistically and politically supported by the opposition parties, primarily by the DF, the Socialist People's Party (SNP) and the Democrats. Some representatives of opposition parties URA and DEMOS, supported Church's protest walks with their presence.

The continuity in organising the Church's protest walks was shortly interrupted by a gathering ban, which was ordered following the declaration of the COVID-19 pandemic. However, the continuity was soon re-established by organising Church's car protests supported by priests.

For the first time in Montenegro, there has been active participation of the religious community in pre-election campaigns (through political performances and logistic support to one electoral list). Confirmations of the SOC's engagement in the campaign

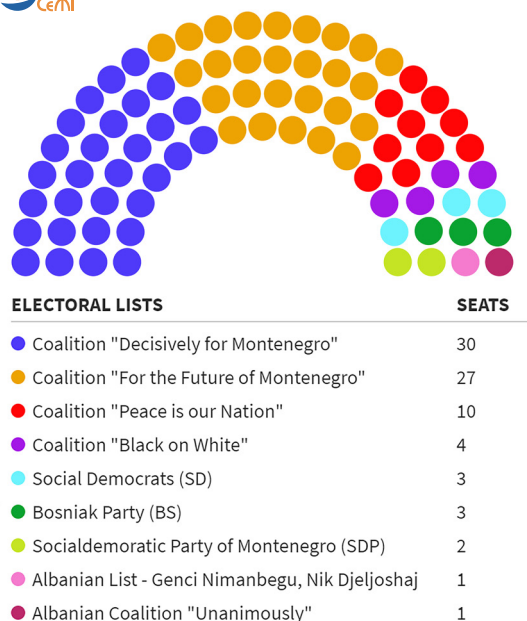
came from several leaders of the DF, who explained the conditions of the SOC to which they had to comply for the SOC to lead the campaign on the ground. The engagement of the SOC did not end on election day: it also became a key factor in forming the Government of Montenegro.

Amendments to the electoral legislation from 2014 introduced additional control mechanisms, such as: (1) electronic identification of voters, (2) new voting procedures by letter and (3) management of the voter registry was entrusted to the Ministry of Interior Affairs, among others. The lack of readiness of institutions to implement consistently the electoral legislation was evident before and after the 2016 Parliamentary elections were announced. The SEC has pointed out several times to the Parliament of Montenegro the practical issues related to the implementation of electoral legislation. The opinions and requests of the political entities and nongovernmental sector and recommendations of the international organisations (Organization for Security and Co-operation in Europe [OSCE], specifically the Office for Democratic Institutions and Human Rights [ODIHR]) resulted in establishment of a temporary Parliamentary Committee for the overall reform of electoral and other legislation, which was formed in October 2018. However, in the end, this committee did not yield results due to the withdrawal of the part of the opposition, which was represented in equal numbers as the representatives of the ruling party. After the committee ceased functioning, despite the great efforts of the European Union to support political entities to define electoral regulations that would secure the trust in the electoral process, necessary amendments to electoral legislation were not made.

A great challenge for holding the Parliamentary elections on 30 August 2020 was the COVID-19 pandemic, which significantly limited pre-election activities. Limitations imposed by the National Coordination Body for Communicable Diseases (NCB) represented aggravated circumstances for the organisation of the political parties' pre-election campaigns. According to the initial NCB decisions, organising gatherings in closed premises was allowed for a maximum of 20 people; open space gatherings were limited to a maximum of 40 people. However, the end of the first half of the pre-election campaign for the Parliamentary elections was marked by relaxation of measures with regard to organising political rallies. According to regulations of the pre-election period, the allowed number of participants for closed space gatherings was 50, while the allowed number of participants for open space gatherings was 100. Although mostly these limits respected during the election campaign, the events after the announcement of the election results were marked by a massive number of violations of protective measures. Several large political rallies were held in Podgorica. The opposition, led by the DF, celebrated the victory on election night and the eve of 31 August, in front of the Church of Christ's Resurrection in Podgorica. A second mass rally, called the Patriotic Rally, was held on 6 September on Independence Square in Podgorica. A similar rally was organised two days earlier in Cetinje.

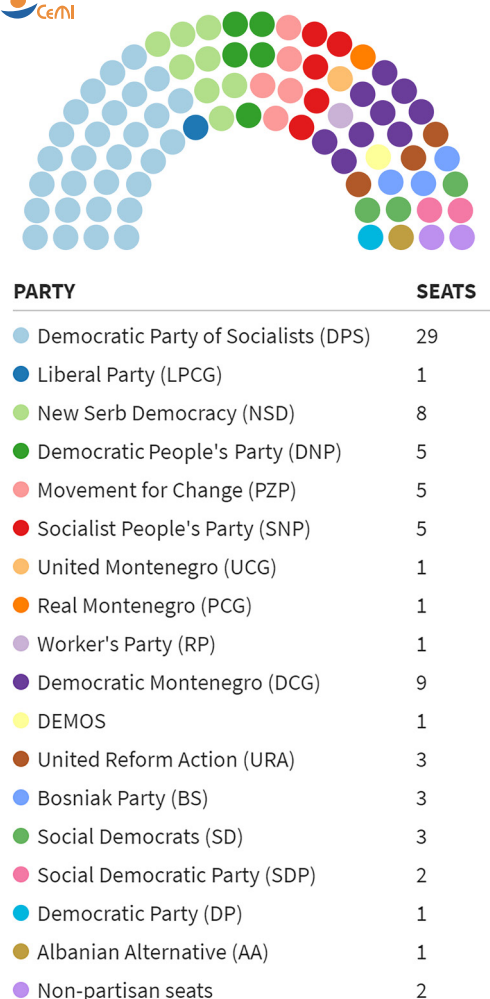
Just before the Parliamentary elections (2016–2020), according to the Freedom House Report of the Nations in Transit, Montenegro moved from the category of semi-consolidated democracy to the category of hybrid regimes.

The election result and the change of the Government were a kind of proof of the degree of democracy in the country, which additionally contributed to the development of political process dynamics. The overview of election results per electoral lists and the current composition of the Parliament per each political entity:



The post-election period in Montenegro was marked by several events and tensions – the stoning of the premises of the Islamic Community in Pljevlja on 2 September; cases of physical attacks on citizens of Muslim faith by proponents of some political parties, during and after the celebration of the election victory of the opposition; and graffiti vandalism on buildings owned by citizens of Islamic religion – all of which have further escalated the existing tensions in the society.

An important event on the political scene was the signing of an agreement between the representatives of the future parliamentary majority, with seven main goals for future action, the most important of which is the fulfilment of all international obligations, including the unquestionable status of the NATO and the recognition of Kosovo's independence. With this, the pro-Russian and pro-Serbian parties of the winning coalition have renounced the implementation of a part of their pre-election promises.



Twenty-one days after the signing of the agreement between the representatives of the parliamentary majority, the President of the Parliament and the Prime Minister-designate of the new Government were appointed. The leader of the coalition 'Peace is our nation', Aleksa Bečić, was elected the new President of the Parliament of Montenegro. Of the 71 ballots cast, 46 were valid, of which 45 were 'for' and one was 'against'. His election was supported by deputies from the three coalitions, 'For the Future of Montenegro', 'Peace is our nation' and 'Black on White', as well as the Bosniak Party and the Albanian list

Nik Gjelošhaj; DPS, Social Democrats (SD) and Social Democratic Party (SDP) deputies abstained from voting. The DF had previously suggested that Zdravko Krivokapić, the leader of the 'For the Future of Montenegro' coalition, should be the Prime Minister-designate of the future Government, a suggestion that was supported by all members of the new parliamentary majority.

However, Krivokapić's proposal was threatened by disagreements within the ruling coalition. In the meantime, the leader of the SOC in Montenegro, Metropolitan Amfilohije, died from consequences caused by the COVID-19 virus, which further complicated relations in the ruling coalition. The leader of PzP, a member of the DF, has repeatedly announced that the DF had negotiations with the SOC on the composition of the list of candidates. According to him, the SOC reduced the initial request for 10 candidates to three, and in the end, the compromise was on one candidate, the holder of the list and the current mandatary. In the public debate, several sources confirmed that Zdravko Krivokapić is the holder of the list as the choice and proposal of the SOC, which further sheds light on the role of the SOC in the election process. President Đukanović appointed a mandatary on 15 October 2020, at the halfway point of the 30-day constitutional deadline. Given that the leaders of the three coalitions of the ruling majority brought signatures of support for 41 deputies for Krivokapić's candidacy, Đukanović did not hold consultations with representatives of other political parties. He first proposed to the coalition partners a model for the division of ministers, asking the parties to propose candidates.

After receiving proposals, and after their names became public, Krivokapić did not accept any proposals. Instead, he informed the public that he had opted for an expert model of 12 ministries. The proposed candidates mostly belong to circles close to the SOC in Montenegro, with several candidates unofficially supported by URA. Dritan Abazović, the URA's leader, has also been nominated for Deputy Prime Minister, although this is a departure from the expert model. The President of the Assembly has scheduled a session for 2 December, during which the Government will be elected. The mandatary did not propose a candidate for the Minister of Defence, and after withdrawal of the candidate for the Minister of Interior, he did not immediately propose a new candidate.

IV LEGAL FRAMEWORK AND ELECTORAL SYSTEM

A. Legal framework

The Constitution and the Law on the Election of Councillors and MPs are crucial legal documents regulating the manner of exercising the right to vote and procedure of election organisation at each level in Montenegro. The Law on the Election of Councillors and MPs regulates the manner and procedures of electing councillors in municipal assemblies, city municipalities, Administrative Capital Assembly and Historic Royal Capital Assembly as well as the MPs of Montenegro; the organisation, composition and powers of election management bodies; the aggregation of voting results and allocation of seats; and the protection of voting rights and other matters of significance for election organisation and administration. Besides the Constitution and the (1) the Law on the Election of Councillors and MPs, a set of laws in the area of electoral legislation consists of: (2) the Law on Financing of Political Entities and Election Campaigns, which regulates the manner of acquisition and provision of financial assets for regular operation and the election campaign of political entities, the prohibitions and restrictions on disposal with state-owned property, funds and public authorities in the course of campaign as well as the control, supervision and auditing of financing and financial operations of political entities, to achieve legality and transparency with regard to their operation); (3) the Law on Voter Register; (4) the Law on Political Parties; and (5) the Law on Registry of Permanent and Temporary Residence.

In addition to the aforementioned regulations, the following laws in the radio diffusion area are also significant: the Law on Electronic Media and the Law on Public Radio Diffusion services of Montenegro. Decisions from election management bodies are also considered a legal source to regulate the area of election organisation. From the aspect of the criminal–legal responsibility, a special Chapter of the Criminal Code of Montenegro regulates criminal offences against electoral rights. Detection and prosecution of criminal offences against electoral rights fall under the purview of the Basic State Prosecution Offices.

Due to the situation caused by the COVID-19 pandemic, normative acts that are enforced to protect the health of the population were implemented in case of the Parliamentary elections in 2020, as well. The Law on protection of Population against Communicable Diseases – which was adopted in 2018, but amended in July 2020 – regulates the measures for prevention, suppression and eradication of communicable diseases, epidemiological supervision and competent entities for their enforcement. The amendments to the law adopted in 2020 regulate new means for protecting the population against communicable diseases to ensure the mandatory implementation of measures related to physical distancing between people; using personal protective equipment, including masks, and other items of equipment if necessary; mandatory usage of defined personal protective equipment; mandatory disinfection of buildings; and other factors.

The legal framework for the administration of elections remained unharmonised with international standards, with special reference to the legal framework for the protection of citizens' health against communicable diseases. This framework was adapted and made precise and clear enough for enforcement during the electoral process; thus, there were risks to the undisturbed administration of elections in 2020, the regularity of the election and guarantees of electoral rights to all voters.

B. Electoral system

A proportional representation list system (List PR) has been used in Montenegro since the introduction of the multi-party system. Closed and blocked party lists (electoral lists) are used, providing no possibility for preferential voting. Montenegro is a single electoral district whose magnitude (81) is equivalent to the size of the Parliament, which contains 81 seats.

Registered parties, coalitions and groups of citizens have the right to register their electoral lists. The electoral list must contain a minimum of 54 (two thirds of the seats in the Parliament) and a maximum of 81 (equivalent to the number of seats in the Parliament) MPs, except for the groups of citizens or political parties representing minority groups or ethnic communities, which must represent a minimum of one third (27) of the total number of MPs in Montenegro.

In line with article 39a of the Law on Election of Councillors and MPs, at least 30% of candidates on the electoral list should be from the underrepresented sex, such that that among each four candidates in the electoral list there should be at least one female candidate.

Seats are allocated to the qualified electoral lists by using the D'Hondt method and applying a differentiated legal threshold. Only the electoral lists that exceed the electoral threshold can be included in the process of seat allocation by using the described method. A legal threshold of 3% applies to all lists. Exceptions are minority lists for which a legal threshold of 0.7% and 0.35% is provided for lists of the Croatian minority.

Independent candidates are still not allowed to run for elections, although, this was recommended by the Venice Commission, OSCE/ODIHR and CeMI Mission. Individuals are allowed to be the candidate only within the candidate (party) list.

Number of MPs	Electoral system	Number of electoral districts	Electoral thresholds	Type of electoral list	Preferential voting	Electoral method
18	List Proportional System	1	3% 0.7% 0.35%	Closed blocked	Ne	D'Hondt

With regard to local elections, the electoral list must receive at least 3% of the valid votes to participate in the distribution of seats. The legal electoral threshold is defined differently for minority lists. The right to positive discrimination defined in the article 94, paragraph 2, item 1 of the Law on Election of Councillors and MPs is used by electoral lists of members of a certain national minority, or minority ethnic community, with the participation of up to 15% of the total population in the constituency, according to the last census. At the local level – that is, for the election of members of the minority list – in case none of them meets the conduction of the legal electoral threshold of 3%, they acquire the right to participate in the distribution of mandates individually, with the number of valid votes (i.e. legal census) does not apply to them. Instead, they directly qualify for the process of seat allocation by applying the D'Hondt method.

V ELECTION ADMINISTRATION

A.State Election Commission (SEC)

Election administration bodies have a very significant position in the electoral system of Montenegro. The composition and competencies of the bodies for election administration are regulated by the Law on Election of Councillors and MPs. Election administration bodies that perform activities related to the preparation and organisation of Parliamentary elections are: the SEC, the Municipal Election Commissions (MECs) in 24 municipalities in Montenegro and the Polling boards (PBs).

The SEC is the most significant election administration body. It comprises the chairperson, secretary, nine permanent members and one authorised representative of each submitter of an electoral list. Based on the Law on Election of Councillors and MPs, the SEC chairperson shall be appointed by the Parliament, at the proposal of the Parliamentary working body in charge of elections and appointments, after a previously conducted open competition. Four members of the permanent SEC composition shall be appointed at the proposal of the parliamentary majority. Four members of the permanent SEC composition, one of whom shall perform the duty of a secretary, shall be appointed at the proposal of the parliamentary opposition. One representative of a political party or submitter of an electoral list for authentic representation of members of national minorities or minority ethnic communities that received the highest number of votes in previous elections shall also be appointed as a member of the permanent SEC composition, while her or his deputy should be a member of another national minority or minority ethnic community. One member of the permanent SEC composition who is familiar with electoral legislation¹ shall be appointed by the Parliament from among the representatives of civil society, nongovernmental sector and university, at the proposal of the Parliamentary working body responsible for appointments and elections, after a previously conducted open competition. For the 2020 parliamentary elections, authorised representatives of the confirmed electoral lists gained the right to participate in the work 20 days prior to elections. All of the electoral lists exercised this right and authorised their representatives.

The public was informed about SEC activities through the website. Sessions of the SEC were held at the hotel Hilton to respect measures ordered by the NCB in terms of the adequate size of the meeting room – the SEC premises have limited space. Some representatives of the media and nongovernmental sector noted the limited space the SEC has, as well as the fact that the Hilton Podgorica is the most expensive hotel in Podgorica. As before, the full transparency of the SEC performance was not secured in these elections, because there was neither the presence of media representatives at SEC sessions nor live broadcasting of SEC sessions via the Internet, which is

¹ Article 30 of the Law on Election of Councillors and MPs ('Official Gazette of Montenegro', no. 16/2000, 9/2001, 41/2002, 46/2002, 45/2004 – Constitutional Court [CC] decision, 48/2006, 56/2006 – CC decision and 'Official Gazette of Montenegro', no. 46/2011, 14/2014, 47/2014 – CC decision, 12/2016 – CC decision, 60/2017 – CC decision and 10/2018 – CC decision)

the regular practice in many other countries, including regional countries. SEC's Professional Service deserves compliments for the quality of the work it performed. It has demonstrated a high level of professionalism and openness for cooperation with nongovernmental organisations.

The SEC did not enable regular and consistent controls of the voter register, and there was a lack of regular communication and coordination of activities between the Ministry of Interior and the SEC in performing the control of the voter register. SEC members raised this issue during their sessions: they indicated that representatives of the authorised nongovernmental organisations, who are members of the Expert Team for monitoring the accuracy and up-to-dateness of the voter register, had more possibilities to control of the voter register than SEC members.

Since the announcement of the elections and up to final results were published, the SEC held 38 sessions. The authorised representatives of registered electoral lists attended 19 sessions, starting from 10 August, when they acquired the right to participate in the SEC's work.

On 31 July 2020, the SEC made a decision that ballot papers for the 30 August 2020 elections will be printed by 'Merkator International ltd. Bijelo Polje'. The decision was made unanimously, selecting the most favourable bid, following several hours of a discussion, where none of the SEC members discussed the ownership structure of 'Merkator International ltd Bijelo Polje', which might be disputable. Namely, according to the data from the Central Registry of Private Business Entities, the owner and executive director of the company is a former Vice President of Bijelo Polje Municipality from the DPS² ranks. Several days later, the DPS² electoral list was published, with this person holding position 72 on the list.

A CeMI representative was present when the ballot printing was finalised. During this process, some SEC members informed our observer that the data available in the Central Registry of Private Business Entities are not correct and that the owner of the company is the son of the former Vice President of Bijelo Polje Municipality. However, CeMI's observer verified that the premises and the number of employees of the named printing company satisfied the needs of printing ballots for the elections. Ballots were printed in B5 format, with the exception of ballots in two languages, which were printed in A4 format. The remarks with regard to the performance of the printing company is related to insufficient respect for the measures aimed at epidemiological protection. Namely, at the beginning of the printing process, workers were wearing protective masks, but later most of them had stopped using this type of protection. Representatives of the media and several nongovernmental organisations questioned the fairness in selecting Merkator Bijelo Polje to print ballots. Regarding this situation, the SEC stated that it selected the most favourable bid without bias (the offer was €40,000, which was €90,000 lower than the prices offered by other competitors), and they did not want to give advantage to the company with which

²Available at: <http://www.pretraga.crps.me:8083/Home/PrikaziSlog/17>

they had cooperated before, simply on the grounds of their previous cooperation. The decision on selection of the most favourable bidder was not uploaded to the SEC website. The SEC is not bound to the provisions of the Law on Public Procurement, but this should not be used as a reason for a lower level of transparency and lack of explanations when making such decisions.

Another decision that was criticised by the public is the application of the software for verification of signatures, which was developed by the Section for Information and Communication Technologies of the Parliamentary Service of Montenegro. This decision was criticised by some media and nongovernmental organisations because a new software program had been developed with the support of the OSCE mission to the SEC. In a press release, the SEC chairperson stated that the reason for the decision was grounded on the fact that the software developed by the abovementioned section of the Parliamentary Service enables faster data entry and requires fewer human resources for data entry than the software developed in cooperation with the OSCE.

At the session held on 14 September, the SEC adopted the Report on the Final Results of Elections for the Election of Deputies to the Parliament of Montenegro, within the legally prescribed deadline. After the elections, 18 complaints were submitted to the SEC regarding the Local and Parliamentary elections. The SEC acted on each of these complaints within the legally prescribed time limit. In one case related to local elections (HGI – distribution of seats in Kotor), an appeal procedure was initiated before the Constitutional Court.

B. Municipal Election Commissions (MECs)

Each MEC includes the chairperson, four permanent members and one authorised representative of each electoral list.³

According to the Law on Election of Councillors and MPs, a candidate from a political party – i.e. submitter of an electoral list that won the highest number of councillor seats in the previous elections – shall be appointed a chairperson of the MEC. If a coalition electoral list won the highest number of seats in the previous elections, as a rule, the candidate of the political party that won the highest number of councillor seats within the coalition shall be appointed as chairperson of the MEC. The secretary of the MEC shall be appointed at the proposal of the Parliamentary opposition. As a rule, the candidate proposed by the opposition electoral list that won the highest number of councillor seats in the previous elections shall be appointed as a secretary of the MEC. The MEC's secretary is in charge of administrative duties provided for by the electoral legislation.

Two members of the permanent composition of the MEC are appointed at the proposal of the parliamentary opposition. Permanent members from the opposition ranks are representatives of opposition electoral lists in the relevant municipal assembly in

³Law on Election of Councillors and MPs, *op. cit.*, article 25, para.

proportion to the number of seats won at previous elections, while in the case of the same number of seats, advantage shall be given to the electoral list that received the highest number of votes.

