



## INTERNATIONAL ELECTION OBSERVATION MISSION

Republic of Albania —Parliamentary Elections, 23 June 2013

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### STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

**Tirana, 24 June 2013** – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE).

Roberto Battelli (Slovenia) was appointed as Special Co-ordinator by the OSCE Chairperson-in-Office to lead the short-term OSCE observer mission. Luca Volontè (Italy) headed the PACE delegation. João Soares (Portugal) headed the OSCE PA delegation. Conny McCormack (USA) is the Head of the OSCE/ODIHR Election Observation Mission (EOM), deployed from 15 May 2013.

The assessment was made to determine whether the election complied with OSCE commitments and Council of Europe standards for democratic elections, as well as with Albania's international obligations and domestic legislation. This statement of preliminary findings and conclusions is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, including the count, the tabulation and announcement of results, and the handling of possible post-election day complaints and appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The OSCE PA will present its report to its Standing Committee at its Annual Session on 29 June 2013, in Istanbul. The PACE delegation will present its report in October 2013.

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### PRELIMINARY CONCLUSIONS

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The 23 June 2013 parliamentary elections were competitive with active citizen participation throughout the campaign and genuine respect for fundamental freedoms. However, the atmosphere of distrust between the two main political forces tainted the electoral environment and challenged the administration of the entire electoral process. Voting proceeded well, albeit with procedural irregularities, but counting was delayed in many areas.

Persistent, long-standing differences and continued mutual mistrust between the main political parties undercut the work of the election administration and challenged the smooth conduct of the elections. With opposition parties boycotting the Central Election Commission (CEC) following a controversial dismissal of one of the members, the CEC conducted the remainder of its work without the quorum necessary to undertake key decisions. The impression that the CEC acted politically was compounded by its decision to recompose lower-level election commissions.

The Electoral Code was extensively amended in July 2012 supported by the major political parties, which improved the electoral framework overall. These changes address a number of previous recommendations of the OSCE/ODIHR and the Council of Europe's Commission for Democracy through Law (Venice Commission). The legal framework regulating the parliamentary elections generally provides a sound basis for the conduct of democratic elections. However, public confidence in the electoral process suffered because implementation and enforcement by all main stakeholders fell short in a number of respects.

In the absence of the CEC's decision on seat distribution in four electoral districts, the parliament's subsequent decision on the matter challenged the principle of due process and equality of the vote. The Constitutional Court denied jurisdiction in a complaint challenging the parliament's decision.

Sixty-six political parties and two independent candidates were registered to stand in a largely inclusive process that offered voters a genuine choice. The majority of registered political parties joined one of two electoral coalitions led by the Democratic Party (DP) or the Socialist Party (SP).

Candidates actively engaged in a vibrant campaign. The campaign environment was peaceful overall, with only a few isolated incidents of violence. As a positive development parties instituted and promoted programmatic platforms and engaged in substantive political debate. However, mutual accusations between the two largest parties, at times, detracted attention from the substance of the campaign.

Instances of continued blurring between state institutions and party interests challenged paragraph 5.4 of the 1990 OSCE Copenhagen Document and paragraph I.2.3 of the Venice Commission's Code of Good Practice in Electoral Matters. Allegations of vote-buying and pressure on public-sector employees, including instances of forced rally attendance and dismissal from employment, assessed by the OSCE/ODIHR EOM as credible, negatively impacted the pre-election environment. Campaign financing regulations did not afford sufficient transparency during the campaign period.

The technical preparations for the elections were adequate, despite some noted shortcomings, in particular in not meeting a number of legal deadlines. There was a late calling of sessions and an incomplete uploading of decisions on the CEC website, in contravention of the law. However, parties and media were informed and present in CEC sessions, which were open to the public and streamed online, and the CEC was fully co-operative with international observers.

There was general confidence in the quality of voter lists, with some concerns expressed primarily by the smaller political parties. The number of voters without a complete address was reduced by some 35 per cent ahead of these elections, which furthered accuracy. Voter lists were available for review and voters could verify and correct their data. Some 139 local mayors were fined for not fully meeting their legal obligation to inform the CEC of the number of voters and locations of voting centres.

The media environment was pluralistic throughout the campaign and offered content diversity, which allowed voters to make an informed choice. However, editorial independence was hampered by political influence. The public broadcaster granted the larger parties equitable news coverage, but was more positive in tone towards the ruling party. The media monitored by the OSCE/ODIHR EOM did not meet their legal obligation to provide smaller parties with the specified amount of news coverage. The late establishment of the Media Monitoring Board and its lack of collegiality lowered its effectiveness. The CEC adopted a controversial decision implying a requirement for broadcasters to air campaign material prepared by electoral subjects in their newscasts that impinged upon editorial freedom.

Women candidates received marginal news coverage reflecting continuing issues with women's participation in political life. While political parties fulfilled their requirement to include at least 30 per cent of each gender in the overall membership of Commissions of Electoral Administration Zones, women's representation on Voting Centre Commissions was only 18 per cent. The gender quota requirement for candidate lists was not met by the DP, SP and Socialist Movement for Integration in a number of electoral districts, which resulted in fines although non-compliant lists were registered.

Electoral stakeholders were not adequately provided effective legal remedy and due process to resolve election-related grievances. In key cases, adjudicative bodies refused consideration of complaints or exceeded their jurisdiction. Electoral subjects rarely used available electoral dispute resolution mechanisms.

