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ELECTION OBSERVATION DELEGATION TO THE PRESIDENTIAL ELECTIONS IN MONTENEGRO

(13 to 16 APRIL 2018)

Report by

Fabio Massimo CASTALDO, Head of the Delegation

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Introduction

On 7 March 2018, the Conference of Presidents (CoP) authorised the sending of an Election Observation Delegation to observe the presidential elections in Montenegro. This followed an invitation on 19 January 2018 from the Speaker of the Parliament of Montenegro.

Montenegro had been included in the list of priorities of the Democracy Support and Election Coordination Group (DEG) for observation of elections in the first half of 2018. The elections represented a key milestone for the restoration of confidence in the democratic path of the country after the deep political crisis and polarisation of 2015 and 2016 (see below). It was considered that the presence of the European Parliament would provide strong evidence of its commitment to the deepening of the relationship between the EU and the Western Balkans

The European Parliament Election Observation Delegation was composed of six Members: Mr Fabio Massimo CASTALDO (EFDD, Italy), Mr José INÁCIO FARIA (EPP, Portugal), Mr Tonino PICULA (S&D, Croatia), Mr Javier NART (ALDE, Spain), Mr Tamás MESZERICCS (Greens/EFA, Hungary), and Mr André ELLISEN (ENF, Netherlands). Mr Castaldo was elected as the Chair of the Delegation at the constituent meeting on 20 March 2018.

The European Parliament Delegation performed the election observation in accordance with the [Declaration of Principles of International Election Observation](#) and the [Code of Conduct for international election observers](#). It followed the OSCE/ODIHR's methodology in the evaluation procedure and assessed the election for its compliance with OSCE commitments for democratic elections. All Members of the EP Delegation signed the [Code of Conduct for Members of the European Parliament Election Observation Delegations](#), in conformity with the decision of the Conference of Presidents of 13 September 2012.

Thanks are extended to the OSCE/ODIHR EOM in Podgorica and Ms Tana de Zulueta, leader of the OSCE mission, as well as H.E. Mr Aivo Orav, Head of Delegation of the European Union to Montenegro and his colleagues for their support in organising the programme.

Background

Montenegro is considered to be a “front-runner” among the candidate countries for EU membership, with 31¹ out of 35 chapters opened and three already provisionally closed since accession negotiations began in 2012. Nevertheless, although the rule of law chapters (23 and 24) were opened in December 2013, progress in key areas - including freedom of expression (where Montenegro currently ranks 103rd out of 180 countries worldwide) - has been judged to be unsatisfactory. The importance of the country and the wider region to the EU has been demonstrated by recent visits to Podgorica by Commission President Juncker and HR/VP Mogherini. EP President Tajani also visited the country in July 2017.

The country has suffered from political polarisation, with parties defining themselves by their pro-Western or pro-Serbian/pro-Russian orientations. In meetings with the EP delegation most opposition representatives appeared to have little in the way of a political platform, other than seeking to defeat the government candidate, Mr Milo Đukanović. The polarisation had become particularly marked following the parliamentary elections of October 2016². These elections - in which the main issue of contention had been NATO membership - had contributed to a stand-off between government and

¹ Chapter 17 on economic and monetary policy was opened on 25 June 2018, bringing the total number of chapters opened to 31

² Interlocutors commented that the opposition tended to define itself more by its positive attitudes to Moscow, rather than its favourable position to Serbia as had been the case in past years.

opposition. The polarisation is reflected in the country's media.

The Democratic Party of Socialists (DPS), which has been in power since 1991, won the elections with 36 seats, forming a government in the 81-seat parliament in coalition with the Social Democrats of Montenegro (SD) and parties representing minorities³. Although the OSCE/ODIHR observation mission concluded that the elections had been held in a “*competitive environment (with fundamental freedoms generally respected)*”, the opposition parties had not accepted the results, complaining in particular that the security situation⁴ and massive abuses had prevented a level playing field in the election. As a consequence they had been boycotting the new parliament since the elections, although some opposition MPs had taken up their seats (albeit on an irregular basis) in December 2017⁵.

Milo Đukanović, the dominant figure for a quarter of a century in Montenegro politics (one term as President and six terms as Prime Minister), stood down as Prime Minister after the 2016 elections, and was succeeded by his party colleague, Duško Marković, a former Director of the National Security Council.

On 19 January 2018 the Parliament Speaker announced that the 2018 presidential elections would take place on 15 April. The incumbent President, Filip Vujanović, who had been in post since 2003, was prevented by the constitution from standing for another mandate. He was also a member of the ruling DPS party and had won a narrow victory in the most recent presidential elections in 2013.

