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Center for Democracy
and Human Rights

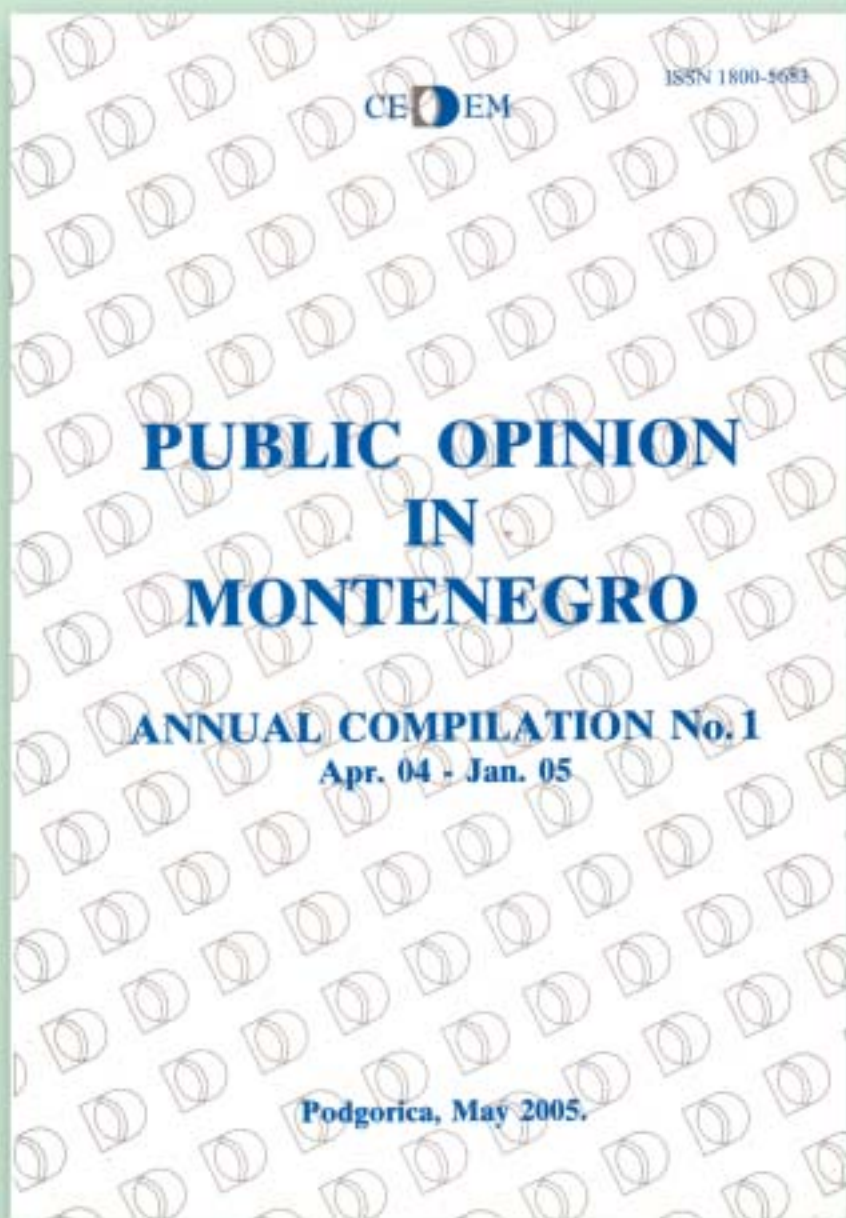
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NEWSLETTER



CEDEM edition:



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PUBLIC OPINION IN MONTENEGRO

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Podgorica, May 2005.



Conditions for organization of referendum legal regulative

*International expert round table
within context of international law and practice
Podgorica, September 22nd – 25th 2005.*

Regarding the main topic of the meeting, as we lack clearly and precisely defined standards, we can only search for reference points in analysis of compatibility of Montenegrin legislation with norms of international law and practice, within existing recommendations and suggestions coming from relevant addresses.

