



Doc. 11037
2 October 2006

Observation of the Parliamentary elections in the Republic of Montenegro (10 September 2006)

Report

Ad hoc Committee of the Bureau of the Assembly

Rapporteur: Mr Jean-Charles Gardetto (Monaco, Group of the European People's Party)

The parliamentary elections held in Montenegro on 10 September 2006 were largely conducted in accordance with the standards of the Council of Europe, and with the other international standards for democratic elections. They confirmed Montenegro's commitment to democracy and the principles of the Council of Europe, of which Montenegro hopes very soon to become a member. However, stable election law is a key aspect of any democratic electoral process. Recent changes to the law, after the elections had been called, are therefore regrettable. Furthermore, the newly elected parliament will have to deal with the recurrent shortcomings of the Election Law.

I. Introduction

1. Mr Ranko Krivokapic, President of the Parliament of Montenegro, in his letter of 22 June 2006, invited the Parliamentary Assembly to observe the parliamentary elections in his country, the date of which was to be set subsequently. At its meeting of 30 June 2006, the Bureau of the Assembly set up an *ad hoc* Committee to observe these elections. On 11 July, the President of Montenegro decided to hold the parliamentary elections on 10 September 2006. After this date had been communicated to the Bureau of the Assembly, at its meeting of 6 September 2006, approved the membership of the *ad hoc* Committee, and I was appointed to chair that committee.

2. Following proposals by the Assembly's political groups, the *ad hoc* Committee was composed as follows:

Socialist Group (SOC)

Mr Kastriot ISLAMI

Albania

Group of the European People's Party (EPP/CD)

Mr Aleksander BIBERAJ

Albania

Mr Jean-Charles GARDETTO

Monaco

Mr Oskars KASTĒNS

Latvia

Alliance of Liberals and Democrats for Europe (ALDE)

Mr Bernard MARQUET

Monaco

European Democratic Group (EDG)

Mr Ruhi AÇIKGÖZ

Turkey

Mr Toomas ALATALU

Estonia

Mr Emmanuel ZINGERIS

Lithuania

Mrs Ewa TOMASZEWSKA

Poland

Venice Commission

Mr Peter PACZOLAY, Hungary

Mr Gaël MARTIN-MICALLEF, administrator

Secretariat

Mr Bas KLEIN, Deputy to the head of the secretariat of the interparliamentary co-operation and election observation unit

Mr Chemavon CHAHBAZIAN, Administrator

3. The *ad hoc* Committee operated within the framework of the International Election Observation Mission (IEOM), which was also made up of the election observation missions of the Parliamentary Assembly of the Organisation for Security and Co-operation in Europe (OSCE PA) and of the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

4. The *ad hoc* Committee met in Podgorica from 8 to 12 September 2006 and held, inter alia, meetings with representatives of all political parties and the coalitions taking part in the elections, the President of the Republican Election Commission (REC), the head of the OSCE/ODIHR election observation mission, as well as representatives of the NGOs widely present as domestic observers and representatives of the media. Under the *ad hoc* Committee's work programme, the head of the PACE delegation had discussions with Mr Filip Vujanovic, President of Montenegro, Mr Ranko Krivokapic, President of the Parliament of Montenegro, Mr Milo Djukanovic, Prime Minister of Montenegro, Mr Miodrag Vlahovic, Minister for Foreign Affairs of Montenegro, Mr Ratko Vukotich, President of the Supreme Court of Montenegro, and Mr Mladen Vukcevic, President of the Constitutional Court of Montenegro. The programme of the *ad hoc* Committee's meetings is at Appendix 1.

5. On election day, the *ad hoc* Committee was divided into seven teams and observed the elections in the capital, Podgorica, and in the various regions of Montenegro.

6. The IEOM concluded that the parliamentary elections held in Montenegro on 10 September 2006 were generally conducted in accordance with OSCE commitments and Council of Europe standards for democratic elections. A number of recurrent problems nevertheless remained to be dealt with, especially in connection with the Election Law and its implementation. Stable election law is a key aspect of any democratic electoral process. Recent changes to the law, after the elections had been called, were therefore regrettable. The joint declaration is in Appendix 2.