Seven candidates for the Presidency had been nominated by the deadline for registration of 26 March 2018 - in contrast to the 2013 elections when there were only two contenders. Candidates were required to obtain at least 1.5% of the total number of voters and OSCE/ODIHR reported that there were over a thousand complaints about forgeries of signatures or misuse of personal data.

The opposition endeavored to unite behind a single candidate in order to end more than 25 years of DPS rule. Ultimately, however, these efforts came to nothing and six opposition candidates were nominated, of whom only one was a woman (albeit the first ever female presidential candidate). Milo Đukanović finally announced his candidacy on 19 March. His most prominent opponent was Mladen Bojanić who had the support of many opposition parties⁶. However, many observers commented that - because the Presidency had limited powers - the opposition parties were concentrating their resources on the local elections, including in the capital Podgorica, which took place in late May 2018. Nevertheless, there remained a question mark over whether Mr Đukanović would succeed in obtaining 50% of the votes and avoid a second round (the solitary opinion poll had given him 50.6% of the poll).

Concerns were raised about the transparency and professionalism of the State Electoral Commission (SEC) which was responsible for the management of the electoral process. Although it met most legal deadlines, it lacked transparency with decisions not published and meetings not opened to the media. The absence of any provisions on impartiality in the election law resulted in allegations that decisions were being made along party lines. The media was reported to have provided candidates with sufficient opportunities to reach voters, although this was hampered by a lack of analytical reporting. The absence of any legal limits on the amount of paid advertising meant that richer candidates had an advantage.

³ These were the Bosniak party (two seats), the Albanian Determined Forza Dua (one seat) and the Croatian Civic Initiative (one seat).

⁴ 14 individuals, including nine Serbian nationals had been put on trial arrested on charges of attempting a coup on behalf of Moscow, which the opposition claimed had been orchestrated by the government to discredit its opponents.

⁵ This boycott has had a negative impact on the meetings of the Stability and Association Parliament Committee (SAPC) which have been both postponed and shortened

⁶ In his meeting with observers, Mr Bojanić stated emphatically that Russia “has nothing to do with my campaign”

EP Programme

In line with normal practice, the EP delegation was integrated within the framework of the International Election Observation Mission. It cooperated closely with the OSCE/ODIHR long term Election Observation Mission headed by Ms Tana de Zulueta and the delegation of the Parliamentary Assembly of the Council of Europe led by Mr Jonas Gunnarsson.

On 13 and 14 April 2018, experts from the OSCE/ODIHR mission provided extensive briefings to the parliamentary delegations. There were presentations on the political environment, the campaign activities, the media landscape and the legal framework of the presidential elections. The joint programme also included a series of meetings with presidential candidates or their representatives, with media representatives, with NGOs, with the Chair of the State Election Commission (SEC) and with the Head of the EU Delegation and the Heads of Mission. The comments made by these interlocutors have been incorporated in the section above (“Background”)

The EU Delegation in Podgorica organised additional bilateral meetings with the Foreign Minister, Mr Srđan Darmanović, and the Speaker of the Parliament, Mr Ivan Brajović.

Key points to merge from the meetings with these government representatives were the following:

- The elections - which were taking place in much more “regular” conditions than those of 2016 - represented a “screen shot” of the state of play of democracy in Montenegro and it was important that they should be a “win-win” for both Montenegro and the EU. It was to be hoped that relations between political parties would be more relaxed after the elections.
- The government was unhappy with the boycott of the Parliament but was powerless to alter the situation. The boycott was an extension of the failed coup in 2016.
- Montenegro’s membership of NATO was a confirmation of its independence and democratic values - it was the first time it had been embedded in a western structure.
- The accession of Montenegro to the EU, which was supported by around 70% of the population, should be merit-based (the “regatta” principle). Montenegro had displayed its commitment by allying itself with EU positions on all occasions. In the past Moscow had raised barriers to Montenegro’s accession to the EU but the crisis in Ukraine “had changed everything”.

Election Day

On Election Day, the EP Delegation was deployed in three different areas: in the capital, Podgorica and region; in the Herceg Novi/Kotor/Budva region to the south and west of the capital; and in the Kolasin/Berane region to the north of the capital. The Podgorica team also observed in Cetinje, where it had been reported by the EP’s interlocutors that the local elections in December 2017 had been very badly managed, provoking concerns among the diplomatic community.