The Electoral Code tasked the CEC to pilot two new election technology systems: electronic counting and electronic voter verification. However, the CEC missed a number of legal deadlines and did not adopt necessary regulations thus making successful implementation infeasible. The CEC officially cancelled both system pilots the week before election day.

On election day, voting proceeded relatively well, albeit with some procedural irregularities. Instances of group/family voting and inconsistent ink-verification were the most frequent irregularities observed. Closing procedures at voting centres and intake of ballot boxes at ballot count centres were assessed in more positive terms. The large presence of citizen and contestant observers throughout the day generally enhanced transparency, although in some cases partisan observers were observed interfering in the process. The killing of a party supporter in Lac and other isolated instances of violence tarnished the start to the elections. Counting was delayed in many areas due to late appointment of counting officials.

The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, including the counting, tabulation and announcement of results and the handling of possible complaints or appeals.

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## **PRELIMINARY FINDINGS**

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### **Background**

The 23 June parliamentary elections were widely viewed as an important test for Albania's democratic development and its aspirations towards European Union accession.<sup>1</sup> The political environment has been tense since the last parliamentary elections in 2009 that resulted in near equal representation of the coalitions led by the Democratic Party (DP) and Socialist Party (SP), with 70 and 66 seats, respectively. The remaining four seats were won by the Socialist Movement for Integration (SMI), which subsequently joined the DP-led governing coalition.

Following the departure of the SMI from the governing coalition in March 2013, the parliament dismissed the SMI-proposed member of the Central Electoral Commission (CEC) who was replaced by a representative of the Republican Party (RP) from the governing coalition. It also led to the resignation of the three opposition-proposed members. The parliament has not approved the resignations, as the parties have not appointed their replacements.

The political climate was characterized by longstanding polarization between the DP and the SP and the mistrust of other parties towards them. The majority of registered political parties joined one of two coalitions for the upcoming elections: 25 parties were in the Alliance for Employment, Prosperity and Integration, led by the DP of Prime Minister Sali Berisha, and 37 parties joined the Alliance for European Albania, led by the SP and its leader Edi Rama.

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<sup>1</sup> Four municipal by-elections also took place on 23 June. The OSCE/ODIHR EOM followed these elections only to the extent that they affected the conduct of the parliamentary elections.

## Legal Framework and Election System

The legal framework regulating the parliamentary elections generally provides a sound basis for the conduct of democratic elections, if implemented fully and effectively. Public confidence in the electoral process suffered because implementation and enforcement by all main stakeholders fell short in a number of respects.

The Electoral Code was extensively amended in July 2012 supported by the major political parties, which improved the electoral framework overall. These changes address a number of previous recommendations of the OSCE/ODIHR and the Council of Europe's Commission for Democracy through Law (Venice Commission), including key revisions to the selection process for election commissioners, a revised process for voter list compilation, a simplified process for candidate registration, and more equitable access to media and public campaign funds. The Criminal Code was amended in March 2012 establishing new electoral offences and strengthening penalties for existing electoral offences. While prison terms for defamation and libel were repealed, they remain criminal offences.

However, some revisions weakened the framework, including less strict enforcement mechanisms for non-compliance with gender quotas for candidate lists and a more lenient provision on the use of public servants for campaign purposes. Many recommendations on crucial aspects remain unaddressed, including measures to enhance the impartiality of election commissions, independent candidate rights, campaign finance transparency, and effective electoral dispute resolution. Legislation does not adequately regulate or penalize the misuse of administrative resources, including public servants and officials campaigning. Proactive enforcement of provisions against campaign misconduct, including vote-buying, is weak. In addition, complaint mechanisms for lower-level election commissions lack clarity on jurisdiction and the process of resolution.

The 140-member unicameral Assembly (parliament) is elected for a four-year term under a proportional system within 12 multi-member electoral districts that correspond to the country's administrative regions. Political parties, coalitions and independent candidates can contest the elections, with closed candidate lists submitted by parties for each district. Parties that receive at least three per cent and coalitions that receive at least five per cent of valid votes in a district qualify for seat allocation.

The number of seats in each district ranges from 4 to 32. Based on current population distribution statistics submitted by the Ministry of Interior (MoI), the CEC is required to calculate the number of seats per district and submit the proposal to parliament for approval.<sup>2</sup> While it is a technical calculation, the CEC was politically divided and unable to agree on the seat distribution. In the absence of a CEC proposal, parliament took the decision and based the seat distribution on the 2009 (rather than the 2013) population statistics, which challenged the principles of due process and equality of the vote.<sup>3</sup>

## Election Administration

The elections were administered by a three-tiered system comprising the CEC, 89 Commissions of Electoral Administration Zones (CEAZs) and 5,508 Voting Centre Commissions (VCCs). Counting

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<sup>2</sup> The number of seats assigned to each district must be based on the number of residents.

<sup>3</sup> Two seats should have shifted districts under the current population statistics: Berat and Korce districts should have one seat less and Durrës and Tirana districts one additional seat each. This is at odds with paragraph 7.3 of the 1990 OSCE Copenhagen Document whereby participating States commit to guarantee their citizens equal suffrage.

took place in 89 ballot counting centres (BCCs), one for each Election Administration Zone (EAZ). Only the CEC is a permanent body. Election commissions at all levels have seven members and are composed of nominations from political parties based on their representation in the parliament. Political parties fulfilled their requirement to include at least 30 per cent of each gender in the overall CEAZ membership. No gender requirement is stipulated for VCCs and ballot count teams.

