



CeMI Election Observation Mission – Montenegro 2016

Interim Report

11 July - 29 September 2016

The newly adopted changes in the Law on Election of Councillors and Representatives, as well as the Law on Voter's List, followed by a weak performance of key institutions for organization of elections raised significant concerns related to the accuracy of Voters' list, non-partisan performance of state institutions, as well as the reliability of the System of Electronic Identification of Voters.

CeMI represents first established election observation organization in Montenegro. Since 2000 CeMI observed most of parliamentary, presidential and local elections. CeMI has observed all parliamentary elections in Montenegro since 2001.

In addition to working in the areas of democratization, human rights, combating corruption and Euro-Atlantic Integration, CeMI (Center for Monitoring and Research) is recognized as a think tank that provides expert analysis of electoral process, fight against corruption and rule of law.

CeMI is a founder and member of European Network of Election Monitoring Organizations ENEMO. Representative of CeMI is member of the Secretariat, key governing body of ENEMO. CeMI experts and members participated in numerous IEOM of ENEMO or OSCE ODIHR.

CeMI has been monitoring electoral campaign since 11th of July 2016. Presented Interim Report is based on the CeMI observers' findings from the field, where they focused on the work of election administration bodies, the conduct of election actors prior to the elections.

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PRELIMINARY CONCLUSIONS

- Elections 2016 are held in a very sensitive moment, characterized by political instability and reduced trust in the integrity of the electoral process, due to questioning of results of presidential elections, anti-governmental protests, voting on no-confidence to the government, dissolution of the ruling coalition, pre-composition of the political scene and establishment of the Government of electoral trust. Hence, the organization of elections represents a serious test in a political and legal sense that may affect further integration processes towards the EU and NATO. Elections represent a challenge for all political parties, as well as the electoral administration, which is implementing the new electoral legislation for the first time.
- In order for election results to be legitimate and accepted by all political entities, it is necessary for the State Election Commission (SEC) to exercise an impartial, objective and transparent approach. Opinion on the implementation of provisions of the Law in terms of voter identification through IDs was adopted by outvoting - which is not a good base for making decisions during the electoral process and it casts doubt on the integrity of the decisions of the State Election Commission.
- Municipal Election Commission (MEC) Ulcinj has not been formed in accordance with the Law on the Election of Councillors and Representatives, since the president and three members of this MEC are representatives of political parties which form the local government in Ulcinj, whereas there is only one member on behalf of the opposition.
- Institutional capacity of the Coordination Body, formed for the purpose of monitoring the implementation of electoral legislation, raising trust in electoral process and creating conditions for free and fair elections, has been jeopardized from the very beginning, due to governmental political parties refusing to take part in it. In addition to that, certain departments of the Ministry of Interior Affairs (MIA), in charge of the voter register do not provide adequate support to the work of the Coordination Body.
- MIA has informed the public that while compiling the VL, there were changes of the PS (Polling station) for more than 120 000 voters. This is very concerning, having in mind that the MIA still has not informed all voters about their PS being changed.
- The final number of polling stations remains unknown. Even though all MECs adopted decisions on determining of PSs in time, the MIA proposed a number of MECs to adopt new decisions at a later stage, mainly due to some voters not being assigned a PS, which

lead to a situation where a number of MECs have adopted new decisions after the legal deadline.

- Based on the analysis of the voter register of 28th of September 2016, CeMI has found that five polling stations had not been formed in accordance with the Law on the Election of Councillors and Representatives, as they exceed the maximum number of voters per polling station (1000).
- The SEC was unable to determine validity of voters' signatures in support of electoral lists. We express serious doubt that certain political parties provided the formal requirements for participation in parliamentary elections, by misuse of personal data of citizens and fabrication of citizens' signatures.
- Current electoral process in Montenegro is characterized by an intensive campaign of political parties and, in certain segments, more aggressive when compared to previous election cycles.
- An increase of activities of political parties' campaigns through social media was noticed during this electoral process where political parties predominantly use option of sponsorship of their posts in order to reach larger number of voters, with lack of any major control and regulations that exist towards other media, which leaves spaces for expressing attitudes and opinions that violate the principles of religious and nationality tolerance, respect of differences, democracy and dignity.
- The absence of a clear deadline for opening of a special bank account leads to arbitrary interpretations of the provisions of the Law on Financing of political entities and electoral campaigns. It is extremely important that this part of the financing of political entities is transparent, so that voters could know who is financing campaigns of political subjects and in which manner.

