

**INTERIM REPORT 1**  
**13–31 December 2006**

**I. EXECUTIVE SUMMARY**

- On 2 December 2006, in line with constitutional requirements, the President of the Republic called for local elections to be held on 20 January 2007. The public offices to be elected include the mayors and local councils of 384 Local Government Units (LGUs).
- The realization of the elections in this relatively short timeframe is now in serious doubt as the major political parties have consistently failed to demonstrate the political will and responsibility commensurate with the broad authority granted to them in the electoral process.
- The resulting failure of electoral reform efforts intended to further enhance the electoral process in line with previous OSCE/ODIHR recommendations, and the subsequent position adopted thus far by the opposition to effectively not participate in what they have termed an “illegal process”, has resulted in deadlock and a stalled electoral process.
- Consensus-based decision making mechanisms and the requirement to reach cross-party political agreements on the organization of elections provide a significant role to political parties in the preparation and conduct of elections. These mechanisms are meant to enhance inclusiveness and confidence, as well as to encourage participation.
- The choice of the opposition to largely disengage from bi-partisan mechanisms, and in some instances to play a less than constructive role, has impeded the functioning of the institutions responsible for the delivery of the elections. This raises serious concerns about the willingness of the parties responsible to effectively engage in a manner which would permit the electoral process to proceed.
- The Central Election Commission (CEC) has thus far attempted to accomplish its duties in a professional manner. However, due to the absence of agreements on amending the legal framework, the CEC has found itself in a situation where a number of activities needed to deliver an election could not be undertaken.
- Local Government Election Commissions (LGECS) and Voting Centre Commissions (VCCs) are yet to be formed due to the non-participation of the opposition so far. This has made it impossible for candidates to register within the legally prescribed deadline. In addition, there are still preliminary voter lists that have to be updated.
- There were indications that a compromise might be reached during talks between the governing Democratic Party (DP) and the main opposition Socialist Party (SP) on 29 December 2006. This came in particular after a gesture from the Government on the question of a possible postponement of the elections, but no later than 20 February. This move, although belated, permitted some political dialogue to resume on several outstanding and significant issues, and subsequently the opposition partly reconsidered some of their demands.

- A so-called “package approach”, which could have the potential to enhance the confidence in the process and remedy some of its shortcomings, remains blocked over the question of the use of birth certificates as a means of voter identification. This is particularly the case with regard to birth certificates issued before it became compulsory in early November 2006 to record them in a specific index book, and which are still not fully accounted for.

## II. INTRODUCTION

On 2 December 2006, the President of the Republic of Albania called local elections for 20 January 2007. The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Needs Assessment Mission in early November 2006, and following an invitation from the Ministry of Foreign Affairs, established an Election Observation Mission (EOM) on 13 December 2006. The EOM, headed by Mr. Jørgen Grunnet, consists of an 11-member core team based in Tirana and 22 long-term observers (LTOs) based in 11 locations throughout the country.

The OSCE/ODIHR Election Observation Mission operates separately from the OSCE Presence in Albania, headed by Ambassador Pavel Vacek, which continues to carry out its regular activities under its existing mandate. The OSCE/ODIHR EOM is however grateful for co-operation and support received from the OSCE Presence in Albania.

## III. THE POLITICAL ENVIRONMENT

Over the course of the reporting period, the overall political environment in Albania has been polarized and largely uncompromising. Both sides of the political spectrum have embraced, in a rather intransigent manner, strong positions over various technical and legal issues with regard to the organization of the upcoming local elections. Regrettably, some political parties have failed to demonstrate the political will and responsibility, commensurate with the broad authority granted to them in the electoral process, in order to reach a satisfactory compromise on outstanding issues.