A MEC has the following competencies in Parliamentary elections: (1) to take care of a lawful implementation of elections; (2) to organise technical preparations for administering elections; (3) to designate polling stations (PSs) for the election of councillors and MPs; (4) to form PBs and appoint the president and members of PBs for the election of councillors and MPs and organise their training with regard to PBs' work procedures; (5) to determine the number of ballot papers for individual PSs, stamp them and, together with the stamped extract from the voter register, deliver them to PBs with a written record of delivery; (6) to disclose publicly the number of voters in a municipality and per PS; and 7) to aggregate the overall voting results for the election of MPs in its territory and per each PS and submit a report thereon to the SEC.⁴

MECs also have the following competencies in the process of Local elections: 1) to assess whether electoral lists for the election of councillors were compiled and submitted in conformity with the law; (2) to validate and publish electoral lists for the election of councillors; (3) to aggregate the results of the election of councillors, as well as the number of votes for each electoral list and determine the number of seats belonging to each electoral list for the election of councillors; (4) to issue certificates to elected councillors; (5) to announce publicly the results of the election of councillors; (6) to submit a report to the municipal assembly on the results of the election of councillors and about filling vacant councillor seats; and (7) to submit data on the election of councillors to the bodies in charge of statistical data collecting and processing.

MECs shall immediately publish all acts and information relevant to elections on its website, as well as interim and final voting results at every PS.⁵ While each MEC has its own website, some of them were inadequately transparent. The Kolašin MEC website provided no information about this year's Parliamentary elections. The Žabljak, Petnjica and Plužine MECs had had only one entry uploaded on their websites in the course of the electoral process (Decision on determining the PSs), while the Ulcinj, Kolašin and Bijelo Polje MECs had less than three news items uploaded to their websites in these elections, which is significantly less compared with websites from other MECs.

Considering that there were no major changes in PSs compared with previous election processes, it can be concluded that MECs did not pay enough attention to analysing whether PSs met the requirements for compliance with SEC recommendations and NCB measures.

⁴*Ibid*, article 27, para. 1

⁵*Law on Election of Councillors and MPs*, article 27, para. 2

C. Polling boards (PBs)

For the Parliamentary elections, there were 1,217 PBs with more than 12,000 permanent members and deputy members. Besides that, the extended composition of PBs included the authorised representatives of 11 electoral lists and representatives of the electoral lists at the local level. In many PSs, the SEC recommendations and NCB measures were not respected. Furthermore, shortly after the elections were announced, CeMI proposed that the election should be postponed to the last date within the legally prescribed deadline (16 October), precisely due to the complexity of the circumstances in which the elections are held.

The suggestion provided by CeMI also showed that the concern for compliance with epidemiological measures was well-founded. Namely, 91 violations of the mentioned measures were reported at PSs on election day, which represents 13.64% of the total number of irregularities recorded through the 'Fair Elections' service. The most common irregularities in this category were the violation of physical distance at PSs, lack of means for hand disinfection and non-wearing or improper wearing of protective masks by PS members.

D. Activities of the State Election Commission aimed at epidemiological protection of voters

Technical Recommendations for Holding Elections with the aim of Epidemiological Protection of Voters were adopted by the SEC on 6 August (24 days before the election date). The recommendations were adopted by 10 votes in favour and 1 abstention (a representative of the Democrats). The recommendations were criticised by the election monitoring organisations (including CeMI, CDT) and both the ruling and oppositional political parties. The recommendations spotlighted the unreadiness of the SEC and the NCB to take over the responsibility for development of a comprehensive document that would regulate safe holding of elections during the COVID-19 pandemic. According to the opinion of CeMI's experts, the adopted recommendations were unconstitutional because they deprived voters hospitalised for COVID-19 and institutionally quarantined voters outside of their place of residence from their right to vote. Exercising the right to vote is not a matter of 'doing a favour', as stated in the press release of the SEC's PR officer; it is an obligation of the state to enable all citizens who fulfil the requirements to exercise their voting rights. Regardless of the character of the recommendations (they were not mandatory), this document would have caused the violation of the rights of the mentioned groups of citizens in practice, which are guaranteed by the Constitution. The role of the Constitutional Court is even more important under these challenging electoral conditions than under regular circumstances. The Constitutional Court initiated the procedure to review the constitutionality and legality of the chapter 'Voting outside the polling station – voting by letter' following the initiative of a

nongovernmental organisation. The Court determined the following significant facts: (1) the SEC recommendation, in formal–legal terms, was not adopted in line with the rules for drafting general acts, but in substantive–legal terms contained significant characteristics of a general legal act, so the review of constitutionality and legality of this act falls under the competence of the Constitutional Court; (2) the SEC violated the constitutional principle referred to in the provision of the article 145 of the Constitution by the contested chapter ‘Voting outside the polling station – voting by letter’; (3) when giving the recommendation related to wearing masks, the SEC exceeded its authorities because such recommendation falls under the competency of the Ministry of Health.

Furthermore, the concept of the document indicated the tendency to cut corners and omit responsibility, because the document does not contain rules but recommendations. It is contrary to article 66, paragraph 2 of the Law on Election of Councillors and MPs, which regulates that ‘more detailed **rules** regarding the polling station shall be laid down by the SEC’. A working group involving the representatives of the nongovernmental organisations was established to develop this document. However, a significant number of recommendations and comments given by nongovernmental organisation representatives during the working group meetings were not included in the final version of the document published by the SEC. Aside from being unconstitutional and conceptually wrong, the document was adopted too late, it was incomplete, it contained multiple contradictions and unclear recommendations, and it lacked sanctions that would provide for possible reaction in case of violations.

The document was supposed to be adopted earlier to regulate all relevant actions of the political entities. For example, one of the deleted segments of the draft document was related to the collection of signatures. Parties and coalitions that submitted electoral lists did not have any recommendations, so the public was reasonably concerned whether the collection of signatures would be done in a safe manner. The document was also incomplete because it was not clear how the submission of requests for voting by letter will be conducted. Self-isolation of voters implies self-isolation of all household members, a factor that raised the question of who will submit the request to the PB. Because this field was not regulated by the recommendations, it created possibilities for violation of self-isolation measures through establishing contact with a third person, who needed to take over the applicant’s request and identification documents and submit them to the PB. There were also clearly visible and prominent shortcomings in the segments of the document where the specific recommendations were not adequately elaborated. Namely, one of the recommendations referred to keeping physical distance between members of the PB ‘wherever possible’. This is a confirmation that adequate attention

was not paid when drafting recommendations to provide conditions where the risks from COVID-19 transmission would be reduced to a minimum, because there was an option to apply recommendations whenever it was possible. There was a similar shortcoming with regard to the recommendation to disinfect hands at the PS. The recommendation stated that ‘in case the voter refuses to disinfect hands’, a member of the PB shall disinfect the polling booth where this voter voted. In addition, it was recommended to ‘organise and arrange the polling station in a way to reduce the virus exposure risk to a minimum’, as well as to have PSs ready one day before elections, which were to be checked and confirmed by PB members. However, there was no provision that regulated what would happen in case the PS is not ready and organised in a prescribed manner.

Reacting to criticism, the SEC stated the following: ‘Taking into account the reactions of the political entities and nongovernmental sector regarding this issue and based on the review of harmonization of the Technical Recommendations with the Law on Election of Councillors and MPs, the conclusion was made that there is no provision in the recommendations which could limit voting rights of the citizens of Montenegro’. However, in its press release the SEC also stated that ‘having in mind the importance of this issue’, it has adopted the amendments to the recommendations, where the segment of the text related to the permanent place of residence as a condition for voting in case of institutionally quarantined voters was deleted from recommendations. The response to the Initiative of the Centre for Democratic Transition indicated that only one amendment was made to recommendations and was not done completely. Namely, the Initiative also requested regulations for voting by letter to be amended, in terms of voting by letter to be conducted at the permanent place of the voter’s residence. The SEC rejected this initiative, explaining that amendments to regulations would cause issues in terms of the deadline for voting by letter, which would further ‘deprive a great number of voters who vote by letter from their right to vote’. Furthermore, the SEC in its explanation stated the following: ‘if the principle of the permanent place of residence would be considered as the limitation principle ... then a question on whether the polling station represents a limitation of a voter’s right to vote could also be reasonably raised’. Finally, the opinion stated that ‘when considering this issue, the SEC has taken into account international electoral standards which recommend no amendments to the electoral regulations to be made in the year when the elections shall be held’. This answer indicates that its members did not understand that special circumstances (i.e. COVID-19) require special measures and rules, and that they consciously interpreted electoral regulations during a pandemic in a rigid manner. Hence, it can be concluded that the SEC amended recommendations to demonstrate to the public that they are ‘open’ to criticism and that they accepted such proposals. In essence, however, they did not want to amend regulations on voting by letter and thus complete the process and make essential changes.

On 20 August 2020, the Constitutional Court made a decision to cancel paragraphs 1 and 4 in the chapter ‘Voting outside the polling station – voting by letter’ and the chapter ‘Voting under quarantine’ in parts related to the ‘Rules on voting by letter’ of the SEC’s Technical Recommendations for Holding Elections with the aim of Providing Epidemiological Protection for Voters. Thus, the Constitutional Court pointed out the unconstitutionality of these recommendations, as well as the need to amend the rules on voting by letter in light of new special circumstances.

The incomplete and untimely Technical Recommendations led to an alarmingly low level of protection against the spread of COVID-19 in a large number of PSs, as shown by the reports of our observers (see section XII).

VI REGISTRATION OF ELECTORAL LISTS

The Decision on scheduling elections for the Parliament of Montenegro was made by the President of Montenegro, Milo Đukanović, on 20 June 2020, which was the starting date of deadlines for conducting activities within the scope of the electoral process. In line with the deadlines defined by law, submission of electoral lists to the SEC started on 10 July 2020 and finished on 4 August 2020.

The provision of article 43, paragraph 1 of the Law on Election of Councillors and MPs regulates that an electoral list for election of MPs may be accepted if it has been supported by signatures of at least 0.8% of voters. For the electoral list to be accepted at this election process, it was necessary to have it supported by the signatures of 4,261 voters. The provision of article 43, paragraph 2 of the Law on Election of Councillors and MPs regulates that the electoral list for election of MPs of political parties or groups of citizens who represent a minority nation or a minority ethnic community may be accepted if supported by signatures of at least 1,000 voters. In line with article 43, paragraph 3, electoral lists for the election of MPs who represents a minority nation or a minority ethnic community that constitutes up to 2% of the Montenegrin population according to the last population census may be accepted if supported by signatures of at least 300 voters.

When deciding on accepting the electoral list 'Snežana Jonica – Socialists of Montenegro – To live as Yugoslavs', the focus of the SEC and the Constitutional Court was on the above mentioned provision. While the electoral list was submitted based on the above mentioned provision, it was rejected by the SEC, who claimed that Yugoslavs do not have a minority status and, therefore, they have no right to use the affirmative action intended for minority nations and minority ethnic communities. According to results of the last population census, there are 1,154 (0.19%) Yugoslavs in Montenegro. When deciding on accepting the electoral list at the SEC session, seven members (four representatives of the opposition parties, one representative of the ruling coalition, one representative of minority nations and the President of the SEC) voted against acceptance of the electoral list; four members (three representatives of the ruling coalition and one representative of a nongovernmental organisation) abstained from voting. This was a very rare voting situation when the current SEC composition did not make a unanimous decision. Deciding on the initiative of Snežana Jonica, the Constitutional Court made the same decision as the SEC. After the decision was made, Snežana Jonica stated that the Constitutional Court and the SEC acted unlawfully. Namely, if the electoral list that is headed by Snežana Jonica did not meet the requirements for a minority nation, the SEC was supposed to request from the party headed by Snežana Jonica to collect additional supporting signatures to reach the number required for other non-minority electoral lists. The SEC failed to do that. Notwithstanding the accuracy of the statement given by Snežana Jonica that the party had collected enough signatures in case of it not being accepted as a

minority list, it remains unclear why the SEC did not ask for the documentation to be supplemented by additional signatures that were missing to reach the number of signatures required for non-minority parties. In addition, the decisions made by the SEC and the Constitutional Court have not been sufficiently elaborated, a fact that is discouraging because this was the first case of such a type in the history of the electoral processes in Montenegro and it will serve as grounds for deciding future similar cases.⁶ The Constitutional Court's decision contains the opinion of one judge who disputed the majority decision of the Constitutional Court. The decision of the Constitutional Court will significantly determine the electoral practice in future cases and create possibilities for discrimination of small minority nations.

The procedure of registering electoral lists was marked by collecting voter signatures in support of electoral lists by political parties. The SEC did not verify the authenticity of voter signatures in support of the electoral list, a similar procedure to previous elections; this approach jeopardises the procedure of electoral list verification. The SEC, once again, started the application that can be used by citizens to check whether their name was misused in the process of collecting signatures. Having in mind that the names of several hundreds of citizens had been misused during the presidential election in 2018 and that no actor of the electoral process had been taken made responsible for that, CeMI expresses serious doubts that the misuse of citizens' personal data and forging signatures can secure fulfilment of formal requirements for running in elections. Within the deadline defined by law for publishing the joint electoral list, on 14 August 2020 the SEC established the following order of electoral lists by drawing lots:

A. Parliamentary elections

1. Social Democrats – Ivan Brajović – We decide CONSISTENTLY
2. The Bosniak Party – Correct – Rafet Husović
3. HGI. WITH ALL MY HEART FOR MONTENEGRO!
4. SDP – STRONG MONTENEGRO!
5. CROATIAN REFORM PARTY OF MONTENEGRO – HRS
6. Dr Dritan Abazović – Black on White – Dr Srđan Pavićević – (Civic Movement URA, Justice and Reconciliation Party, Group CIVIS voters and independent intellectuals) – Citizens!
7. Albanian Coalition 'Unanimously' Democratic Party, Democratic Union of Albanians and Democratic Alliance in Montenegro – Koalicioni shqiptar 'Bashkë nji za' Partia Demokratike, Unioni Demokratik i Shqiptarëve dhe Lidhja Demokratike në Mal të Zi

⁶The Constitutional Court decision contains the opinion of one judge who contested the majority decision; it states that the electoral list of the Socialists of Montenegro subsequently submitted the documentation requested by the SEC, while the SEC had not registered any other irregularities before the decision was made

8. Decisive for Montenegro! DPS – Milo Đukanović

9. FOR THE FUTURE OF MONTENEGRO – Democratic Front (New Serbian Democracy, Movement for Change, Democratic People's Party), Socialist People's Party of Montenegro, Rights of Montenegro, United Montenegro, Workers' Party, Party of United Pensioners and Disabled of Montenegro, Yugoslav Communist Party of Montenegro, Serbian Radical Party, Party of Pensioners with Disabilities and Social Justice of Montenegro.

10. ALBANIAN LIST – Genci Nimanbegu, Nik Gjelošhaj LISTA SHQIPTARE – Genci Nimanbegu, Nik Gjelošhaj

11. ALEKSA BEČIĆ – MIODRAG LEKIĆ – 'PEACE IS OUR NATION' – DEMOCRATS – DEMOCRATIC MONTENEGRO – DEMOS – PENSIONERS PARTY, DISABLED PEOPLE AND RESTITUTIONS – CIVIC MOVEMENT NEW LEFT

B. Local elections

Andrijevica

On 7 August 2020, the Andrijevica MEC established the following order of electoral lists by drawing lots:

- 1. 'For Andrijevica, for Montenegro – Milo Đukanović – DPS – SD'**
- 2. 'Aleksa Bečić, Miodrag Lekić – Peace is our nation – Democrats, Democratic Montenegro – Demos'**
- 3. 'For the future of Andrijevica – SNP – NSD'**

Budva

On 6 August 2020, the Budva MEC established the following order of electoral lists by drawing lots:

- 1. DRAGAN KRAPOVIĆ – 'BUDVA IS OUR NATION' – DEMOCRATS – DEMOCRATIC MONTENEGRO**
- 2. SDP-STRONG BUDVA!**
- 3. FOR BUDVA! FOR MONTENEGRO! – MILO ĐUKANOVIĆ, DPS, SD, MONTENEGRIN, LIBERAL PARTY**
- 4. 'URA for all citizens of Budva – Black on White!'**
- 5. Božidar dr Vujičić – Let's stop concreting Budva!**

6. 'MARKO BATO CAREVIĆ – FOR THE FUTURE OF BUDVA! DEMOCRATIC FRONT (NEW SERBIAN DEMOCRACY, MOVEMENT FOR CHANGE, DEMOCRATIC PEOPLE'S PARTY, SOCIALISTS PEOPLE'S PARTY OF MONTENEGRO, RIGHTS OF MONTENEGRO, DEMOS, DEMOCRATIC SERBIAN PARTY, UNITED MONTENEGRO'

7. NEW BUDVA-ILIJA GIGOVIĆ

Gusinje

On 10 August 2020, the Gusinje MEC established the following order of electoral lists by drawing lots:

1. DEMOCRATIC ALLIANCE OF ALBANIANS, DEMOCRATIC UNION OF ALBANIANS AND ALBANIAN ALTERNATIVE 'ALBANIANS TOGETHER FOR GUSINJE'
2. BOSNIAK PARTY – LIBERAL PARTY, 'CORRECT FOR GUSINJE' RAFET HUSOVIĆ (BS-LP)
3. DEMOCRATIC PARTY OF SOCIALISTS OF MONTENEGRO, 'FOR GUSINJE! FOR MONTENEGRO! DPS – MILO ĐUKANOVIĆ'
4. SOCIAL DEMOCRATS OF MONTENEGRO, 'SOCIAL DEMOCRATS – IVAN BRAJOVIĆ – WE DECIDE CONSISTENTLY FOR GUSINJE'
5. SOCIAL DEMOCRATIC PARTY OF MONTENEGRO SDP – Dr ELVIS OMERAGIĆ – STRONG GUSINJE!
6. SOCIALIST PEOPLE'S PARTY OF MONTENEGRO 'SOCIALIST PEOPLE'S PARTY OF MONTENEGRO – GUSINJE'

Kotor

On 8 August 2020, the Kotor MEC established the following order of electoral lists by drawing lots:

1. 'Vladimir Jokić – Kotor is our nation – Demokratska Crna Gora'
2. 'For Kotor! For Montenegro! DPS – Milo Đukanović'
3. Patriotically and civically 'Black on White' Civic Movement URA
4. Social Democratic Party of Montenegro, under the list 'SDP – Strong Kotor!'
5. Social Democrats 'Dr Andrija Lompar – We decide consistently for Kotor'
6. 'For the future of Kotor' (New Serbian Democracy, Movement for Change, Democratic People's Party, Democratic Serbian Party, United Montenegro, PCGSNP and Serbian Radical Party)
7. Croatian Citizens' Initiative Kotor

8. 'For liberal Kotor – Andrija Pura Popović – Liberal party'
9. 'Dr Branko Baćo Ivanović – Socialists'

Tivat

On 18 March 2020 (the elections in Tivat were scheduled for 5 April 2020 but were postponed due to the COVID-19 pandemic), the Tivat MEC established the following order of electoral lists by drawing lots:

1. 'GORAN BOŽOVIĆ – HONESTLY AND RESPONSIBLY FOR BETTER TIVAT'
2. BOKA FORUM – PEOPLE FROM BOKA KNOW
3. Croatian Citizens' Initiative HGI – With all my heart for Tivat!
4. 'Social Democrats – Ivan Brajović – Tivat has to do better'
5. Coalition electoral list 'People win'
6. For Tivat. For citizens of Tivat! DPS Milo Đukanović
7. SDP – TO DEFEND THE CITY

VII VOTER REGISTRATION

The Law on the Voter Register regulates that the voter register is a derived electronic database containing personal data of Montenegrin citizens with the right to vote. In addition, the voter register is a public document that is used only for elections and is kept ex officio. In compliance with the provisions of the Law on the Voter Register, the registry is kept by the Ministry of Interior. The voter register is created as a new database derived from the main registries kept by the Ministry of Interior, through a procedure that implies merging and crossing the data from main registries to derive the collection of personal data for Montenegrin citizens with the right to vote.

In line with the obligation regulated by article 17 of the Law on the Voter Register, on 22 June 2020, the Ministry of Interior made publicly available the data on overall and local municipality changes in relation to the voter register, which was used for the Presidential election in 2018. In accordance with article 18 of the Law on Voter Register, the voter register was finalised on 20 August 2020, 10 days before Election day. Decision on finalisation of the voter register was submitted on the same date to the SEC, which uploaded it to its website.

