

**PRELIMINARY REPORT
15 October 2012**

Prodgorica, Montenegro: The Committee for Open Democracy initiated a short term observer mission in Montenegro, regarding the pre-term parliamentary elections, on the invitation from the Ministry of Foreign Affairs and European Integration. Our activities including intensive interviews with civil society organizations, representatives of the media, other domestic and international observer groups, all major parties/coalitions that participated in these elections and the State Election Commission (SEC). We wish to express our thanks to all co-operating parties that assisted us in fulfilling our mandate, including the Ministry of Foreign Affairs and the citizens of Montenegro. The Committee for Open Democracy was proud to be the second largest international observer mission in the country for the November Parliamentary elections.

Based on its observations, the Committee for Open Democracy has concluded that the results of the pre-term parliamentary elections conducted in Montenegro on 14 October 2012 represented the will of its citizens and on balance, with the exception of the matters noted below, occurred in a free and fair manner. The elections resulted in a minority government with the following breakdown:

- European Montenegro Coalition – 39 seats
- Democratic Front Coalition – 20 seats
- Socialist People’s Party – 9 seats
- Positive Montenegro – 7 seats
- Bosnjak Party – 3 seats
- Croatian Civic Initiative – 1 seat
- Albanian Coalition – 1 seat
- New Democratic Force – 1 seat

Election Day Observations

Part of this mission concentrated on the investigation of complaints received on Election Day (E-day). In this regard we received the following types of complaints:

- Continued concern with the accuracy of Voter Lists;
- Allegations that the campaigning ‘silence period’ was not observed;
- Reports that the identification cards and passports of citizens were temporarily ‘purchased’ to eliminate the vote of these citizens;
- Procedural irregularities at some Polling Boards (PBs); and
- Concerns with the conduct of an Exit Poll on E-day.

Our Mission attempted to investigate all of the above complaints with the following results.

I. Voter Lists

Regarding Voter Lists, we received a list of alleged errors and made a concerted effort to check these errors on E-day. At the PBs we sampled, we found that the allegations were not substantiated with the exception of 2 cases. In addition, we noted that the total number of eligible voters on the Voters List closely matched the expected number of eligible voters based on the recent census data collected in 2011 (when subtracting those under the age of 18). Also, the reported high national turnout of voters on E-day, which was in excess of 70% at the time of this report, would lead us to believe that the Voter Lists were not highly inflated with ineligible voters. We also note that the

political parties were not able to provide us with specific examples of Voter List irregularities, despite the fact that they had representatives at all or most polling stations on E-day. Nevertheless, because of the persistent complaints regarding the accuracy of Voter Lists we encourage the responsible authorities of government to address these issues in a more comprehensive and transparent manner prior to E-day, to help eliminate the belief of these inaccuracies.

In addition, arguably there would be some benefit in streamlining the preparation of the Voter Lists. Some are in favour of the current decentralized approach of preparing such lists, while others suggest that the process has become too cumbersome because of the involvement of so many government agencies. COD suggests that, as a minimum, an inter-agency task force (that includes other non-governmental parties) be set up to examine the pros and cons of establishing a national voter registry or, in the alternative, to seek other ways to streamline the process with clear lines of authority that would reconcile any apparent anomalies.

II. Silence Period

Regarding the alleged violation of the 'silence period', we received a complaint from one of the leading political parties that the anti-campaigning provision (Article 6.3) of Montenegro's election code, the *Law on Election of Councillors and Representatives* (the '*Law*'), was not respected. Besides their concern that the various outlets of the print and electronic media exhibited un-balanced and biased reporting in the pre-election period, they felt that news stories during the 'silence period' in the electronic media and the late editions (distributed close to or just prior to E-day) of printed newspapers and/or periodicals violated the *Law*. This is an interesting allegation because it involves the use of third parties, the media, as an instrument of the political parties.

Although it has been generally accepted that the major media outlets in Montenegro are either pro-ruling party or pro-opposition, these allegations must be tempered with the internationally accepted norms and benefits regarding the "freedom of the press". There is little doubt that the media plays a big role in formulating the opinions of the public; however, it is important to maintain a balance between the rights of political parties (regarding the 'silence period') and the rights of a free press.

There is no easy answer in this case and the allegations require an examination of the intent of the media concerned as to whether they were merely reporting a "news" story in a timely manner or whether they were politically motivated in releasing a story just prior to E-day. Usually, these matters and any such complaints are addressed through some 'self-governance body' of the media involved in regulating ethical standards and establishing a "Code of Conduct". We suggest that these complaints be brought to and investigated by such a governance organization in Montenegro and if no such organization currently exists, that one be created for such purposes.

III. Elimination of Voter Participation

COD received numerous first hand and second hand reports that identification (ID) cards and passports of citizens were *temporarily purchased*, so that they would not vote on E-day. Political parties engage in this practice to eliminate voting against their party; that is, they would give money to hold someone's ID and passport during E-day and then subsequently return them post E-day. Also some admitted that they knew individuals that had actually 'sold' their IDs in the past due to economic hardship or personal apathy towards politics and/or elections in general.