Until a Manual on referendums and similar initiatives is developed, in line with Recommendation of Parliamentary Assembly of Council of Europe no. 1704 from April 2005, the most important reference points, without any doubt, are:

1. Document of Copenhagen Conference of OSCE on human dimension from June 29th 1990;
2. Review of positions and recommendations of OSCE/ODIHR, on Montenegrin Referendum Law

from July 6th 2001;

3. Reports of OSCE/ODIHR Mission on parliamentary and presidential elections held in Montenegro in period 1998 to 2003;
4. Instructions for constitutional referendums on national level from Venetian Commission, July 6th and 7th 2001;
5. Venetian Commission's guidelines for elections, from October 18th and 19th 2002. Venetian Commission's elections guidelines represent concrete answers on questions and demands formulated in Resolution 1264 of Permanent Committee of Council of Europe Parliamentary Assembly from March 8th 2001. Assembly has adopted this document at the beginning of 2003, under title Codex of good behavior during elections. As stated in this

document, the recommendations are based on basic principles of European electoral heritage, and they primarily represent the essence of positive practice regarding electoral issues.

Having in mind the fact that link between referendums and elections is clear as much as direct and representative democracy are complementary to each other, we shall pay significant attention exactly to recommendations originating from Venetian Commission's guidelines. What is that positive legislation in Montenegro, primarily Referendum Law, Law on Election of Members of Parliament, Law on Voter Registration Lists, don't contain, i.e. eventually don't contain in line with aforementioned guidelines?

A. GENERAL VOTING RIGHT – rules and principles:

1. Limitations:

AGE – complete compliance / both active and passive voting rights are obtained with minimal age, i.e. majority with 18 years of age;

CITIZENSHIP – As a condition for voting right, the citizenship existed in Montenegrin legislation in period October 1992, to February 1998. In positive Law, it is envisaged as condition for passive voting authorization (article 41, page 1)

RESIDENCY – it is defined as condition, in a way the notion of residency is treated by Venetian Commission's guidelines. By the way, length of residency duration in Montenegrin electoral legislation varied from 3 to 24 months.

Positive norms are result of law developers' consensus and product of their intention to eliminate eventual possibilities for misuse of official competencies by government bodies. However, the valid norm is hiding within itself the possibility for breach of basic right, i.e. voting right n local level for voters who within electoral interval change residency within Montenegrin territory.

DEPRIVATION OF VOTING RIGHT – positive laws of Montenegro are among the most liberal ones, i.e. even when we have such cases they are based on law and related exclusively to business incapability and they demand valid court decision. No other category of voters is subject of this exemption.

2. Voter registration list:

- Evidence of voting right in Montenegro rely on principles of generality, uniqueness, and permanency of voter registration list, what has demonstrated in practice to be more efficient method compared to special, not unique, and occasional registration of voters;

- Voter registration list is kept according to official duty, and this reduces possibilities for improvisation and mistakes, which are unavoidable companion of any temporary organized administration, i.e. this solution improves efficiency of evidence control;

- Voter registration list is public document in which, with obligation of authorized government body to inform the citizens about that, one can do the following: have insight, conduct registration, erasure, change, amend, or correct, within three days from the election announcement day until the day the voter registration list is closed. Additional interventions can be done only according to court decisions.

Thus, regarding the voters' evidence, all normative criteria defined by Venetian Commission guidelines, are fulfilled.

B. EQUAL VOTING RIGHT:

1. Every voter has one vote;

2. Regarding equality, especially the one referring to the campaign, i.e. media coverage in particular by state run media and financing of the campaign, Referendum Law, as the basic Act in this matter, remains incomplete. Article 15, page 2 defines that more precise provisions on campaign through public media shall be prescribed by special decision of the Parliament, while there is no single provision speaking

about financial means for the campaign.

It is realistic to assume that majority of unsolved issues will be defined in similar way as in case of elections, because the parties have already reached significant level of agreement, just as in the issue of length of residency;

C. FREE VOTING RIGHT

1. As far as freedom of voters to form proper opinion, situation is definitely similar to campaign problems, with exception that we should take into account recommendations of ODHIR from 2001. Opposition should also bear in mind the statement from Instructions of Venetian Commission that unlike the elections, in case of referendum, total ban for authorities to support or oppose the referendum proposal, is not required.

