



Office for Democratic Institutions and Human Rights

**REPUBLIC OF ALBANIA  
PARLIAMENTARY ELECTIONS**

24 June – 19 August 2001



Warsaw  
11 October 2001

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**REPUBLIC OF ALBANIA**  
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**OSCE/ODIHR Final Report<sup>1</sup>**  
**11 October 2001**

**I. EXECUTIVE SUMMARY**

The 2001 Parliamentary elections in Albania marked progress over past elections in terms of the conduct of the campaign, media and election administration. While the outcome on 24 June indicated that the governing Socialist Party (SP) would be able to form a government, more political will was required from the leadership of the party in order for the election to fully meet international standards. In a welcome development, and unlike previous elections, political parties sought legal redress to their grievances. However, the administrative and judicial processes did not always provide an effective means of redress.

Since the collapse of communism, four general elections were held in Albania. The election on 29 June 1997 followed serious unrest in the country. These elections were marked by a polarized political culture with deep antagonisms between political forces grouped around the dominant Socialist and Democratic Parties, their fortunes shifting dramatically from one election to another. The outgoing parliament was strongly dominated by the Socialist Party. In 2000, Parliament adopted a new Electoral Code, which made substantial progress over the previous law.

The 2001 parliamentary elections provided an opportunity for further consolidation of democratic standards after the local government elections in October 2000 which marked significant progress towards meeting the standards for democratic elections. In addition to determining the next government, the parliamentary elections were also critical for the election of the President in 2002 as the winning candidate would require the votes of at least 84 of the 140 Members of Parliament.

A number of positive elements characterised the parliamentary elections process compared to previous elections, in particular up to the first round of voting on 24 June, including:

- the executive branch of government generally avoided interference in the process;
- the Central Election Commission (CEC) functioned with greater independence and transparency;
- a broad range of media offered the electorate a full spectrum of political information;
- prior to the first round, the public station (TVSH) fairly allocated time to the main contestants;
- the electoral campaign was conducted in a calm atmosphere, except for isolated incidents, and the campaign rhetoric was largely restrained; and
- voting was generally conducted in a calm and orderly manner;

However, the election process was protracted, litigious, uncertain and fragmented. Five rounds of voting, on 24 June, 8 July, 22 July, 29 July and 19 August were required to complete the process. In each round, the number of contested areas diminished, but the problems there became increasingly serious. In many zones, repeat elections were held in some polling stations, at times more than once. More specific concerns include:

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<sup>1</sup> This report is also available in Albanian. However the English text remains the only official document.

- serious irregularities in the voting process, including cases of ballot box stuffing and use of pre-marked ballots, were noted in a limited number of zones, and in a small number of zones where senior politicians were candidates, the tabulation of voting was problematic, undermining progress achieved and prompting some political parties to question the results in those zones;
- the SP tested the law beyond acceptable limits with the independent candidate issue and later exploited the delayed proportional elections in Zone 60 caused by the failure to distribute election materials on the eve of the first round of the elections;
- political pressure at times appeared to compromise the CEC performance;
- coverage by the public station (TVSH) deteriorated after the first round, favoring the governing party;
- police on occasion interfered in the election process (see section X of this report);
- the CEC handling of some key election complaints was not always adequate (see sections X and XII of this report);
- the Constitutional Court and in some cases other courts did not apply standards consistently, showing some bias in favor of the governing party (see sections X and XII of this report); and
- the major political parties continued to treat each other as enemies, rather than as legitimate political opponents.

Notwithstanding these concerns, the SP victory in these elections was not disputed, only the extent of its victory came under question.

Despite a more positive initial assessment after the first round of voting, the protracted electoral process as well as the repeated and increasingly more serious violations during subsequent rounds of voting, in particular in Zone 60, convinced the OSCE/ODIHR to modify its overall assessment of these elections. Shortly after the process was concluded, substantial evidence about these violations was presented to the OSCE/ODIHR by the opposition. Following this, the OSCE/ODIHR sought the authorities' interpretation of the alleged violations. The authorities responded promptly and submitted additional evidence on 28 September. The OSCE/ODIHR's examination of all evidence presented required the delay of this Final Report's publication.

In view of the above, the OSCE/ODIHR recommends the following:

- appropriate means, for example a bipartisan parliamentary commission, could be established to investigate concerns surrounding these elections with a view to remedial proposals for the future;
- although the Electoral Code provides a basis for democratic elections, the challenges detailed herein suggest that it should be reviewed in a number of key areas, further elaborated in the recommendations of this report;
- the election complaints and appeals process requires special attention; and
- the accuracy of the voter list should be improved.

The OSCE/ODIHR in co-operation with the OSCE Presence in Albania stands ready to work closely with the authorities and civil society of Albania in addressing the concerns and recommendations contained in this report.

## II. INTRODUCTION AND ACKNOWLEDGMENTS

In accordance with its commitments as an OSCE participating State, the government of the Republic of Albania invited the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the 24 June parliamentary elections.

The OSCE/ODIHR Election Observation Mission (EOM) was established in Tirana on 22 May, with Nikolai Vulchanov as Head of Mission, and shortly thereafter started monitoring the electoral process with 10 experts based in the Tirana headquarters, and 18 long-term observers deployed to the regions.

For the first round of voting on 24 June, the EOM was joined by the OSCE Parliamentary Assembly (PA), the Parliamentary Assembly of the Council of Europe (PACE) and European Parliament (EP) to form the International Election Observation Mission (IEOM). Some 250 short-term observers were deployed from 30 OSCE participating States, including 39 from the OSCE PA, 17 from the PACE and 7 from the EP. The *Organisation Internationale de la Francophonie* also contributed 14 observers to the IEOM for election day.

Mr. Bruce George MP (UK), Vice-president of the OSCE PA, was designated by the OSCE Chairperson-in-Office as Special Coordinator for the elections in Albania to lead the OSCE short-term observers. Mr. Jerzy Smorawinski MP (Poland) led the PACE delegation, and Ms. Doris Pack MP (Germany) led the EP delegation.

On 24 June, the IEOM monitored voting in over 1,000 of the 4,578 polling stations in Albania. For the second round of voting on 8 July, and voting on 22 July, the IEOM was a joint effort of OSCE/ODIHR and PACE. On 8 July, in addition to the existing OSCE/ODIHR staff of 28 in Albania, some 130 short-term observers, including eight parliamentarians from PACE, were deployed across Albania. On 22 July, some 48 short-term observers, including five parliamentarians from PACE, were deployed in all zones in which elections took place.

After the EOM left Albania on 23 July, observation of voting on 29 July was coordinated by the OSCE Presence in Albania which deployed eighteen observers. For the voting on 19 August, the OSCE Presence deployed two observer teams in Zone 82, the sole unresolved election contest. In September, ODIHR returned to Tirana for a series of consultations with political parties, the Albanian authorities, civil society and the international community. In addition, delegations from the opposition and the authorities visited OSCE/ODIHR during the third and fourth weeks of September and provided additional documentation on various issues of concern.

The OSCE/ODIHR wishes to thank Ambassador Geert-Hinrich Ahrens and the OSCE Presence in Albania for their support throughout the duration of the mission, as well as embassies and international organizations for their support on election days. The OSCE/ODIHR is also grateful to the OSCE Mission to Bosnia and Herzegovina for the short-term observers seconded on 8 and 22 July.

The OSCE/ODIHR wishes to express appreciation to the Albanian authorities, in particular the CEC, Ministry of Foreign Affairs (MFA), and the Office of the Prime-Minister, for their timely assistance and co-operation throughout the observation mission and during follow-up from Warsaw.