Table 1: Number of individuals in the voter register and number of polling stations per municipality in 2020 and 2018

MUNICIPALITY	NUMBER OF VOTERS		NUMBER OF POLLING STATIONS	
	2020	2018	2020	2018
Andrijevisa	4,106	4,192	23	23
Bar	39,376	38,379	75	72
Berane	23,729	23,685	56	56
Bijelo Polje	39,913	40,314	103	103
Budva	18,062	16,959	27	27
Cetinje	13,766	14,126	39	39
Danilovgrad	13,095	12,844	32	33
GO Golubovci	12,318	11,947	26	26
Gusinje	4,607	4,552	10	10
Herceg Novi	25,485	25,173	51	51
Kolašin	6,319	6,517	35	35
Kotor	18,478	18,117	39	37
Mojkovac	6,891	7,074	20	21
Nikšić	58,342	58,334	138	138
Petnjica	6,198	6,198	18	18
Plav	9,202	9,175	22	22
Plužine	2,436	2,548	24	26
Pljevlja	25,394	26,091	94	94
Podgorica	140,086	135,442	206	206
Rožaje	22,511	22,044	44	44
Šavnik	1,616	1,737	23	23
Tivat	11,797	11,508	19	19
Tuzi	12,142	11,726	30	28
Ulcinj	20,376	19,962	38	37
Žabljak	3,082	3,120	22	22
Separated polling stations	699	835	3	3
TOTAL	540,026	532,599	1,217	1,213

There were 540,026 voters⁷ in Montenegro's voter register. This represented an increase in 7,427 voters compared with 2018.⁸ Since the 2018 Presidential election and until the final date for closing of the voter register before these 2020 elections, 22,346 voters were registered in the voter registry. Most of those voters (19,261) registered after reaching the voting age. The remaining voters were those who registered their permanent place of residence in Montenegro (1,223) and those who acquired the right to vote by becoming Montenegrin citizens (1,219). Relatively few citizens registered in the voter registry based on determining the permanent place of residence (540) and certain corrections made in the voter registry (103).⁹

There were 56,656 voters who had the right to vote in the local elections for the five municipalities. Out of this number, there were 4,049 voters registered in the municipality of Andrijevica, which is 147 voters less than in 2018; 17,898 voters registered in the municipality of Budva, which is 913 more than in 2018; 4,594 voters registered in the municipality of Gusinje, which is 41 more than in 2018; 18,381 voters registered in the municipality of Kotor, which is 213 more than in 2018; and 11,734 voters registered in the municipality of Tivat, which is 213 voters more than there were in 2018.

Based on the insight into the voter register, analysis of the voter register modifications at the local level were made taking into account the modifications due to changes in the citizens' permanent place of residence in the five municipalities between the 2016 parliamentary elections and 20 August 2020, when the voter register was finalised. The data in Table 2 below provides an overview of the number of voters in the aforementioned five municipalities, the total number of changes made in the voter register,¹⁰ the number of changes in permanent place of residence and, finally, a percentage of voters who were registered in the voter registry within the time frame indicated above, based on changes in the place of residence.

Table 2: Modification of permanent place of residence between the 2016 Parliamentary election and 20 August 2020 at the local level

MUNICIPALITY	Number of voters in 2016	Number of voters in 2020	Total number of changes in voter register, 2016–2020	Number of permanent places of residence changes, 2016–2020	% of voters registered in the voter register based on change in the permanent place of residence
ANDRIJEVICA	4.207	4.049	483	253	6,25%
BUDVA	16.195	17.898	4.672	2.156	12,05%
GUSINJE	4.528	4.594	288	106	2,31%
KOTOR	17.964	18.381	5.545	1.188	6,46%
TIVAT	11.078	11.734	3.625	902	7,69%

⁷Available at: <https://dik.co.me/wp-content/uploads/2020/08/biracki-spisak-2020-1.pdf> ⁸ Available at: <https://dik.co.me/wp-content/uploads/2018/04/Biracki-spisak-za-objavu.pdf>

⁸Available at: <https://dik.co.me/wp-content/uploads/2018/04/Biracki-spisak-za-objavu.pdf>

⁹ These data are based on the insight into the voter register on 25 August 2020; this right is outlined in article 21 of the Law on the Voter Register.

¹⁰ The modifications recorded in the voter register are as follows: modifications; modifications of the date of birth and/or sex; modifications in the Registry of Births; cancellations outside Montenegro; decisions on PSs; cancellation of entry into the Registry of Deaths; registration of the place of residence; proclamation of the legal capacity of a person; modifications of the residence address; modifications of personal names; modifications of a temporary place of residence; modifications of the permanent place of residence; registration of other facts into the Registry of Births; registration into the Registry of Montenegrin Citizens; and determining the place of residence.

According to the data, Budva and Gusinje had the largest number of voters who were registered in the voter register based on changes in the permanent place of residence. For 1 January 2020 until 20 August 2020, this number was nearly irrelevant. During the reference period, based on the change of the place of permanent residence, there were 46 voters registered in Andrijevisa, 106 in Budva, 4 in Gusinje, 85 in Kotor and 44 in Tivat. The number of voters who moved from one municipality to another cannot be obtained based on the insight into the voter register.

Since the announcement of the elections until the finalisation of the voter register, a total of 1,231 voters were removed from the voter register. In 97% of cases, voters were removed due to death, while the remaining percentage was removed due to loss of Montenegrin citizenship and cancellation of the permanent place of residence. The insight into the voter register also showed that there were only 18 potentially double-registered voters.

The voter register also contains information on the voters' age per municipality, except for people who vote at separated PSs (Prisons mainly). Unfortunately, the voter register does not enable precise insight into voters separated by age for each year; it can only be observed over a 10-year period. Due to the program's functionality, it is only possible to determine precisely the number of voters who are 18–19 years old. Namely, the initial value that the voter register starts from is 10, followed by 20, 30, 40, until the final value of 130. Because minors do not have the right to vote, the range from 10–20 actually reflects the number of voters who are 18 and 19 years old. The range from 20–30 reflects the number of voters who are 20–29 years old, and so on. Table 3 provides an overview of the age structure of voters in the voter register.

Table 3: Age structure of voters (excluding separated polling stations)

Age	18–19	20–29	30–39	40–49	50–59	60–69	70–79	80–89	90–99	100–109	TOTAL
Men	8,824	46,200	50,093	48,777	46,767	39,768	19,628	8,382	817	15	269,271
Women	8,167	43,045	48,008	47,056	44,010	41,012	25,329	12,688	1,337	38	270,690
Total	16,991	89,245	98,101	95,833	90,777	80,780	44,957	21,070	2,154	53	539,961

A. Electronic identification of voters

The Law on Election of Councillors and MPs regulates that electronic voter identification devices shall be used at PSs to identify voters.¹¹ Voters shall be identified electronically in order to cast their votes.¹² After the use of electronic voter identification devices was introduced, voters were no longer sprayed with invisible ink on their fingers (checked by an ultraviolet [UV] lamp); .

The electronic voter identification device contained information on the PS where it was activated, activation date and time, number of voters at a specific PS for specific elections and statistical data on voters' turnout at the specific PS.

After a biometric ID card or passport are scanned through the reader on the electronic voter identification device, voter's data appears, under the condition that the voter is registered in the voter register and at that specific PS. The device displays the voter's photo, name and surname, personal identification number and address for the place of residence. At the same time, the device prints the confirmation slip, which contains all the listed information about the voter, including the ordinal number in the voter register. The PB President shall circle the ordinal number under which the identified voter has been registered in the voter register, next to which the voter shall sign himself and then can proceed to cast the vote.

The printed confirmation list shall be signed by the PB President and board member belonging to the opposite political option. The number of confirmation slips must equal the number of ballot coupons, ballot papers, circled names in the electronic registry and used ballot papers.

B. The work of the Expert Team for monitoring the accuracy and up-to-dateness of the voter register from the date when elections were called to the proclamation date of the final election results

On 8 July 2020, the Ministry of Interior established the Expert Team for monitoring the accuracy and up-to-dateness of the voter register from the date when elections were called to the proclamation date of the final election results, which included a CeMI representative. The Expert Team created a special email address (kontrolabs@mup.gov.me), which all interested parties could use to send their inquiries and get information related to the voter register. From the date when the email address was created until the voter registry finalisation date, citizens sent 55 inquiries. Citizens were mainly interested in information about the PS where they can exercise their right to vote, as well as about the possibility of using a valid passport for voter identification at the PS. Some inquiries were related to the possibilities for facilitated submission of requests to obtain identification documents for old, ill and disabled people. A toll-free phone line and call centre were established by the Ministry of Interior

¹¹Law on Election of Councillors and MPs, op. cit., article 68a, para. 1

¹²Ibid, article 68a, para. 2

to provide information to voters about modifications of the voter register. From the opening date of the call centre until the closing of the voter register, there were 1,378 calls from citizens.

C. Voting with invalid identification documents

One of the most significant issues related to the rights of voters raised during this electoral cycle was related to the possibility of voting with invalid identification documents. Namely, the SEC sent a letter to the Ministry of Interior asking for clarification related to questions asked by citizens whether expired identification documents will be valid during the forthcoming elections and whether it would be possible to vote with invalid identification documents. The Ministry of Interior indicated that would not be possible. In the opinion of the Ministry of Interior, citizens who do not have valid identification documents cannot use expired documents to prove their identity at the PS – that is, they cannot vote if they do not have a valid ID card or valid passport. The data that caused the greatest concern were related to a large number of citizens whose ID cards had expired after the COVID-19 pandemic was declared on 26 March 2020, which amounted to 52,200 on 4 August 2020. According to the Ministry of Interior's data, that number would have been 74,871 on election day. It is important to point out that out of that number, 23,931 voters had valid passports. The COVID-19 pandemic has been one of the reasons why it was difficult for citizens to renew their identification documents, a fact that has been confirmed by the nearly 10,000 ID cards that had been issued but not handed over to the applicants.

Besides, there were 6,288 voters in the voter register who had old ID cards or passports (issued before 2008), but who did not submit a request for new identification documents. Among them, there were 162 voters who are over 90 years old. There were also 1,299 registered voters who did not have any identification document and who did not request issuing an identification document.

The decision to extend the working hours of all regional units and branches of the Ministry of Interior and encourage citizens to submit requests for issuing ID cards and have them issued before election day was one of the results of the work done by the Expert Team. They aimed to reduce the number of citizens without a valid identification document. Due to this effort, the number of citizens without a valid ID was reduced in a short amount of time, evidenced by the fact that between 4 and 12 August 2020, there were 8,381 requests for a new ID and 2,050 requests for a new passport. Of that number, 5,146 IDs and 1,546 passports were issued to citizens. According to the latest data from the Expert Team, the number of citizens without a valid ID or passport on 20 August 2020 was 23,295, meaning that the initial number of more than 50,000 voters without a valid ID or passport was markedly reduced on the day when the voter register was closed.

Nevertheless, this is a rather large number of citizens who would not have been able to exercise their right to vote. However, at the initiative of the Democrats, the SEC adopted an opinion that was the opposite to the Ministry of Interior's position. Namely, they would allow voting with invalid identification documents if an electronic identification device recognises the identification document as a legal one. The SEC explained the opinion by stating that conducting elections is under their purview. Each adult citizen having a permanent place of residence registered in Montenegro¹³ is legally obliged to have a valid ID card. Therefore, the campaign aimed at reducing the number of citizens who do not have valid identification documents would be welcomed regardless of the election cycle.

D. Difference between the number of inhabitants according to the population census and number of voters registered in the voter register

During the period preceding the election campaign, but also during the election campaign itself, a prominent issue raised in public was related to the comparison of the population census results with the voter register data. According to the latest population projections, which MONSTAT publishes annually,¹⁴ in the middle of 2019 Montenegro had 622,028 inhabitants, out of which 486,495 were adults (over 18 years old), while the voter registry contained 540,026 voters. Hence, the voter register contained 53,531 voters more than there were adult inhabitants according to the population census data. This discrepancy is the main reason why some of the Montenegrin public have doubted the up-to-dateness of the voter register. To understand the difference and its role in forming an opinion on the validity of the voter register, it is necessary to understand the data that are contained in these databases.

First, it is necessary to emphasise that there is a difference between the terms 'inhabitant who has reached the age of maturity' and 'Montenegrin citizen who has reached the age of maturity' and 'person who has the right to vote (voter)'. On the one hand, an inhabitant can, but does not have to be, a citizen of Montenegro. On the other hand, a citizen who has reached the age of maturity may or may not have the right to vote (be registered in the voter register). In line with article 45 of the Constitution of Montenegro, a voter is a person who is a citizen of Montenegro, who is 18 years of age and who has a minimum of two years of residence in Montenegro.¹⁵ Thus, there are three necessary criteria for being entered in the voter register: (1) citizenship, (2) age of maturity and (3) place of residence (residence requirement). The residence requirement is regulated in more detail by article 11 of the Law on Election of Councillors and MPs, where permanent residence in Montenegro is required for no less than two years prior to the parliamentary election date, or six months before the local elections date. It is important to note that the person may

¹³Law on Identification Card ('Official Gazette of Montenegro', no. 12/2007, 73/2010, 28/2011, 50/2012, 10/2014 and 18/2019), article 2, para. 1

¹⁴Available at: <https://tinyurl.com/yxoneram>

¹⁵The permanent and temporary place of residence are regulated by the Law on Registry of Permanent and Temporary Places of Residence ('Official Gazette of Montenegro', no. 46/2015 dated 14 August 2015). A permanent place of residence is defined as the location in the Montenegrin territory where a Montenegrin citizen has settled with the intention to permanently live there, which is the centre of her or his life activities and with which she or he is permanently connected. A temporary place of residence is defined as the place and address where a Montenegrin citizen temporarily resides.

lose the right to vote due to the loss of her or his legal capacity, even if a person fulfils these three requirements.¹⁶

The criteria for selecting people who will be included in the population census are the usual place of residence and intentions for residency in Montenegro for the specific time period, as stated by the person her – or himself. So, the total number of inhabitants in Montenegro according to the population census actually comprises people who have stated that their usual place of residence is Montenegro, with a residency period of no less than one year, as well as people who have resided in Montenegro for less than one year, but who intend to stay in Montenegro. That latter group are not necessarily citizens of Montenegro, and they do not require a prior registration of a place of residence in Montenegro, although they might live in Montenegro. Therefore, they are not entered into the voter register.

Furthermore, the total number of inhabitants according to the population census does not include people who were outside of the territory of Montenegro during the period of conducting the population census and who do not intend to return to Montenegro next year, as well as people whose intention to stay in/outside of the country could not be estimated due to their absence. Typical examples of those people are students who are studying abroad, who may have the right to vote and who are registered in the voter register. People who were in Montenegro for less than one year during the population census and who stated that they do not intend to stay in Montenegro for more than one year have not been included in the total number of inhabitants according to the population census.

Another significant difference stems from the fact that the number of inhabitants for the population census is generated based on the conducted survey, where data is obtained based on the statements from individuals, without their identity being verified, while the voter register is composed exclusively on the grounds of identification documents – actually, official data from the public registries. The data gathered in the population census do not necessarily need to be accurate because they have the characteristics of a survey. On the contrary, there is a legal assumption that the data from the voter register is correct because it is taken from the public registries.

Finally, it is necessary to emphasise that the registry is an administrative record based on which individual rights of citizens are determined, while the data gathered through the population census is statistical and cannot be taken as grounds for determining individual rights and duties. On the contrary, some minority rights are determined based on the data from the population census. The Law on Minority Rights and Freedoms precisely regulates that in the local self-government units, in which members of minority nations and other minority national communities constitute a majority or at least 5% of the population – according to the results of the last two consecutive population censuses – the language of that minority nation

¹⁶Law on Election of Councillors and MPs, *op. cit.*, article 11

and other minority communities as such shall be in official use. Within the electoral rights domain, the results of the population census are important to determine the status of electoral lists for the election of a minority nation or minority national community members of MPs and councillors. Such a status enables either a reduced electoral threshold combined with a guaranteed seat or no electoral threshold at all. Specifically, the electoral threshold is not obligatory at local elections for ‘electoral lists of members of a certain (of the same) minority nation or of a certain (of the same) minority ethnic community, whose share is up to 15% in the total population at state level and from 1.5% to 15% in the total population at the territory of a municipality, Administrative Capital or Historic Royal Capital, according to the last population census data for the election of MPs of minority nation or minority ethnic community and allocation of seats among electoral lists of members of a certain (of the same) minority nation or of a certain (of the same) minority ethnic community’.¹⁷

The greatest issue with regard to discrepancies among the numbers is due to people who are registered in the voter register, who are indisputably citizens of Montenegro, but who actually have not lived in Montenegro for a long time, even though they have a registered permanent place of residence. These individuals cannot be encompassed by the population census. Unfortunately, the Law on Registry of Permanent and Temporary Places of Residence does not offer a solution for this issue: it just makes it more complicated because it does not regulate adequate sanctions for people who have not cancelled their permanent residence. There are a lot of people who illegally have a permanent residence in Montenegro, because they do not live in Montenegro. This phenomenon is actually the reason why a part of the political public has doubts with regard to the existence of phantom voters.

Regarding international standards, according to the ‘Code of Good Practices in Electoral Matters, 2002’, by the Venice Commission, Council of Europe (1.1 c. iii.), ‘a length of residence requirement may be imposed on nationals solely for local or regional elections’. According to this document, all Montenegrin citizens should be given the right to vote in the national parliamentary elections regardless of their residence. The residency requirement could be imposed only for local elections, where it should not be longer than 6 months, which is already regulated by the Montenegrin electoral legislation. The residency requirement is regulated by article 45¹⁸ of the Constitution of Montenegro, whereas its cancellation would require amendments to the Constitution, which can be made final if supported by a two thirds majority in the Parliament¹⁹ and a minimum of three fifths²⁰ of the total number of voters in the national referendum. Currently, there is no political will in Montenegro to fulfil the first requirement. Even if it existed, it is questionable whether it would be possible to have the amendments supported in the referendum.

¹⁷Law on Election of Councillors and MPs

¹⁸Constitution of Montenegro (‘Official Gazette of Montenegro’ no. 1/2007 and 38/2013 – Amendments I–XVI), article 45, para. 1

¹⁹Ibid, article 155, para. 4

²⁰Ibid, article 157

VIII ELECTION CAMPAIGN

The election campaign was conducted under uncertain and contradicting frameworks and conditions caused by non-compliance of the legal provisions that regulate the start date and the duration of the election campaign and lack of institutional rules and guidelines for conducting the election campaign under COVID-19 circumstances.

Extraordinary circumstances caused the election campaign to be conducted predominantly in the media and online space – social networks – compared with traditional ways, conventions and door-to-door campaigns. Those traditional approaches were present, but with a significantly lower intensity compared with previous election campaigns.

Unsuccessful electoral reform resulted, among other things, in legal uncertainty and a sort of contradiction regarding the defined time frame for conducting the election campaign. Provisions of the Law on Election of Councillors and MPs regulate that submitters of electoral lists shall conduct the election campaign as of the electoral list validation date up to 24 hours prior to the election date. However, the Law on Financing of Political Entities and Election Campaigns, amendments to which were adopted by the Parliament of Montenegro in December 2019, regulates that the election campaign shall start on the date when the elections are announced and last until the date of proclamation of the final election results.²¹ As a consequence, two key institutions that are responsible for enforcing these Laws – APC²² and SEC²³ – set up the election campaign within different time frames in the calendars of electoral activities.

The amendments to the Law on Financing of Political Entities and Election Campaigns, which were adopted by votes of the ruling coalition and without support of opposition parties, significantly modified the legal framework in terms of the election campaign and rules for conducting the election campaigns, which are not harmonised with other regulations defining the same issue. Thus, one of the key international standards that guarantees the credibility of the electoral process – legal security – has been undermined. Specifically, the Venice Commission²⁴ stated that the fundamental elements of electoral law, in particular the electoral system proper, should not be open to amendment less than one year before an election. Contradiction among regulations does not provide legal security and it can cause confusion, or it can be misused both by the regulatory institutions and electoral competition.

²¹Law on Financing of Political Entities and Election Campaigns ('Official Gazette of Montenegro', No. 3/2020 and 38/2020), article 2, para. 6

²²APC Guidelines, June 2020, p. 2; available at: <https://tinyurl.com/y6sp4aql>

²³SEC, Calendar of deadlines for conducting election activities, June 2020; available at: <https://dik.co.me/kalendar-rokova-za-sprovođenje-izbornih-radnji/>

²⁴Code of Good Practice in Electoral Matters adopted by Venice at its 52nd session in October 2002, No. 190/2002, p. 10; available at: <https://tinyurl.com/yxbebvky>

Specifically, the election campaign started on the date when elections were called, on 20 June 2020, in accordance with article 2 of the Law on Financing of Political Entities and Election Campaigns. Almost all political entities acted within the framework of this Law.

The early campaign was marked by political parties that belong to the ruling coalition, DPS and SD, conducting a high level of a so-called ‘functioners’ campaign’, which continued during the regular part of the election campaign. The activities related to the promotion of results achieved by the Government of Montenegro during their previous term, through channels of certain political entities, have the characteristics of a political campaign aimed at promoting the party to achieve the best possible results. There are numerous examples, especially on Internet channels and social networks, where the aforementioned political parties even used official websites of some Ministries to promote a political entity.²⁵ Thus, the principle of equality and equal opportunities²⁶ for promotion of political entities programmes has been directly violated.

In the opinion of CeMI, the election campaign was dominantly conditioned by the NCB regulations with regard to the epidemiological situation caused by COVID-19. The intensity of the election campaign was lower than in previous electoral cycles with regard to the presence of political entities in the media. There were not many public gatherings organised through the campaign, while the door-to-door approach was dominantly used to communicate with voters. The greatest part of the campaign, especially in July, was conducted online; it was mainly focused on YouTube and social networks. The campaign was later intensified. During August, political entities were using almost all techniques to promote their pre-election programmes: audio and visual advertising, billboards, dissemination of campaign material, contacting voters in the field and door-to-door campaigns.