2. In part treating the freedom of voters to express desire and fight against electoral fraud, the document defines rules of behavior that are encompassed by 15 points. 10 of those are completely incorporated in the existing Electoral Law, 3 are partially encompassed, and 2 of them were newer the part of neither norms nor practice of Montenegrin elections. These are the issues of voting by way of electronics, and the use of so called mobile voting boxes.

D. Secrecy of voting right

The legislator has defined high degree of protection. Nevertheless, there are recommendations of Monitoring Mission regarding one technical detail, that is, the procedure of separating the coupons from voting paper, what could eventually mean the elimination of eventual possibility for breach of principle in part, which actually, does not influence the regularity of elections.

* * *

Finally, regarding the conditions for implementation of aforementioned principles, and in line with

Guidelines of Venetian Commission, we may conclude the following:

1. General condition – respect of fundamental human rights and in particular the freedom of expression and freedom of assembly – is fulfilled to a point that it satisfies criteria of good behavior during elections;

2. Unlike general condition, we can't say that Electoral Law has necessary degree of stability, and by this I don't think on protection from manipulation of one or more parties regarding other partners in the electoral process, but on fact that the system, in line with will of all key political players, in some structural elements is subject to often changes and often in intervals not longer than one year since the elections. Therefore, I am inclined to believe that domestic parties see the political arena as their own property, using the electoral rules as means for one time manipulation with conflicts. In other words, the constant in development of electoral system in Montenegro is the strengthening the role and position of parties on account of other participants in the electoral process, i.e. voters, candidates, and bodies in charge of realization of elections. Of course, regarding voters and candidates, this problem cannot be manifested in the referendum but only in elections for representative power. However, regarding the bodies in charge of realizing the referendum the situation is quite different. Having in mind the danger of possible referendum boycott, the legislator has opted for only possible solution, and that is not to demand multiparty content of commissions in charge for realization of referendum. Danger I am speaking about, whether open, or latent one, should be taken into account, because of possibility to contest validity of referendum results by those in favor of boycott. In this case, the only solution to the problem is in hands of authorized monitoring missions.

3. The last and the most important, from normative and real aspect of the things, the necessary number of procedural guarantees, especially regarding the organization of voting, is indisputably provided for.

CEDEM activities

Seminar:

Seminar for lawyers on European Convention of Human Rights

Budva, June 24 - 26, 2005

Seminar for Montenegrin lawyers regarding “**European Convention on Human Rights**” organized by Council of Europe, Montenegrin Lawyers’ Cham-

ber, and CEDEM. During seminar, the participants discussed relation between European Convention on Human Rights and domestic laws and practice. Project is funded by Council of Europe.

Seminar:

“European Convention of Human Rights and reform of criminal legislation”

Herceg - Novi, July 1 - 2, 2005

Seminar for Montenegrin judges, prosecutors, and lawyers regarding “**European Convention of Human Rights**” was organized by Council of Europe, AIRE (Advice on Individual Rights in Europe) Center from London, and Montenegrin Center for Training of Judges and CEDEM. At seminar, the participants discussed about current process of criminal legislation reform in Montenegro in line with European Convention on Human rights.



Project was supported by Ministry of Foreign Affairs of Great Britain, Westminster Foundation for Democracy, Council of Europe, European Agency for Reconstruction, Open Society Institute, and Foundation Konrad Adenauer.

Seminar:

Police trainings – Lawyer’s rights in pre-trial proceeding



Bar, May 14, 2005.

Danilovgrad, June 18, 2005.

Bijelo Polje, August 26, 2005.

Pljevlja, August 27, 2005.

The goal of these seminars- trainings was to inform the members of police force with rights of the suspect on attorney in the pre-trial phase of criminal proceeding. Trainings were organized in cooperation with Swedish Helsinki Committee.

Seminar:

European integration of Western Balkan - perspectives?

