

INTERIM REPORT 3
15 January–3 February 2007

I. EXECUTIVE SUMMARY

- Parties from the parliamentary majority and those in opposition have formed two political alliances. The parties in each alliance will have joint mayoral candidates but separate candidate lists for local councils.
- Parties and candidates are actively campaigning throughout the country. A few campaign-related problems have been noted to date, including verbal attacks, destruction of campaign posters, and one fight between party activists which involved weapons. The media are covering the campaign actively. Free air time has been allocated to parties, as required by law, and there have also been candidate debates on public television.
- The Central Election Commission (CEC) composition has yet to be augmented by two additional members as foreseen by the 13 January amendments to the Electoral Code. In addition, the mandate of the current CEC Chairman is due to expire on 11 February.
- Local Government Election Commissions (LGECs) were formed within the legal deadlines, although not always with complete membership. Parties continue to make extensive use of their right to replace LGEC members at any time.
- LGECs have registered mayoral candidates and candidate lists for local councils. In some cases, registration of independent candidates appears to have been hindered.
- Provisional voter lists have been posted for public scrutiny. Voters have until 6 February to check their data and request corrections.
- In implementing the 13 January agreement, the CEC issued an instruction on how voters who have emigrated abroad should be identified, which has raised concerns as it discriminates among voters, and its implementation could disenfranchise voters. In some localities, bi-partisan teams tasked with identifying such citizens have not been formed, and/or representatives of the local opposition have not been included.
- The issuance of birth certificates as a means of voter identification remains contentious. The opposition has alleged that the Government facilitates the issuance of certificates without any proof of identity. The parties of the parliamentary majority have alleged that local governments controlled by the opposition demand an unreasonable amount of supporting documentation from citizens known or believed to support the ruling parties.
- The CEC has adjudicated, in a professional and transparent manner, more than 50 complaints. In 14 cases, the CEC granted relief and overturned LGEC decisions. Four appeals against CEC decisions were lodged with the Electoral College as of 1 February.
- The OSCE Presence in Albania is supporting the CEC in its important effort to raise public awareness on the new rules for the issuance and use of birth certificates.

II. CAMPAIGN ENVIRONMENT

Following the postponement of the elections to 18 February, most parties started their campaigns quickly. The governing parties signed a co-operation agreement on 17 January, which includes nine parties of the majority and is termed the “Grand Coalition” by Prime Minister Sali Berisha. This grouping includes all the right-wing parliamentary parties, except the Human Rights Union Party (HRUP), which will negotiate individual alliances at local level. It includes three non-parliamentary parties. The agreement envisages joint mayoral candidates in all 384 Local Government Units (LGUs), but separate party lists for council seats.

The parties of the opposition coalesced into a five-member alliance on 18 January, also running joint candidates for heads of municipalities and communes and separate party lists. However, they were unable to agree in some 11 LGUs, where they will compete against one another for the posts of head of commune.

This strategy has led to a certain degree of internal conflict within both alliances. In certain cases, outgoing mayors or councillors who have not gained their alliance’s nomination have decided to register as independent candidates. Such cases have raised concerns within parties, in particular the SP. Party activists publicly queried whether the negotiation agreements negated the SP’s ‘one man one vote’ policy of internal candidate nomination. The SP leadership has been critical of those choosing to run as independents, pointing to serious consequences in cases where their candidacy results in a victory for candidates of the majority.

Campaigning has been visible throughout the country. Parties and alliances held large kick-off events in Tirana during the weekend of 20–21 January. Most public rallies throughout the country have taken place in the context of the two big alliances. In rallies observed, the opposition has generally focussed on criticism of the current Government’s performance and on improving infrastructure. The parliamentary majority has focused on improvement of living conditions, social care, infrastructure, reducing corruption, and criticism of the SP and its leader.

At the start of the campaign, personalised verbal attacks emanating from party leaderships raised concerns, but have been declining. The issue was raised by the six NGOs tasked by President Alfred Moisiu to monitor parties’ compliance with a Code of Conduct suggested by him on 19 January. Although the Code has not been signed, the President’s office has advised that parties have verbally assented to respect it.

