

# **OPINION ON THE LAWS OF MONTENEGRO GOVERNING VOTER REGISTRATION (LAW ON THE VOTER REGISTER, LAW ON THE REGISTERS FOR PERMANENT AND TEMPORARY RESIDENCE, LAW ON MONTENEGRIN CITIZENSHIP, LAW ON IDENTITY CARD)**

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## **Montenegro**

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Based on an English translation of the laws provided by the Parliament of Montenegro.

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## **EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS**

The primary legislation governing voter registration in Montenegro is the 2014 Law on the Voter Register (the LVR), which establishes a permanent, continuously updated electronic database of eligible voters, managed by the Ministry of the Interior. In addition, the LVR sets out criteria for voter eligibility, procedures for updating and correcting voters' data, mechanisms for public scrutiny, and administrative cooperation between the relevant authorities. Supplementing the LVR are the 2015 Law on the Registers for Permanent and Temporary Residence (the LRPTR), the 2008 Law on Montenegrin Citizenship (the LMC), and the 2007 Law on Identity Cards (the LIC).

Previous ODIHR election observation activities identified shortcomings in Montenegro's voter registration legislation. Key issues raised in prior ODIHR reports included the need for audits; the unethical use of voter register excerpts, its negative impact on data integrity and the related need for stricter compliance with the data protection law in actions related to voter registration; as well as the need for clear provisions on the voter register for the second round of presidential elections. Additionally, election observation reports highlighted a widespread perception of an inflated voter register due to the inclusion of deceased voters, as well as the lack of systematic audits of the voter register. As concluded by ODIHR, these issues diminished public trust in the voter registration process and, combined with other legislative and organisational shortcomings, highlighted the necessity for a review to ensure a comprehensive and consistent election-related legal framework that aligns with international standards and good practice.

This Opinion further identifies several issues meriting attention in Montenegro's voter registration legislation. These include a lack of harmonisation between different laws, the absence of specific regulations on the adoption of by-laws, and vague terminology. Additionally, the Opinion highlights the lack of detailed procedures for public scrutiny and audits of the voter register, insufficient safeguards for data protection and security, as well as the absence of procedures related to the register maintenance and verification and clear regulations regarding the use of biometric data and artificial intelligence (AI)-driven tools in voter registration, if the use of the latter is considered. Furthermore, the Opinion notes the need for a clear legal framework on special polling stations, and well-defined oversight and accountability mechanisms with respect to complaint avenues and deadlines, as well as related sanctions.

More specifically, and in addition to the points outlined above, the opinion makes the following key recommendations to enhance or supplement the laws governing voter registration in Montenegro:

- A. To ensure compliance with international standards and good practice for national elections, the requirement for permanent residence for the right to vote should be removed.
- B. The authorities should consider additional efforts to ensure the accuracy and transparency of the voter register and to educate the public about these efforts;
- C. 1) Criteria for losing Montenegrin citizenship *ex lege* should be clarified in order to fully prevent arbitrary implementation and undue loss of citizenship and the right to participate in public affairs of Montenegro. It is recommended that the exception to the regulation on *ex lege* loss of Montenegrin citizenship if potentially resulting in statelessness should be expanded to certain other grounds of *ex lege* loss of citizenship listed in Article 24, in line with Council of Europe standards.  
  
2) The law could explicitly include elections as a justified reason for the urgent issuance of ID documents to ensure that affected citizens, including first-time voters who apply for their ID card within the permitted window but close to election day, are not disenfranchised.
- D. It is recommended to clarify the procedures for public scrutiny of voter registration data, including by clearly prescribing access methods (e.g., online, or in-person), exhaustively defining the scope of data available to the public and to the affected individual, and introducing a comprehensive voter awareness campaign prior to the public scrutiny process.
- E. 1) It is recommended to define the methodology and scope of ordinary and extraordinary inspections by the Administrative Inspectorate with respect to the voter register and voter registration data.  
  
2) It is recommended to clarify the different avenues for rectifying voter registration inaccuracies identified by the State Election Commission, particularly with respect to irregularities reported to the Ministry of the Interior or the Administrative Inspectorate. The Law on the Voter Register could mandate the Ministry of the Interior to act on the State Election Commission's requests under a clearly defined deadline and provide legally-justified reasons for non-compliance.
- F. It is recommended to introduce a clear legal mechanism for conducting field verifications of all residence records and establishing a framework for systematic audits of the permanent residence and voter registers, to ensure their accuracy.
- G. It is recommended to explicitly regulate any potential updates of the voter register prior to the second round of presidential elections, as well as for repeat elections. The legislature should weigh whether to maintain the same electorate in each round, per current practice, or whether to take a more inclusive approach to grant suffrage rights to newly eligible voters.
- H. It is recommended to legislate a framework for conducting audits of the voter register, which should define the responsible institutions and methodologies, ensure transparency by allowing the participation of stakeholders and citizen

observers, and establish guidelines for applying data protection provisions during the audit process.

- I. It is recommended to introduce a requirement on consistent application of access rights to the voter register across elections and municipalities.
- J. 1) To prevent the potential misuse of voter registration data, it is recommended to explicitly define the permitted uses of the data, including, and potentially limited to, purposes strictly necessary for maintaining, updating, or verifying the accuracy of the voter register. Legitimate users can be asked to sign a pledge committing to not misusing the data they access. The LVR and Election Law should be harmonized to safeguard and prevent the infringement of personal data integrity.  
2) It is recommended to introduce explicit data-security requirements, including clear obligations for the data controller to provide security measures for all data stored in the voter register.
- K. It is recommended to explicitly regulate the use of biometric data in electoral processes with appropriate safeguards, in line with international standards and good practice on data protection regulations.
- L. It is recommended to establish a clear retention period for all voter registration data, in line with the principle of data minimization and international good practice on personal data protection.
- M. If the introduction of artificial intelligence-driven tools in electoral processes, including voter registration, is considered, it is recommended to clearly regulate their application and to outline safeguards for secure, reliable and transparent use, with full respect of the principles of individual autonomy, privacy, equality and non-discrimination. In line with international good practice, explicit provisions should ensure human oversight and the right to appeal with respect to decision-making by artificial intelligence.
- N. The law should define clear criteria regarding the establishment of special polling stations, including clarifying the institutions where such polling stations are to be established.
- O. 1) It is recommended to extend deadlines for the submission and adjudication of complaints and appeals related to voter registration, in line with international good practice, unless such extensions would risk impeding the timeliness of public scrutiny.  
2) It is recommended to clarify the provisions of Article 27 of the LVR to explicitly define the purpose and scope of the opinions the Ministry of Interior shall provide upon request to authorised stakeholders on the application of the Law on Voter Registration.
- P. 1) It is recommended to introduce into the LVR clear and comprehensive sanctions that cover all potential violations and stakeholders involved in managing the voter register and voter lists.  
2) It is recommended to establish a system of graduated sanctions that differentiates between the severity of violations. Proportional penalties should be introduced to ensure that minor administrative delays are not penalised at the same level as serious infractions.

These and additional Recommendations are included throughout the text of this Opinion, highlighted in bold.

***As part of its mandate to assist OSCE participating States in implementing their OSCE human dimension commitments, ODIHR reviews, upon request, draft and existing laws to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement.***

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## I. INTRODUCTION

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1. On 28 January 2025, the Parliament of Montenegro sent to the OSCE Office for Democratic Institutions and Human Rights (hereinafter “ODIHR”) a request for a legal review of several laws governing elections in Montenegro, including the 2014 Law on the Voter Register, the 2015 Law on Registers for Permanent and Temporary Residence, the 2008 Law on Montenegrin Citizenship, and the 2007 Law on Identity Cards (hereinafter “laws”).
2. On 18 February 2025, ODIHR responded to this request, confirming the Office’s readiness to prepare a legal opinion on the compliance of these Laws with international human rights standards and OSCE human dimension commitments.
3. This Opinion was prepared in response to the above request. ODIHR conducted this assessment within its mandate to assist the OSCE participating States in the implementation of their OSCE commitments.
4. This Opinion should be read to together with the with ODIHR Opinion on the Law on Election of Councillors and Members of Parliament and the Law on Election of the President of Montenegro, the ODIHR Opinion on the Law on Political Parties, the ODIHR Final Opinion on the Law of Montenegro on Financing of Political Entities and Election Campaigns (2024) as well as the relevant findings and recommendations from the ODIHR Election Observation Missions’ Final Reports.<sup>1</sup>

## II. SCOPE OF THE OPINION

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5. This Opinion covers four laws governing certain aspects of voter registration that were submitted for review, namely, the 2014 Law on the Voter Register, the 2015 Law on the Registers for Permanent and Temporary Residence, the 2008 Law on Montenegrin Citizenship, and the 2007 Law on Identity Cards. The scope of the review primarily covers election-related aspects of the regulatory framework under analysis, with a specific focus on voter registration and relevant procedures, and thus does not contain a comprehensive analysis of the regulations on citizenship, identification, and residency registration, and does not constitute a full and comprehensive review of the entire legal and institutional framework regulating electoral processes in Montenegro.
6. The Opinion raises key issues and provides indications of areas of concern. In the interest of conciseness, it focuses more on those provisions that require amendments or improvements than on the positive aspects of the laws. The ensuing legal analysis is based on international and regional standards and good practices pertaining to democratic elections, including OSCE human dimension commitments, the recommendations provided by ODIHR election observation activities, as well as human rights and rule of law standards, norms and recommendations. The Opinion also highlights, as appropriate, good practice from other OSCE participating States in this field. When referring to

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<sup>1</sup> See ODIHR Election observation missions’ [reports](#) with respect to Montenegro; all ODIHR legal opinions related to Montenegro are available at: [<Montenegro | LEGISLATIONLINE>](#).



national legislation, ODIHR does not advocate for any specific country model; it rather focuses on providing clear information about applicable international standards while illustrating how they are implemented in practice in certain national laws. Any country example should always be approached with caution since it cannot necessarily be replicated in another country and has always to be considered in light of the broader national institutional and legal framework, as well as the country-specific context and political culture.

7. Moreover, in accordance with the *Convention on the Elimination of All Forms of Discrimination Against Women*<sup>2</sup> (hereinafter “CEDAW”) and the *2004 OSCE Action Plan for the Promotion of Gender Equality*,<sup>3</sup> as well as commitments to mainstream gender into OSCE activities, programmes and projects, the Opinion integrates, as appropriate, a gender and diversity perspective.
8. This Opinion is based on an unofficial English translation of the laws provided by the Parliament of Montenegro, which is attached to this document as an Annex. Errors from translation may result. Should the Opinion be translated in another language, the English version should prevail.
9. In view of the above, ODIHR would like to stress that this Opinion does not prevent ODIHR from formulating additional written or oral recommendations or comments on respective subject matters in Montenegro in the future.