PRELIMINARY FINDINGS

Introduction

Through its election observation mission (EOM), CeMI has been monitoring the electoral process since elections were announced on 11th of July 2016. The mission is consisted of: Head of Mission, Deputy Head of Mission, Legal Expert, Election Expert, Media Analyst. In addition to the Core Team, we have engaged teams of LTOs (long-term observers), as well as regional and local coordinators. CeMI will also accredit over 1,400 STOs (short-term observers) on E-day, in order to provide full coverage of polling stations.

Background

In 2012 Parliamentary elections, the pre-electoral coalition European Montenegro (Democratic Party of Socialists, Social-democratic Party, Liberal Party, Democratic Party) won a total of 46.33% votes, and afterwards formed a post-electoral coalition with Bosniak Party, Croatian Civic Initiative and FORCA, which entered the composition of the new government. Post-electoral coalition had 44 mandates out of the total of 81 mandates in Montenegrin Parliament.

During the outgoing convocation of the Government of Montenegro, a re-composition of the political landscape occurred, caused by SDP's vote on no-confidence to the Government in January 2016. After the party congress, on which Mr. Ranko Krivokapic was re-elected as the president of the party, a significant part of the management and SDP members left the Party and formed a new one – Social-democrats of Montenegro (SD), with Mr. Ivan Brajovic, current Minister of Transport as the Head of the party. Democratic Front (DF) – the largest opposition coalition in the current convocation of the Government of Montenegro, was left by its leader Miodrag Lekic, along with several MPs of the DF with whom he formed a new political party named DEMOS. Several members of the management and MPs of the Positive Montenegro party formed a Civil Movement named URA, with Mr. Zarko Rakcevic, former president of SDP who resigned in 2001, as the Head of this Party. Second largest opposition party, SNP, also divided into two parties, as a result of internal disagreements. Segregating from SNP, Democratic Montenegro was formed, with Mr. Aleksa Becic, councillor in Podgorica's municipal assembly, as Head of the Party, who received affirmation as the leader of the SNP's electoral list on local elections in Podgorica in 2014.

Term of office of the current Government was marked with several events, which affected creating of political instability and reduction of public trust in legitimacy of the Election process. In April 2013, after the presidential elections were held, both candidates for president proclaimed victory. In October 2015, Democratic front organized protests against the ruling party in order to

form a transitional government from opposition political parties. Protest was ended with an open conflict between the protestors and the police, when a parliamentary dialogue was initiated in order to raise public trust in the election process of the subsequent election cycle. In the meantime, confidence to the Government of Milo Djukanovic was voted upon and Positive Montenegro suggested forming of a Government of electoral trust. DPS accepted this suggestion and offered the opposition to become a part of the executive branch of government through gaining control over the realization of the election process. The offer was outlined through an **Agreement on Creating Conditions for Free and Fair Elections**, which was signed by DEMOS, SDP, URA, Positive Montenegro, SD and Bosnian Party and which is being carried out by a special **Act on the Implementation of the Agreement on Creating Conditions for Free and Fair Elections**.

Based on the proposal of the opposition parties DEMOS, URA, and SDP, and the named Act, **the Government of electoral trust** was established, in which the opposition political parties obtained one Vice-president seat, positions of Ministers of Finance, Internal Affairs, Labour and Social Welfare and Agriculture and Rural Development. Jurisdiction of the opposition representatives in Government and authorities of State and Local government - public corporation and companies with major national capital, respectively – is limited to monitoring and control of the usage of national resources, Municipality, Capital and Royal capital's resources, the establishment and termination of employment in authorities with persons appointed by the Agreement and similar. Functions of the members of the Government of electoral trust appointed began on the day when the **Act on the Implementation of the Agreement on Creating Conditions for Free and Fair Elections** come into force, and they end on the day of determination of the final results of the elections for MPs in the Parliament of Montenegro.

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

Legal Framework and Election System

Constitution and the Law on Election of Councillors and Representatives represent basic legal framework that regulates the manner of exercising suffrage and the procedure of organizing the elections at all levels of Montenegro. Constitution of Montenegro in article 45 suggests that every citizen of Montenegro, who is 18 years old and has at least two year residency in Montenegro, has the right to vote and be voted for in elections. Law on Election of Councillors and Representatives also regulates the methods and procedure for election of councillors in Local

government, municipalities, capital and royal capital, as well as the election of MPs in the Parliament of Montenegro; organization, composition and jurisdiction of authorities in charge of the implementation of elections; determination of voting results and distribution of seats; protection of suffrage and other questions of importance regarding the organization and implementation of the elections.