The opposition forces have demanded a postponement of the election date to meet what they have referenced as ‘international election standards’, particularly with regard to the issue of birth certificates and voter lists. They have claimed that adequate security measures have not yet been introduced to ensure elections of a democratic standard. On this basis, they have also in effect boycotted sessions of the Assembly, claiming that proposed amendments to the Electoral Code have not taken their demands into consideration. The governing majority initially stood firm in its commitment to the 20 January election date, stating on numerous occasions that any postponement would set a precedent for the future, which would be open to an ambivalent interpretation of the law and possible political manipulation.

In the last week of December, however, it appeared that some agreement might be reached, with a “reform package” being proposed to the opposition parties by the majority on 23 December. This included a new willingness on the part of the government to discuss amendments to the Electoral Code, which might have allowed for the postponement of the election date to 20 February at the latest, that date marking the end of the mandate of the incumbent local government organs. Some parties, such as the Demo-Christian Party (DCP), the Socialist

Movement for Integration (SMI), and the Human Rights Union Party (HRUP), have played a constructive role in this regard, calling on the larger parties and on the President to initiate discussion that might resolve the impasse.

In later December, the Democratic Party and the Socialist Party renewed negotiations about possible amendments to the Electoral Code. The negotiations led to an agreement on 29 December, which was approved by the leadership of both parties. However, the two sides failed to agree on the practical implementation of the agreement. This was especially the case with regards to the issue of a special registration system of certificates issued before November 2006, that is before their recording in a specific index book became compulsory, and additional identification documents to be used with such certificates (see below).

It has become clear throughout the current period that the political will commensurate with the responsibility of competing for public office has not been sufficiently evident across the political spectrum. In particular, some opposition parties have appeared willing to use bi-partisan mechanisms in a manner that has effectively blocked the process and complicated any potential resolution.

#### **IV. THE LEGAL FRAMEWORK**

The legal framework governing local elections includes the Constitution of the Republic of Albania (1998) and the Electoral Code (adopted in 2003 and amended in 2004 and 2005), as well as pertinent provisions of other laws, including the Criminal Code, the Law on Political Parties, the Law on Civil Status, and the Law on State Police.

The election date has been set by presidential decree in accordance with the Constitution and the Electoral Code. However, the election date, along with several other issues, such as the compilation and updating of voter lists; the use of birth certificates as a means of voter identification; the composition of election commissions; and electoral complaints and appeals procedures, provoked serious controversies in consensus-seeking efforts between the ruling coalition and the opposition.

The lack of consensus effectively stalled electoral reform efforts which had been on the agenda since December 2005, when all major political parties, under the auspices of the President of the Republic, agreed to implement previous OSCE/ODIHR recommendations. The Assembly has been unable to introduce amendments to the Electoral Code needed for the forthcoming local elections, since the ruling majority does not hold the three-fifths majority (84 of 140 seats) required to amend the Electoral Code unilaterally.

In line with the past practice of electoral reforms undertaken by the Assembly, a parliamentary Ad Hoc Committee (AHC) was foreseen in January 2006 in order to carry out an electoral reform agenda, and also to amend the framework for the upcoming local elections.

However, there has been no progress despite months of supposed attempts to reach consensus, first, on modalities of the AHC activity and, later, on the substance of changes to the election legislation. Indeed, as of reporting, the Electoral Code remains unchanged since it was last amended in April 2005, when a number of Joint Recommendations of the OSCE/ODIHR and the

Council of Europe's Venice Commission were implemented. Thus, the recommendations in the OSCE/ODIHR Final Report on the 2005 parliamentary elections<sup>1</sup> are still to be addressed.

Certain important aspects of the electoral process still require further regulation. Already mentioned in the OSCE/ODIHR Needs Assessment Report<sup>2</sup> issued on 24 November 2006, these include the preparation of voter lists for local elections, the counting procedures, and the complaints and appeals process.

In the past, transitory provisions had been used to tailor deadlines for voter list (VL) compilation to the circumstances of specific elections. Though adjusted deadlines and ad hoc procedures were also needed for these elections, the relevant transitory provision was not adopted by the Assembly.