Parliament's dismissal and replacement of the SMI-nominated CEC member failed to follow due process.<sup>4</sup> After the ensuing resignation of the CEC members nominated by the SP and Human Rights Union Party (HRUP) in April, the CEC operated with only four members.<sup>5</sup> Political parties failed to find a solution. This prevented the CEC from regulating aspects of the electoral process in a procedurally legal manner as some decisions required adoption by a qualified majority of five votes. The non-voting SP representative to the CEC occasionally questioned the legality of CEC decisions made with four votes, although for the most part they refrained from challenging such decisions. A controversial CEC decision in terms of both procedure and substance was the adoption of rules for drawing the lots for assigning the order of contestants on the ballot. The decision, which required a qualified majority, was decided with only four votes.<sup>6</sup> Furthermore, these rules were amended several days later allowing the CEC to change the order of parties on the ballot after the lottery, representing a substantive contravention of Article 98.3 of the Electoral Code.<sup>7</sup>

The technical preparations for the elections were adequate, despite some noted shortcomings, in particular in not meeting a number of legal deadlines. Even prior to the CEC operating with only four members, it failed to adopt regulations necessary to supplement the Electoral Code, including the approval of its internal rules of procedures 60 days prior to election day as mandated by law. Regulations adopted in past elections were not amended to comply with the 2012 amendments to the Electoral Code. There was a late calling of sessions and an incomplete uploading of decisions on the CEC website, in contravention of the law.<sup>8</sup> However, parties and media were informed and present in CEC sessions, which were open to the public and streamed online, and the CEC was fully co-operative with international observers. The CEC provided trainings for election officials, which the OSCE/ODIHR EOM assessed positively, although effectiveness was limited due to late changes in the lower-level commissions. The CEC aired voter information spots, including targeting first-time voters and voters with disabilities ahead of election day.

While the CEAZs generally enjoyed confidence of electoral stakeholders and worked in a collegial manner, a substantial number of CEAZs were split along political lines in their decision making. After initially establishing the CEAZs on 25 March, the CEC replaced all members of the 89 CEAZs nominated by the second largest opposition party, the HRUP, with nominees of the RP "due to the new circumstances created in the composition of the groups of parliamentary majority and opposition". This justification is not listed among the reasons for dismissal under Article 32 of the Electoral Code.<sup>9</sup> Political parties replaced a large number of CEAZ members at will. They continued this practice until several days before the elections after commissions had already been

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<sup>4</sup> Article 18 of the Electoral Code describes the process whereby parliament only can discharge a CEC member upon a proposal or notification of the CEC and provides an exhaustive list of reasons for early termination of a mandate, which does not include re-composition of parliament. Article 12.2.ë of the Electoral Code is not listed as a reason for dismissal under Article 18.

<sup>5</sup> Both the SP and SMI utilized their legal right to appoint non-voting representatives to the CEC with their representatives actively taking part in CEC proceedings.

<sup>6</sup> Article 98.1 of the Electoral Code.

<sup>7</sup> Other CEC decisions that required five votes included ballot paper approval and the order of counting ballots in locations where both the parliamentary elections and municipal by-elections take place.

<sup>8</sup> The OSCE/ODIHR EOM noted that at least 159 decisions were not uploaded, including 139 decisions dealing with fines to mayors related issues of voter registration (See Voter Registration Section).

<sup>9</sup> Article 32 of the Electoral Code provides an exhaustive list of reasons for early termination of CEAZ members, which does not include the re-composition of parliament. While a complaint was filed by the HRUP challenging the CEC's discharge of all its CEAZ members, it was subsequently withdrawn.

trained. These continued replacements raised doubts regarding the impartiality of CEAZs and potentially reduced their effectiveness.<sup>10</sup>

The establishment of voting centres (VCs) in private buildings remains a contested issue. In addition, the CEC relocated some 90 VCs after voter notifications had already been sent out and on questionable legal grounds.<sup>11</sup> All entitled political parties continued to submit nominations for VCCs and ballot counting teams after legal deadlines and to request changes to replace a number of their nominees up until election day. Such replacements caused uncertainty, disruptions in preparations, and violated the law in case of the VCCs.

### **New Election Technologies**

The Electoral Code tasked the CEC to pilot two new election technologies for these elections: an electronic counting system (ECS) in Fier District and an electronic voter verification system (EVS) in Tirana District. Preparation for both pilots extended past legal deadlines making successful implementation infeasible. In addition, the CEC failed to adopt all required regulations necessary for system testing and implementation. The CEC decision to maintain the design of the ballot, in conjunction with the large number of contestants on the ballot, rendered the implementation of the ECS impossible with the hardware specified. The CEC decision to terminate the ECS pilot project was taken on 17 June. In addition, preparations for the EVS were marred by a lack of clear test success criteria, as demonstrated in a public test. On 18 June, the CEC also officially cancelled the implementation of the EVS system owing to a number of unforeseen shortcomings identified during testing related to system security and possible voting delays.<sup>12</sup> Detailed and timely project planning, stakeholder collaboration and voter education required to procure, test, train on and implement such complex electronic systems were lacking throughout the process.

### **Voter Registration**

According to the CEC, 3,271,885 voters were included on voter lists (VLs).<sup>13</sup> Voters residing abroad remained on VLs at their last registered address. Some 20 voting centres were established in prisons and detention centres. In the 40 days before election day, voters could be added to VLs only by court decisions; the OSCE/ODIHR EOM noted that few such requests were filed. VLs are extracted from the electronic database of the National Civil Status Register maintained by the MoI, with mayors responsible to certify VL accuracy and required to inform the CEC about the voter numbers and VC locations. Some 139 local mayors were fined for not fully meeting their legal obligation to inform the CEC of the number of voters and locations of voting centres.