As an answer to the political crisis after the Presidential elections in 2013, Parliament of Montenegro formed a Working Group for building trust in the election process in order to create new legal framework, according to which the next election processes will be organized. New electoral legislation was adopted in 2014, which prescribed a number of new control mechanisms, such as electronic identification of voters, the new procedure for voting by letter, responsibilities of the Ministry of Internal Affairs regarding the voters' list, etc. Lack of readiness of institutions to consistently implement electoral legislation has been evident in the period before and after the announcement of parliamentary elections. The State Election Commission has repeatedly pointed to the Parliament to practical problems in the implementation of the electoral legislation.

Besides the Constitution and Law on the Election of Councillors and Representatives, the laws that belong to electoral legislation are: Law on Financing of Political Parties and Electoral Campaigns (which regulates the manner of acquisition and provision of financial resources for regular work and election campaign of political subjects, prohibitions and restrictions on the use of public assets, funds and public authorities in the course of the campaign and the control, monitoring and review of financing of political actors in order to ensure legality and transparency of their operations.); Electoral Register Law; Law on Political Parties, etc. Also the laws in the field of media and broadcasting are important during elections - the Electronic Media Law and Law on Public Broadcasting Services of Montenegro. Decisions and rules of Election management bodies also represent a legal source governing the organization of parliamentary elections. From the aspect of criminal responsibility, the Criminal Code of Montenegro recognizes the special chapter that regulates criminal offenses against electoral rights.

All registered parties, coalitions or groups of citizens have the right to nominate their candidates for the electoral list. From a minimum of 2/3 (54) members to a maximum of 81 candidates, as there are 81 members of the Parliament. A group of citizens, or political parties representing minorities are required to nominate a minimum of 1/3 (27) of the total number of candidates to be elected.

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

The proportional party list system is used (List PR) in Montenegro. Party (candidate) lists are closed and blocked, without the possibility of preferential voting. Montenegro represents one

constituency in which 81 seats are being allocated - 81 elected representatives of the unicameral parliament, respectively.

D'Hondt formula is used for the allocation of seats to political parties, with the use of differentiated legal electoral threshold. Only those lists that exceed projected electoral threshold will be included in the process of seats' allocation using this method. The party list must receive at least 3% of valid votes in order to participate in the process of allocation of seats, which is the legal electoral threshold in Montenegro.

Legal electoral threshold in the case of minority parties is a requirement to get reserved seat in case of the Croatian minority, or in the case of other minorities requirement for summing results of individual candidate list in the collective list of this national minority.

The provisions of the Law on Election of Councillors and Representatives that govern the distribution of seats are rather imprecise and incomplete, especially when it comes to minority representation. Only the case of the Croatian minority is clear, as the Law prescribes that in case that no electoral list for the election of representatives of members of the Croatian national minority in Montenegro meets the legal threshold requirements, the most successful list, with at least 0.35% of the valid votes will be entitled to a parliamentary mandate. If Croatian list has more than 0,7% it will have the same status as lists of other national minorities. Using this mechanism, Croatian minority receive the guaranteed term of office, which is still subject to compliance with legal threshold, but again much lower than the required number of votes to win seats on the basis of the allocation process using the d'Hondt formula.

When it comes to other minorities, there is no such mechanism. Croatian minority is an important exception. For other minorities the Law states that if more lists exceed the legal census of 0.7%, their individual results are compiled into a single list that then enters the process of allocation of seats together with other electoral lists that have qualified. The effect of addition is limited by recognition of the calculation of the seats that provides up to maximum three seats.

For municipal elections minority lists, in case that none of them meets the requirement of legal electoral threshold of 3%, are eligible to participate in the distribution of seats separately, with the number of valid votes obtained, where the legal census will not be applied to them, but they will directly qualify for the process of distribution of mandates according to d'Hondt formula.

Law regulated distribution between the parties within the compiled list of minority entities using also d'Hondt formula.

It remains an open question regarding the criteria to determine a minority status to a list, which carries privileged status and therefore may be misused. The law only requires using the minority list determination in the electoral list application, or within the name of the electoral list.