## BACKGROUND

On 18 April 2001, the President of the Republic called parliamentary elections for 24 June 2001.<sup>2</sup> The period since the last parliamentary elections in June 1997, saw a steady stabilization of the country, achieved with the active support of the international community, which enjoyed good cooperation with the authorities.

An important feature of the 2001 parliamentary elections was the decision of the SP, led by Fatos Nano, to break with its partners in the outgoing governing “Alliance for the State” coalition and contest the elections alone. Thus, the Social Democratic Party (SDP), the Human Rights Union Party (HRUP), the Agrarian Party (AP), and the Democratic Alliance Party (DAP) were without a major political ally and faced the likelihood of losing their seats in Parliament and their government posts. The Democratic Party (DP), led by former President of the Republic Sali Berisha, formed an electoral alliance with a number of smaller parties and campaigned as the “Union for Victory”(UV).<sup>3</sup> Following a split in the DP, at the beginning of 2001 some DP Members of Parliament formed a new “Democrat Party”, which contested the elections under the leadership of Genc Pollo as an alternative to both the SP and DP.

## IV. LEGAL FRAMEWORK

The Parliamentary elections were held under an Electoral Code adopted by Parliament in May 2000, and amended in May 2001.<sup>4</sup> Although the Electoral Code provides a basis for democratic elections, challenges experienced during the 2001 elections and the delay in determining the final composition of Parliament indicate that it could be improved in a number of areas. These include clarification of the respective competencies of election commissions and courts, clarification of deadlines for the adjudication of complaints and appeals, and the establishment of clear procedures for the presentation, consideration, and adjudication of complaints and appeals. In particular, the competencies of the CEC should be clarified and outlined in the Code as the CEC failed to fully exercise its competency in a number of critical disputes.

The Constitution establishes a specific “mixed” election system, with inter-related majoritarian and proportional components, calling for the election of 100 deputies in single-member constituencies (“zones”) and 40 deputies in a nationwide constituency based on party or coalition lists. A second round of voting is required in single-member constituencies if no candidate receives an absolute majority.

Parties must receive at least 2.5% of the valid votes nationwide and coalitions 4% to participate in the allocation of the 40 mandates. Article 64 of the Constitution requires that “the total number of deputies of a party or coalition shall be, to the closest possible extent, proportional to the valid votes

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<sup>2</sup> The President is elected for a five-year term by Parliament and requires the votes of at least 84 of the 140 Members of Parliament. After five consecutive attempts to elect the President in Parliament, if unsuccessful, new parliamentary elections must be held.

<sup>3</sup> They were the Democratic Party, the Republican Party, the National Front Party, the Legality Movement Party, and the Liberal Union.

<sup>4</sup> Domestic and international experts assisted the Albanian authorities in drafting the Electoral Code. Following multi-party roundtable discussions that included representatives of the CoE, International Foundation for Election Systems (IFES), United States Agency for International Development (USAID), and the OSCE, the Parliament adopted the Electoral Code on 8 May 2000, incorporating last minute amendments introduced by the SP-led Parliamentary majority. The CEC composition, regulated by the Constitution, and the early appointment of six CEC members before the approval of the Electoral Code, led the DP to reject the Code in its entirety and boycott its adoption in Parliament, even though it had participated in most of the multiparty roundtable discussions.

won by them on the national scale in the first round....” Article 66 of the Electoral Code sets out a formula that attempts to distribute the 40 mandates in a manner that “compensates” parties which have secured a share of the national vote, but were unable to win enough single-member constituencies to reflect their electoral support.

However, Article 66 may be circumvented as the Electoral Code provides for the use of two ballots, one for the single-member zone in which the voter resides, the other for the party lists on the national level. If a candidate, who *de facto* represents a political party, registers *de jure* as an “independent” candidate, then the allocation formula can be circumvented in a case where a voter casts his/her first ballot for the “independent” candidate and his/her second ballot for the political party that “supports” the “independent” candidate as this mandate is not considered to have been won by the political party who supported the “independent” candidate. In this manner, the political party is able to “inflate” its share of the 40 national mandates. The mandate allocation and use of pseudo “independent” candidates became the most contentious issues in the election campaign period.

## V. ADMINISTRATION OF THE ELECTIONS

### A. STRUCTURE AND COMPOSITION OF THE ELECTION ADMINISTRATION

The Electoral Code provides for a four-tier administrative structure comprising the CEC, 100 Zone Election Commissions (ZECs), 385 Local Government Election Commissions (LGECs) and Voting Centre Commissions (VCCs), which numbered approximately 4,700 for the 2001 parliamentary elections.

The Constitution establishes the CEC as a permanent State organ consisting of seven voting members, appointed for a seven-year term. After consultations, the President of the Republic appoints two members, the Parliament appoints two members, and the High Council of Justice appoints three members. Each political party and coalition registered with the CEC may appoint one non-voting representative to the CEC.

Due to resignations, three new members were appointed to the CEC in February 2001, and Ilirijan Celibashi was elected as Chairperson. He is a former judge and also served for two months as Deputy Minister of Interior.

According to Article 158 of the Electoral Code (a transitional provision), ZECs and VCCs consist of a Chairperson, Deputy Chairperson and five members appointed by the CEC and ZECs respectively from the seven political parties that won the most votes nationwide in the 1997 parliamentary elections.<sup>5</sup> The CEC names the ZEC Chairperson and Deputy Chairperson on the basis of proposals made by the ZEC. However, only the two parties that received most votes in the 1997 parliamentary elections, the SP and the DP, were permitted to submit proposals. Each ZEC and VCC appoints a non-voting secretary. Parties and candidates may appoint non-voting representatives to these bodies. ZECs are bound by law to ensure a consistent administration of elections in their single-member zone. For the parliamentary elections, the role of the LGECs was limited to updating and revising the preliminary voter lists.

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<sup>5</sup> These were the Socialist Party, Democratic Party, Legality Movement Party, Republican Party, Social Democratic Party, Human Rights Union Party, and the Democratic Alliance Party.

## **B. PERFORMANCE OF THE ELECTORAL ADMINISTRATION**

### **1. Central Election Commission**

In contrast with previous elections, overall the CEC displayed greater independence and transparency in its decision-making. Compared to previous elections, its organization of the electoral process improved and some of the recommendations included in the OSCE/ODIHR Final Report on the 2000 Local Government Elections were addressed.<sup>6</sup>

Political parties took advantage of their right to make presentations during CEC sessions and their views were sometimes taken into account. However, the CEC handling of key election complaints was not always adequate. As a result, parties and candidates sought redress in the courts. Political pressure applied from the SP leadership at times appeared to compromise the CEC performance.

The CEC Chairperson sought a collegial approach to decision making which was only partially successful. On many important issues, the CEC was divided with some decisions taken by a majority vote, overruling a strongly held minority opinion. This was most clearly displayed during discussions on the registration of party supported “independent” candidates, post-election complaints and appeals, and the delayed vote in Zone 60.

The CEC was active, meeting regularly and adopting some 47 instructions and a large number of decisions. However, session agendas and relevant papers were often not circulated prior to meetings, and some important decisions were taken in informal meetings. Thus, some party representatives were unfamiliar with discussion items and not aware of all decisions taken. The CEC did not always follow correct rules of procedure in issuing decisions. Before the first round, the issue of independent candidates and the appointment of members of the ZECs dominated the agenda of CEC meetings, leaving insufficient time to address important technical issues.