Another contentious issue has been the destruction of campaign posters by opposing parties. In a few cases, independent candidates have misappropriated the logos of their former partners and have used them in their poster campaigns. Although most such cases have been resolved without incident, one case in Gjirokastër led to a fight between SP and DP activists involving weapons, and one arrest. The SP is claiming that their candidate in the given district is being harassed by police for partisan reasons, which police deny.

There were some allegations of intent to influence voters, especially amongst Roma communities. In Pogradec, the Korça Prefect and DP mayoral candidate were caught on film distributing sacks of sugar and mattresses during a meeting with the Roma community. The Prefect would neither confirm nor deny whether such items had been distributed at the event.

The Socialist Party (SP) on 2 February addressed a letter to the OSCE/ODIHR EOM, in which it stated its concerns regarding the electoral process and actions which the party claimed could undermine the integrity of the elections. Among others, the SP listed the non-appointment of the two new CEC members; lack of transparency regarding the procurement and specifications of the indelible ink to be used on election day and failure to make samples available; non-transparent tender procedures for the printing of ballots and violation of relevant procedures; insufficient information given by the CEC chairperson to other CEC members and party representatives; alleged pressure on Government employees to attend rallies of the ruling parties; and concerns related to the updating of voter lists, issuance of certificates and voter education.

III. ELECTION ADMINISTRATION

The 30 August 2006 political agreement and the 13 January Electoral Code amendments foresee the appointment of two additional Central Election Commission (CEC) members by the Assembly. During the reporting period, the Socialist Movement for Integration (SMI) submitted a candidate nomination, however the Demo-Christian Party (DCP) failed to do so. The SMI have claimed that this failure is purposeful, to block their new member by the ruling majority. The Deputy Speaker of the Assembly¹, on the other hand, argued that the two parties submit two nominations each, in order to respect the Assembly's right of "election" of the new members².

Although the two additional CEC members were not appointed by the Assembly by the end of the current reporting period, the CEC managed to take decisions respecting the new majority of five votes which necessitated a higher degree of consensus among the CEC membership.

The mandate of the CEC Chairman expires next 11 February, 6 months after his election. The new amendments [Art.27.1.dh] specify that the Chair will be elected by secret ballot among the nine names of the CEC members, by a qualified majority of six votes. In case no member obtains the required majority, a second round of votes in organised "between the members who have obtained more votes". The one member who then obtains the highest number of votes gets elected as Chair. The CEC members appeared to expect a decision from the Assembly to nominate the new members before voting on the CEC Chairperson.

The CEC has faced serious logistical challenges in setting up the Local Government Election Commissions (LGECs). Under transitory provisions to the Electoral Code, they should have been established within seven days of the 13 January amendments entering into force. The CEC set 20 and 21 January as dates for the first LGEC meetings, in order to allow LGECs in remote communes to receive electoral materials in time. The enlargement of LGECs from seven to 13 members has complicated the process of appointing LGECs with a full membership. However, all 384 LGECs have at least the required quorum of seven members and a secretary, and all reportedly held their first meeting within the timeframe established by the CEC. It is an advantage that many LGEC members have previous experience as election administrators.

¹ The DP Deputy Speaker of the Assembly, Mr. Fatos Beja, is also the chair of the Legal Committee in Parliament, which is vested with the responsibility to assess the compliance of the candidacies for CEC membership with the legal requirements before their submission to the plenary.

² The 2004 Joint OSCE/ODIHR - Venice Commission Recommendations stated that "These provisions limit the appointing institution's constitutional prerogative to a list of no more than two candidates nominated by non-Article 154 bodies ("political parties/groups").² The phrase "no more than two" compounds constitutional concerns as it permits the list to be limited to a single name, thereby completely abrogating the constitutional prerogative of the three appointing institutions. This transforms these three constitutional institutions into mere "rubber stamps" for the Article 154 CEC appointment process".