### III. LEGAL ANALYSIS AND RECOMMENDATIONS

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#### 1. RELEVANT INTERNATIONAL HUMAN RIGHTS STANDARDS AND OSCE HUMAN DIMENSION COMMITMENTS

10. International human rights instruments set out standards that are relevant to the right and opportunity to vote and to voter registration. The *International Covenant on Civil and Political Rights* (“ICCPR”) provides for citizens’ right and opportunity to vote without unreasonable restrictions.<sup>4</sup> Under Article 2 of the ICCPR the States Parties undertook to “respect and to ensure to all individuals within [their] territory and subject to [their] jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.
11. The *International Convention on the Elimination of All Forms of Racial Discrimination* (“ICERD”) enshrines equality in electoral participation without any form of racial discrimination;<sup>5</sup> the *Convention on the Elimination of All Forms of Discrimination Against Women* (“CEDAW”) requires States to ensure women’s right to vote on equal

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<sup>2</sup> UN Convention on the Elimination of All Forms of Discrimination against Women (hereinafter “CEDAW”), adopted by General Assembly resolution 34/180 on 18 December 1979. Ukraine deposited its instrument of ratification of this Convention on 12 March 1981.

<sup>3</sup> See OSCE Action Plan for the Promotion of Gender Equality, adopted by Decision No. 14/04, MC.DEC/14/04 (2004), par 32.

<sup>4</sup> Article 25 in conjunction with Article 2 of the 1966 UN ICCPR; paragraph 11 of the 1996 UN Human Rights Committee (UNHRC) General Comment No. 25 to the International Covenant on Civil and Political Rights (ICCPR), which specifies states’ obligation to “take effective measures to ensure that all persons entitled to vote are able to exercise that right”.

<sup>5</sup> Article 5.c of the [ICERD](#).



terms with men;<sup>6</sup> and the *Convention on the Rights of Persons with Disabilities* (“CRPD”) obliges States to guarantee that persons with disabilities can effectively and fully participate in political and public life, including by exercising the right to vote, on an equal basis with others.<sup>7</sup> Under Article 3 of the Protocol 1 to the European Convention for Human Rights and Fundamental Freedoms, the States Parties undertook “to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature”.<sup>8</sup>

12. In the *1990 OSCE Copenhagen Document*, OSCE participating States committed to uphold citizens’ right to participate in the governance of their country, either directly or through freely chosen representatives.<sup>9</sup> Under the Copenhagen Document, the commitments relevant to the right to vote and voter registration include universal and equal suffrage for adult citizens (Paragraph 7.3), the right to free and secret elections and the integrity of electoral processes (Paragraphs 7.4), the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination (Paragraph 7.5), and the facilitation of election observation (Paragraph 8).
13. Paragraph 11 of the UN Human Rights Committee’s General Comment no. 25 to the ICCPR states that “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. If residence requirements apply to registration, they must be reasonable, and should not be imposed in such a way as to exclude the homeless from the right to vote”. General Comment no. 25 also requires that any interference with voter registration should be penalised according to legislation.
14. These standards and commitments are further reinforced by guidelines developed under the auspices of the Council of Europe (CoE). In particular, the CoE’s European Commission for Democracy Through Law (Venice Commission) *Code of Good Practice in Electoral Matters* provides detailed recommendations on establishing, maintaining, and updating voter registers, and advises on potential criteria for the eligibility of voters, such as nationality or residence.<sup>10</sup> Paragraph I.1.2.d. sets out criteria for ensuring the reliability of voter registers, which include the permanent nature of voter registers; the regularity of their updates ( “at least once a year”); the judicial oversight mechanism for inclusion of voters who were not registered, for the integrity of voters’ data, and for the correction of erroneous entries; the possibility of a supplementary register for those who reached statutory age after the closure of the register; and for non-automatic voter registers, it is recommended to allow registration for “a relatively long period of time”.<sup>11</sup>
15. The 2022 CoE Committee of Ministers’ *Guidelines on the Use of Information and Communication Technologies in Electoral Processes* establishes a framework to align

<sup>6</sup> Article 7 of the [CEDAW](#).

<sup>7</sup> Article 29 of the [CRPD](#).

<sup>8</sup> See Protocol 1 of the Council of Europe’s [Convention for the Protection of Human Rights and Fundamental Freedoms](#), entry into force in Montenegro on 6 June 2006.

<sup>9</sup> Paragraph 6 of the [1990 OSCE Copenhagen Document](#).

<sup>10</sup> Paragraph I.1.2.c. of the 2002 Council of Europe’s Venice Commission [Code of Good Practice in Electoral Matters](#) regulates residency requirement for the eligibility of voters and states that “i. a residence requirement may be imposed; ii. residence in this case means habitual residence; iii. a length of residence requirement may be imposed on nationals solely for local or regional elections; iv. the requisite period of residence should not exceed six months; a longer period may be required only to protect national minorities; v. the right to vote and to be elected may be accorded to citizens residing abroad”.

<sup>11</sup> See also explanatory guidelines for the 2002 Venice Commission [Code of Good Practice in Electoral Matters](#), para. 1.2.

voting technology with principles on democratic elections.<sup>12</sup> In its new [Guidelines on Protecting Personal Data in Voter Registration and Authentication](#) adopted in 2023, the CoE Consultative Committee of the Convention for the Protection of Individuals with Regard to Automatic Processing of Data (Convention 108) outlines guidance on data protection specifically for the purposes of voter registration and identification. Further, the 2024 Venice Commission [Interpretative Declaration of the Code of Good Practice in Electoral Matters on Digital Technologies and Artificial Intelligence](#) offers specific guidance on integrating artificial intelligence (AI) in electoral processes. This Opinion also refers to the Venice Commission’s 2011 [Report on Out-of-Country Voting](#), and the case law of the European Court of Human Rights on *Article 3 of Protocol No. 1 to the European Convention on Human Rights*.

16. The recommendations of this Opinion will refer, as appropriate, to other non-binding instruments. These include the [2024 ODIHR Handbook for the Observation of Information and Communications Technologies \(ICT\) in Elections](#), the recent ODIHR publication that includes, *inter alia*, guidelines and recommendations on compilation and maintenance of voter registers, identity verification, as well as processing of personal data; the [2012 ODIHR Handbook for the Observation of Voter Registration](#), the [2013 ODIHR Guidelines for Reviewing a Legal Framework for Elections](#), and the [2002 International IDEA Guidelines for Reviewing the Legal Framework for Elections](#). Likewise, this Opinion takes into account reports and recommendations from ODIHR election observation activities in Montenegro.<sup>13</sup>

## 2. BACKGROUND AND GENERAL COMMENTS

17. Elections in Montenegro are primarily regulated by the 2007 Constitution, the 1998 Law on Elections of Councillors and Members of Parliament (hereinafter “election law”), and the 2007 Law on the Election of the President. Voter registration is primarily regulated by the 2014 Law on the Voter Register (hereinafter – the LVR, last amended in 2020), supplemented by provisions of the 2015 Law on Registers for Permanent and Temporary Residence (hereinafter – the LRPTR, last amended in 2024), the 2008 Law on Montenegrin Citizenship (hereinafter – the LMC, last amended in 2024), and the 2007 Law on Identity Cards (hereinafter – the LIC, last amended in 2019).
18. The LVR defines the voter register as a permanent, continuously-updated electronic database of eligible voters maintained by the Ministry of Interior (MoI), and regulates the maintenance of the register and integration of data from permanent residence, citizenship, and birth and death records; specifies criteria for the inclusion of voters; defines the scope of data kept in the register; regulates changes to the voter registration data and outlines the public scrutiny, and complaints and appeals process; it also details administrative procedures and institutional cooperation between the relevant authorities.
19. Regulations of the LVR are supplemented by provisions in the LRPTR, LMC, and LIC, which govern the maintenance of permanent and temporary residence registers, including procedures for the registration and cancellation of residence, and the verification of the authenticity of residence registrations. The LIC governs the issuance, content, and validity of identity cards, as well as record-keeping for identification purposes.
20. The last updates to the LVR introduced in 2020 covered the procedure for changing the voter list upon voter’s request and *ex officio* by the Ministry of the Interior. The last

<sup>12</sup> The 2022 Council of Europe Committee of Ministers [Guidelines \(2022\)10](#) On the on the Use of Information and Communication Technology (ICT) in Electoral Processes in Council of Europe Member States.

<sup>13</sup> Prior [ODIHR reports](#) on election observation activities in Montenegro.

updates introduced to the LRPTR and LMC in August 2024 limited the purposes for the use of data from the registers, and explicitly stipulated the use of data for the statistical purposes, including census. The revision of the Law on LRPTR in 2023 clarified the procedures related to the obligation of registration of residence and address, including relocations within municipalities.

21. Montenegro's election-related legislation is not consolidated. In some instances, the LVR and other electoral laws are not fully harmonized, for example regarding the compilation of voter lists, the complaints and appeals process, and the establishment of special polling stations. A number of countries opt for a single consolidated electoral law that regulates most of the matters pertaining to the holding of elections, while others opt for regulating the process by means of a corpus of specialised laws. The ODIHR Guidelines for Reviewing a Legal Framework for Elections states that “[a]lthough both of the above approaches have been applied by different states, one electoral law regulating all elections is recommended, as this approach safeguards consistency in electoral administration and practices, and the unified implementation of the law in connection with all elections. This also simplifies the drafting process in cases where amendments to legislation are needed”.<sup>14</sup> As choosing an approach is within the discretion of each OSCE participating State, the recommendations made in this Opinion will refer generally to “legislation”, without precluding the authorities from deciding whether the laws governing voter registration remain separate or be included in a broader act as part of a legislative reform.<sup>15</sup>
22. The Venice Commission's *Code of Good Practice in Electoral Matters* notes that primary legislation should establish the fundamental principles of electoral law, while secondary legislation – by-laws and other regulations – should focus on “rules on technical matters and detail”.<sup>16</sup> The laws under review lack sufficient detail in some areas, including with respect to the correction and verification of permanent residence and voter registration data, public scrutiny and procedures for the audits of the voter register, data protection and security, and sanctions for breaches of voter registration rules. The Opinion will seek to identify the gaps to be addressed through primary legislation, recognising that some related issues may have been regulated through secondary legislation that falls outside the scope of this analysis.
23. To ensure a coherent and effective legal framework, complementary secondary legislation is essential. The laws under review lay out different approaches regarding the adoption of by-laws and regulations. While the LMC, LIC, and LRPTR specify particular

<sup>14</sup> See the 2013 ODIHR [Guidelines for Reviewing a Legal Framework for Elections](#), p. 11.