The EP delegation was pleased that - despite a few procedural irregularities - the proceedings which it observed took place in an orderly and peaceful manner⁷. MEPs were impressed both that the voters appeared to be very well informed about the voting process and that the polling station staff usually performed their functions in a professional and competent manner. They regretted, nevertheless, that

⁷ Some observers commented that the relatively limited powers held by the President meant that less was at stake and this contributed to the calmer atmosphere.

representatives from the opposition candidates were not present in most polling stations to observe the proceedings.

These conclusions were also reflected in the joint statement of the IEOM which confirmed that Election Day had taken place “in an orderly manner despite a few procedural irregularities observed. Voting and counting were assessed positively in almost all polling stations observed”.

Post-election day

In line with normal practice, the statement of preliminary findings and conclusions was thoroughly discussed between the Chairs of the EP Delegation, the Council of Europe Parliamentary Assembly and the OSCE/ODIHR mission. The EP Delegation therefore fully endorsed the findings of the International IEOM.

The key messages from the preliminary findings - which were confirmed in the [28 June 2018 final report](#) - were that fundamental freedoms were respected in the election, although Mr Đukanović (“the candidate nominated by the governing party”) held an institutional advantage. Candidates were able to campaign freely and the media provided them with a platform to present their views. However the lack of analytical reporting and the absence of the frontrunner in the two televised debates with all candidates, reduced the opportunity of the voters to make a fully informed choice. The technical aspects of the election were managed in an adequate manner, although the transparency and professionalism of the State Election Commission was an issue of concern.

The press conference took place on 16 April. In his [statement](#) the EP Chair applauded the positive elements in the election process, in particular the sound basis for the conduct of democratic elections which the legal framework provided. However, there were concerns about the media's lack of financial autonomy, which could compromise its independence and result in polarisation of reporting.

Mr Castaldo also regretted that the State Election Commission had not displayed sufficient transparency in its workings, by failing to publish its decisions and minutes and not opening its sessions to the media. Moreover, it had also been reported that SEC decisions were made along party lines. Finally, the EP Chair reiterated the concerns expressed by many in the opposition and civil society about the institutional advantage enjoyed by the candidate of the main governing party and the allegations that the separation between the structures of the DPS and the public administration had become blurred.

Mr Castaldo subsequently reported on the mission to the European Parliament Committee on Foreign Affairs on 23 April. On this occasion he stressed the election observation mission had reconfirmed the importance of the process of accession for Montenegro, the Western Balkans and the European Union. He underlined in particular the technical proficiency of the elections, noting only that the security of the ballot boxes should be improved as it would be possible to slide ballot papers into the boxes even after the seals had been fixed.

Results

The turnout was 63.92% and the results, as announced officially, were as follows:

- Mr Milo Đukanović (DPS) 53.90% with 180.274 votes
- Mr Mladen Bojanić (Independent) 33.40% with 111.711 votes
- Ms Draginja Vuksanović (SDP) 8.20% with 27.441 votes⁸

(The aggregated result of the eight remaining candidates was less than 5%).

As Mr Đukanović scored more than 50%, no second round took place, and he was inaugurated as President on 20 May 2018.

Conclusions and recommendations

The Western Balkans are a priority region for the European Parliament and recent developments have renewed and heightened this focus. In September 2017 the European Commission indicated that ‘frontrunners’ Montenegro and Serbia (or other Western Balkan countries that could catch up or even overtake them) could join the EU by 2025. In February 2018, two months before the publication of its annual reports on the seven enlargement countries, the Commission published its long-awaited communication ‘[A credible enlargement perspective for and enhanced EU engagement with the Western Balkans](#)’, otherwise known as the ‘Western Balkans strategy’. In May 2018 an EU-Western Balkans Summit in Sofia, the first such summit since the June 2003 EU-Western Balkans Summit in Thessaloniki, saw the adoption of the ‘[Sofia Declaration](#)’ by all EU Member States. The ‘Western Balkans Partners’ aligned themselves with this Declaration. Enlargement is a prominent point on the agenda of the Council in late June 2018.

With regard to Montenegro the [26 June 2018 Council conclusions](#) on ‘enlargement and Stabilisation and Association Process’ - [endorsed](#) by the 28 June 2018 European Council meeting - state *inter alia* that ‘Montenegro’s authorities need to address all irregularities reported by international observers and maintain the political commitment to a comprehensive and inclusive electoral reform process, in order to increase trust in the electoral framework.