In relation to previous electoral cycles, the number of organised gatherings was reduced. When organised, gatherings were held while respecting general NCB restrictions. These restrictions were modified during the election campaign. At first, in accordance with the NCB instructions, organisation of political gatherings in open public spaces was forbidden. Political entities were allowed to organise public gatherings in closed spaces for a maximum of 20 people, while respecting the measures related to keeping a minimum of two metres of physical distance between individuals and wearing protective masks. Later, the number of people permitted in an open and closed space was increased – to 100 and 50, respectively. Different interpretations of the regulations by the political entities resulted in organisation of the open space gatherings by some political entities²⁷ and not others. The NCB revised and modified their regulations only after receiving public reactions.

²⁵For example, a video entitled ‘Experts should be idols, not outsiders’, in which Damir Sehic, the Minister of Education and the candidate on the SD list ‘We decide’ speaks, was shared on Damir Sehic’s Facebook page and contained a link to www.mps.gov.me

²⁶Code of Good Practice in Electoral Matters, op. cit., p. 17

²⁷ After the reaction of the opposition parties to the DPS open-air gatherings, the NCB clarified that the purpose of the measure is to ban political rallies to which political entities invite supporters without the possibility to know in advance the number and identity of people who will attend the rally, and thus such gatherings pose an epidemiological risk. They explained that it was not a ban on any political activity and pointed out that political parties, after direct inquiry, were informed of the possibility to organise an open gathering for a maximum of 40 people; see <https://www.vijesti.me/vijesti/politika/458853/samo-dps-understands-sta-nkt-determine>.

Having in mind the uncertain circumstances and ambiguities which they brought, CeMI expressed strong concern regarding the fact that no regulation was adopted and presented in the form of an instruction, or guidelines drafted by relevant institutions to political entities, related to safe conditions for conducting election campaigns. To avoid any uncertainties and ambiguities related to the election campaign, at the NCB session, which was attended by representatives of civil society organisations and SEC, CeMI proposed establishing a working group. These members would be representatives of the NCB, SEC and nongovernmental organisations involved in the electoral process and would define the rules for how to safely conduct the election campaign. The proposal was accepted, and a draft document was prepared. The final draft was discussed at the Collegium of the Parliament of Montenegro. However, the drafted document was neither adopted nor implemented, although it was developed in accordance with the best international and regional experiences of countries that conducted elections during the COVID-19 pandemic.

Political entities indicated that they were significantly limited by ambiguities. Although they conducted the campaign in line with general instructions given by the NCB, very often they sent requests for clarifications to avoid violating the rules. In practice, this ambiguity caused a significant level of insecurity with political entities in terms of how to conduct campaigns and it may have affected the right of political entities to conduct the election campaign and inform citizens about their offers and programmes. A lack of clear rules on how to conduct door-to-door campaigning – which was intensively used by political entities, despite the fact that there are no precise rules and guidelines – was especially concerning because direct communication of political entities with voters has undoubtedly increased the risk of infection and endangered the health of all participants in the process.

As the campaign continued, elements of negative campaigning between DPS and the SD on one side and coalitions formed around the DF, Democrats and URA on the other side became more visible. Earlier political developments, conditioned by the adoption of the Law on Freedom of Religion served as the basis for creating a pre-referendum atmosphere, as well as the establishment of two blocks, where the ruling coalition insisted on the state being in peril and on the need to preserve the state of Montenegro, which had been jeopardised by great Serbian interests promoted by the DF and Democrat coalitions. Accordingly, dominating topics in the election campaign were mainly related to the adopted Law on Freedom of Religion, national and religious issues, preservation of integrity of the state of Montenegro, economic consequences of the COVID-19 pandemic, unemployment, social welfare and its possible misuses, rule of law and corruption.

The omnipresence of the ‘high level public officials’ in the pre-election campaign was rather concerning. This phenomenon refers to the intense presence of high-level public officials during the pre-election campaign period, who performed various promotions and opened various buildings/structures, and primarily the President of

Montenegro, most of the members of the Government, but also high-level officials from the local self-government bodies. This is a direct contradiction to the article 50a of the Law on Election of Councillors and MPs, which regulates that: ‘Public officials appointed by the Government of Montenegro or elected or appointed by the local government, civil servants and state employees may not take part in election campaigns, and neither publicly express their positions regarding elections, during working hours, i.e. while on duty’, as well as provisions of the Law on Financing of Political Entities and Election Campaigns, which provide clear restrictions in this regard. CeMI warns that the principle of equality of all contestants to the electoral process was threatened in this regard. In addition, there is a clear institutional advantage for the ruling coalition, while the existing misdemeanour sanctions for these violations are inadequate and are not deterrents.²⁸

Specific for this election cycle was the involvement of the religious community in the political campaign. Despite the announcements made by the SOC that it would not interfere in the election process, the last 15 days of the pre-election campaign were marked by the SOC openly giving support to one segment of the political offering for the parliamentary elections. CeMI warns that this practice is not present in functional democracies and that the interference of religious communities in the political processes of a country calls into question secularism, i.e. the separation of religious and public institutions, and can set a worrying precedent.

According to statements from CeMI’s field contacts, priests influenced voters by preaching that the opposition to ruling parties means real support to the church and religious principles. Priests openly invited people to support the opposition parties, mainly the opposition block ‘For the future of Montenegro’, which is formed around the DF. A significant number of gatherings were organised in religious buildings or at religious properties, with the logistic support provided by priests.

²⁸Law on Election of Councillors and MPs, *op. cit.*, article 116, para. 3 (prescribed fines range from 500 to 2,000 EUR)

IX ELECTION CAMPAIGN FINANCE

Control over the implementation of the electoral legislation with regard to financing political entities and election campaigns is performed by the APC, in line with article 4 of the Law on Financing of Political Entities and Election Campaigns.

Election campaign financing can be made both from public and private sources. In total, 2,367,805.91 EUR are allocated from the Budget of Montenegro for political parties to finance their election campaigns, as regulated by the Law on Financing of Political Entities and Election Campaigns. The overall allocated amount represents 0.25% of the total planned budgetary assets, after deduction of the capital budgetary assets and budgetary assets of state funds (current budget), for the year for which the budget is adopted. Furthermore, 20% of these funds shall be distributed in equal amounts to political entities within eight days from the expiry of the deadline for submission of electoral lists, while 80% of funds shall be distributed to political entities that won seats, in proportion to the number of seats awarded. There were 11 validated electoral lists for the 2020 parliamentary elections. They received budgetary assets amounting to 43,051.02 EUR per electoral list before 12 August 2020, which was the deadline regulated by the law for distribution of 20% of the funds for campaign costs. There were three electoral lists accepted for the local elections in Andrijevica that received budgetary assets amounting to 248.06 EUR per electoral list before 12 August. There were seven electoral lists accepted in Budva that received budgetary assets amounting to 1,730.88 EUR per electoral list before 12 August. During the same period, there were six electoral lists that were accepted for the local elections in Gusinje and distributed budgetary assets amounting to 90.31 EUR per electoral list. For the local elections in Kotor, there were nine accepted electoral lists that received budgetary assets amounting to 721.02 EUR per list before 12 August. There were seven electoral lists accepted in Tivat that received budgetary assets amounting to 759.71 EUR per electoral list before 12 August. Funds from private sources include donations from natural and legal people, as well as non-monetary donations. The APC supervises the implementation of the law.

For the purpose of raising funds to finance the election campaign costs, the political entity shall open a separate bank account. For the duration of the election campaign, political entities shall keep and update regularly the records of funds raised from private sources and costs of the election campaign and submit reports to the APC every 15 days. Separate bank accounts were opened by 11 political entities that participated in the 2020 Parliamentary elections. There were 25 bank accounts opened for local elections, while 32 electoral lists were registered. Bank accounts were opened within the deadline, which is regulated by the law ('the latest on the day following the day of confirmation of the electoral list'). Ten political entities informed the APC about opening the bank account within the deadline defined by the law ('three days following the day of bank account opening'). The Croatian Reform Party was the

only political entity that fulfilled this obligation two days after the expiry of the legal deadline. It should be pointed out that the Law on Financing of Political Entities and Election Campaigns defines the election campaign as a set of activities of a political entity from the day of calling for elections until the day of proclamation of the final election results.²⁹ The same article lists the following political entities: political parties, coalitions, groups of voters and candidates for the election for the President of Montenegro.

It is extremely important that this segment of financing political entities is transparent, so that citizens can be aware of how political campaigns are financed and who is financing them. Having transparency in the area of political entity financing is crucial. Citizens shall be informed about natural and legal people who finance the campaign and the way in which the campaigns of political entities are financed. At the moment, it is rather challenging to detect the sources from which the money comes and how it is being spent, ambiguities that creates grounds for misuse and manipulation.

Other than the abovementioned obligation, political entities are only obliged to submit to the APC the report on funds raised and spent for the election campaign with the supporting accounting documents to receive the remaining 80% of the budgetary assets in proportion to the number of awarded seats. Only at that moment is it possible to get a clear image of the campaign finance of a certain political entity, unless the political entity opens a separate bank account for the duration of the entire election campaign. Such ambiguity in the law makes its implementation senseless, especially considering that political entities open special bank accounts 20 days before the election date, but their active election campaign starts even before that.

In line with article 44 of the Law on Financing of Political Entities and Election Campaigns, state bodies, state administration bodies, local self-government bodies, local administration bodies, public institutions and state funds are obliged to submit to the APC, in the period from the date when the elections were called for until the election date, all employment decisions with complete supporting documentation within three days following the date when the decision was made. Due to that requirement, on 4 July, CeMI asked the members of the Parliament of Montenegro to draft and adopt, through urgent procedure, amendments to article 44, paragraph 1 (employment and hiring of employees) of the Law on Financing of Political Entities and Election Campaigns. Namely, business entities whose founder and/or majority or partial owner is the state or local self-government body are 'omitted' from this article as entities bound by the employment ban during the election period. The current definition of this provision leaves grounds for misuse: unobstructed and non-transparent political employment in such business entities during the election period. The provision neither regulates the ban and employment in exceptional cases – which is regulated for the state bodies, state administration bodies, local self-government bodies, local administration bodies, public institutions and state funds

²⁹Law on Financing of Election Entities and Political Campaigns, *op. cit.*, article 2

– nor regulates the obligation for business entities whose founder and/or majority or partial owner is the state or local self-government body to submit to the APC employment decisions made during the election period, with complete supporting documentation. Furthermore, the provision does not regulate the obligation of the APC to upload their employment decisions to its website and make them publicly available. In our press release, we expressed concern that the current situation purposefully creates grounds for political employment and misuse of public resources aimed at achieving political interests. It is out of the scope of the control performed by relevant institutions and it directly violates the principle of transparency in this area, thus preventing not only the relevant institutions, but also civil society organisations from supervising and controlling the employments.

We emphasise that all international and national organisations have indicated that the political employment issue as one of the key mechanisms for electoral misuse. In addition, there were numerous institutionally unresolved affairs. The most visible among them, in terms of revealing the functioning mechanism, was the affair ‘Recordings’, which never received an institutional epilogue, but which strongly undermines the public trust into the election process in Montenegro.

The Parliament of Montenegro did not adopt the amendments to article 44 of the Law on Financing of Political Entities and Election Campaigns. Keeping in mind the significance of such information, CeMI requested from the APC the information on whether the largest business entities whose founder or partial owner is the state (Plantaže, Elektro distribucija [power supply company], Aerodromi [airports] and Montenegro Airlines) reported the number of employments for the period since the elections were announced. CeMI also asked the APC to request this information from the business entities in case that they have not reported on the number of employments. The APC requested the mentioned data from seven companies whose founder or partial owner is the state, namely: Airports, Morsko Dobro, Railway Infrastructure, Post Office of Montenegro, Port of Bar, National Parks and Montenegrin Electricity Transmission System. The Airports did not act upon the APC’s request (i.e. on the sent urgencies within the given deadline), so the APC initiated misdemeanour proceedings against the responsible person. For Morsko Dobro, there were two employment contracts with two people in campaigns, for an indefinite period. Contracts were submitted to the APC before the day of the control. One was carried out through a public announcement, while the other person received a permanent employment contract after having a temporary one. The data submitted by the Railway Infrastructure showed that there were 32 employments, of which 8 people had an extension of an existing temporary employment contract, 13 people had a transformation of an existing contract from a temporary to permanent one and 11 people were employed based on a public announcement. There was no employment or concluded employment contracts at the Post Office of Montenegro or the Port of Bar. For National Parks, there were two temporary employment contracts

with two people during the campaign. The Montenegrin Electricity Transmission system had two temporary employment contracts (6 months) with two people in the election campaign, which were realised on the basis of the agreement on taking over employees in accordance with article 51 of the Labour Law.

The APC Plan of Control and Supervision envisaged field controls of three ministries, seven municipalities, nine education institutions, seven administrative bodies at the state and local level and the 10 largest political entities (the seven largest at the state level and the three largest at the local level).³⁰ A total of 36 field controls were planned. At the session of the working group for monitoring the campaign, a CeMI representative was told that the number of field controls was lower than planned, and that thus far only 15 such controls had been conducted.

At its session held on 19 August, the APC presented information on initiated procedures. Namely, the APC initiated 239 procedures ex officio against governmental bodies and 83 procedures aimed at collecting information and determining facts that are related to services provided to political entities during the election campaign. Out of these, the largest number of procedures was initiated in relation to failure to publish the analytical cards (135) and failure to report employments (98).³¹

The APC had published two opinions by 25 August. The first opinion referred to the application of article 40 of the Law on Financing of Political Entities and Election Campaign Financing and stated that prohibitions from paragraphs 1 and 2 of article 40 of the mentioned law refer only to the election campaign period, while the prohibition from article 3 refers to the entirety of 2020 'bearing in mind that regular Parliamentary elections are planned'. The second opinion refers to the application of article 16 of the law and states that entities that provide media advertising services do not include electronic publications (portals) and billboards and other forms of advertisement. The explanation states that the Law on the Election of Councillors and MPs and the Law on Electronic Media clearly distinguish between radio and television programmes and electronic publications. The APC also refers to the opinion of the Ministry of Culture from 19 August 2020 and the Agency for Electronic Media from 17 August 2020, according to which portals are not considered electronic media. At the end of the opinion, the APC points out that it performs the verification by collecting data from various sources and invites all service providers to political entities to submit price lists and accompanying documentation related to the provision of services.

Article 44 of the Law on Financing of Political Entities and Election Campaigns obliges the APC to publish all employment decisions on its website within seven days from the day of submission. When inspecting the date of publication of this documentation on the APC's website, the APC is sometimes late with the publication of documentation. These are rare cases, and announcements are delayed between 1 and 7 days. For example, the APC was seven days late in publishing the documentation for establishing

³⁰ Available at: https://www.antikorupcija.me/media/documents/Plan_kontrole_i_nadzora-2020.pdf

³¹ Available at: <https://tinyurl.com/yytug8v5>

employment in the Office of the Chief Administrator in the Municipality of Tivat. In most cases where there was a delay in publication, it was the documentation on the employment of a large number of people by one employer. Several employment decisions have not been published, although data on them are available in a summary table published by the APC periodically.

According to the data provided by the APC,³² from 20 June 2020 when the elections were announced until 25 September 2020, there were 788 new employments (Table 4). Out of that number, 203 people were employed permanently, while 485 were employed through a temporary work contract. In total, 82 people were hired under agreement on temporary and periodic work, while 18 people were selected to perform the function until the expiry of their term. Most employments were made in local administration bodies, local self-government bodies and educational institutions.

Table 4: Distribution and percentage of employments per municipalities

MUNICIPALITY	NUMBER OF EMPLOYMENTS	%
Andrijevica	5	0.63
Bar	19	2.41
Berane	27	3.43
Bijelo Polje	17	2.16
Budva	63	7.99
Danilovgrad	22	2.79
Cetinje	58	7.36
Herceg Novi	28	3.55
Kolašin	11	1.40
Kotor	32	4.06
Mojkovac	2	0.25
Nikšić	102	12.94
Petnjica	2	0.25
Plav	10	1.27
Plužine	10	1.27
Pljevlja	30	3.81
Podgorica	281	35.66
Rožaje	14	1.78
Tivat	21	2.66
Tuzi	19	2.41
Ulcinj	9	1.14
Žabljak	6	0.76
TOTAL	788	100.00

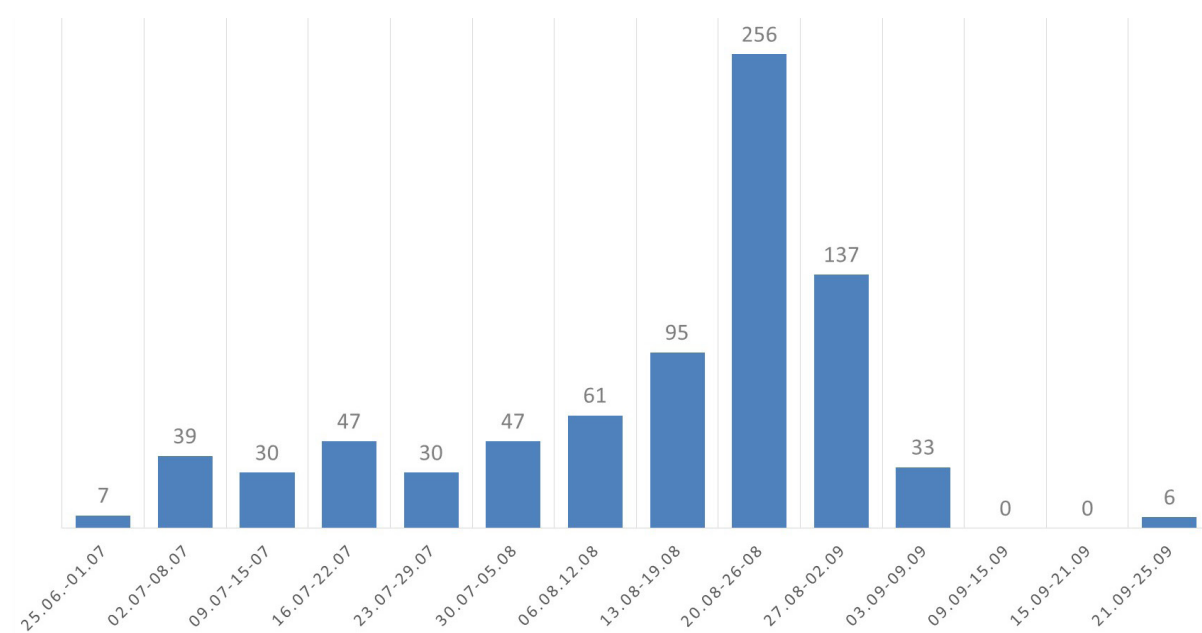
³²Available at: http://www.antikorupcija.me/media/documents/zaposljavanje_za_sajt_finalno.pdf

Table 5 and Graph 1 show the number of new employment contracts delivered to the APC from the day elections were called (20 June 2020) to 25 September 2020.

Table 5: Number of new employment contracts delivered to the APC per month:

Month	Number of employments	%
June	6	0.76
July	165	20.94
August	567	71.95
September	50	6.35
TOTAL	788	100.00

Graph 1: Number of new employment contracts delivered to the APC from 25 June to 25 September 2020 (divided into seven-day periods)



A significant amount of money was distributed as one-time social benefits, especially through the third package of the Government's measures to mitigate the effects of the COVID-19 pandemic. Furthermore, due to the COVID-19 pandemic in the first half of this year, amendments to article 40, paragraph 3 of the Law on Financing of Political Entities and Election Campaigns were adopted, making the exception with regard to a social welfare payment ban in the year when local and Parliamentary elections will take place, in case of a war, state of emergency or epidemic or pandemic of communicable diseases. Therefore, it remains unclear why the APC hasn't performed a more detailed investigation of municipalities that gave significantly larger amounts than others as a short-term financial assistance from the budget reserve.

Table 6: Single social welfare payments from budget reserves per municipality for the period from 21 June to 10 August 2020

Municipality	Number of social welfare payments	Amounts of social welfare payments (EUR)
Andrijevica	162	10,609.00
Bar	2	4,800.00
Berane	36	2,520.00
Bijelo Polje	1	1,000.00
Cetinje	8	520.00
Kolašin	13	4,200.00
Kotor	52	5,700.00
Mojkovac	8	1,330.00
Nikšić	10	750.00
Pljevlja	8	1,550.00
Plužine	710	30,830.10
Rožaje	8	2,100.00
TOTAL	1,018	65,909.10

Table 6 indicates that some smaller municipalities (such as Andrijevica and Plužine) distributed large amounts on behalf of social welfare. Therefore, the APC should have requested clarification from these municipalities and performed control. In accordance with the data that were presented by the APC representatives at the working group meeting with representatives of the nongovernmental sector, there were cases in Andrijevica that one person received social welfare payments five times within five weeks. Each time, 20 EUR was paid to the same person. Such cases are especially important because local elections were held in the municipality of Andrijevica.

The aforementioned data were published on 19 August 2020 in the document titled 'Information on the APC activities during the election campaign for elections, which are to be held on 30 August'.³³ Of note, previously published summarised data on social welfare (published by the APC) contained municipalities that were no longer listed in the current data, but which can be found at websites of individual municipalities. For example, previously published summarised data contained information on social welfare payments in Herceg Novi.³⁴ These data are available at the municipality's website.³⁵ Furthermore, according to the data presented in the table, the municipality of Plužine paid the largest amount of money, but according to the earlier summarised reports, there were no single social welfare payments made in this municipality. Therefore, it remains unclear which criteria the APC applied when performing this sort of control and verification.