<sup>15</sup> Prior ODIHR reports on elections in Montenegro [recommended](#) harmonisation and codification of electoral legislation, as the approach most conducive to the identification and elimination of gaps, conflicting provisions and incoherent terminology, for example in 2023, 2020, and 2018.

<sup>16</sup> Section II.2.a of the 2001 Venice Commission [Code of Good Practice in Electoral Matters \(Code of Good Practice\)](#) states that “[a]part from rules on technical matters and detail – which may be included in regulations of the executive – rules of electoral law must have at least the rank of a statute.” The 2002 International IDEA [Guidelines for Reviewing the Legal Framework for Elections](#) notes that [i]t may be appropriate to incorporate some of the finer detail -- such as voting procedures -- into regulations adopted by government bodies or by electoral management bodies (EMBs), rather than to include it in the electoral law itself. Fundamental issues that should be addressed in the primary electoral legislative frameworks (the electoral law and the constitution) include: qualification to register as a voter, together with any restrictions on such right, if any; qualification for and restrictions on candidacy; rules governing seat allocation; qualification on terms of office; methods of filling casual vacancies; removal of mandates; the secrecy of the vote; and election management”.

issues that necessitate secondary legislation,<sup>17</sup> the LVR only includes a general requirement for the government to adopt regulations where necessary (Articles 34 and 37). **To eliminate the risk of leaving important procedural aspects unregulated, the LVR would benefit from explicitly defining which procedural aspects require secondary legislation.**<sup>18</sup>

24. The ODIHR *Guidelines for Reviewing a Legal Framework for Elections* notes that the “[w]ritten electoral law should be clear and as precise as possible”.<sup>19</sup> Accordingly, the consistent use of clear and well-defined terminology is crucial for ensuring uniform interpretation and application. The laws under review contain several terms that lack clarity, including references to the “*public display*” of voter lists, the designation of “*special polling stations*”, the application of a “*unified program methodology*” or access to a “*centralized system*” of voter registration in the LVR. Of the four laws under review, only the LRPTR includes a comprehensive glossary, while the LIC, LVR, and LMC do not provide a structured list of technical terms. To ensure a uniform understanding of key concepts, **it is recommended that detailed glossaries be introduced where necessary.**<sup>20</sup>
25. The legal framework on voter registration does not contain provisions facilitating or addressing the requirements of persons with disabilities. It is recommended to bring the law in line with the international standards and good practice, stipulating independent access and active participation of persons with disabilities in public life.<sup>21</sup> **It is recommended to introduce obligations on public authorities to ensure proactive outreach to persons with disabilities and to provide information on voting rights and voter registration in user-friendly formats and without the need for requests.**
26. The legal framework pertaining to voter registration does not coherently incorporate the use of gender-sensitive language. The LVR and LRPTR both contain provisions stating that terms used in the laws for natural persons in the masculine gender “*shall also apply to the feminine gender*”. In these laws, male pronouns such as “*him/his*” are generally used instead of more inclusive alternatives. The LMC goes further by using “*he/she*” forms, while the LIC exclusively uses the term “*citizen*”, without gender-specific pronouns appearing in the English translation.
27. Regardless of the language in which laws are drafted, legislation should avoid the use of language that refers explicitly or implicitly to only one gender (gender-specific language)

<sup>16</sup> For example, the LMC mandates the government to establish criteria for verifying language knowledge, obtaining citizenship, and administering the oath of allegiance (Articles 8, 17, and 30). The LIC requires the MoI to determine the technical specifications of ID documents, data collection methods, the procedure for issuing identity cards, and data management (Articles 6, 12a, 13, 15a, 20, and 24). The LRPTR obliges the MoI to regulate forms for the registration of permanent and temporary residence, change of address, departure to another country, cancellation of residence, and verification of the accuracy of residence declarations (Articles 13, 14, 24, 25, and 27).

<sup>18</sup> Such areas include, but are not limited to, rules on public scrutiny, compilation of voter lists, data protection and security requirements, and the complaints and appeals process.

<sup>19</sup> Section 4.1 of the 2013 ODIHR [Guidelines for Reviewing a Legal Framework for Elections](#).

<sup>20</sup> See glossaries in the 2012 ODIHR [Handbook for the Observation of Voter Registration](#) and the 2002 International IDEA [Guidelines for Reviewing the Legal Framework for Elections](#).

<sup>21</sup> Article 29 of the 2006 [CRPD](#) obliges States Parties “a) To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected [...]; b) To promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs [...]”. The [1991 OSCE Moscow Document](#) states that states should “take steps to ensure the equal opportunity of persons with disabilities to participate fully in the life of their society” and “to promote the appropriate participation of such persons in decision-making in fields concerning them”. See the [1966 UN ICCPR](#), Article 25 in conjunction with Article 2.



or group, or that they do so only when it serves the effectiveness of the law or for a specific reason (for example, the law addresses a specific gender). Consideration should be given to revisiting gender-specific formulations and rephrasing them with gender-inclusive formulations in line with international guidelines.<sup>22</sup> For example, opting for gender-neutral reformulations, collective nouns, or plural-neutral forms of nouns, adjectives and pronouns, which are gender-neutral in the Montenegrin language, is advisable, instead of the respective singular forms.<sup>23</sup>

28. This Opinion should be read in conjunction with previous ODIHR election observation reports that made recommendations, *inter alia*, on legal and practical aspects of voter registration. These include Recommendations No. 3 and 10 of the Final Report for the 2020 Parliamentary Elections, Recommendations No. 4 and 14 of the Final Report for the 2023 Presidential Election, and Recommendation No. 13 of the Final Report for the 2023 Early Parliamentary Elections.<sup>24</sup> Where necessary, this Opinion reiterates the recommendations made by these ODIHR election observation reports.

### 3. RIGHT AND OPPORTUNITY TO VOTE

#### 3.1 Residence Requirement for Voting Eligibility

29. The right to vote in any election is granted by the Constitution to citizens who are at least 18 years old and have maintained permanent residence in Montenegro for a minimum of two years.<sup>25</sup> Only those with permanent residency in the respective municipality are entitled to vote in the respective local elections (Article 11, Election Law).<sup>26</sup> In addition to these constitutional and legal eligibility requirements, the LVR creates a strong link between permanent residence and inclusion in the voter register. Under the LVR, inclusion in the voter register is based on the permanent residence register (Article 6), citizens are assigned to polling stations according to their place of permanent residence (Article 20), and the loss of permanent residence leads to deletion from the voter register (Article 15). These provisions effectively make permanent residence a prerequisite for exercising the right to vote, which gains a restrictive nature due to a constitutional two-year length requirement, at odds with international standards and good practice.<sup>27</sup> The

<sup>22</sup> See for example paras. 182-183, ODIHR [Comprehensive Assessment Report on the Lawmaking Process in Montenegro](#) (30 December 2024). See 2024 ODIHR [Guidelines on Democratic Lawmaking for Better Laws](#), para. 133; 2020 ODIHR [Comments](#) on the Law on the Assembly and the Rules of Procedure of the Assembly from a Gender and Diversity Perspective, paras 105-107; and 2017 ODIHR [publication](#) “Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation”, page 63. See also See [UN Guidelines for Gender-Inclusive Language](#).

<sup>23</sup> See the 2024 ODIHR [Guidelines on Democratic Lawmaking for Better Laws](#), para. 223.

<sup>24</sup> The 2020 [ODIHR LEOM Final Report](#), along with the 2023 ODIHR EOM Final Reports for the [Presidential](#) and [Early Parliamentary Elections](#).

<sup>25</sup> Article 45 of the Constitution and the Article 11 of the Election Law, the latter specifies that the two-year residency registration should be calculated with respect to election day.

<sup>26</sup> In 2020, the Constitutional Court abrogated as unconstitutional the additional legal restriction on voting rights in municipal elections that previously required a six-month residence in the municipality.

<sup>27</sup> See Article 25 in conjunction with Article 2 of the [1966 UN International Covenant on Civil and Political Rights](#). Paragraph 11 of the 1996 UN Human Rights Committee (UNHRC) [General Comment No. 25](#) to the International Covenant on Civil and Political Rights (hereinafter UN HRC General Comment No. 25 to the ICCPR) provides that “if residence requirements apply to registration, they must be reasonable”. Paragraph 7.3 of the 1990 OSCE [Copenhagen Document](#) commits the participating States to “guarantee universal and equal suffrage to adult citizens”. Paragraph I.1.1.c.iii of the [2002 Venice Commission Code of Good Practice in Electoral Matters](#) states that “a length of residence requirement may be imposed on nationals solely for local or regional elections”.

length-of-residence requirement for national elections has also been criticised by ODIHR election observation reports.<sup>28</sup>

30. The LRPTR provides broad options for registering permanent residence. Under the standard registration process, individuals can establish residence in Montenegro by providing evidence of property ownership, a rental agreement, or by living at the address of family members (Article 10, LRPTR). Additionally, the law mandates the authorities to register permanent residence *ex officio* for individuals without permanent residence, based on administrative criteria such as the last known temporary residence, the spouse's residence, entries in the birth or citizenship register, or the address of a social welfare institution where the person receives benefits (Article 18, LRPTR).
31. Article 19 of the LRPTR introduces a specific mechanism for homeless individuals to register permanent residence at the address of social welfare services or, alternatively, at the address of a private individual or legal entity. However, this option is contingent upon either receiving social welfare benefits or obtaining the explicit consent of the relevant person or entity. As a result, homeless persons who do not use social welfare services and cannot obtain the necessary consent may face difficulties in fulfilling the legal criteria and an increased risk of disenfranchisement. Paragraph 11 of the 1996 UNHRC General Comment No. 25 to the ICCPR notes that “[i]f residence requirements apply to registration, they must be reasonable, and should not be imposed in such a way as to exclude the homeless from the right to vote”.<sup>29</sup> **If permanent residency is maintained as a prerequisite for voting rights, it is recommended to consider additional provisions that facilitate the inclusion of all eligible citizens as registered voters, including homeless persons who do not use social welfare services, such as by expanding options for declaring permanent in-country residency without a fixed address.**
32. If permanent residence is renounced or lost, it can be re-established – and, consequently, voter registration restored, following the regular procedure – by declaring residence in the country substantiated with proof of the legal title associated with residency (proof of property ownership, or a valid notarised lease agreement) (Article 10, LRPTR). Registration is conducted based on the verification of the data provided by the applicant (Article 14, LRPTR). In case of doubts, authorities may initiate an *ex officio* field verification that is to be conducted by the police, and may reject the applications for permanent residence, if the verification established that the individual does not *de facto* reside at the address (Article 15, LRPTR). The law does not clearly define the grounds for initiating a field verification, and therefore does not ensure legal certainty for the subjects and may result in the arbitrary use of this mechanism by authorities. **It is therefore recommended to clarify the provisions of Article 15 of the LRPTR on invoking field verification of residency and the criteria under which data provided by citizens could be deemed suspect.**

<sup>28</sup> See priority recommendation No 3 of the 2020 ODIHR LEOM [Final Report](#), recommendation No. 14 of the ODIHR EOM [Final Report](#) for the 2023 Presidential Election, and recommendation No. 13 of the ODIHR EOM [Final Report](#) for the 2023 Early Parliamentary Elections.