Until recently the European Parliament did not observe elections in the enlargement countries and particularly not in candidate countries, as “candidate country” status was understood to imply that the ‘Copenhagen criteria’, as established by the [European Council of 21-22 June 1993 in Copenhagen](#), had been sufficiently met by the countries enjoying that status. However, in the light of the serious deterioration of the rule of law in the Western Balkan region (and Turkey), Parliament decided to observe elections in the region on an ad hoc basis, if there were an invitation. In the last 19 months delegations of the European Parliament have observed parliamentary elections in the former Yugoslav Republic of Macedonia (December 2016), Albania and Kosovo (both in June 2017; *note: Kosovo is a potential candidate*), as well as presidential elections in Montenegro (April 2018). While the backsliding or lack of real progress in the area of rule of law is a worrying phenomenon, not in the least in ‘frontrunner’

⁸ This was the first occasion that a woman candidate had stood.

countries like Montenegro, election observation in the region does offer Parliament additional visibility and an extra opportunity to show its commitment to the enlargement process.

Work on Parliament's annual report on Montenegro, which constitutes its response to and position on [the Commission's 2018 report](#) on the country, is ongoing⁹. It is recommended that the rapporteur for Montenegro and AFET Members take on board the findings of this EOM and follow up on them. This applies in particular to the issue of media freedom, where the situation is further deteriorating. Examples are the attack (not the first one) on Vijesti journalist Olivera Lakić, who was shot in the leg in early May, and ongoing attempts to increase government control over the public broadcaster RTCG, notably since the ruling DPS further consolidated its power in local elections in several cities including Podgorica in late May. It is further recommended that due attention be paid to the [final OSCE/ODIHR report on the presidential elections](#) in Montenegro, which was published on 28 June 2018.

Electoral reform was also on the agenda of the [15th EU-Montenegro Stability and Association Parliamentary Committee \(SAPC\) meeting](#) on 16- 17 July 2018 in Podgorica. Paragraph 4 of the [joint recommendations](#) urges Montenegro, *inter alia*, 'to further improve trust in the electoral process by fully addressing earlier and more recent recommendations identified by the OSCE/ODIHR and electoral observation missions.'

⁹ Consideration of the draft report in AFET on 10 July 2018

EUROPEAN PARLIAMENT

ELECTION OBSERVATION DELEGATION

PRESIDENTIAL ELECTIONS IN MONTENEGRO

15 April 2018

Participants

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PRESS CONFERENCE

Statement by Mr Fabio Massimo CASTALDO
Vice-President of the European Parliament
Head of the European Parliament election observation delegation

Presidential elections in Montenegro - 15 April 2018

The delegation of the European Parliament was very pleased to have been present as observers at these Presidential elections in Montenegro. This is a country which stands very high on the agenda of the European Union - a message that we have reiterated during our time here.

The European Parliament delegation subscribes fully to the statement of preliminary findings and conclusions of the International Election Observation Mission (IEOM) and wishes to express its thanks to Ms Tana de Zulueta, Head of the OSCE/ODIHR mission, and her team for their cooperation, and also to the other members of the IEOM, including the PACE delegation headed by Mr Jonas Gunnarsson.

We recognise the positive elements in the election process, in particular the fact that the legal framework provides a sound basis for the conduct of democratic elections. Nevertheless, we would like to highlight a number of areas of ongoing concern that are covered in the Preliminary Statement.

Firstly, the lack of financial autonomy of the media, which can encourage political dependence and result in polarisation of media reporting. We are also concerned that the State Election Commission did not display sufficient transparency in its workings, by failing to publish its decisions and minutes and not opening its sessions to the media. We also noted with regret the comments that its decisions were made along party lines.

In addition, we would like to highlight the concerns expressed by many in the opposition and civil society about the institutional advantage enjoyed by the candidate of the main governing party and the allegations that the separation between the structures of the DPS and the public administration has become blurred.

Turning to Election Day, the European Parliament delegation observed in and around Podgorica, in the coastal region, and as far as Berane in the north. We were pleased that - despite a few procedural irregularities - proceedings which we observed took place in an orderly and peaceful manner and we were impressed both that the voters appeared to be very well informed and that the polling station staff usually performed their functions in a professional and competent manner. We regretted, nevertheless, the absence in most polling stations of representatives from the opposition candidates.

And in conclusion we would like to look ahead to the coming months and years. The European Parliament has regularly expressed its deep concerns about the polarised political climate in Montenegro, which has had an impact on our interparliamentary cooperation. We repeat our call for all political forces to re-engage in constructive dialogue and cooperation - both within the Parliament and more broadly in the country. This is what Montenegro - which has been described by many as a "front runner" candidate country - needs more than ever in the coming years which are crucial ones as it moves towards becoming a member of the EU.