Lack of status order and participation of minority lists is reflected in the case of forming a coalition of minority parties with a party that is not a minority party, or two or more minority parties, which belong to minorities that have different rights (Croatian party has the right to a particular type of reserved seat if it meets the legal census of 0.35%, where others have the right to participate in seat allocation if they meet the legal census of 0.7%; lists that are not determined as minority lists must meet the legal threshold of 3%). These possible scenarios are not legally regulated. In practice, cases of mixed coalitions were not reported, so there wasn't a problem regarding the interpretation of their status.

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

Number of MPs	Electoral system	Number of constituencies	Threshold	Electoral list type	Preferential vote	Electoral formula
81	List PR	1	3% 0,7% 0,35%	Closed Blocked	No	d'Hondt

Electoral Administration

Election management bodies (EMB) play a significant role in Montenegrin electoral system. Composition and jurisdiction of EMBs is regulated by the Law on Election of Councillors and Representatives. EMBs that carry out activities on preparation and organization of parliamentary elections are: the State Electoral Commission (SEC); Municipal Electoral Commissions (MEC) in 23 municipalities in Montenegro and polling boards (PB).

The most important authority of the electoral administration is the State Election Commission (SEC). State Election Commission is composed of: a president, a secretary and nine members of the standing composition and one authorized representative of the submitter of each electoral list. The novelty in this election process is that civil society organizations have their representative in the State Election Commission. In the course of the current election process, State Election Commission has held 21 sessions so far.

The public had a limited scope of information about the activities of the SEC. During the most important part of the electoral process, interested audience could not find relevant information on the implementation of the electoral process on the SEC website. The SEC rejected the proposal of the member representing the civil society to allow the presence of media at meetings, by a majority vote during the session when SEC decided on the implementation of the provisions of the Law on Election of Councillors and Representatives in segments regarding the identification of voters by identity cards. In order for the election results to enjoy full integrity and be accepted

by all political subjects, it is essential that SEC takes independent, objective and transparent approach during the decision-making process. Opinion on the implementation of provisions of the Law was adopted by outvoting - which is not a good base for making future decisions during the electoral process and it casts doubt on the integrity of the decisions of the SEC. The State Election Commission did not provide regular and updated implementation of control of the Voters' list (VL). Lack of regular communication and coordination of activities between the Ministry of Internal Affairs and the SEC regarding the control of the VL marked the current course of the electoral process.

MECs have carried out activities in the past period in accordance with the Law on Election of Councillors and Representatives. The activities were predominantly focused on: the adoption of a decision on determining of the polling stations, making decisions on appointing of permanent PB members, communication with political subjects regarding the selection of the president, deputies and members of PB and other activities regarding the preparation of the electoral process. Some MECs have established a practice of visiting far and rural PSs in the preparatory phase of the electoral process, in order to verify the technical conditions for the conduction of elections (for example, electricity supply, lease of private houses, etc.).

Re-compositions of the political landscape in numerous municipalities affected the creation of problems regarding constituting MECs. Ulcinj MEC isn't constituted in compliance with the Law on the Election of Councillors and Representatives, considering that President and three members of MEC are representatives of four parties that form a current ruling coalition in Ulcinj Municipality, and only one member (representative of SNP) is the representative of the opposition.

MECs went through a training that was organized by the SEC. Training consisted of two parts: members of MECs were introduced with electoral legislation and rules regarding the implementation of the elections, and simulation of the voting process. We are indicating that MECs in municipalities where both elections (Parliamentary and Local elections) are being held at the same time (Andrijevica, Budva, Gusinje and Kotor) must pay special attention to organization of the election process and preparation of PBs, because their task during these elections is going to be more demanding compared to the other municipalities in Montenegro.

There will be more than 1 200 PBs in forthcoming parliamentary elections whose permanent membership will count more than 12 000 members and deputy members. Also, expanded composition of PBs may welcome authorized representatives of all 17 electoral lists, thus it is almost certain that authorities of the EMBs will count more than 20 000 members.

Registration of Voters

The Law on Electoral Register prescribes that the ER is an electronic corpus of personal data of Montenegrin citizens who have the right to vote. Furthermore, ER is a public document that can be used only during elections ex officio. In accordance with newly passed provisions of the Law on Electoral Register, the ER is conducted by the Ministry in charge – the Ministry of Internal Affairs (MIA). ER is created as a new database that is taken out of civil registers conducted by the MIA in the procedure that requires consolidation and “interference” of data from registers in order to get corpus of personal data of Montenegrin citizens that have the right to vote.