<sup>29</sup> Paragraph 11 of the 1996 UNHRC [General Comment No. 25](#). Regarding the electoral participation of the homeless, also see 7.D of the 2012 ODIHR [Handbook for the Observation of Voter Registration](#).

## RECOMMENDATION A.

To ensure compliance with international standards and good practice for national elections, the requirement for permanent residence for the right to vote should be removed.

### 3.2 Citizens De Facto Residing Abroad

33. Montenegrin citizens who *de facto* reside abroad have the option to deregister their permanent residence, which results in their removal from the voter register (Article 15 of the LVR). However, there is no explicit requirement to do so: Article 12 of the LRPTR provides that “[a] Montenegrin citizen who is relocating abroad to reside in another country with the intention of living there permanently may cancel their permanent residence”.
34. Most citizens who *de facto* reside abroad remain registered as voters at their last permanent residence.<sup>30</sup> As consistently noted in previous ODIHR election observation reports, the current situation in Montenegro, in which many voters residing abroad and deceased abroad remain on the voter lists for in-country voting, contributes to a widespread perception of an inflated voter register and diminished trust in its integrity.<sup>31</sup> **It is recommended to improve the maintenance of data related to citizens deceased abroad, including through additional regulations on the exchange of data between competent authorities, to enable timely introduction of relevant status changes in the voter register.**
35. In the absence of relevant international commitments and standards on permitting otherwise eligible citizens residing abroad to participate in elections, each OSCE participating State has discretion to decide whether to facilitate voting from abroad.<sup>32</sup> The persisting public concerns suggest that the authorities should consider additional efforts to ensure the accuracy and transparency of the voter register and to educate the public about these efforts.
36. In accordance with the Election Law the right to vote is not immediately restored upon re-establishing permanent residence, given the constitution requirement of two years of permanent residence in Montenegro for all types of elections. The Election Law further specifies that the term of residency should be calculated with respect to the election day (Article 11). As established above, it is not obligatory to de-register one’s permanent address when establishing permanent residence abroad, and until recently was illegal to *not* de-register permanent residence after residing abroad for more than 90 days. This raises questions regarding the equal treatment of citizens as eligible voters, among those

<sup>30</sup> See the 2023 ODIHR EOM [Final Report](#) for the Presidential Election: “By law, citizens who live permanently abroad are not obliged to deregister their permanent residence, and they generally do not do so in practice.”

<sup>31</sup> The 2020 [ODIHR LEOM Final Report](#), along with the 2023 ODIHR EOM Final Reports for the [Presidential](#) and [Early Parliamentary Elections](#), highlight persistent issues regarding public trust with the register’s accuracy, particularly with respect to the continued inclusion of those citizens deceased abroad.

<sup>32</sup> For practices in OSCE participating States, see the 2015 Venice Commission [Summary Report on Voters de facto Residing Abroad](#). Also see the Venice Commission and ODIHR [Joint Opinion on the 26 February 2007 Amendments to the Electoral Code of the Republic of Armenia](#), which notes that “[c]ountries considering arrangements for external voting will have to balance universal suffrage against transparency and security during elections. It is also a matter of costs to what extent large groups can be accommodated. Different countries come to different conclusions in these considerations. Many countries around the world do not permit their citizens to vote outside their territories”.



who chose to obey the laws in force at the time of their relocation abroad, or most recently those who for other purposes opted to voluntarily de-register, and those who remained residing abroad without de-registering their permanent residence, as only the latter category retain voting rights while abroad and when re-establishing themselves as in-country residents.

#### RECOMMENDATION B.

The authorities should consider additional efforts to ensure the accuracy and transparency of the voter register and to educate the public about these efforts.

### 3.3 Citizenship and Identity Card Requirements

37. Citizenship is a requirement for voter eligibility, including in municipal elections.<sup>33</sup> The LMC sets out the criteria for acquiring citizenship: by origin, by birth on Montenegrin territory, by naturalization, or under the terms of an international agreement (Article 4).<sup>34</sup> The LMC provides three circumstances in which Montenegrin citizenship can be lost: by request, by law (*ex lege*), and on the basis of international agreements. Article 24 outlines the grounds for losing citizenship *ex lege*, which include *inter alia* acquisition of another citizenship; revocation due to false claims for acquiring citizenship; conviction for crimes against humanity or other international crimes; financing or otherwise participating in acts of terrorism; and serving in a foreign military. Some of these latter provisions are broadly formulated and would benefit from clarification, particularly those permitting revocation of citizenship for being “*a member of an organization whose activities are directed against the public order and security of Montenegro*” and, although in line with Council of Europe language, if “*the person’s behaviour seriously harms the vital interests of Montenegro*” (Article 24 (6) and (8)). These definitions do not fully exclude the potential for arbitrary application, which could lead to undue loss of citizenship and of the right to participate in public affairs.
38. As a State Party to the 1961 Convention on the Reduction of Statelessness, Montenegro has the obligation to ensure that an individual shall not be deprived of its nationality if such deprivation would render them stateless (Article 8(1)). It is noted that the Council of Europe European Convention on Nationality, ratified by Montenegro in 2010, envisages circumstances where *ex lege* loss of nationality may be envisaged, which correspond to some of the grounds listed in Article 24 (paragraph 1 (1), (2), (7) and (8)). While Article 24 (2) and (3) of the LIC explicitly provides for **an exception to the *ex lege* loss of Montenegrin citizenship if this would result in statelessness, such an exception should be expanded to any other grounds of *ex lege* loss of citizenship that are not explicitly provided for in the Council of Europe Convention on Nationality.**<sup>35</sup>

<sup>33</sup> Paragraph I.1.1.1 of the [2002 Venice Commission Code of Good Practice in Electoral Matters](#) recommends that “it would be advisable for foreigners to be allowed to vote in local elections after a certain period of residence”; its Explanatory Report adds that “a tendency is emerging to grant local political rights to long-standing foreign residents, in accordance with the Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level”.

<sup>34</sup> The criteria for gaining citizenship by origin are detailed in Articles 5 and 6, by birth – in Article 7, by admittance – in Articles 8 – 17, and by international treaties – in Article 18.

<sup>35</sup> Article 7 of the 1997 Council of Europe [European Convention on Nationality](#) provides that “*A State Party may not provide in its internal law for the loss of its nationality ex lege or at the initiative of the State Party*”.

39. From an international counter-terrorism law perspective, the revocation of citizenship – if employed primarily to exclude individuals from national jurisdiction – may compromise collective security by transferring threats to another country.<sup>36</sup> ODIHR has recommended that OSCE participating States should refrain from its use in principle, and, where applied, to do so only under strictly exceptional circumstances with full adherence to non-arbitrariness, the prohibition of statelessness, and proportionality in the restriction of human rights.<sup>37</sup> In light of the broad and vague wording of Article 24 paragraph 1 (5), which refers to “otherwise assisting or executing terrorist actions”, it creates a risk of arbitrary application. In addition, even when individuals are not left stateless, citizenship stripping may also have economic, social, cultural, and familial after-effects, particularly effecting children whose parents are deprived of their nationality.<sup>38</sup> The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has also pointed out the patterns of gender inequality and gendered exceptionalities in current counter-terrorism citizenship stripping practices.<sup>39</sup> **It is therefore recommended to reconsider the ground for *ex lege* loss of Montenegrin citizenship listed in Article 24 paragraph 1 (5) of the LIC.**
40. The LIC mandates all Montenegrin citizens over 18 years old to have an identity card, which serves as official proof of citizenship and identity (Articles 1-2). This card, or alternatively a passport, can serve as proof of identity for voting purposes on election day (Articles 68b and 80 of the Election Law). The MoI is responsible for issuing ID cards (Article 10, LIC), which contain personal information such as full name, date of birth, unique identification number, and biometric data, including fingerprints and a photograph (Article 6 of the LIC). Since an expired ID card is considered invalid (Article 16 of the LIC), it would follow that expired IDs do not serve as acceptable proof of identity for the purpose of voting, although this is not explicitly specified in the LIC or the Election Law. **It is recommended to explicitly specify in the legislation whether, when, for what period and under which conditions expired identification documents may serve as proof of identity for voting purposes.**
41. A citizen turning 18 must apply for an ID card within three months of reaching adulthood (Article 10 of the LIC). The MoI shall issue the document within 30 days of the request

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*except in the following cases: (a) voluntary acquisition of another nationality; (b) acquisition of the nationality of the State Party by means of fraudulent conduct, false information or concealment of any relevant fact attributable to the applicant; (c) voluntary service in a foreign military force; (d) conduct seriously prejudicial to the vital interests of the State Party; (e) lack of a genuine link between the State Party and a national habitually residing abroad; (f) where it is established during the minority of a child that the preconditions laid down by internal law which led to the *ex lege* acquisition of the nationality of the State Party are no longer fulfilled; (g) adoption of a child if the child acquires or possesses the foreign nationality of one or both of the adopting parents (...) A State Party may not provide in its internal law for the loss of its nationality under paragraphs 1 and 2 of this article if the person concerned would thereby become stateless, with the exception of the cases mentioned in paragraph 1, sub-paragraph b, of this article.”*

<sup>36</sup> See the 2018 ODIHR [Guidelines](#) for Addressing the Threats and Challenges of “Foreign Terrorist Fighters” within a Human Rights Framework, pp. 47-51.

<sup>37</sup> *Ibid.* pp. 50-51.