We received too many first hand reports of this nature (from those who had received such offers), not to believe that this practice exists. We feel these allegations are credible; however, none of the citizens that we spoke to were willing to come forward and lodge formal complaints for fear of reprisals. This makes actual proof difficult to obtain; nevertheless, a matter as important as this should be thoroughly investigated by the appropriate authorities on their own initiative.

IV. Procedural Irregularities

In the main, Polling Boards (PBs) conducted themselves in a correct, polite and professional manner; however, most of our Observers noted some irregularities, ranging from minor procedural issues to

more serious infractions. This includes the unexplained presence of unnumbered ballots and the lack of knowledge as to the proper use (if any) of such ballots, the presence and use of mobile phones by PB members and others in polling stations contrary to the *Law*, the identifiable marking of ballots especially in situations of mobile voting indicating possible vote buying, lack of knowledge at some PBs resulting in inconsistent practise, a surprising amount of voters turned away because they were at the wrong polling station among other suspicious occurrences.

One of the most notable incidents involved polling station 11 in Kotor, where the PB had turned away a minimum of 15 individuals because the names on the Voters List did not match their names on their IDs. In our opinion this was a correct decision by the PB and consistent with the *Law*. Nevertheless, the President of the Municipal Election Commission (MEC) in Kotor intervened on the behalf of 2 such individuals. Reportedly he threatened to close PB 11 if they did not reverse their decision instructing them to allow these individuals to vote. Subsequently, the PB did allow these individuals to vote. Compounding this situation was the report that several others, who had also been turned away at PB 11 for the same reason, were denied their request to be allowed to vote at PB 11 by the same MEC.

In our opinion, this represented an unequal treatment of voters and/or was an abuse of power by the MEC member(s) involved in this incident. In this situation, as a minimum, all those who were denied the opportunity to vote at PB 11 should have been given the same treatment by the MEC, or alternatively, the MEC should have uniformly upheld the original decision of the members of PB 11 in this matter.

V. Exit Polling on E-day

We believe that the use of exit polls on E-day is a legitimate activity that adds to the perception of credibility on whether elections were conducted in a fair and free manner. Nevertheless, we received several complaints on E-day that assigned pollsters had intercepted voters prior to them casting their votes, were too close to the entrance of the polling station and generally made voters feel intimidated. We were unable to either confirm or deny these concerns. Some of these complaints reflect a general lack of awareness with or misunderstanding of the legitimate use of exit polls. To avoid such concerns in the future, we encourage the SEC to establish rules/regulations regarding the use of exit polls and to publicize such rules well in advance of E-day. However, we wish to emphasise that such rules/regulations should not be so restrictive as to make exit polls impossible or impractical to conduct.

Pre E-day Campaign Observations

Many citizens complained that the real issues were not debated during the pre-election campaigning period. Montenegro currently has an anemic economy (including several plant/industry closures) due to various internal reasons. Additionally the country suffers from the same economic downturn experienced in the rest of Europe. Many political observers stated that the political debate had been based more on the negative characterization of other parties and that there was not enough discussion of party platforms or policy, especially regarding any ideas on reviving the economy.

Based on this commentary, one would assume greater voter apathy and a low voter turnout. Instead the opposite occurred. Some attribute this to the efforts of the political parties to “get out the vote”. This is a common practise in western democracies where political parties take special efforts to ensure that their identified supporters vote on E-day. However, the prevailing complaint by opposition parties was that this campaigning strategy was used primarily by the ruling coalition parties as an intimidation tool. They suggested that government employees and others were either threatened with a loss of their job or that it was suggested that they would miss an opportunity for career advancement or that there was some other hint of patronage consideration given to them. Nevertheless, we are not in a position to confirm or deny that the campaigning strategy “to get out the vote” was used illegitimately in Montenegro and the ruling coalition expressly denied to the Committee that they engaged in this tactic. However, it is easy to understand why some citizens not

used to this campaigning strategy would feel intimidated, even if it were used in a legitimate non-threatening manner.

On the other hand, the ruling coalition complained to us that they were the subject of a relentless unbalanced and defamatory smear campaign in the media. Without commentary as to whether this actually occurred or not, but recognizing that media is a powerful influence in forming public opinion – the Committee suggests that formal media monitoring in the pre-election campaigning period could help gauge whether this is the case or not in the future. Such media monitoring should be conducted by an impartial non-governmental civil society organization (NGO) to measure the amount of coverage and the tone used when reporting on political parties/coalitions. In addition, we have already suggested, earlier in this report, that media organizations should comply with a “Code of Conduct” to insure fairness in elections reporting.

Other Suggestions and Contact Information

The Committee for Open Democracy is an objective, not for profit organization that observes elections worldwide for adherence to internationally accepted democratic standards of fairness, reflecting the will of the voters. We seek to improve the electoral process pre and post elections and to this end would be prepared to participate in any forums and/or provide consultations on other suggestions we have as to how to improve electoral fairness in Montenegro. We do so primarily on the invitation of interested parties and may be contacted in this regard through the information listed on our web site at www.committeeforopendemocracy.org.

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