



Mreža za afirmaciju nevladinog sektora - MANS

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Local Elections in Podgorica, May 25, 2014

PRELIMINARY FINDINGS AND CONCLUSIONS

MANS monitored the local elections in Podgorica at polling stations covering more than 90% of the electorate. The elections atmosphere was peaceful at most of the polling stations, but some incidents were registered, including attacks on our observers such as verbal insults and threats with violence. While the police responded efficiently, the State Prosecutor Office remained closed during the entire Election Day.

Our observers and citizens detected violations of the regulations of such weight that might undermine the legitimacy of election results at a number of polling stations. After the elections, over 2,500 complaints were submitted by four political parties regarding 842 concrete cases identified by MANS.

When dealing with the complaints, the Municipal Election Commission used a range of unorthodox methods, including a physical attack on MANS representatives. Then Commission made a political decision to reject all submitted complaints en bloc, failing to provide a proper legal justification. We will challenge these decisions firstly at the State Electoral Commission, and then at the Constitutional Court, if needed.

A) MANS Role

For the first time MANS has been monitoring elections through a project supported by the EU and Federal Ministry of Foreign Affairs of Switzerland, Chair of OSCE in 2014.

- Over 500 observers for elections in Podgorica covering over 90% of the electorate and all phases of the election procedure, wherever their presence was allowed (preparatory, voting at stations, mobile voting ("postal voting") and counting ballot papers)
- Field teams in other municipalities supported by a team of lawyers in the north of the country
- An SOS Line for citizens, an online and mobile platform for reporting irregularities
- Special observers for elections in prison and for monitoring the work of local and state election commissions.

Prior to the elections we have also been monitoring expenditures of public funds, in line with new Law on Financing Political Parties. We were also analyzing the voter registry, checking the accuracy of data in the field through network of volunteers and submitting reports on irregular entries (deceased, possible double voters, phantom voters etc.) to relevant institutions.

B) Identified Irregularities

On the Election Day citizens and our observers reported over 1000 irregularities that were checked by mobile teams in communication with witnesses, including members of polling station committees.

In total 842 irregularities were confirmed at more than one half of all the polling stations in Podgorica.

The most frequent severe violations of the right to free elections included:

- Members of polling station committees and political activists were running **parallel registries** of voters who have been casting their votes. This practice when occurring at the pooling station and in the vicinity of the poling stations is not in conformity with the law. It can be perceived as a pressure on the voters interfering with their Constitutional right to vote freely. This practice of keeping registries of voters is especially important to be pointed out as problematic if we recall the number of reported cases of illegal transfer of money from the state budget (most frequently social welfare and other benefits) to individual citizens prior to the elections. Therefore an illegal registry of citizens who have voted could be used for identifying and applying pressure on such voters who have, up to that point, failed to appear at the polling station and cast their vote. In addition, there is evidence that directors of public institutions have been pressuring employees to vote for the ruling party. In case they do not show up at their polling station, we suspect that party activists are calling them to show up and vote. Finally, each party has a list of so-called "certain votes", people guaranteed to vote for that party. That is why, beside the ruling party, Democratic Party of Socialist (DPS) we have reports on the two largest opposition parties, Democratic Front (DF) and Socialist People's Party (SNP) keeping illegal registries of voters in some cases.
- **Expired invisible ink spray** for marking voters after they casted their vote were used at a number of polling stations. In some cases the expiration date was back in 2008 and still such spray containers were used throughout Election Day. Several observers and members of committees that voted at polling stations with expired spray confirmed that the invisible link lasted on their fingers for only a few hours. Due to this violation of the election procedure, it would have been possible for some voters to vote several times at several places. This is especially important having in mind that our previous checks of the voter registry revealed many cases of so-called "double entries". In addition, our observers recorded several occasions of people with traces of invisible ink on their fingers being allowed to cast their vote regardless. In some cases voters were not treated with spray at all, making it possible for them to vote in other places as well. There was not a single example where the voting procedure was terminated because the invisible ink container was past the expiry date, despite the fact that according to the law, this scenario calls for the polling station committee to be disbanded and new election at that station called.
- **Violations of the secrecy of vote** occurred at many polling stations where citizens were showing or stating how they voted. In most cases such votes were not annulled, as the law requires. At some polling stations whole families were voting together, which was particularly frequent in areas with significant Roma population. Other cases included voters taking photos of their ballot papers, but we also had cases where mirrors were positioned in such a way that one could see the casting of votes. Violation of the secrecy of the vote was a particular problem with the postal voting.
- **"Postal voting"** (or mobile voting or homebound voting), where members of polling station committees are visiting old or sick voters, was frequently abused. Many committees did not verify reasons for such voting, basic information were not provided in many such requests, and in numerous cases voters' requests for postal voting were brought to polling stations by people that were not related to the voters, and might conceivably be party activists. In some cases our observers, when accompanying the postal voting

committee, noticed that the persons who claimed to be incapable of voting were at their workplace, performing hard field work or were surprised that the request was even filed on their behalf, while some already voted. Our observers were often forbidden to monitor this phase of the voting process and pressured to ignore violations.