<sup>38</sup> See [Human Rights Consequences of Citizenship Stripping in the Context of Counter-Terrorism](#), UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism February 2022, p. 5. See also [Guidelines](#) for Addressing the Threats and Challenges of “Foreign Terrorist Fighters” Within a Human Rights Framework, OSCE/ODIHR, published 12 September 2018, pages 47-51 and 68-72.

<sup>39</sup> [Human Rights Consequences of Citizenship Stripping in the Context of Counter-Terrorism](#), UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, February 2022, Section on Impact on Women, pp. 20-21. See also for example, [Report](#) of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul, 26 February – 5 April 2024, para. 35.

(Article 15 of the LIC). While the MoI may also issue ID cards urgently for justified reasons, such as medical treatment, illness, or urgent official trips, elections are not specifically mentioned as an accepted reason (Article 15 of the LIC), and therefore may not accommodate a citizen's need for a new or renewed ID card for voting purposes. This provision does not appear to be fully harmonized with Article 23 of the LVR, which states that the "*Ministry shall issue public documents required for exercising the right to vote no later than five (5) days from the day of submission of the request for their issuance*". A first-time voter who recently turned 18 might not have a valid ID if they applied within the permitted window but close to election day, and their card is still being processed. Without a passport as an alternative form of identification (Article 68b of the election law), such individuals risk *de facto* disenfranchisement. **It is recommended to harmonise the provisions on urgent issuance of identification documents for voting purposes, including for citizens who recently gained the age of majority.**

#### RECOMMENDATION C.

1. Criteria for losing Montenegrin citizenship *ex lege* should be clarified in order to fully prevent arbitrary implementation and undue loss of citizenship and the right to participate in public affairs of Montenegro. It is recommended that the exception to the regulation on *ex lege* loss of Montenegrin citizenship if potentially resulting in statelessness should be expanded to certain other grounds of *ex lege* loss of citizenship listed in Article 24, in line with Council of Europe standards.
2. The law could explicitly include elections as a justified reason for the urgent issuance of ID documents to ensure that affected citizens, including first-time voters who apply for their ID card within the permitted window but close to election day, are not disenfranchised.

#### 4. MAINTENANCE AND PUBLIC SCRUTINY OF THE VOTER REGISTER

42. The voter register is maintained electronically by the MoI and updated on the basis of data from the permanent residence register, the register of Montenegrin citizens, and birth and death records (Article 6 of the LVR). According to Article 9 of the LVR, the voter register shall include "citizens of Montenegro who have the right to vote, as well as persons who will acquire the right to vote no later than the election day (voters), registered according to their place of permanent residence".
43. According to the LVR, entries in the voter register may be changed by the MoI upon the request of voters or *ex officio*. Voters may request corrections of registration data no later than 15 days before the elections (Article 13); subsequently, the voter register closes for changes 10 days prior to election day (Article 18). The LVR prescribes that the corrections requested by voters may concern the non-inclusion of the respective voter, incorrect or incomplete data in the voter register, or inaccurate information on polling stations (Article 13 of the LVR). Based on an assessment of the provided information, the MoI shall decide to incorporate the necessary changes to the respective primary database with its consequent transfer into the voter register, introduce the change related to the polling station into the voter register, if necessary, or reject the request if it is found to be unjustified (Article 14 of the LVR). The law establishes a 48-hour deadline for the MoI to introduce the changes, and provides an avenue for administrative appeal.

44. Apart from changes due to voter requests, the correction of voter register data is also conducted upon the *ex officio* action of the MoI. By law, “changes in the data on voters in primary registers shall be automatically transferred to the voter register” (Article 12 of the LVR). *Ex officio* changes to the voter register shall be carried out based on data from official records and public documents, data from electronic registers, or records kept pursuant to the law. According to Article 12 of the LVR, authorities responsible for keeping official records on citizens shall provide the MoI with data that affects the accuracy and timeliness of the voter register within seven days of when the changes occurred. **The LVR should clarify the scope of data to be transferred automatically from source databases and their respective updates, and when an action or decision of the MoI is necessary for a change to be adopted.**
45. Permissible changes in the voter register include “entry, deletion, amendment, supplement or correction” (Article 12 of the LVR). Article 12a of the LVR, which regulates *ex officio* changes by the MoI, only references the registration of newly eligible voters. The introduction of a new entry is one of the five types of changes provided by the legislation, but four of them are not explicitly referenced as changes that may be introduced by the MoI. Therefore, as currently formulated, the law creates an ambiguity as to the scope of actions that may be taken by the MoI. **It is recommended to update the LVR to explicate all *ex officio* actions that the MoI may undertake to update the voter register.**
46. According to Article 16 of the LVR, within three days of the calling of elections, the MoI shall announce “*through media and on its website*” the commencement of public scrutiny of the voter register, and inform voters about the methods to access their data. However, the LVR only specifies that access to data is provided “*through electronic communication*”, without clarifying whether voters’ data is published online, made accessible via an application, or available through other means. The LVR also lacks clarity on the scope of accessible data, leaving it uncertain whether citizens can view only their registration details or may also have access to background documents related to the entry or the respective changes.<sup>40</sup> Furthermore, Article 16 of the LVR only references the public scrutiny in the context of local elections, leaving similar processes for the national elections unregulated. Moreover, the LVR does not explicitly foresee voter information campaigns related to public scrutiny, although voter education on registration issues was observed as insufficient by a recent ODIHR election observation mission.<sup>41</sup> Overall, the LVR’s provisions on public scrutiny do not provide the detailed guidance on the methodology of voter register scrutiny that is recommended.<sup>42</sup>

<sup>40</sup> Section 4.D of the 2012 ODIHR [Handbook for the Observation of Voter Registration](#): “[g]enerally, only such information as necessary to identify a voter as eligible for a particular election should be made publicly available, in particular when the voter register is extracted from the population register, which includes more personal data.”

<sup>41</sup> The 2023 ODIHR EOM [Final Report](#) for the early parliamentary elections recommended strengthening voter information campaigns prior to the public scrutiny process: “[v]oter education and information campaigns to provide voters and stakeholders with information about the opportunities for corrections and updates were lacking but could strengthen citizens’ engagement in the electoral process and contribute to creating an informed community.”

<sup>42</sup> Section 7 of the International IDEA’s 2002 [Guidelines for Reviewing the Legal Framework for Elections](#) states that “[t]he legal framework should clearly specify who may inspect voter registers, how the inspection will take place, and the period when voter registers are available for public inspection.”

## RECOMMENDATION D.

It is recommended to clarify the procedures for public scrutiny of voter registration data, including by clearly prescribing access methods (e.g., online, or in-person), exhaustively defining the scope of data available to the public and to the affected individual, and introducing a comprehensive voter awareness campaign prior to the public scrutiny process.

## 5. OVERSIGHT AND ACCOUNTABILITY MECHANISMS

47. The MoI is the primary authority responsible for maintaining, updating and correcting the voter register (Article 3 of the LVR), with the LVR assigning additional oversight roles to the Administrative Inspectorate and the State Election Commission (SEC).
48. The Administrative Inspectorate<sup>43</sup> is responsible for verifying the legality of the voter registration process through “*ordinary and extraordinary inspection supervisions*” (Article 31 of the LVR). It is also tasked with handling petitions from electoral contestants, observers, and the SEC, and may order “*the responsible authority to undertake specific measures*” to address irregularities. Ordinary inspections are conducted in line with the working plan of the oversight body, whereas extraordinary inspections are carried out during the election period (for regular and early elections). Under the LVR, the Inspectorate shall be authorised to access the “Centralised System to verify whether all obligations related to keeping of the voter register, as prescribed by law, are being promptly fulfilled”. The law obliges the Inspectorate to verify “all official records [and] evidence based on which changes are introduced into the voter register”, when assessing the voter register updates (Article 31 of the LVR). However, in the absence of a comprehensive methodology for the inspections, it is unclear what sample shall be selected for the inspections and from which state databases, and whether the inspection constitutes a systemic verification of voters’ data.<sup>44</sup> **The LVR should be amended to clarify the scope of mandate of the Inspectorate verification process, including by defining the applicable state databases and sample size.**
49. The SEC’s legal mandate does not include functions related to voter register maintenance or a systematic review of its accuracy.<sup>45</sup> The Election Law entitles the SEC to “[e]nsure the legality of the elections and uniform implementation of the provisions of the [Election] Law; [and to] [m]onitor the implementation and give opinions regarding the implementation of the [Election] Law”. Under the Election Law, the SEC also verifies the authenticity of voters’ support signatures required to establish the eligibility of candidate lists, and may encounter issues related to voter registration during the determination of polling stations or voter identification on election day. Article 26 of the LVR grants the SEC access to all databases and documentation related to voter registration at the disposal of the MoI and other state institutions and local administration, including the voter register, ID register and primary registers. The SEC’s access to these

<sup>43</sup> According to the [website](#) of the government of Montenegro, the “Administrative Inspectorate is an organizational unit of the Ministry of Public Administration, Digital Society and Media that supervises the application of regulations governing state administration, rights and obligations of civil servants and employees, administrative procedure”, along with other responsibilities.

<sup>44</sup> The activities of the Administrative Inspectorate are regulated by the law regulating the supervisory inspections.

<sup>45</sup> The responsibilities of the SEC are regulated by Article 32 of the Election Law; the Election Law does not prescribe any functions of the SEC related to the oversight of the voter registration or maintenance of the voter register.



registers is via a direct electronic link in real time (Articles 28-29 of the LVR). Moreover, the LVR establishes the responsibility of all administrative agencies to provide the SEC with all data regarding changes to the voter register under a 48-hour deadline (Article 30 of the LVR). The LVR does not explicitly indicate the premise for such overarching access to all citizens' data, except for the indication that it is provided within the framework of interinstitutional cooperation. The LVR is also silent as to any limits on the use of the data. **It is recommended to elaborate the SEC's mandate regarding the voter register and clarify the justification for the SEC's access to all citizens' personal data and to explicate limits on its use.**

50. If irregularities are identified, the SEC must notify the MoI (Article 29 of the LVR). The LVR does not specify whether the MoI is obligated to act upon SEC notifications, nor does it establish sanctions for non-compliance. Furthermore, the LVR offers another avenue for the SEC to raise concerns and trigger elimination of inaccuracies in the voter register, specifically, by submitting a request to the Administrative Inspectorate (Article 31). However, the law does not clarify the procedural or outcome differences between these mechanisms, undermining legal certainty.<sup>46</sup> It is recommended to amend the LVR to address these gaps, which may hamper the effective implementation of the LVR.