Budva, September 15 - 17, 2005

French foundation Robert Schuman, German foundation Konrad Adenauer and CEDEM, with support of French Embassy in Serbia and Montenegro, have organized Conference on theme: »European integration of Western Balkan - perspectives?«. Conference represents continuation of cooperation, which CEDEM has with these two foundations. The intention of organizers was to contribute to better understanding of development and functioning of European integrative processes and to additionally stress, through an open debate, their influences on our society.

Conference was thematically divided into three sessions: 1. Future of European Union after referendums in France and Netherlands, 2. European future of the region – reforms to be conducted, and 3. Specific features of situation in Serbia and Montenegro – what are the roads toward EU?

Representatives of diplomatic missions and

international organizations in Montenegro, representatives of Office for accession to EU of Serbian Government, Montenegrin Ministry for European Integrations, professors from Belgrade and Podgorica University, as well as representatives of Montenegrin NGOs dealing with issue of European integrations, were present at the meeting.



CEDEM

Empirical Research Department

BASIC ANALYTICAL FINDINGS OF THE RESEARCH RELATED TO

CONSUMERS' PROTECTION IN PERCEPTION OF PUBLIC OPINION

June 2005.

Basic finding of the given CEDEM's research regarding public opinion could be summarized in following assessments:

- Consumers' culture in Montenegro is still not on enviable level because of two basic reasons:
- First, and probably the key reason lies in the fact that Montenegrin society is society in transition exposed

to serious economic crisis, meaning that citizens' standard is very low and this significantly limits purchasing parity of the consumers,

- The second reason relates to the fact that consumers' culture doesn't has tradition at the level that is characteristic for developed western countries.

Findings and researches are pointing to very bleak picture regarding consumers' perception about the protection of their rights. The largest number of interviewees thinks that their rights are not protected, i.e. less than 10% of them think that their rights are sufficiently or completely protected.

Position of interviewees regarding the issue 'who is obligated to protect their rights?' is pointing out

that majority of citizens think that authorized inspection bodies are responsible for protection of consumers' rights. With respect to this, however, we have registered the data that in case if consumers spot some irregularities or if they think that their rights are endangered, majority of them don't turn to these bodies and that in consequence illustrates certain degree of distrust in authorized government bodies.

Even this research has confirmed that, regarding consumers' protection, adequate legal regulative is one of the key reference points. Awaiting for adoption of comprehensive normative regulative in this area, as valuable analytical statement, which can be drawn from this research, we may point out to the fear of interviewees that without reform of inspection services in charge of consumers' protection, the Law by itself won't be able to eliminate present problems. Positions of interviewees, based on which the aforementioned statement was made, are probably the reflection of general public opinion positions regarding legislation, i.e. the belief that in Montenegro the laws are always becoming selective in their implementation phase.

Finally, critical tone of this research is indicating that, consumers' general criteria and demands are increasing by the year. These positive steps are more

the result of increased competition among producers as well as the desire to reach EU standards in this area, rather than result of overall positive economic trends. In any case, through further market liberalization and bringing of market standards to EU levels, the level of consumers' culture in Montenegro will increase as well.

Opinion pool results: **“Political public opinion in Montenegro”** was presented on press conference on September 15. 2005 in PR Center. Research was done in September 2-7, 2005. CEDEM's standard two-phase stratified sample was applied. **Dr Veselin Pavićević**, head of the Empirical Research Department and Miloš Bešić, sociologist-methodologist took part at the press conference. Foundation Open Society Institute supported the project.

CORRECTION- In the preceding issue, in the English version, results of May survey were by mistake put under January 2005. Editorial team is apologizing for this omission.

Comment: Completed Opinion pool results can be found on CEDEM's website: www.cedem.cg.yu

Political public opinion in Montenegro – September 2005

The research was conducted on a stratified, two-phase quota sample. The project was realised in 9 Montenegrin municipalities at the level of 1021 subjects. Field research and primary data processing has been made from September 2-7. 2005. Project **“Political public opinion in Montenegro”** is supported by foundation Open Society Institute, office in Montenegro.