Overall, there was confidence in the accuracy and quality of VLs, with some concerns expressed primarily by the smaller political parties. Although VLs were posted for public display, international observers noted either some delay in posting the VLs or placement in inaccessible locations. In addition, voters could check their details online. However, the effectiveness of these

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<sup>10</sup> Some 169 replacements to CEAZ membership represents approximately 22 per cent of total their number. The OSCE/ODIHR had previously recommended repealing the allowance of political parties to recall CEAZ members, however only a similar provision regarding recall of VCC members was repealed in the 2012 revision of the Electoral Code.

<sup>11</sup> Article 64.2 of the Electoral Code requires force majeure for late changes to the location of voting centres. Two cases challenging the late changes were filed in the Electoral College and one was upheld.

<sup>12</sup> On 20 June, the SP lodged a request to the Prosecutor's Office to criminally charge the four CEC members and responsible CEC employees under Article 248 of the Criminal Code, abuse of public functions, for cancellation of the EVS pilot.

<sup>13</sup> The CEC reported 949 more voters on VLs compared to numbers released by the MoI.

measures could have been improved through more extensive voter information.<sup>14</sup> The law required the MoI to remove all 1,130 citizens over the age of 100 from VLs as a measure to deal with potentially deceased voters and obliged them to apply for re-inclusion; 380 did so. In some instances, interlocutors raised the issue of deceased voters who remained on VLs. The MoI announced that the number of voters without a complete address was reduced by some 35 per cent from 542,808 to 348,346 between February and May, which furthered the accuracy and quality of VLs.

Contestants used their right to obtain copies of VLs and some assisted voters to verify their data, including by displaying VLs at party offices. As required by law, the CEC appointed two auditors (proposed by the DP and the SP) to verify voter list quality. Their separate final findings and recommendations were presented to the CEC and sent to the MoI. However, this was done too late to have an impact on VL accuracy.

### Candidate Registration

Sixty-six political parties and two independent candidates were registered as contestants in a largely inclusive process that offered voters a genuine choice. The CEC initially registered 64 political parties and 2 independent candidates, with 6 parties and 5 independent candidates denied. Of the six parties that appealed, two had their appeals satisfied and were registered by the court.<sup>15</sup> The CEC, after providing parties an opportunity to make corrections, approved all candidate lists with a total of 7,149 candidates, including 2,753 women. According to the Electoral Code, candidates have to resign from high-level public posts prior to registration. One candidate did not do so.<sup>16</sup>

Each candidate list is legally required to include at least one male and one female in the top three positions and must consist of at least 30 per cent of each gender. To meet the quota, many parties included women at the bottom of the lists in unwinnable positions. The provision that obliged the CEC to deny registration for non-compliant lists was repealed in 2012, reducing the effectiveness of the gender quota requirement. The CEC issued fines to the three largest parliamentary parties (the DP, SP, and SMI) for failing to meet the gender quota in four, six, and four districts, respectively.<sup>17</sup> Although the CEC allowed these parties an opportunity to correct the gender quota breaches, they chose not to do so, and the non-compliant lists were registered.<sup>18</sup>

### The Campaign Environment and Campaign Finance

Candidates actively engaged in a vibrant campaign. The campaign environment was peaceful overall with only a few isolated incidents of violence.<sup>19</sup> As a positive development parties instituted

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<sup>14</sup> The OSCE/ODIHR EOM noted that voters in more than half of the EAZs were neither notified about their VC location nor their number on the VL, as required by law.

<sup>15</sup> In the two cases overturned by the Electoral College, the CEC applied document requirements outside the legal criteria for party registration. In one case, the CEC denied one party registration for not having an official acronym. On appeal, the court upheld CEC's decision. The remaining cases of denied registration appeared to have a sound legal basis.

<sup>16</sup> See Article 63.4 of the Electoral Code. The head of the General Directorate for Prisons, a high-level official of the public administration, was a candidate on a DP list in Tirana and only stepped down on 19 June.

<sup>17</sup> In 2012, the fine for non-compliant lists was increased from Albanian Lek (ALL) 30,000 (EUR 215) to ALL 1 million (EUR 7,120) (Approximately 1 EUR=140 ALL).

<sup>18</sup> There were diverging interpretations among stakeholders regarding a new provision, Article 175.2 of the Electoral Code that apparently obliges the CEC to re-order candidate lists to comply with the gender quota. Civil society groups were critical of the CEC's failure to do so.

<sup>19</sup> Investigations of four possible election-related cases are ongoing: an attempted shooting of a local DP chairperson in Shtiqen commune (Kukes), the detonation of an explosive device outside the residence of a DP candidate in Vlore; the beating of a NDS candidate in Fier; and the beating of a VCC member nominated by the SP in Berat Region.

and promoted programmatic platforms and engaged in substantive political debate. However, mutual accusations between the two largest parties, at times, detracted attention from the substance of the campaign.