#### RECOMMENDATION E.

1. It is recommended to define the methodology and scope of ordinary and extraordinary inspections by the Administrative Inspectorate with respect to the voter register and voter registration data.
2. It is recommended to clarify the different avenues for rectifying voter registration inaccuracies identified by the State Election Commission, particularly with respect to irregularities reported to the Ministry of the Interior or the Administrative Inspectorate. The Law on the Voter Register could mandate the Ministry of the Interior to act on the State Election Commission's requests under a clearly defined deadline and provide legally-justified reasons for non-compliance.

## 6. ACCURACY AND INTEGRITY OF DATA

### 6.1 Verification of Permanent Residence Records

51. The reliability of voter register data is closely linked to the accuracy of permanent residence records, which primarily rely on self-declarations by citizens (Article 10 of the LRPTR). Articles 15 and 15a of the LRPTR authorize the MoI to request field verification by the police when there is doubt regarding the validity of a permanent residence declaration. If the declared residence lacks sufficient substantiation, the MoI may cancel the registration. However, this provision applies exclusively to new registrations or changes of residence, and not to permanent residences established and registered earlier.

<sup>46</sup> Section 3.D of the 2012 ODIHR [Handbook for the Observation of Voter Registration](#) notes that "several different institutions may be involved in different aspects of the process, especially in systems where voter registration data are a subset of another State-maintained database. It is critical that the legal framework provides for a clear division of responsibility among the institutions and individuals involved in voter registration."

The LRPTR does not establish a mechanism for field verifications of long-standing residence records to detect systematic inaccuracies in permanent residence data.

52. According to the principle of the division of responsibilities, the residence records should be maintained by an authority that is clearly separate from the police and the verification of the data should preferably be carried out by local authorities, and not the police.<sup>47</sup> **It is therefore recommended to reconsider the involvement of the police in the verification of residence records.**
53. While practices vary, in some countries, field tests of the voter register have been regularly conducted by state authorities or civil society organisations to assess the accuracy of citizens' data. Introducing legal provisions for field verifications of existing permanent residence records, along with clear criteria for initiating such verifications, could therefore provide a legal basis for comprehensive field audits of the permanent residence register and, ultimately, the voter register. ODIHR has previously recommended audits of the voter register in Montenegro, most recently in 2020, with the aim of enhancing public trust in the integrity of the voter registration process.<sup>48</sup>

#### **RECOMMENDATION F.**

It is recommended to introduce a clear legal mechanism for conducting field verifications of all residence records and establishing a framework for systematic audits of the permanent residence and voter registers, to ensure their accuracy.

### *6.2 Updates to Voters' Data prior to Presidential Run-offs and Repeat Elections*

54. Presidential run-off elections are held within 14 days if no candidate secures a majority of valid votes cast in the first round (Articles 16 and 17 of the Law on Election of the President of Montenegro). The LVR does not contain provisions related to updates or corrections to the voter register prior to second rounds or repeat elections.<sup>49</sup>
55. Practices regarding voter register updates between electoral rounds vary, with some countries permitting updates, while others keeping the register unchanged.<sup>50</sup> While choosing an approach is within the discretion of each OSCE participating State, allowing specific updates – namely, adding individuals who reach voting age – could contribute to

<sup>47</sup> See the 2009 ODIHR [Guidelines](#) on Population Registration, pp. 15 and 38.

<sup>48</sup> See Recommendation No. 10 of the 2020 [ODIHR LEOM Final Report](#).

<sup>46</sup> In practice, such updates did not occur between the two rounds of the 2023 presidential election, as reported by the respective ODIHR election observation mission. The 2023 ODIHR EOM [Final Report](#) for the Presidential Election states: “[t]he law is silent on whether the voter lists should be updated between the two rounds of the election, further indicating the need for legal clarification of the second round [...] The MoI informed the ODIHR EOM that they did not update the voter register before the second round, applying the same approach as prescribed by the legal provisions prohibiting updating the voter lists ahead of a repeat voting.”

<sup>50</sup> For example, the 2021 ODIHR EOM Georgia [Final Report](#) states that the law explicitly requires adding voters who turn 18 and removing deceased voters between rounds, while other changes are not permitted. The 2021 ODIHR EAM Bulgaria [Final Report](#) notes that at its own discretion, the election administration decided to update the register for deceased and newly eligible voters, although the law is silent on the matter. The 2024 ODIHR EOM North Macedonia [Final Report](#) states that, in the absence of legal provisions, the voter register remained unchanged between the two rounds. Some states do not provide for including eligible voters who obtained voting rights during the rounds of elections through updates in the voter register under the premise that such updates would distort the election results by expanding the electorate.



the accuracy and inclusiveness of the voter register and therefore merits consideration, unless significant administrative or practical challenges arise.<sup>51</sup>

56. It is important to note that the inclusion of citizens who reach the age of 18 in Montenegro's voter register is an automated process, and extending this provision to run-off elections does not appear to pose discernible risk. However, due diligence should be exercised with respect to other amendments necessitating formal verification by the competent authorities, such as obtaining citizenship or changing permanent residence, within this short period.

#### **RECOMMENDATION G.**

It is recommended to explicitly regulate any potential updates of the voter register prior to the second round of presidential elections, as well as for repeat elections. The legislature should weigh whether to maintain the same electorate in each round, per current practice, or whether to take a more inclusive approach to grant suffrage rights to newly eligible voters.

### *6.3 Voter Registration Audits*

57. Beyond a general provision in Article 5 of the LVR, which mandates the MoI to analyse the data from the voter register and take “*measures to ensure their mutual consistency and accuracy*”, the LVR does not establish a formal mechanism for auditing the voter register. Consequently, such processes remain entirely unregulated: the law does not prescribe a methodology for audits, does not specify whether partial or full audits should be conducted before elections, or indicate whether they can be triggered by reports of inaccuracies or complaints from stakeholders. Moreover, the law does not define which authorities and stakeholders should be involved in the process. These gaps represent a missed opportunity to enhance transparency and build trust in the accuracy of the voter register.<sup>52</sup> The *ODIHR Handbook for the Observation of Voter Registration* notes that “[i]t is good electoral practice for the relevant administration to carry out regular audits of its voter registration database, in particular to identify possible errors or multiple records. [...] The legal framework should stipulate the frequency with which the registration authorities are to audit the registers or the voter lists”.<sup>53</sup>
58. Previous ODIHR election observation reports have raised concerns related to the inclusion in the voter register of deceased voters, including those deceased abroad, as well as the presence of duplicate entries, or entries related to different individuals but

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<sup>52</sup> See the 2001 NDI report [Building Confidence in the Voter Registration Process](#), which specifies that “[d]epending on the particular issues of concern, a field test, a computer test or both tests may be valuable. Field tests tend to be useful to identify fictitious names, people who have died, people who have changed their name or people who have moved. Computer tests are particularly useful to find duplicate names, individuals with missing or partial data and changes in registration trends”.

<sup>53</sup> See section 6.E of the 2012 ODIHR [Handbook for the Observation of Voter Registration](#).

containing identical biometric data.<sup>54</sup> **To safeguard the integrity of and public trust in the voter register, it is recommended to conduct a comprehensive and transparent audit. The audit should be aimed, *inter alia*, at locating and eliminating duplicate entries, or entries with compromised content (e.g. with compromised biometric data).**

#### RECOMMENDATION H.

It is recommended to legislate a framework for conducting audits of the voter register, which should define the responsible institutions and methodologies, ensure transparency by allowing the participation of stakeholders and citizen observers, and establish guidelines for applying data protection provisions during the audit process.

## 7. DATA HANDLING AND PROTECTION

### 7.1 Data Management, Access to Voter Registration Data and Data Protection

59. The LVR designates the MoI as the authority for maintaining and processing voter registration data (Article 3). Personal data from the voter register must be processed in compliance with applicable data protection regulations or with the data subject's written consent (Articles 34 and 34a). Positively, to ensure traceability and enhance accountability, the MoI must record all modifications in voters' data to allow clear identification of the type of change, the time of modification, and the responsible official (Article 12).
60. Article 21 of the LVR stipulates that "*electronic access to the Voter Register as well as any changes made to it*" is given by the MoI to election commissions, parliamentary parties, submitters of candidate lists, and authorized election observers within 48 hours of a request. Municipal election commissions gain access to the voter register data for the respective municipality. By law, access to the data for most stakeholders is limited to the period from the call of the elections to the announcement of the final election results, except for parliamentary parties, which may request access to the data outside of the election period (Article 21 of the LVR). The scope of accessible data encompasses the record of any changes and the decisions based on which the changes in the primary registers occurred.
61. However, ODIHR election observation reports have noted that, in practice, the level of access provided to the voter register has varied across elections. Despite explicit guarantees in the LVR that ensure access to supporting documentation related to changes in voters' data (Articles 21 in conjunction with Article 24 LVR), access to this

<sup>54</sup> In 2023, the MoI explained to the ODIHR EOM that the entries for different individuals with identical biometric data were generated due to the legal requirement to submit fingerprints upon the registration for an identification card at any age, including for infants, and in some instances, the fingerprints of the children's parents were collected instead of the infants. In line with Article 12 of the LIC, fingerprints cannot be collected from those under the age of 12. The MoI informed that in 2023, the automated audit was conducted to eliminate duplicate entries and additional fingerprinting was conducted for the entries with identified flaws in biometric data.

documentation has, in some cases, been denied on grounds of data protection regulations.<sup>55</sup>

## RECOMMENDATION I.

It is recommended to introduce a requirement on the consistent application of access rights to the voter register across elections and municipalities.