Demonstrating a collegial approach, the CEC attempted to appoint ZEC Secretaries based on professional qualifications and standing rather than political affiliation. Underlying this approach was a concern over the “misuse” of the official ZEC stamp used to validate all official documents, including the results. The CEC was only partially successful in its strategy, as the main political parties frequently placed party trustees in these important positions. Disputes between the parties on appointments sometimes were so deep that no agreement could be reached. As a consequence some ZEC Secretaries were appointed long after candidates had been registered and a few were even appointed on the eve of the first round.

Decisions on appointing ZEC Chairpersons frequently provoked polemical interventions from party representatives during CEC sessions. Appointments were viewed by the two main parties as a “zero-sum game” and consequently the SP and DP fought hard to maximize their position. Inter-party disputes, both at the local and national levels, led to the late appointment of many ZEC members and caused organizational problems. Belatedly, all 100 ZEC Chairpersons were appointed with a general political balance across zones.<sup>7</sup>

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<sup>6</sup> For example, prior to the election, “Rules of Procedures” were adopted and administrative departments re-organised. More ZECs and VCCs received training than previously and reference materials were distributed to nearly all ZECs and VCCs. Greater attention was paid to disseminating public information through TV slots, press releases and media interviews.

<sup>7</sup> The UV secured 45 Chairperson positions and the SP 55.



The CEC and the EOM received many complaints from parties and ZECs that members and secretaries failed to meet legal criteria for membership.<sup>8</sup> The CEC found it impossible to verify each case and eventually decided that parties should provide all documents supporting their arguments or appeal the CEC decision to the courts.

## **2. Zone Election Commissions**

Although the majority of ZECs functioned well, the professionalism of many was questionable and decisions were marked by intense political rivalries in what ought to have been politically neutral institutions. In some zones, the behavior of party appointed ZEC members was unacceptably partisan, at times obstructing the process to such an extent that elections did not take place as scheduled.

Election observers reported that many ZECs appeared disorganized, under-equipped and ill prepared. ZECs complained that the infrastructure and communications provided by local authorities was poor. Communication between the CEC and ZECs frequently passed through the local government organs, lessening the confidentiality of information and opening the possibility of undue influence on ZECs. Following changes to election zone boundaries earlier in 2001, some ZECs were unclear about precisely which territorial area constituted their zone. This resulted in confusion when establishing polling stations, appointing VCCs, and amending and posting voter lists.

Election commissions failed to respect certain legal deadlines and the CEC was unable to approve the final voter lists on time, causing delays to their distribution to ZECs. Many VCCs were appointed by ZECs very late in the process, in some cases only a few days before the first round. These shortcomings exacerbated existing delays, in what was already a tight election calendar. Additionally, differing interpretations of CEC decisions and instructions by ZECs resulted in a lack of uniformity in applying the legal provisions across all 100 zones.

## **3. CEC Activity After the First Round**

After the first round, most CEC sessions were occupied with decisions on election results and adjudicating complaints. However, other important issues were also discussed and some significant instructions adopted. Up to 22 July, the CEC dismissed over 40 ZEC members from 12 zones and a number of VCC members for obstructing the process and either failing to hold elections, prevent serious irregularities, or properly completing the protocol of results. Some commission members were fined and others faced criminal prosecution.

Following CEC and court determination that irregularities had been committed in the first and second rounds, repeat polling in some zones raised organizational problems for the election administration. The decisions concerning when to schedule elections and the time required to adjudicate cases created uncertainty over which zones would have further elections and a “fragmentation” of the election process.

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<sup>8</sup> Contained in Article 32 of the Electoral Code. A common allegation was that a member of a ZEC did not possess a university degree. Another was that the ZEC secretary was not a jurist. There were also complaints that individuals were not qualified due to issues involving criminal convictions, residence, and the holding of a local government position.

### C. REGISTRATION OF PARTIES, CANDIDATES, AND MULTI-NAME LISTS

The CEC registered 38 parties. Some did not submit candidate lists and others ran in coalitions. Thus, 28 parties and coalitions presented multi-name lists for the proportional ballot. In addition, some parties took part only in the single-member zone contests.

Prior to the first round, a legal dispute arose between the Democratic Party and the breakaway Democrat Party over the use of initials and logo. Both parties claimed ownership of the initials “PD”, with the right to use these initials on the ballot paper. On 29 May, before the ballots were printed, the Court of Appeals of Tirana granted the Democrat Party exclusive right to the initials “PD” and decided that the CEC erred when it granted the Democratic Party request to include the initials “PD” on the ballot paper alongside those of the UV. However, the Democrat Party failed to obtain an “executive order” in time before the printing was underway and the ballots were printed on 8 June with the initials “PD” alongside both the Democrat Party and the UV

A total of 1,114 candidates were registered in the 100 single member zones. Of these, 149 were initially registered as “independent” candidates. ZECs rejected relatively few candidates, although the procedures for scrutinizing documentation were not applied consistently in all zones. Twenty rejected candidates appealed to the CEC, which subsequently re-instated 11 and rejected nine. Only three of the nine appealed to the courts.

In an attempt to test the law beyond acceptable limits and inflate the number of mandates allocated to it through the proportional ballot, the SP announced that it would field 80 “SP” candidates in the 100 single member zones and “support” 20 “independent” candidates in the remaining zones. In response, the DP and its allies in the UV announced that they would register seven official candidates in the name of the UV and 93 candidates as “independent”.

Smaller parties from the former governing alliance, joined with the UV in a “roundtable”, attempted to persuade the CEC that, to ensure proportional representation in Parliament consistent with the spirit of the Constitution and Electoral Code, these “independent” candidates should be classified as party candidates. Though stopping short of appealing individual ZEC decisions on candidate registration to the CEC, or appealing CEC decisions confirming these registrations to the courts, as the law provides, three political parties filed a complaint with the Constitutional Court, to have the entire article ruled unconstitutional.<sup>9</sup> On 2 June, the court pronounced Article 66 constitutional, thus refusing to prevent the participation of pseudo “independent candidates”.<sup>10</sup>

Responding to arguments from the “roundtable”, the CEC issued an instruction, on 3 June, which limited political party “support” to 20 “independent” candidates. On 4 June, the CEC called a consultation with political parties on the issue. All parties, except the SP, agreed that the instruction did not solve the problem and urged the CEC to abrogate it. The CEC followed suit shortly before the 4 June midnight deadline for the registration of candidates. These developments led to uncertainty during the critical period of candidate registration, which continued until a few days before the first round.

Finally on 20 June, on the basis of documentation and evidence available, the CEC decided to attribute the mandates of 7 “independent” candidates to the SP and 41 “independent” candidates to

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<sup>9</sup> The SDP, DAP and HRUP lodged the complaint.

<sup>10</sup> However, the Court struck out one paragraph of Article 66 that addressed another issue, the mandate won by a jointly nominated candidate.

the UV, should they be elected.<sup>11</sup> The SP immediately appealed to the Tirana Court of Appeals, which upheld the CEC decision. By 23 June, following another CEC decision, only five of the original 112 “independent” candidates supported by political parties remained as “independents”.<sup>12</sup> However, the registrations of 107 reclassified candidates could not be changed and the ballot papers were printed with “independent” beside their names.

Two of the former SP “independents”, Nikolle Lesi (Zone 13, owner of influential private media) and Agron Duka (Zone 25, former Prefect of Durres), as well as Llesh Kola (Zone 13) and two UV “independents” were considered by the CEC to be “genuine independent” candidates. Thus the CEC succeeded, although at a very late stage, to resolve the issue. Even then, some problems still remained. The SP did not register candidates in both Zones 13 and 25, senior SP officials maintained high visibility at the campaign events of Lesi, and Lesi was the only “independent” candidate who was able to purchase TV advertising time on the public broadcaster, in violation of Article 132(4) of the Electoral Code which states that “Public Radio and Television may not prepare or broadcast paid political advertising”. In addition, the victories of both Lesi and Duka were confirmed after controversial judicial procedures and the DP never rejected its support for the remaining three “independent” candidates.