The APC received 123 complaints during the campaign; in 105, it determined that there were no violations of the law. In 10 cases, there were violations of the law: Oki

³³Available at: <https://tinyurl.com/y4batc9d>

³⁴Available at: <https://tinyurl.com/yyb9eu4j>

³⁵Available at: <https://tinyurl.com/yyctgjud>

Air Broadcasting twice, TV Corona, Novi TV, Pobjeda, TV A1, RTV Budva, Radio Antena M, Radio TV Rožaje and Dnevne Novine). In seven cases, there was a referral to the jurisdiction of other bodies, and in one there was a suspension of proceedings due to the termination of the legal entity (Tobacco Agency).

The APC performed 15 field controls with regard to respecting various provisions of the Law on Financing of Political Entities and Election Campaigns (including employment, use of mechanisation and equipment, social welfare, etc). The APC performed most of these controls envisaged by the Plan of Control and Supervision; nevertheless, there have been no proceedings initiated in cases that attracted the public attention. One such case was when an activist from the DPS was involved in a recorded conversation with the candidate to service with the Armed Forces of Montenegro. The activist stated in the conversation that ‘the candidate has not been recognised by the party field’. The Director of the APC stated that APC shall gather all required documentation and submit each lodged charge to relevant bodies if it is considered to be related to a criminal offence. The case has been formed by the Basic State Prosecution Office in Podgorica to determine all the facts and circumstances. The preliminary proceedings phase is in progress. The Minister of Defence stated that he does not know Ms Vulić. He added that criminal charges against her will be lodged if the recording is confirmed to be authentic, while she will be excluded from the DPS. There is no doubt that prompt reaction of relevant bodies was required in this case to change the public attitude stemming from the previous electoral cycles that cases like this one, as a rule, have never been prosecuted.

There was also a case related to accusations made by the Vice President of the Assembly and party FORCA on behalf of the coalition partners from the ruling structure for using political corruption (promising employments and employing people to secure votes) in Ulcinj. According to his statement, the secretary for finances did not work at his office but at the office of the DPS, where he was supported by employees who were being paid from the municipality budget. As of 31 December 2019, there were 55 fixed-term employees. It is evident that 36 fixed-term contracts were made for that time period. The DPS – Ulcinj responded that Nimanbegu, through his critical and untrue statements in the media, only wants to win some more votes and strengthen his party’s ranks.

X PARTICIPATION OF WOMEN

In Montenegro, women received the right to vote and to be elected in 1946. Women have used the right to represent themselves from the first convocation of the National Assembly of the Republic of Montenegro, but in a relatively low percentage compared with men. Out of 107 deputies elected in the elections held on 3 November 1946, the first three Montenegrin women deputies were elected: Lidija Jovanović, Draginja Vušović and Dobrila Ojdanić.³⁶ The National Assembly of the Republic of Montenegro comprised only 2.8% women. However, until 1990, the elections were held in a one-party and undemocratic system. The right to choose freely was exercised by women in 1990, in the first multi-party elections after the fall of the communist regime.

The Law on Election of Councillors and MPs requires that at least 30% of the candidates on each electoral list are from the underrepresented sex. Furthermore, among the four candidates in the electoral list order there shall be at least one candidate who is a member of the underrepresented sex. A vacant position for the electoral lists shall be filled in by the successive councillor/MP, except in case if the term of a councillor or MP from the underrepresented sex is terminated, then the successive candidate on the electoral list from among the underrepresented sex shall be elected in his/her place (Law on the Election of Councillors and MPs, article 104, paragraph 3).

Prior to the 2016 Parliamentary elections, women comprised 17.3% of the Parliament of Montenegro, and Montenegro ranked 102nd in the world. After the 2016 Parliamentary elections, due to the greater participation of women in the Parliament of Montenegro, Montenegro was ranked 87th, while according to the World Bank in 2019, it was ranked 57th out of 217 countries,³⁷ which is a great progress compared with data from previous years. The representation of women in the Parliament of Montenegro just before the 2020 parliamentary elections was 29.6%, which is above the world average of 24.6%,³⁸ but below the European Union average of 31.8%.³⁹

For the 2020 parliamentary elections, slightly more women were included on electoral lists compared with 2016. Overall, 269 out of 778 (34.57%) candidates were women, while in 2016, 360 out of 1,120 (32.14%) candidates were 360. Two electoral lists comprised more than 35% women: HRS (69%) and SD (40%). On the other electoral lists, women comprised 30%–35% of the candidates (Graph 2). There were 15 women on the electoral list of the Albanian coalition ‘Unanimously’, which was the minimal legal requirement with regard to the overall number of candidates for this specific electoral list. In four electoral lists with 81 candidates each, there were 25 women, which is one more than the minimal legal requirement (at least 30% of candidates of the underrepresented sex). On these electoral lists, female candidates were positioned at every third and fourth place on the list (see Table 7). Only one electoral list (SDP) had a female candidate in the first place; she is also the party president. In addition, only one electoral list (HRS) had a female candidate in the second place (Graph 3).

³⁶Parliament of Montenegro, Department for Research, Analysis, Library and Documentation, ‘Women in the Parliament of Montenegro’, Podgorica, July 2013

³⁷World Bank, ‘Proportion of seats held by women in national parliaments (%)’; available at: <https://tinyurl.com/y2m93far> (accessed on 14.8.2020)

³⁸Ibid

³⁹Ibid

Graph 2: Participation of women among candidates for MPs

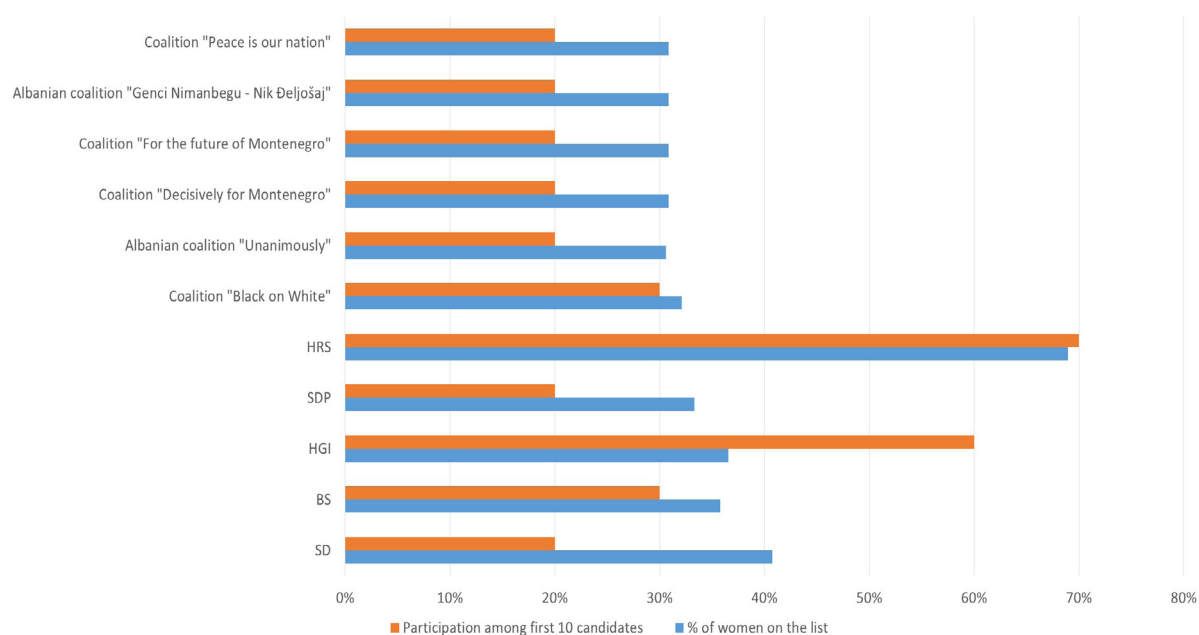


Table 7: Participation of women in electoral lists

Electoral list	No. of candidates	No. of women	% of women on the list	% among the first 10 candidates	% from place 11 to 20	% from place 21 to 30	% from place 31 to 40	% from place 41 to 50	% from place 51 to 60	% from place 61 to 70	% from place 71 to 80	At 81
SD	81	33	40.74	20	40	30	30	50	40	60	60	NO
BS	81	29	35.80	30	30	40	30	30	40	40	40	YES
HGI	52	19	36.54	60	30	20	20	30	N/A	N/A	N/A	N/A
SDP	81	27	33.33	20	30	20	60	20	40	30	50	NO
HRS	29	20	68.96	70	60	70	N/A	N/A	N/A	N/A	N/A	N/A
Coalition 'Black on white'	81	26	32.10	30	40	30	30	30	30	30	40	NO
Albanian coalition 'Unanimously'	49	15	30.61	20	30	40	30	30	N/A	N/A	N/A	N/A
Coalition 'Decisive for Montenegro'	81	25	30.86	20	30	20	30	30	50	30	30	NO
Coalition 'For the future of Montenegro'	81	25	30.86	20	30	30	20	20	30	40	40	NO
Albanian list 'Genci Nimanbegu - Nik Gjelošaj'	81	25	30.86	20	30	20	40	30	20	30	60	NO
Coalition 'Peace is our nation'	81	25	30.86	20	30	20	30	20	30	40	60	NO

Graph 3: Position of the first woman candidate at individual electoral lists

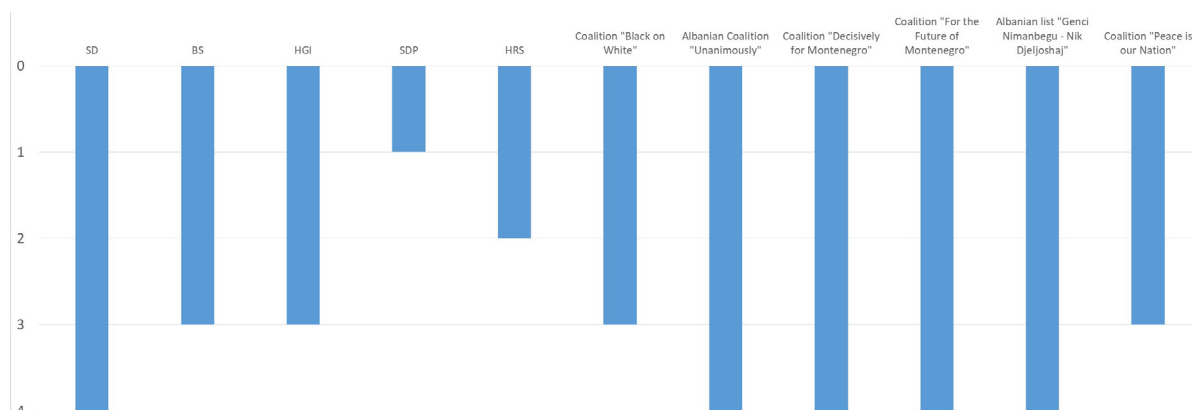


Table 8 provides information on where the women appeared in the four-position clusters on the electoral lists.

Table 8: Positions of women on electoral lists according to the positions within four-position clusters (each row represents an electoral list)

List	No.	1st	%	2nd	%	3rd	%	4th	%
SD	33	9	27.27	6	18.18	8	24.24	10	30.30
BS	29	7	24.14	8	27.59	8	27.59	6	20.69
HGI	19	4	21.05	5	26.32	7	36.84	2	10.53
SDP	27	3	11.11	2	7.41	2	7.41	19	70.37
HRS	20	3	15	5	25	6	30	6	30
Coalition 'Black on White'	26	6	23.08	7	26.92	5	19.23	8	30.77
Albanian Coalition 'Unanimously'	15	5	33.33	2	13.33	4	26.67	4	26.67
Coalition 'Decisive for Montenegro'	25	2	8	2	8	3	12	18	72
Coalition 'For the Future of Montenegro'	25	4	16	5	20	12	48	4	16
Albanian list 'Genci Nimanbegu - Nik Gjeshaj'	25	6	24	3	12	2	8	14	56
Coalition 'Peace is Our Nation'	25	1	4	3	12	6	24	15	60
TOTAL	269	50	18.59	48	17.84	63	23.42	106	39.41

As shown in Table 8, for five out of 11 electoral lists (SD, SDP, the coalition 'Decisive for Montenegro', the Albanian list 'Genci Nimanbegu – Nik Gjeshaj' and the coalition 'Peace is Our Nation'), women were most frequently positioned at each fourth place on the electoral list, in compliance with the law. Overall, for nearly 40% of cases, women were allocated at each fourth position, which is more than double compared with the number of women allocated at first and second position on the list. In 23% of cases, women are allocated at each third position on the list, while in 17,84% of cases women candidates occupied second position on the electoral lists. In slightly more cases (18.59%) women candidates are allocated at the first position on the electoral lists.

A. Participation of women in the Parliament of Montenegro after the 2020 Parliamentary elections

According to the final election results, the participation of women in Parliament of Montenegro is significantly lower than in the previous convocation, despite the higher percentage of women on electoral lists. In addition, it is also important to point out that negotiations on the formation of a new Government took place without the participation of women.

Taking into account the latest changes in the mandate allocation, after some deputies resigned, the number of women in the Parliament of Montenegro is 19, namely: Bosniak Party, 1; SDP, 1, the coalition 'Black on White', 1; the coalition 'Decisive for Montenegro! DPS – Milo Đukanović', 7, the coalition 'For the Future of Montenegro', 7; and the coalition 'Peace is Our Nation', 2. Without further changes in the distribution of mandates, women will represent 23.45% of the new convocation.

The lower participation of women can be explained by a combination of factors: weaker election results of political entities with a higher percentage of women; the placement of women on electoral lists, mostly at every fourth place on the list; and the fact that most lists only included enough women to pass the legal minimum of 30% of members of the underrepresented sex.

It is also important to mention here that the number of seats won immediately after the elections and the final number of deputies are not necessarily identical. For example, according to the final results of the 2016 Parliamentary elections, 19 women won seats,⁴⁰ while just before the 2020 Parliamentary elections, there were 24 women in the Parliament of Montenegro. This difference can be explained by the fact that some of the candidates on the lists took over positions in the Government or other positions that are incompatible with the role of an MP, and female MPs took their place, while some MP mandates were terminated for other reasons and they were replaced by other deputies. Thus, for example, on the DPS electoral list in 2016, there were 10 women among the first 36 candidates, which is the number of seats that DPS won in those elections, while just before the 2020 Parliamentary elections, that number was 13, for all of the aforementioned reasons. Furthermore, immediately after the final results of this year's elections, 18 women won seats, but in the post-election period, the candidate from the DF's electoral list, Milosava Paunović, replaced Dragoslav Sćekić. Therefore, it is possible that the current representation of women in the Parliament of Montenegro will be higher if certain candidates who won mandates take over executive and other functions that are incompatible with the one of an MP, if female candidates from lists take their place.

⁴⁰ Civic Monitoring of Parliamentary and Local Elections – Montenegro 2016, Final Report, CeMI, Podgorica, 2016; available at: <https://cemi.org.me/wp-content/uploads/2017/06/Finalni-izvjestaj-sa-Aneksom.pdf>

B. Participation of women in local elections

Three electoral lists for the election of 31 councillors were submitted in Andrijevica. There were 88 candidates on the list, of whom 28 (25%) were women. Besides having the lowest percentage of female participation compared with elections in other municipalities, the electoral list ‘FOR FUTURE OF ANDRIJEVICA – SNP-NSD’ was not structured as regulated by article 39a, paragraph 2 of the Law on Election of Councillors and MPs (Image 1). Men candidates were positioned between places 13 and 16 on the list, despite the fact that there should have been at least one woman. This irregularity could have been avoided simply by rotating candidate 16 (male) and candidate 17 (female).

Image 1: The ‘FOR FUTURE OF ANDRIJEVICA – SNP – NSD’ electoral list. The names in the red box are all men, but at least one should have been a woman

III “ZA BUDUĆNOST ANDRIJEVICE - SNP - NSD”	
1. Željko Čulafić	17. Jovana D. Jovović
2. Vesko Rakezić	18. Ana Ž. Mitrović
3. Jelena Zonjić	19. Milorad Asanović
4. Branko Kastratović	20. Milutin Ivanović
5. Ivan M. Radojević	21. Marija Kićović
6. Radmila Ivanović	22. Miodrag Čukić
7. Goran B. Stojanović	23. Vukašin Ščekić
8. Spasoje Perović	24. Vesna Mitrović
9. Ana S. Mitrović	25. Marijana Đukić
10. Milorad Lakićević	26. Mića Ivanović
11. Igor M. Jelić.	27. Marko Mijović
12. Nada Marsenić	28. Miloš Milović
13. Darko Vojvodić	29. Vladimir Vučević
14. Radoje Stijović	30. Milena Ivanović
15. Milan Mirković	31. Stefan Božović
16. Miomir Dragović	

There were 33 councillors elected in the Budva local elections. There were seven electoral lists with 219 candidates, of whom 80 (36.52%) were women. One electoral list (New Budva–Ilija Gigović) was not structured in compliance with the law. Despite the fact that women comprised 42% of the electoral list, the final five positions on the electoral list are men (Image 2).

Image 2: The ‘NEW BUDVA–ILIJJA GIGOVIĆ’ electoral list. The names in the red box are all men, but at least one should have been a woman

7 NOVA BUDVA-ILIJJA GIGOVIĆ				
1. Ilija Gigović	8. Slavica Knežević	15. Đurica Čejović	22. Sanja Ratković	29. Vlatko Dakić
2. Bojana Rucović	9. Ivan Radonjić	16. Helena Vujović	23. Mladen Gigović	30. Dejan Čeranić
3. Petar Vujović	10. Marija Stanišić	17. Dalibor Franeta	24. Dragana Zečević	31. Goran Pejović
4. Nikoleta Lutovac	11. Aleksandar Braić	18. Milica Bauk	25. Miloš Milošević	32. Vasilije Rucović
5. Zoran Duletić	12. Jovana Todorović	19. Stevo Zenović	26. Jovana Joksimović	33. Darko Ljubanović
6. Sanja Marković	13. Branislav Banjo Vukčević	20. Maša Ratknić	27. Miodrag Zec	
7. Milan Prbilović	14. Milica Cvetković	21. Tomislav Šofran	28. Sandra Pajović	

For Tivat, 32 councillors were elected. There were seven electoral lists with 213 candidates, of whom 80 (37.55%) were women. For Kotor, there were 33 councillors elected. There were nine electoral lists (the most of all municipalities holding local elections) with 297 candidates, of whom 122 (41.07%) were women. For Gusinje, 30 councillors were elected. There were six electoral lists submitted with 161 candidates, of whom 53 (32.91%) were women. There were no irregularities registered with the electoral lists in these municipalities.

XI PARTICIPATION OF MINORITIES

The Law on the Election of Councillors and MPs provides for affirmative action for the election of representatives of national minorities. Each electoral list must receive a minimum of 3% of valid votes, which is equal to the legal electoral threshold in Montenegro, in order to participate in the distribution of seats. The legal electoral threshold, in case of minority parties, exists as a condition to win a mandate in the case of the Croatian minority – that is, to include the result of the minority list in the aggregate list of that minority community to win the first mandate if it is not possible for a collective or individual minority list to win multiple mandates by applying the D'Hondt method.

The provisions of the Law on the Election of Councillors and MPs that regulate the distribution of mandates are rather imprecise and vague, especially when it comes to minority representation. Only the case with the Croatian minority is clear, as article 94 prescribes that in case none of the electoral lists for the election of MPs of the Croatian people in Montenegro meet the requirements of paragraph 1 of this article and point 1 of this paragraph, the most successful, with at least 0.35% of valid votes acquires the right to one parliamentary seat. By using this mechanism, the Croatian minority community can be guaranteed a mandate, which is still conditioned by fulfilling the legal threshold, but again significantly lower than the required number of votes to obtain a mandate based on the allocation process using the D'Hondt method.

With regard to other minorities, there is no such mechanism. For other minorities, it is envisaged that if more lists exceed the legal threshold of 0.7%, their individual results are treated as a single aggregate list, which then enters the process of allocating seats with other lists that have qualified. The effect of aggregation is limited by recognising for the calculation of mandates an aggregation that ensures a maximum of three mandates.

The law does not regulate how the mandates would be distributed among the parties within the aggregate minority. In the 2012 elections, three parties of the Albanian minority won two seats using this mechanism. Mandates were given to two with a larger number of individually won votes, although this is not legally regulated.

With regard to local elections, minority lists are not required to meet the legal electoral threshold of 3%. Rather, they will directly qualify in the process of distribution of seats by applying the D'Hondt method.

The question of the criteria for determining the minority status of the electoral list, which is privileged, remains ambiguous, thus providing the possibility for abuse. The law only provides for the indication of the designation of minority people in the election application or the name of the electoral list. This problem was manifested in the application of the electoral list 'Snežana Jonica – Let's live like Yugoslavs'.

Namely, the SEC rejected this list to run in the elections as a minority, and this decision was confirmed by the Constitutional Court by a majority vote, with a separate opinion from one judge (see section VI).

The lack of orderliness of the status and participation of minority lists is reflected in the case of coalitions between a minority party and a party that is not – that is, two or more minority parties that belong to minorities with different rights (i.e. for which a different legal threshold applies).

In these elections, five lists used the opportunity to register as minority lists. These included 2 lists of Albanian minorities and two Croatian lists. The Bosniak party registered as a minority list, although it fulfilled the condition that applies to non-minority lists.