## V. THE ELECTION ADMINISTRATION

The OSCE/ODIHR EOM has attended all CEC sessions since 16 December 2006. The CEC has thus far been trying to accomplish its duties in a professional manner, in order to conduct the election process within the legal deadlines stemming from the Presidential decree calling the elections for 20 January 2007.

Yet, election preparations have been adversely affected by the non-participation of the parliamentary opposition parties. Their reluctance, be it active or passive, to contribute to the organization of the electoral process, has resulted in a situation where significant parts of the Electoral Code could not be effectively implemented.

Importantly, mid-level election commissions were not formed, candidates could not register, and the updating of voter lists was affected. As a result, the CEC has found itself in a situation where many future actions prescribed in the Electoral Code could not be undertaken.

Local Government Election Commissions (LGECs) are composed of seven members and a non-voting secretary. The parties of the parliamentary majority and of the parliamentary opposition each nominate three members. The seventh LGEC member is assigned either to the largest party in the ruling block (DP) or the largest opposition party (SP) on a parity basis, based on "random selection" and "equal distribution". In keeping with the overall approach of 'political balance' of election-administration bodies, the Electoral Code provides that while the LGEC chairperson is nominated by the block holding the majority on an LGEC, the deputy chairperson and the secretary are nominated by the other block. On 1 December, the CEC organized a lottery to determine which party had the leadership in a given LGEC.

By law, LGECs should have been established by 20 August 2006. This deadline was not met because of the ongoing discussions on electoral reform. The non-participation of the parliamentary opposition further blocked the establishment of LGECs since these parties did not nominate members. Parties from the majority also submitted some of their nominations late, and in some cases they did not submit a sufficient number of nominations to fill all positions. Consequently, not a single LGEC was functional by the end of 2006. The CEC repeatedly, but unsuccessfully, called on political parties to meet their obligations and submit nominations for

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<sup>1</sup> [http://www.osce.org/documents/odihr/2005/11/16905\\_en.pdf](http://www.osce.org/documents/odihr/2005/11/16905_en.pdf)

<sup>2</sup> [http://www.osce.org/documents/odihr/2006/11/22210\\_en.pdf](http://www.osce.org/documents/odihr/2006/11/22210_en.pdf)

LGEC members. The CEC chairperson in a press release on 26 December said he would request the CEC to take administrative measures against parties that failed to nominate LGEC members.

Furthermore, in the absence of functioning LGECs, Voting Centre Commissions (VCCs) have yet to be established and the locations of counting centers have not yet been determined.

## VI. CANDIDATE REGISTRATION

The failure to establish LGECs resulted in a situation where no candidates or parties could submit their candidacies for mayors or councilors within the legal deadline.

Under the Electoral Code, political parties wishing to nominate candidates must register with the CEC as electoral subjects no later than 40 days before election day. Electoral subjects may then register coalitions with the CEC up to 35 days before election day. Candidacies for mayor or councilor must be submitted to the respective LGECs, no later than 32 days before election day.

The deadline for political parties to register with the CEC for the upcoming local elections expired on 11 December. Opposition parties did not register within this deadline, publicly stating that they refused to participate in what they have termed an ‘illegal’ process. Their position was based on the non-implementation of the 30 August agreement<sup>3</sup> on amending the electoral framework; due to this non-implementation, the opposition asserts that the upcoming elections are without legal basis. As a result, some 40 political parties largely from the right of the political spectrum were registered by the CEC, but major political parties from the left of the political spectrum did not register.

Due to the non-formation of LGECs, no party was able to put forward candidates within the legal deadline. Independent candidates were also unable to submit their nomination papers. Consequently, not a single candidate was registered in any one LGU before the start of the official campaign period on 21 December.

## VII. VOTER REGISTRATION

Updating the voter lists for the upcoming local elections required that two actions be undertaken: first, the Civil Status Offices (CSOs), under the supervision of mayors and in cooperation with the General Directorate of Civil Status (GDSCS) within the Ministry of the Interior, needed to correct the civil registers. Then, the mayors would receive their share of the 2005 voter list from the GDSCS, update it for their LGUs, and reflect in the voter list the corrections undertaken in the registers.