62. Data protection ensures that personal data is collected, processed, and stored in compliance with international standards, good practice, and national data protection legislation, and refers to the implementation of safety measures to protect the data from unauthorized access, breaches, and loss. Such measures are critical in the context of voter registration, as they help ensure the integrity and accuracy of voter lists, and ultimately fortify public trust in the electoral process.<sup>56</sup>
63. The LVR, the LIC, and the LRPTR address data protection by referencing other laws and regulations.<sup>57</sup> The LVR does not contain specific provisions on the use, processing, and protection of voter registration data. While it defines the voter register as “*an official public document, used exclusively for elections*” (Article 2, with Article 33 specifying the scope of application includes presidential elections and referendums), it does not clarify the scope of permitted electoral purposes. This ambiguity could lead to broad interpretations, such as using voter registration data for campaigning, contrary to good practice which calls for legislation that clearly defines the allowed uses of information obtained from voter registers.<sup>58</sup>
64. According to the LVR, access to voter register data for eligible stakeholders *de facto* constitutes an inspection, as the LVR explicitly prohibits and protects against replication; additionally, the legislation restricts access rights to three access tokens per each stakeholder. These safeguards are in conflict and are effectively compromised by the provisions of the Election Law that entitle the submitters of the candidates lists to make copies of all election materials, including voter list extracts, after the elections (Article 77 of the Election Law), which leads to misuse of the data in subsequent electoral cycles. Prior ODIHR reports observed that this measure led to the circumvention of the Law on Personal Data Protection, resulting in widespread circulation of voter list excerpts, which compromised the voters’ personal data. Additionally, the measure was observed to have impacted the candidate nomination process, as there were reported indications that the consistent practice of falsified voters’ signatures used for supporting candidates lists nomination was enabled by the availability of personal data from the copies of voter list

<sup>55</sup> See the 2020 ODIHR LEOM [Final Report on parliamentary elections](#), which states that stakeholders “may request online access to the data stored in the VR but not to the documentation backing the changes in entries, which is not accessible on the grounds of personal data protection”. The 2023 ODIHR EOM [Final Report](#) for the parliamentary elections states that stakeholders “are granted full access to the VR data”.

<sup>56</sup> For data protection, see Sections 4.1 and 4.2, and for data security, see Section 4.3 of the 2024 Council of Europe Consultative Committee on Convention 108’s [Guidelines on Protecting Personal Data in Voter Registration and Authentication](#).

<sup>57</sup> While not explicitly stated in the laws under review, it is understood that this primarily refers to the 2009 Law on Personal Data Protection.

<sup>58</sup> Section 4.1.9 4.7 of the 2024 CoE Consultative Committee on Convention 108’s [Guidelines on Protecting Personal Data in Voter Registration and Authentication](#) adds that “[w]here political campaign organisations and their candidates legally acquire the official voters list from the EMB to assist their campaigns, the law should stipulate who is entitled to access these data, for what purposes, and for how long. The sharing of voters’ lists should be limited to what is necessary for engaging with the electorate in election campaigns with clear prohibitions and appropriate sanctions for using the data for any other purposes.”

excerpts.<sup>59</sup> The failure to introduce effective safeguards against misuse of personal data is contrary to international standards and good practice for democratic elections, and should be reviewed. The LVR also includes one general reference to the application of data security regulations; namely, Article 34 stipulates that “[t]he regulations governing personal data protection and information security shall be applied to collecting, processing and using of data on voters”. However, the LVR does not establish a comprehensive data security framework for the voter register, leaving risks such as unauthorized access and data breaches potentially insufficiently addressed, or entirely within the remit of the MoI. In line with international good practice, the legislation should explicitly identify the role and responsibilities of the data controller in implementing and maintaining effective data security measures.<sup>60</sup>

#### RECOMMENDATION J.

1. To prevent the potential misuse of voter registration data, it is recommended to explicitly define the permitted uses of the data, including, and potentially limited to, purposes strictly necessary for maintaining, updating, or verifying the accuracy of the voter register. Legitimate users can be asked to sign a pledge committing to not misusing the data they access. The LVR and Election Law should be harmonized to safeguard and prevent the infringement of personal data integrity.
2. It is recommended to introduce explicit data-security requirements, including clear obligations for the data controller to provide security measures for all data stored in the voter register.

#### 7.2 Use of Biometric Data

65. The LIC authorizes the MoI to use personal data (excluding biometric data such as fingerprints and signatures) to perform its official duties, mandates the police to use this data for legally prescribed tasks, and permits state bodies, local self-government bodies, and other authorized organisations to access non-biometric data for fulfilling their responsibilities (Article 26). While the use of fingerprint data is used by election commissions for verifying voter identity on election day, as reported by ODIHR election observation activities, neither the LIC nor the LVR provides an explicit legal basis for using biometric data in election-related processes,<sup>61</sup> nor contain any procedural guidance on the methodology for biometric data verification.<sup>62</sup> In fact, the LVR does not contain any references to biometric data. International good practice requires the implementation

<sup>59</sup> Section 7 of the International IDEA’s 2002 [Guidelines for Reviewing the Legal Framework for Elections](#).

<sup>60</sup> See Section 4.3 of the 2024 Council of Europe Consultative Committee on Convention 108’s [Guidelines on Protecting Personal Data in Voter Registration and Authentication](#), which outlines the need for applying appropriate security and confidentiality measures for processing voter registration data.

<sup>61</sup> 2020 [ODIHR LEOM Final Report](#): “[t]wo days prior to election day, the MoI carried out a computerized cross-checking of the fingerprints attached to entries in the VR to demonstrate that the VR is free of systemic errors.”. 2023 ODIHR EOM [Final Report](#) for the Presidential Election: “[w]hile the MoI made some efforts to improve the voter register, including eliminating several overlaps and errors in voters’ fingerprint data, it did not effectively address the longstanding election stakeholders’ concerns about voter list accuracy”. 2023 ODIHR EOM [Final Report](#) for the Early Parliamentary Elections: “The MoI conducted a verification of fingerprints recorded in the voter register to identify and eliminate any duplications, and reported that no such duplications were found.”

<sup>62</sup> For the requirements of using biometrics in electoral processes, see 4.7 of the 2024 Council of Europe Consultative Committee on Convention 108’s [Guidelines on Protecting Personal Data in Voter Registration and Authentication](#).

of clear and appropriate safeguards for the use of biometric data in voter registration. In particular, the 2024 CoE Consultative Committee on Convention 108's *Guidelines on Protecting Personal Data in Voter Registration and Authentication* states that "[t]he processing of special categories of data [such as biometric data] shall only be allowed where appropriate safeguards are enshrined in law".<sup>63</sup> These safeguards, which should go beyond those provided in the existing general legal framework concerning personal data protection, may include risk assessments; highest data security measures (training in privacy and security; access controls; confidentiality agreements; controls on physical access to places and equipment where personal data in the voter register or the voter lists are stored; the possible checking of the resilience of security measures under a false name; the storage of biometric data separately from other personal data); integration of data protection by design principles into the manufacture of biometric products and services; legal provisions clearly covering the intended purpose and means of the processing or indicating the exceptional cases where processing such data would be permitted, a professional secrecy obligation, etc.

#### **RECOMMENDATION K.**

It is recommended to explicitly regulate the use of biometric data in electoral processes with appropriate safeguards, in line with international standards and good practice on data protection regulations.

### *7.3 Deadlines for Retention of Voter Information*

66. Under Article 6 of the LVR, voter registers, as well as voter lists used on election day, are subject to a retention period of five years following their closure. Article 15 specifies that voter data deleted from the register "*shall be kept in a separate database that makes an integrated part of the Voter Register*". Unlike closed registers, this separate database does not have a retention limit under the LVR.<sup>64</sup> The absence of a clear provision raises questions regarding the regulation's compliance with the principle of data minimization, which requires that personal data be retained only for as long as needed for its original purpose, and should be explicitly prescribed in the LVR, given the scope and sensitivity of the data aggregated in the voter register. Specifically, the CoE's Consultative Committee on Convention 108's *Guidelines on Protecting Personal Data in Voter Registration and Authentication* recommends that data obtained for electoral purposes "*should only be retained for as long as necessary to register the voter, or to keep the register up to date*".<sup>65</sup>

<sup>63</sup> Section 4.7.4 of the 2024 CoE Consultative Committee on Convention 108's [Guidelines on Protecting Personal Data in Voter Registration and Authentication](#).

<sup>64</sup> Article 2 of the Law on Personal Data Protection states that "If the length of time for which processed personal data are to be stored is not determined by the [respective specialised] law, personal data which allows to identify an individual may be stored only for the time required to achieve the purpose for which personal data are processed".

<sup>65</sup> See 4.1.13. of the 2024 Council of Europe Consultative Committee on Convention 108: [Guidelines on Protecting Personal Data in Voter Registration and Authentication](#). Article 4.1.3 further specifies that "[c]onsistent with the principle of data minimisation, data processed in voter registers and voters lists should be limited to that necessary for the registration and authentication of voters."



**RECOMMENDATION L.**

It is recommended to establish a clear retention period for all voter registration data, in line with the principle of data minimization and international good practice on personal data protection.

*7.4 Statistical Data Publication*

67. The LVR mandates the SEC to publish statistical data on voter registration for the entire country, as well as by municipality and polling station (Article 19). Additionally, Article 17 requires the MoI to publish a statistical overview of the voter registration changes at national and municipal levels from the last electoral cycle within 48 hours of calling the elections and 48 hours after closing the voter register.<sup>66</sup> Article 17 also obliges the MoI to provide, upon request, an unspecified overview of voter registration changes to parliamentary parties, submitters of candidate lists, and authorised non-governmental organisations. Because the two provisions of Article 17 use nearly identical language regarding the format of data published and data provided to authorised requestors (“*a numerical and tabular presentation of data*”), the distinction between the two provisions is unclear. While it can be discerned that the difference pertains to the timeline of the requests and the related dataset provision, this ambiguity may lead to different interpretations of whether stakeholders are entitled to more detailed breakdowns, such as data disaggregated by polling station, beyond what is made publicly available *ex officio*. **It is recommended to clarify the distinction between the data provided publicly and the data available to stakeholders upon request under Article 17 of the LVR, specifying whether stakeholders are entitled to more detailed breakdowns than those published *ex officio*.**

*7.5 Use of Artificial Intelligence in Voter Registration*

68. Neither the LVR nor the election-related legislation specifies whether the use of artificial intelligence (AI)-powered tools, such as automated voter list verification systems, are permitted in managing the voter register and other civic databases. The rapid expansion of AI across electoral processes underscores the need for clear legal provisions regulating their use in elections, particularly in voter registration.<sup>67</sup> Emerging international good practice does not exclude the use of AI tools in elections, but recommends specific regulations to ensure that voters’ fundamental rights are fully respected and that the

<sup>66</sup> F.2 of the 2012 ODIHR [Handbook on Voter Registration](#) states that “[p]ublicly announcing the voter registration figures ahead of election day is helpful to the electoral contestants and enhances the overall transparency of the election process.”