7. The *ad hoc* Committee wishes to thank the OSCE/ODIHR election observation mission and the head and staff of the Council of Europe office in Podgorica for their co-operation and for the support they gave to the *ad hoc* Committee.

II. Legal and political context

8. On 11 July 2006, Mr Filip Vujanovic, President of the Republic of Montenegro, having consulted the main political parties, signed the decree on the holding of parliamentary elections on 10 September 2006 (Article 88 of the Constitution of Montenegro).

9. The representatives of the opposition political parties complained that, consultations with them notwithstanding, their views concerning the date of the elections had not been taken into consideration. They said that the election campaign was very short and coincided with the summer holiday period.

10. From the legal viewpoint, the spirit of the Election Law had been respected. Article 14 of the law states that no fewer than 60 and no more than 100 days are to elapse between the date on which the decision to call elections is taken and the date of the ballot. The period between 11 July and 10 September was 61 days. However, the brevity of this period affected political parties' opportunity to conduct an appropriate election campaign and to mobilise their activists, as it was summertime.

11. Furthermore, the parliamentary elections of 10 September in Montenegro took place only 100 days after the referendum on the country's independence, and the election campaign may be regarded as having taken place in the post-referendum period. In this period a restructuring of the political spectrum took place, mostly among the parties that had been in favour of the Union with Serbia.

12. Twelve party and coalition lists were registered to contest the 81 seats in the Montenegro Parliament: the DPS/SDP Coalition for a European Montenegro, the Alliance of Communists of Yugoslavia and Communists of Montenegro, the Serb List, the Coalition of the Democratic League of Montenegro, the Democratic Party of Montenegro, the Albanian Alternative, the SNP/NS/DSS coalition, the New Democratic Power – Forca, the PL/PB coalition, the Movement for Change (PzP), the Democratic Union of Albanians and the Civic List.

13. Legislative authority in the Republic of Montenegro is vested in a single-chamber parliament elected for a four-year term. The law states that one member of parliament is to be elected to represent every 6,000 voters (Article 3). 747 candidates were registered on the twelve election lists to contest the 81 seats, of which 76 are allocated on the basis of the results from all polling stations in Montenegro. The other five are allocated on the basis of the results from the 70 polling stations in areas where voters from the Albanian minority live. In order to be eligible for one of the 76 seats, a candidate must obtain at least 3% of all the votes. The same threshold applies to the five seats allocated at the 70 polling stations specially designated for the Albanian minority.

14. Parliament amended the Election Law on 28 July 2006, which was 17 days after the elections had been called by the President of Montenegro, and a very short time before the elections themselves. According to widely accepted international practice, the body of election legislation should not be amended once elections have been called, unless these amendments clarify existing provisions and are broadly accepted by the majority of parties. The amendments to the Election Law made on 28 July 2006 manifestly failed to fit these criteria, and the *ad hoc* Committee regrets that they were adopted.

15. The amendments of 28 July 2006 related to the following points: restrictions on freedom of expression, conflicting with Council of Europe standards; prohibition of speech that is offensive, slanderous or in breach of the principles of decency (an amendment worded too loosely and therefore likely to entail restrictions on freedom of expression); an increase from 7 to 10 days in the length of time during which opinion polls relating to election results may not be published, coupled with prohibition of the publication of preliminary or estimated results in the first three hours after the polls close. The Constitutional Court ruled on 1 September that this last-mentioned provision was unconstitutional.

16. On 28 June 2006, the Constitutional Court also ruled unconstitutional the method of distribution of the public election campaign funds allocated to the lists taking part in the elections, on the grounds that it gave an advantage to the parties already represented in parliament. The original distribution method limited candidates' resources, an effect aggravated by the government's announcement in July that campaign funds from the state budget would not be made available to the political parties.

17. However, the Minister of Finance subsequently announced that a total of € 205,000 would be divided equally between the twelve lists. This decision is in accordance with the provisions of the law on the financing of political parties, which states that 10% of the funds allocated for campaigns should be equally shared out. There remains a doubt, however, as to the funds which would be available after the elections. Although the amount distributed slightly increased the competing lists' financial resources, the statutory limit on the expenditure of private campaign funds to 40% of the public fund may have hindered the campaigning of the participating lists which confined their expenditure to the limits laid down by law.