According to final election results, three minority electoral lists gained parliamentary status. The two Albanian coalitions won a mandate using a system of positive discrimination, which is a mandate higher than in previous elections. The Bosniak Party won three seats – one more than in previous elections. Both Croatian lists failed to pass the 0.35% threshold to win the reserved mandate, leaving Croatian parties without a representative.

As was the case in previous election cycles, the Roma, Egyptian and Ashkali populations did not have an authentic electoral list to represent their interests. In addition, CeMI did not observe slogans, billboards or video material in the Romani language during the election campaign.

Regarding the participation of minorities in the executive branch, a representative of a minority party was first appointed as a member of the Government of Montenegro in 1998, when Luid Junčaj, an official in the Democratic Union of Albanians, was appointed Minister of Human and Minority Rights. The Bosniak Party has been participating in the work of the Government since 2009, while the representatives of the Croatian national minority have been participating in the executive power since 2012, when the representative of the Croatian Civic Initiative entered the Government as a minister without portfolio.

The mandatar for the composition of the new government, Zdravko Krivokapić, proposed 12 candidates for ministers in the new Government, among whom there are no representatives of minority groups. In this way, representatives of national minorities in Montenegro will not be a part of the Government for the first time in two decades.

CeMI conducted election day monitoring in partnership with the PR Center, which hosted CeMI staff, an operational centre for collecting data from the field, a legal centre for reporting irregularities during election day and the media.

Election day monitoring was realised through five groups of activities:

1. **Monitoring the implementation of election procedures at PSs** – opening, voting, closing of PSs and counting/tabulation of votes, continuous communication of observers with operators and the legal centre to collect the data on voter turnout and irregularities during election day;
2. **Partial parallel voting tabulation (PPVT)** on a representative sample of results from PSs on the basis of which CeMI announced the first forecast of results and the distribution of mandates at the national and local level;
3. **Parallel voting tabulation (PVT)** based on the results from almost all PSs collected by short-term observers and mobile teams that visited several PSs during the day and monitored the work of MECs during the tabulation of results at the local level;
4. Monitoring the **work of MECs and the SEC**; and
5. Media and public relations – data on voter turnout and irregularities during election day were communicated through five regular press conferences, while the data on estimates of results in national and local elections were presented through three conferences held after PSs had closed. All conferences were broadcast live, and our findings were reported by a total of 17 media outlets, four television stations and 45 journalists. The findings were also available simultaneously on CeMI's social networks and its website.

A. Conducting the electoral procedure

CeMI has established the 'Fair Elections' service to monitor possible irregularities during the election process. This endeavour primarily enables the observers, but also the citizens/voters, to report irregularities and violations of voting rights in real time, directly to CeMI's Legal Team. At the same time, during election day, voters were able to receive free legal aid and legal advice on whether there was a violation of voters' rights in a particular situation and how voters can protect their rights. During the entire 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. Through the 'Fair Elections' service, CeMI's Legal Team received **728** reports of irregularities and provided citizens with legal advice in **70** cases. Out of the total number of submitted reports through the 'Fair Elections' service, citizens submitted **279** (38.32%) reports, while CeMI's observers submitted **449** (61.67%) reports.

Along with processing the received reports on irregularities, CeMI's Legal Team made the most characteristic irregularities and violations accessible to the Montenegrin public through the web portal and 'Fair Elections' application, thus contributing to the transparency of the election process, but also pointing out the most common irregularities and violations of electoral rights, so that citizens can recognise and report other eventual irregularities and violations. The number of submitted reports indicates that the availability of the 'Fair Elections' service and real-time publication made citizens/voters free to report possible irregularities and violations of their rights.

Election day was marked by numerous irregularities that appeared in a similar form at a relatively large number of PSs. Irregularities were in most cases the result of untrained PBs but ultimately did not call into question the regularity of elections.

As stated in the Interim Report of 26 August 2020, the need to enforce measures to protect the health of citizens in relation to the COVID-19 pandemic led to a high degree of ambiguities regarding the rules for conducting the election process. This phenomenon negatively affected the preparation of elections as well as their implementation in new and complex circumstances of a pandemic. There was great legal and constitutional pressure, as well as the pressure on the actions of the election administration, primarily the SEC.

The irregularities registered by CeMI's observers during election day can be grouped into the following categories:

a. Examples of irregularities in conducting the election procedures. These irregularities are related to:

- § *Improper use of electronic voter identification devices*** at PSs, which delayed the start of the voting procedure at a number of PSs. For example, at PS 23 in Bijelo Polje, the device for electronic identification of voters did not work until 07:20 h, causing a delay in its opening. At PS 17 in the municipality of Tuzi, the PB members did not know how to activate the electronic identification device, so the opening was delayed. In addition, the electronic voter identification device did not function at the PS 69-A in Podgorica. Most of these irregularities were temporary: the electronic identification devices did not function for a certain period of time. In several cases, the devices did not recognise voter identification documents, as was the case at PS 48 in Berane and at PS 10 in Podgorica.
- § *Violations of the secrecy of voting*** by voters taking photos of ballots, voters' public declaration about the option for which they voted, acceptance of unfolded ballots by the PBs and non-compliance with procedures that ensure secrecy of voting at PSs accounted for the majority of election day irregularities and violations. There were a total of 179 reports of violations of the voting secrecy procedure. One of the most common violations was voters taking photos of ballots (PS 5-C, 22-B, 26-C

and 75-B in Podgorica; PS 65 in Bar; PS 9 in Plav; and other municipalities). CeMI registered 65 such irregularities and violations. Citizens showed their ballots publicly at PS 77-B, 77-C, 97 and 114-A in Podgorica and at PS 42 in Rožaje. At PS 20 in Bijelo Polje, a voter left the PS with a ballot, after which he returned to the PS and was allowed to cast his ballot into the ballot box. We also registered **43 cases of a violation of voting secrecy of the vote by the PBs** in several municipalities. For example, one or more PB members called out the names of voters at PS 15 in Bar; PS 105, 75-B, 78 and 20 in Podgorica; and PS 30 in Bijelo Polje. In most of the registered cases related to violation of the rules regulating the secrecy of the procedure, the PBs acted in accordance with the Law on the Election of Councillors and MPs and made the ballots invalid, although in some cases such ballots were accepted.

- § Problems related to voter identification, due to problems in the voter registry.** There were a number of irregularities in connection with changes to PSs. Namely, voters were not informed in time or were misinformed about the changes in the location of their PS. In addition, the Internet service biraci.me did not work for most of election day; this phenomenon prevented some voters from checking at which PS they were registered. In several cases, voters were unable to exercise their right to vote because they were not in the voter registry, even though they claimed to have voted in previous elections. For example, at PS 13a in Budva, a voter who had been voting at the same PS for 20 years and had checked his voter status was informed by the PB that he was not registered as a voter at that PS. At PS 8 in Danilovgrad, a voter who had voted at that PS for years was unable to vote. At PS 48 in Berane, several voters expressed dissatisfaction with the inability to vote with a passport. At PS 6 in Budva, a voter was not allowed to vote because he was not in the excerpt from the voter register, although, according to the available information on the site biraci.me, he was registered at that PS. In addition to these irregularities, the voter registry still included people who passed away several years ago. For instance, at PS 24-A in Podgorica, a voter brought an envelope with an invitation to vote for a person who passed away 20 years ago.
- § Displaying and the presence of promotional material** in the immediate vicinity and at the entrances of PSs was another issue. In one case, at PS 22-B in Podgorica, there was a political party observer with the insignia of a political party of which he is a member, and at the PS 6 in Tuzi, observers noticed the presence of advertising content of political parties at a distance less than 100 meters from the PS.

b. Inadequate behaviour of representatives of the election administration bodies was registered with regard to the performance of the PBs, which violated article 37, paragraph 2 of the Law on the Election of Councillors and MPs, according to which the PB maintains order at the PS, and article 71a of the same law, according to which the use of electronic communication devices in the voting place is prohibited.

At PS 20 in Bijelo Polje, one of the PB members made allegations of vote buying against multiple voters. At the same PS, several PB members made threats that they would tear up ballots that they suspected of being improperly marked for a particular electoral list. At PS 75 in Podgorica, a member of the PB insulted CeMI's observers, and at PS 13 in Nikšić, PB members accused CeMI's observers of hampering the election process. At PS 5-B in Podgorica, there was a verbal conflict in front of voters between PB members from different political parties.

A large part of the inappropriate behaviour of the representatives of the election administration bodies referred to the use of electronic devices at PSs – that is, the use of mobile phones by PB members. The use of mobile phones by one or more PB members was registered at PS 65 and 71 in Bar; PS 6 in Berane; PS 3-A, 9-C, 10-A, 23-A, 58-A, 75, 106-A and 106-D in Podgorica; PS 36, 104, 118 and 126 in Nikšić; PS 10 and 23 in Herceg Novi; PS 90 in Pljevlja; PS 23 in Bijelo Polje; PS 4 in Rožaje; and PS 16 in Danilovgrad.

c. The risk of spreading COVID-19 during the election process proved to be high. At PSs, insufficiently trained PB members lacked consistency with regard to implementing measures updated by the NCB on 17 August 2020, including the SEC Technical Recommendations and the Public Health Institute. This deficiency led to a large number of violations of PS instructions. These instructions are related primarily to compliance with general protection measures, wearing protective masks, compliance with social distancing and limiting the number of people in a closed space.

On election day, CeMI observers reported **91** violations of these measures at PSs, representing 13.64% of the total number of irregularities recorded through the 'Fair Elections' service.

The lack of hand sanitiser for disinfection was reported at a large number of PSs (18% of reports in this category); non-wearing or improper wearing of protective masks by PB members comprised 23% of reports in this category. The largest number of reports of this type of irregularity were violation of physical distancing at PSs, in terms of large crowds in front of PSs, as well as presence of more than 20 people indoors, which constitutes a violation of points 1, 2 and 3 of the NCB Measures of 17 August 2020, and a violation of SEC Technical Recommendations for Holding Elections for the Purpose of Epidemiological Protection of Voters, related to the elections procedure during the COVID-19 pandemic.

d. Physical identification of voters in the context of the application of COVID-19 prevention measures by PBs was another major issue. The NCB measures and the Institute for Public Health (PBH) recommendation on wearing of protective masks were respected by most voters. In several cases, voters were not identified in accordance with the Law on Election of Councillors and MPs.

Namely, observers – but also citizens – reported 51 reports of irregularities (i.e. 7.64% of the total number of irregularities, recorded through the ‘Fair Elections’ service) that during the voting, they were not asked to remove the mask so that the PB members could physically identify the voter, which is a violation of the SEC Technical Recommendations for Holding Elections aimed at Epidemiological Protection of Voters, which created the grounds for possible abuse and voting with someone else’s identification document (identity card/passport), which is a violation of article 68a and 68b of the Law on Election of Councillors and MPs.

e. According to the findings of CeMI’s PS observers, which were obtained based on standardised questionnaires on the organisation of election day and the implementation of voting procedures, we can report on the following ratings:

- The process of opening PSs was assessed by observers with an excellent or very good grade in 86.2% of cases, while the opening was rated as bad or very bad in 2.3% of cases. The average rating was 4.36.
- Voting was rated by observers as excellent or very good in 84.3% of cases, while opening was rated as poor or very poor in 2.7% of cases. The average rating was 4.36.
- The procedure of closing of PSs and counting/tabulating votes was assessed by observers as excellent or very good in 89% of cases, while the procedure was rated as bad or very bad in 2.8% cases. The average rating was 4.46.

According to field data, at least 16.2% of PSs did not contain Braille materials, while 30.6% observers estimated that PSs were inaccessible to people with disabilities. At PS 15 in Nikšić, due to the inaccessibility of the PS to people with disabilities, the voter registry was taken out of the PS for a voter to sign. At PS 18 in Kotor, there was no wheelchair access provided – voters had to climb stairs to enter the PS. At a PS in Podgorica, the wheelchair access was locked.

According to the data from CeMI’s observers, men made up 75.4% of the total number of PB members, while women only comprised 24.6% of the total PB composition.

In most cases, CeMI observers were well received, and they established professional communication and cooperation with PB members. However, several PBs did not allow CeMI’s observers to gain insight into the election material. At PS 10A in Budva, the PB did not allow CeMI’s observer to evaluate the counting process by refusing to announce the results from that PS. A PB in Kotor, as well as a small number of PBs in Podgorica, were not notified of CeMI’s SEC authorisation to observe the elections, which resulted in CeMI’s observers being unable to attend the PSs from the start of election day, even though the observers possessed proper identification cards issued by the SEC. After CeMI reported these issues to competent authorities, this situation was successfully resolved.

B. CeMI's estimates of the voter turnout and elections results

At the first press conference, held at 09:15 h, the estimated voter turnout by 09:00 h was 14.7%. In Podgorica, 15.2% of registered voters had voted by 09:00 h; in the Southern region, 15.5% of voters had voted, while in the Northern region, 12.6% of voters had voted. Compared with the 2016 parliamentary elections, there was a noticeable increase in turnout up to 09:00 h, when the turnout was lower by 8.03%.

At the second press conference held at 11:15 h, the turnout by 11:00 h was 35.4%. In Podgorica, 35.8% of voters had voted by 11:00 h; in the Southern region, 37.1% had voted; and in the Northern region, 31.7% had voted. In the 2016 parliamentary elections, the turnout by 11:00 h was 20.7%, which is 14.7% less than the turnout in the 2020 parliamentary elections. In the 2012 parliamentary elections, the turnout was 18.2%, which is 17.2% less than the turnout in the 2020 parliamentary elections.

At the third press conference held at 13:15 h, CeMI presented an estimate of voter turnout by 13:00 h. At the national level, the turnout was 54.4%, which is 14.2% more than in the 2016 parliamentary elections, when the turnout by 13:00 h was 39.9%. The 2020 turnout was 20.8% higher than in the 2012 parliamentary elections. With regard to the regions, the turnout data are as follows: Podgorica, 54.4%; the Southern region, 57.2%; and the Northern region, 48.6%.

At the fourth press conference at 17:15 h, the turnout by 17:00 h was 68.4%. In Podgorica, 70.9% of voters had voted; in the Southern region, 69.6% had voted; and in the Northern region, 63.9% had voted. In the 2016 parliamentary elections, the turnout by 17:00 h 61.2%, with was 7.2% less than in 2016. In the 2012 parliamentary elections, the turnout was 55.9%, which is 12.5% less than in the 2020 parliamentary elections.

At the fifth press conference held at 19:15 h, the total turnout by 19:00 h was 74.9%. In Podgorica, 77.7% of registered voters had voted by 19:00 h; in the Southern region, 71.2% had voted; and in the Northern region, 75% had voted. In the 2016 parliamentary elections, the turnout by 19:00 h was 71.6%, which is 3.3% less than in the 2020 parliamentary elections. In the 2012 parliamentary elections, the turnout was 66.2%, which was 8.7% less than in the 2020 parliamentary elections.

CeMI continued to hold press conferences on election night after PSs had closed. Starting at 21:00 h, CeMI held three press conferences, during which it projected the results in accordance with the dynamics of sample processing. At the 21:00 h press conference, projections of the parliamentary election results were presented based on 49.8% of the processed sample. At 21:30 h, CeMI presented projections of the results based on 71.2% of the processed sample. At the final press conference, CeMI presented projections of election results based on 88.4% of the processed sample. Starting at 21:00 h, citizens were able to watch live data on the projections of election results through four national TV stations directly linked to CeMI's website and the 'Fair Elections' application.

Table 9: CeMI's estimates of Parliamentary Election results and projections of seats

	%	Seats
Sample percentage	98%	
Overall voter turnout	77.20%	
Electoral list		
Social Democrats – Ivan Brajović – We decide CONSISTENTLY	4.20	3
Bosniak Party – Correct – Rafet Husović	4.00	3
CROATIAN CIVIC INITIATIVE (HGI)-WITH ALL MY HEART FOR MONTENEGRO!	0.20	0
SDP – STRONG MONTENEGRO!	3.10	2
CROATIAN REFORM PARTY OF MONTENEGRO – HRS	0.10	0
PhD Dritan Abazović – Black on White – PhD Srđan Pavićević – (Civic Movement URA, Justice and Reconciliation Party, Group of CIVIS voters and independent intellectuals) – Citizens!	5.70	4
Albanian Coalition 'Unanimously' – Democratic Party, Democratic Union of Albanians and Democratic Alliance in Montenegro	1.10	1
Decisive for Montenegro! DPS – Milo Đukanović	35.10	30
Coalition FOR THE FUTURE OF MONTENEGRO – Democratic Front (New Serbian Democracy, Movement for Change, Democratic People's Party), Socialist People's Party of Montenegro, True Montenegro, United Montenegro, Workers' Party, Party of United Pensioners and Disabled of Montenegro, Yugoslav Communist Party of Montenegro, Serbian Radical Party, Party of Pensioners with Disabilities and Social Justice of Montenegro	32.60	27
ALBANIAN LIST – Genci Nimanbegu, Nik Gjelošhaj	1.30	1
ALEKSA BEČIĆ – MIODRAG LEKIĆ – 'PEACE IS OUR NATION' – DEMOCRATS – DEMOCRATIC MONTENEGRO – DEMOS – PARTY OF PENSIONERS, DISABLED PEOPLE AND RESTITUTIONS – CIVIC MOVEMENT NEW LEFT	12.50	10

Table 10: CeMI's estimates of results and projections of seats for Local Elections in Andrijevica

Electoral list	%	Seats
For Andrijevica – For Montenegro – Milo Đukanović DPS	51,20%	16
For the future of Andrijevica SNP NDS	40,70%	13
ALEKSA BEČIĆ – MIODRAG LEKIĆ – PEACE IS OUR NATION	8,70%	2

Table 11: CeMI's estimates of results and projections of seats for Local Elections in Budva

Electoral list	%	Seats
Marko Bato Carević – For the future of Budva	40.90	14
For Budva For Montenegro – DPS Milo Đukanović	31.40	11
Dragan Krapović – Budva is our nation	17.80	6
URA for all citizens of Budva – Black on White	3.70	1
SDP – Strong Budva!	3.20	1
New Budva – Ilija Gigović	2.60	0
Božidar dr Vujičić – Stop concreting of Budva	0.50	0

Table 12: CeMI's estimates of results and projections of seats for Local Elections in Gusinje

Electoral list	%	Seats
FOR GUSINJE FOR MONTENEGRO! – DPS – MILO ĐUKANOVIĆ	40	13
SOCIAL-DEMOCRATS IVAN BRAJOVIĆ	24.20	7
DEMOCRATIC ALLIANCE OF ALBANIANS	17	5
BOSNIAK PARTY – LIBERAL PARTY	13	4
SDP – dr ELVIS OMERAGIĆ – STRONG GUSINJE!	4.20	1
SOCIALISTIC PEOPLE'S PARTY – GUSINJE	1.30	0

Table 13: CeMI's estimates of results and projections of seats for Local Elections in Kotor

Electoral list	%	Seats
For Kotor! For Montenegro Milo Đukanović	32.40	12
Vladimir Jokić Kotor is our nation – Democrats Democratic Montenegro	24.20	9
FOR THE FUTURE OF KOTOR	21.40	7
URA KOTOR PATRIOTIC AND CIVIC BLACK ON WHITE	5	1
SDP dr IVAN ILIĆ STRONG KOTOR	4.50	1
FOR LIBERAL KOTOR ANDRIJA PURA POPOVIĆ LIBERAL PARTY	4.20	1
SOCIAL-DEMOCRATS dr ANDRIJA LOMPAR WE DECIDE CONSISTENTLY FOR KOTOR	4	1
DR BRANKO BACO IVANOVIĆ SOCIALISTS	3.30	1
HGI WITH ALL HEART FOR KOTOR	1.70	0

Table 14: CeMI's estimates of results and projections of seats for Local Elections in Tivat

Electoral list	%	Seats
People win	41.50	14
For the People of Tivat – DPS Milo Đukanović	31.70	11
Social-democrats – Ivan Brajović – Tivat must do better	7.70	2
Boca forum – People of Boca know	6.70	2
HGI – With all heart for Tivat	5.30	1
SDP – Let's defend the city	4	1
Goran Božović – Honourably and responsibly for a better Tivat	3.20	1

CeMI presented its final projection of the election results by 23:00 h, which was three hours after PSs had closed. **The average deviation between the forecast percentages of votes won by political entities and the official results was 0.08%, which is significantly lower than the announced possible projection error of $\pm 1\%$**

Table 15: Comparison of CeMI's projections of Parliamentary Election results with the official preliminary results from the SEC

Electoral list	CeMI (%)	CeMI (seats)	SEC (%)	SEC (seats)	Difference in % (%)	Difference in seats (%)
Sample percentage	98		100			
Social Democrats – Ivan Brajović – We decide CONSISTENTLY	4.20	3	4.10	3	0.1	0.00
Bosniak Party – Correct – Rafet Husović	4.00	3	3.98	3	0.02	0.00
CROATIAN CIVIC INITIATIVE (HGI)-WITH ALL MY HEART FOR MONTENEGRO!	0.20	0	0.27	0	-0.07	0.00
SDP – STRONG MONTENEGRO!	3.10	2	3.14	2	-0.04	0.00
CROATIAN REFORM PARTY OF MONTENEGRO – HRS	0.10	0	0.13	0	-0.03	0.00
PhD Dritan Abazović – Black on White – PhD Srđan Pavićević – (Civic Movement URA, Justice and Reconciliation Party, Group of CIVIS voters and independent intellectuals) – Citizens!	5.70	4	5.53	4	0.17	0.00
Albanian Coalition 'Unanimously' Democratic Party, Democratic Union of Albanians and Democratic Alliance in Montenegro	1.10	1	1.14	1	-0.04	0.00
Decisive for Montenegro! DPS – Milo Đukanović	35.10	30	35.06	30	0.04	0.00
Coalition FOR THE FUTURE OF MONTENEGRO – Democratic Front (New Serbian Democracy, Movement for Change, Democratic People's Party), Socialist People's Party of Montenegro, True Montenegro, United Montenegro, Workers' Party, Party of United Pensioners and Disabled of Montenegro, Yugoslav Communist Party of Montenegro, Serbian Radical Party, Party of Pensioners with Disabilities and Social Justice of Montenegro	32.60	27	32.55	27	0.05	0.00
ALBANIAN LIST – Genci Nimanbegu, Nik Gjelošhaj	1.30	1	1.58	1	-0.28	0.00
ALEKSA BEČIĆ – MIODRAG LEKIĆ – 'PEACE IS OUR NATION' – DEMOCRATS – DEMOCRATIC MONTENEGRO – DEMOS – PARTY OF PENSIONERS, DISABLED PEOPLE AND RESTITUTIONS – CIVIC MOVEMENT NEW LEFT	12.50	10	12.53	10	-0.03	0.00
Average deviation					0.08	0.00

C. Official announcement of election results

Based on the election material from all PS for the election of MPs to the Parliament of Montenegro, the SEC determined the following:

- a total of 540,026 voters in the voter register;
- 400,321 voters voted at PSs;
- 13,573 voters voted outside the PSs;
- a total of 413,894 voters voted;
- 540,026 ballots were received;
- there were 126,131 unused ballots;
- there were 413,894 used ballots;
- there were 4,500 invalid ballots; and
- there were 409,393 valid ballots.