#### **D. VOTER REGISTER**

During 2000, the Albanian authorities with the help of the international community undertook to create a computerized national voter register. While this was a significant step to bring the country closer to European practices in ascertaining the eligibility of voters, shortcomings remained, including duplicate or missing records, records assigned to the wrong polling station, records with wrong birth dates and other data entry errors.

Some of the deficiencies in the voter register were partly addressed during the run up to the 2001 Parliamentary elections. Certain categories of duplicate records were generally remedied. In addition, the requirement for marking the voter’s finger with indelible ink was introduced in the Electoral Code as a safeguard to prevent multiple voting. Moreover, on the basis of an agreement between political parties, the authorities conducted a large scale operation to review the preliminary voter register with three member teams, including representatives of the governing party, the opposition and the local administration. This initiative was supported by an intensive voter education campaign. While further improvements to the voter registers are required, this sustained effort was commendable.

To further ensure that citizens could exercise their right to vote, the Electoral Code was amended in May 2001 to allow eligible citizens to update their voter register data up to 24 hours prior to election day by appealing to the district courts. However, three certificates were required to prove eligibility and in the end, turnout at the courts was modest. Another factor for the lingering errors in the voter registers was the failure of large parts of the population to report in a timely manner, if at all, their changes of permanent residence, or more generally to abide by existing civil registration procedures. Additionally, imperfect technology, lack of experience and sometimes negligence, also contributed to introduce errors in the initial version of the voter register database. The OSCE/ODIHR also received complaints from voters, that their names were included in the preliminary voter lists, but disappeared from the final voter lists.

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<sup>11</sup> CEC Decision No. 890, 20 June 2001.

<sup>12</sup> CEC Decision No. 905, 22 June 2001.

The number of verified registered voters for the 2000 local government elections, used to determine the boundaries of zones for the 2001 parliamentary elections, was 2,329,639. The preliminary voter registers for the 2001 parliamentary elections increased to 2,449,404, while the final register included 2,499,238 entries as of 15 June. Out of country voting was not permitted. Although some experts would argue that this figure overestimates the number of voters in Albania, including those who are abroad but have their in-country residence still registered, the OSCE/ODIHR continued to receive complaints that a high number of voters were deliberately excluded from the voter registers. There was also evidence of excessive deviations in the number of registered voters in single-mandate constituencies by more than the recommended five percent.

Voter registers were not updated for the second round and subsequent votes, since no legal procedure was in place for persons to be added to the registers after 23 June. The Electoral Code provision that voters could be added to the register by obtaining a court decision until 24 hours before election day was interpreted by most district courts to mean 24 hours before the first round of elections, thus preventing additional registrations.

## VI. PARTICIPATION OF WOMEN IN THE ELECTORAL PROCESS

The principle of equality between men and women is provided in Article 18 of the Constitution: “all are equal before the law”, and “no one may be discriminated against for reasons such as gender...” According to a report on gender equality issued by the United Nations Development Programme (UNDP) Albania’s legislation foresees the concept of equality between women and men, but not yet the concept of equal opportunities. The system does not take into account that if women are to achieve equal opportunities, they require special measures. As of yet, no affirmative action measure to accelerate equality has been introduced.<sup>13</sup>

Although very active at the grassroots level in Albanian politics, and guaranteed a percentage of prominent internal positions by some political parties, women generally face difficulties in being selected as candidates and reaching leading positions in political parties. Only 78 of the 1,114 candidates (7%) standing for election in the single-member zones and 120 of 823 candidates (15%) in the proportional lists were women, with even fewer in positions high enough on the list to stand a reasonable chance to be elected. Only the Liberal Alternate Party placed a woman at the top of its party list. Women were also underrepresented in the administrative structures for the elections. None of the full CEC members are women and only 7% of ZEC members and 8% of members of VCCs visited by international observers on 24 June were women. The electoral code does not provide for positive discrimination in favour of women.

However, nearly all political parties and coalitions included references to gender related concerns in their political programs and several organized election events targeted specifically at women voters. Some of these events were reported in national newspapers. The Public broadcaster also targeted women voters with a number of special programs featuring prominent women politicians.

The election results in the single-member zones showed that only seven women won seats. One additional seat was awarded to a woman when the “compensatory” mandates were allocated. The new Parliament will therefore include eight women (5.71%), compared to eleven in the slightly larger Parliament of 1997,<sup>14</sup> a figure unrepresentative of their actual strength in Albanian society.

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<sup>13</sup> UNDP Albanian National Women Report (1999).

<sup>14</sup> The 1997 Parliament included 155 MPs.

## CAMPAIGN

The campaign for the first round was largely conducted in a calm atmosphere with few reports of violence or intimidation. A large number of regional rallies were held and local level campaign activity was visible in most areas. The two main parties were noticeably restrained in their campaign rhetoric, reducing the overall tension during the campaign.

Opposition parties complained about harassment and minor obstruction such as the removal of posters. The EOM also received reports of inappropriate use of State resources by the governing party for campaign purposes, isolated allegations of police harassment, and State interference in the work of election commissions. Although regrettable, these actions did not appear to be significant enough to undermine the integrity of the elections in the first round.

The election campaign between the first and second rounds was generally low key, and for the most part was conducted in a calm and peaceful atmosphere. Fewer rallies and meetings took place than in the period leading up to the first round. Much of the debate focused on the first round results, related complaints, and the formation of alliances for the second round. The SP received varying degrees of support from its former “Alliance for the State” governing partners. Regrettably, some increase in aggressive rhetoric was noted. In Zone 60, where voting for the nationwide proportional ballot took place for the first time on 8 July, the SP called on its supporters to vote for three of its former allies in government, the DAP, the AP and the HRUP. The UV approached the Democrat Party for support in the second round, but the Democrat Party left the decision to local branches.

Very little campaign activity took place after the second round and the atmosphere throughout the rest of the election period remained generally calm.

## MEDIA

### A. MEDIA LANDSCAPE

The Albanian media scene is changing rapidly, with many TV and radio stations launched in the last few years. The public broadcaster *Televizioni Shqiptar* (TVSH) covers the entire Albanian territory.<sup>15</sup> Two private TV stations, *TV Arberia* and *TV Klan*, have close to complete national coverage as well. In addition, 37 local TV stations and 42 radio stations broadcast in the country. Two of the radio stations, including the public radio station “Radio Tirana” cover the entire territory.

According to the Institute for Public and Legal Studies, Albania has 13 daily newspapers with a total circulation of approximately 95,000 copies. Due to poor distribution and lack of a subscription system, even those newspapers aspiring to nationwide readership are distributed only in the cities. As in many other countries in transition, Albanians tend to choose TV broadcasts over print news, making it hard for many newspapers to survive.

### B. MEDIA REGULATIONS

The Electoral Code regulates coverage of the campaign by public and private electronic media. The campaign is limited to 30 days, ending 24 hours before voting starts. The publication of opinion

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<sup>15</sup> The law *On Public and Private Radio-Television in the Republic of Albania* - No. 8410, dated 30 September 1998 governs TVSH’s activity and establishes the Steering Council of the Public Radio and Television broadcaster (RTSH), composed of 15 members nominated by the Parliament, to be responsible for the management of public broadcasters.

polls during the last five days of the campaign is prohibited. The National Council for Radio and Television (NCRT) is responsible for solving disputes and investigating complaints about coverage of the campaign by public and private electronic media.<sup>16</sup>

In accordance with the Electoral Code, the CEC decided that parliamentary parties should be entitled to 28 minutes and 8 seconds of free airtime on public TV and radio between 18:00 and 22:00 during the electoral campaign and non-parliamentary parties should be entitled to 10 minutes of free airtime. Independent candidates could only receive free airtime in the second round. Private radio and television could broadcast advertisements for political parties but had to offer all parties participating in the elections their lowest rates for the requested time period. In addition, private radio and television could not broadcast more than five minutes a day of advertisements for each political party or independent candidate.