<i>Position on movements in Montenegro</i>			<i>Referendum vote</i>				
%	maj'05	sep'05	%	okt'04	jan'05	may'05	sep'05
Movement for independent European Montenegro	35.7	39.2	FOR independence of Montenegro	42.5	44.5	40.5	41.6
Movement for European State Union S&M	34.0	38.9	AGAINST independence of Montenegro	36.7	40.5	36.0	34.5
Doesn't support activities of these movements	23.7	16.4	Doesn't know, doesn't have opinion on that	21.8	15.0	13.4	13.8
Can't decide	6.6	5.5	Wouldn't vote	-	-	10.1	10.1

<i>Election's preferences - individual parties</i>					
	Jun 2004	Okt 2004	Jan 2005	May 2005	Sep 2005
1. DPS	23.3	26.1	25.5	25.5	26.2
2. SNP	10.3	8.1	7.9	7.7	7.3
3. LSCG	6.5	2.0	0.9	-	-
4. SNS	2.4	2.4	3.7	7.3	8.4
5. SDP	4.0	4.2	5.3	4.1	3.5
6. SRS /V. Šešelj/	4.4	3.8	3.7	2.8	4.4
7. NS	2.2	2.6	2.3	2.5	1.3
8. NSS	1.0	0.9	1.2	0.8	0.5
9. DUA	2.0	1.6	1.8	1.3	1.4
10. DSCG	0.2	0.3	0.3	0.5	0.5
11. GP	0.7	0.5	0.6	0.9	1.3
12. LPCG	-	-	0.8	1.5	2.1
13. GZP	10.1	10.1	7.8	11.3	9.1
14. DSS	1.6	0.9	1.0	1.6	0.3
15. Some other party	-	-	-	-	1.2
16. Indecisive	-	-	-	-	12.5
17. Abstinent	-	-	-	-	19.9

<i>Confidence in politicians and public persons</i> <i>Rang of politicians and Public Persons</i>					
	Jun 2004	Avg 2004	Jan 2005	Maj 2005	Sep 2005
1. Milo Đukanović	2.61	2.66	2.63	2.67	4.40
2. Filip Vujanović	2.63	2.58	2.54	2.54	3.94
3. Svetozar Marović	2.65	2.49	2.35	2.43	3.29
4. Slobodan Milošević	2.26	2.20	2.28	2.33	1.32
5. Vojislav Koštica	2.18	2.12	2.09	2.12	1.44
6. Ranko Krivokapić	2.19	2.29	2.27	2.21	3.74
7. Miodrag Živković	2.45	1.95	1.83	1.87	2.00
8. Predrag Bulatović	1.95	1.74	1.84	1.84	1.44
9. Božidar Bojović	1.97	1.86	1.88	1.90	-
10. Dragan Šoć	2.14	2.03	2.01	2.07	-
11. Vojislav Šešelj	2.18	2.12	2.11	2.14	1.43
12. Zoran Žižić	2.06	1.98	2.09	2.01	1.37
13. Nebojša Medojević	3.00	3.03	2.86	2.95	2.73
14. Andrija Mandić	1.99	1.91	2.04	2.11	-
15. Amfilohije Radović	2.87	2.67	2.78	2.61	1.72
16. Boris Tadić	2.27	2.45	2.24	2.39	2.19
17. Krsto Pavićević	-	-	-	1.81	-
15. Neku drugu	2.0	2.0	2.0	2.5	1.2
16. Ne zna	9.9	11.2	11.0	8.9	12.5
17. Ne bi glasao	19.3	23.3	24.2	20.9	19.9

Should Montenegro, in your opinion, whether independent or in the state union with Serbia, be in the future:

1. Member of the European Union %					
	Jun 2004	Avg 2004	Jan 2005	May 2005	Sep 2005
1. Da	81.2	82.4	78.9	80.1	77.0
2. Ne	4.6	5.5	6.1	5.6	6.4
3. Nema određeno mišljenje	14.2	21.1	15.0	14.3	16.6