Podgorica, 16 April 2018

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Fundamental freedoms respected in Montenegro presidential election, governing party candidate had institutional advantage, international observers say

PODGORICA, 16 April 2018 – Fundamental freedoms were respected in the 15 April Montenegro presidential election, although the governing party candidate held an institutional advantage, the international observers concluded in a preliminary statement today. Candidates campaigned freely, and the media provided the contestants with a platform to present their views, but the lack of analytical reporting and absence of the frontrunner in the televised debates reduced voters’ opportunity to make an informed choice, the statement says.

The technical aspects of the election were adequately managed, although the transparency and professionalism of the State Election Commission remain issues of concern. Election day proceeded in an orderly manner, despite a few procedural irregularities, the observers said.

“It is important that fundamental freedoms of assembly and speech, for example, were respected in this election, and that the candidates were able to campaign freely and to reach voters through the media,” said Tana de Zulueta, Head of the long-term election observation mission from the OSCE Office for Democratic Institutions and Human Rights. “At the same time, they were not able to compete on a level playing field, as the frontrunner enjoyed the advantages that the ruling party, which he leads, has consolidated over its 27 years in power.”

The campaign activities of the seven candidates who ran in the election – six men and, for the first time, a woman – were generally low-key. Opposition and civil society representatives voiced concerns that, alleged widespread hiring of public employees, despite the restriction on doing so during election period, as well as vote-buying and the collection of identification documents to prevent some voters from casting ballots. These recurrent allegations of pressure on voters to support the ruling party candidate had a negative impact on the campaign environment.

The public broadcaster fulfilled its duties to provide candidates with free airtime, organized interviews with candidates and aired two debates, although the candidate nominated by the governing party did not take part. Private media outlets monitored aligned along political lines. With no legal limits on the amount of paid advertising, candidates who could afford to purchase more airtime had an advantage, the observers said.

“Yesterday, voting was well organized, and voters made their choice among a wide range of candidates. As for the election campaign, there were reported cases of the misuse of state resources and credible allegations of pressure on voters in favour of the ruling party candidate,” said Jonas Gunnarsson, Head of the delegation from the Parliamentary Assembly of the Council of Europe. “Regrettably, those problems are recurrent from past elections in Montenegro. Television debates among presidential candidates are a democratic procedure allowing voters to make informed choice, and the PACE delegation regrets that the ruling party candidate did not take part in the debates.”

Candidates could use public and private funds for campaigning and receive monetary and in-kind donations from individuals and legal entities. They must report regularly during the campaign and submit final reports, which are published online, within 30 days of election day. Candidates received private donations mostly from individuals, and predominantly spent the funds on campaigning in the media.

The laws related to elections provide a sound basis for the conduct of democratic elections, and recent amendments incorporating a number of ODIHR and Council of Europe Venice Commission recommendations signaled a general willingness to engage in electoral reform, the statement says. There were, however, omissions and ambiguities, such as the lack of regulations on the verification of supporting signatures or sanctions for violations related to these. The lack of regulations on dispute resolution procedures, the tabulation of results and campaign finance also undermined the integrity of the electoral process. Attempts by the SEC to clarify some aspects of the laws through instructions and decisions lacked consistency.

“While the fundamental freedoms were, indeed, respected, and the management of the election was a positive, work is still needed on the laws governing elections, and on electoral reform in general,” said Fabio Massimo Castaldo, Head of the European Parliament delegation. “The relevant political actors in Montenegro will need to work together to effectively address these shortcomings, as a step along the path toward realizing their European aspirations.”

Voters, candidates and the entities who nominate them may challenge actions and decisions of election commissions at higher-level commissions, and voters filed over 1,000 complaints, alleging forgery of supporting signatures or the misuse of personal data in lists of these signatures. Three complaints were filed with the SEC and one with a lower commission in the pre-election period, regarding the appointment of polling station chairpersons. In practice, election dispute resolution depends on the discretion of different public authorities, which at times failed to ensure effective legal redress.

The SEC met most of the legal deadlines but lacked transparency, as decisions were not published, and its sessions were not open to the media. Although it held regular sessions, these were insufficiently prepared and organized. The election law does not contain provisions requiring impartiality and professionalism of members of election management bodies, and SEC members from opposition parties, representatives of the media and of citizen observer organizations expressed concerns that decisions were made along party lines. Municipal election commission sessions were mostly open to observers, and some of these commissions posted their decisions.

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