MIA established a Coordinating Body on July 5th 2016 in order to monitor the process of implementation of electoral legislation, raise trust in the election process and create conditions in order to hold free and fair elections. Its institutional capacity has been disrupted from the beginning, due to refusal of the ruling coalition members to participate in the process. Also, lack of support for the work of this Body by certain offices of MIA, who are responsible for providing of data regarding the ER was evident.

MIA has obeyed the Article 17 of the Law and published numerical tabular overview of data about changes that occurred in the ER in total and in each municipality compared to the ER that was used for 2013 Presidential Elections. According to the current tabular overview, there are 530 840 of voters in the ER of Montenegro. ER from Presidential elections is increased by around 19 000 voters.

The MIA informed the public that during the process of preparation of the ER a change in the PSs for more than 120,000 voters has occurred. This data is concerning, bearing in mind the fact that the MIA has not yet been able to inform all voters about the change in their PS. MIA has opened a free phone line and a call centre to inform voters about the changes in the ER.

The total number of polling stations is still unknown. All MECs adopted a decision on determining the PSs on time. However, due to a number of voters without an assigned PS, the MIA proposed that MECs adopt new decisions to determine the PSs for 12 municipalities: Andrijevisa, Bar, Berane, Budva, Cetinje, Herceg Novi, Kotor, Niksic, Plav, Podgorica, Rozaje and Ulcinj; in the later stage of the electoral process (just before the expiry of the legal deadline for the adoption of such decisions). Some of these MECs have issued a new decision regarding the determination of the PSs at the proposal of the MIA after the legal deadline, which states that the PSs are determined no later than 20 days before the Election Day (MEC Podgorica, MEC Berane). Changes related to PSs compared to the previous election cycle are a result of the adoption of new street names across all municipalities in Montenegro, which as such are named in a newly centralized ER. Modifications of PSs, in terms of adding new polling stations, revision of the old names of PSs, etc. are a result of movement of voters from one to another PS, causing some PSs to have more voters than what is legally allowed (max. 1000). CeMI has

determined by the control of the ER on September 28th that 5 PSs were not constituted in accordance with the Law on Election of Councillors and Representatives - with more than 1,000 registered voters. These are the PSs in Bar, Budva, Kotor, Podgorica and Ulcinj.

Registration of Electoral Lists

President of Montenegro Filip Vujanovic made a Decision to call for the Elections for Representatives in the Parliament of Montenegro on July 11th 2012, when legal deadlines for implementation of activities of the election process started. In accordance with deadlines determined by law, submitting of the electoral lists to the State Election Commission started on August 1st and it ended on September 20th. Provision of Article 43 Paragraph 1 of Law on the Election of the Councilors and Representatives issued that the electoral list for the election of Representatives is being determined if at least 0.8% of voters support the list with their signature. The signature of 4091 voters was necessary for confirming of the electoral list during this electoral cycle. Provision of Article 43 Paragraph 2 of Law on the Election on Councilors and Representatives issued that political parties, or groups of citizens who represent a minority group, or community need a minimum of 1000 voters' signatures in order for their electoral list to be confirmed.

Procedure of proclamation of electoral lists was marked by political parties collecting signatures to support electoral lists. The SEC has not been able to determine the authenticity of signatures of support of the electoral lists, which jeopardized the process of verification of electoral lists. CeMI expresses serious doubts that some political parties have provided the formal requirements for participation in the parliamentary elections by misusing personal data of citizens and fabrication of signatures.

SEC has determined the following order of electoral lists on the consolidated electoral list by drawing lots, on September 25th 2016:

1. Albanci odlučno FORCA-DUA-AA SHQIPTARËT TË VENDOSUR FORCA-UDSH-ASH
2. SDP – Ranko Krivokapić – Država svima
3. Albanska koalicija „Sa jednim ciljem“ DP, GI, DS u CG i Perspektiva Koalicioni Shqiptar „ME NJË QËLLIM“ DP-IQ-LD në MZ dhe Perspektiva
4. Alternativa Crne Gora
5. Pozitivna Crna Gora – Darko Pajović – Jer volim Crnu Goru
6. Sigurnim korakom! DPS - Milo Đukanović
7. Hrvatska građanska inicijativa – HGI od srca
8. Mr Aleksa Bečić – Demokrate – Pobjede, a ne podjele
9. „Velika koalicija – Ključ – DEMOS, SNP, URA – Najbolje za Crnu Goru“
10. Srpska stranka – prof dr Milovan Živković