### C. MEDIA MONITORING

The EOM monitored the election campaign on TVSH, TV Klan, and TV Shijak for 6 hours per day between 18:00 and 24:00, between 28 May and 6 July. The EOM also monitored five daily newspapers (*Albania, Gazeta Shqiptare, Koha Jone, 55, Shekulli*).

A large spectrum of media provided diverse information about the elections and gave voters the opportunity to make an informed choice. There was real political debate and candidates were given space and time to present their platforms. Most coverage was devoted to the SP and the UV, both of which had sufficient opportunity to present their political programs. The new Democrat Party also received significant coverage. The tone of the campaign was significantly more moderate than in previous elections, although the EOM noted a worsening of political rhetoric after the first round.

After the first round, electoral debates were curtailed and political coverage was concentrated in TV news. There was a similar, but less significant reduction of space devoted to the elections in the print media. Both electronic and print media covered the complaints and appeals process extensively, including accusations of electoral manipulation from both ruling and opposition positions.

Prior to the first round, the public broadcaster (TVSH) and some private media generally granted a balanced amount of time to the main election contestants and reported on their activities evenhandedly. TVSH allocated to the SP 30% of time devoted to politics and elections, 17% to the government, 24% to the UV, and the remaining 29% to the smaller parties. The tone of the coverage was either politically neutral or positive for all contestants. However, during the last days of the campaign prior to the first round the coverage and tone were more biased in favour of the SP. Between the first and second round, TVSH failed to meet its responsibility as a public broadcaster devoting 40% of its political coverage to the SP, and only 11% to the UV. Significantly, coverage of the SP was positive while most of the coverage for the UV was neutral. Following a warning, on 16 July, NCRT fined TVSH for bias in favor of the SP in the period leading up to the second round. This lack of political balance by the public broadcaster constituted a serious shortcoming.

While in the period leading up to the first round some private media granted a generally balanced allocation of time to the main election contestants, most supported one of the two main competitors. TV Klan provided balanced, mainly positive or neutral, coverage prior to the first round. TV Shijak

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<sup>16</sup> The NCRT also conducted a monitoring service to oversee the performance of the main media in the country during the campaign.

openly supported the UV. Between the first and second rounds, TV Klan provided less balanced coverage, favoring the SP, and TV Shijak was overtly partisan in favour of the UV.

Prior to the first round, newspapers monitored provided the UV with 39% of space devoted to politics and elections, the SP with 30%, and the government 14%. The coverage showed a more evident tendency to negative polemical reports and comments than the broadcast media, with the main targets being the SP and the government. Between the first and second rounds, newspapers provided equal coverage to both the ruling and opposition positions. However, the tendency of some print media towards negative polemical reports and comments, particularly with respect to the SP and government, continued.

The EOM observed a number of violations of the Electoral Code:

- Nikolle Lesi, running as an independent candidate, allegedly obtained CEC authorization to buy airtime on TVSH, violating Article 132(4) of the Electoral Code, which prohibits the public TV from selling broadcast time.
- Opinion polls were published without disclosing the details of the poll (name of the pollster, sponsor, sample size, margin of error and time period during which the poll was taken) as required by Article 130 (3) of the Electoral Code.
- TV Shijak broadcast spots containing propaganda for the DP by a foreigner on several occasions in disregard of warnings issued by the NCRT and in violation of Article 130 (5) of the Electoral Code.
- Almost all media violated the campaign silence period imposed by law during the 24 hours before the first round.

## **DOMESTIC OBSERVERS**

The electoral code provides domestic observers with full access to all levels of the electoral administration and relevant documents. Domestic observers are also able to submit written comments to election commissions about any irregularity that they witness.

Three domestic observation non-governmental organisations, the Society for Democratic Culture,<sup>17</sup> the Albanian Helsinki Committee, and the Albanian Human Rights Group registered over 1,000 observers to monitor the elections. The groups reported no problems in receiving accreditation for their observers, or in gaining access to any aspect of the electoral process. The groups also reported improved relations with political parties and good co-operation with election commissions. Domestic observers were present in 20% of polling stations visited by international observers on 24 June.

## **X. OBSERVATION OF VOTING, COUNTING AND TABULATION**

### **A. VOTING**

VCCs had a politically balanced composition and in polling stations visited by observers Chairpersons were affiliated with the SP in 40% of cases and the UV in 53%. Most VCC members were able to set aside their political differences and co-operate with their colleagues. Although VCCs generally followed correct polling procedures, a lack of training was evident. Observers reported failures to check voters' ID documents consistently and to check for or apply ink to the voter's finger – a procedure intended to prevent double voting. Proxy voting was also a problem in

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<sup>17</sup> In collaboration with the Center for Free Elections and Democracy (CeSID) from Serbia.

some polling stations and voters were occasionally observed in possession of more than one ballot paper. The secrecy of the vote was frequently undermined by failure of VCCs to prevent group voting. Other problems reported included the presence of unauthorised persons, mainly party activists, and campaign material.

The first round voting on 24 June was largely peaceful and, except for a handful of isolated violent incidents, was assessed positively by election observers. The main difficulty encountered was a small number of persons in over half the polling stations visited by observers not finding their names on voter registers and being turned away. Some complained that their names had appeared on the preliminary voter list, and were excluded from the final list. However, at least some of these voters were registered in polling stations elsewhere. Political disputes among ZEC or VCC members resulted in the failure to hold elections altogether in Zone 60 and in 25 polling stations in five other zones. On the eve of the election, this figure appeared to be much higher. However, the CEC Chairperson intervened decisively and ordered local police to distribute election materials in a number of zones.

During the first round of voting on 24 June, isolated but significant incidents of pressure and interference by police and local authorities took place. Some of these incidents involved action in favour of governing party candidates. In numerous cases, police presence was reported excessive and in a few cases police were observed behaving in an inappropriate and biased manner. Armed civilians were also observed, e.g. in Zone 18. In a few cases, police were involved in the manipulation of election material. For example, in Zone 49, an international observer reported ballot stuffing by police at VCC 46 during the afternoon. Relevant election officials confirmed the incident. The same polling station was again problematic on 22 July. In Zone 19 a senior police officer denied an OSCE/ODIHR observer access to the ZEC. On 23 June in Zone 60, police interrupted the distribution of election material at the request of the SP Deputy Chair of the ZEC. A senior police officer confirmed the incident to an international observer. The grounds for the Deputy Chair to ask police to stop distributing election material and the reason for the police to stop the distribution remain unclear. The authorities' explanations of these developments to OSCE/ODIHR did not shed further light.