2. Member of the NATO Alliance %					
	Jun 2004	Avg 2004	Jan 2005	May 2005	Sep 2005
1. Da	35.2	39.3	34.9	35.7	33.3
2. Ne	36.3	35.6	37.9	35.0	34.6
3. Nema određeno mišljenje	28.5	24.1	27.2	29.3	32.1

<i>Idea of creating Union of Independent States Serbia and Montenegro</i>					
	Avg 2004	Jan 2005	May 2005	Sep 2005	
1. Da	44.5	44.8	44.9	47.4	
2. Ne	41.7	38.3	39.3	33.1	
3. Nema određeno mišljenje	13.8	16.9	15.8	19.5	
%	okt'04	jan'05	maj'05	sep'05	
Yes	37.1	36.6	31.4	31.2	
No	40.7	42.1	42.2	39.3	
Don't know, can't assess	22.2	21.3	26.4	29.5	

<i>Who should be Montenegrin allies in foreign politics?</i>					
	Non	Little	Very much	Comple- tely	No opinion
1. EU	10.6	18.9	33.9	26.0	10.6
2. SAD	36.4	22.9	17.0	11.6	12.0
3. RUSIJA	33.0	27.2	15.8	9.9	14.1

Note: 29.7 % of interviewees think that Montenegro should rely on nobody especially in area of foreign politics

<i>Povjerenje u Institucije</i>			
	jan '05	maj '05	sep '05
Serbian Orthodox Church	3.28	3.45	3.27
S&M Army	2.56	2.74	2.69
Montenegrin President	2.56	2.63	2.61
Montenegrin Government	2.42	2.53	2.50
Montenegrin Police	2.45	2.52	2.51
Montenegrin Orthodox Church	2.24	2.33	2.28
Montenegrin Parliament	2.36	2.46	2.48
Parliament of Montenegro	2.38	2.48	2.43
President of S&M	2.23	2.39	2.40
Parliament of S&M	2.01	2.25	2.18
Council of Ministries of S&M	1.97	2.22	2.17
Political parties in Montenegro	-	2.07	1.99

<i>Satisfaction with Montenegrin government work</i>				
%	oct'04	jan'05	maj'05	sep'05
Very dissatisfied	35.9	35.0	36.2	33.4
Mostly dissatisfied	17.7	19.2	19.0	17.7
Neither satisfied nor dissatisfied	25.3	25.2	22.4	25.9
Mostly satisfied	15.1	14.2	15.7	17.9
Very satisfied	6.0	6.4	6.7	4.7

<i>Organizing the referendum in spring of 2006?</i>		
%	may'05	sep'05
Yes	35.6	38.7
No	32.7	24.4
Doesn't know, doesn't have opinion on that	31.7	37.0

International conferences CEDEM's representatives took part:

Srdjan Darmanovic

June 17 - 19, 2005 - Florence, Italy

He had lecture on the topic: "Montenegro in the process of joining EU", at a round table organized by University of Florence.

Srdjan Darmanovic

July 13 - 15, 2005 - Brussels, Belgium

Visiting institutions of the EU, organized by Open Society Institute. He has presented CEDEM's monitoring report regarding reforms achievements in Montenegro, at a meeting of representatives of civil society from Croatia, Serbia, Bosnia, Montenegro, Macedonia, Bulgaria, Kosovo and Albania, in the

Department for enlargement. He also had meetings with Doris Pak, member of European Parliament, Stefan Lene, adviser of the High Representative EU for foreign policy, Javier Solana, representatives of Permanent Missions of Austria and France in the EU, as well as meeting in the King Baudouin Foundation.

Srdjan Darmanović, Veselin Pavicevic

Podgorica, September 22-25, 2005

International Expert Round Table

"Legal aspects for referendum in Montenegro in the context of international law and practice", organized by Open Society Institute, Montenegro

We were visited by...

Jan O. Haukaas - Head of the EUMM in Montenegro

Roderic Moore - Embassy of the USA, Deputy Chief of Mission

Arlene Farill - USA Consul in Montenegro

Journalist of **Die Welt** magazine

Journalist of **The Financial Times**

Journalist of daily **ŽRepublika**