As in past elections, political parties have made extensive use of their right to replace LGEC members. This has led to a degree of uncertainty in a number of LGECs. Some members were appointed after training of LGEC members took place, and occasionally LGEC chairpersons were replaced without being notified by the nominating party, which created confusion. The EOM was told that some of these changes corresponded to nominations of chairs reputed to be closer to their party's candidate in the respective locality.

In line with the recent amendments to the Electoral Code, on 18 January, the CEC established the number of Ballot Counting Teams per municipality or commune based on the number of Voting Centres under the authority of each LGEC.

The open tender for the printing of the ballot papers was won by the state-owned Italian company “Zecca dello Stato”, which produces official forms and banknotes. The printing of ballots has started.

An adjusted budget for the enlarged election administration has yet to be approved by the Government. A memorandum of cooperation was signed between the CEC and the state-owned energy company KESH on 21 January, under which KESH will provide uninterrupted power supply to all facilities of the election administration during the voting and counting period.

IV. CANDIDATE REGISTRATION

The tight deadlines imposed by the transitory provisions of the amended Electoral Code with regards to the establishment of LGECs and the registration of candidates proved to be a challenge for both LGECs and candidates. Under these provisions, candidates had to be registered within ten days of the amendments taking effect, i.e. when LGECs had just been established and were often still undergoing training. The CEC decided to give LGECs an additional 24 hours to receive nomination documents from prospective candidates. Overall, LGECs have registered a total of 1,073 mayoral candidates, 6,074 candidates for councillors in party and coalition lists for local councils and 212 independent candidates for councillors. Only 33 mayoral candidates are women.

OSCE/ODIHR EOM LTOs have reported a number of cases where individuals were hindered in their attempts to register as independent candidates. This is particularly the case when the applicants were party members or outgoing officials who were not nominated by their party HQ. In most cases observed, the registration was denied by LGECs by challenging support signatures.

The submission of registration documents for a Mr. Akile Rama in the Tirana municipal race for mayor also aroused some controversy. Mr. A. Rama's nomination was submitted by the Democratic National Front Party (DNFP) and was accepted by the Tirana LGEC, which would have placed him on the ballot above the name of Socialist Party leader Mr. Edi Rama. When contacted by the media and the SP, Mr. A. Rama reportedly was unaware that he had been nominated and registered as a candidate and asked the LGEC to withdraw his candidacy, which the LGEC did. However, the SP has filed a complaint with the Prosecutor's Office, alleging falsification of signatures in this case. An investigation is ongoing.

V. VOTER LISTS

Meeting their legal obligation, all municipalities and communes have sent their provisional voter lists to the General Directorate of Civil Status (GDCS) in the Ministry of Interior. The GDCS has

checked all lists for cross-LGU duplicates, which are to be resolved by the respective local government authorities. Likewise, the GDCS provided the Civil Status Offices (CSOs) with a software “filter” which allows automatic inclusion of persons reaching 18 years of age up to election day in the voter lists. Instructions have been given to CSOs to make the necessary changes based on information received from the GDCS. Concerning the remaining cases of voters with an incomplete ‘numerical address’ (so-called ‘999’ cases), the GDCS has instructed all CSOs to ask citizens for their correct address when they request birth certificates.

Voter lists have been posted in most communes and municipalities, although the 21 January legal deadline was not always met. Voters have until 6 February to verify their data on the voter lists and request additions or corrections if necessary. Final voter lists should be approved by Mayors and delivered to LGECs on 7 February. LGECs are due to post the lists on 8 February. Voters can subsequently request changes to the Courts until 16 February. Courts can deliver decisions until 12.00 on election day.

Following the 13 January agreement, the CEC was tasked to issue an instruction on how Notification and Verification Teams (NVT) should identify persons who have emigrated abroad so that they can be marked accordingly in the voter lists.

The decision came after several days of intense debates within the CEC characterized by concerns over the possible disenfranchisement of voters and the potential unconstitutionality of the Instruction. This aspect of the 13 January Agreement has raised concerns with regard to its conformity to the Constitution and the Electoral Code as it discriminates among voters, and with regard to its potential to disenfranchise voters. In addition, some voters might only be able to learn that they have been marked as emigrants once the final voter list is posted on 8 February, limiting possibilities to claim a correction at the District Courts.