Fundamental freedoms were respected and all contestants were able to campaign freely. Political parties began campaigning actively before the official campaign start on 24 May with leading political figures and top government officials touring the country to present candidates at large-scale rallies. Parliamentary parties as well as the New Democratic Spirit (NDS) organized large rallies and concerts and used posters and banners extensively.<sup>20</sup> Other parties held smaller-scale meetings and distributed leaflets only in areas where they expected higher levels of support. All parties used social media extensively throughout the campaign. While some mayors fulfilled their legal obligation to allocate advertising space by a formal decision, others did not, or agreed to a division of space proposed by and benefitting the larger parties.<sup>21</sup>

The OSCE/ODIHR EOM noted the use of public vehicles and official buildings for campaign purposes by the two largest parties, which is prohibited by law.<sup>22</sup> A number of official government events were accompanied by the governing party's campaign advertising and speeches. There was also campaign coverage on the prime minister's official government websites. These instances of continued blurring between state institution and party interests, challenged paragraph 5.4 of the 1990 OSCE Copenhagen Document and paragraph I.2.3 of the Venice Commission's Code of Good Practice in Electoral Matters. On 13 May, the prime minister issued an order obliging high-level public officials to prevent the use of public funds and means for campaign purposes, which reinforced existing legal provisions.

Widespread allegations that public-sector workers were required by their superiors to attend rallies or gather support for the governing party negatively affected the pre-election environment.<sup>23</sup> OSCE/ODIHR observers noted specific instances of schools being closed during daytime rallies, with teachers and students compelled to attend.<sup>24</sup> The SP claimed that their activists and supporters, including VCC members from past elections or their family members were dismissed from public sector jobs on political grounds. In some instances, the OSCE/ODIHR observers assessed these claims as credible.<sup>25</sup> Such actions contravene paragraph 7.7 of the 1990 OSCE Copenhagen Document and paragraph I.3.2 of the Venice Commission's Code of Good Practice in Electoral Matters.<sup>26</sup>

International observers were made aware of allegations of vote-buying, including by the two largest political parties against each other, which were assessed as credible and intensified in the days before election day and tainted the electoral environment. Most allegations focused on vulnerable

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<sup>20</sup> The NDS was not officially recognized as a parliamentary party despite having one member in the parliament.

<sup>21</sup> In Vlore, the mayor refused to provide an independent candidate as well as the Red and Black Alliance with information about allocated space and venues for campaign purposes. In Shkoder, the NDS claimed they were unable to organize a meeting in a local theatre or to have access to billboards.

<sup>22</sup> Examples included campaign material on public buses in Tirana and Kamez (for the DP), in Gjirokaster (for the SP) and in Delvine, Vlore Region (for the Party for Justice, Integration and Unity, PJIU); and local municipal buildings used for campaign purposes in Kruje (for the DP), in Gramsh and Librazhd (for the SP), and in Durres (for the PJIU and DP).

<sup>23</sup> For example: in Lac (Lezhe) a school director was dismissed reportedly for not following the request of her supervisor to have teachers attend a DP rally. On 14 June, the SP filed a criminal report alleging a director in the Ministry of Economy, Trade, and Energy, officially ordered her employees, in writing, to collect contact information of committed DP voters.

<sup>24</sup> DP rally in Kukes on 23 May and SP rally in Divjake (Fier) on 8 June. At these and a number of other campaign events, the OSCE/ODIHR EOM noted up to 30 per cent of those present were schoolchildren.

<sup>25</sup> See Complaints and Appeals Section.

<sup>26</sup> Paragraph 7.7 provides for the conduct of the campaign in an atmosphere where voters may cast their vote free of fear of retribution.



groups, in particular the Roma and poorer communities particularly in rural areas. In exchange for votes, offers reportedly included money, debt coverage, material goods or public sector jobs.<sup>27</sup>

A CEC decision on distributing advanced funds from the state budget for contestants' campaigning came 11 days after the start of the official campaign due to a late decision of the parliament.<sup>28</sup> Private campaign donations were allowed with a limit on individual donations of ALL 1 million and an overall limit of no more than ten times the amount granted from the state budget. Contestants had to maintain a registry of private donors and donations, but total campaign expenditures were to be reported to auditors appointed by the CEC only after the elections. The legal framework does not provide for sufficient transparency in campaign finance reporting as there are no disclosure requirements before election day. A number of NGOs expressed concern about political parties overspending the legal limits.

## The Media

The media environment was pluralistic throughout the campaign and offered content diversity, which allowed voters to make an informed choice. However, editorial independence was hampered by political influence.

Broadcast media are the primary source of information for citizens, with numerous media outlets operating across the country. Print media is also diverse, but constrained by limited circulation. Internet provides an open sphere for public discourse. The Electoral Code regulates all broadcast media during the election campaign, including news coverage, paid advertisements and free airtime.<sup>29</sup>

The media monitored by the OSCE/ODIHR EOM devoted extensive coverage of the elections in different types of programmes, including 36 televised debates among party representatives.<sup>30</sup> The monitored broadcast media generally respected the 24-hour campaign-silence provision. The public broadcaster *TVSH* granted all contestants free airtime in accordance with the Electoral Code. *TVSH* provided equitable news coverage of the major political parties (40 per cent to the DP, 6 per cent to government, 41 per cent to the SP), however a more positive tone was noted towards the DP and the government (45 per cent for the DP compared to less than 1 per cent for the SP), thus undermining its legal obligation of impartiality. All the other political parties received only 13 per cent of news coverage.

While broadcast media were required to provide parliamentary parties with less than 20 per cent of seats in parliament half of the time guaranteed to the largest parties, none of the monitored media fulfilled this obligation.<sup>31</sup> The two major political parties exceeded the 90-minute limit of paid advertising, in breach of the law.