The SEC also determined the number of votes that individual electoral lists received (Table 16).

Table 16: Number of votes that individual electoral lists received (according to the SEC)

Electoral list	Number of votes	%
Social Democrats – Ivan Brajović – We decide CONSISTENTLY	16,761	4.09
Bosniak Party – Correct – Rafet Husović	16,279	3.98
CROATIAN CIVIC INITIATIVE (HGI)-WITH ALL HEART FOR MONTENEGRO!	1,106	0.27
SDP – STRONG MONTENEGRO!	12,835	3.14
CROATIAN REFORM PARTY OF MONTENEGRO – HRS	496	0.12
PhD Dritan Abazović – Black on White – PhD Srđan Pavićević – (Civic Movement URA, Justice and Reconciliation Party, Group of CIVIS voters and independent intellectuals) – Citizens!	22,679	5.54
Albanian Coalition 'Unanimously' Democratic Party, Democratic Union of Albanians and Democratic Alliance in Montenegro	4,675	1.14
Decisive for Montenegro! DPS – Milo Đukanović	143,515	35.06
Coalition FOR THE FUTURE OF MONTENEGRO – Democratic Front (New Serbian Democracy, Movement for Change, Democratic People's Party), Socialist People's Party of Montenegro, True Montenegro, United Montenegro, Workers' Party, Party of United Pensioners and Disabled of Montenegro, Yugoslav Communist Party of Montenegro, Serbian Radical Party, Party of Pensioners with Disabilities and Social Justice of Montenegro	133,261	32.55
ALBANIAN LIST – Genci Nimanbegu, Nik Gjelošhaj	6,488	1.58
ALEKSA BEČIĆ – MIODRAG LEKIĆ – 'PEACE IS OUR NATION' – DEMOCRATS – DEMOCRATIC MONTENEGRO – DEMOS – PARTY OF PENSIONERS, DISABLED PEOPLE AND RESTITUTIONS – CIVIC MOVEMENT NEW LEFT	51,298	12.53

Electoral lists that did not win 3% of the total number of valid votes do not participate in the distribution of mandates, pursuant to article 94, paragraph 1 of the Law on Election of Councillors and MPs are presented in Table 17.

Table 17: Electoral lists which do not participate in the distribution of mandates

Electoral list
CROATIAN CIVIC INITIATIVE (HGI)-WITH ALL HEART FOR MONTENEGRO!
CROATIAN REFORM PARTY OF MONTENEGRO – HRS

According to articles 94 and 95 of the Law on the Election of Councillors and MPs, Table 18 shows the number of individual mandates given to each electoral list.

Table 18: Distribution of mandates

Electoral list	Mandates / Seats
Social Democrats – Ivan Brajović – We decide CONSISTENTLY	3 (three)
Bosniak Party – Correct – Rafet Husović	3 (three)
SDP – STRONG MONTENEGRO!	2 (two)
PhD Dritan Abazović – Black on White – PhD Srđan Pavićević – (Civic Movement URA, Justice and Reconciliation Party, Group of CIVIS voters and independent intellectuals) – Citizens!	4 (four)
Albanian Coalition 'Unanimously' Democratic Party, Democratic Union of Albanians and Democratic Alliance in Montenegro	1 (one)
Decisive for Montenegro! DPS – Milo Đukanović	30 (thirty)
Coalition FOR THE FUTURE OF MONTENEGRO – Democratic Front (New Serbian Democracy, Movement for Change, Democratic People's Party), Socialist People's Party of Montenegro, True Montenegro, United Montenegro, Workers' Party, Party of United Pensioners and Disabled of Montenegro, Yugoslav Communist Party of Montenegro, Serbian Radical Party, Party of Pensioners with Disabilities and Social Justice of Montenegro	27 (twenty-seven)
ALBANIAN LIST – Genci Nimanbegu, Nik Gjelošhaj	1 (one)
ALEKSA BEČIĆ – MIODRAG LEKIĆ – 'PEACE IS OUR NATION' – DEMOCRATS – DEMOCRATIC MONTENEGRO – DEMOS – PARTY OF PENSIONERS, DISABLED PEOPLE AND RESTITUTIONS – CIVIC MOVEMENT NEW LEFT	10 (ten)
ALBANSKA LISTA – Genci Nimanbegu, Nik Đeljošaj	6.488
ALEKSA BEČIĆ – MIODRAG LEKIĆ – "MIR JE NAŠA NACIJA" – DEMOKRATE – DEMOKRATSKA CRNA GORA – DEMOS – PARTIJA PENZIONERA, INVALIDA I RESTITUCIJE – GRAĐANSKI POKRET NOVA LJEVICA	51.298

According to article 94, paragraph 2, point 1 of the Law on the Election of Councillors and MPs and the votes obtained in the elections held on 30 August, 2020, Table 19 shows the following number of votes for the Albanian minority lists that participated in the formation of the collective electoral list of the Albanian minority, with the following number of votes:

Table 19: The number of votes received by the electoral lists of the Albanian minority

Electoral list	Number of votes	%
Albanian Coalition 'Unanimously' Democratic Party, Democratic Union of Albanians and Democratic Alliance in Montenegro	4,675	1.14
ALBANIAN LIST – Genci Nimanbegu, Nik Gjelošhaj	6,488	1.58
ALEKSA BEČIĆ – MIODRAG LEKIĆ – MIR JE NAŠA NACIJA	8,70%	2

According to article 94, paragraph 2, point 1 of the Law on Election of Councillors and MPs and the votes obtained in the elections held on 30 August 2020, Table 20 shows the number of votes for the Bosniak minority electoral list.

Table 20: The number of votes received by the electoral lists of the Bosniak minority

Electoral list	Number of votes	%
Bosniak Party – Correct – Rafet Husović	16,279	3.98

According to Article 94, paragraph 2, point 1 of the Law on Election of Councillors and MPs and votes obtained in the elections held on 30 August 2020, Table 21 shows the number of votes for the Croatian minority electoral lists.

Table 21: The number of votes received by the electoral lists of the Croatian minority

Electoral list	Number of votes	%
CROATIAN CIVIC INITIATIVE (HGI)-WITH ALL HEART FOR MONTENEGRO!	1,106	0.27
CROATIAN REFORM PARTY OF MONTENEGRO – HRS	496	0.12

D. Communication with the public

During the Election day, CeMI regularly informed the public via its press conferences on voter turnout, irregularities, voting trends and the projection of election results after PSs had closed. Press conferences were held at 09:15 h, 11:15 h, 13:15 h, 17:15 h and 19:15 h. At these press conferences, CeMI presented to citizens comparative analysis indicating the number of voters who voted during the 2012 and 2016 parliamentary elections. CeMI held five regular press conferences during election day and three press conferences during the election night, when projections of election results were made in line with the percentage of the processed sample and presented to citizens.

CeMI informed the public about irregularities from PSs from all around Montenegro, based on the information gathered from the observers in the field and citizens who informed CeMI during election day about the irregularities perceived via the application 'Fair Elections' (www.ferizbori.me) and phone number 020 653 756. Until the end of election day, CeMI's Legal Team received **728** reports on irregularities, out of which **91** were related to violations of NCB Recommendations and SEC Technical Recommendations related to the COVID-19 pandemic.

CeMI enabled citizens to watch live broadcasting of projections of the voter turnout and projections of the election results on three national TV stations, namely Radio Television of Montenegro (RTCG), TV Vijesti, TV Prva and one cable television TV Pink M, which were directly connected to CeMI's software used for elaboration of data obtained from our observers. Citizens were also empowered to watch in real time the projections of the election results via the website www.izbori.cemi.org.me and

the 'Fair Elections' application. Citizens were also able to obtain the information on their voting rights via the application. The web site www.ferizbori.me recorded 21,125 visits during election day, while the 'Fair Elections' application was downloaded 8,943 times. Of that number, 8,116 downloads were from the Google Play Store and 827 were from the Apple Store. Over the course of election day, the web site www.izbori.cemi.org.me recorded 112,243 visits.

Through social networks (Facebook, Instagram and Twitter) and media, among others, CeMI promoted free legal aid service to all citizens whose right to vote was violated. The number of likes on CeMI's official Facebook page increased 9.16% on election day.

Several days before election day, CeMI published a video on the importance of the secrecy of voting. The main message of the video was that the secrecy of voting is crucial for elections and nobody can know for whom citizens cast their vote. The video is available at CeMI's YouTube page (<https://www.youtube.com/watch?v=6AWwEFzz0TU>) and CeMI's Facebook and Instagram pages. So far, the video has more than 180,000 views.

XIII MEDIA

Freedom of expression, freedom of press and access to information are guaranteed by the Constitution of Montenegro, while censorship is prohibited. Article 6 of the Law on the Election of Councillors and MPs regulates that voters shall have the right to be informed through the media on electoral programmes and activities of the submitters of electoral lists, as well as about candidates from electoral lists. The media shall consistently implement the principles of equality of all submitters of confirmed electoral lists and candidates from those lists.

However, the frameworks for conducting the election campaign have not been harmonised. Namely, they are regulated in a different way by the Law on Election of Councillors and MPs and the Law on Financing of Political Entities and Election Campaigns, namely due to novelties introduced through the amendments to the Law on Financing of Political Entities and Election Campaigns adopted in December 2019.

The Law on Election of Councillors and MPs regulates that the ‘rights to media reporting in the pre-election campaign shall start on the date of validation of the electoral list of pre-election campaign contestants and cease 24 hours before the election day’, while the newly adopted Law on Financing of Political Entities and Election Campaigns offers the following regulation – ‘from the date of calling for the elections until the election day’ – together with the requirement that entities offering services of media advertising of the election campaign shall submit the price list for the services of media advertising to the APC within 10 days after the announcement of elections.

The abovementioned non-compliance is best reflected in the implementation of rules related to the ‘electoral silence’ the day before the election. However, political propaganda was visible through social networks on 29 August. The reason for this non-compliance is likely due to the abovementioned discrepancies in the laws.

Article 64b of the Law on the Election of Councillors and MPs regulates that the Parliament of Montenegro shall issue a separate decision establishing the committee in charge of monitoring the enforcement of the part of the Law on Election of Councillors and MPs which concerns media. However, the committee was not established, and no sessions of this body were held after the elections were announced.

A. Traditional media

Montenegro has a diverse media environment. There are over 150 media entities, including 22 TV stations, 53 radio stations, 70 information portals (registered electronic publications), four daily print outlets, one weekly print outlet and one news agency. Although pluralistic, the media environment is deeply politically divided and political preferences can easily be noticed in their published content.

In terms of trust, citizens mainly prefer TV as a primary source of information; it is used by 63% of the population. It is followed by the Internet, excluding social networks (16%), social networks (12%), print media (3%) and radio stations (2%). The remaining percentage represents people who do not use media as the source of information (1%) and those who refused to respond (3%).⁴¹

There are three key laws form the legislative framework for media: the Law on Media, the Law on Electronic Media and the Law on National Public Broadcaster – RTCG. The ‘umbrella’ Law on Media and the Law on Radio Television of Montenegro were adopted by the Parliament of Montenegro at the end of July 2020 after the elections were announced. CeMI highlights the concerning fact that the key laws regulating the media field were adopted after the elections were called. In that way, there was legal instability because there was not enough time for the media and political entities to get familiar with the solutions offered by the newly adopted laws. Such practice is contrary to all valid international standards and practices.

The amendments to the Law on Financing of Political Entities and Election Campaigns were adopted by the Parliament of Montenegro in December 2019. The provisions regulate performance of the media during the election campaign, as well as APC competencies in that regard, also contributed to instability and did not provide a good indicator for uniform and equal treatment of all election entities.

Promotion of submitters of confirmed electoral lists via commercial and non-profit broadcasters shall be done in accordance with the rules adopted by the broadcaster with the aim of achieving a fair editorial policy and presenting equally the validated submitters of electoral lists.⁴² In compliance with the Law on the Election of Councillors and MPs, during the election campaign, the RTCG, regional and local public broadcasters shall ensure free-of-charge and equal presentation of submitters of confirmed electoral lists, and the presentation and explanation of their electoral programmes on a daily basis, of equal duration and as a part of the same time slots within the political information programme, and within the precisely defined political marketing blocks, which audibility and visibility are ensured at the entire territory of Montenegro or the local government. In addition, commercial broadcasters are obliged to provide paid advertising to submitters of confirmed electoral lists under equal conditions.

National public service (RTCG) shall enable electoral lists to broadcast political and promotional pre-election audio or TV clips in a length not less than 200 seconds daily, depending on the planned number of advertising blocks; and three-minute coverage of promotional gatherings, twice a day, at the time immediately after the central evening informative TV and radio shows. Furthermore, in compliance with the adopted Agency for Electronic Media (AEM) Rulebook on reporting on pre-election campaign, RTCG enables two debates on a weekly basis, lasting up to 120 minutes, with participation of representatives of each confirmed electoral list, as well as individual

⁴¹International Republican Institute (IRI), based on research conducted in the Western Balkan countries from 2 February 2020 to 6 March 2020; available at: <https://www.iri.org/resource/western-balkans-poll-shows-strong-support-eu>

⁴²Law on Election of Councillors and MPs, *op. cit.*, article 64

promotion of their programmes lasting up to 30 minutes. The Rulebook envisages enabling confrontations between the submitters of electoral lists, in the final stage of campaign, lasting up to 120 minutes. The national public service formally fulfilled all obligations which are regulated by the Law. However, the conceptual design of the Television of Montenegro (TVCG) scenography, which was almost identical to the pre-election campaign design of the ruling DPS, may have been deceiving for the voters and falls under disguised media promotion, which is contrary to article 8 of the AEM Rulebook.⁴³ This was a reason for numerous reactions of representatives of other electoral lists and accusations of a bias on behalf of RTCG, further aggravated by RTCG's decision not to broadcast the video spot URA because it contained a hologram of President Đukanovic. In addition, informing the public about numerous activities performed by the ruling coalition in key informative shows falls under the 'public officials' campaign' and indicates a lack of balance in informing the public.

RTCG organised shows in a timely manner, and all electoral lists were equally presented. Hence, in a formal sense, it achieved a balance of representation of all confirmed electoral lists. However, there remains the question as to the effectiveness of this format because it prevents direct debate among the participants. CeMI proposes that RTCG consider changing the format, in accordance with best regional and international practices, emphasising the content and exchange of arguments, which would allow voters to receive full and timely information on the basis of which they can make an informed decision.

The lack of traditional debates in key talk shows was noticeable, both with the public broadcasters and private media. TV Vijesti decided to enable typical promotion of electoral lists, which are time limited, not hosted by a journalist and lack the essential exchange of opinions and attitudes between the participants in the show. Unlike previous electoral cycles, voters had fewer possibilities to get informed, substantially and essentially, about the programmes and key ideas of the parties and coalitions that were participating in the campaign.

Of the total media coverage, 76% referred to media coverage for the parliamentary elections and 24% to media coverage for the election of councillors in the five municipalities where elections were held. Most media presentations, regardless of their type, were broadcast on TV Vijesti (18%), TV A1 (14%), TVCG1 (12%) and on the TV Budva station (12%). Seven per cent were broadcast on TV Novi and TV Teuta stations, and 6% on the TVCG2 station. All other observed television stations individually had a share of less than 5%.⁴⁴

The AEM is authorised to supervise media conduct during campaigns. The AEM has at its disposal a host of legal instruments to sanction the media; they range from warning to cancelling the broadcasting licence. The AEM has adopted the Rulebook on rights and duties of broadcasters during election campaigns. In terms of the rights and duties of broadcasters, the Rulebook defines that the campaign starts on the date when

⁴³Rulebook on rights and regulations of broadcasters during the campaign for the elections of MPs to the Parliament of Montenegro which shall be held on 30 August 2020; available at: <https://tinyurl.com/yxt64lgc>

⁴⁴AEM, Media Representation Report During The Campaign For Parliamentary And Local Elections – AUGUST 2020

the electoral list is confirmed and ends 24 hours prior to the election date, although the laws are contradictory in this respect (as previously mentioned). The sector for monitoring, which records all electronic shows in Montenegro, functions within the AEM. In a published report, the AEM reported that out of a total of 33 broadcasters that have adopted special rules on media representation, four broadcasters have not implemented programme content intended for media presentation in practice. The AEM has also initiated 58 proceedings ex officio, of which, at the time of publishing the report, 25 were suspended due to the elimination of deficiencies, four warnings were issued, and 29 proceedings were in progress. The agency received 17 complaints about the work of broadcasters, of which 11 complaints were rejected.

The Parliament of Montenegro did not establish the committee for monitoring the enforcement of the Law on Election of Councillors and MPs with regard to media, which should consider complaints to performance of media during election campaign and submit them to the AEM through a decision. The establishment of such body has been regulated by the Law on Election of Councillors and MPs.

B. Online media and social networks

With the COVID-19 pandemic in Montenegro, social networks have played a significant role during the electoral process for the 2020 parliamentary elections. Although social networks were also a part of the political parties' campaigns for previous elections, the 2020 parliamentary elections have been marked by the central role of the Internet in the political strategies and electoral process.

A prominent level of political parties' activities occurred through social medial campaigns, which recorded an increasing trend beginning in June when the elections were officially announced. With regard to Montenegrin political parties on Facebook, Prava CG (76,075) had the most likes, followed by the DF (53,704), Democratic Montenegro (DCG, 46,787), the URA (33,991) and the DPS (30,890). From March to August 2020, there was an average 11% increase in the number of political parties' page likes on Facebook.⁴⁵

From March to August 2020, political parties published 11,743 posts and achieved 9.3 million interactions on Facebook. It is interesting to note that 7.7 million (82%) of the total number of interactions during this period were generated by only three political parties, namely Prava CG, the DF and DCG.⁴⁶

In the same period, these three political parties were amongst the most active. Namely, DCG posted on average 10 posts per day, followed by the DF (9), the SNP (9), Prava CG (8), the DPS (5), the URA (4), New Serbian Democracy (3), the SD (3), and the SDP (3). Activity after the announcement of the elections on 20 June more than doubled to what it was before the announcement, making the increase in posts more than obvious.⁴⁷ The parties that were least active in this six-month period were the

⁴⁴AEM, *Media Representation Report During The Campaign For Parliamentary And Local Elections – AUGUST 2020*

⁴⁵'Reshaping the Electoral run through the usage of Social Media in Montenegro,' Final Report, CeMI-IFES, 2020

⁴⁶Ibid

Croatian and Albanian minority parties: the HGI (0.68), the HRS (0.45), the Albanian Coalition (0.19).⁴⁸

With regard to the type of content on the official political parties' accounts, images were mainly shared (40%), followed by links (29%) and videos (26%). The main topics were: (1) the ruling party, especially focusing on leaders of the ruling party; (2) corruption and organised crime (affairs); and (3) COVID-19.

With regard to paid ads on social media, from March to August 2020, political parties had a total of 3,154 paid ads on social networks, most of which were on Facebook (2,679) and Instagram (2,133). The trend of increased paid content on social networks during the election campaign was evident, thus in the period from March to June 2020, there were 497 paid ads, while from June to August 2020, there were 2,657 new paid ads. The number of paid ads by month was as follows: March (85), April (186), May (226), June (328), July (331) and August (1,998).⁴⁹

In the observed period, DCG (788) had the highest number of paid ads, followed by the SD (692), the URA (646), the SDP (303), the DPS (273) and the DF (160). Minority parties had the fewest paid ads, which were active mainly in August (the HRS, 48; the HGI, 46; and the BS, 11).⁵⁰

Keeping in mind that there is no legislative framework in Montenegro that explicitly regulates online media and social networks, it is important to mention the obligation to respect Facebook rules on political advertising for all political entities in Montenegro. This obligation has been enforced since 5 August 2020. Therefore, the authors of the political advertisements were obliged to identify themselves, an approach that aimed to increase the transparency of political campaigns and responsibility of political entities on social networks before the parliamentary elections. With regard to that issue, the data on authorised advertisers or the author of the advertisement that are submitted to Facebook shall be available in the Ad Library for the next 7 years.