According to the Electoral Code, the updating of voter lists should have started by 20 May, and the preliminary voter lists should have been posted for public scrutiny by 20 August. The absence of a political agreement on electoral reform resulted in a violation of these deadlines.

Yet, using a computerized facility which keeps the electronic version of the 2005 voter list, the GDSCS effectively took steps to identify the corrections to be made to the civil registers (cases of

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<sup>3</sup> An agreement between political forces fostered by the local diplomatic community was reached on 30 August with the intention of revising the stalled election reform efforts.

voters with incomplete numerical address, duplicates and voters from the temporary registers). Nevertheless, the process of voter list compilation was discontinued in many LGUs.

Following the presidential decree setting the date of the elections for 20 January, the CEC was faced with a limited timeframe for the organization of the elections, and with the practical impossibility to use the regular deadlines for the compilation and updating of voter lists.

The CEC reacted on 8 December by adopting Decision Nr. 129, which established the deadlines for the preparation of voter lists according to Article 60/1 of the Electoral Code, which regulates the preparation of voter lists for partial or early elections, through abbreviated procedures and timelines.

The opposition parties and the minority on the CEC sharply criticized this decision, arguing that it had no legal basis. However, the OSCE/ODIHR EOM is not aware of any formal actions undertaken to challenge the constitutionality or legality of this CEC decision. Opposition parties also argued that there was insufficient time to update the voter lists; this was one of their main arguments for a postponement of the elections.

On 11 December, based on the above-mentioned CEC Decision, the Ministry of Interior issued Instruction Nr. 3071, which details the procedures for the compilation of voter lists at the central and local level. In line with this instruction, voter lists must be updated in the LGUs. Mayors would need to reflect the corrections in their share of the electronic 2005 voter list and send the lists back to the GDCS, which checks for possible duplicates nationwide. The deadline for submitting the updated lists to the GDCS was 22 December. The GDCS then should send evidence of possible duplicates to the LGUs concerned, and request the resolution of the cases. After the cleaning of duplicates, the mayors were due to approve and post the Voter Lists for public scrutiny by 26 December.

They should also deliver them to the corresponding LGEC and to the GDCS. Voters are then notified in writing, and they can check their records on the list and request inclusion or corrections at a district court, up to 24 hours before election day. Voters added to the list by court decision are allowed to vote if they produce the decision with their identification document at the voting center.

As of 30 December, the GDCS had only received voter lists from 275 LGUs (72 per cent), out of a total of 384. Of these 275 lists, 148 (or 54 per cent) arrived after the legal deadline. The reason for the late and incomplete submission of the voter lists is largely due to the ‘non-participation’ of the opposition parties, some of which called on mayors affiliated to them to not implement the Ministry’s Instruction and to refrain from sending the lists to the GDCS.

Although not all opposition mayors followed this instruction, the number of lists submitted to the GDCS does not allow for a nationwide cross-checking for possible duplicates. The GDCS has publicly stated that it could perform such a nationwide check within eight hours of receiving all voter lists. Thus, there appears to be the possibility that the process of updating the voter lists could be accomplished in time for an election rescheduled to a later date, but before the expiry of the mandates of the outgoing local government organs.

## VIII. BIRTH CERTIFICATES

Under the Electoral Code, birth certificates are one form of voter identification, and certificates are widely used in the Albanian context as a means of proving one's identity. Certificates used for identification purposes must include a photograph of the bearer. Certificates are issued by CSOs at the local level, of which there are over 400.

In its Final Report on the 2005 parliamentary elections, the OSCE/ODIHR recommended that the central authorities ensure that civil registry offices keep accurate records of certificates issued for all purposes, in particular for elections, and that such data are publicly available.