All these cases are backed with concrete evidences and/or witnesses.

C) Threats to observers

During the Election Day many of our observers were verbally and, in some cases, physically assaulted. At each polling station we had two observers, one monitoring election procedures inside the station and another one monitoring possible illegal registration of voters and other forms of violation of election rights. In both of these roles, our observers were under constant pressure to stop recording election irregularities.

Threats of violence occurred at the voting stations where irregularities were the most severe, such as:

- A MANS staff member was threatened with physical force by the president and a member of the Municipal Election Commission in front of a polling station.
- We had several cases of serious threats with physical violence, where election officials and suspected party activists targeted our observers.
- A Member of a polling station committee threatened our female observer saying “I will cut your head off and throw it out through the window”.
- On another occasion, a group of our observers was threatened with physical violence by a group of masked individuals in front of several polling stations located close to each other.
- One of our observers was threatened and chased by a group of people. He run into the polling station but got locked out with another observer and other voters to be exposed to further threats. A mobile support team with more experienced observers arrived at the scene, but also got trapped and exposed to threats.

A majority of observers reported some sort of molesting and provocation at or in front of polling stations, including verbal threats, but also some sort of psychological pressure that could be interpreted as violence. The worst case that was reported only lately is related to an observer that was kept for more then three hours in a car of a polling station committee member who was trying to persuade him to fill out the ballot papers themselves instead of actual postal vote voters.

Each attack and assault was duly noted and **the most severe ones were reported to the police whose responsiveness to our calls and cooperation with our observers and field teams was exceptional.** However, this list might not be final, since some observers came only later with information on difficult conditions they were working in.

A large majority of our observers were younger then 25 and all of those that were exposed to particularly severe pressure belonged to that group.

However, we could not report these cases to the **office of the Supreme State Prosecutor since it was closed the entire Election Day,** so no one was able to report any kind of violation or criminal act. Prior to the elections, MANS called upon Prosecutor’s Office to ensure that there would be an on-duty prosecutor that could act in cases of emergency. However this did not happen.

D) Reporting election irregularities

According to the Law on Election of MPs, **only political parties are entitled to report election irregularities to the Municipal Election Commission**. On the other side, observers could only monitor the elections, without the right to take any legal action. **Institutional practice in this area is very limited**, since political parties usually only publicly claimed election irregularities, rarely backing those claims with concrete legal steps. Therefore, one could not separate political populism from fact and conclude whether election results were legitimate.

In order to develop institutional capacity and practice in processing election irregularities in a manner that would increase public trust in institutions, we invited all political parties to serve as a vehicle for reporting concrete violations. Four parties accepted: Positive Montenegro, DF, SNP and one Albanian ethnic minority party.

The deadline for reporting irregularities is 24 hours from the moment they occurred, but we managed to prepare **over 2,500 complaints for 842 different cases of election irregularities**.

Due to the very short deadline, all the signed complaints that we collected from political parties were **submitted to the Municipal Election Commission** in four batches. For the first batch of complaints we experienced no problems. The staff of the Commission accepted everything we submitted.

The second time that we went to the Commission, with another set of complaints, **our representatives were psychically attacked and locked in the building of the Commission by one staff member**. We reported the case to the police.

The third time we went to the Commission with police escort and everything went smoothly. The final batch was ready for submission at 04:45AM, 15 minutes before the expiration of the deadline for first irregularities that occurred during the preparatory phase of the elections. However, **the Commission office was locked, although one could see staff was working inside**. They did not respond even to police requests to open the door. The last batch was handed over the next morning.

E) First responses

The Law defines a deadline of 24 hours for the Municipal Commission to deliver a decision on a complaint, otherwise it is considered that the complaint is accepted. Since we reported a number of severe irregularities at many polling stations, this could lead to revote at those stations.

Initially, while deciding on the first batch of complaints, the Commission made separate decision for each complaint, without actually going through relevant documentation, but rejecting them by a majority of vote one after another.

When they realized that there were more complaints on the way, the approach was changed. **A simple majority, composed of the ruling party and some of its coalition partners, just rejected all complaints submitted in the second, third and fourth batch en bloc.**

Within the 72-hour deadline we will ask political parties to submit **appeals to the State Election Commission**. If the State Election Commission confirms the decisions of the Municipal Commission, within 24-hours we will challenge these decisions before the Supreme Court.

Podgorica, May 29th 2014