The monitored private broadcasters showed some divisions. *TV Klan* devoted 53 per cent of its news coverage to the DP (mostly positive in tone) and 28 per cent to the SP (often negative). While relatively balanced towards the two large parties, *Top Channel* and *Vizion Plus* news coverage of

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<sup>27</sup> The OSCE/ODIHR EOM received multiple reports of vote-buying from at least seven districts and was made aware of several arrests.

<sup>28</sup> Parliament allocated a total of ALL 65 million for the public funding of electoral campaigns.

<sup>29</sup> There are no regulations for print media in the Electoral Code.

<sup>30</sup> The OSCE/ODIHR EOM monitored the primetime political coverage of six TV channels (*TVSH*, *Top Channel*, *TV Klan*, *Vizion Plus*, *News 24* and *Ora News*), and four daily newspapers (*Panorama*, *Shqip*, *Mapo* and *Shqiptarja.com*).

<sup>31</sup> In total, the four smallest parliamentary parties received 9 per cent of news coverage on *TVSH*, 10 per cent on *TV Klan*, 16 per cent on *Top Channel*, 13 per cent on *Vizion Plus*, 17 per cent on *News 24*, and 17 per cent on *Ora News*.

the government was often negative in tone. The news channels *News 24* and *Ora News* provided generally neutral coverage of the main parties. For the print media, the OSCE/ODIHR EOM media monitoring noted a similar polarization with *Shqip* and *Shqiptarja.com* mainly favoring the opposition and *Mapo* and *Panorama* the ruling party. The OSCE/ODIHR EOM media monitoring noted that women candidates received marginal news coverage (from one to five per cent on the monitored TV channels), reflecting continuing issues with women's participation in political life.

The Media Monitoring Board (MMB) was established over a month after the legal deadline.<sup>32</sup> It submitted proposals to the CEC divided along partisan lines pointing to a lack of collegiality and independence.<sup>33</sup> The MMB failed to provide the CEC with daily reports as legally required. During the campaign period, the CEC examined only two of the three MMB weekly reports, which, in some cases, contained inaccuracies.<sup>34</sup> Overseeing media coverage by competent authorities remained problematic, particularly in regard to the lack of effective and timely remedies.<sup>35</sup> However, no formal media related complaints were lodged with the CEC.

Although prohibited by law, the CEC did not suspend the airing of spots funded by the Ministry of Defense, the Ministry of Public Works, Transport and Telecommunications, the Ministry of Justice, the Albanian Development Fund, and the Albanian Postal Service, which featured government achievements. These spots were aired by *TVSH*, *TV Klan*, *News 24* and *Ora News*

On 3 June, the CEC adopted a controversial decision without consulting the MMB, which implied a requirement for broadcasters to air pre-recorded campaign material prepared by electoral subjects in their newscasts.<sup>36</sup> This decision impinged upon the editorial freedom, exceeded CEC's regulatory power, and is inconsistent with OSCE commitments and Council of Europe standards.<sup>37</sup> While the Electoral Code allows electoral subjects to submit their own materials, broadcasters are not obliged to air them in news programmes. As a consequence of the CEC decision, party materials were widely used by broadcasters, thus limiting viewer access to independent reporting.<sup>38</sup> The People's Advocate (Ombudsperson) recommended the CEC repeal its decision.

## National Minorities

Minorities generally enjoyed respect of their rights. National minorities are guaranteed equal rights under the Constitution. While no reliable official data on minorities is available, it is widely believed that the Greek and the Roma communities are the largest. Smaller minorities include ethnic Macedonians, Bulgarians, Serbs, Montenegrins, Bosniaks and Vlachs. A number of political parties addressed minority communities in their platforms. The HRUP and the Greek Ethnic Minority for the Future mainly focused on the Greek minority. The Macedonian Alliance for European Integration and the National Tolerance Party focused on the ethnic Macedonian and the Roma and Egyptian minority vote, respectively. The law does not permit languages other than

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<sup>32</sup> The MMB was charged with media monitoring and proposing administrative sanctions during the campaign.

<sup>33</sup> The MMB reached a consensus only on measures for compensatory airtime. Other proposals were signed by four members proposed by the parliamentary majority or by the three members proposed by the opposition.

<sup>34</sup> As noted by the CEC and the MMB itself on 6 June.

<sup>35</sup> For instance, the CEC did not take any decisions about the proposals made by the three opposition-nominated MMB members regarding TV spots funded by public institutions.

<sup>36</sup> The CEC disregarded a 2011 Electoral College decision that overturned a previous CEC decision ordering broadcasters to air tapes prepared by electoral subjects in case stations could not provide their own news coverage. (See also Complaints and Appeals Section).

<sup>37</sup> Including paragraph 9.1 the 1990 OSCE Copenhagen Document, paragraph 26 of the 1991 Moscow Meeting Document, and paragraph. I.3 of the CoE Recommendation CM/Rec (2007), which states that "Regulatory frameworks on media coverage of elections should respect the editorial independence of the media."

<sup>38</sup> Instances of prepared tapes by political parties broadcast as news items in local media were also reported by the OSCE/ODIHR EOM in Shkoder, Durres, Tirana, Elbasan and Korce.

Albanian on TV advertising, which has been interpreted to include election campaign spots.<sup>39</sup> Otherwise, all electoral subjects campaigned freely in their preferred language. Specific issues of minorities were rarely addressed by political parties' campaigns, except by minority parties. Some leaders of the Roma and Egyptian communities noted that a number of their voters lacked ID cards.