On 8 July during the second round, polling stations functioned professionally and voting generally proceeded without incident. However observers reported increased tension in comparison with the first round, particularly in parts of Tirana and Durres. On occasion they felt intimidated (in Zones 35 and 97) and one team in Zone 95 was obstructed while carrying out its observation. As in the first round, a limited number of citizens arrived at polling stations to find their names missing from the voter list and no effective procedure was implemented to correct this failing. A few serious violations were of concern, including ballot stuffing reported in Zones 25 and 28, cases of pre-marked ballots discovered in Zones 25, 60 and 61. In Zone 22, in the one polling station that had failed to conduct voting in the first round, a boycott by 3 VCC members, including the SP member, was followed by disruption of polling activities by an armed man. Subsequently, this same individual was proposed by the SP as their representative on the VCC for repeat voting on 22 July, although his name was later withdrawn. The CEC decided to invalidate the results in Zone 49 due to serious irregularities, including polling stations reporting turnout in excess of 100% and a lack of credible protocols. Domestic observers also reported a number of serious violations in this zone on 8 July. Based on the ZEC protocol, the SP candidate won 82% of the vote, an unlikely result when compared to the first round ballot when he achieved 46% to the 37% won by the UV candidate. On 8 July, second round contests took place in 52 zones partially or fully. Elections did not take place in Zone 86 and at a number of polling stations in Zones 2, 4, 22, 49, and 61, due to the disruption of



election preparations by ZEC or VCC members. Polling in Zone 60 only took place after the intervention of the CEC the previous night.

During the second round, police maintained a high visibility throughout election day and, on occasion, interfered in the election process. Some of this interference was serious as in the instance when the police took away without justification a ballot box at a polling station in Zone 35. Also, reports of alleged police harassment and detention of some ZEC and VCC members, mainly from the DP were of concern.

Voting in the third round on 22 July took place in 11 zones. It was again largely peaceful and assessed positively at most polling stations. However serious violations were reported in a number of polling stations. These included ballot stuffing by commission members at the only polling station where voting took place in Zone 22 where by 17:00 when the polling station closed early, 98% of eligible voters were registered as having voted, despite observers witnessing only a light turnout. Ballot stuffing by a commission member was also reported to have taken place in VCC 202 in Zone 40 where voting was suspended for a time when it was discovered that five more ballot papers had been issued than signatures on the voter list. At one polling station in Zone 4, there could have been no legal voting because the station had not opened by 15:00 hours, which is a requirement of the Electoral Code. However, observers later witnessed commission members from this polling station arriving at the ZEC with a ballot box containing some 290 ballot papers. The CEC decided to repeat voting in all polling stations in Zone 49, but the Constitutional Court decided to reduce the number of polling stations where voting would be repeated. As a result on the eve of the third round the UV decided to boycott the election in the zone. Observers reported problems in the zone during voting on 22 July, including questionable signatures on the voter register in VCC 46.

During the third round, observers reported that the conduct of police in most zones was appropriate. No police interference in the process was reported, although police presence was excessive around some polling stations in Zones 2, 14, 18, 22 and 86.

## **B. COUNTING**

The conduct of the counting was generally satisfactory, although technical procedures were frequently not followed correctly. Problems observed included the presence of unauthorised persons, a failure of a few VCCs to complete result protocols in ink and the refusal of some VCC members to sign the results protocol. Written complaints were submitted by some VCC members. After counting had been completed VCCs generally transferred the results promptly to the ZECs.

In the first round on 24 June, observers reported tension in some polling stations during the count and in a small number of cases reported that VCC members obstructed the process. However, a violent incident was noted only in one polling station and no cases of intimidation of VCC members were reported. In the second round, observers reported that the atmosphere during counting was noticeably tenser than during voting and were concerned with the relatively high number of invalid ballots in some polling stations.

On 22 July during the third round, in a serious incident at VCC 14 in Zone 2, observers arrived at the polling station at 15:45 to find that counting had already started and was being directed by an armed man who was not a member of the VCC. Also, on 22 July, in another serious incident in Zone 4, the Secretary of the ZEC required an observer to hand back the protocol that had been obtained from VCC 2 in the zone.

### **C. TABULATION OF ELECTION RESULTS**

The tabulation of results was generally slow and sometimes problematic. While most ZECs announced results within the legal deadline of two days after the date of the elections and transmitted the results promptly to the CEC, a number of ZECs failed to meet the deadline.

During the first round, the tabulation of results in a number of zones raised serious concerns. The ZEC in Zone 40 accepted a polling station results protocol presented by the SP representative instead of the result protocol found in the ballot box. The ZEC in Zone 11 presented to the CEC two protocols from the zone, one indicating a first round victory for the SP, another indicating the need for a second round contest. Different protocols for the same polling station and other irregularities raise concern about the tabulation of results in the single mandate elections in Zones 19, 24, 25, 33, 40 and 67. In each of these instances, the different protocols, a result of tampering with VCC protocols, suggested different results. The ZEC results protocol in Zone 33 did not reflect the result for VCC 50 recorded by an EOM observer at the vote count.

The integrity of the nationwide proportional result from the 24 June was generally acceptable, although there were a few cases that raised concern. The UV presented protocols from a number of VCCs in Zone 33, including a ZEC tabulation form indicating that small numbers of votes were transferred to DAP by tampering with the protocols. A representative of the SP formally complained that, in Zone 13, votes for the SP were allegedly re-allocated to the AP. The tabulation forms, for Zone 13 are available at the CEC and differ from those presented to the Constitutional Court in relation to the appeal on the outcome for the vote on 24 June. While the front page of the document presented to the Constitutional Court is not completed at all, the front page of the purportedly same document presented to the CEC is completed, but the turnout figures do not balance, in some cases significantly. However, the contents of the inner pages, including the party votes, of the respective documents are identical.

In the first and second rounds, both the SP and the DP prematurely announced “election results” before any ZEC had completed tabulating the results. During the second round in Zones 35, 49, and 69 and the third round in Zones 4, 40 and 49, ZECs stopped working once all the ballot boxes and results were received, and postponed the tabulation process.

### **D. REPEATED POLLING FOR THE PROPORTIONAL BALLOT**

Following the first round, the CEC decided to repeat, on 8 July, polling for the proportional ballot in some polling stations in six zones. The CEC reasoned that no elections had taken place in these polling stations on 24 June. The CEC also ordered repeat polling for all polling stations in Zone 60 (Lushnje), where due to the interruption by police on 23 June of the distribution of election materials on the instructions of the SP Deputy Chair of the ZEC for reasons that remain unclear, no polling took place on 24 June.

In principle, voting for the proportional ballot should take place on a single, nationwide voting day. As a consequence of the CEC decision, some 36,500 voters were asked to cast ballots two weeks after their fellow citizens. The SP called upon its supporters to vote for the HRUP, the DAP and the AP, in an attempt to raise their total national vote above the 2.5% legal threshold required for representation in Parliament. Each of these parties was close to the threshold after the first round of voting, but none had passed it. The CEC had already announced the preliminary, partial results for the proportional ballot. Thus, without violating the letter of the law, the SP was able to pursue a strategy which if successful, would significantly alter the composition of Parliament in favour of its former government coalition partners. In addition, through the repeat polling in Zone 60, the voters

in Lushnje were in a position to exercise a disproportionate influence on the outcome of the election as their votes could decide whether the HRUP, DAP, and AP would have members in Parliament.

These circumstances led to a highly contested election in Zone 60 on 8 July. On election day, the presence of dubious protocols of unclear origin undermined confidence in the integrity of the process. The ZEC in Zone 60 could not agree on the results protocol and ultimately failed to complete the protocol. Instead, on 11 July the ZEC of Zone 60 issued a decision acknowledging “the impossibility of declaring the result of the two kinds of elections” and requesting from the CEC to “repeat the elections in this zone”.