11. Stranka penzionera, invalida i socijalne pravde Crne Gore – dr Smajo Šabotić „Za bolji standard penzionera i razvoj sjevera Crne Gore“
12. „Lista Demokratskog saveza Albanaca - Lista e Lidhjes Demokratike të Shqiptarëve“
13. „Demokratski front – Mi ili on“ - (Nova srpska demokratija, Pokret za promjene, Demokratska narodna partija Crne Gore, Radnička partija, Demokratska srpska stranka, Pokret za Pljevlja, Srpska radikalna stranka, Jugoslovenska komunistička partija Crne Gore, Partija udruženih penzionera i invalida Crne Gore i Grupa birača – Otpor beznađu)
14. Bošnjačka stranka – Rafet Husović – Naša snaga
15. Bošnjačka demokratska zajednica u Crnoj Gori – Hazbija Kalač
16. „Socijaldemokrate Crne Gore – Ivan Brajović – Dosljedno“
17. Stranka srpskih radikala – „Crnu Goru u sigurne ruke“

For local elections, following electoral lists were confirmed:

ANDRIJEVICA

1. Demokratska partija socijalista
2. Socijalistička narodna partija
3. Demokratski front
4. DEMOS
5. Socijaldemokratska partija
6. Socijaldemokrate Crne Gore
7. Pozitivna Crna Gora

BUDVA

1. Koalicija “Bura budi Budvu” – SNP-DEMOS
2. Budva sigurnim korakom! DPS – Milo Đukanović
3. Crnogorska demokratska unija: Volimo Budvu! – Dragan Purko Ivančević
4. Grupa birača “Uzdignimo Budvu” – Radimir Glendža
5. Građanska akcija – Vujičić dr Božidar
6. Mr Aleksa Bečić – Demokrate – Pobjede, a ne podjele
7. Koalicija Budva mora!
8. Pozitivna Crna Gora – Miloš Bato Vukčević
9. Demokratski front – Budva ili on
10. Socijaldemokrate Crne Gore – Žarko Radulović – Dosljedno za Budvu

GUSINJE

1. Demokratska partija socijalista
2. Socijalistička narodna partija
3. Socijaldemokrate Crne Gore
4. Partija za Gusinje

5. Socijaldemokratska partija
6. Bošnjačka stranka
7. Demokratski savez Crne Gore
8. Koalicija demokratska unija Albanaca
9. Albanska alijansa

KOTOR

1. URA - Sačuvajmo Kotor
2. Bokeljski, crnogorski, evropski Kotor može bolje – Andrija Pura Popović
3. DEMOS - Vratimo Kotoru dostojanstvo
4. "Za bolji Kotor" - HGI od srca
5. Nama možete vjerovati. SNP – Dr Branko Baćo Ivanović
6. Stranka srpskih radikala – Crnu Goru u sigurne ruke
7. "SDP-Ranko Krivokapić – Kotor svima
8. Mr Aleksa Bečić – Demokrate – Pobjede, a ne podjele
9. Pozitivna Crne Gora – Marko Kampe
10. Kotor sigurnim korakom! DPS-Milo Đukanović
11. Socijaldemokrate Crne Gore - dr Andrija Lompar

Election Campaign

Political campaign started on July 11th 2016, in accordance with Article 2 of the Law on Financing of Political Entities and Electoral Campaigns according to which the electoral campaign represents a corpus of activities of a political subject from the day of calling of elections until the day of announcing final results of elections. What is specific about these Parliamentary elections is that majority of political entities have participated in the electoral campaign before the confirmation of their electoral lists, where some political parties started campaigning even before submitting their electoral lists of candidates for MP positions.

CeMI believes that the pre-electoral period has been characterised by a very intensive campaign of political entities so far and in some segments, it has been even more aggressive compared to previous electoral cycles. Negative campaign between Democratic Front and DPS has marked the electoral process so far.

Democratic front (DF) has officially opened the electoral campaign on September 5th on a political event in Niksic, under the slogan "For working Montenegro" (*Montenegrin: Da radi Crna Gora*), while the Democratic Party of Socialists (DPS) started campaigning on September 12th in Cetinje, under the slogan "With sure step" (*Montenegrin: Sigurnim korakom*). These two

political entities use almost all techniques of promoting their pre-electoral programs: gatherings, audio-visual marketing, billboards, disseminating propaganda materials and direct contact with voters in the field. Billboards and audio-visual marketing are present in other participants' electoral campaign, while the door-to-door campaign is especially noticeable in the campaign of Democratic Montenegro.