The issue of birth certificates has become the focus of major disputes between the ruling majority and the parliamentary opposition. The government claims that sufficient safeguards are in place to prevent tampering with certificates. It points to the fact that new certificates, with additional safety features, have been introduced in 2006. The new security features introduced by the GDCS include the printing of the name of the municipality, together with its numerical code on the certificates, a hologram, two stamps, and the signature of the civil register employee. From July 2006, new certificates with these security features have been produced and distributed to the LGUs. In some places, they started to be issued to the population as late as October.

The opposition, for its part, has been questioning the quality of the certificates. Initially, it has been calling for the production of brand new certificates, especially for electoral purposes, as a precondition for its participation in the local elections. The opposition later changed its demand to a special registration to regulate the production and issuance of such certificates. Opposition parties have also mentioned the issue of misprints in early batches of the new certificates, which they say were not properly accounted for. The GDCS has admitted that misprinted certificates were distributed, but said that their number was insignificant, and furthermore that they had been returned to the printing house which produced them. However, there seem to be insufficient records of the return of these certificates and of their safekeeping or destruction.

In order to address the issue of spoiled certificates, the Ministry of Interior issued a special instruction in October 2006, aimed at evidencing the recording and eventual destruction of all defective blank certificates, as well as Order Nr. 2656 of 1 November 2006. This order foresees the detailed registration of all certificates issued by CSO employees at the local level in a special Index Book. However, it appears that not all CSOs implemented this order as early as foreseen. OSCE/ODIHR EOM long-term observers reported that in some places, CSOs started using the Index Book as late as one month after the order was issued.

Both majority and opposition seemed to be reaching an agreement on this issue on 29 December; yet, further disagreements emerged in the hours following the agreement on the question of the possibility given to voters to use birth certificates issued before the recording of the certificates in a specific index book became compulsory. The opposition demanded that these certificates would only be considered as valid if voters produced additional identification documents, namely passports and old-style IDs. The governing Democratic Party stuck to the text of the agreement, which included a wider range of documents, similar to a CEC Decision taken on this issue shortly before the 2005 parliamentary elections. Bi-partisan talks on this issue collapsed the same evening, and no breakthrough was achieved in the Assembly.

## IX. THE MEDIA

Since 13 December, the OSCE/ODIHR EOM has been conducting quantitative and qualitative monitoring of three national TV stations (public TVSH and private TV Klan and TV Arbëria) and three Tirana-based TV channels (Top Channel, Vizion + and News 24). In addition, three daily newspapers are being monitored (*Gazeta Shqiptare*, *Shekulli* and *Shqip*).

During the electoral period, however, compliance with the Electoral Code is overseen by a Media Monitoring Board (MMB), appointed by and operating under the authority of the CEC. Based on the MMB's reports or acting on complaints received, the CEC can impose sanctions for non-compliance with media-related regulations.

While the MMB held its first session on 12 December, it has not yet started with its media monitoring exercise in the absence of registered candidates. The political campaign in the media has so far been low key and has largely been limited to coverage of some parties' introduction of their candidates and some paid political advertisements.

The current situation, in particular the absence of registered candidates, has created some uncertainty regarding campaigning by candidates designated by political parties, but not yet registered. Specifically, there appear to be uncertainties regarding how such coverage should be treated under the current rules.

## X. OSCE/ODIHR EOM ACTIVITIES

The OSCE/ODIHR EOM opened its office in Tirana on 13 December 2006. The Head of Mission has met with the President, the Prime Minister, the Speaker of Parliament, the Deputy Prime Minister, the Ministers of Foreign Affairs, Interior, and Defense, the Chairperson of the Central Election Commission and other officials. The EOM has established regular contact with the Ministry of Foreign Affairs, the Ministry of Interior, the Central Election Commission, the diplomatic community, and the main political parties. The EOM has conducted initial meetings with political parties, civil society, election commissions, the media, and other interlocutors. A first briefing for representatives of the diplomatic community and international organizations accredited in the Republic of Albania was held on 21 December. Long-term observers deployed in 11 teams across the country continue to attempt to perform their observation activities despite the fact that the electoral process has been stalled.