On 12 July, the ZEC of Zone 60 submitted some material to the CEC, including some VCC protocols of results for the proportional ballot. Many of these contained identical or similar names of VCC members. On 13 July, at a session of the CEC, representatives of political parties presented opinions and findings regarding Zone 60. The UV, SDP and Democrat Party alleged that various irregularities had taken place in Zone 60 on election day and the days following, and were strongly opposed to the CEC proposal to tabulate the results itself. The SDP submitted a written complaint to the CEC that its representatives in the VCCs in Zone 60 were refused copies of VCC protocols. Against this, the HRUP, DAP and AP argued in favour of the CEC proposal to process the results on the basis of the available data.

On 14 July, the CEC, by a vote of 5 to 2, decided to (i) abrogate the 11 July ZEC decision to invalidate the results of the proportional ballot, (ii) dismiss and request the prosecution of five ZEC members and the Secretary, and (iii) start tabulating the results itself.

On 22 July, after lengthy debate, the CEC began the process of calculating the result for Zone 60, by opening the ballot boxes, removing the protocols and aggregating the individual results. The CEC decided to repeat polling in six polling stations due to irregularities and in two where no polling had taken place. According to CEC documents recording the material found in the box, 25 ballot boxes did not contain the results protocol forms for the proportional contest. Other major irregularities were also noted by the CEC. These included 27 ballot boxes lacking the number of the polling station to which they correspond, unsealed ballot boxes, opened sacks of used ballot papers, missing voter lists and missing valid ballots. Nevertheless, the CEC was determined to pronounce a result for this zone and thus used all protocols in its possession, including those which were dubious and of unclear origin, to calculate the final result. The result of the proportional contest in this zone raised the HRUP, DAP, and AP over the 2.5% threshold and into Parliament with three seats each. While disputing the proportional result in Zone 60, the opposition did not present any polling station protocols with different results to those used by the CEC to calculate the final result.<sup>18</sup>

## **E. RECOUNTS**

Some second round contests were decided by close margins, with the number of ballots considered invalid sometimes greater than the margin of victory. After the second round, local district courts in five zones began to recount ballots as provided for in the Electoral Code. In three of these zones the results raise concerns.

In Zone 29, the local district court failed to adequately scrutinize ballots declared invalid by VCCs, ignored the CEC instruction on how to determine ballot validity, and ignored the recount provisions of Article 106 of the Electoral Code. The Constitutional Court also failed to adequately investigate

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<sup>18</sup> The UV could have collected polling station result protocols from representatives it had on the VCCs.

the case with the result that there is doubt concerning the election outcome. Additionally, credible reports of a threat by a SP Member of Parliament against the UV candidate were not fully investigated by the authorities.

In Zone 35, a local district court recount reversed the original result. The security of the electoral material during the period between the original count and the court recount was questionable. In Zone 36, a local district court recount significantly reduced the margin of victory for the UV candidate. In this case, the ballot boxes were seen by an observer to be split open. No recount occurred in Zone 28 where ballot stuffing was reported by observers on 8 July, where the margin of victory for the SP candidate was 628 votes, with 412 invalid votes.

## **XI. DEVELOPMENTS AFTER 22 JULY WHEN THE EOM ENDED**

On 29 July, elections were re-run in Zone 13 following a decision of the Constitutional Court, in eight polling stations in Zone 60, three polling stations in Zone 4, and 17 polling stations in Zone 21. The OSCE/ODIHR did not observe these elections, but the OSCE Presence in Albania coordinated nine observer teams from resident diplomatic missions, European Union Monitoring Mission (EUMM), and the Council of Europe. The election in Zone 4 failed to take place due to serious differences between the party representatives on the ZEC.<sup>19</sup> After a Constitutional Court decision, a fifth day of voting was required, on 19 August, to complete polling in Zone 82 where voting took place in four disputed polling stations.

Twelve elections or partial elections took place on or after 22 July, of which the opposition disputed the results of 8 zones.<sup>20</sup> The OSCE/ODIHR has specific concerns regarding either the conduct of the poll or the appeal process in Zones 2, 13, 49 and as already specified in Zone 60. Additionally, a recount never took place in Zone 14 as requested by the UV, and in Zone 18 where the UV allege a series of election violations affecting the final result.

In other developments, the Constitutional Court awarded the mandate for Zone 35 to the DP, overturning a CEC decision to award the mandate to the SP candidate. In Zone 82, the Constitutional Court overturned a CEC decision to declare the UV candidate victorious (based on partial results) and ordered the polling to be repeated in four polling stations. This took place on 19 August. Finally, the SP candidate was declared the winner, securing an extremely narrow margin of victory.

## **XII. COMPLAINTS AND APPEALS**

The OSCE/ODIHR received almost 1,000 written and verbal complaints and reports of irregularities from political parties, candidates and members of election commissions. The OSCE/ODIHR followed up on many cases and found most to be unsubstantiated. However, some credible cases were appealed to courts or to the CEC. The volume of complaints was unusually high, indicating both the polemical nature of the contest and the degree to which parties used the available legal mechanisms to seek redress. However, on some important issues, political parties did not appeal CEC decisions.

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<sup>19</sup> The VCC members appointed by opposition parties failed to participate on 29 July in the repeat polling in Zone 60. The CEC decided not to repeat polling in Zone 4 and announced the final result on the basis of the existing VCC results, with the DP candidate declared the winner.

<sup>20</sup> Zones 2, 13, 14, 18, 49, 60, 82 and 86. The UV report "2001 Elections in Albania A Report to the International Community", 27 August, 2001, details claims of irregularities and violations in some 15 other zones.

## **A. HANDLING OF POST ELECTION COMPLAINTS AND APPEALS BY THE CEC**

After the 24 June election, political parties often disputed zone results and filed a large number of complaints with election commissions and the courts. At times, the election complaints procedure did not provide an effective means of redress and in many cases the CEC chose not to fully investigate allegations of serious irregularities and fraud, including irregularities as serious as differing protocols for the same polling station. The CEC claims it does not have sufficient powers and means to conduct proper investigations. Due to the failure of the CEC to fully investigate the irregularities, many cases were pending in various courts by 8 July, creating uncertainty as to which zones would hold second round elections.

Some zones where irregularities were alleged or observed were in politically sensitive constituencies, where senior politicians were candidates. The CEC was divided on several of these controversial cases and apparently came under undue political pressure, resulting in credible allegations that some mandates were not properly allocated and that some second round contests that should have taken place were prevented.

On two occasions, the CEC met ZEC members behind closed doors, in apparent contravention of the Electoral Code. Results from controversial zones were in some cases decided during late-night sessions of the CEC, impacting negatively on the transparency of the process.

The CEC handling of complaints improved after the second round. In particular, the CEC became more engaged in investigating allegations of irregularities or fraud. In contested cases, the CEC generally consulted with the ZEC of the respective zone. Thus, the CEC was better informed of the relevant issues. However, the CEC was divided on most of these cases and its decisions were appealed to the Constitutional Court.

## **B. HANDLING OF POST ELECTION COMPLAINTS AND APPEALS BY THE COURTS**

Following the 24 June election, 28 cases were submitted to the Constitutional Court, of which only 12 were decided by the second round on 8 July. Following the second round, a further nine cases were submitted. In many cases, the Court ultimately decided upon election results. However, Court rulings were not always based on standards that were clearly set out or consistently applied. For example, in apparently similar cases, the Constitutional Court decided that second round runoffs were required in Zones 25 and 40, but not in Zones 19, 24, 57, 63, and 67.<sup>21</sup>

In some cases, the courts seemingly failed to investigate adequately or take fully into account the circumstances or the evidence presented. For example, in Zone 19, the Constitutional Court stated that “both tabulations are signed by the same members of the commission ...”, while the copies of the two versions of the tampered protocol of VCC 6, Zone 19, provided to observers in the early hours of 25 June, indicated clearly that this was not the case. The Constitutional Court chose to rely not on protocols prepared at the polling station by the VCC, but decided instead to recount ballots that may not have been adequately safeguarded before the court case. However, there was no protocol in the box and the safety envelopes were opened.