18. Restrictions were also imposed by Montenegro's public radio and television service (RTCG) on freedom of access for the lists taking part in the elections. Although the Election Law stipulates, *inter alia*, that all lists are to be given equal access to the media, RTCG published a rule on 27 July according to which free access to its public broadcasting service would be on a proportional basis, depending on the party's level of representation in parliament, an arrangement which the observation mission does not consider fair. This approach on the part of the RTCG tended to penalise the political parties not represented in parliament, and is in contravention of the Election Law.

19. The opposition parties also criticised the president of the RTCG for taking part in a pre-election demonstration by the government coalition, casting doubt on his impartiality and neutrality as head of a public body.

20. The PACE *ad hoc* Committee considers that the system for the allocation of seats to the lists of political parties throws up some questions. The Election Law requires only half the seats won by a party or a coalition to be allocated according to the order of names indicated on its list. The party is thus free to allocate the remaining seats to any other candidates appearing on its list.

This provision inhibits transparency and could be deceptive for voters who cannot be sure which candidates they are voting for. Previous election observation missions have repeatedly drawn these provisions to the attention of the authorities and political parties in Montenegro. While parliament has had almost ten years to rectify the problem, this provision has not been removed from the law.

III. Administration of the elections

21. Legislative elections are organised by a three-tier election administration comprising the Republican Election Commission (REC), 21 Municipal Election Commissions (MECs) and 1,130 Polling Boards (PBs). REC and MEC members are appointed by parliament and municipal assemblies respectively for a four-year term. Polling Board members are appointed for each election.

22. The REC worked transparently and openly, and its meetings were open to international and local observers. The deadline for changes to voter registers was 30 August, and on 1 September the REC made a public announcement that the electorate totalled 484,430 for the elections of 10 September 2006.

23. It should not be forgotten that, at the previous elections, and especially during the referendum campaign, one of the crucial questions had been that of the voter registers. Thanks to the outstanding work done beforehand, the problem of voter register reliability was solved for these elections.

IV. The pre-election period

24. Generally speaking, the campaign took place in a calm atmosphere, without violence, and was less intense than the independence referendum campaign had been.

25. The passive nature of the campaign, at least in its early stages, is attributable to the following factors: the election date just after the summer holidays, the short duration of the campaign, voter fatigue after the long and intense referendum campaign, and the limited funds which shaped campaign strategy, especially for the opposition parties.

26. Among the noteworthy positive elements of the election campaign are the fact that national minorities issues were not at the heart of the debate, as they had been at the time of the previous

elections, and the fact that, this time, the Serb Orthodox church refrained from intervening in the campaign as it had during the independence referendum campaign.

27. The pre-election period was dominated by the following issues: economic development and foreign investment, the social situation and unemployment, modernisation of state institutions and the fight against corruption, and European integration and European standards.

28. While the governing DPS/SDP coalition highlighted Montenegro's independence, international recognition and prospects for European integration, the opposition parties, on the other hand, criticised economic policy, inequalities, corruption and instances of authoritarianism.

29. Tension began to rise during the final fortnight of the campaign. The opposition claims that the authorities brought pressure to bear on its leaders and sympathisers. Very early in the morning of 7 September, Mr Medojevic, leader of the Movement for Change (PzP), was summoned by the Podgorica police because of an anonymous letter accusing him of tax evasion. In a state governed by the rule of law, the competent bodies are entitled to investigate citizens if they have sufficient evidence, but questions arise about the manner and the timing of this action.

30. Another controversial matter was the recent transfer of 70 police officers to serve in other regions of Montenegro. According to opposition statements, this transfer was politically motivated by the position on maintenance of the union with Serbia that they had taken at the time of the independence referendum.

31. On 9 September, the day before the poll, the police organised raids in the area of Tuzi, inhabited by the Christian Albanian population. A number of people were detained, including two parliamentary candidates from the Albanian Alternative list. According to the police, acts of terrorism were being planned.

IV. Media

32. Media coverage of the election campaign was provided by 21 TV channels, five of them public, 55 radio stations, of which 16 were public, and a large number of print media outlets. Despite the calm and passive nature of the campaign, citizens did have the opportunity to receive the information they needed about the political parties and their programmes.