The CEC decided to link the notification of voters by the local government authorities with the identification of emigrants. Given the limited time, the CEC delegated the responsibility for appointing NVT members to the LGECs. One member of the team will be appointed by the mayor and the other by the main opposition party at the local level. It would appear, by the end of the reporting period, that in some localities NVTs are yet to be appointed. It remains to be seen whether they will have sufficient time to accomplish their duties. OSCE/ODIHR EOM long-term observers have reported that in some localities, most NVTs are not bi-partisan.

VI. BIRTH CERTIFICATES

The issue of birth certificates as a means of identification, including for electoral purposes, remains controversial. Following problems with their issuance by some CSOs, which made this public service conditional upon the payment of local taxes, the Ministry of Interior on 23 January issued a ‘reminder’ on the implementation of the legal provisions by the CSOs. While this reminder repeats provisions of the Electoral Code and other legislation, it has led to increased controversy between the Government and the opposition.

On 26 January, private television station Top Channel broadcast footage that appeared to show a journalist with a hidden camera successfully impersonating another citizen in order to be issued a birth certificate in a DP-run borough of Tirana. The SP alleged that the 23 January ‘reminder’ facilitated the obtainment of birth certificates without producing any proof of identity. The DP, for its part, alleged that CSO employees in localities controlled by the SP demand an unreasonable amount of supporting documentation from citizens believed to support the DP.

The OSCE/ODIHR EOM has sought clarification on this issue from the Deputy Minister of Interior and the General Director of the GDCS. They said that there are no legal provisions which would standardise the issuance of birth certificates for citizens and emphasised that citizens who request issuance of a certificate for the first time were likely to have no other supporting document. The legal vacuum regarding issuance of birth certificates in the absence of supporting documentation may be covered by the Civil Status Law principle stipulating that CSO employees may not issue false birth certificates, and that those citizens have to provide CSOs with genuine data about their identity. The legislation foresees criminal liability in case of forgery.

The amended Electoral Code provides for the establishment of teams which should monitor the activities of CSOs in each of the regional administrative centres. The team members must be appointed by the Prefect, and at least one must be proposed by the main opposition party at the local level. In Tirana, some borough mayors refuse to accept the presence of these monitoring teams. They argue that the law does not provide for them at borough level, but only at the level of Tirana Municipality; however, birth certificates for electoral purposes are only issued at the borough level.

The General Director of the GDCS informed the OSCE/ODIHR EOM about the appointment of a three-person working group in the Directorate, which would study the problem and draft proposals on ways to standardize the procedures. While a solution should enhance the integrity of the process, it should not adversely affect citizens' capacity to exercise their right to vote.

VII. COMPLAINTS AND APPEALS

The first series of complaints were filed with the CEC following the expiry of the legal deadlines for registration of candidates by the LGECs. Between 25 and 31 January, the CEC registered and decided on more than 50 complaints. Those included 10 complaints from individuals denied registration as independent candidates, some 20 complaints from political parties challenging the rejection of their candidates for mayors and candidate lists for councils, some 10 complaints from political parties claiming unlawful registration of independent candidates, and a few complaints from party-supported candidates.

The CEC granted the requested relief to 14 complaints. As a result, it overturned the LGECs' decisions and directed the LGECs to register two mayoral candidates from political parties, two independent candidates, and five candidate lists for councillors. Also, following four related complaints from opposition parties, the CEC directed the Shengjin LGEC to deregister an independent candidate for mayor. Eighteen complaints were rejected as lacking grounds, whereas the others were dismissed without consideration of the merits or not accepted for examination because of the delayed submission or for other procedural reasons.

In many cases, the contested LGECs' rejection of candidacies were grounded on deficiencies in the lists of support signatures submitted under Article 81 of the Electoral Code. The credibility of such grounds remains potentially contentious, given the absence of any CEC instruction or guidance on criteria and methods for the verification of support signatures by the LGECs.