Unlike the 2012 Parliamentary elections, when new form of communication with voters was introduced – web portals played a significant role in the level of audience and visits compared to the other media, this electoral process had an increased level of activities of political parties in the campaign via social networks and media, where political parties dominantly use the option of sponsorship of their posts in order to get to larger number of voters. This way of communication, with the lack of control and regulation that exists in other media, leaves enough space for expressing views and opinions that conflict with principles of religious and national tolerance, respect of differences, democracy and dignity.

During the pre-electoral campaign, there was a significant violation of the principles of professional ethics and fair behaviour of political subjects by some parties. Negative campaign on both sides is perceived by the Democratic Front towards the Democratic Party of Socialists, and vice versa. Besides the DPS, the DF has, at the beginning of their campaign, conducted a negative campaign towards the leaders of DEMOS too; while DPS's negative campaign was noticed towards the Democratic Montenegro. Negative campaign between these two subjects has often contained elements of violence at the local level.

Democratic Front sent a message to many users of mobile networks in Montenegro, with the following content: "Another Milo's scam is starting from destroyed Cetinje tonight. Us or him!" (*Loc: S uništenog Cetinja večeras kreće još jedna Milova prevara. Mi ili on!*), on the eve of the official opening of the election campaign of DPS in Cetinje. Local government in Cetinje and Tourist organization of this municipality organized a concert where a famous singer Zdravko Colic publicly promoted the campaign of the Democratic Party of Socialists, which represented an obvious abuse of public resources. According to CEMI observers' report, which was received during the fieldwork in all municipalities in Montenegro, there are allegations of promotions of political propaganda by governing political parties at the local level, through the activities of ruling local political parties through infrastructure projects, employment of citizens at public institutions on voluntary basis. In addition, political parties in certain municipalities consider that, at the local level, obstruction of their work is present in a way that the municipality does not provide space for their meetings, or does not respond to the demands of political parties for free access to the information.

Financing of the Election Campaign

The Agency for the Prevention of Corruption controls the implementation of the electoral legislation in the segments referring to the financing of political parties and election campaigns, according to Article 4 of the Law on Financing of Political Entities and Election Campaigns.

Election campaign financing is conducted from public and private sources. 1.9 million EUR from the state budget is foreseen for political parties to finance their campaigns, based on the Law on Financing Political Entities and Election Campaigns, which represents 0.25% of the total planned budget funds. These funds are allocated in such a way that the funds in the amount of 20% are distributed in equal amounts to political entities, within eight days from the deadline for submission of their electoral lists, while funds in the amount of 80% are distributed after elections – to political entities that won mandates, proportionally to the number of seats gained. For the 2016 Parliamentary elections, 17 electoral lists that have the right to receive budget funds for the campaign were confirmed, amounting to about 22,350 EUR each, which are to be paid no later than September 28th. Private sources of financing of the election campaign are donations of individuals and private legal entities, as well as non-cash donations. Agency for the Prevention of Corruption is competent to supervise the implementation of this law.

Political entities are required to open a separate bank account for the purpose of raising funds to finance the costs of their election campaigns. During the course of the election campaign, political actors are bound to keep track and regularly update records on funds collected from private sources and the costs of the election campaign. All political entities are obliged to submit reports to the Agency every fifteen days. Agency for the Prevention of Corruption announced that the special bank accounts were opened by only five political entities: Democratic Montenegro, Democratic Party of Socialists, Positive Montenegro, the Social-Democratic Party and the Bosnian Party and that they submitted a fifteen day reports on contributions to the campaign. However, on the website of the Agency 15-day, only the reports of 3 political entities can be found: Democratic Montenegro, Democratic Party of Socialists and the Bosnian Party. Agency has initiated misdemeanour proceedings against the four political entities (the Democratic Front - DF, Coalition "Key", Montenegrin Democratic Union - CDU, the Social-Democrats of Montenegro - SD) because they did not fulfil their legal obligation to open a separate bank account and the obligation to submit reports to the Agency, although they are participating in the election campaign. It is important to point out that on the basis of Article 2 of the Law on Financing of Political Entities and Election Campaigns, **the election campaign is a set of activities of political parties from the date of announcement of the elections until the day of the proclamation of the final results of the elections, while the same article listed political entities, namely: political parties, coalitions, groups of voters and candidates for the elections for the President of Montenegro.** Therefore, there is no provision on the commencement of the campaign on the day of the confirmation of the electoral list, nor does the

Agency monitor the funding of confirmed electoral list, but the financing of campaigns of all political entities.