## Complaints and Appeals

Electoral stakeholders were not adequately provided effective legal remedy and due process to resolve election-related grievances, in contravention of paragraph 5.10 of the 1990 OSCE Copenhagen Document and paragraph II.3.3 of the Venice Commission's Code of Good Practice in Electoral Matters. In key cases, adjudicative bodies refused consideration of complaints or exceeded their jurisdiction. Moreover, electoral subjects rarely used available electoral dispute resolution mechanisms, including for a reported lack of confidence in the election administration, courts, and law enforcement bodies.

Complaints against CEC decisions can be lodged with the Electoral College, which has 10 days to adjudicate.<sup>40</sup> According to the Venice Commission's Code of Good Practice in Electoral Matters, this is an unduly lengthy deadline in a pre-election period that according to some political parties deterred their filing of complaints.<sup>41</sup> The right of political parties to each veto one Electoral College judge was repealed in 2012, increasing the body's independence. All decisions of the Electoral College are final, although the Constitution guarantees the right to judicial appeal.

Furthermore, while the Constitutional Court is mandated under Art.131.f of the Constitution to review final court decisions to ensure compliance with constitutional guarantees of due process, it refused jurisdiction to review Electoral College decisions for adherence to this principle. Only contestants have a right to file complaints against election administration bodies. Voters, citizen groups and NGOs may not challenge administrative decisions or other actions that impact their voting or public electoral rights, denying the right to effective remedy in the electoral process.<sup>42</sup> Even the CEC's enforcement of gender quota provisions and its regulation of media broadcaster obligations could not be challenged in court by concerned groups.

The SP appealed to the Constitutional Court challenging the constitutionality of the parliament's decision on seat distribution. It argued that the parliament was not legally mandated to take a decision without the CEC's proposal and that its failure to apply the current population distribution statistics violated the equality of the vote. The Court refused jurisdiction over the case without sound legal basis. The court held that the claimant had not exhausted its legal remedies. However, decisions of the parliament are not reviewable by the Electoral College or any other court.

The CEC's failure to adopt a decision on the number of EAZs was challenged in the Electoral College. In its decision, the Electoral College established the number of EAZs, in contravention of Article 145.2, which required the Electoral College to order the CEC to decide the number of EAZs. In two cases of unlawful VC and BCC locations, the Electoral College selected new locations instead of referring the matter back to the CEC to adopt a new decision. The Electoral College

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<sup>39</sup> In contravention of paragraph 32.5 of the 1990 OSCE Copenhagen Document: "persons belonging to national minorities have the right[...] to disseminate, have access to and exchange information in their mother tongue".

<sup>40</sup> The Electoral College comprising eight judges selected by lottery from the Court of Appeal before each national election whose mandate is limited to adjudicating complaints against the CEC. In the pre-election period, the Electoral College adjudicated 15 complaints; 8 related to party registration, 6 to the administration of the election, 1 challenging a gender quota fine.

<sup>41</sup> See paragraph II.3.3.g of the Venice Commission's Code of Good Practice in Electoral Matters, which states that "time-limits for lodging and deciding appeals must be short (three to five days for each at first instance)."

<sup>42</sup> Voters may only appeal against exclusion from the voter register and civil society groups may only appeal against decisions denying them accreditation as election observers.

assumed the administrative responsibilities of the CEC, which is not in line with procedures foreseen by the law. The way in which these decisions were handled *de facto* does not allow for effective legal review.

Although parties raised allegations of campaign violations, particularly pressure on public servants, complaint mechanisms were generally not utilized.<sup>43</sup> According to the Ombudsperson, citizens risked losing jobs or other repercussions if they filed complaints of political pressure.<sup>44</sup> The CEC is responsible for overseeing adherence to the Electoral Code, including administrative prohibitions on the misuse of state resources. However, when the SP non-voting representative to the CEC raised a complaint on the dismissal of two teachers for refusal to participate in DP campaigning, the CEC Chairperson refused to open a discussion on the matter.<sup>45</sup>

### **Citizen and International Observers**

The Electoral Code provides for citizen and international observation. Citizen observers are nominated by domestic NGOs. Citizen and international observer organizations, as well as contestants, have the right to observe all aspects of the electoral process. Political parties competing individually and independent candidates may appoint one observer per voting centre and one per ballot counting table. Coalitions may appoint three observers per voting centre and counting table. Citizen observers do not have the right to obtain copies of the Record of Closing of Polls and the aggregate table of counting results or to file election-related complaints.

The CEC accredited 8,504 citizen observers from 46 organizations and 792 international observers. A number of the citizen observer groups engaged in long-term observation efforts and issued reports throughout the process.

### **Election Day, Counting and Tabulation of Results**

Election day generally took place in an orderly manner. However, a violent clash in the morning outside a VC in Lac (Lezhe District) resulted in the death of one party supporter and injuries to two others, including one candidate. While this and other isolated cases of violence tarnished the start to the elections, election day generally progressed peacefully. The CEC uploaded preliminary results, although they were not regularly updated as counting proceeded.

Overall, opening was assessed positively in 84 percent of the 122 VCs observed, and negatively in 16 per cent, which is noted as significant. Observers reported a delay in opening in 72 per cent of VCs observed, for reasons including a lack of organization, arguments over procedures, the late arrival of VCC members or missing material such as ink or ballots.<sup>46</sup> Delays of more than a half-hour were reported in 15 cases. In 12 cases observed, the record of sealing was not deposited in ballot boxes prior to the start of voting as prescribed by law. Observers of contestants and citizen groups were noted present in 87 and 35 per cent of voting centres, respectively.