<sup>67</sup> Article 23 of the 2024 Venice Commission [Interpretative Declaration of the Code of Good Practice in Electoral Matters as Concerns Digital Technologies and Artificial Intelligence](#) (Interpretative Declaration on Digital Technologies and AI) states that international good practice does not prevent “the introduction of digital technologies in elections, provided that their use complies with respect for human rights, democracy, and the rule of law. The adoption of any technology should be done transparently, by broad consensus after extensive public consultations with all relevant stakeholders.” Article 27(c) further recommends that “[d]igital technologies should be independently audited, and the findings of the auditing body should be public.” Article 67 explains that “[a] problem observed in the development of artificial intelligence involves the fact that this technology has shown biases related to ethnicity, nationality, sexual orientation, and gender identity [... T]he development of artificial intelligence should therefore be done in a way that discrimination is avoided.”

integrity of the electoral process is maintained.<sup>68</sup> The Venice Commission's *Interpretative Declaration of the Code of Good Practice in Electoral Matters as Concerns Digital Technologies and Artificial Intelligence* also clarifies that “[d]igital technologies and artificial intelligence should only be used when appropriate safeguards are in place, particularly to ensure secure, reliable and transparent use. Use of digital technologies and artificial intelligence should be made in full respect of the principles of individual autonomy, privacy, equality and non-discrimination”.

69. In addition, other important guiding principles developed regionally are intended to help ensure that AI is trustworthy and ethically sound, including the principles of human agency and oversight; technical robustness and safety; privacy and data governance; transparency; diversity, non-discrimination and fairness; societal and environmental well-being and accountability.<sup>69</sup>

#### RECOMMENDATION M.

If the introduction of artificial intelligence-driven tools in electoral processes, including voter registration, is considered, it is recommended to clearly regulate their application and to outline safeguards for secure, reliable and transparent use, with full respect of the principles of individual autonomy, privacy, equality and non-discrimination. In line with international good practice, explicit provisions should ensure human oversight and the right to appeal with respect to decision-making by artificial intelligence.

## 8. SPECIAL POLLING STATIONS AND VOTING ARRANGEMENTS

70. Although the LVR and the election code permit the establishment of special polling stations, the legislation does not explicitly specify the types of institutions where such polling stations are to be set up. While the Election Law only references special polling stations in prisons (Article 87), the LVR does not create an exhaustive list of institutions where special polling stations can be created (Article 5), implying the possibility of additional locations, without specifying what these additional locations might be.<sup>70</sup> The Election Law states that special polling stations shall be designated by the SEC “in agreement with the administration body in charge of enforcing penal sanctions”. The provisions of the Election Law and the LVR regarding the special polling stations are broad and lack legal clarity, it is recommended to review them to ensure legal certainty as to the institutions where such polling stations should be created. International IDEA's *Guidelines for Reviewing the Legal Framework for Elections* states that provisions related to the establishment of special polling stations “must not be discriminatory and must be applied uniformly to all similarly-placed voters”.<sup>71</sup>

<sup>68</sup> Article 24 and 26 of the 2024 Venice Commission [Interpretative Declaration on Digital Technologies and AI](#). Specifically with respect to voter registration, the document clarifies that “[r]emoval from the electoral register shall not be subject to a decision based solely on automated processing of personal data, unless explicit consent is provided by the individual concerned, or when it is based on law with suitable safeguards that ensure the respect for the rights and freedoms of the individuals concerned”.

<sup>69</sup> See Recital 25 of the [Regulation \(EU\) 2024/1689](#) of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act).

<sup>70</sup> Article 87 of the Election Law provides for voting in special polling stations only for individuals in detention or serving a prison sentence.

<sup>71</sup> Section 12 of the 2002 International IDEA [Guidelines for Reviewing the Legal Framework for Elections](#).



71. The LVR stipulates that the prisoners and detainees remain in the voter register under their last permanent residence (Article 9). Pursuant to Article 87 of the Election Law, however, voters in penitentiary institutions cast their votes within the institution. The Election Law tasks the SEC with preparing extracts from the voter register in order to determine the composition of the PB and the manner of voting in special polling stations. Taking into consideration that prisoners and detainees are under the control of public authorities and the prison administration, with an enhanced level of discretion over their rights and the practical possibility to exercise them, **it is recommended to include in the Election Law and the LVR explicit regulations on the conditions, rules, measures, deadlines and safeguards for the effective implementation of voting rights of prisoners and detainees.** Such regulations should take into account the need for expedited deadlines to ensure that all eligible voters are reflected in the excerpt from the voter register. The possibility of legal remedies and verifications of the adequacy of personal data should be ensured.

#### RECOMMENDATION N.

The law should define clear criteria regarding the establishment of special polling stations, including clarifying the institutions where such polling stations are to be established.

### 9. COMPLAINTS AND APPEALS RELATED TO VOTER REGISTRATION

72. Citizens may request corrections from the MoI if they are unlawfully omitted from the voter register, if their voter information is incorrect or incomplete, or if their polling station assignment is inaccurate. Pursuant to the LVR, the MoI must process such requests from voters within 48 hours and immediately notify the affected citizens of its decision. Appeals against MoI decisions may be submitted to the Administrative Court within 48 hours of receipt of the decision, and the court must issue a ruling within 24 hours (Article 14 of the LVR). The deadline for submitting correction requests (15 days before election day) ensures that the adjudication process is completed before the MoI closes the voter register, which occurs 10 days prior to election day (Article 14 of the LVR).<sup>72</sup>
73. Nevertheless, the 24- to 48-hour deadlines for the submission, review, and adjudication of complaints and appeals are unduly short and may deprive complainants of sufficient time to effectively present their case. Additionally, the 24-hour timeframe imposed on the judiciary for adjudicating appeals may place excessive constraints on the courts, potentially affecting the quality and consistency of judicial review. These deadlines are also not in line with international good practice, which recommends a minimum period of three to five days for both lodging appeals and issuing rulings.<sup>73</sup> It should be noted,

<sup>72</sup> Section 2.F of the 2012 ODIHR [Handbook for the Observation of Voter Registration](#): “[w]here changes to voter lists are permitted close to or on election day, OSCE participating States’ legislative frameworks also include a deadline for requests for changes in order to enable officials to produce the final voter lists on time.”

<sup>73</sup> Paragraph 95 of the Explanatory Report to the 2002 Venice Commission [Code of Good Practice in Electoral Matters](#) states that “time limits for appeals must be very short [...] however, be long enough to make an appeal possible, to guarantee the exercise of rights of defence and a reflected decision. A time limit of three to five days at first instance (both for lodging appeals and making rulings) seems reasonable for decisions to be taken before the elections.”

however, that extending the timeframe for dispute resolution would also necessitate advancing the deadline for requesting changes, as the current deadline of 15 days before election day may be too late to meet the voter register closure timeline. A careful assessment of the potential advantages and disadvantages of such changes is, therefore, recommended.

74. Article 27 of the LVR stipulates that “[p]articipants to the election process and authorised observers of the elections may file a request for issuance of the opinion related to the application of this Law to the Ministry of the Interior”, and mandates the MoI to issue such an opinion within 48 hours following the submission of the request. The nature, scope, and legal effect of this ‘opinion’ are not clarified by the law, leaving its intended purpose ambiguous and practical utility questionable. This provision also appears to be out of context, as the preceding and following articles (Articles 26 and 28) focus on the roles and responsibilities of the SEC, whereas Article 27 pertains to electoral contestants and observers.

#### RECOMMENDATION O.

1. It is recommended to extend deadlines for the submission and adjudication of complaints and appeals related to voter registration, in line with international good practice, unless such extensions would risk impeding the timeliness of public scrutiny.
2. It is recommended to clarify the provisions of Article 27 of the LVR to explicitly define the purpose and scope of the opinions the Ministry of Interior shall provide upon request to authorised stakeholders on the application of the Law on Voter Registration.

### 10. SANCTIONS RELATED TO VOTER REGISTRATION VIOLATIONS

75. The LVR establishes a framework for sanctions related to voter registration violations. Article 35 prescribes administrative penalties for breaches concerning the maintenance and accuracy of the voter register by officials of the MoI, the SEC, and the Administrative Inspectorate, with fines ranging from EUR 1,500 to EUR 2,000. However, provisions of the LVR do not comprehensively address all potential violations under the LVR. The law does not explicitly address violations of Article 24, which obliges the MoI to provide stakeholders with access to official documentation supporting changes in the voter register, and Articles 34 and 34a, which refer to data protection and security requirements. While some of these infractions may fall under data protection regulations or other legislation, the lack of explicit references to these violations in the LVR may weaken its enforcement.<sup>74</sup>
76. The LVR does not prescribe sanctions for violations by most stakeholders involved in handling voter registration data, such as MECs, polling boards, political parties, contestants, and observers.<sup>75</sup> Sanctions are foreseen for “those who have the right to gain access to the Voter Register, if they do not designate the persons authorised and responsible for access to the information system in which the other register is kept and do not inform the Ministry thereof” (Article 35 para 23). This provision appears anomalous, as accessing the voter register for many stakeholders, including election

<sup>74</sup> Section 9 of the 2002 International IDEA [Guidelines for Reviewing the Legal Framework for Elections](#): “it is important that rights, obligations, and the sanctions should be spelt out unambiguously”.

<sup>75</sup> Section 7 of the 2002 International IDEA [Guidelines for Reviewing the Legal Framework for Elections](#): “[t]he law should also state the sanctions for misuse of information obtained from voter registers”.

contestants, political parties, and citizen observers, is a right, and not a duty. It is unclear why stakeholders would face penalties for not exercising this right, particularly when they have no legal obligation to access the register. If the intention of this provision is to hold authorised representatives accountable for wrongdoing, this should be explicitly stated by the law.

77. It is also important to note that sanctions stipulated by Article 35 of the LVR do not distinguish between the severity of violations, applying the same range of fines to both minor administrative delays, such as late updates to a voter's address, and serious misconduct, including the unauthorised deletion of a voter from the register, or refusal to provide access to voter records to election observers. This lack of distinction raises concerns about the proportionality and deterrent effect of the sanctions, particularly where technical errors incur the same penalties as infractions that could compromise the integrity of the electoral process.<sup>76</sup>

**RECOMMENDATION P.**

1. It is recommended to introduce into the LVR clear and comprehensive sanctions that cover all potential violations and stakeholders involved in managing the voter register and voter lists.
2. It is recommended to establish a system of graduated sanctions that differentiates between the severity of violations. Proportional penalties should be introduced to ensure that minor administrative delays are not penalised at the same level as serious infractions.

*[END OF TEXT]*

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<sup>76</sup> Section 9 of the 2002 International IDEA [Guidelines for Reviewing the Legal Framework for Elections](#): “[t]he legal framework should ensure that penalties are not disproportionate to offences.”