The absence of a clear deadline for the opening of a special bank account leads to arbitrary interpretations of the provisions of this law. It is extremely important that this part of the financing of political entities is transparent, that citizens are aware about who and how is financing political entities' campaign. Currently it is very difficult to control the sources of such funds and how they are being spent, which allows for a large number of speculations and misuses. The situation in which less than one third of confirmed electoral lists respect this legal obligation is worrying.

In addition to these established legal obligations, political entities have the obligation to provide a full report on the funds collected and spent for their election campaign to the Agency, with supporting accounting documents, in order to obtain the remaining 80% of their budgets on the basis of the number of mandates won. Only at that point we should have a clear picture of campaign financing costs and incomes of relevant political parties, if a political entity did not open a separate bank account during the election campaign. These ambiguities in the law make its implementation absurd, if we take into consideration that the political entities open a special bank accounts 20 days before the E-day, while they pursue an active campaign before that.

The Agency should have a more proactive role when it comes to supervision of the implementation of the Law and thus prevent its arbitrary interpretation.

Media

Constitution of Montenegro guarantees freedom of expression, freedom of press and access to information, whereas the censorship is prohibited. Law on Election of Councillors and Representatives provides in Article 6 that voters have the right to be informed about the electoral programs and activities of the submitters of the electoral lists through media, as well as about the candidates on electoral lists. Media are obliged to consistently apply the principle of equality of all submitters of electoral lists and candidates from these lists.

According to the Law on Election of Councillors and Representatives, Radio Television of Montenegro (*Loc: RTCG*), regional and local public broadcasters are obliged to, at the time of the election campaign, in the framework of political-informative program, as well as during precise blocks of political marketing, whose audibility and visibility is provided on the whole territory of Montenegro, or local government, every day, in the same duration and at the same time ensure free and fair presentation of the submitters of confirmed electoral lists, as well as presentation and explanation of their electoral programs. Electoral lists are entitled to, in accordance with the Law and during the electoral campaign, perform marketing promotion of

their candidates and programs and publish announcements of their promotional meetings, in programs or sections and ad placements of commercial broadcasters, for a fee in accordance with the rules adopted by the broadcaster. According to the Law on Election of Councillors and Representatives, commercial broadcasters are obliged to provide paid advertising to submitters of confirmed electoral lists, under equal conditions.

Most public broadcasters adopted rules on representation of electoral lists, on the basis of the obligations stipulated by the Law on Election of Councillors and Representatives. However, the Agency for Electronic Media (AEM) received complaints by representatives of submitters of the electoral lists regarding the existence of a dilemma related to the realization of the right for free broadcasting of advertisements and announcements of meetings, as well as the right to paid electoral advertisements, and the inconsistent implementations of these provisions, or even breach of these.

The Parliament of Montenegro established the Committee for monitoring of the implementation of the Law on Election of Councillors and Representatives in the part referring to the media, which considers objections to the conduct of media during the election campaign and it forwards them to the AEM. AEM has so far received about 70 complaints based on the procedures established by the Law on Electronic Media. AEM's Sector for monitoring records all electronic TV shows in Montenegro, so that AEM, if necessary could respond to the broadcasted content, by asking the broadcaster to explain it. Based on these legal provisions, the Committee discussed the issue of treatment of AEM towards Atlas TV, regarding the broadcasting of the music video of the Democratic Front, which is perceived as offensive by some members of AEM. According to the Article 85 of the Law on Electronic Media, 1) violation of human dignity, and 2) unauthorized use of a trademark, or any logo used by the competitor using audio-visual commercial marketing is prohibited. However, the category of political marketing is not recognized within the Law, but only the commercial marketing, which increases the confusion regarding the implementation of legal norms for such segments of the election campaign. On the other hand, it is important to note that the AEM, on the basis of Article 139 of the Law on Electronic Media, has the right to order to the broadcaster to stop prohibited broadcasting of political ads and that the broadcasters are, on the basis of Article 5 of the Rules on program standards in the electronic media, responsible for all published content, regardless of their origin.

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