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<sup>43</sup> In one instance, the SP lodged complaints as a criminal matter requesting that the prosecutor charge teachers' supervisors under Art. 328.a of the Criminal Code. This article was added in March 2012, which criminalizes forcing citizens to participate in campaign activities.

<sup>44</sup> The Ombudsperson established a working group on election-related matters and publically urged public servants under pressure to campaign to file complaints, and issued recommendations to the prime minister, mayors, and Minister of Education and Science requesting them to issue orders prohibiting the participation of public servants and school-age children in campaign events during work and school hours.

<sup>45</sup> No official complaints were filed with the CEC in the pre-election period.

<sup>46</sup> VC 2547, CEAZ 46 (Cerrik, Elbasan District) no ballots were present at opening. Reserve ballots arrived only at 12:30 hrs after which voting began.

Voting was observed in 1,363 VCs. Of those, 94 per cent were assessed as good or very good and 6 per cent as bad. Only seven VCs observed were assessed as very bad. Indications of possible ballot box stuffing were observed in three VCs.<sup>47</sup> Instances of group/family voting were observed in some 14 per cent of VCs, and more frequently in rural areas. Proxy voting was observed in five per cent of VCs. In three per cent of VCs, one person was observed assisting multiple voters, and in three per cent, one person was observed attempting to influence voters for whom to vote. Multiple voting was observed in 12 VCs.<sup>48</sup> Observers gave a more negative overall assessment in rural areas (10 per cent) compared to urban areas (3 per cent).

Observers of contestants were present in 89 per cent and citizen observers in 22 per cent of VCs observed, adding to transparency. However, interference in voting by observers of contestants was observed in eight per cent of the VCs. Those interfering equally represented both the DP-led and SP-led coalitions. Ink-verification, one of several safeguard against multiple-voting, was among the most frequently observed irregularities and was not done consistently in some 28 per cent of VCs observed. International observers were present in 9 out of the 20 prisons where VCs were established and in all cases assessed the voting process positively.

The closing of polls and transfer of materials was observed in 93 cases and assessed as good or very good in 79 cases, and as bad in 6 cases. Most VCs closed on time with only ten closing with a delay of more than 15 minutes; three for more than an hour. Some irregularities were noted, mainly due to uncertainty over procedures. The numbers of the ballot box seals were not properly recorded in 10 cases and copies of the record of closing were not always given to those entitled (12 cases observed). In all but eight observed cases, materials arrived to the BCCs within the prescribed three-hour timeframe.

Based on 82 reports from 73 of 89 BCCs, observers assessed material intake as good or very good in all cases, but one. The process was generally transparent, although activities were at times affected by overcrowding, which was observed in 15 cases. Thus far, observers have reported that only one material box was declared 'irregular'. In a number of BCCs, counting teams were not yet established or were still receiving training during the intake of ballot boxes, which caused delays to the start of the count. Subsequent delays in the counting process were noted in locations where counting teams took extended breaks.

At the time of writing, in most locations where counting had started, it was assessed positively. Procedures for ballot validation were generally followed, and results were consistently recorded in the aggregate table of results. In some instances, observers were placed too far from counting tables for meaningful observation, thus detracting from the overall transparency.

***The English version of this report is the only official document.  
An unofficial translation is available in Albanian.***

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<sup>47</sup> Non-randomly stacked ballots were observed in the ballot box in VC 4190 in EAZ 77 (Permet, Gjirokaster District), VC 1942 in EAZ 37 (Tirana District), and VC 3192 in EAZ 59 (Fier District).

<sup>48</sup> In VC 2955, CEAZ 57 (Lushnje, Fier District) some 15 cases of multiple-voting were observed.

**MISSION INFORMATION & ACKNOWLEDGEMENTS**

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Tirana, 24 June 2013 – The OSCE/ODIHR EOM opened in Tirana on 15 May. It includes 15 experts in the capital and 30 long-term observers deployed throughout Albania.

On election day, 387 observers from 43 countries were deployed, including 316 long-term and short-term observers deployed by the OSCE/ODIHR, as well as 48 parliamentarians and staff from the OSCE PA and 23 from the PACE. Voting was observed in some 1,400 of 5,508 VCs across the country. Ballot counting and the tabulation of results were observed in 63 out of 89 BCCs.

The observers wish to thank the authorities of the Republic of Albania for the invitations to observe the elections, the Central Election Commission for its co-operation and for providing accreditation documents, and the Ministry of Foreign Affairs and other authorities for their assistance and co-operation. The observers also wish to express appreciation to the embassies and international organizations accredited in Albania for their co-operation and support.

For further information, please contact:

- Conny McCormack, Head of the OSCE/ODIHR EOM, in Tirana (+355 69 736 4951);
- Thomas Rymer OSCE/ODIHR Spokesperson (+48 609 522 266) or Steven Martin, OSCE/ODIHR Election Adviser, in Warsaw (+48 22 520 0600);
- Roberto Montella, OSCE PA, (+355 69 736 66 74) or (+43 699 10 42 86 81);
- Bogdan Torcatoriu, PACE, (+355 68 692 78 79) or (+33 650 39 29 40).

**OSCE/ODIHR EOM Address:**

Rr. Brigada VIII, Nd. 10, 1019  
Tirana, Republic of Albania  
Tel: +355 4 226 8966, Fax: +355 4 226 8955  
Email: [office@odihr.al](mailto:office@odihr.al)