33. Generally speaking, according to the OSCE/ODIHR report on its observation of the media in Montenegro over the period 10 August to 9 September 2006, it may be noted that media coverage of the election campaign was disproportionately in favour of not only the government parties, but also the opposition parties represented in parliament.

34. Public channel TVCG1 devoted 43% of its news broadcasting to government activities, 19% to the DPS/SDP government coalition. The proportion of news coverage of the opposition parties was 9% for the SNP/NS/DSS, 5% for the Serb List, and 1% for the Party for Change (PzP).

35. The same tendencies were observed in private channels' media coverage. TV IN, for instance, devoted 37% of its news time to government activities, 22% to the DPS/SDP government coalition, and only 5% to the Serb List, 3% to the PzP and 10% to the SNP/NS/DSS coalition.

V. Election day – the counting of votes and working out of results

36. On the day of the ballot, voting operations took place in a calm and peaceful atmosphere. Citizens were able to cast their votes freely.

37. At a significant number of polling stations, i.e. 8% of those visited, relatively high numbers of group votes were observed.

38. In the area of Tuzi, where Albanian minority voters live, fourteen people were arrested. On election day, *ad hoc* Committee members noted a greater police presence in Tuzi's streets than in the other places visited, but at the time of their visit to the Tuzi polling stations, the situation was calm.

39. The counting of votes generally took place in an orderly fashion, without incident.
40. The *ad hoc* Committee especially welcomes the presence of domestic observers at practically every polling station on election day, doubtless leading to greater transparency in the conduct of the poll and the counting of the votes.
41. The committee particularly welcomes the atmosphere of tolerance and mutual respect that prevailed in practically all the polling stations visited.
42. It emphasises the fairly high turnout. According to the preliminary results published by the REC on 12 September 2006, the turnout was 71.37%. The DPS/SDP Coalition for a European Montenegro won 41 seats, the Serb List 12, the SNP/NS/DSS coalition 11, the Movement for Change (PzP) 11, the PL/PB coalition 3, the Coalition of the Democratic League of Montenegro 1, the Albanian Alternative 1, and the Democratic Union of Albanians 1.

VI. Conclusions and recommendations

43. The *ad hoc* Committee concludes that the parliamentary elections held in Montenegro on 10 September 2006 were largely conducted in accordance with the standards of the Council of Europe and with the other international standards applicable to democratic elections.
44. The elections confirmed Montenegro's commitment to democracy and the principles of the Council of Europe, of which Montenegro hopes very soon to become a member.
45. The *ad hoc* Committee welcomes the pluralism and freedom of expression that prevailed in the media of Montenegro during the election campaign. It nevertheless regrets that media coverage was not, generally speaking, balanced, as had already been the case at the time of the referendum. In contravention of the law, for example, the RTCG radio and television service had for these latest elections provided the political parties with proportional, and not equal, access to its TV channel.
46. Stable election law is a key aspect of any democratic electoral process. The changes made to the law on 28 July 2006, after the elections had been called, are therefore regrettable.
47. Changes to the order of candidates on proportional lists after the closure of the polls contravene the Council of Europe's standards in respect of democratic elections and need to be expressly prohibited by the Election Law.
48. The *ad hoc* Committee takes the view that the Parliament of Montenegro should give in-depth thought to the country's election legislation, drawing on the expertise of the Council of Europe's Venice Commission.
49. Changes to the Election Law should be considered in conjunction with the preparation of the new Constitution of Montenegro, which the newly elected parliament is to draft. In this respect, the *ad hoc* Committee invites the authorities of Montenegro to favour co-operation with the Council of Europe's Venice Commission.