Transparency in court proceedings was sometimes an issue. For example, the OSCE/ODIHR was unable to obtain in a timely manner complete documentation related to the Constitutional Court

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<sup>21</sup> The Final Report, issued on 11 October 2001, indicated that the Constitutional Court also decided that a second round run-off should take place in Zone 33. This was incorrect. It was in fact the CEC that decided that a run-off should take place in this Zone.

decision to repeat the elections in Zone 13, where the first round victory of the UV candidate appeared convincing.

An element of bias seemed to creep into some decisions, for example in Zones 19, 24 and 67. There were reports of very serious irregularities in Zone 25 on 24 June and again on 8 July. The failure of the courts to provide redress on complaints submitted before the second round and the fact that the new chairperson of the ZEC in Zone 25 (appointed three days before the second round) is a close relative of the eventual victor, leaves serious doubt regarding the credibility of the process in Zone 25. However, following the second round, the losing candidate chose not to seek redress.

### **XIII. RESULTS**

Following the 24 June election, the CEC decided 31 SP candidates, 16 UV candidates, and one independent candidate, Llesh Zef Kola (in Zone 13) had been elected. Forty-five zones required second round contests because no candidate received more than 50% of the vote and seven zones were required to repeat the first round partially or fully because of irregularities. However, 28 appeals against CEC decisions on the results of the first round were presented to the Constitutional Court. The Court issued its last decision on these zones on 17 July, overturning or partially abrogating 7 CEC Decisions. Thus, after the adjudication process was complete for the first round disputes, the SP had won 32 seats and the UV coalition had won 15 seats in the single member ballot.

In the second round, following the completion of recounting of ballots by local district courts, the SP had won 67 mandates and the UV 21 mandates. One independent candidate, Agron Duka was elected in Zone 25 where fraud was verified by observers. Following voting on 22 July, 29 July and 19 August, the SP gained 73 seats, the UV 25 seats and two independent candidates had been elected.

On 21 August, the CEC announced that of the 40 “compensatory” mandates, the UV would be awarded 21 seats, the Democrat Party 6 seats, the SDP 4 seats, the HRUP 3 seats, the AP 3 seats and the DAP 3 seats.<sup>22</sup> Thus, altogether the UV gained 46 seats.

The SP victory in these elections was not disputed, only the extent of its victory came under question.

### **XIV. RECOMMENDATIONS**

The 2001 parliamentary elections saw the SP gain sufficient seats to form the next government and the opposition fared better than expected. The elections also saw serious irregularities in a limited number of zones and institutional concerns that must be addressed. These serious irregularities were due more to insufficient political will than technical deficiencies in the Electoral Code. The following recommendations suggest possible remedies. In addition, the legal process is not yet exhausted. Aggrieved candidates and political parties with evidence of irregularities should use the legal process and seek further redress, including at the European Court of Human Rights in Strasbourg.

Despite the criticism in this report, it is now necessary to look forward. The OSCE/ODIHR would welcome a move by political parties in Albania to inquire into the developments and violations in these elections with a view to identifying political remedies and commencing discussions on a

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<sup>22</sup> CEC Decision No. 227, 21 August 2001.

review of the electoral framework. A bipartisan parliamentary committee, which could also consider the following recommendations could be a means to accomplish this end.

#### **A. LEGAL FRAMEWORK**

1. The election system requires simplification and reform and should be reviewed with a view to introducing a system that involves voting taking place on a single day throughout the country.
2. The Electoral Code should be reviewed in a number of key areas, including the general removal of provisions for temporary resident voting, the election timetable to distinguish between the various stages of the process, the feasibility of holding repeat elections; and the transparency and tabulation of results.
3. All deadlines should be stated clearly in the Electoral Code.
4. Provisions for a recount of ballots should be clarified and transparency enhanced.
5. A clear distinction should exist between protocol forms used by the election administration to tabulate results and the respective protocol forms provided to parties and candidates, e.g official tabulation should be conducted only on the basis of forms 54 and 55 while form 56 should be the only form provided to party proxies and observers. However form 56 should be signed and stamped so that it can be used in evidence by the courts.
6. The procedure for tabulating the consolidated election results by the CEC requires greater detail. In particular, the CEC should receive a copy of each VCC protocol attached to the ZEC tabulation forms and the ZEC protocol.
7. The deadline for candidate registration should be moved to a date before the campaign begins. This will clarify who are candidates at the time the campaign starts and thereby increase transparency. It will also give the CEC more time to organise the elections.
8. The time-frame for election appeals should be revised in order to avoid fragmentation of the election process.
9. The election disputes resolution process could be reviewed in accordance with guidelines produced by OSCE/ODIHR to clarify the election appeals process, mainstreaming the respective roles of election commissions and courts.<sup>23</sup> Deadlines for the adjudication of complaints and appeals should be specified. The investigative powers of the CEC should be clarified.

#### **B. ELECTION ADMINISTRATION**

1. Political parties should continue to have representation on election commissions in order to create confidence in the process.
2. ZEC members should not have family or business relations with a candidate to avoid conflicts of interest.

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<sup>23</sup> See “Resolving Election Disputes in the OSCE Area: Towards a Standard Election Dispute Monitoring System”, OSCE/ODIHR Warsaw, 12 July 2000.

3. ZECs should receive adequate resources including, at a minimum, sufficient workspace, secure premises and a working fax and phone line.
4. Both ZECs and VCCs should receive timely and consistent training to improve adherence to procedures, particularly relating to the count and to maintain the secrecy of the vote.
5. More secure ballot boxes should be used to make it impossible to tamper with the material inside once polling has started.
6. A record should be kept of the serial numbers of VCC and ZEC protocols distributed with a special, unique and easily identifiable number given to the protocol that is to be placed in the ballot box. Only those protocols inside the ballot box should be used to calculate the result by the ZEC. However, the other copies given to VCC members may be used to present a complaint to the ZEC, CEC or court. These should be taken into consideration in any adjudication.
7. The accuracy of the voter list should be improved.
8. A unique nationwide system for numbering the polling stations, should be introduced.

#### **C. MEDIA AND CAMPAIGN**

1. The law on mass media and regulations should be interpreted and applied correctly, particularly with regard to issues such as misuse of press, violations of professional ethics, and the right to reply.
2. Regulations should be implemented in an effective way in order to guarantee free, equal and fair access to the mass media.
3. The requirement for impartiality by both private and public electronic media as outlined in the Electoral Code for public media and in the Reminding Notice on legal, professional and ethical coverage of the electoral campaign for both,<sup>24</sup> should be fully respected, particularly by the public broadcaster which has the duty to offer impartial and balanced information to citizens.
4. The campaign silence should be maintained by all political parties and the media.
5. The current legislation on campaign financing should be amended to reduce the overwhelming advantage afforded to larger parties and ensure that smaller parties have sufficient funds to purchase minimum airtime for electoral spots on private channels.

#### **D. PARTICIPATION OF WOMEN IN THE ELECTORAL PROCESS**

Political parties should consider measures to encourage greater participation of women in elections. This should include greater transparency in candidate selection; specific measures to increase numbers of women candidates in higher positions on lists; and increasing numbers of women in central and local committees.

Training of VCC members should be undertaken to emphasize that group voting should not be permitted. Voter education programs should explain to women the importance of making a personal choice when casting their vote.

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<sup>24</sup> Protocol No. 253, issued by NCRT on 26 April 2001.