Besides political parties, Facebook pages that are characterised as 'politicians' have also been involved in political campaigns and registered increased activity levels during the electoral process. The most active was *Vladislav Dajković*, with a total of 475 posts and 3 million interactions from March to August 2020, followed by *Milo Đukanović*, with 349 posts and 541,788 interactions; *Nik Gjelošhaj*, with 319 posts and 55,236 interactions; and *Damir Šehović*, with 221 posts and 78,802 interactions. The least active was *Dritan Abazović*, with only 50 posts, but 158,564 generated interactions.⁵¹

Aside from the abovementioned high activities of political parties and politicians on social networks, various web pages, groups and meme profiles were used during the election campaign to disseminate the political parties' and politicians' messages to

⁴⁷*Ibid*

⁴⁸*Ibid*

⁴⁹*Ibid*

⁵⁰*Ibid*

⁵¹*Ibid*

voters. CeMI prepared a comprehensive analysis of political social media activities and online behaviours during the electoral period for the 2020 parliamentary elections in Montenegro. In that report, CeMI presented strong evidence suggesting coordination among the monitored Facebook entities (pages, groups and meme accounts) and the involvement of individuals, groups and media outlets outside of Montenegro, indicating that the network of entities may be directed by or be acting in coordination with foreign actors. When it comes to pages, groups and meme profiles⁵² on social networks, the main challenges are manipulations such as creating the illusion of mass support or popularity of certain entities to obtain or gain real support, and spread disinformation/false news/ misinformation. All of this can impact voters and their right to free and informed choice.

Similarly to traditional media, the online media environment is politically polarised, which is visible through the content available on online portals. During the pre-election period, FOS Media was most active on Facebook. It created and shared the largest portion of the uploaded content, followed by Portal Analitika, Portal Standard, Portal Antena M, IN4S Portal, Kolektiv.me, Vijesti and RTCG Portal. However, Vijesti, IN4S Portal, RTCG Portal, Kolektiv.me, CDM Portal, Portal Antena M, FOS Media and Portal Analitika generated the most interactions.

⁵²Non-personalised profiles created on social networks that convey certain messages in a satirical and witty way, through parody, joke or some form of social, political or other criticism. Meme means content based on a single concept (usually an image with text or video) that the user modifies and transmits in the online space without modifying the basic structure and recognisability of that content.

XIV INTERNATIONAL AND DOMESTIC OBSERVERS

The Law on the Election of Councillors and MPs regulates that authorised representatives of national nongovernmental organisations registered to monitor the exercise of political rights and freedoms may observe the course of elections and the work of the election administration bodies. National nongovernmental organisations interested in monitoring the elections shall submit applications to the SEC, which shall issue official authorisations or decision rejecting authorisation within 48 hours of receipt of the application. Election administration bodies shall enable international and national observers to monitor the course of elections and the work of the election administration bodies. A PB shall register the presence of observers at a PS in its record. At the proposal of the election administration body, the SEC may revoke authorisation or an identification card from the person to whom it was issued if the person does not adhere to PS rules of order and rules of work of the election administration bodies.

By issuing official authorisations, the SEC accredited 2,089 observers to observe election day, of which 265 were foreign and 1,824 were domestic. It is important to note that, according to CeMI's findings, there were no serious violations and restrictions on the work of observers or other threats to their rights and the atmosphere for carrying out the planned activities.

A. International observers

OSCE deployed a Limited Election Observation Mission (LEOM) to monitor the 2020 parliamentary elections, following the call from the Parliament of Montenegro submitted to the OSCE/ODIHR.

There were 265 accredited international observers. The international mission of the ENEMO was the largest one with 116 accredited election observers. Observers were also accredited by ODIHR (26), ODIHR (LEOM) (33), the Embassy of the United States of America in Montenegro (38), the British Embassy Podgorica (9), the European Union Delegation to Montenegro (22), the OSCE Parliamentary Assembly (17) and the Embassy of the Republic of Kosovo in Montenegro (4).

For the 2016 parliamentary elections, there were 570 accredited observers of the international missions. In 2012, OSCE/ODIHR deployed 420 observers to monitor the parliamentary elections.

B. Domestic observers

There were 2,089 observers (1,824 domestic) accredited for monitoring the 2020 parliamentary elections. The pool of domestic observers comprised 1,355 CeMI observers, 463 CDT observers, 5 observers of the Fenix nongovernmental organisation and one observer of the Centre for Civic Education. CeMI and CDT were the only two organisations that reported on counting of votes and published their projections of election results.

XV COMPLAINTS AND CONSTITUTIONAL INITIATIVES

The Law on the Election of Councillors and MPs prescribes the procedural possibility of protection of the right to vote, in such a way that every voter, candidate and submitter of the electoral list has the right to file a complaint to the competent election commission for violation of the right to vote during the election. As a final legal remedy, it is possible to file a complaint on the decisions of the State Election Commission before the Constitutional Court of Montenegro.

Every citizen has the constitutional right to submit an initiative for initiating a procedure for assessing constitutionality and legality, both in terms of compliance of laws with the Constitution and ratified and published international treaties, and compliance of other regulations and general acts with the Constitution and law.

Five complaints have been lodged against the work of Municipal Election Commissions (Pljevlja, Podgorica twice, Kotor and Kolašin) before the election day. Two complaints (against the work of MEC Pljevlja and MEC Podgorica) were filed by the Democrats of Montenegro, two were filed by the electoral lists “FOR THE FUTURE OF KOTOR” and “Kolašin wins” (DF-SNP), and one complaint was filed by the Social Democrats of Montenegro. The complaint regarding the work of the Pljevlja MEC was dismissed for not being submitted within the prescribed deadline, while the others were rejected. The Democrats filed a complaint with the Constitutional Court due to the rejection of their complaint to the work of the Municipal Election Commission of Podgorica. This complaint refers to the decision of the MEC Podgorica by which smaller polling stations 31, 35, 36, 49, 50, 51 were abolished and merged with larger polling stations. Confirming the legality of the decision of the MEC Podgorica, the State Election Commission pointed out that there was no threat to the availability of polling stations and that the merger also occurred due to epidemiological protection. The Democrats stated in their complaint that there was a greater possibility of infection in places with a larger number of voters than in places with a smaller number of voters. They also pointed out that the availability of polling stations was endangered because the newly designated polling stations are several kilometres away from voters, and that those are older voters who live in the countryside, who are engaged in agriculture, and that it is extremely inconvenient for them to travel several kilometres to a newly designated polling station. Ultimately, the Constitutional Court rejected the complaint.

The process of determining electoral lists and establishing rules that would enable smooth conduct of elections in the situation of the COVID-19 pandemic, while protecting the health of voters, conditioned the initiation of proceedings to assess the constitutionality before the Constitutional Court of Montenegro, individual and general acts. One of the specifics of the 2020 Parliamentary elections is the decision-making of the Constitutional Court in an urgent procedure, especially the three cases presented below, and determining the merits of the submitted initiatives / complaints with timely decisions for the implementation of the election process.

- In the procedure of deciding on the fulfilment of the conditions for the application of the electoral list “Snežana Jonica – Let’s live like Yugoslavs”, the State Election Commission rejected this list to run in the elections as a minority. The decision of the State Election Commission is reasoned by the non-fulfilment of conditions for exercising minority rights, both in terms of the characteristics that a certain community must fulfil in accordance with the Law on Minority Rights and Freedoms, and in the part of protecting and affirming the rights of a certain minority people or minority national community. The position of the State Election Commission was confirmed by the Constitutional Court by a majority vote with the dissenting opinion of one judge.⁵³ Without going into the correctness of the decisions and the validity of the assumption that there is a risk of abuse of the election rules, the general impression is that the reasonings of the competent bodies are not complete. This is particularly worrying when we consider that this is the first case of its kind that will be relevant for decision-making in future similar cases.
- The epidemiological situation in Montenegro has conditioned the application of measures prescribed by law by the NCT (National Coordination Body for Infectious Diseases) as well as the establishment of “Technical Recommendations for Elections for the Epidemiological Protection of Voters” by the SEC. After the complaints of the participants in the election process and non-governmental organizations, upon the submitted constitutional initiative, the Constitutional Court issued a decision repealing paragraphs 1 and 4 of chapters “Voting outside the polling station – voting by letter” and the chapter “Voting in quarantine”.⁵⁴
- On the same basis, as in the case of “Technical Recommendations for Elections for the Epidemiological Protection of Voters”, an initiative was submitted to review the constitutionality of part of the provisions “Rules for voting by letter”, on which grounds the Constitutional Court ruled unconstitutional the restriction of voting by letter to voters who, due to old age, disability, hospital treatment that are not located in their place of residence.⁵⁵

The Constitutional Court acted urgently to review the constitutionality of the ‘Rules for voting by letter’ and Technical Recommendations for holding Elections for the Purpose of Epidemiological Protection of Voters and quickly repealed the unconstitutional provisions/recommendations limiting the right to vote of people who due to illness, age or quarantine are not located in the place of residence. However, there was a fear whether it would be possible to fill legal gaps and ambiguities by Election day, but also in technical terms to create conditions so that all voters can freely exercise their right to vote.

In the period after election day, the holders of the electoral lists used the opportunity to inspect the election material by submitting a request to several MECs. During the inspection of the election material at the request of the DPS in the premises of the

⁵³Constitutional Court Decision U-VII no. 1/20, from 14 August 2020

⁵⁴Constitutional Court Decision U-II no. 45/20, from 20 August 2020

⁵⁵Constitutional Court Decision U-II no. 46/20, from 24 August 2020

Podgorica MEC, an authorised representative of the DPS attempted to destroy part of the election material (two coupons). The MEC stated these facts in its minutes and filed a criminal complaint. The Basic State Prosecutor's Office in Podgorica has filed charges against this person for the criminal offense of destruction of voting documents (article 193 of the Criminal Code), within one week after the criminal complaint was filed.

In accordance with the Law on the Election of Councillors and MPs, nine complaints were submitted to the SEC against the decisions of the MECs within the legal deadline (four against the decisions of the Kotor MEC, one against the decision of the Herceg Novi MEC, one against the decisions of the Plav MEC and three against the decisions of Budva MEC).⁵⁶ The SEC rejected five complaints and upheld the decisions of the MECs, while in four cases it adopted the complaint and annulled the decision of the Plav MEC, which prevented the representatives of one electoral list from inspecting the election material. The same legal matter was the basis for the three remaining complaints lodged against the MEC in Kotor.

No appeals were lodged with the Constitutional Court of Montenegro against the decision of the SEC to reject the objections. The conducted procedures on the complaints of electoral lists or voters did not reveal a violation of the law that would call into question the regularity of the election process.

⁵⁶<https://dik.co.me/izbori/za-izbor-poslanika-u-skupstinu-crne-gore/2020-3-god/prigovori-rjesenja-2020/>

XVI CONCLUSIONS AND RECOMMENDATIONS

Priority recommendations

1. *Electoral reform* – It is necessary to implement a 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. The reform should also 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. Codification of election laws should also be considered.
2. *Complete professionalisation and depoliticization of the SEC and partial professionalisation and depoliticization of MECs* – It is necessary to bring about complete professionalisation and depoliticization with regard to the SEC composition. This endeavour would comprise 3–5 professionals from the field of law, as well as professionalise and depoliticise the role of the presidents of MECs.

Other recommendations

A. To the Parliament of Montenegro

1. *The Law on the Election of MPs and Councillors should be amended to provide individuals with an opportunity to submit individual candidacy for an MP or a councillor position.*
2. *It is necessary to introduce preferential voting, with more preferential votes (3) available to the voter. This change will increase the influence of voters with regard to selecting specific candidates, and it will strengthen the link between citizens and their elected representatives.*
3. *A precise procedure in the Law on the Election of MPs and Councillors should be introduced for how an electoral list can be registered as a minority, and on that basis draws the rights to the minority representation.*
4. *Equal rights of members of Roma should be ensured through amendments of the Law on the Election of Councillors and MPs, who do not have equal status with members of minority communities that make up a similar percentage of the total population. 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 MPs in a way that allows domestic and foreign observers of the election*

process to have free access to election materials. The number of signatures required to certify the electoral list should be reduced, with the introduction of mandatory verification of the authenticity of signatures by notaries. A limit on the price of this service should be introduced so that it is not a limiting factor for the nomination of candidates.

6. The legal limitation that one citizen can support only one electoral list with his signature should be removed.
7. Voting abuses should be prevented by establishing a precise provision on the conditions for a ballot to be valid, instead of the current insufficiently precise provision on situations where the ballot is invalid. These changes should prevent compromising the secrecy of voting by labelling ballots with different geometric shapes or ornaments, combined with different colours.
8. The Law on the Election of Councillors and MPs should be amended to enable the professionalisation of the SEC in such a way that the commission would comprised 3–5 professionals in the field of law (preferably with an emphasis on the right to vote). The proposed professionalisation of the SEC would allow it to function more seriously and efficiently and strengthen the capacity and established procedures necessary for the planning and operation of this institution. The latest public opinion poll conducted by CeMI indicates that more experts need to be introduced to the SEC. Specifically, 65.5% of respondents estimate that the SEC should consist of a combination of representatives of political parties and independent experts, with a dominance of experts.
9. It is necessary to professionalise the position of the president of the MEC, who would be appointed to that position on the basis of legally determined criteria, via public competition, by the SEC. Other members would be appointed by political parties according to a similar model.
10. In the future, the representatives of the confirmed electoral lists should not participate in the work of the SEC and have the right to vote; they should only have the right to observe the work and inspect SEC documentation.
11. It is necessary to more precisely, clearly and 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.
12. It is necessary to amend the Law on the Election of Councillors and MPs so that all the aspects of functioning of PBs would be thoroughly regulated by law.
13. The Law on Prevention of Corruption needs to be amended to give the APC stronger competencies and enable it to conduct administrative investigations. *Zakon o izboru odbornika i poslanika treba izmijeniti kako bi regulisao ponašanje i upotrebu društvenih medija tokom izborne ćutnje.*

14. *To put all categories of political entities on an equal footing, it is necessary to redefine the term political entity and adjust the deadlines for reporting costs during the campaign in a way that leaves no room for non-compliance with the Law on Financing Political Entities and Election Campaigns.*
15. *State financing of regular work and pre-election campaigns of political parties should be legally conditioned by introducing into the statutes and implementing democratic procedures of selection of candidates for MP and councillors, as well as direct selection of party's leadership by their members.*
16. *The Law on the Election of Councillors and MPs should be updated to address the behaviours and use of social media during the electoral silence day.*
17. *To ensure full respect for the principle of electoral silence, we believe that the law should stipulate that the responsibility for the observance of the electoral silence on social networks should lie with the political entities who are participating in the elections, rather than with social media.*
18. *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 Entities and Election Campaigns.*
19. *The Law on Financing of the Political Entities and Election Campaigns should be updated to address the use of social media during campaigning.*

B. To the State Election Commission

20. *It is necessary to adopt new procedural rules for the SEC that would regulate all disputable situations in this election cycle, as well as previous cycles (recording sessions, recording and approving the minutes during the session, the manner of putting certain questions to a vote, adoption of a complaint mechanism, the length of breaks, the necessary number of members to put proposals on the agenda and the length of and reasons for pauses in work, among other issues).*
21. *The media should be provided access to SEC meetings.*
22. *Particular attention should be paid to verify the authenticity of signatures to avoid abuse.*
23. *The SEC should introduce a live broadcast of its session through the Internet, especially when there is an epidemiological emergency such as a pandemic.*
24. *It is also necessary to enable members of the Roma community to have election material in their own language, to enable them to fully exercise their voting rights.*
25. *Carrying accreditation is not an obligation in either the Rules of the Work of PBs or in the Manual for Training of PBs. To reduce the room for abuse by unauthorised people, it is necessary to introduce this obligation in a by-law.*

26. The SEC should indicate to the PBs the importance of working with a full composition so that there are no situations in which the PBs conduct elections as four members and not five as provided by the Law on the Election of Councillors and MPs.
27. The practice of PSs regarding the treatment of people who are not recognised by the electronic identification device should be standardised.
28. It is necessary to work on educating the presidents and members of the PBs on the ban on the use of mobile phones at PSs.

C. To Municipal Election Commissions

29. 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. The MECs should exclude from the electoral process all electoral lists that do not meet the formal legal conditions for participation in the elections.
30. Conditions at PSs for people with disabilities should be improved – to solve the problem of obstacles or designate other PSs – to avoid voting outside the PS.
31. Conditions at PSs for people with disabilities should be improved – to solve the problem of obstacles or designate other PSs – to avoid voting outside the PS.
32. Work is required to update the existing MEC websites with regard to proactive action and publishing information important for conducting elections.
33. The practice of PSs regarding the treatment of people who are not recognised by the electronic identification device should be standardised.
34. It is necessary to ensure the consistent application of the legal obligation to respect the provisions concerning the representation of women on electoral lists, and to prevent the acceptance of electoral lists that do not respect the number and position of women on the list as prescribed by law.

D. To the Constitutional Court

35. The practice of the Constitutional Court of Montenegro in deciding on the appeals in the electoral process should be harmonised to avoid legal uncertainty.

E. To State Prosecutor Offices and Courts

36. Possible violations of the right to vote should be prosecuted more efficiently than in previous election processes.

F. To the Ministry of Interior Affairs

37. Automated control and deduplication of fingerprints through the AFIS system should continue, and control of identical photo identities in the voter register should be

introduced. With this endeavour, the abuse of voter register would be prevented in the case of people who have been issued multiple identification cards with different identities.

38. There should be new mechanisms for better updating the voter register so that there are fewer examples of registered voters who should not be in the voter register. Alternatively, consider other models (at least temporarily until the voter register is updated), such as an active voter register, or the introduction of compulsory voting, modelled in other countries.
39. The cooperation between the Ministry of Interior Affairs and the SEC in the election process should be at a much higher level.

G. To the Agency for Prevention of Corruption

40. Despite significant progress, it is necessary to improve the proactivity of the APC with regard to training people who are subject to the law.
41. A more proactive role of the APC is necessary in terms of monitoring observance of the Law on Financing Political Parties and Election Campaigns, through warnings and more objective and efficient filing of misdemeanour charges against those political entities that violate the law, to ensure transparency in this part of their work and to inform citizens about how their campaigns are financed.
42. The APC must create a database of potentially risky individuals and legal entities to reduce the risk of unauthorised influence and indirect action of these people outside the period in which the election campaign takes place.
43. The APC should continuously and comprehensively monitor social benefits and employment in Montenegro, in the election year, on a quarterly basis, for a more complete picture of possible abuses.
44. It is necessary to work on further improvement of the APC's PR strategy, and thus contribute to the transparency and proactivity of the APC activities as well as inform the interested public to a greater degree. The use of creative audio-visual solutions (infographics, storytelling videos and animations) during and outside the period of election campaign, and in connection with key findings, would contribute to a positive impact on the APC's public reputation.
45. The APC should adopt new tactics to monitoring of abuses of state resources adapted to the online environment and work on capacity building for the collection of evidence of abuse of state resources using new technologies.
46. The APC should investigate potential participation of the SOC in financing the political campaign of the coalition 'For the Future of Montenegro', keeping in mind that the leaders of this coalition have informed the public that the SOC participated in the management of their campaign. *Politički subjekti, kao i njihovi lideri trebalo bi da poštuju predizbornu ćutnju i na društvenim mrežama.*

H. To political subjects

47. *We urge all political entities to reduce the overall level of politicisation of the electoral process and of the bodies for conducting elections to increase the overall level of professionalism of the electoral bodies and restore public confidence in the elections and the election results.*
48. *Political entities should bear in mind the general public interest, should respect the norms of electoral legislation and should not abuse legal loopholes and legal uncertainties for the personal interests of individuals or parties.*
49. *We believe that political entities should refrain from negative personal campaigns, as well as the use of minors for the purpose of political marketing.*
50. *Political entities and their leaders should also respect the electoral silence on social networks.*
51. *The legal framework for the media needs to be improved in a way that ensures equal treatment of electoral subjects.*
52. *RTCG, as a public broadcaster, should provide balanced coverage of political entities during the election campaign.*
53. *Private media should ensure balanced reporting about the participants in the electoral process.*
54. *Media should be educated about disinformation campaigns, in particular during elections, and should establish an intersectoral cooperation with CSOs for combating online disinformation.*
55. *Media should conduct online awareness raising campaigns about digital rights and ways to protect human rights.*

Monitoring Mission Core Team

Centre for Monitoring and Research – CeMI

Zlatko Vujović – Head of the Mission

Boško Nenezić – Deputy Head of the Mission

Milorad Marković – Legal Analyst

Ivana Vujović – PVT Coordinator

Ana Nenezić – Legal Consultant

Maja Bjelić – PR Coordinator

Vladimir Simonović – Researcher

Sekule Raičević – Legal Aid Adviser