Although the time limits for adjudicating complaints by the CEC have been considerably reduced by the recent amendments to the Electoral Code (from 10 days to two days, with the exception of complaints concerning election results), the CEC has thus far generally managed to

meet this deadline. The CEC has been handling complaints in a transparent and professional manner, making public the date and time of hearings and giving the complainants or their representatives an opportunity to present their arguments and evidence.

As of 3 February 2007, nine appeals have been lodged with the Electoral College of the Court of Appeals of Tirana. Most of them concern the registration of candidates for the local government elections and are yet to be considered. The OSCE/ODIHR EOM will follow and report on the court proceedings.

VIII. MEDIA

The media monitored by the OSCE/ODIHR EOM continue to provide voters with extensive information on election-related issues. The campaign in the media has focused on personalities rather than political platforms, with the two major political coalitions receiving the majority of coverage.

Albanian Public Television (TVSH) has so far adhered to its legal obligation to offer free airtime to all political parties registered for the elections. However, parties have thus far shown limited interest, and just over half of them used part or all of their free time. Debates among candidates running in the main cities have been televised regularly on TVSH, providing voters with information and candidates with an opportunity to exchange views. However, neither of the two key candidates for the position of Mayor of Tirana, Mr. Edi Rama (SP) and Mr. Sokol Olldashi (DP), has accepted an invitation from TVSH to debate together.

The CEC's Media Monitoring Board (MMB) commenced its media monitoring activities on 22 January, three days after the official start of the campaign. The MMB presented its first reports on 27 January and 3 February. In the first report, the MMB noted that some media's coverage did not comply with media-related regulations, but it did not recommend to the CEC to impose any sanctions. The CEC approved the MMB's first report after lengthy discussions and did not sanction any media outlets. Following the second report, however, the CEC ordered several broadcast media, including TVSH, TV Klan, Top Channel and Vizion +, to "correct" their biased coverage within 48 hours.

By law, both public and private broadcasters must provide the 'large' parties (DP and SP) with "double the amount of airtime" allocated to each 'small' parliamentary party. However, the OSCE/ODIHR EOM's findings indicate that both the DP and SP have been receiving more airtime than stipulated by law. In addition, they have also dominated in talk shows and political debates.

Since the start of the official campaign period, TVSH has provided the DP and SP with approximately equal prime-time news coverage, which was mainly positive in tone. When the SP received some negative coverage on TVSH news programs, it was mainly in connection with criticism of Mr. Rama.

Private broadcaster TV Klan continued to dedicate the highest amount of political information to the Government (26 per cent). The two major parties received equal amounts of time, mostly positive and neutral in tone. By contrast, private nationwide TV Arbëria dedicated more coverage to the SP. Unlike other monitored TV stations, it also continued to provide the Socialist Movement for Integration with favourable coverage, both in quantitative and qualitative terms.

Top Channel, Vizion + and News24 dedicated more time to the DP, but the tone for both the DP and SP was mainly positive and neutral. Among the channels monitored by the OSCE/ODIHR EOM, Top Channel was most critical of the Government (nearly half of the Government's coverage was assessed to be negative in tone).

Public campaigning in the media has also become more heated during the reporting period. On 31 January, the SP launched an advertising campaign using derogatory images of DP candidate Sokol Olldashi. The DP retaliated on 2 February with their own derogatory advertisement of SP candidate Edi Rama. Such advertisements have only served to polarize the media campaign.

IX. OSCE/ODIHR EOM ACTIVITIES

During the reporting period, the OSCE/ODIHR EOM continued its regular activities and is actively preparing for the arrival of short-term observers (STOs). The Head of Mission and mission members have held meetings with state officials, party representatives, candidates, the election administration, media representatives and representatives of civil society. Two further briefings for representatives of the international community and international organizations accredited in the Republic of Albania were held on 18 January and 1 February. LTOs deployed throughout the country continue to observe the pre-electoral situation in the regions and are preparing for the deployment of STOs.