APPENDIX 1

**AD HOC COMMITTEE TO OBSERVE THE PARLIAMENTARY ELECTIONS IN
THE REPUBLIC OF MONTENEGRO
(10 September 2006)**

PRELIMINARY DRAFT PROGRAMME

Thursday, 7 September 2006

Arrival of the members of the *ad hoc* Committee

All members will be met at the airport and provided with transport to the hotel of their choice:

Hotel Crna Gora
Nemanjina Obala 11 street,
Podgorica
Phone: +381 (0)81 634-521

or

Hotel Podgorica
Bulevar Lenjina 1.
Podgorica
Tel: +381 (0) 81 242-050

Friday, 8 September 2006

Crna Gora Hotel

15:00 *Ad hoc* Committee meeting

Joint Briefing programme

16:00 Welcome by Heads of Delegations

16:30 Briefing by the OSCE/ODIHR EOM Core team (till 18:30)

Saturday, 9 September 2006

Crna Gora Hotel

Joint Briefing programme (cont.)

09:00 Political Analysis by the Heads of the OSC, Council of Europe and EU Monitoring Missions in Podgorica.

10:00 Meeting with the Chairman of the CEC

10:45 Coffee Break

11:00 Meetings with parties (45 minutes for each coalition)

- Coalition DPS/SDP
- Coalition SNP/PP/DSP

12:30 Lunch

14:00 Meetings with parties continued (30 minutes for each individual party)

- Liberal Party
- Civic Party
- Movement for Changes

15:30 Meetings with Domestic Observers

16:15 Meetings with Mass Media Representatives

17:00 Meetings with drivers and interpreters

Sunday, 10 September 2006

Observation of the Parliamentary Elections

Monday, 11 September 2006

Crna Gora Hotel

09:00 Debriefing

14:00 Joint Press Conference (TBC)

Afternoon

Departure of the members of the *ad hoc* Committee

Tuesday, 12 September 2006

Departure of the members of the *ad hoc* Committee (continued)

APPENDIX 2

Montenegrin elections largely in line with international standards but re-emerging challenges remain

PODGORICA, 11 September 2006 - The parliamentary elections in Montenegro on 10 September were held largely in line with OSCE commitments and Council of Europe standards for democratic elections. However a number of reappearing challenges remain to be addressed, concluded the International Election Observation Mission in a statement in Podgorica today. Some 200 observers from 41 countries monitored the vote and the count.

"The people of the world's newest country can be proud that their first elections since gaining independence meet international electoral standards. We look forward to working with our Montenegrin parliamentary colleagues and overcoming remaining challenges", said João Soares, Head of the OSCE Parliamentary Assembly Delegation and Special Co-ordinator for the short-term observers, appointed by the OSCE Chairman-in-Office.

Jean-Charles Gardetto, Head of Delegation of the Council of Europe Parliamentary Assembly, said: "These elections confirmed Montenegro's commitment to democracy and the principles of the Council of Europe, which Montenegro hopes to join in the very near future. However, stable election law is a key aspect of a democratic process. The recent changes to the law, after the elections were called, are therefore regrettable."

Jørgen Grunnet, who heads the long-term mission of the OSCE Office for Democratic Institutions and Human Rights, reiterated the need to address remaining and more importantly, re-emerging challenges to an overall well administered elections. "This is simply a question of getting rid of bad habits", he said.

The campaign was for the most part calm, orderly and low-key, but the campaign climate deteriorated during the last days. Opposition candidates complained of undue pressure on voters and candidates. Allegations of vote buying, of which one was substantiated, tainted the campaign environment. A diverse media covered the campaign thoroughly, but broadcasters, including public television, concentrated their coverage on the ruling parties.

The legal framework provides an adequate basis for the conduct of elections, but contrary to international standards and practice, the Election Law was amended after the elections were called. Some of the amendments include limitations on freedom of speech and expression. Furthermore, the mandate allocation is not fully transparent, as it only requires parties to allocate half of the seats according to the order of candidates on the electoral list.

Election day was assessed positively in 98 per cent of polling stations visited. Counting was assessed less positively, with 8 per cent characterized negatively, mainly due to procedural irregularities, indicating that further training of polling board members is needed.

For further information contact:

Urdur Gunnarsdottir, OSCE/ODIHR: +48 603 683 122, +381 67 323 853,

urdur.gunnarsdottir@odihr.pl

Andreas Baker, OSCE Parliamentary Assembly: +45 6010 8030, andreas.baker@oscepa.dk

Bas Klein, Parliamentary Assembly of the Council of Europe: +33 662 265 489, bas.klein@coe.int